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## "Public Authority and the State in the Western Tradition: A Thousand Years of Growth, A.D. 976 - 1976"

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### I: "The State of Communities", A.D. 976 - 1576

For a decade after 1931, my chief intellectual concern was the growth of the European state in the Old Regime, before 1789. I dreamed that at some date in the future, perhaps thirty years in the future, I would write the definitive history of the growth of public authority and the development of the European state. But after 1941 I had to abandon the project because I was too busy with my teaching -- which I enjoyed thoroughly -- and no longer had access to an adequate library. Above all, I discovered that other historians were becoming so narrowly specialized, and their historical concepts so inadequate, that it was almost impossible to explain to them what had happened in the growth of the state. They lacked the conceptual paradigms, the knowledge of comparative developments, and even the understanding of their own specialties to grasp a subject as broad and of such long duration as the growth of public authority over the last thousand years. Anyone who does not understand the long term development of this subject cannot understand the more limited aspects of it in more recent periods. But modern historians are increasingly specialized in narrow ranges of chronology, geographic area, and aspects of changing events.

Let me give you a few examples of how the lack of adequate paradigms blocks our understanding of the history of our subject.

The area of political action in our society is a circle in which at least four actors may intervene: the government, individuals, communities, and voluntary associations, especially corporations. Yet, for the last century, discussion of political actions, and especially the controversies arising out of such actions, have been carried on in terms of only two actors, the government and the individual. Nineteenth century books often assumed a polarization of the individual versus the state, while many twentieth century books seek to portray the state as the solution of most individuals' problems. Conservatives, from von Hayek to Ayn Rand, now try to curtail

government in the excuse that this will give more freedom to individuals, while liberals try to destroy communities with the aim of making all individuals identical, including boys and girls. And since what we get in history is never what any one individual or group is struggling for, but is the resultant of diverse groups struggling, the area of political action will be increasingly reduced to an arena where the individual, detached from any sustaining community, is faced by gigantic and irresponsible corporations.

A second example is derived directly from the field of history. More than fifteen years ago, an old friend of mine, Professor Robert R. Palmer -- we were colleagues at Princeton in the History Department in 1936 and 1937 -- won fame, and fortune from the publication of a large book on the eighteenth century revolutions in Europe and America. The book was loaded with facts, but lacked any real understanding of the subject. Even the title, *The Age of the Democratic Revolution*, was misleading because neither the French Revolution nor the American Revolution was "democratic." Bob Palmer is a very industrious person with a very agile mind, and a ready verbalizer, but he does not know what he means by "revolution" or by "democratic," and he is totally wrong if he believes the eighteenth century revolution, in the United States or the English-speaking world in general, was the same as the eighteenth century revolution in France: in fact, they were the opposite. The French Revolution was a struggle to obtain sovereignty by a government which did not have it. The English-speaking Revolution was an effort by states which had sovereignty to curtail it, divide it up, hamper it, by means of such things as federalism, separation of powers, electoral colleges, and so forth.

My third example of the injuries inflicted on the historiography of the growth of the state is more personal. My doctoral dissertation on the Public Administration of the Napoleonic Kingdom of Italy (Harvard, 1938) was never published because over-specialized experts who read the version revised for publication persisted in rejecting the aspects of the book in which they were not specialists. The only man who read it and had the slightest idea what it was all about was Salvemini, the great historian from the University of Florence, who was a refugee in this country at the time. The book's message could be understood only by an historian who knew the history of Italy, France, and Austria, and was equally familiar with events before the French Revolution and afterwards. But these national and chronological boundaries are exactly the ones recent historians hesitate to cross, for the French were reluctant to admit that the late revolutionary and Napoleonic reforms in French government had been anticipated in Italy, while many Italian historians knew nothing about French government before 1789 and wanted to concentrate only on the Risorgimento after 1814. No one was much interested in my discovery that the French state as it developed under Napoleon was based largely on Italian precedents. For example, while the French state before 1789 had no budgets or accounts, Napoleon's budgets in both France and Italy were strikingly similar to the budgets of the Duchy of Milan in the sixteenth century. Similarly, the unified educational system established by Napoleon in France in 1808 was anticipated in the Kingdom of Piedmont in the 1720's. Such discoveries form part of the history of the growth of the European state, but are not of much interest to the narrow and overspecialized controversies of the last half century. So instead of writing the history of public authority, I got into what was, I suppose, my much stronger activity: the creation of the necessary conceptual paradigms, structures, and frameworks for understanding historical processes.

The basic entity we must understand is the civilization as a whole. Although I tell you I'm going to talk about the last thousand years, 976-1976, Western Civilization, of which we are a part, has been around for a considerably longer time than that. We might say Western Civilization began around 550, but there was no significant structure of public authority until almost 1050, with no state at all over the preceding two centuries, 850-1050. Yet 950 is significant as the point at which our Western Civilization began the first of its three great Ages of Expansion, 970-1270. (The other two were 1440-1590 and 1770-1890). This first age of expansion applies to the core of Western Civilization, the area between the Rhine River and the Loire, the area which formed the core of the Carolingian Empire (687-887). This Empire was the earliest political structure of the new Western Civilization, one of four new civilizations which sprouted from the ruins of Classical Civilization after A.D. 500. These four were Byzantine (330-1453), Islamic (630-1922), Russian (800-?), and Western (550-?). Each of them modified the traditions it accepted from the ruins of Classical Civilization and created its own distinctive culture.

Another paradigm I want to establish is a difference between two kinds of civilizations, which means a difference between two kinds of governments in them. Asiatic civilizations, which I call Class B Civilizations, generally do not attempt to deal with individuals or with the problems of individuals; they leave interpersonal relationships to the local or kinship community. Class A Civilizations include Classical Civilization, our own Western Civilization, or the first Chinese or Sinic Civilization, whose dates are 1800 B.C. to 400 A.D. In Class A

Civilizations, although the civilization begins as an area of common culture made up of communities, there is a long term trend to destroy and break down those communities.

The way I would like to express this would be -- and I used to draw it on the blackboard -- by saying that all civilizations start out as aggregations of communities. Those communities are generally of two types, either local, such as parishes, neighborhoods, villages, or manors; or kinship communities, families, clans, and so forth. When a civilization begins with such communities, as ours did in 550, there is no state, and there are no atomized individuals. I will not go into the details of this, but in such communities, there are no written laws; all law is customary. Most controls on behavior are what I call internalized, that is, they are built into your hormones and your neurological responses. You do what is necessary to remain a member of the community, because if you were not a member of the community, you would be nothing. You would not be a man. As you may know if you have ever studied linguistics, the names which many primitive and not-so-primitive peoples have for themselves is their word for man. The communities from which Classical Civilization came were clans, kinship groups; the communities from which Western Civilization came were local villages and manors. Lucky civilizations, such as Chinese Civilization over the past 1500 years, generally have communities which are both kinship and local.

What happens in the course of a Class A Civilization, over a thousand or more years, is that the fundamental communities are broken up and gradually disintegrate into smaller and smaller groups, and may end up simply as what we call nuclear families, a father and a mother, who eventually lose all discipline and control of their children. The result of this process is a state which is not only sovereign but totalitarian, and it is filled with isolated individuals.

Of the four civilizations which came out of Classical Antiquity's wreckage, two, Islamic and Byzantine, clearly are Class B Civilizations, that is, they continued to work for communities. Their governments were governments of limited powers, of which the most important were raising money and recruiting soldiers. The finest example of such an Asiatic Despotism was the Mongolian Empire of Jenghiz Khan about A. D. 1250, but its origins go back to the Persian Empires of the Achaemenids and the Sassanids. Good examples of such a structure are the Chinese Civilization of 220-1949, the Byzantine Empire after 640, and the Islamic sultanates which eventually culminated in the Ottoman Empire. The efforts of the Carolingian Franks to establish a similar empire in Western Civilization collapsed and led to the Dark Age of 860-970.

These eastern political traditions might be called Providential Empire or Providential Monarchy, and they are associated with the idea of a Providential Deity. To us today, who shove religion off into a corner and insist that it must have nothing to do with politics or business or many other things, it may be hard to grasp that one of the most potent things in establishing the structure of the state in any civilization has always been men's ideas of the nature of deity. I will not take time to give you my paradigm for that; I'll simply point out to you something which should be obvious. The deity -- God -- has many different attributes. He is creator; he is masculine; he is transcendental, that is, he is outside of the world of space and time -- that was established by 500 B.C. Eventually, he is one; that is what Muhammad insisted on. And then he is omnipotent, all-powerful. I stop at this point; Providential Empires never got further than this.

The next development in our ideas of deity in Western Civilization was that God is good. That was established by the prophets of the desert by the fifth century B.C. Then came the Christian message, God is love, and by the year 1250 A.D., the scholastic inference that God is pure reason. If God is good, he cannot do everything; he can only do things that are good. And if he can do only good, and cannot do evil, then there is something higher than God: the rules of ethics. Thus the great contribution, even before Christ, to the Western idea of deity, was the idea of Transcendental Ethical Monotheism.

On the other hand, if God is one, omnipotent and providential, which means he interferes in the world, then whatever happens in the world does so because he permitted it. And whatever he permitted, who is any ordinary human being to question it? (If you read the Book of Job, you will see that this contradiction comes into the conversation where Job says, "God, you're running the world all wrong. You're letting bad people be elected President..." and so forth.) In Providential Monarchy, deity is heaven. The Chinese word is tien,

which means heaven; the word in the original Indo-European language was something like dyess. From this came deus and eventually Zeus. It meant bright, brilliant sky. This deity is a being of arbitrary and willful omnipotence; the ruler on earth is picked by the deity and is the vicar of Omnipotent Will on earth. This means you must accept whatever happens: it leads, of course, to fatalism, although the people in these societies frequently don't accept that in their actions.

This idea of Providential Deity has a number of results. There is no rule of law; there is only the rule of God's will. This is part of the heresy of the West. When the Crusaders went to capture Jerusalem, and their war cry was, "God wills it!" they should have been rejected. This is not Western, because the Western idea is that God gives man free will, and if men do evil things, they are responsible. In the West, accordingly, you get the rule of law. In Providential Monarchy you get the rule of will. Their slogan became, "one God in heaven; one ruler on earth," which meant that Providential Monarchs frequently tried to conquer the world. I have already said that Jenghiz Khan was the greatest of them. His government, his army, his whole attitude are very much worth studying; his organization was a magnificent machine for world conquest and world rule as the vicar of heaven on earth.

There are no constitutional rules of political succession in a Providential Monarchy. There are no constitutional rules of succession in Islamic Civilization, in Byzantine Civilization or in Russian Civilization -- ever. To talk about constitutional law in Russia is to talk nonsense. Alexander the First left a note in his desk saying that he wanted his second son, I believe, to succeed him, and that settled it. That was not an act of constitutional law: it was an act of will. This is still true in Russia today. It is also true in China: China was always a Providential Monarchy. But in the West, where we have the rule of law, where even God is under the rules of ethics, we have a very different situation, and we expect to have constitutional rules of political action, including the rules of political succession.

The Carolingian Empire, whose dates are, let us say, approximately 687-887, was an attempt to impose in the West a Providential Monarchy, which was a heresy, not in terms of the Western beliefs of the time, but in terms of the beliefs intrinsic in the nature of Western thought, including our belief in Christ and in both of the Testaments. While all the books I read are full of praise of Charlemagne, Charlemagne was a willful man, trying to do the impossible by conquering practically the whole world. Fortunately, he failed, and the idea of Providential Deity weakened in the West until after 1400.

The fundamental reason for this Carolingian political failure was the constantly deepening economic depression, which had begun about A.D. 270 and continued for seven centuries. As a result of this depression, it became less and less possible for Charlemagne even to conquer the provinces in his own empire, and totally impossible to rule those provinces. As the depression became worse and worse, transportation broke down, all bridges collapsed. (I have read a magnificent account of someone trying to go from Chartres to Paris in this period. To drive this would take about half an hour, I guess, depending on the traffic. It took him something like eleven days: when he got there, his horse died of exhaustion. And he had to do such things as try to patch holes in bridges by using his shield, so the horse wouldn't fall through, and so forth.) All commerce disappeared; everyone was reduced to living from the piece of land he was on.

Another reason Charlemagne could not conquer great distances was that it became economically impossible to capture any fortified building, because the besiegers could not stay there long enough -- they could not take enough men or enough food -- to starve out the defenders. And if they carried a very small amount of food, they had to take a smaller number of men, in which case the defenders would come out and chase them away. Elaborate weapons disappeared, including most siege equipment and besieging knowledge: all the significant missile weapons, such as composite bows and crossbows, ceased to be made: and the weaponry of Western Europe was reduced to the mounted spearman and his fortified residence. This military system lacked mobility and could neither protect nor control commerce; it could not impose tolls and was forced back almost entirely to seeking its economic support from rents squeezed from peasant villages. So by the year 900 we had a two class society in Western Europe: peasants who produced food, and a small percentage of fighters, who fought on horseback with shock weapons.

The last Carolingian was removed in 887 for not fighting the Vikings vigorously enough, and for one hundred years there was no ruler. As a result, the area that had been Carolingian Neustria, between the Loire and the Rhine, was reduced to a large number of

self-sufficient villages, subject to the private power of mounted spearmen, without any state, monarchy or public authority. This period, and these social conditions, we call a Dark Age. There is nothing wrong with Dark Ages; they are frequently the most productive periods in the history of any civilization. Any of you who have read Lynn White's book on the technological advances of the Dark Ages, such as the plow and harnessing, know that Western Civilization got a great deal from its Dark Age. But, most significantly, out of the Dark Age that followed the collapse of the Carolingian Empire, came the most magnificent thing we have in our society: the recognition that people can have a society without having a state. In other words, this experience wiped away the assumption that is found throughout Classical Antiquity, except among unorthodox and heretical thinkers, that the state and the society are identical, and therefore you can desire nothing more than to be a citizen.

In the fourth century B.C., Aristotle told us that the polis is a koinonia or community, that is, an organic structure of dissimilar parts cooperating together for mutual satisfaction of their needs. He said a man cut off from the polis is not a man; he just looks like a man. He's like a thumb cut off from a hand. It looks like a thumb, but it's just a piece of meat. When, through war and conquest, the political organization of Classical Civilization expanded from polis to imperium, it was still assumed that the empire was a community, although even in Aristotle's day the community was breaking down into competitive groups, parties and cliques. The attempt to persuade everyone that the political unit was a community became more and more unconvincing, although rulers and conservative philosophers continued to insist upon it because it seemed to be the only way to prevent the political organization from disintegrating into an assemblage of atomized and antagonistic individuals. No other communities were approved of, and in many cases no other communities were permitted. Every society has what we might call the orthodox theory of the state for that society, and every society has a suppressed heresy of the state in that society. In Classical Antiquity the orthodoxy was that the state is the community and no one should desire anything else. Everyone's life should be public; everyone should be prepared to give up anything, including his life, for the state, because the state is his community. And if he says he's going to go off and found his own commune, by that statement, he becomes a traitor. One of the first ones to do that was Epicurus, in the fourth century B.C.; Epicurus said all he wanted to do was to sit down in a quiet garden with his friends and talk -- and ignore politics. (We are rapidly approaching that in our society today, but we have not yet reached the point where it is regarded as heretical. But we are like Classical Civilization: we are trying to grind down individuals into identical atoms in a mass culture in which all communities are disapproved. And if any community wishes to stand apart, we will go in by force and do anything necessary to make them become the kind of red-blooded Americans we all should want to be.)

During this Dark Age, the Mediterranean Sea became a border zone among three new civilizations, a totally different situation from that in Classical Civilization when it had been the connecting link among the parts of the civilization, so that, for example, the city of Rome could bring its food from Egypt when it could not bring food from Lombardy in Italy. East of Neustria, from the Rhine to beyond the Elbe, Europe became an area of colonization by Western Civilization. But from 976 until after 1200, the most significant boundary of our civilization was to the north, in a great crescent from the Atlantic across the Baltic and Scandinavia to Russia.

From this area -- much neglected in our history books, but of vital importance -- the Vikings were pouring outward. From 750 to 930 they were pouring outward as raiders, slavers, pirates, men of violence and virility. Then there was a brief lull. From 980, for a hundred years, to about 1080, they were coming out as monarchies, that is organized state structures. I call this Northern Monarchy. Northern Monarchies had certain definite characteristics. Where those characteristics came from I do not know; it has not been discussed. They may have come from Byzantium or from some memory of the Carolingians. By A.D. 1000 the Viking bands had reached Newfoundland, Greenland and Iceland in the West, and were ravaging Western Europe and the western Mediterranean as far as Italy, while in the east they established the foundations of the Russian state and attacked Constantinople without success in 941 and 971. They occupied parts of northeastern England from Scandinavia after 856 and held the English throne under Sven Forked Beard and his son Canute in 1013-1035. Viking raiders occupied Normandy in 911 and became a vassal duchy of the king of France; from Normandy they conquered England in 1066 under their Duke William. And in 1018 in southern Italy, Normans of Viking descent, fighting on the side of the pope, met in battle with Varangians of Viking descent, fighting in behalf of the Byzantine Empire.

Northern Monarchy is of very great significance; it created states with powers which to us seem very precocious. For example, it raised a military force and taxes on the basis of assessments on plots of land, which in England are called hides, but which are also found in Russia. They had standing armies of mercenary soldiers. Archaeologists have recently excavated four large camps in Denmark, built

about the year 1000 by the king Sven Forked Beard, where his standing army was ready at any moment to embark in ships and go off to fight.

A significant element in the success of Northern Monarchy was its development of battle tactics. This was achieved about 1050 and included at least four elements: a three-stage battle in which a missile barrage, a shock assault, and a cavalry pursuit were used in sequence; a recognition of the significance of tactical logistics, especially by water, before any attack; the use of a reserve force withheld from the action until it could be applied with maximum effect; and the removal of the leader from the front line of battle to a detached position from which he could control the critical moments of transition between the stages of the battle. These tactics were much more sophisticated than the feudal tactics of French Neustria, in which a battle was reduced to the second stage of shock assault by a mass of mounted knights with little organizational structure and with the nominal leader often leading the charge of his undisciplined forces.

The influence of Northern Monarchy and of Norman battle tactics was stronger in England than in France and after 1066 produced a more powerful and better organized government than the Capetian monarchy. It combined three elements: the remaining traditions and institutions of the Anglo-Saxon monarchy; the feudal type of governmental and manorial relations as brought from Normandy in 1066; and the fact that conquest in 1066 gave the king the authority to establish practices which the Capetians could not adopt until after their great disasters in the Hundred Years War in 1345-1360.

In Northern France the situation was quite different, since feudal decentralization was not counterbalanced there by either Northern Monarchy or conquest. One hundred years after the last Carolingian was deposed, a microscopic lord near Paris was permitted by the seven or eight great lords who surrounded him, and who were much more powerful than he, to adopt a royal title. His name was Hugh Capet; the date is 987. Hugh Capet was the first of the Capetian kings of France, and he was allowed to take that title because he was so weak. With the title of king he was also allowed the title of suzerain, which is a feudal lord who has no feudal lord above him. (I will not attempt to describe the feudal system if you don't know it.) But he did not even have the powers of a real suzerain, because the feudal lords who were technically his vassals did not perform military service, did not come to his court to settle disputes, and had very little to do with him. Nevertheless, the power of the religious aura of kingship allowed him gradually to accumulate more and more power.

Now I want to say a few words about the title of king. King is a religious title; it means a ruler who has been consecrated with holy oils by an archbishop in an archepiscopal cathedral, in a ceremony very similar to the sacrament of confirmation. This title of king allowed him to assume certain powers, such as, the king should see that everyone gets justice: he will seek justice on earth with God's blessing. The king should see that everyone gets protection, the king's peace, in other words. To the vassals that meant the Capetians should provide ethical and moral support for their individual and political rights, which was exactly what they wanted. The interesting thing is that in 1792, when Louis XVI was going to the scaffold, he still believed that the obligation he had as king was to support the rights of everyone, including the nobles and the Church. This was the central core of the Old Regime and it cannot be emphasized too much: the king is the source of justice. And as such, he was bound more than anyone else in the society to obey the laws.

With this idea of legal restraints on the king, I want to combine something else which may, perhaps, be difficult. The idea of property in Classical Antiquity is summed up in the word *proprietas*, which means possession of all the innumerable and un-designated rights in an object, maybe with a few specific restraints. In other words, you may have a car that will go 150 miles an hour, but you're not supposed to drive it 150 miles an hour. But you can drive it or not; you can rent it; you can sell it. That is *proprietas*. It is not the medieval idea of property. In the early Middle Ages no one worried about *proprietas* in the ultimate sense of possession of a title. All anyone cared about was specific rights to do specific things or to obtain specified benefits from an object. For example, some people might have the right to grow crops on a piece of land in ways specified by custom at certain times of the year; while others might have rights to graze animals on it in fixed numbers for fixed periods; a church might have the right to a customary fraction of the crop; and a lord might hold certain rights over it, to hunt on it, to collect fees for having its grain ground into flour in his mill, and so forth. Thus the medieval idea of property was specific rights, and the word we use for it is *dominia*, which is a plural.

The obligation of the Capetian king was to preserve everyone's dominia, and this included his own property, because it was not his, it belonged to the monarchy, to the family. Thus he could not alienate the demesne, as we call it, the landed property of the monarchy. From this emerged two intertwined principles which became the central core of the Old Regime in France until 1789: first, the king was under legal restraints, and secondly, the medieval idea of property as dominia, that is, as bundles of customary individual rights, was entrenched.

After 1000, as their power grew, the Capetians were able to assume certain dimly remembered powers that had been associated with the Carolingians: to coin money; to call out all able-bodied men for military service in an emergency; to insure that all men lived in peace and had justice; to protect the Church and religion; to grant rights of self-government to municipalities; and to regulate commerce, especially exports, so that there would be no shortage of food for the people. Associated with these, especially with the last one, was an aspect of kingship which came to be called la police, that is, not "police power," but the "policy power," what we might call administrative power, a significant element in the modern conception of sovereignty. Its chief idea is that in an emergency or complicated social situation, the ordinary rules may not work and there must be in the society a power of discretion to suspend or modify those rules.

In building up the powers of the monarchy, one of the greatest assets of the Capetians was their ability to make the title King of the French hereditary rather than elective. They were able to do this because they produced sons for eight generations over 341 years, from 987 to 1328, and the early kings were able to have their sons coronated while the fathers were still alive. After 1314-1328, by adoption of the Salic law in royal succession, the dynasty continued under its Valois branch from 1328-1589, providing six hundred years of male succession without a serious dispute. The more powerful feudal lords who surrounded the Capetians did not have as much luck; for one thing, they took too many risks by going off on the Crusades and so forth.

As the families of these vassals died out, their territories reverted to the king as suzerain through the right of escheat, that is, if a territory, a group of dominia, had no heir, it reverted to the king, who could grant it out to someone else. In this way the kings were gradually able to create a superficial territorial unity of France before 1500, but the fiefdoms were usually given as apanages to junior members of the royal family, so this unity was in appearance rather than in fact. In most cases the royal authority was extended as suzerainty rather than sovereignty, and local acquiescence was obtained by leaving the laws, taxes and customs intact. The royal family was less powerful in these apanages than the rulers they were replacing, who had not been under the obligation to be as law-abiding as the king and as subject to the rules of what was right.

In this way there gradually grew up a legalized confusion of extremely limited sovereignty, because in the Middle Ages any customary right one might have over a person or an object, which was beneficial to the holder and had been exercised long enough to be recognized as custom, became a legal right to be protected by judicial action in the proper court. In English law this is called the right of prescription: if you do something for more than twenty-one years, you may gain the right to do it against a private owner of private property. You may notice that every few years Rockefeller Center in New York City is roped off and you are not allowed to walk between the buildings. This is to prevent you from walking there for twenty-one years and gaining a prescriptive right to do so. But in English law the right of prescription cannot be exercised against the state. In France it was; in fact, it was the obligation of the king to protect such rights.

In France, bundles of such rights, or dominia, formed tenures, which came to be known as fiefs in the feudal system, benefices in the ecclesiastical system, and holdings in the manorial system. Each of these gradually developed its own law, courts and judicial procedures. After about 1050 a fourth field of law arose to cover commerce, towns and merchants; the Law Merchant. And finally, as royal government and public authority appeared and grew, a fifth field of royal justice and public law appeared. In all of these, the rule of law and not the rule of will was assumed. (This opened the way to something which is typical of the West: the rule of lawyers and judges. There have been three periods in the history of Western Civilization during which we have been overwhelmed by lawyers and

judges, who tell us again and again that we cannot do certain things because they are illegal, even if those things are absolutely essential. The first period would be from 1313 to about 1480; the second was from about 1690 to the French Revolution; which was a revolt against a mass of confused, legalistic rigidity preventing necessary reforms. The third is our own day, when judges and lawyers are running everything and we are obsessed by legalism and litigation.)

Although the kings of France were seeking to extend the royal domain and to extend their authority within the domain from at least 1050, advances were on a piecemeal basis until well along in the Hundred Years War with England (1338-1453). The English attempt to conquer France in that war was hopeless. They could win battles, but they could not control territory. Eventually all they did was go out and plunder, living off the country, killing people, burning villages, seizing rich people and demanding ransoms, and so forth. The English believed that if they punished the French in this way, the people would realize that the king of France would not protect them, and therefore they should turn their allegiance to the king of England. But the English were quite mistaken in this, because the people of western France had expected protection not from the king but from their local lords, and the demonstrations of English brutality made them shift their allegiance from the local lords to the king of France. This reached its peak in Joan of Arc, who in 1429 summoned the whole religious loyalty of France and focused it on the pious, retiring Dauphin; this enabled the French to throw out the English in about 25 years.

That Dauphin, who became Charles VII (1422-1461), was one of the most significant rulers in French history, although he has been relatively neglected by historians, and a recent English biography by M. G. A. Vale (1974) leaves out almost everything of importance. Most books on his reign have tended to concentrate on the superficially exciting events of the first half of it rather than the much more significant administrative acts of the second half, after 1436. Charles, a deeply religious man, sought to get down in writing the customary rules of political life in France with an effective and just royal government at its core. He established a royal army with a regular system of taxation to support it. But he did two other things which are much more important. In 1438, while the war was still going on, he codified the customary relations of the Church of France in the Pragmatic Sanction of Bourges; this recognized the Gallican Church as a largely autonomous society, free from both royal and papal control, electing its own bishops, controlling its own property, and so forth.

And then in 1454, one year after the war ended -- this is amazing -- the king issued an edict, Montils-le-Tours. I do not find this mentioned in most history books, although it was probably the most important edict of the Old Regime. It ordered each locality to codify its local customs as the law of that district. The decree was re-issued three times by 1505 and was carried out by 1580, when France had 365 different local law codes based largely on dominia. This meant the king had condemned France to what we would call legal or administrative disunity, and it was one of the chief, if not the most important, causes of the Revolution of 1789. Accepted by the kings and applied by the courts, this legal structure so hampered the actions of the government that the monarchy was never able to achieve a fully sovereign state and was in semi-paralysis long before 1789.

France achieved territorial unity by 1500, but this meant only one thing: all France had the same king. Most dominia, including those which arose after 1500, were legally valid, often guaranteed by royal promises. Taxes were different everywhere, because they were collected according to local custom. There were tolls preventing commerce from moving everywhere. There was no unity of the judicial system: at one time there were fourteen supreme courts. Almost every commodity had different units of measurement, which differed from place to place, and also changed in size over time. Thousands of local tolls and fees became dominia, often collected by private interests. This made transportation costs so high that goods made in France often could not compete with foreign-made goods over much of France, and the poor sometimes starved while there was a surplus of grain in neighboring provinces. It was a realm of organized legal confusion, good business for lawyers and judges but very bad for businessmen, with hundreds of different laws, jurisdictions, weights and measures, monetary units, economic regulations, and small monopolistic markets.

This disunified condition led inevitably to the French Revolution, although it took hundreds of years to reach that point. In 1789, no state could survive which had different systems of weights and measurements for every commodity; which had different laws, so that Rousseau could say you changed laws every time you changed your post horse; which had conflicting jurisdictions; which had different



tax rates, so in some districts the rich paid nothing in taxes while the poor paid a great deal, while in others the rich paid a great deal, and so forth. It was chaos, because whatever was, was custom, and under the prescriptive rights that custom was dominia, and dominia was the law.

And as a result, in 1789 we find a solution to a problem which, when I was younger than even the students who are here, struck me right in the face: I always had the eyes of a child. I asked; "If the king of France was absolute, as all the books say he was, how could he be bankrupt, unless the country was bankrupt?" But no one claims that France was bankrupt in 1789; France was among the wealthiest countries of Europe. So if the king was absolute, there was no reason why he could not use his absolute power to raise the money he needed from a wealthy economic system like that of France.

That is one of the reasons I studied this subject, and I found that the king of France was not absolute -- he was not even sovereign. Indeed, he had reached the peak of his power around 1520 and 1576, when we are ending this lecture, his power was already collapsing into a growing mass of increasingly rigid restraints. I'll give you one example, and then you can leave, although you've been very patient.

The king could not borrow, because he had no collateral. The property of the monarchy was not his, so he could not offer any of the royal possessions as collateral on loans. If he wanted to borrow 100,000 livres and could put up as collateral a necklace or something of the Queen's, which wasn't part of the royal dominia, that would be all right. But he had to borrow millions. For centuries, therefore, since the kings could not alienate properties, they alienated incomes. This means that when they wanted to borrow money, they would say, "I'll never pay back the principal, but I will pay you the interest on it. Here is an income that has just come free, because the family who has been getting it for three hundred years has died out. It yields, let us say 100,000 a year, and at ten percent interest you will give me a million. And if you ever want the principal back, you can always sell an income of 100,000 a year for a million." In this way, by 1789 every income the king had was committed to some expense.

In 1561 the king had to find enormous sums of money. (To save time, I won't explain how he got so badly in debt.) The city of Paris offered to guarantee the loans given to him, but they needed insurance that the interest would be paid, so the Church of France volunteered to pay the interest. This is called les Rentes sur l'Hôtel de Ville de Paris, and within 150 years, it made the Church of France stronger and more of a sovereign political entity than the monarchy itself. But we'll have to save that for next Wednesday.

Thank you, Ladies and Gentlemen.

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