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Journal of the History of Ideas, Volume 80, Number 1, January 2019, pp. 47-66
(Article)

Published by University of Pennsylvania Press

DOI: <https://doi.org/10.1353/jhi.2019.0002>



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I.

Jean Bodin commented in the prefatory letter to the first Latin edition of his *Six Livres de la République* (1586) that French royal policies in recent years had been characterized by an incurable madness.¹ The crisis of the civil wars haunts the prefaces to his editions of the work, and Bodin was explicit that a proper understanding of political science was required to resolve the French troubles. In identifying this need he was not alone; the influential humanist Louis Le Roy (ca. 1510–77) had remarked in *Les Politiques d'Aristote* (1568) that of all the disciplines which had been recently revived, politics was the most important, necessary, and beneficial to everyone, yet for some reason it had fallen behind grammar, poetry, rhetoric and dialectic.² Among these leading French scholars there was a consensus that both the science and art of politics needed to be dissected and analyzed with the same kinds of forensic intensity that drove their approach to other disciplines such as law, dialectic, cosmography, grammar, rhetoric, and poetry. Deeply influenced by Aristotle, Le Roy considered politics to be the

My sincere thanks to Annabel Brett and Sarah Mortimer for their observations on drafts of this article, and to the anonymous reviewers for their comments and suggestions.

¹ Jean Bodin, *De Republica Libri Sex* (Lyon, 1586), aii^r–v.

² Louis Le Roy, *Les Politiques d'Aristote, esquelles est monstree la science de gouverner le genre humain en toutes especes d'estats publiques* (Paris, 1576), aiii^r–aiv^v.

driving principle of all human activity, without which man could not preserve his communities.³ First published in 1576, Bodin's *République* emerged from that consensus, from the pressing need to address the political crisis brought on by the religious wars, and from the methodological shifts that had underpinned his legal training.⁴

In his *République*, Bodin wrote that politics was an obscure science that required lengthy investigation and profound knowledge of the laws, and that "those who discuss the affairs of the world without any knowledge of the laws, or public law, who focus on the profit of the individual, they profane the sacred mysteries of political philosophy."⁵ Bodin blamed Machiavelli in particular for this profanation; his reputation in France had sharply declined after the St. Bartholomew's Day Massacre of 1572, as his version of statecraft was held accountable for the brutal slaughter of the Huguenot community and the tactics of Catherine de Medici.⁶ As far as Bodin was concerned, Machiavelli's failure to underpin *The Prince* with justice and piety turned the natural and divine order on its head.⁷ In contrast, Bodin's *République* sought to offer an interrogation of the science of politics conceived in juridical terms, bound together by divine and natural

³ Le Roy; Cf. Le Roy, *De l'origine, antiquité, progrès, excellence et utilité de l'art politique* (Lyon, 1568) and Guillaume Budé, *De l'Institution du Prince* (Paris, 1547).

⁴ Influential studies of Bodin's intellectual formation include: William F. Church, *Constitutional Thought in Sixteenth-Century France: A Study in the Evolution of Ideas* (Cambridge, MA: Harvard University Press, 1941); Julian H. Franklin, *Jean Bodin and the Sixteenth-Century Revolution in the Methodology of Law and History* (New York: Columbia University Press, 1963); Ralph E. Giesey, "Medieval Jurisprudence in Bodin's Concept of Sovereignty," in *Jean Bodin: Proceedings of the International Conference on Bodin in Munich*, Horst Denzer, ed. (Munich: C. H. Beck, 1973), 167–86; Donald R. Kelley, *Foundations of Modern Historical Scholarship: Language, Law and History in the French Renaissance* (New York/London: Columbia University Press, 1970); Howell A. Lloyd, *Jean Bodin, "This Pre-eminent Man of France": An Intellectual Biography* (Oxford: Oxford University Press, 2017); Jean Moreau-Reibel, *Jean Bodin et le droit public comparé dans ses rapports avec la philosophie de l'histoire* (Paris: J. Vrin, 1933). For a full bibliography of Bodin studies up to 2001, see Marie-Dominique Couzinnet, *Jean Bodin: Bibliographie des écrivains français*, vol. 23 (Paris/Rome: Mimini, 2001).

⁵ "Car ceux qui depuis ont escript à vetie de pays, et discouru des affaires du mondes sans aucune cognoissance des loix, et mesmement du droit public, qui demeure en arriere pour le profit qu'on tire du particulier, ceux la diffie profanent les sacrez mysteres de la Philosophie politique: chose qui a donné occasion de troubler et renverser de beaux estats," Bodin, *Les Six Livres de la République* (Paris, 1576), aii^r. Cf. Bodin, *De Republica*, aii^r.

⁶ Kelley, "Murdr'ous Machiavel in France: A Post Mortem," *Political Science Quarterly* 85 (1970): 545–59.

⁷ Bodin, *République*, aiii^r–aiiii^v. The Latin edition of 1586 does not reproduce this anti-Machiavellianism.

laws. It was published in the same year as Innocent Gentillet's *Anti-Machiavel* (1576) and in the course of attacking him, both thinkers used Machiavelli as a prompt to think more intensively about the "art" and "science" of politics itself and the need for a clear set of defining regulations and maxims.⁸ Bodin was especially self-conscious in his endeavor to establish a new language of politics and to replace "false" definitions with "correct" ones, of which his definition of sovereign power is the most celebrated.⁹

In the context of this need to establish a definitive language of politics and political science, when slipperiness of meaning was so frequently exploited for polemical reasons, attention to the polysemous term *politique* reveals the importance of establishing a framework for the signification of terms. It indicates the intellectual challenge inherent in defining and clarifying the nature of politics, political actors, and the best kind of regime or constitution in Latin and the vernacular.¹⁰ For example, French jurists adopted the term to define their own intellectual trade as political science, as in François Baudouin's *Commentarius de jurisprudentia muciana* (1559) and Louis Le Caron's *Pandectes* (1587). In the *République*, Bodin used the term *politique* to describe political science, philosophy, and philosophers: Aristotle, Plato, and Plutarch are "Politiques" or even "les sages Politiques." He also refers in the abstract to "le sage Politique" and most commonly to the particular type of "prudence politique" implicit in the understanding of political science within a juridical framework.¹¹ In the

⁸ Michel Senellart, "La technisation de la politique au début des Temps Modernes," *La Métamorphose du Prince: Politique et culture dans l'espace occidental*, ed. Catherine Colliot-Thélène and Philippe Portier (Rennes: Presses Universitaires de Rennes, 2014): 43–52.

⁹ Bodin, *République*, 1.9 [not 1.8 as in subsequent editions], 152; *De Republica*, 1.8, 78. Influential Anglophone discussions of which include Franklin, *Jean Bodin and the Rise of Absolutist Theory* (Cambridge: Cambridge University Press, 1973); Nannerl O. Keohane, *Philosophy and the State in France: The Renaissance to the Enlightenment* (Princeton, NJ: Princeton University Press, 1980); Quentin Skinner, *The Foundations of Modern Political Thought* (Cambridge: Cambridge University Press, 1978), 2:286–301; Richard Tuck, *Sleeping Sovereign: The Invention of Modern Democracy* (Cambridge: Cambridge University Press, 2016), 1–62; John H. M. Salmon, "The Legacy of Jean Bodin: Absolutism, Populism or Constitutionalism?," *History of Political Thought* 17 (1996): 500–522.

¹⁰ See, for example: *Le Politique* (1574); *Descripton* [sic] *du Politicque de nostre temps* (1588); Louis Dorléans, *Le banquet et aprèdisnée* [sic] *du conte d'Arete* (Paris, 1594). Cf. Emma Claussen, "A Study of Uses of the Term *Politique* during the French Wars of Religion, c. 1562–98" (DPhil diss., University of Oxford, 2016).

¹¹ Bodin, *République*, aii^r–aiii^v, 4.3, 450; 5.1, 535; 6.2, 617. In the Latin Bodin uses the terminology of prudence (*prudentialia*). Mario Turchetti discusses Bodin's use of the term in his edition of the first book of the *République*: Jean Bodin, *Les Six Livres de la*

polemics of the period, this unstable term could also be used to denounce Machiavelli and those seen to be influenced by his version of statecraft: the label “Politique” denoted their collective failure to conceive of politics within a Christian moral framework. Bodin’s use of the term can be read as a way to restore what he perceived to be the correct meaning of the term, free from Machiavellian connotations but still an essential component of conceptions of “statecraft.” Finally, the term was also used to identify—often in the pejorative—a definable, politically engaged group of Catholics drawn to the principles of religious toleration and hostile to the uncompromising attitudes in the Catholic League toward French Huguenots and the idea of Protestant monarchy. Conventionally Bodin has been placed in this category by modern scholars, though its limitations have been recognized.¹² The complexity of the term *politique* is emblematic of the need to define the correct approach to “political science” (as it was termed by Bodin) in the context of the religious wars, where the intersection of divine, natural, and civil law had become embedded in the polemics of the day.

Bodin’s precise use of political language in the *République* was symptomatic of a shared concern among French thinkers that certain long-standing political questions needed to be resolved in order to restore unity to the polity. His great intervention in these debates was his striking definition of sovereignty, described in Roman imperial terms as freedom from the laws.¹³ A lesser known but still striking intervention in the existing semantic framework of French political ideas was his decision to distinguish the activity of government (*la police*) from the state (*l’état*). In introducing this distinction, Bodin was self-consciously innovative: “There is a great difference,” he wrote, “between the state and the government, which is *un secret de police* that no-one has touched on at all.”¹⁴ The reference to “secrets”

République/De republica libri sex: Livre premier—Liber I, ed. Mario Turchetti and Nicholas de Araujo (Paris: Classiques Garnier, 2013), 83–100; Julien Broch has used it to designate a juridical school in *l’École des “Politiques” (1559–1598): La contribution des juristes et publicistes français à la construction de l’État royal* (Aix-en-Provence: Presses Universitaires d’Aix-Marseille, 2012).

¹² Arlette Jouanna, “Les ambiguïtés des *Politiques* face à la Sainte Ligue,” in *De Michel de l’Hospital à l’Édit de Nantes: Politique et religion face aux églises*, ed. Thierry Wagnieffelen (Clermont-Ferrand: Presses Universitaires Blaise-Pascal, 2002), 475–93; Turchetti, “Une question mal posée: l’origine et l’identité des *Politiques* au temps des guerres de Religion,” in *De Michel de l’Hospital à l’Édit de Nantes*, 357–90.

¹³ Bodin, *République*, 1.9, 152; *De Republica*, 1.8, 78.

¹⁴ “Car il y a bien difference de l’estat, et du gouvernement: qui est un secret de police qui n’a point esté touché de personne,” Bodin, *République*, 2.2, 233; cf. *De Republica*, 2.2, 189, which discusses the distinction in terms of *imperandi ratione* rather than framing this as a difference between *summum imperium* and *administratio* as in his *Methodus*: Bodin, *Methodus ad facilem historiarum cognitionem* (Paris, 1566), 181.

here complements his allusion to the “mysteries” of political science in his preface, indicative of the apparently inscrutable nature of political science. Bodin’s distinction between government and state has attracted scholarly attention for its apparently “modern” attributes; it has been of particular interest to scholars examining the implications of his argument for later conceptions of politics such as those of Rousseau.¹⁵ Yet the complex concept of *police* embedded within Bodin’s important distinction has been under-examined. Its role in French political thought—as a part of the broader process of defining politics, conceived both as a practical activity and an intellectual discipline—merits further investigation. Dissecting *la police* reveals its Aristotelian components, but contextualizing it demonstrates a unique juridical application of the term to explain an existing distinction between administration and sovereign rule. This approach reveals the tensions between a juridical understanding of the idea of the *république* or *respublica* and one grounded in classical political philosophy; Bodin used both. A forensic approach to the position of this concept of *la police* is therefore a way of unpacking Bodin’s methodological approach to political thought, but it also clarifies the relationship between the sovereign and the commonwealth, the key feature of the *République*.

II.

Any verdict on the nature and significance of Bodin’s distinction between government and state requires a consideration of the meaning of *la police*. His use of the term in the 1576 vernacular edition of *République* is not matched by a single Latin equivalent in later editions; instead he moves between *gubernatio*, *administratio*, *imperandi ratio*, and simply *res humanae*. Scholars can therefore deduce a general sense of what he might have meant by *police*: a particular type of rationality, or prudence, determining the oversight of day-to-day administration in a commonwealth. But the inconsistency makes it impossible to draw any concrete conclusions about

¹⁵ Luc Foisneau, “Sovereignty and reason of state: Bodin, Botero, Richelieu and Hobbes,” in *The Reception of Bodin*, ed. Lloyd (Leiden: Brill, 2013), 323–42; Keohane, *Philosophy and the State in France*, 54–82; André Lemaire, *Les lois fondamentales de la monarchie française d’après les théoriciens de l’ancien régime* (Paris: Ancienne librairie E. Thorin et fils, 1907), 111–28; Moreau-Reibel, *Jean Bodin*, 135–198; Senellart, *Les arts de gouverner: Du régime médiéval au concept de gouvernement* (Paris: Seuil, 1995); Skinner, *Foundations*, 2:286–301; Jean Terrel, *Les théories du pacte social: Droit naturel, souveraineté et contrat de Bodin à Rousseau* (Paris, Éditions de Seuil, 2001); Tuck, *Sleeping Sovereign*, 1–62.

the importance of the distinction for Bodin's political thought. It has been suggested—erroneously, as I will explore below—that his use of the term is connected to his response to Claude de Seyssel's *La Grande Monarchie de la France* (1519). While Seyssel influentially used the idea of *la police* to restrain royal power, Bodin did not conceive of the “restraints” in the *République* as checks on the sovereign's power that favored the people, but rather as ways of preventing the office's power from being diminished by the actions of individual office holders.

Focusing on Bodin's concept of *police* within the commonwealth confirms that the legislative activity of government did not necessarily have to conflict with the idea of the sovereign as *legibus solutus*. It has been clearly established that Bodin's distinction “allowed him consistently to separate formal sovereignty from the actual flow of power in the governance of the commonwealth.”¹⁶ However, Bodin's use of the term *la police* has yet to be considered as part of an existing set of French discussions about government, political prudence, and types of political activity. Thus, the weaknesses of Bodin's choice have been overlooked, perhaps because the term *police* took on a much more definitive meaning from the seventeenth century onwards. But as contemporaries had noted, politics in the 1560s and 70s was an unstable concept requiring closer definition and analysis. The fact that Bodin did not employ his distinction between state and government consistently in the *République* reinforces this point and demonstrates the extent to which his *République* was part of a process of defining political science itself, proven by his many editions of the work. This line of inquiry might appear to undermine Bodin's claims about the significance of his distinction but that is not the intention. In fact, addressing the instability of the terminology of *la police* paradoxically demonstrates a fundamental, stable fact about the *République* itself: As Nannerl Keohane so importantly suggested in 1980, Bodin's work is not just about the definition of sovereignty. More broadly conceived, it was a *summa* examining the proper order of a commonwealth as a whole, and in particular the relationship between the state and its administration, a relationship that would come to define seventeenth-century French political discourse.¹⁷

The term *la police* came to the French language through vernacular translations of Aristotle's works.¹⁸ The meaning of order and good governance implicit in the term saturates Giles of Rome's influential *De Regimine*

¹⁶ Keohane, *Philosophy and the State*, 74. Tuck has more recently made claims for the significance of Bodin's distinction for modern political thought in *Sleeping Sovereign*.

¹⁷ Keohane, *Philosophy and the State*, 54–82.

¹⁸ Cf. Nicolai Rubinstein, “The history of the word *politicus* in early-modern Europe,”

Principum (1280) and its vernacular translations, first written for Philip IV and embedded in the Aristotelian tradition.¹⁹ But *la police* entered into French political discourse most influentially through Nicolas d'Oresme's first vernacular translation of *The Politics* in the fourteenth century, *Le Livre de Politiques d'Aristote*, which rendered *politeia* as *policie*. Oresme's translation was problematic for a number of reasons, but in this context his use of the term *policie* inherited the ambiguity of the original in distinguishing between all types of constitution and the "best" constitution.²⁰ Louis Le Roy's 1568 edition supplanted Oresme's translation, but reinforced the Aristotelian associations of the term *la police*. In his commentary on *Politics* 3.2, Le Roy explained that *police* (like *civitas*) could either mean the town or city, or it could refer to *seigneurie* and public government by laws and magistrates over a community of men.²¹ In his commentary, *la police* and *gouvernement politique* synonymously defined the activity of those who had sovereign command over a city.²² Le Roy's use of the term *la police* thus reinforced his manipulation of the Aristotelian text into an argument for strong monarchy. Bodin, certainly influenced by Le Roy, sought to bring clarity to this nebulous distinction between the sovereign and his government.

Bodin rejected many of Aristotle's premises in the *République*, although he remained intellectually indebted to "The Philosopher."²³ Bodin's resources were predominantly juridical, and in both this practical application and that of public discourse the language of *police* had also started to take hold, operating within a broad semantic grouping of "constitution," "government," "order," and "justice" that remained to some degree indebted to the Aristotelian commentary tradition.²⁴ From the late thirteenth and early fourteenth century, the term was widely used to mean

in Anthony Pagden, ed., *The Languages of Political Theory in Early-Modern Europe* (Cambridge: Cambridge University Press, 1987), 41–56.

¹⁹ Giles of Rome, *Li Livres du Gouvernement des Rois: A XIIIth century French version of Egidio Colonna's Treatise De Regimine Principum, now published from the Kerr ms*, ed. S. P. Molenaer (Columbia University Press: New York, 1899). On the French translations, see Noëlle-Laetitia Perret, *Les traductions françaises du De regimine principum de Gilles de Rome: Parcours matériel, culturel, et intellectuel d'un discours sur l'éducation* (Brill: Leiden, 2011).

²⁰ Nicolas d'Oresme, "Le Livre de Politiques d'Aristote, published from the Text of the Avranches Manuscript 223. With a Critical Introduction and Notes by A. D. Menut," *Transactions of the American Philosophical Society* 60 (Philadelphia, 1970): 28.

²¹ Le Roy, *Les Politiques*, 3.4, 302; cf. 325.

²² Le Roy, 3.5, 327.

²³ Anna Becker, "Jean Bodin on Oeconomics and Politics," *History of European Ideas* 40, no. 2 (2014): 135–54.

²⁴ Nicolas Delamare, *Traité de la Police*, 4 vols. (Paris, 1705–38) catalogues French texts which discuss *la police*. Useful studies of the term in scholarship include: Marguerite Boulet-Sautel, "Police et administration en France à la fin de l'ancien régime: Observa-

“good government” on the basis of sound laws, administration, and constitution. In 1388 (before he went insane), Charles VI defined his office as consisting primarily in the “care and government of our good city of Paris, in order to preserve justice, ordinances, and *police* in all things.”²⁵ A century later, Louis XI can be found confirming to some local magistrates the right to govern “in justice and *police*.” On this basis, historians have suggested that the emphasis on a well-ordered constitution, through the practical administration of everyday government, is the most comprehensive interpretation of *la police*.²⁶ This certainly fits the *Code d’Henri III* (1587), in which the tenth book is devoted to municipal government (especially taxation) under the heading “of the jurisdiction and administration of *la police*.”²⁷ It is also confirmed by Cardin Le Bret’s view in 1632, describing *la police* through the laws and ordinances which regulated the public economy of the people, overseen by the sovereign.²⁸

In employing the term *police* as distinct from the state, Bodin could well have been drawing on this loose, anodyne definition of the word to mean administration on the basis of a well-ordered constitution. However, he would have been aware of the potential problems inherent in the terminology, particularly when applied to the French case. Notwithstanding the emphasis on good political order, there was potential for conflict between the concept of *police* and arguments for the full legislative sovereignty of the French king. The concentration of powers into the hands of sovereign monarchs by the end of the Middle Ages had meant that sovereigns could not let *la police* escape their sphere of influence. Nevertheless this regal vision of royal power was difficult to impose in practical terms—the elaboration and application of norms of government testified to a diffused, rather

tions terminologiques,” in *Histoire comparée de l’administration (Ive–XVIIIe siècles): Actes du XIVe colloque historique franco-allemand (Tours, 27 mars–1er avril 1977)*, eds. Werner Paravicini and Karl Ferdinand Werner (Munich: Artemis Verlag, 1980); François Olivier-Martin, *La police économique de l’Ancien Régime* (Paris: Editions Loyssel, 1988); Paulo Napoli, “‘Police’: La conceptualisation d’un modèle juridico-politique sous l’ancien régime,” *Droits: Revue Française de théorie juridique* 20 (1994): 183–96; Albert Rigaudière, “Les ordonnances de police en France à la fin du Moyen Age,” in *Policey im Europa der Frühen Neuzeit*, ed. Michael Stolleis (Frankfurt: Vittorio Klostermann, 1996), 97–161.

²⁵ Delamare, *Traité de la Police*, vol. 4, 170. Quoted in Rigaudière, “Les ordonnances de police,” 103.

²⁶ See Napoli, “‘Police’”; Rigaudière, “Les ordonnances de police.”

²⁷ Barnabé Brisson, ed., *Code du roy Henry III. Roy de France et de Pologne* (Paris, 1587), 315–70. Barnabé Brisson was mentioned with admiration by Bodin in the *Methodus*, and executed by the League in 1591.

²⁸ Cardin Le Bret, *De la Souveraineté du Roi* (Paris, 1632), 688–96.

than centralized, monarchy.²⁹ France was made up of a network of localities and powers asserting independent jurisdiction. From the king's council to the parliament of Paris and out into the localities, governors, seneschals, bailiffs, and provosts undertook the activities of government (*la police*) in the king's name. Jurists had also begun to claim, from the twelfth century onwards, that magistrates could make and enforce statutes in their own cities.³⁰ The question of how to govern a well-ordered community therefore involved discussion of the relationship between royal powers and the requirements of local government that allowed for a measure of legislative independence from sovereign authority.³¹ Henri II's request of the president of the Paris *parlement*, in 1555, to assemble all the laws concerning *la police* out of concern for their lack of regulation is symptomatic of the potential for a loss of control over the realities of government in France's diffused monarchy, and a lack of clarity as to the extent of the powers of *police*.³² When Bodin decided to forge a distinction between government and state, he sought to clarify the relationship between sovereign power and the activity of day-to-day government. Yet allowing for a measure of legislative independence from sovereign authority, as implied in the language of *police*, produced an awkward confrontation with those fourteenth-century statements of Capetian sovereignty to which Bodin himself was indebted.³³

III.

Claude de Seyssel's employment of the term *police* in his celebrated work, *La Grand Monarchie de France* (1519), highlights the potential difficulty Bodin faced in forging his distinction between state and government. At the

²⁹ Rigaudière, "Les ordonnances de police," 109.

³⁰ Rigaudière, 120.

³¹ Explored in Rigaudière, *Penser et construire l'état dans la France du Moyen Âge (XIIIe–XVe siècle)* (Paris: Comité pour l'histoire économique et financière de la France, 2003); Guillaume Leyte, *Domaine et dominalité publique dans la France Médiévale (XII–XVe siècles)* (Strasbourg: Presses Universitaires de Strasbourg, 1996).

³² Rigaudière, "Les ordonnances de police," 132–33; Olivier-Martin, *La police économique*, 47–48.

³³ As observed by Mesnard, *L'essor de la philosophie politique*, 492. Cf. Jacques Krynen, "De nostre certaine science . . .": Remarques sur l'absolutisme législatif de la monarchie médiévale française," in *Renaissance du pouvoir législatif et genèse de l'État*, eds. André Gouron, Albert Rigaudière (Montpellier: Socapress, 1988), 131–44; Walter Ullmann, "The Development of the Medieval Idea of Sovereignty," *English Historical Review* 64 (1949): 1–33.

start of the sixteenth century, Seyssel had established a connection between the constitution and a set of limitations on the absolute power of the French king. Writing in the optimistic spring of 1515 for the new king, François I, Seyssel had influentially attributed the success of France's political order to three restraints (*freins*) on the sovereign power of the French monarch: justice, religion, and *police*.³⁴ Seyssel defined *police* as the ordinances of the Kings of France approved by the Parlement of Paris, arguing that they "have been kept for such a long time that the princes never undertake to derogate from them; and if they wanted to do so, their commands would not be obeyed, especially as to their domain and royal patrimony, which they cannot alienate except in case of necessity."³⁵ Seyssel's definition was influential, but it was also problematic in its lack of precision.³⁶ His treatment of *la police* as a kind of positive fundamental law left only vague references to the other laws and ordinances concerning the public good of the kingdom.³⁷ Furthermore, by the second half of the sixteenth century, Seyssel's ideas had come under closer scrutiny and started to look outdated. The historian Girard du Haillan, for example, agreed with Seyssel that the establishment of good government, of justice, and of *la police* set France apart from other Christian countries, but suggested that in recent times those institutions had fractured, and the order described by Seyssel no longer existed.³⁸ Seyssel's framework did not provide an entirely satisfactory model for late sixteenth-century thinkers interested in the concept of *la police* partly because the terminology itself lacked clarity of definition, and because the "great monarchy" referred to in Seyssel's title was, by the

³⁴ A model notably emulated in Jean du Laurier, *De l'Estat de ce Royaume quant a la religion, justice et police* (Paris, 1583) and Innocent Gentillet, *Anti-Machiavel* (Geneva, 1576). Bodin used this language of restraint in the *Methodus*, 305, but it does not reappear in the *République*.

³⁵ "Le tiers frain est celuy de la police. Cest a scavoir de plusieurs ordonnances qui ont este faictes par les roys mesmes y apres confermees y approuvees de temps en temps/ lesquelles tendent a la conservation du royaume en universel et particulier. Et si ont este gardees par tel y si longtemps: que les princes nentrepeignent point dy deroguer: et quant le voudroient faire son nobeist point a leurs commandemens mesmement quant au fait de leur demaine y patrimoyne royal quilz ne peuvent alier sans necessite," Claude de Seyssel, *La Grant* [sic] *Monarchie de France* (Paris, 1519), 1.11. The modern English translation is *The Monarchy of France*, trans. J. H. Hexter, additional trans. Michael Sherman, ed. Kelley (New Haven/London: Yale University Press, 1981), 56–57. Cf. Skinner, *Foundations*, 2:260–275; Church, *Constitutional Thought*.

³⁶ Lemaire, *Les lois fondamentales*, 74–75; Skinner, *Foundations*, 2:261–63.

³⁷ Lemaire, *Les lois fondamentales*, 74–75.

³⁸ Bernard de Girard du Haillan, *De l'estat et succez des affaires de France* (Paris, 1571), 82.

1570s, in a deeply precarious situation that would culminate in the assassination of Henri III in 1589.³⁹

Seyssel problematically conflated *la police* with fundamental law, a dominant concept in French political thought in the medieval and early modern periods.⁴⁰ Fundamental law could restrain the power of kings in consolidating the idea that there were certain immutable laws of the kingdom or by taking that argument further and arguing for the original location of sovereignty in the body of the people, as in, for example, the Huguenot lawyer François Hotman's *Francogallia* (1573). Not surprisingly, in Bodin's *République* the concept did not play that restraining role, and even though Bodin subscribed to a fairly traditional view of the "fundamental" laws of the French kingdom, they did not (strictly speaking) function as a restraint on sovereign power in his political thought.⁴¹ Whereas Seyssel had collapsed fundamental law and *la police* to such an extent that his monarch could never be seen as above the law, Bodin had distinguished between the two while at the same time giving his own particular spin on the concept of fundamental laws, which he termed "royal" (*lois royaux/leges imperii*).⁴² Bodin did not treat fundamental laws as though they were created by the will of the people in a constitution, as in *Francogallia*, for example; instead these laws created themselves, in a manner akin to natural law. As Keohane has noted, it was crucially important that they had no institutional form.⁴³ In Bodin's analysis, "royal" laws were those that concerned the original foundation of a kingdom and from which, logically, sovereigns could not derogate—such as the Salic law, which remained a source of contention in French political and legal theory.⁴⁴ For

³⁹ Despite this observation, Seyssel's idea did remain influential and the concept of *la police* could still retain its implications for the limitation of sovereign power, especially with regard to the prevention of tyranny, as in Gentillet's *Anti-Machiavel*.

⁴⁰ See Lemaire, *Les lois fondamentales*.

⁴¹ Cf. Skinner, *Foundations*, 2:293–301.

⁴² Bodin, *République*, 1.9, 136; *De Republica*, 1.8, 87–9. Cf. his use of the category of "royal" laws in the *Methodus*: Bodin, *Methodus*, 239. Bodin's concept of fundamental law is discussed by Franklin, *Jean Bodin*, 70–92; Keohane, *Philosophy and the State*, 72–73.

⁴³ Bodin, *République*, 4.1, 401; 5.1, 516; *De Republica*, 4.1, 365; 6.1, 491. Keohane, *Philosophy and the State*, 72. Cf. Lemaire, *Les lois fondamentales*, 112. Giesey argued that for Bodin there is a whole category of law which is "seemingly civil, actually natural" that explains his apparently constitutionalist views. Giesey, "Medieval Jurisprudence," 180; also noted by Skinner, *Foundations*, 2:294.

⁴⁴ "Quant aux loix qui concernent l'estat du Royaume, et de l'establisement d'iceluy, d'autant qu'elles sont annexes et unies avec la couronne, le Prince ni peut déroger, comme est la loy Salique: et quoy qu'il face, tousjours le successeur peut casser ce qui aura esté fait au prejudice des loix Royales et sur lesquelles est appuyé et fondé la majesté souvera-

Bodin, Salic law was a component of the stability and perpetuity of sovereignty itself, and no sovereign could attack or undermine this without damaging their own power of command. Bodin's conception of fundamental law was designed to prevent the sovereign from destroying his own position of power, and in that sense could be seen as a type of restraint. However, in defining fundamental laws as "royal laws," and distinguishing them from his own conception of justice and government embodied in *la police*, Bodin deliberately moved away from the parameters set by Claude Seyssel in the earlier part of the century.

In deliberately employing the language of *police* in such a way as to distinguish it from the example of Seyssel's restraints, Bodin further distanced himself from another feature of Seyssel's *La Grande Monarchie*: the mixed constitution. Bodin's claim that sovereignty was indivisible, and that a mixed constitution equated to anarchy, is well known.⁴⁵ But it is not the case, as the German philosopher Henning Arnisaeus (1570–1636) would later suggest, that by distinguishing government from the state, Bodin allowed the theory of the mixed constitution in through the back door.⁴⁶ Bodin's views on the mixed constitution are notable because they indicate the extent to which he was maneuvering around the Aristotelian concept of *politeia* implicit in the language of *police*. Bodin rejected the Aristotelian implications of *la police* understood as the best (mixed) constitution, which had received a monarchical formulation in the works of Seyssel and Le Roy. Instead Bodin introduced his own definition, which remained close to the Aristotelian original even as he tried to distance himself from it.⁴⁷ Bodin addressed this question first in his *Methodus* and elaborated on his ideas in the *République*, where he demonstrated the difference between the state, which corresponded to the character of its people, and the government, by which he meant decrees, edicts, and their execution (as distinguished from

ine," Bodin, *République*, 1.9, 136; *De Republica*, 1.8, 87–9. Bodin's lack of curiosity about the validity of applying a Frankish law of private land tenure to succession law is noticeable. See Giesey, "The Juristic Basis of Dynastic Right to the French Throne," *Transactions of the American Philosophical Society* 51, no. 5 (1961): 29–30; Giesey, *Le rôle méconnu de la loi Salique: La succession royale XIVe–XVIe siècles* (Paris: Les Belles Lettres, 2007).

⁴⁵ Bodin, *République*, 2.1, 227–28; *De Republica*, 182–83. Cf. Christian Nadeau, "Les constitutionnalistes Français face au problème de la constitution mixte: Claude de Seyssel et Jean Bodin," in *Le Gouvernement Mixte: De l'idéal politique au monstre constitutionnel en Europe xiii^e-xvii^e siècle*, ed. Marie Gaille-Nikodimov (Saint-Étienne: Publications de l'Université de Sainte-Étienne, 2005), 95–116.

⁴⁶ Henning Arnisaeus, *De Jure Maiestatis* [Strasbourg, 1635], 33.

⁴⁷ Bodin, *Methodus*, 181–82.

the activity of sovereignty).⁴⁸ Bodin clarified this thought through his important definition of *république* as the “just government” (*police*) of a collection of households and the things they held in common under sovereign power at 1.1.⁴⁹ Bodin’s concept of the commonwealth depended upon “just” government” according to the legal framework of the constitution, and was distinct from the sovereign. In this sense Bodin’s notion of *police* aligns with Aristotle’s concept of *politeia* only in the broadest sense of describing how a polis is run; it avoids any association with the mixed constitution. Bodin’s definition of the *république* was therefore closely aligned with the concept of *la police*.

Bodin’s use of the term *police* at this point in the *République* confirms the argument that his theory of political rule is fundamentally paternalistic and inclines toward monarchy as the best constitution. This is made clear in his discussion of the connections between *la police* and the economy (*l’oeconomielloikonomia*) and the blame he lays at the feet of Xenophon and Aristotle for enforcing an artificial separation between the two concepts.⁵⁰ Using his well-established technique of pitting the juridical tradition against the scholastic, Bodin argued at 1.2 that lawyers and legislators were right to treat the laws and *ordonnances* of *la police*, colleges, and families as part of the same science. By bringing these two concepts closer together, and defining *l’oeconomie* in terms of the government of the household (not the acquisition of goods), Bodin was endeavoring to make the case for a closer association between the *république* and the household (*mesnage/ domus*).⁵¹ He reiterated the point at 1.10 in his discussion of the marks of sovereignty, where he showed that the meting out of justice could not be a mark of sovereignty because it was a characteristic that princes and subjects shared. Nor, he argued, was the institution or creation of officers who serve either justice or a governmental function a mark of sovereignty.⁵² Bodin’s paternalistic theory of sovereignty is further demonstrated by the distinction he made between the activities of government—akin to the running of the household (“servants of the *police*” in the Latin edition is rendered as *ministros domi*)—and the activities of the sovereign. One of the consequences of this line of argument was the protection of private property in

⁴⁸ Bodin, *Methodus*, 181–82, 195–206. The distinction is between *imperium* and *gubernatio*, with *administratio* also used to describe government.

⁴⁹ Bodin, *République*, 1.1,1; Bodin, *De Republica*, 1.1,1.

⁵⁰ Cf. Becker, “Jean Bodin on Oeconomics and Politics.”

⁵¹ Becker.

⁵² Bodin, *République*, 1.11, 192; Bodin, *De Republica*, 1.10, 150.

Bodin's scheme: the sovereign could not seize the property of his subjects or tax them without consent.⁵³ To do so would be to undermine this central understanding of the *république* as a collection of households—that is, of private properties—and it confirms Bodin's broader line of argument that the sovereign could not attack his own commonwealth, thus pitting *dominium* against *imperium* and thereby establishing that the sovereign did not receive his right to command the commonwealth on the basis of territorial ownership.⁵⁴ Bodin's concept of the *république* and *la police* was a way of ensuring that the members of a commonwealth were part of the community, but excluded from any participation in sovereignty. Here we can see that Bodin had divorced the concept of *police* understood as *politeia* from any implications regarding membership of a polis as (sovereign) ownership of that polis.

IV.

In using *la police* to operate in the sense of “just government,” Bodin also endeavored to distinguish his conception of government from the language of the ancient constitution. The antiquarian revival during the civil wars was accompanied by a commitment to the idea that France had superlative institutions grounded in antiquity. It encouraged the search for the origins of that constitution in Frankish antiquity alongside an emphasis on the peculiar status of the French as a free people; the phrase “Frank and free” was used to suggest liberation from Roman institutions as well as a freedom guaranteed by the constitution.⁵⁵ Étienne Pasquier's *Recherches de la France*, for example, examined the Frankish and Gaulish origins of French

⁵³ Cf. Skinner's discussion in *Foundations*, 2:295–6; Lemaire, *Les lois fondamentales*, 126.

⁵⁴ Bodin, *République*, 6.2, 618–23; *De Republica*, 6.2, 640–43. His references in the French edition (not repeated in the Latin) are to the influential work of his friend, René Choppin: *De Domanio Franciae* (Paris, 1574) 1.1, 1–10; cf. Annabel Brett, *Changes of State: Nature and the Limits of the City in Early Modern Natural Law* (Princeton/London: Princeton University Press, 2014), 170; Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2009), 287–88; Senellart, “L'espace de la souveraineté,” *Transeo* (2010), no. 2–3.

⁵⁵ The anti-Romanism of the ancient constitutionalists like Pasquier was intimately connected to the juridical question regarding the primacy of Roman law over national and local French laws. See René Filhol, “The codification of customary law in France in the fifteenth and sixteenth centuries,” in H. J. Cohn, ed., *Government in Reformation Europe, 1520–1560* (London: Macmillan, 1971), 265–83.

society and demonstrated the ways in which the ancient Gauls had anticipated the modern French Parlement and provincial assemblies, a heritage that was complemented on the arrival of the Franks. The great gift of the ancient Germans to France was its name, he argued, redolent of the liberty and franchise which they demonstrated in their spirit. Pasquier referred to this constitution as the ancient *police*, describing its superlative management by the Christian kings since Clovis, including Pepin, Charlemagne, and Hugh Capet.⁵⁶ In the desire to locate what Pasquier called “the spirit” (*l'esprit*) of the French constitution, Frankish antiquity provided a model of well-ordered monarchy, in which excessive power was limited by the restraints of customary and “fundamental” law. In an extension of this philosophy Michel de Montaigne would later observe that those on the “best” side of the religious wars were the ones who sought to protect the ancient religion and political organization (*la police ancienne*) of France.⁵⁷

The source of *la police ancienne* was a divisive question in French political thought: either it was founded in customary law, authored by the people who were therefore the guarantors of their own liberty; or in Roman law, in which case sovereignty was originally transferred from the people to a ruler according to the *lex regia*. France was ruled by both Roman and customary law, and so French ancient constitutionalism has a uniquely complex set of theories underpinning it.⁵⁸ It also developed as a consequence of the backlash against the hegemony of Roman law in French juridical circles, embodied in the ongoing process of the codification of customary laws in the fifteenth and sixteenth centuries.⁵⁹ The development of the *mos gallicus* therefore began to play a significant part in arguments about the nature of the ancient constitution.⁶⁰ It was also a key component of Bodin's intellectual heritage, and that of his contemporaries in the legal profession. François Hotman notably brought this training to bear in his

⁵⁶ Étienne Pasquier, *Recherches de la France*, 3 vols., edited by Marie-Madeleine Fragonard and François Roudaut (Paris: Champion, 1996), 1:323–25, 493.

⁵⁷ Michel de Montaigne, “De la liberté de conscience,” in *Les Essais*, ed. Jean Balsamo, M. Magnien, Catherine Magnien-Simonin (Paris: Gallimard, 2007), 706.

⁵⁸ John G. A. Pocock, *The Ancient Constitution and the Feudal Law: A Study of English Historical Thought in the Seventeenth Century: A Reissue with a Retrospect* (Cambridge: Cambridge University Press, 1987), 1–29.

⁵⁹ For example, see Louis Le Caron, *Pandectes du droit François* (Lyon, 1596) fol. 11v. François Hotman's *Antitribonian*, circulated in manuscript form in 1567 but not published until 1603, is exemplary of this methodology.

⁶⁰ Cf. Kelley, *Foundations*; Kelley, “Second Nature: The Idea of Custom in European Law, Society and Culture,” in *The Transmission of Culture in Early Modern Europe*, ed. Anthony Grafton and Ann Blair (Philadelphia: University of Pennsylvania Press, 1990): 131–72.

Francogallia, which rested on the principle that the ancient constitution provided for the liberty of the French people. In Simon Goulart's vernacular translation, French custom and *la police* are treated as a unit, which reinforces the association between *la police* and this brand of ancient constitutionalism.⁶¹ Hotman had rested his argument on a Bartolist analysis of customary law in which lasting consent on the part of the people, understood as a corporation, had acquired the force of written law.⁶² The use of the language of *police* therefore had implications for the significance of customary law in the creation of an idea of the "ancient" constitution. Once again, Bodin had to avoid a pitfall in his employment of the term *police* in order to preserve the status of sovereign power in his *République*.

Bodin's intellectual relationship to the "monarchomach" treatises was a complex one, as John Salmon has explored, and we can also see this in his approach to customary law and his concept of *la police*.⁶³ There was an intellectual bond between Hotman and Bodin in their historicizing attitude toward the study of law.⁶⁴ Bodin's utilization of the resources of customary law in the *République* confirms his commitment to aspects of the *mos gallicus*, indebted as he was to the *procès-verbaux des états* of the fourteenth and fifteenth centuries, the *arrêts* of the Parlement of Paris, and the decisions of the parlements of Toulouse, Bordeaux, and Grenoble. The customs of Brittany, Normandy, and Languedoc were also—as Pierre Mesnard put it—"currency" in the hands of Bodin, along with those of Venice and Scotland.⁶⁵ But rather like his use of fundamental, or royal, laws, Bodin carved off customary law from his concept of *la police*. In contrast to Hotman, who used a customary law basis to argue for the election and deposition of kings in *Francogallia*, and again consistent with his understanding of *la police*, Bodin saw no necessary conflict between a sovereign's power to command and the customs of the people. In making that case, he was also working within an existing intellectual framework regarding the authority

⁶¹ François Hotman, *La Gaule-Françoise*, trad. S. Goulart (Cologne, 1574), fol. 1v.

⁶² George Garnett, "Scholastic Thought in Humanist Guise: François Hotman's Ancient Constitution," in *The Medieval World*, 2nd ed., ed. Peter Linehan, Janet L. Nelson, and Marios Costambeys (London: Taylor and Francis, 2017).

⁶³ Salmon, "Bodin and the monarchomachs," in his *Renaissance and Revolt: Essays in the Intellectual and Social History of Early Modern France* (Cambridge: Cambridge University Press 1987), 119–35.

⁶⁴ This explains why Hugo Grotius later acknowledged his intellectual debt to them both because they had "with most care attempted to introduce History into the Study of Law." Hugo Grotius, *The Rights of War and Peace*, ed. Tuck (Indianapolis, IN: Liberty Fund, 2005), 131.

⁶⁵ Mesnard, *L'Essor de la philosophie politique* (Paris: Librairie Philosophique J. Vrin, 1936), 478.

of customary law in France. It was made very clear, for example, in a manuscript entitled *Traité du droit des coutumes de France*, that there was a distinction between the king's role in determining the form of legislation in France and the people's role in interpreting, supplementing, amending, and mitigating the law that need not conflict with the king's authority.⁶⁶

The indivisibility of sovereign power is a foundational aspect of the *République*, and a sovereign did not require consent when changing the laws, even when those laws had the weight of immemorial custom behind them. In the *République* (in contrast to the *Methodus*) Bodin suggested that kings were not bound to seek this consent but he did acknowledge that it was ordinary practice to do so.⁶⁷ Thus, there was a fragile consensus between ruler and ruled, wherein the former acknowledged the status and importance of customary law even if he did not have to conform to it; sovereigns could go against the demands of the Estates General or local *bailliages* if natural reason and justice were on their side. Here Bodin acknowledged that while there were ideals by which a king *should* conduct himself in regard to customary law, simultaneously there was no mechanism for preventing him from exercising his will so long as it was in accordance with justice and natural reason.⁶⁸ The true sovereignty of the prince was encapsulated, he argued, in the moment when the Estates General assembled and presented requests to the prince with no power to command or any deliberative voice.⁶⁹ In short, Bodin stated, the force of custom depended solely on the will of the prince, and whether or not it suited him to declare a particular custom to be law.⁷⁰ He clarified that even those who

⁶⁶ Arsenal ms 671. Cf. Filhol, "Codification of customary law," 277–80.

⁶⁷ Bodin, *Methodus*, 239–340; "Mais quant aux coutumes generals et particulieres, qui ne concernent point l'establissement du Royaume, on n'a pas accoustumé d'y rien changer, sinon apres avoir bien et deuement assemblé les trois estats de France en general, ou de chacun Bailliage en particulier, non pas qu'il soit necessaire de s'arrester à leur advis, ou que le Roy ne puisse faire le contraire de ce qu'on demandera, si la raison naturelle, et la justice de son vouloir lui assiste," Bodin, *République*, 1.9, 136–7; *De Republica*, 1.8, 89.

⁶⁸ Bodin, *République*, 1.9, 136–37; *De Republica*, 1.8, 89.

⁶⁹ "Et en cela se cognoist la grandeur et majesté d'un vray Prince souverain, quand les estats de tout le peuple sont assemblez, presentans requeste et supplications à leur Prince en toute humilité, sans avoir aucune puissance de rien commander, ni decerner, ni voix deliberative," Bodin, *République*, 1.9, 136–37; *De Republica*, 1.8, 89.

⁷⁰ "Je responds que la coustume prend sa force peu à peu, et par longues annees d'un commun consentement de tous, ou de la plus part : mais la loy sort en un moment, et prend sa vigueur de celuy qui a puissance de commander à tous: la coustume se coule doucement, et sans force: la loy est commandee et publiee par puissance, et bien souvent contre le gré des sujets: et pour ceste cause Dion Chrysostome compare la coustume au Roy, et le loy au tyran: davantage la loy peut casser les coustumes, et la coustume ne peut deroger à la loy, qui tousjours le magistrat, et ceux qui ont la charge de faire farder les

have been commissioned to make laws on behalf of the sovereign are not the authors of the laws. So he stated that Solon and Lycurgus—those great lawgivers lauded in political thought—were only commissioners. The laws themselves were of the people of Athens and Sparta.⁷¹ This did not prevent Bodin from drawing the conclusion that magistrates, acting as the agent of the original author of the laws, could have the power to bend them if there was a problem of interpretation or application, so long as they did not break them. Bodin gives with one hand what he takes away with the other; in preserving a role for customary law in the *République* he seemed to be acknowledging the authority of immemorial custom in the political system, but in reducing it to the whim of the sovereign's will, he severed it from any connection to the authority of *la police ancienne* and its radical implications.

V.

To conclude, Bodin's use of the language of *la police* functions as a way of distinguishing his argument from existing French intellectual traditions, and stepping away from the directly Aristotelian implications of the concept of *politeia*. His distinction between the state and the government does therefore appear to take his readers into innovative territory, establishing a clear division between two types of jurisdiction within the commonwealth that need not conflict with each other. There is no coercive power over the sovereign implied in the duties of *la police*. Just as in the Parlement, magistrates executed domestic law and this did not conflict with sovereign legislative power.⁷² In fact, as long as the law to be executed was not against the law of nature the magistrate *must* execute it.⁷³ Bodin defined *la police ordinaire* in relation to both the king's ordinances and edicts, and to those laws or amendments passed by commissioned magistrates.⁷⁴ He provided an example of the kinds of laws he meant further on in book four, when he showed that the carrying of arms in political gatherings was forbidden

loix, ne puissent quans bon leur semblera, les faire executer," Bodin, *République*, 1.11, 198; the Latin edition does not include this passage, *De Republica*, 1.10, 155.

⁷¹ "Mais le magistrat peut ployer la loy, et l'interpretation d'icelle, soit en douceur ou en rigueur, pourveu qu'en la ployant il se garde bien de la casser, encore qu'elle semble fort dure," Bodin, *République*, 1.11, 198–99.

⁷² Bodin, *République*, 3.3, 321–333; *De Republica*, 272–86.

⁷³ Bodin, *République*, 3.4, 337–38; *De Republica*, 289.

⁷⁴ Bodin, *République*, 4.3, 452; *De Republica*, 426.

according to “*la police de Paris*.”⁷⁵ The recognition of different jurisdictions within France did not conflict with his concept of sovereignty, nor did the existence of corporate bodies within the kingdom. The key point is that they existed to administrate: “One can say that all corporations and colleges are instituted, for religion or for *la police*; as regards *la police*, colleges are established to distribute justice, or to distribute responsibilities, or to maintain order.”⁷⁶ Bodin’s discussion of *la police* is not therefore part of his consideration of any limitation on sovereign power; instead it is closely associated with his conception of order within the commonwealth, in which the distribution of justice is considered part of the hierarchy of obedience that keeps the commonwealth together.

It is important to acknowledge that Bodin does not sustain the distinction he makes between state and government throughout the *République* or employ the term *police* consistently. He was not, therefore, in the business of creating a formal separation between executive and legislative powers recognizable as a feature of modern political thought.⁷⁷ His reference to *la police ordinaire* might suggest that in distinguishing between state and government Bodin was actually relying on an existing medieval juridical formulation which distinguished between absolute and ordinary jurisdiction, or the scholastic distinction between architectonic and political reasoning.⁷⁸ Bodin’s statement at 2.2 was an important part of a process in the evolution of these ideas, but it would be up to his intellectual successors to develop and elaborate his argument. One such successor, the French lawyer Pierre Grégoire, would take up the challenge in his *De Republica* (1597), which devoted close, consistent attention to the juridical role of *administratio* in the commonwealth and played a significant role in this process that has gone relatively unnoticed in its history.⁷⁹

⁷⁵ Bodin, *République*, 4.7, 513; *De Republica*, 488.

⁷⁶ “On peut dire que tous corps et colleges sont instituez, pour la religion, ou pour la police: quant a la police, les colleges sont establis pour distribuer la justice, ou departir les charges, ou donner ordre aux privisions et marchandises qu’il faut apporter, ou enlever: ou pour les mestiers necessaires à la Republique: ou pour l’institution et discipline,” Bodin, *République*, 3.7, 383–4; *De Republica*, 327–26. “*La police*” is “*rerum humanarum*” in the Latin.

⁷⁷ Franklin, *Bodin*, 28–31.

⁷⁸ Cf. J. H. Burns, “*Regimen medium*: Executive power in Early Modern political thought,” *History of Political Thought* 29, no. 2 (Summer 2008): 213–29; Brian Tierney, “‘The prince is not bound by the laws’: Accursius and the origins of the modern state,” *Comparative Studies in Society and History* 5, no. 4 (July 1963): 378–400.

⁷⁹ Existing studies include Claude Collot, *L’école doctrinale de droit public à Pont à Mousson: Pierre Grégoire de Toulouse et Guillaume Barclay* (Paris: R. Pichon et R. Durand-Auzias, 1965); Luigi Gambino, *Il De republica di Pierre Grégoire: Ordino politico e monarchia nella Francia di fine cinquecento* (Milan: Giuffrè, 1975); Sophie

The ways in which Bodin sought to distinguish his concept of *la police* from fundamental law, *politiea*, and the ancient constitution indicate the precise ways in which he sought to differentiate his theory of the *république* from those of his contemporaries; it is therefore indicative of the ways he contributed to the “science” of politics in his own time by introducing these distinctions and definitions. Any inconsistencies in his use of the term *police* are symptomatic of an intellectual world that reflected the realities of French administration in the sixteenth century, in all its complexities. More profoundly, we can see that Bodin’s concept of *la police* as distinct from the state was integral to his theory of sovereignty and the order of the *république* as a whole. Instead of using it to impose external restraints on the sovereign, or indeed the people, Bodin used his distinction to explain the internal workings of the *république* as a way of replacing the rather more clumsy appeal to an ancient constitution. In doing so, Bodin still acknowledged that the body politic had a memory of its own; thus customary law continued to play a role. As Michel Senellart has argued, by *règle de police*, Bodin was not referring to the notion that the prince ought to conform to an ancient convention (or constitution), but instead to the manner in which he related to the principles underpinning his own power.⁸⁰ It was a matter of grace instead of obligation if a king chose to submit to his own laws and not about the distinction between the sovereignty of the ruler and the sovereignty of the realm.

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Nicholls, “Pierre Grégoire,” in *Dictionnaire des philosophes français du XVII^e siècle: Acteurs et réseaux du savoir en France entre 1601 et 1700*, ed. Foisneau (Paris: Classiques Garnier, 2015).

⁸⁰ Senellart, *Les arts de gouverner*, 32.

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