

4 – Nobles of the Robe

The *State Administration* occupied a position of its own, which was intermediate between the first two orders and the Third Estate.

Organs of the old feudal administration still existed, stripped out of their essential functions, but not of their income. Since they were part of the primary means by which the feudal nobility could use to take advantage of the State for its own gains, they hadn't been eliminated as they lost their initial purposes. On the contrary, as we have seen, the most lucrative and the most superfluous of offices had been proliferating throughout the 18th century.

Yet alongside these useless organs, it had been necessary to create novel ones better suited to the new monarchy, in the realm of justice, police, and taxation. Offices kept being made whose holders were appointed by the king. Yet at first, the king only paid them sparingly, were they even paid at all, thus they had to compensate themselves with the proceeds from taxes, sportulae imposed on the population. As the scope of their sovereignty expanded, their income increased. The royal treasury, still in terrible shape, had to resort, not only to grant, but to *sell* those lucrative offices. This practice was established as early as the 15th century in France and quickly became one of the main ways by which kings would acquire money. Hence their rapid proliferation. Not only members of steering committees of confraternities and corporations, but also master craftsmen themselves had become public officers who had to pay their fees themselves if their corporation wasn't wealthy enough to buy its independence. Cities were also deprived of their autonomy, and if they did not buy it back in hard cash, their municipal magistracy and dignities would become State offices, at the expense, of course, of the inhabitants who had then to pay those their sportulae. Nevertheless this was not enough to put an end to the never-ending financial woes of the monarchy, and the State ended up inventing the most nonsensical of offices, which at the same time forced the population to pay taxes to those new officers. Thus in the last years of Louis XVI's reign we found, for example, the following "offices" : wig inspectors, pig inspectors, hay hauliers, king advisers, wood stacking managers, fresh butter inspectors, salted butter tasters¹ etc.

1 Why institute in a kingdom the offices and dignities

Of king advisers...
Drink inspectors,
Slaughterhouse inspectors,
Inventory clerks,
Fine managers,
Pig inspectors
Cutting balancers,
Firewood molders,
Molder helpers,
Wood stackers,
Fresh wood dischargers ,
Carpentry wood managers,
Coal measurers,
Grain sievers,
Calf inspectors,
Poultry managers,
Barrel assessors,
Spirit tasters,
Beer tasters,
Barrel rollers,
Hay hauliers,
Plank bridge stowers,
Fabric measurers,
Wig inspectors ?

Those offices which surely made the prosperity and splendour of an empire, formed numerous communities, each with their own trustee. All of these were eliminated in 1719, but only to make way for others of similar nature in the latter days.

Wouldn't it be better to cut down all the pomp and luxury from grandeur, instead of wretchedly sustaining them by such disgraceful and low means?

(Voltaire, Les Pourquoi, Mélanges philosophiques, littéraires, historiques, etc. Cramer édit. Genève 1771, Volume 4, p. 377). Translator's note.

From 1701 to 1715, the king collected 542 millions *livres* [7.3 billions euros] from the sale of new offices. The profile of the purchaser was not a consideration. Army paymasters would buy the offices of those who were supposed to oversee them thus eliminating of any kind of checks and balances.

A great modern State could not be governed in this fashion. A novel stratum of civil servants was implemented, a carefully centralised bureaucracy under the absolute control of the king. It rendered, not only the functions of feudal organs, but also those of venal offices, all the more redundant, without however reducing their number nor the exploitation they caused.

On the contrary, venal offices gave birth to a new aristocracy. Exempted from taxes and endowed with many other privileges, the most important offices had become *hereditary*, for a fee and conferred noble status. Thus emerged the Nobles of the Robe against the old feudal nobility, the nobles of the sword. Economically independent from the king, this new nobility would prove insolent, often more stubborn than the ancient nobility.

At the top of this aristocracy we found the *Parliaments*, its name denoting the highest courts of Justice.

The rising capitalist mode of production had rendered the jurist class especially important and essential. The more commodity production became the dominant form of production, the more numerous and complex the contracts between individual owners of commodities became, the more issues of contention could emerge. It was a domain where feudal laws and feudal justice were powerless. The new social relations required a new law, which at first they tried to build from canon law, until they had found roman law, its foundation, better suited to the task. However, also required were people who would spend a lifetime untangling the web of this novel system of law. The class of *jurists*, judges and lawyers developed rapidly and eventually became as prestigious as indispensable. Indeed, were they to cease their work, and all trade and daily life would risk paralysis.

Clearly, the highest courts of justice were enjoying a really special interest, all the more amplified by their political position. The kings of France saw in Parliaments, which drew their ranks in the Third Estate and would adjudicate on the basis of laws, the roman law, favouring absolutism, useful instruments in crushing the feudal nobility's opposition, and thus, they kept expanding their jurisdictions and powers throughout the 14th and 15th centuries. As a result of the venality of parliamentary offices, introduced in the 16th century, and the economic autonomy of Parliaments, whose importance for the entire political and social life kept expanding and whose members were growing richer and richer from the abundant and proliferating sportulae, the situation was such that the courts of justice which originally obtained their powers as tools of absolutism, now dared to use of those powers to defend their own autonomy and privileges against the absolute monarchy itself, in an age where the monarchy, no longer facing any impediments, seemed all powerful.

Yet none of the above is enough to explain the crucial part played, from the 16th to the 18th century, by the oldest and most important Parliament, the Parliament of Paris. Neither its age nor rank can explain this, but only the fact that this Parliament was, precisely, the Parliament of Paris; Paris, the city which, as early as the French War of Religion, had shown that no king could afford to act with impunity. The Parisian public opinion's might was a decisive factor in the Parliament's prestige. Yet, it was for this very reason that the Parliament was forced to grant concessions to that same public opinion, to align their position in order to secure the support of the Parisians. This led to truly peculiar developments.

Evidently, magistrates, being economically independent from the king, were not only insolent, but they would, generally speaking, rule with only their personal interest in mind. They would not be stopped by the fear of being removed, nor moved by any hope of securing an advance, and even less so by a concern for the greater good of their province. They would not settle for their regular income and sportulae, and would thus try to expand it with any means necessary by abusing their authority. Taxmen would defraud the tax office, giving back their taxes to the rich who would bribe them, and would then offset the losses by pressuring

the poorest all the more. Justice was corrupt, police too. Chaos, insecurity and corruption reigned supreme in all aspects of the administration.

Atop of the Nobles of the Robe were the Parliaments, where corruption was the most severe. There, vileness, venality and cupidity abounded as well as an aristocratic arrogance and a fanatical hatred for any innovation that could put their privileges in jeopardy, which in turn, during the 18th century, drew the hostility of the progressive and honest elements of the Parliaments as well as the ire of moralists. Voltaire put all his energy into opposing « the murderers of Calas, Labarre et Lally », and the « Mémoires » published by Beaumarchais in 1774 was a ruthless condemnation of the corruption which was starting to corrode the judicial system in its entirety.

However, in order to preserve this corruption and its own privileges, the Parliament of Paris, which set the standard for others, had to preserve the favor of the Parisian populace, it had to make the rallying cries that were widespread in Paris its own. Allied to the Parisians and the rebel faction of the aristocracy, the members of the Parliament climbed the barricades in 1648 during the Fronde. In accordance with the Parisians, the Parliament opposed the « despotism » of Louis XVI's ministers and called for « the right to self-determination » and « the liberty of the nation », and furthermore designating itself as the only legitimate agent of the popular will.

Among all the oddities of the prerevolutionary period, Parliaments are by no means the least peculiar; they passed off as protectors of the people's rights in order to keep for themselves the privileges that would guaranty them the ability to exploit the very same people.