The Legislative History of the French Law of Sacrilege of 1825

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THE LEGISLATIVE HISTORY
OF THE FRENCH LAW OF
SACRILEGE OF 1825,

by
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NOTICE

Except for a few short phrases, I have translated the French original and assume full responsibility for the accuracy of the translation.
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CHAPTER I
FRANCE IN THE 1820'S

The restored Bourbon Monarchy of France reached its political peak in the mid 1820's. This summit was symbolized in foreign affairs by the French invasion of Spain in 1823 and in domestic affairs by the enactment in 1825 of the Indemnity Bill which compensated the nobility for property losses during the Revolution. It soon became apparent, however, that these successes were ephemeral. The Spanish war was one of the causes leading to the dismissal of the Foreign Minister, Francois de Chateaubriand, on 6 June 1824, a step which "crystallized an incipient split in the ranks of the right, and promoted the growth of a royalist counter-opposition."¹ This opposition

party drew further strength from the highly unpopular Indemnity Bill which, while failing to satisfy the wishes of the "émigrés," only served to exacerbate "the feelings of the great majority of persons of property who felt that in one way or another they were paying for it." With the Indemnity Bill and the Spanish war masquerading as political victories, it is easy to accept François Guizot's ironic characterization of the Restoration as "une grande comédie. . ."3

The leading actor in this comedy was the King who alone possessed the executive power and the initiative in legislation. All laws, furthermore, had to be approved and promulgated by the King.

During the period under consideration two Kings sat on the French throne—Louis XVIII and his brother, Charles X. Already old and gouty, Louis XVIII further hampered his effectiveness by his indolence and ignorance of administrative details. Endowed with a keen intellect, Louis XVIII had authored the Charter of 1814 but displayed a lack of kingly responsibility by insisting that "C'est ma volonté qui doit tout faire."4 Louis XVIII died

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2Ibid., II, p. 87.


on 16 September 1824 and the Comte d'Artois ascended the throne as Charles X. The new King's coronation at Rheims on 29 May 1825, a ceremony that lasted five hours and included all the trappings and grandeur of medieval coronations, symbolized the return to the Ancien Regime. What Charles X's coronation foreshadowed, his government tried to execute. "His political views were far from reassuring in one who was called upon to be a constitutional monarch and to consolidate a dynasty. More passionate, but at the same time more light-hearted than Louis XVIII, he lacked his brother's balance and sound judgement."5 As a royal absolutist and a devout, if not fanatic, Catholic Charles X "could not be anything but the King of the 'émigrés' and the King of the clergy."6

These, then, were the two constitutional monarchs who ruled France in the mid 1820's. Louis XVIII and Charles X exercised their power through the agency of the Prime Minister, Jean-Baptiste de Villèle whose ministry was formed on 14 December 1821 and lasted until 4 January 1828—one of the longest in the history of France and the most important during the Restoration. The fact that Villèle enjoyed the confidence of both Kings is one


reason for the longevity of his ministry. But the real significance of the Villèle ministry lay in its contribution to the development of a new instrument of government. In the words of Paul Bastid, one of the leading historians of French political institutions, despite the fact that Villèle's government was one of reaction, "its advent, duration, and even its fall carried out the first normal application of the rules for parliamentary government." But unfortunately, the alliance of Charles X who spent most of his time hunting with Villèle, an old-school financier to whom the world of the Bourse, the banks, and the new industry was almost completely unknown, produced a duet that was out of step with the times. Little wonder that the real springs of France were bubbling elsewhere, in the counting houses and cafes, in the factories, in the salons of the bourgeoisie. The court and the chamber still held the power of the state, but the only use they made of it was to destroy the Bourbon monarchy by rash and unconsidered legislation.

The Charter of 1814 was the instrument of government during the Restoration. It contained seventy-four articles which defined the rights of Frenchmen and set up a kind of constitutional

7 Ibid., pp. 103-04.  
monarchy on the English model. Although assuring religious liberty and equal protection to all cults, the Charter paradoxically established (art. 6) Roman Catholicism as the State religion. The Charter also provided for a bi-cameral legislature made up of an appointed Chamber of Peers and an elected Chamber of Deputies. It also delineated a judiciary and special rights guaranteed by the state. Professor D.W. Brogan's words succinctly describe the tenor of Louis XVIII's Charter.

...there was to be equality before the law; the sales of property confiscated under the Revolution were not to be questioned. The positive conquests of the Revolution were to be preserved. It was not to be a restoration of the old regime; it was to be something like the Consulate, with a much greater element of political liberty allowed for than had been permitted by General Bonaparte. ... But the revenue had to be voted annually; all new laws required the assent of the House of Peers and Deputies who could petition freely on all subjects. It was a sketch of a system of government which experience would alter and develop in detail. For its successful growth, it needed peace, tact, mutual forbearance, a sense of realities in all groups who would have to work it. It asked too much of the France of 1814. 9

It is now necessary to describe the two Chambers which constituted France's law-making bodies in conjunction with the King.

The Chamber of Peers was a hereditary assembly over which the Chancellor of France presided "ex officio." Although it was superior in dignity and participated equally with the other Chamber

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in the legislative work of the government, it succeeded but rarely in playing the dominant political role and in forming public opinion. Prince Jules de Polignac rightly observed that the Peers "sat on the second floor and the Deputies on the ground-floor, but the latter had the advantage of being heard in the street whereas the voice of the former got lost in the air. Why was this so? In the first place article 32 of the Charter stipulated that the sessions of the Peers were to be secret. Secondly, the Moniteur, the official journal of the legislature, published only an anemic resume of the debates in the upper house. And thirdly, the number of the Peers was increased so often and so easily that the standing joke of the day was that the upper Chamber had become "l'hôpital des Invalides du ministère." Finally, its nondescript membership consisted of

The stratified sediments of all the political systems which France had tried and rejected in turn during the last twenty-five years: great names of the Ancien Regime,

10 de Bertier de Sauvigny, op. cit., p. 391. My description of the two Chambers is taken largely from this admirable and most modern work on the Restoration; pp. 389-405.

11 The Moniteur universel was established by Charles-Joseph Panckouke and its first number appeared on 5 May 1789. It became an official newspaper devoted especially to the publication of debates and deliberations of the Chambers, decrees, ordinances, diplomas, and treaties. Matters of interior and exterior politics, the administration, literature, science, and the arts were also included in its pages.
Vendean émigrés and royalist conspirators, moderate republicans of the Directory, administrators, soldiers and courtiers of the Empire, creatures of Talleyrand, Decazes and Villèle.12

These were indeed serious handicaps, but Alfred Cobban, the English historian of modern France, has pointed out that "An assembly of the highest dignitaries, lay, ecclesiastical, and military, of both the old regime and the Empire, nominated by the king, formed a decorative, impressive, and workable upper chamber."13

The Chamber of Deputies was the more important of the two houses. The Palais Bourbon, the home of the Deputies, was the genuine center of French political life. Here the significant issues of the day were freely discussed and solutions compatible with the prevailing sentiments of most Frenchmen were reached.

A royal appointee presided over the lower Chamber, but its debates were open to and profoundly influenced the public. Also, the Press gave wider coverage to the Deputies than to the Peers. For example, the speeches of Pierre-Paul Royer-Collard and Benjamin Constant were re-printed a thousand times over and reached a wide audience. In 1826 there were fourteen political journals published in Paris, with an estimated total of 65,000 sub-

12 De Bertier de Sauvigny, op. cit., p. 391.

13 Cobban, op. cit., II, p. 76.
scribers throughout the country. In this same year Baron Charles Dupin, the eminent French statistician, estimated that there was one subscriber for every 427 Frenchmen. The high cost of subscriptions accounted for the small number of subscribers, but many groups pooled their resources and collectively purchased their newspaper. The Journal des Débats and Le Constitutionnel were probably the most influential journals in France despite the fact that they never exceeded 20,000 subscribers.

Irrespective of the relative political importance of each Chamber, one is struck by the order, parliamentary procedure, and the lofty and serious tone with which the issues were discussed. After the King had introduced a new bill it was discussed and voted upon by a majority in one then in the other Chamber, except for the Tax Law which had to be presented first to the Deputies (Charter, art. 17, 18). When a bill came to one of the houses an ad hoc committee was selected to study, analyze, and report on the bill. The members, depending on whether they spoke for the affirmative or the negative, alternated in delivering their speeches from the tribune—a circumstance which contributed not a little to the dignity of the Restoration parliament. Voting on various articles of a bill and current decisions was done by standing or remaining seated. Finally, the entire bill was put to a secret ballot. Each member filed by the tribune and deposited a ball—white for yes; black for no—into
an urn. Regular attendance also testifies to the dedication of the Restoration parliamentarian. True, he had fewer distractions than the present-day senator or congressman, and a good part of each day was his own. He usually began his day between one and one-thirty in the afternoon and finished between five and five-thirty. Occasionally, a meeting might be prolonged until six o'clock. A legislative session lasted approximately six months, beginning usually in late December or early January and ending in June or July.

Three political groups represented the division of opinion among the people of France: the Ultra-Royalists, the Moderates, and the Liberals. In the mid 1820's the Ultra-Royalists were the majority party. The elections of 24 February 1824 had given them such overwhelming supremacy that Louis XVIII referred to the Chamber of Deputies as "la Chambre introuvable retrouvée." ¹⁴

The Ultras, as they were commonly called, were essentially the party of the emigres and most of their leaders had long lived abroad. They accepted the Charter as an evil, but they hoped temporary, necessity and although they did not scruple to make use of its machinery to serve their own interests, they retained a rooted belief in the divine right of Kings, unfettered by constitutions. They had no intention of trying to resuscitate the Ancien Regime with all its anomalies, but they

¹⁴Bastid, op. cit., p. 105. The "Chambre introuvable" resulted from the 22 August 1815 elections in which the Ultra-Royalists gained a large majority. Under pressure from the Allies, Louis XVIII dissolved the Chamber and called for new elections (5 Sept. 1816).
did hope to effect the return of property confiscated by
the Revolution, to gain preferments for themselves, to
reassert their social superiority, to restore the politi-
cal influence of the clergy, and to obtain a revision
of the Concordat.15

The more restrained Ultras preferred to strive for their ends
by political maneuvering. Their leaders were the philosopher
Joseph de Maistre, Villèle, the Ultra Prime Minister whose
knowledge of finance never allowed him to become a whole-hearted
Ultra,16 and the brilliant but eccentric Chateaubriand before
his break with Villele. But the fanatic fringe, sometimes
dubbed the "Ultra-Ultras," chose extreme measures to secure their
goals. The famous theorist and notorious extremist Louis-Gabriel
de Bonald led the Ultra-Ultra faction. Despite this division
in their ranks, the Ultras came closest to being homogeneous.17
With Charles X solidly behind them, it was not surprising that
the Ultras reached the height of their political power in the
mid 1820's. The enactment of the Laws of Sacrilege and Indemnity
was a real if transitory expression of that power.

Closer to the Center stood the Moderate Royalists. A


16Wolf, op. cit., p. 58.

17Gordon Wright, France in Modern Times, (Chicago: Rand
more amorphous party than the Ultras, the Moderates were led by a small group of intellectuals known as "Doctrinaires." The parliamentarian-philosopher Pierre-Paul Royer-Collard and the historian Francois Guizot were their principal spokesmen and they based their political aspirations on the Charter. Both the Doctrinaires and the Moderates looked upon the Charter as an ideal instrument of government because it rested "on a strong king, a hereditary nobility, and an influential bourgeoisie whose wealthiest leaders were represented in parliament."18 The Charter, however, did not extend the franchise widely enough—the electorate numbered between 88,000 and 110,000, for only Frenchmen of thirty or more who paid at least 300 francs a year in direct taxation had the right to vote. The Moderates and their leaders failed to perceive this flaw and thereby reduced their effectiveness during the Villele ministry. Finally, the Royalist Opposition drew many of its members from the Moderates, thus further depleting their strength.

On the left stood the Liberals whose sophisticated political creed

believed . . . in the maintenance of social order and in the essential limitation of power to certain well-defined classes, but it believed that social order would be not disturbed but strengthened by the accession to power of

18 Ibid., p. 130.
the hitherto excluded middle class. It was rigidly opposed to any wide extension of the suffrage, and as antidemocratic as any Conservative. The Liberals' most glaring weakness was in championing a narrow and uninspiring brand of freedom which was so restricted to a class that "it virtually made of freedom but an extension of privilege." Noted more for their brilliant individuals than for united and concerted action, the Liberals listed leaders like Prosper de Barante, Achille-Léon de Broglie, Benjamin Constant, and Charles de Remusat on their roster. In general, the Liberals opposed Villèle's ministry; in particular they were determined adversaries of the Sacrilege, Indemnity, and Press Laws, and of the 1823 Spanish intervention. A more radical Liberal faction, the "Charbonnerie," was formed with the definite object of overthrowing the Bourbon dynasty. Its activities were probably not unknown to intellectuals like Victor Cousin and Jouffroy and were connived at by Liberal deputies like Manuel and Lafayette, but its attempts to foment revolution by the insurrectionary outbreaks which occurred in four or five towns during 1822 were quelled without difficulty.

Paris was the one arena in France where political struggles, issues, and ideas were followed and appreciated—and this only by an interested segment of the well-to-do classes. As Balzac

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20Ibid., p. 36.

21Bury, op. cit., p. 29.
so admirably described in *Le Père Goriot*, the main occupation of
the middle and lower classes was climbing the social ladder.
Moreover, the limited electorate and the small newspaper cir-
culation almost guaranteed that a very thin strata of society
would be touched by France's political life. Indeed, Paris was
so much of a political colossus that Benjamin Constant wrote in
1824: "Aujourd'hui il n'y a de nation que dans la capitale."22

The Provinces were far removed from the center of political
activity. The huge number of illiterates, difficulties in com-
munications, and the virtual seclusion of most rural communities
were in great part responsible for the gulf which isolated the
Provinces. In 1822 the Paris newspapers had been printing
accounts of shocking conditions in rural areas. Anxious to
ascertain the truth, the English Ambassador sent out an observer
to collect first-hand information. Despite his anti-royalist
bias, the observer was impressed by the peace and prosperity he
found in the Provinces, and also noted the minimal role the gov-
ernment played in provincial life.

Outside of the cities newspapers are seldom read and
political discussion are almost ignored. The govern-
ment is neither hated nor liked. There is little in-
terest in its pace and its influence for good or for

evil is but lightly felt. It seems as though things just move along by themselves without anyone interfering...23

The drowsy pace of provincial life could, however, be ruffled by elections, court trials, and missions; but, in general, its quiet isolated, and customary ways went undisturbed.

By far the most important question of the 1820's was the religious question. Religion was the leaven in the political dough of the Restoration, and the bread that resulted was an unpalatable mass.

The malaise produced by the religious question stemmed, in part, from the Concordat of 1801, one of the important legacies inherited from the Empire. By means of this Concordat Napoleon and the Pope had determined the relations of Church and State in France, and the Organic Articles subsequently issued by Napoleon, subjected the Church to a degree of State control as strict as any that had been imposed by the Ancien Régime, and in their endeavours to resist this control the clergy tended to look more and more beyond the Alps to the Pope as the defender of their cause. So already there was beginning that ultramontane movement among French Catholics which was ....... to appeal to Bishops and ordinary clergy alike. Within his diocese, however, the Bishop now, as the result of the Concordat, had a more absolute control over his clergy.24

The religious situation was also aggravated by the Church's

23 Ibid., p. 390.
interference in the political sphere and by the attempts of politicians to drag the Church into politics. Some elements in the Church made an attempt "to annul the Napoleonic Concordat and return to the relations between Church and state that had prevailed under the ancien régime; but the terms of the Concordat—and this is perhaps the ultimate judgment on it—were too favourable for the Papacy to abandon and the negotiation for its revision proved abortive." In brief, "Napoleon had attempted to use the Concordat to reduce the Church to the role of an instrument of the state; under the Restoration there seemed a danger that the state might be made the instrument of the Church." Gallicanism, already an anachronism during the Restoration, experienced another surge. Despite the efforts of Joseph de Maistre and Felicite-Robert de Lamennais, men in high places insisted on protecting the political and ecclesiastical liberties of the Gallican Church. And protected they were when the bishops were forbidden to deal directly with the Holy See and when Leo XII's Jubilee encyclical of May 1824 was banned because it condemned Indifferentism and certain biblical societies.

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26 Cobban, op. cit., II, p. 83.
27 Ibid., II, p. 84.
The situation deteriorated further when the Pope wrote to Louis XVIII on 4 June 1824. Leo XII deplored the fact that the Church in France was afforded little protection by law; that the word "sacrilege" had been deleted from the 1824 Bill on Crimes Committed in Churches; and that other cults were being put on the same footing as Roman Catholicism. The Pope also pointed out that it was to the King's advantage to protect the Church because good Catholics made good Royalists. Leo concluded by reminding the King that Christian princes should be the defenders of the Church, not its masters.29

The Pope's letter caused "un coup de tonnerre" at the French court. In his reply of 20 July the King assured the Pontiff that he would continue to protect the Church's rights and interests, "but he would also reconcile the latter with the rights of the Crown and maintain harmony among his subjects."30 To indicate his satisfaction with this attitude, Leo XII visited the French national Church in Rome on the Feast of Saint Louis.

Yet, despite the good intentions of Louis XVIII, Gallican principles continued to prevail in France, and they continued to do so to an even greater degree under Charles X, Papal bulls and decrees as well as the correspondence of bishops were

29Ibid., I, pt. 2, p. 38.

still subject to governmental inspection and approval. These and other practices of the ministry again strained Franco-Papal relations while, at the same time, Charles X was assuring the new papal nuncio, Luigi Lambruschini, of his "piété et soumission filiales."

Meanwhile, however, laws disadvantageous to both the Crown and the Church were passed in parliament. These laws—on sacrilege, on communities of religious women, and on increasing the Cult budget—were concrete manifestations of that "war" which Guizot spoke of in his Mémoires. "War was declared upon society in the name of the Church, and society gave the Church blow for blow. A deplorable chaos resulted in which the good and the bad, the true and the false, the just and the unjust were confused and indiscriminately assailed by both sides." 31 Guizot diagnosed the complex causes of this situation when he judged that the Church, by distracting herself from her proper mission and plunging into temporal affairs, had widened the rift between believers and non-believers and caused their ranks to tighten. He concluded by stating that "the 18th century reappeared bearing arms; Voltaire, Rousseau, Diderot, and their most mediocre disciples again infiltrated every level of society recruiting

31 Guizot, op. cit., I, p. 274.
numerous battalions. The agents of this "neo-enlightenment" found a soil ready to receive the seeds of Liberalism.

In the struggle between Church and State the French clergy played a dominant role. Confident of government backing, they sought to stem the rising tide of opposition by forcing their flock to regress to the old religious and political order. To attain this goal absolute submission of minds became a necessity and coercion the means. At the time of Charles X's coronation, a newspaper of the opposition printed the following cry of exasperation: Every conscience is tormented; one can neither be born, nor live, nor die in peace. Apparently, this was no exaggeration. Newspapers carried almost daily accounts of young girls forced to enter convents by a priest or an over-zealous Catholic. Lurid tales spoke of young men of Lutheran or Calvinistic leanings secretly abjuring their faith. For many notable conversions to Catholicism, liberal newspapers retaliated by

32 Ibid., I, p. 274.

33 Achille de Vaulabelle, Histoire des deux restaurations: Chute de l'empire. (Paris: Perrotin, 1852), vol. VI, p. 351. The following account is based chiefly on de Vaulabelle (pp. 351-57), a historian of Liberal leanings who was an eye-witness of these events; and on de Bertier de Sauvigny, op. cit., p. 419 whose account is more balanced.

34 Ibid., VI, p. 351.
telling the story of a priest who had become a Protestant. The press also made capital of several clerical practices which irritated the faithful and created unrest and resentment. For example, the nuptial blessing was often denied in marriages where both parties were not Catholics; one had to prove that he had fulfilled all his religious duties in order to serve as a sponsor at Baptism; a "billet de confession" had to be shown by the man who expected an alms. At certain times the whole rhythm of town life would be upset by the demands of the clergy; in 1825 at Besançon, for example, the coming of the missionaries with their para-liturgical services upset the routine of city life. All, even the military, had to attend the procession. The ceremony lasted eight hours, during which time the gates of the city were closed and no one was allowed entry or exit. Of course, many were docile, but a considerable number of the faithful reacted against such clerical practices.

The Church and society clashed on another battlefield—the Theater and Literature. To lessen the effect of the theater, religious services were often held at the same time as the plays. The clergy continued "cette mascarade du XIIIe siècle se promenant au milieu de XIXe siècle" by enlisting police aid to invade

bookshops and forbid the sale of certain books deemed harmful to the Church. Boccaccio, Voltaire, Rousseau, d'Alembert, Diderot, and Volney were some of the authors whose works were prohibited.

Another scandal was the unusually large number of denials of Christian burial. As might be expected, the press played up these incidents in a sensational manner. High and low alike were denied Christian burial unless the last rites of the Church had been administered. A contemporary relates that "A president of the royal court of Poitiers was spending a few days at Saint-Jean-d'Angely where he fell ill and died without having seen a priest. The local clergy, resisting the entreaties of the members of the tribunal and the King's attorney, refused him ecclesiastical burial." 36

The older members of the clergy were more lenient in their interpretation of Church laws. They were generally better educated and supported the old maxims of Gallicanism. The younger clergy, on the other hand, were much more intransigent, displayed a tendency to redeem their ignorance "par un fanatisme a tous crins," and were more inclined to follow Lamennais and his Ultramontane doctrines. They were, for the most part, products of the Compagnie de Saint-Sulpice whose spirit can be gleaned from the advice sent by its superior, M. Mollevaut, to one of his former

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36 Ibid., VI, p. 357.
students who had just been made professor at the Seminary of Le Mans:

Dread novelties and become devoted to the tradition of the Fathers of the Church. Fear to nourish the mind with a curiosity that kills the action of grace. Remember that the majority of your listeners will fulfill the ministry in the countryside with good old peasants. From this you can judge what will be useful for your seminarians.37

Such directives would hardly prepare a priest to labor among the more sophisticated classes of Paris and other large cities. Count Rudolph Apponyi, an attache to the Austrian embassy in Paris, bears out this judgment in a letter written on 21 March 1826. "We are taking tremendous trouble," he writes, "to find a German confessor who is also reasonable; for the local ecclesiastics exaggerate beyond all limits."38 Apponyi's words are also an indictment. A similar indictment was registered against the episcopate by the papal nuncio in 1826. "We can truthfully say that France has never had pastors who were more edifying or more virtuous. One could only wish that they were more learned and more educated."39 Commenting on episcopal ineffectiveness, de Bertier de Sauvigny blames the lack of real rapport between

37De Bertier de Sauvigny, op. cit., p. 419.
39De Bertier de Sauvigny, op. cit., p. 416.
the bishop and his flock. He concludes his remarks with a word on pastoral letters.

There was nothing more mediocre than those pastoral letters which rang out with the ritualistic groanings on "the evils of the times," the pathos of the dying 18th century, and the vague and abstract logomachy behind which were hidden an ignorance of reality and helplessness to adapt to the needs of a new society. 40

The man who made the most of this internecine warfare was the violently anti-clerical writer, Pierre-Jean Béranger. He used all the impious and obscene aspects of this war to make the ink that fed his vitriolic pen. Nothing stopped him. He insulted and ridiculed pastors, nuns, the Jesuits, the Pope, and even God. One of his more famous songs, "Le Sacre de Charles le Simple" (i.e. Charles X), landed him in jail temporarily. "What hurts and displeases the most about his impiety is not its impudent coarseness but its vulgar nonsense. His theology is that of the traveling salesman." 41 Béranger's method was perfectly suited to reach all the members of society because it appealed to man's lowest instincts. As a demolition tool Béranger's songs were without equal during the Restoration.

Among the members of the clergy, the Jesuits were singled out for particular attention by the enemies of the Church and

40Ibid., p. 416.

the Crown. There were only 320 Jesuits in the whole of France in 1824. Although their effectiveness exceeded their numbers, it never reached the exaggerated proportions claimed by the Duchess of Abrantes and other contemporaries. But it was precisely because the Jesuits were somewhat successful that they became the target of their enemies. The word "Jesuit" was "a symbol and by shooting at it one also shot at Catholicism, the Church, and legitimate monarchy." Even a random reading of the Liberal press, especially *Le Constitutionnel*, the *Courrier français*, and the *Journal des Débats*, shows how relentlessly the Society of Jesus was blamed for every evil that befell society.

This mania to calumniate the followers of Loyola often fell into the realm of the fantastic and the comic.

Another favorite whipping-boy of the press was the Jesuit-led "Congregation," a lay organization specializing in works of piety and charity and in making public profession of its faith when occasions demanded. Several other groups, for example, the

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"Société des bonnes oeuvres" and the "Société catholique des bons livres," were affiliated with the Congregation.\(^{45}\)

It is impossible to measure accurately the influence of the Congregation, but an authority on religious affairs has stated that "At the time of the Restoration members of the Congregation played a leading role in every Catholic enterprise of charity or proselytism."\(^{46}\) The Liberal press did not exaggerate its influence by comparing it to a vast army intent upon the ecclesiastical invasion of France—after the election of 1824 when 120 members of the Congregation were elected to the Deputies that "vast army" seemed to be materializing. As Ultra shock troops the Congregation did not organize plots, but it carried on "a permanent inquisition over the functioning of public authorities and over the opinions of citizens."\(^{47}\) Its moral force, especially in matters religious, was undeniable because the Congregation was an elite outstanding for birth, talent, and virtue. Matthew de Montmorency, Alexis de Noailles, Charles de Breteuil, de Loménie, de Choiseul-Beaupré, de Béthune-Sully, Laennec, Cauchy, Hennequin, Sebastien Laurentie, Eugène Peltier, and Jules de Polignac were some of the distinguished men on its roster.\(^{48}\) Little wonder


\(^{46}\) Burnichon, *op. cit.*, I, p. 130.

\(^{47}\) Bastid, *op. cit.*, p. 103.

\(^{48}\) Burnichon, *op. cit.*, pp. 120, 129.
that Count de Mun enthusiastically referred to it as "le berceau de toute la vie religieuse de notre époque." 49

This, then, was the famous Congregation. What was the environment within which it tried to pursue its aims? Prince Metternich, the conservative Austrian Chancellor visited Paris in 1825. On March 28 he penned a report to his Emperor giving the following detailed description of France's interior condition.

....I have known France under the Empire and, later, when the Allied armies were there. Ten years later I find her giving way to herself and to the development of her constitutional institutions. I find that her situation has grown much worse. ....

It is today only that one feels the repercussions of the Revolution. The Revolution has cut asunder all the most sacred ties, and the fatal system which the Restoration has introduced in France—a system singularly unsuited for France—is not designed to re-establish what was destroyed. Thus it is that French society is wearing itself out and decomposing in the struggle of passions. The government is powerless and can only achieve some good by giving in to these same passions....

The present ministers are full of good will; but what they lack are definitive means. They are trying to create some, but many a day will pass before they succeed.

It is difficult to imagine the demoralization of the people. It will be sufficient to submit to Your Majesty the following facts which I have obtained from a good source.

The population of Paris numbers approximately 800,000 souls. Within this number there are only 80,000 women and 10,000 men who profess some sort of religion. More than a third of the population has never been baptized.

The real task of religion today is to introduce religion. In the Sainte-Genevieve district, inhabited by the dregs of the populace, it is safe to believe that out of twenty households only one lives in the state of matrimony; and at least half do not even appear on the civil registers.

49 Ibid., I, p. 116.
The only means that may work here are missions similar to those sent to convert savages.

The Government has adopted this system, but is morally disparaged and materially hampered by the Liberal party because of it.

During the last ten years, therefore since the Restoration and the proclamation of the freedom of the press which is contemporaneous with the re-establishment of the Bourbons, about 2,700,000 pieces of atheistic, anti-religious, obscene, and immoral literature have been sold. The proof that the revolutionary party favors this kind of sale is that these works are re-sold at half price to young men and women, and very often, they are simply given away.

In the upper classes, at least, immorality is tempered by good education. But even there the thirst for money and titles reigns supreme. Right now twenty-two members of the Chamber of Deputies have requested the Peerage from the Government.

These deplorable conditions, confirmed by the testimony of the former Councillor of State Baron de Saint-Chamans and by Monsignor Macchi, the papal nuncio, certainly warranted the existence of the Congregation; but even its most outstanding successes were unable to check these evils.

Church interference in politics, political meddling in Church affairs, the manner in which churchmen lorded it over the faithful, the relatively low moral climate of the nation, especially in the Paris area, all these factors concurred to produce an hypocritical attitude which was at the root of many Restoration ills. The Liberal press was especially guilty. It

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51 De Bertier de Sauvigny, op. cit., p. 430.
refrained from directly attacking religion because it was "de-
fended" by the Government, but "in the name of religion, it
furiously assailed ministers who were too devout, Missions,
religious orders, exterior manifestations of faith and piety,
and zealous priests who were made out to be either fanatics or
ambitious." 52 Frenchmen of every rank were also being infected
by this moral virus by the Church's overly strict attitude which
forced many to feign the practice of their religion in order to
maintain their reputations.

Perhaps the most noteworthy expression of this hypocrisy,
and at the same time a sure sign of the futility of the Bourbon
monarchy, was the parliamentary enactment of the Law of Sacrilege
in 1825. The purpose of this thesis is to study the enactment
of this Law as a means of probing the opinion of the various
parties on the subject of religion—a subject of intense interest
during the Restoration—and of exposing some of the salient
features of a dying constitutional monarchy. Special attention
will be paid to the significance of the Law, its place in the
patchwork of Restoration politics, and its symbolical character.

52 Burnichon, op. cit., I, p. 316.
53 Abrantes, op. cit., VI, p. 188.
CHAPTER II

1824 BILL AGAINST CRIMES COMMITTED IN CHURCHES

Although intent upon closing "les dernières plaies de la révolution," Louis XVIII did not allude to a special bill against crimes committed in churches when he opened the current session of parliament on 23 March 1824. Nevertheless, acting on behalf of the King, Charles, comte de Peyronnet, the Keeper of the Seals, introduced such a bill in the Chamber of Peers on April 5. Of extreme Ultra royalist opinions, Peyronnet's name was associated with the unpopular measures of the Villèle administration, such as the Press laws and the law of Primogeniture. In his presentation of the bill, Peyronnet said that the good of society rested squarely on the religious health of the nation. This religious health was now undergoing a severe test in the form of crimes, especially thefts, committed in Catholic and Protestant

1 Le Moniteur universel, 1824, p. 393.

Churches. Persons guilty of this crime had clearly lost all respect for God and the things of God, and therefore, "la société peut tout craindre de la part de celui qui a tout bravé." The law, as Peyronnet proposed it, aimed at

theft and offenses against modesty committed in edifices dedicated to the State religion or other cults legally recognized in France; at the disorders that disturb religious ceremonies; and at the destruction and mutilation of holy images and monuments consecrated to the State religion or other cults.

No one denied, Peyronnet asserted, that these crimes should be punished. The good order of society demanded this much. The new bill proposed a scale of penalties the severity of which depended on the gravity of the accompanying circumstances. The bill also introduced something entirely new to the Penal Code when it demanded the same punishment for crimes committed in churches as for those perpetrated in private homes. In short, the new legislation asked for the death penalty or life imprisonment at hard labor for the more serious crimes committed in churches legally recognized by the State. The over-riding question was why should religion have less protection from the law than society?

The time was ripe to redress this imbalance in the Penal Code, and Peyronnet's concluding remarks echoed this feeling. "The Law Codes of France must not remain exposed any longer to the

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3 Moniteur, 1824, p. 393.
4 Ibid., 1824, p. 393.
reproach of having been the only Codes in the world to forget that the religion of a people is its dearest concern."

The bill that Peyronnet introduced to the Peers on 5 April 1824 read as follows:

Art. 1. Whoever is found guilty of theft committed in a building dedicated to the exercise of the State religion or any other cult legally established in France, the theft being qualified by the other articles of this law, will fall under the penalties enumerated by articles 381, 382, and 386 of No. 1 of the Penal Code.

Art. 2. Everyone guilty of stealing sacred vessels or other objects destined for the celebration of the ceremonies of the State religion or of another cult legally established in France, the theft being committed in a building consecrated to religion or to one of the cults the exercise of which is authorized, will be punished by temporary imprisonment at hard labor.

Art. 3. All persons found guilty of having violated sexual modesty in an edifice dedicated to the exercise of the State religion or of a cult legally established in France, will be imprisoned from three to five years and will pay a fine ranging from 500 to 10,000 francs.

Art. 4. The troubles and disorders foreseen in article 257 of the Penal Code are punishable by the penalties enumerated in this same article, even though the above-mentioned disorders shall have occurred outside of the churches or temples intended for the exercise of authorized cults.

Art. 5. In the cases foreseen by article 257 of the Penal Code, if the monuments, statues or other objects destroyed, demolished, mutilated, or degraded were dedicated to the State religion or to other cults legally authorized in France, the culprit shall be imprisoned from six months to two years and shall pay a fine of from 200 to 2000 francs. The penalty will be from one to five years imprisonment.

5Ibid., 1824, p. 393.
ment and the fine from 1000 to 5000 francs if the crime be perpetrated inside the edifices consecrated to the State religion or to cults legally established in France.

Art. 6. Article 463 of the Penal Code is not applicable to the crimes listed in articles 3, 4, and 5 of the present law.

Neither will it apply to the crimes listed in article 401 of the same Code when these crimes will have been committed inside one of the buildings dedicated to the State religion or to other cults legally established in France.6

Five days later, on April 9, the Chamber of Peers selected a Commission to study the proposed bill. The members of this Commission were Mathieu de Montmorency, Joseph-Marie Portalis, Henri d’Aguesseau, Privat-Joseph Pelet de la Lozère, and the Marquis de Rosambo. 7 The Commission had its share of legal talent in Count Portalis, the president of the Supreme Court of Appeals, and represented most of the political creeds of the Chamber. In short, it was just innocuous enough to be an efficient Commission.

On Tuesday, April 27, Portalis made his report on behalf of the Commission. In the first place, he mentioned the possible objections to the very basis of the Law. He admitted that some would say that religious crimes which do not disturb the peace ought to be left to the malefactor’s conscience, whereas those that disrupt society ought to be censured by ecclesiastical and not by civil authorities. Furthermore, others would most certain-

6 Ibid., 1824, pp. 423-24. The French text of this bill is given in Appendix I.
7 Ibid., 1824, p. 453.
ly object to the Law on the grounds that it was incomplete and timid.

Portalis then turned to the basic principles involved. He showed, in a general way, that religion needed the protection of society and concluded by saying: "No doubt laws must employ their power to consolidate the empire of religion which, in turn, consolidates so effectively the empire of the laws. A set of laws based upon religious indifference would cause nothing less than the retrogression of civilization itself." Thus, laws against religious crimes are meant to protect society and not to avenge God. Furthermore, social psychology has changed. Religious fanaticism is no longer a characteristic of present-day life. A criminal, no matter how depraved, is no longer impelled by a hatred of religion to commit simple sacrilege—profanation for the sake of profanation; rather, his motive is now base gain. Society, therefore needs no law against simple sacrilege. The bill under discussion is aimed at crimes perpetrated from a motive of gain. It follows, then, that the word "sacrilege" has no place in the law and that the bill must be placed within a completely secular framework.

Portalis then suggested that each article of the bill contain its own penalty rather than refer to the penalties in the

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Penal Code. He further stressed the point that the wording of the law should be as clear as possible in order to avoid errors. In general, penalties reserved for delicts committed inside churches and other places of worship should be more severe than those indicated in the Penal Code, for "le but d'une loi pénale est encore plus de prévenir le crime que de le punir." Portalis then turned his attention to crimes committed outside of churches and temples and reported that the parliamentary Commission had but two changes to suggest, changes calculated to bring the Bill in line with the Penal Code. He concluded his report with this admonition:

Above all we must guard against the seductive idea of making a complete law for everything; rarely is it given to man to produce something complete; and in general the codes are nothing but digests of those few laws which, true to the nature of things tried in the crucible of time, survive their authors and are the epitome of the wisdom of the centuries and the experience of generations.

In the name of the Commission, Portalis then submitted to the Chamber of Peers the following amended version of Peyronnet's Bill:

Art. 1. Whoever is found guilty of theft committed in a building dedicated to the exercise of the State religion or of a cult legally established in France, will suffer

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9Ibid., 1824, p. 531.
10Ibid., 1824, p. 531.
11Ibid., 1824, p. 532.
the death penalty if the theft was perpetrated under the circumstances determined in article 381 of the Penal Code.

Art. 2. A person found guilty of theft, removal or attempted removal of sacred vessels, committed in an edifice dedicated to the exercise of the State religion or other cult legally established in France, will be condemned to life imprisonment at hard labor if two of the five circumstances mentioned in article 381 of the Penal Code accompany the crime.

He will incur the same penalty, who is found guilty of any other robbery committed in the same places with the aid of violence and with two of the four circumstances enunciated in the above-mentioned article.

Art. 3. Anyone guilty of stealing sacred vessels or other objects destined for the celebration of the ceremonies of the State religion or of a cult legally established in France, shall be sentenced to temporary imprisonment at hard labor if the theft took place within an edifice dedicated to the State religion or to one of the cults whose exercise is legally authorized.

Art. 4. Anyone guilty of theft committed at night or by two or more persons in an edifice dedicated to the exercise of the State religion or of a cult legally established in France shall be punished by imprisonment.

Art. 5. Anyone guilty of having offended sexual modesty within an edifice dedicated to the State religion or to a cult legally established in France, shall be imprisoned from three to five years and pay a fine of from 500 to 10,000 francs.

Art. 6. Anyone guilty of causing trouble or disorder, even outside an edifice dedicated to the exercise of the State religion or of a cult legally established in France, when the said disorders have retarded, interrupted or prevented the ceremonies of this religion or the exercise of that cult, will incur the penalty of imprisonment from six days to three months and pay a fine of from 16 to 300 francs.

Art. 7. In the cases mentioned in article 267 of the Penal Code, if the monuments, statues, or other objects destroyed, demolished, mutilated or degraded were dedicated to the State religion or to other cults legally established in France, the guilty person will be punished by imprison-
ment from six months to two years and pay a fine of from 200 to 2000 francs.

The penalty will be between one and five years imprisonment, and the fine between 1000 and 5000 francs if the delict was committed inside an edifice dedicated to the State religion or to other cults legally established in France.

Art. 8. Article 463 of the Penal Code is not applicable to the crimes mentioned in articles 5, 6, and 7 of the present law.

Also, this same article is not applicable to the delicts foreseen by article 401 of the same Code when these delicts will have been committed inside an edifice dedicated to the State religion or to another cult legally established in France. 12

Although the Commission added two articles to the bill, the amended version was clearer and more concise than the original. The Commission's bill, in keeping with extremist Ultra tendencies, rendered the death penalty explicit, added the penalty of life imprisonment at hard labor, and further specified the circumstances of time and complicity. More work remained to be done on the bill, but the Peers decided to start the general discussion on the following Friday, April 30.

Before examining the general discussion, an excerpt from the Mémorial catholique, the ultramontane journal published by Lamennais, will provide a good sample of extreme Catholic opinion concerning the Commission's bill. After stating that the bill did not provide suitable penalties for simple sacrilege, i.e. profanation without theft, the Mémorial concluded that the bill

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12 Ibid., 1824, p. 532. The French text of this amended version is given in Appendix II.
"once more ratified indifference in matters of religion and compromised with impiety rather than repressed it."\textsuperscript{13} For their part, the Protestants bristled at the very attempt to "divinize" the Law of France. The supposition that the secular arm should avenge a decidedly Roman Catholic Godhead—a peculiar trait of the Restoration—angered not only the Protestants but also those untainted by Gallican sympathies.

When the Peers had convened on the appointed day, Peyronnet, the Crown spokesman for the bill, prefaced the discussion by saying that after consultation he and the King had accepted the amendments proposed by the Commission. The Crown, he continued, did not see the wisdom of article 2 which limited the aggravating circumstances to two, whereas the original bill had required three, including violence. The new version, "removal or attempted removal of sacred vessels," was meaningless when separated from the concept of theft and added nothing when joined to this same concept.\textsuperscript{14} Peyronnet regarded this addition as completely useless, and hence urged it be stricken from the bill.

The discussion now began in earnest. The first speaker was Anne-Ludovic Cardinal de la Fare, Archbishop of Sens. The Cardinal, a staunch Ultra-royalist, agreed with the basic principles


\textsuperscript{14}\textit{Moniteur}, 1824, p. 551.
of the law, but could not adopt the form in which they were cast. De la Fare found fault with a law that gave equal consideration to Catholics and Protestants alike. According to His Eminence, it is time to put a stop to this grievous confusion and to bestow on the State religion all the consideration it deserves and which the "cahiers de bailliages" of France had demanded for it in 1789, and which it obtained from the immortal author of the Charter in 1814. Enthroned ever since the baptism of Clovis, honored by a long series of monarchs who prided themselves on the title "Roi tres Chretien," professed by 30 million Frenchmen when the total population of the other cults does not exceed one million; it seems that these noble prerogatives should have been the source of a few advantages to our religion, but on the contrary, one is even more profoundly struck by the sort of predilection too often given among us to other cults.\textsuperscript{15}

In his speech, the Cardinal was voicing one of the radical objections which the Catholics had against this bill. After a digression on the Church's pecuniary predicament, de la Fare insisted on the need for a new law to protect what was peculiar to the State religion, the Real Presence, for example; in short, a new law that did not fear to label the theft of sacred vessels as profanation and sacrilege.\textsuperscript{16} Such a law, he hoped, would satisfy the Catholic clergy without giving offense to the ministers of other religions. And in order to implement this hope,

\textsuperscript{15}Ibid., 1824, p. 551.

the Cardinal proposed the enactment of two distinct laws—one for Catholics and one for other cults.

The next speaker to ascend the tribune was the Moderate Royalist, the Marquis Trophime de Lally-Tolendal, who favored the bill. Despite his generally favorable attitude, the Marquis did find one fault with the bill, namely the death penalty. This was not a new stand for de Lally-Tolendal. During the trial of Marshal Ney in 1815 the Marquis had proposed deportation rather than death for the saviour of the French Army after Moscow. Therefore, as a substitute for capital punishment, de Lally-Tolendal suggested life imprisonment at hard labor and a "reparation of honor made on bended knee before the door of the Church desecrated by the profanation." 17 The Marquis was the first to bring up the subject of a "reparation of honor," a subject which was to recur frequently at various stages of these debates. Just before leaving the rostrum, de Lally-Tolendal indulged in a bit of rebuttal by stating that most of the observations of Cardinal de la Fare were "complètement étrangères à l'objet de la discussion.

Count Louis Lemercier, a Moderate Royalist, followed de Lally-Tolendal to the tribune and restricted his speech to the penalties proposed in the bill. 19 Lemercier thought that the

17 Ibid., 1824, p. 551.
18 Ibid., 1824, p. 551.
19 Ibid., 1824, pp. 551-57.
penalties were much too rigorous, especially in view of their possible application to a poor man from the "départements." A Parisian might well be able to sustain the losses involved in the fines and imprisonments, but never a man from the Midi or the West. Therefore, Lemercier suggested that the fine and imprisonment minima be lowered, but that the maximum remain as a deterrent to future crimes. After placing his amendments before the Chamber, the Count urged the adoption of the bill.

The Bishop of Troyes, Etienne de Boulogne, expressed joy that, finally, the laws of France would no longer be called atheistic. As an Ultra he was delighted that God and His Church would now find their rightful places in the legislation of the land. The bill, however, caused the bishop some anxieties. Would the bill be able to offer sufficient guarantees to Catholicism? Were the penalties proportioned to the gravity of the crimes? The bishop doubted it. "Why is the word sacrilege not found in the bill? Why is it that the bill seems to punish the attempt against property more than the attempt against the holiness of things?"20 This was a sensitive point for the Catholic faction, and as a spokesman for this faction the bishop of Troyes was the first to propose the introduction of the word sacrilege in the bill. Although he was not completely satisfied with the bill, de Boulogne said he would approve the bill if

20Ibid., 1824, p. 552.
this word were included.

There were, strangely enough, no more speakers and Chamber procedure stipulated that the next step should be the deliberation on the individual amendments and articles of the bill. The amended version submitted by the Commission served as the basis for the debate rather than the original bill.21

The amendment dividing the bill into two separate laws—one dealing with the State religion, the second with other cults—proposed by Cardinal de la Fare was strongly opposed by Peyronnet and the Liberal Peer de Broglie, but approved by the Archbishop of Paris, Hyacinthe Quelen.22 De Broglie argued that it would be impossible for the Chamber to vote on the amendment because it was too abstract; further definition was needed. Furthermore, it would be difficult to introduce the same amendment no matter how specific it might be. On the other hand, Peyronnet fought de la Fare’s amendment on the grounds of its uselessness. He expressed his objections in the following words:

They want a division which would neither make the law better nor its execution more certain. They are attacking the form, not the basis of the law; they assure us that the whole thing amounts to differentiating well between the State religion and other cults, but if this

21Ibid., 1824, p. 552.

22Ibid., 1824, p. 552.
necessary distinction is not as sharp as they want, is it not present in a real and effective manner in the bill? 23

Peyronnet proved his point and so the "parti-prêtre" had to try another approach. The Archbishop of Paris now suggested that each article be divided in two sections—a section for Catholics and one for non-Catholics. De la Fare readily consented to this suggestion, but Count Dominique de Bastard, a lawyer of known liberal leanings, retaliated by claiming that this new proposal offended the spirit of the Charter, especially article 7 which placed the ministers of all authorized religions on an equal salary basis. 24 Peyronnet, in agreement with de Bastard, added that "The collective enunciation of the Catholic religion and other cults, either in the Charter or in the Law of 25 March 1822, has in no way altered the respect due to the State religion. Why give up a custom which has proved to be convenient up to our own day?" 25

The remainder of the debate on article 1 concerned de Lally-Tolendal's proposal to do away with capital punishment and substitute life imprisonment at hard labor. De Lally-Tolendal was

23 Ibid., 1824, p. 552.

24 Article 7 of the Charter reads as follows: "Les ministres de la religion catholique, apostolique et romaine, et ceux des autres cultes chrétiens reçoivent seuls des traitements du Trésor royal."

25 Moniteur, 1824, p. 552. The law of 25 March 1822 gave equal protection to all ministers of religion.
convinced that no penalty was just unless it was also necessary, and as yet, none of the speakers had demonstrated to his satisfaction the necessity of the death penalty. Count Louis de Pontécoulant, a Liberal, opposed this amendment because it destroyed the similarity between the bill and the law, already in the Penal Code, which carried the death sentence for theft committed in an inhabited house. The present bill, he claimed, had been established on this similarity and to remove it would destroy the bill. His argument had some merit because the death penalty was retained.

The rest of this Friday was given over to the debate on article 2. The deliberation centered on the words "removal or attempted removal." Peyronnet was not pleased with this phrase because it was useless and tended to bring the notion of simple sacrilege back into the law. The Liberal Peer, Etienne Pasquier, was not satisfied either and offered a substitute phrase, namely, "violation ou destruction des saintes hosties." If this phrase did not please the Peers, Pasquier suggested that the entire article be re-worked by the Commission. The Bishop of Hermopolis, Denis-Luc Frayssinous, the Ultra minister of ecclesiastical affairs, hitherto oddly silent on this bill, now stepped into the breach.

26 Ibid., 1824, p. 553.

27 Ibid., 1824, p. 553.
with his own version of article 2 which, he believed, would conciliate both parties. Frayssinous' version ran thus: "Whoever steals the sacred vessels enclosed in the tabernacle of a Catholic Church, with or without breaking in, will be punished with the same penalty." Although Frayssinous' amendment aroused little interest at the moment, it was later accepted almost verbatim.

Peyronnet now turned to Pasquier's amendment. The Keeper of the Seals, displaying his influence and that of the Ultras, argued that, since the Commission would most likely feel that the phrase in question, i.e. "removal or attempted removal," would have to be deleted, it should not be replaced by Pasquier's suggested wording which Peyronnet described as too metaphysical and generic to be admitted in the law—a fact that would tend to make the work of non-Catholic juries doubly difficult. Pasquier, of course, rose to defend himself and insisted that he had had no intention of burdening the law with metaphysical terms, and declared that his intention had been to assure the punishment of a certain, concrete deed, namely, the violation of the tabernacle and the destruction of sacred hosts. Another Liberal Peer, Elie de Cazes, suggested that the words "sciennament" and

28 Ibid., 1824, p. 553. Duvergier de Hauranne has this note on Frayssinous: "Dans ce débat, vaillamment soutenu par le garde des sceaux, le grand maître de l'Université, l'évêque d'Hermopolis, était fort embarrassé. Il ne pouvait se séparer ni du ministère ni des autres évêques, et il cherchait un terme moyen sans le trouver." op. cit., VII, p. 564.
"malicieusement" be added to qualify the profanation of the sacred hosts, for this after all, had been the object of all the various versions under discussion. Finally, the Commission was ordered to examine the merit of these versions and the meeting was adjourned.

The Chamber convened on the following day, Saturday, May 1, to hear Portalis report on the Commission's deliberations. The Commission, he said, had decided that it would be in the best interests of all if article 2 specified the material circumstances in which profanation would necessarily occur. Among these circumstances, the Commission had chosen "as the easiest to grasp and as the most appropriate to impress the intellect that of the violation of the tabernacle because it must always be supposed that the sacred vessels enclosed therein contain sacred hosts." Furthermore, it was decided to divide article 2 in two parts. The division was adopted and the President asked that the debate concentrate on the first part of this new article.

The discussion on part one of the new article was short. With Peyronnet leading the way the Peers promptly adopted his new reading which ran thus: "He will be condemned to life imprisonment at hard labor who is found guilty of having stolen the

29Ibid., 1824, p. 553.
30Ibid., 1824, p. 553.
sacred vessels, with or without breaking into the tabernacle, in an edifice dedicated to the State religion." This new version, be it noted, was almost identical with that which the Commission had proposed at the beginning of the debate—a further indication of Peyronnet's power and influence.

Article 3, newly divided into two sections and revamped to satisfy the Penal Code, now came up for deliberation. De Lally-Tolendal, in keeping with his earlier views, objected to the penalty and desired its mitigation to temporary imprisonment at hard labor. Peyronnet countered this objection by asserting that the circumstances of violence coupled with the circumstances mentioned in article 381 of the Penal Code rendered the crime punishable by life imprisonment at hard labor according to article 382 of the same Code. Peyronnet won his point. The Archbishop of Paris then suggested that a distinction be made between the sacred vessels used by Catholics and those employed by non-Catholics; the penalty, however, was to remain the same in both cases. As he had done before, Peyronnet showed that the proposal would rob non-Catholics of their equality before the law. Article 3 was then adopted by the Chamber without further modification.

The Peers now turned to article 4. The only objector,

31 Ibid., 1824, p. 554.
32 Ibid., 1824, p. 554.
Lemercier, proposed a distinction between sacred vessels properly so-called and other vessels used in religious ceremonies and a corresponding difference in the penalties. Peyronnet was able to avoid Lemercier's proposal by indicating the wide latitude—5 to 20 years—judges would have in determining suitable sentences. Article 4 was therefore adopted without any change being made.

The remaining five articles of the bill were approved with comparative ease. The Peers were just about ready to take the next step of voting on the entire bill when the Archbishop of Paris, Quelen, speaking on behalf of the other ecclesiastical Peers, expressed the apprehension they felt at cooperating with the enactment of a law that decreed the death penalty. "As ministers of a God who came on earth to save and not to ruin, should they call forth the severities of the law or even give it their consent?" The bishops, Quelen went on, have therefore decided to abstain from voting on a bill involving capital punishment. This sudden volte-face caused much bewilderment in the political world. It is true that the bishops had wanted a law that would both protect the Church and repress sacrileges. The

33 Ibid., 1824, p. 555.
34 Ibid., 1824, p. 555.
bill upon which the Peers were not to cast their ballots did not meet the necessary episcopal requirements as was clear from the speeches of de la Fare and de Boulogne. Hence, the bishops' abstention, based as it was on capital punishment, was merely a screen to hide their disapproval of the bill.

When the vote was taken the final tally showed 136 yees and 11 nays. Thus the bill passed in the Chamber of Peers and the abstention of the bishops proved to be of no consequence to the final outcome.

Now that the bill had overcome this first hurdle, it had to be submitted to the Chamber of Deputies. Accordingly, the scene of the debate now shifted to the Palais Bourbon; the day was Saturday, May 8. Peyronnet, the Crown's chief spokesman for the bill, again had the task of introducing the bill.

Full of confidence after an overwhelming victory in the Peers, Peyronnet introduced the bill with a few generalities on the nature of law, religion, and society. He also claimed that the Restoration had inherited an incomplete Penal Code. "The error of the authors of the Penal Code," he said, "was not that they forgot religion but that they gave it inadequate protection." This lacuna had naturally led the Courts of Appeal and the Royal

36 Moniteur, 1824, p. 555.
37 Ibid., 1824, p. 574.
Courts to differ in their interpretations and verdicts regarding crimes committed in Churches. The Courts of Appeal looked upon theft committed in Churches as similar to theft committed in an inhabited house, hence punishable by death. The Royal Courts, however, regarded Churches as uninhabited buildings, hence its penalties were lighter.\textsuperscript{38} The lack of clarity and precision of language, largely responsible for these conflicting interpretations, had to be corrected. Therefore, Peyronnet urged the Deputies to remedy the situation "so that the accused might be able to understand and defend himself; and that the jurors might realize and be convinced by the facts."\textsuperscript{39} But in the very next breath Peyronnet gave the impression of disregarding his advice. Although he admitted that the bill attacked sacrileges and other crimes committed in or out of churches, he made it clear that he was against introducing the words "sacrilège simple" into the bill. His argumentation was tenuous in the extreme and was based on the supposition that simple sacrilege no longer existed. It was his contention--no doubt inspired by Portalis' earlier statement to the Peers--that "present-day society no longer gives those loathsome examples of corruption and impiety. The fear of God does not always prevent sacrilege,\textsuperscript{39}


\textsuperscript{39}Moniteur, 1824, p. 574.
but the hatred of God no longer leads to it." On the one hand, Peyronnet was doing his best to push the passage of a law that would be effective against sacrilege and, on the other hand, he was trying to keep the word "sacrilege" out of the text of the bill. In so doing, he was acting according to one of his favorite principles: "Ce qui importe le plus n'est pas la dénomination du crime, mais sa répression." In theory this was a fine principle, but in practice it contradicted his most recent advice to the Deputies.

Although Peyronnet had adopted a more rigorous attitude than the one taken in his introductory speech to the Peers, he did not deceive the "parti-prêtre." Supported by the Bishop of Troyes, the ultra-Catholic journal La Quotidienne "formally declared that to refuse to punish simple sacrilege was a violation of the Charter which proclaimed the Catholic religion the State religion."

Markedly Ultra-Royalist in its political convictions, the Commission chosen to examine the bill was made up of Fer-

\textsuperscript{40} Ibid., 1824, p. 571.

\textsuperscript{41} Ibid., 1824, p. 571. This phrase is often repeated in Peyronnet's speeches.

\textsuperscript{42} Duvergier de Hauranne, \textit{op. cit.}, VIII, p. 24.

\textsuperscript{43} Ibid., VIII, p. 24.
d'André de Berthier, de la Bourdonnaie, de Sesmaisons, Borel de Brétizel, Bacot, Pardessus, Preverend de la Boutresse, de GalardTerraube, and the Commission's reporter Clausel de Coussergues. The latter never gave his report because on June 7 Peyronnet, acting at the King's request, abruptly and without explanation, withdrew the bill from the lower Chamber. 

It is almost impossible to decide whether this was an act of resistance or an act of submission on the part of the Government. The historian de Vaulabelle, an eye-witness of these events, claims that the Ministry withdrew the bill because it feared a veto. 45 A modern French historian, S. Charléty, is of the opinion that "The Chamber of Deputies, having decided . . . to punish the offenses against the State religion, considered the bill so insufficient that the ministry withdrew it." 46 Finally, when considering the motive behind the bishops' refusal to vote and the numbers that the Catholic Ultras and the Congregation enjoyed in the elected house and the fact that they "held Villelè and his associates by the throat," 47 it is difficult to escape the conclusion that the bill was withdrawn because it did not

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44 Moniteur, 1824, p. 757. The Ordinance withdrawing the bill is dated June 5.


46 Charléty, op. cit., p. 247.

comply with the aspirations of the "parti-pretre." This same faction would reassert itself and a more determined and more successful effort would be made in 1825.
CHAPTER III

1825

DEBATE ON THE BILL IN THE CHAMBER OF PEERS

Charles X opened the 1825 legislative session on 22 December 1824. In his speech he plagiarized his deceased brother's ideas by assuring his hearers that several bills the aim of which was to close "les dernières plaies de la révolution" would be presented to the Assembly. "These bills had been conceived during Louis XVIII's reign, but they belonged less to his own will than to the views of his ministers or to the demands of their party; the session would have been about the same even if Charles X had not ascended the throne." Among these bills was the one on Sacrilege which the powerful Catholic faction strongly supported and which, for this very reason, would make an impact on the Chamber. The 1824 session had already prepared the ministry by putting it through a dress rehearsal with the Bill against Crimes Committed in churches.

1De Barante, Vie politique de M. Royer-Collard, (Paris: Didier et Cie, 1861), vol. II, p. 239.
As in 1824, Peyronnet presented the Sacriilege bill on behalf of the Crown. He explained the reasons for it by alluding to the 1824 bill which was already well known to the Peers who had approved it. The new bill, however, introduced the word "sacrilege" against which Peyronnet had persistently struggled in 1824. So, in a sense, his present task was an especially bitter one. To one magistrate astonished at seeing him propose something he had formerly opposed, he replied: "Nous sommes heureux d'avoir échappé à une loi contre le blasphème." Yet, Peyronnet felt that the bill would, as it were, strike a "coup" for religion and, as such, merited total concentration and effort on his part.

Peyronnet insisted on the distinction between sacrilegious theft (vol sacrilège) and sacrilegious profanation (sacrilège simple). The former had already received the approval of the Peers, and so the debate should concentrate on the latter. As a matter of fact, Titles II and III of the bill were almost replicas of the 1824 bill. Title I, on the other hand, dealt solely with sacrilegious profanation, so Peyronnet's speech concentrated especially on the first title. To be effective he

2Moniteur, 1825, pp. 30-31. The bill was presented on 4 January 1825.


4Moniteur, 1825, p. 31.
would have to convince the Peers that

the dearest and most sacred aspects of religion are being offended; that society, the interests of which dovetail with those of religion, is being attacked in what it most cherishes and venerates; that the people are being insulted in their strongest feelings, their profoundest views, and their most consoling hopes.5

As the debate unfolded it became evident that Peyronnet gradually persuaded himself that the new bill would reconcile "les intérêts de l'humanité, de la religion et de la justice."6

On January 11 the Peers selected a Commission composed of Portalis, de Rosambo, de Riviere, Achille-Charles de Breteuil, and de Pastoret.7 De Breteuil, an Ultra and a member of the Congregation, was appointed reporter for the Commission and he gave his report on January 29.

Taking his cue from Peyronnet, the reporter pointed out that the previous year's bill had been incomplete and had not reconciled the interests of religion and justice. The Sacrilege bill, on the other hand, would do just that. By foreseeing and thus preventing simple sacrileges, by endowing French legislation with a greater sense of morality, completeness, and religion the new bill would succeed in giving the State religion the homage

5Ibid., 1825, p. 31.
6Ibid., 1825, p. 31.
7Ibid., 1825, pp. 63-64.
it deserved. The shocking incidents of simple sacrileges at Bischoffseim (sic), Martel, and Tours proved to de Breteuil that this kind of crime existed. Furthermore, argued de Breteuil, precedent was on the side of the Sacrilege bill as was evident by the Laws of 1503, 1586, and 1670 which defined sacrilege as a crime meriting capital punishment. Moreover, 538 cases of sacrilegious theft had been reported during the last four years. Therefore, urged the reporter, "let us not fear to admit that, without exception, the greatest of crimes is that which is defined by article I of the bill."\(^8\) After more comments on legal technicalities, de Breteuil assured the Peers that "The aim of a penal law is more to prevent a crime than to punish it. It is our duty, gentlemen, to seek both all the means of inspiring the horror the crime deserved and the fear of the punishment it ought to incur."\(^9\)

Title I was the new element in the bill and it was here, principally, that the Commission offered some suggestions. A comparison of the bill and the suggestions of the Commission will bring out the contrast more sharply.

\(^8\)Ibid., 1825, p. 133.

\(^9\)Ibid., 1825, p. 133.
Title I
On Sacrilege

Art. 1. The profanation of sacred vessels and of consecrated hosts is the crime of sacrilege.

Art. 2. A profanation is every act of violence committed voluntarily, and out of hatred and contempt for religion on the sacred vessels or on consecrated hosts.

Art. 3. There is legal proof of consecration when the hosts are placed in the tabernacle, or exposed in the monstrance, and when the priest gives communion or takes viaticum to the sick.

There is legal proof of the consecration of the ciborium, monstrance, paten, and the chalice used in the ceremonies of religion at the moment of the crime.

There is also legal proof of the consecration of the ciborium and monstrance enclosed in the tabernacle of the church.

Art. 4. The profanation of sacred vessels is punished by death.

The profanation of the sacred hosts is punishable by the penalty of parricide.

Art. 1. (unchanged)

Art. 2. (unchanged)

Art. 3. (unchanged)

Art. 4. The profanation of sacred vessels is punished by death if it is accompanied by the following two circumstances:

1.- If, at the moment of the crime, the sacred vessels contained some consecrated hosts;

2.- If, the profanation was public.

The profanation is public when committed in a public place and
in the presence of several persons.

Art. 5. The profanation of sacred vessels is punished by life imprisonment at hard labor if only the second circumstance mentioned in the above article accompanies it.

Art. 6. The profanation of consecrated hosts committed publicly is punished by the penalty of parricide.

Art. 7. The edifices dedicated to the exercise of the Roman, Catholic, and Apostolic religion are included in the number of edifices mentioned in article 381 of the Penal Code.

Therefore, he will undergo the death penalty who is found guilty of having stolen sacred vessels in an edifice dedicated to the State religion, with or without breaking and entering the tabernacle.

Art. 8

The same penalties will be incurred for:

1. The theft of sacred vessels committed in an edifice dedicated to the exercise of the State religion, without the circumstances determined by the preceding article, but with two of the five circumstances foreseen by article 381 of the Penal Code.
2- Every theft committed in the same places with the aid of violence and with two of the first four circumstances enumerated in the above-mentioned article.

Art. 8.
Everyone will be punished by temporary imprisonment at hard labor who is found guilty of stealing sacred vessels or other objects destined to the celebration of the ceremonies of the State religion, in an edifice dedicated to this same religion, even though none of the circumstances in art. 361 of the Penal Code accompanied the crime.

Art. 9.
He will suffer the penalty of imprisonment who is found guilty of theft, if the theft was committed at night or by two or more persons in an edifice dedicated to the State religion.

Title III

On Crimes committed in churches or on objects consecrated to religion.

Art. 10.
All persons will be punished by imprisonment from 3 to 5 years and will pay a fine of from 500 to 10,000 francs, who are found guilty of offending sexual modesty when this delict will have been committed in an edifice dedicated to the State religion.

Art. 11.
They will pay a fine of from 16 to 300 francs and be imprisoned from six days to three months who by troubles and disorders committed even outside an edifice dedicated to the State religion will have retarded, interrupted, or prevented the ceremonies of religion.

Art. 12.
In the cases foreseen by article 257 of the Penal Code, if the monuments, statues, and other objects destroyed, demolished, mutilated, and degraded were dedicated to the State religion, the guilty one will be punished by imprisonment from six months to two years, and pay a fine from 200 to 2000 francs. The penalty will be imprisonment from one to five years and the fine from 1000 to 5000 francs, if the crime was committed inside an edifice dedicated to the State religion.
Art. 13.
Article 463 of the Penal Code is not applicable to the crimes foreseen in articles 10, 11, and 12 of the present law.
Neither will it apply to the crimes foreseen in article 401 of the same Code, when these crimes will have been committed inside an edifice dedicated to the State religion.

Title IV
General dispositions

Art. 14.
The dispositions of titles II and III of the present law are applicable to all crimes and delicts committed in edifices dedicated to cults legally established in France.

Art. 15.
The dispositions from which the present law does not detract will continue to be executed.

Art. 16.
The dispositions of articles 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the present law are applicable to all crimes and delicts committed in edifices dedicated to cults legally established in France.

Art. 17.
ROYALIST OPPOSITION
The discussion of the Sacrilege bill in the Chamber of Peers started on February 10. Since the Commission had been in favor of the bill, the first speaker, according to parliamentary usage, spoke against it. Count Louis-Matthieu Molé, a man who had opposed the Villerè ministry ever since its beginning, attacked Peyronnet for supporting a law which he had previously admitted to be useless. "What constraint, therefore, obliges the minister

10 Ibid., 1825, p. 134. The French text of both bills is in Appendix III.
to present this law which is so ill-suited to the needs of the times, so little in accord with the doctrines he has taught and with the bill he presented last year and which was then adopted by the Chamber?\textsuperscript{11} The 1824 bill, according to Molé, had been perfectly adequate to the legislative needs of the country because it had dealt with crimes. This Sacrilege bill, on the other hand, aimed at sin, an area in which the law had no competence, and Molé feared that once the principle of including sin within the domain of civil law were admitted, there would be no telling how far it would be extended. It might even be applied to offenses against dogmas or breaches of ecclesiastical discipline. It was certain, he felt, that the bill would lead to all kinds of excesses.

No law code is perfect or complete, Molé continued, but there is no need to invent crimes in order to make unnecessary and stupid laws. How can a law be enacted which cannot, of its very nature, apply to all Frenchmen? "Is a man guilty of sacrilege who, while desecrating the sacred hosts, does not believe the dogma of the Real Presence?....Therefore, you will punish him for his lack of faith; you will treat him as a parricide for not being a Catholic."\textsuperscript{12} Clearly, Title I is an infraction of the equality

\textsuperscript{11}\textit{Ibid.}, 1825, p. 175.

\textsuperscript{12}\textit{Ibid.}, 1825, p. 176.
of cults which the Charter promises to every Frenchman.

Further opposition to the bill was voiced two days later, February 12, by Count Lanjuinais. Jean-Denis Lanjuinais, a strong believer in political Gallicanism, opposed the bill because he viewed it as a submission of the temporal power to spiritual authority. He also resisted the bill on the grounds that the authorities cited by the Royalists, such as Peyronnet and de Villefranche, were inadequate. Peyronnet had used the division of opinion between the Royal Courts and the Courts of Appeal, a division already alluded to, as a pretext to introduce the bill; but, in Lanjuinais' opinion there was no debate at all because the Courts of Appeal were clearly wrong in insisting on the harsher penalties. De Villefrance, a royalist Peer, had used the high incidence of sacrilegious thefts to prove that a law was necessary to prevent simple sacrilege—a contradiction, according to Lanjuinais. Like Mélè, Lanjuinais also bitterly opposed the word "sacrilege" because of the danger of excesses that would follow upon the attempt to punish sin.

But since the bill was unable to protect the mysteries of religion, Lanjuinais had two suggestions of his own. The first was to place a guard within the precincts of the church to assure its security; the second stated that the sacred vessels of gold and silver be replaced by vessels of baser materials, thus mini-

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\textsuperscript{13}Ibid., 1825, p. 193. This debate has already been mentioned; cf. Chapter II, page 46.
mizing temptations. This advice was much too practical and the Royalists had to disregard it to save their bill.

The Royalist Opposition, therefore, rested its case on the futility of the bill which was a direct result of its attempt to avenge the Divinity. Its violation of Charter rights and overly rigorous penalties also demanded the bill's rejection. Moreover, the Opposition, in its statement that the bill would necessarily lead to excesses in other spheres, expressed a fear which was shared simultaneously by the Liberals and all the opponents of the "parti-prêtre."

ROYALIST SUPPORTERS OF THE BILL

The first Peer to take up the Royalist standard was Count de la Bourdonnaye who spoke to the Assembly on February 10. His unimpressive speech in favor of the bill expressed both his joy that religion would now be protected by law, and his dismay at the poor wording of the bill. De la Bourdonnaye pointed out that too many conditions had to be fulfilled before the law could be applied. "Quel vaste champ aux argumentations des accusés et à l'indulgence de jury?" 14

De Lally-Tolendal had been perfectly satisfied with the 1824 bill. He ironically observed, somewhat along the same lines as de la Bourdonnaye that

the Government, believing it impossible to omit the ter-

14 Ibid., 1825, p. 176.
rible word "sacrilege" from the law, has at least taken every possible precaution to prevent its abuse by restricting its application to two cases only, and by demanding in express terms an examination of the intention in order to convict the defendant. The Commission has further added to these guarantees by proposing to punish only sacrilege committed publicly. Therefore the law can be considered much more useless than dangerous....15

De Lally-Tolendal had opposed the death penalty in 1824 and he did so again. His arguments contained some of the most notable flashes of rhetoric seen in the early stages of the debate. After his brilliant plea, de Lally-Tolendal made his support of the bill conditional upon the acceptance of an amendment for article 4 which substituted life imprisonment at hard labor for the death penalty, and required that the culprit make a public apology at the scene of his crime.16

On the next day, February 11, the Royalist cause was championed by Peyronnet. In the first place, he tried to neutralize the objection to the bill's uselessness by claiming that it was high time that the State render "a solemn homage to religion and teach the nation a lofty lesson of wisdom and piety."17 In itself this was a weak rationalization for his support of the bill. The Keeper of the Seals also repeated one of the Commission's suggestions by pointing out that simple sacrilege

15Ibid., 1825, p. 176.

16Ibid., 1825, p. 176.

17Ibid., 1825, p. 188 bis.
should come to the attention of the law only when the crime was public. Sin could never be part of civil law.

Peyronnet's anger was quite evident when he dealt with Molié's objection that an unbeliever could never be convicted of the crime of sacrilege.

Good God! What have we come to? Since when is it sufficient to disapprove of the principle of the laws in order not to be subject to their authority? The legislator consults only the nature of things and the interests of society; he consults neither personal opinion nor the isolated interests of the members of society. If this were not so he would only be making judgments instead of enacting laws; because individual decisions are judgments; but laws, on the contrary, are universal rules which apply indiscriminately to all the subjects of the State.\(^\text{19}\)

Peyronnet upheld the universal application of laws, for any exceptions to this principle would lead to anarchy. But he seems to have misunderstood Molié's concern for the exceptions to the law. Molié had simply indicated the exceptions to prove that the bill was not universal.

To the objection that the bill in question would violate the equality of cult supposedly upheld by the Charter, Peyronnet replied: "I recognize equality of protection promised to the cults authorized in the kingdom, and I respect it. But I do not know what is meant by equality of cult... Liberty of cult and

\(^{18}\text{Ibid.}, 1825, p. 188 ter.\)

\(^{19}\text{Ibid.}, 1825, p. 188 ter.\)
equality of protection are one and the same to me."20

In his peroration, Peyronnet defended the death penalty as a punishment befitting the crime. The history of Egypt, Athens, and Numa's Rome are witnesses to the fact that the ultimate penalty was reserved for sacrilege.

The most exaggerated, and perhaps the most outlandish Royalist views were presented by Viscount Louis-Gabriel de Bonald. After testifying to the religious ferment then bubbling throughout Europe, de Bonald excoriated the laws of France for their silence concerning sacrileges. This silence was scandalous and it had to be broken if religion was to occupy its rightful place in society.

His inflexible religious beliefs caused him to criticize the speakers—some were his own party members—who had asked for clemency. But in one case, at least, de Bonald seemed to be aware of the harshness of his opinions and suggested that an "amende honorable" be substituted for mutilation. Despite this expression of mercy, de Bonald was the most tenacious advocate of the death penalty; he regretted the fact that "the death penalty was not pronounced often enough by our Codes. . . ."21

He also believed that human life was at the free disposal of society. The following is a good example of his pitiless logic:

20 Ibid., 1825, p. 188 ter.
21 Ibid., 1825, p. 209.
"If good men owe their lives to society by way of service, evil-doers owe their lives to it by way of example." Needless to say, this ruthless logic led him to vote for the death penalty.

The Saviour interceded on behalf of his executioners, but His Father did not hear his prayer. Rather he extended the punishment to the whole people who now, without leader, land, or altar, bear the anathema which has struck them. Furthermore, what else are you doing by imposing the death penalty on one guilty of sacrilege besides sending him before his natural judge?

After this "modest proposal" the rest of the Royalists speakers came as an anticlimax. Count Lemercier, who spoke on the 1824 bill, repeated the same objection which he had made earlier, namely the excessive rigor of the penalties. Count Cesar-Laurent de Chastellux, a former field marshal and "émigré," neatly summarized the arguments in a vapid speech. The last Royalist speaker, Duke Edouard de Fitz-James, a great friend of the Villèlle ministry, believed that the bill, by protecting

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22Ibid., 1825, p. 194.

23Ibid., 1825, p. 194. N.B. This last sentence ("Furthermore... judge?") is not found in the Moniteur speeches because speakers were allowed to correct their speeches before they were printed. The phrase is attributed to de Bonald by many historians. It is reproduced here from Charlety, op. cit., p. 248; and from de Bertier de Sauvigny, op. cit., p. 513.

24Ibid., 1825, p. 194.

25Ibid., 1825, p. 209.
religion, would check the growing corruption in society. As the last Ultra speaker Fitz-James gave up a splendid opportunity to summarize the Royalist position and to present its case more forcefully, but warned instead against the over-rated influence of the Jesuits.26

After reviewing this parade of Royalists, one gets the impression that Peyronnet could have managed very well without them. His arguments were by far the most appealing and the most persuasive. Certainly, most of the credit belongs to him for the adoption of the bill. The fulminations of de Bonald and the uninspiring presentation of Chastellux, if anything, retarded the Royalist cause.

LIBERALS

If most Liberals of the Restoration hated democracy with an implacable hatred, this did not make them allies of the Royalists. The Liberals firmly believed in a "bourgeois" regime because the "bourgeoisie" was the class par excellence. The Liberals also liked to think of themselves as men of reason as opposed to the men of dogma or of crude sensation personified especially by the Ultra-Royalists.27 Now the first, and perhaps

26Ibid., 1825, p. 210. Fitz-James probably refers to the anti Jesuit attacks in the Liberal press. No mention of the Jesuits was ever made in the debates except by Fitz-James.

the most noteworthy, Liberal to speak for the "party of reason" was the Duke de Broglie who addressed the Peers on February 11. After referring to the Congregation to whose influence the administration had succumbed, de Broglie found no trouble accepting the bill as a means of assuring the security of places of worship—titles II, III, and IV covered this aspect. Title I, however, must be rejected at all costs, because simple sacrilege did not exist, and because it gave Catholicism extra protection. If Title I were made law, the dogma of the Real Presence would also become law and religious persecution would inevitably follow. De Broglie argued that making a law out of a theological dogma "leads immediately to the final expression of intolerance, and to the invasion of civil authority by religious authority. This is the real question presented by the bill, and before a question of such magnitude all others must decline and fade away." This was de Broglie's most crucial observation and most telling argument against the bill.

Dominique-François Comte de Bastard, a persistent Liberal, considered the Sacrilege bill as the most important of the 1825 session, but his long and poorly organized speech against the death penalty was calculated to make little impression on the Chamber. Nevertheless, de Bastard asked for an amendment which

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28 *Moniteur*, 1825, p. 186.

29 *Ibid.*, 1825, p. 188.
will be considered later during the deliberation on the articles.

One of the most influential Liberals, de Barante, spoke on February 12. He insisted that sacrilege must be viewed in its relation to society, not in its relation to religion. Therein lay the merit of the 1824 bill. The present bill had been devised to strike a blow for religion and that was its major flaw. De Barante also pointed out that "infinite penalties were necessary to avenge God's infinite majesty, but that the penalties demanded by the bill were too excessive to avenge society." The authors of the bill seemed to have been conscious of this dilemma because the conditions inserted in the bill, especially the condition of the intention, made the bill useless. The Commission must have had the same qualms when it added the condition of publicity thereby making the application of the bill even more impossible.

De Barante claimed that the bill would lead to a vicious confusion of the spiritual and temporal powers. The fear of such an eventuality motivated him to inject a plea for the separation of Church and State which was really out of order but in keeping with Liberal tenets. Religion needed no laws to defend it; "l'Evangile suffit aux défenseurs de la religion." De Barante concluded by refusing to support the bill so long as Title I was part of it.

30 Ibid., 1825, p. 194.
31 Ibid., 1825, p. 194.
Prompted by the motive of clarifying his 1824 position, Pasquier addressed the Chamber on February 14. The fact that Peyronnet identified the present bill with the 1824 bill annoyed Pasquier. He maintained that there was a big difference between the two bills. Because the Peers had adopted the 1824 bill was no reason to believe that the bill now before the Chamber would be voted automatically. The contrary was more likely to be the case since the Peers had rejected the word "sacrilege" in 1824.

As the avowed adversary of the word "sacrilege" and the death penalty as the sanction for this type of crime, Pasquier pointed out that death and mutilation were gradually disappearing from the Penal Code and that in keeping with this trend a greater good would be accomplished by recalling "that spirit of clemency which alone has caused the Church to triumph over the fury of her enemies and which assures her universal dominion." 33

The last speaker, de Pontécoulant, departed somewhat from the Liberal pattern by raising the question of sanity. He argued that anyone guilty of sacrilege as described in Title I was obviously insane. Therefore, the question of intention could not be applied in this case. It followed, too, that an insane criminal could not be punished, but the good of society demanded that

32 What annoyed Pasquier even more was that Peyronnet had plagiarized his words of 1824 to support his presentation of the 1825 bill. Pasquier's words served as an ideal transition from crimes committed in churches to sacrileges and Peyronnet cannot be censured for using them. *Moniteur*, 1825, p. 210.

33 *Moniteur*, 1825, p. 209.
the culprit be somehow confined. Pontécoulant therefore proposed a suitable amendment.\textsuperscript{34} After the presentation of this amendment, the Chamber ordered the termination of the discussion.

It must be noted that, unlike 1824, the ecclesiastical Peers took no part in the discussion. Not a word was heard from Cardinal de la Fare or the bishop of Troyes, Etienne de Boulogne. Quelen, the Archbishop of Paris, was conspicuous by his absence from the Chamber.\textsuperscript{35} The experiences of a year ago along with their repercussions had convinced him, perhaps, that his absence would do more for the Church than another ill-fated suggestion. It is possible too that the bishops did not want to burden the Chamber with the old arguments used in 1824. In any case, the final scenes of this drama will reveal the bishops' strategy.

**DEBATE ON THE ARTICLES**

Before the actual debate started, de Breteuil, the reporter for the Commission, made his final résumé of the discussion on February 14. The adversaries of the bill attacked it on the grounds that sacrilege was a violation of a religious precept and was, therefore, beyond the competence of Civil Law. They also fought the bill because of its uselessness, unconstitutionality, severity, and tendency to disrupt the jury system. Partisans


\textsuperscript{35}\textit{La Constitutionnel}, Mardi, 15 février (1825), p. 2.
of the bill, on the other hand, had shown that, as the most heinous of crimes, sacrilege fell within the domain of Civil Law and ought to be severly but justly punished. De Breteuil, confident that Peyronnet had removed any unconstitutional blemishes from the bill, heartily endorsed it and proposed that de Bonald's suggestion—that an "amende honorable" replace the mutilation customarily joined to the penalty for parricide—be incorporated in order to give the defendant a chance to repent and expiate his crime.36

The first Peer to speak on the articles was the Royalist Marquis Charles-Francois de Bonnay. He suggested that, since many were frightened by the term sacrilege in Title I of the bill, the term "des attentats sacrilèges" be substituted.37 This new chapter heading would include the profanation of sacred vessels and consecrated hosts and the definitions suggested by the Commission wherein the public nature of the crime was emphasized.

Peyronnet attacked de Bonnay's proposal. He argued that if the word sacrilege were truly inconvenient it should be erased from the bill rather than be re-phrased in a way that would neither clarify the issue nor free men of the anxieties they felt.38

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37 Ibid., 1825, p. 211.
38 Ibid., 1825, p. 211.
Peyronnet also pointed out that the term "attentat" was foreign to the mind of the formulators of the bill. "The dominant idea of the bill has been to punish sacrilege only when it has been completed by an act of profanation, and no doubt the worthy author of the amendment (De Bonnay) does not wish the penalty to be applied for a mere attempt." 39

De Bonnay, however, was not so easily side-tracked. He immediately came up with another solution. Since the term "attentat sacrilège" might prove inconvenient, would the phrase "crime sacrilège" be more satisfactory? No, it would not, rejoined Peyronnet, for the very reason that the amendment would still confuse the profanation of sacred vessels with that of consecrated hosts just as it had done under the title of "attentat sacrilège." De Bonnay tenaciously insisted on the adoption of his amendment, citing the enunciation of Title II, "Des vols sacrilèges," as proof of its aptness. In his rejoinder Peyronnet remarked that the phrase in question was being used in the enunciation of the title only and not in the text of the bill. 40

The Commission's phraseology, he continued, was perfectly adequate, but many still continued to object to the word "sacrilège." If it could be proved that its use were dangerous, Peyronnet

39 Ibid., 1825, p. 211.
40 Ibid., 1825, p. 211.
would be the first to urge that it be stricken from the bill, but thus far the discussion had shown that this was not the case. Actually, the debate on the word "sacrilege" was drawing the Chamber's attention away from de Bonnay's amendment. Payronnet insisted that priority be given to the amendment under deliberation, whereas Pasquier insisted on the necessity "of discussing first that amendment which was most remote from the bill." Before anyone could throw more dust in the eyes of the Peers, the meeting was adjourned.

After a day's rest the Peers met again on Wednesday, February 16 to resume the debate. In order to clarify matters, the President brought the Chamber up to date on Monday's work. After article 1 came up for debate, a question of priority had arisen among the three amendments. Of the three amendments, Saint-Roman's was most directly concerned with article 1. It ran thus: "The profanation of sacred vessels and sacred hosts constitutes the crime of sacrilege." The second amendment, de Bonnay's, read:

**Art. 1. The profanation of sacred vessels or of consecrated hosts, committed by assault, voluntarily, in the presence of several persons, and through hatred and contempt for religion, is attempted sacrilege (attentat sacrilege).**

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^4Ibid., 1825, p. 211.

^5Ibid., 1825, p. 211.
and as such is punishable by death preceded by a reparation of honor (amende honorable) before the main door of the church where the crime was committed.\textsuperscript{43}

De Bastard's amendment was the third; it stated:

Art. 1. Every person guilty of a public attempt on consecrated hosts, the attempt being committed voluntarily, by assault, and out of hatred and contempt for religion, shall be deported.

Art. 2. Every person guilty of a public attempt on sacred vessels, the attempt being committed voluntarily, by assault, and out of hatred and contempt for religion, shall be imprisoned.\textsuperscript{44}

De Bastard was given permission to speak first. Basically, his argument was this. The crime described in Title I was badly defined and the penalties went beyond the bounds of just moderation. Since the object of the bill was the repression of "l'outrage aux saintes hosties," why not use these very words in the bill instead of the more generic term "sacrilège"? Everyone admitted that the penalties were instituted to protect society and not to avenge God. Therefore, it was difficult to see how capital punishment could be justly introduced. De Bastard showed another inconsistency in the bill. "If this Title were adopted," he argued, "profanation would be punished by death if the culprit had not removed the sacred vessels, while the same crime would be punished only by life imprisonment at hard labor if the culprit

\textsuperscript{43}Ibid., 1825, p. 211.

\textsuperscript{44}Ibid., 1825, p. 211.
had added the crime of theft to that of profanation." De Bastard's plea for lighter penalties fell on deaf ears. Furthermore, despite the support of de Broglie and Molé, de Bastard's attempt to substitute "attentat" for "sacrilège" was voted down 118 to 97; thus showing once again the influence of Peyronnet and the desire of the Peers to keep that word in the bill.46

Before leaving the Luxembourg the Peers adopted de Bonnay's amendment in so far as it applied to article 1. To secure the adoption of his amendment, de Bonnay had struck out the words "attentats sacrilèges" and replaced it with Saint-Roman's version, namely "constitue le crime de sacrilège." Article 1 now read as follows: "The profanation of sacred vessels and sacred hosts constitutes the crime of sacrilege."47

The Peers met again on Thursday to continue their debate. Articles 2 and 3 were adopted in the form in which they had been presented by the Commission. However, the debate on article 4 which dealt with the penalty for simple sacrilege was longer and more acrimonious than the previous debates because of the nature of the subject. The first speaker wanted to substitute banishment for the death penalty and the second speaker, de Lally-Tolendal,

46 Ibid., 1825, p. 212.
47 Ibid., 1825, p. 212.
also rejected capital punishment by proposing an even more detailed amendment than the one he had mentioned on February 10.\textsuperscript{48} De Chastellux, on the other hand, favored capital punishment because it would inspire Frenchmen at large with a respect for authority, law, and religion—a sentiment highly favored by conservative monarchists. The Marquis Pierre-Joseph de Maleville, an enlightened defender of the monarchy and liberal institutions, spoke against the article and brought up one of the most fundamental arguments against capital punishment. Arguing from theological grounds, Maleville said that sacrilege "is an offense against God but does not harm him; sacrilege disturbs society but does not directly endanger its existence; therefore, it is the greatest of crimes only in one's conscience; but in public life other crimes must be punished more severely than sacrilege."\textsuperscript{49}

After two more speeches—one against the death penalty, the other favoring it—the Peers then deliberated on the amendments suggested for this crucial article.

The Chamber chose to deliberate first on Pontécoulant's amendment which described the guilty person as insane. Mental illness was a new idea in these debates, and it was probably valid as far as it went. Maleville and Montmorency could see no worth in the argument and neither could Peyronnet who des-

\textsuperscript{48}\textit{Ibid.}, 1825, p. 218.

\textsuperscript{49}\textit{Ibid.}, 1825, p. 218.
troyed it with a dilemma.

Either the criminal guilty of sacrilege possesses the use of reason or he does not; if he does, the law which would label him as insane would be a false (menteuze) law that would deprive society of an example necessary to prevent the re-occurrence of similar crimes. If, on the contrary, he is really insane, the law by declaring one guilty who was incapable of volition would be unjust and cruel because it would inflict a severe penalty on a poor unfortunate who should deserve only pity. 

Pontécoulant knew that he had been beaten and he withdrew his amendment.

Next on the agenda was de Lally-Tolendal’s amendment which proposed various degrees of imprisonment at hard labor rather than capital punishment. It also favored the "amende honorable" — the only point on which Peyronnet agreed with de Lally-Tolendal. Peyronnet was the only speaker and he attacked de Lally-Tolendal’s main position. It was a weak attack when compared to his other rebuttals. The Keeper of the Seals did not strengthen his attack when he cited the criminologist Cesare Beccaria, and the jurist Gaetano Filangieri. These legal authorities who taught moderation in penalties agreed that sacrilege should be punished, but they did not say how it was to be punished. Finally, Peyronnet added insult to injury by claiming that the death penalty was the only one capable of sufficiently impressing the lower classes, hardened as they were against a real sense of shame. The upper

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50 Ibid., 1825, p. 218.
classes, on the other hand, would be sufficiently chastened by the mere shame of a penalty and would prefer death to shame and hard labor. Shame, Peyronnet implied, was not part of the lower class personality. The penalty was aimed at the less fortunate members of society because it was expected that offenders against this law would come from the lower classes. Upper class snobbery reached its zenith with these remarks, but Peyronnet’s speech barely achieved its goal—the amendment was rejected 110 to 101.51 Judging by this last vote, Peyronnet seemed to be losing his hold on the Chamber.

On Friday, February 18, the Peers deliberated for the last time on the Sacrilege bill. This final debate was given a touch of immortality by Châteaubriand who now deigned to express his views on the bill. Now that he was at odds with the administration, no one was surprised when he spoke in favor of de Bastard’s amendment. What was strange was that the eminent author of Le Génie du christianisme had remained silent for so long. His short but astute speech noted the minute majority by which two major amendments had been accepted—an indication that the Chamber was fairly evenly divided in its opinion. Therefore, Châteaubriand concluded, about one half of the Peers wanted the abolition of Title I. And its abolition would certainly be a

51Ibid., 1825, p. 219.
blessing! For, without Title I

it became useless to examine if it belonged to religious law or to civil law to define sacrilege.... Neither could the bill then have been blamed for not being similar to a law of protest (loi d'exception), and for being opposed to our political institutions and customs. A minister would not have thought himself obliged to say that if the law were made for the upper classes it could have been different.\(^{52}\)

The barb aimed at Peyronnet was by no means Châteaubriand's most potent argument. He proceeded to show that the bill would satisfy neither its protagonists nor its adversaries. The latter would never see the execution of this article because of the numerous and crippling conditions attached to it. The bill, continued Châteaubriand, was designed to insure impunity rather than to curb it. It was therefore evident that such a useless bill should be rejected by an enlightened and experienced body of legislators.

Of course, pursued Châteaubriand, some would defend the bill on the grounds that a priest was to accompany the condemned and give him the comforts of religion. "But what shall the priest say to the condemned? No doubt he will assure him that Christ forgives him, but nevertheless the law condemns him in Christ's name."\(^{53}\) In Châteaubriand's eyes this was too awkward a position for Christianity. The glory of "his Christianity" was that it

\(^{52}\)Ibid., 1825, p. 243.

\(^{53}\)Ibid., 1825, p. 243.
preferred to forgive rather than punish, and owed its victories
to mercy, and needed the scaffold "que pour le triomphe de ses
martyrs."³⁴

In answering Châteaubriand's speech, Peyronnet reminded the
Chamber that by accepting de Bastard's amendment they would, in
effect, nullify the work they had done the day before. Molé,
however, indicated that this was not the case since the present
amendment was much more in keeping with precedents established
by the Penal Code. Molé's efforts were in vain. The amendment
was voted down by 108 to 104—the slimmest majority so far.³⁵
Besides indicating a lean majority, this ballot also produced a
painful impression both inside and outside the Chamber. Since
the bishops had abstained in 1824 they were expected to do the
same this year. Not only did the bishops vote, but their vote
provided the necessary numbers to give what was otherwise an un-
certain majority.³⁶ This time it was not the Archbishop of Paris,
but Cardinal de la Fare who spoke on behalf of the ecclesiastical
Peers.

After mature examination and the necessary verifications,
the ecclesiastical Peers recognize that if their ministry

⁵⁴Ibid., 1825, p. 243.

⁵⁵Ibid., 1825, p. 243.

⁵⁶Duvergier de Hauranne, op. cit., VIII, p. 213.
and the wish of the Church forbid them to vote as judges when there is question of applying the penal laws, nothing can nor ought to hinder them from participating as members of the legislative body in the formation of all laws without exception, even the so-called penal laws. This was the neat distinction invented to assure the majority. The Liberal press capitalized fully on this unexpected intervention by castigating the bishops.

The next amendment submitted for approval was de Bonald’s. He had asked that the death penalty, preceded by a reparation of honor, be substituted for the penalty of parricide (a parricide had his hand cut off at the wrist before execution). The first speaker, Portalis, opposed this amendment because it did not include the condition of publicity. Portalis argued that publicity was essential where sacrilege was concerned because only the public aspects of a sacrilege were harmful to society. De Bonald retorted that there was no need to mention publicity because it was understood by the legislator. He was supported by Montmorency who, to rest their case on firm ground, argued that there had never been any question of publicity in the 1824 bill. Portalis easily proved that Montmorency’s “ground” was mere quicksand by recalling that in 1824 the Chamber had been dealing with sacrilegious theft, a crime which, of its very nature, did

57Ibid., VIII, p. 214. It was rumored that three bishops, including Quelen, had persisted in their abstention in 1825 (vol, VIII, p. 214, note 1). Cf. also Alfred Nettlement, Histoire de la Restauration, (Paris: Lecoffre Fils et Cie, 1869), vol. VII, p. 73.
not require the condition of publicity. In the face of these arguments de Bonald abandoned his amendment and endorsed article 4 as proposed by the Commission.

The Peers adopted articles 4 and 5. These stated:

Art. 4. The profanation of sacred vessels will be punished by death, if accompanied by the following two circumstances:
1- If the sacred vessels enclosed consecrated hosts at the moment of the crime;
2- If the profanation was committed publicly.
Profanation is committed publicly when it is committed in a public place and in the presence of several persons.

Art. 5. The profanation of sacred vessels will be punished by life imprisonment at hard labor if accompanied by one of the two circumstances mentioned in the preceding article.

As for article 6, Peyronnet made a change which was intended to prevent the limitation of sacrileges to churches only. In Peyronnet's words it was possible "that the profanation of consecrated hosts could take place outside of a church, for example during a procession or when Viaticum was brought to the sick." Although some objected to the new version, it was adopted, and de Bonald's "amende honorable" was well on its way to becoming law. The other articles did not change the complexion of the bill very much and hence were adopted without further ado.

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58 Moniteur, 1825, pp. 243-44.
59 Ibid., 1825, p. 244.
60 Ibid., 1825, p. 244.
Now that all the articles had been examined and either approved or amended, a motion was made to vote on the entire bill. As was expected, the Peers adopted the Sacrilege bill by a vote of 127 to 92. The Chamber then adjourned until the following Tuesday.

Although the Government's victory was not nearly as spectacular as it had been in 1824 when only eleven dissenting votes had been registered, it was apparent from the overall number of voters (147 in 1824; 221 in 1825) that the bill had stirred up much more interest in 1825. Also more Peers, many of whom were noted for their learning, eloquence, and leadership had participated in the discussions and debates in 1825. The bill now moved to the lower Chamber where the Deputies would pass judgment on it.
CHAPTER IV

1825

DEBATE ON THE BILL IN THE CHAMBER OF DEPUTIES

A month elapsed between the approval of the bill in the Chamber of Peers and its presentation to the Deputies on March 17. In his exposition Peyronnet admitted that few objections had been found against the last three titles of the bill. But Title I, "On Sacrilege," had been heavily attacked. "There, all theories and all passions faced one another and could let themselves go." Despite the fact that Title I was of an inflammatory nature, Peyronnet defended it by insisting on the condition, "voie de fait, commise volontairement et par haine ou mépris de la religion," and on the death penalty. His purpose in outlining the bill and showing its motives "was not to justify the severities of the law, but to find excuses for the various dispositions

1Duvergier de Hauranne, op. cit., VIII, p. 269.

2Moniteur, 1825, p. 391.
that made the application of these severities rare and diffi-
cult."3

On March 23 a Commission of nine Deputies, most of them Royalists, was selected.4 Marie-Benigne Chifflet, the Deputy from Doubs and a staunch Royalist, assumed the duties of re-
porter and on April 5 he presented the Commission's report. From
the same vantage point as Peyronnet, Chifflet expressed the Com-
mission's general approval of the bill because, finally, the
State religion would now receive some protection from the laws.
Unfortunately, however, there were two serious objections to the
bill. The first was that it was incomplete and therefore too
many other sacrileges would go unpunished. Secondly, the con-
dition endorsed by Peyronnet, "volontairement, publiquement, par
haïne ou mépris de la religion," was tailor-made to assure the
impunity of the culprit.5 These were grave defects, to be sure,
but Chifflet expressed the hope that the Deputies would complete
the bill, and that juries would not be too indulgent towards a
crime so detrimental to the moral fiber of society.6

3Nettement, op. cit., VII, p. 75.

4Moniteur, 1825, p. 436.


6Nettement, op. cit., VII, p. 75.
The general discussion of the Sacrilege bill started on April 11. The first speaker for the Royalist cause was Ferdinand de Berthier, an opponent of Villèle but regarded as one of the champions of the "parti-prêtre." After a trite harangue against the philosophy of the eighteenth century and the Revolution, de Berthier, despite some reservations, gave his support to the bill. He justified the death penalty on the grounds that the divine majesty should not be avenged by a lesser penalty than that used to avenge the royal majesty. In general, de Berthier's speech demonstrated the more obnoxious spirit of his party.

Frayssinous, bishop of Hermopolis and minister of ecclesiastical affairs, was the next Royalist speaker on behalf of the bill. He spoke on April 12 following a vigorous attack by the opposition Deputy Royer-Collard, and so the bishop devoted some of his time to rebutting his arguments. The crux of the problem, as Frayssinous saw it, was this: "is the profanation of holy objects punishable by human laws?" It most certainly was, he declared, and he cited the example of the Greeks, Romans, Jews, and Moslems to prove the point. In short, Frayssinous argued that states had always taken measures to punish sacrilege. This


8 Ibid., 1825, p. 559.
line of argumentation was valid enough, but when the bishop undertook to refute the objection that sacrilege was only a moral offense and hence punishable by God alone he became illogical. "No one had ever said that the madman or fanatic who publicly smashed the sacred vessels or trampled upon consecrated hosts in a church should go unpunished. What had been said was that such an act should be punished only because it disturbed the peace and offended a respectable religion."9 It will be apparent after studying Royer-Collard's masterful speech that Frayssinous's refutation was weak indeed.

On the following day, April 13, Peyronnet mounted the tribune, and in a speech that lasted almost an hour and a half, attempted to do the work which his colleague Frayssinous had failed to do. Peyronnet completely overreached himself when he tried to refute the Liberal Deputy Louis-Francois Bertin de Vaux, and the Protestant Antoine-George Chabaud-Latour. After stating that public opinion had long demanded a law of this nature, Peyronnet found himself enmeshed in the defense of contradictions native to the bill. For example, he had to prove at once that Title I of the bill was not an act of faith, but a tribute paid to religion in the interest of society, and that the death penalty was not excessive. Also, he had to prove that although

9Duvergier de Hauranne, op. cit., VIII, p. 274.
simple sacrilege was a graver offense than sacrilegious theft, it was to be punished only when it was patent and external. Finally, Peyronnet was faced with the task of showing that the bill did not violate that equality of protection accorded by the Charter, and that the same severe penalties were to be applied to Catholics and Protestants alike. All of Peyronnet's gifts as a speaker and debater were mustered for the fray, and on the whole, it must be said that he did a superb job of defending his cause.

The second half of his speech was an attempt to show that the conditions attached to Title I were especially adapted to attain the goal of the bill. Therefore, the following conditions: "volontairement," "par haine et mépris pour la religion," and "publiquement," were all heartily endorsed. After reiterating his conviction that unbelievers were also subject to a law on simple sacrilege—a conviction first voiced in the upper Chamber two months earlier—Peyronnet closed by expressing his belief that this "legislation was equitable, moderate, satisfactory in the eyes of society and religion and would thus obtain the approbation of an assembly that was both French and Christian."

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11Moniteur, 1825, p. 561.

12Ibid., 1825, p. 562.
According to the Moniteur, Peyronnet's speech produced a
definite outburst of agreement. Le Constitutionnel, on the
other hand, claimed that his speech was received silently
but that as soon as he had descended from the tribune
about thirty members, most of them from the center,
rushed towards his Lordship (sa grandeur) to heap praise
upon him. After having been detained a long time within
the circular precinct by the deputies who crowded about
him, Peyronnet finally arrived at this bench where he
received the compliments of the bishop of Hermopolis.

Of course, Peyronnet was speaking to a highly partisan audience,
the majority of which entertained ideas similar to his. Unlike
his speech before the Peers, Peyronnet refrained from saying that
the Sacrilege bill with its ghastly penalties was aimed directly
at the lower classes. It would have been poor tactics to use
snobbery when speaking to men who came from disparate backgrounds.
It is also possible that having used the argument in the Chamber
of Peers and perceived its ineffectiveness, the Keeper of the
Seals decided against its use.

The next Royalist speaker was Duplessis de Grénedan, the
Deputy from Morbihand. He spoke immediately after Peyronnet,
but instead of endorsing the bill he roundly condemned it for
being incomplete, impossible of application, and too lenient in
its penalties. He ironically asked the Deputies what they
would do if faced with a bill which read: "An attempt on the
person of the King will be punished by death if it is committed

13Ibid., 1825, p. 562.
14Le Constitutionnel, Jeudi, 14 avril (1825), p. 4.
voluntarily, publicly, and out of hatred or contempt for royalty. 15 The conditions would obviously cripple the bill. Therefore, why should the Deputies approve the equally unreasonable conditions of the bill when dealing with the divine majesty? In both cases the conditions would assure impunity.

Duplessis de Grénedan also lamented the fact that the penalty of parricide had been suppressed by the Peers. In his enthusiastic plea for harsh penalties the Deputy from Morbihan claimed that "To put any penalty whatsoever above sacrilege is to put man above God." 16 He was also indignant because the bill placed all other cults on an equal footing with Roman Catholicism, the State religion, and pretended to give all equal protection. There was no doubt in his mind that Catholicism deserved unchallenged priority. In his peroration, Duplessis de Grénedan asked the Chamber to eradicate sacrileges "par des lois sérieuses." 17 And this could best be accomplished, according to him, by

protecting Catholic churches only, and if Catholicism received in our Codes of law not only the place it deserves as the State religion, but that which it deserves as divinely revealed truth. The Church should be entrusted


16Ibid., 1825, p. 568.

17Ibid., 1825, p. 569.
with the records of the state, and with the education of children and young men. In short, all legal power should be enrolled in the service of the Church.18

This was the doctrine of Lamennais and the Congregation and Duplessis de Grénedan presented it without equivocation or contradiction. But his speech was long and tedious and was read in such a feeble voice that the interested Deputies had to crowd around the tribune to hear. These defects robbed the speech of much of the effect he had expected to produce.

A few other obscure Deputies spoke in defense of the bill, but in general Royalist position and its logical conclusions, in many instances absurd, had been accurately presented by Chifflet, Frayssinou, Peyronnet, and Duplessis de Grénedan. The position of the Royalist Opposition now has to be examined.

ROYALIST OPPOSITION

Pierre Bourdeau, Deputy of the Haute-Vienne, opened the general discussion by opposing the bill. The former ardent Ultra-Royalist had turned against the Villele ministry, and in his speech of April 11 continued his opposition. Bourdeau argued that sacrilege was a profanation—a sin that could be punished by God alone; and an offense against the public order with which the law was competent to deal.19 But the bill proposed to this

18Nettement, op. cit., VII, p. 76.
Chamber confused the crime and the sin in order to aggravate and exaggerate the penalties. Herein lay the chief defect of the bill. This was so apparent to the authors of the bill that, despite the fact that they demanded the harshest penalties, they attached so many conditions that it became impossible to apply the law. Among the noteworthy contradictions in the bill, Bourdeau cited the most outrageous. "Sacrilege," he proclaimed, "is punished by death when it is simple and isolated. But theft comes to the rescue and the criminal who steals and plunders is less guilty than the one who limits his crime to spoliation." 20 This was strange legislation indeed. Finally, such a bill would make a mockery of the law and the courts.

Tuesday, April 12, was an eagerly awaited day for on that day an orator of surpassing gifts would address the Deputies: he was the Deputy from the Marne, Pierre-Paul Royer-Collard. This was Royer-Collard's first speech in the Chamber of Deputies in some time and a profound silence fell on the Chamber when he mounted the tribune. He began by stating that the bill was of a peculiar nature seldom encountered by legislative bodies. "Not only does the bill introduce a new crime in our legislation," he commented,

but the extraordinary thing about it is that it creates a new principle of criminality, an order of supernatural

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20 Moniteur, 1825, p. 537.
crimes, so to speak, which does not fall under our senses, which human reason is unable to discover or comprehend, and which appears only to religious faith enlightened by revelation.  

After noting the novelty of the bill, Royer-Collard defined his terms. Catholics believe that consecrated hosts are no longer bread but the Body and Blood of Jesus Christ. "Therefore," he argued the orator, "the assault is committed upon Jesus Christ Himself." Royer-Collard thought it was logical to conclude that "Sacrilege consists of an assault on Jesus Christ." From these premises it could also be correctly deduced that the crime which the bill attempted to punish under the name of sacrilege was a direct outrage on the divine majesty because this crime was an immediate consequence of the Catholic dogma of the Real Presence. "It is the dogma which makes the crime and it is the dogma which qualifies it."  

With his usual perspicacity Royer-Collard mildly chided the Peers for confusing the outrage to God and the outrage to society. The latter can be punished, but the former is beyond the ken of human justice. Yet, the outrage to society was used to establish the penalty, and the outrage to God was employed to justify it.

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22Moniteur, 1825, p. 545.

23Ibid., 1825, p. 545.

24Ibid., 1825, p. 545.
Royer-Collard hoped that by reprimanding the Peers the Deputies would avoid the same mistake. The Deputy from the Marne was not against an alliance between the laws of God and those of society, but he strenuously objected to the confusion of these two spheres in the bill.

If this confusion were admitted there would be no way of controlling the excesses that would surely follow. De Broglie had already indicated this fatal tendency in his speech before the Peers. Royer-Collard repeated the warning in the form of a question: "and why sacrilege alone, when by the same authority heresy and blasphemy could also become law?" No half-way measures are possible. Once a Catholic dogma is admitted into the law the entire Catholic religion must be held to be legally true. The law, continued Royer-Collard, was not only indifferent and neutral when dealing with religious truths, it was incompetent. And it was for this very valid reason that the Charter recognized that several religions existed in France, and protection was given to all. "This would have been impossible had the Charter declared the Catholic religion to be legally true, for by this very fact other religions would be legally false and thus criminal."26

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25 Ibid., 1825, p. 546.
26 Ibid., 1825, p. 546.
There was no doubt that Royer-Collard looked upon this as one of the most glaring inconsistencies of the bill.

The historian Alfred Nettement summarized Royer-Collard's closing words by saying that he

divided the defenders of the bill in two classes: the politicians who, having made religion an instrument of the government, believe that this instrument obtains all its power from the laws; all other sincere but ignorant friends of religion who, having forgotten the origin of religion and the manner in which it was established, falsely persuade themselves that it really needs the support of force and that if men disarm it of its temporal punishments it is in dire peril.27

Nothing could be more at variance with the speaker's views. Men had often succeeded in establishing a theocracy, but with nefarious results for religion; and if this bill became law, France would be burdened with a theocracy that would crush Catholicism.

This hour long speech was probably Royer-Collard's finest oratorical effort. Many of his arguments had been used in the upper Chamber "but the beauty, the originality of language, the profundity of certain insights, the lofty moral and religious thought which though it sometimes wandered in realms more metaphysical and political, gave to the words of the great doctrinaire a certain life and power which no one could emulate."28

27Nettement, op. cit., VII, p. 81.

28Viel-Castel, op. cit., XIV, p. 327.
The Deputies received his words "avec une religieuse attention et un intérêt toujours croissant." But tremendous as was Royer-Collard's effort it did not affect the destiny of the bill. Outside of the legislative Chamber, however, its effect was palpable in that it killed any popularity the bill might have had in public opinion. Royer-Collard's biographer, E. Spuller, has enthusiastically described this speech as "the greatest service which he ever rendered to the cause of good sense, political reason, liberty of conscience, and to civilization generally."

The height of the discussion had been reached with Royer-Collard's speech, and any member of the Royalist Opposition who chose to speak after him was hard pressed to find anything new to say. However, Chabaud-Latour, the Deputy from Gard, felt that another facet should be examined. He was a Protestant and thus far the Protestant side of the question had not been thoroughly presented. In his short speech, delivered on April 13, Chabaud-Latour opposed the bill because it made the executioner the official guardian of the Catholic religion and was thus frightfully

29 Le Constitutionnel, Mercredi, 13 avril (1825), p. 3.


unjust to Frenchmen of other faiths. As Royer-Collard had demonstrated, the dogma made the crime and qualified it. "Otez le dogme, l'échafaud tombe." There was grave danger that many Protestants might be discriminated against for having committed a "crime" because they did not believe in the dogma of the Real Presence. According to this speaker, professing Protestantism itself was the cause of enough anxieties without adding the threat of possible capital punishment to an already difficult situation.

LIBERALS

Augustin-Marie Devaux, the Deputy from Cher, was the first member of the Liberal camp to raise his voice in opposition to the bill. His speech, given on April 11, followed the trivialities of Ferdinand de Berthier. Known for his constant hostility towards the retrograde policies of the monarchy, Devaux began by stating that civil law never makes an act of faith—precisely what the bill demanded of it. His sorites-like address pointed out that the penalty demanded by Title I was far too excessive for a simple offense against society. Even the great Montesquieu had taught that "the penalty for simple sacrilege must be drawn from the nature of the thing, and should consist in the privation of all the advantages afforded by religion." As it stood, the

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32Moniteur, 1825, p. 553.

33Ibid., 1825, p. 543.
bill was not a law but rather an homage to religion. And in the normal process of the law juries were not competent to judge in the realm of religion. It was high time, according to Devaux, that human reason and not dogma were brought into play to understand the crime of sacrilege. So far, the reverse had been the case with the result that the bill represented the greatest conquest of civil society by a religious power. Devaux was quite explicit in censuring the role played in this conquest by the Congregation, other religious associations, the ultra-montanes, and the domination of Rome. Finally, Devaux left his listeners with the sobering thought that the passage of this bill would only bring hatred to the religious power that had expedited it.

It was on Wednesday, April 13, that Louis Bertin de Vaux, Deputy from Seine-et-Oise, spoke in opposition to Title I. The Doctrinaire Royer-Collard had exhausted the philosophical side of the question, and it was left to Bertin de Vaux to enlighten the Deputies on the political issues involved. This Liberal neatly summarized these at the very beginning when he stated that the bill was contrary to the spirit and text of the Charter; that it was a menace to every Frenchman's constitutional rights; that it contradicted the present state of French customs; that it offended public opinion; and that it would be disastrous to

34Ibid., 1825, p. 543.
Despite the fact that the speaker was interrupted several times by Peyronnet, he skillfully accomplished his task. The high point of his argumentation came when he showed that the Charter had been given to a nation of Frenchmen and not to a nation of Catholics, and that the Sacrilege bill, by favoring one cult over another, completely destroyed equality before the law.

The general discussion was brought to a close on Thursday, April 14, by Benjamin Constant, the famous theoretician of Liberalism. "As a Protestant," said the Deputy from the Seine, "I must oppose this bill because the crime of sacrilege implies the recognition of a dogma peculiar to the Catholic Church. . . . Furthermore, how could I vote in favor of a bill in the execution of which I could not concur as a jurymen?" 36 It was in this vein that Constant began his speech which, coming at the end of the discussion, necessarily included many arguments that had been used before. However, something new was added to the fund of criticism of the bill when Constant asked the question: "What are you punishing?" This was his answer:

It is not the material act for this is identical in a Protestant temple and a Catholic church. It is not the intention of disturbing for this is implied in every hypothesis. It is therefore solely and exclusively the

35Ibid., 1825, p. 552.
36Ibid., 1825, p. 570.
lack of respect coming from the lack of faith in the dogma of the Real Presence; in other words, you are punishing heresy.\textsuperscript{37}

But this is legal nonsense because the Charter, by granting equality of protection to every cult, has abolished heresy in effect.

The last part of Constant's speech was punctuated by frequent mutterings and interruptions. The first of these came when Constant argued that when dogma was introduced into the law, the application of the law had to be transferred to those who presided over the upholding of dogma.\textsuperscript{38} This conclusion combined with the recent pastoral letter of the Archbishop of Rouen, the Prince de Crois, gave an almost explosive force to Constant's argument. The Archbishop's pastoral consisted in a series of disciplinary measures which enjoined upon the clergy the duty of "denouncing to the bishop those parishioners who missed Mass without legitimate reason; and to keep an accurate account of the names of those who did not make their Easter duties so that the bishop might post them up on the doors of parish churches and the cathedral."\textsuperscript{39} The pastoral had caused an uproar and Constant used it effectively to show that this was not the ministry's bill

\textsuperscript{37}Ibid., 1825, p. 570.

\textsuperscript{38}Ibid., 1825, p. 571.

\textsuperscript{39}Nettement, \textit{op. cit.}, VII, p. 82.
but one that had been imposed upon it by over-zealous Catholics. Constant finished by eloquently excoriating the cruel ideas of de Bonald and the "mealy-mouthed" (doucereuse) distinction borrowed from the Spanish Inquisition between a Church that forgives and a society that punishes in the name of the Church.

The Liberals were few in number but they exerted a far-reaching influence. This was the result of two factors. First, the Liberals had many talented men in their ranks. Secondly, the Liberal press was active and effective; it proclaimed that a vast plot was underfoot to subjugate France to an ecclesiastical yoke, an opinion which, despite exaggerations, contained a core of truth.41

DEBATE ON THE ARTICLES

Chifflet, the Commission's reporter, rose to give his resumé immediately after Benjamin Constant had finished his speech. In case his position was misunderstood, Chifflet let it be known from the outset that the Restoration was religious as well as political and monarchial—to the benefit of France.42 After supporting capital punishment, he agreed with Duplessis de Grénedan that the bill was incomplete but did not conclude as the

40 Moniteur, 1825, p. 571.
41 Duvergier de Hauranne, op. cit., VIII, p. 335.
42 Moniteur, 1825, p. 571.
latter had done that it must therefore be rejected. On the contrary, Chifflet insisted that Title I was necessary if the Catholic religion was to enjoy equality of protection.

After Chifflet's introductory remarks, article I which read as follows: "The profanation of sacred vessels and consecrated hosts constitutes the crime of sacrilege," was presented for approval. Just as article I was about to be put to a vote, a Deputy from Rouen, Mr. Ribard, rose to speak against it. Although a Royalist and known for his piety, Ribard deplored the attempts which, he asserted, were being made to establish a theocracy in France. He went on to tell the Chamber that the protection given to religion by article I would prove detrimental not only to religion but to the monarchy as well. Ribard could not have realized the prophetic character of his words, but he was shrewd enough to know that the only protection worth having was "a protection of adherence and love."

Frédéric de Turckheim, a Liberal Protestant Deputy from Bas-Rhin, also attacked Title I. He could accept Titles II, III, and IV, he declared, because he believed that the temples of religion should be protected by law since they represented what men held to be most sacred. As for article I, however, Turckheim

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44Ibid., 1825, p. 572.
felt bound to oppose it because simple sacrilege, according to Peyronnet's own admission, did not exist; and because article 1 was the first foundation of a system that would destroy the Charter and liberty of conscience. Then, speaking on behalf of the Protestants of Alsace just as Chabaud-Latour had spoken for the Protestants of the "Midi," Turckheim expressed the certainty that Title I would only cause friction between Catholics and Protestants.

Neither the Catholic Ribard nor the Protestant Turckheim were listened to and article 1 was adopted.

Duplessis de Grénedan, speaking on article 2, proposed that the words "through hatred or contempt of religion" be dropped because they made the application of the death penalty impossible—a fact that would increase the audacity of criminals. Peyronnet objected to this amendment and showed that by removing the motive the Deputies would also remove the punishment. The Deputies agreed with Peyronnet, rejected Duplessis de Grénedan's amendment, and adopted article 2.

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47 Moniteur, 1825, p. 580. N.B. Page 580 of the Moniteur should be numbered 578.

48 Ibid., 1825, p. 580 (i.e. 578).
Although there were a few more speeches, principally on articles 1 and 6, and the deliberation was prolonged until the following day, Friday April 15, the remainder of the articles were easily adopted without further amendments. On this same day the ballot was taken and the entire bill was accepted by a vote of 210 to 95.\textsuperscript{49} This overwhelming majority was yet another proof that the lower Chamber was a ready instrument of the government. Given a heavily pro-Royalist Chamber it was understandable that Peyronnet did not have to work as hard on the Deputies as he did on the Peers.

The Law of Sacrilege became official on April 20 when Charles X penned his name to the bill. The Law was published officially in the \textit{Moniteur} on April 25, and read as follows:

\textbf{TITLE I}

On Sacrilege

Art. 1. The profanation of sacred vessels and of consecrated hosts constitutes the crime of sacrilege.

2. Every assault committed voluntarily and through hatred and contempt for religion on the sacred vessels or on consecrated hosts is declared to be a profanation.

3. There is legal proof of the consecration of the hosts when they are placed in the tabernacle, exposed in the monstrance, or when the priest gives communion or brings Viaticum to the sick.

There is legal proof of the consecration of the ciborium, the monstrance, the paten, and chalice employed in the ceremonies of religion at the moment of

\textsuperscript{49}\textit{Ibid.}, 1825, p. 581.
the crime.
There is also legal proof of the consecration of the ciborium and monstrance enclosed in the tabernacle of the church or the sacristy.

4. The profanation of sacred vessels will be punished by death if it is accompanied by the following two circumstances:
   1- If, at the moment of the crime, the sacred vessels contained consecrated hosts;
   2- If the profanation was committed publicly.
   The profanation is public when it is committed in a public place and in the presence of several persons.

5. The profanation of sacred vessels will be punished by life imprisonment at hard labor if it is accompanied by one of the two circumstances mentioned in the preceding article.

6. The profanation of sacred hosts, committed publicly, will be punished by death; the execution will be preceded by a reparation of honor performed by the condemned in front of the principal church of the place where the crime shall have been committed, or of the place where the Assize Court will be in session.

TITLE II
On Sacrilegious Theft

7. Included in the number of those edifices mentioned in article 381 of the Penal Code are those edifices consecrated to the exercise of the Roman, Catholic, and Apostolic religion.
   Therefore, whoever is found guilty of theft committed in one of these edifices will be punished by death, if the theft has been committed concurrently with the circumstances determined by article 381 of the Penal Code.

8. Whoever is found guilty of stealing the sacred vessels enclosed in the tabernacle—with or without breaking into it—in an edifice dedicated to the exercise of the State religion, will be punished by life imprisonment at hard labor.

9. The same penalty will be meted out for,
   1- Stealing sacred vessels in an edifice dedicated to the State religion, without the circumstances determined
by the preceding article, but with two of the five cir-
cumstances foreseen by article 381 of the Penal Code;
2. Any other theft committed in the same place by
means of violence and with two of the first four circum-
stances mentioned in the aforesaid article.

10. Anyone guilty of stealing sacred vessels in an edifice
dedicated to the State religion, will be punished by tem-
porary imprisonment at hard labor even though the theft
was not accompanied by any of the circumstances included
in article 381 of the Penal Code.
In the same case, anyone guilty of stealing any other
objects intended for the ceremonies of the same religion,
will be punished by imprisonment.

11. Any one or two or more persons guilty of theft, com-
mitted at night in an edifice dedicated to the State re-
ligion will be punished by imprisonment.

TITLE III

On Crimes committed in churches and
on the objects consecrated to religion.

12. Anyone guilty of offending sexual modesty in an
edifice consecrated to the State religion, will be
punished by imprisonment from 3 to 5 years and by a fine
of 500 to 10,000 francs.

13. Those guilty of having caused disorder, even outside
an edifice dedicated to the State religion, and of having
retarded, interrupted or prevented the services of reli-
gion will pay a fine of 16 to 300 francs and will be
imprisoned from 6 days to 3 months.

14. In the case foreseen by article 257 of the Penal
Code, if the monuments, statues, and other objects destruc-
ted, torn down, mutilated, or degraded were conse-
crated to the State religion, the guilty party will
be punished by imprisonment from 6 months to 2 years
and pay a fine of 200 to 2,000 francs.
The penalty will be 1 to 5 years imprisonment and
the fine from 1000 to 5000 francs if this crime was
committed within an edifice dedicated to the State re-
ligion.

15. Article 463 of the Penal Code does not apply to the
crimes mentioned in articles 12, 13, and 14 of the present law.

Neither will it apply to the crimes foreseen by article 401 of the same Code, if these crimes were committed inside an edifice dedicated to the state religion.

TITLE IV

General Provisions

16. The provisions of articles 7, 8, 9, 10, 11, 12, 13, 14, and 15 of this law apply to the crimes and delicts committed in the edifices dedicated to cults legally established in France.

17. Those provisions which are not affected by this law will continue to be executed.50
CHAPTER V

CONCLUSION

This, then, was the legal monstrosity which the Restora­tion produced on its tenth anniversary. It is obvious at first reading, even to one not versed in the law, that too many con­ditions had to be fulfilled for the effective application of the Sacrilege Law. Furthermore, in trying to straddle the religious and the politico-legal spheres the Law created intricate problems of conscience for those who were supposed to enforce it. One of the irrefutable proofs that the Law was a bad piece of legis­lation was that it was never applied. But more important still was that "It (the Law) caused a veritable stupefaction in the opinion of the public and its passage served only the enemies of the regime."¹

¹Bastid, op. cit., p. 105.
Although Guizot wisely remarked that "the Law of Sacrilege flattered the strong desires of the fanatically religious faction and the systems of her theorists,"\(^2\) the Prime Minister Villèle noted in his intimate reflections that "this discussion has produced a very bad effect with the public at large and in the Chambers."\(^3\) The effect on the general public was seen almost immediately when the Jury of Creuse acquitted a woman who had stolen a silver box destined to encase the Holy Oils; when the Jury of the Seine pardoned a man who had broken open the poor-box in Saint-Merry's church; and, finally, when the Jury of Corrèze released a woman who had stolen a rug and an altar cloth from a church.\(^4\) The severe penalties of the Law and the dilemma imposed upon the jurymen were no doubt responsible for these acquittals. Here were concrete instances where the new Sacrilege Law was actually detrimental to public order.

The Law of Sacrilege had other disturbing features about it. In his editorial on the Law, the journalist Narcisse-Achille de Salvandy, a vigorous opponent of Villèle, had warned propheti-

\(^2\)Guizot, op. cit., I, p. 278.


\(^4\)Ibid., pp. 36-37, Note 1. De la Gorce cites: Archives nationales, F19 5599.
cally that "The Law will give birth to the very crime which it claims to abolish."5 Far from providing Catholicism with a sort of "garde d'honneur,"6 the Law would only accentuate the power of bad example set by many an unbeliever who obsequiously bowed down before this new Law, such as Marshal Soult and his cronies who received Holy Communion in the church of Saint Thomas Aquinas on Easter Sunday.7 The grave error of the authors of the Law, according to de Salvandy, was their belief that the Law would placate and satisfy the Church's ardent supporters. It is sufficient to recall Duplessis de Grénedan's request for a stricter bill to realize that no devotee of the "parti-prêtre" would rest content with such a shadowy gesture. But the "parti-prêtre" itself, represented by the ecclesiastical Peers, seemed to be quite pleased with the Law and actively encouraged it with their vote whereas they had abstained from voting in 1824 because the bill had not met their requirements. It would seem that the bishops looked upon the Law of Sacrilege as an act of "homage and reverence" paid to the Church on behalf of the nation. The legislation of France could no longer be called atheistic, they felt, and it mattered little whether the Law would ever be applied or not.


6Ibid., pp. 47-48.

7Duvergier de Hauranne, op. cit., VIII, p. 303.
The bishops might be satisfied with the Law but many contemporaries were not. The Liberal journal Le Constitutionnel published an editorial against the "amende honorable" on April 16, the day after the bill had been adopted by the Deputies. Written in the hope that the King would not sign the bill into law, the article pointed out in pedantic fashion that the Penal Code did not speak of an "amende honorable" and that by introducing such a penalty the Law of Sacrilege would be paralyzed.

Louis-Gustave, comte de Pontécoulant took a broader view of the subject and maintained that the Law of Sacrilege caused a considerable stir not only in France but in the whole of Europe. De Pontécoulant proceeded to prove his assertion in the following manner.

No doubt little importance was attached to the fact that a theft committed in a church was punished by more severe penalties than a theft committed in any other public building; criminals guilty of such crimes aroused no interest whatsoever; but in a day when indifference in religious matters was perhaps the gravest reproach that could be made to the rising generation, a law which by its severities contrasted with the mildness of our manners, a law which foresaw crimes that our legal annals could offer no examples of, and punished them with penalties revived from barbarian times, that law seemed to be an awkward appeal to all the passions inspired by intolerance and superstition.

8Le Constitutionnel, Dimanche, 17 avril 1825, pp. 1-2.
9Ibid., p. 1.
11Ibid., IV, p. 129.
In his *Souvenirs* Count Charles-Marie de Salaberry took the opportunity given by the Law of Sacrilege to impugn Châteaubriand's motives in speaking against the bill. At the same time, de Salaberry's own views of the Law are evident in his comments on the death penalty. The death penalty, he argues, will be handed down only when the most obvious characteristics of insanity are found in the culprit who will thus be automatically beyond the arm of the Law. Thus de Salaberry indicated an obvious defect in the Law, a defect which had already been touched upon during the debates but which did not weigh heavily enough in the minds of the Peers and Deputies to cause its rejection.

Another contemporary who voiced his views on the new Law was J.M. le Graverend. The Law of Sacrilege not only created the crime of "lèze-majesté divine," according to le Graverend, but it also played havoc with the jury system. With this "new crime" on the books

it will be necessary by means of a general measure to disinheret all non-Catholic Frenchmen from jury duty for fear that some crime of "lèze-majesté divine" be submitted to the assizes; and thus a portion of the nation will find itself deprived of one of the most precious prerogatives enjoyed by Frenchmen, namely that of cooperating in the judging of his fellow-citizens when criminal matters arise.

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When seen in this light the Law of Sacrilege was a potent disruptive force. Little wonder, then, that it was never applied.

Both the Church and the Monarchy suffered the consequences of this ill-fated act of legislation. Within certain, well-defined limits the Church can be a valuable help to a government; but once the Church transcends these limits she becomes a source of weakness and danger. At least this is what can be implied from the judgment of a contemporary historian, Achille de Vaulabelle. "In submitting to her help and influence," he claimed, "the Bourbons acquired haughty and over-sensitive masters who isolated their princes from their own party, and threw into the opposite camp men... who thus far had been the most ardent champions of the re-establishment of the old monarchial institutions."\(^1\)

The Monarchy was not a self-perpetuating institution, and as such, it should have been careful to enact law more suited to assure its own survival. On the other hand, the Church is a self-perpetuating institution and, for that reason, many of the troubles that faced her more than a hundred years ago still face her now. Chief among these troubles is anti-clericalism. Certainly history can point to the Law of Sacrilege as one of the most important causes of anti-clericalism for, in the words of the

\(^{15}\) De Vaulabelle, op. cit., VI, p. 331.
historian Pierre de la Gorce, this Law "marks the hour when the opposition could, under the specious appearance of reason, denounce the faction which it called the 'parti-prêtre.' Henceforth the struggle became acute: clashes with the Church; and clashes with the monarchy, in such a way that by recounting religious history only also retracts the political history."

Another historian of the Restoration, Ernest Daudet, is even more graphic in his description of the effects of the Law of Sacrilege on the French nation. The Debates in the Chambers, so argues Daudet, unleashed forces that have always been chronic enemies.

The "Constitutionnel" started its attacks on the clergy; spread out over the land the missionaries returned the attack by attempting to fanaticize the populace. The "abbé" Lamennais, the fiery champion of a religious ideal the realization of which would have resurrected the Middle Ages and subordinated civil society to the Church, heaped up pamphlet after pamphlet while Beranger scoffed at Catholicism, its institutions and its ministers. The Liberal party proclaimed that the Jesuits in the country were the leaders of this impassioned and exaggerated course of action; and if civil war did not reign in the streets it reigned in men's minds, bewildered by the very character of these debates.

All these clashes and struggles, so foreign to the religious and extra-mundane vocation of the Church, contributed to a growing suspicion that the Church could not be trusted to stay within

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16De la Gorce, op. cit., p. 37.

the limits of her calling. Count Armand de Saint-Priest, a Peer of France and a Catholic, expressed this lack of trust after the July Revolution of 1830 when he said: "All were struck by the same suspicion. Whether right or wrong, every unpopular measure was attributed to this occult influence." And the calculating maneuvering of the ecclesiastical Peers only fed this suspicion even more. The "patri-prêtre" achieved its goal, but the sight of France abandoned to the priests seemed to most Frenchmen to be the apogee of misfortune and humiliation.

The monarchy of Charles X received an even more mortal wound than the Church. By allowing this Law to be passed as a sop to a clerically dominated administration, Charles X caused the ardor felt for his government to cool within less than a year almost to the point of extinction. When all was said and done, there was only one victim of the Law of Sacrilege—the regime which assumed responsibility for the Law. When Charles X's regime collapsed in July 1830, the Law of Sacrilege followed its authors into oblivion. Louis-Philippe, King of the French, abolished the Law of Sacrilege on 11 October 1830.

18Moniteur, 1830, p. 1025. These words were spoken in a speech demanding the abolition of the Law of Sacrilege.
19Duvergier de Hauranne, op. cit., VIII, p. 303.
21Moniteur, 1830, p. 1295.
APPENDIX I

(Bill introduced to the Peers on 5 April 1824 by Charles, comte de Peyronnet, the Crown spokesman.)

Projet de loi sur la répression des délits qui se commettent dans les églises et autres édifices consacrés au culte, présenté à la chambre des pairs le 5 avril 1824.

Art. 1er. Sera puni des peines portées par les art. 381, 382 et 386, no. 1, du Code pénal, quiconque aura été déclaré coupable d'un vol commis dans un édifice consacré à l'exercice de la religion de l'État ou d'un culte légalement établi en France, lorsque le vol aura d'ailleurs été commis avec les autres circonstances déterminées par ces articles.

2. Sera puni de la peine des travaux forcés à temps, tout individu coupable d'un vol de vases sacrés ou d'autres objets destinés à la célébration des cérémonies de la religion de l'État ou d'un culte légalement établi en France, si le vol a été commis dans un édifice consacré à la religion, ou à l'un des cultes dont l'exercice est autorisé.

3. Sera puni d'un emprisonnement de trois à cinq ans et d'une amende de 500 fr. à 10,000 fr., toute personne qui sera reconnue coupable d'outrage à la pudeur, lorsque ce délit aura été commis dans un édifice consacré à l'exercice de la religion de l'État ou d'un culte légalement établi en France.

4. Seront punis des peines portées en l'art. 261 du Code pénal, les troubles et désordres prévus par cet article, lors même qu'ils auraient éclaté à l'extérieur des églises ou des temples destinés aux cultes dont l'exercice est autorisé.

5. Dans les cas prévus par l'article 257, du Code pénal, si les monuments, statues ou autres objets détruits, abattus, mutilés ou dégradés, étaient consacrés à la religion de l'État ou aux autres cultes légalement établis en France, le coupable sera puni d'un emprisonnement de six mois à deux ans, et d'une amende de 200 à 2,000 fr.

La peine sera d'un an à cinq ans d'emprisonnement et de 1,000 fr. à 5,000 fr. d'amende, si le délit a été commis dans l'intérieur d'un édifice consacré à la religion de
l'État ou aux cultes légalement établis en France.

6. L'article 463 du Code pénal n'est pas applicable aux délits prévus par les articles 3, 4 et 5 de la présente loi.

Il ne sera pas applicable non plus aux délits prévus par l'article 401 du même Code, lorsque ces délits auront été commis dans l'intérieur d'un édifice consacré à la religion de l'État ou aux autres cultes légalement établis en France.

Donné au château des Tuileries, le 4 avril de l'an de grâce mil huit cent vingt-quatre, et de notre règne, le vingt-neuvième.

LOUIS
APPENDIX II

(Amended bill presented by the Commission’s reporter, Joseph-Marie Portalis, to the Chamber of Peers on 27 April 1824.)

Projet de loi amendé


Sera puni de la même peine quiconque se sera rendu coupable, dans les mêmes lieux, de tout autre vol, commis à l’aide de violence et avec deux des quatre circonstances énoncées au susdit article.


4. Sera puni de la réclusion, tout individu coupable de vol, s’il a été commis la nuit, ou par deux ou plusieurs personnes, dans un edifice consacré à l’exercice de la religion de l’État, ou d’un culte légalement établi en France.

5. Sera puni d’un emprisonnement de trois à cinq ans, et d’une amende de 500 à 10,000 fr., toute personne qui sera reconnue coupable d’outrage à la pudeur, lorsque ce délit aura été commis dans un edifice consacré à l’exercice de la religion de l’État, ou d’un culte légalement établi en France.

6. Seront punis de 16 à 300 fr., et d’un emprisonnement de six jours à trois mois, ceux qui, par des troubles ou désordres commis même à l’extérieur d’un edifice consacré à l’exercice de la religion de l’État, ou d’un culte légalement établi en France, auront retardé, interrompu ou empêché...
les cérémonies de la religion ou l'exercice de ce culte.

7. Dans les cas prévus par l'art. 267 du Code pénal, si les monuments, statues, ou autres objets détruits, abbatus, mutilés ou dégradés, étaient consacrés à la religion de l'État, ou aux autres cultes légalement établis en France, le coupable sera puni d'un emprisonnement de six mois à deux ans, d'une amende de 200 à 2,000 fr.

La peine sera de 1 à 5 ans, d'emprisonnement, et de 1,000 à 5,000 fr. d'amende, si le délit a été commis dans l'intérieur d'un édifice consacré à la religion de l'État, ou aux cultes légalement établis en France.

8. L'article 463 du Code pénal n'est pas applicable aux délits prévus par les articles 5, 6 et 7 de la présente loi.

Il ne sera pas applicable non plus aux délits prévus par l'article 401 du même Code, lorsque ces délits auront été commis dans l'intérieur d'un édifice consacré à la religion de l'État ou d'un autre culte légalement établi en France.
APPENDIX III

(Government bill and the amendments of the Commission presented by de Breteuil to the Peers on 29 January 1825.)

PROJET DE LOI
présenté par le Gouvernement.

TITRE Ier.
Du sacrilège.

Art. 1er.

La profanation des vases sacrés et des hosties consacrées est crime de sacrilège.

Art. 2.

Est déclarée profanation, toute voie de fait commise volontairement, et par haine ou mépris de la religion, sur les vases sacrés ou sur les hosties consacrées.

Art. 3.

Il y a preuve légale de la consécration des hosties, lorsqu'elles sont placées dans le tabernacle, ou exposées dans l'ostensoir, et lorsque le prêtre donne la communion ou porte le viatique aux mala
des.

AMENDEMENTS
Proposés par la commission.

TITRE Ier.
Du sacrilège.

Art. 1er.

Il y a preuve légale de la consécration des hosties, lorsqu'elles sont placées dans le tabernacle, ou exposées dans l'ostensoir, et lorsque le prêtre donne la communion ou porte le viatique aux mala
des.

Il y a preuve légale de la consécration du ciboire, de l'ostensoir, de la patène et du calice, employés aux cérémonies de la religion, au moment du crime.
Il y a également preuve légale de la consécration du ciboire et de l'ostensoir, enfermés dans le tabernacle de l'église.

Art. 4.
La profanation des vases sacrés est punie de mort.
La profanation des hosties consacrées est punie de la peine du parricide.

TITRE II
Du Vol sacrilège.

Art. 5.
Sera puni de mort qui, congé aura été déclaré coupable d'un vol commis dans un édifice consacré à la religion de l'État, lorsque le vol aura été d'ailleurs commis avec la réunion des cir-

Il y a également preuve légale de la consécration du ciboire et de l'ostensoir, enfermés dans le tabernacle de l'église, ou dans celui de la sacristie.

Art. 4.
La profanation des vases sacrés sera punie de mort, si elle a été accompagnée des deux circonstances suivantes:
1er. Si les vases sacrés renfermaient, au moment du crime, des hosties consacrées;
2e. Si la profanation a été commise publiquement.
La profanation est commise publiquement, lorsqu'elle est commise dans un lieu public et en présence de plusieurs personnes.

Art. 5.
La profanation des vases sacrés sera punie des travaux forcés à perpétuité, si elle n'a été accompagnée que de la seconde circonstance, énoncée dans l'article précédent.

Art. 6.
La profanation des hosties consacrées, commise publiquement, sera punie de la peine du parricide.

TITRE II
Du Vol Sacré.

Art. 7.
Seront compris au nombre des édifices énoncées dans l'article 381 du Code pénal, les édifices consacrés à l'exercice de la religion catholique, apostolique et romaine.
En conséquence, sera puni
constances déterminées par l'article 381 du Code pénal.  

de mort quiconque aura été déclaré coupable, d'un vol commis dans un de ces édifices, lorsque le vol aura d'ailleurs été commis avec la réunion des autres circonstances déterminées par l'article 381 du Code pénal.

Art. 8.
Sera puni des travaux forçés à perpétuité, quiconque aura été déclaré coupable d'avoir, dans un édifice consacré à l'exercice de la religion de l'État, volé, avec ou même sans effraction du tabernacle, des vases sacrés qui y étaient renfermés.

Art. 7.
Seront punis de la même peine:
1°. Le vol des vases sacrés commis dans un édifice consacré à l'exercice de la religion de l'État, sans la circonstance déterminée par l'article précédent, mais avec deux des cinq circonstances prévues par l'article 381 du Code pénal;
2°. Tout vol commis dans les mêmes lieux, à l'aide de violence et avec deux des quatre premières circonstances énoncées au susdit article.

Art. 8.
Sera puni de la peine des travaux forçés à temps, tout individu coupable d'un vol de vases sacrés ou d'autres objets destinés à la célébration des cérémonies de la religion de l'État, si le vol a été commis dans un édifice consacré à cette religion, quoiqu'il n'ait été accompagné d'aucune des circonstances comprises dans l'article 381 du Code pénal.

Art. 9.
Sera puni de la réclusion, tout individu coupable de vol, si ce vol a été commis la nuit, ou par deux ou plusieurs personnes, dans un édifice consacré à la religion de l'État.

TITRE III.
Des délits commis dans les églises ou sur les objets consacrés à la religion.

TITRE III.
Des délits commis dans les églises ou sur les objets consacrés à la religion.
Art. 10.
Sera puni d'un emprisonnement de trois à cinq ans, et d'une amende de 500 à 10,000 francs, toute personne qui sera reconnue coupable d'outrage à la pudeur, lorsque ce délit aura été commis dans un édifice consacré à la religion de l'État.

Art. 11.
Seront punis d'une amende de 16 à 300 francs, et d'un emprisonnement de six jours à trois mois, ceux qui par des troubles ou désordres commis, même à l'extérieur d'un édifice consacré à l'exercice de la religion de l'État, auront retardé, interrompu, ou empêché les cérémonies de la religion.

Art. 12.
Dans les cas prévus par l'article 257 du Code pénal, si les monuments, statues, ou autres objets, détruits, abattus, mutilés, ou dégradés, étaient consacrés à la religion de l'État, le coupable sera puni d'un emprisonnement de six mois à deux ans, et d'une amende de 200 à 2,000 francs.
La peine sera d'un an à cinq ans d'emprisonnement, et de 1,000 à 5,000 francs d'amende, si ce délit a été commis dans l'intérieur d'un édifice consacré à la religion de l'État.

Art. 13.
L'article 463 du Code pénal n'est pas applicable aux délits prévus par les articles 10, 11 et 12 de la présente loi.
Il ne sera pas applicable non plus aux délits prévus par l'article 401 du même Code, lorsque ces délits auront été commis dans l'intérieur d'un édifice consacré à la religion de l'État.

TITRE IV,
Dispositions générales.

Art. 14.
Les dispositions des titres II et III de la présente loi sont applicables aux crimes et délits commis dans les édifices consacrés aux cultes légalement établis en France.

Art. 15.
Les dispositions auxquelles
il n'est pas dérogé par la présente loi continueront d'être exécutées.
APPENDIX IV

(Official Law of Sacrilege published in the Moniteur on 25 April 1825.)

TITRE Ier
Du sacrilège.

Art. 1er. La profanation des vases sacrés et des hosties consacrées constitue le crime de sacrilège.
2. Est déclarée profanation toute voie de fait commise volontairement, et par haine ou mépris de la religion, sur les vases sacrés ou sur les hosties consacrées.
3. Il y a preuve légale de la consécration des hosties, lorsqu'elles sont placées dans le tabernacle ou exposées dans l'ostensorio, et lorsque le prêtre donne la communion ou porte le viatique aux malades.
   Il y a preuve légale de la consécration du ciboire, de l'ostensorio, de la patène et du calice, employés aux cérémonies de la religion au moment du crime.
   Il y a également preuve légale de la consécration du ciboire et de l'ostensorio enfermés dans le tabernacle de l'église ou dans celui de la sacristie.
4. La profanation des vases sacrés sera punie de mort, si elle a été accompagnée des deux circonstances suivantes:
   1- Si les vases sacrés renfermaient, au moment du crime, des hosties consacrées;
   2- Si la profanation a été commise publiquement.

La profanation est commise publiquement, lorsqu'elle est commise dans un lieu public et en présence de plusieurs personnes.

5. La profanation des vases sacrés sera punie des travaux forcés à perpétuité, si elle a été accompagnée de l'une des deux circonstances énoncées dans l'article précédent.

6. La profanation des hosties consacrées, commise publiquement, sera punie de mort; l'exécution sera précédée de l'amende honorable faite par le condamné, devant la
principale église du lieu où le crime aura été commis, ou du lieu où aura siégé la cour d'assises.

TITRE II
Du vol sacrilège.

7. Seront compris au nombre des édifices énoncés dans l'article 381 du Code pénal, les édifices consacrés à l'exercice de la religion catholique, apostolique et romaine.

En conséquence, sera puni de mort quiconque aura été déclaré coupable d'un vol commis dans un de ces édifices, lorsque le vol aura d'ailleurs été commis avec la réunion des autres circonstances déterminées par l'article 381 du Code pénal.

8. Sera puni des travaux forcés à perpétuité quiconque aura été déclaré coupable d'avoir, dans un édifice consacré à l'exercice de la religion de l'État, volé, avec ou même sans effraction du tabernacle, des vases sacrés qui y étaient renfermés.

9. Seront punis de la même peine,
   1° Le vol des vases sacrés commis dans un édifice consacré à l'exercice de la religion de l'État, sans la circonstance déterminée par l'article précédent, mais avec deux des cinq circonstances prévues par l'article 381 du Code pénal;
   2° Tout autre vol commis dans les mêmes lieux, à l'aide de violence et avec deux des quatre premières circonstances énoncées au susdit article.

10. Sera puni de la peine des travaux forcés à temps, (sic) tout individu coupable d'un vol de cases sacrées, si le vol a été commis dans un édifice consacré à la religion de l'État, quoiqu'il n'ait été accompagné d'aucune des circonstances comprises dans l'article 381 du Code pénal.

Dans le même cas, sera puni de la réclusion tout individu coupable d'un vol d'autres objets destinés à la célébration des cérémonies de la même religion.

11. Sera puni de la réclusion, tout individu coupable de vol, si ce vol a été commis la nuit, ou par deux ou plusieurs personnes, dans un édifice consacré à la religion de l'État.

TITRE III
Des délits commis dans les églises et sur les objets consacrés à la religion.

12. Sera punie d'un emprisonnement de trois à cinq ans et d'une amende de 500 à 10,000 fr., toute personne qui sera reconnue coupable d'outrage à la pudeur, lorsque ce délit aura été commis dans un édifice consacré à la reli-
13. Seront punis d'une amende de 16 à 300 fr. et d'un emprisonnement de six jours à trois mois, ceux qui par des troubles ou désordres commis, même à l'extérieur d'un édifice consacré à l'exercice de la religion de l'État, auront retardé, interrompu ou empêché les cérémonies de la religion.

14. Dans les cas prévus par les article 257 du Code pénal, si les monuments, statues ou autres objets détruits, abattus, mutilés ou dégradés, étaient consacrés à la religion de l'État, le coupable sera puni d'un emprisonnement de six mois à deux ans et d'une amende de 200 à 2,000 fr.

La peine sera d'un an à cinq ans d'emprisonnement et de 1,000 à 5,000 fr. d'amende, si ce délit a été commis dans l'intérieur d'un édifice consacré à la religion de l'État.

15. L'article 463 du Code pénal n'est pas applicable aux délits prévus par les articles 12, 13 et 14 de la présente loi.

Il ne sera pas applicble non plus aux délits prévus par (sic) l'article 401 du même Code, lorsque ces délits auraient été commis dans l'intérieur d'un édifice consacré à la religion de l'État.

TITRE IV

Dispositions générales.

16. Les dispositions des articles 7, 8, 9, 10, 11, 12, 13, 14 et 15 de la présente loi, sont applicables aux crimes et délits commis dans les édifices consacrés aux cultes légalement établis en France.

17. Les dispositions auxquelles il n'est pas dérogé par la présente loi continueront d'être exécutées.

Donné à Paris, en notre château des Tuileries, le 20e jour du mois d'avril, l'an de grâce 1825, et de notre règne le premier.

CHARLES
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The thesis submitted by Arthur H. Paré, S.J. has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

Date: January 25, 1965
Signature of Adviser: Raymond H. Schmitz