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RECEPTION OF CLASSICAL MATERIAL IN THE  
ARGUMENT OF CHARLES LOYSEAU'S *TRAITÉ DES*  
*ORDRES ET SIMPLES DIGNITÉZ*

A THESIS BY

MATTHEW J. NELSON

SUBMITTED ON April 21, 2022

IN PARTIAL FULFILMENT OF THE REQUIREMENTS

FOR DEPARTMENTAL HONORS IN CLASSICS

  
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**Abstract:**

Charles Loyseau (1564-1627) was a French jurist who wrote during the reigns of Henry IV and Louis XIII – the first two kings of the Bourbon dynasty. Throughout his career, Loyseau wrote several argumentative treatises either contesting royal edicts or supporting royal law against popular dissent. His most influential work was his 1610 publication *Traité des ordres et simples dignités*. In it, he helped establish a French social structure of three distinct orders: the Clergy, the Nobility, and the so-called Third Estate consisting of the rest of the population. This system later became known as the *Ancien Régime* after the French Revolution overthrew it and erected the First Republic in the 1790s. Loyseau and his treatises clearly contributed to the longevity of a system that created such tension it erupted into the violent French revolution. However, Loyseau did not come up with his theories completely independently. One of the most important categories of evidence he cites is the available Greek and Roman literature on a variety of topics. Citing passages from the philosophies and histories available to him allows him to make universal claims about the nature of social inequality that helped solidify the position of the *ancien régime* for the next two centuries.

I hereby declare upon my word of honor that I have neither given nor received unauthorized help on this work.

Matthew Nelson

**CONTENTS**

<b>INTRODUCTION AND THESIS .....</b>	<b>4</b>
<b>REVIEW OF SCHOLARSHIP .....</b>	<b>6</b>
<b>HISTORICAL CONTEXT .....</b>	<b>11</b>
<b>UNIVERSAL PRINCIPLES OF ORDER.....</b>	<b>17</b>
<b>ANCIENT HISTORY AND GENERAL PRINCIPLES OF SOCIETY .....</b>	<b>26</b>
<b>CAESARIAN ETHNOGRAPHY OF GAUL.....</b>	<b>29</b>
<b>CONCLUSION .....</b>	<b>33</b>

## Introduction and Thesis

The scholarly consensus on the legacy of Charles Loyseau's legal *oeuvres* published in the 1590s and 1600s is that they were the single most influential collection of jurisprudential texts in providing the *apologia* for the *Ancien Régime*. The *Ancien Régime* was the period of monarchy immediately before the outbreak of the French revolution where French citizens fell into rigid social categories termed 'orders' with little opportunity for movement across society. This rigidity – especially the limitations on the lower class citizens for improving their lot in life – was what created the hostilities and tensions that led the Revolutionaries in the 1790s to swing towards violence and begin executing aristocrats in the period known as 'the Terror.'

This violence, however, would have nothing to react against without Loyseau's contributions laying the legal bedrock for social restrictions in 1610. One review of his career even declared him superior to any contemporary jurist in terms of his influence on social theories.<sup>1</sup> Thus, studying the French revolution requires an understanding of Loyseau's *traité des ordres et simples dignités*, published in 1610. This work contained a theory of social order that survived after the fall of the French monarchy as a monument to *Ancien Régime* ideals and early modern absolutism, which in French theory signified a state where the centralized power of the king overruled all powers or bureaucracies in either metropolitan or peripheral France.<sup>2</sup>

The work itself is dense, packed with countless references to contemporary legal tracts, French laws and edicts, and Biblical verses. In addition to these sources, almost a third of Charles Loyseau's citations are to Classical texts.<sup>3</sup> Among the Classical sources, republished editions of the *Codex Iustinianus* and *Codex Theodosianus* stand out as precedents for French law.<sup>4</sup> Loyseau also uses a collection of countless literary sources in addition to the legal sources, ranging as early as the famous Classical philosophy Plato to as late as the late imperial author

Cassiodorus. His many other citations include lesser-known works by authors such as Valerius Maximus and possible forgeries such as the *Historia Augusta*, although the references to Plato, Aristotle, Homer, Julius Caesar, Jerome, Dionysius of Halicarnassus, and Sextus Pompeius are central to his argument that differentiation is ingrained within society and humanity.

Understanding the importance of Classical literature to Loyseau's jurisprudence is crucial for understanding the longevity of the *ancien régime*. In comparison to the subsequent centuries marked by five different forms of republican government, two empires, a return of the monarchy, and other abortive experiments with new types of state constitutions, the *ancien régime* was arguably the most stable period of recent French history. Although the system was inherently restrictive, it survived two centuries as the recognized political and social structure of France. Loyseau disagrees with past historians about the necessity of following Classical precedents to the extent of excluding French custom. He explicitly says at one point that "it is an abuse always to think of relating the ways of Rome to our own" (6.12, p. 119).<sup>5</sup> In an earlier work, he writes that Classical literature and law provides the body of thought allowing French authors to "link usage with reason," as he does in this treatise.<sup>6</sup> Loyseau tends to see the Greeks and Romans as sources of such reason, although his use of Classical material is sometimes "indiscriminate" and he cites minor works or post-Classical forgeries with equal weight as how he cites a more established author such as Cicero or Tacitus.<sup>7</sup> It also seems that he selectively chooses supporting passages at times, given he does not view Aristotelian philosophy as support for the redistribution of social power as some contemporaries did, or given that he cites Aristotle's *Rhetoric* to discuss the philosophical idea of virtue rather than the more expected *Nichomachean Ethics*.<sup>8</sup>

This thesis will study Loyseau's use of literary sources to support his own thesis that the ideal social structure of France is one strictly divided into three social orders with little opportunity for advancement. Whereas Loyseau uses Classical legal sources more to give specific examples of Roman institutions that align with his ideal *ancien régime* structures, he refers to literary sources more as proof for general truths about the nature of social hierarchy. The thesis will examine genres such as Classical philosophy, ancient historiography, and antiquarianism, as well as Caesar's *Commentarii de Bello Gallico*. After examining Loyseau's reception of these sources, it will argue he uses Classical material to posit that social hierarchies are an unavoidable, universal state of being, that the formation of a nation inevitably develops social orders to address this state, and that France has fallen into social orders since its earliest, pre-Roman days.

### **Review of Scholarship**

Howell A. Lloyd has written possibly the most thorough English review of Loyseau's career, including a 1994 English translation under the title *Treatise on Orders and Plain Dignities*. His translation, introduction, and commentary on the treatise are perhaps the most valuable tool for this paper, because of his work in providing a citation for Loyseau's references to prior works, whenever the source of Loyseau's quotation is known. His introduction focuses on Loyseau's use of Roman literature as part of the treatise's argument, but simply summarizes his references to Rome as a "well-documented case study" in how divine universal tendencies guide governments.<sup>9</sup> Lloyd has also discussed Loyseau's references to Aristotle and Plato in his 1983 book, *The State, France, and the Sixteenth Century*. His work focuses broadly on intellectual developments in France throughout the 1600s, but gives credit to Loyseau's influence on the nation and how Loyseau's writings fall within a larger trend of French thinkers

favoring Aristotle's metaphysical ideas. Finally, Lloyd's 1981 article "The Political Thought of Charles Loyseau (1564-1627)" discusses in greater depth the specific Aristotelian concepts Loyseau adopts throughout his works and the impact of his thought on French politics. These three works were immensely helpful for this thesis by providing the connections between Loyseau's citations and the original Classical texts and for sharing background information on the intellectual context of Loyseau and the standing of French, Greek, and Roman thinkers in his day. Lloyd's ideas about the intentionality behind Loyseau's political writings and the relation between this treatise and Loyseau's other works were especially helpful for my argument.

Other than Lloyd, French scholarship has produced most of the analysis and biography of Charles Loyseau. Jean LeLong's 1909 work *La vie et les oeuvres de Loyseau (1564-1627)* takes a biographical approach to understanding Loyseau and his works. The biography is valuable for the information it contains about Loyseau's background, political career, and historical context. The main criticism of the biography is that Lelong – himself not a legal historian - did not properly capture the nuances of Loyseau's treatises.<sup>10</sup> The 2010 chapter "L'écriture du juriconsulte Charles Loyseau (1564-1627)" by Robert Descimon argues that Loyseau's works both reflected French culture and tendencies and proactively impacted future French politics. His view of Loyseau's motivations also influenced this paper by helping create a connection between Loyseau's internal goals in writing the treatise as a whole and Loyseau's goals in citing Classical texts, even if he does not specifically address reception in his chapter. The 1977 monograph *Aux origines de l'état moderne* by Brigitte Basdevant-Gaudemet treats Loyseau's life with a focus on Loyseau's contributions to how French social structure distributed power throughout society. She also analyzes his sources by cataloguing every reference to Classical literature or law in Loyseau's earlier treatise on public office. Unfortunately, she has not written a similar work

cataloguing Loyseau's citations for the *traité des ordres et simples dignités*, but her work is still valuable for understanding Loyseau's research methods for works published between 1600 and 1610. Finally, an article in English by Jonathan Patterson (2016) on the debasement of the Third Estate in Loyseau's treatise very briefly deals with Classical reception. His short treatment of reception is incredibly helpful for the final section of this work because it describes how Loyseau cites Caesar's *Commentarii de Bello Gallico* to make arguments about the relative unimportance of the Third Estate.

Other than Lloyd, Lelong, Descimon, and Basevant-Gaudemet, most discussions of either Loyseau's argumentation or his reception of classics appear as short mentions in cultural or intellectual histories. Jotham Parson's 2001 history of the reception of the Roman *Cēnsor* in late Renaissance and Early Modern history deals with how Roman governmental forms appear in Loyseau's writing, but with a narrow focus on Roman censuses. The main contribution of his article to this paper is the perspective that Loyseau cited Roman law with a descriptive perspective, although the more comprehensive works by Lloyd and Descimon disagree. Roland Maspétiol's 1961 survey of France at the start of the seventeenth century discusses the reception of Roman law in Loyseau's three primary treatises, calling him the most famous of the "jurisconsultes dans la science du droit romain."<sup>11</sup> Maspétiol's summary of Loyseau's life is important for establishing the value of this work as it relates to broader French intellectual history and the context of the French revolution.

A 1992 chapter *The Language of Orders in Early Modern Europe* by Peter Burke for a larger collection on the history of social stratification deals directly with Loyseau's "tripartite image of society" and provides for this study the historical precedents ranging from the Greeks and Romans up through Medieval and Renaissance history.<sup>12</sup> Nannerl O. Keohane's *Philosophy*

*and the State in France* (1980) gives an account of the interplay between philosophy and politics in France. Keohane gives particular attention to the preeminence of Aristotelianism in French thought and how it surfaces in the jurisprudence of Loyseau and of his contemporaries such as Bodin, Montaigne, and Richelieu. David Maland (1970) has published a useful cultural history of seventeenth-century France, which this paper draws upon to understand Classical reception French education system in which Loyseau studied law and the conventional uses in French jurisprudential argument. W. M. Spellman (1988) also wrote an intellectual history of the seventeenth century, which lends much information about the context of European political theory and how Loyseau's contemporaries within and beyond French territories tended to rite. Finally, Donald R. Kelley's (1990) monograph *The Human Measure: Social Thought in the Western Legal Tradition* provides helpful context for the ideas of popular French jurists preceding Loyseau and the intellectual traditions which he either upholds or undermines in the *traité des ordres et simples dignités*.

Because of the importance of Plato and Aristotle in the history of philosophy, there have been numerous works on the reception of their philosophy in the modern era. In addition to the philosophical histories of France which mention Aristotle, studies of Aristotle included Marguerite Deslauriers' chapter "Political Unity and Inequality" which identifies key elements of Aristotle's theories of inequality in the *Politics* and how he changed philosophical ideas towards civic inequity. She does not give a particular focus to Loyseau's *Treatise on Orders and Plain Dignities*, but she deals with the relevant topic of how Greek philosophy shaped French political thought. When discussing the philosophical ideas of Plato in history and how Loyseau adopts them, this paper refers to the commentaries of S. Halliwell (1993) and James Adam (1965) and Dirk Baltzly's (2007) translation of the commentary by Proclus for their value in

unraveling the implications of Platonic philosophy. Since Loyseau cites Homer, although not a philosopher, as support for the philosophical observations of the treatise, secondary analysis on Homer is valuable for this paper. Huebeck, West, and Hainesworth's (1988) commentary on the *Odyssey*, Irene J. F. de Jong (1999)'s critical analysis of Homeric themes, and Emily Wilson's (2018) introduction to her translation of the *Odyssey* allow this paper's analysis to contrast conventional readings of passages from the *Odyssey* with Loyseau's interpretations of the lines which he cites.

Given the number of Roman historians Loyseau cites in his treatise, Conte's literary history, translated into English by Joseph Solodow in 1999, is possibly the best existing resource for studying the reception of all Loyseau's favored authors. For the individual authors cited, there is great variance in how much scholarship already exists for their reception. Loyseau, for example, cites less notable authors such as Dionysius of Halicarnassus and Sextus Pompeius Festus with equal weight as he cites an author such as Tacitus or Livy.<sup>13</sup> Dionysius of Halicarnassus and Sextus Pompeius have received little attention in any period of Classical reception, so the scholarship on how they impacted seventeenth-century France is understandably thin.

Hilary J. Bernstein's (2012) recent article for the *French Historical Studies* about French national sentiments Conte's (1999) work is useful for studying the reception of Julius Caesar's historical commentary, just as he is for the other Roman historians cited by Loyseau. Conte does argue that Caesar's "nachleben" is primarily as a political figure, but that the rediscovery of the *Commentarii de Bello Gallico* played a major role in the Classical revival of early modern France and helped shape perspectives on national origins.<sup>14</sup> Miriam Griffin's (2009) edited volume *A Companion to Julius Caesar* also provides many relevant chapters on the reception of

his literature. Carol Clark's chapter *Some Renaissance Caesars* focuses on the rediscovery of Caesarian literature in early modern France and the sudden popularity his works enjoyed. She does discuss the political impact of French citizens shifting their view to the Gauls as the ancient source of their government, but Loyseau is not one of the jurists she quotes in making this argument. Thomas Bishop also includes the sub-heading "Caesar in Old Regime Political Culture" in his chapter *The Enlightenment*. This survey of reception, however, focuses on a period slightly too late to capture Loyseau's writings, although it does discuss how the context of ongoing civil and religious wars shaped perception of Caesar's historiography and political career.

### **Historical Context**

Understanding the reception of Classics in the *Treatise on Orders and Plain Dignities* requires an understanding of the historical context. The issues to consider include the timing of Loyseau's life, his legal career and treatise, and his implicit aims within the work. The context of a life stretching the chaotic first two reigns of the Bourbon dynasty in an intellectual era defined by a new focus on Greek philosophy as a tool to argue for or against absolutism allows one to consider Loyseau's reception as part of an argument regarding contentious issues of social order.

Loyseau lived and wrote in the early years of the *Ancien Régime* – a term created by French revolutionaries to disparage the oppressively rigid social structure under the Bourbon dynasty. The France of this period based its society on the idea of social 'orders' rather than classes or castes.<sup>15</sup> The social orders fell into a "traditional tripartite image of society" similar to other social structures that briefly appeared in other early modern European states.<sup>16</sup> This notion in Europe informally dated back to the British King Alfred the Great in the 800s when he

remarked that men naturally divided themselves based on the principle of “orant, pignant, laborant.”<sup>17</sup> The Bishop Adalbero of Laon formalized these distinctions in the eleventh century and later Medieval and Renaissance authors continued to expand on the concept.<sup>18</sup> Loyseau’s model of France follows this pan-European tradition. His first chapter divides the French population into the hierarchical First, Second, and Third Estates. He also offers the alternative terms ‘Clergy’ and ‘Nobility’ for the First and Second Estate, respectively, due to their specialized roles supporting the state. These boundaries were inherently rigid, allowing little opportunity for social movement between estates.

Emmanuel Le Roy Ladurie dates the exact start of the *Ancien Régime* to 1610, the same year Loyseau published his treatise and Louis XIII ascended to the French throne.<sup>19</sup> The monarchical agendas of Henry IV and Louis XIII, the first two rulers of the Bourbon dynasty, guided the politics that Loyseau’s treatises addressed. Their mission was to assert the young dynasty as a centralized power equal to the prior Valois dynasty. The power of a monarchy in France had peaked around the 1560s, but then steadily declined until the ascension of Henry IV in 1589.<sup>20</sup> Under Henry IV, France saw a revival of absolutism defining the next two centuries. His assassination in 1610 led to a brief return to social turmoil until the monarchy solidified its central authority under Louis XIII and Louis XIV. Loyseau’s main works fell in the last years of Henry IV and the first year of Louis XIII. Although the *Ancien Régime* and royal absolutism were both traditions known to French citizens, their force wavered at times during Charles Loyseau’s life, leading him to include certain arguments in his legal tracts.

Loyseau’s arguments also reflect the use of Roman history and law to supplement ideas of Greek philosophers in way that is characteristically in keeping with contemporary French jurisprudence. The century before Loyseau’s birth saw a Classical revival in France with a

particular emphasis on Hellenic literature.<sup>21</sup> Political philosophers both supporting and attacking social divisions and royal absolutism referred to Aristotle's treatises for support.<sup>22</sup> Loyseau follows a broad trend of French thinkers gravitating to Aristotle's metaphysical ideas about "immutable influences... present in men themselves."<sup>23</sup> Aristotelian philosophy merged with French concepts under the heading *qualité* – something Loyseau's intellectual influences saw as the inherent properties of a French citizen. Shortly before Loyseau's *floruit*, François Hotman compared the political theories and treatises of Plato and Aristotle to contemporary political philosophies and demonstrated the ways in which Greek philosophy influenced constitutional theory.<sup>24</sup>

The influence of the Romans was also visible in French political philosophy. Roman texts existed in French translation since the early fourteenth century.<sup>25</sup> These translations allowed the ideas of Classical authors to play a great role in French primary and secondary education.<sup>26</sup> Cicero, as well as historians such as Polybius and Tacitus, appeared often in discussions on monarchical, aristocratic, and democratic theory. Moreover, Roman law experienced a resurgence as scholars published new Latin and French editions of the *Corpus Iuris Civilis*.<sup>27</sup> Roman law was so preeminent that every law student at a French university was familiar with Justinian's code. Loyseau followed in a trend where the French were intimately familiar with the use of Classics "not to copy them but to discover how the problems which confronted them had been solved in the past."<sup>28</sup>

Despite the relevance of the *Corpus Iuris Civilis* to arguments supporting legal absolutism, the impact of Roman law on Western European legal thought was minimal prior to Machiavelli (1469-1527). As the influence of Roman law on Western Europe increased and compounded with the existing use of Greek philosophy, two French philosophers emerged who

applied Classical principles to French politics and who appeared several times in Loyseau's citations. André Tiraqueau, the first, emerged at the end of the Valois dynasty. Tiraqueau wrote to defend the increasingly weak position of the Valois kings by drawing from the support of French customary law. Tiraqueau's main contribution was to advance French literature about the importance of nobility.<sup>29</sup> In 1549, Tiraqueau even argued in the *De Nobilitate* that there was an objective source of nobility – an idea similar to what Loyseau would later argue about people having immutable connections to certain social orders.

Loyseau's immediate predecessor was the theorist Jean Bodin. Bodin was one of the principal jurists during the early reign of Henry IV. His writings throughout his career drew from surviving collections of Roman law to argue that all power emanated from the French crown and that no individual or group in France had the right to oppose the agenda of Henry IV.<sup>30</sup> Bodin even flirted at times with the concept of a true universal law guiding humanity.<sup>31</sup> The collective thought of Tiraqueau and Bodin did much to advance the "theoretical absolutism" of the late Valois and early Bourbon dynasty, but a gap between the theory and the reality survived even into the seventeenth century. It was in the wake of these two men that Loyseau began practicing law and eventually expanding their ideas of absolutism and universal principles stemming from Classical thought.

When Loyseau first entered law, he benefitted from the pedigree of his relation to a father who was a renowned lawyer in France.<sup>32</sup> This connection introduced Loyseau not only to the practice of law, but to French politics due to his father's role in the parlement of Paris.<sup>33</sup> Loyseau attended French university after his father's death and began practicing law in 1584. Before he first considered writing legal treatises, he attempted a political career that never achieved great heights, but did lead him back to law. Loyseau found himself appointed to a regional office as

*lieutenant particulier* overseeing Sens, a town hostile to Henry in 1593.<sup>34</sup> This regional resistance, as well as the general unrest throughout France, motivated Loyseau to begin writing his first works on technical issues specific to his jurisdiction in Sens.

The first work Loyseau published in 1595 was the *Traité de la garantie des Rentes* in response to a debate about the defaulting of property in the wake of civil and religious wars.<sup>35</sup> His success writing on this topic motivated him and agitated his intellectual appetite to continue writing about legal issues. In 1597, Loyseau first began considering the application of France's customary laws and declared a goal of trying to reconcile the theory of French law with its practice. The decade from 1600 to 1610 saw Loyseau shift his focus to a national level and write about matters of "puissance publique" rather than local administration.<sup>36</sup> He began writing on national social structure in the late 1610s with a series of three treatises which Lloyd has argued he designed as three different points of a single sociological opinion.<sup>37</sup> Loyseau published the first two parts of this cycle in 1608 and 1609 under the title *Traité des Seigneuries* and the *Cinq Livres du droit des Offices*.<sup>38</sup>

Loyseau's last and most famous work – the *Traité des Ordres et Simples Dignites* – deals with the distribution of power throughout the entire population. It first appeared in 1610, although he likely developed the ideas while writing his prior two works.<sup>39</sup> The work describes the importance of social order to the identity of an individual French citizen, portraying it as "la... qualité la plus stable et la plus inseparable de l'homme."<sup>40</sup> He was not the first to consider the internal hierarchy of the *Ancien Régime*, but he gave the system a clearer definition and less social mobility than any prior thinker.

The text of the treatise also makes it clear that Loyseau sees himself as describing a universal truth when he discusses social hierarchies. Aside from the fact that he cites texts almost

three millennia removed from his lifetime, he also refers several times to other civilizations in Western Europe with hierarchical social systems. He first refers to contemporary practices when discussing the relation of wealth and nobility. After several paragraphs analyzing Roman thought on the topic, he brings up the fact that the English observe the same practice of setting wealth minimums for holding public office (Loyseau, 2.10, p. 26). He follows a similar tangent when discussing high nobility, writing he wants to discuss the “practices of our principal neighbors” and proceeding to introduce Spanish and English legal precedents (Loyseau, 6.5, p. 117).

Loyseau also refers to the history of nearby nations, such as past Scottish and Lombard monarchs (Loyseau, 6.24, p. 126; 6.36, p. 135). His remarks still focus on Western Europe, but they make it clear he considers his topic a matter of trans-national tendencies, not something specific to France.

One question that divides studies of Loyseau’s treatises is whether his aim was to write as a legal historian describing institutions of the *Ancien Régime*. Jotham Parsons (2001) has argued that Loyseau’s treatise on orders was “purely descriptive” with nothing novel other than a complimentary attitude towards certain aspects of Roman law not present in French society.<sup>41</sup> This view also holds that, while Loyseau was still immensely influential among supporters of *Ancien Régime*-style absolutism, his main contribution was nothing more than clarifying the more foundational ideas of Bodin and other predecessors. The opposite opinion seems more prevalent among scholars who study the larger body of literature by Loyseau. Howell A. Lloyd (1981) characterizes Loyseau’s intentions with his triad of works as beyond merely descriptive into the territory of trying to “justify a monarchy absolute.”<sup>42</sup> Descimon (2010) agrees with Lloyd’s assessment that Loyseau wrote proactively, saying that Loyseau’s goals in writing were “pour changer par sa plume la monde... ou, du moins, pour contribuer a organiser la doctrine

juridique.”<sup>43</sup> He also points out that, while Loyseau’s treatise is one of the most well-regarded summaries of *Ancien Régime* social structure, it anticipates a consolidation of power that had not transpired in 1610.

The key evidence to answer this question is Loyseau’s tendency in his earliest works to contend with already-published opinions on legal issues and to occasionally argue against the monarchy’s stance on an issue.<sup>44</sup> Loyseau displays similar argumentative tendencies in the *Treatise on Orders and Simple Dignities* by berating contemporary opponents of a system of three estates.<sup>45</sup> Loyseau having a proactive attitude would also match contemporaries who wrote both to preserve the law and make a play at impacting politics.<sup>46</sup> In short, both Loyseau’s tendencies in works other than the *Treatise on Orders and Plain Dignities* and the context of competing jurisconsults suggest he wrote to influence the structures of his life rather than describe well-established institutions.

### **Universal Principles of Order**

The basic assumption underlying Loyseau’s argument is that there are certain principles of nature necessitating governments to respond with appropriate social and legal institutions. At the opening of chapter four, he begins by describing how the personified nature has distinguished between tiers of flora and fauna, a distinction similar to the division of men except without the added Aristotelian consideration of a “rational soul” (Loyseau 4.1 / 66). Loyseau includes many generalized philosophical ideas among the more specific anecdotes from ancient law and history to make a case for these universal ideas – mainly arguing that social order is innate to nature itself and that there is a visible distinction in potential between different orders.

As Lloyd points out, one of the main sources of evidence to which Loyseau refers throughout his triad of treatises is “mere semantics.”<sup>47</sup> Through the *Treatise on Orders and Plain*

*Dignities*, Loyseau carves out space to demonstrate how the origin of French, Latin, and Greek words show the universal nature of a need for order. This is evident from the very first paragraph of his treatise, where he discusses the importance of the Greek word κόσμος as the most common Greek word for the world (Loyseau, Pref.1, p. 5).<sup>48</sup> He makes the claim that “in all things there must be order” and that κόσμος shows how the Greeks perceived the existence of the world as something defined by “beautiful order and arrangement” (Loyseau, Pref.1, p. 5).

Given Loyseau’s citations of Greek texts ranging from Homeric epic to Aristotelian philosophy, it seems likely he would have encountered the numerous uses of κόσμος. The word originated as the abstract expression of ‘order’ in Homeric Greek, but slowly evolved due to use in philosophy.<sup>49</sup> The philosophy of Pythagoras was likely the earliest appearance of κόσμος in the philosophical sense of a divinely well-ordered world and Parmenides, shortly after, continued developing the idea of κόσμος as something referring to world order rather than a more generalized sense of order.<sup>50</sup> By the time of the Ionic-Attic dialect – which Loyseau cites almost exclusively due to the importance of Aristotle and Plato his arguments – the word has become a philosophical term that could refer to ‘government.’<sup>51</sup> Loyseau’s familiarity with Pythagoras and Parmenides is unclear, but he specifically cites both Homer and Plato. Because he demonstrates familiarity with literature using the earliest ideas of κόσμος and the Classical idea of κόσμος, a familiarity with the history of the word’s semantics seems a likely influence for his perception of order as something universal.

Loyseau also refers to the Greek idea of τάξις as the Greek equivalent to his conception of order. In his first chapter *Of order in general*, Loyseau juxtaposes several ideas of social orders ranging from classical governments to his era of France. He identifies the general concept

of “order” as something actualized in Greek theory as “τάξις” and in France as “estate” (Loyseau, 1.4, p. 9).

Loyseau’s understanding of κόσμος and τάξις as descriptors of divine, universal order separating classes of humankind informs his first citation of Greek philosophy. In his preface he quotes from Plato’s *Timaeus* of Plato that “the perfect workman ‘brought [the κόσμος] from disorder to order” (Loyseau, Pref.1, p. 5). Here, Loyseau condenses a longer passage by Plato on the creation of the κόσμος:

ταύτην δὴ γενέσεως καὶ κόσμου μάλιστ’ ἂν τις ἀρχὴν κυριωτάτην παρ’ ἀνδρῶν φρονίμων ἀποδεχόμενος ὀρθότατα ἀποδέχοιτ’ ἂν. βουληθεὶς γὰρ ὁ θεὸς ἀγαθὰ μὲν πάντα, φλαῦρον δὲ μηδὲν εἶναι κατὰ δύναμιν, οὕτω δὴ πᾶν ὅσον ἦν ὁρατὸν παραλαβὼν οὐχ ἡσυχίαν ἄγον ἀλλὰ κινούμενον πλημμελῶς καὶ ἀτάκτως, εἰς τάξιν αὐτὸ ἤγαγεν ἐκ τῆς ἀταξίας, ἡγησάμενος ἐκεῖνο τούτου πάντως ἄμεινον. θέμις δ’ οὐτ’ ἦν οὐτ’ ἔστιν τῷ ἀρίστῳ δρᾶν ἄλλο πλὴν τὸ κάλλιστον.

(Pl. *Ti.* 29e-30a)

And we most correctly accept this rule of the creation and the universe most of all according to the sensible men. For the God wanted all things to be good and nothing to be bad wherever possible, so when undertaking everything that was visible, he was leading not calm but outrageously and irregularly disturbed, so he brought it into order out of disorder, having led it forth to be better in every way than the former state of being. For the establishment neither was nor is the best to do anything but that which is most fair.

Plato’s account of an omnipotent being creating the world by giving it a structure of orders. The mention in the first paragraph emphasizes the idea of a natural state of social subjugation by building upon Plato’s idea of a universe with essential qualities which an omnipotent creator had included in the pursuit of creating a perfect world. Loyseau’s reading of this passage emphasized the idea of κόσμος defined “according to the divisions that are drawn within it.”<sup>52</sup> Plato’s contrast between “εἰς τάξιν” and “ἐκ τῆς ἀταξίας” sets a pattern for Loyseau to make a universal claim. Drawing from Plato’s statement that the creation of the world involved putting nature into some kind of order, Loyseau can confidently state that “there must be order” as a defining characteristic of existence.

H.J. Rose has described Plato's *Timaeus* as a "cosmology" on the origin and creation of the universe, a fitting definition given the importance of the κόσμος.<sup>53</sup> Loyseau shows he has read either the entire work or at least the relevant excerpt about the creation of the world. The passage Loyseau cites falls immediately before *Timaeus* 31a through 37c, where the interlocutor Timaeus discusses Plato's concept of a World Soul and the connection between this and the universe.<sup>54</sup> Familiarity with these ideas would influence Loyseau's thought as much as it contributed to the strength of his argument. Similar to how Plato attributes order to his monotheistic system, Loyseau credits God for creating order. Loyseau's focus is on how God orders men above the other groups of sentient animals (Loyseau, Pref.2, p. 5). These passages show how Loyseau reworks Plato's *Timaeus* to with a Christian perspective on the idea of universal order.

Loyseau refers back to Plato several times throughout the following ten chapters, but two references to the *Republic* are especially relevant for continuing his universal train of thought, even when he disagrees with their conclusions. In chapter four of the treatise, Loyseau uses refers to an exchange between the interlocutors Socrates and Glaucon where Socrates "concluded that, 'as the best-bred apple, wine or horse was the best, so is it with the man of the most noble lineage'" (Loyseau, 4.2, p. 66).<sup>55</sup> Lloyd identifies the passage which Loyseau paraphrases as:

S: τόδε μοι λέγε, ὦ Γλαύκων · ὁρῶ γάρ σου ἐν τῇ οἰκίᾳ καὶ κύνας θηρευτικούς καὶ τῶν γενναίων ὀρνίθων μάλα συχνούς · ἄρ' οὖν, ὦ πρὸς Διός, προσέσχηκός τι τοῖς τούτων γάμοις τε καὶ παιδοποιία;

G: τὸ ποῖον; ἔφη.

S: πρῶτον μὲν αὐτῶν τούτων, καίπερ ὄντων γενναίων, ἄρ' οὐκ εἰσὶ τινες καὶ γίνονται ἄριστοι;

G: εἰσίν.

S: πότερον οὖν ἐξ ἀπάντων ὁμοίως γεννᾶς, ἢ προθυμῇ ὅτι μάλιστα ἐκ τῶν ἀρίστων;

G: ἐκ τῶν ἀρίστων.

S: τί δ'; ἐκ τῶν νεωτάτων ἢ ἐκ τῶν γεραιτάτων ἢ ἐξ ἀκμαζόντων ὅτι μάλιστα;

G: ἐξ ἀκμαζόντων.

S: καὶ ἂν μὴ οὕτω γεννᾶται, πολὺ σοὶ ἡγήσει χειρὸν ἔσεσθαι τό τε τῶν ὀρνίθων καὶ τὸ τῶν κυνῶν γένος;

G: ἔγωγ', ἔφη.

S: τί δὲ ἵππων οἶει, ἦν δ' ἐγώ, καὶ τῶν ἄλλων ζώων; ἢ ἄλλη πη ἔχειν;

G: ἄτοπον μεντᾶν, ἦ δ' ὅς, εἴη.

S: βαβαῖ, ἦν δ' ἐγώ, ὦ φίλε ἑταῖρε, ὡς ἄρα σφόδρα ἡμῖν δεῖ ἄκρων εἶναι τῶν ἀρχόντων, εἴπερ καὶ περὶ τὸ τῶν ἀνθρώπων γένος ὡσαύτως ἔχει.

(Pl. *Rep.* 5.459a-459b)

S: Tell me this, Glaucon: for I notice in your house there are both hunting dogs and a great number of well-bred birds: by Zeus, have you paid any heed to their unions and procreation?

G: What?

S: First of all, although the animals are well-bred, is it not that they are or they are born the best?

G: They are.

S: Then, do you breed from all of them equally or do you prefer that you breed mostly from the best?

G: From the best.

S: Then what? From the youngest or from the oldest or from the ones thriving the most?

G: From the ones who are thriving.

S: And should they not be bred like this, do you think that the line either of the birds or of the dogs will be worse off by much?

G: For sure.

S: And what do you think of the horses? And the other animals? In what other way does it work for their breeding?

G: It is certainly not normal if it is different than this.

S: Of course! My dear friend, we very much need to be subjects of the high rulers, assuming this precept similarly holds the human race.

The most important language here is when Socrates and Glaucon agree on the existence of the *ἄριστοι* among species of animals. Socrates then extrapolates the common practice of breeding the best of animals to say it is only natural to expect that arrangements of the best men and women would produce the most valuable offspring. Socrates, while the voice of Plato, refers to animal husbandry in other parts of the dialogue.<sup>56</sup> Plato's assumption about "inherited nature" resurfaces in this analogy in a way that Loyseau sees as relevant to the debate about social order. Loyseau's introduction to the chapter even adopts this "analogy ... of readily recognisable fact" by discussing how wild animals never produce domesticated animals, while domesticated

animals never produce wild animals.<sup>57</sup> Plato's intent with this section is to explore the ramifications of eugenics to support a ruling class, but Loyseau decontextualizes a specific part of the argument to stress Plato's idea of natural divisions as a transmissible part of identity.

Immediately after using Socrates' analogy of animal husbandry, Loyseau adds the agreeing sentiment of Aristotle that the definition of nobility is "excellence of birth," rather than anything related to holding an aristocratic office (Loyseau, 4.2, p. 66). In Loyseau's reading, the argument of the philosophers is that nobility, "virtue of lineage," and "excellence of birth" are all synonymous (Loyseau 4.2, p. 66):

(πολιται γὰρ μᾶλλον οἱ γενναιότεροι τῶν ἀγεννῶν, ἢ δ' εὐγένεια παρ' ἐκάστοις οἴκοι τίμιος) · ἔτι διότι βελτίους εἰκὸς τοὺς ἐκ βελτιόνων, εὐγένεια γὰρ ἐστὶν ἀρετὴ γένους.  
(Arist. *Pol.* 3.1283a.34-36)

(For the high-born citizens are greater than the low-born, the quality of birth is honorable to each man at home): still because the better children will be from better parents, for the quality of birth is the virtue of lineage.

The language of Aristotle inherently glorifies the birthright of someone of a higher social order, describing "εὐγένεια" as the "ἀρετὴ γένους" (Arist. *Pol.* 3.1283a.36). Even though Aristotle admits that birth only increases the probability of virtue rather than guaranteeing it, Loyseau focuses on the equation of virtue and birth to identify a correlation by Aristotle which he will later subvert.

After the expected allusions to Platonism and Aristotelianism, Loyseau makes a one-off reference to Homeric poetry (4.2, p. 66). A scene from the *Odyssey* supplements the philosophical works to show the full depiction of Greek thought regarding transmissible virtue. Loyseau mentions Homeric poetry in the particular context of arguing that there is some undeniable genetic advantage for those descended from nobility. Loyseau writes of how Homer described Telemachus as carrying on the virtue and wit of Odysseus, despite the fact that Odysseus was absent for Telemachus' formative years:

τὸν δ' ἀπαμειβόμενος προσέφη ξανθὸς Μενέλαος:  
 'ὦ φίλ', ἐπεὶ τόσα εἶπες, ὅσ' ἂν πεπνυμένος ἀνήρ  
 εἴποι καὶ ῥέξειε, καὶ ὅς προγενέστερος εἴη·  
 τοίου γὰρ καὶ πατρός, ὃ καὶ πεπνυμένα βάζεις,  
 ῥεῖα δ' ἀρίγνωτος γόνος ἀνέρος ᾧ τε Κρονίων  
 ὄλβον ἐπικλώσῃ γαμέοντί τε γεινομένῳ τε,  
 (Hom. *Od.* 4.203-208)

Replying to this, yellow-clad Menelaus said:  
 "Oh friend, when you say such things, just like a wisened man  
 Talks and acts, and as the man born before you might be:  
 For you say the wisened things of your father,  
 Someone's child is easily known when Zeus  
 Spins out happiness in marrying and bearing children.

Loyseau's use of this passage to represent Greek poetic ideas about inheritable virtue is especially interesting because it goes against conventional readings of the passage. One potential plot device that has received more attention is a focus on how the lines take place within a section where Homer emphasizes the unusual wisdom of the young man Telemachus within the frame of a Greek conversational formula.<sup>58</sup> Another more common interpretation is that the scene is a continuation of a plot device where Telemachus' resemblance to Odysseus is so obvious that every Greek old enough to have met Odysseus makes the connection.<sup>59</sup> Histories on the reception of Homer do not provide evidence from social trends that suggest Loyseau reading the *Odyssey* in this way was conventional. Homeric epic did experience a resurgence in popularity in Europe during the Renaissance, but the early modern period brought no new analysis regarding the themes of Homeric poetry.<sup>60</sup> This passage is, then, a more novel innovation by Loyseau to reinforce the claim that the Greeks viewed quality of character as determined by parentage.

Finally, Loyseau refers back to both Plato and Aristotle to argue that the nobility, especially the ruling class, have a unique quality invested at creation which sets them apart from other orders of man. Loyseau wrote this section particular to praise the monarchy – in the vein of

Bodin and Tiraqueau before him – and to say that the transmissibility of nobility overrules the transmissibility of the Third Estate (Loyseau, 7.92, p. 162). Loyseau first argues this by pointing the reader to another passage from Plato’s *Republic*:

πάνυ, ἦν δ’ ἐγώ, εἰκότως · ἀλλ’ ὅμως ἄκουε καὶ τὸ λοιπὸν τοῦ μύθου. ἐστὲ μὲν γὰρ δὴ πάντες οἱ ἐν τῇ πόλει ἀδελφοί, ὡς φήσομεν πρὸς αὐτοὺς μυθολογοῦντες, ἀλλ’ ὁ θεὸς πλάττων, ὅσοι μὲν ὑμῶν ἱκανοὶ ἄρχειν, χρυσοῦν ἐν τῇ γενέσει συνέμειξεν αὐτοῖς, διὸ τιμιώτατοί εἰσιν · ὅσοι δ’ ἐπίκουροι, ἄργυρον · σίδηρον δὲ καὶ χαλκὸν τοῖς τε γεωργοῖς καὶ τοῖς ἄλλοις δημιουργοῖς. ἅτε οὖν συγγενεῖς ὄντες πάντες τὸ μὲν πολὺ ὁμοίους ἂν ὑμῖν αὐτοῖς γεννῶτε,  
(Plat. *Rep.* 3.415a)

This passage returns to both the idea that biological and spiritual differences exist between the Third Estate and the higher orders. The men of higher orders with the potential to serve in the ruling class metaphorically consist of gold, while other workers contain silver, iron, and brass as they hold diminishingly valuable roles (Plat. *Rep.* 3.415a). This passage contains a second, internal reference to Hesiod’s *Works and Days* where Hesiod describes eras of human history where the higher quality metal corresponds with the better quality of life.<sup>61</sup> Since Loyseau does not cite Hesiod once in the *Treatise of orders and plain dignities*, there is no indication whether he is familiar with the work. The connection, however, gives the reference to Plato more depth by adding Hesiod’s idea of creation, diminishing human quality, and cosmology.

After the reference to Plato and the metals of the ages of man, Loyseau references a sentiment of Aristotle that kings served as the “mean genus between God and the people” (Loyseau, 7.92, p. 162). Lloyd identifies the relevant passage as:

εἰ δὲ τις ἔστιν εἷς τοσοῦτον διαφέρων κατ’ ἀρετῆς ὑπερβολήν, ἢ πλείους μὲν ἐνὸς μὴ μέντοι δυνατοὶ πλήρωμα παρασχέσθαι πόλεως, ὥστε μὴ συμβλητὴν εἶναι τὴν τῶν ἄλλων ἀρετὴν πάντων μηδὲ τὴν δύναμιν αὐτῶν τὴν πολιτικὴν πρὸς τὴν ἐκείνων, εἰ πλείους, εἰ δ’ εἷς, τὴν ἐκείνου μόνον, οὐκέτι θετέον τούτους μέρος πόλεως · ἀδικήσονται γὰρ ἀξιούμενοι τῶν ἴσων, ἄνισοι τοσοῦτον κατ’ ἀρετὴν ὄντες καὶ τὴν πολιτικὴν δύναμιν: ὥσπερ γὰρ θεὸν ἐν ἀνθρώποις εἰκὸς εἶναι τὸν τοιοῦτον  
(Aris. *Pol.* 3.1284a.3-10)

But if someone is distinct by such superiority according to virtue, or many are but surely not enough to amount to a complete state, so that the virtue of all other men will not be compared nor will the political capability of others against that of these men, if there are many of them or if there is just one, for his virtue alone, these men should never be counted as a share of the state: for they will be harmed once they are valued as equals, they are unequal according to such virtue and such political capability: for they will be just like a god among men.

Marguerite Deslauriers' (2013) chapter on political inequality in Aristotelianism frames this elevation of the ruling class as a central feature of Aristotle's thought.<sup>62</sup> In her analysis, Aristotle focuses on the city-state as the primary unit of investigation and how to maintain *κοινωνία* (unity). The important context she points out is that Aristotle's greatest criticism of Plato's *Laws* was how Plato did not clearly enough elaborate on the substantial differences between the ruling class and the subject class. She ultimately argues that Aristotle views unity as a necessary step for stability or prosperity, but that such unity is impossible without inequality.<sup>63</sup> This makes a compelling reading for passages by Aristotle such as this, as it adds to the context of his overall work. Loyseau would eagerly seize a work that argues to embrace inequality as a necessity to achieve stability and would find material from Aristotle's *Republic* as a whole beyond just this passage about the values of kings.

The idea that nature tends naturally divide itself beyond the sphere of human government is central to both the exchange between Socrates and Glaucon and Loyseau's chapter on the order of Nobility, even if the arguments diverge after that point. Loyseau uses these passages to develop the Greek idea that parentage and social order are the determiner of nobility. He then disagrees with Plato, Aristotle, and Homer, arguing that order instead brings "a particular aptitude and capacity" rather than an innate goodness (Loyseau, 1.3, p. 8). Although he dissents on one of the two main points about the nature of social order, he successfully uses Greek

material to identify a philosophy where social order is a universal truth and where there is the objective presence of something distinguishing people of higher social orders.

### **Ancient History and General Principles of Society**

Once Loyseau is operating within his assumptions about the universal laws of moral quality and inequality, he devotes attention to the principles of the Greek and Roman laws that struggle with ratifying these principles. He makes evident his access to Roman law through his copious references to the codes of Justinian and Theodosius, but what is interesting and more relevant is how he uses Greek and Roman literature to identify broad trends in the history of society and government. He cites evidence from Aristotle's and Jerome's reflection on social classes and public office, as well as evidence from Roman antiquarians about the origins of Roman ideas about social distinction.

Aristotle's works provide a bridge from the discussion of universal statements from philosophy to the broad generalizations about how law can address these universals. Elsewhere in his *Politics*, he discusses the actual ramifications of offices with barriers to entry. Aristotle's argument is that, in a case study on Spartan government, poor Spartans should not have the privilege of holding the office Ephor due to the risk of their need for money corrupting their public duties (Arist. *Pol.* 2.1270a). Beyond the obvious fiscal risk, Loyseau sees this as underlying an overlooked requirement for office later confirmed by Roman law. The treatise posits this as a principle where it is not just wealth that is significant – but that a citizen can't fully manage “public responsibilities” with having “virtue and means together” (Loyseau, 2.5, p. 24). Loyseau also uses the verbiage of “those worthy by merit and resources” to describe how laws can actualize the abstract principle of the advanced potential and capacity of Second Estate politicians (Loyseau, 2.5, p. 4).

Loyseau continues the line of thought on social order distinguishing noble men with a quote he attributes to St. Jerome: “bright honour certainly becomes vile in the multitude, and merit worthless in the eyes of the worthy when many possess it unworthily” (Loyseau 5.34, p. 91). This contributes to the idea of the nobility dominating politics and public office by having the government restrict access to the abstract quality of ‘virtue.’ What is interesting about the use of this remark from St. Jerome is that it dates to a period after the institution of the two legal classes *honestiores* and *humiliores*.<sup>64</sup> Moreover, the limitations placed upon the *humiliores* grew more stringent later in Roman history, offering as little social mobility for the Roman lower class as was available to the French lower class.<sup>65</sup> Jerome is writing from a Christian perspective, but still in the context of a Roman empire where wealth and social status limited rights and privileges. Loyseau, building off both Aristotle and St. Jerome, argues for the legal principle of reserving office for the theoretically superior and restricting mobility into this superior social order.

Loyseau also refers to obscure Roman antiquarians to make examples of how the foundations of Roman society are deeply interwoven with the foundations of their social hierarchy. His first citation is from the *Roman Antiquities* of Dionysius of Halicarnassus, a minor author from the late early Principate who discusses Romulus’ early social organizations:

ἑτέρα δὲ αὐτῶν πάλιν τῶν ἀνδρῶν ἢ τὰ φιλόφρονα καὶ τὰς τιμὰς διανέμουσα κατὰ τὴν ἀξίαν, ἣν μέλλω διηγεῖσθαι. τοὺς ἐπιφανεῖς κατὰ γένος καὶ δι’ ἀρετὴν ἐπαινουμένους καὶ χρήμασιν ὡς ἐν τοῖς τότε καιροῖς εὐπόρους, οἷς ἤδη παῖδες ἦσαν, διώριζεν ἀπὸ τῶν ἀσήμων καὶ ταπεινῶν καὶ ἀπόρων.

(Dion. Hal. *Ant. Rom.* 2.8.1)

But once more there was another group of men, more benevolent and set apart by their honor according to the merit of their honor, which I am going to discuss. Romulus divided the men distinguished according to their lineage, men who were commended according to their virtue and rich for that point in time, for whom there were already children, from the unremarkable Romans and the lowly Romans and the impoverished Romans.

While Dionysius describes the Roman foundation legend, he conveniently uses much of the same Greek vocabulary as Plato and Aristotle, allowing Loyseau to apply his philosophical ideals to historical examples. Dionysius describes the deciding factors for allowing certain men into Romulus' elite social order as “γένος” and “ἀρετήν,” again emphasizing the connectivity of high birth and virtue (Dion. Hal. *Ant. Rom.* 2.8.1). In addition, the Dionysius describes each man's honor as according to “τὴν ἀξίαν,” following Aristotle's principle of obtaining higher office through a merit that is only attainable through membership in a noble social order (Dion. Hal. *Ant. Rom.* 2.8.1). The work elsewhere compares Roman social divisions to Athenian social divisions and how the Roman patriciate was equivalent to the Athenian “εὐπατρίδα” – a term conceptually similar to Aristotle's “ἐὐγένεια” (Dion. Hal. *Ant. Rom.* 2.8.2; Arist. *Pol.* 3.1283a.36). Loyseau argues these two civilizations are evidence for the fact that a noble social order will tend to distinguish itself from the rest of the population, and so French law should follow suit by legally separating the Second Estate from the Third Estate (Loyseau, 4.4, p. 67).

Immediately after the use of the antiquaries of Dionysius of Halicarnassus, Loyseau cites a surviving epitome of the *De Verborum Significatu* of Sextus Pompeius Festus. Festus' work on Latin etymology and semantics serves as a means for Loyseau to analyse the application of social principles of the early Republic by appealing again to the semantic tools he had used when discussing κόσμος and τάξις. The focus of his analysis here is the word “ingenuus” (Loyseau, 4.7, p. 68). According to Loyseau, speeches surviving from the early Republic describe the descendants of patricians as “ingenui” (Loyseau, 4.7, p. 68). His analysis stresses the etymological similarity of the Latin ‘genus’ in ‘ingenuus’ to the Greek ‘γένος’ in ‘ἐὐγένεια’ (Loyseau, 4.7, p. 68). He sees this as the application of Aristotle's ideas about the importance of birth as it relates to the potential for public office and contribution to the state as an official.

## Caesarian Ethnography of Gaul

Robert Descimon identified a pattern of Loyseau's treatises to reflect not just contemporary French culture and law, but also a "*mos gallicus*."<sup>66</sup> By appealing to French ancient history that predates even the Roman period, Loyseau was able to defend his legal opinions with a more totalising base of evidence than by drawing on ideas solely from Rome's imperial center in central Italy.<sup>67</sup> The century before the *Traité des ordres et simples dignités*, Caesar enjoyed a massive wave of popularity to the point that new editions or translations of the *Commentarii de Bello Gallico* appeared no less than eighteen times in the sixteenth century.<sup>68</sup> The popularity of Caesar became almost a self-fulfilling loop, as the Latin of his *Commentarii* became a part of an introductory Latin curriculum and introduced ancient perspectives on French national identity.<sup>69</sup> Loyseau draws on Caesar as his sole source for Gallic custom, which, in Loyseau's eyes, falls into the same tripartite pattern as *Ancien Régime* France.

Loyseau was by no means isolated in using the few surviving facts about ancient Gaul to make proclamations about early modern France. François de Belleforest, an official court historian under the Valois king Henry III, published a history of France tracing its national origins back through the Franks to the pre-Roman Gauls.<sup>70</sup> Belleforest exerted a great amount of influence over French historiography at the time, with his impact visible mainly in the Paris of the 1570s and 1580s.<sup>71</sup> The intellectual legacy of Belleforest relevant to a study of Loyseau's ideas is that Belleforest's history normalized the idea of a national identity that traced its origins past Roman civilization.<sup>72</sup> This historical perspective gave French theory a primordial angle with which to argue, since Belleforest posited that the Gauls inhabited France since immediately after the Biblical flood and enjoyed an independent culture without Roman oversight.<sup>73</sup> The practice of referring to Gallic history was well established before Loyseau's life, as jurists over the past

centuries had increasingly drawn upon “the indigenous character of customs” to argue certain laws dated to pre-Roman France.<sup>74</sup> The use of Gallic history compounded with the French idea of traditional practices being equal to written laws and even being the “*certissima lex*.”<sup>75</sup>

The topic of primordial origins for the nation’s social divisions begins in chapter four, when Loyseau compares how divisions appear in the earliest known Athenian and Roman constitutions with how Julius Caesar describes the Gauls naturally dividing into groups (Loyseau, 4.28, p. 76). He compares different accounts of Romulus’ foundation of the Roman monarchy elsewhere in his treatise, leading him to see social division as an innate feature for their different forms of government. His numerous citations of Aristotle also suggest he could have read the *Athenaion Politeia*, but at the very least he has already cited Aristotle’s thoughts on social division. He gives a pragmatic reason behind both developments, saying that multiple different social groups allow the entire population to contribute to the different tasks of running a country (Loyseau, 4.28, p. 76). Before Roman imperial incursions, the Gauls developed a similar system. Loyseau’s arguments for the existence of such a system in pre-Roman Gaul rely on one passage from the *Commentarii De Bello Gallico*, which begins:

In omni Gallia eorum hominum, qui aliquo sunt numero atque honore,<sup>76</sup> genera sunt duo. Nam plebes paene servorum habetur loco, quae nihil audet per se, nullo adhibetur consilio. Plerique, cum aut aere alieno aut magnitudine tributorum aut iniuria potentiorum premuntur, sese in servitutem dicant nobilibus: in hos eadem omnia sunt iura, quae dominis in servos. Sed de his duobus generibus alterum est druidum, alterum equitum.

(Caes. *B Gall.* 6.13.1-3)

In all Gaul there are two kinds of these people, who are aligned according to any rank and dignity. For the peasants, who dare to do nothing of their own free will, are almost held in the status of slaves and are summoned to no judge. Generally, when they are oppressed either due to debt or due to the size of their tributes or due to the unjust severity of more powerful men, they dedicate themselves to slavery to the nobility: for this nobility all the laws are the same as for the masters over slaves. But from these two races one is the druids, the other is the equestrians.

Caesar later gives more detail about the role of each group in Gallic society, but his basic overview aligns neatly with Loyseau's vision of French society. Caesar opens by describing the orders of Gauls as *genera*, language similar to the *ingenuus* and *ingenuitas* Loyseau has cited elsewhere as proof for the innate aspects of social distinction.

Although Caesar identifies two groups comprising the critical parts of Gallic society, the first social order he mentions is the Gallic *plebes*. When Loyseau reads Caesar's description, he sees this body as the ancient predecessor of early modern France's Third Estate. This leads him to write "nevertheless, in ancient Gaul no account was of [the third estate], nor was it held in any respect or regard" (Loyseau, 8.2, p. 166). This allows him to justify saying that, when considering the dignity associated with each order, the Third Estate "is not properly an order" (Loyseau, 8.1, p. 166). Instead of having exclusive, specialized roles like the Clergy and Nobility, the Third Estate includes the entire French population that does not fall within the two orders.

Caesar's description of the *plebes* even gives extra weight to Loyseau's subversion of the Third Estate underneath the nobility, since Caesar writes that the Gallic peasants are virtually slaves to support their nobility (Caes. *BGall.* 6.13.2). While slavery was a separate legal class within France not recognized as citizens or members of any estate, the rhetoric of the Third Estate as slaves strengthens the superiority of the Clergy and Nobility by tracing the humility of the Third Estate back to France's origins. Loyseau returns to this point later in the chapter to argue that the rural husbandmen and villagers of the Third Estate are lowly even in comparison to other members of the Third Estate. Loyseau uses Caesar's observations as support, as he consistently views husbandmen and villagers as the absolute most base level of society throughout his works (Loyseau, 8.48, p. 179).<sup>77</sup> By drawing upon Caesar, he argues that, not only

are the Third Estate the least noble, but there are specific sub-groups at the bottom of the Third Estate.

The rest of this chapter in book six of *Commentarii de Bello Gallico* concentrates on the separation of the druids from the rest of the nation and their distinct functions. Loyseau maintains it is a novelty for the French to have a separate social order for religious roles, pointing to how the Romans intermingled their religious officials across social orders (Loyseau, 3.4, p. 49). In a treatise where he usually argues in favor of linking French and Roman law, breaking this pattern requires a credible ancient precedent, which Loyseau finds in Gallic history. Just as Loyseau's Clergy are exempt from military service and taxes, the Druids "a bello abesse consuerunt neque tributa una cum reliquis pendunt (Caes. *BGall.* 6.14.1)."

The last point Loyseau makes using Caesar's ethnography is that the position of First Estate is the proper rank for the clergy. During his discussion of the Gallic druids, Caesar writes:

Natio est omnis Gallorum admodum dedita religionibus, atque ob eam causam, qui sunt adfecti gravioribus morbis quique in proeliis periculisque versantur, aut pro victimis homines immolant aut se immolatuos vovent administrisque ad ea sacrificia druidibus utuntur, quod, pro vita hominis nisi hominis vita reddatur, non posse deorum immortalium numen placari arbitrantur  
(Caes. *BGall.* 6.16.1-3).

The entire nation of the Gauls is very much dedicated to religion, and because of this, those who have been affected by rather serious diseases and those who are in the midst of battles and dangers, either burn people as victims or they dedicate themselves to be burned and use the druids as the agents of their self-sacrifice, because unless someone's life might be returned for someone else's life, they think it is not possible to placate the divine will of immortal beings.

The remark that the entire nation of the Gauls is dedicated to religions gives Loyseau a source for the prestige he attributes to the Clergy. In the Roman constitution, the body of the Senate was the highest ranking social order (Loyseau, 3.4, p. 49). In France, however, the clergy ranks the highest. Loyseau traces this tradition back to the Gauls esteeming the clergy so highly. This unique social situation sets France apart from the rest of Western Europe, as most other nations

either follow Roman practice of intermingling church officials across orders or giving the nobility more power (Loyseau, 3.3, p. 48). Loyseau remarks that “France ... has always been more Christian and has honoured the church more highly than has any other nation in the world” (Loyseau, 3.3, p. 48). Equipping himself with information from Julius Caesar’s account of Gallic sociology allows him to make such declarations and to reaffirm the respective positions of the First and Third Estate.

### **Conclusion**

It seems likely that Charles Loyseau saw his role in history as someone engaging in legal and political debates of the sixteenth and seventeenth century, not as an inactive bystander. In this role, he often found himself defending controvertible positions of the monarchy, even if he dissented from royal agendas at times. Arguably his literary *aristeia* was 1610’s *Traité des ordres et simples dignites*, which shaped France’s social policies so deeply they remained until the complete overhaul of French government in 1789. This work reflects several trends in the French jurisprudence of Loyseau’s era, namely the pre-eminence of Classical texts in legal education and the emphasis on tradition as a valid origin for national law.

As was standard practice for French legal authors at the time, Loyseau cited copiously from several types of available evidence ranging from his immediate contemporaries to Classical sources as old as Homer’s *Iliad*. Although the bulk of his references to Classics are citations of *codices* of Roman law in an attempt to connect French law to Roman precedent, some of the most interesting argumentation comes when he cites literary material to make more generalized claims. Throughout the eleven chapters, Loyseau draws from Plato, Aristotle, Homer, Julius Caesar, and various Roman historians and antiquarians to make universal arguments about the nature of social division. His primary findings include the idea that social order rests at the core

of human existence, that human governments tend to find legal solutions for inequity, and that French tripartite social order reaches back to pre-historical days.

Although this paper has established the overlap between Loyseau's citations of Classical sources and his opinions on universal laws, there is room for more discussion on the reception of Classics in his works and other works from the early *ancien régime*. Aside from the reception related to universal principles which this paper has discussed, he cites Classics on several other occasions to justify minute differences between subcategories of members of the Clergy, Nobility, and Third Estate. He also cites the Classics copiously in his other works, which Brigitte Basdevant-Gaudemet (1976) has already investigated in his treatise on seigneuries, although there is little analysis for his other works. There is also much to be said for the reception by other authors of the period, such as the lawyer Jean Bodin or the church figure Cardinal Richelieu, who drew from Greek and Roman literature to solidify the position of the monarchy and the *ancien régime*.

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<sup>1</sup> Howell A. Lloyd, "The Political Thought of Charles Loyseau (1564-1627)," *European Studies Review* 11, (1981), 54.

<sup>2</sup> Peter Burke, "The language of orders in early modern Europe," in *Social Orders and Social Classes in Europe since 1500: Studies in Social Stratification*, ed. M. L. Bush (New York: Taylor & Francis, 1992), 9; David Parker, *Class and State in Ancien Régime France: The Road to Modernity?* (New York: Routledge, 1996), 6-7.

<sup>3</sup> Howell A. Lloyd, introduction to *A treatise of orders and plain dignities*, by Charles Loyseau, trans. and ed. Howell A. Lloyd (Cambridge: Cambridge University Press, 1994), xvi.

<sup>4</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xvi.

<sup>5</sup> All subsequent in-text citations of Loyseau will follow the format of "Loyseau, [chapter number].[paragraph number], p. #" so that readers will be able to find the relevant section whether they are using Lloyd's translation or another edition.

<sup>6</sup> Lloyd, Introduction to *A Treatise of orders and plain dignities*, xxi.

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<sup>7</sup> Lloyd, Introduction to *A Treatise of orders and plain dignities*, xvi.

<sup>8</sup> W. M. Spellman, *European Political Thought, 1600-1700* (New York: St. Martin's Press, 1998), 109. Loyseau notably does not cite Aristotle's *Nicomachean Ethics* at all in this treatise, although he does refer to the *Rhetoric* in 4.39, p. 70.

<sup>9</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xvii.

<sup>10</sup> O. M., review of *La vie et les oeuvres de Loyseau (1564-1627)*, by Jean LeLong, *Nouvelle revue historique de droit français et étranger* 34 (1910): 714.

<sup>11</sup> Roland Maspétiol, "L'état en France au début du XVII<sup>e</sup> siècle: Charles Loyseau," *Revue des Deux Mondes (1829-1971)* (1961), 93.

<sup>12</sup> Peter Burke, "The language of orders in early modern Europe," in *Social Orders and Social Classes in Europe since 1500: Studies in Social Stratification*, ed. M. L. Bush (New York: Taylor & Francis, 1992), 5.

<sup>13</sup> Lloyd (introduction to *A treatise of orders and plain dignities*, xvi) has mentioned that Loyseau's use of different historians seems almost "indiscriminate" and frequently gives two sources equal repute, even if one is a fiction, forgery, or far removed from the events it describes.

<sup>14</sup> Gian Biagio Conte, *Latin Literature: A History*, trans. Joseph Solodow, ed. Don Fowler and Glenn W. Most (Baltimore: Johns Hopkins University Press, 1999), 232.

<sup>15</sup> Burke, 2.

<sup>16</sup> Burke, 3.

<sup>17</sup> Burke, 4.

<sup>18</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xxiii.

<sup>19</sup> Emmanuel Le Roy Ladurie. *The Ancien Régime: A history of France 1610-1774*, trans. Mark Greengrass (Cambridge: Blackwell Publishers Inc, 1996), 3.

<sup>20</sup> J. H. M. Salmon, *Society in Crisis: France in the Sixteenth Century* (New York: St. Martin's Press), 13

<sup>21</sup> L. D. Reynolds & N. G. Wilson, *Scribes and Scholars: A Guide to the Transmission of Greek & Latin Literature*, 4<sup>th</sup> rev. ed. (Oxford: Oxford University Press), 172.

<sup>22</sup> Howell A. Lloyd, *The State, France, and the Sixteenth Century* (London: George Allen & Unwin, 1983), xix.

<sup>23</sup> Lloyd, *The State, France, and the Sixteenth Century*, xix.

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- <sup>24</sup> Lloyd, *The State, France, and the Sixteenth Century*, 12.
- <sup>25</sup> Reynolds & Wilson, 171.
- <sup>26</sup> David Maland, *Culture and Society in Seventeenth-Century France* (New York: Charles Scribner's Sons, 1970), 207.
- <sup>27</sup> Spellman, 2.
- <sup>28</sup> Maland, 207.
- <sup>29</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xlvii.
- <sup>30</sup> Vincent J. Pitts, *Henry IV of France: His Reign and Age* (Baltimore: The Johns Hopkins University Press, 2009), 260.
- <sup>31</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xxxix.
- <sup>32</sup> Jean Lelong, *La vie et les oeuvres de Loyseau (1564-1627)* (Paris: Libraire générale de droit & de jurisprudence, 1909), 1.
- <sup>33</sup> Lelong, 1.
- <sup>34</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xii.
- <sup>35</sup> Robert Descimon, "L'écriture du juriconsulte Charles Loyseau (1564-1627): un modèle d'action rhétorique au temps d'Henri IV?" in *L'Écriture des juristes: XVIe-XVIIIe siècle*, ed. Laurence Giavarini (Paris: Classiques Garnier, 2010), 287-288.
- <sup>36</sup> Brigitte Basdevant-Gaudemet, *Aux origines de l'État moderne: Charles Loyseau, 1564-1627, théoricien de la puissance publique* (Paris: Economica, 1976), 11.
- <sup>37</sup> Lloyd, "The Political Thought of Charles Loyseau (1564-1627)," 54.
- <sup>38</sup> Lloyd, "The Political Thought of Charles Loyseau (1564-1627)," 54.
- <sup>39</sup> Lloyd, "The Political Thought of Charles Loyseau (1564-1627)," 54.
- <sup>40</sup> Maspétiol, 102.
- <sup>41</sup> Jotam Parsons, "The Roman Censors in the Renaissance Political Imagination," *History of Political Thought* 22, no. 4 (2001), 581.
- <sup>42</sup> Lloyd, "The Political Thought of Charles Loyseau (1564-1627)," 57.

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<sup>43</sup> Descimon, 288. Peter Burke (5) offers a third view to the options of Loyseau as either descriptive or proactive, saying that works of this period could instead be “normative.” This perspective would have Loyseau writing while acknowledging the existence of societies with a lesser emphasis on social order, but condemning them as a violation of socio-political norm.

<sup>44</sup> Lloyd, “The Political Thought of Charles Loyseau (1564-1627)”, 53; Nannerl O. Keohane, *Philosophy and the State in France: The Renaissance to the Enlightenment* (Princeton: Princeton University Press, 1980), 163.

<sup>45</sup> Lloyd, “The Political Thought of Charles Loyseau (1564-1627)”, 76.

<sup>46</sup> Spellman, 5.

<sup>47</sup> Lloyd, *The State, France, and the Sixteenth Century*, 163.

<sup>48</sup> The same paragraph also refers to a Latin noun for the world that “evokes the adornment and the grave that proceed from its admirable disposition,” but does not explicitly mention this word, although it seems likely he has *mundus* in mind.

<sup>49</sup> Henry George Liddell and Robert Scott. *A Greek-English Lexicon*, 9<sup>th</sup> rev. ed. (Oxford: Clarendon Press, 1996), 985. According to the *Thesaurus Linguae Graecae*, the word only appears ten times in any Homeric poetry, with a range of connotations including ‘military order’ to ‘decorative ornament’ (*Thesaurus Linguae Graecae*, s.v. “κόσμος, -ου, ὁ,” accessed April 20, 2022, <http://stephanus.tlg.uci.edu/Iris/demo/tsearch.jsp#s=3>).

<sup>50</sup> R. S. P. Beekes and Lucien van Beek, *Etymological Dictionary of Greek*, vol. 1. (Boston: Brill, 2010), 759.

<sup>51</sup> Beekes and van Beek, 759.

<sup>52</sup> Proclus, *Commentary on Plato’s Timaeus*, vol. 3, trans. Dirk Baltzly (Cambridge: Cambridge University Press, 2007), 37.

<sup>53</sup> H. J. Rose, *A Handbook of Greek Literature: From Homer to the Age of Lucian*, 4<sup>th</sup> rev. ed. (London: Methuen & Co Ltd, 1950), 267.

<sup>54</sup> Proclus, 1.

<sup>55</sup> Loyseau’s supposed quote from the *Republic* is interesting, given that Socrates only discusses birds, dogs, and horses, with no mention for wine or plants at all. It appears Loyseau is simply misquoting Plato, since the intent of the quote does not change when substituting specific elements of nature.

<sup>56</sup> S. Halliwheel, *Plato: Republic 5* (Warminster: Aris & Philips, 1993), 160.

<sup>57</sup> Halliwheel, 160.

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<sup>58</sup> Irene J. F. De Jong, *Homer: Critical Assignments* (London: Routledge, 1999), 99-100. Emily Wilson (introduction to *The Odyssey*, by Homer, trans. Emily Wilson (London: W.W. Norton & Company, 2018), 48) also adds that the subplot of Telemachus assuming his manhood is part of the broader structure of the *Odyssey*, so this exchange between him and Menelaus about preternatural wisdom in his father's footsteps could also reflect this coming-of-age.

<sup>59</sup> Alfred Heubeck, Stephanie West, and J. B. Hainesworth, *A commentary on Homer's Odyssey* (Oxford: Oxford University Press, 1988), 102.

<sup>60</sup> Wilson, 8.

<sup>61</sup> James Adam, *The Republic of Plato*, 2<sup>nd</sup> ed., vol. 1. (Cambridge: Cambridge University Press, 1965), 195.

<sup>62</sup> Marguerite Deslauriers, "Political unity and inequality," in *The Cambridge Companion to Aristotle's Politics*, ed. Marguerite Deslauriers and Pierre Destrée (Cambridge: Cambridge University Press, 2013), 131.

<sup>63</sup> Deslauriers, 138.

<sup>64</sup> Allen Mason Ward, Cedric A. Yeo, and Fritz M. Heichelheim, *A History of the Roman People*, 3<sup>rd</sup> ed. (Upper Saddle River, N.J.: Prentice Hall, 1999), 378, 402.

<sup>65</sup> Ward, Yeo, and Heichelheim, 456.

<sup>66</sup> Descimon, 282.

<sup>67</sup> Descimon, 282.

<sup>68</sup> Carol Clark, "Some Renaissance Caesars," in *A Companion to Julius Caesar*, ed. Miriam Griffin (Chichester: Wiley-Blackwell, 2009), 356.

<sup>69</sup> Conte, 232.

<sup>70</sup> Lloyd, introduction to *A treatise of orders and plain dignities*, xxxviii. It is important to acknowledge that, in the intellectual history of national identity, Loyseau wrote the *Traité des ordres et simples dignités* almost three full centuries before the development of modern nationalism. Despite this, it is reminiscent of the primordial nationalism espoused by thinkers such as the nineteenth-century German author Heinrich von Treitschke. This paper will avoid using the technical term 'primordial nationalism,' even while using 'primordial' to describe the ideas of Belleforest and Loyseau when appropriate.

It is also notable that Loyseau (4.30, p. 76-77) explicitly contradicts the past intellectual tradition of tracing the roots of the French state back to the Franks, saying that Frankish taxes and laws

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were possibly “the same condition as that to which, by Caesar’s account, the humble people of ancient Gaul had been reduced by the nobility.”

<sup>71</sup> Hilary J. Bernstein, “Cosmography, Local History, and National Sentiment: François de Belleforest and the History of Paris,” *French Historical Studies* 35, no. 1. (Jan. 2012): 32. Carol Clark (362) focuses on Loyseau’s predecessor François Hotman and his *Franco-Gallia* (1573) as more pivotal in turning French sentiment from the self-appraisal of the French as modern Franks and more towards themselves as modern Gauls. This thesis still focuses on Belleforest, since he is the historian who receives the most citation in Loyseau’s treatise. Admittedly, Hotman’s Protestantism may be a factor in why Loyseau favors the Catholic Belleforest (Clark, 362).

<sup>72</sup> Bernstein, 32.

<sup>73</sup> Bernstein, 39.

<sup>74</sup> Donald R. Kelley, *The Human Measure: Social Thought in the Western World* (Cambridge: Harvard University Press, 1990), 193.

<sup>75</sup> Kelley, 193.

<sup>76</sup> Similar to the emphasis on *τιμῆ* which Dionysius of Halicarnassus places on the early Roman patricians (Dion. Hal. *Ant. Rom.* 2.8.1)

<sup>77</sup> Jonathan Patterson, ““Viles Personnes”: the plebeian multitudes in Charles Loyseau’s *Traité des ordres*,” *The Seventeenth Century* 31, no. 1 (2016): 71.

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