

# Civil Religion in France: the Gallican Hypothesis (Emmanuel Tawil)

## ***I. The Myth of the Indivisibility of “Laïcité” and Nation***

According to almost all French scholars, the link between Religion and Nation in France changed with the French Revolution of 1789. Before the Revolution, the State did not accept religious dissenters. The State was officially Catholic. And this character implied that it was not possible to consider as a citizen someone who was not Catholic. Following this analysis, when the article 10 of the 1789's *Déclaration des droits de l'homme* provided that “no one can be punished for opinion's motives, even religious opinions” (“*Nul ne doit être inquiété pour ses opinions meme religieuses*”), the Constituent Assembly adopted a new concept of *Nation*. The Nation, now considered as the only political body which is sovereign (article 3), would have ceased to be defined by a religious element. As a consequence, Protestants and Jews<sup>1</sup> became French. All were equal in front of the law (article 1).

The new approach initiated in 1789 his approach is presented has never having changed since 1789. The Royal Restorations of 1814-1815 would not have changed the fact that national membership has nothing to do with denominational membership. .

In France, everyone is sure that this definition is the only possible definition of a Nation.

After the 1870's War, Ernest Renan wrote the famous essay *Qu'est-ce qu'une Nation?* (*What is a Nation?*, 1882<sup>2</sup>). He defined the Nation as not based on a common race, religion, territory or language. A Nation is a “spiritual principle” based “on two elements, which, *in fine*, are only one. The first is the common possession of memories; the second is the actual will, the desire to live together, the will to continue to live on the common undivided inheritance”. In his opinion, it is impossible to build a nation on a religious ground. The reason is that “Nowadays [...] there is no human group which has a single belief. Everyone believes and worships as he wants to do, as he is able to do. It is possible to be French, German, English, even if Catholic, Protestant, Jewish, even having non religion”. Renan refused any approach which would be different from his own. He specially refused the German definition, which conduct to a Nation based on racial characters<sup>3</sup>.

Renan's definition of Nation is dominant in France. It is almost the official republican definition. It would be possible to find many examples of recent official documents and books which refer to this approach<sup>4</sup>. For instance, the recent book of Dominique Schnapper, *La communauté des citoyens* (The community of citizens)<sup>5</sup>. Dominique Schnapper adopts the

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<sup>1</sup> Robert Badinter, *Libres et égaux*, Paris, Fayard, 1989, 237 pages.

<sup>2</sup> Ernest Renan, *Qu'est-ce qu'une nation ?*, ed. Raoul Girardet, Paris, Imprimerie nationale, 1995, 260 pages.

<sup>3</sup> See Johan Gottlieb Fichte, *Addresses to the German Nation*, ed. George A. Kelly, New York, Harper Torch Books, 1968.

<sup>4</sup> Henri Péna Ruiz, *La Laïcité*, Paris, Flammarion, coll. « Dominos », 1998, 124 pages ; *Rapport de la Commission de réflexion sur l'application du principe de laïcité dans la République*, December 11th 2003 ; Dominique de Villepin, in 1905, *La Séparation des Eglises et de l'Etat, Les textes fondateurs*, Paris, Perrin, p. 7-18.

<sup>5</sup> Dominique Schnapper, *La communauté des citoyens*, Paris, Gallimard, 2002, p. 203.

same approach as Renan: Nation is not ground on religion. It can not exist in a Nation any “particularity which contraries the principles of a Nation of Citizens. In order to insure the existence of a Nation of Citizens, [...] individuals must admit that there is a unique public domain, independent from religious links and solidarities, [...] and must respect the rules which organize this public domain”. From that point of view, Secularism (“Laïcité”), defined as the refusal of religious particularities in the public domain, is not to be separable from Nation.

Dominique Schnapper is member of the French Constitutional Council. The opinions of judges are secret in France, so it is impossible to be sure of her influence. But she was yet member of the Constitutional Court, when it ruled the decision 2004-505 DC of November 18<sup>th</sup> 2004 which considered that “provisions of Article 1 of the Constitution whereby ‘France is a Secular Republic’ [...] forbid persons to profess religious beliefs for the purpose of non compliance with the common rules governing the relations between public communities and private individuals”<sup>6</sup>.

I disagree with this approach. 1789 was not such a major change: before 1789, the French identity was Gallican rather than Catholic. And the Revolution had not really changed French religious identity or the relation between religious identity and national identity.

## **II. French Nation identified to the Gallican Church**

In the *Ancienne France*, Gallicanism was the idea that existed a Church of France (*Ecclesia Gallicana*), which consisted in the various dioceses of France. Because of the so-called Liberties of the Gallican Church, the French national Church was presented as autonomous from the Church of Rome.

From a Gallican point of view, the Nation and the Gallican Church were the same body. All French Citizens were members of the Catholic Church, which in France was considered to exist as Gallican Church.

### **A. The Basic Law of Gallicanism**

a) The first principle was the **absolute independency of the King of France in temporal**. The Pope was considered to have no power in temporal. This principle was sustained by theologians<sup>7</sup>, bishops<sup>8</sup>, jurists<sup>9</sup> since at least the beginning of the 14<sup>th</sup> century<sup>10</sup>. The

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<sup>6</sup> Cf. Blandine Chélini-Pont, Emmanuel Tawil, commentary of Constitutional Council, November 19<sup>th</sup> 2004, *Annuaire Droit et Religions*, 2005, p. 473-475

<sup>7</sup> Art. 1 et 2 of the Declaration of the School of Theology of the Sorbonne University, May 8<sup>th</sup> 1663, in Durand de Maillane, *Dictionnaire de Droit canonique*, Lyon, t. 3, p. 423

<sup>8</sup> Art. 1 of the Declaration of the Clergy of France, March 19<sup>th</sup> 1682, in Heinrich DENZINGER, *Symboles et définitions de la foi catholique*, Paris, Cerf, 1997 [=Denz.], n°2281-2285.

<sup>9</sup> Art. 4 of Pierre Pithou, *Les Libertés de l’Eglise Gallicane*, in *Preuves des Libertés de l’Eglise gallicanes*, ed. by Pierre Dupuy, Paris, Cramoisy, t. 1. Other edition by M. Dupin, *Libertés de l’Eglise gallicane, Manuel de droit public ecclésiastique français*, Paris, Plon 1860, p. 1-86.

<sup>10</sup> Victor Martin, *Les origines du gallicanisme*, Paris, 1939, t. 1, p. 101-239.

consequences were numerous. The most important was that the Pope could neither excommunicate the King of France<sup>11</sup> nor judge him<sup>12</sup>.

b) The King of France was considered to have a **special place within the Church**. He was “Very Christian King, Anointed, First son, Protector of the Church”<sup>13</sup>, “Protector of Ecclesiastical Discipline”<sup>14</sup>. The royal anointment, which occurred during the coronation, was a manifestation of this Divine election of the King of France. This Divine election was also manifested by the fact that He was anointed with an oil which seemed given by the Lord Himself for the celebration of Clovis’ baptism<sup>15</sup>, at the end of the 5<sup>th</sup> Century. The King of France, elected by God, Anointed by the Lord, made some miracles: he was able to cure scrofulous. Until the reign of Louis 16<sup>th</sup>, miracles occurred! During the 17<sup>th</sup> Century, the Royal touch was still considered as a medicine by European medical treatises<sup>16</sup>. For all these reasons, it was admitted that the King was quite Saint<sup>17</sup>. He was considered to have powers both in temporal and spiritual matters. Pithou wrote that God had “committed in sovereignty the King for both the Kingdom and the Gallican Church”<sup>18</sup>. A text presented the King as having a competence in “Divinity”<sup>19</sup>. In the 17<sup>th</sup> century, the King was frequently compared to a “bishop of the outside”<sup>20</sup>.

c) Because he was sacred, the **King was presented as the guarantor of the Catholic Faith**. Pithou pretended that the Pope had to address after his election his profession of Faith to the King of France<sup>21</sup>. The King had to receive the canons of the new Councils<sup>22</sup> and to give the *Placet* to papal acts in order to make them applied in France. The procedure was justified as a kind of control of the conformity of these texts to the Holy Ancient Catholic Doctrine.

d) **The Pope had only a limited power on the Church of France**. He had no immediate power on the Gallican Church. He was not authorized to not send *Legatus a latere* without the King authorization<sup>23</sup>. The bishops needed the King’s consent for going to Rome<sup>24</sup>. The Pope

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<sup>11</sup> Art. 15 of Pierre Pithou, *Les Libertéz de l’Eglise Gallicane*, Op. cit.; Preuves des Libertés de l’Eglise gallicanes, Op. cit., t. 1, p. 30-165.

<sup>12</sup> Art. 15 of Pierre Pithou, *Les Libertéz de l’Eglise Gallicane*, Op. cit.

<sup>13</sup> “Roi très Chrétien, Oinct, premier fils, protecteur de l’Eglise catholique” (art. 7 of Pierre Pithou, *Les Libertéz de l’Eglise Gallicane*, Op. cit.).

<sup>14</sup> “Protecteur” de “la discipline ecclésiastique” (Commentaire sur l’édit du mois d’avril 1695 concernant la juridiction ecclésiastique, Paris, Debure, 1749, t. 1, Preamble) “Les rois sont les Protecteur des canons et doivent s’employer à les faire respecter” (Louis de Héricourt, *Les Loix ecclésiastiques de France*, Paris, Denis Mariette, 1730, p. 88); “De tous les Souverains de l’Univers il n’y en a point à qui la qualité de protecteur de l’Eglise et de Conservateur des Saints Canons soit due à plus juste titre qu’aux rois de France” (*Ibid.*, p. 90).

<sup>15</sup> Marc Bloch, *Les rois thaumaturges*, Paris, Gallimard, 1983, p. 224-245.

<sup>16</sup> *Ibid.*, p. 115-119

<sup>17</sup> The King is sacred (“personne [...] sacrée”, in “Parchemin de 57 articles fait au temps de Philippe de Valois – 1331”, in *Preuves des Libertés de l’Eglise gallicanes*, Op. cit., t. 1, p. 615.

<sup>18</sup> “Dieu a commis en souveraineté [au Roi] le Royaume [...] ensemble l’Eglise gallicane” (art. 7 of Pierre Pithou, *Les Libertéz de l’Eglise Gallicane*, Op. cit.).

<sup>19</sup> “Le Roi notre Sire n’a pas seulement temporalité, mais divinité avec, car il est inunctus et donne benefices en Régale” (“Extraits des Registres du Parlement, l’an 1380, le Mardy 6. Mars”, in *Preuves des Libertés de l’Eglise gallicanes*, t. 2, p. 1380).

<sup>20</sup> “Un évêque du dehors”, Marc Bloch, *Les rois thaumaturges*, Op. cit., p. 350.

<sup>21</sup> Art. 9 of Pierre Pithou, *Les Libertéz de l’Eglise Gallicane*, Op. cit. In fact, this occurred only a few times (*Commentaire de M. Dupuy sur le Traité des Libertéz de l’Eglise gallicane, nouvelle édition*, Paris, Jean Musier, 1715, p. 34-36).

<sup>22</sup> *Commentaire sur l’édit du mois d’avril 1695 concernant la juridiction ecclésiastique*, Op. cit., p. XIV

<sup>23</sup> Art. 9 of Pierre Pithou, *Les Libertéz de l’Eglise Gallicane*, Op. cit.; *Preuves des Libertés de l’Eglise gallicanes*, Op. cit. t. 2, p. 916-1019.

had not the right to collect taxes on the Church of France<sup>25</sup>. The papal acts had no authority by themselves, unless a *Placet* was given<sup>26</sup>.

e) Bishops<sup>27</sup>, Sorbonne's School of Theology<sup>28</sup>, jurists<sup>29</sup> sustained the **Counciliarist Doctrine**, ie the superiority of the Council on the Pope, since the end of the 14<sup>th</sup> century<sup>30</sup>. They sustained that it was possible to appeal against a papal decision to the next Council<sup>31</sup>.

## B. Characters of Gallicanism

a) Gallicans considered that this autonomy was ancient. It was founded on an **immemorial tradition**<sup>32</sup>. For Gallicans, this autonomy of the Church of France had existed since the first Christian Communities and had never disappeared<sup>33</sup>.

The autonomy of the Gallican Church consisted mainly in the rules applied in France: were only in force the canons of the most ancient Councils of the Church<sup>34</sup>. This point was important both for the Parliament of Paris (which in 1503 wrote that "in hoc maxime consistit libertas Ecclesiae Gallicanae"<sup>35</sup>) and for the bishops (who wrote in the Declaration of 1682 that "valere etiam regulas, mores et instituta a regno et ecclesia Gallicana recepta"<sup>36</sup>).

As a consequence, the Church of France was not bounded neither by the Pope's legislation<sup>37</sup> nor by the new council's canons which were not received by an act of the King and of Parliaments<sup>38</sup>.

This particularity of the Church of France was justified by the fact that these rules were older<sup>39</sup>. Moreover, Gallicans considered that these norms should rule the whole Catholic

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<sup>24</sup> Art. 13 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane, Op. cit.; Preuves des Libertés de l'Eglise gallicanes, Op. cit.*, t. 1, p. 679-685.

<sup>25</sup> Art. 14 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane, Op. cit.; Preuves des Libertés de l'Eglise gallicanes, Op. cit.*, t. 1, p. 679-685.

<sup>26</sup> Art. 44 and 77 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane, Op. cit.; Preuves des Libertés de l'Eglise gallicanes, Op. cit.*, t. 1, p. 429-440; *Commentaire sur l'édit du mois d'avril 1695 concernant la juridiction ecclésiastique, Op. cit.*, p. X; Louis de Héricourt, *Les Loix ecclésiastiques de France, Op. cit.*, p. 98.

<sup>27</sup> Art 2 of Declaration of the Clergy of France, March 19<sup>th</sup> 1682, *Op. cit.*

<sup>28</sup> Art. 5 of Declaration of the School of Theology of the Sorbonne University, May 8<sup>th</sup> 1663, in Durand de Maillane, *Dictionnaire de droit canonique, Op. cit.*, t. 3, p. 423.

<sup>29</sup> Charles Bonel, *Institution au droit ecclésiastique de France*, Paris, Clouzie, 1679, p. 439; art 40 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane, Op. cit.; Preuves des Libertés de l'Eglise gallicanes, Op. cit.*, t. 1, p. 464-496.

<sup>30</sup> Victor Martin, *Les origines du Gallicanisme, Op. cit.*, p. 9-149.

<sup>31</sup> Art 78 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane, Op. cit.*

<sup>32</sup> Victor Martin, *Les origines du Gallicanisme, Op. cit.*, p. 31

<sup>33</sup> See M. D. B., *Histoire du Droit public ecclésiastique François*, Londres, Samuel Harding, 1749, 482 and 355 pages.

<sup>34</sup> "Les canons et règles des anciens Concile de l'Eglise reçus en ce royaume" (art 5, 6 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane, Op. cit.*).

<sup>35</sup> *Preuves des Libertés de l'Eglise gallicanes, Op. cit.*, t. 2, p. 930)

<sup>36</sup> Art. 3 of Declaration of the Clergy of France, March 19<sup>th</sup> 1682, *Op. cit.*

<sup>37</sup> "Nous ne sommes obligés en France que de suivre ce qui est dans le corps de droit ou le corps des canons" (Charles Bonel, *Institution au droit ecclésiastique de France, Op. cit.*, p. 440).

<sup>38</sup> For example, some canons of the Council of Trent were in contrast with the liberties of the Gallican Church. See Alain Tallon, *La France et le Concile de Trente*, Paris, Bibliothèque de l'Ecole française de Rome, 1997, 975 pages.

<sup>39</sup> Quentin Epron, "Le Gallicanisme a-t-il connu l'idée d'un ordre juridique", *Droits*, n° 35, 2002, p. 3-24.

Church: from a Gallican point of view, France had conserved the true discipline of the Church, free from papal infringement<sup>40</sup>.

This analysis was based on the idea that the Church of France was defending the only right doctrine, which should be recognized as the only true by the whole Catholic Church. This point is very important.

The practical problem was to determine which rules were bounding<sup>41</sup>.

b) The legitimacy of the Liberties of the Gallican Church were **proved**. The authors used to research the older texts for justifying the autonomy of the Church of France. These were published. The most important of these handbooks was *Les preuves des Libertés gallicanes* of Dupuy<sup>42</sup>. This book was important because, when Pithou published his *Libertez de l'Eglise gallicane en 83 articles*, he only reaffirmed all the important rules of Gallicanism, without justifying them. In 1631 and 1651, Dupuy published a collection of various ancient documents founded in many archives which justified the articles of Pithou. As a consequence of the fact the Pithou's articles were proved, they were considered to have quite the same authority as Law<sup>43</sup>.

c) The control of the **respect of Gallican Liberties** by the Church belonged to the King himself (who sword to make them respected during the liturgy of coronation) and to the Parliaments, especially when they had to rule on an *appel comme d'abus*. This special procedure was used in order to control a judicial decision of an ecclesiastical tribunal<sup>44</sup>.

### C. Gallicanism and Roman Church's Doctrine

a) Gallicans were considering themselves as **true Catholics**. They insisted on the fact that autonomy of a national Church did not mean separation: the Gallican Church considered itself as a part of the Catholic Church. The Church of France was not in the same situation as the Church of England after the Schism of Henry 8<sup>th</sup>. Some authors said of themselves that they were "good and zealous Catholics"<sup>45</sup>. In the 17<sup>th</sup> century, inspired by Psalm 137, Bossuet described as *essential* the link with Rome: "Holy Church of Rome [...] we will always hold on the unity with you by our most profound entrails. If I forget thee, O Holy Church of Rome, let my right hand forget her cunning. If I do not remember thee, let my tongue cleave to the roof of my mouth; if I prefer not you above my chief joy"<sup>46</sup>.

Moreover, Gallicans pretended that some of the Gallican Liberties were recognized by the Pope. They referred to the texts of the Pope which seemed to admit it<sup>47</sup>.

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<sup>40</sup> "Ces libertés consistent en ce que l'on a conserve en France plusieurs anciens usages fondés sur les Saints Canons sans se soumettre à de nouvelles règles de discipline auxquelles les Papes ont assujéti plusieurs églises" (Louis de Héricourt, *Les Loix ecclésiastiques de France*, *Op. cit.*, preface).

<sup>41</sup> Charles Bonel, *Institution au droit ecclésiastique de France*, *Op. cit.*, p. 15-25.

<sup>42</sup> *Preuves des Libertés de l'Eglise gallicanes*, ed. by Pierre Dupuy, Paris, Cramoisy, 2. vol.

<sup>43</sup> Quentin Epron, "Gallicanisme", in *Dictionnaire de culture juridique*, ed. Staphane Rials, PUF, 2002, p. 761-765.

<sup>44</sup> Art. 79 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane*, *Op. cit.*; Charles Févret, *Traité de l'abus*, Lyon, Duplain, 1736, 2 vol.

<sup>45</sup> "bons et zélés catholiques", Durand de Maillane, *Dictionnaire de droit canonque*, *Op. cit.*, t. 3 p. 395.

<sup>46</sup> "Sainte Eglise Romaine [...] nous tiendrons toujours à ton unité par le plus profond de nos entrailles. Si je t'oublie Sainte Eglise Romaine, puisse-je m'oublier moi-même! Que ma langue se sèche et demeure immobile dans ma bouche, si tu n'est pas toujours la première dans mon souvenir; si je ne te mets pas au sommet de mes cantiques de réjouissance".

<sup>47</sup> For example, art. 72 of Pierre Pithou, *Les Libertéz de l'Eglise Gallicane*, *Op. cit.*)

b) But in reality, **Rome had never accepted Gallicanism**. Counciliarism was condemned<sup>48</sup>, as were both the Declaration of the Clergy of France<sup>49</sup> of 1682<sup>50</sup> and *Libertéz de l'Eglise gallicane* of Pithou<sup>51</sup>. Rome rejected the absolute independence of the King of France in temporal, the fact that the King was presented as the guarantor of the Catholic Faith, the limitation of papal power on the Church of France.

Even if they were condemned by Rome, the Gallican ideas were generally admitted. They were commonly shared, quite a part of national mentality. Moreover, rites, liturgies were different from those of Rome.

Gallicanism was an element of the national identity. But it was also a universalism: Gallican principles had to rule the whole Catholic Church. Gallicans thought they were conserving the True discipline of the Catholic Church.

### **III. Gallicanism and Religious Official Doctrine after 1789**

#### **A. Revolution and Gallicanism**

Anticlericalism was not the basis of the Revolution of 1789. In fact, the new organization of the Church of France ("la constitution civile du Clergé") was based on Gallicanism. The main redactors of the Law (Durand de Maillane; Grégoire) were Gallican. They pretended that Parliament, as the King before the Revolution, was competent for restoring the Church. They were sure to act as Catholics. After the papal condemnation of *Constitution civile du Clergé*, and the Schism which was its consequence, they considered themselves as the true Gallican Church<sup>52</sup>. It is not important for me to determine if it was or not a real Gallicanism. But I think that the fact that they refereed to Gallicanism is a sign of the importance of this doctrine in French Mentality. Those people were destroying the whole organization of French administration. But in religious matters, they pretended to respect Gallicanism which they considered as the only true Catholicism.

#### **B. Gallicanism in the 19<sup>th</sup> Century**

After the Revolution, the Concordat of 1801 recognized an important power to the Pope by providing that he would be competent to dismiss the Bishops<sup>53</sup>. This was incompatible with the main Gallican principles<sup>54</sup>. But, with the *Articles Organiques* of 1802, Portalis

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<sup>48</sup> Pius II, *Exsecrabilis*, January 18th 1460, Denz. n°1375.

<sup>49</sup> *Op. cit.*

<sup>50</sup> Alexander VIII, *Inter multiplices*, August 4th 1690, Denz. n°2285.

<sup>51</sup> Published in 1594. Condemned in 1614, cf. *Index librorum prohibitorum*, 1600-1966, ed. By J. M. De Bujanda and Marcella Richter, Genève-Montréal, Librairie Droz-Médiaspaul, 2002, 980 pages.

<sup>52</sup> Jean-Baptiste Gratién, *Contraste de la réformation anglicane par Henri VIII et de la réformation gallicane par l'Assemblée constituante*, Chartres, Durand, 1791, 151 pages ; François de Torcy, *L'Eglise gallicane vengée de toute accusation de schisme, et préjugés légitimes de schisme contre ceux qui l'en accusent*, Saint-Omer, 1792, 61 pages.

<sup>53</sup> Concordat of 1801, art. 3.

<sup>54</sup> Arnaud Decroix, " Un coup de force dans l'église : le bref *Tam Multa* (15 Août 1801)", in *Prendre le pouvoir, force et légitimité, Etudes d'histoire du droit et des idées politiques*, n°6, 2002.

reestablished Gallicanism: article 1<sup>st</sup> reestablished *Placet* ; articles 6 to 8 reestablished *Appel comme d'abus*<sup>55</sup>; articles 6 and 24 referred to Liberties of the Gallican Church. The decree of February 25<sup>th</sup> 1810 provided that the Declaration of 1682 was a « general Law of the Empire ». From a juridical point of view, this organization was a very different from the organization that existed before 1789: there was no more Parliament of Paris that would be competent to intervene; the power of the administration was more important; Catholic structures were quite a part of the State's structures<sup>56</sup>. Pr. Bruno Neveu proposed to describe it with the qualification of “administrative Gallicanism”<sup>57</sup>.

In the 1820's some authors initiated ultramontane movement of “restoration” of the Papal authority on the Church of France. They pretended that Gallicanism was not conform to the true Catholicism<sup>58</sup>. They tried to substitute some Roman traditions to the ancient Gallican traditions. Until the end of the 1840's, those people were marginal in the Church of France<sup>59</sup>. Theologians and jurists defended Gallicanism, which continued to appear as the normal doctrine of the Church, as the most conform to the apostolic tradition etc. For example, in 1818, Frayssinous published *Les vrais principes de l'Eglise gallicane*, which presented as universal principles: the autonomy of the Church of France, the independence of the State from Papal intervention, and the Counciliar Doctrine<sup>60</sup>. The School of Theology of the University of Paris had the same approach<sup>61</sup>. For them, the Declaration of 1682, Bossuet's books, the Sorbonne's doctrine are the true Catholicism. Until the 1850's, it seems that the Gallican tradition was dominant. But after this date, ultramontane doctrine became more and more important. After the Syllabus of 1864 and the First Council of Vatican of 1870, it was no more possible to affirm that Gallicanism was compatible with Catholicism. Gallican doctrine ceased to be followed by French Catholics, even if, in secret, many theologians, bishops and priests continued to defend it.

For jurists, Gallicanism continued to be important. From the 1840's to the 1860's Dupin published many times his very important book *Les Libertés de l'Eglise gallicane*<sup>62</sup>. This book is both a collection of texts and a commentary of those texts. Dupin demonstrated that the 19<sup>th</sup> century's law is the continuance of the ancient Law. It was an important defense of Gallicanism. Until the Separation Law of 1905, jurists often referred to Pithou or Guy Coquille and tribunals frequently mentioned Gallican principles in there decisions<sup>63</sup>.

Gallicanism ceased to be the dominant approach of Catholicism in France during the second half of the 19<sup>th</sup> century, even if it has subsisted in Law until 1905. Before it happened, as long

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<sup>55</sup> Jacques Lafon, *Les Prêtres, les Fidèles et l'État*, Paris, Beauchesne, 1987, 372 pages ; Brigitte Basdevant-Gaudemet, *Le Jeu concordataire dans la France du 19<sup>me</sup> siècle*, Paris, Presses Universitaires de France, 1988, XVI-298 pages.

<sup>56</sup> Emmanuel Tawil, in Xavier Delsol, Alain Garay, Emmanuel Tawil, *Droit des cultes*, Paris, Dalloz-Juris-Associations, 2005, p. 45-61.

<sup>57</sup> Bruno NEVEU, « Pour une histoire du Gallicanisme administratif », in Jean GAUDEMET et al., *Administration et Eglise*, Paris, Droz, 1987, p. 57.

<sup>58</sup> Joseph de Maistre, *De l'Eglise gallicane dans son rapport avec le souverain pontife*, Lyon, Rusand, 350 pages.

<sup>59</sup> See Austin Gough, Paris and Rome, *The Gallican Church and the Ultramontane campaign, 1848-1853*, Oxford University Press, 1986, XV-260 pages.

<sup>60</sup> Denis Frayssinous, *Les vrais principes de l'Eglise gallicane*, Le Clère, Paris, 1818, 216 pages.

<sup>61</sup> Bruno neveu, *Les facultés de théologie catholique de l'Université de France, 1808-1885*, Paris, Klincksieck, 1998, 844 pages.

<sup>62</sup> M. Dupin, *Libertés de l'Eglise gallicane, Manuel de droit public ecclésiastique français*, Paris, Plon 1860, LII-560 pages.

<sup>63</sup> Emmanuel Tawil, *Du gallicanisme administratif à la liberté religieuse*, Postdoctoral dissertation in Religious Studies, Ecole Pratique des Hautes Etudes (Sorbonne), 2005, p. 29-47.

as Gallicans were numerous, they presented ultramontane doctrine as a foreign doctrine. The supporters of ultramontane doctrine were presented as traitors. Gallicans identified themselves with France. During the polemic, Gallicans were sure to defend France. In the same time, they had also the certitude of defending the only true Catholicism. Gallicanism thus continued both to be nationalist and to have a universal view.

### **C. Did Gallicanism Disappear after the Separation Law?**

In my opinion, it did not disappear. Before WW2, within the French Catholicism, there were many expression of the idea that existed a Church of France, which was autonomous from Rome, and that the Roman Church was not competent to intervene in temporal matters.

In the 1920's and 1930's, Louis Canet, who was Counselor for Religious Affairs in the Ministry for Foreign Affairs, had many occasions to defend Gallican doctrines. I found in the archives of the *Conseil d'Etat*, some documents in which he presented Gallicanism as the official doctrine of the Church of France, a doctrine which had to be defended against the Papal authority<sup>64</sup>.

The survival of Gallicanism in French Catholics' mentality is also clear during Action Française's crisis. The newspaper *L'Action Française*, edited by Charles Maurras, defended a doctrine which contradicted Catholicism. *L'Action Française* was considering Religion as submitted to its own political project. The most part of the Catholic traditional elites were supporters of *L'Action Française*. Even if Maurras was clearly atheistic, they considered *L'Action Française* as the main supporter of Catholicism. Pius XI<sup>th</sup> condemned *L'Action Française*: it was included in *Index librorum prohibitorum*. Despite this condemnation and the canonical sanctions against readers of *L'Action Française*, the most part of them continued to read it. Some theologians justified the disobedience by arguments like the incompetence of the Pope on temporal matters<sup>65</sup>.

### **IV. Elements of Gallicanism in Laïcité**

Is Gallicanism still a reference in French contemporary society or Catholicism?

None continues to define Catholicism in France as Gallicans did. None would say that there is a Church of France autonomous from the Church of Rome.

But, even if, two important elements of the Gallican tradition still exist, which are a part of the common approach of this Laïcité civil religion:

-First: **the desire to insure the primacy of the Law of the State**. Gallicans intended to insure the authority of the King by various principles: independence of the King in temporal; organization of the Placet etc. These were directed against papal authority. Today, the French State still wants to insure the primacy of its authority: for example by the Law on Religious

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<sup>64</sup> *Ibid.*, p. 137-140.

<sup>65</sup> Jacques Prévotat, *Les catholiques et l'Action française*, Paris, Fayard, 2001, 742 pages ; Fabrice Bouthillon, *La naissance de la mardité, une théologie politique à l'âge totalitaire : Pie XI (1922-1939)*, Strasbourg, Presses Universitaires de Strasbourg, 2001, p. 149-161 ; Yves Chiron, *Pie XI*, Paris, Perrin, 2004, p. 260-272.

Signs of 2004 it intended to reaffirm its authority on Muslims<sup>66</sup>. This desire of insuring the State authority is not far from a kind of nationalism.

-Second: **the certitude of defending a universal approach of Law and Religion.** Gallicanism was considered to be the true Catholicism. The Gallican Church pretended to have conserved the real Christian discipline. It had to be followed. Nowadays, “Laïcité” plays the same role. The Law of Separation is frequently presented as a model: French are sure to have the best system. Prime Minister wrote in 2004 that the Law of 1905 made France “le phare de la liberté”<sup>67</sup> (the lighthouse of Freedom). A lighthouse is used to guide sailors: when we were Gallican we pretended to guide the Catholic Church; we are now “*laics*” and we continue to be sure to know the best direction for the whole universe...

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<sup>66</sup> Emmanuel Tawil, *Norme religieuse et droit français*, Aix-en-Provence, Presses Universitaires d’Aix-Marseille, 2005, p. 18.

<sup>67</sup> Dominique de Villepin, in 1905, *La Séparation des Eglises et de l’Etat, Les textes fondateurs*, Paris, Perrin, 2004, p. 16.