TYRANNICIDE AND THE RIGHT OF RESISTANCE, 1792–1809

A STUDY ON J. J. ANCKARSTRÖM

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On March 16, 1792, when attending a masked ball at the Royal Opera House in Stockholm, King Gustav III of Sweden was hit by a pistol bullet, which ended his life on the 29th of the same month. The assassins and the circles behind them no doubt intended far-reaching political changes, a *coup d'état*. But these intentions were frustrated; the deed was a political failure. The wounded King was able to organize the work of the government. The royal absolutism, established as recently as in 1789, remained —even if there were changes in the personal set-up. If anything, there was a consolidation under the influence of the reaction brought about by the outrage.

The shot did, however, mark the end of a reign, which had made a promising start twenty years earlier. In 1772 the young Gustav III had managed to re-establish the authority of the Throne and to break the uninhibited and to some extent corrupt power of the Riksdag—the Swedish parliament. He did this by means of a bloodless and much admired *coup d'état*. But he had subsequently hazarded these gains, particularly by the war against Russia in 1788–90.

Even if it was a political failure, the assassination of 1792 revealed a deep split in the nation—that much is certain. But which were the motives behind the actors of the tragedy, by what ideologies, if any, were they dominated? On these points opinions have differed. This may justify the attempt to put the actual circumstances—now largely clarified—in perspective by relating them to a problem which has been topical for thousands of years, namely that of the right to resist or the duty to obey a tyrant.

Already on the day after the assassination the Chief Constable of Stockholm was able to announce that he had discovered the perpetrator, Captain Jakob Johan Anckarström. The latter has ever since been regarded as the principal character of the drama.

For full references to sources and literature, see the Swedish version of this paper, "Tyrannmord och motståndsrätt 1792–1809", *Scandia*, Vol. 28 (1962), pp. 113 ff.

This has in reality—and in my view intentionally—served to obscure the fact that the murder of the King was part of a much more extensive scheme. The accepted view has made it possible to represent the assassin's act as the result of the personal animosity against the King of a single individual with a distorted mind. It ought to be ascertained whether the deed was not, after all, the outcome of political views with a theoretical basis. In this is so, it will help us to get a fresh and deeper insight into the world of ideas of the age in question.

In order to solve the task thus set two questions have to be investigated. First, how did Anckarström's contemporaries view a conflict of the type that led to the assassination? And secondly, as to Anckarström himself, what motives *can* he have had, and what in fact *were* his motives?

I

Historical research has so far presented us with a picture of Anckarström that is curiously lacking in coherence. The assassin has, from the very first, been painted in the darkest colours. He is commonly described as coarse, uneducated and vindictive. If he were an idealist, he was a misguided and perverted one. Nisbet Bain's judgment of Anckarström, in *Gustavus III and His Contemporaries* (1894),[1] is invested with sombre traits: "This miserable man [had] the temperament of the true political fanatic—a feeble judgment, a confused moral sense absolutely at the mercy of a morbidly brooding fancy, and an inordinately violent temper. Anckarström's fixed idea was that Gustavus had forfeited the allegiance of his subjects by the coup d'état of 1789, and that it was a sacred duty to get rid of such a perjured tyrant by any means whatsoever." "The half-crazy zealot" became "a regicide". We are told that Anckarström was "a brute by nature", who found pleasure in executions and in the most appalling torture of animals.

Even writers with a critical attitude towards the murdered King have regarded Anckarström simply as a morbid character, a dark spirit. Thus Olle Holmberg, writing in 1954,[2] puts him down as "a barrator, a failure". If we are to penetrate any deeper into

[1] Vol. II, p. 156.
[2] See Olle Holmberg, *Leopold och Gustaf III*, 1954, pp. 295 f.

the background of the assassination of 1792, it will, however, be necessary to analyse the views current at the time with regard to the right to resist a monarch acting in contravention of the law and ultimately to resort to tyrannicide. It has already been mentioned that Gustav III established a royal dictatorship; this was, in turn, a consequence of a war that had been commenced in violation of the Swedish Constitution. Was the idea of a theoretically lawful struggle against a "tyrant" a motive of any importance in the murder of the King? Can the doctrine of the right of resistance possibly shed any light on the motives of those who acted, did it help to overcome the misgivings to which regicide must always give rise?

II

The problem of the citizen's duty of action in case of an abuse of state power is of great antiquity.[3] In the Occident it has been posed ever since the day when Harmodios and Aristogeiton made away with the Tyrant of Athens.[4] On July 20, 1944, the date of the most serious attempt on Hitler's life, the question was again topical.[5]

The actual political activity involved in resistance to state power —and ultimately tyrannicide—may be judged by its conditions and by its success. But the right of resistance may also be conceived as a means, based on and regulated by the law, of protecting the individual and safeguarding the community. Seen from this angle,

[3] The literature on the right of resistance has been treated in monographs by K. Wolzendorff, *Staatsrecht und Naturrecht in der Lehre vom Widerstandsrecht des Volkes gegen rechtswidrige Ausübung der Staatsgewalt,* Breslau 1916 (*Untersuchungen zur Deutschen Staats- und Rechtsgeschichte herausgegeben von Dr. Otto v. Gierke,* fasc. 126); Fehr, *Das Widerstandsrecht,* 1918 (*Mitteil. d. Inst. f. österr. Geschichtsforschung* 38); H. G. Schmidt, *Die Lehre vom Tyrannenmord, ein Kapitel aus der Rechtsphilosophie,* 1901; Heyland, *Das Widerstandsrecht des Volkes gegen verfassungswidrige Ausübung der Staatsgewalt im neuen deutschen Verfassungsrecht,* 1950; Kienast, *Untertaneneid und Treuvorbehalt in England und Frankreich,* 1952; Roth, "Zur Idéengeschichte und zum Begriff des Widerstandes gegen staatliche Unterdrückung", *Österreichische Zeitschrift für öffentliches Recht* 1955, pp. 630 ff. On the other hand, mainly on the pattern of Roman law, stern provisions were introduced into the criminal law in order to protect the princes, see E. Hjärne, *Fornsvenska lagstadganden,* 1951, pp. 81 f.

[4] Hirsch, "Die athenischen Tyrannen — Mörder in Sage und Volkslegende", *Klio,* vol. 20 (1926), pp. 129 ff.

[5] See, too, Weinkauff, *Über das Widerstandsrecht* (*Juristische Studiengesellschaft Karlsruhe, Schriftenreihe,* fasc. 20).

certain secondary problems assume importance. In what circumstances does a right of resistance arise? Who is entitled to exercise it? What means are permissible? If society is regarded as based on a social contract it follows that the breach thereof by the sovereign should provoke resistance, whether the right to exercise it is conceived of as being the privilege of the estates or some other organ of the community, or alternatively is considered to be open to all and sundry.

In the course of the development of constitutional thought, opinions on these points have changed, and the question of the individual's duty to obey, and the consequent right to plead that duty in defence, have also been judged differently from time to time.

Ancient Christianity taught the *duty of obedience*. Resistance to the powers that be was alien to early Christian thought, for the powers were of God alone. But it is well known that Church history also includes periods when it was claimed that the secular powers had a different status,[6] particularly in relation to the Papacy. As against recalcitrant princes the Church, too, would invoke doctrines on tyranny dating back to Antiquity. Tyrannicide may be regarded as accepted by the *Decretum* of Gratian. The rediscovery of the writings of Aristotle gave renewed stimulus to ideas of that kind—a fact to which the works of St. Thomas Aquinas bear witness.

Tyrannicide was linked up with constitutional law already in classical times, e.g. in Athens.[7] Such a link was further promoted by dint of the doctrines of a social contract and a pact of subjection.[8] The subjects, in their collective capacity as one of the contracting parties, undoubtedly needed sanctions as against a sovereign who was guilty of a unilateral breach of the contract. Immediately the constitution of a state has developed beyond the stage of uninhibited despotism, this legal problem comes to the fore. The people had a right to call to account the sovereign who broke the contract—in the last resort by having recourse to political murder, which morally and legally had to be judged on the basis

[6] For further details see F. Kern, *Gottesgnadentum und Widerstandsrecht. Mittelalterliche Studien,* 1914.

[7] Friedel, "Der Tyrannenmord in Gesetzgebung und Volksmeinung der Griechen", *Würzburger Studien zur Altertumswissenschaft* 1937. Cf. Kolbe, "Das Ehrendekret für die Retter der Demokratie", *Klio,* vol. 17 (1921), pp. 242 ff.

[8] v. Bezold, "Die Lehre von der Volkssouveränität während des Mittelalters", in: *Aus Mittelalter und Renaissance,* 1918.

of the existence of such a right. Medieval masters of constitutional learning developed such ideas; they are met with in the works of Marsiglio of Padua, Nicholas of Cusa and Philippe de Comines. In the constitutional law of the late Middle Ages these ideas also found expression in rules of positive law, according to which the rights of resistance or rebellion were vested in the estates or other organs of the state. The right of resistance was monopolized but at the same time legalized.[9]

With the political speculation of the Renaissance the situation underwent further changes. Tyrannicide was judged by its results. It was regarded as an instrument of practical politics, e.g. by Machiavelli. It was due to the religious struggles and the antimonarchist opposition of the sixteenth century that the question was brought back into the sphere of speculation on constitutional law. The religious struggles sharpened what had previously been a pure question of power politics into an issue where the salvation of the soul was occasionally said to be at stake. Whereas to Luther and Melanchton as well as to the Catholic theorists the sanctity of sovereign power and the duty to obey were of central importance, views on either side were adjusted after experience had shown that this very sovereign power could be utilized in order to suppress the religion of the theorists themselves. In Hotman's *Franco-Gallia,* in the *Vindiciae contra tyrannos* by Junius Brutus, in the Dutch Proclamations of Liberty, and in Knox's preachings the doctrine of a general right of resistance was theoretically elaborated as never before. On the part of the Catholics a similar development took place, marked by the Resolution of the Paris Faculty after the murder of Henri de Guise, and also stressed by the murder of William of Orange and by Ravaillac's assassination of Henri IV in 1610.[1]

This dramatic development had a counterpart in the general theory of constitutional law. In conformity with certain documents of the early Middle Ages featuring conditional declarations of homage and loyalty or even straightforward provisos proclaiming a right of resistance, the latter was preserved as a matter of positive law in many countries, as witness the "Golden Bull" of Hungary and the Polish *articulus de non praestanda oboedientia*

[9] The foundation in positive law for the right of resistance has, in particular, been stressed by Kern, *op. cit.,* and Wolzendorff, *op. cit.*

[1] Cf. Böhme, *Der Tyrannenmord nach der Lehre der katholischen Kirche,* 1905.

(1607).[2] And this right of resistance pertaining to the state of estates lived on for a long time in theoretical writings. Grotius was one of its advocates.

But the development which was of greatest importance to the continued European speculation on the matter took place in England, where the High Church Stuart monarchy succumbed in its struggle against Low Church and politically radical currents.[3] Formally, the result of this crisis was not tyrannicide, but the sentence of death on Charles I. As early as in 1649 Milton came to the defence of the right of Parliament to sentence the King. In *The tenure of Kings and magistrates* he maintained that there existed a right of resistance of the Estates and that it was cast in clear legal forms. He did the same in *Pro populo Anglicano defensio*. But after the restoration of Charles II those then in power took a bloody vengeance on the "regicides". All these events also had an echo in the constitutional developments in Sweden (see below, p. 81). The crises of the monarchial system which spread over Europe in the middle of the 17th century was everywhere followed by a marked consolidation, the chief instance of which was the Bourbon monarchy. In *Thélémaque* by Fénélon the right of resistance is gone; it was replaced by a wish that the King would act in conformity with the law.[4] In Scandinavia the Danish absolutism (1660–1849) and the less long-lived Swedish absolutism under Charles XI and Charles XII, ending in 1719, corresponded to the consolidation of the continental monarchies. In these countries Hobbes, in particular, was the teacher.

But a new era dawned with fresh ideals of liberty in regard to the form of government. It is on this doctrine, which still dominated the Swedish community at the end of the 18th century, that our main interest is focused. The citizens became involved

[2] Cf. H. Almquist, "Polskt författningsliv under Sigismund III", *Historisk tidskrift* 1912, p. 166.

[3] Gross, *Der Streit um das Widerstandsrecht. Ein Beitrag zur Geschichte der englischen Revolution*, 1929. Cf. J. W. Allen, *English Political Thought, 1603–60*, I, 1938.

[4] Bossuet in developing this trend pushed it to its utmost limits. In England Hobbes, starting from the classical social contract theory, ended by regarding sovereign power as unlimited in principle; the people had, by making the contract, surrendered all their rights—an argumentation which has been repeated through the ages. In Prussia Gundling denied that resistance was conceivable in an absolute monarchy but admitted that it might be found in a state of estates.

in the political discussion to an extent and with an intensity perhaps never seen before. In this connexion the questions of the rule of law and the right of resistance again came to the fore. The names here met with are those of Locke and Rousseau.

Locke's principal ideas, as they were expounded in the work *Two treatises on Government* (published in 1690), were as follows. The chief objective of society is to realize the greatest possible freedom for the individual, with safeguards, however, for "life, liberty and estate". The laws of the society should be made by the people, and the government should be subject to the laws. The right of resistance was maintained, as being a natural consequence of the social contract. If the estates were unable to put the resistance into practice, then every citizen was entitled to do so![5]

Though clearly belonging to the law of nature and without any basis in positive law, the right of resistance was advocated by Pufendorf (whose activity extended to Sweden),[6] by Coccejii (1744–48) and by Christian von Wolff (*Institutiones juris naturae et gentium,* 1750).[7] If the sovereign transgresses the legal limits of his powers, he will be acting as a private person, whom the people are entitled to treat accordingly; the duty to obey comes to an end. Vattel, who attracted such attention in the 18th century and who was a disciple of Wolff, also supported a right of resistance: "Ce haut attribut du Souverain n'empêche pas que la Nation ne puisse réprimer un Tyran insupportable, le juger même."[8] But in Vattel's view the sovereign was sacred and in-

[5] Locke, *Two treatises on Government,* 1690. "The King binds himself ... to the observation of the fundamental laws of his kingdom ... and therefore a King, governing in a settled kingdom, leaves to be a King, and degenerates into a tyrant, as soon as he leaves off the rule according to his laws."

[6] *De jure naturae et gentium libri octo,* Lund 1672, Lib. VI, cap. VIII, § 8. "Caeterum ista sanctitate, quam hactenus adstruximus, non gaudent nisi reges revera tales ... Sed & si rex a populo constitutus regnum velit alienare, aut modum habendi immutare, apertum est ipsum non modo nihil agere; sed & eidem per vim conata sua tendenti perficere vis a civibus opponi poterit." That Swedish readers still paid attention to Pufendorf's writings as late as at the middle of the eighteenth century is proved by the fact that Wilde in 1747 published a comprehensive Swedish translation of them.

[7] "Et quoniam superiori nullum jus est imperandi legibus fundamentalibus adversum, nec obediendum, si legibus fundamentalibus adversa imperentur, immo imperanti resistere eumque coercere licet ..." (§ 1079; p. 673 in the edition of 1754).

[8] *Le droit des gens ou principes de la loi naturelle,* 1758, I, p. 215 (Livr. I, Cap. IV, § 50).

violable—this was necessary in the interest of the public good—and accordingly tyrannicide was not permissible.[9]

At this time, however, the Encyclopaedists went even further (see below). These were the French writers who had the greatest influence on Swedish, as well as on all other European opinion. It was Locke, and not Hobbes, who was followed by these, the fashionable philosophers of the day—which is particularly remarkable as Locke had defended the English revolution, whereas the Encyclopaedists lived in France under the absolute monarchy. The Encyclopaedists[1] expressly rejected Hobbes's theory that the citizen had handed over power to the sovereign. Diderot's article on "Loi naturelle" and Bouchers d'Argis' on "Droit naturel" give plain answers. They followed Locke's teaching as to the consequences of a breach of the social contract, namely that power reverts to the people, who might then make a fresh contract with whomsoever they fancied—see the article "Autorité", written by Diderot. All the contributors to the *Encyclopédie* seem to support the right of resistance to an offending monarch, i.e. a tyrant, see the articles "Société", "Obéissance" and "Protection". Even in an absolute monarchy there was a right of resistance, for the sovereign was always subject to the universal law of reason. *Every means* was permissible in defence of liberty, because that was equivalent to defending one's life. The reasoning on this point presupposes the unconditional rights to life, freedom and property. On the other hand (as is well known), the mode of framing and solving the problem current during the religious wars did not to the same extent attract the attention of the Encyclopaedists. Thus, as far as history was concerned, the Encyclopaedists felt some sympathy for those monarchs who had maintained the interests of the state.

[9] Mably in 1758 further developed this doctrine. Organs of the state as well as individuals were entitled to resist a usurping prince. The right to do so might result either from the prince's breach of the social contract or from his acting in any manner incompatible with the interests of the people. For every social contract must be based on the assumption that the prince is to pursue the welfare of the people: "La guerre civile est parfois un grand bien." Too much should not be required in the way of provocation by the prince; the right of resistance must be allowed to come into existence without any extreme abuses being perpetrated: it was not necessary "qu'on attende pour se soulever contre la tyrannie que les abus soient extrêmes". Cf. *Des droits et devoirs des citoyens,* pp. 334 ff., at p. 350: "Dès qu'il attaque la constitution de l'Etat, le Prince rompt le Contrat qui lioit le peuple à lui; le peuple devient libre par le fait du Souverain, et ne voit plus en lui qu'un usurpateur."

[1] On this point cf. Weiss, *Geschichtsschreibung und Staatsauffassung in der französischen Enzyklopedie,* 1956, pp. 193 ff.; Mornet, *Les origines intellectuelles de la révolution française,* 2nd ed., 1947.

Rousseau, too, advocated a right of resistance. He did so not only on the basis of the older views concerning an opposition between the sovereign and the people and a settlement by law of the legal sphere of each, but also within the framework of his own doctrine of a unitary state founded on the absolute sovereignty of the people. His compatriot the Swiss jurist De Lolme in his book *La Constitution de l'Angleterre* (1770) dwelt at some length on the citizens' right of resistance. His work was formerly known in Sweden, though its significance for Swedish writers on constitutional law was ignored until lately.[2] After an account of the constitutional safeguards that had been developed against abuse of power, the author asserts that these, however, are insufficient. The ultimate rule must be that the people are entitled to resort to resistance, "la résistance", if the sovereign breaks all legal ties, respecting "ni la personne, ni la propriété du Citoyen". De Lolme considered any detailed discussion of this subject unnecessary, as there was, he thought, general agreement on the matter. The right of resistance was clearly permitted according to the laws of England: "La résistance y est regardée comme la ressource légitime & finale contre les violences du Pouvoir." It was this right of resistance which constituted the foundation of the Great Charter, that bulwark of freedom. An abuse of power would be put down by force. "Enfin, ç'a été la résistance à un Roi, qui comptoit pour rien ses engagements, qui a mis sur le Trône la famille aujourd'hui régnante." The right of resistance had also been legalized by the Bill of Rights which was passed at the time of the deposition of James II. In this connexion De Lolme also made reference to Blackstone's famous *Commentaries,* Book I, Chapter I, p. 140.[3]

In the field of practical politics the doctrines concerning the subjects' right of resistance, which had thus been developed by the theorists to an ever-increasing extent, soon found expression

[2] De Lolme, *La Constitution de l'Angleterre,* pp. 218 ff. in the edition of 1778 (the copy in the Royal Library, Stockholm, was once the property of Gustav III). The work was translated into Swedish in 1809 in two versions. See N. Höjer in *Historisk tidskrift* 1910, p. 88.

[3] Burlamaqui—who, of course, has passed on the spiritual inheritance of the Calvinists in other respects as well—went so far as to approve of tyrannicide in *Principes du droit naturel,* 1751. He accordingly maintained, as regards a prince of evil disposition, that the latter was outside the law; recourse might be had to any expedient in order to evade him: "L'homme ne sauroit reconnaître un tel pouvoir comme un droit, au contraire il se trouve autorisé à chercher tous les moyens de se soustraire à un Maître si redoutable" (p. 15). Cf. the same author's *Eléments du droit naturel,* 1775, p. 17.

in the liberation of the British Colonies in North America from the mother country and in the Bills of Rights promulgated at the time.[4] In conformity with Locke the right of resistance here received an expression which attracted general notice.[5] There soon followed the French Revolution and the constitutional documents connected therewith.

In the French Declaration of the Rights of Man (1789) the principle of the right of resistance was proclaimed: "Le but de toute association est la conservation des droits naturels ... de l'homme. Ces droits sont la liberté, la propriété, la sûreté et la *résistance à l'oppression.*" Recent research has seen in this a reflection of the very North American declarations mentioned above, while the same role as previously is no longer assigned to Rousseau's influence.[6] In the French Constitution of 1793 this right of resistance was not only fixed but was further elaborated: it was laid down in Art. 35 that "quand le gouvernement viole les droits du peuple, l'insurrection est pour le peuple et pour chaque partie du peuple le plus sacré et le plus indispensable des devoirs". Thus, in this document the right of resistance was not only sanctioned by positive law—it was elevated into a *duty* of resistance, incumbent not on some organ of the state, but on every section of society.

The permitted *forms* of resistance were not, however, regulated in detail. The right might encompass demonstrations and refusal to obey. It could be wider, however, so as to make revolution or tyrannicide permissible. Thoughts revolved round tyrannicide, obviously under the influence of classical prototypes. Voltaire's drama about Caesar and Brutus presented the man of the Age of Enlightenment with a literary rendering of the political problem that had become so topical; for even Caesar's murderers pleaded a legal ground for their act. In Stockholm in the month of March, 1792, there were obviously many who read this play again.

The constitutional documents just mentioned mark the culmination of the doctrine of the right of resistance. But it is of interest in connexion with our subject that this culmination coincided

[4] On this, see Klöverkorn, "Die Entstehung der Erklärung der Menschen- und Bürgerrechte", *Historische Studien veröff. v. E. Ebering,* 1911; Rees, "Die Erklärung der Menschen- und Bürgerrechte von 1789", *Beitr. zur Kultur- und Universalgeschichte von Karl Lamprecht* XVII, 1912.

[5] Wolzendorff, *op. cit.,* pp. 368 ff.

[6] As to this, see G. Jellinek, *Die Erklärung der Menschen- und Bürgerrechte. Ein Beitrag zu moderner Verfassungsgeschichte,* 1895.

closely with the great crises of the later part of Gustav's reign, namely the Russian war and the plotting to assassinate the King. That these events, at any rate in point of time, correspond to the recognition of the right of resistance in constitutional theory and law is beyond dispute.

After the French Revolution the peoples of Europe were yearning for order regulated by law. And into the law certain devices were introduced, which were to replace the classical right of resistance. Some such institutions, mainly inspired by English political tradition, are already met with in the French Constitution of 1791. They later found a brilliant champion in Benjamin Constant.[7] There was a general tendency to look for the protection of the individual in a social order regulated by law, for which German theory coined a particular expression, *der Rechtsstaat.* And setting out from such ideas the right of resistance was already regarded by Kant[8]—and this is important from the Swedish point of view—as "rechtslogisch unmöglich".[9]

Writers on constitutional law were thus for a long period agreed that the time of the right of resistance was gone for ever. Only after the end of the Second World War—on account of experience gained in its course—did the subject reappear in the discussion on legal policy.[1]

III

The European theory on the right of resistance and tyrannicide has been outlined above. The next question is, to what extent did that theory influence Swedish opinion?

How far Swedish development has been dependent on foreign

[7] *Cours de politique constitutionelle,* 1818.

[8] Kant, *Rechtslehre,* II, Abschn. 1, Allg., Anm. A; Haensel, *Kants Lehre vom Widerstandsrecht,* 1926. Cf. below p. 102.

[9] Only as an emergency right, available to the oppressed in circumstances which could not be defined in advance, was the right of resistance accepted by Bluntschli, *Restauration der Staatswissenschaft,* 1820, I, ch. 15. The right of resistance in this sence has been invoked in moments of national distress, as in the case of Eugen Schauman's assassination in 1904 of the representative in Finland of the oppressive Russian Empire, the Governor-General Nikolai Ivanovich Bobrikov (see B. Estlander, *Eugen Schauman,* Helsingfors 1925); but it has also been relied on by social revolutionaries, as in the many assassinations of princes ever since the attack on Alexander II in 1881. On the other hand, power-worshipping philosophers like Nietzsche maintained that being in possession of sovereign power involved a legitimation which precluded the possibility of a right of resistance.

[1] Heyland, *op. cit.;* Weinkauff, *op. cit.* Cf. above, p. 71.

influence is a problem of a more general nature than the one here dealt with. As a general proposition, it seems fair to say that formerly the influence of foreign theory on Swedish opinion was underestimated.[2] Recent research on the constitutional system of the so-called Age of Freedom (1720–72), and on its genesis and different stages of development, has revealed a greater dependence on foreign theory than was previously assumed.

As far as concerns the various doctrines of a social contract and a right of resistance, it is obvious that these matters were continuously the subject of indigenous speculation, which, however, was influenced by the dominating views current abroad. It will suffice to make reference to the constitutionalism at the time of the Scandinavian Union (1389–1521), to the discussions that centred round Christian II ("Christian the Tyrant", king of Sweden 1520–21), to the fall of Eric XIV (1568), to the struggles between King Sigismund and Duke Charles in the 1590's, and to the so-called conciliar constitutionalism (1614–80). The justification of tyrannicide was discussed by Bengt Crusius, a professor of Uppsala, at a disputation in 1627. One of the most remarkable proofs that these matters were kept in mind is furnished by the fact that the Counsellors of the Realm, addressing themselves to King Charles X Gustav, laid stress on the subjects' right of resistance against a king who deviated from the path of honour.

The constitutions of the Age of Freedom marked the first great triumphs of the social contract theory. The more research penetrates into the speculation of the early part of the Age, the more distinctly does the connexion between the great European thinkers and indigenous Swedish discussion stand out. Locke in particular exercised a far-reaching influence, which was, moreover, emphasized by the fact that one of the government offices caused his *Two treatises on Government* to be translated and then published them in 1726.

The Constitution of 1720 gave expression, though not with absolute clearness, to a right of resistance to a usurping government. Art. 14 thus contained a provision designed to safeguard the Constitution, and this provision, though framed in terms of general import, may also be interpreted as admitting a right of re-

[2] Ever since the emergence of the Historical School a national-romantic tendency has hindered the recognition of reciprocal influences. The last contribution to this debate is R. Karlbom, *Bakgrunden till 1809 års regeringsform* (*Studia historica Gothoburgensia III*), 1964.

sistance belonging to the subjects. The enactment prescribed penalties for plotting against the new Constitution: "Whosoever he may be, high or low, cleric or lay, shall forfeit his life, honour and property, who, in forgetfulness of his sworn duty and the good of the country, by means of any plot shall seek to saddle us with any absolute rule." It is, of course, the parties to this "constitutive pact" (using the terminology of the social contract theory), i.e. the whole people, that is the object of the protection. The penalty was markedly made applicable to anyone, "high or low", and this expression might very well refer even to the monarch. Plotting for the benefit of absolute rule was pronounced incompatible with a sworn oath as well as with the good of the country.

This provision may be characterized as the starting point of the discussion on the right of resistance during the latter part of the Age of Freedom and during the Gustavian epoch.

It has just been mentioned that Locke's influence in particular left its mark on Swedish speculation in the early part of the Age of Freedom. Naturally, the Swedes did not lose touch with other theorists. Thus, from the point of view of our topic, no small interest attaches to the knowledge that is displayed of monarchomachic literature, as emerges from glimpses in the texts—as for-instance when, in the course of the discussions during the so-called Principalship Dispute,[3] the leading figure, the Stockholm merchant Kristofer Springer, turns out to be familiar even with Hotman and his works. Milton, too, as well as his adversary in the theoretical discussion, Salmasius, were well known. Soon, however, other names became predominant. In Sweden, as elsewhere in Europe and America, Montesquieu's and Rousseau's works on political theory became the property of well-nigh every educated man. Montesquieu's doctrine of the ideal distribution of state powers, with its insistence on the rule of law, and Rousseau's teaching on the sovereignty of the people, with its radical tendency and its reference to public opinion as a power creative of law—these became new elements in the discussion. And in many respects Sweden witnessed a continuing trend towards radicalism. While the conception of a social contract still dominated the theory during the early part of the Age of Freedom—and the agreed positions were assigned to the contracting parties as of right—in the course of time the principle was

[3] A controversy whether, in all important matters, the members of the *Riksdag* were obliged to obtain instructions from and render accounts to their electors, the "Principals".

enunciated that the Estates were omnipotent, that they possessed a "pouvoir constituant", which was inconsistent with any natural or contractual rights of the monarch. The standpoint is already encountered during the Principalship Dispute—where the existence of a civic right of resistance to an unlawful action of the representatives of the people was at issue—namely in the famous memorandum of 1751 by Bishop Johan Browallius; it also had advocates in the Estate of Nobles in the momentous year 1809.

But the question of direct sanctions against a usurping monarch also came to the fore, especially during and after the unsuccessful attempt at a *coup d'état* which was made in 1756 with the object of restoring the royal power. The sentences of death on Count Erik Brahe and his fellow conspirators in that year were indeed directed against the tools of the King, but they were also aimed at the Monarch. The political weekly *En ärlig svensk* (An Honest Swede), in which after the attempted coup the prevailing views were set forth, followed Locke if anyone. The object of society was stated to be the protection of the individual's liberty, property and welfare. The king was subject to the laws, which were made by the citizens. He might be deposed should he offend against them.[4] An even stronger emphasis on the right of resistance is met with in E. Gyllenborg's work *En svensks tankar öfver den 22 juni 1756* (The Thoughts of a Swede concerning the 22nd of June, 1756), as well as in *En gyldene spegel* (A Golden Looking Glass), also printed in 1756 and published under the pseudonym of Tai Tsong—a typical manifestation of the contemporary passion for everything Chinese. A. L. Leijonhufvud expressed the same view in *Enväldets skadeliga påföljder* (The Harmful Consequences of Absolutism) (Stockholm, 1757).

[4] The fact that Milton, too, at an early stage attracted attention in Sweden may be inferred from a note in Bulstrode Whitelocke's *Dagbok öfver Dess Ambassade til Swerige* (A Journal of the Embassy to Sweden in the Years 1653 and 1654 from the Commonwealth of England, Scotland and Ireland), the Swedish edition of 1777, p. 168: W. had been informed that the Burgomaster of Köping had passed strictures on the English Parliament which was stated to have murdered its King. However, after having received severe reprimands by W., the Burgomaster contended that he had by no means spoken in the injurious manner alleged. He was well versed in the matter and stressed the fact that he was in possession of *Milton's book in defence of the Parliament* (cf. above p. 74). See also Count Gustaf Adolf De la Gardie's remarkable exposition of 1691 on the legal basis of the royal power, cited by E. Hjärne, *Från Vasatid till frihetstid,* Stockholm 1929, p. 92, and the literature listed therein.

In practical politics, however, the resistance was not directed against usurping royalty but against other forces—the "Caps" (a party of the left) and the Estates of commoners. And this was so both when the Royal Family and the "Hats" (a party of the right) organized a public service strike in 1768, and when Gustav III staged his coup of 1772, which was mentioned at the beginning of this paper. These events make it possible to speak of a right of resistance of the king directed against the disintegration of legal forms. Though the combination of the King, the "Court Party" and the Hats made up the political foundation for the coup, yet the outcome was a fresh covenant between the King on the one side and the Estates on the other. The preamble of the Constitution of 1772, on which the views of Montesquieu have left a strong imprint, gives clear expression to the principle of the rule of law—which was conceived as binding on the monarch, too. It goes on to outlaw anyone who acts in contravention of this fundamental act: "It has accordingly been our intention so to secure our liberty that it might not be violated by an enterprising ruler unmindful of the weal of the realm or by ... traitorous citizens" or by enemies. The king was to obey the Constitution literally "and regard as an enemy of us and of the realm, any person who would lead us to diverge therefrom." These provisions made it possible to refer to a right of resistance laid down by law. It was to be put to abundant use.

The Swedish material, then, shows that the general speculation concerning a social contract and a pact of subjection, and about a social order regulated by law with a corresponding right of resistance, had close parallels in the Swedish development. These doctrines had many advocates among Swedish theorists. They have also to some extent found expression in our great constitutional documents. In due time, however, the learned arguments were to yield even more tangible results in the field of practical politics. Grey theory was to be matched by blood-red reality in two of the most fateful acts of the Gustavian drama: the resistance of officers in 1788, known as the conspiracy of the Anjala League, and the assassination of 1792.

Even before these events the American Colonies, led by George Washington, had commenced their struggle to gain freedom and to resist a state regarded as tyrannical. This struggle was followed with the keenest interest in Sweden. Members of the Swedish corps

of officers served with the North American troops,[5] while others in British service also came in touch with the Revolution.[6] The literature on the American Revolution, glorifying the struggle for justice and liberty, became well known in Sweden.[7] Note was carefully taken of the significance of the struggle in point of principle; the American was represented as "l'homme juste", and "libre". It is evident that the prohibition issued in 1781 by Gustav III on the importation of Raynal's work *Histoire des deux Indes* (1780) did not produce the desired effect; there are many copies of it in Swedish libraries, including several that once belonged to leaders of the Gustavian opposition.

As regards Swedish practical politics, the ultimate problem of a constitution regulated by law, namely the right of resistance, took on a heightened interest when Gustav III attacked Russia in 1788 in obvious contravention of the constitutional requirement that the Estates must give their consent to any aggressive war. The starting point of the dissatisfied in their argument was theoretically and constitutionally identical with the one which, as we have just found, was generally accepted. The King had broken the Constitution. He had acted unlawfully by beginning an obviously aggressive war, something he was not entitled to do according to his covenant with the Estates. The King had thereby placed himself outside the law. There was consequently a right to refuse obedience. And this right was possessed not only by the Estates—who at that particular moment were unable to assert it as they were not in session—but by everyone. The regimental commanders of the troops stationed in Finland made use of this right; in addition, they could justify their action by reference to the duty of protecting the fatherland in the hour of peril.

The political argumentation on the lines that have just been sketched may be followed in the material, which has now long been available, of political letters and agitatorial publications of the days of the Russian war. But against the background of the general development of political theory in Europe and in Sweden, it would probably also be correct to say that the argumentation

[5] See A. Benson, *Sweden and the American Revolution*, New York 1926; H. Elovson, "De svenska officerarna i nordamerikanska frihetskriget", *Scandia* 1929, pp. 314 ff.

[6] W. Odelberg, *Viceamiralen Carl Olof Cronstedt*, Uppsala 1954.

[7] H. Elovson, "Raynal och Sverige", *Samlaren* 1928; see, too, L. Krusius-Ahrenberg, *Tyrannmördaren C. F. Ehrensvärd*, Helsingfors 1947, pp. 47 f.

not only provided a pretext for a policy with practical objectives but also constituted an intellectually and morally sound basis for certain—albeit unfortunate—actions in which thoughtful and responsible Swedes might also take part.

An account of the current views in a pamphlet entitled *Politiska samtalet på Maja Lisas kaffehus* (The Political Colloquy at Maja Lisa's Coffee House), printed in 1791, is of interest in this connexion. The constitution is a contract between the ruler and the people, it is stated in the pamphlet. A party who does not intend to keep the contract is guilty of fraud on the other party. It is in the nature of all contracts, the pamphlet goes on, that if broken by one side, the obligation then ceases to be binding on the other. Where the law is silent as to any matter or question, Reason will speak and indicate man's natural rights. Patriots are of the opinion (it is further stated) that as the King had disregarded the welfare of the people and, contrary to a provision in the Constitution of 1772, had commenced war without the consent of the Estates the officers were entitled to take up the cause of the people by remonstrating with the King. For the right of resistance—which could be deduced from the general law of nature—meant that the power to prevent the Constitution from being overthrown belonged to "any *corps* whatsoever, be it the Army, an administrative authority, a dean and chapter, or a burgomaster and aldermen, or else, where such a course is possible, each individual citizen" that was first informed of any such risk "and was capable of such resistance".

Johan von Engeström—together with his brother Jakob, undoubtedly one of the principal conspirators against Gustav III in 1792, though he was afterwards acquitted—has also expounded his ideas on the justification of tyrannicide in an interesting manuscript treatise on constitutional law, which has not previously attracted notice from the point of view now under consideration. Proceeding from the individual's right of self-defence he maintained that according to the law of nature the people are "the tribunal that is entitled to try the conduct of its highest dignitaries and to punish them as the circumstances may warrant". The people were empowered immediately "to relieve those who have forfeited it of their trust", i.e. if they "go beyond the mandate given by the people or break it outright". To this category of dignitaries Engeström assigned "rulers, emperors, kings, princes, governors, doges" as well as counsellors of the realm and certain

others. The increased protection generally afforded such persons by criminal law, "as if they were holier than others", was not founded on the law of nature but was a product of rational considerations and contractual stipulations corresponding thereto. Engeström went on to discuss regicide. Some instances thereof he considered unjustified, as for example Ravaillac's assassination of Henri IV, since that King had been a good ruler; his country and the whole human race suffered a loss by his death. But this would not have been true if Ravaillac had murdered Louis XI. It might then "have happened that the wrongfulness of his deed had been forgotten and that there had only been rejoicing at finding the people delivered from the violent and criminal regime of an evil ruler". For a ruler, like any other citizen, should be judged "according to the law of nature". This "is the more obvious as he, in such cases, is not to be regarded as a ruler". This in particular held good when a ruler was guilty of outrages on private property. The method—trial by a court of law—that had been adopted in the case of counsellors of the realm, should also be resorted to in the present connexion.

But even at this stage von Engeström hinted at the justification of tyrannicide. This becomes still plainer as the exposition continues. As a matter of principle rulers like other citizens ought to be brought before a court of law. This, however, was often impossible. "Ordinary courts [can] not take cognizance of the matter.... There is no judge above the people, who themselves make ... and administer the law in their own affairs. The matter should therefore be left to the people's own decision and the ruler must be content to be arraigned before them.... All this follows quite plainly from the fundamental truths of the law of nature." But Engeström also relied on a manifestation in positive law of this idea, apparently the Constitution of 1772: "We have seen, too, that a Ruler, in the very Constitution he has himself given his people, has acknowledged himself legally bound thereby and declared that he is *answerable to God and the Fatherland for the government of the Realm.*" Engeström in particular referred to the trial of and sentence on Charles I. The execution had been deplored by many, it had caused a shudder of terror. "But in order to escape a more violent shudder when the executioner's axe is suspended over the heads of the people themselves, the latter will readily sustain the much fainter shudder *at the killing of the tyrant.* A people that are suffering under an evil rule are

generally in the unfortunate position of *being constrained to take the tyrant's life.* The tyrant himself is to blame for that."[8]

It is accordingly clear that Johan von Engeström approved the principle of tyrannicide and that he considered it applicable to Gustav III. His programme corresponds to, but elaborates further, the contents of a passage written at approximately the same time by his brother Jakob von Engeström when preparing a draft constitution. According to the passage Gustav III—the King who had declared that he was not above the law—had violated the Constitution by means of the *coup d'état* of 1789 and had made applicable to himself the sanctions aimed at the enemies of the Constitution. But research has hitherto overlooked the fact that the von Engeström circle in their theoretical writings went so far as to support that right of resistance which Anckarström put into practice, and did not rest content simply to approve a right of disobedience in case of unlawful decrees. It is true that in his petition for pardon drawn up in prison in the spring of 1792 Johan von Engeström[9] protests his abhorrence of murder and particularly of regicide, but this is only a specimen, though an extremely interesting one, of the changes in expression—but probably not in intention—which were caused by the failure of the conspiracy. No importance can be attached to it.

Thomas Paine's book *The Rights of Man*—translated by C. F. Nordenskjöld in 1792—gave fresh nourishment to the speculation on resistance and tyrannicide.[1] The idea of tyrannicide was also

[8] Italics supplied, The Engeström Collection C IV, 1, 40, in the Royal Library, Stockholm (Treatises on Several Subjects by Joh. von Engeström, Secretary in the Royal Government Offices).

[9] Printed by Erik Vilhelm Montan in *Historiska anteckningar och bref från åren 1771–1805 af Johan von Engeström,* Stockholm 1877.

[1] It is quite certain that these constitutional views did not exclusively dominate public opinion in Sweden. The practical politicians surrounding Gustav III and the men who propped up the system of government were, as a rule, indifferent or hostile to them. The mass of the Swedish people still entertained royalist sentiments which could not be expunged by speculations on constitutional law—in this respect the conspirators of 1792 made a miscalculation. Even those with more theoretical interests would find other ideals. Thus Johan Henrik Kellgren, one of the best-known penmen of the period, acquired a certain sympathy for a firm government, which made him subdue the idea of resistance even where the king was a usurper. He, too, dissociated himself from the regicides, and this was not, it seems, a case of wisdom after the event. L. Josephson, *Kellgren och samhället,* 1942, pp. 91 ff.; Henrik Schück, *Gustavianska bref,* 1900, p. 490.

propounded, in clear allusion to Gustav III, in Nordenskjöld's Song of Liberty:—[2]

> The duty to serve their King embraces
> All men whate'er their station,
> But not a Monarch who disgraces
> His role as Father of the Nation,
> Never the King who murders, deceives
> And soaks in blood the crown he receives...
> — — —
> That man is Traitor who fails the call
> To bring about the Tyrant's fall
> With valiant and manly hand.

IV

Thus, it is not difficult to reconstruct the world of ideas in which Swedes with political interests were living in the reign of Gustav III. Obviously, the probability is that these ideas were an important element in the events which in 1788 led to the conspiracy of the Anjala League referred to above. Does the same apply to the assassination as well? Up to the present such a connexion has generally been denied.

Anckarström has been found to be the immediate perpetrator of the deed. He was sentenced for the murder on the strength of his own admission and on the basis of an investigation which was, for that period, thorough. It is clear, however, that attention from the very start of the trial has been concentrated on Anckarström while in some cases the parts played by other conspirators have been intentionally concealed. Several factors have contributed to this result. In the course of the investigation Anckarström, the perpetrator, himself asserted that he had no accomplices. This palpably false statement obviously had the purpose of protecting others. It is also clear that his fellow-conspirators had every reason to make Anckarström out as the sole actor. But the most interesting point in relation to our subject is the fact that the Government, too, found this to be to their advantage. It greatly influenced the Government-directed propaganda in 1792 and it

[2] N. Afzelius, "Konventvisor och andra politiska dikter från revolutionsåren 1792–1793", *Samlaren* 1923, pp. 235 ff.

explains the astonishing reprieves of the other conspirators. For it was certainly less dangerous for a regime of the type in power in the late Gustavian days if only one individual, preferably depraved, had perpetrated the desperate deed, than if it transpired that the Government had been faced with a conspiracy which was widespread and even prompted by idealistic motives.

It is natural that the circles favourably disposed towards the throne could see nothing but sordid motives behind the actions of the regicides. It was contended that the latter had been bought. The propaganda in support of the Government often gave grossly distorted pictures of them and particularly of Anckarström. The Government circles were willing to make use even of poetry for propaganda purposes. In "Words to the Funeral Music" Leopold, the Court Poet, strikingly contrasted a Tyrant "in haughty state enthroned" with Gustav, "the gentlest man of all", who fell "a victim to a spared hand"—an allusion to the alleged intervention by the King in favour of Anckarström when he was prosecuted for sedition two years previously. The regicide was skilfully deprived of the tyrant motive.

Doggerel, too, was put to use. Several broadsheets are extant, from Stockholm, Gävle, Kalmar and Nyköping, giving the most exaggerated pictures of terror. A typical specimen is "A Prisoner's Ditty when the King-Murderer Jakob Johan Anckarström was Conveyed from the Smedjegård Jail to Galgbacken to Undergo his Well-Deserved Penalty on the 27th of April, 1792":—

You villain, worst of rogues' race,
Did faith and honour stain,
And all the Swedish land place
In deep distress and pain.
Oh, what a dreadful shot!
And this makes worse your malice:
The murder you did plot
Was done inside the Palace.

Engaged in dance and play
Your King met with your treason;
This does such mind betray
That there must be good reason
To think that you increased
A cruelty initial
And grew into a beast
Worth villains' palm official.

The two stanzas were accompanied by comments in prose, of which the following is an extract:

"It is reported that this man Anckarström when he was studying at Uppsala was in the habit as a pastime to collect points of broken knife-blades and other sharp objects, which he fixed in so many corks; he then carried them concealed between his fingers, and when he met some peasant or other simple person, he presently greeted him with a handshake and then pressed the hand of the wretch so badly that blood came out."

Before foreign opinion Anckarström was also depicted in these dark colours; in the propaganda he was contrasted with the shining figure of the murdered King. Thus the political periodical *Politisches Journal,* which was published at Hamburg and which paid great attention to Swedish affairs, contained in July, 1792,[3] a description of the regicide written by Johan Kristofer Barfod, a publicist working in Stockholm.[4] The description included an account of the signs of morbid traits in Anckarström. At Uppsala Anckarström had given himself up to the wildest debauchery, it was stated. When he was farming "bewies er gegen die Bauern und Unterthanen ganz den ungestümen, wilden Charakter, der ihn von Jugend aus schlecht ausgezeichnet hatte". He had been involved in unsavoury lawsuits, and had been obliged to give up his military career on account of insubordination, etc. The only reasons for the murder stated by Anckarström himself were personal vengeance and the hope of pecuniary gain, concluded the German periodical.

However, with all its obvious exaggerations, this pro-Government and anti-Anckarström propaganda was generally accepted. The British Minister's description of Anckarström and his background thus followed, but at the same time coarsened, the dominating picture drawn in sombre colours by Karl Kristofer Gjörwell, a publicist and former friend of the Anckarström family; some information emanating from the general propaganda was also included.[5] The father had treated his sons with unusual severity, "hardly ever speaking to his sons without threatening them at

[3] Vol. 2, pp. 723 ff.

[4] See Gjörwell's letter to Lidén of May 30, 1792—the draft in the Gjörwell collection, Ep 7, Royal Library, Stockholm.

[5] Liston's dispatch of May 4, 1792, FO 7.3.13, (London) Public Record Office; see Anders Larson, *Sammansvärjningen mot Gustav III,* Uppsala 1959, p. 96.

the same time with the horsewhip or the cane. The consequence (not unusual in such cases) was that the young man contracted a habit of harbouring concealed and sullen resentment, and where it was in his power, exercised a severity, similar to that which he had experienced, towards those who were subjected to his authority." The account of the Russian ambassador, Count O. M. Stackelberg, is to the same effect.[6] The Duchess, afterwards Queen, Hedvig Elisabeth Charlotta in an entry in her diary on March 29, 1792, similarly described Anckarström as coarse and cruel. She was in a position to add yet another trait to this characterization. The horrible man had probably committed arson, and his sister, Sofia Lovisa, had perished in the fire—the motive being to get rid of a co-heiress. As the fire in question occurred in 1771 and Jakob Johan was then only eight years of age, this piece of information will probably require no further comment in this connexion.[7]

Thus the contemporary material available for illuminating the personality of Jakob Johan Anckarström, which has come to leave its mark on our picture of him, consists mainly of opinions and information given after the date of the politically unsuccessful murder, and furnished under pressure of the reaction against the deed and, to no small extent, for the purposes of propaganda. The assassin has been characterized with the aid of derogatory epithets and has been effectively deprived of any credit for harbouring idealistic motives for his actions, however debatable they may be. The material, granted that it is limited, which we possess from the time before the assassination, does not permit of any such conclusions. In any case, there is probably good reason to reduce the many accounts of serious defects of character in Anckarström to more limited proportions. That would create the necessary basis for a free debate on the motives behind his activity.

V

Anckarström's own information in the matter is not uniform. His first statements were to the effect that he had acted alone and

[6] There is a brief account in G. A. Donner, "Greve O. M. Stackelbergs diplomatiska verksamhet i Stockholm", *Svenska Litteratursällskapets i Finland Skrifter. Historiska studier* 4.

[7] *Hedvig Elisabeth Charlottas Dagbok* 3, p. 444.

from personal motives.[8] It was only on March 19, 1792, when his attitude had become meaningless on account of the arrests and confessions of the accessories, that Anckarström admitted that he had been in touch with others.

These early statements by Anckarström have often been quoted in support of negative opinions about him in view partly of their own contents, partly of Anckarström's difficulties in justifying the murder on such curious lines. The statements, it has been said, indicate a subnormal intelligence.

It might well be considered, however, whether Anckarström's first statements regarding the motives for the attack were not determined by the rational tactic of holding himself up as the sole actor in order thereby to protect participants who had not yet been discovered. Only when this line proved meaningless, chiefly as a result of circumstances over which Anckarström had no control, did he give a complete account of his reasons in a memorial to the Stockholm Court of Appeal, which had jurisdiction over his crime. This brings us to his explanation of the theoretical motives for his act. It is true that Anckarström's exposition can be represented as an insignificant rationalization on second thoughts, or as a mechanical reiteration of the fashionable ideas of the time; it has also been considered to be so crudely formulated as to be almost compromising. But the perspective is bound to change when the reasons suggested above for Anckarström's altered attitude are taken into account. It may well be asked whether the motives given by him at the later stage were not, after all, the truly fundamental ones. That they were regarded as alarming by Government circles—and by later generations as well—is shown by the mere fact that this portion of Anckarström's memorial has been very carefully kept back. The Court of Appeal is even said to have had misgivings as to printing the matter.[9] As late as in *Biographiskt Lexicon öfver namnkunnige svenska män*

[8] Cf. the report of March 17, 1792, by the Danish Minister, Reventlow (Danish National Archives): "L'assassin ... assure jusqu'à présent ne point avoir des complices, ne s'être porté au crime ... que parceque étant dans le besoin, il étoit las de sa vie."

[9] This state of affairs was also noticed by the Danish envoy, Reventlow, who stated that Anckarström "a conservé un certain courage jusqu'au dernier moment, et telle qu'est la tournure générale des ésprits, il sera regardé par beaucoup de personnes ... comme s'étant sacrifié pour sa patrie". The Minister obtained and sent home a copy of the complete text of Anckarström's statement. Dispatch of May 28, 1792, Danish National Archives. Cf. Adlerbeth, *Historiska anteckningar* (published by E. Tegnér), 2, 1893, p. 10.

(Biographical Dictionary of Renowned Swedes), published in 1835, the constitutional portions of Anckarström's argumentation were excluded from an account which was otherwise exhaustive.

Anckarström in the first place referred to the events in 1788 during the Russo-Swedish war and then to the forcible methods used by the King against the members of the *Riksdag* and against his subjects. [No attempt has been made to render in English the erratic spelling of Anckarström.] "Could it but give rise to the strongest feelings in anyone whom selfishness has not made devoid of sensibility .... There then followed a so-called Act of Security [the Act of Union and Security, 1789,] which amended all those points in the Constitution of 1772, which were a hindrance to His Majesty's freedom in the government. – – – All this happened after one of the worst transgressions the King could make in contravention of the Constitution, namely to begin a war without the leave of the Estates. Surely, all this could not fail to generate in every man possessed of the tiniest mind and the slightest sensibility for his fellow citizens, for freedom and security, heavy and terrible sentiments against the person who had done such things. More terrible still is it when it all emanates from a King who owes to the nation the respect, veneration and reputation he enjoys and is also maintained by it, for a king is in reality a mere sinful man like everyone else, but he has received the nation's trust to preserve law, peace and security, and thus ensure that everything is right when the nation is not itself assembled [in the *Riksdag*]. After these outrages and my depressing observations, my heart grew hard towards His Majesty, and my feelings were strengthened and increased when I saw people in their thousands go out, be slaughtered and die, the citizen weighed down by unbearable taxes and imposts, the people ruined by paper money, all this simply to achieve a peace called glorious from the Throne. There was travelling abroad and extravagance [by Gustav III] to an equal if not greater extent after we had got into this pitiful condition. Next there was a Proclamation convening the Riksdag, only 3 weeks before it was to assemble, so that electioneering had to be done in the greatest haste.".

After this account of the actual violations of law Anckarström put the question: "Can he be the King of the country who is able to break the oath he has taken before the people to keep, rule [according to] and observe the Constitution of 1772—which the King himself was allowed to compose and which was passed

by the nation without amendment—he who is capable of removing all the security of the people—no, I feel firmly convinced that he is a perjurer and terrorist, never our King, for when the King has forsaken his oath, his promise, in one respect, then the whole comes to an end as soon as [they] are united in a compact, [and] the people's [promise goes] back in the same way; for they [have] sworn that if the King rules according to the Constitution they will regard and accept him as their King and remain loyal to him; that is stated in an Art. in the Constitution, the approximate wording being, 'whosoever tries to alter or overthrow this Fundamental Law shall be regarded as an enemy of the realm'; it surely follows from this that the King declares himself to be an enemy of the realm and of the people when he rested on the Act of Security and ruled according to it but not according to the Constitution; in consequence of this he is their enemy, and as it is incumbent on [the members of] a community to defend each other against a person or persons who would violate his neighbour or the neighbour's property, then one is entitled to ward off force by force where there is no respite or opportunity of apprehending and bringing a charge."[1]

With perseverance, confidence and dignity Anckarström took up the same position in the course of his talks[2] with the Rev. Adolf Roos. It was in vain that the clergyman endeavoured to make the condemned man realize that he had sunk below the lowest level of humanity, that he deserved the most ignominious death a thousand times over, that every Swedish heart was suffering on account of Anckarström's cruel misdeed. After he had been flogged Anckarström stated that he felt tolerably at ease since God is gracious and would appraise him differently from the way man regarded him. God would judge by the heart. The parson argued in vain that Anckarström's hand was unclean and soiled with blood, and so his heart was unclean too. "No, it was replied, I certainly did it with all my heart; but with a kind and well-intentioned heart." To no purpose did the parson remind Anckarström of God's commandment not to kill; "the law of nature told you the same thing . . . the law of the community to the

[1] The original is in the Stockholm Court of Appeal's file of the case, in the Swedish National Archives.

[2] The Swedish National Archives, *Handlingar rörande Gustaf III:s mord och mördare, Strödda historiska handlingar* (Documents concerning Gustav III's assassination and its perpetrators, Miscellaneous historical documents) v. 41.

same effect was equally familiar to you ... In what sense then do you want to speak of good intention?—Well, said Anckarström, I certainly realized that; but my good intention was towards the Swedish people whom I wanted to save." Against this the parson mentioned the King's merits and his gentleness. In addition the parson stated the traditional arguments against an individual right of resistance; "it is neither your business nor mine to embark on any scrutiny of the grounds for his governmental decisions: they are for the most part outside our knowledge. We do not know his reasons for everything, and how can we then pronounce judgment on everything?" The assassination was equivalent to a sentence on the King without trial, without hearing the accused, without granting him the right of the humblest citizen, that of defending himself. After these counter-arguments against the fundamental principle of constitutional law relied on by Anckarström, he said, according to the parson's report, that "the whole matter now seems different to me from what it did when I was engaged on it; but I then thought that it was good and useful". After a while he returned to the principal line he had persisted in throughout: "all the dissatisfaction, this whole disaster goes back to the unfortunate war that the King started. He had no right to begin a war. That was done against the Constitution. What could be the reason for this, what but the King's caprice or wantonness?"

Accordingly, on several points Anckarström's justification followed the classical lines of the philosophy of constitutional law prevailing at the time; there is thus an obvious resemblance to Johan von Engeström's treatise on constitutional law, an account of which has just been given. Anckarström's starting point is the citizens' legal right of resistance against the king who breaks the compact which the constitution amounts to. On the part of his compatriots and himself he primarily deduced that right from positive law, namely the Constitution of 1772. In the circumstance that the murdered King had himself drafted this fundamental Law he found another argument for considering him bound by the contract and responsible for breaking it.

As the chief ground for the assassination Anckarström indicated Gustav III's act of commencing an aggressive war. His argumentation on this point amounts simply to a brief summary of the reasons which the officers in Finland had already given for forming the Anjala League. The King's actions had clearly been in

breach of the Constitution and in addition injurious to the realm, he concluded. In that part, too, where Anckarström touches upon the disastrous economic consequences of Gustav III's later policy, he made use of lines of thought which were well known during the period. The protection of the individual's material security was one of the principal tasks of society and of the crown. The neglect of it activated the right of resistance.

Anckarström could claim, then, to have a foundation for his activity in the fact that a constitutional doctrine of the period and the constitutional law which, according to him, was in force in Sweden at the time, were applicable to the actual circumstances. There was no need for him to fall back on more general principles recognizing tyrannicide as an emergency solution which might be necessary in the last resort.

The future Queen, the Duchess Hedvig Elisabeth Charlotta, has also in her diary for 1792[3] handed down to posterity pronouncements of another person who was deeply implicated in the conspiracy, namely Baron Thure Bielke. These utterances, at least as reported by the Duchess, are to the same effect as those dealt with above: "Quite recently I heard the following reported about Bielke which I think is worth mentioning. It is stated that, when the Riksdag met at Gävle, he said in the course of a political conversation with several persons—among whom was Count Hamilton . . .—that he did not consider it a crime to murder a bad king, and it is further reported that he had held to this assertion in spite of all contradiction."

Finally, Anckarström appealed to the impression that the illegal and calamitous actions of the murdered King must have made upon every man of "sensibility". Here, too, he made use of concepts which were well known at the time and should not fail to make an impression. Sensibility—the faculty of being influenced by the misfortunes of others or of the public generally and of feeling an urge to intervene with a view to deliverance—was one of the most highly praised virtues of the period. It was precisely this sensibility, to which everyone paid tribute, that had made him do the ghastly deed—so Anckarström alleged. Anckarström's statement of his motives on this point was accordingly met—and very effectively met—with the charge by the other side of unparalleled brutality.

[3] Vol. 3, p. 559.

Anckarström, then, can hardly be denied the credit of idealistic motives for his actions. His familiarity with the leading ideas of political philosophy current at the time is obvious. His indignation at the royal policy of war and its consequences appears genuine. There is no longer any reason, as regards the fundamental motives of the activity, to make any distinction between him and other participants and sympathizers.[4] It is another matter that personal considerations[5] might have influenced Anckarström in deciding to commit the regicide. It is beyond the possible limits of our knowledge to establish his different inducements in this respect. It can now be stated with certainty, however, that the men who, after the death of Gustav III, held the reins of government power, had reason to make Anckarström out as a depraved person and the murder as dictated by low motives, not as a stage in a struggle of resistance which might be regarded as justified according to the prevailing contemporary doctrine of constitutional philosophy. One is tempted to look for some idealistic conception as the basis of the equanimity which, according to all accounts, Anckarström exhibited during the final period of his life; in conjunction with the Christian faith which—like his father—he embraced, it enabled him to maintain in a firm and dignified demeanour which made a deep impression on his contemporaries.[6]

The possibility of contacts between certain of the Swedish conspirators and French revolutionaries is unconfirmed, but cannot be ruled out; the brothers von Engeström have in particular been indicated. All the same, the assassination frustrated any scheme Gustav III may have had for armed intervention in the course of events in France. It was often assumed at the time that there

[4] On Ehrensvärd, cf. L. Krusius-Ahrenberg, *Tyrannmördaren C. F. Ehrensvärd*. About Adolf Ribbing, see E. Tegnér, "Ur Adolf Ribbings papper", *Historisk tidskrift* 1892, pp. 51 ff. The son of Carl Fredrik Horn in his autobiography (printed in *Historisk tidskrift* 1892, pp. 1 ff.) put the tragic fate of his father down to the influence of a perverted philosophy. Gjörwell revealed in a letter to a correspondent at Hamburg that he considered the German poet Friedrich Gottlieb Klopstock to be the chief inspirer; the draft in the Gjörwell collection of letters, Royal Library, Stockholm.

[5] It is probable, however, that personal matters in one respect contributed to making J. J. Anckarström the slayer of the King. Anckarström's marriage had apparently broken down at the time in question. This may have decided Anckarström to sacrifice himself in order to realize a plan which on other grounds had met with his approval.

[6] Cf. E. D. Clarke. *Travels in various countries of Europe, Asia and Africa*, 9 (1824), pp. 194 ff.

was a direct connexion between the King's death and the facts of Sweden's non-intervention.

VI

Anckarström's tyrannicide was a political failure; the ideology by which it was inspired was also doomed. Tyrannicide disappeared from Swedish politics and history. But the same did not apply to the right of resistance, which instead emerged in new forms. The Revolution in 1809 against Gustav IV Adolf, the son of Gustav III, was dominated by it. There is a clear thread connecting the events of 1792 with those in the course of which the foundations of Sweden's present Constitution were laid.

There are many more points of contact between the two crises in the history of Sweden than was previously divined. The list of characters by itself shows this. Hans Järta, sometimes called the Father of the Constitution, can now with greater justification than previously be identified as one of the masked conspirators at the Opera ball during which Gustav III was assassinated; Järta, however, secured his release by lying.

Several of the circle of regicides were among the leading members of the Estates in 1809. The coincidence was noticed even at the time. And the memory of the dramatic events in the reign of Gustav III—events in which many members had taken part—was kept alive in the House of Nobility. Thus it was proposed at the start of the session to print the minutes of the Riksdag of 1789, the reason stated being that the House had then shown not only "indulgence towards reasonable demands" but also "fearless resistance where Force had attempted to break those defences with which the Law had girded the public as well as the private weal".[7]

The significance of the Revolution of 1809 is that it bears the impress of the prevalent doctrines as to the King's responsibility and the right of resistance. The King could be regarded as having acted illegally, as having committed certain specified offences, and as having thereby forfeited his high office. This way of looking at the matter agreed with Johan von Engeström's views which were mentioned above; and the programme of those aspiring for con-

[7] *Ridderskapets och adelns protokoll*, 1809, pp. 14 f.

stitutional reform in the West had long been to the same effect. Consequently, the Revolution did not necessarily amount to a demolition of the old system and the adoption of a new one. It was possible to view the event as merely involving the vacating of an office of state, albeit the most important one. On such lines spoke the representative of the Nobility, Baron L. A. Mannerheim, in his speech to the Duke Charles (the future King Charles XIII) on May 12, 1809. The speaker said (with reference to the deposed Gustav IV Adolf): "Unfortunate King! ... You have broken your oath, you have forfeited ... your crown .... You have yourself undone the bonds that tied you to your people. We are free from ours, without even needing to seek the support of a renunciation."[8] The legal basis of the action was accordingly—now as in 1792—the King's violation of the law; the fact that it was possible to point to a greater or smaller number of breaches, is another matter, which has no significance in the present context.

The Constitution which was finally adopted in 1809 and which is still in force is substantially based on that of 1772. Of the alterations and additions a considerable number were prompted by experience of past events, the repetition of which was not desired. Others, on the contrary, were concessions to the royal power —concessions which were now regarded as justified; these latter were also substantial in number. But it goes without saying, in view of the close connexions with contemporary European discussion in general, that the solutions adopted in Sweden in 1809 often were the product of a process of reconsideration of past events with the guidance of the international political literature, which for a century had been the subject of close study; sometimes the solutions were directly suggested by the theorists or by the constitutions of the leading countries. Among such rules are the provisions of the Constitution on the non-responsibility of the King, on the answerability of ministers and concerning the meetings of the Council of State.

Previous experience in the field of political law has thus in many particulars been allowed to leave its mark on the Constitution. The rule as to taxation in Art. 57 that "The ancient right of the Swedish people to tax themselves shall be exercised solely by the Estates of the realm at the general Riksdag" goes straight back to the demands of the opposition in the House of Nobility

[8] *Ridderskapets och adelns protokoll*, 1809, pp. 84 f.

at the 1789 session of the Riksdag—a fact which is of the greatest importance for the interpretation of the Constitution on this essential point. The rule as to the irremovability of public servants generally in Art. 36 of the Constitution corresponds to a much noticed decision of the Riksdag in 1786. The rule forbidding the King to exercise governmental powers when abroad, the protection of the Riksdag and its members, the periodicity of the sessions of the Estates, the literal interpretation of fundamental laws prescribed by what is now Art. 84, the rules on the irremovability of the members of the Supreme Court and concerning the Justitieombudsman (the Judicial Commissioner, i.e. the Riksdag's own scrutinizer of the public service)[9]—all these and other essential provisions as well have in a greater or less degree been prompted by well-known episodes during the reign of Gustav III. In these respects it was desired to bind the King; conversely, experience, and probably the actual situation, too, brought about a yielding in other respects to the demands once made by Gustav III—the Riksdag's Constitutional Committee, where the work on the new Constitution was concentrated, still had vigorous and influential members who advocated Gustavian views. It was thus confirmed that the King was not bound to follow the majority of the Council of State, and his power, forced through in 1789, of dismissing holders of confidential appointments and of including ministers and provincial governors in that category was respected. The King was given the right to commence war. In regard to legislation the King was placed on an equal footing with the Estates.

The attentive reader may regard the Act of Deposition of May 10, 1809,—whereby the Estates threw off their allegiance to Gustav IV Adolf—as an expression of the classical conception of a social contract which von Engeström and Anckarström had already referred to. For the decision of the Estates was based on the fact "that the sacral tie between King and subjects has been irrevocably severed by the former and his accession oath and declaration voluntarily abrogated".

The jurisprudential line of thought upon which the Act of Deposition was based was already long-established and familiar in 1809. It is the same juridical ground for the deposition as that which was used against James II in the Glorious Revolution of 1688 in England. In the last-mentioned instance, too, Parliament

[9] See *Ridderskapets och adelns protokoll*, 1809, pp. 115, 495, 556, 572; cf. S. Jägerskiöld, "The Swedish Ombudsman", *University of Pennsylvania Law Review* 1961, p. 1079.

specified the King's transgressions in a "Statute at Large". The latter was familiar to the educated classes in Sweden, especially because it was referred to and even reprinted by De Lolme in his works on constitutional law, with which the Swedes were well acquainted.

On the other hand, it is to the sentence on Charles I[1]—so thoroughly discussed by Johan von Engeström—and its fateful consequences for his judges after Parliament had restored the King's son Charles II—that one's thoughts are carried when reading the arguments of the Swedish Estates for excluding the whole of the deposed King's family from succession to the throne: "The realm [might] easily be exposed to danger again on account of inherited ideas of descendants and through the probable tendency of blood relations to avenge what has already been done for the preservation of the community or might henceforth be accomplished to that end."

The same tendency to keep past experience in mind can be observed on reading the memorandum countersigned by Järta which was annexed to the draft Constitution of 1809 when it was passed to the Estates. Echoes are heard of excited debates twenty years earlier on the unlawful war of 1788: the difference between a defensive and an aggressive war might, it is now stressed in the memorandum, be more formal than real. "And if the Constitution prohibits the King from commencing a war, what will prevent a bellicose monarch from provoking his neighbours to a violation of the peace?" — — —"None except the Army, which—at the frontier, under flying colours and perhaps in view of the enemy—would have to choose between a breach of the Constitution of the realm or a breach of military discipline, none except the Army would, in order to make the said choice, test the legality of the war and do so under arms." One is reminded of the Army of 1809 but also, and more particularly, of the Anjala League. In order to avoid such risks the King was now granted the right of conducting the external policy of the realm, including the power to commence war. The Army was not to serve as a factor of control by means of resistance.[2]

Just as political experience induced the inspirers of the Con-

[1] The parallel between the wrongful sentence of death on Charles I and the assassination of Gustav III was often drawn by the Gustavians: see, for instance, *Hedvig Elisabeth Charlottas Dagbok*, 3, p. 468.

[2] *Riksens Höglofl. Ständers Constitutions-Utskotts Memorialer och öfriga Expeditioner wid Riksdagen i Stockholm 1809–1810*, printed in 1874, pp. 11 f.

stitution—whoever they actually were—to depart from the Constitution of 1772 on the important point dealing with the declaration of war, so, too, did they now try to dispense with systems involving any form of civic resistance to a usurping king; the conception employed in the Act of Deposition was accordingly abandoned in the new Constitution. And in many ways the conditions in 1792 and in 1809 were, in fact, different. The men of 1809 succeeded, whereas the action of the regicides in 1792 failed politically. The personal tragedy of Gustav IV Adolf was not that of a tyrant steeped in blood, but rather that of a man in many respects estimable and well-meaning but incompetent, or that of the innocent victim of a difficult political situation—all in all facts which did not tempt violence but invited a quiet disappearance.[3] In continental literature, moreover, the existence of a right of resistance had been denied by Kant as being absurd from the point of view of legal logic.

The solution of the problems concerning the rule of law and the right of resistance was sought by the men of 1809 in the adoption of constitutional devices regulated by written law, taking patterns from England and the French Constitution of 1791 and drawing on contemporary writings. The three powers of the state had, to quote a celebrated pronouncement, been set to perform the task of "mutual watch and mutual restraint". Struggles among them, which might have a disorganizing effect on the Constitution, were to be avoided by means of "the powerful restraining force of a manifestation of national will". The latter was intended to constitute a safeguard against "any blind and unjust rule"—and this idea was linked up with the belief, current ever since the time of the Physiocrats, in the importance of a free press for discovering the settled laws governing social life. It was hoped thereby to avoid a government again seizing absolute power, a government no longer considering itself bound by laws and not animated by civic spirit. The chief source of inspiration was the system developed in England and France, according to which the King was non-responsible but acted only after consulting advisers; this arrangement, of course, had also been in Jakob von Engeström's mind when he made the constitutional project of 1791 which has been mentioned above. The duty of the advisers to refuse to countersign pursuant to Art. 38 of the Constitution was to be the principal guarantee of legal government. "The power

[3] Sten Carlsson, *Gustaf IV Adolf. En biografi*, 1946.

of governing belongs ... in its entirety to the King, but his decisions cannot be made hastily, nor can they be based on one-sided information or on advice from hidden persons without responsibility. He is bound in all matters to listen to the information given by a public Council of State" but he was not obliged to follow the decision of the majority of the Council. Instead, the ministers were made responsible. They were "put under responsibility not only for their expressed advice, but also for their silence". They were subject to an extremely severe Statute of Responsibility which at the time was compared to the implement of torture known as "the wheel". By these means the "violent temper" of a possibly self-willed king was to be curbed. "He will at least refrain from making decisions contrary to the Constitution, for in that case he exposes his royal power to the risk of the official, who presents the matter, refusing his counter-signature, failing which the King's commands will not take effect." It was only in this connexion that there could be any question of a refusal to obey—as in Jakob von Engeström's project.

The responsible ministers were further to be controlled by the Estates: it would be possible to institute proceedings against them pursuant to a decision of the Constitutional Committee or on the initiative of the above-mentioned Judicial Commissioner, a dignitary who was also entitled to take action against judges and public servants.

With all these different safeguards the possibility of the King playing the role either of a tyrant or a martyr had come to an end. The general right of resistance to a usurping monarch—which, if taken seriously, might lead to a mortal tragedy—was broken up into a system of checks and balances. It was stressed over and over again that these guarantees ought to be sufficient. Moreover, the possibility which was now opened of amending the Constitution was to be an ultimate safeguard. However, it was emphasized by a speaker in the House of Nobility that recourse might yet be had, in the very last resort, to resistance: "If in the future (during the reign of an evil ruler) what we are attempting to prevent should nevertheless come to pass, may there then be in existence, just as recently, a people and men who will have compassion on the sufferings of their fellow-creatures and who will know how to put things right."[4] This calls to mind Anckarström's document of confession.

[4] *Ridderskapets och adelns protokoll*, 1809, p. 568.