Introduction
The Harvest of Medieval Ecclesiology

The political culture that structured French society into the eighteenth century is generally taken to have emerged late in the sixteenth century. I propose instead that absolutism, understood as a political culture based on practices of monarchy borrowed from the late medieval Church through canon law, developed prior to the Wars of Religion (1562–1598) and had less to do with élites' fears of social collapse or the reception of Bodinian and humanistic notions of sovereignty than with fears of heresy and the reception of canonical theories of monarchy within a legal public sphere. The same practice of monarchy and the same conception of political society underlay both sixteenth-century juridical absolutism and seventeenth-century fiscal absolutism. This transformation of the conception and practice of monarchy at the end of the Middle Ages precluded a successful Protestant Reformation in France and laid the groundwork for the absolute monarchy. It is time to consider religious motives for the emergence of a practice of absolute monarchy and structural reasons for the failure of French Protestantism rooted in the fifteenth-century movement to reform the Church.

During the reign of Francis I (b. 1494, r. 1515–1547), the conjoint action of the monarch and the Parlement of Paris consolidated a practice of absolutism that had developed over the previous century along the axis of church reform and with the aid of canonical theories of sovereignty. The structures of the monarchy and the discursive forms that manifested this new political culture of orthodoxy and sovereignty would last until the eighteenth century, when, in the words of Keith Baker, "the symbolic representations upon which . . . the sense of the monarch as the sacred center of the corporate social order, expressing its very ground of being as the public person in whom a multiplicity of parts became one, . . . depended[,] had been rendered increasingly problematic by changing discursive practices."[1] Baker touches on three

[1] Keith Baker, *Inventing the French Revolution* (Cambridge: Cambridge University Press, 1990), 9. Baker defines political culture on pp. 4–5 as "the set of discourses or

topics indispensable to understanding the foundations of absolutism: the notion of the monarch's sacrality, the idea of a social order of bodies defined by privileges emanating from the sovereign, and the concept of a public person, which assumes some distinction between "public" and "private." I would expand Baker's reference to "discursive practices" to include social or cultural practices understood more broadly, in light of subsequent works that restore elements of social causation to the Revolution. Cultural practices, encompassing religious sensibilities and political culture, had a role as much in the birth of the Old Regime as in its death. Both absolutism and the French Reformation sprang from the political and religious sensibilities of late-fifteenth- and early-sixteenth-century France, from the desire for reform characteristic of the "Pre–Reformation" and from the contemporaneous intensification of the imperial monarchy through a political culture created with the aid of the practices and theories of papal monarchy.[2] The desire for reform caused both a reformation of the monarchy and a reformation of the Gallican church, because, as Jonathan Powis has observed, "the character of Gallican institutions and publicity made it hard to consider national interests . . . except in relation to an ecclesiastical polity which was by definition Catholic."[3] Jotham Parsons points out that this dual reformation reflects "the inability to imagine either a deinstitutionalized Christianity or a de-Christianized state."[4] The First French Reformation was not a theological reformation but a political, legal, and social reordering of monarchy and Church accomplished in the century after 1438.[5]

The debt of early modern monarchies to the papal monarchy for practices of government and constitutional theories is clear, but the modes of transmission are not always evident.[6] Even though Roman-law

symbolic practices by which the . . . claims" of "individuals and groups in any society [are] articulate[d], negotiate[d], implement[ed], and enforce[d]."

2 Augustin Renaudet, *Préréforme et humanisme à Paris pendant les premières guerres d'Italie, 1494–1517*, 2nd ed. (Paris: Librairie d'Argences, 1953); Jean-Marie Le Gall, *Les moines au temps des réformes: France, 1480–1560* (Seyssel: Champ Vallon, 2001); Jacques Krynen, *L'Empire du roi: Idées et croyances politiques en France, XIIIe–XVe siècle* (Paris: Gallimard, 1993).

3 Jonathan Powis, "Gallican Liberties and the Politics of Later Sixteenth-Century France," *The Historical Journal*, 26, no. 3 (Sept. 1983), 515–530.

4 Jotham Parsons, *The Church in the Republic: Gallicanism and Political Ideology in Renaissance France* (Washington, DC: The Catholic University of America Press, 2004), 183.

5 On its religious aspects, see J. Michael Hayden and Malcolm R. Greenshields, *Six Hundred Years of Reform: Bishops and the French Church, 1190–1789* (Montreal/Kingston: McGill-Queen's University Press, 2005), 63–102.

6 Kenneth Pennington, *The Prince and the Law, 1200–1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley: University of California Press, 1993).

jurisprudence and humanism are often identified as the wellsprings of absolutism,[7] Roman law was not necessarily absolutist. Furthermore, the movement I describe is essentially pre-humanist, only reinforced by the arrival of a humanistically trained generation of legal practitioners in the 1530s. Even as the political culture I describe crumbled, late medieval practices of papal sovereignty continued to shape the practice of absolute monarchy: Daniel Jousse's *Traité de l'Administration de la Justice* of 1771 drew on Prospero Farinacci's *Variae Quaestiones* of 1589 to discuss the prosecution of *lèse-majesté*.[8] Jousse's work in turn shaped the revolutionary crime of *lèse-nation*, which in particularly Bakerian fashion essentially substituted the new sovereign, the Nation, for the former sovereign, the king, in a Romano-canonical framework. Farinacci (1554–1618) had been criminal lieutenant of the Auditor-General of the Apostolic Chamber and criminal prosecutor of Rome, and thus responsible for trying crimes against the majesty of its papal monarch. Jousse assumed the equivalence of the king of France as a monarch to the pope and elaborated the legal regime of the French monarchy in terms derived from the adaptation of Roman-law principles to the papal monarchy. Such borrowing furnishes the missing link in telescoped assertions that early modern monarchs imagined themselves in terms taken from discussions of the papal monarchy. It demonstrates how such claims were realized through their application in legal procedures, in the creation of new practices and new models of government on the basis of borrowing from canon law. This study examines how such borrowing created the French Old Regime monarchy as the result of universal calls for reform of the Church at the end of the Middle Ages. The resulting practices and institutions of absolutist government were not unopposed, though pressures for reform and for the defense of orthodoxy ultimately precluded a successful Protestant Reformation in France and undermined any resistance to what would become the Old Regime practice and theory of monarchy.

Misogyny and the Canonical Theory of Office

The influence of canonical theories of office on debates over succession to the French throne offers a clear example of the relation of canonical

[7] Myron Gilmore, *Argument from Roman Law in Political Thought, 1200–1600* (Cambridge, MA: Harvard University Press, 1941); William Church, *Constitutional Thought in Sixteenth-Century France: A Study in the Evolution of Ideas* (Cambridge, MA: Harvard University Press, 1941).

[8] Daniel Jousse, *Traité de l'Administration de la Justice*, 2 vols. (Paris: Debure père, 1771), e.g., II:98, 104, 623 (this case contradicting Farinacci's procedural recommendation), and 639.

theories of the Church to constitutional practice. The conquest of government by legal technicians, many clerical and many trained in both canon and civil law, brought a mindset in which the power to rule was imagined as an office rather than an inheritance, as in the post–Gregorian Church. The importance of theories of office has been demonstrated most famously in the case of the Salic Law, with which late-fourteenth-century jurists scrambled to justify the exclusion of female heirs from the French throne in 1316 and 1328.[9] The connection is explicit in a speech given in 1435 by Jean Juvénal des Ursins (1388–1473), former king's attorney or *avocat du roi* in the Parlement of Paris, bishop of Laon, future archbishop of Reims, son of a president in the Parlement, and brother of a Chancellor of France. In this defense of Charles VII's claim to the throne against that of Henry V of England, couched as an allegorical dialogue, "France" argued:

> Given that it is a manly office to be king of France, a woman may neither be king nor possess me, since women are barred from all virile offices. And it appears, everything considered, that to maintain that a woman by succession or otherwise might come to my crown is as great an error as asserting that a woman could be dean of a cathedral church – I would not dare to say pope or bishop –, since the king of France once consecrated is a cleric, and the first of his kingdom after the pope. One would not suffer a woman to be a bailliff or provost, which are offices of justice.[10]

Juvénal des Ursins's examples concern either clerical or judicial offices, that is, either priests or "priests of justice." He assumed that kingship was an office like those offices, describing the succession to the monarchy in terms derived from theories of ecclesiastical and judicial offices. Juvénal des Ursins thus continued that "the kingdom is not an inheritance, but a dignity pertaining to the entire commonwealth; there is no succession to dignities as there is for inheritances, since women may not hold dignities."[11] At the Estates General of 1484, the Burgundian nobleman Philippe Pot repeated this without the gender restrictions: "the kingdom is a dignity, not an inheritance."[12] The distinction between an office and a patrimonial inheritance meant that the monarchy was governed by the

[9] Ralph Giesey, *Le rôle méconnu de la loi salique. La succession royale XIVe–XVIe siècles* (Paris: Les Belles Lettres, 2007), and "The Juristic Basis of Dynastic Right to the French Throne," *Transactions of the American Philosophical Society*, New Series, 51, no. 5 (1961), 3–47.

[10] P. S. Lewis and A.-M. Hayez (eds.), *Écrits politiques de Jean Juvénal des Ursins*, 3 vols. (Paris: Klincksieck 1978), I:162–163.

[11] Lewis and Hayez (eds.), *Écrits politiques*, I:164–165.

[12] Jean Masselin, *Diarium statuum generalium Franciae, habitum Turonibus anno 1484, regnante Carolo octavo* (Paris: Imprimerie Royale, 1835), 146.

rules of the canonical theory of office. As the Nîmois jurist Jean de Terrevermeille had held sixty years before Pot, in a treatise defending the future Charles VII's right to the throne despite having been disinherited by his insane father, because kingship was a dignity or office rather than an inheritance, what appeared to be hereditary succession was in fact legal, customary devolution that only gave the appearance of hereditary succession.[13] What at first glance appears to be mere misogyny serving the partisan interests of Charles VII (b. 1403, r. 1422–1461) in fact signals the hidden canonical foundations – here the theory of office – of early modern theories of monarchy. An increasingly strong emphasis on the king's status as an anointed, clerical person evident from the reign of Charles V (b. 1338, r. 1364–1380) can only have favored the adoption of canonical theories of monarchy.[14]

A half-century ago, Ernst Kantorowicz elegantly demonstrated the contribution of the canonical theory of office to what he and Carl Schmitt called "political theology" but might more accurately be denominated the "ecclesiology of the kingdom."[15] Although many historians have since referred to Kantorowicz's seminal work, they have mainly limited themselves to indiscriminately applying the theory of the two-bodied king, a legal fiction fully realized only in a specific situation in later-sixteenth-century England. It has been demonstrated, conclusively to my mind, that the king of France did not, juridically speaking, have two bodies in this period, elements of the royal funeral ceremony during the long sixteenth century aside.[16] Even so, Kantorowicz's work still has considerable implications for the study of the French Old Regime, pointing us toward the occult foundations of the Old Regime monarchy. By recovering the deeper constitutional significance of Jean de Terrevermeille's,

[13] Joannes de Terra Rubea, *Contra rebelles suorum regum* (Lyon, 1526), 10r, 11r, 16r–v; Jean Barbey, *La fonction royale: essence et legitimité d'après les* Tractatus *de Jean de Terrevermeille* (Paris: Nouvelles Éditions Latines, 1983).

[14] Stephen Perkinson, *The Likeness of the King: A Prehistory of Portraiture in Late Medieval France* (Chicago: University of Chicago Press, 2009), 286; Carra Ferguson O'Meara, *Monarchy and Consent: The Coronation Book of Charles V of France* (London: Harvey Miller, 2001), 116–119, 237.

[15] Tyler Lange, "L'ecclésiologie du royaume de France: L'hérésie devant le Parlement de Paris dans les années 1520." *Bulletin du Centre d'Études médiévales d'Auxerre*, Hors-série n°7 (2013): http://cem.revues.org/12785.

[16] Alain Boureau, *Le Simple corps du roi. L'impossible sacralité des souverains français, XVe–XVIIIe siècles* (Paris: Les Editions de Paris, 1988); Tyler Lange, "Constitutional Thought and Constitutional Practice in Early Sixteenth-Century France: Revisiting the Legacy of Ernst Kantorowicz," *Sixteenth Century Journal*, XLII:4 (2011), 1003–1026; Ralph Giesey, *The Royal Funeral Ceremony in Renaissance France* (Geneva: Droz, 1960); E. A. R. Brown, "The French Royal Funeral Ceremony and the King's Two Bodies: Ernst H. Kantorowicz, Ralph E. Giesey, and the Construction of a Paradigm," *Micrologus* 22 (2014), 1–32.

Jean Juvénal des Ursins's, and Philippe Pot's words, we learn that the canonical theory of office was not unidirectional, tending only to the theory of a two-bodied king as it did in sixteenth-century England, and can reappraise the contribution of late medieval ecclesiology to the practice and theory of the early modern monarchy in France. We may then revise narratives of constitutional and political history that give too much weight to Roman law, misogyny, or class interest in the origins of absolutism.[17] Ideals alone do indeed sometimes move humans to act, even if they sometimes happen to coincide with material interests. Rarely will humans dispense entirely with at least invoking ideals. Studying those ideals, whether one takes historical actors at their word or seeks "deeper" motivations as well, reveals the intellectual structures of a given period. In our case, misogyny appears to be the consequence of a constitutional position – one that nevertheless accorded with late medieval prejudices.

As to Roman law, at least in the monarchies of Northern Europe, its impact was mediated through canon law until the humanist turn in jurisprudence.[18] The story I tell is mainly prior to the impact of humanist jurisprudence in France. Of early humanist jurists, Guillaume Budé (1468–1540) did not teach and Jean Pyrrhus d'Angleberme (c.1480–1521) died early. Only with the generation that came to maturity in the 1530s did humanist textual critique (the *mos gallicus*) transform the teaching and practice of law. In contrast, medieval jurists interpreted Roman law according to medieval categories and to medieval purposes, although the chains of interpretation governing the bare citation of textual loci are not always included. As Brian Tierney has observed of a later period:

> The use of ancient sources by seventeenth-century authors may sometimes obscure the actual medieval basis of their thought. . . . [W]hen an early modern author cited Matthew 18.17 as an argument for popular government or Cod. 5.59.5 (*Quod omnes tangit*) as an argument for political consent, he was attributing to the ancient texts meanings that had been imprinted on them by

[17] Sarah Hanley, "The Monarchic State in Early Modern France: Marital Regime Government and Male Right," in A. Bakos (ed.), *Politics, Ideology and the Law in Early Modern Europe: Essays in Honor of J. H. M. Salmon* (Rochester, New York: Rochester University Press, 1994), 107–126; Christopher Stocker, "The Politics of the Parlement of Paris in 1525," *French Historical Studies* 8, no. 2 (Autumn, 1973), 191–212, and "Public and Private Enterprise in the Administration of a Renaissance Monarchy: The First Sales of Office in the Parlement of Paris (1512–1524)," *Sixteenth Century Journal* 9, no. 2 (July 1978), 4–29; Henry Heller, *Iron and Blood: Civil Wars in Sixteenth-Century France* (Montreal: McGill/Queen's University Press, 1991).

[18] André Gouron, "Le droit commun a-t-il été l'héritier du droit romain?" *Comptes-rendus des séances de l'Académie des Inscriptions et Belles-Lettres* 142, no. 1 (1998), 283–292; Jean-Louis Halpérin: "La détermination du champ juridique à la lumière de travaux récents d'histoire du droit," *Droit et société* 81 (2012), 405–423.

medieval experience. . . . Seventeenth-century writers were often thinking medieval thoughts even when they clothed them in classical dress.[19]

Many crucial "Roman-law" theories – of sovereignty, of majority rule in voting, of representation, and so on – were in fact developed for the Church and were colored by the meaning and use they had acquired in that institutional context.[20] It was in the administrative law developed for the Church out of pieces of repurposed Roman law that warring principalities bent on acquiring supremacy within their territories found a model of comprehensive, absolute sovereignty. Although not discounting the role of war and its financing or of state expansion as a strategy for augmenting noble revenues through the regressive redistribution of national wealth,[21] my account focuses on the importance of the religious motives encouraged by reliance on prescriptions of canon law, connecting late medieval church reform to early modern absolutism.

The practice and theory of monarchy in Old Regime France were fundamentally shaped by canonical theories of monarchy, law, and justice. Political culture was shaped by canonical constitutionalism. In the words of Paul Ourliac, "whether it concerns the Fundamental Laws or sovereignty, it is clear that sixteenth-century political theorists applied to the king what the canonists had written of the sovereign pontiff."[22] It was natural that sixteenth-century constitutional thought recapitulate fifteenth-century debates on the papal monarchy, given that late medieval academics tended to discuss the papacy and the Church as the

[19] Brian Tierney, *Religion, Law, and the Growth of Constitutional Thought 1150–1650* (Cambridge: Cambridge University Press, 1982), 104–105. Cary Nederman excessively criticizes this passage, condemning Tierney and the other "Neo-Figgisites" Francis Oakley and Kenneth Pennington: *Lineages of European Political Thought: Explorations along the Medieval/Modern Divide from John of Salisbury to Hegel* (Washington, DC: Catholic University of America Press, 2009), 9–10, 29–48.

[20] Gabriel Le Bras, "Les origines canoniques du droit administratif," in *L'évolution du droit public: Études en l'honneur d'Achille Mestre* (Paris: Sirey, 1956), 395–412; Pierre Legendre, "Du droit privé au droit public: Nouvelles observations sur le mandat chez les canonistes classiques," in *Mémoires de la Société pour l'Histoire du Droit et des Institutions des anciens pays bourguignons, comtois et romands* 30e Fascicule (1970–1971), 7–35; Laurent Mayali, "Romanitas and Medieval Jurisprudence" in *Lex et Romanitas: Essays for Alan Watson* (Berkeley, California: Robbins Collection, 2000), 121–138.

[21] Albert Rigaudière, *Penser et construire l'État dans la France du Moyen Âge (XIIIe–XVe siècle* (Paris: Comité pour l'histoire économique et financière de la France, 2003), esp. "L'essor de la fiscalité royale," 523–589; Guy Bois, *The Crisis of Feudalism: Economy and Society in Eastern Normandy, c. 1300–1550* (Cambridge: Cambridge University Press, 1984).

[22] Paul Ourliac, "Souveraineté et lois fondamentales dans le droit canonique du XVe siècle," in *Études d'histoire du droit médiéval* (Paris: A. et J. Picard, 1979), 565; Harro Höpfl, "Fundamental Law and the Constitution in Sixteenth-Century France," in R. Schnur (ed.), *Die Rolle der Juristen bei der Entstehung des modernen Staates* (Berlin: Duncker und Humblot, 1986), 327–356.

monarchy or the political community par excellence, making ecclesiology the primary form of political thought in pre-humanist Northern Europe and the one most easily applied to royal administrations by clerical and lay administrators trained in one or both learned laws.[23] The relation between ecclesiastical and secular constitutional theories was not simple or uncomplicated, however, for there was not a single canonical constitutionalism but rather a multiplicity of constitutional positions separable into two principal strains of canonical theories of monarchy.[24] The papalist strain, derived from thirteenth-century polemics but fully developed in the fifteenth century as a response to the challenge to papal superiority within the Church posed by the Councils of Pisa, Constance, and Basel, envisioned a monarch who incarnated the entire ecclesiastical polity and whose divine powers were limited by no earthly power.[25] From the year 1500 or so in Northern Europe, this strain was reinforced by humanist, Senecan discourse of absolute monarchy that "effectively transfer[red] the custodial function of external laws from governing the exercise of political power to the person of the prince himself," evident in Erasmus's advice to the young Charles V or Guillaume Budé's to Francis I.[26] The conciliarist strain, derived from the application of the canonical theory of corporate bodies to the Church, envisioned a papal monarch at the service of the community whose powers were legally, morally, and

[23] J. H. Burns, *Lordship, Kingship, and Empire: The Idea of Monarchy, 1400–1525* (Oxford: Clarendon Press, 1992), 15. On the Church as a polity, Michael Wilks, see *The Problem of Sovereignty in the Later Middle Ages: The Papal Monarchy with Augustinus Triumphus and the Publicists* (Cambridge: Cambridge University Press, 1964). On clerical administrators, see Jean-Louis Gazzaniga, "Les évêques de Louis XI" and "Les clercs au service de l'état dans le France du XVe siècle à la lecture de travaux récents," in *L'Église de France à la fin du Moyen Âge*, 35–50, 75–100; Cédric Michon, *La Crosse et le Sceptre: les prélats d'état sous François Ier et Henri VIII* (Paris: Tallandier, 2008).

[24] The terms "conciliarism" and "papalism" are means of characterizing affinities among late medieval views of monarchy. I intend them less synchronically than Arthur Lovejoy's "unit-ideas" and with more attention to practical politics than Quentin Skinner's "ideas in context." Grounding political thought in political practice confirms the existence of papalist and conciliarist tendencies in ecclesiopolitics and institutional practices. I agree that "the conceptual distinction between conciliar and papal theories of government is a useful heuristic tool to select and arrange the evidence for the history of medieval political thought," without going so far as to assert that "there can be no history of the conciliar theory . . . because no such thing as the conciliar theory was ever an historical reality": Constantin Fasolt, *Council and Hierarchy: The Political Thought of William Durant the Younger* (Cambridge: Cambridge University Press, 1991), 328–319, cited by Nederman, *Lineages of European Political Thought*, 37.

[25] Wilks, *Problem of Sovereignty*; Brian Tierney, *Origins of Papal Infallibility, 1150–1350, A Study on the Concepts of Infallibility, Sovereignty, and Tradition in the Middle Ages*, 2nd ed. (Leiden: Brill, 1988).

[26] Peter Stacey, *Roman Monarchy and the Renaissance Prince* (Cambridge: Cambridge University Press, 2007), 41.

institutionally limited.[27] Papalism might be summarized with the oft-repeated words of the thirteenth-century canonist Laurentius Hispanus: as with God, "there is no one in the world who might say to [the pope], why do you do this?" As God on earth, the pope's "will stood for reason" and his judgment was "God's judgment."[28] Conciliarism might be summarized with the neat phrase: "the pope is greater in authority than any individual Christian but lesser in authority than the Church as a whole," the Church as a whole being represented in the General Council.[29]

Such theories were clearly applicable to secular monarchies, as the initial example of the application of one aspect of the canonical theory of office to the royal succession in France suggests. In Paris, the fifteenth-century center of conciliarist theology and canonical jurisprudence, the monarchy came to envision its powers in papalist terms, whereas the Parlement of Paris, chief appellate court with administrative powers for Northern France, came to see the French constitution in conciliarist terms. This dissension concerning the extent of royal and parlementary authority generated a constant low-level constitutional conflict between a king and the Parlement. Thus, even as the Parlement expanded the king's authority, it endeavored to limit his actions, justifying itself, as we shall see, with the language of conciliarist constitutionalism invoked by Jean Juvénal des Ursins in 1435 and Philippe Pot in 1484.[30] Accordingly,

[27] Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (London: Cambridge University Press, 1968); Antony Black, *Council and Commune: The Conciliar Movement and the Fifteenth-Century Heritage* (London: Burns and Oates, 1978); Francis Oakley, *The Conciliarist Tradition: Constitutionalism in the Catholic Church 1300–1870* (Oxford: Oxford University Press, 2003); Patrick Arabeyre, "Le spectre du conciliarisme chez les juristes français du XVe et du début du XVIe siècle," in P. Arabeyre and Brigitte Basdevant-Gaudemet (eds.), *Les clercs et les princes. Docrines et pratiques de l'autorité ecclésiastique à l'époque moderne* (Paris: Ecole nationale de Chartes, 2013), 221–237.

[28] Pennington quotes the first and second phrases, in which the canonist speaks of the pope as the *princeps*, citing the Codex and Institutions: *Prince and the Law*, 46. Hostiensis, *Summa aurea* ad X.1.32 (Turin, 1963; repr. Venice, 1574), 326b, and Philippus Decius, *Consilia sive Responsa* (Venice, 1570) II: 524v, repeat the first phrase. The second comes from Juvenal, *Satires* VI: 223. Wilks quotes the third from Augustinus Triumphus: *Problem of Sovereignty*, 469.

[29] An elegant phrase apparently created by Otto von Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien* (Berlin: Verlag Marcus, 1902), 144 n.62, on the basis of passages in the *Vindiciae contra tyrannos* (Basel, 1579), 85 and 114, and quoted in Ernst Kantorowicz, *The King's Two Bodies: A Study in Mediaeval Political Theology* (Princeton, New Jersey: Princeton University Press, 1957), 231 n.117.

[30] Royal authority was expanded by and through the Parlement: see Pierre Chaplais, "Some Documents Regarding the Fulfilment and Interpretation of the Treaty of Brétigny (1361–1369): II. The Opinions of the Doctors of Bologna on the Sovereignty of Aquitaine (1369): A Source of the *Songe du vergier*," *Camden Miscellany XIX*, 3rd Series, 80 (1952), 51–78; Jean Hilaire, "La procédure civile et l'influence de l'État. Autour de l'appel," in J. Krynen and A. Rigaudière (eds.), *Droits savants et pratiques*

in 1515, the court wrote Louise of Savoy, regent for her son Francis I during his first, victorious Italian campaign:

> My lady, because, among other powers, the said lord has granted by the said letters [of regency] that you might confer benefices open to royal appointment and because we have always held as law in this kingdom that the power to confer the said benefices is so close and tied to the Crown that the king may not delegate it to any other person however close to him, for this reason, we very humbly entreat you that it please you to confer no [benefices] but to leave them to the disposition of the said lord.[31]

The Parlement denied that Louise could nominate to ecclesiastical offices within the king's gift, in spite of her son's express permission declared in letters patent. Because it believed monarchy to be an office at the service of the commonwealth and likewise believed that the office of king was governed by the rules of ecclesiastical office, it rejected Louise's capacity to confer benefices. The court applied the Parisian canonist Cosme Guymier's 1486 statement concerning appointments to benefices that "when a certain quality is required in some matter to make it operative and that quality is lacking, the act is invalid."[32] Louise clearly lacked the quality of maleness required to exercise the powers of the king of France concerning appointments to vacant benefices. The Parlement also claimed that such powers could not be delegated, thus counteracting the papalist tendency to treat all authority as deriving from the prince and to circumvent institutional barriers to the princely will through extraordinary commissions. Of course, the Parlement's arguments served its long-term constitutional and more immediate political goals of beating back royal control of appointments within the Church and of limiting the monarchy to what the Parlement judged to be its proper role. The Parlement may also have been uncertain about Louise's capacity as royal patron owing to the belief in the king's quasi-clerical status evident in Juvénal des Ursins's speech. In any case, the court used Louise's womanhood as a wedge to drive apart papalist and conciliarist conceptions of monarchy. The canonical theory of office, applied to the monarchy,

françaises du pouvoir (XIe–XVe) (Bordeaux: Presses universitaires de Bordeaux, 1992), 151–160; Sophie Petit-Renaud, *"Faire loy" au royaume de France de Philippe VI à Charles V (1328–1380)* (Paris: De Boccard, 2001).

31 Archives Nationales, Paris (hereafter AN), X^{1a}9324 no.12 (September 6, 1515).

32 Guymier illustrated this principle with the examples of a theologal prebend, the benefice reserved for a graduate in theology within each cathedral chapter, and of *retrait lignager*, the custom by which relatives could purchase a lineage property sold by a family member. Each action required a certain quality, respectively a degree in theology or membership in a lineage: Cosme Guymier, *Pragmatica Sanctio cum Concordatis. Cosme Guymier Clarissimi Senatus Parisiensis. Consiliarii solennis et eruditus Commentarius ad Pragmaticam Sanctionem* (Paris, 1532), 90v.