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THE PARLEMENT OF PARIS:
ITS STRUGGLE WITH THE CROWN IN THE EIGHTEENTH CENTURY
(1715-1771)

by
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The Parlement of Paris, a judicial body established in 1302, had in the eighteenth century claimed the right to act as a check on the crown through the right of remonstrating, which was nothing else than reporting on edicts, issued by the crown and sent to Parlement for deposit or registration. Although the right to remonstrate had been established by the fifteenth century, it had never been considered more than a commentary on the edict—in other words, to indicate if there were any inconsistencies in the law or whether the law was in conflict with some previous edicts. Parlement in the sixteenth and seventeenth centuries sought to extend its functions to the right of rejecting edicts which it considered contrary to the fundamental laws of the kingdom, laws which were never clearly defined. What the court actually sought was the right to act as a check on the government.

Before the eighteenth century the court had occasionally successfully gained this right but only in times of troubles, usually after the death of the reigning monarch. For example, after the death of Henry IV, the court was called in to ratify the regency. Also, in the middle of the seventeenth
century on the death of Louis XIII the court again played a prominent role in the government and when the regency tried to suppress the court's activities it was met with a revolt, the Fronde.

However, during the reign of the legitimate monarch, such as Henry IV, Louis XIII, and Louis XIV, the court had been kept more to its functions as a judicial body. Under the Louis XIV, the court sent no remonstrances from 1680 to 1714, although the right had never specifically been taken away.

During the eighteenth century, following the death of Louis XIV, a regency was formed and Parlement once again played a leading role. But even after the formal coming-of-age of Louis XV the court continued to play a dominant role in the government and sought to force itself on the monarchy. Thus the pattern inherited from previous reigns was changed. From 1715 to 1771, the struggle went on until the court was finally suppressed for a short period. The purpose of this study is to describe that struggle and to show to what extent Parlement succeeded in establishing its claim.
CHAPTER I

INTRODUCTION

The position of the Paris Parlement in the eighteenth century has been disputed by various historians. Some claim that it was merely a judicial body which took advantage of the weakness of the crown during periods of crises to arrogate to itself the right to participate in sovereignty. Others state that during the latter part of the century the court had become a supreme tribunal passing on the validity of all laws sent to it for registration. Neither of these views is correct. The court was not a supreme court nor did it ever have the right to modify laws of the crown. On the other hand it did not always support the popular issues of the day. To a certain extent, however, the court was a barometer of public opinion. It made its most important gains during periods of crises as after the debacle of the Seven Years War and at the time of the collapse of Law's

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system. From 1726 to 1743, while the country was under the conservative and stable rule of Fleury, the court was conspicuous by its silence except on the religious issue which broke out over the Saint Médard affair. On the other hand the court had never before, except during the Fronde in the minority of Louis XIV, exercised so much influence as it did during the reign of Louis XV. It is significant that in the voluminous work of Lavisse on the history of France, the volume on the eighteenth century is written by an authority on the Parlements of France. Even the general histories on the period do not fail to mention the extensive influence of the court. When one thinks of the eighteenth century he recalls the philosophes and the wars for empire between France and England; Diderot, Voltaire and Montesquieu, Wolfe and Montcalm are the names he is most apt to remember. The evidence indicates, however, that the struggle between the court and the crown attracted more attention than did any of the writers for the Encyclopedia.

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3 See Chapter III, below, p. 31.


5 When the Encyclopedia was first published only four thousand copies were issued and not all these were sold due to the large size of the work. Yet the remonstrances of Parlement were sold in large numbers not only in the city of Paris, but throughout the large jurisdiction of the court.
There are several histories of the Parlements of Paris and those of the provinces, but none deals with the extent of their participation in the government of Louis XV. The object of this study is to show by an examination of the 109 remonstrances issued by the court in the fifty-six year period from 1715 to 1771, when the court was finally suppressed, how far the magistrates had intruded into the affairs of the government and what was the attitude of the government toward the claims of Parlement.

The Paris Parlement dating back to the Middle Ages, could claim to be the oldest court in the land. It had been established in 1302, 141 years before the next oldest court, that of Toulouse. Its jurisdiction covered almost half of France, including the important provinces of Picardy, Ile de France, Maine, Anjou, Poitou, and Languedoc. But by the eighteenth century the Paris court shared with thirty-one other courts the judicial functions of the kingdom. There were eleven Parlements, nine chambres des comptes, four cours des aides, two cours des monnaies and the Grand Council. Two other courts had the same functions as the Parlements, but went under other names. Originally the Parlements were primarily criminal courts, but


by the eighteenth century they had widely extended their functions. They checked on riots, issued price lists, and even regulated the police. In Brittany, the Rennes Parlement had even become a type of executive body rivaling the authority of the intendant.\footnote{Henri Freville, \textit{L'Intendance de Bretagne (1689-1790): essai sur l'histoire d'une intendance en pays d'états au XVIe siècle} (Rennes: 1953) 1, 50-52.}

The \textit{cours des monnaies} and the \textit{cours des comptes} both located in Paris were charged with the function of hearing cases concerning counterfeiting and those arising out of the king's domains. The importance in the struggle between the crown and Parlement lay in the fact that these lesser courts tended to side with Parlement and to give it support.

Opposed to Parlement was the Grand Council, or rather that section of it known as the council of parties, which consisted of the chancellor, president, twenty-six councillors in ordinary, and sixteen councillors appointed every six months.\footnote{Broglie (ed), \textit{Memoire of the Prince de Talleyrand} (London: 1891) 1, 42.} Its functions were to determine the jurisdictions of the other courts and to render decisions in cases taken over by the king. Over these two functions the Council struggled constantly with Parlement.

In the fight with the Grand Council the problem of the seniority of the courts was raised. All the courts were considered sovereign in that each received its commission or power directly from the king. The Paris Parlement, however,
insisted that it was superior to the Grand Council, which had been established in 1498, almost three hundred years later than the Paris court. According to this claim, the Parlement of Paris was superior to every other court, including the provincial courts, whose dates of establishment ranged from 1443 for the Parlement of Toulouse to 1775 for the Parlement of Nancy, the last such court established under the ancien régime. But the powerful provincial courts refused to acknowledge this claim, and the Paris court, reluctant to alienate them, consequently laid down the doctrine that the Parlements of France were of the same body but of different classes. Thus, in theory though not in fact, the various Parlements had the same powers and privileges. Actually it was forty years before the Paris court fully accepted this doctrine and even then one court, Rennes, came into conflict with the Paris Parlement when it claimed the right to try the peers.

Within Parlement itself there was no homogeneity. It was made up of nine chambers each with different functions and a different rank. At the bottom were the two chambers of requests and the chambers of inquests of which there were five until 1756 when the crown suppressed two chambers. The function of the chambers of requests was to hear cases brought to it by appellants having a lettre de commissimus.

10 Ford, op. cit., p. 147.
a document giving them the right to go before Parlement. The
chamber of inquests had the job of working with local officials
in preliminary hearings and in preparing briefs for the court.
Another permanent, but unimportant, chamber was the Tournelle
which consisted of judges from the other sections of Parlement
and which heard criminal appeals.

At the top of the hierarchy was the Grand Chamber in which
sat the first president, nine presidents à mortier and twenty
lay and twelve clerical councillors. Its officials presided
over the other chambers, and during the eighteenth century it
was the center where the other chambers met to draw up remonstrances.
These remonstrances contained the court’s objections to any law
or decree sent to it for registration; they were drawn up by
committees and examined by the first president before being
sent to the king.

The other chamber of Parlement sat during the months of
September and October while the rest of the court was on its
annual vacation. It became important when the government tried
several times to have it register edicts in the hope that it
would offer less resistance than the full court. By 1750,
however, the magistrates had reduced its function to that of
a mere depository for the edicts to be examined by the rest
of the court.

Although the court included members from the first two
estates, the noble and ecclesiastical lords, the third estate
or those from the middle class, had come to dominate the court.
By 1750, all members held their posts by right of birth; though those of the third estate were required to pay a small tax as acknowledgement that they had purchased their positions from the crown; this was only a formality, for the magistrates had become themselves an aristocracy. They were referred to as the nobility of the robe to distinguish them from the nobility of the sword. Before 1715 these two groups were hostile to each other, but later there was a tendency for them to render mutual aid in the fight to protect their common interests against the government. By 1760 the nobility of the robe had in fact replaced that of the sword because of the incompetence and inefficiency of the latter group.

Yet the court was still open to those who had the money to pay for a seat. It is true that at times the government suppressed various positions in the court, but its need for money forced it to sell offices again. Montesquieu sold his own seat in the Bordeaux Parlement and then bought a place for his son; he himself had inherited his seat from his uncle. When accepting a new candidate, however, the court examined his family tree more thoroughly than his legal knowledge.

For income, the court had two sources--fees collected from litigants and interests drawn on the amount each member had had to pay for his office. In Paris, the office of

11 The nobles of the sword originally received their titles because of military service. By the eighteenth century, however, many of this class had obtained titles through inheritance as did nobility of robe, but though many of the latter had rank for much longer periods than did the nobility of the sword, the distinction remained until 1750.
president à mortier drew 2,000 livres from interest alone; the position of councillor in the same court represented an investment of 400,000 livres, on which interest was paid varying from two to five percent depending on the financial condition of the government which set the rate. Fees, which were collected by the upper chambers alone, amounted to 2,000,000 livres in 1716. With these sources of income and the court's close alliance with the nobility and with the tax farmers, it had a certain financial independence from the crown.

However, the government had certain means of control over the court. The first of these was its right to determine the number of offices and how many were to be sold. In 1756, the crown suppressed two chambers along with the offices of several lay and ecclesiastical councillors.

Second, the government appointed the chief magistrate (the first-president) who presided over the Grand Chamber and reviewed the remonstrances which were subject to his approval. He was usually a royal favorite who did his best to represent the interests of the crown before the court and especially before its younger and more radical members, who usually sat in the chambers of inquests and requests. Not unjustly, the first president was accused of being more faithful to the government.

12 Ibid., pp. 149-53.
13 Ibid.
than to the court. Of De Mesmes, it was said that he resembled Moses in that where the latter carried the word of God to the Hebrews, De Mesmes carried the word of the Regent to the magistrates. The elder Maupou, who held office from 1743 to 1757, resigned his position under pressure from the magistrates, who accused him of disloyalty to the court. He took a position in the government after his resignation.

Third, the government had control of rewards. Any bright young man who was willing to cooperate with the crown could find a lucrative position in the ministry. Chauvelin was appointed to the position of keeper of the seals both for his knowledge of Parlement and his willingness to oppose it. Turgot, who later became an intendant and who was the minister of reform under Louis XVI, had earlier been a prominent member

14Jean Antoine De Mesmes, 1661-1723. At an early age he was substitute procureur général to Parlement. He was successively councillor in 1687, president à mortier in 1688 and appointed first president in 1712.

15See below, Chapter III, p. 39.

16Germain Louis de Chauvelin (1685-1781) was avocat or lawyer of the Parlement and later became keeper of the seals. Like many other ministers he fell from favor and was exiled in 1737.

17Anne Robert Jacques Turgot (1727-1781) had been a member of the chamber of inquests. Later he was intendant of Limoges, and in 1774 he became finance minister. Due to the opposition of Parlement and other pressure groups, he was soon dismissed.
of the court. The man who directed the suppression of the court in 1771, the younger Mauperieu, had been the first president just before his entrance into the ministry.

Finally there were the gens du roi, the prosecuting attorney and four assistant lawyers, all appointed by the king, who had the job of representing the interests of the government at court. Like the first president, they tended to support the king's point of view and several times brought the court around to a more moderate stand.

The remonstrances were nothing new to the government of France. Shortly after the establishment of the court, it had become the practice of the magistrates to send written opinions concerning laws and decrees sent to them for registration. By the time of Louis XI, this practice had been officially recognized and was called the right to remonstrate. In the early history of the court the magistrates did little more than receive, report on, and register the edicts issued by the king. As time went on, however, Parlement was called upon by various kings to play a larger role in government. Francis I had had the court annul the Treaty of Madrid, and Louis XIV used the court to modify the bull Unigenitus, which had turned out to be too ultramontane for that absolute monarch. In the formation of regencies, interim governments when the king was too young to take over direct rule, Parlement had also played a major role. After the assassination of Henry IV, the court had ratified the regency, and on the death
of Louis XII it had given its consent to the government of Mazarin.

Under the reign of Louis XIV, however, the court reached its lowest point of influence and power after the abortive Fronde. From 1680 to 1714, not a single remonstrance was sent to the government: Louis had ordered the court to register edicts before sending any remonstrances, and since it seemed useless to exercise a right that had no effect, the magistrates ceased to send them.

After the death of the absolute monarch in 1715, Parliament found itself again called upon to help form the new government. On his death, Louis XIV left a will which placed the legitimized princes on the council of regency and which left the king's dissolute but capable nephew, the Duc d'Orléans, a minor place in the government. The Duc was insulted by the degradation he suffered in the will, as were the nobility of the sword who were highly incensed at being placed below the bastard children of the late king. Thus when Orléans sought to revise the will, he had plenty of support. The only problem was what institution or group was to ratify the breaking of the will. In the past it had been the custom to call upon:

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18Louis XIV had several illegitimate children by his mistress Mme. de Montespan, all of whom were legitimizd and put in line to succeed to the throne. The most important of the bastards and the most beloved by the late king was the Duc de Maine (1670-1736). He had been given the post of educator of the young king, Louis XV, and had command of the household troops. His brother, the Comte de Toulouse, not so favored by his father did not incur the wrath of the nobility which soon fell on du Maine.
Parlement or the nobility or the estates general or some body besides the government in order to get more solid support for the changes. To call the nobility would be inviting trouble, however, since that group had grievances long stored up as a result of the absolutism of the French government in the seventeenth century. To call the estates general would be too complicated and take up too much time. It had been one hundred years since its last meeting and no one was sure of what procedure to follow. Since time was of the essence, in order to prevent the followers of the bastards from organizing resistance, calling the estates was out of the question. Only Parlement was left, and it was to this group that the Duc d'Orléans turned to revise the will.

At the *lit de justice*\(^{19}\) of September 2, 1715, the day after the late king had been buried, the whole will was revised. Instead of secretaries to head the various departments, the Duc set up councils for war, marine, state, etc., at the head of which was the council of regency. Although Orléans was declared head of the regency and had two votes in the high council, he had to follow the vote of the majority. Seats were given to the bastards in the council

\(^{19}\)The *lit de justice* derived its name from the chair on which the king sat in Parlement. It was the ceremony where important decrees were issued and where the court was ordered without further delay to register edicts which they had opposed. It was a solemn ceremony which the high nobility attended as well as the ministers of government. Seldom used by previous monarchs to impose their will on the court, the ceremony was used more and more by Louis XV until it lost much of its solemnity and thereby its effect.
of regency, but the Duc du Maine lost the command of the household troops while retaining the position of educator of the king. At the head of the various councils were placed members of the high nobility, thus reversing the practice started early in the seventeenth century and used extensively by Louis XIV of relying on minor nobles and members of the middle class to handle details of administration.

Two weeks later the Duc d'Orléans, now Regent of France, sent an edict to Parlement allowing the court to remonstrate. It was this edict that was to cause so much trouble between the court and crown during the remainder of the ancien régime. Neither the court nor the government had any idea to what extent a remonstrance was binding on the crown. This was the center of the issue. The government contended that the renewed right to remonstrate was nothing more than it had been in the past: that is to examine, to report on, and to register edicts sent to Parlement. The magistrates, however, asserted their right to examine, report and, if necessary, refuse registration when an edict was contrary to the fundamental laws of the kingdom, although these fundamental laws always remained vague in the minds and remonstrances of the magistrates.

The struggle between the court and crown over this issue centered around three main areas: religion, finance (especially taxation), and the royal administration. In these areas, the
court and crown had their bitterest disputes until 1771, when the court went into temporary oblivion. The next three chapters show to what extent the court achieved its objective of checking the government, and the conclusion shows the attitude of the government toward the claims of Parliament.
CHAPTER II
THE STRUGGLE WITH THE REGENT, 1715-1723

Parlement was not slow in exercising its new found right. Toward the latter part of 1715, the Regent sent an edict establishing the new office of superintendent of mails and buildings.¹ Not believing that it would raise an issue with the court, the government appointed J. S. Colbert (descendant of the famous Colbert of Louis XIV's time) to the post. But on May 13, 1716, six months later, Parlement remonstrated against the edict, stating its belief that, since Louis XIV had abolished the post, the Regent did not have the power to revive it.² The Regent gave a short answer in which he stated that the post was necessary. After this exchange, the matter was dropped. Parlement ceased to remonstrate on this particular issue.

But a more serious struggle soon broke out over an edict imposing a tax for the maintenance of streets and lighting. Not all the articles in this edict were opposed by Parlement which registered some and withheld others. However, showing

²Ibid.
protests made during the war of Louis XTV.
the forced sequestration was restituted on
 accomplish until forced out by de Boute, a
 finance minister under Plentv
 Regency by the Duke of Orléans, he headed the finance council of
 the distinguished military career. Appointed to the council of
 Hardwicke was Mollisès (1676-1765) was named for

* Zibid, I, Zell.*

was eliminated.

changes but three years later the whole system of councils
and the Regent remained firm, Parliament had to accept the
increase in the burden on the Treasury. Since both Mollisès
the subsequent fall de justice and that the new councils
that the changes violated the decree of September 2, 1715, and
at the suggestion of the Duke de Mollisès Parliament objected
in the same year, the Regent set up several more councils
Parliament without any modification.

remains unchanged, but the other edicts had to be accepted by
the government compromised by allowing the interest rate to
be the own interest rate, Parliament now concentrated its
dislike, a ten percent tax on incomes and property. Feeling
and other obligations and at the same time establishing the
sent another edict reducing the rate of interest on notes
no concern over the unregulated sections, the government
During the period of the Regency, the two big issues between the court and crown were the position of the bastards and John Law's bank. In 1716, when the Regent established Law's bank by edict, Parlement oddly enough made no objection. For two years, the bank operated and the magistrates remained silent on the matter, although it was well known that they opposed the Scotsman, first because he was a foreigner; secondly, because he was a Protestant; and thirdly, and to the magistrates most seriously, because he was tampering with the value of the currency and thus causing wide spread inflation. Yet not until 1718 did the issue between the court and Regent break out into the open. On May 29 of that year an edict was sent to the cour des monnaies revaluing the money and establishing the bank's notes as legal tender. Parlement immediately protested because the edict had not been sent to it for registration. The Regent did nothing, and when Parlement appointed a commission to appear at the cours des monnaies to examine the decree, the government ordered the other courts not to cooperate with the Paris corporation. Nevertheless, the magistrates examined the decree and sent representations to the government protesting both against the new money and the bypassing of Parlement. At first the Regent ignored them, but

6Flammermont, op. cit., I, 68.
the whole issue had stirred up public opinion and as a result the Regent accepted the remonstrances on June 28. At the same time the court issued a decree prohibiting the use of the new money and demanded that the activities of the bank be restricted to the limits imposed on it by the decree of 1716 which set the financial institution up. Both these articles were annulled by the crown; however, the government accepted the remonstrances.7

In its protest, the court pointed out the hardships caused by the current inflation and speculation. Only the foreigner was gaining from the operations of the bank, and gold was fleeing the country. It also pointed out that money had its intrinsic value which could not be regulated by decree. On the same day, the Regent gave his answer, stating that devaluation was necessary and that Parliament as an important institution in the kingdom should set an example of obedience by accepting the law. Yet the court continued to send remonstrances to the Regent, and at the same time it issued decrees against Law’s bank.8 It decreed that Law and his associates were bankrupt and that all officers of the bank were to sever their ties with the government.

In July, the Regent ordered the court to cease all its activities in the affair, pointing out that the promise given

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7Ibid., 76.
8Ibid., 106.
at the lit de justice of September 1715 did not give the court permission to remonstrate on matters sent to other courts.

By the end of July, the matter had become so bitter that there was talk in the streets of Paris of another Fronde. The mémoires of Cardinal de Retz, the leader of the Parlementaire revolt during the minority of Louis XIV were published. More serious however, was the action of the Duc du Maine, the second bastard son of the late king. He had been in secret talks with de Mesmes for several hours a few days before Parlement had sent its first remonstrances to the government. De Mesmes owed his position as first president to the influence of du Maine with the late king, and now the illegitimate son was looking for support. All during the Regency the high nobility and nobles of the sword were demanding that the bastards be reduced in rank. Further, the Duc de Bourbon insisted on having the position of the king's educator now held by du Maine. Yet Orléans was reluctant to act. He was indifferent to the whole matter and did not care who was or was not in the high nobility. There always had been this split between the higher and lesser nobility, and the high rank of the bastards was supported by the lower nobility who believed

9Louis Henri Duc de Bourbon (1692-1740) Prince de Condé after the death of his father. Appointed to the council of regency and later in 1723, first minister of the kingdom, he had amassed large amounts of wealth in these high positions. Crude, avaricious, and ugly, he epitomized the high nobility of the regency with its incompetence and its desire only for pleasure and wealth. In 1726 he was exiled by Fleury when the era of the regency came to an end.
a reduced position for the bastards would mean a loss of prestige and influence for the lower ranks. As members of the nobility of the robe, disdained by the upper nobility, the magistrates themselves could no better afford to see the bastards reduced. In view of this conflict, the Regent did not want to stir up further dissent and was willing to let the whole matter stay as it was.

In the end, however, he was unable to do so. There had been rumors of a conspiracy backed by Spain\(^{10}\) to remove him as head of the government and to make du Maine regent in his place. The rumors, combined with Parlement's rebellious persistence in issuing decrees contrary to those of the government, finally forced the Regent to act.

While the court was demanding that the bank notes now in circulation be withdrawn, it was met by an order to attend the \textit{lit de justice} to be held the following day, August 26, 1718, at 8 a.m.\(^{11}\) Prepared for any revolt, the Regent stationed troops throughout the city and by \textit{lettre de cachet} ordered the magistrates to appear at the Tuileries before the time set for

\(^{10}\) The king of Spain, Philip V, was the uncle of Louis XV, who was only five years old. Philip had renounced the throne of France at the treaty of Utrecht, yet he believed that if du Maine were Regent and the young and frail king died, he could regain the throne of France. The conspirators headed by Cellamare, the Spanish ambassador to France, hoped to gain the support of Parlement.

\(^{11}\) Flammermont, \textit{op. cit.}, I, 107ff
the ceremony. No fear of revolt was necessary, however. As the robed magistrates walked in procession to the king, they were met by cries from the populace of: "Where are the lobster backs going?" The magistrates themselves were paralyzed with fright. One president was near fainting while climbing the stairs to the ceremony and another was trembling at the threat that his future depended on what he did and said that day.

It was a complete victory for the government and the Regent. First du Maine was removed from his post as educator of the king and the position given to the Duc de Bourbon. Then Parlement was ordered without chance of deliberation to register all the edicts concerning Law's bank. Then the Regent told the court that in the future all edicts were to be registered without delay. Though remonstrances would still be accepted, they were to be sent within one week of the court's receipt of an edict, and in no case could the court remonstrate before registering the decree.

On the following day, the court met and was upbraided by du Maine for failing to prevent his reduction along with the other bastards. The younger members protested against

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13Flammermont, op. cit., I, 106.
the method used to impose the edicts on the court without allowing them even a vote. Only de Mesmes, the first president, along with the other conservative members tried to uphold the decisions of the lit de justice. When the Regent heard of the proceedings, he had three of the more radical members of the court arrested and exiled. The court voted to go on strike, but the strike lasted for only a few hours. Intervention by the gens du roi and the moderation of the older members brought the court back to its duties, and the magistrates limited themselves to remonstrances on the lit de justice. These remonstrances did little good, however, for it was not until the end of 1719, more than a year later, that the last of the exiles were released. Although Parlement sent three remonstrances on the arrests, the Regent gave no satisfaction.

The Regent had effectively silenced the court. Everyone was surprised at the decisive action taken by a government which had vacillated for so long. It looked as if the Regent might end his inconsistencies and give the kingdom a stable government. But the financial schemes of Law were to bring

\[\text{Ibid.}, 116.\]

\[\text{Ibid.}, 118.\]

\[\text{No such thing happened. After the lit de justice of August 26, the old indifference reappeared. When the Bishop of Viviers, Chambonas, asked the Regent in what manner the Prince de Dombes, now reduced in rank, was to be addressed, the Regent replied that the Prince was to be addressed as before. C. P. Duclos, Secret Memoirs of the Regency: The Minority of Louis XV (New York).}\]
bitter fruit. Losses of eighteen percent had been suffered by holders of the notes, and the peasants refused to sell their products in exchange for the new money. For a while there was a meat shortage in the city due to refusal of the farmers to ship any goods. Taking desperate action, the Regent ordered on February 27, 1720, that all specie in private bonds above the amount of five hundred livres was to be turned into the bank. To enforce the law, the government used a system of informers who were to get part of the money of those they turned in. This last measure caused more indignation than the decree itself. On April 17, after almost two years silence, the court sent remonstrances to the Regent on the latest edicts. Five days later, the Regent ordered Parlement to register the laws without further delay, but the command fell on deaf ears. On May 2, the court reiterated its previous remonstrances, but the Regent refused to accept them.

When the Regent by decree reduced the value of the shares of the bank from eight thousand to five thousand livres, he incurred so much opposition that the edict had to be withdrawn.

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19 Flammermont, *op. cit.* , I, 126.
two days later. The opinion in Paris and the nation was that Parlement had forced the Regent to retreat on the matter. In a few days the court was attacking the officers of the bank. Supported by such members of the high nobility as the Prince de Conti and the Duc de Bourbon, the court issued decrees stating that the bank and its officers were fraudulent and bankrupt. When the Regent sent to it an edict making permanent the company of the Indies, one of the investment companies of Law's system, Parlement flatly refused to act. Again taking strong action, the Regent ordered the court in July to remove to Pontoise, twenty miles from Paris, and there to restrict itself to judicial matters.

With Parlement gone, the Regent sent edicts to the Chatelet for registration, but this court also refused to act on them and had to be exiled; several of its more radical members were imprisoned. To give formality to the laws, the government had recourse to the Grand Council, which simply issued edicts without registration.

Sending the court out of Paris, however, did not prevent it from interfering in the government. In an attempt to bring

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20 Buvat, op. cit., II, 111.

21 The Chatelet was at one time the chief court of Paris originally hearing both civil and criminal cases. As the influence of Parlement increased after the fifteenth century the Chatelet, although still court of the city, decreased in both functions and rank.
harmony back into the church, Archbishop Cardinal Noailles and other prelates had the Pope revise the bull *Unigenitus* to make it more acceptable to the Jansenists, who were bitter opponents of the document as it had been issued in 1713. When the bull was sent to the government, the Regent simply had the Grand Council issue it without the formality of registration. But the Vatican insisted that Parlement had to register it before the Pope would consider it binding on the French Church. Reluctantly, the Regent sent the bull to Parlement, still in exile, which refused to register it without changes. Negotiations were opened with the magistrates who by this time were bored with provincial life, with its high expense and little activity. But by eliminating the more radical members from the deliberations, the court registered the bull in September 1720, and in return the Regent allowed Parlement to return to the city on December 12, 1720.

22 The bull *Unigenitus* was proclaimed by Clement XI in 1713 after Louis XIV had requested the Pope to condemn the Jansenistic writings of Père Quesnal, who in his book *Reflexions Morales*, listed the propositions of the Bishop Jansenius. The bull condemned a list of 101 propositions, but at the same time laid down the doctrine of the supremacy of the Pope in matters of faith. This last article brought division within the French Church, while the former articles caused the opposition of Parlement, which traditionally contained those who supported Jansenism.

23 Ruvat, op. cit., 11, 185.

24 Ibid., 156.
By a coincidence, the court returned on the same day that John Law fled the city. By September, the bank was beyond hope of recovery and it collapsed soon afterwards. Because of the flight of Law, the magistrates were greeted as heroes on their return. The only group, with the exception of some financiers, who had consistently opposed the bank, the magistrates now reached their highest point of popularity with the city of Paris.

Feeling a sense of victory over the Regent, the court demanded from the officers of the bank an accounting of the funds invested in it. Although many of the high nobility had speculated with the funds, the court settled on the Duc de La Force\textsuperscript{25} to stand trial. Many of the high nobility and others, as Saint-Simon,\textsuperscript{26} knowing of the guilt of La Force, were opposed to the trial on the grounds that it would give Parlement too much power. Nevertheless, the Regent could not prevent the trial and with many of the peers sitting in the court, the magistrates convicted the duc. Even though

\textsuperscript{25}The Duc de La Force (1675-1726) came from a family well known for its Protestantism, although he had been raised as a strict Catholic. His crime was cornering the market on goods, notably candles, then selling them at a high price. However, he was no more guilty than many of the other aristocracy who speculated in bank notes and goods.

\textsuperscript{26}Louis de Rouvroy, Duc de Saint-Simon (1675-1755) is most noted for his Memoirs which give the best account of the later years of Louis XIV and the period of the Regency. Saint-Simon like many of the other nobles after the death of the Sun King held positions in government. A good friend of the Regent, Saint-Simon was in a good position to observe at first hand all that went on.
the aristocrat received only a reprimand, to act more like a peer, the court believed itself the victor in the affair and felt that it had wiped out the defeat of the *lit de justice* of 1718.

Yet from 1721 to 1723 only three remonstrances were sent to the government on minor issues, which the government successfully ignored.27 Though the period of the Regency ended on a note of harmony, with the court relatively silent, the issue of the extent of the right to remonstrate had not been settled. Although the Regent had insisted on strict obedience from the court, he had failed to impress the magistrates as to the limits of their power and the struggle was soon renewed after Orleans' death.

27 Flammermont, *op. cit.*, 1, 148, 153, 162.
CHAPTER III
THE RELIGIOUS STRUGGLE

After 1723, Louis XV decided to rule in person and prevent the rise of some strong minister who might overshadow him as Richelieu had Louis XIII. On the other hand, the young king allowed the nobility to retain high places in the ministry, the reversal of Louis XIV's practice of immobilizing the aristocracy. From 1723 to 1726, the government was in the hands of the Duc de Bourbon under whose ministry the atmosphere of the Regency continued, although the Regent died the year de Bourbon took over. Financial deals were still carried on within the government with the Pâris brothers¹ playing the role of Law.

During the first years following the Regency, Parliament remained relatively quiet. On July 11, 1723² the court protested against tax concessions granted to the clergy but

¹There were four Pâris brothers; Antoine (1668-1733), Claude (1670-1745), Joseph, better known as Duverny (1684-1770), and Jean (1690-1766). They had become extremely wealthy through contracting for army supplies, and had played an important part in the fall of Law's bank. After the removal of de Bourbon they lost their influence until the rise of Madame de Pompadour whom they helped to power.

²Flammermont, op. cit., I, 175 ff.
got no satisfaction from the government. Two years later, on June 1, 1725, the court demanded that the government suppress a book published by the Jesuits on the bull Unigenitus. As before, however, the government refused to listen to the court and the matter was dropped.

In 1726, the final era of the Regency came to an end with the removal of the Duc de Bourbon from office and the accession of Fleury. Louis XV took control with the idea of not relying on anyone for advice, but he was quickly bored by the affairs and details of administration. Cardinal Fleury, his former teacher, was soon in undisputed control of the government. Robert Walpole, the one-time British prime minister, wrote of the Cardinal that "without the title of Prime Minister (he) will have the power in a more absolute manner than it was ever enjoyed by Cardinal Richelieu or Mazarin."

3Ibid., 187.

4Andre Hercule de Fleury (1653-1743) had been the teacher of the young Louis XIV, and in this position had secured complete mastery over his pupil. Coming to government at an advanced age, he kept a firm control over the ministers and even the court.

Fleury had two objectives as first minister, and he accomplished them before he relinquished power. First, he wanted to stabilize the currency, which had fluctuated wildly under the Regency after the fall of Law's system. To accomplish this objective, the Cardinal had the king issue an edict on June 11, 1726, pegging both the *marc d'or* and the *marc d'argent* at a certain amount. Because of the long period of peace which France enjoyed while Fleury was minister, the currency remained at the level set by the government, and the merchants of the kingdom could once again rely on the *livre* and *marc* with confidence.

The Cardinal's second objective was to maintain peace with Europe and especially with England. During his ministry from 1726 to his death in 1743, France was engaged in only one minor conflict, the War of the Polish Succession, and not until his death did France go to war with England.

The success of Fleury's policies left little room for complaints from Parliament. The fluctuation of the currency had formerly been the basic trouble between the court and the crown, but under Fleury the court had to look for another issue and soon found one. Ever since the bull *Unigenitus* had been registered by the court in 1714, the two parties within the church had fought each other over the meaning of the document. The ultramontanes stated that the bull should

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be accepted by the French without reservations, while the
Gallicans held that certain reservations should be placed
on the bull, namely, the extent of the Pope's power in the
church. Parliament sided with the Gallicans and in 1714 had
attached reservations on the bull before its registration.
When the bull was re-issued in 1720, the Regent had to accept
the same reservations from the court, as we have seen. But
Louis for all his faults, was still a religious man, and his
minister, Cardinal Fleury, supported the position of the
ultramontanes. To make matters worse, there occurred a
religious agitation in Paris starting in 1727.

Deacon Paris, a member of a parlementaire family, was
well known throughout Paris for his piety and poverty. He
gave all his wealth to the poor and would accept no promotion,
preferring to work with the unfortunate. It was also known
that the deacon was outspoken against the bull, and that he
was an avowed Jansenist. In 1727, he died and was buried
in the city cemetery, Medard. Soon large crowds of people
were assembling in the graveyard after reports were spread
that miracles had occurred over the grave of the former
cleric. By 1732, the crowds had become so large and trouble-
some with their singing and dancing that Fleury had the king
close the cemetery.
Parliament protested in vain and did cause the minister some trouble over the bull. Before a third registration of the bull, Parliament demanded and received certain concessions. However, to prevent a further dispute, the government imposed a rule of discipline upon the court. This rule denied the right to deliberate on public matters to all members of the court with less than ten years service.\(^7\) Next, a royal declaration was issued on April 18, 1732,\(^8\) which stated that all royal acts should be observed from the day of their publication and that the number of clerical cases removed from the ecclesiastical to secular courts was to be greatly restricted. To prevent the court from taking action against the clerics, the crown made use of the Grand Council, as before, to hear cases in which Parliament was too biased.

In 1731, when the crown had a case involving a cleric removed and when the Archbishop condemned the writings of forty lawyers,\(^9\) the magistrates sent a remonstrance to the king who ignored it. The court then sent a delegation to the king at Versailles. There, amidst a great scene, the deputies from the court threw themselves at the feet of the king, begging for action against the clergy. For their pains, the

\(^7\)Flammermont, op. cit., I, 283.
\(^8\)Wilson, op. cit., p. 237.
\(^9\)Flammermont, op. cit., I, 232.
magistrates saw several of their members ordered into exile.\textsuperscript{10} In retaliation, 150 members of the chambers of inquests and requests turned in their resignations to the first president.\textsuperscript{11} On further consideration, however, the court decided to send remonstrances on the state of Parlement in order to secure the return of the exiled magistrates. But the government had acted. On September 3, 1732, the court was ordered to resume its duties at the \textit{lit de justice}, and when the court refused, the crown ordered 139 more judges into exile.\textsuperscript{12}

The government did not remain firm in its orders, however, and before the end of the year all the magistrates were back on the job without having granted any concessions or guarantees of their future conduct. By May \textit{\textsuperscript{15}}, 1733, they were sending new remonstrances on the religious trouble. Parlement condemned two books written by the canon of Rheims, and when the grand council annulled the decree, Parlement remonstrated to the king. Here the court continued its attack on the bull \textit{Unigenitus} and insisted that it could

\textsuperscript{10}René Pucelle (1655-1745) better known as Abbé Pucelle, was the most outspoken member of the court in the religious controversy. He, as many of the other members of the lower clergy, was an outspoken opponent of the bull and was an open Jansenist. He supported the claims about miracles at Deacon Paris' grave. Soon after his return from exile he was made Dean of the Clerical Councillors.

\textsuperscript{11}Flammermont, \textit{op. cit.}, I, 298.

\textsuperscript{12}Ibid., 303.
not keep silent on the issue until the clergy accepted the reservations it demanded. The king answered that the court should stay out of religious affairs, but the magistrates adopted a resolution calling for continued vigilance over the clergy, and the whole matter for the time being came to an end.

The next conflict started in 1735 over an order issued by the Archbishop of Cambrai, another strong supporter of the bull Unigenitus. At the same time, the court wanted to remonstrate against the acts of the Clerical Assembly which was being held that year. Thinking that the government which at this time was trying to get the donation from the clergy, called the don gratuit, would probably side with the clerics, the court dropped this issue but sent a remonstrance against the Archbishop of Cambrai, who as a member of the clergy étranger—that group of clerics in the provinces most recently annexed to France—could not sit in the Clerical Assembly.

Owing to the death of Portail,\textsuperscript{13} the first president, the remonstrances were not sent to the government until 1737.\textsuperscript{14} The king, under the guidance of Fleury, gave a short and harsh

\begin{flushend}
\textsuperscript{13}Antoine Portail (1673-1736) son of a member of the grand chamber, was successively councillor, attorney general, and president à mortier. In 1724, he became first president.

\textsuperscript{14}Flammermont, op. cit., I, 327.
\end{flushend}
answer, ordering Parlement to stay out of the affair. But
the court continued to take notice of religious affairs and
remonstrated whenever possible. Some of the magistrates
felt that the documents had little effect on the government
and that they were wasting their time. But others, although
they realized many of the remonstrances were not even read
by the king, insisted that the court did have some effect
on the king and that continued action could bring him to
grant some concessions.

Up to 1735, the fight over the religious issue concerned
the writings of the clergy and the bull Unigenitus. After this
date, however, a new problem arose which was to cause
continuous bickering between the church and Parlement.

To impose conformity to the bull, the Archbishop had
ordered his clergy to refuse to administer the last sacraments
to those who could not produce a billet de confession, a
ticket issued only by clerics who had sworn fealty to the bull.
If a person had such a ticket, it meant that he had confessed
at one time or another to a constitutionalist, one supporting

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15Originally the tickets were used to distinguish the
orthodox from members of the reformed religion, the Huguenots
who lived in Paris. After the Revocation of the Edict of
Nantes, they were used by the Jesuits to distinguish the
Jansenists from the regular members of the church. No
stigma was attached to the tickets before the eighteenth
century. It was when the fight over the bull became intense
that the tickets were objected to.
the bull, and could therefore receive the sacraments without further examination. Although the tickets had been used before, they had never been required to the same extent as after 1735.

One of the first cases involved a magistrate who had written a book on the miracles of Deacon Paris. Soon afterwards, this official was ordered to leave Paris after being imprisoned in the Bastille on July 30, 1737. At his place of exile, he was harassed by the clergy and refused the sacraments. The magistrate then appealed to Parliament, which on June 4, 1738, sent remonstrances to the king on the matter. But the king maintained that the magistrate had received only what he deserved, and the government would not interfere in the case.

On June 29th of the same year, the court objected to the canonization of Vincent de Paul on the grounds that Parliament had not been notified of the event. At the same time, the magistrates brought to the attention of the king another case of the refusal of the sacraments. Still the king would do nothing about the clergy's policy of refusing the sacraments to those opposed to the bull. In private sessions the court held debates in which the bull was soundly condemned and blamed for all the schisms within the church.

16 Flammermont, op. cit., I, 362.
17 Ibid., 365.
The next remonstrance concerned a letter from the Pope which had been sent directly to the Archbishop of Paris without letters patents which had to be examined by Parliament. The magistrates claimed that this innovation would lead to increased papal interference in the internal affairs of the French church. On June 4, 1739, several months later, the king gave his answer. He stated that he was capable of determining whether there were encroachments on the rights of the crown and the French church and that Parliament need not concern itself about the matter. With this reply, the exchange came to an end.

During the decade of the 1740's, Parliament remained silent on the religious issue, but the struggle was renewed with vigor in 1750. In that year, a report was taken to Parliament on the refusal of the sacraments to a member of the Chatelet, one of the courts of Paris. The priest who had refused to administer the sacrament was hauled before Parliament to explain his actions. When the curé stated that he was only carrying out the orders of the Archbishop, Christophe de Beaumont, and that he would not administer the sacrament on the orders of Parliament, he was fined by the court and released. On March 4, 1751, the court sent remonstrances to

\[18\text{Ibid., 173.}\]

\[19\text{Christophe de Beaumont (1703-1781) was nominated Bishop of Bayonne in 1741, and became Archbishop of Vienna in 1745. He took the diocese of Paris only after Louis XV had ordered him to do so. He had come into that office when the fight over the bull was at its height.}\]
the king requesting the monarch to stop all such actions on
the part of the prelate. The king answered that he would
not discipline the archbishop and that he was displeased at
the court's action against the priest. He also said that
the court was not to concern itself any more with the
religious problems of France.

But the court soon intruded into the field of religion
again. On March 24, 1751, the government sent an edict to
the court reorganizing the administration of L'Hôpital, the
charitable institution of Paris.\(^2\) This law legalized the
already preponderant influence of the archbishop in the
organization. When the magistrates received the edict,
they appointed two members to investigate the institution
and then proceeded to modify the edict. Several changes were
made, all reducing the archbishop's power, and putting that
prelate under the control of the board of L'Hôpital. With
these modifications, the edict was registered.

The archbishop refused to be bound by the changes and
had the Grand Council change them. At the same time, the
king called the first president before him and ordered that
the changes be removed. The court protested, stating that
it had the right to modify any edict sent to it for registration.
All through the summer months the king and court argued over
the edict. On August 20th, the king sent letters de jussion.

a direct order to the court to obey the government and register
the edict as first issued. Ten days later, on August 30, the
court sent remonstrances to the king stating that it had the
right to modify the law and that the modifications should
stand. One week later the king replied that he wanted the
original edict registered without further delay, but
Parlement again procrastinated and voted to send new
remonstrances.

Since the time for the vacations was drawing near, however,
the court resolved to put off the whole matter until November
24th when the members would return from their annual leave.
The crown, unwilling to wait that long, took action. Four
days before the court was to resume its functions on November
24th, Louis sent the Secretary of State to the residence of
Maupeou, the first president, with a lettre de cachet,
ordering the chief magistrate to surrender all the decrees
and documents on the edict to the government. Maupeou
protested and tried to stall, but the government official,
with other lettres de cachet ready, demanded the documents

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21René Charles de Maupeou (pere) 1688-1775, son of a
president of Parlement, started his career as a lawyer in
1706; he became councillor of Parlement in 1710, president
à mortier in 1717, and first president in 1743. In the fight
between the crown and court he tried to play the role of
mediator but failed miserably. Forced out of office by his
fellow magistrates in 1757 he became keeper of the seals, at
which office he appointed his son first president.
from one of the secretaries of the court. The following day, Maupeou appeared with some of the minutes before the king. There the whole matter was entered on the records of the Grand Council and the edict registered by that body.

But the difficulty did not end there. When the rest of the magistrates came back from their vacations, they knew what had happened and immediately went into assembly to determine what action should be taken. Most of the court wanted to cease functioning, but no one was sure how to go about it. The radical members held that since the king had taken the right to deliberate from the court, it was not obliged to remain in service. When the lawyers and other courts heard that Parlement had shut down, they followed suit so that within a few hours every judicial body except the Grand Council was out on strike. The following Sunday the court received letters de juisson from the king, ordering the whole body to return to work. Over the strong objections of the radical members, the magistrates voted to resume functions on the following day. At the same time the court stated that it would draw up remonstrances and send them to the king, an action which the monarch had specifically forbidden. While drawing up the remonstrances, which involved a long and heated argument, the court ordered that no member was ever to surrender its records without the consent of Parlement fully assembled. Then a delegation was sent to the king to
protest against the removal of the minutes. At Versailles, the delegates were greeted in a friendly manner by the king and his chief ministers, who even had a banquet for them.

On its return, the delegation reported what had happened to the full court. By a vote of eighty to fifty-one, the court decided to register the answer of the king and to accept the matter as closed.22 Only the radicals, led by de Mainières,23 one of the presidents of the inquests, refused to accede.

Yet Parlement was to have the last word with the archbishop, for the billet de confession had reappeared stronger than ever. As before, a case had been reported to Parlement of a priest who had refused to administer the sacraments to one who did not have a ticket. When the curé stated that he had only carried out the orders of the archbishop, the magistrates ordered that high prelate to explain his actions before the court. Of course, the clergyman refused, but this did not stop the court. First, it proceeded against the priest who had refused the sacraments: having fled, he was condemned in absentia and deprived of his property.24

22Flammermont, op. cit., 1, 482.

23De Mainières was one of the most radical members of the court. Born in 1765 of a family of high finance, he had entered the magistrature early in life. By 1731 he was president of the second requests. In possession of a fine and large library, he was a specialist on the history of the court which he upheld at every opportunity against the ministers of the crown. Admired by the philosophes, as Diderot, he was quite popular with the discontent of the ancien régime.

24Flammermont, op. cit., 1, 652.
Then the court demanded that the king intervene and order the archbishop to withdraw from the matter. The king, realizing by this time that the issue was stirring up wide feeling among the populace, ordered the clergy to administer the sacraments to the man in question. Before this order was carried out, however, the poor fellow died and over 10,000 people attended his funeral. Parliament stepped up its campaign against the archbishop, despite orders from the king to stay out of the affair.²⁵

In the parish of Langres, a priest with Jansensist leanings died and was refused burial in the church cemetery by the local bishop. The people of the parish were so incensed that they took the body and buried it in the consecrated ground despite the orders of the bishop. When news of this affair reached Parliament, the magistrates decided to remonstrate on the whole affair of the billets de confession. In a long document, the court condemned the activity of the clergy and specifically the policy of de Beaumont. First, the court accused the prelate of disturbing the peace by refusing sacraments on the sole ground of the bull Unigenitus. Secondly, the court pointed out that the reservations inserted in the bull in 1714 were being violated and that these violations were causing a

²⁵Ibid., 414, 456.
Great confusion.

and those of the government, appeared side by side, causing
demand of the crown, both sets of orders, those of Parliament
orders to ignore the decrees of Parliament and to obey the
posted throughout the city, the government was issuing
within the Gallican church. While these decrees were being
as far as the court was concerned, these letters had no meaning
In fact, etc., when discussing the bill in their assembly.
It also forbade clergymen to use such words as heretic,
ments on the sole ground of each of a bill of condemnation.
the archbishops, decreed that no cleric could refuse the sacred
interrupted with uninterrupted views to take any action against
Parliament, feeling that the government was too
should stay within its own jurisdiction.

see that the clergy changed the way, and that Parliament
the populace. He also said, however, the government would
and to cease the activities causing so much distress among
he would order the clergy to be more obedient to the throne
ferred to a post more suitable to the temperament and that
had refused the sacraments to the magistrate had been treason.
In reply, the king notified the court that the priest who
On April 15, 1772, the Remonstrance was delivered to the king.
disturbances and to protect the liberties of the Gallican church.
was the duty of the magistrates to put an end to these
schisms in the church. Finally, the court told Louis that it
While the battle of decrees went on, the court began to prosecute those priests who refused to administer sacraments to suspected Jansenists. On its side, the clergy, with the support of the crown, ordered Parliament to mind its own business. On May 5, 1752, the court sent remonstrances to the king listing all the cases of refusal of the sacraments and insisting that the king take immediate action. The king refused to accept the remonstrances and reiterated his orders to the court to stay out of the affair. Ignoring the king, the court on May 17 ordered several priests to stand trial for refusal to give the sacraments, and in June of 1752 it ordered the arrest of a cleric who had imposed the dime on his parish. Those bishops and priests who supported their harrassed fellows came under the censure of the court. Goods of the cleric were seized and sold while the king let things run their course. Not until August did the government come to the support of the clergy, quashing all the trials and ordering the decrees of Parliament annulled. With vacation time approaching, the court increased its activities against the church and went so far as to insist on sitting as a full court during the months of recess. The government would not allow any such session and ordered the magistrates on their way for the vacation. Before leaving, however, the court ordered that any case anywhere in the kingdom involving refusal of sacraments was to be reported to the chamber of vacations and held there until the regular court reconvened.
After its vacation, the court took up where it had left off the preceding September. It tried and convicted several priests and finally, on December 13th, it ordered the archbishop himself to appear to stand trial for the actions of his subordinates. When that prelate refused to appear, the court had his goods seized and so frightened his assistants that they fled. Then the magistrates ordered that the peers of the realm be convoked to settle the issue of the billets de confession. Now, the king took decisive action. Calling the first president, Maupeou, to Versailles, Louis berated him for the conduct of his fellows and without allowing him to say anything, handed him a packet to read before the court. When Maupeou returned to read the orders, he found the court extremely hostile. Before he finished reading the first sentence, everyone but the presidents had walked out of the chamber; the latter then decided to leave because too few members were present to conduct a meeting.

Suspecting that the first president was not pressing their point of view before the king, the magistrates assembled without notifying Maupeou and drew up a list of grievances to deliver to the monarch. With two senior presidents as an escort, Maupeou delivered the list to Louis. Nothing came of this deputation, and on January 3, 1753, the court decided to send new remonstrances on the religious situation in the country, together with a renewed demand for the assembling of
the peers. The king replied that he would not convolve the peers and continued to insist that Parliament stay out of the affair.

His words fell on deaf ears, for as soon as the delegation returned to court, the magistrates appointed a commission to draw up new remonstrances. Now a fight developed within Parliament itself between the older and more conservative members in the grand chamber and the younger and more radical members of the chambers of inquests and requests. In the first phase, the younger members won out in that they dominated the commission appointed to draw up the documents. While the committee fought over the content of the remonstrance, the rest of the court continued to prosecute those clerics reported as refusing the sacraments to Jansenists. Their special target was the Bishop of Orleans, who was second only to the Archbishop of Paris in conformity to the bull. He was saved only by his influence at court and the inability of the court to force him to trial.

On March 30, the commission on the remonstrance finally reported to the full court with a rough draft. Immediately the older members opposed the document, stating that it would land them all in the Bastille. Against the wishes of the radicals, 26

26 Along with de Meinières, Charles Guillaume (1726-1793) was one of the leading radicals. However, he later went over to the ministry as did Meinières, showing that the court was highly susceptible to bribery.
the remonstrance was sent back to committee to be reworked, but it came out essentially the same as first reported. The court set April 9 as the date of delivery to the king and requested Louis for an audience on that day. This request was refused. When negotiations with the government failed to change the king's mind, the court decided on May 5th to go on strike until the king agreed to accept the document. Other courts of the city joined Parlement in its strike, but the king would not give in. During the night of May 8 and 9 lettres de cachet were delivered to the magistrates ordering them into exile if they did not agree to resume their duties the following day. Twenty-nine were sent to Bourges, twenty-seven to Angoulême, thirty-one to Châlons sur-Marne and others to their estates. All together 189 magistrates were exiled, and four of the more compromised were imprisoned. Only the Grand Chamber was spared, the ministry believing that the conservatives would support the action of the government and that the court would operate more effectively without the more radical members. In this hope, the government was soon disillusioned. On the following day the Grand Chamber gave notice that no cases would be heard except those dealing with the refusal of the sacraments. For this action, the Chamber was ordered to Pontoise and to concern itself with judicial matters.

27 Flammermont, op. cit., I, 519.
Before leaving, however, the magistrates had the remonstrance of April 9, known as the "Grand Remonstrances on the Refusal of the Sacraments", printed and sold throughout the city. In this document, the court made its most radical claims to participate in the sovereignty of the crown. It stated that there was a fundamental law of the kingdom (of course, it had said this before) which must be observed by the king as well as by the people; that this law, and not the crown, bound the subjects to the monarchy; and that true liberty is lost when either side breaks the law; the people cannot deny obedience to the monarch nor the king abandon his subjects. The magistrates did not advocate either revolution or even disobedience in the event the law was broken; they merely stressed that the nation, the king, and the people were bound together by this fundamental law and not by the power of the throne, though they admitted that the king was the center of the nation.

This remonstrance, as the ones before it, did not attempt to define the fundamental law, and it was vague as to just how the law could be changed. Though it stated that it could be revised, Parlement held that the king did not have the power of revision alone. There had to be some other body, but Parlement was vague as to what body it should be; itself, the assembly of the nobles, or the estates general.29

28Ibid., 506.
29Ibid., 521.
The issue that caused the remonstrances was dealt with very summarily. Not more than two paragraphs were on the refusal of the sacraments. Yet the document enjoyed a tremendous popularity. Over 6,000 copies of the first edition were sold and some 3,000 more of the secret editions.\textsuperscript{30} Even the magistrates left the city in gay, almost holiday mood. As at the time of the fall of Law's Bank, the members were cheered by the populace of Paris as they went into exile. But soon the government and the magistrates changed their minds. Within the city of Paris more than 20,000 people were thrown out of work by the closing of the court.\textsuperscript{31} After the Chatelet refused to take cases, the Grand Council found it impossible to handle all the cases brought to it. In the provinces, the judges were finding life dull and boring and were soon eager to open negotiations with the government. By the first of 1754, the government opened talks with the magistrates to come to a compromise. After several months of bickering, the court was allowed to return to the capital on September 1, 1754, less than two years after its exile. Only one condition was imposed on the court; it was to be silent on the religious affair and to cease its prosecution of the clergy. At the same time, however, the clergy was ordered to stop demanding billets de confession and to remain silent on the bull. This order was known as the "rule of silence" of September 2, 1754.

\textsuperscript{30}Ibid., 609.

\textsuperscript{31}Glasson, \textit{op. cit.}, II, 199.
and was strongly supported by the magistrates. It was the turn of the clergy to go on the defensive. When the archbishop continued to require the billets de confession, Louis had him exiled to his estates at Conflans. Several other clerics had the same punishment meted out to them.

Parlement, feeling that it had won a great victory, continued on the offensive. In March 1755, the court solemnly announced in full session that the bull Unigenitus was not an article of faith. The pronouncement was greeted with applause by the assembly and the archbishop in exile could do nothing about it. In the latter part of the same year, when the clergy assembled to vote the don gratuit, Parlement attacked its announcements on billets de confession and demanded that the king impose the rule of silence on the church.

For one year there was quiet on the religious front. Then, while Parlement was on vacation, the archbishop, still in exile, sent a pastoral letter to all the clergy in France ordering the excommunication of anyone reading certain publications of Parlement and forbidding any cleric to administer the sacraments on the order of any secular court. On September 24, 1756, the chamber of vacations ordered the Chatelet to seize the writings of the prelate and have them burned by the public hangman. At the same time, the chamber ordered the public to adhere to the rule of silence of
September 1754, and forbade any printer to publish the articles published by de Beaumont.

When the court returned on November 24th to resume its full duties, the first business that it took up was the orders of the archbishop. By December 1, the magistrates had remonstrances ready to deliver to the king, who reluctantly received them. Meanwhile the magistrates continued to prosecute the clergy. Since the Archbishop of Paris was still in exile, it ordered the Bishop of Orleans to stand trial, and condemning him for refusing burial to a canon, of Jansenist leanings. The court was becoming more insistent in its demand that the king enforce the rule of silence of 1754. The king, more loyal to the clergy than to the court, ordered the magistrates to Versailles for a lit de justice on December 13.

At this ceremony, the king and the ministry tried to weaken the court in order to make it more tractible. Two of the five chambers of inquests were suppressed, eliminating sixty-four offices of councillors, six lay officers and four clerical posts; the number of presidents was reduced to ten, all located in the Grand Chamber, whose function was to preside over the other chambers; and the old rule of 1732 denying members of Parlement with less than ten years of service, the right to deliberate on public matters was revived.32

32Ibid., II, 243-4. Also, Flammermont, II, 159-160ff.
On their return from the ceremony, all the members of the chambers of inquest and requests resigned, and on the following day some of the councillors of the Grand Chamber followed their example. Only Maupeou and several other presidents remained on duty. The situation was aggravated by the lawyers who went on strike in sympathy with the suppressed chambers.

This deadlock was broken only by the crisis which occurred in the first weeks of 1757. While leaving church, the king was stabbed by Damiens, a person of no importance. At the time, however, it was rumored that the Jesuits who had been suspected in the assassination of Henry IV were behind the attempt. Parlement changed its attitude and offered to cooperate in trying the culprit. The ministry was reluctant to give the court the chance to make itself popular over the trial, but it had no choice. After prolonged questioning of the condemned man, Parlement had him executed. The government was again in a mood for compromise, as was the Parlement, and negotiations were opened. The new rules of discipline were accepted by the court, and the government in return refused to accept the resignations of those who had quit. Thus a crisis brought the court and crown together again.

33Robert François Damiens (1715-1757) had been employed as a servant of many of the families of the robe and possibly picked up some of their ideas. Yet, though he went through extreme torture, he revealed no accomplices.
But circumstances were to revive the religious struggle and give the court one last victory. At the beginning of the Seven Years War, the French merchant fleet as well as navy suffered severe losses. The British navy destroyed some 300 ships and confiscated over 300,000,000 livres worth of merchandise. Among those who suffered losses was Father La Vallette, a member of the Jesuit order, who had extensive land and commercial holdings in Martinique. To cover his losses, the priest had borrowed so extensively that by 1760 he owed 2,000,000 livres or about $400,000. When some of his creditors brought suit against him, the priest instead of pleading before the commission to settle such claims, appealed to Parlement for relief. The magistrates dropped the case against La Valette but indicted the whole Jesuit order, which numbered at this time 3,350 members with 158 houses. A decree was handed down ordering the society to make good the debt of La Valette, even after that priest had been expelled from the order. Getting no relief from Louis, the order had to sell some of its extensive holdings and close several houses. The court then published the writings of the order, which included the doctrine of regicide and other dubious practices. While still reeling under the impact of the law suit, the Jesuits were met with an order from the court to close all

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their houses and to cease taking in novitiates. Finally Parlement ordered the society to disband. At this point, the king intervened but only to allow the fathers more time to wind up their business in the country. By 1764, however, the king reluctantly allowed the decree which expelled the society. While signing the document, Louis stated that he did not intend to punish the order. He never cordially liked the Jesuits, yet they had the glory of being hated by all heretics. Then he continued that:35

... I send them out of the kingdom against my will; at least, I don't want people to think that I agree with everything the Parlement did or said against them.

He then fell back on his old method of doing nothing and ordered silence on the whole affair.

But Louis was not to get the silence he had ordered. The archbishop issued from exile a letter asking for reconsideration of the expulsion of the Jesuits. The Parlement immediately remonstrated to the king, condemning the letter along with several other writings of the prelate. When the archbishop continued to order his clergy to refuse the sacraments, the court demanded that the rule of silence be imposed. Though loyal to his clergy, Louis ordered the archbishop from his estate in Conflans to another place of exile. The harrassed prelate was allowed to come back to Paris only when he had become gravely ill.

35Ibid., 497.
The religious struggle gradually subsided into bickering between the court and clerics. At their assembly the clergy issued orders favoring the continued use of the billets de confession and when Parlement remonstrated, the king, by this time completely weary of the whole affair, did nothing. Parlement itself was too involved in the struggle with the government over the administration of the provinces to push the matter any further, and in 1765 the matter was closed. Down to 1771 no remonstrance on religion was sent, the court being too busy investigating the finance and administration of the crown.
CHAPTER IV
THE STRUGGLE OVER TAXATION AND ADMINISTRATION
1723-1771

There was little difficulty over the financial issue between Parlement and the crown after the fall of Law's bank down to the end of the war of Austrian Succession. During the period from 1723 to 1741, only the lit de justice of the Duc de Bourbon to impose a tax indicated any difficulty with the court. But this tax, the cinquantième, was so unpopular with all classes that it was soon repealed.

With the economy-minded Fleury in office, Parlement had little to complain about concerning money matters, and as has been shown, his main interest was foreign affairs and development of commerce, two objectives which he pursued successfully for the period of his ministry.

After his death and the subsequent removal of his economy-minded finance minister Offy, the financial issue, with emphasis on taxation, soon occupied the crown and

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1Philibert Orry (1689-1747) had been intendant at Soissons in 1725 and at Perpignan in 1727. In 1730 he was nominated controller of the finances and supported the economy in government practiced by Fleury. He fell out with the favorite, Mme. de Pompadour, and was relieved of his office in 1745.
Parlement to the exclusion of the religious issue. During Fleury's administration, there was no trouble registering the dixième, a ten percent tax,\(^2\) on December 18, 1733;\(^3\) however, the government did concede to Parlement that the tax would be lifted three months after the end of the War of the Polish Succession which was on the verge of breaking out.

With the outbreak of the War of the Austrian Succession, the government sent new laws levying taxes which the court accepted without protest on September 6, 1741.\(^4\) When the government continued to levy taxes after the war, however, the court protested. On March 20, 1748, the king levied taxes on certain goods and continued other taxes already in effect. Parlement immediately remonstrated and sent the first president to see the king. After a conference with the Chancellor, Maupeou got the tax on tallow removed but nothing else. He could not get a time limit set on the taxes, which was what the court had sought.\(^5\)

In the following year, the government levied a vingtième, a five percent tax, after lifting the dixième. It met with strong resistance from the magistrates, who protested on the

\(^2\)The dixième was levied on income from both property and trade. After 1741 it was replaced by the vingtième, 1/20 or five percent, which was levied one after another. Thus, by 1763 there were three vingtïèmes or fifteen percent in effect.

\(^3\)Flammermont, \textit{op. cit.}, I, 313-314.

\(^4\)Ibid., 379.

\(^5\)Ibid., 397ff.
grounds that the vinatième was levied only in time of war or some other emergency. Pointing out that such a tax would have a detrimental effect on commerce and bring hardship to the people, the magistrates protested violently against the innovation. In reply, the king demanded registration of the edict within twenty-four hours, but the court drew up new remonstrances without acting on the laws over the protests of Maupeou. However, Maupeou did deliver the document and assured the king that the court was not acting disobediently. Louis accepted the apology and document from the chief magistrate, but he would give no concessions.

On April 30, 1750, the government ordered the continuation of several taxes for six years beyond their expiration date. Immediately the court sent remonstrances demanding the removal of the taxes of 1748 as well as those listed in the new edict. Maupeou sought to avoid a conflict, and before the court could deliberate on the contents of the remonstrances, he had them drawn up and ready for delivery. For the time being, the court accepted the hasty move of the first president but warned that officer that such procedure would not be tolerated in the future.

In the short document, the court had asked for the removal of all taxes levied since the end of the war. For two months the king gave no answer; however, when he did send it, he was willing to grant certain concessions. He explained that the

6 Ibid., 403 ff.
income from taxes was 30,000,000 livres less than in 1747 and that the hardships caused by the taxes were not so bad as the magistrates claimed. Nevertheless, he was willing to remove the centième denier, a tax of only one percent. The court accepted the compromise, but it demanded that the taxes be imposed only for the length of time stated in the edicts; it also reserved the right to remonstrate on their removal any time before their expiration. With these modifications, the court registered the edict and a delegation was dispatched to the monarch to thank him for his actions.

During the next five years, the court and crown were locked too deeply in the religious struggle to bother about finances. When in 1756 the government sent laws levying new taxes, the court did no more than request that the expiration date be set in the edict. It also reminded the king that the tax of 1749, the vingtième, was due to expire in 1761, five years hence. When the king did not accept the modifications on the duration of the tax, the court sent new remonstrances. Without further discussion, the court was ordered, at the lit de justice held August 26, 1756, to accept the edicts without further delay.

Three years later, however, the court again protested against the tax policy of Machault. It was the purpose of the government to extend the tax base rather than to levy

7Ibid., I:12-1:13.

8Machault (1701-1794) spent most of his life in finance. He succeeded Orry after the latter's disgrace, but suffered the same fate as his predecessor. The greatest opposition to his tax reforms came from the clergy rather than the magistrates.
new taxes, but this system hit hardest at the privileged
groups, which included the magistrates. Parlement suggested
that the ministry cut expenses instead of asking for more
money, at the same time painting a dark picture of the widows
and orphans who were suffering from the heavy tax burden. In
harsh terms, Louis retorted that the magistrates did not have
to worry about other classes, and that they should set an
example of obedience by doing the king’s will by registering
the edicts. Parlement continued to send remonstrances down
to its vacation time when the government held another lit de
justice to register the edicts. In the following November,
the court sent new remonstrances, and, since the crown had
just issued new loans which would need the support of the
magistrates, Louis welcomed both the returning first
president and the new remonstrances.

On January 20th, 1760, the remonstrances were delivered
to the king, who would give no satisfaction. Still in need
of revenue, the government levied a new vinftime on
February 11, 1760, the third since 1749. Although new
remonstrances were sent, the government would grant no
concessions to the court.

In March of the same year, more and heavier taxes were
levied, and the people were ordered to turn in their precious
metals to be melted down for money. After attaching reservations
to the edict, which the government ignored, the court registered
the law.

In the following year, on March 15th, the court objected to the new capitation, or head tax, and to the lowering of the rent of the Hôtel de Ville, which was paid to the magistrates. When a fourth vingtième was ordered, the court refused to register the edict, but was forced to do so at another lit de justice held on July 21st.

The crisis caused by the La Valette affair diverted the court's attention for a time and the government got some relief.

The next remonstrances came on May 19th, 1763, two years later, when the government eliminated the last vingtième, but doubled the capitation. Protesting on the grounds that the crown was bringing in old taxes under new names, the magistrates demanded that the government find other sources of income and suggested that the king's domains be used for something other than a game preserve. To this suggestion the government answered with another lit de justice on May 31st. Unimpressed with the ceremony, which by its continual use was falling more and more into disrespect, the court met on June 1st to draw up new remonstrances, and on the 24th sent them to the king. In these remonstrances, the magistrates protested not only against the new taxes but also against the continued use of the lit de justice, at which the court did not

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10Ibid., 288.
11Ibid., 322-331.

have the right either to deliberate or to vote. Louis answered that the new taxes were necessary and ignored the complaint regarding the lit de justice.

Dissatisfied with the answer of the crown, the court drew up its longest remonstrance, to be delivered the following September. Here the court examined in detail the expenses of the government, pointing out that revenues had increased from sixty-five millions in 1737 to one billion, two hundred million in 1755. The court wanted to know why the government needed more money. No explanation was forthcoming; with Abbé Terray as finance minister, the government was following a policy of open bankruptcy. The interest rates on bonds and notes were reduced, and some obligations were cancelled altogether. Parlement continued to remonstrate against these policies but to no avail. On August 31, 1766, the court protested against the exemption of certain classes from the taille and in March 1767 against the continuance of certain taxes beyond the year 1770. These remonstrances were ignored by the king and Parlement itself did not take much interest.

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13Ibid., 361-403.

14Joseph-Marie Terray (1715-1778) had been one of the clerical councillors of Parlement but unlike his fellow clerks he had tended to support the government. For example, he was the only clerical member who did not resign during the crisis of 1755. On the other hand, he played a leading role in the expulsion of the Jesuits. Appointed finance minister by the elder Maupeou he was accused of being a spendthrift and of having no other policy than spoliation.

15Flammermont, op. cit., II, 659.

16Ibid., 686.
In them, for by this time it was engaged in its most critical battle with the crown, that over the control of the administration and royal officials.

Of all the issues between Parlement and the crown, the bitterest and most crucial was that over the administration; it ended in the suppression of the court. Closely connected with this issue was the relationship of the provincial Parlements to that of Paris, and the relationship of the Grand Council to the rest of the courts of the kingdom. Up to 1731, the Grand Council had removed over thirty-five cases from the Paris Parlement; and in the following years it had intervened in affairs of the provincial Parlements. It was the Grand Council which prevented religious cases from going to Parlement and which replaced Parlement when the latter was in exile. In 1755, the fight between the two judicial bodies reached its bitterest point. The Grand Council not only removed a case from the Chatelet but even confiscated the minutes. On October 2, the court drew up remonstrances and at the same time issued a decree that no court was to send its records to the council without first consulting Parlement. Then the court decreed that its orders were to be obeyed in lieu of those of the king's council.

In reply, the king issued a decree defining the jurisdiction of the council as the boundaries of the kingdom, in other words, it extended beyond those of Parlement. The

17The list is in volume I, Flammermont, appendix.
King also declared that the decrees of the council did not have to be registered at the Paris court. These two decrees were published along side those of Parlement, and for several weeks no one knew which one to obey. The magistrates had ordered that no edict of the king or the council was to be obeyed until the government had given a satisfactory answer to the court's remonstrances. Instead of annulling the decrees Louis agreed to accept the remonstrances and only insisted that they be sent immediately. This was on October 10, yet Parlement did not have them ready for delivery until November 27.18

The court protested against the use of the council for judicial purposes, stating that the council had limited functions, and that even these should be suppressed. Since the council had been established in 1493, almost three hundred years later than the Paris Parlement it could not usurp the functions of the older body. The major was always superior to the minor.19 Only Parlement could register royal edicts and no other court.

Not until two months later, on January 23, 1756, did the king give his answer. He stated that, while he did not intend to increase the jurisdiction of the council and that in the future the removal of records would be regulated by law, the council was to have the power it had previously enjoyed and Parlement was not to interfere in its matters.

18Ibid., II, 12ff.
19Ibid., 59.
Four days later, by a vote of ninety-three to forty-three, the court decreed that the Grand Council was inferior in all respects to Parlement and that local officials were to obey Parlement, the court they had sworn in their oaths of office to defend. Further the Grand Council could issue orders only by special permission or by specific authority; in other words, if there were no precedent covering the council's right to issue a given order, then that order could not be issued.

On January 31st, the Grand Council annulled these decrees and ordered local officers to carry out its own instructions without further delay. But those who carried out the orders of the council were not only verbally attacked by Parlement but also suspended from their duties. Two officials were removed from their offices by order of Parlement, and despite the support of the government did not take up their duties until the Paris court lifted the ban. The only action the government took was posting decrees, but these appearing alongside those of Parlement did not have the effect of the latter. Even the clergy tended to support the Paris court rather than the king's council.

Feeling that they were on the verge of a victory over the monarchy, the magistrates ordered the peers to assemble the following February 17 at 10 a.m. This move galvanized the

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20Ibid., 91.
21Ibid.
government into action. During the night of the 16th the peers were forbidden by lettres de cachet to attend any meeting with Parlement without the consent of the king. Then Louis ordered the court to explain its actions in demanding the assembling of the nobles. Maupeou asserted that it was the right of the peers by rank to sit with the court, but Louis would not accept this reason. Then the court drew up new remonstrances demanding that the king give the peers permission to sit with the court. On February 27th the king answered that the peers could not be assembled without his permission and that he would not give it unless Parlement gave a reason why they should be brought together.

The court now took up the battle of pamphlets. On March 13th there appeared in the streets a pamphlet condemning all the claims of Parlement and praising the Grand Council. Parlement answered with a pamphlet condemning the pretensions of the council and ordering local officials to ignore the claims of that body. In Paris, the lieutenant of police, on the side of Parlement, ordered that no one was to print or publish the writings of the council. It was the same method of attack used against the archbishop and it succeeded just as well. Even though the council protested, the king did nothing.

As in the religious and financial struggles, Parlement's fight with the Grand Council gradually died out without any
clear cut conclusion either for the council or court. In 1768, the government did convene the peers on the issue but nothing was settled by the assembly. The council still continued to issue decrees and removed cases from the jurisdiction of Parliament.

The fight over the local administration took a different course. Up to 1750, there had been few remonstrances criticizing the administrators. There had been the trial of the Duc de La Force in 1720, but that had been due to the pressure applied by popular opinion rather than Parliament. This delay in the fight over the administration can be explained by the relationship of the other courts to Parliament. Before mid-century the other ten courts (with the exception of the Rennes Parliament) were jealous of the unique position given to the court by the Regent. As the Paris Parliament gained notoriety with its remonstrances, however, the provincial courts gave it their support.

At Rouen, the local Parliament had attacked the decrees of the Grand Council and in 1756 deleted from the record the transcriptions of the Governor of Normandy. For this action several magistrates were ordered to Versailles and detained there for several weeks. The Bordeaux Parliament insisted that the royal domains there came under its jurisdiction and not under that of the Grand Council, which ordered all such cases to be taken to Paris. When the local
Parlement continued to hear the cases, several magistrates were ordered to Versailles. Others of the Bordeaux Parlement went along to protest the action of the council.\textsuperscript{22}

When the king refused to listen to the complaints of the local Parlements, the Paris court sent remonstrances. The first such was sent on July 2, 1756. Here the court protested against the detention of the magistrates and demanded their release, at the same time asserting its right to defend its fellow magistrates, who were members of a court equal in status to that of Paris though of a different class.\textsuperscript{23} This meant that the Parlements formed a unified body, each having the same powers.

Receiving the documents, the king requested the Parlement to keep them a secret; however, they appeared the next day in the streets in a pamphlet form and Parlement went through the formality of condemning them. For three years, the government was not bothered further with the provincial Parlements.

Then in 1759\textsuperscript{24}, the Besançon Parlement, whose first president was the intendant of the province, declared a law illegal against the wishes of its first magistrate. To get obedience he had the government exile twenty-two

\begin{itemize}
\item \textsuperscript{22}ibid., 130 ff.
\item \textsuperscript{23}ibid., 137.
\item \textsuperscript{24}ibid., 171-221.
\end{itemize}
and order eight more to Paris. On February 16, the Paris Parlement sent remonstrances demanding the release of the magistrates on the ground that no judicial official could be attacked and removed from office on the sole ground of performing his duty. Since the Besançon officials were only performing their normal functions when they declared the law void, the government had no right to arrest them. While the remonstrances were being drawn up, the first president, Molié, the senior president à mortier who had replaced Maupeou, had tried to get the magistrates released through private negotiations but failed. In April of the same year, the court drew up other remonstrances but had no more success than before. The king assembled the Dauphin and the high nobility along with the ministers to greet the delegation from Parlement in order to impress upon the court the seriousness with which he considered the whole affair. At this meeting the monarch told the court that the magistrates of Paris should condemn those of Besançon rather than the government. At the end of discussion, a banquet was held showing a rather contradictory attitude of the government.

Not until 1761 did the government release the magistrates, but at the same time it transferred the intendant of the province to another area. When the exiled magistrates returned to Besançon, they sent a letter of thanks to Paris acknowledging the support of that court.
In 1763, the Parlement of Toulouse arrested the governor of that province,25 the Duc de Fitz-James,26 after a dispute between the two. On this occasion, when the Paris court supported its fellow Parlement it successfully assembled the peers. It invited the king to sit with the session, but Louis refused and did nothing to appease the provincial Parlement except to transfer the Duc de Fitz-James.

The most serious dispute over the administration between court and crown was in the province of Brittany. In 1753, the Duc d'Aiguillon27 was appointed commandant of the province and proceeded to put into effect the policies of the government with undue severity. Brittany was a _pays d'État_, that is, one of the provinces which still had the right to convene the local estates. As a result, the province had always been a trouble spot for the government and in the Cellarsquare conspiracy there was fear that the estates would support the Spanish claims. But by 1750, the leaders of the opposition to the government were centered in the Parlement of Rennes and not in the estates although the latter supported

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25Ibid., 423.

26Charles, Duc de Fitz-James (1712-1787) was a grandson of James II by the latter's mistress. He had succeeded his father as governor of Limousin (1734) and held governorships of several provinces and in 1775 he was made marshal of France.

27D'Aiguillon (1720-1788) was for twelve years the commandant of the province of Brittany, where he came into conflict with the claims of the estates and Rennes Parlement. He succeeded Choiseul in the post of foreign minister, and along with Maupou, fought the Paris court. On the accession of Louis XVI he fell out of favor.
the court. Several times the court had opposed and twice successfully prevented the collection of taxes in the province. D’Aiguillon, as representative of the king, had several times to appear before the court to order it to register edicts from Paris. By 1765, when the crisis between the province and the government reached a head, the leader of the Parlement forces was La Chalotais, who had become the prosecuting attorney for the province, but spent much of his time attacking the government rather than defending it. He had published tracts against the Jesuits in 1762, and was one of the leaders in having the society expelled from the country. Outspoken and according to d’Aiguillon, uncouth, he had accused the commandant of cowardice. 26 He believed in a monarchy checked by Parlement, while d’Aiguillon wanted an administrative monarchy, one in which intendants and commandants would do much of the work of the crown in the province, leaving the central government to attend to more important affairs. Added to the conflict of ideas were differences between an older man and the youth. When d’Aiguillon took his position he was only thirty-three years old, while La Chalotais was in his fifties.

26 In the Seven Years War the English had made a descent on the coast of Brittany. As commander of the troops it was the function of d’Aiguillon to repel them. Somehow he was forced to hide in a flour mill and did not come out until the English had been repulsed by a junior officer. When someone mentioned in the presence of La Chalotais that d’Aiguillon had covered himself with "la gloire" the lawyer replied, "Oui et la Farine" (flour).
By 1765 the government had had enough of the obstructing tactics of the prosecuting general, and during the night of November 10-11 it ordered the arrest of La Chalotais and the more radical members of the court. They were to be held for trial on a date yet to be determined. When on the following day the majority of the Rennes court resigned and attacked those few who stayed on in the service of the crown, it was clear that, in the province of Brittany, it was safer to support the local institutions than the central government.

At first, the government appointed a commission for the trial but in Paris the magistrates protested, and the crown allowed the magistrates in Brittany, who had resigned, to resume their seats. At the same time the affair was turned over to the provincial court, which was too reluctant to prosecute. Then the government exiled the arrested magistrates to Saint-Malo and sent a commission to try them at that western point in Brittany. When the court heard of this, it again remonstrated, protesting against the trial, against the methods used, against the arrest, and against all those who had anything to do with or acquiesced in such proceedings. It was the strongest remonstrance or declaration up to that time, and the king responded in kind. Without warning he descended on the court on March 11, 1766, and told the first president to cease all business and assemble the chambers.

29 Flamermont, op. cit., 501-530, 534-554.
When the magistrates had assembled, the king addressed them in stern language. He told the court that he would not permit any institution to organize itself for the sole purpose of causing discord in the nation. He told the court that it was in their imaginations only that the enemies of the magistrates surrounded the throne. Then he went on to say:

Its (court's) enemies are within its breasts, who state ideas opposed to these principles—who state that Parliament forms a single body, that this group is the essence of the monarchy; that it serves as its base; that it is the seat, the tribunal and the spokesman for the nation; that it is the defender and depository of nation's liberties and it would be criminally guilty if it failed to act so; that it is accountable to the whole nation and not just to the king; that it is the judge between the king and the people; etc.

Louis here condemned all the theories that the court had advanced to that date. He went on to say that for no reason whatever could the court ever cease its functions against the wishes of the monarch. Known as the session of the "flagellation", due to the harsh terms with which Louis addressed the court, it did little to change the ways of Parliament. One month later on April 13, the court was again protesting the trial of La Chalotais and his cohorts. The king ordered the first president to turn over all documents and evidence the court might have in its possession to the government. On June 1, the court sent remonstrances against this order but got no satisfaction.

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30 Ibid., 554-557.
Meanwhile, the trial of the arrested magistrates was turned over to the Grand Council and Parliament immediately protested on the grounds that only Parliament could try its own members. Again the government changed its mind and returned the magistrates to exile in Saint-Malo. In the end, no trial was held, and the magistrates (including La Chalotais) were released and even allowed to resume their duties in the Rennes Parliament.

But releasing the judges did not settle the affair. Back in his job as attorney general, La Chalotais made bitter attacks on d'Aiguillon and the provincial administration, while his cohorts dug up evidence of the connection between the Duc and the Jesuits. This information was sent to Paris Parliament, which now demanded the trial of d'Aiguillon, who at this time had joined the ministry. Holding off as long as possible, the government finally acceded to the request, which was as much d'Aiguillon's as Parliament's. The Duc wanted to clear himself of the charges leveled at him by Chalotais. Also Maupeou, the younger, 31 thought that the trial would be short and cause no trouble. Thus, in April 1770 the trial opened with the king presiding for the first time over his Parliament at Versailles and all the peers attending.

31 René Nicolas Augustin de Maupeou (1714-1792) was called "fils" to distinguish him from his father. A son of the first president, he had an early successful career in Parliament. Extremely ambitious he was regarded as one who would stoop to any trick to gain position. In 1763 he was nominated first president by his father and later, before the d'Aiguillon trial, he had become Chancellor.
The government received quite a shock when the court began to uncover evidence against the Duc, and the trial began to grow into a cause célèbre. All the information dug up by the Rennes court had been relayed to the Paris Parlement by special couriers to make sure that the first president would not divert any.

Seeing the extent of the information against the peer, the government quashed the trial over the strong protests of Parlement. When the government refused to resume the trial at the insistence of Parlement, the latter issued a decree that d'Aiguillon was not to sit in the court nor to enjoy any rights of the peerage until he had cleared himself of the charges before Parlement. At this time, however, a break occurred in the phalanx of the Parlements. In Rennes, the magistrates declared that any Parlement could try a peer, a statement immediately challenged by the peers, the one group closest to the Paris court.

Feeling themselves in a strong position, d'Aiguillon and Maupeou the younger, were ready to act against the court. Sending a rule of discipline to the court, and knowing that it would be rejected, the ministry was ready to force the court into oblivion. As was expected, the court refused to register the edict, but Maupeou and d'Aiguillon did not act due to one of those continual fights among the ministers...
themselves. Choiseul\textsuperscript{32} was the target and after his elimination, Maupoucou turned his attention to the Parliament which at this time had gone on strike in protest against the new rule of discipline. \textit{Lettres de luison} had been sent to the magistrates ordering them to resume their duties but with no effect. Now ready for compromise after his fight with Choiseul, Maupoucou told the court that, if it would resume its duties, the ministry would not enforce the rule of discipline. By this time the magistrates or rather a majority of them were violently opposed to Maupoucou and his intrigues. After a long and bitter dispute, the offer of the minister was rejected by a close vote.

Maupoucou reacted immediately. During the night of January 19th and 20th, 1771, he sent \textit{lettres de cachet} to the judges, giving them an option of resuming their duties or going into exile. Over one hundred accepted exile, while thirty-eight resumed their duties with qualifications. On the following day, the latter condemned the action of Maupoucou and themselves were sent into exile, and the Paris Parliament went into temporary oblivion.\textsuperscript{33}

\textsuperscript{32}Étienne-François, Duc de Choiseul (1719-1785), had been in diplomatic service before becoming foreign minister in 1758. He was a favorite of Mme. de Pompadour and an energetic minister. Terray as well as d’Aliguillon and Maupoucou had intrigued against him.

\textsuperscript{33}Flammermont, op. cit., II, 181-183.
Maupeou reorganized the whole judicial structure of the court. First, several superior courts were created reducing the area of jurisdiction of the old Paris court. Secondly, the sale of offices was suppressed, and finally, the right to remonstrances was limited to unimportant matters. In April 1771, a *lit de justice* installed the new Parlement, known in history as Maupeou's Parlement. It was the type of Parlement that the government wanted. During its three years of existence, it sent only three remonstrances and not once did it go on strike. Thus Louis XV had silenced the court.
CHAPTER V

CONCLUSION

There had been other remonstrances on other subjects. After the bad harvests of 1766 and 1767 the court sent remonstrances against the edicts of 1763 and 1766, which allowed free internal trade in grain and permitted its export; it also called together the leading merchants of Paris along with the local clergy to a discussion of the affair. A crisis was avoided only by the improved harvests of 1768 and 1769.

Ramonstrances had also been sent against the conditions of the Paris prisons. Although the judges cruelly tortured the attempted assassin, Damiens, they did have some humane feelings about those kept in the appalling prisons of the city. There were remonstrances against the intendant of French Guinea and against the defunct East India Company, but these were only isolated protests which were neither answered by the king nor followed up by the court.

It appears in several instances that the remonstrances of the Parlement did have some effect on the crown. Concessions were made in the struggle over the religious issue and in the
trial of the Duc de La Force. In these instances, however, the success was due largely to the political and social climate of Paris. In the fight over the **billet de confession**, the court had the support of the majority of the middle classes in Paris and the northern cities, which contained large numbers of Jansenists despite the suppression of the group’s headquarters in 1709. In the Jesuit affair, Parliament had the support of such groups as the philosophes and Jansenists; but perhaps more important was a general trend against the order. The society had been expelled from Portugal in 1759 and later from its original home, Spain, in 1769. In 1774, the whole order was suppressed by order of the Pope. In the fight over the administration, the court also followed public opinion. After the collapse of Law’s system there was a general feeling, even among the high aristocrats, that someone should be the scapegoat, and, of course, La Force was chosen. Its attacks on administrators, such as d’Aiguillon, who had lost popularity because of their close connection with the Jesuits and with the high taxation policy of the government increased the court’s appeal to the public and brought the support needed. The fact is that, whenever it gained a victory, the court had some popular issue with which to beat the government; through its own efforts the court did not gain a single important concession.
The proof of this fact is that never did Louis or any of his ministers admit that the court had any right to modify a decree or law. In the session of the "flagellation", Louis condemned all the theories and practices held by Parliament regarding the right to remonstrate. However, the king did not believe that the right should be taken away but only restricted to its previous use. That he and his ministers had been too weak to force the court back into its primary function of judging cases does not indicate that the magistrates had won their point. The evidence indicates that the government was forced by circumstances to grant concessions, but it never legally recognized the right of Parliament to interfere in any way with the legislative process.
BIBLIOGRAPHY

Primary Sources


Buvat, Jean. Journal de la Régence (1715-1723). Paris, Henri Pion, 1865. The best account of the public opinion during the period of the regency, especially on the popular attitude towards Law's bank.

Chateaubriand, François Auguste René vicomte de. Oeuvres de Chateaubriand. Paris, Dutour et Maist, 1852. 16 vols. Another good support fact that the court was practically independent of the crown.

Diderot, Denis. Oeuvres Complètes. Paris, Garnier frères, 1875. 20 vols. Diderot gives the attitude of the philosophes and intellectuals toward Parliament which was without exception, hostile. Rather strange since many of the magistrates were not only well-read but on good terms with the philosophes.


Fairley, William. Translations and Reprints from the Original Sources of European History. Protest of the Court des Aides April 1775. Philadelphia, University of Pennsylvania Press, 1908. Malecherbes, who wrote the protest, summarizes the grievances the court had against the crown.

Flanmermont, Jules. Remonstrances du Parlement de Paris au XVIIIe Siècle. Paris, Imprimerie Nationale, 1860, 3 vols. The source material for the thesis. In the work the remonstrances are arranged topically while in the source material they are arranged chronologically.
Orleans, Elisabeth-Charlotte. The Letters of Madame. The Correspondence of Elisabeth-Charlotte of Bavaria, Princess Palatine, Duchess of Orleans, called "Madame" at the Court of Louis XIV. New York, Appleton, 1925. As sister of the Regent, the Duchess gives an excellent account of his relations with Law and his attitude toward the lower nobility.


Secondary Sources

Allison, John S. Lamoignon de Malesherbes: Defender and Reformer of the French Monarchy, 1721-1791. New Haven: Yale University Press, 1936. Author gives the attitude of the liberals as Malesherbes, who held that the philosophes deserved criticism as much as other parts of society.

Bichart, Robert. Les Parlements et la Notion de Souveraineté Nationale au XVIIIe Siècle. Paris, Felix Alcan, 1932. Bichart shows the development of the theories of all the Parlements by an examination of all the remonstrances issued by the various courts. According to his evidence the courts never really demanded a place in government until after 1750.

Campbell, Thomas, J. S. J. The Jesuits: 1534-1921. A History of the Society of Jesus From Its Foundation to the Present Time. New York: Encyclopedia Press, 1921. 2 voles. According to the author, the ministers, as Choiseul, had more to do with the expulsion of the society from France than Parlement, although he does not play down the court's role in the affair. Contemporary opinion, as Diderot, believed that Parlement played the main role in the suppression of the order in France.

Doolin, P. R. The Fronde. Cambridge, Harvard University Press, 1935. Doolin gives some of the theories behind the movement and the attitude of the Parisiens toward the whole affair.

Ford, Franklin L. Bebe and the Sword: The Regrouping of the French Aristocracy after Louis XIV. Cambridge, Harvard Press, 1953. One of the most important works. Ford gives the theories of the magistrates, explains in detail their social position and how they attained it.

Freville, Henri. L'intendance de Bretagne (1689-1790): essai sur l'histoire d'une institution en dix avatars au XVIIIe siècle. Rennes, Pallen, 1953. 3 voles. This work does not give much information on the trial of La Chalette nor even the basic difficulty between the administration and the province.

Galton, Arthur. Church and State in France: 1300-1790. London, E. Arnold, 1907. Gives a little information on the bull Unigenitus, but does not stress it as the center of the controversy in the church during the eighteenth century.


Hazard, Paul. La Crise de la Conscience Européene (1680-1715). Paris, Boivin and cie, 1935. 3 voles. Author points out that real enlightenment occurred with Newton, Bayle, Locke and Spinoza who did more to weaken the old system than the philosophers.

Lavisse, E. Histoire de France: depuis les origines jusqu'à la révolution. Paris, Hetatte, 1911. 9 voles. Volume 8 gives the general history of the time of the regency and reign of Louis XV.


Rebillon, Armand. Les États de Bretagne de 1661-1789: leur organisation, l'évolution de leurs pouvoirs, leur administration financière. Paris, August Picard, 1932. A detailed description of the activities of the provincial estate, however, the author does not spend much time on the La Chalotais affair.

Toth, Karl. *Women and Rococo in France: Seen Through the Life and Works of Contemporary, Charles-Petit Design* Philadelphia, 1931. Reveals the provincial attitude of the Bretons and indicates how much opposition there was to government policy in Brittany.