



**HAL**  
open science

**Review essay : Solomon Blindfolded. Y. Le Gall, La  
Discorde et l'Harmonie, la Justice et le Prince, Paris :  
Classiques Garnier, 2021, 1057 p.**

Alain Wijffels

► **To cite this version:**

Alain Wijffels. Review essay : Solomon Blindfolded. Y. Le Gall, La Discorde et l'Harmonie, la Justice et le Prince, Paris : Classiques Garnier, 2021, 1057 p.. 2021. hal-03504816

**HAL Id: hal-03504816**

**<https://hal.univ-lille.fr/hal-03504816>**

Submitted on 29 Dec 2021

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

## Review essay : **Solomon Blindfolded**

### Abstract & keywords

Yvon Le Gall's collected studies on the concept and representation of kingship in France, from the Middle Ages until modern times, investigate key moments in the history of criminal justice, and in the ascent and ebbing away of the king's figure at the heart of sovereignty and public governance in French political history. The studies are based on a wide range of documents and works of art, linking central themes of legal and constitutional history to cultural history.

Kingship – political theory – good governance – law and literature – legal-historical iconography – Hendrick Goltzius

Y. Le Gall, *La Discorde et l'Harmonie, la Justice et le Prince*, Paris : Classiques Garnier, 2021, 1057 p.

### **Solomon : a wise king ?**

“They feared the king: for they saw that the wisdom of God was in him, to do judgment” (I Kings 3:28). Thus ends the chapter narrating the young Solomon's humble request to God. The request is readily granted, and the immediately ensuing story of the litigation between two prostitutes over a new-born child appears to confirm Solomon's newly acquired divine power of judgement. The final words of the chapter hail the new king's authority combining divine legitimacy and judicial power. As in other parts of the Old Testament, that legitimacy of government entails that his people fear him. Solomon's wisdom would become a recurrent theme in Western political thought and propaganda, and also in Western art. In political discourses, he figured as a model ruler; in art, his judgement became a conventional *exemplum* among several drawn from ancient Biblical and classical history<sup>1</sup>.

During the later 1570s, Hendrick Goltzius used the scene of the trial as a counter-example<sup>2</sup>. A ruler sitting on a raised chair under a canopy faces two women. One, standing, displaying an elaborate hairdo, an elegant dress and bejewelled, is stretching her arms and crosses ostentatiously both forefingers. The other woman is on her knees and folds her hands in prayer or supplication towards the ruler: in contrast, her dress is in rags, a cap modestly covers her hair. Two new-born babies, both naked, are also part of the scene: one, a lifeless exhibit, lies on the lower step of the ruler's throne. The other (his head surrounded by a halo)

---

<sup>1</sup> *Exempla* in the context of the administration of justice in the Low Countries during the transition of the Middle Ages to early modern times was a central theme in the 2016-2017 exhibition at Bruges, see the catalogue S. Huygebaert, G. Martyn, V. Paumen, T. Van Poucke (eds.), *The Art of Law, Three Centuries of Justice Depicted*, Tielt 2016; and the proceedings of the conference held on the occasion of the exhibition: S. Huygebaert, G. Martyn, V. Paumen, E. Bousmar, X. Rousseaux (eds.), *The Art of Law, Artistic Representations and Iconography of Law and Justice in Context, from the Middle Ages to the First World War*, Cham 2018.

<sup>2</sup> *The New Hollstein, Dutch and Flemish Etchings, Engravings and Woodcuts 1450-1700, Hendrick Goltzius*, 5 vols., compiled by M. Leesberg, edited by H. Leeflang: vol. 1, p. 146-147, No. 74, Allegory of the True and the False Church, dated c. 1577.

is held upside down by a bearded man with a helmet. His left hand grips the child's right ankle, and with a large sword in his right hand, he has just started cutting in the flesh of the child's back. The ruler is flanked on each side by two councillors, all four wearing long robes or gowns and wearing square caps. Through two open arched windows in the background, scenes of mass executions can be seen: on the left, people (whose heads are surrounded by halos) are burned, hanged and beheaded; on the right, others are being thrown in a river, attached to a trunk or in a bag. Other striking features (apart from those that will be mentioned alongside the identification of the characters) are an owl sitting under the canopy's dark shade on top of the ruler's chair, and the image of a wolf attacking a lamb in the carpet covering the upper steps leading to the throne.

It was not unusual that (in particular, allegorical) representations also included explanatory texts. In this case, they are of two kinds. Some provide an (abstract or specific) identification of the characters. The other texts are clustered in the bottom right corner of the picture and one appears under the picture. These are all quotations from the Bible, in Latin.

The councillors are identified as "Dr. Noose", "Dr Sword" (on the ruler's right side), "Dr. Water" and "Dr. Fire" (on the ruler's left). They correspond to the four forms of capital execution which take place in the background. Each of the four doctors also carries the tools of the trade used by the henchmen for the respective punishments they stand for. The lifeless baby has the name Barrabas next to him, the other, who is being slit, "Christus in membris suis". The elegant, if immodest, lady is identified as "Falsa Ecclesia", the woman on her knees as "Vera Ecclesia". No explanatory text accompanies the man wedging the sword. The ruler who wears an oriental-looking turban and holds in his right hand a ceremonial rod or sceptre resting on his right shoulder, and whose outstretched left hand is directed towards the infant Christ being dismembered and the false Church, is identified as "Crudelis princeps".

The Biblical quotations are all in Latin. The one under the image refers to Exodus 1:16<sup>3</sup>. Those in the bottom right corner of the picture are: John 16:2<sup>4</sup>; Proverbs 14:28<sup>5</sup>; Proverbs 29:12<sup>6</sup>; Exodus 1:10<sup>inc.</sup><sup>7</sup> The Old Testament quotes refer to wicked and dishonourable rulers, and the importance for a good king to prevent the numbers of his people dwindling. The reference to John's Gospel refers to the persecution of the followers of the Christ because of their faith.

The inspiration of Solomon's judgement is obvious, but the message of this picture operates an inversion, as the wise judgement is here transmogrified into a cruel sentence. In contrast to the original Biblical story, the decision of having the child cut in two is not the clever ploy used by Solomon, it is the final sentence, for the sword is already cutting deep into the child's flesh. The references to Christ, and to the true and to the false Church, point out that the

---

<sup>3</sup> "Quando obstetricabitur hebreus [*lege*: Hebraeas] et partus tempus advenerit, si masculus fuerit, interficite illum si foemina reservate, Exo. 1.16.", the king of Egypt's command to the Hebrew midwives, which ran against the design of Israel's God.

<sup>4</sup> "Sed venit hora ut omnis qui interficit vos, arbitretur obsequium se prestare Deo, Ioan. 16.2.", Christ warning his disciples that they will be killed because of their faith.

<sup>5</sup> "In mult[it]udine populi Dignitas regis: et In paucitate plebis Ignominia principis, Pro. 14.28", demographic success as an indicator of the true king's honour, failure of a ruler's humiliation.

<sup>6</sup> "Princeps qui lobenter [*lege*: libenter] audit verba mendacii omnes ministros habet impios, Pro. 29.12", which extends the censure to the councillors and the henchman.

<sup>7</sup> "Venite sapienter opprimamus eum, ne forte multiplicetur, Exo. 1:10 ", again the king of Egypt, this time warning his people against being overpowered by the numbers and might of the Hebrews.

ruler's order to cut the Corpus Christi, in keeping with the false Church's demand, is a policy denounced by the author of the image.

The print has been interpreted as an attack on the religious policy of the Spanish monarchy, and of Philip II's policy in particular. As such, it would fit within Protestant propaganda against Spanish rule in the Netherlands. However, the image does not provide any explicit indication linking the picture to the situation in the Low Countries. Moreover, the ruler's beardless lower face, the only part visible, does not bear any resemblance with Philip II. It recalls more the young man ("puer parvulus") Solomon in I Kings 3:7. However, two features at least bring the scene closer to the Spanish Netherlands. First, the unnamed henchman shows a likeness with the duke of Alba in contemporary Dutch prints and caricatures. Secondly, during the first years of Philip's reign, the association for propaganda's sake between Philip and Solomon was a regular theme, both in words and in images<sup>8</sup>. Among the latter, well-known examples are a window of 1557 in the St John the Baptist church in Gouda and a painting of 1559 by Lucas de Heere in Ghent. The window in Gouda shows Philip II looking at the Christ presiding over the Last Supper, in whose halo appear the words "Ecce plus quam Salomon heic" (Matthew 13:42). The Ghent painting (commissioned by Viglius van Aytta) shows king Solomon receiving the queen of Sheba. The features of Solomon are those of Philip II and the frame of the painting bears an inscription referring to Philip as "another Solomon"<sup>9</sup>. For Goltzius' contemporaries in the Netherlands, not least those critical towards Philip's handling of the rebels' cause<sup>10</sup>, the association between the ruling king and the "cruel prince" giving judgement in favour of the False Church would have come readily to mind<sup>11</sup>.

A straightforward and conventional interpretation of Goltzius' print would therefore conclude that it has the hallmarks of a political caricature<sup>12</sup> directed against Philip II's and the Roman-Catholic Church's religious policy in the Low Countries. One more detail which needs to retain our attention is a blindfold covering the ruler's eyes. The image of Lady Justice being blindfolded, in the Western pictorial tradition, has been traced back to the late fifteenth century and had originally a pejorative meaning<sup>13</sup>. Concurrently, there was also an attempt to

---

<sup>8</sup> Y. Rodriguez Pérez, *Filips II als wijze koning Salomon*, Neerlandia (2017), 23-25; F.E. Beemon, *Images of Philip II in the Dutch Revolt: Solomon, Shepherd or Tyrant*, Dutch Crossing, Journal of Low Countries Studies 23 (1999), 56-79.

<sup>9</sup> "Alter item Salomon, pia regum gemma Philippus, ut foris hic sophiae mira theatra dedit".

<sup>10</sup> *The new Hollstein, Hendrick Goltzius (supra, n. 2)*, Part 1, No. 74, identifies Dirck Volckertsz. Coornhert as the image's *auctor intellectualis* (p. 146).

<sup>11</sup> *Ketters en papen onder Filips II*, s.l. [The Hague] 1986, p. 108-109, no. 34. Beyond the Low Countries, it will be remembered that the figure of Solomon also played a major role in the conception and decoration of the Escorial (Juan Rafael de la Cuadra Blanco, *Arquitectura e historia sagrada. Nuevas Consideraciones sobre la idea de El Escorial y el Templo de Jerusalem, Cuadernos de arte e iconografía* 22/43 (2013), 11-258).

<sup>12</sup> To some extent, A. Simone's remark about satire (drawing on Bourdieu's *Langage et pouvoir symbolique*) is here applicable: "La satira, infatti, intesa come enunciato performativo eretico, non contribuisce soltanto a rompere l'adesione ad un senso commune omologante, non rompe soltanto con quell' ordine sociale legittimato dal mondo sociale dominante, ma tende a produrre essa stessa un nuovo senso comune auto-legittimandosi attraverso la dimensione pubblica e il bisogno di essere riconosciuta all'interno di un ordine che solo in primo luogo appare come dialettico" (A. Simone, *Rappresentare il diritto e la giustizia nella modernità. Universi simbolici, iconografia, mutamento sociale*, Milano & Udine 2015, p. 85, discussing the image of Justice being blindfolded in Sebastian Brandt's *Nave of Fools*, 1494).

<sup>13</sup> If the issue is widened to representations of Justice as blind, veiled, partly blindfolded... the historical view goes back to ancient times. Even in the Western European tradition, the progress of the blind or blindfolded Lady Justice has been far more complex and controversial: V. Hayaert, *The Paradoxes of Lady Justice's Blindfold*, in S. Huygebaert *et al.*, *The Art of Law...* (conference proceedings, *supra*, n. 1), 201-222; J. Resnik and D. Curtis, *Epistemological doubt and visual puzzles of sight, knowledge and judgment: reflections on clear-*

represent right justice through piercing, radiant eyes<sup>14</sup>. Gradually, however, the most common representation became that of a blindfolded or blind Justice, often associated with integrity and impartiality<sup>15</sup>. Conversely, a Lady Justice with too sharp an eyesight would betray corruption<sup>16</sup>. Goltzius, on the contrary, appears to have put the blindfold over the eyes of his pseudo-Solomon in order to emphasise even more the represented ruler's lack of virtues. In Goltzius' other allegorical representations, Lady Justice is always clear-sighted<sup>17</sup>. On the other hand, the artist depicts characters of poor judgement such as Credulity, the "unexperienced notary", and Cupid with blindfolds, occasionally similar to the one of his pseudo-Solomon<sup>18</sup>.

---

sighted and blindfolded Justices, in: P. Goodrich and V. Hayaert (eds.), *Genealogies of Legal Vision*, London and New York 2015, 201-242; S. Huygebaert, *Justitia, The Cardinal Virtue that Became a Political Ideal*, in S. Huygebaert *et al.*, (exhibition catalogue, *supra*, n. 1), 139-153, with a passing reference to the blindfolded Solomon in Goltzius' print, at p. 150. In later centuries, the iconographical canon in the Low Countries (as elsewhere) was not uniformly settled, see the exhibition catalogue. A. Moelands and J.Th. de Smidt (eds.), *Weegschaal en zwaard, De verbeelding van Recht en Gerechtigheid in Nederland*, The Hague 1999; M. Sellink, *The Law Aims to Correct those it Punishes*, in: S. Mareel (ed.), *Call for Justice. Art and Law in the Low Countries 1450-1650*, [Mechelen 2018], 190-195: see also the difficulty of attributing a negative meaning to Lady Justice's veil in the engraving of *Justitia* by Philips Galle after a design by Pieter Bruegel the Elder ca. 1559, unless one considers that the environment of the other virtues represented in the other engravings of the series are also intended to imply a social or moral criticism. Note that in that representation of Justice by Breughel, only features of criminal justice are represented.

<sup>14</sup> The most striking example in early-modern art history is probably A. Dürer's *Sun of Justice*, see G. Martyn and S. Huygebaert, *Dürer's Impact in the Iconography of Justice*, in: S. Huygebaert *et al.*, *The Art of Law* (*supra*, n. 1), p. 179-181, Ill. 102. The image of the piercing, all-seeing eye would later be recuperated on behalf of the legislative Act of the sovereign, M. Stolleis, *Das Auge des Gesetzes, Geschichte einer Metapher*, Munich 2004 (and comp. on the "œil de justice" the present book under review, p. 643).

<sup>15</sup> The emphasis on impartiality is probably too reductionist. The issue of Solomon's judgement transcends that of the blindfold, it can be related to the issue of controlling arbitrariness through a degree of rationality: one of the central questions in J.M. González García, *The Eyes of Justice, Blindfolds and Farsightedness, Vision and Blindness in the Aesthetics of the Law*, Frankfurt am Main 2017, who associates the image of Justice with that of Fortune. Particularly relevant in the context of modern legal theory are his references to J. Rawls' concern "with one of the three forms of contingencies in which fortune shows her power and which should be transformed by the action of justice" which calls for a correction of "the 'natural lottery of qualities'" (p. 394); see also González García's discussion of J. Elster's *Solomonic Judgments*, p. 372-381.

<sup>16</sup> Perhaps one of the best illustrations towards the end of the sixteenth century is the painting representing human justice in Hans Vredeman de Vries' set of seven paintings for the council room in the town hall of Gdańsk, where on the one side, a fair (criminal) trial takes place under the direction of a blind Lady Justice, and on the opposite side, a corrupted (civil) trial under the supervision of a Lady Justice whose sight is not impaired. However, the story-line of the representation of Justice, not least in connection with the ruler's governance, is far more complex. One of the most difficult conundrums in relation to the blindfold is Peter Vischer Jr.'s 1524 drawing sometimes referred to as *Allegory in honour of Luther*, where it is controversial whether a naked figure of Justice is putting the blindfold on the sitting ruler, or removing it. She seems to be pointing at the same time to the real Christ in the middle of the picture, a gesture which normally would only make sense either before blindfolding the ruler, or after having removed the blindfold. The controversy is discussed in J.M. González García, *The Eyes of Justice* (*supra*, n. 15), p. 127-131. The figure representing (rural) workmen (*plebes*) carrying a flail (at the time when the German peasants' revolt was spreading, but here perhaps as the weapon that brought down the Church associated to imperial power) expresses perhaps a humanist's optimistic view on the benefits of conversion to Lutheranism for an orderly governance.

<sup>17</sup> *The New Hollstein, Hendrick Goltzius* (*supra*, n. 2), Part 1, No. 101 (c. 1578), p. 164 and 167 (with Solomon's judgement in the background), No. 115 (c. 1580-1582), p. 171 and 175; No. 121 (c. 1582), p. 177 and 180 (*Justitia*'s face not visible); Part 3, No. 480 (c. 1587), p. 152 and 154, No. 494 (1593), p. 163-164 and 167, No. 508 (1597), p. 180 and 182; Part 4, No. 645/1, p. 33 and 36.

<sup>18</sup> *The New Hollstein, Hendrick Goltzius* (*supra*, n. 2), Part 1, No. 84 (c. 1574-1575), p. 149 and 157 (*Credulity*); No. 79 (c. 1574-1575), p. 149 and 154 (*Cupid*, twice); Part 2, No. 187 (c. 1576), p. 4, 7 and 11 (*notary*); *ibidem*, No. 188, p. 4 and 8 (*Cupid*).

## A sinuous gateway to French sovereign power: Minos, Solomon, Montaigne, and A. Thibaudet

In the book under review, Yvon Le Gall mentions Goltzius' satire on Solomon's judgement in passing<sup>19</sup>, but the figure of Solomon looms large at the very outset of this volume. The author refers to the introductory sections of his book as its "Propylaea" to the two main parts of his work<sup>20</sup>. The book is the fruit of a lifelong commitment to legal-historical scholarship, collecting essays published over a quarter of a century<sup>21</sup>. Inevitably, forcing this eclectic collection into the conventional format of a monograph results occasionally in a somewhat unbalanced and artificial sequence. Overall, the volume is nonetheless highly consistent because of the author's focus on a central theme. That central theme is the king's<sup>22</sup> role in the edifice of a legitimate government. It is a well-trodden path, but Le Gall's approach is nevertheless original. Behind the classical façade and lay-out of this volume (the Propylaea lead to a first part on justice, leading on to the second part on the ruler), there is, through the interplay of unusual *rapprochements* and the insistence on the tensions which constantly threaten to tear apart the building, the suggestion that what looks stable and sound from the outside may be no more than a wobbly *trompe-l'œil*. Through his selected vantage-points, borrowed from sources which legal historians often tend to overlook, Le Gall operates as a craftsman whose expertise reveals the cracks in the fabric and in the structure of constitutional constructs and their imagery. The vantage-point always remains resolutely French<sup>23</sup>, but by exposing the tensions in the ideological and institutional constructions of the supreme executive power, from the later Middle Ages until the twentieth century, the author injects a dynamic which is reminiscent of features of the French baroque<sup>24</sup>. The title given to

---

<sup>19</sup> Le Gall, *La Discorde...* (*supra, in principio*), p. 52, n. 73.

<sup>20</sup> Formally, these "Propylaea" sections have been incorporated in Part I (on Justice), but it is obvious that they introduce to both parts of the book.

<sup>21</sup> The volume does not include a separate general survey of the previous publications from which the chapters and sections are (partly updated) new versions. The full reference for each of those publications can be found in the first footnote at the beginning of the relevant chapters, viz. p. 35, n. 4 (2011); p. 86, n. 204 (1999); p. 118, n. 262 (2004); p. 141, n. 325 (2010); p. 162, n. 8 (2006); p. 209, n. 156 (2008); p. 228, n. 2 (2005); p. 269, n. 140 (2013); p. 298, n. 227 (2006); p. 354, n. 2 (2008); p. 430, n. 282 (1999); p. 462, n. 374 (2006); p. 524, n. 8 (2003); p. 575, n. 163 (2007); p. 616, n. 273 (2009); p. 647, n. 2 (2006); p. 677, n. 83 (2000); p. 729, n. 2 (2000); p. 774, n. 148 (2015); p. 801, n. 1 (2004); p. 845, n. 126 (2010); p. 890, n. 293 (2010); p. 920, n. 402 (2011). The dates mentioned are those of the original publication; they are often the written version of a presentation at a conference which predates by several years the date of the publication of the conference's proceedings.

<sup>22</sup> The author may take exception to my use of the term 'king': in the more conventional French fashion, he speaks of the *Prince* in the title of the book (which I shall usually express as "ruler" in this review), and as he points out in his conclusion, "the king is only one of the ruler's facets" (p. 949). That may well be true in general political theory. There is little doubt, however, that the *Ancien Régime's* monarchy remains throughout the historical narratives the unavoidable point of reference, even after its fall: either to act as a foil in presenting the virtues of the new regime (as in the revolutionary and anti-monarchist republican discourse), or in the ever-continuing quest (if one looks at the succession of constitutions and political regimes in France since 1791) to "fill the gap" after the disappearance of the legitimate absolutist king (a quest particularly revealing in the last essay of the volume, on Charles Maurras' disingenuous use of Anatole France in characterising the (Third) Republic as "the absence of the king" (p. 920-948, at p. 947).

<sup>23</sup> The author cursorily apologises for his "laziness" in restricting his outlooks to the "French horizon" (p. 27), even though, occasionally, non-French sources are drawn into the discussion. Perhaps it was inevitable that the focus on how the French monarchy developed, and was looked back upon since the end of the *Ancien Régime*, would entail, as one progresses in history, an increasingly gallocentric perspective. One would in the end believe that the French intellectual tradition, even, as in this volume, at its at times most polemical stages, has been by and large a self-sufficient pool for its own history of ideas.

<sup>24</sup> Baroque and classicism sit awkwardly in each other's proximity in the conventional typology of French art history. The label here should not be taken too seriously, but it tries to convey the perception that the classical

the book is in that respect a giveaway. The dichotomy between Discord and Harmony is a common topic in political literature and art, but the second pair of the title, Justice and the Ruler, are concepts which, in the Western tradition of good government, are indispensable to each other. Justice cannot effectively be achieved without the good government of a ruler, whose legitimacy depends on his commitment to justice. Le Gall did consider including at the outset of this volume an essay on the frescos by Lorenzetti – perhaps, in artistic terms, the compulsory platform from where to start investigating representations of good government in the Western tradition –, but he may have been dissuaded by that painting’s constant reinvention in political theory and art history<sup>25</sup>. One suspects that Lorenzetti’s stark opposition in representing good and bad government fits less in Le Gall’s predilection for bringing to light the more hidden strains lurking behind apparently solid positions.

The “gateway” leading to the first part, on justice, is represented through four figures: Solomon, Montaigne, Minos and Albert Thibaudet. The eclecticism is highlighted not only by the very different status and role of those figures in the tradition of political theories, but also by the author’s approach to each of these figures. In the case of Solomon and Minos, the emphasis is on their reception from the Middle Ages until modern times, whereas Montaigne and Thibaudet are invited for their own contributions to the discussion of the learned classes’ part in public governance.

The first station, Solomon, offers the author the opportunity of drawing a broad panorama of the Biblical king’s long-term exploitation in political literature. While Solomon’s recurrent representation, one suspects mostly favourable, in visual arts here appears very marginally, Le Gall has also looked at critical voices, tracing a motley succession of authors, from Bossuet (“on the brink of criticism”<sup>26</sup>) to Voltaire, both preceded by the *Vindiciae contra tyrannos* and Algernon Sidney. This counter-current opens a chasm in the Solomonic tradition, which may well run back to Biblical times. Even the wise king’s supporters had to deplore the old man’s excessive taste for riches, horses, women and idolatry – though one always wonders to what extent the latter accusation, bolstered by its misogynistic association with the king’s concubines, may not have been, in the mind of the writers who held the pen of those sacred texts, a strategy for discrediting a political cosmopolitanism which did not fit easily in the divine nationalist agenda which runs through much of the Old Testament’s books<sup>27</sup>. In any event, Solomon’s alleged lapses towards the end of his reign could easily be

---

*esprit de géométrie* is ruffled by a degree of purposeful agitation characteristic of the baroque art. The author’s propensity for polyptychs, sometimes producing a triptych within a triptych (comp. his remark on Montaigne p. 229, n. 4; and Aubery’s *Justes Prétentions*, p. 654, n. 23), is neither late-Medieval nor purely classical. However brilliant his analysis of Jean Fouquet’s coronation miniatures (fifteenth century) or Bertaud’s *La Madeleine chez les Pharisiens* (1891), his essays on the so-called *Âge classique* of the old French Monarchy are (no pun intended) the most resplendent, especially when he brings out the spirit of the age through the smaller or less conventional genres of literature and the arts. In any case, without betraying Le Gall’s own view on the characterisation of the style (see p. 469, n. 389; and p. 695), one can already acknowledge features of early baroque during the first half of the seventeenth century, a period rich in literary and artistic production which provide the materials for some of the author’s most brilliant analyses.

<sup>25</sup> Le Gall, *La Discorde...*, p. 26 and 33. There is, indeed, a risk of having any interpretation of Lorenzetti’s work quickly outflanked by new theories and advancing scholarship. The author refers to P. Boucheron’s monograph of 2013, taking ‘fear’ as the vantage-point for reading the frescos, but since then, R.M Dessi’s *Les spectres du bon gouvernement*, Paris 2017, has shown how the Angevin politics in the region during the years preceding the making of the wallpaintings pierce through the allegorical set-up.

<sup>26</sup> Le Gall, *La Discorde...*, p. 56.

<sup>27</sup> Solomon’s policy of opening access of the Temple to foreigners (Le Gall, *La Discorde...*, p. 79, n. 183) would already have ruffled the feathers of those who championed more particularistic interests. The issue is not

used in a moral register for reminding the ruler that even a model king should keep aloof from earthly and heretical temptations. In the eyes of the more radical opponents to monarchical rule, however, the very essence of that rule demonstrated that even Solomon as a king qualified as a tyrant. Beyond that strand of attacks, one also catches a glimpse of the complexities which may hide underneath the seemingly straightforward narrative of Solomon's judgement. The mainstream tradition of Solomon's kingship had inspired Budé, an outstanding representative of early sixteenth-century (legal) humanism, and therefore of a commitment in favour of a better governance, to emphasise the need for a king, whatever his excellency, to be surrounded by wise councillors. Not by accident was he the moving force behind the creation of the Royal College.

Le Gall's highlights of the reception of King Minos's figure in French political literature focus on a handful of minor publications: pamphlets published in 1620 and in 1652, on both occasions while a king was still under age, and on both occasions directed against the usurpers who attempted to fill the gap in their own interest; two pamphlets from the revolutionary period (the first, in 1791, staging a – dead – Mirabeau boasting like a modern Carneades that he could plead convincingly both his vices and virtues; the second, in 1799, targeting the political class of the *fin-de-siècle* Directoire); and, briefly, a play from 1849 disparaging the 1848 Revolution, followed by a quote from Montherlant's *Song of Minos* (1934), a king's disenchanted lament about his people. What these Minoan invocations all seem to have in common, is their disaffection with the political staff supposed to advise, or deputise for, the ruler. They often appear no better than our *quatuor doctores* in Goltzius' caricature of Solomon's judgement.

With Montaigne, himself a jurist who turned his back on a magistrate's career, the criticism of public governance leads to a reflection on a pre-legal normative world, where normativity has been internalised and therefore requires neither positive law, nor a judicial system. Justice is an inherent quality of that society, whose members are trained to be just. These thoughts are reminiscent of a quasi-Confucian approach (through a Western lens, at least) of social normativity. It leaves the question open, what role there is for Western mandarins.

Le Gall's choice for Thibaudet on the last stage of his gateway<sup>28</sup> was triggered by his writings in reaction to J. Benda's *Trahison des clercs* (1927). That title became a set phrase in twentieth-century French discourse, in contrast to the notion (or image?) of the *intellectuel engagé*. In the polarised climate of the interbellum, Thibaudet promoted the "demobilization" of the intellectuals, lest they lost their true calling as intellectuals. Le Gall remarks on Montaigne's and Thibaudet's disinclination for commitment, but leaves open its significance for carrying out the tasks of government.

## Supreme governance and criminal justice

The readers then enter the first hall of the volume, a cluster around themes of justice. They will be only half-surprised that it is entirely dedicated to criminal justice – quite in contrast to a visit to judicial archives, where the rolls and records have overwhelmingly been produced

---

pursued in this volume, but, to be fair to the author, considering a complex polity consisting of a plurality of peoples has traditionally not be a central theme in French political thought.

<sup>28</sup> The author candidly informs the reader that other candidates he considered before stelling on Thibaudet were R. Aron, E. Mounier and J. Maritain (p. 143).



over the centuries by civil litigation. The author's focus on criminal justice is understandable. There is little doubt that when it comes to the image of justice, that image has been – and still is – strongly determined by criminal proceedings. Another justification may be sought in a very traditional approach to good government, where 'law and order' is more often than not understood primarily in terms of criminal justice. In his ordinances on criminal justice for the Netherlands (in 1570), Philip II (or rather, the learned legal councillors who may be suspected to have been in charge of the drafting) stated that in order to restore good government through justice, priority had to be given to criminal justice, a statement echoed in the book under review by no less than Richelieu during the following century<sup>29</sup>. One will recall that the four doctors counselling Goltzius' blindfolded Solomon were all advising on the death penalty, which was not an issue at stake in the pending litigation.

The part on criminal justice follows three stages of its proceedings: the prosecution, the punishment, and oblivion. Under the heading 'prosecution', one chapter discusses liberal-minded voices from the post-Napoleonic 'Restoration', both legal scholars and authors of political literature, on the weaknesses and shortcomings of the criminal justice system inherited from the Revolution and the Empire. It is followed by a chapter focusing along a broader time-line on the interaction between the authorities and the public through various devices of 'denunciation'. For the chapter on punishment, Le Gall has used very different sources from different periods. To begin with, on the theme of cruel punishments, the literary works of two 'pre-classical' seventeenth-century authors (Savinien Cyrano de Bergerac and Tristan L'Hermite, i.e. François L'Hermite du Solier) bear witness of the epoch's difficulties in fixing a course between a more humane approach and the demands of the emerging absolutist state. Their explorations of (quasi-)utopian societies give the impression that a better world is not of this world and that human societies cannot avoid the brunt of a criminal system. More pragmatic are the positions of François de La Mothe Le Vayer, whose career brought him closer to the *grandes* of his time, and who advocated a middle course of moderation and proportionality in meting out punishment. Marivaux's play *L'île des esclaves* (1725) provides an opportunity to touch upon a very different approach, which Le Gall relates to the canon law tradition<sup>30</sup>. In the line of the tradition of the Church's concern for rehabilitating the individual's prospect to salvation of the soul, the secular transposition in Marivaux's play addresses the remedial function of the sentence, which, unsurprisingly in the intellectual climate of early-eighteenth France, translates as a means for recovering Reason. The idea, as Le Gall will show, would acquire later a new lease of life in, ironically, a more positivistic epoch. The chapter on punishment ends with a detailed survey of penalties in all areas of the law under the Vichy Regime. Although the first impression may be that of an over-saturation of the repressive arsenal, many of the Vichy laws which appear in this overview were technically following a policy which had already been initiated before the war (and, one may add, which would be continued during the post-war period). In spite of the author's arrangement aimed at showing how Vichy's use of criminal penalties fitted in its broader ideological propaganda, the real cruelty of the regime's injustice and use of power – whether through legal means or not – tends therefore to be blurred and buried under the sheer mass of laws enumerated in this chapter.

---

<sup>29</sup> Quoted from Richelieu's *Political Testament* in Le Gall, *La Discorde...*, p. 227. The precedence is echoed by Jean de Castellan (p. 354), but reversed by François de La Mothe Le Vayer (p. 262) and Le Gall recalls that in the Napoleonic codification works, civil law, both substantive and adjective, preceded in time criminal law (p. 407).

<sup>30</sup> Le Gall's distinctive capacity of making unconventional *rapprochements* in legal-historical tradecraft is illustrated by his remark that one year before Marivaux's play, Mabillon's essay *Réflexions sur les prisons dans les ordres religieux* was published (Le Gall, *La Discorde...*, p. 270).

Finally, the chapter on ‘oblivion’ is articulated around three themes, which, significantly, do not translate easily from French into English: *prescription* (in the context of criminal law, for which the phrase “(period of) limitation” will be used, for lack of a better term), *pardon* (which, in this context, may best be translated as forgiveness), and *grâce* (here to be translated as pardon). In his discussion of limitation, Le Gall’s long-term overview shows that the issue remains a source of tension in any form of government. The traditional justification in the Western tradition may well have been that limitation ought to be viewed in support of the common good and public interest (a justification which suited better with regard to private interests), but whether or not (some) offences ought to be exempted or not from limitation has been a controversial question. French *Ancien Régime* lawyers were divided, and the diverging opinions were reflected in the literature of reported cases. The selection of sources drawn by Le Gall suggests that the difficulty of admitting limitation may also reflect a shift in the perception of the most emblematic and effective instrument of government. Whereas at first, it was largely seen as a challenge to the ruler’s justice, it later became more difficult to reconcile it with the authority attributed to legislation. In recent times, limitation has yet again been challenged, both in private and in criminal law. For his discussion of forgiveness (earlier on briefly touched upon, in the discussion of Marivaux’s play, and the importance of contrition in the ecclesiastical tradition), Le Gall has dipped in the rich production of artworks depicting Mary Magdalene. The theme is also relevant for issues of access to justice, and here again, a link with that of Solomon’s theme comes to mind. Luke’s gospel (7:36-50), insists on Mary Magdalene being a sinner; yet she is seen worth of the Christ’s full mercy. Two very different works are discussed more in detail. For the first, Philip de Champaigne’s *Meal at Simon’s house* (c. 1656), the author analyses the artist’s choices in the painting’s composition against the backdrop of artistic precedents and contemporary theological discussions. According to his reading, the painter has opted for the penance as the crucial moment of the scene, the remittance of sins resulting foremost from the act of contrition. An entirely different context is immediately apparent in Le Gall’s second choice, *The Magdalene at the House of the Pharisees* (1891). Perhaps the painting partly attracted large crowds when it was first exhibited because of its perception as a pictorial equivalent of a *roman à clef*. Beyond that anecdotal (yet, relevant) feature of the painting, no doubt the crowd’s fascination could equally have been triggered by the social and political undertone of the scene’s representation. In any case, the themes of penance and contrition are no longer readily recognisable, as the painter seems to have challenged a different register of social conventions and normativity. Needless to say, the issue of contrition, at least obliquely through the figure of public apology, has not vanished from today’s controversies, not least in the context of international governance. Finally, the essay on the polemics around the sovereign’s right to pardon in Enlightenment France reflects once again the tensions between that right and the growing ascendancy of the positive, enacted law (*la loi*). Some authors tried to circumvent the exceptions of the new age against pardon by appealing to it as a device for preventing cruelty, but on the whole, a plea for saving the pardon seemed a lost cause. In the spirit of the age, the ideal law was conceived as the ‘natural laws’ which were being revealed by the newly developed natural sciences. As such, they were supposed to be as universal and inescapable as the laws of physics<sup>31</sup>. The analogy was easily transposed into the sphere of government. As a “Modern” would put it in a dialogue by Diderot: “Wherever there is the prerogative of the sovereign, there is no longer any law” (law, of course, expressed in the

---

<sup>31</sup> Le Gall, *La Discorde...*, p. 500-501 (quoting a speech by J.E. de Bernardi in 1780, stating as a distinctive feature of good government: “L’autorité de la Loi doit être universelle, inevitable, immuable. Il doit en être des Loix politiques comme des Loix physiques. Il ne faut en suspendre le cours que pour les prodiges, c’est-à-dire pour des occasions d’éclat & pour un plus grand bien”).

French original as *la loi*)<sup>32</sup>. Nevertheless, another character staged by the same Diderot in a different work betrays the hidden tension behind the façade of the unimpeachable statutes, for the character professes his preference for a hidden and secret tolerance within the ambit of the law rather than a public pardon<sup>33</sup>. As ever, Le Gall's eye for the cracks in the system.

### Changing images of the king as the supreme ruler

The second part of the volume has been organised around the figure of the ruler. Its four chapters follow a broad chronological canvas, from the late Middle Ages to Modern Times. Not unconventionally, it regroups various essays first around the ascendancy and the zenith of the monarchy, and reverts to less metaphorical headings for epitomizing the last century of the *Ancien Régime* as a period of challenges, and Modern Times since the Revolution as a period of successive changes<sup>34</sup>. It also shows the difficulty of fitting the emergence of popular sovereignty in a narrative specifically centred around the ruler's figure. Early-modern France shaped its version of a modernised public governance by marginalising the institutional representation of traditional counter-powers, seeking to replace it by a royal state bureaucracy. In the Holy Roman Empire, the development of imperial governance (which included both the emperor and the states of the Empire) was frustrated by the tendency of many territorial rulers to emulate, within their own jurisdiction, the French model of modernisation<sup>35</sup>. Perhaps the significance of early-modern absolutism ought to be defined far more in terms of the degree of marginalisation of ephoric political actors than, as usual in legal historiography, by the ruler's capacity to lay aside the rule of law. Admittedly, however, the decline of the rule of law under regimes veering towards absolutism was symptomatic of a tendency which, in somewhat anachronistic terms, made a political constitution prevail as a matter of principle of good government over the late-Medieval legal constitutions. In that perspective, late seventeenth-century England took a different path towards modernising government by reinforcing political representation, a path most continental European countries tried to adopt from 1814 onwards. There is an argument for dating back the ultimate failure of the French absolutistic model not to the military debacle of the French revolutionary and Napoleonic wars, but to the time of the Spanish War of Succession, when France's capacity to become the hegemonic power in Europe – and Europe's overseas interests – was lastingly curtailed. Among the long-term effects, France's defeated bid for hegemony contributed to perverting the course for a more pluralistic international governance.

Le Gall starts the storyline of the French monarchy's progress through a sample of fifteenth-century constitutional iconography: Jean Fouquet's miniatures on the French kings' 'consecration' (the *sacre*, of which the anointment and the coronation are key-moments). A close analysis of these illustrations presents the ritual as a device for ensuring that the king should be perceived to have the legitimacy associated with that of an 'emperor';

---

<sup>32</sup> Le Gall, *La Discorde...*, p. 488.

<sup>33</sup> Le Gall, *La Discorde...*, p. 488-489 (referring to Diderot's *Observations sur le Nakaz* (1774)).

<sup>34</sup> As always, Le Gall's choice of words is more elegant: whereas the period up to, and including, Louis XIV's reign is phrased, somewhat teleologically, as "La mise sur orbite de l'astre royal" and the "Sun King"'s reign as "Au plus haut de l'éclat", the following periods are presented as "Le temps des interrogations", followed by "Le temps des alternances", probably reflecting rightly the inability in French politics, ever since the Revolution, to steer a clear course in shaping the fundamental features of a form of Government based on popular sovereignty.

<sup>35</sup> A tendency powerfully illustrated by the reception of the "French garden" and palace architecture in several German principalities during the last century of the *Ancien Régime*, e.g. Nordkirchen Castle as the "Westphalian Versailles".

concomitantly, they also may hint at the progressive emancipation of the king's authority from other groups traditionally involved in the royal government (bishops and the higher nobility). Inevitably, such developments in the long run also affected the elaboration and the nature of royal legislation. In somewhat simplifying terms (not reflecting adequately the nuanced studies by Le Gall), the late-Medieval royal governance based on the figure of the king as the supreme dispenser of justice was primarily tailored on the particular, while the early-modern figure of the king emphasising his position as supreme legislator tended to be geared to uniformity<sup>36</sup>. The French monarchy would never succeed in bridging that tension because it never jettisoned entirely its Medieval roots. In contrast, the French Revolution was poised to quash the particular and, under the motto of equality, to impose uniformity. In the line of Bodin, which expressed a rearrangement of the hierarchy of legal norms also visible in other countries<sup>37</sup>, the primacy of royal statutes at the expense of customs was given prominence. More practical authors (Le Gall discusses more in detail Le Caron) were often more sympathetic to customary law, though even at that level, the door was left open for a further development of a general customary law of the realm. The movement was facilitated by the programme resulting in writing down and sometimes officially sanctioning customs as a fixed text, though, somewhat subversively, the result also strengthened the survival capacity of customs until the end of the *Ancien Régime* – no longer through the communities it was supposed to represent, but now through the medium of different social actors and interest groups, in particular judges, practitioners and commentators of customary law. Rather than the plurality of legal norms, the diverging interests they stood for in the realm was probably of greater concern to Bodin. He therefore highlighted the importance of the notion of harmony, which he explained through a model borrowed from musical, and therefore also mathematical theory<sup>38</sup>. This (and, additionally, the young Louis XIV's involvement in musical representations) offers Le Gall an opportunity to seek an intermediate source in Marin Mersenne's *Harmonie universelle* (1636), in particular the associations it suggests between musical theory, ethics and politics. Through those associations, one may recognise a prefiguration of rationalist notions not only applied to the human and political body, but also to the international (i.e. European) community. Versailles would then express a political project of harmony not restricted to the entire kingdom – already an ambitious project –, but to Europe under the French aegis. By the time of Louis XIV's reign, the French monarchy's apparent supremacy after the defeat of the *Frondes* was also expressed in terms of a "universal monarchy". Perhaps the concept was intended to outclass the in French eyes discredited phrase of empire, perhaps also as a reinterpretation of the very nature of the ancient Roman empire. France's prominent position entailed not only the claims to a universal, and therefore predominant, monarchy, it also confronted the French king with the call for an elusive *pax gallica*. The parallels between a musical theory of harmony and the advent of the absolute monarchy are followed, perhaps with a zest of irony, with an example of the pamphleteer Antoine Aubéry blowing the trumpet of the triumphant monarchy. Le Gall's appetite finds a more fruitful material in two complex broadsheet illustrations conceived by Le Brun for adorning the philosophy theses defended by two youngsters from

---

<sup>36</sup> The story is of course far more complicated. A still largely unaccounted twist in this development is the French humanists' conversion during the sixteenth century from championing universalism to promoting (customary) particularism (Le Gall, *La Discorde...*, p. 580, n. 176), although that interest was linked to the early emergence of a 'common customary law' in French legal literature.

<sup>37</sup> Returning once more to Philip II in the Netherlands, and his criminal ordinances of 1570: the red thread in the policy of those ordinances and its specific provisions is the royal government's insistence on stamping out as much as possible the local (customary) laws and stressing royal legislation as the supreme norm.

<sup>38</sup> Le Gall, *La Discorde...*, p. 618 notes how Bodin associated each type of government with a distinct model corresponding to that government's characterisation of justice: arithmetic for democracy, geometry for aristocracy, harmonics for monarchy.

the Colbert clan. First, in 1668 for Jean-Baptiste Colbert de Seignelay (son of the famous statesman), showing Louis XIV returning from the (Devolution) war. The second, in 1680, for Jean-Baptiste Colbert de Croissy (nephew of the statesman, and promised to a prominent diplomatic career in the later years of the reign), showing Louis XIV giving peace to Europe. It would do no justice to Le Gall's subtle and detailed interpretation of all the features in both compositions, remarking that while in the 1680 broadsheet, the king still has his feet firmly on the ground, by 1680 he is literally lifted up by his own pre-eminence. With the benefit of hindsight (not a sound instrument in legal iconography, and certainly not a device in the author's toolbox), one may recognise – as with the Versailles project – that the king's policy was overestimating its grip on European affairs. It is nevertheless noteworthy that for all the recurrent wars of conquest, the French royal propaganda continued for several years, for example on Royal Almanacs, to combine the war and peace theme to the greater glory of the king. For the transition to the eighteenth century, Le Gall has opted for the chapter from Bossuet's *Histoire universelle* on Egypt, presented as an "empire of the spirit", perhaps as an encouragement for the absolute monarchy not merely to secure victories on the battlefields, but more fundamentally to consolidate its advantage by entrenching its influence and ascendancy through a secular spiritual leadership<sup>39</sup>. If one substitutes spiritual by cultural, such an ascendancy was arguably achieved during the eighteenth century, and to some extent even until the beginning of the twentieth century, in spite of France's obvious failure to become a hegemonic power. Moreover, since the eighteenth century, that "*empire de l'esprit*" was often masterminded by intellectuals who were critical of the political regime, or, borrowing Le Gall's phrase, who belonged to the "interrogators" of the absolutist monarchy. Even so, not all the forms of "interrogations" were critical or hostile. Le Gall approaches the latter part of Louis XV's reign through the public debate – involving artists, local authorities, philosophers and others – around the initiatives for designing "royal squares" in different cities. Le Gall discusses more in detail the designs and the discussions they triggered in three cities: Paris, Rouen (where the project was eventually abandoned) and Reims. Each of these projects, in Le Gall's assessment, stood for a different position towards the monarchy. The Paris design fitted in the traditional view of the victorious king-warrior, the Rouen project (with the king being elevated on a shield) raised sensitive issues about the role of the aristocracy under the absolute monarchy, while the design in Reims (notwithstanding its unique role as the city of the consecration ritual) may have reflected the more progressive view and emphasised the prosperity generated by a good (and, according to contemporary sources, "sweet") government, perhaps more in tune with the city's merchant interests. In the course of the discussions, the wind of change in the discussions on the latter design illustrated by the elimination of most references to military glory (and, as Voltaire advocated, of the classical topos of enslaved vanquished people)<sup>40</sup>. In political literature of the Enlightenment, "despotism" (along the more traditional "tyranny") became a fashionable shorthand for targeting absolutism. N.A. Boulanger's *Essay sur le despotisme oriental* (1755, published 1761) offers a minor signpost of that literature. Boulanger's narrative on the genesis of despotism does not take as its starting point a hypothetical "state of nature" preceding organised society, but relies on a deluge myth for asserting that the beginnings of the post-diluvian society were not a-political<sup>41</sup>. His view on post-diluvian developments lead via a

---

<sup>39</sup> Bossuet's considerations on Egypt give Le Gall the opportunity for an aside on the Egyptian antecedents of representing a blind Justice, which may have encouraged humanists to propagate that blindness as a virtue (*La Discorde...*, p. 713, n. 198).

<sup>40</sup> Le Gall, *La Discorde...*, p. 764-765 : Voltaire added : " Il vaudrait mieux y représenter des Citoyens libres et heureux ”.

<sup>41</sup> Le Gall, *La Discorde...*, p. 783 : the post-diluvian man " is neither a savage, nor a metaphysical being, any more than a perfect creature who has been corrupted in later times”.

theocracy to despotism, at first clerical, then secular. However, the development of the monarchy in Europe gives hope – in true Enlightenment optimistic fashion – for emancipation from despotism. Le Gall's itinerary through the long *Ancien Régime* ends with Louis XVI's address to the States General, on the eve of their implosion, when the king asserted one last time again his unique place as the guardian of the public interest and harmony.

### **After the party: from the botched Restoration to the land where the king is a child**

The last part of the volume deals mostly, literally or metaphorically, with the shadow of the (absent) king. It fits with the overall approach focused on the ruler, but it also shows how modern debates on the foundations of the political system have often found it difficult to break free from the *Ancien Régime* concept of sovereignty. According to conventional political and constitutional history, the Revolution swiftly transferred the sovereignty from the king to the nation. A more radical current soon shifted towards popular sovereignty. However, the shift occurred without fundamentally adjusting the Bodin-inspired model of sovereignty which had developed under the absolutist monarchy. Effectively, that sovereignty's concept found its institutional expression in the *République une et indivisible* as the sovereign state. During the revolutionary decennium, France had a foretaste of the pendulum movements which have punctuated its modern history. In the most general terms, it has proved impracticable to strike a balance between the Executive and parliamentary representation in order to translate into a stable constitutional system the concept of popular sovereignty, or even the people's will. The theoretical model distilled from the so-called 'Orleanist regime', or the doctrine of a 'rationalised parliamentarism' are examples of this quest for the holy grail, or the golden ratio that might give France a permanent constitution, or which might at least restrain the amplitude of the pendulum's oscillation. The Fifth Republic's constitution, after its 1962 revision, has been an experiment in balancing the respective powers of the Executive and Parliament by investing both the president and the national assembly with full democratic legitimacy, but the recurrent debate on the use of referendums, the conditions of its use and its purposes (witness the changes in the constitutional provision on the "shared initiative" referendums, and more recently calls for referendums at the "citizens' initiative") signal that the point of equilibrium has not been reached yet.

One may marvel why French historiography has retained the propaganda phrase "Restoration" for the attempt of renewing with the Bourbon dynasty in 1814. Far from turning the clock back, the regime of Louis XVIII seemed only too happy to keep the institutional, administrative and legal instruments of governance inherited from the Revolution and Napoleon. One may even wonder whether the new king would not have been relieved (were it not for the revolutionary genie which had now for ever gone out of the bottle) to inherit, after an interregnum of barely a quarter of a century the radically modernised state which their predecessors had failed to introduce against the opposition of vested interests. In any event, the references in early nineteenth-century political debates were no longer those of the Enlightenment. Le Gall's first choice for introducing the new intellectual climate is the figure of Joseph de Maistre. Maistre did not trust that (written) constitutions could provide an adequate protection against despotism<sup>42</sup>. He also fulminated

---

<sup>42</sup> Is, as Le Gall maintains, the "flexible chain" in Maistre's phrase "Nous sommes tous attachés au trône de l'Être Suprême par une chaîne souple, qui nous retient sans nous asservir" an oxymoron (even one of his best ones, according to the author, *La Discorde...*, p. 802-803, n. 8) ? Restraint and the image of a restraining chord

against the reception of the English constitution, which he thought was only useful in England<sup>43</sup>. His postrevolutionary view was in favour of a “European”, i.e. Christian (and for this Savoyard diplomat, Catholic) monarchy restrained by the reason and temperance of papal authority. This seems a far cry from the monarchist theories which prevailed in *Ancien Régime* France. Maistre’s agenda was neither a Restoration, nor a constitutional monarchy or a parliamentary system, nor a *droit public de l’Europe* with its auto-regulating rationality. He may well be labelled in the history of political thought as a “counter-revolutionary”, but he shared with Enlightenment philosophers and with progressive liberals of his time a general concern for preventing tyranny. Popular sovereignty did not fit in that agenda.

Benjamin Constant and François-René de Chateaubriand are contrasting figures who both nonetheless illustrate similar concerns for securing liberal ideas during the upheavals of Napoleon’s return short-lived return from Elba. The first was involved in the drafting of the ‘Additional Articles’ to Napoleon’s imperial constitution, an ill-fated attempt to turn the regime into some form of more liberal-minded constitutional monarchy. Le Gall makes a valiant effort, running counter to Constant’s reputation as a turncoat, to make the case for an opportunistic, but all the same truthful, attempt at converting a “despotic” regime into a constitutional rule. Later, Constant would argue that the political situation during the Hundred Days in 1815 offered a window to a French development not unlike that of the Glorious Revolution in England. The legitimist Chateaubriand sarcastically remarked that the Additional Articles mirrored the Charter on which the Bourbon Restoration rested, but clearly did not believe in Napoleon’s capacity to convert tyranny into a liberal rule. The latter’s politics were in his view inexorably marked by “a hideous alliance of despotism and demagoguery”<sup>44</sup>. Moreover, Chateaubriand’s liberal inclinations were rooted in the belief that liberalism was furthered by the spirit of the age. Le Gall switches from there to another figurehead of early-nineteenth century liberal thinking with Tocqueville at the time of Louis-Napoleon’s rise to the presidency and the establishment of a new authoritarian rule under the guise of imperial monarchy. In 1848, Tocqueville may at first not have rejected offhand the bonapartist thrust because his liberal instincts were startled by the presence of “socialism at the gates”. As the end of the “prince-president”’s term approached, Tocqueville may even have favoured a re-election, whatever the constitutional hurdles, as the lesser evil against the risk of a shift to a non-republican, despotic regime. In the end, Tocqueville was not too optimistic. He put his hopes for a return to a more liberal regime in the resilience of the parliamentary institutions which had survived. Conveying the liberal message to the uneducated masses, he considered, had become a long-term and uncertain outcome<sup>45</sup>.

Each of these authors, in different political contexts and from different vantage points, addressed the issues whether, and if so, under what conditions, despotic (in the sense of: illiberal) rule could be avoided or turned into a constitutional liberal monarchy. Le Gall adds a case-study based on the prosecution of the prominent newspaper editor Louis-François

---

is an old theme of good government, witness Lorenzetti. More suggestive are Maistre’s insistence on the revolutionary regime’s terror and cruelty (p. 824-825, n. 59, and p. 828).

<sup>43</sup> Maistre did value the merits of the English constitution, though he believed that it was not old enough yet for a firm assessment – not exactly the line of the Whig argument on the ancient constitution (Le Gall, *La Discorde...*, p. 836-838).

<sup>44</sup> Quoted by Le Gall, *La Discorde...*, p. 858.

<sup>45</sup> Le Gall, *La Discorde...*, p. 886, quoting Tocqueville noted that in his days, the citizens on whose support the government’s fate depended no longer read books. “However, as mass movements, even the most coarse ones, always have their beginning in ideas, often highly metaphysical, and sometimes abstract ideas, it is always useful to throw those so that they can circulate and, if they are just, one may hope that they will little by little transform into passions and facts”.

Bertin during the last year of Charles X' reign, where the charges were, first, offending the person of the king, and, secondly, attacking the king's dignity and constitutional authority. The freedom of the press was an essential feature of a liberal government for its early supporters. To a modern eye, the incriminated article may look to have been directed more against the newly formed ultra-conservative Polignac government and its policies. However, in the politically sensitive trial<sup>46</sup> that ensued (with a conviction by the criminal court, overturned by the court of appeal), Le Gall points out, different concepts of the monarchy were at stake. At the heart of the case for the prosecution one may recognise the censure of the newspaper challenge of the king's prerogative, what remained of his personal rule<sup>47</sup>. One may also say that different concepts of civic freedom were at stake, and of the place of the press in the political system. Through Bertin's successive editorial columns and his lawyer's defence strategy (the advocate André Dupin, "Dupin l'Aîné"), the role of the press in controlling the liberal state, but also of "advising" and "warning" the king, may confirm that the trial led to a confrontation between the royal prerogative and the freedom of the press.

By the time of the final chapter, the Third Republic had asserted itself as a permanent breakaway regime rejecting both any constitutional monarchy and despotic Bonapartism. Doubts remained, and Le Gall analyses the hesitations in Anatole France's fictional work which Charles Maurras somewhat misappropriated for his formula of a regime where the king was absent – a formula which let the king's shadow hover over the nature of the regime. Maurras somewhat obfuscated the fact that the phrase of the king's absence was borrowed and modified from an argument (expressed as the "lack of a ruler") France put in the mouth of a fictional clergyman in the course of an adversarial discussion about the state of the Republic by the end of the nineteenth century. The clergyman, an anti-republican who, for all his misgivings about a political system which banned God and thus precipitated civic and moral decay, nonetheless accepted his duty to comply with the republican order. His lay counterpart expressed a disenchanting support for the republic, which he saw as a lesser evil. He had come to terms with a country which had given up any ambition of *grandeur* and seemed doomed to suffer further impoverishment. Common ground between the two discussants was their acknowledgement of a system which for "want of a ruler" was bound to remain to some extent powerless. Both characters may have differed on the effects they most deplored in that state of affairs, but both shared cultural pessimism in their national identity<sup>48</sup>. Neither position suited Maurras, whose point was to react against national "defeatism". In the texts selected by Le Gall, Maurras' almost desperate attempts to detect symptoms and opportunities of a weakened France bouncing back seem, with the benefit of hindsight, misguided and quixotic, but are revealing of a state of mind where the absent figure of a king still animated the country as a ghost. The "revanche" theme of the Third Republic's early years was identified by Maurras as such a substitute. He also saw in France's weakness on the international scene a prospect for rallying smaller and middle-sized nations and counterbalancing the weight of the greater powers – but even in such a scheme, Maurras could not resist reverting to a dream of French imperialism<sup>49</sup>. More fundamentally, the

---

<sup>46</sup> Bertin's reference to his predicament as "walking over hot embers" may even have referred, consciously or not, to the old ordeal by fire (cf. the quotation by Le Gall, *La Discorde...*, p. 894, n. 309).

<sup>47</sup> Le Gall notes that the king's attorney, in his speech, sought a rhetorical argument in the words of Agrippina against Nero, in Racine's play *Britannicus*, playing once again on the theme of cruelty ("Aux plus cruel tyrans une cruelle injure"), *La Discorde...*, p. 901, n. 337.

<sup>48</sup> Le Gall, *La Discorde...*, p. 937-938 (with an acknowledgement of France's half-hearted optimism about the Republic's ability of adjusting to a changing society).

<sup>49</sup> Le Gall, *La Discorde...*, p. 945, quoting Maurras: "... Cette chevalerie nous élèvera à l'empire ", and the disingenuous reference to " la politique éternelle des rois de France, *volonté d'empêcher la Monarchie*



Republic, in Maurras' eyes, could not altogether avoid that the republican government occasionally had to walk (or stumble) in the absent king's boots. One is reminded of how even today, French political and journalistic culture affects to refer to some government departments as "regalian" offices. In contrast to Anatole France's resigned novel characters, Maurras appears to have upheld the mirage of a restoration.

Predictably, perhaps, Le Gall reflects on the odd combination confronting hordes of tourists when visiting the Louvre museum: they queue in the Napoleon courtyard towards a pyramid erected by the will of a president, nearby the cast of a transformed and refigured equestrian statue once representing Louis XIV. As Le Gall was putting the finishing touches to this volume, a newly elected president used the site for staging his first address to the nation on the evening of his victory. A performance which could only bring to mind Ecclesiastes 10:16, and which thus summons once again the young Solomon, albeit without the Biblical humility.

### **The legal historians' blindfold**

Goltzius' blindfold covering a cruel judge's eyes will only seem paradoxical to a modern eye, because it is used to associate the image of a blind or blindfolded Justice with a fair administration of justice. Following that metaphorical trail, one may suggest that the French king's image built over the centuries during the *Ancien Régime* has become a blindfold when it comes to assess the supreme political power's attributes for engaging in 'high politics' in a modern democracy. The absolutist theory of a monarch unfettered by human norms and interest groups failed the political reality test, yet its concept of sovereignty was all too easily assigned without essential adjustments to popular sovereignty. One would have thought that a totalitarian regime and two democratic republics later, the discussion on the absent ruler or king under the Third Republic has by now been overcome. Yet, for all of today's political leaders' attention to "image" and "communication", old clichés of political power continue to be part of day-to-day political life. As in other fields of culture, the classical references (to Antiquity, the Bible) have almost entirely receded from collective memory, but any substitutes have proved too ephemeral for setting new bearings.

Le Gall's volume offers a wide range of approaches which help to bridge the gap between constitutional history and cultural history. Some of these approaches belong to areas of research which have only in recent times been more systematically accommodated in legal-historical studies – such as Law and Literature, or Legal Iconography. Much of the source-material Le Gall has used belongs either to the field of what in some French quarters is referred to – not always without prejudice – as "*les Littéraires*" (roughly, the humanities excluding social sciences<sup>50</sup>), or to the history of political thought. Le Gall's investigations in a wide range of intellectual and material sources, small and great, beyond the law, and covering all periods from the later Middle Ages up to the twentieth century, should greatly enhance our understanding of what French legal culture stands for. An onerous task awaits

---

*universelle...* ", only intelligible if referring to the French obsession with the sixteenth-century Habsburg "encirclement".

<sup>50</sup> Although A. Simone's remark about the purpose of her own book (2015) is to some extent also applicable to Le Gall's: "Questo lavoro, invece, vuole dimostrare che la dimensione estetica di un'immagine, ma anche di un romanzo, di un'opera teatrale, architettonica, utilizzata ai fini di una ricerca socio-giuridica, non è altro che una manifestazione della dimensione sociale del diritto e del suo rapporto permanente con la cultura, un 'momento' che attribuisce una 'forma', non una prospettiva disciplinare in sé" (A. Simone, *Rappresentare il diritto e la giustizia nella modernità* [supra, n. 12], p. 21).

comparative legal historians for piecing together with the same flair and scholarship the materials of a European legal culture.

Alain Wijffels

