FRANCOIS HOTMAN AND JEAN BODIN

Political Authority in Sixteenth Century France

Joan Tronto
April 1974
# TABLE OF CONTENTS

Introduction ............................................. 1

I. François Hotman: Huguenot Politician ............... 7

II. The Anti-Tribonian .................................... 21

III. The Francogallia ...................................... 30

IV. Politics and Scholarship: the Revised Francogallia . 40

V. Jean Bodin: Jurisconsult .............................. 47

VI. The Methodus ad facilem historiarum cognitionem .. 55

VII. Les six livres de la République ..................... 68

Conclusion ............................................ 81

Footnotes

Bibliography
INTRODUCTION

The sixteenth century was a tumultuous age for Europe. The Habsburg dynasty established its hegemony in Europe. The exploration of the New World provided a new source of wonder and wealth. Dynasties changed in France. England had women rulers. The Reformation exploded, transforming the religion of millions. With the Reformation and Counter-Reformation came political and religious disputes that resulted in warfare for more than thirty years.

Political theory flourished during this century. The printing presses became important weapons in these wars, as writers attempted to analyze political authority in light of religious disunity. As the single Christian Commonwealth disappeared, questions about the obligations of the faithful to obey civil authorities became important. Luther and Calvin attempted to answer these questions, as did many of their followers. But while Luther was able to demand complete submission to civil authority, the later Protestants, faced with the prospect of persecution by heretical civil authorities, developed theories of resistance. Calvin himself spelled out conditions under which resistance was justifiable and necessary.

The eight Lutheran ministers of Magdeburg who authored the Bekenntnis Unterricht und Vermanung der Pfarrherrn und Prediger der Christlichen Kirchen zu Magdeburg in 1550 claimed it was
a religious duty to resist a ruler who sought to destroy the true religion. In Scotland, John Knox and George Buchanan presented the case for rebellion and limited monarchy. In England, during the reign of Queen Mary, Christopher Goodman and John Ponet called for resistance. In France, the Huguenots produced an abundant literature in support of rebellion.

Both François Hotman and Jean Bodin were French. Hotman is an outstanding example of this "monarchomach" tradition, to use the term devised by the seventeenth century English royalist William Barclay. Hotman's work added an important dimension to the Huguenot theories. In his most important work, the Francogallia, Hotman does not justify resistance to the constituted political authority, but instead explores when revolt would not be necessary. The result, as we shall see, is a defence of consent as the basis for political authority in society. Hotman's work has recently become accessible to the English reader, and new secondary material has just appeared as well. With this new literature available, it becomes possible for an English-reading audience to consider Hotman's place in the sixteenth century controversies.

Jean Bodin was not a monarchomach; on the contrary, he has emerged as one of the most important theorists of the sixteenth century as "the father of modern sovereignty." Bodin not only requires obedience to political authority, but his theory attempts to resolve any ambiguities in political authority, so that only one part of the government has the
final political authority and is sovereign.

As central a figure as Bodin is, interpretations of his work still vary widely. The central question in the critical literature is how "absolutist" is Bodin's theory. Some of the commentators see Bodin primarily as an absolutist, though his complex mind made him try to confront some of the difficulties in this idea.7 Others view Bodin's work as an attempt to make limited monarchies work, a fairly reform-oriented writer whose views naturally became more strongly royalist as the religious wars presented a more forceful challenge to the constituted authority.8 Our view more closely coincides with the latter interpretation, though we will attempt to make an even stronger argument that Bodin's is a theory of limited government.9 Enough of the older constraints continued to limit Bodin's sovereign than would be consistent with a ruler whom we would want to call absolutist.

But as interesting as Bodin and Hotman might each be, why should the two be studied comparatively? This question is answered by returning to another Revolution that swept through France at this time. The Renaissance firmly emplanted itself in France during the sixteenth century. Influenced by the Italian glorification of the classics and concurrent with the stress on the original texts for classical sources, the study of law and of history underwent a fundamental redirection in the sixteenth century.10 Both Hotman and Bodin were trained in the humanities and the law, and are centrally involved in
the transformation of law and history.

Yet though Hotman and Bodin draw on a common academic and tradition, on the same sources, were aware of the same controversies, their works are as different methodologically as politically. How can this difference be explained? This question shall preoccupy us in this paper, but to anticipate our conclusions, it would be quite difficult to imagine two men drawing on this same historical and legal tradition to arrive at more diametrically opposed views, or to seek such opposite trends in the sources. The difference in large part rests in the different missions Hotman and Bodin saw for themselves. Hotman was primarily a political revolutionary who used his intellectual capacities in his battles. Bodin, though also politically active, guided his political actions by a more thorough and systematic attempt to understand politics broadly, by its fundamental governing principles.

Hotman and Bodin occupied two different positions in French society. Hotman was an outsider, an agitator with a particular cause, and he devoted his energies to the achievement of the goals of his cause, regardless of his earlier stances. Hotman's political theory changed dramatically as it would benefit or not benefit the Huguenots.

Bodin was not Hotman's exact opposite. Though he held government posts through most of his life and was actively involved internally in running France (at the Estates General, for example), Bodin was a religious dissenter, arrested in 1569-70 for his beliefs. Bodin was later implicated for
political intrigue. Yet his position was more secure than Hotman's, and his concerns were intellectually broader. Though Bodin was concerned about the re-establishment of order in France and strengthening the role of the King, and though this concern is reflected more strongly in the République, Bodin's primary concern was to discover more universal laws that govern political behavior. Though we will not examine important elements of Bodin's political theory that illustrate this search for universal laws, for example the theory of climate's effect on politics, that Bodin's entire orientation to political theory was more detached from practice than was Hotman's will become clear. And because Bodin's theory was more detached, less fanatically tied to the fate of a single political cause, Bodin's theory remains much more consistent and persistent than Hotman's.

Because Hotman and Bodin did occupy such different positions in their society, it seemed more useful to consider the work of each man separately. We shall begin with François Hotman, investigating his life and works in chronological order. Chapter I will consider Hotman's life through the end of the first war of religion. Chapter II will examine his key work on legal methodology, the Anti-Tribonian. Chapter III will consider Hotman's central work, Francogallia. Finally, the successive transformed editions of the Francogallia will be considered in Chapter IV.

Our investigation of Bodin will follow a similar course. Chapter V will consider Bodin's education and early career.
Chapter VI will examine Bodin's first major work, the *Methodus ad facilem historiarum cognitionem*. Chapter VII will explore Bodin's most famous work, *Les six livres de la République*. In the conclusion, we shall return to the place that Bodin and Hotman occupied in the sixteenth century, and the continuing importance of their work.
CHAPTER I

François Hotman: Huguenot Politician

As one of the greatest Huguenot propagandists and scholars of the sixteenth century, François Hotman (1524-1590) led a life deeply committed to his cause. Hotman viewed the world as an intense partisan. His intense partisanship often led Hotman to err in his political judgments. Though his political efforts may not have been very successful, he completely committed himself and his scholarly capabilities to his cause. To study the career of François Hotman is in large part to study the reactions of the Huguenots to changing circumstances in France. Hotman's political partisanship is the aspect of his personality that best explains his life work.

Hotman came from a family that was prospering in the community of lawyers in Paris. François's grandfather was a Silesian burgher who settled near Paris in 1470 or 1471. Pierre Hotman, Sieur de Villiers-Saint-Paul, was François's father. He led a very successful legal career; he married into the noblesse de robe; and until shortly after the birth of his first son François in August 1524, he was an avocat at the Parlement of Paris. That year he became a royal official in the jurisdiction of water and forests. Twenty years later he advanced to the post of Conseiller in the Parlement of Paris. When Henri II established a special court for heresy trials in 1547, the chambre ardente ("burning chamber"), the loyal servant Pierre Hotman became one of its judges. In that same year, at age 23, François made his
first trip to Switzerland, and confessed his "calling." Early in 1548, he finally left his home in Paris. 12

Hotman left no record of the causes for his conversion, or of the nature of his conversion. Historians have speculated about possible reasons for the conversion, but no satisfactory answer is likely to be found. Perhaps Hotman was repelled by the persecutions which he could not avoid seeing in Paris. 13 Hotman may have been influenced by friends at the University or in the legal profession who had converted. Or Hotman may have suffered something of an "identity crisis," and his conversion can be explained as a conflict between his individualistic spirit rebelling against his father's strict control and orthodoxy. 14 Whatever the cause, though, Hotman's conversion ripped him out of his family. Most of his brothers followed their father's orthodoxy; Antoine became avocat-général of the parlement during the time of the Catholic League; Jean was chancellor to the Cardinal of Lorraine; Charles was a conspiratorial organizer for the Catholic League in Paris in the 1580's. 15

Hotman left Paris a well-educated and academically successful young man. At age 12 Hotman attended the University of Paris where he studied Greek and Latin. In 1538 Hotman began two years' study of the law at the University of Orléans. Once licensed, he returned to Paris to practice law, but at age 21 he began lecturing on law at the University of Paris.

The universities of Europe had directed a great amount of attention to the teaching of Roman Law after the twelfth: 
century. A new method of study emerged in the fourteenth century in Italy, usually named after its greatest practitioner, Bartolus of Sassoferrato, which gained the name the mos docendi Italicus (the Italian way of teaching). Bartolus had used Roman law as a justification for his theory of the limited political authority of the Emperor. In trying to find in Roman law a theoretical basis on which to solve the contemporary political problems the Italian city states faced, the mos docendi Italicus made the literal interpretation of the texts less important than it had been for the original glossators of the twelfth century. According to this method, the first steps in exegesis were praemitto, a broad overview of the text and a free definition of its key terms, scindo, an investigation of the general maxims to be used in the exploration, and then summa casumque figura, where the instructor offered his summary and important cases which bore on the issues in question. Only then was the text itself read, and this reading was followed by an examination of the "cause" of the rules, using the four Aristotelian causes (the formal cause, the efficient cause, the material cause, and the final cause) and by an account of related passages in the Corpus Juris Civilis. The final step was objicere, the resolution of any contradictions that the exegesis had exposed; and here the commentator had full flexibility and was expected to use it.  

"Bartolism" as a method for legal education spread
rapidly. But as the Renaissance began, this method came under serious attack. As an intellectual movement, one of the distinguishing features of Renaissance humanism was a concern for the original classical sources. The great philologist Lorenzo Valla was the first to apply his art to the legal texts. Clearly such close textual scrutiny was inconsistent with the Bartolist exposition.

While Valla’s approach to the body of Roman law was purely philological, it was not long before the implications of the Renaissance ideals became clear. In the early sixteenth century, the French humanist Guillaume Budé (1468-1540) used philology to turn the study of law into an historical exercise. Budé’s approach to the study of law was to purify the texts of non-literal commentary and to consider what they meant in the historical context of Rome, an approach that completely flies in the face of the Bartolist tradition. Around Budé’s work and the work of his disciples, a new teaching method developed. In the generation after Budé, Andrea Alciato (1492-1550) was the most outstanding example of this new method. The University of Bourges appointed Alciato in 1527. Alciato taught at Bourges for five years, consciously identifying his teaching as within the humanist, philological style of Budé, a style soon called the mos docendi Gallicus. But the fact that Bourges was considered a bastion of reformed jurisprudence implies that the new method was not accepted universally. When François Hotman entered the University of Orléans, it was still oriented
toward the Bartolist school.

We do not know whether Hotman was exposed to the new teaching at Orléans informally. Yet as an attorney in Paris, he soon met scholars who reflected other elements of the new method. Hotman/Charles Dumoulin in 1540, one year after he had published a work on the legal history of feudalism in France. There he also met François Baudouin, whose scholarly work used the *mos docendi Gallicus* as a basis for a humanistic study of history. Both Dumoulin and Baudouin became Calvinists, and both later lost Hotman's friendship when they left Calvinism. Baudouin became such an intense rival of Hotman's that Hotman would later enter disputes merely in order to refute the position of this enemy.

Hotman's lectures at Paris were well-received, but his conversion compelled him to leave that city in 1548. He travelled to Lyons, pursued by friends of his father, and worked for a printer. As Hotman had chosen his faith rather than his family so Calvin became his surrogate father. As he wrote in 1548, in a letter addressed to Calvin, "God is my witness that since the day I found true religion I have loved no one, not even my father, more than you. Nothing could be more important or fortunate in my life than to find a way of living near you." In October 1548, Hotman went to join Calvin in Geneva. Then in 1549, Calvin located teaching positions for Hotman and Theodore Beza at the Academy in Lausanne. There, Hotman taught Greek and Latin literature
to the youngest students. In 1554 he wrote the State of the Primitive Church, throwing himself into ecclesiastical disputes on Calvin's behalf. In 1555, Lausanne adopted Zwingli's condemnation of predestination, and Hotman left with his family for Strasbourg, where he remained until 1563.

During Hotman's years at Strasbourg he was preoccupied with two main activities, although he continued to be a Calvinist partisan on ecclesiastical matters. The two concerns were his teaching and scholarship, and political intrigue and involvement.

 Academically, Hotman's prospects grew brighter. He was now teaching at the University of Strasbourg, the leading Protestant school. In 1558 he was granted a doctor's degree at the University of Basel. Between 1556 and 1560, Hotman composed at least twelve works on Roman Law, including a biography of Justinian and a popular textbook, the Partitions of Civil Law, that was widely used throughout the century.

Before we attempt to investigate the political role that Hotman played, we should try to understand the political situation in France at this time.

Ineffectual kings ruled France in the sixteenth century after the death of François I. Three factions competed for royal favor: the Guises, the Montmorencys, and the Bourbons. The House of Guise, with large land-holdings, held the largest influence over the royalty. The two main leaders of the Guise faction were François, Duc de Guise (nicknamed Scarface), the leading French general, and Charles, Cardinal of Lorraine.
The Bourbons, led by Louis, Prince of Condé and Antoine, King of Navarre, were Princes of the Royal Blood, cousins to the ruling Valois, and next in line for succession.25

In temperament, Henri II (reigned 1547-1559) found the spread of "the Religion" more distasteful than had his father. He had established his court for the persecution of Protestants in 1547. Henri's international escapades had limited the attention he could initially devote to persecution; but by the late 1550's, this situation had changed. After the religious peace of Augsburg in 1555, the French King had less to gain in an alliance with the Protestant German princes, so that restraint had been removed. Attempting to stop the Habsburgs in the South, Henri had staked the fortune of the Crown on his Italian wars against Spain. The campaign failed, and in 1559, the treaty of Câteau-Cambrésis was signed. Habsburg control of Europe was now certain, and Henri turned his attention back to the prosecution of his internal enemies, the Protestants.

In fact, the Huguenot influence was spreading. In 1558-59, the Reformation had visibly spread from among just the academics to more noblemen and bourgeois. Some provincial towns had become bastions of Calvinism. Though their number was not so great, "these Huguenots included many of the most able and influential elements in the country while political and social circumstances gave them a strength out of all proportion to their numbers."26 The Huguenot churches themselves were highly organized, and through their organization, were able
to raise large armies easily when that became necessary.27

Perhaps more threatening still was that not all of the conversions were motivated by religious conviction. Nobles who had become increasingly resentful of the centralizing tendencies of the monarchy and the proliferation and sale of royal offices (a main source of income for the Crown) saw religion as a way to wrest some political power from the monarchy. Through religious conflict, the nobles hoped to regain some control over their own territories, as the German princes had apparently done at Augsburg.28

When the leaders on the non-Guise factions, Admiral de Coligny, the Montmorency head, and the Bourbon Louis, Prince of Condé, converted in 1559, the connection between the religious and political disputes became more clear. The goals of the Huguenots operated on two levels. Ultimately, through political control of the Crown, they hoped to establish the Reformed religion as the official religion.29 But more immediately, the Huguenots hoped to establish freedom of worship, and end the persecutions.30

Strasbourg was a city well-equipped to sensitize Hotman to the political plight of the Calvinists. Hotman became friends with Protestant exiles from Marian England, including Christopher Goodman and John Ponet.31 Ponet's major work, A Shorte Treatise of Politike Power was written in 1556, and Hotman must have known the work fairly well. Ponet argued that the form in which political authority should be exercised was left by God "to the discretion of the people."32 Ponet also argued that a
man's first obligation was to obey the law of God, and if a tyrant abrogated God's law, it was the responsibility of the people to overthrow him. Christopher Goodman's *How Superior Powers ought to be obeyed of their subjects; wherein they may lawfully by God's Word be disobeyed and resisted* was an even stronger statement. Published in 1558, it argued that both the Prince and his magistrates should be killed if they do not obey God's law.

Hotman in 1558 could take solace in the fact that more and more Frenchmen were finding their way to the true religion. Yet the edict of Compeigne, promulgated in 1557, had maintained the death punishment for heretics. "Heretics" were no longer defined merely as "Lutherans;" Calvinists and Zwinglians were now mentioned by name as well. Calvin feared that the hardened attitude of Henri II would end the willingness of the German Princes to intervene on behalf of the French Protestants. Calvin sent Beza and Hotman to ask the German Princes to try to reverse Henri's policy. The missions successful, an envoy was sent to France, but Henri could not be moved. Hotman's diplomatic mission accomplished its goal, but proved fruitless. Persecution in France increased.

The increased political persecutions that inspired Goodman, Ponet, and Knox to advocate resistance were of such import that even Calvin had to take account of them. Calvin's position had always been that citizens must obey the civil authority. The magistrates appointed to enforce the laws
have their command from God, hence citizens owe their obedience, as the magistrates in turn must uphold the law of God as best they can. The magistrates intervene on behalf of the people. Calvin states this position unequivocally, yet he then adds one exception; the governors must not try to "seduce us from obedience to him whose will the desires of all kings ought to be subject." In the 1559 edition of the *Institutes of the Christian Religion*, however, he added several statements into the last section of Book IV about "obedience to man must not become disobedience to God" that leaned in the direction of justifying resistance. "The Israelites are condemned because they were too obedient to the wicked proclamation of the kind," he now wrote.

As the condition of the French Huguenots worsened, Hotman changed the level of his political activities in 1559. He became disillusioned with diplomatic contacts, and became involved in "counter-plotting" against the French government. Despite Calvin's disapproval, Hotman became deeply involved in the web of conspiracies that culminated in the Conspiracy of Amboise in 1560. This conspiracy was initiated by the Huguenot La Renaudie in 1559, hoping to rescue the new and "infant" 15 year-old King François II from the Regency of the Guises. Two of the leaders of the Amboise Conspiracy were Gaspard, Admiral Coligny and the leader of the Montmorency faction, Condé, the Bourbon, so the plot was not simply religious in its overtones. The Huguenots joined in hoping
that by removing the Guises from around the King, the persecutions would end. We should note, however, that the Huguenots' target in 1559-60 was not the King, but his evil advisors.

After the failure of the Amboise Conspiracy, Hotman and other Huguenots began to propagandize in order to justify their actions. Hotman wrote the most vicious of these attacks, *The Tiger of France*, aimed at the Cardinal of Lorraine, also known as Charles of Guise. As he fulminates in this work:

> You kill those who conspire against you, and yet you see that you are the one who conspires against the crown of France, against the property of widows and orphans, against the blood of innocents. You profess to preach holiness, and yet you know neither God nor His word; you keep the Christian religion only as a mask to disguise yourself (sic! the Cardinal was a Guise) . . . . If Caesar was killed trying to gain the sceptre justly, can we permit you to live, who pretend to it unjustly?

Hotman has made a strong statement in the work, but he has not called for tyrannicide, despite D.R. Kelley's claim. Hotman clearly shows the influence of his English friends here in arguing that evil magistrates must be destroyed. But he has not broken the mystique that surrounded the French king at the time. Far from developing an original position in political theory in this work, Hotman has merely drawn upon contemporary ideas about the right to depose a magistrate who is acting contrary to God's will, and applying it in a vicious personal attack on the Cardinal, a traitor to the Crown.

In 1560, Hotman secretly left Strasbourg and went to
join the court of King Antoine of Navarre. In Navarre, Antoine made him "master of requests," though he essentially acted as a secretary for Antoine. Hotman immediately began to plan another revolt against the French king, but its execution in Lyons in September, like that of the Conspiracy of Amboise, was also a failure. As events turned against the Huguenots with Condé's capture (also in 1560), Antoine without his brother's support became less willing to continue the strong commitments to the Huguenots about his personal faith, and Hotman returned to Strasbourg. For such a strict Calvinist, Hotman had drifted from Calvin's political position. The involvements in the plots and schemes was condemned by Calvin and other Protestant leaders. His ideological commitment to the French Calvinists caused him to act in a manner which was irresponsible. While Hotman's committment may be admirable, his expression of that committment was not sagacious and his subsequent acts were in fact not helpful to his cause.

At the end of 1560, François II died. The Estates General was convened, and the Chancellor, Michel de L'Hôpital and the Queen Mother, Catherine de Medici called for an end to factions in France. Hotman wrote optimistically,

The numbers of the faithful are increasing at an amazing rate . . . . The Queen Mother has said openly that she does not want to see its growth checked. The constable, the Guisards, and others oppose it with all their might, but it avails them nothing.

But although the atmosphere in 1561 was more relaxed,
than in the preceding four years, Hotman continued his agitation and was soon seen as a threat. The Queen Mother Catherine de Medici and L'Hôpital were working in earnest at a compromise with the religious dissidents. The Colloquy at Poissy was called by Catherine and L'Hôpital to attempt to resolve religious differences between the Catholics and Huguenots. The meeting lasted for a year, but the Huguenot participation was unwilling, and no progress was made. Hotman was one of the Huguenots who, highly suspicious of Catherine, urged that no compromise be made.

Hotman returned to Strasbourg early in 1562. War broke out in April 1562 after tensions had grown since the massacre at Vassy. Hotman aided the Huguenot military cause by attempting to gather support among the German Protestant princes. The war ended in 1563; by then, Hotman was a prominent member of the Huguenot faction. Hotman set aside his political activities to accept a post teaching law at the University of Valence.

Until 1567, Hotman remained at Valence, though his uneasiness there made it an unpleasant experience. The plague struck Valence in 1564, the year Catherine went on a national trip to inspect the damage of the civil wars. In 1565, Hotman's wife was publicly accused of hoarding grain. While this may indicate the way in which the economic hardships of France affected Hotman's life, it also reflects the continuing separation that the Huguenots felt from the rest of the population, since to Hotman, it was harassment that probably
caused the attack. Hotman wrote to the authorities, asking for a guarantee that there would be no more "outrages behind the pretext of religion." Even his teaching was not a good experience; Valence was not an outstanding university, and Hotman complained of the quality of the students. Further, Hotman resented the continuing influence of Italian methods of teaching law at the University, he being the only non-Bartolist.

In 1567 Hotman was invited to join the faculty at Bourges. But there religious intolerance took its toll and drove Hotman from his scholarly post; he fled five months after his arrival as students broke into his quarters and pillaged his library. Hotman then fled to Paris, where his father had died two years earlier. There he was given refuge by his patron the Chancellor, L'Hôpital. Hotman began to frequent the royal library. He had taken up his scholarly pursuits in earnest again, though not to the exclusion of an involvement in politics.
CHAPTER II

The Anti-Tribonian

Hotman's Anti-Tribonian was written in 1567, though it was not published until after his death. Formidable philologists such as Lorenzo Valla and Guillaume Budé had already criticized the compilation of the Digest, which Justinian's editor had assembled, so that Hotman was not doing something entirely new. Roman Law, as taught in most French universities at the time, was the authority for all legal questions. Even the law courts in France relied on the Roman legal precepts as a basis for decisions, though this varied among places depending upon the influence of local customs. Most of the arguments drawn from Roman Law tended to support the claim that the King was the sole ruler of the country. The effect of philological studies was to request that Roman Law be appreciated for what it was, a historical statement. This was not a total removal of Roman Law as Budé's own political beliefs show. Hotman's Anti-Tribonian went so much further than the earlier critiques that it raised doubts as to whether Roman Law had any utility for France at all. The Anti-Tribonian was the most succinct work Hotman wrote about the value of Roman Law. The work also highlights Hotman's political position at the beginning of the six years when his scholarly productivity was greatest. We shall consider what the Anti-Tribonian meant methodologically and politically.
The first clue about the nature of the Anti-Tribonian can be found in its language; Hotman wrote the work in French. In French, the Anti-Tribonian would have a larger circulation, especially among the non-academic intelligentsia. Further, by writing in French, Hotman was subtly conveying one of the main arguments of the work: to extol that which is French, and not to rely on the contributions of the Romans.

In the preface, Hotman raises a practical question: the youth of France is an important asset, and many of them are now engaged in the study of the Books of Justinian at great and famous universities established for this purpose: Orléans, Bourges, Angers, Poitiers, Valence, and Italian universities. Of what value is this study, this continued submission after twelve hundred years to the authority of Justinian?

Chapter II answers this question with its heading "That the study of an art that is beyond its usage is useless." The argument in the chapter is based on the maxim: "The learned men of every age have observed and voiced approval of the rule that laws should be accommodated to the form and condition of the commonwealth, not the commonwealth to the laws." Hotman then draws out the implications of this maxim. He claims that the laws of one type of government are inappropriate to other forms of government, "the laws that are proper for a popular republic are for the most part useless for a royalty." Even within the category of monarchies, "all monarchies are not governed always and everywhere in the same way. Some have a power and authority more absolute, some more limited; some have
a greater extent and dominion, others are smaller and restricted; some have more military, others more civil offices." Hotman demands that the laws fit the state for which they were enacted. In Chapter II, he compares the Roman Republic with France, and points out that the laws of the Republic cannot be learned from Justinian's Institutes, since they were compiled under a different form of government. Hotman follows this general claim with a comparative analysis of several institutions, including private law. Returning to a concern with teaching the Roman Law, Hotman does point out that the Roman Law does display admirably the principles of equity and natural reason. But the overall verdict on Roman Law is that it is pretty much inapplicable to the contemporary French state. After several chapters devoted to discrediting Tribonian on an ad hominem basis, drawing on contemporary accounts of his poor character, Hotman explains why Justinian's work has assumed such an important place in sixteenth century thinking, commenting here on the glosses and on the "manner of instruction of the modern doctors," most of whom are involved in disputes about Latin grammar. Hotman then turns to the role that Roman Law has played in French history. This, the most meticulously documented chapter of the work, rejects the misconception that Roman Law was introduced into France by Charlemagne. The final blow has been struck as Hotman argues that France survived for eight hundred years without Justinian. Roman Law entered France with the twelfth century Glossators, and has polluted the study of law.
since then. The implied question, does France need Roman Law at all, is answered in the final chapter. Hotman argues that French students should no longer be subjected to the present form of legal education.

When it is a question of preparing a young man to serve the French government, we should consider which alternative would be more appropriate: the example of Roman or Byzantine magistrates, or that of the officers of the crown and courts of this kingdom; that is, the law of the sovereignty of our kings, of the authority of the Three Estates, of the rights of the Queen, the dauphin, the brothers of the King and their appanages, princes, bastards of the King and his brothers, the constable, peers, and the marshal of France.  

Instead of continuing the study of Roman Law and having the lawyers try to fit the principles of Roman Law with French institutions, Hotman proposes that the laws of France be made into a uniform code. This code will be developed using philosophers, Roman Law scholars, lawyers, and the customs of France. This task "will be very easy when it has pleased God to grant France a Solon in the person of the great Michel de L'Hôpital. . . ."  

To a certain extent, the Anti-Tribonian is a program for educational reform. For E. Fournil, this is the defining characteristic of the work.  Clearing a revision of French legal education is a strong theme. But whether Hotman really meant the work as a pedagogical tract, or used that tactic as a way of making the work more directly relevant to the jurists who had undergone such training is unclear. Others
have argued that Hotman wrote a political position paper for L'Hôpital in the Anti-Tribonian. R. Dareste notes, for example, that Hotman wrote the work at the request of his patron, L'Hôpital. The work is highly supportive of L'Hôpital's political position.

The Anti-Tribonian allows us to fix Hotman's position on the value of legal scholarship. We have already seen that Hotman's scholarly work occurred in the period of the development of the mos docendi Gallicus. We can identify at least two strands of thought within this movement. The original position of the humanist legal scholars, such as Valla and Budé, was a concern with textual purity of the Digest, without denying its validity as principles of law. A second approach was to use the philological investigation of Roman Law as a historical source that led to an accurate account of ancient history and to a grasp of what the Law had meant in historical context. As Myron Gilmore describes the school forming around Cujas: "They were primarily historians and their main effort was to forget about the present as far as possible and to understand the Roman constitution." Hotman's own scholarly position was a reaction, not only against these two schools, but to an additional ideological component. Since early in the 1540's an increasing consciousness of a French tradition as a distinct and worthy field of study had emerged. One of the early exponents of this school was Dumoulin, whom Hotman befriended early in life. Dumoulin's preoccupation with the study of French institutions and their history had
begun in 1539.

Hotman's position on the value of Roman Law adds up to a selective rejection of it. The Anti-Tribonian combines Valla's disdain for Tribonian's barbarisms with a pragmatic assessment of the value of the text even if pure. Hotman's argument that the law that is studied must be adapted to the system of government is a clear rejection of the medieval and Renaissance Roman Law tradition up to his day. Yet there was a certain ambivalence in Hotman's approach to Roman Law, for as Ralph Giesey points out: "Hotman composed one of the most popular anti-Roman law tracts of all time... but yet he ranks as one of the greatest scholars and teachers of Roman Law of his century." Given Hotman's scholarly interests, it would be wrong to put him in a totally anti-Romanist camp. Hotman had written a popular text on Roman Law.

There is a way to make Hotman's position on Roman Law appear consistent, though, and that is to view his approach as a pragmatic one. For Kelley, Hotman's primary motivation was "basically a function of his reform program and a variation on the familiar Protestant theme of a return to a pure and native tradition." The question before us, then, is what are the elements of Hotman's reform program? As we have noted before, Hotman's plans will continue to shift as the political position he wants to support changes. In 1567, he is eager to refute the usual claims that are drawn from the Roman Law tradition in support of absolute monarchy. Hence, he tries to show that at best Roman Law should be applied selectively
to the Universal Code that will be prepared in France. Hotman wanted his audience to consider the possibility of a universal law that will be drawn up by various groups in the society, under the leadership of L'Hôpital, since L'Hôpital's program seemed quite favorable to the Huguenots at this time. Another presupposition of Hotman's political position that is reflected in the Anti-Tribonian and subsequent works is a desire to praise that which is French at the cost of that which is Italian. Given these goals, pragmatism was not Hotman's most sensible approach. Hotman's political presuppositions shadowed his use of some classical sources as well.

One example is Hotman's use of the traditional Aristotelian distinction between the three forms of government. But by claiming that even within the category of monarchies divisions and adjustments must be made, Hotman has broken from the Aristotelian mold. As Donald Kelley wrote, "For much the same reason that Valla had rejected the categories of Aristotelian logic, that is, because of their alienation from human reality, Hotman rejected the categories of Aristotelian politics." As with Roman Law, Hotman selectively borrows from the classical tradition insofar as it supports his other arguments. Hotman's eclecticism is deliberate.

Hotman's position in the Anti-Tribonian, supportive of a newly created centralized legal code may have been a useful piece for him to write in 1567, but it is surprisingly incongruent with his earlier position and later writings.
As we recall past elements of Hotman's position, the anomalous nature of the Anti-Tribonian will surface. First, Hotman in the Tiger of France has shown some attachment to the political theory advanced by the Calvinist proponents of the resistance, such as Goodman and Ponet. Yet in the Anti-Tribonian there is no attempt to question the authority of the centralizing Chancellor. The distinction might be between the intrinsic evilness of the Cardinal and the goodness of the Chancellor. Pierre Mesnard makes the astute observation that there is a profound contradiction between Hotman's later open universal challenge of the initiative of Royal officials without popular consent and the support Hotman offers his patron here. A similar transformation arises when we consider Hotman's position on the customs of France. Legal research that Hotman was doing at the same time he wrote the Anti-Tribonian shows that Hotman felt that the customs of France were intrinsically good. That he should be willing to abrogate so much of local custom and substitute for it a universal code, based on the wisdom of Roman Law, philosophy, and experience seems to contradict this tendency.

Politically, then, the Anti-Tribonian departs significantly from the rest of Hotman's work. In all, we can see that Hotman's scholarly and political efforts follow no rigid path except the support of Hotman's current political and intellectual presuppositions and predispositions. Donald R. Kelley sees the Anti-Tribonian as a turning point, arguing that in it "we see
the final defeat of Hotman the academic at the hands of Hotman the activist."65 Actually, as a pure academic, Hotman continued to study and teach Roman Law. Yet whenever political circumstances dictated that one approach or another to Law would be more politically wise, Hotman came to that position. The Anti-Tribonian, though quite different in political position from Hotman's earlier or later positions, is consistent with our view of Hotman, a scholar whose first commitment was to his particular cause.
CHAPTER III
The *Francogallia*

Hotman's first edition of his most important work appeared in 1573, six years after the *Anti-Tribonian* was written. The intervening years had been unfortunate for Hotman, his cause, and for France. In 1567, the religious wars erupted again, and Hotman fled from Paris to Sancerre, barely escaping with his life, leaving his library behind to be burned. In that year he wrote, "For almost forty years I have been pursued, tormented, and tossed about, but I do not remember ever having suffered as much as now." As Sancerre was besieged, Hotman's wife became ill and an infant child died. With only his Bible and Augustine's *City of God*, Hotman wrote *Consolation Drawn from Holy Scriptures*. Little else is known of Hotman's activities during the war; but the Huguenots propaganda extensively in favor of Condé's opposition to the monarchy. In anonymous pamphlets, the French Huguenots finally began to argue in favor of resistance to a ruler whose rule was contrary to God, that is, a ruler who persecutes the true religion.

In 1570, though, when the war ended, Hotman's luck seemed to improve, and he returned to teach at "the best ordered . . . of all the universities of France." At Bourges, the "true religion" had been restored. Hotman's legal research had by now decidedly turned in the direction of Dumoulin's, and he was deeply involved in an examination of feudal law. It was
from these researches that he wrote his treatise *De Feudis* in 1569. The *Francogallia* might have been presented as lectures at Bourges during this time.

News of the St. Bartholomew's massacre reached Bourges on August 26, 1572, and a similar slaughter of Huguenots began there. Twenty-three were killed, but Hotman, donning the academic garb of a student, fled to Lyons, and within six weeks had returned again to Geneva. Hotman had been in France for the last time.

Until recently it was assumed that the *Francogallia* was written as Hotman's shocked reaction to the St. Bartholomew's Day Massacre. However, Ralph Giesey has demonstrated that much of the work was written in the period before Hotman's flight to Sancerre. Internal textual evidence points to the earlier date, as do references Hotman made in his 1569 *De Feudis* to the "Francogallia," obviously referring to a manuscript. Though again Hotman had fled without his library in 1572, by 1573 he had sufficiently reassembled his notes to finish the manuscript of the *Francogallia* and to submit it to the Genevan Consistory for its approval. For diplomatic reasons, the Genevans at this time were being extraordinarily cautious about licensing any literature that would offend the French king. Yet when Hotman presented them with his historical work on the origins of France, a license was provided. In so doing, the Genevan Consistory made a large error in judgment, for Hotman's scholarly work was soon hailed as one of the single most important additions to the Huguenots' theoretical
armory. From the early seventeenth century until the present, Hotman's work is usually elevated to the triumvirate of "monarchomach" literature, and with good reason.  

Not only was the *Francogallia* an important work, but it was a work to which Hotman devoted a large amount of his personal time and energy. Two more revised editions of the work were to be written by Hotman, and he made several pseudonymous defenses of the work. The writing, revising, and defending of the *Francogallia* became the key intellectual preoccupation of the rest of his life.

While the Genevan Consistory had been willing to license the publication of Hotman's *Francogallia*, it is uncertain that their action would have been the same had they seen the dedication Hotman wrote. In the dedication to Frederick, the Elector Palatine, Hotman made clear his intention to suffuse the work with a contemporary relevance. Frederick had retained Hotman for his diplomatic service while Hotman had been in Strasbourg. But the work was probably dedicated to the Elector, a Protestant Prince, to praise the beneficial rule of the Palatine, and make more vivid the contrast with the French monarchy, and to express hope for as illustrious a ruler in France. "Does it follow," Hotman asks, "that the madness of these tyrants must be held against their country?" To any reader, Hotman's intent would be clear. Hotman then explains his reason for writing the *Francogallia*:

In reflecting upon these great calamities, I
have, for the several months past, fixed my attention on what is revealed by all the old French and German historians of our Francogallia . . . . From this review it is astonishing to find how great was the wisdom of our ancestors in constituting our commonwealth, and it does not seem possible for me to doubt in any way that the most certain remedy for our great affliction should be sought in the constitution. . . . we may trust that our commonwealth will return to health when it is restored by some act of divine beneficence into its ancient and, so speak, its natural state.

After this dedication, Hotman begins to explore the ancient constitution of France, as it continued to operate until the reign of King Louis XI (1461-1483). After Hotman notes that Louis XI abandoned the ancient constitution, he never mentions contemporary events again. But the conclusion to the Dedication has suffused the work with political relevance: the Francogallia is a plea for a return to first principles. As Ralph Giesey observes:

every praise for a lost custom of the Francogallian would move the readers of those days—who believed, by and large, that old custom was good—hold the current ruler derelict . . . . Hotman achieved the maximum effect because he used the best of all pedagogical devices, that of allowing the reader to make his own inferences and thus flatter himself about his own intellectual prowess.
of the public council for their actions. Failure to obtain consent often led to the king's deposition. Hotman presents his historical cases to lead us to his conclusion; "the highest administrative authority in the kingdom of Francogallia lay in the formal public council of the nation, which in later times was called the assembly of the three estates." Hotman ascribes the following tasks to the council: appointing and deposing kings; deciding matters that pertain to war and peace; appointing the highest officers of the realm; deciding affairs of state; and serving as a court for princes and other illustrious men.

Hotman argues that a mixed form of government is the best form, both according to classical sources and to current practice in Germany, England, and Spain. Yet his portrayal of the French government does not show such a high tolerance for the other parts of government besides the Council. The parlements are roundly condemned for usurping the roles of the public council.

In short, Hotman wants to argue that Francogallia has always been led by a monarch who was closely limited by a public council. The king and royal officials, such as the parlements, eroded the power of the Council in more recent history.

Hotman advances one other key concept, the concept of customs, and how they become binding. He demonstrates that the Salic Law, considered by most to be an unchangeable element of the French Constitution is not a part of the Constitution. Nevertheless, Hotman does argue that the Salic Law has acquired
the force of law as so many generations have consented to follow it. A custom, then, is formed by repeated acts of consent.

The same presuppositions and political pragmatism that underly Hotman's position in the *Anti-Tribonian* operate in this work as well, both in the arguments Hotman advances, and in the way he uses the scholarly tools available to him.

We first consider Hotman's arguments. Clearly, Hotman has tried to advance the principle of consent, especially in the Estates General, as the fundamental principle about the way France is governed. This is, as we shall see in the next chapter, the most distinctive element of Hotman's political theory. But what advantage would the Huguenots gain from the adoption of the principle of consent? The Huguenots were always a minority in France, so they could not have expected to win all of France for the Reform at a meeting of the Estates General.

Hotman, in the first edition of the *Francogallia*, though he advanced arguments in favor of a convening of the Estates General, did not equate the Estates General with the ancient constitution. There is a political goal that the Huguenots could have gained, if we do not interpret "consent" as the convening of the Estates General, but in general, the consultation of "the public council of the nation." In this form, the principle of consent works as a veto for minorities. If "what touches all should be approved by all," were seriously followed, then the Huguenots would be able to establish their
more immediate political goal of "liberty of conscience." After the St. Bartholomew's Massacre, the Huguenot hope for a takeover of France receded, but the need for protection became greater. It was with this goal in mind that Hotman advanced the principle of consent.

Another political purpose that Hotman's work aimed at was an attack on the royal power. The Huguenots at the time, unable to exercise any significant influence on the King (the King's one close Huguenot advisor, Coligny, had been executed in Paris early in the Massacre) did call for the convening of the Estates General, hoping that their influence there would be greater. To a limited extent, Hotman joined in this call. But more significantly, he severely criticized the royal bureaucracy of courts and parlements as usurpers of the people's prerogatives. Since such a large part of the nobility was Huguenot, clearly more was to be gained by returning political control to them.

As weak king succeeded weak king in the century, the question of succession grew in importance. Certainly, Hotman did not want to abrogate the Salic Law (the supposedly ancient tradition that women could neither succeed to the throne nor pass on inheritance), since that way there would be claims for the throne for the Guises. Later political events would cause Hotman to reverse his position here, but for now he was willing to accept the authority of the Salic Law.

The manner in which Hotman used the scholarly sources available to him also reflects his political and intellectual
predispositions of the time. First, the work is strongly oriented toward the French national tradition. While the Anti-Tribonian claims that the French tradition was more relevant and important than the Roman or Greek experience, here Hotman has provided chapter and verse as to what that tradition looks like, writing an argument about the nature of France and political theory that relies almost exclusively on French history and classical sources. The classical sources are used to lend support to some of the broader evaluative statements he makes, for example, that the mixed form of government is the best possible state. Some references to Roman history are present. But there are no references to the maxims of Roman Law that had been used in the past to demonstrate the general principles of limited monarchy that Hotman advanced. The Digest is cited only four times in the original edition of the Francogallia, and is used in those cases to prove that Roman institutions were arranged in a particular manner. In at least one case, the discussion of the superiority of the kingdom to the king, Hotman omits the evidence that other Huguenots use to explain this distinction by references to the Roman Law theory of the universitas. In one case, a maxim from the Roman Law tradition is quoted, but not attributed to the original source: "as is customarily and commonly said, what touches all should be approved by all." Roman Law, by becoming custom, can be made acceptable.

Why should Hotman's former field of scholarly research be so carefully avoided as a source for this work? After all, there
was a huge body of political theory derived from Roman Law that reached the same conclusions about the nature of consent that Hotman did. 87 To a large extent, this was the issue that had originally inspired the Bartolist school. Hotman was apparently familiar with this tradition; in a later work, his Brutum Fulmen of 1584, he made extensive use of these sources. 88 The Roman Law arguments for limited government consent were used by other Huguenot theorists.

Hotman has consciously excluded the Roman Law tradition, so that the work will be more consistent with its purpose, extolling the indigenous French constitution as he understands it. He tried to show what were the initial, and hence ideal, conditions of the Francogallians. 89

An examination of Hotman's historical evidence further exposes the pragmatic way in which he handled the source material available to him. In a few cases, Hotman misquotes, quotes material out of context, or alters its meaning in translation. 90 But in general, Hotman has selectively borrowed from the historical tradition to advance his argument. In fact, the King was vested with more power by the ancient constitution than Hotman will admit. Even in Charlemagne's time, which is the heart of Hotman's "golden era," the King had the power of bannus, to act alone so that all were obliged to obey him, as well as the power of consensus, to consent. 91 Even the consensus is a fiction in a way; the nobles were really obliged to consent. 92

Yet another way we can compare Hotman's political theory
with the actual constitution is to investigate what another theorist's conclusions were. Claude de Seyssel (1450-1520) in the early part of the sixteenth century had written his account of *La Monarchie de France.* Seyssel stressed that the King was the ruler of the government, and assigned only a minimal role to representative bodies. There were three limits on the King that kept him from exercising absolute authority: religion, the *parlements*, and custom and tradition (the Estates were a customary check). Though at the time, Seyssel's picture may have been an accurate one, we can see that Hotman had to look elsewhere for the checks on the King than to religion and *parlements.* Nor would Hotman find the appeal to custom alone appealing; custom may not support the particular position Hotman advocates. Hotman harks back to an era when the government of France was smaller and less bureaucratized. The shift in emphasis from Seyssel's work to Hotman's is a shift from the real powers that the King could exercise to the imaginary hopes for constraint that "the people" could offer. In the *Francogallia,* then, Hotman has created a French past that stresses the limited powers of the French monarch, and the need for minorities to be consulted in action. For Hotman, consent was the basis of royal authority at the time he composed the first edition of the *Francogallia.* In subsequent editions, as political transformations required new positions, Hotman would alter this powerful statement for the principle of consent.
The success of the *Francogallia* was stunning. The work was banned and attacked by Hotman's opponents (in which Hotman took delight). His most famous attacker was Papiri Masson, a royalist partisan. Masson wrote a critique of the *Francogallia* that was longer than the original work, accusing Hotman of poor historical scholarship. Hotman responded virulently, ridiculing Masson and accusing him of being an Italogaul.

By 1574, the political situation in France had changed. After the destruction that the religious wars had brought, the political alignments had changed. Three positions can be distinguished. First were the Catholics still eager to destroy the Reform, led by the Guises. The second faction was the Huguenots. They too were somewhat eager to continue to try to advance a particular position. A third group began to emerge from the moderate majority. Called the Politiques, this group hoped to set aside the religious question, allow for religious toleration, and thereby end the wars. Hotman was not sympathetic with the Politique position. To him, although attaining freedom to worship was an immediate political goal, the compromises that the Politiques were willing to make were unconscionable.

A mind-set we no longer find acceptable persisted among the Calvinists through the sixteenth century; a person's commitment to his religion was his strongest tie to the world, so that to admit other false religions was paramount to being an atheist.
Nevertheless, the Politiques read the Francogallia, and when King Charles IX died in May 1574, the Politiques joined the Huguenots in demanding a convention of the Estates General. No meeting was immediately called, though, since Henri III returned from Poland to succeed his brother.

Theodore Beza's De jure magistratum, the second work in the Monarchmach triumvirate, was published in 1574. Beza and Hotman apparently collaborated in writing their two works, exchanging information and sources. Beza was apparently his source of information about the Oath of the Aragonese King which Hotman had mentioned, but since Beza's work was not licensed for publication in Geneva, Hotman had been unable to give a citation to a printed work, the only point in the entire work that was undocumented.

The objective of the De jure magistratum is to justify the right to resist a heretical king. When a ruler has contravened the laws of God by becoming heretical, the people in the kingdom must revolt against that ruler. The function of revolt falls first to the lesser magistrates and only then to private citizens, if magistrates have assumed leadership or in lieu of their leadership. But the right to revolt is clear. Beza's work concerns itself with the question of resistance, and the argument is largely based on the argument that Calvin has developed in the Institutes. But the differences between Beza's work and Hotman's illustrate an important aspect of Hotman's work that we must not ignore. The De jure magistratum uses examples from French history to support the claims made.
But the basic idiom of the work is based on Scripture, as was Calvin's Institutes. As much as Hotman's work reflected the position of a religious faction, Hotman's justifications were always the type a lawyer would use; secular arguments from history that exemplify the position being extolled. Hotman's work was always deeply rooted in his legal background.

In 1576, a second edition of the Francogallia appeared. The effect of the changes made was to incorporate new arguments in order to refute critics of the first edition, to solve unanswered questions, and to heighten the impact of the argument about the Councils. Hotman now omits the ambiguous term "people" and substitutes "public council of the orders" or similar phrases, in nine places. Hotman stresses that the three orders he is referring to do not include the clergy, and cites Seyssel's work as support. When the Estates General did meet in 1576, the clergy was one of the three estates, but Hotman's political inclinations had tried to exclude them, although he was unsuccessful. Hotman's repeated exaltation of the three estates is coupled with additional evidence he uses to show the difference between the council and the parlement. The total effect, as Giesey and Salmon explain, is that "the reader is led to assume a parentage, if not an identity, between the Francogallian assembly and the modern representative body." Other changes include the insertion of a quotation from Cicero in capital letters, "Let the welfare of the people be the Supreme Law." A chapter is added on the authority of the
council over religious affairs (Chapter XVIII), and additional material is added throughout the document to support earlier claims.

After the publication of the second edition of the Franco-gallia, two major changes occurred in French politics. In May 1576, the fifth war of religion ended. The settlement was not well received by the Catholic League, who now began to borrow the arguments that the Huguenots had made in support of the principle of consent for their own propaganda. The Catholics now used the consent weapon to prevent possible religious compromises.106 Late in 1576, the long awaited panacea failed. The Estates General were finally convened by Henri III, desperately in need of tax funds. But no resolution of the religious question was possible there, in part because the Huguenot leaders boycotted the meeting. At any rate, the faith that Hotman and the other Huguenot writers had invested in the Estates General was destroyed. When the next major Huguenot tract appeared, the Vindiciae contra tyrannos of 1579, it contained no references to the benefits of the Estates.107

Hotman's next significant political writing appeared in 1584, when he had been commissioned by Henri of Navarre to write a justification for Henri's succession to throne, rather than Henri's uncle, the Cardinal of Bourbon. That year, accordingly, Hotman published his Disputation on the Controversy over Royal Succession between an Uncle and his Late Brother's Son. But Hotman's previous positions on private law and the Salic Law now stood in his way as he attempted to justify his argument.
Having claimed that private law was irrelevant to the French constitution and that the Salic Law had no force as legal precedent, Hotman found himself without a legal or historical ground to stand on. So Hotman devised a concept of "royal birth-right," a natural right based on closeness to the common ancestor. No human law could confute this simple principle of inheritance. Hotman's political position now forced him to abandon his own methodological forte, a reliance on historical detail for precedents. Hotman, when it was necessary, simply created an abstract principle to apply to the problem he confronted.

Continuing his service to Henri, in 1585 Hotman published his **Brutum Fulmen**, an elaborate argument against the authority of the Papacy, on the grounds that the political organization of the Papacy was inconsistent with scriptural prescriptions.

By July 1586, Geneva was practically in a state of siege. War seemed inevitable, and Hotman and his three daughters feared starvation. It was during this year that the third and final edition of the **Francogallia** appeared.

Much had happened in the intervening ten years since the second edition of the **Francogallia**. The Huguenots were optimistic about the chance that Henri of Navarre would succeed to the throne. A Huguenot king to re-establish the order of the kingdom would fulfill the Huguenots' long-held dream. Arguments about how to restrain the King became secondary and the question of how to guarantee Henri's rule became central. Another influence apparent in Hotman's revision was his desire to respond to
another key work in political theory that had appeared in 1576, Bodin's République. Because of the nature of the revisions that Hotman now felt he had to make, the clarity and forcefulness of the earliest edition was weakened.

The greatest changes in the third edition of the Francon Gallia reflect a new attitude toward consent. Throughout the text insertions were made bringing points Hotman had made into line with the correct political position. Now that Henri of Navarre could succeed as King of France, Hotman abandoned his continued protestations that the French King remained elected. For the first time, he explicitly states that the French crown is hereditary. 109

A major change occurs when Hotman adopts Bodin's concept of "fundamental laws." Although Hotman's fundamental laws (in his chapter "That the king...does not have unlimited authority within his kingdom but is circumscribed by well-defined right and specified laws"110) are used to support an argument quite different from Bodin's.111 But by establishing fundamental laws, Hotman has clearly altered his earlier position on the relationship of consent and custom. In the first edition of the Francogallia, customs were only formed by repeated acts of consent. Now, the customs stand, unchangeable, even by King and Council.112 Though Hotman tries to make his first fundamental law, "it is not lawful to the king to determine anything that affects the condition of the commonwealth as a whole without the authority of the public council,"113 that there are other
fundamental laws indicates that while Hotman does want to keep the King under the Council's control, he now also wants to control the Council. Citing Roman Law as his authority, Hotman sets down an absolute line for succession, a reversal he had been unwilling to make two years earlier. The other fundamental laws restrain the King from pardoning criminals, dismissing magistrates without the Council's approval, and debasing coinage. The Salic Law, previously regarded as an agreed upon custom, now becomes a fundamental law.

Hotman has borrowed Bodin's concept of Fundamental Law at the cost of the integrity of his concept of consent. Hotman apparently felt impelled to respond to Bodin on less important issues as well, but his attempt to use his opponent's argument here has left the readers wondering about Hotman's real position on consent. The final edition of the Francogallia ends up an unclear "patchwork quilt."

Hotman died in 1590. Henri IV became King in 1594, and soon after the religious wars subsided. François Hotman had devoted his life and scholarly energies to furthering the political goals of the French Calvinists. In doing so, he had formulated the clearest statement of the principle of government in France that emerged during the sixteenth century. It is unfortunate that the same position compelled Hotman to weaken this principle. But in the service of an ultimate principle, such compromises are done with ease by the truly committed.
CHAPTER V
Jean Bodin: Jurisconsult

While Hotman scholars may find the illegible handwritten letters of François Hotman burdensome, investigators of Jean Bodin (1529?-1596) would consider illegible records a blessing, since few records of Bodin's life remain. That no one consciously set out to collect Bodin's works may be one of the significant facts about him. Though his life has been reconstructed somewhat in the last half century, he still remains an obscure man. Bodin was not a pure intellectual; his political writings were paralleled by practical political experience. But Bodin was within the mainstream of French society, and when a person is operating within a society, rather than trying to storm it from the outside, it becomes easier to combine political activism with other pursuits. Bodin was learned on subjects from astrology to economics. We primarily know Jean Bodin through his preserved writings, yet the body of his works reveals a deep and broad intellect that searched out the unchanging principles in the universe. Bodin's positions were not always consistent since he relished ambiguity; but in contrast to Hotman, Bodin's work reveals the basic consistency that is the reward of moderation.

Bodin's exact date and place of birth are not known. He was probably born in Angers between June 1529 and 1530. His family belonged to the bourgeoisie; his father prospered as a master tailor and owned several vineyards. As a younger son
of seven children, however Bodin's prospects for inheritance were slight, and he was sent off at an early age to join the Carmelite order. Bodin joined the Carmelites in Angers, where he received his early education. Probably in 1545, Bodin went to live as a Carmelite brother in the Paris monastery, where he remained until (probably) 1549. While in Paris, Bodin studied philosophy, and learned Greek and Hebrew.

Studying in Paris, Bodin inevitably watched the split in the faculty at the University of Paris over the methods of Peter Ramus (1515-1572). Ramus had first shaken the University in his successful defense of his master's thesis in 1536, defending the proposition that whatever had been said by Aristotle was false. How great an influence Ramus had on the work of Jean Bodin is a debatable question. Kenneth D. McRae wishes to maintain that Ramus had a large effect on Bodin. McRae does not sustain his argument very well, though, and it appears that the only benefit to be gained from interpreting Bodin as a Ramist is to offer some consolation for the reader who finds Bodin's disorganization insufferable.

Bodin left Paris to return to Angers in 1549. There he was released from his Carmelite vows because he had professed them at such an early age. While there is no evidence to explain why Bodin would want to leave the order, there is some tempting evidence to suggest he was moving toward religious heterodoxy. In Paris in 1548, a Carmelite named "Jehan Bodin" was tried for heresy, and a person named Jean Bodin was offered Genevan citizenship in 1552. But these references cannot be
definitely tied to the same Bodin; the name was fairly common in the sixteenth century. Bodin's later career does reveal religious unorthodoxy, but whether this fact can be read back into Bodin's early actions is highly questionable. We do know that Gabriel Bouveri, the Bishop of Angers (d. 1572), had been impressed by Bodin's scholarly pursuits, and remained his patron after he had left the Carmelites.

Bodin spent the decade from roughly 1550 to 1560 in Toulouse, where he studied and professed the law. The law school of Toulouse was located in a University that attracted students from all over Europe, and prided itself on its protection of Catholic orthodoxy. The faculty of law was heavily oriented toward the Bartolist school of thought. Nevertheless, the mos gallicus was openly professed from 1547 to 1554 by one of the leading humanist legislators of the century, Jacques Cujas, who had been Hotman's predecessor at Bourges. Though never formally appointed a position at the University at Toulouse, Cujas did offer cours libres at Toulouse on the Roman Law.

While Bodin went to Toulouse to study law, this was not the only area of his intellectual concerns; he continued to pursue humanistic studies he had begun at Paris as well. Bodin's first published work was a translation of Oppian's poem Cyneggetica from Greek to Latin. The printer accepted the work in 1553. That Bodin would undertake to translate such a poem indicates that his concerns had not yet turned totally to the study of the law; rather, he remained attracted to the climate of humanistic learning that swept through France during the reign of François I.
Bodin's interests at Toulouse also included another field of increasing interest for the humanists, the study of history. This interest would continue to occupy a major portion of Bodin's efforts throughout his life. Bodin offered courses in history as well as in the law, so well-versed was he in the histories of many cultures. 125

The only other work Bodin published during his years as a student, his Oratio de instituenda in Republica juventute ad Senatum populusque Tolosatem. 126 In this essay, Bodin reveals several of his chief intellectual interests. The work is a speech supporting the establishment of an academy at Toulouse to supplement the law faculty. In a humanist vein, the speech lauds the study of literature and history, claiming that these disciplines enhance a person's civic virtue and ability to participate in politics. Courses, Bodin adds, should be taught in French. The proposed academy would not detract from the law faculty, but add to it, since the study of the law and humanities must be combined. Law is sterile unless studied in connection with the society and culture to which it is related.

Bodin here provides us with a clear view of his orientation to the law. Though the study of law was to preoccupy Bodin's life, he did not find the law adequate as a field of knowledge by itself.

Bodin's approach to the study of law itself underwent a significant evolution. Bodin was never able to appreciate the method of the Bartolists, grammarians who killed the interests
of students who had wanted to study the law. To understand why Bartolism would so anger Bodin, we must remember the nature of the Bartolist method. Much of the analysis depended on the interpretation and imagination of the commentator. By the middle of the sixteenth century, these continuous debates on the same maxims of Roman Law had become quite elaborate and removed from the actual content and meaning of the law itself. This gross irrelevance was apparent even without accepting the position that Roman Law was irrelevant because it had been taken out of its historical context. Bodin wrote a number of legal tracts during his years at Toulouse (they probably were derived from his lecture notes, for he too taught cours libres on Roman Law), such as De statu rerum publicarum, De iure imperio, De jurisdictione, and De legis actionibus. All of these subjects were controversial issues in the Roman Law, but apart from Bodin's later remarks about the nature of the works we know nothing of them; Bodin had them burned before his own eyes in 1596. Bodin describes the general tenor of these works in his dedication to the République:

I fell into the same error as Cujas once, and I am not ashamed to admit it. For it was at the time when I was giving public lessons in Roman Law at Toulouse, and I thought that I was very erudite. The chiefs of jurisprudence . . . and, in fact, the whole order of judges and lawyers knew little or nothing in my opinion. Bodin's thought on the law continued to evolve, as can be seen by considering a work that was published later (in 1578 or 1580), although written during this period, a 60-page work
entitled *Juris universi distributio*. The initial dichotomy
Bodin posits between the *ius civile* and the *ius gentium*, while
not a new distinction, has important ramifications for his
view of the value of the study of Roman Law. *Ius gentium*
(the law of nations) is concerned with the universal principles
of law that are common to all peoples, so the narrow *ius
civile* (law of one civil society) that developed in Rome is
logically much too narrow to serve as the central concern in
the study of the law. Although the Roman Law was the source
of Bodin's distinction between the *ius gentium* and the *ius
civile*, while still at Toulouse Bodin had studied the *ius
civile* of Rome itself, and had rejected it as a basis for a
universal legal statement. And he had foreshadowed, in making
this judgment, his own later concern in developing such a
universal statement.

If Bodin's thought about the law was broadening, his next
move was to have an even greater effect on this trend. Failing
to find a position on the faculty at Toulouse, Bodin decided
to practice law, and went to Paris in 1560, where he became an
advocate before the *parlement*. In Paris, Bodin later wrote,
his attitude toward the academic study of the law changed
dramatically. Bodin spoke of being "initiated into the mysteries
of jurisprudence in the law courts."131 In the dedication to
his *Methodus ad facilem historiarum cognitionem* (1566), he com-
pares academic students of the law with "men who have exercised
constantly in a gymnasium, yet have never seen the line of battle
and have never undergone the fatigue of military service."\textsuperscript{132}

As a practicing attorney, Bodin discovered the importance of practical knowledge: "I understood that a real and solid knowledge of the law is found not in the dust of the schools, but in the battlegrounds of the forum; not in the quantity of syllables, but in the scales of justice and equity."\textsuperscript{133}

From his arrival in Paris in 1560 until 1567, Bodin practised as an avocat. In addition, he continued to write on a broad range of subjects. In 1566, Bodin published his Methodus, the result of fifteen years of research. This is one of Bodin's most important works, and we shall consider it in the next chapter.

In 1568, Bodin published another important work, his \textit{La Response à M. de Malestroit}. Jean de Malestroit had been commissioned to investigate the cause of the current serious inflation resulting from the sixteenth century price revolution. He concluded that there was no real rise in prices, for while prices were going up, those increases only reflected the degree to which the coinage was being debased, as there was no real change in terms of real gold and silver. Bodin's response shows the originality and breadth of his intellectual concerns.\textsuperscript{134} Bodin claimed that gold and silver had lost their former value, and pointed to the cause: the increased quantity of these precious metals as a result of the Spanish bullion imports from the New World. Had Jean Bodin never written a word about politics, he would still be historically important for his contribution in economic theory; for Bodin was the first to
formulate clearly the quantity theory of money that still remains an important element of modern economic theory.

But Bodin is not primarily remembered for his economic contributions, which have been rightfully overshadowed by his contributions to political thought.
CHAPTER VI

The *Methodus ad facilem historiarum cognitionem*

In 1566, the first wave of religious wars in France had ended. François Hotman, under the patronage of the Chancellor, Michel de L'Hôpital, was researching in Paris. In the same year, Jean Bodin was practicing law, and also published his first major work, his *Methodus ad facilem historiarum cognitionem*. Bodin dedicated the work to his friend Jean Tessier, the President of the Court of Inquests. Directed toward an audience of humanistically-oriented jurists, Bodin's treatise is one of a series of works written in the genre of the *artes historicae* during the sixteenth century, as a guide for those not as well-read about the "way in which one should cull Flowers from History to gather thereof the sweetest fruits." A reader of Bodin's work is struck by the variety of flowers that Bodin has included in his bouquet. After devoting the first four chapters to devising a plan for reading histories, Bodin considers the nature of government and universal time before concluding the work with an impressive bibliography of histories that the well-educated persons should read. The nearly 250 sources from the Bible to Martin Luther and Niccolò Machiavelli stand as testament to Bodin's own intellectual breadth.

As with most of Bodin's works, it would be possible to spend years analyzing the fascinating digressions and curios
that can be found in the *Methodus*. There is a theory about
the origin of the earth, astrological predictions about the fate
of empires, a disposition on the effects that numbers have on
political life (the age 63, for example, is likely to be lethal),
and Bodin's rather famous "theory of climate," about the way in
which climates influence political organization. We shall forego
an investigation of these aspects of the *Methodus*, and concentrate
instead on Bodin's view of law and history, and the political
theory.

It is in the Dedication of the *Methodus* that Bodin launches
his first major attack on the academic approach to the law.
Bodin describes four types of interpreters of the law. The
first type are those trained in the schools. (Note that Bodin
does not distinguish between the Bartolists and Humanists.)
The second type practice law but know nothing of legal precepts,
though they can judge. The third type have learned both practice
and precepts, and only these are worthy teachers. The fourth
type are those trained not only in precepts and practice, but
also in the fine arts and philosophy, who grasp justice as it
is laid down in eternal law, who are still worthier. Bodin's
work is an attempt to justify this fourth type approach to law.

The *Methodus* is often compared with Hotman's *Anti-Tribonian*.
Beatrice Reynolds, for example, writes:

In the preface of the *Methodus* there is the same
interest and aim as that expressed in the *Anti-Tribonian*.
The two books were written almost contemporaneously
and probably derive from the same source, the Chancellor.
At least two aspects of their attacks were similar. First, both condemned the study of Roman Law as irrelevant to the practice of law in France, though for different reasons. Bodin claimed to have learned nothing from the Schools that was a practical help, and Hotman's entire treatise was on one level a call for educational reform. Second, both Hotman and Bodin recognized the severe limitations of the concept of Roman Law as a body of unchanging legal doctrine.

Nevertheless, while Bodin and Hotman share these conclusions, the way in which their arguments are presented reveals a basic difference in their approaches. The Anti-Tribonian is devoted to this one argument. Bodin dismisses the legists in the Dedication to his work. Rather than attacking it elaborately, he undermines the significance of Roman Law by not using it as doctrine valid for all time, but only within some of the myriad of historical situations he explores. Tribonian, for example, who occupied so central a role in the humanist legists' arsenal, is not mentioned once in the entire work.

Hotman and Bodin may share a few intellectual concerns but ultimately they come from different worlds. While both Bodin and Hotman may have been critical of the overly scholastic Bartolists, Bodin condemned equally the humanist Roman legal-historical interpreters without even differentiating them as a separate type. He cites with disdain a "man who had such a fine reputation in the schools of Bourges . . . who when he came into court and was consulted about the most trifling matter could not
The different positions that Roman law occupied in the intellectual constellations of Hotman and Bodin cannot be overexaggerated. For Hotman, legal arguments and academic disputes were the single most important concern. For Bodin, the proper place of law could be understood only when the law studied academically was tempered with practice and by a broader understanding of the world, its history and all of its laws.

Given the limited importance Bodin ascribes to the legalistic mode of argument, it is only natural to expect that some other concern is central for him. Bodin attempts to use history as the basis for establishing universal natural laws.

Two forms of the *ars historica* had emerged in the Renaissance period. The Italian approach was to treat history as rhetoric, as if it were a literary art form. Consistent with other thinkers of the Italian Renaissance, historians held that the lessons of history were to be drawn primarily from the history of classical Greece and Rome. Finding those lessons and analyzing them rhetorically served as the basis for the Italian *ars historica*, including works written by Fox-Morzillo, Patrizzi, and Dionigi Atanagi. On the other hand, the Germanist approach to history, an outgrowth of the Reformation, assumed the basic Protestant theme of a return to fundamentals. Generally, these works had several basic goals: to show the historical truth contained in the Bible, and to glorify Germany. An example of such an idea is derived from the Book of Daniel, which includes a prophesy that there shall be Four Monarchies in the world,
which the German historians like Melanchthon took as *prima facie* evidence of the greatness of the Holy Roman Empire.

Bodin's bibliography and textual remarks reveal that he was quite familiar with both types of historical works. He condemned what he felt was the rhetorical frivolity of the Italian approach in his Preamble, entitled, "on the ease, delight, and advantage of historical reading," which was highly rhetorical itself. Bodin did make some use of the historical argumentation that the Germans considered crucial, since he did try to demonstrate the correct age of the earth. An entire chapter of the *Methodus*, though, is devoted to a refutation of the concept of the "Four Monarchies" on several grounds. First, Bodin dismisses the prophecy of Daniel because it spoke of events and times so long ago that it could obviously no longer be an applicable prophecy. This comment makes clear that Bodin did not view Scripture with the same reverence that the German historians did; for Bodin, it was another source of historical evidence. Second, Bodin shows empirically that there have been more than four empires and monarchies, and that currently existing empires, such as the Spanish Empire in the New World, more completely deserve the heritage of the "great" monarchies than does the Holy Roman Empire.

It is clear, then, that Bodin's approach to the classical Italian and Biblical German historians was selective and critical. As we would expect, Bodin proposes a reason of his own for the study of history. His most straightforward response is this: one should study history in order to uncover the basic natural
laws of history so that they may be made the guide for our actions, so that men may improve their ability to cope with their surroundings, and so that they may comprehend the ultimate nature of God and the universe. "Since for acquiring prudence nothing is more important or more essential than history, . . . we judge that attention must be given to this subject, especially by those who do not lead a secluded life, but are in touch with assemblies and societies of human beings." Bodin was writing not a history but about the way to read history. He consciously approached history differently from earlier writers, so that it would yield universal laws. This use of history, transformed from reverence of the past to universal principles, marked the turning point in Renaissance historical thought. Donald Kelley summarized this difference: "While Bodin placed history 'above all sciences,' he gave it a wholly subordinate function. It was the raw material of the jurist, the record of the human chaos out of which a legal philosopher could create a universal system of jurisprudence." We need only compare this approach to history with that of François Hotman to see how different an approach it was. Hotman had approached the evidence he could discover about France's past and manipulated it to create a historical myth that would conform to the positions he had already independently arrived at. History was exemplary, not part of a universal scheme, a source of separate "lessons." While Hotman's use of French rather than Roman history marks him off from the ars historica of Italy, his innovation in historical method appears insignificant when contrasted to the vision of history's worth that
Bodin advocates.

Nowhere is the effect of Bodin's method of abstracting universal principles from history more apparent in the Methodus than in his treatment of government. Because so much of history revolves around the state, Bodin takes it upon himself to provide us with the flowers that will be culled from history on that subject.

Most of Bodin's important political concepts are introduced in a sophisticated style in the Methodus. Some variations occur in the République, but it will be seen that the body of Bodin's political writings reflect a consistency quite different from the gyrating Hotman, who changed sides and views with the shifting political winds. For Bodin, the fundamental questions continued to remain fundamental, and because Bodin was not so intensely partisan as Hotman, it was easier for him to devote himself to these broader political questions.

Bodin's approach to the study of government is highly systematic. He begins by offering general definitions of the key terms in politics, terms that do not even show up in Hotman's theory, which by comparison reveals its highly unsystematic nature. But though systematic, Bodin is disorganized. The central concept of his political theory, and the one we shall concentrate on, is the concept of political sovereignty.

Though the French have a word for it, few people have recognized the importance of the term sovereignty. On the basis of his readings in Aristotle, Polybius, Dionysius of
Halicarnassus (a Roman historian of the first century, B.C.) and the jurisconsults, Bodin defines sovereignty in terms of five functions.

One, and it is the principal one, is creating the most important magistrates and defining the office of each one; the second, proclaiming and annulling laws; the third, declaring war and peace; the forth, receiving final appeals from all magistrates; the last, the power of life and death when the law itself leaves no room for extenuation or grace. 144

Sovereignty can only reside in one office of the state. Magistrates cannot exercise any of these powers without becoming the sovereign. The most important implication of this definition of sovereignty is that it sweeps away the possibility of the famed "mixed state", where all three parts of a society are assumed to share in the decisions that denote sovereignty.

According to Bodin, political commentators from Aristotle on, including Dionysius, Cicero, Machiavelli and Thomas More had used the concept of the mixed state, and had been wrong. 145 Since most of the advocates of the mixed state have been historians, Bodin feels compelled to refute the historical examples of mixed constitutions they have provided. Starting with Rome, Bodin proceeds to show systematically that the Athenian, Venetian, Spartan, and Florentine constitutions all had sovereignty that resided in only one institution. 146 In his investigations, though, Bodin often is forced to change what would be considered the exercise of sovereignty to make his conclusion valid.

We might well ask why Bodin was so compelled to campaign
against the mixed state. No answer to this question is clear, but when we examine the type of government that Bodin argues is best, monarchy, his motivations become clear.

Bodin adopts the usual three-fold classification of states, monarchy, aristocracy, democracy. The type of state is determined by discovering where the sovereignty is. Monarchies can be divided into two categories: monarchy and tyranny. Tyranny is not defined in the usual fashion (a tyrant looks out for his own interests, not those of his people), for in that case, even Moses would have appeared to be a tyrant. Instead, Bodin defines a tyrant as a king who fails to uphold the universal laws in his rule. Clearly, Bodin is trying to free the monarch from being bound by the wishes of the people, who may be wrong. The problem with a mixed form of government is that it does place the king under the constraint of consent. Unlike Hotman, Bodin is more worried that the nation, rather than the monarch, will disobey God's universal laws.

Kings do not rule without any restrictions. Some kings "bind themselves to govern the state in accordance with the laws of the country and the public good." Even if the king has not made such an agreement, though, he is still limited by the universal principles of justice and equity, and cannot do anything he pleases. Bodin criticizes the interpreters of the classical Roman jurisconsults who "did more harm when they affirmed that the sayings of Ulpian and Pomponius about the Roman princes (whom they not only freed from the laws, but even said that their will was law) applies to all princes."
Having considered Bodin's theory of political authority, we return to the role of the citizen in the state. Bodin demonstrates that Aristotle's concept of citizen as one who can participate in governing is too narrow, and offers the counter-definition that "a citizen is one who enjoys the common liberty and the protection of authority." The difference between these two definitions highlights the different starting points for Hotman and Bodin in their political theories. While Hotman never offers us a definition of citizen, it is clear from his treatment of the constitution of France that the basic common liberty upon which he would insist is the right to participate in decision-making. As Hotman says in the *Francogallia*:

> I do not think that there has been any kingdom other than that of the Turks, in which the citizens have not retained some concept of liberty based upon the unique right of holding assemblies.

Consent to the decisions that are made is the defining liberty of citizenship for Hotman. For Bodin, consent plays no necessary role in a state. Citizenship is based on the acceptance of authority. If Hotman's citizen resembles Aristotle's, Bodin's citizen is simply a subject. Comparing the state to a family, Bodin asserts what is really his fundamental presupposition about the nature of government, "Still, if it is servile to bear the authority of a king, it ought also to seem servile to obey one's parents."

A final aspect of the *Methodus* for us to consider is Bodin's view of the Constitution of France. Bodin praises the French state for its consistency and stability. This may be a curious
assessment to make in 1566, but Bodin unabashedly praises the Valois for (of all things!) their handling of the wars of religion.

No greater proof of a stable state exists than was shown recently in the religious wars that flamed throughout all France. Although the leaders of the parties devastated everything with slaughter and fire, yet the splendor and prestige of the courts and of the greatest cities strangely enough was undiminished... The prince forgot all injuries. Goodness of such a nature is innate in the race of the Valois. 152

The French have followed the Salic Law as "the most ancient law of the kingdom," which is perfectly all right with Bodin, since he believes that the prohibition of women rulers is also in accord with the principles of nature. The French king is also bound by the "Agrarian Law, which forbids alienation of the public domain without the consent of the Estates."153 Another law binds the King of France,

Of all the laws of the realm, however, none is more sacred than that which denies to the decrees of the prince any force unless they are in keeping with equity as well as truth.154

For Bodin, the parlements are the natural repository for such decisions. The parlements can reach decisions against the king when he has not acted with equity. Bodin cites examples of such decisions, and criticizes the current parlements for becoming too lax in their duty of enforcing the principle of equity.155

Another limit on the French monarch is the organization of the French Treasury. The king is expected to live on the
monies from the royal domain. The officials in the Treasury keep careful account of that amount of money, and are prohibited from providing the king with any additional funds. These restrictions limit the actions of the king of France.

It is intriguing to note the different form of analysis of the French constitution that Bodin and Hotman have offered. Hotman decides to pick out the councils and estates as the main elements for the exercise of political authority, while Bodin treats these councils merely as an adjunct to the sovereign king. Hotman's list of functions of the council matches Bodin's attributes of sovereignty. Some powers do reside outside of the king in Bodin as well as Hotman, but the basis of these powers is not Hotman's principle that there is some superior way to resolve problems that dictates that when more people are involved, a better decision results. Rather, Bodin claims that there are some fundamental laws under which the king must operate.

Another difference between the two theories is their treatment of the parlements. One glance at the two biographies suggests that Hotman will despise these courts, while Bodin will praise the source of his livelihood. For Bodin, if there is anything wrong with the present day parlement, it is that it is too timid in placing restraints on the king's actions. Hotman sees precisely this manifestation of the parlements as the way in which the entire constitution of France had been undermined.
Both Hotman and Bodin are in agreement that treasury funds must be spent in a manner consistent with the consent of the Estates. Bodin's rationale is not developed until the République, so we shall delay our discussion of this point until that work is considered.

Bodin's portrayal of the constitution of France is more similar to the portrait offered by Claude de Seyssel than is Hotman's. Seyssel was also willing to allow the king to act, but within established constraints. Bodin ignores some of the restraints that Seyssel cited, notably the Estates General. As we have noted, Hotman is unable to accept a view of the present constitution that argues that the current restraints are effective, since it did not appear to him that these constraints were working.

The Methodus is a broad-ranging work that grows out of Bodin's varied humanistic concerns. His preoccupation with a search for universal principles that guide the universe shapes the way he treats history, the law, and politics. In the next chapter, we shall consider the view of politics that grows out of Bodin's more immediate and practical concerns. It is a view highly consistent with the view presented in the Methodus.
Although the Methodus won acclaim for Jean Bodin, its circulation was small. In the decade after its publication, which was the period of Bodin's greatest political activity and the time when he published his economic treatise, Bodin became a prudent political actor. In 1567, Bodin went to Poitiers to work as a deputy for the procureur-general. But when the religious wars broke out again, the government became more wary of religious dissenters, much to the disadvantage of Jean Bodin.

At this point we should attempt to assess Bodin's religious beliefs. This remains one of the most difficult tasks for Bodin scholars, since Bodin left no unambiguous statements of his religious beliefs. We noted earlier that Bodin might have left the Carmelites because of unorthodoxy. Bodin became a member of the Politique party, and shared their attitude about the importance of religion. In a letter written in the early 1570's, Bodin deplored the bloodshed that stemmed from religious conviction. Such a position itself may have been considered sufficiently unorthodox for Bodin to be imprisoned. Other evidence does exist to suggest that Bodin's religious beliefs were more unorthodox. Bodin's last written work, his essay on religion entitled Heptaplomeres, is a debate between seven adherents of different religions. The work was inconclusive, although each of the seven were allowed that their arguments
had some validity. Bodin's own religious beliefs were probably equally inconclusive.

Whatever Bodin's actual beliefs, he was suspected of heresy. The records of imprisonment in the Conciergerie note the detention on March 6, 1569 of M. Jean Bodin, an advocate in the court of parlement, born in Angers. The prisoner was held, as an adherent of the new religion, until the Edict of Pacification, August 11, 1570.

Upon his release from prison, Bodin continued to work in the royal service, this time going to work on the reformation of land-holding in Normandy. In 1571, Bodin was appointed maître des requêtes for the King's youngest brother, François, Duke of Alençon. Since Charles IX was apparently dying, François' household conspired to seize the throne for him, in the place of the rightful heir, his older brother Henri, who was preoccupied at the time as King of Poland. A secretary named Bodin, presumably Jean, was implicated in the attempt to raise support for François among the English. But the plan to enthrone François failed. After this time, Bodin dropped out of public sight until he reappeared at the end of 1576 at the Estates General at Blois, representing the Third Estate for Vermandois. Shortly before this reappearance Bodin published Les six livres de la République.

Since the publication of the Methodus, France had been plagued by four outbreaks of civil war, including the St. Bartholomew's Massacre of 1572. Political tracts had proliferated, including Hotman's Francogallia. Bodin himself had been
imprisoned. For Bodin, interested in stable government, it was clear that the new King, Henri III, would have to devise a solution to the religious problem.

Although Bodin was apparently a Protestant of some sort, he was willing to forego religious conviction to regain political stability, and the position of the party known as the Politiques became increasingly attractive for him. Such a compromise seemed unspeakable to the Catholic and Huguenot partisans. Hotman, for example, thought as badly of the Politiques as of Machiavellians, whom he thought they resembled with their emphasis on political expediency. Nevertheless, Bodin was a committed Politique and the République is in part an attempt to devise a political position for the party.

At the same time, Bodin wanted to preserve the goals of the universal system he had proposed in the Methodus. It is the strange mixture of universal laws about government and the world and a practical political program that cause some discrepancies in Bodin's most widely acclaimed work. The basic premises of Bodin's political theory in the République remained the same as those expressed in the Methodus, although the form of argument changed somewhat for the purposes required in the work. But the fact that Bodin's position does not change drastically from one work to the other supports the thesis that his thought was consistent during his entire career.

Bodin originally wrote the République in French. Seven French editions appeared during Bodin's lifetime beginning in
Bodin rewrote the work in 1586 in Latin, and revised it again in 1591. No variorum edition of the work exists, and the English translations do not account for the different versions. But the difference between the two editions are slight. The Latin version tends to be written in a somewhat more subdued tone, and to draw less on the French experience. Hence, we shall treat the different versions as one.

Bodin dedicated the first edition to a jurist, Gui du Faur, Sieur de Pibrac. Bodin's French dedications reveal that it was in large part the political turmoil of the age in which he lived that had prompted him to write this work, since, he believed, other works on government were inadequate. After accusing Machiavelli and others like him of atheism and the doctrine that rulers be taught injustice, Bodin turns on the other denouncers of Machiavelli, that is, the Huguenots:

They are no less dangerous, and perhaps more so, for under the pretext of an exemption from charges, and popular liberty, they induce the subjects to rebel against their natural princes, opening the door to a licentious anarchy, which is worse than the harshest tyranny in the world.

Again in 1578, Bodin defended his position on the need for stable government by reference to the consequences of the Huguenot theories:

I perceive on every side that subjects were arming themselves against their princes; that books were being brought out openly, like firebrands to set commonweals ablaze, in which we are taught that the princes sent by providence to the human race must be thrust out of their kingdoms under a pretense of tyranny, and that
Kings must be chosen not by their lineage, but by the will of the people. 163

The République is a more systematic treatment of politics than were the chapters in the Methodus. Book One includes the important definitions. The second book divides states into three types. Book Three then examines how offices are distributed in those states. Book Four explains changes in states; Book Five considers other influences on the state, including Bodin's theory of climate; and the sixth book, after dealing with some political problems that all states face, returns to evaluate the best type of state. The organization of the République is very similar to the organization of Aristotle's Politics. It is clear that Bodin considered his work the equivalent of the Politics, and the additions he makes in the first book about the composition of the state to include the organization of the households in the state is a close parallel to Aristotle's handling of the same subject.

Much of our analysis of the Methodus applies to the theory advanced in the République. We shall consider several important changes and elaborations though, which clarify and strengthen the arguments in the earlier work.

One new element is Bodin's definition of the State as a collection of families. This parallels Aristotle's definition of the State. The most significant element about this section is Bodin's delimitation of the nature of the family. Most importantly, the property that families accumulate is theirs
by natural law, and this law should not be abrogated. Perhaps the single most important and controversial shift in Bodin's work centers around the concept of sovereignty, which Bodin explains in Book One, Chapters 8 and 10 of the République. While in the Methodus, the appointment of magistrates is listed as "the most important" mark of sovereignty, Bodin in the République continually reiterates the point that the foremost mark of sovereignty is the power to make laws: "So we see the principal point of sovereign majesty... to consist principally in giving law unto the subjects in general, without their consent." And in reference to France, Bodin adds, "we have oftentimes seen in this realm of France certain general customs abolished by the edicts of our kings, without the assembling or consent of the estates." This change provides a basis for the claim that Bodin is more absolutist in the République than in the Methodus. For in order to maintain that the sovereign can transform custom without reference to the people in France, Bodin must slightly modify the position that he had earlier advanced about the nature of the French, and all Christian kingships; Bodin can no longer maintain that the kings are bound by all law. Bodin now concisely states that the sovereign prince is exempted from the laws of his predecessors, and more importantly, from his own laws:

Much less should he be bound unto the laws and ordinances he maketh himself... Since it is a maxim of the law that there can be no obligation, which taketh state from the mere will of him that promiseth the same.
Bodin seems to contradict his earlier claim about the nature of the French coronation oath, now arguing that "The oath also of our kings...contains nothing in it concerning the keeping of the laws and customs of the country or predecessors."\(^{167}\)

How can we explain Bodin's stronger position on these issues? It is clear that the reason Bodin thinks the prince must be free from even his own possible commitments to allow him to respond to changing conditions: "It is not only profitable that a sovereign prince should sometimes abrogate some such laws, but it is also necessary for him to alter or correct them, as the infinite variety of places, times, and persons shall require."\(^ {168}\) Even in the *Methodus*, as we have seen, Bodin shows some concern that the prince not be bound by outmoded legislation.

In short, Bodin has attempted to establish the increasing importance of *legislation* as the decisive element in sovereignty. Bodin does not want to limit the king by requiring that he receive consent before he makes changes in the law.

The political conditions of the early 1570's might have been an influence on Bodin sufficient to cause him to want the prince to become more independent in his past action. Part of the reason for Bodin's stronger statement, though, is that he wanted to bolster his argument about royal initiative to respond to the Huguenot theorists.

One of the major themes in Hotman's *Francogallia* is the careful delineation of institutional boundaries within which the king must operate. The most serious flaw in the French
government during the past hundred years, for Hotman, is the failure of the kings to adhere to the ancient customs of the realm. The advice that Hotman offers to solve the political problems of France is a return to the ancient constitution. The fact that Bodin devotes an entire Book of the République to the ways in which states are transformed reveals that Bodin does not share in Hotman's conception that a static government is an ideal government. There is a need to adapt as times change. Bodin argues to restrain the sovereign from doing so by limiting his legislative autonomy to remove really effective power from him.

There is additional evidence to suggest that it was Hotman's work that to some degree inspired Bodin's increasingly strong statements on the relation of the king to the law. First is the passage is the introduction to the République that condemns the whole genre of "openly brought out books" which oppose the king. Second, in the section on sovereignty Bodin goes to great lengths to refute a piece of evidence that Hotman had used in support of the concept of limited monarchy, the Coronation Oath of the Aragonese. Despite the oath, which Bodin shows is not as strongly worded as Hotman has alleged, the King of Aragon remains sovereign. The oath has not been used in recent times, Bodin points out, but it grew out of the need to remind the king that he was still bound by the law of God and natural law. These are perfectly acceptable limitations for Bodin:

For if we shall say that he only hath absolute power which is subject unto no law; there should then be no
That Bodin clarified his notion of the sovereign's legislative authority does not necessarily mean that his position is more "absolutist" than his position in the *Methodus*. At the same time Bodin strengthens his statements about the king's power, he strengthens the arguments he advances to establish that monarchies are limited. First, while the historical evidence that Bodin cites in the First Book remains basically the same, the critical apparatus, which is not available in the English editions, shows that at the same time Bodin was writing stronger statements into the text, he was adding more and more marginal comments that supported more ambiguous answers to the questions posed. As Ralph Giesey has noted: "as Bodin in Book I, Chapter 67 backs off from his earlier more rigorously 'absolutist' stand in the text, that is, introduces exceptions he swells the marginalia with the evidence of medieval jurisprudence." Second, as Bodin protests in the 1578 dedication, the normal restrictions that are binding on the king apply in his theory as well.

But what could be more in the interest of the people than what I have had the courage to write: that not even to kings is it lawful to levy taxes without the fullest consent of the citizens? Or of what importance is my other statement: that princes are more stringently bound by divine and natural law than those subject to their rule? Or that princes are bound by their covenants exactly as other citizens are? Yet nearly all the masters of legal science have taught the contrary.
This point requires further elaboration. There are two major types of restrictions on the king. The first, labelled in the Latin *leges imperii*, are the laws that are so fundamental to the nature of the constitution that for the King to violate them would undermine the very nation, thereby destroying sovereignty itself.\(^{172}\) Two such laws that operate in France are the Salic Law and the Agrarian Law.

The second restrictions are the dictates of natural law. In the *République*, unlike the *Methodus*, Bodin does clearly explain the reason why the king must obey his contracts and must receive consent to tax. Natural law dictates that the private goods are the possessions of individuals, and these possessions are inviolable.

Now then if a sovereign prince may not remove the bounds which almighty God (of whom he is the living and breathing image) hath designed unto the everlasting laws of nature: neither may he take from another man that which is his, without just cause. \(^{123}\)

When the king wishes, for example, to increase the taxes on the people, he must receive the consent of the Estates General to do so.\(^{174}\) Since taking people's property violates the natural law, requiring consent in this case is not a violation of sovereignty in Bodin's view. Indeed, if the sovereign could violate natural law with impunity, what would be the purpose of the sovereign?

Bodin's concept of sovereignty does change from the *Methodus* to the *République*. In the latter work, the emphasis
has shifted to the power of the sovereign to initiate, legislate, rather than to judge or to administer the government. That this is a significant transformation can be easily demonstrated, as Ralph Giesey has noted:

Bodin believed that he was a true adherent of limited monarchy, but by medieval standards this can be accepted only if one believed that the power which Bodin left to the king after imposing limitations upon him was not greater than the sum of specific powers typically allotted to the king by medieval political theory. 174

Yet it would be wrong to interpret Bodin, the formulator of the concept of sovereignty, as the formulator of absolute monarchy as well. The intellectual and political milieu in which he lived may have caused Bodin to state his case more strongly, but he remained committed to a monarch, sovereign though he was, who was restrained by the principles of natural and divine law. Hence, there was no need for the further check of the people on the king.

There is one additional check on Bodin's sovereign, however. Magistrates were advised that they should not execute unjust orders. While magistrates are not permitted to openly rebel against unjust commands, the sovereign can only be as effective as his magistrates. If the magistrates do not cooperate, the sovereign's power is diminished. In the context of a class of individuals as committed to stability as is Bodin, he is willing to allow the exercise of judgment to restrain the sovereign. 175

This, in short, is Bodin's political argument in the
République. The final statement of Bodin's political position places more stress on the ability of the king to legislate and initiate action, but the king's ultimate ability to act remains strictly limited by the limits of the long-standing national laws, the right of the Estates to limit the revenues the king receives, natural laws about contracts, and the unwillingness of the magistrates to enforce the sovereign's arbitrary rules.

Bodin's career as a political actor reflected the position that appeared in the République. He played an important role in the Third Estate during the Estates General's meeting at Blois. The representatives at Blois were presented with two major issues. The first issue was the resolution of the religious question. No resolution of this problem was possible. Bodin particularly angered Henri III, however, when the bankrupt King asked the Estates for a higher tax levy. On the basis of the arguments Bodin had made in his book, he was able to convince the Third Estate that granting the tax would be harmful to the regime. More importantly, though, Bodin refused to allow the Estates to vote on the particular levy the King suggested, since it was more than the deputies had been authorized to vote on by their electorate. The meeting disbanded without the tax action Henri had demanded. Bodin's actions prove that although his monarch may have seemed absolute, in practical terms, he was limited.

Not surprisingly, the conclusion of the Estates General's
meeting did not find Bodin invited back into the royal service. Bodin went to the city of Laon, where he practiced law and wrote. There he published his *Juris universi distributio*, and his study of witchcraft, *De la Démonomaine de sorciers* (1580). In 1580, the Duke of Alençon recalled Bodin to diplomatic duty as he attempted to spearhead a revolt against the Spanish in the Netherlands. Bodin went to England to try to gain support for Alençon; the plan, however, failed, and in 1584 Bodin retired from political life for the last time. After 1584, Bodin's brother-in-law died and Bodin took his place as procureur du roi for Laon.

The last years of Bodin's life were spent writing two works, an essay on natural science, *Universae naturae theatrum*, and his essay on religion, the *Heptaplomeres*. Both works reveal that Bodin's final years were spent in the same intellectual pursuits that had marked his earlier career; Bodin sought to discover the universal principles that guided the world. Bodin died in 1596, and was buried in the Church of the Franciscans in Laon.
CONCLUSION

Hotman and Bodin were almost exact contemporaries; both were French; both wrote political theory; both studied alchemy. The positions that the two occupied in sixteenth century society were quite different, however, and as a result, the political theories that the two advanced reached opposite conclusions about the nature of political authority.

Hotman early in his life left the cultural atmosphere that Bodin lived in, the atmosphere surrounding the humanistic jurists in Paris. Perhaps no event had so significant an effect on the life of François Hotman as that initial departure from home. Without family or security, Hotman's life revolved around his commitment to Calvinism. Donald Kelley's label "revolutionary" is a good account of Hotman's life. To view Hotman primarily as a scholar at any time in his life (the position of Ralph Giesey in his article "When and Why Hotman Wrote the Francogallia") is a mistake; although he was deeply committed to legal studies, using that as a basis for his political theory. When given the choice between intellectual consistency and political expediency, Hotman opted for the latter.

As a partisan of a persecuted minority, Hotman's political theory attempted to discover feasible ways to place restraints on the king. Hotman's theory (in its original form in the Francogallia) compared to the early sixteenth century account of Claude de Seyssel, over exaggerates the role that consent should play in the government. No other way to control the
government would work except the check of the people. Compared to the other Huguenot tracts of the time, Hotman's work is quite sophisticated. Unlike Beza and Mornay, Hotman went beyond the question of resistance to ask how a new political authority would be constituted. Hotman's answer, drawn primarily on the authority of a past golden age, is that the consent of the people is the best basis for political authority. The list of functions that Hotman gives to the public council closely parallels the functions that Jean Bodin attributes to the sovereign. Hotman's theory is the most restrictive one imposed on the monarch in the sixteenth century.

As we have seen, though, to praise Hotman for this political theory requires that we overlook many of Hotman's earlier and later positions. Hotman's practical immediate concerns were more important to him than was the production of a single succinct political theory. In Hotman's case, his involvement as a political actor undermined his consistency as a political theorist.

Jean Bodin was a political actor as well, but being in the moderate mainstream of French politics in the sixteenth century, his political involvements did not adversely affect his political theory. Bodin's political theory arose out of one of the most fundamental of political concerns, the necessity of order in the state. The majority of the people in France shared this concern, as do most people in any society. The result is that Bodin's political theory and objectives did not rely on grabbing the advantage of each new contingency. Bodin's political career was less frenetic. It reflected one central
concern, but that concern was so central to the society that Bodin could insist upon it and remain within the mainstream of political action.

This is not to belittle the creativity and importance of Bodin's contribution. Bodin's work is sometimes viewed solely as a scheme for political reform, with a theoretical veil thrown over it. But Bodin's thought remained relatively consistent over a period of time that preceded and followed his period of intense political involvement and reforming impulses. On the contrary, the concept of sovereignty has remained a central category for political analysis. No reform grew out of that term; Bodin was attempting to set out the universal precepts for the study of government.

It is natural that Bodin would stress the more absolutist strand of French political theory. Certainly, Bodin's theory was not the most absolutist one of the century. Early in the century, Budé, Charles Graisaille, and numerous other writers had praised the French Monarchy in more absolutist statements than Bodin's theory. When Bodin's work is compared with Seyssel's the most important of Bodin's contributions becomes apparent. The major difference between the monarch Seyssel describes and Bodin's sovereign is the role of legislation. Seyssel's theory is an account of a static kingdom, while Bodin's theory directs itself toward making responses to quickly changing conditions. Within the monarchist tradition, this is the alteration that occurred across the span of the sixteenth century. Given Bodin's
caution to show the limits that still operated on the king, it seems in error to characterize this change as the growth of absolutism, as so much of the critical literature does. We would have better ideas about the nature of kingship in the sixteenth century if we asked about the degree of initiative to legislate the king possessed, rather than how "absolutist" he was.

The different political positions in which Hotman and Bodin found themselves also necessitated that the type of political theories they propounded be different. Bodin's theory is more abstract and relies more on "universal laws" as its justification. Again, because Bodin was defending the mainstream tradition, this was an easier task for him than it would have been for Hotman. Hotman's defense of a minority required that compelling arguments be presented on behalf of past minorities. Since the fate of political minorities in history had not been highly inspiring, Hotman craftily devised a strategy that used the French past to show that consent was a respectable basis for political authority. These two approaches, Bodin seeking universal principles and Hotman seeking to purify a French tradition; determined the approach that the two would adopt (politically) toward Roman Law. For Bodin, Roman Law could only play a minor role, and for Hotman it was irrelevant. That the two rejected Roman Law in some regard foreshadowed the fate of those studies in general; within another generation, argument from Roman Law ceased to have any political impact.
Hotman's *Francogallia* has had a small influence as a work of political theory. The English political writers of the seventeenth century imported most of the monarchomach literature to justify their own rebellion. The *Francogallia* was not as widely used as the other monarchomach treatises, however, because its historical nature made it less applicable to the political situation in England. The *Francogallia* was used by eighteenth century writers to support the rights of the Estates General, and the work enjoyed another flurry of interest in the French Revolution. By the seventeenth century though, more abstract statements of the theory of consent had emerged, and the *Francogallia*'s political contribution diminished. The work became primarily important for its historical value.

Bodin's *République* has remained one of the classics in the history of political theory. Political theorists study Bodin for more than his theory of the nature of sovereignty. In the eighteenth century, Montesquieu adopted Bodin's theory about the influence of geographical conditions on politics. The search for a scientific basis for politics now lauds this theory as one of the forerunners of modern political science.

Bodin's most important contribution remains his formulation of the concept of sovereignty. While Bodin has never been used as a forefather for a revolution, his work has influenced the way we conceive of political order. In order to maintain a
stable society, the political authority must be invested with the capability to act decisively. This was Bodin's continuing contribution to political thought.

François Hotman and Jean Bodin were contemporaries, and as lawyers, they both drew on a common intellectual tradition, but they raised fundamentally different questions about the nature of political authority. Hotman, concerned about the rights of minorities, grounded political authority in the need for consent. Bodin, fearful of the breakdown of political order, invested political authority in a single sovereign, hopeful that by so doing, the disintegration of society could be prevented. The contrast between Hotman and Bodin is ultimately not a contrast between these two men in the sixteenth century, but the continuing contrast between the political actor committed to reformulating the entire political order, and the political actor fearful of the disruption such questioning brings. It is the contrast between a revolutionary's ordeal and a moderate's concern for order.
FOOTNOTES


3. Allen, pp. 103-105.


11. Most of the biographical data has been taken from Donald R. Kelley, François Hotman: A Revolutionary's Ordeal (Princeton: Princeton University Press, 1973). Kelley's work is outstanding, and supercedes as the definitive work the much earlier and flawed Rudolphe Dareste, Essai sur François Hotman (Paris, 1850). Unless otherwise noted, the biographical data used is taken from Kelley's work, hereafter cited as Kelley, Hotman.


16. See Gilmore, Argument from Roman Law, 1200-1600 (Cambridge: Harvard University Press, 1941), and on Bartolus, see C. N. S. Woolf, Bartolus of Sassoferrato (Cambridge: Cambridge University Press, 1914).


22. Kelley, Hotman, p. 47.


24. Giesey and Salmon, p. 16.


34. Allen, p. 118.


37. Kelley, Hotman, p. 120.
Kelley claims, "However muted, here sounds, for perhaps the first time, the call to tyrannicide." Hotman, p. 120.


Kelley, Hotman, p. 129.
Kelley, Hotman, p. 181.
Kelley, Foundations, p. 69.
In Gilmore, p. 71.
In Kelley, Foundations, p. 111.
Anti-Tribonian, p. 60.
Anti-Tribonian, p. 67.
Anti-Tribonian, p. 98.
In Kelley, Hotman, pp. 195-196.
In R. Dareste, pp. 21-22.
Dareste, p. 21.
Gilmore, p. 71.
Franklin, p. 51; and Kelley, Hotman, pp. 189-190.
Kelley, Foundations, p. 204.
Kelley, Foundations, p. 111.
This is my own thesis, although Giesey and Salmon argue "The political theme of the Francogallia is absent from the Anti-Tribonian." p. 37. My claim is a stronger one, that the political theory of the Anti-Tribonian contradicts the theme of the Francogallia.


Kelley, Hotman, p. 197.
Kelley, Hotman, p. 200.
Giesey and Salmon, p. 39.
Giesey and Salmon, p. 38.
Giesey, "Monarchomach Triumvirs, p. 583 and passim.
Francogallia p. 139.
Francogallia p. 143.
Francogallia p. 143.
Giesey, "When and Why" p. 583.
See Francogallia, pp. 147, 155, 217, 291-93 for this historical argument; pp. 221, 287 for exhortation that this is the best principle of government.
Francogallia p. 235.
Francogallia pp. 291-93.
Francogallia, Chapter XI.
Francogallia, p. 503.
Francogallia, pp. 273-75.
Francogallia, p. 297.
Kelley, Hotman, p. 173.
Francogallia, pp. 162, 300, 344, 398.
Giesey and Salmon, p. 70.
Francogallia, p. 297. In the third edition, this is attributed to Justinian.
89. Kelley, "The Francogallia illustrates the typical Protestant tendency to identify the ideal with the original character of an institution." Hotman, p. 239.
90. From the first to the second editions, for example, the Franks decide that they had not "raised up" King Theuderic (erigunt), but "elected" him (eligunt). Francogallia, p. 230.
94. Giesey and Salmon, p. 79.
95. On this exchange, see Giesey and Salmon, pp. 77-78.
97. See Seward, pp.13-14 for an analysis of why this fanaticism was so psychologically appealing.
98. Hotman himself noted this: "no book is more pleasing or popular /than the Francogallia/, especially among the Politiques." In Kelley, Hotman, p. 250.
102. Francogallia, p. 292.
103. Francogallia, Chapter XVII.
104. Giesey and Salmon, p. 87.
105. Francogallia, pp. 296, 300, 342, 414, 450.
107. Giesey and Salmon, p. 92. For the text, see Franklin, Constitutionalism, pp. 142-199.
111. Bodin's theory supports a strengthened monarchy, a more "absolute" monarch. Bodin's fundamental laws are oriented toward limiting government, as are Hotman's. But the difference in what the two consider fundamental laws are quite great. On Bodin's fundamental laws, see the end of Chapter VII.

117. Witness Hotman's extreme additions in the text to support a piece of evidence Bodin had challenged, the Aragonese Oath. See Francogallia, pp. 309-317. On the Oath itself, see Giesey, If Not, Not, pp. 21-22.

119. Jean Bodin, Six Bookes of a Commonweale, ed. K. D. McRae, trans. R. Knolles. (Cambridge: Harvard University Press, 1962). p. A3. Most of the biographical data is taken from McRae's introduction, though this has been corroborated with other sources. Tentative dates are McRae's. I shall identify McRae's writing as Six Bookes, the actual text will be written as République.

125. Brown, p. 12. Note that Bodin never received a degree or a formal teaching position at Toulouse. His courses were offered cours libres.


129. Chauviré, p. 95. We do not know if Bodin had these works destroyed because they were simply youthful and immature or because his approach to the law had so changed that the works became a source of embarrassment.


137. Methodus, pp. 4-6.


139. Methodus, pp. 5-6.

140. Brown, Chapter III.

141. F. L. Borchart, German Antiquity in Renaissance Myth (Baltimore: Johns Hopkins Press, 1971).

142. Methodus, p. 17. For Bodin's rationale that by understanding the way God's natural laws work themselves out in this world we are better able to appreciate God and the universe, see p. 16.


144. Methodus, pp. 172-173.


146. Methodus, pp. 172-200.

147. Methodus, p. 203.
148. Methodus, p. 205. Bodin here refers to the famous "Quod principi placuit leges habet vigorem."

149. Methodus, p. 158.

150. Methodus, p. 301.


152. Methodus, p. 259.


156. Methodus, pp. 256-257.


158. Francogallia, p. 503.


160. See, for example, C. R. Baxter, "Jean Bodin's Daemon and His Conversion to Judaism" in Denzer, ed., Jean Bodin, pp. 1-21.

161. This is not entirely accurate. McRae has attempted to point out differences between the French and Latin editions in his introduction to the Knolles translation, a translation that relied on both editions. But McRae's commentary is so broad as to be meaningless, though at the outset of his analysis he advises us that the differences he points to are unimportant:

"The Latin version was Bodin's final treatise on political and social questions, and when viewed against the vicissitudes of his career and the events he had witnessed since 1576, what is surprising is the relative constancy of his doctrines. We ought to marvel that the differences between the two versions are no greater than they actually are."


162. République, p. A 70.


164. République, p. 98.

165. République, p. 98.

166. République, pp. 91-92.
167. République, p. 94.
168. République, p. 100.
169. République, p. 84.
178. G. H. Sabine, "Like many later philosophers who had a similar aim /I think this was meant as a compliment for Bodin/, Bodin stated what was really a program of reform under the guise of a pronouncement of eternal truth." p. 413.
183. Giesey and Salmon, p. 128.
BIBLIOGRAPHY

PRIMARY SOURCES


SECONDARY SOURCES


Fournol, E. "Sur quelques traités de droit public au XVIe siècle," Nouvelle revue historique de droit français et étranger, XXI (1897), 298-325.


"Jean Bodin à Toulouse," Bibliothèque d'Humanisme
et Renaissance, travaux et documents, XII (1950), 31-59.

———, "La pensée religieuse de Bodin," Revue du seizième siècle, XVI (1929), 77-121.


