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THE MOST SACRED RIGHT OF ALL: PROPERTY, PUBLIC DEBT, AND LAW AT THE PARIS STOCK EXCHANGE, 1793-1825

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Abstract

"The Most Sacred Right of All: Property, Public Debt, and Law at the Paris Stock Exchange, 1793-1825"

This dissertation examines the entwinement of property, finance, and the state in post-revolutionary France, taking the Paris Stock Exchange as its primary object. It focuses on political discourse, theoretical and legal debates about the moral rightness and economic utility of financial phenomena such as public debts and futures contracts, and the legal travails of the Paris stockbrokers, who maintained a controversial state-granted monopoly on financial intermediation at the Exchange. These debates helped establish the conceptual and legal boundaries of property, which, as the repeated disputes over the Exchange show, were up for grabs. The French Revolution of 1789 ostensibly ushered out an age of legal privilege and ushered in an age of property; the story of the Paris Stock Exchange helps illuminate just why that age of property took the specifically capitalist shape it did.

The first half of the nineteenth century was a formative period for the modern Paris Stock Exchange. Emerging out of the architecture of the Old Regime fiscal-military state, but making striking departures from that conceptual-institutional apparatus, creditors and debtors, stockbrokers and lawmakers, revolutionaries and reactionaries repeatedly sparred over the nature of public debts, financial speculation, and the post-revolutionary state, in an age where public debts were to be justified not to fund military adventure, but for public and private economic utility. The modern Exchange thus was legitimated according to different theoretical grounds than prior formations; my dissertation explores the contours and boundaries of these grounds, illuminating the path of French capitalism and the implantation of finance capital in a discursive context otherwise quite hostile to it.

The persistent controversies over the Exchange represented repeated attempts to sort out what kinds of moral attitudes were appropriate to post-revolutionary society. What kinds of economic manipulation of property were just and fair, and how might valid limits be set by the proper authorities? Given the ambiguity at the heart of its legal definition, the permissible boundaries of property were left open to vigorous, sometimes acrimonious debate. What were the reciprocal duties and obligations state and citizen owed each other? Since the main tradeable security at the Exchange was formally a public debt owed by the government, then the way the government chose to handle that debt – whether to issue new debt or to write down a part of the existing debt, for instance – signified its evaluation of the normatively justifiable relations between sovereign and citizens. Likewise, individual speculation at the Exchange signified not just a desire for possible future gain, but also an index of civic faith, with the decision to buy or sell public debt functioning as both economic and political judgments. Government treatment of the debt, and civic attitudes towards it, thus carried moral valence, insofar as the debt was, literally, a bond between state and citizen. And what, finally, did the volatility of prices at the Exchange portend for the security of the social order? The Exchange, after all, was the site of dramatic price fluctuations, of fortunes won and lost in an instant. But if property in its purest form was thus proven to be so unpredictable, then it would seem that society was constructed on shifting grounds. This dissertation demonstrates that the debates over the Exchange were rooted in this conceptual ambiguity, with the brokers and their advocates employing the normative authority of property for a defense of finance capital.

"The true temple of modern religion," according to nineteenth-century social critic Edmond Texier, was the Paris Stock Exchange, with the mores of the financial world seeming to permeate the whole of society. As this dissertation argues, moral rightness, economic utility, and

legal justification were fused at the Exchange in the particularities of public debts, speculation, and finance capital. The path of the Exchange thus bore witness to the recalibration of the moral order in post-revolutionary society. Newly codified in law, private property was meant to coordinate social interactions, with the norms derived from property neatly guiding individual behavior. But no sooner was the supremacy of property proclaimed than was it challenged from within. For it was precisely the abstract and endlessly mutable nature of property at the Exchange that made it such a crucial financial center and such a persistent locus of controversy. Through the lens of the Paris Stock Exchange, this dissertation therefore creates an intellectual history of financial capitalism in nineteenth-century France.

Introduction

Bringing his 1809 panoramic overview of Parisian social customs and institutions, *Paris dans le dix-neuvième siècle*, to a close, Pierre Jouhaud concluded with a chapter on the Paris Stock Exchange. His judgment was withering. "At the Exchange," he wrote, "one only sees fathers of families; merchants, bankers, mixed, it is true, with some schemers, who arrive some in their horse-and-carriages, others on foot; all enter with heads raised, and the father who, that morning, gave his son a poignant discourse on the terrible consequences of gambling, which, if he did not overcome this deadly passion, threatened him with being disinherited, comes that afternoon to the Exchange, involuntarily carrying out his very own threat."[1] At the Exchange, pious fathers, after having warned their sons away from the deadly ills of games of chance, engaged in rank hypocrisy, by gambling on the risks of finance. Indeed, the ultimate punishment – disinheritance – that hung, Damocles-like, above wayward sons, would all too often inadvertently come crashing down on them through their fathers losing family fortunes due to the vagaries of finance.

Surely such fathers had stumbled, lead-footed, into moral turpitude. Gambling on cards and gambling on financial volatility at the Exchange; surely these were overlapping vices? And surely they were, for Jouhaud. He did, after all, place his chapter on the Exchange directly after his chapter on gambling dens, noting that there were plentiful analogies and resemblances between the two.[2] But there were also substantial differences, differences that went to the heart of the nature of financial capitalism in the post-revolutionary world. As is characteristic of the

[1] Pierre Jouhaud, *Paris dans le dix-neuvième siècle, ou réflexions d'un observateur sur les nouvelles institutions, les embellissemens, l'esprit public, la société, les ridicules, les femmes, les journaux, le théâtre, la littérature, etc.* (Paris: J.G. Dentu, 1809), 383.
[2] Ibid., 382.

kind of panoramic literature of this era, Jouhaud described the quiddity of the Exchange in careful and vivid detail.[3] The details were sobering. Rampant dishonesty, wickedness with hardly a whisper of punishment, abundant bankruptcies; the political life of the Napoleonic Empire feverishly dissected solely in the interest of speculative gain; fortunes won and lost in an instant; the Exchange thus represented a kind of financialized pandemonium. Worse, according to Jouhaud, was the manner in which the circulation of credit at the Exchange destabilized how property grounded one's intuitions about social interaction:

> When a man, completely ruined by consecutive losses, sees no other resources than in illusory credit, then he seeks to hide with care the sorry results of his transactions; he endeavors to make appear on his face a satisfaction that announces the prosperity of his affairs; he only speaks of undertakings that announce his opulence; he takes care above all to augment the furnishings of his home [*le train de sa maison*], as he consummates his ruin. The man who possess a fortune of three hundred thousand francs, and from whom an unexpected surge [in prices] snatches away two hundred thousand, must then next take a carriage; if he loses the remaining hundred thousand, he must make sure to improve the state of his home, with a *maître d'hôtel* and two great servants, the employment of whom will be limited to decorating the back of his carriage; and if he still fears that his credit is diminishing, quickly, a loge at the Opera! And his dazed creditors will consider themselves too happy to have their funds placed in such good company.

The Exchange substituted the illusion of credit-driven wealth for supposedly more reliable and solid markers of prosperity. By engaging in speculative finance, deceitful investors could pretend to a richness they, nominally, did not truly possess, dazzling their creditors into stunned quiescence. In a post-revolutionary world, in which legal privilege had formally been stripped of its socially regulative function, the Exchange thus undermined the capacity of property to safely indicate social standing.

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[3] On this kind of "panoramic" literature, see Sharon Marcus, *Apartment Stories: City and Home in Nineteenth-Century Paris and London* (Berkeley: University of California Press, 1999), 32-50; Margaret Cohen "Panoramic Literature and the Invention of Everyday Genres," in Leo Charney and Vanessa R. Schwartz, eds., *Cinema and the Invention of Modern Life* (Berkeley: University of California Press, 1995), 227-252; Priscilla Parkhurst Ferguson, *Paris as Revolution: Writing the Nineteenth-Century City* (Berkeley: University of California Press, 1994), 36-114.

For Jouhaud, however, the perils of the Exchange ran even deeper. After all, doubtless any large enough institution would attract some misbehavior. What was so insidious about the Exchange was ultimately not that it produced the wicked, but that it seduced the good. Individuals, normally upstanding fathers of families, those who had built up savings only after years of intensive labor, lost everything in a momentary variation in the price of the public debt at the Exchange:

> Who are those who go to be ruined at the Exchange? It is individuals who, believing themselves to be profound politicians, go about their transactions according to the rumors that ignorance makes circulate every morning in Paris. One can easily conceive that those who a deadly passion drags to a gambling den sacrifice everything up to their last resource there; but a respectable father of the family, who had laboriously amassed an honest fortune, with *sang-froid* risks it being annihilated in a moment. Such is what one would believe only with difficulty, if every day did not offer new examples.[4]

On that gloomy note, Jouhaud brought his portrait of Paris in the nineteenth century to a close.

Though written well before the century's first decade had concluded, Jouhaud's threnody for a Paris undone by the evils of the Stock Exchange was prescient. For Jouhaud had identified a number of critiques of the Exchange that would arise persistently in this and the following decades. The Exchange was akin to gambling; the circulation of financialized property threatened to destabilize more notionally "real" property; the stockbrokers were a group not entirely to be trusted; the price fluctuations of public debts were connected to the robustness of political institutions. Jouhaud was a lawyer, a writer in the panoramic idiom, and, according to one English contemporary, perhaps also the author of several ministerial reports during the Napoleonic regime.[5] But he was no miracle worker. He may have recognized the symptoms of

[4] Jouhaud, *Paris dans le dix-neuvième siècle*, 383-387.
[5] Anonymous, review, "*Paris dans le dix-neuvième siècle, ou réflexions d'un observateur sur les nouvelles institutions, les embellissemens, l'esprit public, la société, les ridicules, les femmes, les journaux, le théâtre, la littérature, etc.*," *The Critical Review*, ed. Tobias George Smollett 2/5 (1812), 472-483.

finance at the Paris Stock Exchange, but proposed no cure. These supposed ills would recur again and again throughout the century.

The Paris Stock Exchange and the Historiography of European Financial Capitalism

This dissertation traces the story of financial capitalism in post-revolutionary France, as told through the lens of the Paris Stock Exchange. Chronologically, it focuses, with some acknowledged leeway, on the first three decades of the nineteenth century, beginning in 1793 and terminating in 1825. These dates were not chosen by accident. Indeed, they delimit a crucial, yet heretofore largely understudied, period in the history of the Paris Exchange. The opening date, 1793, witnessed the establishment of the *Grand Livre de la Dette Publique*. A fundamental step in the creation of the modern Paris Exchange, the *Grand Livre* centralized and rationalized France's public debt. From a congeries of Old Regime debt obligations, the *Grand Livre* concentrated the extant debt almost entirely in a single form in a single place. This crucial step was complemented by another in 1797, which marked the birth of the primary security traded on the Exchange for the next half-century. This security, eventually titled the 5% *consolidé*, was a form of government debt, specifically a perpetual annuity.[6] It was, ironically, born out of what amounted to a major state default on debt obligations – the so-called "Bankruptcy of the Two-Thirds" in 1797. Facing a substantial fiscal crunch and with its revenue-collection capacity seriously compromised by the disruption of tax agencies during the Revolution, the Directory government – the regime to emerge out of the aftermath of the fall of Robespierre in 1794 and

[6] Rebecca Spang notes that "annuity" is not necessarily a perfectly direct translation of "*rente*," given the numerous intricacies of repayment of capital in the various forms of *rente*. With this in mind, I have tried to maintain the French original "*rente*" whenever possible. When not, I use the closest English analogue, which remains "annuity." See Rebecca L. Spang, *Stuff and Money in the Time of the French Revolution* (Cambridge: Harvard University Press, 2015), 20, 287n5.

which would subsequently be eclipsed by Napoléon and the Consulate in 1799 – elected to restructure the public debt. One-third of the debt would be consolidated into a new tradeable security; the remaining two-thirds would be reimbursed through bearer bonds. However, these latter bonds promptly collapsed in value, effectively wiping out two-thirds of the public debt; the 5% *consolidé* was, in essence, all that remained of France's public debt. The circulation of public debt at the Exchange thus was fused from the first with conceptions of state trustworthiness and state default, with financial promises made and broken between the state and its citizens.

The endpoint of this dissertation, 1825, marked the end of a period in which a flurry of important legislation and litigation concerning the Exchange emerged. Major battles over the legitimacy of futures contracts in public debt were fought in court; the liability and legal status of the stockbrokers' corporate association was challenged before the magistrates; new debt issue at the Exchange dredged up such issues as the nature of the post-revolutionary land settlement, the social repercussions of the financial obligations of contemporary states, and the character of citizenship. All these developments helped shape the contours of the Exchange going forward. By terminating in 1825, this dissertation therefore concludes a study of a transformative period in the nature of French financial capitalism.

The study of the reciprocal relationship between finance and society is, of course, not new. In this Introduction, I will engage with two fields of historiography. The first grounds the dissertation in a broad overview of financial institutions across multiple periods and geographies. This more expansive historiographical trend provides empirical background and suggests the longstanding imbrication of politics and finance, though it tends not to engage specifically with the French case currently at hand. The other historiographical trend with which I engage is more specialized, focusing on European financial capitalism from the Early Modern to the Modern

period. It is in this latter trend that I most intend to intervene, revising our understanding of the intellectual grounds of financial capitalism in a post-revolutionary world. Particularly addressing the work of John Brewer and Michael Sonenscher, I show how this type of French financial capitalism was embedded in a different conceptual universe from its prior foundations in the eighteenth-century fiscal-military state.

Complex financial institutions have historical roots reaching back millennia – ancient Sumerian civilization had developed a rudimentary private credit system by at least 1600 B.C.,[7] Livy wrote of sophisticated corporations existing during the Second Punic War in 216 B.C.,[8] and collateralized loans via pawnshops were known to exist in Tang-era China (618 A.D. – 907 A.D.).[9] More locally in spatiotemporal terms, the financial history of western Europe has also been the subject of a number of studies.[10] Perhaps due to its eventual financial and military

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[7] Marc van de Mieroop, "The Invention of Interest: Sumerian Loans," in William N. Goetzmann and K. Geert Rouwenhorst, eds, *The Origins of Value: The Financial Innovations that Created Modern Capital Markets* (New York: Oxford University Press, 2005), 17-30.
[8] Ulrike Malmendier, "Roman Shares," in William N. Goetzmann and K. Geert Rouwenhorst, eds, *The Origins of Value: The Financial Innovations that Created Modern Capital Markets* (New York: Oxford University Press, 2006), 32.
[9] Valerie Hansen and Ana Mata-Fink, "How Business was Conducted on the Chinese Silk Road during the Tang Dynasty, 618-907," in William N. Goetzmann and K. Geert Rouwenhorst, eds, *The Origins of Value: The Financial Innovations that Created Modern Capital Markets* (New York: Oxford University Press, 2005), 54-59.
[10] Classic accounts include Charles P. Kindleberger, *A Financial History of Western Europe*, 2nd ed. (New York: Oxford University Press, 1993); Fernand Braudel, *Civilization and Capitalism, 15th – 18th Century*, 3 vols (New York: Harper & Row, 1982-84); Istvan Hont, *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Cambridge: Belknap Press, 2005). More recently, see Fausto Piola Caselli, ed, *Government Debts and Financial Markets in Europe* (London: Pickering & Chatto, 2008); Larry Neal, *The Rise of Financial Capitalism: International Capital Markets in the Age of Reason* (New York: Cambridge University Press, 1990); Jeremy Atack and Larry Neal, eds, *The Origins and Development of Financial Markets and Institutions: From the Seventeenth Century to the Present* (New York: Cambridge University Press, 2009); Douglas J. Forsyth and Daniel Verdier, eds, *The Origins of National Financial Systems: Alexander Gerschenkron Reconsidered* (New York: Routledge, 2003); Youssef Cassis, *Capitals of Capital: A History of International Financial Centres, 1780-2005*, trans. Jacquline Collier (New York: Cambridge University Press, 2006); Giovanni Arrighi, *The Long Twentieth Century: Money, Power, and the Origins of Our Times*, 2nd ed. (New York: Verso, 2010). For an anthropological view on contemporary globalized finance, see Arjun Appadurai, *Banking on Words: The Failure of Language in the Age of Derivative Finance*, (Chicago: University of Chicago Press, 2016); Benjamin Lee and Edward LiPuma, *Financial Derivatives and the Globalization of Risk*, (Durham: Duke University Press, 2004); Ivan Ascher, *Portfolio Society: On the Capitalist Mode of Prediction*, (New York: Zone Books, 2016).

dominance, the English case has received the most attention.[11] In *The Economy of Obligation*, Craig Muldrew examines the ways in which the social embeddedness of economic transactions helped mold the image of English politics and society. The expansion of market transactions led to heightened disparities in wealth, with growing riches paired with worsening poverty. In turn, the meaning of social interactions increasingly came to be interpreted in terms of credit, contract, and law: "More transactions led to more credit, which led to more litigation, and this led to an increased emphasis on trust and contract. The cumulative effect of all of these credit relations, and the interpretation of them, was the creation of a new means of social description which redefined both political authority and social relations in extremely legalistic terms, stressing the necessary equality of justice."[12] In a cash-poor world, Muldrew observes, trust was essential to maintaining a largely credit-mediated economy; when this trust broke down, eventuating in

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[11] After the "Financial Revolution" of 1688, England possessed the most advanced financial institutions in western Europe going into the eighteenth century, and its financial primacy in the nineteenth century was clear – though, as I will argue in this dissertation, the financial sector in nineteenth-century France was itself quite sophisticated, if adapted to a different set of political institutions and discursive concerns. But England did not create the first stock exchange. Various kinds of securities had been traded at least since the Late Middle Ages, particularly by the city-states of the Italian peninsula; however, the first robust and fully formalized stock exchange is generally taken to be that of Amsterdam, created in 1602 to facilitate the funding of the Dutch East India Company. But despite its importance – English administrators spoke of importing "Dutch finance" in 1688 – the Amsterdam Stock Exchange has received relatively little historiographical attention. For an account of its origins, see Lodewijk Petram, *The World's First Stock Exchange*, trans. Lynne Richards (New York: Columbia University Press, 2014); for an overview of Dutch financial history, see Marjolein 't Hart, Joost Jonker, and Jan Luiten van Zanden, eds, *A Financial History of the Netherlands* (New York: Cambridge University Press, 1997); on the Dutch economy more generally, see Jan de Vries and Ad van der Woude, *The First Modern Economy: Success, Failure, and Perseverance of the Dutch Economy, 1500-1815* (New York: Cambridge University Press, 1997); for a comparison of the English and Dutch secondary markets in public debt, see Christiaan van Bochove, "Configuring Financial Markets in Preindustrial Europe," *The Journal of Economic History*, vol. 73, no. 1 (2013), 247-277. In Arrighi's account, the development of the Dutch financial markets was an essential part of – though also essentially the death knell for – the Dutch cycle of accumulation in the global composition of capital; see Arrighi, *The Long Twentieth Century*. On the Italian financial institutions, particularly those involving early forms of public debt, see Luciano Pezzolo, "Bonds and Government Debt in Italian City-States, 1250-1650," in William N. Goetzmann and K. Geert Rouwenhorst, eds, *The Origins of Value: The Financial Innovations that Created Modern Capital Markets* (New York: Oxford University Press, 2005), 145-164.

[12] Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (New York: St. Martin's Press, 1998), 327.

contentious litigation, people across all ranks of society could make legal claims on each other. The expansion of private credit was therefore socially embedded and socially transformative.[13]

Similar work has been done in the realm of public credit. In his path-breaking work *The Financial Revolution in England*, P.G.M. Dickson essentially inaugurated the contemporary study of public credit, connecting the growth of the public debt to the growth of the English state.[14] This interpretation has been expanded by later work such as that by Douglass North and Barry Weingast, New Institutional economists who argue that the stability of the public debt depended on the state's ability to "credibly commit" to it, that is, to commit to upholding secure property rights by reliably promising not to confiscate the debt. In turn, this capacity of the state itself depended on political institutions capable of reining in the sovereign – institutions such as

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[13] For more on private credit in England, see Margot C. Finn, *The Character of Credit: Personal Debt in English Culture, 1770-1914* (New York: Cambridge University Press, 2003); Amanda Bailey, *Of Bondage: Debt, Property, and Personhood in Early Modern England* (Philadelphia: University of Philadelphia Press, 2013); Mary Poovey, ed, *The Financial System in Nineteenth-Century Britain* (New York: Oxford University Press, 2003). On the French case, see Philip T. Hoffman, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, *Priceless Markets: The Political Economy of Credit in Paris, 1660-1870* (Chicago: University of Chicago Press, 2000); Amalia D. Kessler, *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France* (New Haven: Yale University Press, 2007); Clare Haru Crowston, *Credit, Fashion, Sex: Economies of Regard in Old Regime France* (Durham: Duke University Press, 2013); Erika Vause, *In the Red and In the Black: Bankruptcy, Debt Imprisonment, and the Culture of Credit in Post-Revolutionary France* (Ph.D. Diss, University of Chicago, 2012).

[14] P.G.M. Dickson, *The Financial Revolution in England: A Study in the Development of Public Credit, 1688-1756* (New York: St. Martin's Press, 1967). Public debt did not originate in 1688, but, following Dickson's argument, it was at this point that the debt started to become lasting and formalized. Prior forms of public debt had suffered from overly small volume (meaning that a liquid secondary market, in which the debt could circulate between buyers and sellers, would be difficult to support) and high susceptibility to default. This latter problem did not vanish with the "financial revolution"; indeed, as scholars such as Michael Sonenscher (whose work will be further investigated presently) have argued, the threat of debt default continued to be an object of quite intense concern in the eighteenth century. On forms of the debt prior to the financial revolution, see Earl J. Hamilton, "Origin and Growth of the National Debt in Western Europe," *The American Economic Review*, vol. 37, no. 2 (1947), 118-130; John H. Munro, "The Medieval Origins of the Financial Revolution: Usury, *Rentes*, and Negotiability," *The International History Review*, vol. 23, no. 3 (2003), 505-562. On the "sovereign default problem," see Michael Sonenscher, *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution* (Princeton: Princeton University Press, 2007); Herschel I. Grossman and John B. Van Huyck, "Sovereign Debt as a Contingent Claim: Excusable Default, Repudiation, and Reputation," *The American Economic Review*, vol. 78, no. 5 (1988), 1088-1097.

parliamentary rule, notably lacking, it is argued, in France.[15] In a similar vein of interpretation, Bruce Carruthers has stressed the importance of political affiliation in the structure of financial markets, particularly those concerning the East India Company and the Bank of England.[16] As the English case makes clear, financial institutions were inextricable from the set of political, intellectual, and social contexts out of which they arose and on which they acted.

Emerging out of a different set of the above contexts, French financial institutions have also attracted substantial scholarly attention. Marcel Marion's pioneering *Histoire financière de la France depuis 1715* remains an invaluable resource, amassing a wealth of detail regarding the path of French financial capitalism;[17] however, Marion's approach generally tends to reduce financial history to an interplay between high-level political decisions and putative economic fact, which, while valuable, can also obscure the ways in which other factors were involved. More recent investigations have built upon this previous work. Much of this contemporary

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[15] Douglass C. North and Barry R. Weingast, "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England," *The Journal of Economic History*, vol. 49, no. 4 (1989), 803-832. See also David R. Stasavage, *Public Debt and the Birth of the Democratic State, 1688-1789* (New York: Cambridge University Press, 2003), which argues, broadly, that not just constitutional monarchy, but also strong parties and bureaucratized administration of the debt were essential in formalizing public finance. For a critical reading of North, see Ann Davis, "Endogenous Institutions and the Politics of Property: Comparing and Contrasting Douglass North and Karl Polanyi in the Case of Finance," *Journal of Economic Issues*, vol. 42, no. 4 (2008), 1101-1122.

[16] Bruce G. Carruthers, *City of Capital: Politics and Markets in the English Financial Revolution* (Princeton: Princeton University Press, 1999). For the legal regulation of the English securities market, see Stuart Banner, *Anglo-American Securities Regulation: Cultural and Political Roots, 1690-1860* (New York: Cambridge University Press, 1998); on the cultural ramifications of the City of London, see R.C. Michie, *Guilty Money: The City of London in Victorian and Edwardian Culture, 1815-1914* (Brookfield: Pickering & Chatto, 2009); on the complex interrelations between the literary, political, and financial worlds, see Mary Poovey, *Genres of the Credit Economy: Mediating Value in Eighteenth- and Nineteenth-Century Britain* (Chicago: University of Chicago Press, 2008).

[17] Marcel Marion, *Histoire financière de la France depuis 1715*, 6 vols (Paris: A. Rousseau, 1914). Other works in this interpretive mold include A. Vührer, *Histoire de la dette publique en France*, 2 vols (Paris: Berger-Levrault & Cie, 1886); Pierre Dupont-Ferrier, *Le marché financier de Paris sous le Second Empire* (Paris: Presses universitaires de France, 1925); Bertrand Gille, *La banque et le crédit en France de 1815 à 1848* (Paris: Presses Universitaires de France, 1959); J.-M. Gorges, *La dette publique: histoire de la rente française* (Paris: Guillaumin et Cie, 1884); Em. Vercamer, *Étude historique et critique sur les jeux de bourse et marchés à terme* (Paris: A. Marescq, 1903); Alfred Joubert, *Les finances de la France. La rente et l'impôt, leur origine — leur histoire* (Paris: Chaix, 1893); Paul Cauwès, "Les commencements du crédit public en France: les rentes sur l'Hôtel de ville au XVIe siècle," *Revue d'économie politique*, IX-X (1895-1896).

scholarship tends to focus on the eighteenth century through the French Revolution, though often with comparatively decreased attention to the period after the Terror. Thus, Thomas Kaiser argues that the notoriously labyrinthine "System" of John Law revolved around concepts of political credibility and absolutism, insofar as a critique of Law's cephalopodian financial apparatus was also a way to critique royal absolutism.[18] John Shovlin, in *The Political Economy of Virtue*, observes how theories of political economy could take on radical political content, even if they emerged from sources that generally benefitted from the social architecture of the Old Regime. As he writes, "Recalling the classical concern with the way luxury hastened the decay of virtue, many eighteenth-century French political economists worried that the material conditions of French life had sapped the French capacity for patriotism. Some held that the pursuit of what they construed as ungrounded, or 'unreal' wealth, be it in international commerce, in the luxury trades, or in finance and speculation, had undermined the production of

[18] Thomas E. Kaiser, "Money, Despotism, and Public Opinion in Early Eighteenth-Century France: John Law and the Debate on Royal Credit," *The Journal of Modern History*, vol. 63, no. 1 (1991), 1-28. Law's System involved, among other many things, France's first experiment with central banking and widely circulating paper money, international trade, public debt monetization, land speculation, and the speculative crash known as the Mississippi Bubble. See Antoin E. Murphy, *John Law: Economic Theorist and Policy-Maker* (New York: Oxford University Press, 1997). On the way the collapse of the System of Law came to represent deceptive financial practices well into the Revolution, see Rebecca L. Spang, "The Ghost of Law: Speculating on Money, Memory, and Mississippi in the French Constituent Assembly," *Historical Reflections / Réflexions Historiques*, vol. 31, no. 1 (2005), 3-25. For an economic- and policy-oriented approach to public finances during the eighteenth century, see François R. Velde and David R. Weir, "The Financial Market and Government Debt Policy in France, 1746-1793," *The Journal of Economic History*, vol. 52 no. 1 (1992), 1-39; François R. Velde, "French Public Finance between 1683 and 1726," *Government Debts and Financial Markets in Europe*, ed. Fausto Piola Caselli (London: Pickering & Chatto, 2008), 135-166; David R. Weir, "Tontines, Public Finance, and Revolution in France and England, 1688-1789," *The Journal of Economic History*, vol. 49, no. 1 (1989), 95-124. Other work has focused on the political implications of public finance, particularly the ways in which financial contestation could signal social and political grievances in the prerevolutionary period. In this respect, see Gail Bossenga, "Financial Origins of the French Revolution," in Thomas E. Kaiser and Dale K. Van Kley, eds, *From Deficit to Deluge: The Origins of the French Revolution* (Stanford: Stanford University Press, 2011), 37-66; Kathryn Norberg, "The French Fiscal Crisis of 1788 and the Financial Origins of the Revolution of 1789," in Philip T. Hoffman and Kathryn Norberg, eds, *Fiscal Crises, Liberty, and Representative Government, 1450-1789* (Stanford: Stanford University Press, 1994), 253-298. Also studying French public finance, but pushing the time frame forward into the Revolution, J.F. Bosher broadly argues that the period of 1770 to 1795 witnessed a transition from "private enterprise in public finance" to an increasingly professionalized and bureaucratized administrative regime. See J.F. Bosher, *French Finances, 1770-195: From Business to Bureaucracy* (New York: Cambridge University Press, 1970).

'true' wealth in agriculture or domestic commerce."[19] For Shovlin, contentious debates over financial speculation in public debts were also ways of articulating moral stances on the proper nature of the state, property, and citizenship, themes that will resonate in this dissertation. Focusing more directly on the Paris Stock Exchange, George V. Taylor has presented an invaluable amount of ethnographic detail on this center of financial capitalism, particularly regarding the ways in which political intrigue and financial speculation were intermingled; for instance, Taylor observes that wealthy speculator Étienne Clavière was in fact a close ally of Mirabeau, even contributing substantial portions to Mirabeau's published condemnations of speculation.[20] This work has subsequently been expanded upon by Robert Darnton, who probes the specific ways in which individual financial positions could imply political and philosophical stances on the nature of the ruling regime.[21] Recently, Rebecca Spang has written on the way money – particularly the *assignat*, the Revolution's ambitious but ultimately unsuccessful experiment with paper money – was tied up in conceptions of revolutionary time, the sanctity of property, and the duties of a rational, non-arbitrary government.[22] Central to this dynamic for Spang is the revolutionaries' arguably quixotic desire to pay down, rather than default on, the immense load of public debt inherited from the Old Regime, paired with serious ideological and

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[19] John Shovlin, *The Political Economy of Virtue: Luxury, Patriotism, and the Origins of the French Revolution* (Ithaca: Cornell University Press, 2006).
[20] George V. Taylor, "The Paris Bourse on the Eve of the French Revolution, 1781-1789," *The American Historical Review*, vol. 67, no. 4 (1962), 952.
[21] Robert Darnton, *George Washington's False Teeth: An Unconventional Guide to the Eighteenth Century* (New York: W.W. Norton, 2003), 142-151.
[22] Rebecca L. Spang, *Stuff and Money in the Time of the French Revolution* (Cambridge: Harvard University Press, 2015). Spang notes that the *assignat* in fact did not begin as a circulatable form of currency, but rather as something more akin to a kind of governmental interagency accounting device; see Spang, *Stuff and Money*, 57-96. The classic account of the *assignat* probably remains Florin Aftalion, *The French Revolution: An Economic Interpretation*, trans. Martin Thom (New York: Cambridge University Press); for a more extensive account of French monetary history, see François Crouzet, *La grande inflation: la monnaie en France de Louis XVI à Napoléon* (Paris: Fayard, 1993).

material problems in revenue collection; as she writes, "In the name of honoring debts, paying overdue bills, and minimizing conflict, many members of the National Assembly opted for policies that turned out to be far more disruptive than they expected or intended. We might think of their radicalization as a Möbius trajectory – moving in what seemed to be a single direction, they nonetheless arrived on the other side of the metaphorical strip."[23] The *assignat*, in this reading, was not a foreordained failure. Rather, the financial radicalization – and, eventually, financial shipwreck – of the Revolution emerged out of a particular confluence of intellectual commitments to the sanctity of debts as legitimate property, material difficulties in production, circulation, and revenue collection, and the conceptualization of money as containing value. Spang's work is of particular note for its focus on material practices; her analysis combines insights into the ways historical agents actually engaged in economic activity, the ways in which these economic practices then prompted theoretical reflection, and how this reflection in turn rebounded upon the practices. Such an approach yields fresh insight into the economic history of the Revolution.

Taken together, the above scholarship offers a nuanced reading of the financial landscape of eighteenth-century France. In addition to economic policy, political and intellectual discourses shaped the nature of French financial institutions – and, as these scholars have shown, were shaped by them.

When nineteenth-century financial institutions are addressed, it is frequently as a starting point for later economic developments, usually (though not always) beginning with the expansion of the rail network, which commenced fitfully in the mid-1830s and only truly

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[23] Spang, *Stuff and Money*, 59.

matured during the Second Empire (1852-1870).[24] Thus, Guy Palmade, in his overview of nineteenth-century French capitalism, argues that the French financial markets were comparatively tranquil during the Restoration and July Monarchy, with major development finally occurring after 1850.[25] Similarly, while Paul-Jacques Lehmann, author of one of the few comprehensive histories of the Paris Stock Exchange, does address some major events during the first half of the nineteenth century (such as the installation of the Exchange in the Palais Brongniart in 1826), the majority of his attention is set to the 1880s and beyond.[26] While probing the nature of price formation at the Exchange, Donald Walker provides a detailed snapshot of the experience of the stockbrokers on the trading floor; his time frame, however, is exclusively focused on 1870-1910.[27] Taking a strikingly different approach, Victoria E. Thompson examines the ways in which female access to the financial market, and particularly to speculative investments, threatened to destabilize the social order; the image of the female speculator, she argues, symbolized the ways in which liberal economic markets could both produce wealth and at the same time undermine virtue. She writes, "Second Empire writers seeking to justify women's exclusion from the stock exchange after 1848 described their former presence in the galleries as a source of grave disorder: they were loud and boisterous speculators, most of whom

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[24] David Harvey, *Paris, Capital of Modernity* (New York: Routledge, 2006).

[25] Guy P. Palmade, *French Capitalism in the Nineteenth Century*, trans. Graeme M. Holmes (New York: Barnes & Noble, 1961), 138-139. See also Maurice Lévy-Leboyer and François Bourguignon, *The French Economy in the Nineteenth Century: An Essay in Econometric Analysis*, trans. Jesse Bryant and Virginie Pérotin (New York: Cambridge University Press, 1990). On the development of the corporate form in particular, see Charles E. Freedeman, *Joint-Stock Enterprise in France, 1807-1867: From Privileged Company to Modern Corporation* (Chapel Hill: University of North Carolina Press, 1979); Charles E. Freedeman, *The Triumph of Corporate Capitalism in France, 1867-1914* (Rochester: University of Rochester Press, 1993); Steven L. Kaplan and Philippe Minard, eds., *La France, malade du corporatisme? XVIIIe – XXe siècles* (Paris: Belin, 2004).

[26] Paul-Jacques Lehmann, *Histoire de la Bourse de Paris* (Paris: Presses Universitaires de France, 1997). See also Alfred Colling, *La prodigieuse histoire de la Bourse* (Paris: Éditions économiques et financières, 1949). For a more contemporary sociological account of the Paris Stock Exchange, see Olivier Godechot, *Les traders. Essai de sociologie des marchés financiers* (Paris: Découverte, 2001).

[27] Donald A. Walker, "A Factual Account of the Functioning of the Nineteenth-Century Paris Bourse," *European Journal of the History of Economic Thought*, vol. 8, no. 2 (2001), 186-207.

were playing the market, either through the intermediary of a lover or husband or by directly calling out orders on the floor. … The behavior of female speculators, motivated by passion and the desire for gain, typified the excesses the stock market was thought capable of producing."[28] Her account, however, begins roughly in 1840, with the bulk of analysis devoted to the Second Empire. To be sure, the above works really do provide valuable insights. At the same time, their generally shared chronological framework risks occluding critical insights into the development of the Paris Stock Exchange and of French financial capitalism.

Naturally, there are exceptions. Some scholars have indeed seen the late Revolutionary, Napoleonic, and Restoration periods as areas of substantial inquiry. Alessandro Stanziani, in *Rules of Exchange*, challenges the view of a "deregulated" or classically liberal nineteenth-century economy. Arguing against the notion that the comparatively heavy presence of the state in the market signals a particularly Gallic hostility to capitalism, he observes that "control of speculation and regulation in general responded to ethical, political and economic influences, and that beyond administrative action, jurisprudence and the use of the law made by different economic and institutional actors have shaped French capitalism."[29] Stanziani pursues this argument across a number of domains, including contract law, hoarding, and theories of economic competition. His conceptualization of French capitalism, especially in the nineteenth century, as a space of contestation between intellectual, political, and juridical actors remains compelling. However, despite his stated attention to speculation, he in fact does not examine credit or debt markets in great detail, focusing more on commodities exchanges. The most

[28] Victoria E. Thompson, *The Virtuous Marketplace: Women and Men, Money and Politics in Paris, 1830-1870* (Baltimore: Johns Hopkins University Press, 2000), 150-151.
[29] Alessandro Stanziani, *Rules of Exchange: French Capitalism in Comparative Perspective, Eighteenth to Early Twentieth Centuries* (New York: Cambridge University Press, 2012), 249-250.

extensive investigation of the legal side of those financialized credit markets comes from Nelly Hissung-Convert, who recounts, in remarkably granular detail, the recurrent legal battles over financial speculation at the Exchange. In her view, these legal troubles were due to a law code and a magistracy that were fundamentally retrograde: "facing a groundswell marked by feverish eruptions and perpetual transformations, the legislator and the judge often showed themselves to be backwards, whether because they were overwhelmed by facts or because they were out of step with needs."[30] Hissung-Convert ably reconstructs these legal confrontations and perceptively situates these trials in political context. However, she does not theorize precisely why these courts and lawmakers were so "backwards," nor what exactly counted as a legitimate "fact" or need. That is, she does not effectively investigate the set of intellectual discourses that structured some arguments as successful and others as dismissible. A similar issue can be seen in Maurice Gontard's work. Gontard has written a richly detailed account of the Exchange during the Napoleonic and Restoration periods, but tends to reduce the history of the Exchange to an interplay between economic shifts, statutory law, and high politics.[31] In so doing, the intellectual content of the categories of financial capitalism remains largely submerged.

Other scholars of this period have taken a more institutional approach, often heavily influenced by formal economic theory.[32] Pierre-Cyrille Hautcoeur and Angelo Riva seek to answer why, despite its striking differences from the more canonical model of London, the Paris

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[30] Nelly Hissung-Convert, *La spéculation boursière face au droit, 1799-1914* (Paris: L.G.D.J., 2009), 591.
[31] Maurice Gontard, *La Bourse de Paris (1800-1830)* (Aix-en-Provence: Édisud, 2000).
[32] See for instance Pedro Arbulu, *La Bourse de Paris au XIXe siècle: efficience et performance d'un marché financier emergent* (Paris: Connaissances et Savoirs, 2007); Alex Viaene, *L'efficience de la Bourse de Paris au XIXe siècle: une confrontation théorique face aux données empiriques des marchés à terme et à prime* (Paris: Connaissances et Savoirs, 2004); Lance Davis and Larry Neal, "Micro Rules and Macro Outcomes: The Impact of Micro Structure on the Efficiency of Security Exchanges, London, New York, and Paris, 1800-1914," *The American Economic Review*, vol. 88, no. 2 (1998), 40-45; Angelo Riva and Eugene N. White, "Danger on the Exchange: How Counterparty Risk was Managed on the Paris Bourse in the Nineteenth Century," *NBER Working Paper Series*, Working Paper 15634, (2010).

financial market – in which the Paris stockbrokers possessed a privileged monopoly on financial intermediation, notably absent from many other financial centers – appeared quite robust across the nineteenth century. Their proposed answer is that, broadly speaking, the Paris market evolved to meet investor demand, with those desiring stability tending towards the "*Parquet*," or formal licensed market, and those preferring riskier investments migrating to the "*Coulisse*," or curb market – a set of (technically illegal) unlicensed, informal brokers, so named because they tended to congregate around the back alleys and curbs by the officially sanctioned markets.[33] The *Coulisse* is beyond the scope of this dissertation, but, as I will show, the formally licensed stockbrokers also dealt quite frequently in risky speculative investments, eliciting controversy time and again. This is not to claim that Hautcoeur and Riva are necessarily utterly misguided; indeed, surely they are correct in their overarching claim that the legal design of the Paris Stock Exchange was not a sign of economic backwardness in comparison to London, but rather a kind of adaptation to a different collection of political, social, and historical circumstances. But their account does not appear to be able to explain why, if stability constituted the licensed stockbrokers' fundamental advantage, they fought so vigorously to maintain their ability to trade in speculative risk – as they did, again and again, throughout the nineteenth century. In other words, the institutionalist approach adopted by Hautcoeur and Riva tends not to examine the discursive construction of the economic categories under review, which, in turn renders the motivations guiding historical actors' decisions mostly opaque. The same issue is typically

[33] Pierre-Cyrille Hautcoeur and Angelo Riva, "The Paris Financial Market in the Nineteenth Century: Complementarities and Competition in Microstructures," *Economic History Review*, vol. 65, no. 4 (2012), 1326-1353. Riva has also contributed to an excellent descriptive account of the Exchange's history. See Paul Lagneau-Ymonet and Angelo Riva, *Histoire de la Bourse* (Paris: Découverte, 2012).

present in other work beginning from an institutional economic perspective.[34] While this work has produced valuable insights into the nature and structure of French finance, it also tends to leave the intellectual foundations of the relevant actors un- or under-examined, leaving these foundations as a sort of discursive blank space that slips below the level of historiographic attention.

My claim is that this opacity in fact presents a significant interpretive problem, which this dissertation intends to address. The discursive construction of economic thought is fundamental to the nature of nineteenth-century French financial capitalism – understanding how stockbrokers, investors, judges, politicians, and others conceived of financial categories represents an essential element in understanding why they then acted as they did. I further claim that the period examined by this dissertation diverges in important respects from the ways in which just this question had previously been answered. The development and formalization of the public debt – in the volume of the debt, in the institutions supporting it, in the debt's place in society – had typically been attributable to the pressing fiscal needs of warfare. As John Brewer has memorably put it, the needs of war, along with the conjunctural specificities of the English political community after 1688, gave rise to the "fiscal-military state."[35] In such a configuration, war-making and state-making were essentially mutually reinforcing – the fiscal demands of war

[34] In this respect, see Paul Lagneau-Ymonet and Angelo Riva, "Les opérations à terme à la Bourse de Paris au XIXe siècle," in Nadine Levratto and Alessandro Stanziani, eds., *Le capitalisme au futur antérieur: crédit et spéculation en France, fin XVIIIe – début XXe siècles* (Bruxelles: Bruylant, 2011), 107-142; Carine Romey, "Les opérations de Bourse," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 1 (Paris: Publications de la Sorbonne, 2007), 109-158; Jacques-Marie Vaslin, "Le siècle d'or de la rente perpétuelle française," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 2 (Paris: Publications de la Sorbonne, 2007), 117-208; Alex Viaene, "Les marchés à terme et conditionnels à la Bourse de Paris au XIXe siècle," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 2 (Paris: Publications de la Sorbonne, 2007), 571-602.

[35] John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (New York: Alfred A. Knopf, 1989), xvii.

prompted a drive to systematize and rationalize the financial apparatus of revenue collection and borrowing, which, in turn, led to more and longer wars, which, again, prompted yet further rationalization of the state's financial system.[36] In Brewer's words: "Britain was able to shoulder an ever-more ponderous burden of military commitments thanks to a radical increase in taxation, the development of public deficit finance (a national debt) on an unprecedented scale, and the growth of a sizable public administration devoted to organizing the fiscal and military activities of the state. … This was no minor adjustment in the scope and priorities of government; it was a major commitment of resources. Taxes rose to levels as high as any of those in Europe, matching those of many modern, underdeveloped states. Borrowing reached such heights that if eighteenth-century Britain had gone to the modern International Monetary Fund for a loan it would certainly have been shown the door."[37]

Brewer's concept of the fiscal-military state centers on the English example, but, as other scholars have noted, "One of the features of British history is its peculiarities."[38] England may have provided a model, but it was a model that various countries adapted to their own domestic circumstances. Joël Félix and Frank Tallett argue that eighteenth-century France did create a form of the fiscal-military state, though one molded to a society of orders and an absolute

[36] Charles Tilly, as Brewer himself observes, summarized this process quite succinctly: "war made the state and state made war." Brewer's work expands on this observation in important ways. "Indeed," Brewer writes, "in early modern Europe war often succeeded in diluting rather than concentrating state power. The absence of effective public institutions to manage the business of war prompted the growth of *private* military enterprise. … The ruler's grip on his subjects was weakened by venality, the financial burdens of war led to the abandonment of bureaucratic reform, the presence of hostilities on home territory produced administrative breakdown." The fiscal-military state was an attempt to avoid such gnawing problems, by rendering the funding of war rational, publically accountable, and under state, not private, control. See Charles Tilly, ed., *The Formation of National States in Western Europe* (Princeton: Princeton University Press, 1975), 42; Brewer, *The Sinews of Power*, 137-139. Original emphasis.
[37] Ibid., xvii.
[38] Joël Félix and Frank Tallet, "The French Experience, 1661-1815," in Christopher Storrs, ed., *The Fiscal-Military State in Eighteenth-Century Europe: Essays in Honor of P.G.M. Dickson* (Burlington: Ashgate, 2009), 148.

monarchy (and one whose military success was admittedly intermittent).[39] Thus, France may not have seen precisely the same kind of bureaucratization and rationalization of debts and taxes, but it did experiment with substantial reforms to the institutions of public finance throughout the century, reforms dedicated to improving revenue collection for the purposes of warfare. And, as Félix and Tallett argue, even after Louis XV's Finance Minister, the Abbé Terray, partially defaulted on the Crown's debt in 1770,[40] France was still able to borrow, though not without high costs, until late in the prerevolutionary period: "Borrowing inevitably meant accepting the high interest rates which had predominated following the partial bankruptcy of Finance Minister Terray. Moreover, credit was readily available from the Swiss and the Dutch, who had previously offered cheap loans to the British in the Seven Years War but who were now allied to the French and were ready to switch their lending accordingly. The French government therefore had no problem raising credit until 1787 and was surreptitiously able to increase its tax revenues from 1782 by doubling the *vingtième* and augmenting the take from indirect taxes."[41] Félix and Tallett are perhaps a bit too sanguine regarding France's creditworthiness, given both the frequency of royal default and the fact that one of the primary means of borrowing was effectively the selling of venal office.[42] But they soundly observe that despite these deviations from the English model, France was indeed able to increase its debt load quite dramatically and compete for international supremacy, precisely through a debt-funded war machine. In France

[39] Ibid., 147-166.
[40] Kindleberger, *A Financial History*, 217.
[41] Félix and Tallet, "The French Experience," 161-162.
[42] Between 1550 and 1789, the French crown defaulted on the debt at least ten times. See Bossenga, "Financial Origins of the French Revolution," 38. On venality, see William Doyle, *Venality: The Sale of Offices in Eighteenth-Century France* (New York: Clarendon Press, 1996).

too, the sustained growth of public debts therefore was intimately connected to the development of the war-making state.

Michael Sonenscher, in *Before the Deluge*, has shown how the formation of the fiscal-military state in the eighteenth century presents compelling grounds for intellectual history. For him, public debts were "Janus-faced," in that "Public credit might well give rise to economic prosperity and constitutional government, but economic prosperity and constitutional government could, in their turn, give rise to new political risks."[43] Public debts, through funding the state's war efforts, could enable a state to compete for wealth and resources more effectively on the global stage, while at the same time, reliable access to credit tended to generate, at least at the discursive level investigated by Sonenscher, demands for accountability and political reforms of various stripe. But then, precisely because modern state conflicts could be funded through debt, meaning that they were not necessarily constrained by the present real financial resources a state could muster at any given moment, the alarming specter loomed of a world thus locked in a cycle of increasingly destructive warfare – public debts permitted war, which increased debts, which enabled more war, and on and on until, perhaps, total systemic collapse. Moreover, in addition to devastating interstate competition – such as, for instance, the Seven Years War – public debts also threatened domestic stability. Sonenscher observes, "Borrowing money to finance war meant raising taxes to pay interest on the state's debt. Raising taxes served in turn to reinforce existing economic and social inequalities by directing resources away from taxpayers to the owners of investments in the public funds, or 'capitalists,' as they came to be known in eighteenth-century France. The result was a potentially fatal tension between legality and

[43] Sonenscher, *Before the Deluge*, 7.

morality as the obligation to maintain public credit pulled against the unequal distribution of goods in society at large, setting the needs of the state against the needs of its members and making the partiality of inherited or acquired advantage increasingly difficult to justify or disguise."[44] Stable public debts depended on a commitment to actually paying the debt's interest. But doing so required taxation that transferred wealth from taxpayers to the state's creditors (themselves frequently of high rank or social status), continually raising the question of the justifiability of social inequality. States, according to Sonenscher, therefore found themselves facing a troubling conundrum: either resign themselves to ever-rising inequality – less a moral problem than a political one, in that persistent, unredressed inequality could trigger social upheaval – or seize state creditors' property by defaulting on the debt, which is to say, violate the norms of legitimate government and fall into despotism.

Public debts were therefore, for Sonenscher, a major problem for eighteenth-century political theory. His overall claim is that an immense variety of philosophers and intellectuals – such as Montesquieu, Hume, Turgot, Sieyès, among many others – repeatedly wrestled with this problem, attempting to reconcile public debts and rational, legitimate government in a way that avoided the "deluge" of social apocalypse or despotism. Doing so, Sonenscher argues, entailed thinking about political representation, solutions to social inequality, and the duties of government in potentially (if sometimes inadvertently) revolutionary ways. As he claims, his study "is intended to show what the French Revolution might begin to look like in the light of a detailed historiographical examination of the range of ideas and more ambitious political theories that, directly or indirectly, can be associated with the menace underlying the phrase *après moi, le*

[44] Ibid., 74-75.

déluge."[45] Public debts provided the intellectual grounds out of which political theories developed.

The work on the eighteenth-century fiscal-military state by scholars such as Brewer and Sonenscher has amply demonstrated that the financial institutions relevant to this form of the state generated intense interest at the political, legal, and theoretical levels. However, a central claim of this dissertation is that the Paris Stock Exchange during the time period under consideration does not fit within this theoretical framework. Public credit was devastated during the Revolution, particularly with the immense default of the Bankruptcy of the Two-Thirds in 1797, which exceeded even that of the Abbé Terray's in 1770.[46] Confidence in the state's creditworthiness had been shattered, with public debt hardly circulating during the Directory years – the "deluge" of despotic state bankruptcy predicted by so many of Sonenscher's interlocutors appeared to have come to pass. As had the explosive, deadly, all-consuming military conflict. But though the extent of Napoleonic warfare was staggering, on a scale beyond even that of the Seven Years War,[47] Napoléon almost entirely avoided public debts to fund his war machine.[48] As Michael Bordo and Eugene White argue, the financial fallout from the Revolution had been so severe that France's ability to borrow on the capital markets was extremely limited; and in any event, Napoléon generally regarded debt finance with scorn, preferring to fund his regime, even during globe-wide war, through taxation, frequently levied

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[45] Ibid., 8-9.

[46] On the Bankruptcy of the Two-Thirds, see Crouzet, *La grande inflation*, 466-468; Denis Woronoff, *The Thermidorean Regime and the Directory, 1794-1799*, trans. Julian Jackson (New York: Cambridge University Press, 1984), 59-61.

[47] On the Seven Years War, see James C. Riley, *The Seven Years War and the Old Regime in France: The Economic and Financial Toll* (Princeton: Princeton University Press, 1986).

[48] Félix and Tallett, "The French Experience," 165. Félix and Tallett also note that the Revolutionary armies were funded by a combination of taxation and expansionary – indeed, eventually hyperinflationary – monetary policy via printing the *assignat*.

most heavily on conquered territories.[49] The system of public credit had thus been almost entirely destroyed, while the state continued to wage war at the highest levels. The traditional justificatory framework for the Paris Stock Exchange – and for the kind of financial capitalism it enabled – had been swept away.

But the Paris Stock Market remained. In fact, it flourished in post-revolutionary France, to the extent that by 1809, hardly more than a decade after an immense state default that had erased more than 2.5 billion *livres* from the books,[50] Jouhaud could claim the Exchange as constituting a real peril for French families, French society, the French state. I argue that the Paris Stock Exchange, and financial capitalism at this time, reconstituted itself outside the theoretical grounds of the fiscal-military state. This is the case, I claim, both for the Napoleonic regime and for the Restoration monarchy during the period under examination. True, the French incursion into Spanish territory under Louis XVIII did rely to some degree on debt financing.[51] But this military escapade was, by far, the outlying exception; debt-funded interstate conflict was not what sustained public debts. And sustained they were, with the 5% *rente* – the main security in the French public debt – rising in price from 51 francs in 1813 to over 104 francs in 1824.[52] The kind of financial capitalism normally justified by the potential exigencies of war would have to find another form of justification. One of the aims of this dissertation is to excavate and critically examine precisely this other form of justification.

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[49] Michael D. Bordo and Eugene N. White, "A Tale of Two Currencies: British and French Finance during the Napoleonic Wars," *The Journal of Economic History*, vol. 51, no. 2 (1991), 314-315.
[50] The figure comes from Félix and Tallett; they claim the 1797 Bankruptcy of the Two-Thirds was the biggest single default France had ever yet seen. See Félix and Tallett, "The French Experience," 164.
[51] On this incident, see Sébastien Kott, "Restaurer la monarchie et restaurer les finances en France, 1815-1830: le financement de l'expédition d'Espagne," in Anne Dubet and Jean-Philippe Luis, eds, *Les financiers et la construction de l'État: France, Espagne (XVIIe-XIXe siècles)* (Rennes: Presses Universitaires de Rennes, 2011), 217-235.
[52] Arbulu, *La Bourse de Paris au XIX siècle*, 182; Gontard, *La Bourse de Paris (1800-1830)*, 197.

Property and Politics in Post-Revolutionary France

Rather than the set of theoretical concerns guiding the fiscal-military state, I argue that the post-revolutionary Paris Stock Market and post-revolutionary financial capitalism were discursively supported by appeals to the right of property. And property was no ordinary right. As Rafe Blaufarb has recently shown, transforming the nature of property was one of the signature moments of the Revolution. It constituted, in his terms, a "Great Demarcation," which divided (or tried to divide) public power from private ownership, and thus the exercise of political power from social distinction. As he writes, "Despite the turbulent context of the Revolution, the men of 1789 and their successors succeeded in transforming property and, by doing so, remade the polity. … No longer would some possess public function as private property. No longer would ownership of a piece of land convey supremacy, jurisdiction, and other public powers over one's fellow citizens. These changes simultaneously ended the Old Regime and provided the blueprint for the constitutional order that would take its place."[53]

The centrality of property to the political theory of the post-revolutionary order is confirmed by Jean-Étienne-Marie Portalis, eminent jurist and chief compiler of France's 1804 Civil Code, the linchpin of the new legal system. An intellectual whose interests crossed numerous disciplinary domains, Portalis articulated his philosophical approach to law most extensively in *De l'usage et de l'abus de l'esprit philosophique durant le dix-huitième siècle*. Published posthumously in 1820 but originally composed in 1798,[54] *De l'usage* was an

[53] Rafe Blaufarb, *The Great Demarcation: The French Revolution and the Invention of Modern Property* (New York: Oxford University Press, 2016), 1, 13.
[54] Anonymous, "Notice sur la vie de l'auteur," in Jean-Étienne-Marie Portalis, *De l'usage et de l'abus de l'esprit philosophique durant le dix-huitième siècle*, 2nd ed. (Paris: Moutardier, 1827), 32-34.

extremely wide-ranging work, tackling topics ranging from philology to jurisprudence to Kant's critical philosophy. It was also a statement on the theoretical basis of property. Portalis argued that property in fact constituted the legal origins of society:

> It can even be said that the right of property is the most sacred of all those for which the social guarantee exists; it is the most important of all; *it is more essential, in some respects, than liberty itself, since it stands closer to the preservation of life, and, only being applicable to things easier to usurp than incorporal rights, and more difficult to defend than one's person, it* [the right of property] *requires a more particular and active protection*.[55]

Portalis here raised the right of property to prime position amongst essential rights; it was the "most sacred" of all rights that existed in society. Political liberty, indeed, depended first on stable and secure property rights. But, because property was exercised over things, for Portalis it necessitated a heightened degree of attention, since property could so easily be manipulated. Property could be misappropriated, denatured, destroyed; deceptive, illusory forms of property might lure otherwise virtuous souls into morally compromised actions. Great care would therefore have to be taken to maintain property in its correct form and relations.

Property in the Old Regime had been a wildly variegated phenomenon, with many forms of land tenure, privilege, venal office, and more all being subject to (sometimes competing) property claims.[56] The Revolution had aimed to consolidate and rationalize this fundamental right. "For, following the jurisconsults," Portalis wrote, "the right of property, full and complete, is the faculty of disposing, freely and at will, of the substance of the fruits and of the usage of the things that one possesses."[57] He here annexed property to the individual's will and desires, insofar as the exploitation of property was now, in concept at least, the equal and shared province

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[55] Jean-Étienne-Marie Portalis, *De l'usage et de l'abus de l'esprit philosophique durant le dix-huitième siècle*, vol. 2 (Paris: A. Égron, 1820), 367. Original emphasis.
[56] Blaufarb, *The Great Demarcation*, 1-47. For a comparative account of forms of property in early modern Europe, see John Brewer and Susan Staves, eds, *Early Modern Conceptions of Property* (New York: Routledge, 1995).
[57] Portalis, *De l'usage et de l'abus*, 370-371.

of all qualifying individuals. Furthermore, this reconceptualization would meet requirements for equity and the just distribution of goods, necessary for a smoothly functioning civil sphere, since, theoretically, property was open to any and all citizens. With this leveling of the concept of property, law could consequently operate rationally and justly, neatly sorting out conflicts amongst private individuals.

In what was perhaps a startling moment for an intellectual, Portalis also had the chance to render his philosophical concepts the law of the land. Article 544 of the Civil Code provided the core definition of property for the post-revolutionary regime, and it hewed quite close to the formula Portalis had outlined a few years earlier: "Property is the right to enjoy and dispose of things in the most absolute manner, provided that one does not make a usage of them prohibited by laws or regulations."[58]

Of course, what did or did not count as a forbidden usage could, in practice, be surpassingly difficult to discern. It was also an inherently political question, insofar as property, as the "most sacred" right, undergirded the legitimacy of the political community as a whole. As Blaufarb observes, the framers of the Civil Code "were faithful to the principles of 1789. But, like their legislative predecessors, their attempts to translate those principles into workable law did not always go smoothly."[59] The Paris Stock Exchange was one such arena in which the disputed moral and legal boundaries of property repeatedly erupted into controversy. Shorn of

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[58] Article 544, Livre II, Titre II, Code Civil. https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006428859&cidTexte=LEGITEXT000006070721 (accessed 12/12/16).

[59] Blaufarb, *The Great Demarcation*, 209. Note also that Blaufarb ultimately argues that a neat and total separation of property and power appears all but impossible: "The revolutionaries' vision of a polity based on the separation of property and power was utopian. It not only sapped the conceptual foundations of the existing order, but also sought to make real what turned out to be an impossible distinction." Property, Blaufarb observes, inevitably involves sway over persons and things; it therefore ultimately always involves power of some kind. See Blaufarb, *The Great Demarcation*, 222.

their previous intellectual grounds in the fiscal-military state, the institutions of finance at the Paris Stock Exchange had to be justified again and justified anew. By examining these realms of justification, I investigate the densely interconnected relations between the key political concepts such as the duties of the state, the implications of economic freedom, and the nature of citizenship; the meaning of property; and the contested legitimacy of financial capitalism in a post-revolutionary society.

The Paris Stock Exchange and Intellectual History

This dissertation therefore aims to provide a particular kind of intellectual history of financial capitalism in post-revolutionary France, as seen through the lens of the Paris Stock Exchange. It takes inspiration from work such as that of Michael Sonenscher, but diverges quite sharply on the topics of sources and conclusions; it seeks to articulate a different approach to the intellectual history of economic thought.

The occasional case of soaring self-regard notwithstanding, the vast majority of the actors in this dissertation would likely not consider themselves intellectuals, theorists, or philosophers. Rather, they were stockbrokers and investors, politicians and lawyers, plaintiffs and defendants. I do not suggest that such figures have never been the subject of historiographical attention; I do suggest that they have largely been overlooked specifically by the intellectual history of this period. But that does not mean they have little to pass on to intellectual history. My claim is that there is real and important intellectual content in these historical sources. My intended intervention in studying such evidence is to elucidate the intellectual construction of the categories of French financial capitalism during the early nineteenth century; economic categories are constructed as surely as philosophical ones. In reconstructing the intellectual

articulations of the relevant actors in the financial world of post-Revolutionary France, I thus show how that discursive universe really did help shape economic policy, legislative and juridical outcomes, and the contours of financial institutions. The categories of economic and financial thought under consideration were expressed sometimes in pamphlets, sometimes in internal memos, sometimes in legislative debate, sometimes in legal disputes. Many of them were rhetorically situated – attempts to win over judges, lawmakers, or testy emperors, in the hopes of defending particular economic interests. My aim is not to ignore the rhetorical embeddedness of these texts, but to probe why they took the form that they did, and why such arguments were (or were not) convincing. In so doing, I help uncover the financial imaginary of post-revolutionary France.

The conclusions this dissertation reaches also differ from those of scholars such as Sonenscher. As I have argued, Sonenscher and others in this interpretive trend tend to theorize public debts largely according to the rubric of the fiscal-military state, in which the signature risks were the threats of interstate violence, despotism, and property seizure. Sonenscher argues for a continuity between the eighteenth- and nineteenth-century concerns over public debt: "The restored monarchy, and the many competing claims for restitution and retribution that it brought in its wake, also brought back the full range of problems about public credit, taxation, and representation that the eighteenth century had faced. Once again, constitutional government appeared to be the way to make public credit secure, but public credit appeared to be the way to make constitutional government insecure."[60] I show that by closely investigating the specificities of the Paris Stock Exchange, a different picture of the problematics of public debt emerges.

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[60] Sonenscher, *Before the Deluge*, 355.

Premonitions of the deluge, most especially of destructive warfare, were quite rare. Visions of denatured – not despotically seized, but internally misarranged – property, however, were quite frequent. My goal is to write this different kind of intellectual history of the challenge of public debts, and ultimately of financial capitalism in post-revolutionary France.

I pursue this argument across five chapters. Chapter one, "Republicanized Debts and Lord Despotism: The Consolidation of the *Rente Perpétuelle* and the Form of a Revolutionary Public Debt," addresses the nature of the main instrument of the French public debt, the *rente perpétuelle*, a kind of government bond. After an overview of the development of the *rente* from its origins in medieval monastic practices into a formalized element of public finances, it looks closely at two key moments: the 1793 creation of the *Grand-Livre de la Dette Publique*, which gathered together Old Regime debts in a new place, and the 1797 Bankruptcy of the Two-Thirds, which further consolidated the public debt, in the process creating the main security traded on the Paris Stock Exchange for much of the nineteenth century. In both instances, I argue that the form of the debt was conceptualized as mirroring the form of political society. For the revolutionaries, such as the architect of revolutionary financial institutions Pierre-Joseph Cambon, public debt had to be "republicanized" in order to accord with the political principles of a regenerated society. Public debt was revolutionized precisely through the ways in which the French Revolution aimed to sweep away the clandestine and deceptive intricacies of Old Regime society. The public debt thus became "republican" insofar as it was intended to be unified, rational, and transparent.

Chapter two, "The Illimitable Right: The *Marché à Terme*, Property, and Political Authority in Napoleonic France," begins with a meeting of the Council of State in 1808, in which the emperor Napoléon had summoned a group of senior stockbrokers to defend financial

speculation at the Exchange. Flush with revenue extracted through conquest and never an admirer of public finance, Napoléon appeared to be on the verge of illegalizing the *marché à terme*, or futures contract, in public debt. But the Paris stockbrokers were able to defend the *marché à terme*'s validity, shielding it quite effectively from most legal repression. The chapter seeks to answer why, without pressing financial need and facing withering imperial disdain, this marked form of financial capitalism managed to survive in the post-revolutionary world. I argue that the stockbrokers were able to mount a successful defense of financial speculation by locating the *marché à terme* within a discourse that knit together rational law, public debts, and the concept of property. I show that the concept of property marked out real limitations on political authority, even in an authoritarian state. Property was therefore connected to the meaning of freedom in a post-revolutionary society.

The third chapter is titled "Privilege, in its Evil Sense: Law, Economic Liberalism, and the Company of Parisian Brokers, 1801-1841." In this chapter, I examine the ways in which the professional association of the stockbrokers, the Company of Parisian Brokers, was able to maintain what appeared to be vestiges of Old Regime corporatism, such as exclusionary professional privilege and property in office. The French Revolution had launched a comprehensive assault on legal privilege, ostensibly wiping away much of the Old Regime corporate order. Yet the stockbrokers, along with a select group of ministerial officers, managed to hold on to their monopolistic privileges in a post-revolutionary world that supposedly had opened all careers to talents. I argue that this survival of corporate exclusion was not simply a legal atavism, but rather was consonant with the version of economic liberalism adopted in nineteenth-century France. Though the chapter addresses some later developments, it focuses on a spectacular trial over the bankruptcy of stockbroker Sandrié-Vincourt. I argue that the

Company successfully combined a form of post-revolutionary corporatism with economic liberalism by appealing to the individualizing logic of financial intermediation, as well as to the normative power of property rights.

Chapter four, "The Honest Speculator: Debt, Honor, and Financial Regulation in Restoration France," examines a particularly acrimonious series of trials occurring between 1823 and 1824. The Comte de Forbin-Janson, a wealthy and illustrious aristocrat had engaged Vincent Perdonnet, a stockbroker nearing retirement, to place a substantial amount of funds in the public debt futures market. At first, the two were successful; then they were not. Facing catastrophic losses, the Comte refused to pay, claiming that financial speculation through public debt futures was nothing other than odious and illegal gambling; since gambling debts could not give rise to binding legal action, the Comte claimed he was under no obligation to pay off the debts that Perdonnet now held, ostensibly in his name. Perdonnet disagreed, vigorously defending the legitimacy of public debt futures. The ensuing series of trials, reaching all the way to France's high court, pit aristocratic honor against capitalistic debts and a moralized reading of property against an affirmative defense of financial speculation. The outcome revealed the ambivalent stance of the Restoration state regarding a rapidly maturing form of financial capitalism.

The fifth and final chapter, "Settling Accounts: The *Émigré* Indemnity and Financing Citizenship in Restoration France," focuses on the *émigré* indemnity of 1824-1825. Many had fled France during the Revolution, and much property had been expropriated. The *émigrés* eventually returned to France, but their former property remained in other hands – indeed, title to these properties had in some cases circulated quite widely. The legitimacy of the post-revolutionary property settlement therefore remained contested, an open social wound. Arch-conservative Finance Minister Villèle proposed to heal this wound through an indemnity to

qualifying *émigrés*, funded by issuing a new security in public debt, the 3% *rente*, while simultaneously writing down a substantial portion of the extant 5% *rente*. The outcry from existing bondholders was swift, taking the form of moralized accounts of financial matters. I argue that the debates over and eventual resolution of the *émigré* indemnity reveal a "financialized" aspect of citizenship in the post-revolutionary state, in which public debts placed mutual obligations upon both state and citizen.

Jouhaud concluded his overview of nineteenth-century France with a mordant view of the Paris Stock Exchange. This dissertation argues that by critically examining the Paris Stock Exchange, we can begin to have a more complete grasp on the nature of post-revolutionary financial capitalism.

Republicanized Debts and Lord Despotism: The Consolidation of the *Rente Perpétuelle* and the Form of a Revolutionary Public Debt

> "To many minds, public credit and loans are nothing other than a means to spend more than the resources of a country permit, and for a government to do the same thing as self-destructive individuals. It is true that the way in which public credit was used, up to our days, has authorized these prejudices too much; and, indeed, as we always borrowed and never repaid, we were moving, more or less promptly, towards a state of affairs that only bankruptcy could clear up. But, in deploring the abuse our fathers made of public credit, we must also recognize that this experience has not been completely lost for us, and that, from the point of view of loans, and for our children, we are in a more equitable situation than our fathers had been in our regard."[1]
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> - Agapit Vandermarcq, *Du crédit public et du remboursement de la rente cinq pour cent* (1836)

Agapit Vandermarcq knew whereof he spoke. A long-serving stockbroker at the Paris Stock Exchange, he had also spent time serving as the syndic for the *Chambre syndicale* of the *Compagnie des Agents de Change de Paris*, the Paris stockbrokers' state-sanctioned professional association.[2] Having thus been tasked with overseeing the administrative duties of the *Compagnie* and with representing it to governmental ministries and bodies, Vandermarcq was intimately familiar with the sinuous particularities of credit and debt at the Exchange. And as he saw it, the nineteenth century stood in a critically different relationship to public credit than had earlier times. Previous regimes had irresponsibly outrun their resources, had let spending grow unchecked and unrestrained, had acted, in the end, like so many profligate private individuals, rushing heedless and headlong into financial ruin. But public credit, as Vandermarcq allusively suggested, need not lead down an unswerving path to bankruptcy and ruin. The financial sins of the fathers need not necessarily be visited upon the sons. Public credit in the new century had been put on new footing.

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[1] Agapit Vandermarcq, *Du crédit public et du remboursement de la rente cinq pour cent* (Paris: Adolphe Éverat, 1836), 3-4.

[2] Maurice Gontard, *La Bourse de Paris (1800-1830)* (Aix-en-Provence: Édisud, 2000), 281.

In its most basic form, public credit measured the ability of states to borrow. Strong public credit generally meant that a government could convince creditors to extend loans at low interest rates. Weak credit correspondingly meant that the state would have to offer high rates of interest, in order for public debt to appear as a viable vehicle for investment. But, fused with such economic considerations, this credit-debt relationship also served as a measurement of civic opinion of the state. Debt demands payments of some kind, lest the debtor fall into bankruptcy or default, consequently driving away future creditors. Which is to say, public credit was thus also an index of a state's ability to remain faithful to its obligations, of its willingness to justify the faith of creditors, of its desire to keep its word. A state with poor public credit was a regime whose citizens could not trust it to maintain its promises. Public credit was therefore a financial relationship with political consequences.

If public credit thus constituted a relationship of debt and trust between a state and its governed, then there might seem to exist a broad continuity across a very long span of time. For, at first blush, there would seem to be very little separating the practices of public debt in the nineteenth century from those before. Certainly, public debt was not invented in the nineteenth century, as previous regimes had also contracted debts to finance various state activities.[3] And public debt, in the Old Regime and in the new, frequently became the subject of speculative manias and sophisticated financial maneuvering.[4] Why then would someone such as

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[3] Most emblematic of these activities was debt-financed war. As James C. Riley writes, "In France every war brought additions to the debt because every war demanded more expenditures than could be raised from existing taxes plus the new levies that were politically feasible." Indeed, the martial functions of the French state were the primary drivers of the growth of public debt. Though beginning as early as the sixteenth century, this process grew dramatically during in the eighteenth." See James C. Riley, *The Seven Years War and the Old Regime in France: The Economic and Financial Toll* (Princeton: Princeton University Press, 1986), 132. On the nature of the "fiscal-military state," see Introduction.

[4] George V. Taylor, "The Paris Bourse on the Eve of Revolution, 1781-1789," *The American Historical Review*, vol. 67, no. 4 (1962), 951-977; Robert Darnton, "The Pursuit of Profit: Rousseauism on the Bourse," *George*

Vandermarcq, certainly no stranger to the operations of public debt and cognizant of this financial past, then argue for such a shift in the nature of public credit in his day? He was not claiming that nineteenth-century governments were simply better or more skilled at working the same financial machinery. Rather, there was something qualitatively different about the contemporary practices of public credit.

Vandermarcq focused on institutional renovation in particular, such as open and orderly budgeting procedures, and the creation of the *Caisse d'amortissement*, or Sinking Fund, which attempted to pay down the public debt gradually. But subtending this institutional reconfiguration of the organs of public finance, indeed making such reconfiguration possible in the first place, was a transformation in the form of the public debt itself. The long-term French public debt generally took the form of a *rente* contract.[5] Similar to an annuity, the *rente* conferred the rights to a future stream of payments, calculated against an initial alienation of capital.[6] *Rentes* accounted for 70% of the public debt by 1788,[7] remaining the dominant form of state borrowing into the nineteenth century and beyond. This form of borrowing would, at first, seem to betoken continuity rather than change in public debt. After all, the existence of *rentes* stretches back into the Middle Ages, just as it stretches forward into the twentieth century. However, this exterior similarity in fact masked substantial changes in the nature of the *rente*.

Washington's False Teeth: An Unconventional Guide to the Eighteenth Century (New York: W.W. Norton, 2003), 137-155.

[5] Public debt therefore actually followed an opposite trajectory from private debt, which, mainly owing to the lifting of the ban on usury during the Revolution, largely abandoned the *rente* form in favor of the shorter-term obligation. This latter form permitted lenders to stipulate rates of interest explicitly, as well as allowed them greater control over the terms of repayment. See Philip T. Hoffman, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, *Priceless Markets: The Political Economy of Credit in Paris, 1660-1870* (Chicago: University of Chicago Press, 2000), 230-231. My thanks to Erika Vause for drawing my attention to this distinction.

[6] Spang, *Stuff and Money*, 20-22. Spang notes that the *rente* was in fact a kind of "disguised loan contract," as the creditor technically did not loan money to the state nor receive interest payments, but rather purchased the rights to a future income stream, thereby avoiding any potential charges of usury.

[7] François Crouzet, *La grande inflation: la monnaie en France de Louis XVI à Napoléon* (Paris: Fayard, 1993), 67.

While it did bear a genealogical relation to older forms of finance under the same name, the meaning of the *rente* had changed to the degree that it marked a qualitative shift in the character of the public debt.

Two major transformations characterized the arc of the *rente*. First was a shift in the time-horizon of the *rente*. In fact, there were two main types of public debt in question: *rente viagère* and *rente perpétuelle*. The former returned regular payments to a particular person or persons for the duration of one or several lifetimes; with the death of the designated person or persons, the *rente* ceased payment. By contrast, the *rente perpétuelle*, as the name implies, could potentially last indefinitely.[8] Beginning during the mid-eighteenth century and accelerating in the years leading up to the Revolution, it was the *rente viagère* that mostly attracted financial attention. But by and through the Revolution, the *rente perpétuelle* replaced it as the dominant vehicle for public debt. This transformation is emblematized by the creation of the *Grand-Livre de la Dette publique* in 1793. An immense centralization and rationalization of the state's finances, the *Grand-Livre* made public debt substantially more predictable, discoverable, and unified. The other significant change to be examined will be the so-called "Bankruptcy of the Two-Thirds" in 1797. Effectively a partial default on a massive portion of the public debt, this move incited angry public outcry, in the process creating the benchmark security that would dominate the Exchange for decades to come.

Pressing financial concerns did weigh heavily upon policy-makers in both cases, providing crucial impetus for institutional change. At the same time, both the establishment of the *Grand-Livre* and the Bankruptcy of the Two-Thirds were not simply rhetorical cover for

[8] Indeed, one particular *rente perpétuelle* has lasted well over 200 years, though its current returns, at about 1.20 euros per year, are somewhat less than inspiring. See François R. Velde, "The Case of the Undying Debt," Federal Reserve Bank of Chicago Working Paper Series (2009).

reducing the state's financial burdens. In both cases, the form of the *rente perpétuelle* was molded to reflect that of the political community – or at least its ideals – whose credit it measured: rational, transparent, and unified. Such an isomorphism between financial form and political form was a product of the Revolution. By Vandermarcq's time in the nineteenth century, the canonical vehicle for public debt had therefore emerged as nominally the same, but structurally different.

The project of the *Grand-Livre* was to place the public debt on new and newly Revolutionary footing; the Bankruptcy of the Two-Thirds appeared to reveal that footing as precarious at best. But at the same time, this Bankruptcy was not, or not only, a return to previous instances of default and repudiation; and neither was it a rejection of the aims of the *Grand-Livre*. The adoption of the *Grand-Livre* and the Bankruptcy of the Two-Thirds were two moments of the same process. In both, through both, the public debt, the *rente perpétuelle*, had become republicanized.

Outline of the Early History of the *Rente*

State borrowing was not a recent invention, with the roots of the public debt stretching back into the medieval era.[9] To avoid any such loans, incoming revenue would have to be in perfect harmony with expenditures, an unlikely event given the difficulty of securing revenue streams and the variable nature of outlays. This harmony would be especially problematic in light of the substantial time dimension involved in state affairs, given the fact that governmental activities or projects frequently stretched across multiple cycles of tax and revenue collection, as

[9] Alfred Joubert, *Les finances de la France. La rente et l'impôt, leur origine — leur histoire* (Paris: Chaix, 1893), 4.

well as the inherent unpredictability of future events. Public debt thus filled this persistent gap between monetary inflows and outflows.

But if the mere fact that public debt is such an old phenomenon does not necessarily shock, the specific form that that debt took does nonetheless bear inquiry. For though there were other forms of government borrowing – short-term loans, lotteries, and forced loans, for example – the *rente* specifically evolved as a crucial arm of state finance, eventually becoming, by the eighteenth century, the predominant form of public debt. A look at its early beginnings and development will thus foreground the later changes the *rente* underwent.

In Antiquity, potential shortfalls in revenue were made up for by building up pre-existing stores of treasure, specially levied taxes, or coercive interventions in the economy. But given the nature of medieval governments, such avenues were not always available.[10] Thus, public debt arose largely as a way to continue to manage the discrepancies between revenues and expenditures. However, the use of public debt did appear to clash with the prohibition on usury.[11] In order to make public debt attractive to creditors, the state would have to offer some reasonable rate of interest on the loaned capital, which was precisely what was forbidden by anti-usury prohibitions. The *rente* developed as a way to circumvent such a ban.[12] The *rente* was based upon a largely monastic practice of giving an annual payment to someone, in exchange for the

[10] Earl J. Hamilton, "The Origin and Growth of the National Debt in Western Europe," *American Economic Review*, vol. 37, no. 2 (1947), 118. See also J.M. Gorges, *La dette publique. Histoire de la rente française* (Paris: Guillaumin, 1884), 12-14.

[11] Opinions differ on the real efficacy of the ban on usury. Charles Kindleberger, for instance, does not seem to believe it held much true sway in the economic realm, claiming that usury "belongs less to economic history than to the history of ideas, since it neither stopped usurers nor shackled economic advance." By contrast, John H. Munro points to several studies that suggest that the fear of usury did have significant economic effects, in terms of the development of bookkeeping and the permissibility of charging interest. See Charles P. Kindleberger, *A Financial History of Western Europe* (Boston: George Allen & Unwin, 1984), 41; John H. Munro, "The Medieval Origins of the Financial Revolution: Usury, *Rentes*, and Negotiability," *The International History Review*, vol. 25, no. 3 (2003), 513.

[12] Munro, "The Medieval Origins of the Financial Revolution," 518.

use of land. This annual payment, usually lasting for life, was furthermore taken to be fundamentally of a piece with the productive capacity of the land granted.[13] Thus the *rente*, in terms of an annuity or debt vehicle, did maintain a kind of link to a rent as payment for use of property. The "interest payments" on the *rente* were thereby analogized to the products of the property, ostensibly wiping away any possible taint of usury. Moreover, this conception of the *rente* came to receive theological validation, in a series of fifteenth-century papal bulls. Most notably, the theological consensus came to view the *rente* as legitimate and non-usurious, so long as it was in some way tied to actual, physical property.[14]

However legitimate the *rentes* may have been by the Middle Ages, they were still largely the province of individual cities. It was not until the sixteenth century that public debt at the general level of the state came to be a reliably administered phenomenon. In 1522, François I borrowed a sum of 200,000 livres tournois, paying interest at an annual rate of 12 ½%, in order to fund his military adventures; the resulting debt issue was labeled *rentes sur l'Hôtel de ville de Paris*.[15] On one level, this development may seem to be in much the same vein as previous kinds of municipal *rente*. François I relied upon the city of Paris precisely because municipal credit was held to be stronger and more reliable, thus demanding less onerous interest rates than would the king in direct negotiation with lenders.[16] But, despite these similarities, François I's venture does represent a qualitative shift in the state's relation to public debt. As Paul Cauwès wrote, "These *rentes* were thus the application of a completely new form of credit [...] Vigilant guardian of the interests of the *rentiers*, the city discussed the offered wages or demanded others, assured

[13] Ibid., 518. Munro notes that at first, this annual payment did take the form of actual physical products such as wheat or olive oil, only later taking the form of money.
[14] Ibid., 521-524.
[15] Joubert, 103-104.
[16] A. Vührer, *Histoire de la dette publique en France*, vol. 1 (Paris: Berger-Levrault, 1886), 14-15.

the service of the arrears, employed the capital gains towards amortization. A new era truly began in 1522, though old mistakes were not abandoned; such is almost always the case in historical evolution."[17] The public debt of the state thus emerged through the intermediary of the city. And while the funds went to endeavors of the sovereign, rather than those of the municipality, the actual administration of the debt was kept separate, tended to by a set of city magistrates.[18] Thus, in contracting with the city of Paris, François I was able to rely upon its stronger credit, while also regularizing the operations of the state's public debt. Of course, this is not to say that, from that date forward, all public debt took the form of punctiliously managed *rentes*.[19] Nor is it to say that French public debt suddenly became risk-free.[20] But François I's step in 1522 did set the course for the future development of the *rente*, by combining an older debt form with a more systematic approach to its circulation, in the name of the state in general.

French public finance did not cease to develop after 1522, as various forms of finance and debt instruments continued to be generated.[21] These instruments could encompass forms of indirect borrowing, such as the sale of venal office or borrowing through provincial Estates,[22] as well as short-term debt or direct loans from lenders.[23] But, crucially, the contours of the long-

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[17] Paul Cauwès, "Les commencements du crédit public en France: les rentes sur l'Hôtel de ville au XVIe siècle," *Revue d'économie politique*, IX-X (1895-1896), 100-101.
[18] Vührer, *Histoire de la dette publique*, 18-19.
[19] Cauwès notes that the crown still did employ debt instruments such as forced loans, short-term debt, direct loans from banks, among other forms. See Cauwès, "Les commencements," 101. But probably the most well-known alternative form of borrowing was the selling of venal offices. See Stasavage, *Public Debt and the Birth of the Democratic State*, 66-67.
[20] Far from it, in fact. The French crown defaulted at least in part on its debt in 1559, 1598, 1634, 1648, 1661, 1716, 1722, 1759, 1770, and 1788. See Gail Bossenga, "Financial Origins of the French Revolution," in Thomas E. Kaiser and Dale K. Van Kley, eds., *From Deficit to Deluge: The Origins of the French Revolution* (Stanford: Stanford University Press, 2011), 38. See also François R. Velde and David R. Weir, "The Financial Market and Government Debt Policy in France, 1746-1793," *The Journal of Economic History*, vol. 52, no. 1 (1992), 6.
[21] François R. Velde, "French Public Finance between 1683 and 1726," in Fausto Piola Caselli, ed. *Government Debts and Financial Markets in Europe* (London: Pickering & Chatto, 2008), 135.
[22] Stasavage, *Public Debt and the Birth of the Democratic State*, 89-90. On venality, see William Doyle, *Venality: The Sale of Office in Eighteenth-Century France* (New York: Clarendon Press, 1996).
[23] Cauwès, "Les commencements," 101.

term debt in France had largely been shaped with François I's reforms, with long-term borrowing almost entirely mediated through municipal governments, particularly the Hôtel de Ville de Paris[24] And "long-term borrowing" in this sense referred to the *rente*.[25]

Rather than a series of disconnected municipal loans, the growth of long-term public debt should be viewed as a broad collection of debt instruments, organized under a particular form. The *rente*, which had first emerged as a largely municipal debt measure, rooted in the productive nature of property, came to be assimilated to the fortunes of the state in general.

Eighteenth-Century Developments

The long-term borrowing established by François I had in fact been *rentes perpétuelles*. But after middle of the eighteenth century, it was the *rente viagère* that came to dominate the realm of public debt, with this *rente* form constituting the largest share of the debt by 1789.[26] This shift in financial form, in turn, set the stage for later Revolutionary transformations.

Before this ascendancy, however, two important preliminary developments had to occur. First was the development of the tontine, a form of debt obligation that in fact packaged several *rentes viagères* into one instrument.[27] The active trade in tontines presaged the subsequent rise of *rentes viagères*. The other major development was the rise and fall of John Law and his financial

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[24] J.F. Bosher, *French Finances, 1770-1795: From Business to Bureaucracy* (Cambridge: Cambridge University Press, 1970), 6.
[25] Bosher elaborates on this subject: "The city turned the capital investments over to the Crown and in return took certain royal tax revenues assigned to the Paris Receiver General so that he could pay the rentes. In these arrangements, the Crown was relying on the business management of the Hôtel de Ville as well as its credit." See Bosher, *French Finances*, 6.
[26] Velde and Weir, "The Financial Market and Government Debt Policy in France," 3.
[27] As David Weir claims, "The life annuities (*rentes viagères*) that emerged both as a major component of French debt by 1789 and a highly controversial issue in Revolutionary politics can be seen as a logical continuation of policies begun with the tontines." See David R. Weir, "Tontines, Public Finance, and Revolution in France and England, 1688-1789," *The Journal of Economic History*, vol. 49, no. 1 (1989), 97.

System. These developments canalized the form and scope the *rente* would take, heading forward into the revolution and the further transformations that lay therein.

The tontine contract antedated the rise of the *rente viagère* in public debt, with the first state tontine being issued in 1689,[28] while the first stand-alone public *rente viagère* was offered in 1693.[29] The tontine was in fact a debt instrument consisting of several *rentes viagères* packaged together. In essence, through a tontine several people, usually of broadly similar ages, alienated capital to the state, in return for a fixed stream of payments. The difference with a standard *rente* contract, however, was that upon the death of any individual nominee in the tontine, that person's share of the payments was partitioned amongst the survivors.[30] Despite the definitive alienation of capital, the tontine was often quite remunerative for the nominees, particularly the last survivors. Given this potential windfall at the cost of the state, why then offer the tontine? Two reasons emerge. According to one historian, projecting the cost of the debt is actually easier for the tontine than for the *rente viagère*. The latter requires sophisticated actuarial knowledge, errors or inaccuracies in which can potentially add many costly years of payment to the annuity. By contrast, given the demographic grouping and high number of nominees in a tontine, the age of death of the nominees will tend to converge on an identifiable average number.[31] In addition, likely given their generous interest rates, the tontines were rapidly subscribed, quickly providing short-term capital to the state.[32] The tontine, in fact, became a victim of its success. Due to its expense to the state, no new tontines were offered after 1763, and

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[28] Ibid., 96. The idea for the tontine in fact goes back even further, to 1652, when Italian banker Lorenzo Tonti, from whom the name is drawn, first suggested the idea to Cardinal Mazarin. See Weir, "Tontines," 102.
[29] Vührer, *Histoire de la dette publique*, 120.
[30] Ibid., 73. See also Weir, "Tontines," 96.
[31] Weir, "Tontines," 112.
[32] Ibid., 124. Weir calculates the rate of return on the tontines at over 7%. See Ibid., 120.

in 1770, all remaining issue was converted into *rentes viagères*.[33] But the experiment in tontines prefigured the rise in trade of *rentes viagères* at the Exchange. And with the conversion into *rentes viagères* in 1770, the market in *rentes* was further expanded by a pre-existing investor class.

The other preparatory step to the rise of the *rente viagère* in the eighteenth century was the rise and fall of John Law and his System. The tale of this interlude is complex, involving the establishment of a royal bank, the issuance of paper money, the reform in royal debt and wider credit system as a whole, colonial enterprise, and feverish bouts of speculative activity.[34] Though complete treatment of Law is beyond the reach of this dissertation, two major points should nonetheless be addressed. First is that despite the heated trading in stock that accompanied this period, there was a curious lack of formal housing for the activity. Traders were herded into the "sinuous and extremely narrow rue Quincampoix," with the many financial transactions taking place on the street and in cramped quarters; a hunchback would, it was said, also rent out his hump as a lucky place on which to sign contracts.[35] This is significant insofar as the sheer human density in such a confined space rendered oversight difficult, creating conditions that tended to favor frenzied speculation. The second major point is Law's approach to the public debt. In essence, Law displaced the debt onto the active market in stock, in the process transforming

[33] Ibid., 121. Ironically, the *rentes viagères* were hardly less burdensome on state expenses. See Weir, 122.
[34] Crowston, *Credit, Fashion, Sex*, 71-78. Crowston also notes the role of the System of Law in the colonial slave trade. On the System of Law, see also Antoin E. Murphy, *John Law: Economic Theorist and Policy Maker* (Oxford: Clarendon Press, 1997); Rebecca L. Spang, "The Ghost of Law: Speculating on Money, Memory and Mississippi in the French Constituent Assembly," *Historical Reflections/Réflexions Historiques*, vol. 31, no. 1 (2005), 3-25; Thomas E. Kaiser, "Money, Despotism, and Public Opinion in Early Eighteenth-Century France: John Law and the Debate on Royal Credit," *The Journal of Modern History*, vol. 63, no. 1 (1991), 1-28.
[35] Murphy, *John Law*, 205. To my knowledge, no one has studied whether there was, in fact, any correlation between hunchback-endorsed contracts and higher rates of return.

royal debt into equity.[36] This is notable both for the grand centralization of public finance it attempted to accomplish, as well as the change in form of the debt; the System of Law in that sense was not entirely dissimilar from later Revolutionary reforms, at least insofar as it aimed at centralization, rationalization, and transformation of the debt. However, equity in the Mississippi Company was not, strictly speaking, a form of loan (hidden though it may be) like the *rente*; rather, it was, ostensibly, a kind of ownership stake. However bold it may have been, this experiment in finance would not last long, as the System of Law was, in the end, also notable for its spectacular collapse; arriving in France in 1714, Law would flee the country, penniless, in late 1721.[37] And indeed, the state would soon revert to its old ways, re-establishing much of the public debt once again in the form of the *rente*.[38]

The System of Law and its collapse helped set the stage for the dynamic growth of the Paris Stock Exchange and the ascendancy of the *rente viagère*. In fact, Paris was something of a latecomer in constructing a formal Exchange; as early as 1549, Lyon, Anvers, and Toulouse had all either built or begun construction on their own Exchanges.[39] It was not until 1724 that Paris Exchange was officially established. The scars of the chaotic trading scheme of Law were evident in the royal edict creating the Exchange: "The King, having been made aware of the manner in which are made in Paris negotiations of bills of exchange and promissory notes, and

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[36] Ibid., 200. As Antoin Murphy writes, "Law had only one plan, the conversion of government debt into shares of the Mississippi Company." François Velde also refers to this process as the establishment of "government equity." See Velde, "French public finance," 151.
[37] Crowston, *Credit, Fashion, Sex*, 73-76.
[38] Marcel Marion, *Histoire financière de la France Depuis 1715*, vol. 1 (Paris: Librairie nouvelle de droit et de jurisprudence, 1914), 111-112.
[39] "Edit portant construction d'une Bourse à Toulouse, juillet 1549," *Manuel des Agents de Change, banque, finance et commerce, contenant les lois, règlements et actes officiels qui régissent et intéressent l'exercice de leurs fonctions, spécialement en ce qui concerne l'institution de ces officiers publics, leurs attributions et obligations, la transmission et la négociation des effets publics et des valeurs mobilières, la dette publique, la Banque de France, la Caisse des dépots et consignations, les Caisses d'épargne, les sociétés, etc., 1304-1893* (Paris: Arthur Rousseau, 1893), 6.

that it would be advantageous not only for commerce, but further very necessary to maintain good faith and proper security, establishes in the city of Paris a place where traders [*négocians*] may be assembled every day at a certain time..."[40] In order to safeguard the proper order of commerce, in order to establish reliability and security in economic transactions, a definite time and place was required, one established by legal authority and subject to careful oversight. By the first quarter of the eighteenth century, the physical location of Paris's financial markets had thus been centralized.

It would take, however, until midcentury for the Exchange as a truly financial market to take off. Activity at the Exchange, moreover, increased substantially after the publication of actuarial tables in 1783.[41] Charts detailing complex demographic data, including mortality rates, the publication of these tables enabled far greater precision in determining who was or was not a potentially lucrative nominee for a *rente viagère*. Indeed, the advances in actuarial science and the increasingly rapid circulation of the *rente viagère* at the Exchange also gave rise to sophisticated speculation plans by investors. Perhaps most famous of these were the so-called "Desmoiselles of Geneva." Swiss bankers investigated a number of very young girls in Geneva who were predicted to enjoy quite lengthy lifespans. Taking out *rentes viagères* on each, these *rentes* were then packaged together, with partial shares being sold and circulated at the

[40] "24 sept 1724, Arrest du conseil d'estat portant establissment d'une bourse dans la ville de Paris, pour les négociations de lettres de change, billets au porteur et à ordre, et autres papiers commerçables, et des marchandises et effets; et pour y traiter des affaires de commerce, tant de l'intérieur que de l'extérieur du royaume," *Manuel des Agents de Change, banque, finance et commerce, contenant les lois, règlements et actes officiels qui régissent et intéressent l'exercice de leurs fonctions, spécialement en ce qui concerne l'institution de ces officiers publics, leurs attributions et obligations, la transmission et la négociation des effets publics et des valeurs mobilières, la dette publique, la Banque de France, la Caisse des dépots et consignations, les Caisses d'épargne, les sociétés, etc., 1304-1893* (Paris: Arthur Rousseau, 1893), 60-61.
[41] Taylor, "The Paris Bourse," 960.

Exchange.[42] Since the aggregated interest payments for these *rentes* would eventually far outstrip the initial alienated capital, they wound up constituting quite remunerative investments. Indeed, the consensus on the *rente viagère* seems to be that they were, in the end, financially disastrous for the state, but quite popular with investors.[43] Indeed, between 1777 and 1788, the *rente viagère* accounted for over 60% of total public loans.[44]

What is less clear is why the state itself consistently displayed a preference for the *rente viagère*, especially when the *rente perpétuelle* did already exist. After all, the *rente perpétuelle* typically carried a lower rate of interest, making it less onerous for the state in the final analysis. Indeed, it was precisely this lower interest rate that tended to lead the *rente perpétuelle* into disfavor. The *rente perpétuelle* had been historically constrained to offer rates of interest not greater than 5 percent.[45] However, given the state's recurrent financial shortfalls, such a comparatively low rate was largely insufficient to excite lender demand, especially when measured against the risk of state default. By contrast, the *rente viagère* typically offered significantly higher rates of interest, particularly as it evolved out of the tontine, which itself bore high interest rates. Moreover, after 1776 the state began offering a flat 10 percent interest rate on the single-designee *rente viagère*.[46] In essence, this was tantamount to a sacrifice of long-term viability in order to preserve short-term projects. In other words, by favoring the *rente viagère*,

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[42] See Weir, "Tontines," 122. See also Herbert Lüthy, *La banque protestante en France de la révocation de l'edit de Nantes à la Révolution*, vol. 2 (Paris: SEVPEN, 1961); Spang, *Stuff and Money*, 19-31.
[43] See Weir and Velde, "The Financial Market and Government Debt Policy in France," 35-36. Through econometric analysis, they wind up confirming the "historical consensus" that the state's debt policy during the second half of the eighteenth century was ultimately to its own expense, insofar as unsustainably high interest rates due to default risk seemed to be structurally inescapable.
[44] Taylor, "The Paris Bourse," 963.
[45] Weir, "Tontines," 120. See also Riley, *The Seven Years War*, 170.
[46] Weir, "Tontines," 122. The French government scheduled the interest rates for the *rentes viagères* as follows: 10% for a *rente* on one designee, 9% or 8½% for a *rente* on two designees, and 8% for a *rente* on three or four designees. Since these *rentes* were not especially calibrated to the lifespans of the designees, this form of public debt could be expensive indeed for the state. See Taylor, "The Paris Bourse," 961.

the state immediately took in needed capital, but with the spectre of debt service, of heavy payments to its creditors, looming ahead.

If the *rente* had its roots in the medieval era, it was the eighteenth century that saw the *rente* become firmly entrenched in the core of public debt, as it developed out of the tontine and eventually became centralized at the Exchange after the fall of Law. And it was the specific variant of the *rente viagère* that, by the onset of the Revolution, had become the signal element in that debt. The definitive shift from *rente viagère* to *rente perpétuelle* would be one of the signature transformations to follow in revolution's wake.

Revolutionary Transformations

"Nothing more bizarre," financial historian Vührer wrote, "more ill-assorted, and more incoherent than the regime under which the public debt was placed before the Revolution. It was a science, as Cambon observed, to know and classify the multiple elements of this debt, or more precisely of these debts."[47] The welter of debt obligations facing the Revolutionary state was daunting. Even the ascendancy of the *rente viagère* had not simplified the state's finances, since the actual administration of the debt, the processes of calculating its value, sorting through the various institutions with claims over the debt, and sending out payments, was byzantine in the extreme.[48] Indeed, such an undertaking approached the level of "science," with accurate and

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[47] Vührer, *Histoire de la dette publique*, 356.

[48] Vührer succinctly summed up the tangled state of Old Regime debt administration: "There were debts established on the most diverse *deniers*, from *denier* 100 to *denier* 16. Some were subject to a withholding of a fifth of the revenue, other of a tenth, still others to fifteenth, to two sous per livre, etc., without any of these anomalies and inequalities being justified. *Rentes* of the same origin, issued by virtue of the same edict, were spread across twenty or thirty payers; some were payable at the *Caisses des fermiers et régisseurs* of various public revenues, others at the *Caisse d'amortissement*, still others at the *Caisse des arrérages*. Some were reimbursable for an indeterminate term, others for a fixed term and by lot." See Vührer, *Histoire de la dette publique*, 356.

reliable financial information requiring extensive knowledge of multiple and abstruse elements, of the extensive number of different phenomena that were ostensibly meant to be grouped under one shared concept. This multiplicity, in turn, imposed severe costs on grasping the state of the debt and managing it effectively; if acquiring correct knowledge of the debt alone required a high degree of scientific skill, then actually trying to ameliorate the state's finances would surely be at least as arduous.

Managing the state's finances had concerned the revolutionaries since the initial stages of the Revolution.[49] Indeed, this concern over honoring Old Regime debts in the new Revolutionary state spurred the creation of the *assignat*, first as a kind of "bookkeeping tool," then later, and more dramatically, as a kind of money.[50] But in addition to addressing financial problems through monetary means, the Revolutionary state also attempted to renovate the form of the public debt, through a dual consolidation in regards to the *rente*. First was the 1793 creation of the *Grand-Livre de la Dette publique* by the Convention. Eloquently proposed by Pierre-Joseph Cambon, president of the Finance Committee, the establishment of the *Grand-Livre* constituted a massive centralization and rationalization of the state's finances, concentrating the previously diasporic debt in a single place and marking a permanent shift from the *rente viagère* to the *rente perpétuelle* as the primary mode of public credit. In turn, this move effectively wrote down a good portion of the state's debts, reducing annual interest payments to approximately 175 million

[49] Spang, *Stuff and Money*, 57-96. Indeed, the precarious nature of the Old Regime state's finances played a crucial role in the crisis that precipitated the Revolution in the first place. See Bossenga, "Financial Origins"; Kathryn Norberg, "The French Fiscal Crisis of 1788 and the Financial Origins of the Revolution of 1789," in Philip T. Hoffman and Kathryn Norberg, eds., *Fiscal Crises, Liberty, and Representative Government, 1450-1789* (Stanford: Stanford University Press, 1994), 253-298.
[50] Spang, *Stuff and Money*, 69.

livres.[51] But beyond a practical cost-saving measure, Cambon's proposal was rooted in the desire to render finance unified, transparent, and republican. The creation of the *Grand-Livre* was a financial move that turned on political questions.

Cambon's step should be paired with the other consolidation of the *rente*, this time undertaken by the Directory. Called the Bankruptcy of the Two-Thirds, in 1797 the state again restructured its public debt, reducing the total interest payments to just a third of their previous value.[52] Due to the manner in which the discharged portion of the debt was reimbursed, this effectively wiped out two-thirds of the value of the extant debt, thereby constituting a kind of state bankruptcy. But, as with Cambon's reform, this evidently financial move was also indicative of deeper intellectual transformations in the nature of the *rente*. The treatment of the debt had become an emblem of the regime, with the *de facto* bankruptcy thereby representing a severing of the *rente* with its past. The consolidation of the *rente*, in other words, was an attempt to disencumber the public debt form of past obligations, past mismanagement, past history. Such a move was not without controversy; in the terms of one historian, this action rendered the debt inherently "political."[53] The public debt was political in at least two senses: as an object of contestation, but also as a kind of financialized idealization of the Revolutionary political community. The establishment of the *Grand-Livre* and the Bankruptcy of the Two-Thirds were two connected steps in creating a republicanized form of the public debt.

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[51] Eugene N. White, "The French Revolution and the Politics of Government Finance, 1770-1815," *The Journal of Economic History*, vol. 55, no. 2 (1995), 243. For contrast, White notes, in 1788 annual debt servicing costs were as high as 300 million livres.
[52] Ibid., 248.
[53] Denis Woronoff, *The Thermidorean regime and the Directory, 1794-1799*, trans. Julian Jackson (New York: Cambridge University Press, 1984), 95. Woronoff specifically claims that "This act of financial arbitrariness generated bitterness and hardship. The debt had not been eliminated, it had been displaced; it became political."

Cambon had observed as early as 23 September 1792 that the public debt appeared to demand substantial reform.[54] But it would be just under a year later, in a session of the Convention dating to 15 August 1793, that he would propose his sweeping reforms of the public debt. He did so as the Convention government, already controlled by the radical wing of the Jacobins, was quickly transforming into the Terror regime. Indeed, his speech came as part of the development of an "economic terror," in which unregulated market transactions were frequently perceived as political transgressions, to be punished by harsh legal sanction: Cambon's August speech was preceded by controls in the grain trade enacted in May 1793, and followed by the "General Maximum" in September 1793, which set price controls on all goods deemed "necessary."[55] Cambon's report thus emerged in a context in which the nature of the economy and the nature of the political community were seen to be increasingly fused.

Speaking in the name of the Finance Committee, Cambon embarked on a lengthy defense not just of bringing the state's finances in line, but of renovating the form of public debt in general. He began by maintaining the republic's commitment to honoring the debt, despite the growing crises facing the state, and despite the fact that this was a "debt contracted by despotism."[56] According to Cambon, the financial legacy of this despotism was a quagmire of institutional overlap, bureaucratic delay, and purposefully clandestine management; there were

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[54] Pierre Joseph Cambon, 23 September 1792, *Archives Parlementaire de 1787 à 1860. Recueil complet des débat législatifs et politiques des chambres françaises*, vol. 52 (Paris: Paul Dupont, 1897), 105.

[55] Spang, *Stuff and Money*, 206-207.

[56] Pierre-Joseph Cambon, "Rapport sur la dette publique, sur les moyens à employer pour l'enregistrer sur un grand livre et la consolider; pour admettre la dette consolidée en paiement des domaines nationaux qui sont en vente; pour retirer et annuler les anciens titres de créance; pour accélérer la liquidation; pour régler le mode annuel de paiement de la dette consolidée dans les chefs-lieux de district, et pour retirer des assignats de la circulation; fait à la séance du 15 août 1793, l'an II de la République une et indivisible, au nom de la commission des finances," *Archives Parlementaire de 1787 à 1860. Recueil complet des débat législatifs et politiques des chambres françaises*, vol. 72 (Paris: Paul Dupont, 1907), 196. This commitment to honor the debt notably did not mean honoring the total value of the debt, as Cambon's reforms would significantly reduce the real value of creditor's assets

multiple provenances of the debt, with correspondingly multiple modes of payment, none of which followed clear and easily identifiable rules of administration. After a brief overview of the labyrinthine Old Regime system of debt, Cambon declared,

> You are probably stunned by this bizarre form of payment, which only serves to maintain old injustices, old abuses, to multiply to infinity the formalities in which all registrations and visa receipts are involved, and to embarrass accounting.
> The long nomenclature of various kinds of *rente* is no less stunning and has no other utility than to recall, in a shameful manner, the abuses of the Old Regime.[57]

The stunned amazement – born out of shock and reproof, no doubt – that the deputies must feel thus derived from the wildly variegated form of the debt. Indeed, what is key in this initial assessment is that Cambon was not arguing so much against the unwise financial logic of the Old Regime; he did not, therefore, condemn the kings, tyrants, despots, for borrowing too much too frequently at too high a rate, thereby casting France into penury.[58] It was the shameful multiplicity of the form of the debt that was the prime index of Old Regime corruption.

Faced with the wicked and wickedly numerous forms of debt, Cambon proceeded to lay out his prescriptions in brief:

> This order of things cannot subsist under a republican regime; we must not let the national debt rest on titles made by kings, and which continue to allocate the proceeds of the *aides* and *gabelles*, tobacco, and other indirect taxes that were suppressed.

[57] Cambon, "Rapport sur la dette publique," 197.

[58] To be sure, Cambon did acknowledge that many of the Old Regime debt practices were taken on unwise terms. Thus, he claims, "The proceeds of this debt were employed, in large part, for the expenses of the war in America; one thereby avoided creating extraordinary taxes, but recourse was had to loans at an interest calculated at 6 to 8% per year; it was announced that these must be reimbursed, through economies ceaselessly projected and never executed." Reflecting on such financial missteps, Cambon went on to claim, "It is perhaps to the existence of these loans that we owe the beginning of the Revolution." The poor credit of the Old Regime thus did not escape notice. But Cambon held back from deploying moralized language in this passage, with the abnormally high costs of the Old Regime debt largely described without scorn or moral revulsion. The terms of the debts were thus perhaps ill advised, and a precipitating cause of the Revolution; but the multiplicity of debt forms was the true location of corruption, serving no other purpose "than to recall, in a shameful manner, the abuses of the Old Regime." See ibid., 197-198.

> It is difficult to understand by what predilection such an establishment could have resisted the reforms of the Revolution; it is time to republicanize the debt: the nation which is commanded with discharging it must reunite all the titles under the same denomination.[59]

If the Convention remained committed to honoring the debts of the past, nonetheless that did not imply that those debt practices would continue unmodified; a new political form required a new form of debt appropriate to it. The debt was thus to become "republicanized." The deceit seemingly built into this financial form would have to be excised.

This reformulation of the debt, for Cambon, entailed two particular moves. First, he suggested radically changing the revenue streams that funded the debt. Previously, these had been based on unjust forms of taxation, the "*gabelles*, tobacco, and other indirect taxes," which had since been abolished. Such a change was of crucial importance, as in order to bear the costs of debt servicing, the debt had to be tied to some form of revenue collection. A republicanized debt would therefore have to rely upon a just and equitable financial basis. The other republicanization Cambon proposed was the general unification of the debt. By consolidating it in a single form, the new republic would, the argument went, necessarily escape the obfuscations and deceptions that had plagued the previous society's finances. The rest of Cambon's report involved the working out of these twin republicanizing propositions.

In reconfiguring the funding stream for the debt, Cambon sought both to bring an end to the financial distress of the republic and to establish a more equitable basis on which to place the debt. As he said before the Convention, "...I will present to you the views that your committee felt obliged to offer you to hasten the liquidation of this debt, to retire and annul the old debt titles of the Republic, to regulate the annual mode of payment in the districts, to clear the

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[59] Ibid., 197.

accounts of all pieces of the current embarrassment, to admit payment of the public in national lands [*domaines nationaux*] for sale, so as to expedite and facilitate their sale."[60] The solution to problem of public debt thus lay in the sale of the *domaines nationaux*, land that had been expropriated during the Revolution, from the clergy and *émigrés*. The sale of these assets was expected to pull in a substantial sum, estimated by Cambon to be as high as 1.5 billion livres.[61] Some of the funds from this sale would then be dedicated to paying the interest on the *rentes*. This, following Cambon's logic, would all be to the benefit of the republic's credit. He declared, "The advantage for creditors is no less certain. Before the Revolution, their debts rested on the misappropriations of the court, and with this wage, bankruptcy was inevitable; today, they may obtain their reimbursement in real property, or keep their inscription on the *Grand-Livre*."[62] Previous regimes had largely relied on burdensome indirect taxation to cover the debt, which, owing to the Old Regime's caprice and devious budgeting, led inevitably to bankruptcy, according to Cambon. By contrast, the newly established republic backed the debt with real property, with concrete assets.

Creditors could thus "keep their inscription on the *Grand-Livre*," continuing to receive an annual income. Or, for a time, they could in fact redeem their loan directly in the form of the *domaines nationaux*. Taking a hypothetical creditor for example, Cambon elaborated on this process:

> An owner of a debt, a *rente*, of a net product of 200 livres that was badly paid, and whose capital would never have been reimbursed, the creditor of an object submitted to liquidation, or for a bearer bill of 4,000 livres of capital, will be able to purchase a national home, from now until 1 January 1794, valued at 4,000 livres, and pay for it with his inscription on the *Grand-Livre*; if he prefers real or moveable property [*bien-fonds ou des meubles*] to be sold on behalf of the nation, he will be obligated to add to his inscription 4000 livres in *assignats*,

[60] Ibid., 200.
[61] Ibid., 213.
[62] Ibid., 212.

> for a total acquisition of 8,000 livres, in truth; if he purchases and pays only after 1 January, and until 1 July 1794, his inscription will only be counted for 3,600; finally, if he waits until between 1 July and 31 December 1794, the inscription will only count for 3,200 livres. After this period, the inscription will no longer be admitted in payment for national lands.[63]

So thoroughly did Cambon link the *rente* and the concept of property that public debt was, temporarily, directly convertible into real property. At the conceptual level, this move served to distance the bad old debt of previous regimes with the newly renovated, newly "republicanized" debt established by the Convention; though the new government did commit itself to honoring the obligations contracted by the Old Regime, those obligations had been changed in form, to be placed on more secure, more just foundations. More secure, because the *rente* was now based, literally, in concrete assets; more just, because those assets had been acquired in the name of the nation. Following the logic, even though the *domaines nationaux* stemmed from expropriation, they were nonetheless more moral than indirect taxation, since the latter was characterized by unjust exemptions, invidious privilege, and an inegalitarian nature, whereas the former was an admittedly coercive measure necessitated by exigent circumstances and carried out in the name of the public good.

At the practical level, Cambon had noted that his plan served the multiple purpose of discharging the state's debt and boosting the sales of the *domaines nationaux*, which would, in turn, capture more revenue for the state. Much of the debt involved in the reforms predated the Revolution, meaning that creditors had already parted with their capital. Making the *rente* fully convertible into property would thus accelerate the sale of the *domaines nationaux*, since financial transactions had become a matter of substituting one form for another, rather than taking the initial step on a new and potentially risky investment. Moreover, Cambon sought to

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[63] Ibid., 212.

stimulate purchase through the *rente* in combination with the *assignat*, which helps explain the scheduled decline in exchangeable value of inscriptions of *rente*. The faster creditors acted to buy *domaines nationaux* with both *rentes* and *assignats*, the higher total value they were able to obtain, making the purchase of the *domaines nationaux*, it was hoped, a thoroughly attractive investment.

Cambon's inclusion of the *assignat* in the convertibility of the *rente* was no accident. For one of the byproducts of Cambon's reforms to the *rente* would be to exert a higher degree of control over the circulation of the *assignat*. As he argued, "It remains for us to develop our views for you on how to retire the *assignat* from circulation: this measure, imperiously demanded by circumstance, merits our whole attention, since it must lead to the diminution in price of commodities and merchandise, and foil the measures of our enemies, who are waging a cruel war of finance against us, in discrediting the revolutionary currency that has put us in position to battle the royal coalition."[64] By taking in both *rentes* and *assignats* in exchange for the *domaines nationaux*, old debts could finally be taken off the books, and a substantial quantity of *assignats* could be taken out of circulation. The consequently diminished supply of *assignats* would, it was hoped, drive down prices. The reform in public debt was therefore also connected to monetary policy. But reforming the public debt, for Cambon, was also central to the overall health of the republic. The "cruel war of finance" waged by the republic's enemies was in that sense no less deadly than one fought by traditional arms, with fluctuating prices and unreliable revolutionary money serving to destabilize the republic. The reconfiguration of the *rente*'s basis around property aimed to counteract such troubling issues.

[64] Ibid., 209.

This proposal was not a financial move cloaked in republican ideology or a lucky coincidence between financial needs and the prevailing norms of justice. Rather, for Cambon, republicanizing the debt would place the state on surer financial footing, precisely because the newly reformed public debt would be constructed according to republican principles. Following the argument, the Old Regime perennially ran into financial problems because its system for funding the debt was unjust and therefore ineffective. But reconfiguring the *rente* around property in the form of the *domaines nationaux* would necessarily be a more effective way of managing the public debt; for how could the *rente* fail as an instrument of public investment, when it was backed by property seized under staunchly republican principles? Thus, Cambon asked, "What reproach could men of good faith make against us? Despotism left us debts and no money; the Revolution gave us land; we hasten to offer it in payment, despite the expenses that we are obliged to make."[65] Cambon here claimed to have escaped the financial nightmare of the Old Regime, of massive debts and minimal means to pay them off. Restructuring the *rente* around the *domaines nationaux* would both ease the severe financial burdens facing the state and rally individual interests to the public good, since the *rente* had become, in its administration and in its nature, thoroughly republicanized. Who, in good faith, could think otherwise? Indeed, rejecting the newly reformed *rente* would thus seem to entail a lack of commitment to the revolution on part of the mistrustful individual. To this end, Cambon warned, "Those who are deaf to their personal interest and to the needs of the *patrie* must be considered as bad citizens; they merit no consideration for their property, and the Republic should monitor their persons, as being suspect."[66] Securing the financial basis for the public debt had fused individual economic

[65] Ibid., 212.
[66] Ibid., 211.

decisions with the "needs of the *patrie*." Since the *rente* was now backed by the *domaines nationaux*, and since the *domaines nationaux* were firmly rooted in republican politics, then, with near-propositional logic, to disdain the *rente* would essentially be identical with aligning with the Revolution's enemies, since it at once undermined the state's economic stability and chipped away at the republic's sustaining ideology. Under Cambon's plan, the reformed *rente* thus unified private interests with the public good.

This desire for unity ran like a red thread throughout Cambon's argument. Indeed, in the final analysis consolidating all the Old Regime obligations into one new form was held to be the key move that would ultimately wrench public debt out of its odious history of corruption, deception, and abuse. For Cambon, re-founding the debt around the *domaines nationaux* had set the republic's finances on a more equitable path. But this would remain a fruitless endeavor if the multiplicity of the debt, so thoroughly linked to Old Regime practices, were allowed to continue. Establishing the *Grand-Livre* was therefore not just a rationalizing move; it was also a total reconfiguration of the public debt around republican political ideals. Cambon posited a hypothetical interlocutor in favor of maintaining the wild diversity of Old Regime debt forms. In response, Cambon argued,

> It is off these chimerical ideas that monarchical superstition feeds: thus let us destroy all that may serve as aliment; may the inscription on the *Grand-Livre* be the tomb of old contracts and the unique and fundamental title of all creditors; may the debt contracted by despotism no longer be able to be distinguished from that contracted since the Revolution, and I defy my Lord Despotism [*monseigneur le despotisme*], if resurrected, to recognize his former debt, as it will be mixed with the new.[67]

The multiple debt forms of the Old Regime were therefore "chimerical," illusory. They served to prop up despotism, insofar as they were forms of debt steeped in notions of division and

[67] Ibid., 201.

deception. By contrast, the newly consolidated form of debt created by the *Grand-Livre* would be the death knell of despotism, since, by its very unity, it would necessarily avoid the root causes of Old Regime financial abuse. This "unique and fundamental title" registered on the *Grand-Livre* would thus signify the transition from despotic to Revolutionary ideals. Indeed, according to Cambon, even if "my Lord Despotism" were to return, he would not be able to separate old debts from new, since all were under the aegis of the properly republican *rente*.

Such a radical reform of the debt, for Cambon, would safeguard the financial health of the republic, while also pacifying potentially unruly sectors of society. He continued, "This operation done, you will see the capitalist, who desires a king, because he has a king for debtor, and because he fears of losing his debt if the debtor is not re-established, desiring the Republic, which will have become the debtor, because the capitalist will fear losing his capital in losing the Republic."[68] The change in the form of the *rente* would thus render counter-revolutionary desires useless; unifying all debts in one concentrated form, the argument went, had foreclosed the possibility of returning to Old Regime debt practices. In other words, by making the *rente* republican, Cambon had combined the security of the debt with the health of the republic. The consolidation of debts under the renovated form of the *rente* would tie the powerful creditor class to the republic, by guaranteeing its investments. The renovation of the *rente* would therefore transmute the desire for a king into faith in the republic, even in what were ostensibly highly self-interested private individuals.

To be sure, the transformation of the debt was not immediate or total; some *rentes viagères* did survive the massive consolidation advocated here, though they would never again

[68] Ibid., 201. As Sonenscher observes, in this context "capitalist" generally referred to investors in public debt. See Sonenscher, *Before the Deluge*, 3.

assume primary political importance. Cambon's reforms marked the definitive shift from the *rente viagère* to the *rente perpétuelle* as the locus of public credit, and in so doing, fused the financial and the political. His claim to have republicanized the debt cut to the core of revolutionary ideals: the unity of the republic was mirrored in the unity of the renovated nature of the *rente*. As Cambon advised his audience, "All these measure may seem too minute or too rigid; but when a nation is regenerated, one must renovate all that exists, so as to destroy the false opinions that old contracts might conserve. Republicanize the debt, we repeat, and all the creditors of the nation will be republicans."[69] A regenerated society required a similar regeneration across a broad spectrum of domains, else it fall back into despotic old practices. And the republicanized debt would indeed be appropriate to the new regime, insofar as it fostered unity in the financial sphere and reduced disunity throughout the social sphere. The form of the *rente* was a crystallization of the political form of society in general.

If Cambon's reforms thus established a kind of symmetry between the nature of the *rente* and the nature of society, the second major Revolutionary transformation would again aim to place the *rente* on new footing, this time by attempting a definitive severing of the *rente* with its past. This transformation was carried out by the Directory, through the law of 9 vendémiaire Year VI, more commonly known as the 1797 Bankruptcy of the Two-Thirds.[70] That the state's finances were again in trouble was no secret. In a report given to the Council of the Five Hundred on 14 Fructidor Year V, deputy François Joseph Beyts gave a summary of the state's budgetary situation "in a moment in which finances are in great crisis."[71] Providing an aperçu of

[69] Cambon, "Rapport sur la dette publique," 203.
[70] Crouzet, *La grande inflation*, 466-467. The initial vendémiaire law was later supplemented by another law of 24 frimaire, Year VI.
[71] François Joseph Beyts, "Motion d'ordre sur les finances," *Corps législatif. Conseil des Cinq-Cents*, Séance du 14 fructidor, an V, 2.

the government's total debt plus expenditures versus its expected revenues, the question for Beyts was whether these two columns might ever be balanced.[72] And, perhaps contrary to the crisis in which the state was mired, he argued that the state actually did have a relatively clear path to financial stability, provided that revenue collection could be carried out regularly and efficiently. Thus, he claimed, if "the most frightful confusion had not confused the ordinary and the extraordinary, if this had not been fueled, by the necessity of circumstance, by revenue intended for ordinary service, if contributions had been assessed and collected from the beginning of the year, not only would the balance have existed, but the treasury would have been well off..."[73] The problem, however, was that the Directory was facing extraordinary circumstances, which severely hampered the ability to collect revenue. The financial crisis was less structural than conjunctural, brought on by present circumstances rather than anything irremediably inherent in the nature of government. Unfortunately, as Beyts well recognized, present circumstances could not just be wished away. Thus, in order for the government to overcome the present and, for him, uncharacteristic, gap between expenditures and revenues, he sadly admitted, "it is truly with regret that I am forced to agree that a new and final sacrifice on the part of the *rentiers* and pensioners has become necessary..."[74]

It would be agreed that a new sacrifice by the *rentiers* was necessary. But the solution eventually adopted by the government was far more radical than Beyts had recommended. Four days after Beyts' report before the Council of the Five Hundred, the coup of 18 fructidor Year V reshuffled political control of the state; many previous government officials were subsequently exiled to the French colony at Cayenne, multiple elections in the provinces were annulled, and

[72] Ibid., 12.
[73] Ibid., 13.
[74] Ibid., 17.

"parliamentary obstruction" had greatly been reduced.[75] Almost immediately, attention was turned to the pressing debt crunch facing the government. A pamphlet, written by F.V. Aigoin and published 23 fructidor Year V, testified to the expected radicality of the new government's approach to the debt. Aigoin, a former commissioner of the National Treasury, having heard a proposition to "mobilize" the public debt, asked what this could possibly mean, given the established ease of transfer. Aghast at the thought that, instead of an actual physical mobilization, this word might betoken another forced reduction in debt obligations, Aigoin wrote,

> But if, by the expression *mobilization*, we mean to do harm to the *Grand-Livre de la Dette publique*, and to reduce to beggaring a hundred thousand old *rentiers*, whose *rentes* are their daily bread, would this not be to cover ourselves in indelible opprobrium in the eyes of all the republicans, and of all Europe in general? I cannot convince myself that the Directory would have had such an idea: doubtless, it will never forget that the stability of the national credit depends, fundamentally and always, on the respect that the government bears for the public debt, and for the payment, at least proportional, of the interest due, semester by semester.[76]

Unfortunately, Aigoin's worst fears were soon to be confirmed. The "mobilization" did refer to another modification of the public debt, this time taking the form of a reimbursement of the debt's capital in specifically non-metallic currency.[77] As Crouzet writes, the vendémiaire law "stipulated that the *rentes* inscribed on the *Grand-Livre de la Dette publique*, *perpétuelle* or *viagère*, would have the capital reimbursed by two-thirds, in bearer bonds [...] The last third, which was called the 'consolidated,' would be conserved in inscriptions on the *Grand-Livre*..."[78] Since the capital had nominally been reimbursed by two-thirds, the interest payments on the

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[75] Woronoff, *The Thermidorian Reaction*, 59-61, 94.
[76] F.V. Aigoin, *Mémoire sur les finances, et sur les moyens de pourvoir aux besoins urgens de la République, présenté aux Commissions des finances des deux conseils, et au Directoire Exécutif, 23 fructidor, an 5 de la République* (Paris: Bureau central d'Abonnement à tous les Journaux, an V), 7.
[77] Crouzet, *La grande inflation*, 466.
[78] Ibid., 467.

remaining debt were similarly reduced. This alone would be a blow for creditors, since it meant that the value of their investment witnessed a serious decline. Worse, the bearer bonds that constituted the supposed reimbursement rapidly declined in worth, falling to 1 percent of face value in about the space of a year, which is to say that two-thirds of the debt capital was effectively wiped out.[79] The law was thus a form of bankruptcy, essentially completing a massive transfer of wealth away from creditors and to state hands.

There were, of course, compelling budgetary reasons for the adoption of the law, as it saved the state over 160 million livres per year.[80] But this "mobilization" of the debt was not simply an authoritarian move, carried out solely for practical reasons. As with Cambon's earlier reforms, the vendémiaire law was also a financial reform with political intent. This is perhaps best exemplified by the report Emmanuel Crétet gave before the Council of Elders on 8 vendémiaire Year VI. Speaking in the name of a commission set up to examine the proposed law, Crétet began by invoking the grave importance of the present situation: "The preservation of the body politic, the safety of the Republic, requires this urgency; circumstances command it; we must interrupt this fatal sleep which for so long has kept us from activity and retained the *Corps législatif* in a perilous system of delays..."[81] The financial health and the political health of the Republic were here fused. The very "preservation" of political society thus relied upon rapidly finding a solution to the debt worries perpetually hanging over the state.

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[79] Woronoff, *The Thermidorian Reaction*, 95.
[80] Ibid., 95.
[81] Emmanuel Crétet, *Rapport fait par Crétet, sur la résolution du 19 fructidor de l'an 5 relative aux finances de la République, au nom d'une commission composée des répresentans du peuple, Vernier, Dedelay-d'Agier, Lecouteulx, Canteleu, Regnier, Pilastre, Lebrun, Crétet*, Conseil des Anciens, Séance du 8 vendémiaire an VI (Paris: Imprimerie Nationale, an VI), 2. Though the law did contain other articles unrelated to the debt reduction, these were mostly uncontroversial.

Indeed, according to Crétet, the nature of the debt, and a government's attitude towards it, reflected the proper social relations that should obtain in a well-ordered political regime. Thus, he claimed,

> ...the Council of Elders at this moment weighs in its hands the interests of a particular nature and of an immense expanse; it will pronounce on the fortune of three or four thousand citizens, and judge, between them and the State, a question that up till present had never been considered before the legislators of a free people. You will have to weigh the rights of confidence, of misfortune, of old age, of infancy, of infirmity, of weakness, and subject them to the interest of the body politic; you will have to fix the exact point this interest may cross without violating justice and the national honor; you will have to push back arbitrariness and the use of a power that rests in your hands only to protect, and not to oppress...[82]

There had, of course, had been reductions in debt before. But for Crétet, such reductions had not been carried out under conditions of liberty, which rendered them essentially illegitimate; a forced choice cannot truly be a valid one. By contrast, the proposed reduction would be essentially republican in form, insofar as it would be ratified by the "legislators of a free people." This representative freedom is why, for Crétet, the question of the nature of the debt was being addressed fundamentally for the first time. This new modification of the form of the debt would break with the past, with past histories of default, of deception, of the arbitrary exercise of power, thereby marking a new beginning in the nature of the *rente*. This renovation, consequently, was why the consolidation of the debt must not consist simply of a forced subordination of particular interests to the public good, as that would constitute a use of coercive state power "to oppress" rather than "to protect." The law, instead, must be grounded in the appropriate balance between individual rights and public responsibilities. Legislators must "weigh" a broad spectrum of individual rights and judge exactly how much the public interest may justly and fairly restrict those rights. Thus, though particular interests were indeed being

[82] Ibid., 14.

"subjected" to the public interest, for Crétet this subjection nonetheless escaped the stain of arbitrariness, because the new regime sought to find a valid balance between the two. The newly consolidated form of the *rente*, for Crétet, therefore marked a split with past legacies of the illegitimate use of power.

In the interest of fairness and impartiality, Crétet went on to list what he considered the main objections to the law. As might be expected, many of these objections revolved around the financial distress a new reduction of *rentes* might cause. Thus, Crétet notes, in reducing the value of the public debt, the proposed law might possibly alienate creditors, splitting off an important support group from the new government.[83] So too could the further conversion of the *rente viagère* into *rente perpétuelle*.[84] Such discontent would contradict the aim of the law, which was to ameliorate the state's financial stability. But perhaps the most salient objection Crétet raised was from the point of view of the moral foundations of the reduction. Speaking for a hypothetical critic of the proposed law, Crétet argued, "In a republican government, and especially in a nascent government, it is more important than one think to give to the whole mass of citizens great, noble, and generous ideas, which hardly accord with reductions and forced mobilizations, when these do not show the most imperiously and the most clearly demonstrated necessity."[85] This criticism went to what would seem to be the central irony of the vendémiaire law. For despite Crétet's earlier articulation of the inherent republicanness of the proposal, this change in the form of the *rente* would evidently appear to be based in the same reliance on coercive state power as previous debt repudiations. And if the shape of the *rente* was connected

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[83] Ibid., 17.
[84] Ibid., 20.
[85] Ibid., 18.

to the nature of a state's politics, as Cambon had articulated previously, then this would suggest that the newly installed government was no better than previous despotic regimes.

Crétet's response was two-pronged. First, he maintained that the financial straits facing the state really did necessitate such a radical move. He argued that "it is necessary that, in this time, it [the Directory] brushes aside the spectre of an unconsolidated and unconsolidatable debt, which would be, in perpetuity, a daring goal for its enemies and a source of embarrassment for it."[86] The safety of the state thus depended on reducing its debt burden. Without this drastic modification, the public debt would always remain "unconsolidatable," with payment on such a large debt remaining unpredictable at best, forever destabilizing public credit. The vendémiaire law was therefore necessary enough to justify such radical reform, for without it, the debt would represent a perpetual crisis-in-waiting for the state.

Crétet's other response was that reforming the *rente* would turn citizens away from untrustworthy illusion and towards more stable grounds. Moreover, it was precisely the consolidation of the public debt that would stimulate such a shift. Though reimbursing the outstanding capital of the public debt would reduce interest payments, the remaining inscriptions of *rente* would constitute a far more reliable vehicle for citizens, since the public debt, it was hoped, had now found a path to lasting financial viability. As Crétet argued,

> ...it [the government] must fight the passing illusion that strikes some of its creditors, because it knows that opinion is not at all unanimous on this point, and because this same opinion is made to disappear, leaving behind only bitter regrets. In a word, the government must be opposed to the credit that a false calculus may usurp, which, in this moment, presents nothingness as preferable to reality.[87]

[86] Ibid., 23.
[87] Ibid., 25.

The "passing illusion" Crétet mentioned was certain creditors' preference for maintaining the old form and full value of the debt. Having already argued for the urgent need to reduce the debt, Crétet's point was that the real merit in reforming the *rente* was in assuring that payment on the one-third value. The proposed law might result in greatly lowered payments for a creditor, but, following Crétet's logic, those payments would be solid and predictable, as opposed to the crisis-laden, default-prone public debt of previous regimes. To believe otherwise would be to put one's faith in an unsustainable state of affairs, which, when finances again collapsed under the burden of an unconsolidated debt, could only leave "bitter regrets." Crétet thus propounded a response to the moral criticism articulated above, in that the proposed debt consolidation would reduce deception and false ideas among citizens, false ideas that had split the unity of public opinion. The delusive desire to preserve the full value of the debt presented "nothingness" – the former, perennially unstable debt – as more preferable to "reality" – the newly consolidated, reliable debt. The consolidation of the *rente* would thus meet the moral requirements of a new regime insofar as it would inspire citizens to grasp hold of the reality facing the republic, rather than chasing after seductive financial phantoms.

As with Cambon's reforms, the vendémiaire law was at once both financial and political in nature; the two were conjoined in the form of the *rente*, of the public debt. Doubtless, the move to reduce the debt was precipitated by the severe financial constraints facing the government. But the specific form that reduction took was shaped by political ideals. The desire to again refound the *rente*, to move from illusory nothingness to the new and stable financial reality, was part of a highly hoped-for break with the past. The consolidation of the public debt into a new form was both a repudiation of previously contracted debt obligations, as well as an attempt to create a new, forward-looking form of the debt. After Crétet's report, the law was

adopted, and the newly reconfigured version of the *rente* – the *tiers consolidé* – was inscribed on the books.

Despite Crétet's sophisticated defense, the law remained highly controversial. It did attract some supporters amongst the populace. A contemporary pamphleteer praised the law's celerity in addressing the state's financial crisis and condemned all who thought there might be some more desirable solution to be reached as heedlessly searching after a "chimerical good."[88] But overall, the vendémiaire law went down as nothing other than a bankruptcy, a shameful rejection by the state of its financial duties.[89] As one contemporary critic archly put it, "when one puts two-thirds of the debt to the sword, one might as well add the last third."[90]

Despite hostility to the law, the form of the public debt had been definitively changed. The twin reforms by Cambon and Crétet marked the decisive shift from *rente viagère* to *rente perpétuelle*. In 1788, the *rente perpétuelle* represented 24% of state interest payments, as against 46% for the *rente viagère*.[91] By 1 vendémiaire Year VI there were 207,2730,053 livres of *rentes perpétuelles* on the state's ledgers, versus just 74,468,124 livres of *rentes viagères*, meaning that the *rente perpétuelle* was now almost three times as numerous as the *rente viagère*.[92] These numbers would grow even more starkly polarized after the Bankruptcy of the Two-Thirds. But

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[88] Anonymous, *Le Grand Cri des Rentiers* (Paris: Claude fils, 1797), 3.
[89] This has also been the tendency in the historiography. Thus, Vührer calls the vendémiaire law "a bankruptcy, and one of the boldest, most radical, and most unfortunate ones to which state creditors ever had to submit." Marion is even more disapproving, charging the relevant legislators as "people without scruples, who smiled at this facile manner of escaping financial difficulty, and who deserved, more than the Constituent Assembly, the anathemas seethingly pronounced in the past by Mirabeau, against those men who were tormented by 'the thirst for despicable bankruptcy.'" Crouzet is a bit more evenhanded. He certainly does not shy from calling the law a bankruptcy, and a serious one at that, but he admits to some admiration of the state in clearing its books so thoroughly, even if in such "draconian fashion." See Vührer, *Histoire de la dette publique*, 397; Marcel Marion, *Histoire financière de la France depuis 1715*, vol. 4 (Paris: Librairie nouvelle de droit et de jurisprudence, 1914), 56; Crouzet, *La grande inflation*, 466-468.
[90] Camille Saint-Aubin, quoted in Marion, *Histoire financière*, vol 4, 66.
[91] Crouzet, *La grande inflation*, 67.
[92] Crétet, *Rapport fait par Crétet*, 29-30.

beyond this numerical transition, the meaning of the *rente* itself changed. For both Cambon and Crétet, a republicanized debt would take the same shape as Revolutionary society: transparent, unified, rational.

Conclusion

In the proposal for the *Grand-Livre*, Cambon maintained the Revolutionary state's commitments to honor past debts; in expounding on the vendémiaire law, Crétet argued for the need to reduce them, and quite drastically so. But rather than simply a transgression of Cambon's promises, Crétet's defense of what would come to be known as the Bankruptcy of the Two-Thirds was a radicalization of the process of republicanizing the public debt. The vendémiaire law was prompted by the severe financial constraints facing the Directory – constraints due, in part, to the continuing burden of past debt obligations. But it was also an attempt to render the public debt more thoroughly republican, by steering citizens away from the "nothingness" of an intact, but thoroughly unpayable, debt still tied to the past, towards a "reality" of a consolidatable and consolidated public debt. With this consolidation, the debt now stood on firm financial grounds, with future payments finally rendered stable. The vendémiaire law discharged, through a *de facto* bankruptcy, an immense portion of the public debt; it also aimed to finally render the public debt secure, transparent, and unified, shorn of any deceptive and untrustworthy obligations that might undermine the state's financial and political unity. For both Cambon and Crétet, the consolidation of the debt was homologous to the hoped-for unity and transparency of revolutionary society. The *tiers consolidé*, born of exigent bankruptcy and political ideals, was the final and lasting form of a republicanized public debt.

These were, of course, hardly the first attempts at reforming the administration of the public debt. The spectacular System of John Law also represented an attempt to transform the basic nature of public credit, along strikingly similar lines.[93] But where the Revolutionary transformations of the public debt developed on Law's and other reforms was that the aims for Cambon and Crétet were not just that the public debt would be made transparent and accountable to the nation; rather, for them, the public debt would be so precisely because it was like the nation. Unified and consolidated, transparent and rational, and therefore ostensibly free from Old Regime prejudices, for both Cambon and Crétet the public debt would be molded in the shape of the political community from which it emerged. Revolutionary public debt reforms were therefore revolutionary not so much in that they completely diverged from previous policy, but in that they articulated a vision in which the form of the debt and political form were effectively indistinguishable.

Years ago, Agapit Vandermarcq observed, fathers had abused public credit. But their sons would happily not be driven to the same abuse. In suggesting this kind of generational divide in finance, Vandermarcq was speaking from the other side of the transformations in the *rente* and in the public debt. Vandermarcq authored his pamphlet in the midst of the July Monarchy. But the public debt of which he wrote, the public debt that he claimed had been put on new equitable foundations, was the *tiers consolidé*, a *rente perpétuelle*. It was republicanized debt.

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[93] Crowston, *Credit, Fashion, Sex*, 75. Crowston argues that "In a sense Law thus intended to replace the political credit system of the court and the royal government – and along with them the financiers who kept the royal government afloat – with a more transparent system of public credit. No more would patronage, hidden deals, and influence peddling allow individuals to usurp state finance; instead the nation itself would control and benefit from the new system."

The Illimitable Right: The *Marché à Terme*, Property, and Political Authority in Napoleonic France

"We are without passion, we are rich, we are powerful; such is credit."
- Napoléon Bonaparte, 5 March 1808[1]

The day had not started auspiciously for the stockbrokers of Paris. As part of a deputation summoned before the Council of State, the duty had fallen to Jean-Baptiste Joseph Boscary de Villeplaine, former head of the brokers' professional association and scion of a powerful family of *financiers*,[2] to defend the *marché à terme* or futures contract in public debt on the Paris Stock Exchange. As Napoléon's dismissive response indicated, Boscary and the stockbrokers did not face an easy task. With Napoléon's claimed dominion over credit, the need for such forms of finance would seem to have been obviated. As a means of speculation frequently under suspicion both moral and legal at least since 1724,[3] the *marché à terme* risked proscription in favor of a more tightly regulated financial market.

A type of futures contract, the *marché à terme* permitted investors to speculate on price fluctuations in the public debt, then the dominant security on the Paris Stock Exchange.[4]

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[1] *Registres de la Chambre syndicale de la Compagnie des Agens de Change de Paris* [CSCAC], 24 March 1808, *Centre des archives économiques et financières* [CAEF] B-0069360/1.
[2] Jean Bouchary, *Les Boscary: une famille d'Agents de Change sous l'Ancien Régime, la Révolution, le Consulat, l'Empire et la Restauration* (Paris: G. Thomas, 1942), 5-6.
[3] As noted in Chapter 1, 1724 marked the establishment of the modern Paris Stock Exchange. Carine Romey observes that the edict creating the Exchange also curtailed the *marché à terme*, by requiring possession of both funds and securities before transacting. See Carine Romey, "Les opérations de Bourse," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 1 (Paris: Publications de la Sorbonne, 2007), 138. As John Shovlin has argued, this moral reproach of speculation fit into a wider discourse of "patriotic political economy," which emerged with particular force in the latter half of the eighteenth century. See John Shovlin, *The Political Economy of Virtue: Luxury, Patriotism, and the Origins of the French Revolution* (Ithaca: Cornell University Press, 2006), 4-12, 124-5, 170-2.
[4] Pierre-Cyrille Hautcoeur and Angelo Riva, "The Paris Financial Market in the Nineteenth Century: Complementarities and Competition in Microstructures," *The Economic History Review*, vol. 65, no. 4 (2012), 1329. In terms of market capitalization, French public debt would remain the largest single investment vehicle on the Exchange until at least 1880. See Amir Rezaee, "Creation and Development of a Market: The Paris Corporate Bond Market in the 19th Century," *Entreprises et histoire*, vol. 67, no. 2 (2012), 26.

Through the intermediation of the Paris brokers, the contracting parties agreed to buy or sell debt in the future, with the price and quantity locked in beforehand. This expanse of time between the initial drawing up of the contract and the final settling-up of accounts allowed prices to move in the interim, creating two kinds of speculator. *Haussiers*, or bull speculators, bet that prices would rise; since the *marché à terme* contract here stipulated a below-market price for the debt, *haussiers* could therefore acquire underpriced debt, allowing them to re-sell it for a tidy profit at the going market rate. *Baissiers*, or bear speculators, on the other hand, bet on a price decline; in this scenario, since the contract stipulated an inflated price for the debt, *baissiers* could buy cheap debt on the market, then sell it at the contractually obligated higher price. Both kinds of speculator appeared to jeopardize the stability of the concept of property. At the time of the initial contract, the *baissier* might not in fact possess the appropriate quantity of public debt intended for sale, while the *haussier* might not possess the requisite wealth intended for purchase.

Ambiguities in the definition of property were hardly unprecedented. A 1769 legal dictionary stated the case forthrightly: "Property and possession differ, in that one may be the possessor of a thing, while not being its property-owner; and, on the contrary, often the property-owner does not possess the thing that belongs to him."[5] Property and possession could be split apart in numerous ways; usufructuary rights, for instance, could be peeled off from full property-ownership, permitting one party to benefit from property belonging to another.[6] Property could be held in intangible objects, such as in debt-credit relations. Indeed, as shown in Chapter 1, the form of the public debt, the *rente*, was quite old, with origins stretching back to the Middle Ages.

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[5] Claude-Joseph de Ferrière, *Dictionnaire de droit et de pratique, contenant l'explication des termes de droit, d'ordonnances, de coutumes & de pratique. Nouvelle édition*, 2 vols. (Paris: Brunet, 1769), 2: 405.
[6] Ibid., 717.

But the question concerning the *marché à terme* in the Napoleonic context signified a different moment in the concept of property. As a future bet on future credit, it was an abstraction of an abstraction, or, in modern terms, a financial derivative. Such judgments were particularly controversial, given the role public debts had played in precipitating the crisis that touched off the French Revolution in the 1780s, as well as the then-recent state debt repudiation of 1797, still a stinging reminder to creditors and state officials alike of the dangers of debts.[7] The evaluation of the *marché à terme* in Napoleonic France thus took place in a discursive context in which such futures contracts in public debt had become economically marginalized and socially stigmatized. At the same time, the concept of property was to be central to the institutional and intellectual stabilization of the Napoleonic regime. Showing how this conceptually "marked" speculative form was in fact reconciled with the concept of property will help illuminate the political theory of the post-revolutionary state. An exploration of the Napoleonic rehabilitation of the *marché à terme* in public debt, in other words, will highlight how financial capitalism implanted itself, after it had been nearly extinguished, in a conceptual landscape quite hostile to it.

Discourses on the Debt before Napoléon

Property, public debts, and the *marché à terme* had been much debated during the eighteenth century. However, after the collapse of the "System" of John Law in 1720, the Paris Stock Exchange itself was relatively quiescent.[8] But with public debts spiking dramatically

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[7] For an overview of the historiography on French financial institutions, see Introduction, Chapter 1.
[8] George V. Taylor, "The Paris Bourse on the Eve of Revolution, 1781-1789," *The American Historical Review*, vol. 67, no. 4 (1962), 951.

during the Seven Years' War (1756-1763),[9] followed by the substantial expansion in *rentes viagères* after 1770,[10] and the establishment of the Discount Bank in 1776,[11] the Exchange witnessed a speculative boom that would last until the onset of the Revolution in 1789.

Facing speculative frenzy and recurrent scandal, the Old Regime state attempted to regulate the *marché à terme*. Its approach, however, was ambivalent. In a regulation of 7 August 1785, the Council of State nullified futures contracts in government securities. But not two months later, in a regulation issued 2 October 1785 the state stepped away from this hardline position, and in another regulation dating to 22 September 1786, it would recognize as legitimate the *marché à terme* in public debt, so long as the settlement date of the contract did not exceed two months.[12]

Though acting with a heavier hand, the Revolutionary state also displayed similar ambivalence. Open in the early days of the Revolution, the Exchange was shuttered on 27 June 1793, as part of the Terror regime's punitive regulatory measures on potentially "counter-revolutionary" economic activity.[13] With the end of the Terror and the installation of the Directory government, the Exchange reopened on 14 December 1794, only to be closed again on 9 September 1795, before throwing open its doors once more on 20 October 1795.[14] Not until the definitive refounding of the institutions of public finance in 1801 and 1802, during the

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[9] James C. Riley, *The Seven Years War and the Old Regime in France: The Economic and Financial Toll* (Princeton: Princeton University Press, 1986), 191. Riley estimates that between 1753 and 1764, the French public debt roughly doubled.
[10] See Chapter 1.
[11] Taylor, "The Paris Bourse," 956.
[12] Maurice Gontard, *La Bourse de Paris, (1800-1830)* (Aix-en-Provence: Édisud, 2000), 10.
[13] Taylor, "The Paris Bourse," 957.
[14] Paul-Jacques Lehmann, *Histoire de la Bourse de Paris* (Paris: Presses Universitaires de France, 1997), 11. See also Gontard, *La Bourse de Paris*, 10-15.

Napoleonic period, would the Exchange and the Paris stockbrokers find a durable institutional home.[15]

If financial capitalism found a new institutional home during the Napoleonic era, it also witnessed the development of new intellectual foundations as well. As illustrated in the Introduction, previous justifications for financial capitalism were largely articulated in the context of the fiscal-military state, in which expanding, systematized public debts were an essential cog in the political-institutional machinery enabling the state to wage wars of ever-greater intensity.[16] The scope of the Napoleonic wars was indeed immense, requiring sophisticated coordination among the military, political, and financial arms of the state. However, despite presenting just such a moment in which public debts might aid the war effort, the Napoleonic regime almost entirely eschewed state borrowing to fund its campaigns.[17]

What the Napoleonic discourse over debts and futures contracts illuminates, rather, is the intellectual constraints that property – including property in financialized form – placed upon theories of sovereign authority. Emerging out of eighteenth-century discourses, the Napoleonic encounter with public debts and the *marché à terme* marked a further step in the intellectual connections between public debts, theories of property, and conceptions of political authority, with debts and speculation justified less with a view to military necessity than with a concern over the state role in facilitating smoothly functioning financial markets, in which property could circulate without the threat of arbitrary legal sanction. As noted earlier, Michael Sonenscher has

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[15] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 21. In particular, Lagneau-Ymonet and Riva cite the law of 19 March 1801 and the regulation of 16 June 1802, later supplemented by the 1807 Commercial Code, as the central legal texts regarding the renovation of the Exchange and the stockbrokers.
[16] John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (New York: Alfred A. Knopf, 1989), xv.
[17] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 21.

argued that "future-oriented speculation about public debt" prompted prolonged intellectual engagement in the eighteenth century over the life, death, and possible institutional renovation of polities.[18] But what the Napoleonic episode shows is how *speculation on public debt futures* set off a debate over the meaning of property, of rational law, and of political authority in a specifically post-revolutionary state; the arguments for the specific, practical techniques of financial capitalism also encapsulated important aspects of political theory. Under Napoleonic rule, legal and financial institutions really were redesigned. Yet, despite imperial disregard and under few compelling fiscal exigencies, the *marché à terme* survived. How it did so attests to the ways in which locating public debt futures under the legal and intellectual authority of the concept of property could furnish a justification for financial capitalism absent its more habitual foundations in the fiscal-military state.

Redeeming the Public Debt

"By the beginning of the nineteenth century," John Shovlin writes, "economic discourse had become an everyday and indispensable part of the language of public life."[19] This discourse, he argues, tended to favor land, agriculture, and manufactures, which were seen as contributing to the patriotic spirit. By contrast, more private economic activity was seen as potentially dangerous to the nation, as it did not emerge from a sense of patriotism.[20] For Shovlin, the creation of a new Napoleonic social elite, the "notables," correlated to this "patriotic political economy."[21] With land valorized over mobile wealth, this Napoleonic notability was meant to

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[18] Sonenscher, *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution* (Princeton: Princeton University Press, 2007), 3.
[19] Shovlin, *The Political Economy of Virtue*, 212.
[20] Ibid., 219.
[21] Ibid., 218.

stand in contradistinction to an image of the Old Regime elite, centered on the Court, steeped in intrigues of various stripe, and, particularly, frequently deeply enmeshed in the Crown's finances.[22]

Such an atmosphere, at first blush, appears hostile to arguments in favor of the public debt, recently associated with default and scandal.[23] But advocates for the debt carved out a space within this patriotic economic discourse. A "polemic" regarding the legitimacy of the public debt emerged during this period, reaching the highest levels of the state.[24] This polemic helped shape the conceptual grounds on which the later dispute over the *marché à terme* would be fought.

Emblematic of the advocates of the public debt was the 1800 pamphlet, *Considérations sur les avantages de l'existence d'une dette publique, et sur la nécessité d'un plan général et complet de bonne conduite en finance*. Nominally without attribution, the pamphlet has been consistently attributed to Claude-Odile-Joseph Baroud.[25] A prominent *financier* in the Old Regime, Baroud had long been a familiar figure on the Exchange, acting through his primary broker Boscary – the very same stockbroker who would later defend the *marché à terme* before Napoléon.[26] Making (and occasionally losing) much of his fortune in speculative ventures,

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[22] Robert Forster, "The French Revolution and the 'New' Elite, 1800-1850," in Jaroslaw Pelenski, ed., *The American and European Revolutions, 1776-1848: Sociopolitical and Ideological Aspects* (Iowa City: University of Iowa Press, 1980), 188.
[23] Shovlin, *The Political Economy of Virtue*, 151-159.
[24] Michel Bruguière, "Le Tribun Ganilh et la liquidation de la dette publique par le Consulat," in *Pour une renaissance de l'histoire financière, XVIIe-XXe siècles* (Paris: Comité pour l'histoire économique et financière de la France, 1991), 99-100.
[25] Jean Bouchary claims Baroud as the author of the pamphlet, as does a handwritten "Note historique" on the pamphlet itself. See Jean Bouchary, *Les manieurs d'argent à Paris à la fin du XVIIIe siècle*, 3 vols. (Paris: Rivière et Cie, 1943), 3: 179; Anonymous, *Considérations sur les avantages de l'éxistence d'une dette publique, et sur la nécessité d'un plan général et complet de bonne conduite en finance* (Paris: n.p., 1800), 1. Archives nationales [AN] AFIV 1086.
[26] Bouchary, *Les manieurs*, 167-174. Bouchary, drawing from the mémoirs of Pierre-Nicolas Berryer, describes Baroud as "a small, bald man, with piercing eyes, a gentle and melodious voice, a calm tone."

Baroud was a *financier* of impressive magnitude;[27] he was a major adversary of opposing *financier* Étienne Clavière in the prerevolutionary scandal surrounding the *Nouvelle Compagnie des Indes* in the later 1780s, which would eventually bring down controller-general Calonne.[28] Baroud transformed a critique of the prerevolutionary state into a kind of post-revolutionary discourse in which the proper administration of public debts, the autonomy of the economic sphere, and the rationality of law expunged of arbitrary privilege were all intrinsically connected. His pamphlet reached the hands of state administrators, while also catching the attention of the public.[29]

Baroud's past financial sins had not yet been forgiven – as a handwritten note appended to the copy of *Considérations* in the Archives nationales acidly remarked, Baroud had not comported himself with the same probity that he counseled governments to practice[30] – but few could question his financial expertise. Personal financial adventurism notwithstanding, Baroud appeared to have written *Considérations* in good faith. Coming soon after the Bankruptcy of the Two-Thirds, the administration of the debt had fallen into grave disfavor.[31] As shown in Chapter 1, this 1797 bankruptcy had established the primary vehicle for government securities, a perpetual annuity entitled the *tiers consolidé*. But this form of *rente* had almost immediately collapsed in value, falling to as low as six francs 95 on 8 January 1798; when *Considérations*

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[27] In the last half of 1787 alone, the volume of Baroud's transactions reached as high as 63,000,000 livres. See Taylor, "The Paris Bourse," 968.
[28] Darnton, *George Washington's False Teeth*, 149-150. See also Malick W. Ghachem, "At the Origins of Public Credit: A Story of Stock-Jobbing and Financial Crisis in Prerevolutionary France," *'The Financial Crisis of 2008: French and American Responses,' Proceedings of the 2010 Franco-American Legal Seminar*, (2011), 171-82.
[29] As one contemporary had it, "At the moment when the Government strongly announced its intention to restore morality [*la morale*] in the administration of finances, on which the public debt is the greatest influence, this essay has fixed all eyes." See Anonymous, *Lettre à l'auteur du mémoire intitulé: Considérations sur les avantages de l'éxistence d'une dette publique, et sur la nécessité d'un plan général et complet de bonne conduite en finance* (Paris: n.p., 1800), 1. AN AFIV 1086.
[30] Anonymous, *Considérations*, 1.
[31] A. Vührer, *Histoire de la dette publique en France*, 2 vols (Paris: Berger-Levrault et Cie, 1886), 1: 397.

appeared in print, it was fluctuating between approximately nineteen and twenty-one francs, signifying serious concern that the public debt was not a sound investment.[32]

With the price of the debt thus concretely encapsulating the worry that the state might not be able to meet its obligations, Baroud argued instead for the fundamental validity of the public debt, seeking to influence the coming Napoleonic reorganization of state finances.[33] For him, the public debt's virtues were legion:

> *A means of circulation and reproduction, a principle of movement and activity for capital of all kinds, and even a supplement to capital and value;*
>
> You will see *a strong and powerful link of attachment and trust between the government and the subjects of the state;*
>
> You will find, in the *price* of the public debt:
>
> *A regulator of the general opinion on the accounts of government and, for that very reason, a guarantee of good administration;*
>
> *A constant measure of the value of all other kinds of property;*
>
> *An infallible guarantee of the success of all large enterprises, of the economy of means, and of the rapidity of execution;*
>
> *An irrecusable moderator of the respective pretensions of government and of its contractors, in every treaty and market concerning the service of the state;*
>
> You will see, above all, in the public debt and in the exactitude of its servicing, *a means of easing the burden on taxpayers, of increase in the product and the celerity in the collection of taxes;*
>
> Finally, it will not escape your attention that the value of public funds in a state is *a dazzling and perpetual index of the degree of force and power with which it may confront its enemies, or to assert in all its external, commercial, and political relations*.[34]

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[32] Louis-Pierre-Eugène-Amélie Sédillot, *Manuel de la Bourse,* 3rd ed. (Paris: Decourchant, 1829), 3-4.

[33] Most relevant here are the creation of the Sinking Fund, announced as early as 24 brumaire an VIII though formalized later, as well as the restructuring of the Exchange and the organization of the brokers themselves. Louis Bergeron, *France Under Napoleon*, trans. R.R. Palmer (Princeton: Princeton University Press, 1981), 44-46; Jacques Peuchet, *Manuel du Banquier, de l'Agent de Change et du Courtier* (Paris: Cosson, 1829), 78-83. Napoléon's reorganization of the Exchange, though it would undergo some modification, would remain largely intact for much of the nineteenth century. However, alternative proposals for the debt did continue to be published, at least in 1815, 1819, 1828, and 1847, suggesting that the nature and structure of the debt was far from a settled issue. Some of these proposals recommended quite a radical restructuring of the state's finances. One Louis Dessain, for instance, recommended reorganizing the debt around a "royal tontine," in the apparent hope that the state's previous encounters with the tontine could be improved upon. None of these proposals, however, were ever put into practice. See Louis Dessain, *Projet pour la libération de la dette publique* (Paris: Ballard, 1815), 3; J.-B. B**, *Le crédit public de la France restauré et raffermi par un meilleur mode de réaliser le prix des douze millions de rentes qui restent à négocier pour le Trésor* (Paris: Moreaux, 1819); Feuchère, *Analise d'un projet de crédit public et de circulation* (Paris: L.-È. Herhan, 1816); Anonymous, *Ce qu'il y a à faire* (Avignon: Bonnet fils, 1847).

[34] Anonymous, *Considérations*, 2-3. Original emphasis.

The debt encouraged the circulation of capital, while also serving as a standard of value for other kinds of property; it moderated the respective claims of the state and its creditors, since both had vested interests in the robustness of credit; it established enduring links between state and citizen, as it served to aggregate public opinion, providing a (purportedly) objective standard of good government.

All this could only be true if the state faithfully carried out its financial promises. This "exactitude" in debt servicing provided the solution to a troubling paradox. Public debt is a kind of obligation owed by the state to its creditors, with creditors loaning capital to the state in return for a regular stream of interest payments; given a long enough time horizon, these interest payments could easily outstrip the initial capital outlay. Moreover, as a perpetual annuity, which technically never terminated or came to maturity, the *tiers consolidé* presented the troubling image of a future in which the state was continually paying interest sums far in excess of the amount of the initial loan.[35] The paradox thus centered on the apparent contradiction that "*a state is richer for all the more that it owes*."[36] To resolve this conundrum, Baroud asked the reader to picture two countries, each possessing the same population, the same territory, the same public debt, the same institutions, all the way down to possessing the same money supply. The sole difference is that one country honors its debt, while the other seeks to suppress it.[37] And that, for Baroud, made all the difference. For when a state repudiates its debt, it cannot truly decrease the tax burden, as the need for revenue persists, despite momentary capital seizure; moreover,

[35] Though the French state did attempt to amortize the loan through the Sinking Fund, purchasing debt on the open market and then retiring portions of it from circulation. See Michel Bruguière, "Les techniques d'intervention de la Caisse d'amortissement dans le cours de la rente, 1816-1824," *Revue historique*, vol. 258, no. 1 (1977), 93-104.
[36] Anonymous, *Considérations*, 11. Original emphasis.
[37] Ibid., 12.

available capital will evaporate, due to the state's demonstrated inability to keep its word.[38] All the previously enumerated advantages of the public debt would vanish, if the government did not service its debt honestly.[39] Baroud's encomium to the virtues of public debt did call upon an older tradition that sought to balance state vitality with growing public debts.[40] But, diverging from this tradition, his overriding concern was not with the systemic effects of inequality, nor with the martial implications of debts; public debts could act as an "index" of force, but they were not a funding stream for that force. Rather, for Baroud the true benefit of public debt rested with its economic powers and its ability to knit together state and citizen in the interests of mutual prosperity.

Public debt, properly serviced, was thus a legitimate tool of modern states, insofar as public debts spurred economic development. But the validity of the debt ran deeper. For Baroud, the public debt was valid because it was property.[41] He enjoined the reader to "Envisage it [the debt] first as a sacred PROPERTY, committed to your care and to the faith of your oaths..."[42] However, this quality was not always plainly evident. The *rente*, after all, was not a stretch of land one might occupy: "We are too easily accustomed to thinking that the acts and contracts of the public debt, due to their intangible and hardly visible nature, should not participate in the inviolability that the social compact assures to land, buildings, and other real heritages..."[43] One may be accustomed to thinking of property in terms of physical objects, but custom, in this case,

[38] Ibid., 12.
[39] Ibid., 12.
[40] Sonenscher, *Before the Deluge*, 298-301, 306-307.
[41] Anonymous, *Considérations*, 2.
[42] Ibid., 2. Original emphasis.
[43] Ibid., 4.

was deceptive. Despite the public debt's "immaterial nature," Baroud argued, it too counted as property.

The long-running discourse on public debts had recently been shaken by revolutions, regime changes, and sovereign defaults, unraveling the justificatory framework supporting state borrowing; how could public debts play a legitimate part in the political theory of the modern state, in light of the French state's repeated lapses into default?[44] As the low prices of the *rente* indicated, this concern over the viability of the public debt persisted into the beginning of the nineteenth century.

Nonetheless, public debt, according to Baroud, merited the same degree of protection afforded other classes of property.[45] The debt was, moreover, a particularly expansive kind of property. Baroud claimed, "*however we try to isolate ourselves, it is impossible … to avoid all contact with public affairs, to not be exposed, in the course of management of a business or any kind of property, to the shock of this great handling that, starting from the center of the state, extends to all points on the circumference, embraces all kinds of works, and penetrates anywhere there is fortune or industry*."[46] Activity at the Exchange concentrated capital in one place, allowing it to be distributed to appropriate ends efficiently; the density of capital there acted as a signal to industry, reducing the expense involved in searching elsewhere.[47] The public debt also acted as a standard for the values of other kinds of property. Price fluctuations in the *rente*,

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[44] Bossenga, "Financial Origins," 38.
[45] Anonymous, *Considérations*, 7.
[46] Ibid., 16. Original emphasis.
[47] As Baroud allegorized, "Thus, in searching further, so as to collect in the same basin, for waters that have been scattered in a thousand different places, and whose infinitely divided currents would be fruitlessly lost in the entrails of the earth, one then spreads, by sage distributions, fertility and abundance into neighboring fields." Ibid., 28-29.

Baroud maintained, would affect the value of landed property, with the potential returns on investment in the public debt acting as a moderating influence on estate prices.[48]

Private citizens may largely have been seeking to increase their wealth in the exchange of *rentes*, but these transactions entailed wider effects. Baroud observed, "Such is presented to the eyes of the man of state this striking observation, that the true elements of the public fortune are nothing other than private fortunes..."[49] Far from subverting the public good, the circulation of *rentes*, with all attendant speculation, in fact formed a crucial element of the nation's health – private speculation produced public virtue. Baroud continued, "...consequently, the state itself suffers, for its own accounts, all the losses that seem to strike only individuals..."[50] Financial loss on the Exchange did not stay confined to the Exchange; a collapse in prices there would both ruin the individual investor and signal the weakness of the state.

Yoking together private and public goods was one of the primary effects of the public debt for Baroud, placing state and citizen in a relationship of mutual dependency. He wrote, "When, in a rich and powerful nation, a considerable public debt is formed, such that the capital value by itself composes a notable portion of the patrimony of the Empire's subjects, the government becomes thenceforward the true guardian of state creditors, the special conservator of the means of existence of this multitude of families successively inscribed on the registers of its debt."[51] Citizens initially loaned capital to the state. But once the public debt grew large enough to support a secondary market, then the state became the "guardian" of private interests. As opposed to primary markets, in which the state directly contracted new loans with creditors,

[48] Ibid., 24.
[49] Ibid., 9-10.
[50] Ibid., 10-11.
[51] Ibid., 17.

in the secondary market these pre-existing debt contracts circulated from hand-to-hand, with one party transferring the rights to the original contract's interest payments to another. The secondary market was therefore a way for existing bondholders to recoup at least some portion of their investment immediately, as well as for others to buy into what was hopefully a secure revenue stream.

But beyond financial well-being, for Baroud the public debt also forged affective links between state and citizen: "Thus is established, between those who govern the state and those who are its creditors, the same relations of attachment or hate, contempt or trust, gratitude or indignation, that, in the common order, neglect or exactitude, imperiousness or sagacity, fidelity or fraud will form between the administered and the guardians of their fortune."[52] The combination of private and public economic interests embodied by the debt would also reach down to the emotive core of a citizen in the new regime. State creditors would not just bloodlessly desire a good return on investment. Sound management of the debt would inspire loyalty or "confidence" regarding the state. Conversely, mismanagement, late payments, defaults would inspire feelings of hate or "contempt." The choice between "fidelity or fraud" Baroud outlined referred not – or not only – to purely financial decisions. Rather, he argued, a well-managed debt helped establish political legitimacy in a post-revolutionary milieu. Public debt was thus a financial tool to establish political consensus.

Indeed, for Baroud, the public debt revealed a new kind of authority, one that placed people and things on the same plane. He argued,

> Everything is connected in this great ensemble; and it is due to this union, this reciprocal dependence, that the rest suffer when the public debt suffers. In vain do properties differ by their nature, like persons by their condition: despite these differences, things, like people,

[52] Ibid., 18.

> cannot exist under the same domination, without everything indiscriminately suffering, more or less, from the forgetting of healthy maxims that seem to strike only a few.[53]

Baroud confronted what appeared to be a logical contradiction. He first proclaimed the interlinked nature of property. There existed a relation of "reciprocal dependence," in which the treatment of the public debt carried over to other forms of property. Baroud then analogized property to persons, with surface variations masking deeper uniformity. The nature of property and the condition of persons really did differ, but such differences would ultimately be brought under uniform rules of administration. But, in an apparent rhetorical *volte-face*, Baroud then seemed to suggest that these differences do interfere with the establishment of those uniform rules. Treating property and persons as though they adhered to the "same domination" would appear to result in confusion, in which the "healthy maxims" that seem to apply only in individual cases were neglected, to the detriment of the whole. Uniformity and difference, "the same domination" and "the forgetting of healthy maxims": Baroud's argument appeared to be mired in intractable contradiction.

The resolution came through an appeal to the rationality of law. The problem lay not in establishing the "same domination," but in assuming that "healthy maxims" were actually restricted to those individual cases. For support, Baroud looked to apparent differences in two kinds of property. It would be easier, he noted, to expropriate *rentes* rather than real estate. The latter had a "material consistency," which permitted a greater degree of resistance to authority.[54] If one were creating legal rules according to the varying natures of different kinds of property, *rentes* and real estate would therefore belong to different legal regimes, with correspondingly

[53] Ibid., 25-26.
[54] Ibid., 26.

different levels of protection. But Baroud's point was that such a conclusion would ultimately be a mistake. The state had a duty to protect property in all its forms, and expropriation would be no more moral, even given the *rente*'s incorporal nature.[55] Ruling according to differences in form or condition would damage the rationality of the law itself; just as personal status should no longer be factored into the administration of the law in a post-revolutionary society that had established formal legal equality – the aristocracy could no longer claim privilege to differential legal treatment – so too should property not be adjudicated differentially. The "healthy maxims" only appeared to apply to a select subset of things; in fact, these maxims should apply to the entirety of property's domain. It was the individuality of the "healthy maxims," not the uniformity of authority, that was illusory. For Baroud, people and things really did adhere to the same and single authority.

Debt, private individuals, public interest: all were fused together according to the rule of property. Baroud closed by emphasizing that "the interest of the state is always inseparable from the interest of the INDIVIDUALS subject to its laws; PUBLIC FORTUNE cannot grow where PRIVATE FORTUNES are destroyed..."[56] The individual may have been subject to law and compelled to submit to the state's authority. But that did not mean that the state could act arbitrarily regarding individual economic decisions. The state – or rationally administered states – had to follow another kind of authority, which restricted the ability to intervene in the economy. Private and public interests were unified in post-revolutionary society. And property was the authority that commanded state and individual:

> 'WE HAVE NOT MADE ANY ACCEPTION OF PERSONS;
> WE HAVE NOT HARMED THE RIGHTS OF PROPERTY;

[55] Ibid., 26.
[56] Ibid., 92-93. Original emphasis.

> WE HAVE NOT BEEN MISTAKEN ABOUT THE ENGAGEMENTS UNDERTAKEN IN THE NAME OF THE STATE.'
>
> This single THOUGHT would finally protect them [the heads of state] against the least lapses in authority; and they would never forget that ARBITRARINESS, once admitted in the transactions to which they are party, is then introduced, thanks to their example, their protection, or their tolerance, in all private conventions, circulating anxiety and fear in all the veins of the social body, and attacking successively all property and all fortunes, eventually WITHERING, until the very ROOTS, the tree of PUBLIC PROSPERITY.[57]

Formal legal equality and the rights of property were placed on a continuum. To adjudicate differentially with respect to personal status – Baroud used the term "acception of persons," originally an ecclesiastical phrase denoting undue partiality or favoritism – would be equivalent to violating property. The essence of a post-revolutionary legal regime, of a state that ruled rationally and not arbitrarily, was coterminous with respect for the concept of property. And state debt obligations entered as the final term. The public debt, fully recognized as property, would be regulated according to the same authority that commanded other forms. A good state would be compelled to do so, since the concept of property demanded rational treatment. Private and public interests could therefore converge in mutually beneficial fashion. The single authority that subsumed people and things, property, ensured the continued vitality of the public good. And in so doing, it provided a theoretical anchor for a political regime exiting more than a decade of revolutionary turbulence. With sovereign respect for property established as a central principle, citizens could enjoy all the previously enumerated advantages of the public debt, while the state would benefit both from the economic advantages that the debt provided, as well as the concretized display of political consensus signaled by the rising price of the *rente*.

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[57] Ibid., 93-94. Original emphasis.

The response to Baroud's pamphlet was not undividedly positive. Paired with *Considérations* in the archival holdings of the Napoleonic bureaucracy is an anonymous missive addressed directly to Baroud. While commending the "energy, the justness, and the precision of style," the author argued that it ultimately masked the deeply corrupted nature of Baroud's arguments about the public debt.[58]

Baroud was not judged wrong in every particular by this particular critic. Splitting Baroud's pamphlet into the "moral part" and the "systematic part," the author wrote, "I thus recognize the moral part, which consists in proving by irresistible arguments that the debt existing today must be paid, and the systematic part, in which you want to establish that it is advantageous for a Nation to have a debt."[59] There was no quarrel whether extant debts should be respected. But, the author acerbically noted, Baroud "thought it necessary to employ so much reasoning and eloquence to recall such a simple principle: you will pay, because you owe."[60]

Rhetorical barbs aside, the true target was the "systematic part," in which Baroud had essayed an affirmative defense of the public debt. Having fallen too much under the sway of misapprehended theories of political economy,[61] Baroud had, the author claimed, diverged from economic reality. The advantages of the public debt that Baroud had heralded, were, in this view,

[58] Ibid., 1.
[59] These divisions were the author's own gloss on Baroud. As the author made clear, the fact that it was up to him to separate out these two halves was a further monument to Baroud's deceptive style: "This mixture [of the two halves] might stun a writer who classifies their ideas as well as you; but in the end, you do not account for the reasons that determined you. It is up to me to separate them. And I hope that, however hardly perceptible the nuance may be between the reasons that militate in favor of an existing public debt, and those that you invoke in favor of a debt to be created, every man of good faith with seize upon this nuance with the aid of my distinction." Ibid., 3.
[60] Ibid., 3.
[61] Ibid., 11. The author mentioned Smith and Forbonnais in particular, claiming that "the false application made of them proves that you have not grasped them. These authors wrote in circumstances quite difference than those in which we find ourselves, and their system, which could be adopted in its fullness by England, must be rejected far from us."

false, nothing other than a mere "abstraction," with the Panglossian theories of political economy standing in for verifiable empirical data.[62]

It was therefore the author's self-assigned task to attempted a thoroughgoing refutation of Baroud's pamphlet. Some of this refutation was rooted in rather casuistic empirical disagreement, as in noting that England's public debt did not precisely take the form of the *rente* (the English public debt at the time was listed in "consols," which did bear a lower interest rate; as it happens, however, "consol" was short for "consolidated annuities").[63] But the author also sought to engage Baroud at the theoretical level; he aimed to show that by moving from abstraction to the reality of the debt, strikingly different theoretical conclusions must be drawn.

Taking aiming at Baroud's claim that given a well-managed debt, modern states were richer for having owed, the author argued,

> If it were true that the State was richer from what it owed, in paying precisely; it should, in order to at once double its wealth, borrow up to the capital value of all its landed property. Following you, it would thus have doubled its capital and its revenue; and if all landed property rose to thirty billion, and their revenue to one and a half billion, in borrowing a sum of thirty billion, in the form of the five percent *rente*, the State would be enriched by a capital of sixty billion, with a revenue of three billion? The falsity of the proposition is evident. For how will the state pay the interest on its debt, if this is not through the revenue of landed property? And as their amount is equal, who will not see that the State is, on the contrary, reduced to poverty, since it owes all it possesses! ... Finally, to whatever sum you would reduce the debt, the *rentiers* are only enriched from that which the State takes from property owners, or from commerce; and in lieu of being enriched from all it owes, the state really is immiserated, in desiccating the sources of industry.[64]

Could a state double its wealth simply by doubling its debt load? No, the author suggests, as debts must be paid back; any potential gains from the debt would be lost to ruinous servicing costs. Worse, he maintained, these interest payments would be paid out of revenues collected

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[62] Ibid., 2-3.
[63] Anonymous, *Lettre*, 12.
[64] Ibid., 5-6.

from "property-owners, or from commerce." The author figured public debts in zero-sum fashion: there could be no convergence between public and private interests, as one's gain would entail the other's loss.

Public debt could never truly be productive, for the author, as the value that circulated at the Exchange was illusory, a much-degraded facsimile of other kinds of property. "It would be," he wrote,

> in my opinion, a very great misfortune, if indeed the public debt fixed the price of other properties. This would prove that, without any discernment, one would search it out further, and thenceforward, independently of the harm that loans produce, either at the moment of their creation, or in the future, they would have this fatal drawback of blinding us to the point of taking shadow for body, fictive for real, and surfaces for solids. An industrious people would be replaced by a cowardly and lazy people; the land, in want of property owners, would remain uncultivated, and famine would be the lesser evil that this reversal of ideas, this blindness, would produce.[65]

Public debt was a mere "shadow" or "surface" to other, more solid phenomena. To believe otherwise would suggest a kind of willful blindness, entailing a "reversal of ideas" of the putatively natural economic order. With capital diverted to public debt, the people would turn away from truly productive pursuits, the land remaining disastrously uncultivated, promising ruin for the economy in general.

The invocation of shadows and bodies, surfaces and solids was no accident, as the relation of public debt to property in general constituted the focal point of the author's argument. The author maintained that a growing public debt destabilized property relations in the broader economy.[66] He wrote, "Real and landed property existed before the fictive property of the public debt, since the latter are based on the former; the variation of the value of the public debt must

[65] Ibid., 22.
[66] Ibid., 4.

therefore depend on that of landed values."[67] If the public debt were property, it could only be an imperfect, "fictive" form; "real property," here conceptualized as land, was the originary and true form of the concept. Value at the Exchange was thus dependent on the primary value of the land. A rising public debt, the author argued, tended to reverse this relationship. With shadows being taken for real, capital would flow away from the physical form towards its abstraction, confounding property's ability to order the economy smoothly. As the author accused Baroud, in advocating for the existence of the public debt, "Here you confound effect with cause."[68]

Indeed, the author ultimately claimed that public debts, in substituting shadow for body, surface for solid, abstraction for the real, served only to introduce disorder into the economic and political spheres. He inveighed,

> Order is the principal, the true, the only cause of credit. It is the guarantor of the solidity of the public fortune, as of private fortunes. I raise my voice with you, in favor of this principle; but I am far from drawing the same consequences from it.
>
> [...]
>
> I could ask of you further how you could have fallen in contradiction with yourself, to the point of preaching order and the doctrine of loans together. For they cannot sympathize with one another. Loans are destroyers of order, because, though appearing to diminish needs and augment resources, they only bring about this effect for a moment, and, on the contrary, increase the level of needs, while diminishing, in a much stronger proportion, that of resources...[69]

The public debt, for the author, could only form a glaring contradiction with a well-ordered economy. Public debts appeared to fructify value, but without truly possessing the real backing thereof. Thus the diminution in needs and augmentation in resources provided by the public debt were ultimately illusory, since only real property, for the author, could truly produce wealth. All

[67] Ibid., 20.
[68] Ibid., 20.
[69] Ibid., 30-31.

else would just be dangerous temporizing, sacrificing future economic stability for shortsightedly present needs.

Inverting the true basis of wealth, the public debt endangered well-being both public and private. Abstraction, shadow, fiction: public debts were, for the author, not to be tolerated in a rational state.

In the early stages of the Napoleonic regime, at a period of fundamental institutional and legal renovation, these two authors sketched out the major positions regarding the validity of the public debt. Baroud's pamphlet was published to substantial public attention; the *Lettre* appears to have remained unpublished. But both fell into the hands of the Napoleonic administration, at a moment in which lawmakers were beginning to decide on the meaning and shape of financial institutions. These dueling interventions on public debts were also ways of articulating differing visions of the relations between law, property, and the post-revolutionary state. For the author of the *Lettre*, the public debt could only be an ill-formed version of property, a shadow of the real thing. Rational states, he maintained, should not abide installing illusory, deceptive abstractions in the core legal concept of property. For Baroud, by contrast, public debts were legitimate because they were fully property, meriting all relevant legal protections – a controversial proposition, given that the very vehicle of the debt, the *rente*, had been born out of the 1797 bankruptcy, in which the state had failed to maintain its financial promises to its creditors. But one of the signature elements of post-revolutionary society was, for him, that people and things now existed under the same "domination." The dawning legal regime must therefore adjudicate them similarly, with public debts and all their economic ramifications falling under the normative authority of the concept of property. The post-revolutionary state would transgress its obligation to administer law rationally and equally if it did otherwise.

The *Marché à Terme* and the Order of the Economy

The controversy over the *marché à terme* began from the conceptual template articulated by Baroud and his anonymous interlocutor. But the questionable legality of futures contracts complicated matters. While the moral justification for issuing new debt may have been up for grabs, few disputed the right of states to employ credit in the first place.[70] The *marché à terme* enjoyed no such consensus, as it remained an open question whether such speculative vehicles truly were protected under property law; moreover, it was precisely during this period of formative legal codification that prohibitive sanctions could be drafted. In expanding the defense of public debt in general to cover the *marché à terme* in particular, advocates had to make the case that it was not only morally justifiable, but legally valid as well.

This conceptual rehabilitation of the *marché à terme* emerged, haltingly at first, from the upper echelons of the Napoleonic state, from trusted advisors and framers of legal codes. Such tentative acceptance of futures contracts would later be further developed by the Paris stockbrokers, who deployed the conceptual vocabulary expounded by their frequent client Baroud, articulating an affirmative defense of financial speculation as a wholly valid part of the post-revolutionary legal, economic, and moral order. And in such an order, they claimed, the free circulation of property could trump sovereign imperial authority.

The participation of the Napoleonic administration in building this conceptual apparatus may strike a rather paradoxical note. Napoléon is sometimes described as regarding finance with

[70] Even the author of the *Lettre* never claimed that public debt was formally prohibited by law.

a fundamental suspicion. Wary of the dangers that a collapse in the *rente*'s price might bring, he seemed to consider the Exchange a threat to his authority.[71]

These claims are, to some degree, corroborated by Napoleonic monetary policy. While Britain financed expenditures through a combination of increased public debts and monetary expansion, France hewed to a much more hard-currency line; whereas Britain, for a time, took the pound off the gold standard, France maintained strict convertibility for the franc.[72] With the hyperinflation of the *assignat* and the Bankruptcy of the Two-Thirds in living memory, France's ability to borrow had been severely curtailed, rendering credit scarce.[73] At the same time, this disdain of the Exchange was both practical and moral. Napoléon largely did not rely on public debts both because he could not and, for him, because he should not. As one contemporary critic put it, "the man, whose views in so many respects were so vast, never had anything other than narrow-minded ideas in finance: he only believed in the power of taxes and war levies ... for him, credit was an abstraction: in it, he only saw the dreams of ideology and the hollow ideas of economists."[74]

Yet the attitude of the Napoleonic state towards the *marché à terme* was not one of intractable rigidity. Nicolas François Mollien was particularly salient in this respect. Director of

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[71] Gontard, *La Bourse de Paris*, 23-24.
[72] Michael D. Bordo and Eugene N. White, "A Tale of Two Currencies," *The Journal of Economic History*, vol. 51, no. 2 (1991), 303-306, 310; François Crouzet, while noting that short-term implementation was considerably less than immediate, does claim that Napoleonic monetary reforms "engaged France in a rigorous metallism" in the long term. See Crouzet, *La grande inflation*, 555-559. Britain's departure from the gold standard was by no means uncontroversial. See Mary Poovey, *Genres of the Credit Economy: Mediating Value in Eighteenth- and Nineteenth-Century England* (Chicago: University of Chicago Press, 2008), 171-218.
[73] Bordo and White, "A Tale of Two Currencies," 310. On the *assignat*, see Crouzet, *La grande inflation*; Thomas M. Luckett, "Imaginary Currency and Real Guillotines: The Intellectual Origins of the Financial Terror in France," *Historical Reflections / Réflexions Historiques*, vol. 31, no. 1 (2005), 117-139; Rebecca L. Spang, *Stuff and Money in the Time of the French Revolution* (Cambridge: Harvard University Press, 2015).
[74] Ouvrard, quoted in Gontard, 24. Bergeron is a little more even-handed in his critique. Though he acknowledges that the Napoleonic state did not ignore the demands of credit, ultimately he argues that "the conception of public finance as a whole was not enriched, for Napoleon Bonaparte tended only to expand, on the scale of the State, the managerial principles of a domestic or family economy..." See Bergeron, *France under Napoleon*, 44-51.

the French Sinking Fund from 1800 to 1806, then Minister of the Treasury from 1806 to1815,[75] Mollien had a major influence on the shape of France's financial institutions. Born a merchant's son in Rouen in 1758 and long steeped in the political economy of Adam Smith, Mollien had been involved in tax farming under the Old Regime.[76] Arrested during the Revolution, but, by his account, barely escaping the scaffold, Mollien was eventually pulled into the financial administration of the Napoleonic state.[77] A frequent interlocutor of Napoléon, he was also tasked with overseeing price fluctuations in the public debt at the Paris Stock Exchange, sending near-daily reports while the French leader was out on campaign.[78]

Mollien was instrumental in developing the discourse on public debt, moving from Baroud's defense of the very concept of the debt to a theorization of how speculative practices such as the *marché à terme* might be legitimated. This theorization was most evident in a letter to Napoléon, which directly addressed the thorny topic of public debt futures. He began by casting the varieties of the *marché à terme* in a familiarly pejorative light: "... what one calls *marché à prime* or *marché ferme* is nothing other than a gamble. Such a speculator gambles, for instance, that the *rente* priced at fifty-three on 30 brumaire will be at fifty-seven on 30 frimaire, and he is compelled to pay this price for it on 30 frimaire."[79] The *marché à prime* resembled a modern call option, in which the purchaser, in paying a premium [*prime*], obtained the right, but not the

[75] Gontard, *La Bourse de Paris*, 25.
[76] Henry Reeve, "Mollien," in *Royal and Republican France. A Series of Essays Reprinted from the 'Edinburgh,' 'Quarterly,' and 'British and Foreign Review,'* 2 vols (London: Longmans, Green, and Co., 1872), 1: 361-363.
[77] Ibid., 372-379. The Finance Minister Gaudin, was responsible for recruiting Mollien; they had both served in the Ministry of the Treasury under the Old Regime.
[78] AN AFIV 1089B.
[79] Mollien au Premier Consul, undated. AN AFIV 1074. Original emphasis. Given that the majority of new regulations on the Exchange were issued between 1801 and 1802, it seems likely that the letter was composed sometime within that span.

obligation, to buy debt, meaning that the transaction could be canceled before the sale closed;[80] the *marché ferme* was synonymous with the *marché à terme*.[81] In all cases, futures contracts were likened to morally suspect gambling. Rather than wagering on the outcomes of innocuous events – few, presumably, are physically harmed by a turn of the card[82] – the speculator in public debt gambled on the health of the nation. But instead of citing such moral ill-repute as the reason to prohibit these transactions, Mollien defended the legitimacy of futures contracts, however sparingly: "Both do nothing other than exploit the <u>illimitable</u> right of property, which can only be defined thusly: <u>jus uti et abuti</u> [the right to use and abuse]; the law cannot intervene to prevent this transaction; for the will of the contractors would be even stronger than the law."[83] The state could not forbid the *marché à terme*, because the "will" of the contracting parties would be strong enough to overcome any potential legal sanction, a tacit admission of the centrality of the *marché à terme* to public finance. Even for the Napoleonic state, it was impossible to do away with speculation through futures contracts as a whole by legal command.

In addition to this practical impossibility, the law of property also provided affirmative protections for the *marché à terme*. Though the hypothetical contracting parties wickedly "exploited" this right, property really was thought to be "illimitable."[84] The state could not intervene to constrain such transactions, since this intervention would constitute an arbitrary – and thus unjustified, illegitimate – restriction on the concept of property. As Mollien had

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[80] In canceling the *marché à prime*, the purchaser's losses would thus be limited to forfeiting the premium to the seller.
[81] L. Ch. Bizet de Frayne, *Précis des diverses manières de spéculer sur les fonds publics, en usage à la Bourse de Paris*, 3rd ed. (Paris: Delaunay, 1818), 4-5.
[82] Assuming gambling debts are promptly paid off, of course.
[83] Mollien au Premier Consul, AN AFIV 1074.
[84] Or at least, property was conceptually illimitable in the private domain. Disturbances of the public order would not, presumably, be justified according to the law of property. But transactions between private individuals were another matter.

claimed, the right of property essentially reduced to "jus uti et abuti." This apparent reference to earlier legal traditions marks the letter as likely predating the adoption of the Civil Code, as Article 544 of the Code was meant to establish the core definition of property going forward.[85] "Abuti" here connoted the right of the property-owner to make final and irrevocable use of property, even if it this use were frivolous, wasteful, or distasteful. Such a legal norm, which Mollien claimed lay at the core of the concept of property, generally directed the state not to intervene in private economic interactions too heavily, so that citizens could freely circulate property according to clear and stable legal rules, without fear of arbitrary political action from on high. The *marché à terme* would have to stand, despite official disregard. The right of property vaulted above state authority.

Beyond moral opprobrium, for Mollien the *marché à terme* also introduced serious distortions into the economy. He wrote, "Speculators at the Exchange, who do not realize the harm they do to the state, are not only wrong in not contributing to the great task of the generation of capital, sole aim of society, they are not only wrong in consuming without producing; they are furthermore condemned to committing another wrong ... ; to bring about, according to the position in which their affairs place them, sometimes the rise, sometimes the fall, they resort to the artifices of false news, of unfair commentaries on the acts of government, etc. etc."[86] The *marché à terme* thus upset the proper course of economic activity, replacing generation – Mollien, a good Smithian, saw this as fundamentally stemming from labor[87] – with

[85] Ironically, this new definition of property was quite close to the common law concept Mollien cited; Article 544 defined property as "the right to enjoy and dispose of things in the most absolute manner, provided one does not make usage prohibited by laws and regulations." See *Code Napoléon. Édition originale et seule officielle* (Paris: Imprimerie Impériale, 1807), 142.
[86] Mollien au Premier Consul, 2. Original emphasis.
[87] Ibid., 1.

circulation. Worse, for Mollien the *marché à terme* appeared to contravene one of the foundational aspects of public credit itself. As Baroud had outlined, public credit, ideally, was supposed to serve as a metric of public opinion; by aggregating different accounts of news and major events, the price of the public debt was supposed to represent an objective measurement of the state's performance. But, in the single-minded pursuit of profit, the *marché à terme* perverted this function, introducing false reports and unduly critical accounts into the calculation of price, according to Mollien.

To be sure, the state was not completely helpless in the face of the *marché à terme*. As Mollien elaborated, the speculative frenzy gripping the Bourse was essentially a good urge directed towards ill ends; the state could encourage redirecting this profit-seeking behavior in more productive directions.[88] The state could also change the payment schedule of the debt, rendering the service payments less frequent, thereby discouraging investment in the *marché à terme*.[89] Most crucially, the state could seek to amortize the debt, which, in the long run, would eliminate the *marché à terme* by reducing tradeable public debt to zero.[90] All these measures might inhibit the *marché à terme*. But since the *marché à terme* was covered under the right of property, what the state could not do, according to Mollien, was directly repress it.

So long as this right was taken to be illimitable, at least. But the advent of the Civil Code in 1804 changed the legal environment. Property was still seen as foundational to the social order. As Jean-Étienne-Marie Portalis, the central figure in the Code's composition, proclaimed, "it is property that has founded human societies. It has vivified, extended, enlarged our own

[88] Ibid., 4.
[89] Ibid., 5.
[90] Ibid., 3.

existence."[91] Property was seen as coextensive with ordered society; the division of property provided the impetus for human endeavors, insofar as property accumulation allowed humanity to escape the blinding constraints of physical necessity. However, Portalis noted that property itself was not free of all legal constraints: "It belongs to a well-ordered legislation to regulate the exercise of the right of property, just as one regulates the exercise of all other rights. Something else is independence, something else is liberty. True liberty is only gained through the sacrifice of independence."[92] A rational legal system would have to establish boundaries to the manipulation of property, just as it regulated other rights. To think otherwise would be to mistake liberty for independence, or reliably enforceable security with an arbitrary and unstable state of non-interference.

Continuing in a Rousseauian vein, Portalis observed that "The people who live together in the state of nature are independent without being free. They are always forcing or forced. Citizens are free without being independent, as they are submitted to laws that protect them from others and from themselves."[93] Entering society required that one exchange indiscriminate force for law-governed order. "We must be free with the laws," Portalis forcefully maintained, "and never against them. Hence, in recognizing in the property-owner the right to enjoy and dispose of his property in the most absolute manner, we have added: *so long as he does not make usage prohibited by laws or regulations*."[94] Delineating the philosophical heritage of Article 544 of the Code, Portalis circumscribed property's prior illimitability. Property would constitute the

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[91] Jean-Étienne-Marie Portalis, "Exposé des motifs du projet du loi sur la propriété, Titre II, Livre II du Code civil, présenté le 26 nivôse an XII," in Frédéric Portalis, ed., *Discours, rapports et travaux inédits sur le Code civil* (Paris: Joubert, 1844), 212.
[92] Ibid., 214.
[93] Ibid., 214.
[94] Ibid., 215. Original emphasis.

foundation of post-revolutionary society, while also being brought in line with the exchange of absolute independence for secure freedom that a law-governed society demanded.

The *marché à terme* could no longer unrestrictedly be defended through appeals to the *jus uti et abuti*.[95] But if the state now could constrain the *marché à terme*, any prohibitions would still have to be legitimated, to avoid the stain of arbitrariness.

Building upon the discourse on property, public debts, and the meaning of rational, non-arbitrary law that had been developing since Baroud's intervention, the Paris stockbrokers tried to mold this legal ambiguity in favor of the *marché à terme*. An 1807 letter addressed to the Minister of the Interior Emmanuel Crétet, authored by Houard (later to defend public debt futures before the Council of State), argued against further legal restrictions. The pressing concern was Article Ninety of the recently adopted Commercial Code, which explicitly addressed government securities.[96] The article acknowledged financial transactions on the Exchange as protected under the rule of property, while also reserving the right to issue regulation at a later date. Given the suspicion consistently troubling the *marché à terme*, possible serious legal sanctions loomed.

Houard's response was to argue that the *marché à terme* was necessary, valid, and moral. Its necessity derived from economic utility, with prices signaling the robustness of imperial

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[95] References to the *jus uti et abuti* did not vanish after 1804. No longer dispositive, the right was framed by a wider conception of property that integrated any number of restrictions. Charles Demolombe, writing in 1854, would clarify that the word "*abuti"* signified "the right to dispose, to change, to destroy, to transform, to transmit to another, to *abuse* [property] in the end; that is to say, to make a final, unrenewable use by the current owner..." However, Demolombe went on to note that rights of property themselves could be further subdivided into concepts such as usufruct, which admitted real and legitimate prohibitions. See Charles Demolombe, *Cours de Code civil*, 31 vols. (Bruxelles: Stienon, 1854), 5: 138. See also D. Dalloz, *Jurisprudence générale. Répertoire méthodique et alphabétique de législation de doctrine et de jurisprudence en matière de droit civil, commercial, criminel, administratif, de droit des gens et de droit public*, vol. 38 (Paris: E. Thunot, 1857), 197.

[96] Titre V, article 90, *Code de commerce* (Paris: Imprimerie Impériale, 1807), 103. On the nature of the Commercial Code, see Amalia D. Kessler, *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France* (New Haven: Yale University Press, 2007).

credit: "[the *rente*'s] greater price is assuredly due to the confidence that has inspired the genius of the Emperor from the start; but this confidence needed to be aided."[97] The personal qualities of the Emperor might buoy the judgments of public credit. But they could not do it alone; the "confidence" that the Emperor radiated would have to be further transmitted by the *marché à terme*. Houard continued: "Those who did not have money and who wanted to obtain government securities obtained delays in payment. In augmenting the number of purchasers, this faculty stimulated the rise in prices for securities."[98] The *marché à terme* opened the public economy to those who desired to display affirmative judgments of the regime, but lacked the requisite liquid funds to do so. This, in turn, ratcheted up demand for the *rente*, since purchasers would no longer be shackled by present financial constraints.

Houard further defended the *marché à terme* as a normal part of the economy. "One can say," he noted, "that just as storekeepers are necessary to provision manufactories in advance of consumption, speculators are necessary to support the mass of government securities when it is considerable..."[99] While the *marché à terme* typically called down obloquy, Houard observed that such transactions were economically necessary. Manufactories require intermediaries to supply the appropriate resources, without which the chain of production and consumption would be disrupted. To restrict the *marché à terme* would therefore introduce a negative shock to public finances, radically unbalancing demand and supply of the *rente*. As he noted, "the government itself would undermine its credit in disrupting speculation on government securities."[100]

[97] CSCAC, 17 December 1807, CAEF B-0069360/1.
[98] Ibid.
[99] Ibid.
[100] Ibid.

The *marché à terme*'s economic necessity, in this view, was clear. And according to Houard, it was not some transgression benignly tolerated for its utility, but rather a valid part of France's legal architecture. Foremost in this respect was locating the *marché à terme* under the general rubric of property, hardly an unprecedented move. But Houard's tactic was less to defend the *marché à terme* from high theoretical grounds, than to point out that *à terme* transactions were quit common: "The *marchés à terme* in government securities are no more condemnable than *marchés à terme* in all other objects of circulation; the existence of government securities necessitates the commerce in them; government securities can no more go without commerce than commodities themselves; consequently, the commerce in these securities should also be under the safeguard of laws that protect the safety of transactions of whatever nature they may be."[101] The ubiquity of the *marché à terme* suggested that public debt futures would be no different than purchasing other products, such as wine futures. Ruling the *marché à terme* illegal would strike out a crucial support from the wider economy, an action beyond the legitimate authority of modern states. In a conceptual resonance with Article 544 of the Civil Code, the *marché à terme* in the financial realm was protected by the expansive rights of property-owners to transact essentially as they saw fit.

That the *marché à terme* appeared to be under no prior restrictions did not preclude future law from stamping it out. The final part of Houard's apologia thus consisted of a moral defense of the *marché à terme*. He argued, "It is an incontestable principle in commerce that the *marchés à terme* or with delay in payment, far from being contrary to good morals [*mœurs*], are of the essence of commerce."[102] Houard acknowledged the suspicion under which the *marché à terme*

[101] Ibid.
[102] Ibid.

had so consistently fallen. But he did not counter this suspicion on commensurately moral grounds. Rather than mounting a defense of the *marché à terme* in which the financial transaction would be shown to be in accordance with a pre-existing standard of virtue, Houard instead justified it from the standpoint of economic utility; "good morals" and "the essence of commerce" were fundamentally coterminous. To act morally was to benefit economically. Houard continued, "...discredit cannot arise from the sale *à terme* of government securities: every operation necessitates another that balances it; for benefit can only come about as a result of both parties. The seller being obligated to deliver, the greater value of securities is the consequence of this transaction."[103] The phrase "discredit" here bore a double meaning, signifying both a kind of moral failing and also disfavorable economic downturns. But, according to Houard, the *marché à terme* would avoid such dual discredit, since the transaction required both parties acting in concert, smoothing out unexpected price fluctuations. The *marché à terme* was moral because it leashed together buyer and seller in a mutually beneficial relationship, in turn bolstering the health of public credit. And just as it would constitute ill conduct for a state to jeopardize its own stability, so too would it be immoral for a state to outlaw the *marché à terme*.

In defending the legitimacy of the *marché à terme*, Houard testified to a convergence between the moral and the economic dimensions of property. The way property was to normatively regulate social interactions would be according to economic utility, rather than other kinds of first principles. And consequently, Houard maintained, a just state must renounce its

[103] Ibid.

claims to moral stewardship over the Exchange, since the sphere of the economy would provide for the necessary order.

Houard's defense, however, hinged on the location of the *marché à terme* under the concept of property, still a contentious issue. Less than a year later, in a memo of 5 March 1808, written by Houard in preparation for the impending meeting with Napoléon and the Council of State that same day, the Paris stockbrokers expanded their theoretical defense of financial speculation in public debt. The memo mainly sought to displace critical disfavor from the *marché à terme* towards more manageable offenses, such as unlicensed trading and nonpayment of contracts.[104] But such arguments themselves depended upon the prior legitimacy of the *marché à terme*. For critics, Houard noted, it was through the *marché à terme* that "often is sold what one does not possess. One even purchases what one cannot pay for, and, in order to prevent such abuse, the *marchés à terme* in government securities would seem to need to be prohibited."[105] If the public debt could circulate with no true possessor in *à terme* transactions, then, the argument went, it did not truly merit legal protection.

In response, Houard looked to the legally codified freedom of property. Property may commonly be experienced as concrete things, but this experience was not the normative legal view. Houard observed,

> If we wanted to fix for a moment on the principles of property, we could not contest that, everyone being master of disposing of his own, it would be unjust if one who possessed a security could not sell it like any other property *à terme* or with delay in payment, if they so please. We could not contest that it would be unjust if one who, in possession of capital,

[104] CSCAC, 5 March 1808, CAEF B-0069460/1. As Houard argued, "The abuses were committed elsewhere." He claimed that prohibiting the *marché à terme* would only serve to cast it out from the orderly confines of the Exchange, onto the wild and unregulated market of illegal, unlicensed brokers sometimes referred to as "*La Coulisse*." Greater, not lesser, financial chaos could only result, he concluded.
[105] Ibid.

> could only obtain reimbursement for it later, did not have the liberty of being assured in advance, at a price agreeable to him, of the property in government securities.[106]

As with the 1807 letter, "justice" derived from economic utility, from the capacity of goods and capital to circulate freely. The legal safeguard for this circulation was property's ability to be exchanged without undue restrictions. The essence of property was its abstraction, written into the Civil Code, as a vehicle for circulation, to be disposed of in maximally absolute manner. Prohibitions based in real possession were not, for Houard, truly justified, because property outstripped containment in things.

Houard's claims did require the selling party to possess the underlying securities. And, in a rhetorically savvy move, he agreed that the law should punish those who try to sell *à terme* without first possessing the appropriate quantity of *rentes*, just as it punished other kinds of fraud.[107] This view appeared to close the gap between the abstract essence of property and the concrete nature of possession. It might also threaten to interfere with the circulation of public debt, since such a requirement would obstruct speculators betting on a decline in prices, consequently throwing the flow of debt out of order. But Houard quickly qualified his stance. He argued that though property and possession should in principle be unified, finance at the Exchange divided the facts of possession:

> For instance, he who possesses the certificate of registration of a *rente* on the *Grand-Livre* is often not the owner of the *rente* that he appears, and must not dispose of it.
>
> Another does not possess the title to a *rente* that belongs to him. This is the case, for instance, in which the property-owner of a *rente* on which he has borrowed finds himself, since he has transferred to title to the name of the lender.[108]

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[106] Ibid.

[107] Ibid.

[108] Ibid. The "*Grand Livre*" was the ledger in which public debt transactions were recorded.

One could own a *rente* without possessing title; one could possess title without truly owning a *rente*. Bringing law's repressive powers down upon the selling parties in the *marché à terme* would therefore not be legitimate, because this repression could only be based in an incomplete conception of property. The desire to ground arguments against the *marché à terme* in possession was based in the view of property as something immediate and graspable. But the core legal definition of property was substantively abstract, permitting property relations to ramify beyond the possession of things.

Even if possession and property were presumed inseparable, such a provision would still be nearly unenforceable in practice. Contracting parties at the Exchange were confidential, known only to the relevant brokers. Since there was no prohibition on dealing with multiple brokers, there would be no effective way to check accounts without violating this confidentiality. The mandate to possess, therefore, would be unlikely to restrain speculation, at least not without substantial disruption of public credit. And since the principles of legal justice and economic utility, Houard argued, had converged, the state should not constrain the *marché à terme*: "it is repugnant to every idea of justice, because it is not possible for the property-owner to produce, at the moment of negotiation, the security that he wants to sell, nor for the purchaser to furnish a genuine proof that he will be able to pay, to deprive those who possess securities, or those who should receive capital, of purchasing or selling at their will."[109]. The selling party might own a *rente*, but not be able to demonstrate so; the purchasing party might have sufficient funds, but could not prove it. But rather than providing the legal justification to restrict the *marché à terme*, this situation was, to the contrary, of a piece with the meaning of property. "Property-owner" did

[109] Ibid.

not match up directly with either "those who possess securities" or "those who should receive capital." The *marché à terme*, far from constituting a form that was, at best, grudgingly tolerated, was rather emblematic of the legal expansiveness recently codified in the definition of property, and deserving of all appropriate legal protections.

Defending the *Marché à Terme* in the Napoleonic Council of State

With Houard's careful theorization of public debt futures in place, the stockbrokers were prepared to defend the legal validity, moral rightness, and economic necessity of the *marché à terme* at the 1808 meeting of the Council of State. During the debate between the Council and the stockbrokers, Napoléon took little care to hide his disdain of matters financial. After proclaiming his personal dominion over public credit, he loftily observed that "It hardly matters for credit if public funds rise or fall."[110] Rhetorically separating the concept of credit from the more sublunary day-to-day fluctuations of price, Napoléon cast doubt over the necessity of public debt futures. With a far-seeing sovereign on the imperial throne acting as guarantor for the stability of credit, the *marché à terme* would not seem to usefully smooth out the volatility of the nation's credit. It could consequently be legally prohibited without endangering the nation's economic stability.

Houard had followed essentially the same conceptual strategy before emperor and Council as he had laid out in his writings.[111] But the effort had left him drained. His voice grown hoarse with emotion and faint from exhaustion, he stepped down to let Boscary, Baroud's former agent, take

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[110] CSCAC, 5 March 1808, CAEF B-0069360/1.
[111] Ibid.

the word.[112] Boscary tackled Napoléon's challenge to the *marché à terme* head-on. In line with the post-revolutionary rehabilitation of public debts and financial speculation that had been developing since Baroud, he argued in favor of the *marché à terme* as a bulwark against systemic financial chaos and as fundamentally a kind of property.[113] And in the new regime, property was to be free.

Napoléon still had barbs in reserve to launch at the stockbrokers. After hearing Boscary's plea, Napoléon tersely stated that "according to the Civil Code, article 2059, it was forbidden to sell that which one did not possess."[114] Mirroring the argument set out by Houard, Boscary responded that anyone who sold public debt was "supposed" to possess it, cannily avoiding specifying just when such possession was to be established. He then swiftly moved on to darkly describing the chaos that would result from prohibiting the *marché à terme*: by removing one of the key means by which French citizens could make concrete judgments about the state's future creditworthiness, crippling financial disorder would result, precipitating a collapse in the price of the public debt, which had only slowly ticked upwards after years of instability during the Revolution.[115] The conceptual legitimation of the post-revolutionary state was therefore tied to the validity of the *marché à terme*, insofar as the *marché à terme* gave citizens a means by which to financialize their participation in the new regime – to turn property into political consensus, by actively investing in public debt futures. This validity, moreover, was guaranteed according to existing law, specifically the Council's previous decisions rendered prior to the Revolution's

[112] Boscary's defense, it seems, acquired some renown. An obituary notice from the Académie de Lyon spoke of the "luminous discussion" he had with the emperor in 1808. See A.-J.-B. d'Aigueperse, "Notice sur Boscary de Villeplaine," *Extrait des Mémoires de l'Académie de Lyon* (Lyon: Aimé Vingtrinier, 1859), 15.
[113] CSCAC, 5 March 1808, CAEF B-0069360/1.
[114] Ibid. Article 2059 of the Civil Code concerned fraud, specifically stellionate. See *Code Napoléon*, 527.
[115] Gontard, *La Bourse de Paris*, 10-15.

outbreak, which, Boscary asserted, "had not yet been nor should not be considered as suspended judgments."[116]

Boscary's emphasis on the nature of the *marché à terme* as property was carefully chosen. Baroud and Mollien had both conceived of public debt futures as a valid form of property; Portalis had conceptualized property as central to a rationalized system of law, in which arbitrary privilege had been banished. And as Suzanne Desan has shown, stabilizing property was a matter of first importance for the new regime. The 1804 Civil Code, she argues, was intended to rebuild post-revolutionary society on the twin pillars of patriarchal power and private property. The promulgation of the Code was carried out through a characteristically Napoleonic evacuation of the political, with dissenting voices shut down and power consolidated at the highest levels of the state.[117] The enduring legal architecture of post-revolutionary France was thus adopted in authoritarian context. Yet, in a regime in which the sovereign had explicitly articulated his personal control over credit, the stockbrokers argued instead that the concept of property ensured the *marché à terme*'s moral rightness and legal validity, consequently reining in the acceptable range of imperial action. The stockbrokers' defense of public debt futures ultimately served to mark out the boundaries of state power, yoking the political theory of a post-revolutionary state to the autonomy of the concept of property, even in financialized form.

And Napoléon, despite his antipathy to finance and public debts, was convinced by this defense.[118] No statutory law or administrative regulation was issued eliminating the *marché à*

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[116] CSCAC, 5 March 1808, CAEF B-0069360/1.
[117] Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley: University of California Press, 2004), 283-289. Desan notes that discussion of the Code was focused in the Council of State, an administrative body, with Napoléon himself attending over half the sessions. However, the Code "sailed through the two legislative bodies without difficulty or dispute."
[118] Eugene N. White, "The Paris Bourse, 1724-1814: Experiments in Microstructure," in Stanley L. Engerman, Philip T. Hoffman, Jean-Laurent Rosenthal, and Kenneth L. Sokoloff, eds., *Finance, Intermediaries, and Economic*

terme from the Paris financial markets. Futures contracts were not, to be sure, immediately unshackled from all legal sanction: Articles 421 and 422 of the 1810 Penal Code would later prohibit any sort of contract that swerved too close to games of chance.[119] But not mentioning the *marché à terme* by name – the articles spoke only of a speculative "gamble" [*pari*] on rises or declines in the prices of government securities – this sanction in fact only applied to contracts in which prices were simply netted, with no property ever actually being exchanged.[120] French bondholders were therefore left free to speculate in the public debt – to express their political faith in the future of the nation in economic terms – through the *marché à terme*, so long as that economic transaction was, theoretically, concretized into property at some determinate point. But even such attempts to freeze the progressive abstraction of property through the *marché à terme* would ultimately prove futile. Indeed, as stockbroker Houard's arguments made clear, the futures contract would always escape any reliably durable concretization, since the practicalities of public debt markets ceaselessly drove property to abstraction. The stockbrokers' defense of speculation thus suggested that insofar as good states were duty-bound to promote smoothly functioning financial markets, as part of their broader obligations to ensure economic vitality, the *marché à terme* must survive. Financial speculation in the public debt would remain a part of France's legal constellation going forward.

Development (New York: Cambridge University Press, 2003), 68. The Exchange did not go totally unregulated. The Council of State and the Prefect of Police weighed in on the Exchange in 1809, with further regulations coming in 1819, 1826, 1830, and 1831. However, these regulations mainly dealt with the usurpation of professional office, trading hours, and admission to the Exchange; the legality of the *marché à terme* did not seem to be an object of concern. See Archives de la préfecture de la police [APP], DA 31.

[119] Articles 421 and 422, *Code pénal* (Paris: Imprimerie Impériale, 1810), 99.

[120] On a similar controversy in the American context, see Jonathan Ira Levy, "Contemplating Delivery: Futures Trading and the Problem of Commodity Exchange in the United States, 1875-1905," *The American Historical Review*, vol. 111, no. 2 (2006), 307-335.

Conclusion

At the 1808 Council of State meeting, the *marché à terme* risked repression; it was not repressed. Not as a whole. Prior regimes had witnessed elements of financial capitalism embedded in the wider architecture of the fiscal-military state. And given the continental – indeed, global – scale of Napoleonic warfare, it may seem that such a martial justification would have provided the intellectual basis for the grudging acceptance of public debts and financial speculation. But it did not.

Disembedded from their previous justificatory grounds in the fiscal-military state, public debts and public debt futures were intellectually rehabilitated by being allied with the concept of property. This illimitable right, even when limited, was deeply connected to the political theory of the post-revolutionary state. To defend property was to stabilize society and to uphold rational law, in which arbitrary privilege had been expelled and citizens, nominally at least, could confront each other as equals. By locating public debt futures under the normative authority of the concept of property, the Paris stockbrokers and their fellow travelers were able to carve out a legitimate space for financial capitalism within otherwise inhospitable discursive terrain.

The episode of the *marché à terme* thus marks an important moment in the intellectual history of financial capitalism. As revealed through the case of public debt futures, the re-emergence of financial capitalism in Napoleonic France had become tied up with what it meant to be free in a post-revolutionary society. The disputed legality of the *marché à terme* served to delineate what kinds of behaviors, undertaken by private citizens, rational law could or could not repress, which kinds of actions the sovereign could or could not take in the economic sphere. In the face of withering imperial disdain, unmoored from its prior grounds in the fiscal-military

state, and without the comforting support of wartime contribution, the *marché à terme* in public debt nonetheless survived, as property. Such was credit.

Privilege, in Its Evil Sense: Law, Economic Liberalism, and the Company of Parisian Brokers, 1801-1841

The anonymous author began by projecting an image of unshakeable faith in his argument. In the 1830 pamphlet, *Observations sur la profession des courtiers de commerce*, he categorically denied the scurrilous accusation that the *courtiers* enjoyed any sort of illicit legal privilege.[1] "Privilege, in its evil sense," he explained, "is a favor bestowed upon certain individuals to the detriment of all. 'Privilege' derives from *priva lex* or *privi lex*, particular law or grace. But we cannot without abuse give this qualification to functions entrusted to certain individuals, it is true, but in the interest of all. And our institutions clearly have this last character."[2] The *courtiers*' legal rights of intermediation – their exclusive claims on brokering formalized commodities contracts – might have appeared to echo the Old Regime system of corporate privilege, which had placed multiple restrictions across a substantial section of professions. But the author argued it would be a mistake to confuse the former system of illegitimate privilege with the contemporary system of legitimate restriction. Privilege constrained the professions for the benefit of select individuals or groups; by contrast, the contemporary system also restricted certain professions, but for the benefit of the public as a whole. And if the state were to upend this contemporary system, such a move would provoke much wider effects throughout the body of public functionaries, a select group of professions

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[1] The *courtiers de commerce* were commodities traders. Though practicing similar duties as did the stockbrokers in the capital markets, the *courtiers* maintained their own bureaucratic structure and, eventually, physical location, with the opening of the Bourse de Commerce in 1889, in the space of the former Halle aux Blés. See Louis Repoux, *La Bourse des marchandises de Paris: histoire, organisation, fonctionnement, role économique*, 2nd ed. (Paris: Librairie nouvelle de droit et de jurisprudence, 1910), 33-43. This administrative and spatial separation did not preclude all cooperation, however; as we shall see, the *courtiers* and the brokers would come together over a defense of their legal rights of intermediation.

[2] Anonymous, *Observations sur la profession des courtiers de commerce* (Paris: Dezauche, 1830), 1. This pamphlet can be found in *Centre des archives économiques et financières* [CAEF], B-0068562/3.

with mixed public-private status and responsibilities. As the author wrote, "In wanting to suppress them [the *courtiers*' rights] because they are entrusted to only a certain number of individuals, by the same reason one would be driven to open up to common exploitation the offices of the notaries, stockbrokers, the lawyers, the auctioneers, bailiffs, etc."[3] Regulating both private professions and public functionaries by the same rules was, for the author, nonsense.[4] The charge of Old Regime corporatism, the author intimated, could only be illusory.

Included in the list of public functionaries, the stockbrokers too maintained certain exclusive rights. After having been dissolved as a corporate body in 1791, the brokers were gradually reorganized into an official "Company" with a legal monopoly on financial intermediation at the Paris Stock Exchange during the later Revolution and Napoleonic era, with their legal rights further reinforced by the Restoration law of 28 April 1816.[5] A wide-ranging piece of legislation, this latter law entailed two major consequences for the brokers: first, in order to rise to professional office, brokers had to furnish "caution money" to the government, as a kind of guarantee of professional probity; and second, brokers gained the right to transmit their offices to designated successors, contingent upon royal approval.[6]

The brokers, however, felt a little less secure about the moral justification for their rights than did the anonymous *courtier*. The secretary for the Company, annotating an early redaction of *Observations* by hand, gave voice to these concerns. "In principle," he scrawled in the

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[3] Ibid., 1.
[4] Ibid., 1.
[5] The relevant laws were the d'Allarde decrees of 2-17 March 1791, the laws of 20 October 1795, 19 March 1801, 16 June 1802, and the adoption of the Commercial Code in 1807. See Paul Lagneau-Ymonet and Angelo Riva, *Histoire de la Bourse* (Paris: Découverte, 2012), 19-21. There had been a prior Company of Parisian Brokers during the Old Regime, which, as William Doyle notes, had been the last corporation to be venalized in 1786, before the outbreak of the Revolution. See William Doyle, *Venality: The Sale of Offices in Eighteenth-Century France* (New York: Oxford University Press, 1996), 67-68, 144-145.
[6] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 24; Maurice Gontard, *La Bourse de Paris (1800-1830)* (Aix-en-Provence: Édisud, 2000), 142.

margins of the pamphlet, "public functions are entrusted freely, and so it is said that offices are no longer venal, as they had been in the past. But however, in principle, they may not be venal, one cannot be unaware that they are so in reality, and on this point, it would seem to me more suitable to keep silent..."[7] The caution money and the right of transmission of office appeared to turn legitimately held rights into illicit venality and privilege. But, the secretary hastened to add, "It cannot be denied, however, that the price attached to office is not a guarantee of anything further; but much the same thing could be said of attaching this guarantee to the faculty that the law grants to officeholders of presenting their successors, a faculty that would be lost by destitution of office, which, in however manner it may be considered, is clearly an advantage bestowed upon officeholders wholly in the interest of public order."[8] Despite seeming to lapse into privilege and venality in practice, the exclusionary legal rights of the brokers really did advance the public interest, in the secretary's view.

These legal rights were transformed into real venality and privilege in practice, and discussion of them should be avoided; these legal rights were not at all related to Old Regime privilege, but were plainly to the benefit of the public interest, and they should be vigorously defended in public. Seemingly caught between two contradictory arguments, the secretary's notes on the 1830 pamphlet captured a snapshot in the brokers' evolving defense of their place in post-revolutionary France. Their exclusive legal rights seemed to transgress basic norms of legal equality; these uncomfortable throwbacks to corporate privilege and venality would need to find solid justification in the new legal regime. From the adoption of the 1816 law through the July

[7] Secretary of the Company of Parisian Brokers, handwritten notes on *Observations*, CAEF B-0068562/3. It appears that the secretary had the author's ear, as several of his suggestions in the annotations were included in the final version.
[8] Ibid.

Monarchy, the brokers gradually pieced together just such a defense. Through legal trials, public interventions, and legal theory, combined with important shifts in the political landscape, the brokers developed an effective discourse in which apparent vestiges of corporatism and venality were reconciled with formal legal equality and the free circulation of property.

The brokers' affirmative defense of their status ultimately concerned more than their narrow professional interest (though it did concern that as well). By staking out a valid position between what appeared to be Old Regime corporatism and formal legal equality, they revealed important aspects of the meaning of nineteenth-century economic liberalism. This form of liberalism was typically characterized by a valorization of individualized property rights, at the expense of collective rights and intermediary bodies standing between economic actors.[9] These individualized rights were to be safeguarded by the abolition of monopolies and the stripping away of restrictions on the free circulation of property.[10] The state was theorized as playing a mostly minimal role, generally limited to providing basic goods such as security and justice.[11] When the state did take a more active hand in the economy, it was usually with an aim to promote market competition.[12]

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[9] In this view of the economy "one senses the drunkenness of the individual, freed from the collective constraints of the Old Regime," as one historian of France put it. See Louis Girard, *Les libéraux français, 1814-1875* (Paris: Aubier, 1985), 50.

[10] As Richard Whatmore argues, for Jean-Baptiste Say, the leading French economist of the day, France's international competitiveness regarding England could only be upheld through "the promotion of free trade, the abolition of aristocratic forms of monopoly in commerce and in politics, and the fostering of a republican morality of frugality and industriousness..." See Richard Whatmore, "War, trade and empire: the dilemmas of French liberal political economy, 1780-1816," in Raf Geenens and Helena Rosenblatt, eds., *French Liberalism from Montesquieu to the Present Day* (New York: Cambridge University Press, 2012), 190.

[11] Girard, *Les libéraux français*, 141-142.

[12] Philippe Steiner, "Competition and knowledge: French political economy as a science of government," in Raf Geenens and Helena Rosenblatt, eds., *French Liberalism from Montesquieu to the Present Days* (New York: Cambridge University Press, 2012), 194-195.

The case of the Company of Parisian Brokers challenges this view, since the Company mounted an affirmative defense of corporate monopoly and restrictions on property rights, within the conceptual grounds of economic liberalism. Though controversial, the brokers' legally sanctioned professional privileges would stand up to major challenges during the nineteenth century. Undoubtedly, their legal triumph was, in part, due to material exigencies on the part of the state – as the intermediaries of public credit, the state would risk upsetting its own financial stability in unwinding the brokers' professional investments. But the survival of the brokers' special rights was not just attributable to material constraints, and neither was it a stubborn prerevolutionary holdover in an otherwise post-revolutionary milieu. The brokers' rights remained in place because economic liberalism and state-enforced, exclusionary corporatism were never insuperable oppositions.

Corporatism after the Revolution

While the Revolution had upheld the destruction of corporate privilege and the removal of barriers to entry to the professions – most notably through the Le Chapelier and d'Allarde laws[13] – significant historiographical work has convincingly shown that this destruction was neither immediate nor complete. Despite the supposed legal ban on corporatism, the state did find ways to institutionalize corporate associations in various ways.[14] Most frequently, this intervention in the labor market was justified by appealing to notions of public safety. The stability of Paris, especially of its food supply, loomed large. Beginning particularly during the

[13] Philippe Minard, "Le métier sans institution: les lois d'Allarde-Le Chapelier de 1791 et leur impact au début du XIXe siècle," in Steven L. Kaplan and Philippe Minard, eds., *La France, malade du corporatisme? XVIIe-XX siècles* (Paris: Belin, 2004), 81-88. As Minard notes, the legal abolition of corporate privilege did not prevent voices calling for its return afterwards.
[14] Steven L. Kaplan, *La fin des corporations* (Paris: Fayard, 2001), 615-616.

Napoleonic regime, those professions deemed essential to maintaining a secure food supply for the city were granted certain degrees of corporate autonomy. As early as 1801, the state allowed the bakers to form a professional association with binding powers on its members, as a way to ensure stable bread prices; the Paris butchers soon followed, forming their own association, under the watchful eye of the state, in 1802.[15] This reauthorization of a form of corporatism followed an expansionary dynamic: by 1819, twenty-four professions had been organized into professional "syndicates."[16]

The operating logic was the need to balance the demands of a liberalized labor market with the requirements of good public order. As Philippe Minard argues, this desire for balance led the administration to permit a certain number of "syndical chambers," which acted as semi-autonomous governing bodies, under the supervision of the state.[17] The "danger" of a completely unregulated economy therefore had to be mitigated through a partial return to corporatism. Though not free from official suspicion, this compromise would survive across multiple regimes in the nineteenth century, finally becoming legalized, along with trade unions, in 1884.[18]

Public order and the public interest were not confined to the material professions. Examining a prominent exemption to the ban on corporate bodies, Michael Fitzsimmons has argued that the reconstruction of the Parisian Order of Barristers constituted a "hollow victory." Granted an apparent degree of corporate autonomy by the law of 13 March 1804, the Order was

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[15] Michael P. Fitzsimmons, *From Artisan to Worker: Guilds, the French State, and the Organization of Labor, 1776-1821* (New York: Cambridge University Press, 2010), 140-142.
[16] Minard, "Le métier sans institution," 93.
[17] Ibid., 95. While most of the professional syndicates were related to public safety in some fashion, there were also certain notable exceptions. As Michael Fitzsimmons notes, "it is difficult, for example, to discern a public policy consideration behind a body of wallpaper manufacturers and sellers." See Fitzsimmons, *From Artisan to Worker*, 187-188.
[18] Michael Sibalis, "Corporatism after the Corporations: The Debate on Restoring the Guilds under Napoleon I and the Restoration," *French Historical Studies*, vol. 15, no. 4 (1988), 729.

in fact highly dependent on state approval, with the state claiming such powers as the right to select the Order's leadership, the right to approve the punishments meted out to refractory members, and the right to approve all meetings of the Order outside of bureaucratic elections.[19] This diminished form of corporate privilege, Fitzsimmons argues, struck a distinctly anachronistic note in the post-revolutionary world.[20] The Order of Barristers may have been reconstructed, but the social milieu that had supported its Old Regime privileges had not; the Order was a corporate body caught in a legal system that was not organized along principles of corporatism. Fitzsimmons does note that the lawyers would rise to greater prominence during the Restoration, with some of the Napoleonic legal constraints on their autonomy stripped away in 1822.[21] But this relative shaking-off of constraints should not obscure the much more definitive collapse of corporatism as a legal system. The Order might have re-entered the French professional world, but there would be no return to Old Regime corporatism.

Fitzsimmons' argument aligns with broader overviews of the post-revolutionary evaluation of corporatism. Observing that historiographic treatments typically begin from the demolition of corporatism in 1791, Francis Démier argues that nonetheless there was a resurgence, particularly during the Restoration.[22] Démier sees two main interrelated sources of

[19] Michael P. Fitzsimmons, *The Parisian Order of Barristers and the French Revolution* (Cambridge: Harvard University Press, 1987), 152-182. The 1804 law provided for the reinstatement of the Order after its dissolution during the Revolution, though it did not determine all particulars of the Order's organization. These organizational specifics would continue to be modified throughout the Napoleonic regime, with the definitive law coming on December 14, 1810.
[20] Fitzsimmons, *The Parisian Order of Barristers*, 191. For the professional evolution of the lawyers under the Old Regime, see also David A. Bell, *Lawyers and Citizens: The Making of a Political Elite in Old Regime France* (New York: Oxford University Press, 1994).
[21] Fitzsimmons, *The Parisian Order of Barristers*, 192.
[22] Francis Démier, "L'impossible retour au régime des corporations dans la France de la Restauration, 1814-1830," in Alain Plessis, ed., *Naissance des libertés économiques. Liberté du travail et liberté d'entreprendre: le décret d'Allarde et la loi Le Chapelier, leurs conséquences, 1791-fin XIXe siècle* (Paris: Institut de l'histoire de l'industrie, 1993), 117.

this fervor for corporatism: a popular reaction to the deregulated professions, which envisioned the newly liberalized labor markets as an undesirable loosening of long-standing social bonds, and an elite political strategy, in which the royalist "ultras" couched their counter-revolutionary claims in calls for a return to corporatism.[23] Restoration liberals responded by allowing a modicum of market regulation, such as permitting some forms of professional association in certain sectors, while disavowing that this regulation represented a return to the previous corporate order.[24] This compromise sought to address the experienced dislocations of the new economic order, while also evading the taint of legal privilege, the accusation of which could unite political opposition against across otherwise thorny political cleavages.[25] As Démier writes, "Thus the idea emerges, in the experience of the Restoration, that in order to take root durably, the 'market' must be mastered, it practice regulated, the risks it represents attenuated."[26] The Restoration thus appeared to chart a "middle way" between economic liberalism properly speaking and corporatism.

The most sustained analysis of this branch of post-revolutionary corporatism comes from Ezra Suleiman, who has devoted a book-length study to the notaries, from the Old Regime to the late twentieth century.[27] A political scientist, Suleiman's primary focus is on the path of the notaries through the twentieth century, culminating in their confrontation with possible Socialist reforms to the labor sector during the 1980s. His main theoretical concern is over the relationship

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[23] Ibid., 118-130.
[24] Ibid., 133-137. See also Sibalis, "Corporatism after the Corporations," 718-730.
[25] R.S. Alexander, "Restoration Republicanism Reconsidered," *French History*, vol. 8 no. 4 (1994), 451-452.
[26] Démier, "L'impossible retour," 137. For a sustained analysis of French state intervention in the grain market, see Judith A. Miller, *Mastering the Market: The State and the Grain Trade in Northern France, 1700-1860* (New York: Cambridge University Press, 1999).
[27] In concluding his expansive overview of venality in the Old Regime, Doyle also observes that several classes of public functionary, such as the notaries, the stockbrokers, and the auctioneers, were also allowed a degree of corporate autonomy. See Doyle, *Venality*, 312-317.

between state power, political centralization, and private (or semi-private) groups. He argues that despite the ostensible concentration of state power in fewer hands, political centralization may not necessarily stem the influence of private groups on policy; in fact, in some cases centralization may even increase this influence.[28] The continuing power of the notaries, for Suleiman, demonstrates the tenacious grip that entrenched groups may have on their influence, even in a notionally powerful state.

Suleiman's choice of the notaries is carefully selected. As with the stockbrokers, the notaries maintained a state-sanctioned monopoly on certain public functions, as well as the right to transmit their offices to designated successors, fortressing the profession off from the labor market; these rights, Suleiman argues, were an essentially Old Regime holdover that survived well past the Revolution.[29] Tracing the development of these rights out of corporate privilege and venality, Suleiman notes that the notaries in the nineteenth century repeatedly defended their profession against ostensibly liberalizing forces. Indeed, despite serving important economic functions, particularly regarding the authentication of contracts, the notaries, Suleiman claims, maintained a basically contrary attitude towards economic modernity: "Prior to the modernization of the profession that occurred in the post-World War II period, the *notaire* saw himself as a noble figure for whom it was not becoming to manifest an interest in economic gain. Being anchored in the countryside, he adopted the aristocratic values that included disdain for money."[30] The notaries' exclusive rights were, according to Suleiman, essentially oppositional to

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[28] Ezra N. Suleiman, *Private Power and Centralization in France: The* Notaires *and the State* (Princeton: Princeton University Press, 1987), 18-19.
[29] Ibid., 33-34.
[30] Ibid., 53.

broad thrust of the French economy.[31] Suleiman does argue that, under pressure from revived criticism and from new competitors in the market for legal and financial services, the notaries underwent significant transformation in the postwar era.[32] But even so, the notaries still maintained legal rights derived from venality and privilege.[33]

Suleiman's account is embedded in a wider narrative of France's macroeconomic performance. Frequently, this kind of survival of corporatism is taken to mark a peculiarity in French economic development, a legal idiosyncrasy going hand-in-hand with France's particular – and in such narratives, typically slower or suboptimal – path to economic modernity. The most influential evocation of this historiographical trend is the work of David Landes. Organized into small, family-dominated firms, congenitally risk-averse, and dependent on state paternalism for survival, for Landes French business was terminally slow at generating the form of entrepreneurship appropriate to a rapidly developing capitalist economy.[34] Ultimately, in his view, it was France's tardy adaptation to the forces of economic (and especially technological) modernity that resulted in a permanent forfeiture of any claims to global supremacy.[35]

The dominance of this interpretation of French economic development has come under serious challenge from a number of angles. Scholars have noted that while France may have lagged behind England regarding total output, in per capita terms France in fact performed quite

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[31] As he writes, the notaries as a professional group "as of 1950, could not be said to have entered the twentieth century." See Ibid., 30.
[32] Ibid., 91-106.
[33] Ibid., 34.
[34] David S. Landes, "French Entrepreneurship and Industrial Growth in the Nineteenth Century," *The Journal of Economic History*, vol. 9 no. 1 (1949), 45-61. See also Michel Hau, "Entrepreneurship in France," in David S. Landes, Joel Mokyr, and William J. Baumol, eds., *The Invention of Enterprise: Entrepreneurship from Ancient Mesopotamia to Modern Times* (Princeton: Princeton University Press, 2010).
[35] David S. Landes, *The Unbound Prometheus: Technological Changes and Industrial Development in Western Europe from 1750 to Present* (New York: Cambridge University Press, 1969).

favorably in comparison with the other European powers.[36] In turn, the apparent absence of an industrial "takeoff" akin to England is more attributable to demographic slowdown, rather than to any particularly Gallic intransigence to economic growth.[37] Other work has called into question the supposed backwardness of the French firm, pointing out that small, family-controlled firms were appropriate to the French economic landscape, as further increases in firm size would not necessarily have reaped commensurately greater benefits.[38] The opposition between corporatism and economic liberalism has also been questioned, as pleas for direct market regulation were sometimes couched in ostensibly liberal language.[39]

In her work on nineteenth-century publishers, Christine Haynes in particular engages this newer historiographic turn to open up new interpretive avenues into the history of nineteenth-century French corporatism. Observing that a "marriage between state and market" crystallized

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[36] Philip T. Hoffman and Jean-Laurent Rosenthal, "New Work in French Economic History," *French Historical Studies*, vol. 23, no. 3 (2000); Don R. Leet and John A. Shaw, "French Economic Stagnation, 1700-1960: Old Economic History Revisited," *The Journal of Interdisciplinary History*, vol. 8 no. 3 (1978), 531-544; Richard Roehl, "French Industrialization: A Reconsideration," *Explorations in Economic History*, vol. 13 (1967), 233-281. Roehl, Leet, and Shaw all claim that French per capita growth actually outdistanced the English growth rate during the nineteenth century. For a general overview of the historiography of nineteenth-century French economic growth, see the aptly named François Crouzet, "The Historiography of French Economic Growth in the Nineteenth Century," *The Economic History Review*, vol. 56, no. 2 (2003), 215-242.

[37] Roehl, "French Industrialization: A Reconsideration"; Crouzet, "The Historiography of French Economic Growth in the Nineteenth Century"; François Caron, *Histoire économique de la France, XIXe-XXe siècles* (Paris: Colin, 1981). For Roehl, France generally followed a gradual but steady process of industrialization, a process whose roots reached back into the Old Regime. Combined with slower population growth, this more gradual process would preclude any kind of sudden, dramatic explosion of industrialization.

[38] John Vincent Nye, "Firm Size and Economic Backwardness: A New Look at the French Industrialization Debate," *The Journal of Economic History*, vol. 47, no. 3 (1987), 649-669. Though he focuses largely on later industrial and managerial development, Michael Smith also argues for the broad robustness of French entrepreneurial culture. See Michael Stephen Smith, *The Emergence of Modern Business Enterprise in France, 1800-1930* (Cambridge: Harvard University Press, 2006).

[39] Jean-Pierre Hirsch, "Revolutionary France, Cradle of Free Enterprise," *The American Historical Review*, vol. 94, no. 5 (1989), 1281-1289. See also Hirsch's *Les deux rêves de commerce: entreprise et institution dans la région lilloise (1780-1860)* (Paris: Éditions de l'École des Hautes Études en Sciences Sociales, 1991). In his work on the construction trade, Allan Potofsky has also called into question this opposition, suggesting instead a tripartite model revolving around "corporatism, statism, and liberalism." Focusing largely on the eighteenth century through the Napoleonic period, he argues that under the nineteenth-century revival of corporatism, "The same corps was simultaneously viewed as guardians of the flames of neo-corporatism, liberalism, and state control." See Allan Potofsky, *Constructing Paris in the Age of Revolution* (New York: Palgrave Macmillan, 2009), 256.

during the Napoleonic era[40] – as a conduit for public opinion, publishing was deemed vital to the general interest, and was thus, like the butchers and bakers, subject to state regulation – she examines how legal constraints on the profession were gradually removed. The main discursive fight, she notes, was between "corporatists," who desired increased state regulation of the publishing market, and "liberals," who desired a more complete removal of this state presence, particularly regarding licensing requirements and literary property rights.[41] Though largely frustrated through the first half of the nineteenth century, the liberals eventually won the day, with the book trade increasingly deregulated, beginning roughly during the last quarter of the century. However, she notes that this liberal victory crossed markedly different regime types, with initial successes during the liberal period of the Second Empire and gains solidified with the Third Republic.[42] This compatibility of a liberalizing professional agenda with both empires and republics, she argues, derives from the thrust of the liberals' discourse, which was generally aimed at economic rather than full intellectual or ideological liberalism.[43] This heightened interest in economic liberalism, Haynes claims, eventually found a newly sympathetic audience in the state.[44] For Haynes, the eventual defeat of corporatism was therefore tied to a mutation in the state agenda, from a commitment to protect the public order to a commitment to encourage economic development.

An examination of the stockbrokers' corporatism will fit within this broad historiographic trend. But it will make important departures as well. As with Haynes, the history of the

[40] Christine Haynes, *Lost Illusions: The Politics of Publishing in Nineteenth-Century France* (Cambridge: Harvard University Press, 2010), 49. Haynes credits Carla Hesse with the connubial metaphor of regulatory policy. See Carla Hesse, *Publishing and Cultural Politics in Revolutionary Paris* (Berkeley: University of California Press, 1991).
[41] Haynes, *Lost Illusions*, 42-91.
[42] Ibid., 212.
[43] Ibid., 190.
[44] Ibid., 12.

stockbrokers' exclusive rights dramatizes a confrontation between corporatism and economic liberalism. Unlike Haynes, however, the profession was not noticeably split in two, as critiques of the brokers' exclusive rights came from without, rather than within; the brokers were fairly unswerving in their desire to maintain their legal protections. Moreover, there was no comparable liberalization of the profession, as the brokers did in fact retain these exclusive rights. At the same time, there were observable shifts in the brokers' discourse, as they eventually defended their exclusive rights in terms of property, liberty, and equality. If the path of the publishers ultimately reflected a "divorce" between state and market in the literary field,[45] then the resilience of the brokers' corporate rights will show how there could also be a long and fruitful marriage between corporatism and economic liberalism.

Napoleonic Reform and Restoration Consolidation of the Company of Parisian Brokers

The stockbrokers' corporation fell before the Revolutionary assault on privilege, finally being dissolved in 1791.[46] In addition to losing corporate representation, the brokers were also stripped of their monopoly on financial intermediation: from 1791, anyone paying the appropriate *patente* and swearing before the Tribunal of Commerce was legally empowered to act as a broker.[47] The destruction of the brokers' professional privilege was paired with upheavals in the concrete location of the financial markets; as shown in Chapter 1, the Paris Stock Exchange was only intermittently open during the Revolution.[48]

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[45] Ibid, 187.
[46] Paul-Jacques Lehmann, *Histoire de la Bourse de Paris* (Paris: Presses Universitaires de France, 1997), 11.
[47] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 19. For more on the *patente* and the Revolutionary liberalization of the professions, particularly in medicine, see Jan E. Goldstein, *Console and Classify: The French Psychiatric Profession in the Nineteenth Century* (Chicago: University of Chicago Press, 1987), 28-35.
[48] Lehmann, *Histoire de la Bourse de Paris*, 9-10.

The Revolutionary inconstancy in the financial markets would be an early object of Napoleonic reform. Bringing an end to its periodic openings and closures, the Exchange was be definitively refounded through a series of laws and regulations issued at the beginning of the nineteenth century, later supplemented by the 1807 Commercial Code.[49] Hand-in-hand with the physical stabilization of the Exchange was the legal reorganization of the stockbroker's profession. Ending the experiment with open practice in finance represented by the *patente* system, the brokers once again secured a legal monopoly on financial intermediation at the Exchange.[50] The Company of Parisian Brokers was also brought back into existence; in addition to representing the brokers as a whole, a "*chambre syndicale*" was created, composed of one syndic and six adjuncts, tasked with supervising and disciplining the brokers.[51]

Since financial intermediation had up until that moment been governed by the *patente* system, the new tenants of the office of stockbroker would have to be selected afresh. The process was painstaking. A committee of eight bankers and eight merchants drew up a double list of names – each side nominating forty candidates – then sent this list to the departmental Prefect, who could add further nominations, up to a quarter of the standing total. The list was then forwarded to the Minister of the Interior,[52] who could also add nominations in equal amounts. The Minister then sent the list to Napoléon, who authorized the final selections for the open positions.[53]

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[49] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 21.
[50] Alfred Colling, *La prodigieuse histoire de la Bourse* (Paris: Société d'éditions économiques et financières, 1949), 155-156.
[51] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 21.
[52] At this time, the Paris stockbrokers were placed under the ministerial administration of the Interior; in 1816, the Minister of Finance would take over these duties. See Gontard, *La Bourse de Paris*, 142-143.
[53] The preceding summary of the selection process is drawn from Colling, *La prodigieuse histoire de la Bourse*, 156, as well as Archives nationales [AN] F12 973.

Ultimately, in 1801 seventy-one brokers were nominated, leaving nine spaces unfilled.[54] Of these seventy-one, only seventeen had practiced prior to the Revolution's outbreak.[55] This relative low proportion of prerevolutionary brokers was due to the stated desire to "regenerate" the Exchange. As Nicolas Mollien, at that time director of the French Sinking Fund, wrote to Minister of the Interior Chaptal,

> I chose those who, by their past conduct, seem to me to give the best guarantee of their future behavior. The Paris Stock Exchange needs a complete regeneration; most of the brokers in Paris are speculators, while they must be nothing other than commission agents. This revolution in morals [*mœurs*] is necessary and will be difficult. Perhaps it will be possible to help by directing a constant observation over all the movements of the Exchange, over their purposes and motivations, over the preference that will be given in such a circumstance, in such a transaction, and over the choice of the brokers who will be employed there.[56]

The Exchange, for Mollien, required a moral revolution. In the past, it had been the site of speculative scandal, which constituted both a moral disgrace and a threat to the stability of the regime, insofar as volatile financial markets jeopardized the stability of public credit. Notably, here and as seen in Chapter 2, this proposed moral revolution did not consist in prohibiting the actual instruments of speculation, such as the *marché à terme*; rather, Mollien suggested greater vigor in policing the activities of the brokers, forbidding them from acting as principal parties for their own account and turning them rather into "commission agents," who could only profit instead by assessing a fee or commission on each individual transaction. This restriction on the legally permissible range of the brokers' activity would be matched by greater surveillance over the Exchange in general, and specifically by close attention to the candidates named to the initial cohort of the new Company of Parisian Brokers. The lucky brokers confirmed by the First

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[54] Colling, *La prodigieuse histoire de la Bourse*, 157.
[55] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 22.
[56] Mollien to Chaptal, 17 thermidor an IX, AN F12 973. Original emphasis.

Consul would surely not act according primarily according their personal financial interest,[57] but rather in favor of the financial interest of the nation.

Mollien's reforms highlighted the nature of corporatism under the Napoleonic regime. If the brokers recovered some of their former corporate rights, it would be at the cost of significantly reduced autonomy. They had regained exclusive rights of financial intermediation and corporate association, but were to avoid any conduct that might be personally advantageous, but deleterious to the nation's financial health. The Company of Parisian Brokers was a corporation under state tutelage, with the exclusive rights of the brokers significantly restricted.

Though the Company would largely remain within the financial architecture created by Napoléon, his decisive defeat in 1815 augured significant shifts in the brokers' legal rights and responsibilities. France in 1815 was an occupied country, and the Restoration government a regime saddled with a war indemnity of 700 million francs.[58] While this indemnity was primarily financed through new public debt issue, the state also searched for means of increasing revenue beyond borrowing.[59] It would find one such means in the public functionaries, as evidenced by the law of 28 April 1816.[60]

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[57] In the same letter to Chaptal, Mollien recommended adding a particular m. Serrières to the list of candidates, whose youth had preserved him from acquiring certain unsavory habits, especially "the habit of easy profits, which had been the doom of the morality of others." Such a nasty habit, Mollien suggested, would not be appropriate to the stockbroker in the Napoleonic regime. Unfortunately for Serrières, Mollien's recommendation appeared to have gone unheeded, as Serrières was not appended to the final list of nominees; the Archives nationales hold an "*état*" signed by all confirmed nominees, but no supplementary document bearing Serrières' name. See Mollien to Chaptal, 17 thermidor an IX, AN F12 973; *État des Agents de Change nommés par arrêté du Premier Consul, en date du premier thermidor an IX*, AN F12 973. Original emphasis.

[58] Guillaume de Bertier de Sauvigny, *The Bourbon Restoration*, trans. Lynn M. Case (Philadelphia: University of Pennsylvania Press, 1966), 128-129. The occupation cost an additional 150 million francs per annum.

[59] Eugene N. White, "Making the French Pay: The Costs and Consequences of the Napoleonic Reparations," *European Review of Economic History*, vol. 5, no. 3 (2001), 343-348.

[60] White notes that other sources of revenue included increased taxes, decreased budgets for government ministries, and reduced salaries for state officials. See White, "Making the French Pay," 344.

The law constituted significant revision of the state's finances. Beginning with a brief budgetary overview from 1814 to 1816, the law proceeded to address matters including increased registration fees on property, excise taxes, customs duties, and the enforcement of anti-smuggling measures, as well as authorizing modifications to the French Sinking Fund.[61] It also significantly changed the legal status of several classes of public functionary, including the lawyers and bailiffs to the French High Court [*Cour de cassation*], the notaries, and the brokers. According to Title IX, Article 90, the caution money, already a requirement of assuming office, would be substantially increased; in the case of the brokers, this compulsory fee was raised to a maximum of 125,000 francs, far above what was required of most other functionaries.[62] The caution money was entrusted to the state, which would pay interest at a rate of five percent.[63] In exchange, Title IX, Article 91 granted the brokers, among others, the right to transmit office to designated successors, pending royal approval.[64]

This trade of increased revenue on the part of the state for increased legal authority over public functions for the brokers was perilously reminiscent of corporate privilege and venality, across several categories. Already possessing exclusive rights on financial intermediation, the

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[61] *Loi sur les finances, du 28 avril 1816, conforme à l'édition de l'Imprimerie Royale, contenant les disposition réglementaires sur les budgets de 1814, 1815, et 1816; les contributions directes, ordinaires et extraordinaires; l'acquittements de l'arriéré; les droits d'enregistrement, du sceau, du timbre et des hypothèquesl les retenues sur les traitemens; la création et l'organisation d'une nouvelle Caisse d'amortissement et d'une Caisse de dépôts et consignations; les droits sur les boissons, les cartes, le tabac; les droits d'octroi; le nouveau tarif des douanes, etc.* 2nd ed. (Paris: Guillaume, 1816), 1-19, 33-37, 79-90, 145-164.

[62] Ibid., 31, 75-78. The next highest fee was levied on the auctioneers of Paris, who were required to pay 20,000 francs in caution money. Regarding the brokers specifically, Titre IX, art. 90 of the law stipulated that the caution money would be assessed according to the "population and commerce" of the place of residence of the brokers, starting from a minimum of 4,000 francs to a maximum of 125,000 francs; the Parisian brokers were responsible for the maximum payment.

[63] *Loi sur les finances*, 32.

[64] Ibid., 31-32. This right did not apply to those forcibly stripped of their office, for instance by bankruptcy. The crown also retained the right to reduce the number of available offices.

law expanded the brokers' monopoly, closing off the profession from wider competition.[65] The increase in caution money also seemed to bear substantial resemblance to venal office. Under the Old Regime system of venality, many positions paid regular interest [*gages*], calculated against the initial capital of the purchase price.[66] In effect, venality therefore constituted a kind of borrowing: with the price of office forming a kind of loan, the state was able to access indirect – and typically more robust – sources of credit.[67] And though nominally a kind of insurance or guarantee of good professional behavior,[68] the brokers' caution money appeared quite similar to this Old Regime practice. Indeed, the parallels between venality and caution money could not but be striking, as the Restoration state, at this point unable to borrow on favorable terms in its own name,[69] paid interest on the capital loaned by the brokers, using the captured revenue to help discharge its fiscal obligations. Since the caution money was legally mandated in order to practice at the Exchange at all, the profession of broker appeared to have moved quite close to venality.

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[65] At least, the brokers were protected from legally sanctioned interlopers. However, they did face competition from the illegal, unlicensed brokers – called *courtiers marrons* or *La Coulisse* – who congregated around the Exchange and in nearby cafés. See Donald A. Walker, "A factual account of the functioning of the nineteenth-century Paris Bourse," *European Journal of Economic Thought*, vol. 8, no. 2 (2001), 189-190. The relations between the *Coulisse* and the Company were fraught through much of the nineteenth century, but not necessarily intractably hostile. As early as 1806, the Company was calling for greater legal repression of the *Coulisse*, but would have to wait until 1860 for definitive state action in this regard. Yet the *Coulisse* was re-legalized in 1898 and finally fully integrated with the Company in 1961. See *Registres de la Chambre syndicale de la Compagnie des Agens de Change de Paris,* CAEF B-0069360/1; Olivier Godechot, *Les traders. Essai de sociologie des marchés financiers* (Paris: Découverte, 2001), 35; Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 42-44. Some scholars have suggested that this shifting relationship between the Company and the *Coulisse* may be attributable to the fact that the *Coulisse* could act as a counterparty for the officially licensed brokers, helping to stabilize the flow of *rentes*. See William Parker, *The Paris Bourse and French Finance, with Reference to Organized Speculation in New York* (Ph.D. Diss., Columbia University, New York, 1919), 28-33; Alex Viaene, *L'efficience de la Bourse de Paris au XIXe siècle. Une confrontation théorique face aux données empiriques des marchés à terme et à prime* (Paris: Connaissances et Savoirs, 2004), 36.

[66] Doyle, *Venality*, 10, 14.

[67] Ibid., 69-71.

[68] Peuchet, *Manuel du Banquier, de l'Agent de Change et du Courtier, contenant les lois et réglemens qui s'y rapportent, les diverses opérations de change, courtage et négociations des effets à la Bourse* (Paris: Cosson, 1829), 77-78.

[69] White, "Making the French Pay," 343-344; Colling, *La prodigieuse histoire de la Bourse*, 189.

Perhaps most troublingly, the 1816 law appeared to mark a return of property in office. In the Old Regime, certain kinds of venal office had become a kind of heritable property, passed down from fathers to sons, turning public service into patrimonial inheritance.[70] This form of property was an early and clear target of the Revolution, swept away, along with other kinds of property deemed illegitimate, on the night of August 4, 1789.[71] With the renovation in property heralded by the Revolution, heritable property in office should no longer have been permissible. And yet, by granting the brokers the right of transmission, the 1816 law appeared to have reintroduced just such a venal form of property.

In concert with the brokers' legal monopoly, the 1816 law shaped property rights in office in particular ways. In order to transmit office, a formal contract was drawn up between the outgoing and the incoming brokers. The incoming broker would be responsible for furnishing new caution money to the government, but the financial interest in office exceeded this transfer of money to the state. Given the tight legal restrictions on the number of stockbrokers allowed to practice in Paris, acquiring office permitted exclusive access to a highly profitable profession, as well as to a wealthy and elite clientele; the smallest quantity of public debt one could purchase required a minimum investment of 1000 francs, much beyond the financial capacity of most French.[72] The value of the contract thus far surpassed the requisite caution money, easily

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[70] Doyle, *Venality*, 3. For a treatment of venality specifically focused on the Old Regime brokers, see David D. Bien, "Property in office under the *ancien régime*: The case of the stockbrokers," in John Brewer and Susan Staves, eds., *Early Modern Conceptions of Property* (New York: Routledge, 1995), 481-494.
[71] William H. Sewell, Jr., *Work and Revolution in France: The Language of Labor from the Old Regime to 1848* (New York: Cambridge University Press, 1980), 134.
[72] L. Ch. Bizet de Frayne, *Précis des diverses manières de spéculer sur les fonds publics, en usage à la Bourse de Paris*, 3rd ed. (Paris: Delaunay, 1818), 10. By contrast, a male industrial worker in 1847 could expect an average daily wage of about two francs. See John McCormick, *Popular Theatres of Nineteenth-Century France* (New York: Routledge, 1993), 78. On the difficulty of determining reliable income information in the nineteenth century, see Christian Morrisson and Wayne Synder, "The income inequality of France in historical perspective," *European Review of Economic History*, vol. 4 (2000), 59-83.

reaching into the hundreds of thousands of francs, sometimes cresting the million franc mark.[73] These immense sums were far beyond the reach of all but a select few private individuals. Consequently, the incoming broker typically turned the office itself into a kind of corporate form, splitting it up into shares of interest, tapping others' capital in return to the rights to a share of the profits proportional to the investment. The office of the broker became a kind of limited partnership, with the broker actively managing the enterprise (and absorbing the most risk), the silent partners fronting capital, and the profits divided accordingly.[74] Property in office therefore expanded both vertically, with the office passing down generational lines, as well as horizontally, with the property rights partitioned between multiple business partners.

With this right of transmission, the brokers appeared to have completed the closure of the profession. Free practice of the professions restricted, offices sold, offices inherited: corporate privilege and venality threatened an unwelcome return, in a post-revolutionary society ostensibly sworn to formal legal equality.

The Restoration state was keen to avoid the smear of any such return of privilege and venality. In a circular of 21 February 1817 addressed to the Royal Prosecutor, the Minister of Justice baron Pasquier acknowledged that the law in question did give to the brokers, among others, "the ability to present successors to His Majesty; *but it would be unreasonable to think that this ability must not be subordinated to the rules of public order*."[75] The brokers could not

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[73] Dossier of Amédée Hyppolite Lechat, CAEF 1C-0037252/3. Lechat's contract was worth 1,100,000 francs.

[74] In a limited partnership, a managing partner, the only one empowered to make business decisions, is backed by the capital of other "silent" partners; whereas the silent partners are only liable for amounts up to their invested capital, the managing partner maintains unlimited liability for all losses. Charles E. Freedeman, *Joint-Stock Enterprise in France, 1807-1867: From Privileged Company to Modern Corporation* (Chapel Hill: University of North Carolina Press, 1979), 13. As will be examined presently, corporate liability became a central issue of contention in the Restoration and July Monarchy.

[75] Baron Pasquier, circular of 21 february 1817, cited in Louis Theureau, *Étude sur l'abolition de la vénalité des offices* (Paris: Guillaumin, 1868), 146-147. Original emphasis.

transmit office to just anyone. Insofar as the public functionaries were accorded exclusive rights in the name of public order, Pasquier's argument went, then the designated successors would have to be individuals who would reliably safeguard this order. Far from sacrificing public office to private interests, the right of transmission was a method of maintaining the safety of the public interest. He continued, "You are likely quite convinced *that it* [the 1816 law] *has not revived the venality of office, which is not in harmony with our institutions*; you must thus only see, in the dispositions of article 91, nothing other than a *condescension*, *a probability of preference* granted to the ministerial officers, as compensation for the supplements to the caution money demanded of them..."[76] Venality could not be tolerated after the Revolution had supposedly destroyed it. And so, according to Pasquier, all this new law did was allow the brokers to present a preferred successor, as just recompense for the increased caution money requirement. Final authority to confirm or reject this successor remained with the king, suggesting that the ultimate decision authority over public functions still resided within the proper state hands.

Neatly elided in Pasquier's circular, however, was the fact that the king's confirmation was in essence a rubber stamp. Though nominally subject to royal approval, the crown rarely practiced its veto powers. In practice, the brokers' right to maintain freely transmissible property in office remained unperturbed. The stain of privilege and venality was not so easily washed out.

Beyond official state circles, reactions to the 1816 law were varied. The increased rights of the brokers authorized by the law did find some defenders. One author – a broker himself, it should be noted – reaffirmed Pasquier's argument, defending the right of transmission as a piece of property legitimately acquired: "The law levied on them an augmentation of 25,000 francs of

[76] Ibid., 147. Original emphasis.

caution money. It also wanted to give the transmissibility of their offices as an indemnity. The brokers therefore purchased this property right, and at the same time the acquired the right to defend it."[77] Other defenders of the law were more ambivalent. As one anonymous author observed, the brokers maintained not just a monopoly on financial intermediation at the Exchange, but the right of transmission had turned this monopoly into heritable property.[78] Clearly uncomfortable with the survival of this kind of property in a post-revolutionary legal regime, the author nonetheless noted that the brokers did serve the purpose of stabilizing public credit, an invaluable function in a modern economy.[79] He noted, "The summary of all that has been written and said about the Company of Brokers seems to have proved that this Company is an institution completely contrary to the Charter. But its utility being incontestable, it is only a matter of giving it a suitable organization."[80] The benefits derived from the brokers' exclusive rights therefore merited a place in the post-revolutionary legal order, however uneasy.

Opponents of the law tended not to be wracked by any comparable ambivalence. The law was attacked from a number of angles, with some denouncing its measures on tax increases,[81] and others charging it with misplaced faith in revenue collection, potentially pushing France back into apparently dangerous levels of deficit spending.[82] The brokers' rights were, moreover, labeled as a return of Old Regime corporatism. One author, forthrightly calling the right of

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[77] F.A.P., *Lettre d'un Agent de Change à ses confrères* (Paris: Bailleul, 1818), 3.
[78] Anonymous, *De la Compagnie des Agents-de-Change, considérée dans ses rapports avec nos institutions constitutionnelles et le Commerce. Augmentation de 32,750,000 francs dans les recettes de l'État* (n.p., 1819), 16.
[79] Ibid., 7.
[80] Ibid., 22.
[81] Marquis de Mondenard, *Des finances de France, et du budget proposé pour 1816; avec un projet de loi pour un meilleur établissement financier* (Paris: Dentu, 1816).
[82] Pierre-Paul Lemercier, *Comparaison des bases de la loi de finances du 18 avril 1816, avec quelques principes applicables au budget de 1817* (Paris: Patris, 1816).

transmission a clear return of venality,[83] argued that these newly expanded rights dangerously substituted personal interest for the public good:

> If one wants to add to these reflections that of the *corps* of the brokers, master today of its own renovation by the reserve made for its syndicate of the sole right of presenting candidates, this must necessarily, by the natural tendency of favoring those close to oneself, result in concentrating the offices in a small number of families (and experience is still on our side on this point). From these combined facts, the consequence will be drawn that the government must without delay annihilate a *privilege*, whose results can become so pernicious, and of which personal interest would have the duration prolonged.[84]

The conflict between the brokers' rights and formal legal equality had not been put to rest, despite royal approval of the 1816 law.

The Sandrié-Vincourt Affair: Corporatism Challenged in the Courts

This apparent survival of corporate privilege came under particular legal challenge during the trial concerning Sandrié-Vincourt in 1823. In broad strokes, the trial followed a reasonably clear path. Sandrié-Vincourt, a stockbroker, was the agent for multiple sizable accounts, leaving him heavily exposed in the event of a failure to pay. Such a failure was precisely what occurred: following an unexpected market downturn, several of his clients were unable to meet their obligations, leaving Sandrié-Vincourt's own account books radically unbalanced. Consequently unable himself to meet his financial responsibilities, Sandrié-Vincourt was left with breathtaking debts outstanding.[85] Fearing the legal penalty that would undoubtedly be soon to follow, Sandrié-

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[83] Anonymous, *Nouvelles observations sur le défaut de noviciat, sur le mode actuel d'admission, et sur le nombre des agens de change de Paris* (Paris: Fain, 1820), 10-14.
[84] Ibid., 29. Original emphasis.
[85] Gontard lists Sandrié-Vincourt's total debt at roughly 3,500,000 francs, while François Étienne Mollot, his contemporary, had it as high as 8,000,000 francs. See Gontard, *La Bourse de Paris*, 183; François Étienne Mollot, *Bourses de Commerce, Agens de Change, et Courtiers; ou législation, principes et jurisprudence qui les organisent, qui les régissent, en France ou dans les colonies, et peuvent être applicables à d'autres officiers publics, tels que receveurs-généraux, notaires, commissaires-priseurs, etc.* (Paris: Delaunay, 1831), 384.

Vincourt, along with another broker implicated in the bankruptcy, fled the scene in late August 1823; they were formally stripped of office a month later.[86] In commenting on the affair, Minister of Finance Joseph de Villèle displayed both a desire to punish the profligate brokers accordingly, as well as a broader suspicion of the financial market. "Justice will pursue them and they will be condemned to the galley," he declared, "but they take with them the money of a number of families who should not have employed it in such a way."[87]

Villèle's condemnation fit within a longer pattern of moral suspicion over speculation in general. But the details of the Sandrié-Vincourt affair also reveal another side of nineteenth-century French economic liberalism, one that attempted to reconcile corporate forms of financial capitalism and individual economic liberty.

The key issue revolved around the liability of the *Chambre syndicale* of the Company of Parisian Brokers. After Sandrié-Vincourt fled, his creditors sued the *Chambre syndicale*, claiming that it bore responsibility for Sandrié-Vincourt's debts, given its actions throughout the course of his bankruptcy.[88] The *Chambre* had been aware of possible misdeeds on the part of Sandrié-Vincourt well before his financial situation truly nosedived. As early as 26 February 1821, bubbling rumors of misbehavior had prompted the *Chambre* to issue an internally circulated warning, enjoining the brokers to respect their professional limits. By 11 June 1821, Sandrié-Vincourt had personally fallen under suspicion, though he would escape any sort of punitive action for some time.[89] Prompted by unease within the brokers' ranks over Sandrié-

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[86] Gontard, *La Bourse de Paris*, 183.
[87] Joseph de Villèle, quoted in Gontard, *La Bourse de Paris*, 183.
[88] William Reddy, *The Navigation of Feeling: A Framework for the History of Emotions* (New York: Cambridge University Press, 2001), 335.
[89] Sessions of 26 February 1821 and 11 June 1821, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.

Vincourt's financial exposure, two members of the *Chambre* audited his account books. However, on 12 March 1822, they reported back that while Sandrié-Vincourt was indeed responsible for considerable sums, his assets were great enough to allay any fear. Moreover, the timing of his liabilities was manageable, with his obligations falling due over a long enough interval for him to gather the necessary capital. Thus, the *Chambre* concluded, there was no reason to take further repressive action regarding Sandrié-Vincourt.[90]

In little over a year's time, this confidence in Sandrié-Vincourt's conduct would evaporate. On 11 August 1823, Sandrié-Vincourt was brought before the *Chambre*. In addition to a precarious financial position, he was also suspected of speculating for his own account, which was expressly prohibited according to the Commercial Code.[91] Sandrié-Vincourt vigorously denied any wrongdoing, claiming that such accusations could only have sprung from the deluded minds of jealous rivals. However, he did admit to purchasing *rentes* for his own account, but only, he swore, as a means of covering his liabilities.[92] The *Chambre*, rather less than persuaded by this sudden confession, admonished Sandrié-Vincourt that he had transgressed the laws governing the Company and the brokers, crossing over into censure-worthy misconduct. Worse, in engaging in such risky operations, he had traded on his honor for the pursuit of speculative profit.[93]

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[90] Sessions of 25 February 1822 and 12 March 1822, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.
[91] Session of 11 August 1823, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.
[92] Ibid. Specifically, he claimed to have taken out a loan of approximately seven million francs, secured against a deposit of *rentes*. The loaned money would then be used to pay off his clients cashing out of the public debt market. This explanation, at least, was what Sandrié-Vincourt claimed during the 11 August 1823 session.
[93] Ibid.

Sandrié-Vincourt contritely admitted to his professional misbehavior. In an effort to appease the *Chambre* and clear his name, he offered to open his books to a more extensive audit. Over the next several days, representatives of the *Chambre* would pore over his accounts, searching for proof of the illicit speculation and financial exposure with which Sandrié-Vincourt had been accused. Initially, they did not find much evidence of wrongdoing. But Sandrié-Vincourt was not free from suspicion quite yet. Most worrying was the nearly two-and-a-half million francs he owed uncovered.[94] He responded that there was no reason for concern, as he had money coming in from other accounts. However, this money was not in his possession just yet; he would need some time – three or four months at least, he told the *Chambre* – before he could liquidate his position. Placated for the moment, the *Chambre* still tasked him with drafting a more comprehensive overview of his accounts, which would illustrate precisely how he planned to pay off the sums he owed.[95]

Sandrié-Vincourt's efforts to mollify the *Chambre* did not last long. Growing increasingly uncertain of his ability to meet his substantial obligations, on 18 August 1823, the *Chambre* ordered Sandrié-Vincourt to close out his account immediately and prohibited him from engaging in any transactions other than those necessary for liquidation. He was also commanded yet again to demonstrate how he would balance his assets and liabilities. Moreover, the *Chambre* would supervise his liquidation, with the proceeds and *rentes* being placed in a special account with the Company.[96]

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[94] Sessions of 11 and 13 August 1823, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630. "Uncovered" here means that Sandrié-Vincourt did not possess the commensurate amount of securities to pay off or cover this sum.
[95] Session of 13 August 1823, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.
[96] Session of 18 August 1823, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.

Sandrié-Vincourt presented another overview of his books on 20 August 1823, which still failed to clarify the way out of his grave financial entanglements.[97] The *Chambre* increasingly suspected him of purposeful obfuscation; their suspicions would soon be proved true. On 26 August 1823, the *Chambre* convened to hear the report of Gublin and Dosne, the representatives who had been tasked with researching Sandrié-Vincourt's account books. Gublin sorrowfully informed the *Chambre* that Sandrié-Vincourt's true situation in fact surpassed all dark rumors swirling about him. "Just when we had finished examining his books," Gublin reported, "Sandrié, from whom we had not been able to extract a single word regarding the public reproach made of him of serving illicit interests, and about which, despite all our research, we had not been able to discover a single trace in the books, finally felt that the moment of revelation had arrived, and he showed us the abyss that had opened beneath his feet."[98] Sandrié-Vincourt's outstanding debtors, of whose solvency he had so recently assured the *Chambre*, had left him high and dry, drastically reducing his available funds. Magnifying this deficit was the fact that his liabilities were far greater than he had led the *Chambre* to believe. In secret accounts unrecorded in his official ledger, Sandrié-Vincourt had run up obligations of more than ten million francs, as against roughly two million francs in assets. All told, Sandrié-Vincourt was facing a debt just north of eight million francs.[99] Gublin was thunderstruck by the audacity of this egregious deception. He could only miserably report to the *Chambre* that "never has man given such a great proof of weakness and blindness."[100]

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[97] Session of 20 August 1823, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.
[98] Gublin, quoted in Session of 26 August 1823, *Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale*, CAEF B-0068630.
[99] Ibid.
[100] Gublin, quoted in ibid.

The *Chambre*'s reaction was swift. Sandrié-Vincourt was immediately prohibited from entering the Exchange, in the expectation that he would presently be forced to declare bankruptcy. The next day, the Syndic of the Company, along with Gublin, were to go before the Minister of Finance to give a full report of the affair. And in an attempt to pay off his creditors to the extent possible, the *Chambre* would take a more active hand in managing the assets that Sandrié-Vincourt had already placed in its control.[101] This greater involvement in the liquidation process would soon become a necessity, as Sandrié-Vincourt fled the country by the end of the month.

His creditors, however, remained in France.[102] By no means forsaking their claims on the substantial sums owed them, the creditors sought to recoup their lost investments through the courts. Since pursuing Sandrié-Vincourt personally would likely have been a legal dead-end given his absence, they instead initiated legal action against the *Chambre syndicale* of the Company.

The underlying logic of their case was best illustrated by an 1824 legal brief, *De la responsibilité solidaire de la Chambre syndicale des Agens de Change et de la Compagnie qu'elle représente*, penned by G.B Battur, jurisconsult for the creditors. In it, Battur sought to discover "if an association of sixty individuals, each of whom can make an annual revenue of 2 to 300,000 francs, and who consequently extract 12 to 18 million from individuals each year, should not offer definite and joint guarantees for the conservation of capital that is necessarily

[101] Ibid. The value of these assets amounted to roughly 329,000 francs, in addition to the *rentes* that Sandrié-Vincourt had used to secure the aforementioned loan.
[102] The creditors were represented by three "syndics": the Comte d'Orlande, the Marquis de Bésignan, and Durand de Lançon. See Grappe, Delacrois-Frainville, Lacalprade, Billecocq, Hennequin, Bourguignon, Berryer fils, and Battur, *Mémoire et consultation pour mm. les syndics provisoires de la faillite de Sandrié-Vincourt, Agent de Change à Paris; contre la Compagnie des Agens de Change de la même ville* (Paris: C.J. Trouvé, 1824), 43.

entrusted to them, for their legal employment."[103] Battur readily acknowledged that the Company maintained exclusive rights at the Exchange. His aim was to show that these rights implied corresponding responsibilities. Given the immense sums handled by the brokers of the Company, Battur suggested that their losses could not stay confined to individuals; rather, the stability of the state and the security of the household were jeopardized, insofar as the Exchange traded in the credit of the state and the accumulated patrimony of the investor family.[104] Mirroring this financial expansiveness, for Battur the legal matter facing Sandrié-Vincourt's creditors and the Company also moved beyond the individual level: "it is a question of public law much more than of private law."[105] Resolving this nominally private dispute between debtors and creditors would, according to Battur, shape important aspects of the public legal order in general.

Battur pursued this aim through three interrelated areas of inquiry. The primary and most important one was regarding "joint responsibility" or "*solidarité*." As he succinctly stated, "*Legally, is the Company of Brokers jointly responsible towards third parties for the prevarications of its members?*"[106] Just as individual investor losses at the Exchange spread to affect entire families and the state, Battur sought to distribute liability for Sandrié-Vincourt's personal financial misdeeds as well. Since the losses could not be recovered from Sandrié-Vincourt himself, Battur aimed to hold the Company as a corporate body responsible. Doing so would require establishing the Company's full legal responsibility for the financial losses of its

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[103] G.-B. Battur, *De la responsibilité solidaire de la Chambre syndicale des Agens de Change et de la Compagnie qu'elle représente, ou Mémoire pour mm. les Syndics provisoires de la faillite du Sieur Sandrié-Vincourt; contre la Compagnie des Agens de Change* (Paris: C.J. Trouvé, 1824), 1.
[104] Battur listed Sandrié-Vincourt's creditors numbering as many as two hundred persons. See Ibid., iii.
[105] Ibid., 3.
[106] Ibid., 3. Original emphasis.

members in general, as well as clear evidence of the Company failing this responsibility in regards to Sandrié-Vincourt's sorry lot in particular.

Battur was making claims about the nature of the profession of the broker, according to post-revolutionary legal codes. He did so by first observing the particular status of property at the Exchange. He wrote,

> Landed property or the capital that represents it, and which is intended to be immobilized, form the substance and moral of families. If they take the lead from the Treasury to consolidate the fortune of the State, they become, on the faith of the Government, a credit as sacred and which must be as solid as landed property, since it is intended to vivify all the parts of the social body. Consequently, the first thought, the first duty of the Government is to offer inviolable guarantees and to impose rigorous and communal obligations to all the agents who are its guardians and the legal mediators of the continual exchange of capital and of government securities.[107]

Battur here attested to a peculiar mutability in the nature of property. Landed property and capital were in some sense interchangeable, at least insofar as capital could "represent" land. But at the same time, this interchangeability could only be established by arresting circulation, by shackling the exchangeable nature of capital to the supposedly imperturbable solidity of land. Property at the Exchange was therefore both circulatable, due to the transferrals of capital involved in financial transactions, and not, due to its eventual, "immobilized" destiny.

At the same time, this circulatability could never be completely tamed, since prior to being immobilized, public debt had first to be purchased. And it could only legitimately be purchased at the Exchange. Circulation of property was thus an ineradicable element of finance. Since property at the Exchange formed the moral substance of families, the state had a duty to safeguard it, just had it had a duty to respect the sanctity of property in general. To do otherwise would be to abandon the interests of its citizens to the caprices of finance.

[107] Ibid., 4.

As argued in Chapter 2, the permissible realm of state intervention in the financial markets could be substantially constrained. This safeguarding duty therefore fell to the "legal mediators" who were the sole agents authorized to complete transactions in public debt. As Battur wrote, "The broker [*agent de change*], whose name alone sufficiently indicates that he is a public functionary and an agent of the Treasury, is therefore *guardian-accountant-concerned party* of all the sums or all the *rentes* placed in his hands."[108]

The invocation of "public functionary" alluded to the 1816 finance law. And for Battur, the specificities of the exclusive rights reaffirmed by the law meant that the brokers were more than simply individual economic actors. The broker, he argued, "is only a member of a moral and indivisible *corps* of brokers. It is to this moral and indivisible *corps* alone that belong the rights of listing the prices of public funds, of purchasing and selling legally."[109] Membership in the *corps* represented by the Company created professional and moral bonds between individual brokers. Indeed, how could it be denied that the brokers were united in a moral *corps*, when the Company of Brokers was explicitly and statutorily empowered to defend the brokers' legal monopoly on financial intermediation at the Exchange? In support of this claim, Battur looked to the major legislation regulating the Exchange and the Company. Citing legislation ranging from Old Regime *arrêts* to the 1807 Commercial Code, he noted that the Company's legal monopoly on brokering transactions at the Exchange had been repeatedly expressed. Moreover, Battur noted, the law stipulated that trade in the public debt could only legitimately take place at the Exchange, with the brokers meeting after official trading hours had closed to verify the closing prices of securities. The brokers were required to carefully record every transaction in their

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[108] Battur, *De la responsibilité solidaire*, 4. Original emphasis.
[109] Ibid., 4.

account books, with the two transacting brokers going over these books together in order to render a contract complete and legal.[110] Outside the aegis of the Company, he observed, brokers could not legally fulfill their professional duties. The Company, therefore, really was a "moral and indivisible *corps*" – moral, in the sense that it forged links between brokers, and indivisible, in the sense that without the Company's oversight, the brokers could not legally execute financial transactions at the Exchange.

According to Battur, this mandatory legal oversight on the part of the Company was what set the brokers apart from other kinds of public functionary. Certainly, other functionaries did maintain corporate representation. But, he argued, these others could pursue their professional ends singly, without involving other members of the *corps*; the notaries, for instance, could verify contracts solely in consultation with their clients, and the barristers could give legal counsel individually. That was not the case with the brokers. As Battur wrote,

> The broker therefore cannot at all be assimilated to other ministerial officers, who each have their sphere of activity, and who can separately and individually go on with their official acts, give notice of the modifications that private interests may undertake, and work themselves on these transactions. It is thus proven that he [the broker] has a public character *only as a member of the present Company*, and only insofar as he is a part of it at the Exchange; that these operations become those of the Company, since it alone may, by its presence and support, impart to them the character of legality, and that, without the Company, these operations would not have any value; that the responsibility for these operations consequently weighs upon the Company, because it participates in everything and because everything is its work; that the Company therefore bears towards these operations a right and a responsibility of control to exercise...[111]

The brokers, according to Battur, were not simply public functionaries who also happened to maintain corporate representation; they could not properly exist outside this representation at all. The legal structure of financial intermediation at the Exchange demanded it: the way the brokers'

[110] Ibid., 4-7.
[111] Ibid., 8. Original emphasis.

state-sanctioned monopoly on intermediation was designed meant that the brokers were required to be placed under the supervision and disciplinary authority of the Company. Since trading outside the Exchange and beyond the auspices of the Company was strictly illegal, Battur argued, the duties of the broker and the Company were essentially coextensive. And since the Company of Parisian Brokers was necessary for all financial transactions to take place at the Exchange, it therefore, for Battur, incurred commensurate responsibility for the actions of its members.

Indeed, Battur continued, the Company in this respect should be assimilated to other kinds of commercial ventures, with one crucial difference. The brokers, he wrote, "therefore form a true business, which commands even more imperiously the public faith than an ordinary commercial association, because we are free to refuse our confidence in the latter in order to grant it to another, while we are not free to do so in the negotiation of government securities without the intermediation of the Company of Brokers."[112] Deriving profits from its legal monopoly on finance at the Exchange, the Company was true to its name, functioning like other commercial firms. But, Battur noted, any citizen wanting to trade in public debt was constrained to operate through the channel of the Company of Parisian Brokers. He further argued that this constraint on the particularly sensitive trade in public debt meant that the Company was duty-bound to provide for the safety of the financial market. The brokers thus formed "an indivisible whole by the simultaneity, the publicity, and the symmetry of their operations, even in the case where the Public Treasury, basing upon the body the task of recording and certifying the price of funds and of offering, so to speak, a lantern to citizens who toss themselves into the perilous sea

[112] Ibid., 9.

of credit, would not, by the nature of things, have imposed on all the brokers a *single and joint* vigilance."[113] The brokers thus formed a moral *corps* in the Company, such that even in the absence of the relevant explicit legal prescription, they would be responsible for one another, lest good-faith citizens drown in the tempestuous waters of the financial markets.

In any case, Battur was quick to note, this moral compulsion of responsibility was backed up by appropriate law. He called upon the authority of Roman law, writing, "The immortal wisdom of the Roman laws must guide us in such a grave matter. In Rome, all the colleagues invested in the same public function were jointly responsible [*solidaire*], and what one of them did was owned by all and became the deed of all, and each one was responsible and accountable for the totality of the management and the sums entrusted..."[114] Battur was referring specifically to the concept of *solidarité* in liability law, which regulated, among other forms, commercial relationships between debtors and creditors. This legal concept was based on the notion of "unity of object, plurality of ties." As Lisa Moses Leff writes, "For example, if a group of people contract a debt together, they owe a single amount to one creditor (unity of object); but if the debt is not repaid, the creditor has a legal claim against each and every debtor individually (plurality of ties). Juridical *solidarité* is thus a relationship in which people can be held accountable for other people's promises and transgressions."[115] Though stemming from Roman law, the concept of *solidarité* did persist in post-revolutionary French law.[116] Battur was

[113] Ibid., 9-10. Original emphasis.
[114] Ibid., 10.
[115] Lisa Moses Leff, *Sacred Bonds of Solidarity: The Rise of Jewish Internationalism in Nineteenth-Century France* (Stanford: Stanford University Press, 2006), 45. See also Henri Mazeaud, Léon Mazeaud, Jean Mazeaud, and François Chabas, *Leçons de droit civil*, vol. 2, *Obligations: Théorie générale* (Paris: Montchrestien, 1986), 1092-1097.
[116] Leff mentions a few specific groups as susceptible to *solidarité*: "spouses under certain stated circumstances; coexecutors of a will; tenants in a same building if the cause of a fire cannot be found; and shareholders vis-à-vis their agent or proxy." See Leff, *Sacred Bonds of Solidarity*, 45-46.

attempting to filter Sandrié-Vincourt's creditors' legal action through this particular conception of liability: since, as he had argued above, the Company was co-implicated in all that a broker did, and since Sandrié-Vincourt had quite clearly transgressed established legal boundaries, then, the argument went, his creditors therefore had a legitimate financial claim against the Company as a whole. The explicit reference to Roman law served as rhetorical support, armoring his claims in the moral authority derived from the revered legal codes of antiquity.

In reaching back to the Roman conception of *solidarité*, Battur expressed a particular moment in the development of corporate organization in France. He had previously labeled the Company as a kind of business association or *"société*." But the category of *société* was multiple. The *solidarité* form of liability was most appropriate to the *société en nom collectif* (sometimes *société générale*) or unlimited partnership, which had developed in the Middle Ages.[117] However, this brand of partnership was hardly the only form of corporate organization conceptually available. The Commercial Code also established the *société en commandite*, a kind of limited partnership, and the *société anonyme*, a joint-stock corporation.[118] It was therefore far from clear that the "immortal wisdom of the Roman laws" really was the appropriate legal convention in this case. By itself, labeling the Company a *société* was not sufficient to establish *solidarité*, given the other liability regimes that governed the *société en commandite* and the *société anonyme*. Using language appropriate to older corporate forms to hold in place a legal category that was in a state of long-term flux, Battur's rhetoric thus attempted to collapse this

[117] Judah Adelson, "The Early Evolution of Business Organization in France," *The Business History Review*, vol. 31, no. 2 (1957), 230-231.
[118] Freedeman notes that corporate law placed the *société anonyme* under substantial legal constraints, until the liberalization of the 1867 law on free incorporation. See Freedeman, *Joint-Stock Enterprise in France*, 132-144. Interestingly, Adelson notes that the *société en commandite* antedated the development of the *société en nom collectif*, though it remained a minor form of business association for quite some time. See Adelson, "The Early Evolution of Business Organization in France," 231-233.

category of *société* in a single form – implicitly, the *société en nom collectif* – which would then be susceptible to the charge of *solidarité*. Just as his invocation of the Company as a *corps moral* harkened back to corporatist language of the Old Regime, so too did his contention that the concept of *solidarité* meant that the Company was responsible for Sandrié-Vincourt's debts.[119]

However, Battur faced another problem of legal interpretation here. In general, *solidarité* had to be affirmatively stated.[120] The main relevant law in this case was article 1202 of the Civil Code, which stated that *solidarité* "is never presumed; it must be expressly stipulated."[121] Battur circumvented this difficulty by arguing that that article related only to standard contracts, not to relationships in which one party delegated legal authority to another, as was the case when clients empowered brokers to buy or sell for their accounts.[122] He contended that the commanding law therefore was not article 1202, but rather article 1995, which stated: "When there are multiple empowered or authorized agents established by the same act, there is *solidarité* between them only insofar as it is expressed."[123] Battur intended to show that the regulations providing for the Company's exclusive rights of financial intermediation also amounted to a tacit expression of *solidarité*, which would suffice in the absence of a more explicit statement to that end. Undoubtedly, he acknowledged, to impute *solidarité* without such an explicit affirmation would normally equate to gross exaggeration. But, he claimed, "this vice of exaggeration no longer exists when it is the law itself that acts, and when it regulates the interests of third parties,

[119] Leff notes that during the Old Regime, the legally sanctioned corporations were held *solidaires*. An analogous case, and the main focus of Leff's argument, is Jewish debt in post-revolutionary France. As Leff shows, despite emancipation during the Revolution, organized Jewish communities were held jointly responsible for debt accrued during the Old Regime, in pointed contradistinction to other recently dissolved forms of Old Regime community, such as the artisan guilds. See Leff, *Sacred Bonds of Solidarity*, 45-49.
[120] Ibid., 45.
[121] Titre III, Art. 1202, *Code civil des Français. Édition originale et seule officielle* (Paris: Imprimerie de la République, 1804), 290.
[122] Battur, *De la responsibilité solidaire*, 29.
[123] *Code civil*, 480.

of which it is the organ; above all when it entrusts to its *agents* the deposit of the fortune and security of families."[124] If the Company justified its monopoly on intermediation in terms of the public interest, then, Battur argued, it would be the duty of post-revolutionary law to hold the Company jointly responsible, in defense of this selfsame public interest.

Battur claimed that the Company's rights and activities really did equate to an admission of *solidarité*. He wrote, "It seems, in effect, that in the political order, as in the civil order, this unity is the soul of the *corps moral* and the guarantor of each particular interest. If such is in general the spirit of the law in the order of the public interest, such it must be, with even greater reason, when it rules and protects private interests."[125] If "unity" was the essence of the *corps moral*, and if the Company was, as Battur had previously claimed, itself a *corps moral*, then surely there must be some grounds to claim that the Company must therefore be jointly responsible for debts incurred under its watch. Citing other instances of presumed *solidarité*, Battur noted that in all these cases, this presumption derived from mutual responsibilities of observation and vigilance; those who were responsible for monitoring and regulating the conduct of others were also, he argued, presumed responsible for the debts of those others.[126] And, of course, it was precisely such professional vigilance for which the Company was created. As he wrote,

> ...if a superior power is always ready to repress them [authorized agents of third parties], if a moral responsibility much more powerful still than a purely material responsibility enchains them in the limits of their duties, then how could it be that the brokers are not submitted to a responsibility such that they could prevent the misdeeds of others, and that, consequently, they could not be sentenced to the reparation of all the evil that they have voluntarily and knowingly suffered? Moreover, the brokers form an association with an immense and invariable interest, and communal operations form the link. Their

[124] Battur, *De la responsibilité solidaire*, 11.
[125] Ibid., 11-12.
[126] Ibid., 12. Battur specifically looked to the legal relationships of guardianship, as well as the co-responsibility of wives and husbands, under certain circumstances.

> responsibility becomes a duty of natural law regarding third parties, as much as a tacit condition of their legal institution. They must submit to the drawbacks of what is the element of their fortune.[127]

The Company represented this "superior power" supervising the individual brokers, one whose "moral responsibility," as a *corps moral*, overrode other, more "material" forms of responsibility; Battur's suggestion was that the moral links necessarily formed by the Company were sufficient to establish *solidarité*, even in the absence of its explicit stipulation. The brokers' exclusive rights both carved out a potentially remunerative and protected professional life – "their fortune" – as well as demanded that they monitor each other's professional behavior, bearing responsibility for misconduct – the "drawbacks." By the very nature of its institutional design, the Company was thus held to be jointly responsible for the losses of its members.

This issue of corporate liability, Battur further claimed, affected the safety and stability of post-revolutionary society as a whole. As he had earlier argued, in fact the legal matter concerned public law more than private law, since the actions of the brokers and the Company expanded beyond individual investors, threatening the financial security of the family hearth, as well as the relations between state and citizens. He passionately argued,

> Reason, public fortune, the importance of the exact fixing of the prices of funds, of the regularity and the reality of markets, the commonality of the operations in which all participate in a single and the same place, and at fixed hours, the necessity of the care of the national credit, the sacred deposit of the fortune of citizens, the confidence and good harmony between the State and individuals, all this should command the brokers to form a body to protect such great interests and to render safe and easy the movement of the political and financial wheel, and yet they are able to act in isolation, individually, shattering and dividing public confidence, while not offering any certain guarantee!!![128]

[127] Ibid., 14-15.
[128] Ibid., 18-19.

The brokers were intermediaries in multiple senses: bringing together purchasers and sellers of the public debt, they also mediated between state and citizen. With investments in the public debt combining both crucial family savings and judgments of creditworthiness of the current regime in one form, the brokers also joined together public political authority and private financial interests. Indeed, for Battur, politics and finance were combined in the same machine, or "wheel." Such a wheel could not roll properly without all its parts functioning accordingly. With the vitality of the post-revolutionary state at stake, and with the specifics of the brokers' professional duties seeming to bind them in mutual supervision in practice, their legal ability to "act in isolation" must, according to Battur, be given up for a regime of *solidarité*.

Having cleared the fundamental intellectual and legal ground, Battur spent much of the rest of the brief on more fine-grained technical issues. His two remaining main sections each dealt with, as he put it, closing the "mathematical circle" that circumscribed the broker and the Company in relations of *solidarité*.[129] Specifically, he asked whether the *Chambre syndicale* represented the Company, thereby assuming responsibility for any failures of supervision or discipline; and whether the *Chambre*'s misconduct in handling the Sandrié-Vincourt affair rendered it jointly responsible – and therefore rendered the Company jointly responsible as well – regarding Sandrié-Vincourt's disgruntled creditors.[130] Battur's response was in the affirmative for both cases.

Regarding the *Chambre*'s representativeness, Battur looked to the prescribed duties of the body. The *Chambre*, he asserted, was the "soul of the Company," tasked with registering prices of the public debt, ensuring by its presence the legality of the Company's meetings, and

[129] Ibid., 23.
[130] Ibid., 19, 43.

supervising the licitness of brokers' transactions in general.[131] How could the *Chambre* exercise such disciplinary and supervisory authority, Battur asked, if it did not in some sense represent the Company itself? As he wrote, "...the eye always open, the mouth always ready to warn the public and the authorities, the hand always ready to strike the unfaithful or prevaricating member, the *Chambre syndicale* represented, by the unity of its vigilance and its action, the unity of action and of vigilance inherent in the very institution of the Company..."[132] Eye, mouth, and hand: the *Chambre*'s disciplinary and supervisory powers here were turned into constituent parts of the greater organism. Always active, always vigilant: the *Chambre*'s legally codified responsibilities were a representation in miniature of those of the Company in general. If the hand struck, if the mouth cried warning, it could only be because these organs represented the force and will of the greater organism.[133] The *Chambre syndicale* did represent the Company as a whole, Battur argued, and the *Chambre*'s failures were to be imputed back to the body to which it belonged.

Battur forcefully maintained that the *Chambre*'s representativeness must be upheld, or the ability of post-revolutionary law to regulate social interaction effectively would be subverted. The law, he announced, "had proposed, as an attentive sentinel, for the care of their [families'] fortune and that of the State, a *corps* intended by the totality and unity of its action to prepare frank and sure communications between public credit and investors, a *corps* to which it had, consequently, imposed a severe duty of surveillance..."[134] If the *Chambre*'s actions did not reflect back on the Company, he thundered, "this duty would be violated with impunity, and the vigilant eye of the law would be closed at once, its infinite resources exhausted, its force become

[131] Ibid., 19-20.
[132] Ibid., 20.
[133] Battur appears not to have left any conceptual space for organs not under the domination of the individual will, whether that be due to injury, reflex, psychological disorder, or other putatively non-normative conditions.
[134] Ibid., 34.

feebleness, its zeal, perfidy!!!"[135] If the law could not punish the *Chambre* for failing in its duties, then law's effectiveness would be completely dissipated; if legal regulations were not backed up by any particular sanction, the logic went, then those regulations never truly had the force of law in the first place. And since the *Chambre* was a representative body of a greater organism, such potential sanction would have to fall on the Company as a whole.

Punitive legal sanction should indeed come down on the *Chambre* and the Company, because, in his last line of inquiry, Battur maintained that the *Chambre* had grievously failed in its duties towards Sandrié-Vincourt's creditors. The *Chambre*, he charged, could have stopped the wayward broker as early as 1821, well before his losses had snowballed so catastrophically. With the authority to force Sandrié-Vincourt into bankruptcy, the *Chambre* could have managed the settlement of his debts in much easier fashion, Battur contended.[136] But even if the *Chambre* had not intervened at this early date, Battur maintained that it still had fallen into dereliction of duty by not supervising Sandrié-Vincourt with enough vigilance once the extent of his losses had become clear, by not reporting him to higher authorities, and, once it had assumed control of his affairs, by managing the liquidation of his accounts in ways more advantageous to the Company than to Sandrié-Vincourt's legitimate creditors.[137] The *Chambre*, he argued, had done everything in its own "personal interest," hardly an appropriate course of action for a body that had justified its corporate monopoly by claiming to represent and defend the public interest.[138]

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[135] Ibid., 34.
[136] Ibid., 43-45.
[137] Ibid., 45-46.
[138] Ibid., 45.

Battur concluded that the conduct of the *Chambre* and of the Company gave the lie to any claims on the public interest. Rather, the Company's exclusive rights substituted venal, private interests for the public good. He wrote,

> The sluggishness of a century accustomed to seeing a guilty condescension taking the place of the exactitude of the law, of the strictness of the example, and of substituting I know not how many privileges of monopoly and centralization, veritable scourges of modern societies, for the fundamental interest of families, sole elements of national wealth and public credit; unbridled cupidity, contrary prejudice and routine, the usurpation of opposed habits, an appalling egoism: must these therefore take from the law its energy, disfiguring and sullying it, and leading it away from those superior interests that alone constitute the public interest? No, at least if we are not to outrage overtly, in such a solemn case, the public spirit and good morals. In placing the duties of the *Chambre syndicale* in regards to the facts of its conduct, we will be profoundly penetrated by the necessity of a resounding settlement.[139]

For Battur, the Company's claims signified nothing so much as a reversion to a century of privilege, a century that should, by rights, lay definitively in the past. Corporate monopolies such as that of the Company were "scourges" of post-revolutionary society, deranging the public interest for private ends, undermining the rule of law. To exempt the Company from legal responsibility, according to Battur, would be to enervate the central norms of legal equality, allowing insidious and invidious elements such as "appalling egoism" to direct a process that was, ostensibly, meant to be free and equal for all. Such a perversion of basic legal precepts could not be permitted. The Company must be held responsible, in keeping with the principle of *solidarité*, for Sandrié-Vincourt's debts, bringing it in line with a post-revolutionary society that, Battur's rhetoric suggested, could not abide corporate privilege in an age of legal equality.

In the face of such an uncompromising assault on its rights, the Company was quick to defend itself. Its high-powered legal counsel wrote a countervailing legal brief, *Mémoire à*

[139] Ibid., 71.

consulter et consultation, pour la Compagnie de mm. les Agens de Change de Paris, défendeurs, contre les syndics de la faillite de m. Sandrié-Vincourt, demandeurs, arguing against Sandrié-Vincourt's creditors and in favor of the Company. The first part of the brief was written by prominent lawyer André-Marie-Jean-Jacques Dupin, who would soon rise to political office as a deputy.[140]

Dupin vigorously disputed the culpability of the Company in the Sandrié-Vincourt affair. The Company, he argued, had committed no sins, either of omission or commission. Against the claim that the Company had hidden Sandrié-Vincourt's wrongdoing from the proper authorities, Dupin countered that the Company's legal obligations were to report to higher administrative authorities, rather than to justice or police agencies.[141] And this is precisely what it had done, in alerting the Minister of Finance about the impending bankruptcy of Sandrié-Vincourt, with the Minister subsequently approving of the Company's disciplinary action.[142] Regarding the claim that the Company had failed its duties of surveillance and discipline, Dupin maintained that it had, in fact, performed these duties, and performed them to the best of its abilities.[143] The issue was that Sandrié-Vincourt had kept a double set of books, hiding the true extent of his financial situation and limiting the capability of the Company to intervene effectively; as Dupin put it, the *Chambre* "could not have had the intention to settle a deficit of which it did not know the

[140] During the Restoration, Dupin was renowned for defending the *Journal des Débats*, among other highly public cases. He became a deputy in 1828, was named Solicitor General to the *Cour de Cassation* during the July Monarchy, and remained a political force until the fall of Second Republic. After a period of retirement from public office, he returned in 1857 to become a senator during the Second Empire. The eldest of three brothers, he was frequently referred to as "Dupin l'aîné." See H.A.C. Collingham and R.S. Alexander, *The July Monarchy: A Political History of France, 1830-1848* (New York: Longman, 1988), 444-445; William L.R. Cates, ed., *A Dictionary of General Biography* (London: Longmans, Green, and Co., 1867), 317.
[141] André-Marie-Jean-Jacques Dupin, *Mémoire à consulter et consultation, pour la Compagnie de mm. les Agens de Change de Paris, défendeurs; contre les syndics de la faillite de m. Sandrié-Vincourt, demandeurs* (Paris: Éverat, 1824), 20. This brief may be found in CAEF B-0068630.
[142] Dupin, *Mémoire à consulter*, 8-10.
[143] Ibid., 14-18.

existence."[144] Once the Company was aware of the magnitude of Sandrié-Vincourt's losses, it moved as expeditiously as it could, liquidating what was left of his account, the proceeds of which, Dupin highlighted, benefited Sandrié-Vincourt's creditors, rather than the Company.[145] True, the creditors stood to lose much of the value of their investment, but this loss was due to the late revelation of Sandrié-Vincourt's financial deceptions, rather than the Company sacrificing third-party interests in favor of its own. In fact, Dupin sniffed, much of this trouble could have been avoided had the creditors pushed their case earlier: "It belonged only to his creditors to make known his insolvability, and of forcing him into bankruptcy, but his creditors maintained a deceptive silence."[146] The creditors could have alerted the authorities earlier, averting what had subsequently become a financial catastrophe, Dupin suggested. But they did not, and then attempted to displace this failure of duty onto the Company by means of the current trial. As Dupin proclaimed, "May these creditors thus cease reproaching the *Chambre syndicale* for not doing what they alone could have done."[147]

In any case, Dupin maintained, the Company could not be held jointly responsible for Sandrié-Vincourt's debts. He wrote, "Following the principle dedicated by article 1202 of the Civil Code, *solidarité* can only exist by virtue of an express stipulation or of a formal disposition of law. Neither one nor the other of these conditions are met in this matter. In order to replace them, a system of supposed association between all the brokers has been imagined."[148] The relevant law in this matter, according to Dupin, was not article 1995, but article 1202 of the Civil Code. His implication was that the brokers' professional activity did not express *solidarité* in any

[144] Ibid., 15.
[145] Ibid., 18-19.
[146] Ibid., 18-19.
[147] Ibid., 23.
[148] Ibid., 2.

way sufficient to clear the legal requirements for its assignment. To think otherwise, for Dupin, would be to dream up an imaginary "system of supposed association," which did not truly exist.

This invocation of an illusory form of association was part of Dupin's wider conceptual rejoinder to arguments assimilating the Company and the brokers to older senses of corporatism and corporate solidarity. Dupin argued that the practice of finance at the Exchange actually individualized the transacting parties, even as the demands of public safety required corporate representation through the Company to supervise the wider flow of transactions in general. Investors in the public debt contracted not with the Company, but with single brokers: "It is not at all with the Company of brokers that the client deals with, it is with the broker of his choice. It is in the secret of his office, without the intervention and beyond the surveillance of the Company, that the authorizing and depositary contract is formed between the client and the broker."[149] Though the Company did represent the brokers as a group, it was not directly involved in the drawing up and signing of the individual contracts between broker and client; the *Chambre syndicale* may have had disciplinary and supervisory powers over the brokers on the trading floor, but it was not present when the buy and sell orders were designed in private consultations. And neither was corporate *solidarité* ever written into these agreements. The law, according to Dupin, was clear. Without an express stipulation, the Company could not be held jointly responsible.

Moreover, the practical specifics of financial intermediation served to oppose the brokers to one another, not place in them in solidaristic relations. Against the clear dictates of the law, Dupin claimed,

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[149] Ibid., 2

> a system of so-called indivisibility between all brokers has been opposed. But what proves that the law does not admit any such fiction is that it does not permit a broker to sign or act for his colleague, unless this is by virtue of transferred power of attorney. And not only can the brokers not act officially for each other, but to the contrary they can act one against the other. How could *solidarité*, indivisibility between two brokers, exist in a market where one figures as seller, the other as purchaser, or where one certifies and guarantees the signatures he transmits! It is useless to pursue any further the refutation of a system contrary to reason, to the general principles of law, and to the special principles of the matter.[150]

By their very nature, financial transactions opposed brokers to one another. They were, literally, counterparties on opposite sides of the transactions, with one party selling and the other purchasing. Certainly, an agreement was reached when the contract terminated with the clearing price of the government security, but, for Dupin, this agreement was the outcome of the reconciliation of countervailing interests, not evidence of collusion giving rise to *solidarité*. Corroborating the clear light of positive law, the "special principles" of market exchange in finance atomized and individualized the participating agents.

This individualizing function of the financial markets also reflected back on the nature of the Company's corporatism. The plaintiffs in the case had charged that the *Chambre syndicale* had obligated the Company to meet Sandrié-Vincourt's debts in full, a proposal to which Dupin could only reach with astonishment. "It must be said, it would be a truly extraordinary engagement," he averred, "that by which a Chamber of discipline would have compelled the persons and disposed of the goods of an entire class of public officers, for the payment of debt that is foreign to them. The idea of such an engagement must have made this jurisconsult smile, who transformed the Company of Brokers into a commercial business; apparently, the members of the Chamber of discipline would be its directors."[151] Dupin's arch swipe at Sandrié-Vincourt's

[150] Ibid., 2-3.
[151] Ibid., 14.

creditors' claims – their legal advocates likely did not chortle with disingenuous mirth while composing their arguments – uncovered the supposed absurdity of holding liable the entire Company for the outstanding debt. To do so, according to Dupin, would be to assimilate the Company to existing forms of business association. But he suggested that such a comparison amounted to a false identity. The Company, in fact, was not a commercial venture, properly speaking. It did not feature a managing board, and the individual brokers were not shareholders or partners in a collective enterprise. The *Chambre syndicale* did have supervisory and disciplinary authority, but it was not generally implicated in individual transactions between broker and client; its intervention in the Sandrié-Vincourt case stemmed from its disciplinary authority regarding his liquidation in bankruptcy,[152] rather than representing the managerial will of a commercial enterprise. Most crucially, for Dupin, the Company could not take out debt that bound other members, as would be the case for commercial partnerships under a regime of *solidarité*. The Company may have represented the brokers as a corporate form, but it was not a brokerage firm.

After this rhetorical fusillade directed against Sandrié-Vincourt's creditors, Dupin turned to a positive argument about what the Company was in an appended *Consultation*, joined by his co-counsels, Tripier, Gauthier, and Bonnet. The Company, they stated, was a "moral being."[153] Such a statement might initially appear in concert with Battur, who had deployed the Company's status as a *corps moral* as a way to saddle it with Sandrié-Vincourt's debts. But the Company's legal counsel's sense of a "moral being" significantly diverged from that of Battur. As regards the liquidation of Sandrié-Vincourt's accounts, the *Chambre*, they claimed, "had only done acts

[152] Ibid., 17-18.
[153] Ibid., 28. The *Consultation* was published in the same pamphlet as the *Mémoire*. The former lists all four counsels as authors, while the latter claimed Dupin as sole author.

of conservation. It could do so, it should do so, for the honor of the *Corps* as in the interest in third parties. Those third parties surely find it impossible to recall a single act of the *Chambre* that was prejudicial towards them..."[154] Corporate honor was converted into professional probity. The "honor of the *Corps*" derived less from the collective interests of the brokers than from a defense of third parties extrinsic to the Company; that is, the "honor" of the moral being stemmed from the brokers' duties as financial intermediaries, which connected individual brokers and clients, rather than brokers to each other.[155] The defense of the Company as a "moral being" was thus a defense of the brokers as public functionaries – they were permitted corporate representation so as to ensure the smooth functioning of the financial markets. These exclusive corporate rights were justified in terms of the public interest.

Not a commercial enterprise, the Company was a *corps moral* – both Battur and the Company's legal counsel would agree on this latter point, at least – insofar as it served to promote a kind of corporate representation for the brokers. But, according to the Company's legal counsel, this *corps* was dedicated not so much to the particularistic collective interests of the brokers, but for investors in finance in general, thus defending the public interest. Or rather, the defense of the brokers' collective interests was tantamount to defending this public interest. Since the Company and the brokers, ostensibly, ensured the safety and regularity of finance at the Exchange, they also safeguarded the credit of the state and the financial wellbeing of families, with which the brokers had been entrusted in the form of investment. But, the counsel was careful to note, the brokers did so on an individual-to-individual basis – client-to-broker, as

[154] Ibid., 30.
[155] This stance was in part rhetorically motivated; surely, some degree of connection between brokers existed, evidenced at least by the vigor with which they defended their corporate rights. At the same time, basing this defense on the individualizing nature of the financial market illuminated the nature of those corporate rights in post-revolutionary France.

well as broker-to-broker, reconciling contrary interests through converging on a clearing price for securities – with the Company and *Chambre* exercising disciplinary and supervisory duties at a generalized level. Just as the atomistic logic of financial exchange individualized the transacting parties, so too did it turn corporatism into a kind of series of individualized relationships. The Company was thus able to defend its exclusive legal rights by appealing to the individualizing logic of economic liberalism.

Battur and Dupin's briefs encapsulated the legal reasoning behind the competing sides of the Sandrié-Vincourt case. Dupin's logic would win out in the end: in a decision of 31 March 1827, the Court of Paris sided with the brokers, ruling that the *Chambre syndicale*, and thus the Company, could not be held responsible for the debts of its members.[156] The case would rise no further through the courts, becoming settled law, and finding its way into authoritative books of legal doctrine.[157] Their protection from liability reinforced and their status as a legally protected *corps* reaffirmed, the brokers' exclusive rights became safely entrenched in French law.

The Sandrié-Vincourt case evoked a particular moment in the definition of economic liberalism in post-revolutionary France. The brokers had had their status as a corporate group statutorily validated by the 1816 law on finances. But the challenge of Sandrié-Vincourt's creditors was over the meaning of this form of corporatism. How could the Company be situated in a post-revolutionary regime ostensibly dedicated both to formal legal equality and to the

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[156] D. Dalloz and A. Dalloz, *Répertoire méthodique et alphabétique de législation, de doctrine, et de jurisprudence en matière de droit civile, commercial, criminel, administratif, de droit des gens et de droit public*, vol. 6 (Paris: Bureau de la jurisprudence générale, 1847), 500-501n1.

[157] Ibid., 499-502; A. Carpentier and G. Frèrejouan du Saint, *Répertoire général alphabétique du droit français, contenant sur toutes les matières de la science et de la pratique juridiques, l'exposé de la législation, l'analyse critique de la doctrine et les solutions de la jurisprudence, et augmenté sous les mots les plus importants de notions étendues de droit étranger comparé et de droit international privé*, vol. 3 (Paris: Librairie du recueil général des lois et des arrêts et du Journal du Palais, 1888-1895), 54.

removal of antiquated obstructions in the labor market? For Battur, the Company's Old Regime roots persisted. It was a *corps moral*, a being with its own particular essence, standing between state and citizen. As such a *corps*, it also established enduring links between its members, which links were reaffirmed in the very practice of financial intermediation. And in so doing, the Company perverted the public interest for essentially private ends: the moral links forged by the Company meant that the brokers, united in *solidarité*, acted with an eye towards personal enrichment, rather than towards protecting the invested capital of families and the state. Dupin disagreed. Or rather, he agreed that the Company did indeed constitute a *corps moral*, but disagreed over what such a designation might mean in post-revolutionary society. The moral links, and thus the *solidarité*, for which Battur had so vehemently argued were not truly characteristic of the Company, Dupin held. Rather, the brokers' corporate spirit was in fact directed outwards, towards the investing public, rather than inwards towards their colleagues. The Company represented a corporate carve-out in the legal landscape of post-revolutionary France so as to ensure the regularity of finance at the Exchange; the *corps* existed to defend the public interest, rather than its own private financial wellbeing. For support, Dupin turned to a different interpretation of the practicalities of financial intermediation: in his view, financial transactions individualized the involved brokers, placing them on separate sides of the transaction, rather than uniting them in any kind of fraternal collusion. The Company, whose basic corporate status was never under dispute, served to individualize the involved brokers, so that they could better serve the economic interests of private parties. Through his claims about the Sandrié-Vincourt case, Dupin suggested that what the Company truly represented was that corporatism and economic liberalism were reconcilable. And with the judgment of the courts, they were reconciled.

Property, Equality, Venality

If the Sandrié-Vincourt case rendered verdict on the nature of the brokers' corporate privilege, then the possible venality of their property in office remained an unresolved question. The 1816 law had, in exchange for increased caution money, granted the brokers the right of transmissibility of office. Just as their exclusive rights of intermediation recalled Old Regime corporate privilege, so too did this right of transmissibility appear to herald a return of venality, with important aspects of public function auctioned off for money. Moreover, the right of the brokers to handpick their successors threatened to turn public function into a kind of patrimony, removing the profession from free circulation in the labor market and rendering it the private reserve of a privileged few.

In addition to capturing public functions for private interests, the brokers' right of transmission also appeared to violate deeply held principles of legal equality. The heritability of property in office had its roots in canon law, specifically the legal concept of the *resignatio in favorem*, in which an officeholder resigned his post, conditional on being permitted to name the successor.[158] Thus, the brokers' right of transmission appeared as a double violation: it preemptively closed off a profession, and it undermined the ostensible legal equality of the new regime, subverting the normative authority of France's legitimately adopted legal codes by appealing to older, supposedly abolished sources of law.

The objections against the brokers' apparent return of venality of office came to the fore most particularly during the July Monarchy. The new "bourgeois king," Louis-Philippe, had

[158] Doyle, *Venality*, 3.

pointedly sworn as his primary responsibility not to religious authority, but to the Charter of 1830.[159] This Charter reaffirmed a commitment to legal equality in its first article, which read: "The French are equal before the law, whatever may have been their former titles and ranks." The third article continued to proclaim that all French were equally admissible to civil and military professions.[160] Aristocratic title or professional station were not to intrude on the rights of others in the new regime. These liberal commitments were also reflected in the changing status of executive authority. The installation of the new king saw his legislative powers in part moderated; no longer allowed to suspend the execution of laws arbitrarily, the king now also shared the power to propose legislation with parliamentary authority. In addition, legal amendments did not now require the king's approval to become law.[161] This concern with the norms of legal equality was also to be found in positive law, most notably in the lowering of electoral tax requirements and the subsequent expansion of the franchise.[162] Suffrage was still far from universal – women were still denied the vote, in addition to restrictive property requirements limiting eligibility for men. But the arrival of the July Monarchy did appear to herald certain forms of liberalization, both regarding equality before the law and the openness of

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[159] Collingham and Alexander, *The July Monarchy*, 28.

[160] Anonymous, *Chartes de 1830 et de 1814. La souveraineté du peuple étant aujourd'hui un principe de notre droit public, il importe à tous les citoyens de connaître la Charte; et la meilleure manière de la connaître, est de la comparer à celle dont elle dérive* (Paris: Sétier, 1831), 2.

[161] Collingham and Alexander, *The July Monarchy*, 28.

[162] J. Lucas-Dubreton, *The Restoration and the July Monarchy*, trans. E.F. Buckley (New York: AMS Press, 1967), 178. The voting age was also reduced from thirty to twenty-five; see Collingham and Alexander, *The July Monarchy*, 28. To be sure, this was a moderate expansion of the electorate at best. As Lucas-Dubreton notes, the number of electors amounted to roughly 190,000, as against a total male population of 32.5 million. Lucas-Breton quotes Louis Blanc's incisive summary: "the criterion of the country *qua* electorate is money." See Lucas-Breton, *The Restoration and the July Monarchy*, 178-179. Nonetheless, this moderate expansion did represent a liberalization of voting law. And, as we will see, the identification of post-revolutionary liberalism with money, or with property more generally, was to be an important uptake of the brokers' claims.

professions.[163] This period therefore represented an opportunity for critics of the brokers to deploy their arguments in a discursive environment in which claims of legal equality would take on particular salience.

These critics were quick to launch rhetorical broadsides against the brokers and the Company anew. In 1831, Charles Fournerat submitted a petition to the Chamber of Deputies, calling for the abolition of the odious and unfair privileges possessed by the public functionaries. This petition, *De la nécessité de mettre fin au privilège dont les notaires, avoués, huissiers, agens de change, et autres officiers ministériels, ont joui depuis 1816*, immediately couched its claims in terms of legal equality. "Equality before the law is the first principle inscribed in the fundamental act of our liberties," Fournerat announced. "If, in the same circumstances, its application is misunderstood or disturbed, there then exists between citizens a preference that injures some, profits others, and give rise to *a privilege*, and thus, an injustice, which it will suffice simply to reveal to you in order to obtain without delay the reform."[164] The public functionaries' exclusive rights plainly violated the Charter's principle of legal equality, favoring a subclass of citizens at the expense of the public in general; the unjust nature of this privilege need only be articulated to prompt the call for its repeal.

Filling out the details of this evidently plain iniquity, Fournerat proceeded to unfold just what was so wrong with the public functionaries' rights. He forthrightly labeled these rights as harkening back to Old Regime sale of office:

> Thus, as we see and as seems to me beyond all reasonable discussion, the offices of the lawyers, notaries, stockbrokers, and other, became, since the law of 1816, *venal*

[163] Sarah Haynes observes a similar push for liberalization of the book trade in the early days of the July Monarch. Though this push was eventually stymied, advocates for liberalization did seem to have acted with refreshed urgency at the start of the new governmental regime. See Haynes, *Lost Illusions*, 67-71.
[164] Charles Fournerat, *De la nécessité de mettre fin au privilège dont les notaires, avoués, huissiers, agens de change, et autres officiers ministériels, ont joui depuis 1816* (Paris: Félix Locquin, 1831), 5.

> *and hereditary*; they have fallen into commerce and thus, dating to this same period, have become a part of the patrimony and the property of the officeholders and of their families. This fact, *messieurs*, is known to all of you; moreover, it is of public notoriety, since the newspapers are covered in announcements indicating the intention to transmit such offices, and the walls are often placarded with these announcements.[165]

This paper decoration of journals and walls must have struck a stinging note, since it represented publicity for offices that had been removed from public circulation. The Charter had guaranteed the equality of all French before the law, regardless of title or rank; while referring to the legal privileges previously enjoyed by aristocracy and clergy, Fournerat suggested that the public functionaries' rights in office had themselves become a kind of privilege. Indeed, he would call the functionaries an "egotistical and privileged aristocracy."[166] Their rights also recalled venality insofar as the state appeared to be selling off public function for private ends, with the offices then passing down from generation to generation. Fournerat was pointed in his criticism: the rights established by the 1816 law on finances, he charged, amounted to nothing other than "political simony,"[167] a return to a system of government long thought demolished.

The brokers' offices, among others, were venal, and thus should no longer be tolerated. But crucially, Fournerat's issue was not so much with the offices' status as property. Indeed, he recognized this status lent the profession a kind of stability, protecting it against sudden changes at the political level, which might otherwise jeopardize the brokers' employment.[168] The problem was more that the brokers' rights split the category of property, creating unfair divisions in the social sphere. Part of the issue here was that transfer of office appeared to be exempt from taxes and duties levied on other kinds of property transactions.[169] But another, more fundamental issue

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[165] Ibid., 7. Original emphasis.
[166] Ibid., 16.
[167] Ibid., 9.
[168] Ibid., 10-11.
[169] Ibid., 12-13.

was that this division in property appeared to undermine the basis of sovereignty in the July Monarchy. "The royal prerogative," Fournerat wrote,

> that we must all surround with our respect, since it is one of the ramparts of our liberties, which, in the purity of its constitutional origin, placed in the hand of the prince the indefinite and absolute liberty of the choice and nomination of all public employments; this liberty no longer exists now in its original integrity regarding public functionaries. The choice of the monarch is today limited, and his prerogative constrained to include only the examination and evaluation of the conditions of aptitude required of the successors presented by the officeholder![170]

This latter-day venality of office had turned the sovereign, supposed bulwark of liberty and defender of constitutional order, into a mere assessor of qualifications; he could only, Fournerat claimed, determine if the proposed candidate passed the minimum requirements for the position. But insofar as the office constituted a kind of property to be disposed of essentially as pleased, actual choice of that candidate was up to the officeholder, not the king. The brokers' property rights in office thus alienated sovereignty from itself. Fournerat's implication was that this injury to the king also reduced the constitutionally guaranteed legal equality and openness of the labor market. If the king could not freely select public officers, then those professions were not truly open to all citizens. And if the professions were not open to all citizens, then illicit legal privilege, it seems, had returned. The brokers had, paradoxically, turned office into commercial property, while at the same time taking it out of circulation, placing beyond the reach of nearly all individual citizens.

"Is this justice?" Fournerat demanded. "Is this that equality before the law that makes of each of us a truly free man, and of all French the same family, without regard for their titles and their ranks?"[171] It was not, he could only conclude. The public functionaries' venality and

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[170] Ibid., 14-15.
[171] Ibid., 16.

privilege tore apart the social fabric, reintroducing unjustifiable legal distinctions – title and rank – in a regime that had so recently sworn to uphold equality before the law and the openness of the professions. The brokers' offices may have been property, but they were a kind of property that placed undue restraints on the sovereign, denaturing the rule of law and the liberal principles of the labor market.

The Company once again enlisted its legal counsel, specifically François Etienne Mollot, to come to its defense.[172] In his 1834 volume, *Bourses de commerce, Agens de Change, et Courtiers*, Mollot gave an extensive overview of both the existing laws regulating the Exchange and the Company, and of the commanding interpretation – or rather, of the Company's interpretation, which it hoped to make commanding – of those laws. Commencing with a Montesquieuian invocation of the pacifying and civilizing effects of commerce,[173] Mollot claimed that the vitality of commerce in fact depended on the political organization of the state. He observed,

> In the current order of things, it is permitted to say that this Exchange is the thermometer of public credit. It is within its enclosure that state securities [*les effets de l'État*] are negotiated and auctioned, it is by its influence, ceaselessly active, that their prices are maintained and tend to elevate each day. In the past, government securities were not at all purchased at the Exchange, and the contracts establishing them were founded in mistrust, inseparable companion of absolute power. It was reserved to representative government, to this admirable creation of modern times, of seizing once again the trust of the nation in France, of imprinting on state paper a value equal to that of specie, of founding a new system of finance through the means of credit, of augmenting at the same time the fortune of the state and that of the citizens.[174]

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[172] Mollot labeled himself as just one of the counsels, though the others remained unnamed. He acknowledged the aid of "two of our ablest jurisconsults, MM. Dupin *aîné,* solicitor general for the High Court, and Tripier, chamber president of the Royal Court..." The former legal counsels for the Company had moved on to higher stations by this time. See François Etienne Mollot, *Bourses de commerce, Agens de Change, et courtiers; ou législation, principes et jurisprudence qui les organisent, et qui les régissent, ouvrage qui peut être applicable à d'autres officiers publics, tels que receveurs-généraux, notaires, commisseurs-priseurs, etc*. (Bruxelles: H. Tarlier, 1834), 7n.
[173] Ibid., 1-2.
[174] Ibid., 3.

Previous, despotic regimes, Mollot noted, could not be trusted to encourage commerce; with power the personal possession of the sovereign, and laws changeable at the sovereign's whim, he argued, commercial ventures could not safely be undertaken. "Absolute power" thus corresponded to the untrustworthiness of public debt contracts, which were haphazardly traded and circulated, without stable physical location or reliably enforced rules. Surely the July Monarchy would not permit such financial chaos. Indeed, representative government, established by the Charter, would be far more suited to commerce, since it founded sovereignty and law on a more legitimate, constitutional basis. This form of government would consequently regain the "trust of the nation" through a series of financial and political policies: anchoring the value of government securities, which were to be circulated through a new financial system that united private and public interests. And since the new state was a representative government, this system would be regulated by positive law, drafted and enacted through parliament, rather than leaving the police of the Exchange to the caprice of despotism.

An expansive work, *Bourses de commerce* tackled the regulation of this new system of finances across an immense number of legal domains. But on the specific points of the Company's privilege and venality, Mollot harkened back to the 1830 pamphlet *Observations*, on which the Company's secretary had penned his marginalia. Mollot acknowledged that the post-revolutionary regime did guarantee liberty of the professions; at the same time, he maintained that there were particular functions so central to the public good that they merited special restrictions. "He exercises neither monopoly, nor even privilege, in the disfavorable sense attached to these words," Mollot argued, "he who, invested with such functions, finds as many duties to observe as advantages to reap. It is not for his personal profit that he obtains these functions; they are handed over to him in the general interest of commerce and of society

itself..."[175] For Mollot, despite appearing to violate norms of legal equality, the brokers' exclusive rights were in no way privilege – neither in its "evil" or "disfavorable" sense. Rather, these rights coincided with a regime of liberty in the professions, since these few and particular functions ensured the safety of the wider public good; without them, both commerce and society would founder. These considerations on the role of public functionaries, in fact, emerged out of the Revolutionary desire to foster the economy: "From an epoch in which the government could not be suspected of wanting to impair the liberty of commerce, from the Year IV, it has been recognized that they [the considerations] were applied principally to the broker and the courtier..."[176] According to Mollot, far from an illiberal preserve in an otherwise liberal economy, the brokers' exclusive rights were of a piece with "the liberty of commerce." Later law would fulfill the promises of these considerations, maintaining the brokers' exclusive status.[177]

Mollot's defense of the brokers' property rights in office followed a similar logic. He addressed the issue most directly in a section on the various restrictions placed on the brokers, one of which forbade them from being involved "directly or indirectly" in commercial ventures.[178] The question was whether the brokers, by forming limited partnerships around their offices, violated this precept. Mollot's response was that the brokers' contracts for their offices did not transgress the law, because the brokers were only prohibited from engaging in commercial ventures beyond their professional functions. Since the contracts in question were

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[175] Ibid., 12.
[176] Ibid., 12.
[177] Ibid., 12.
[178] Drawing from articles 85 and 86 of the 1807 Commercial Code, Mollot listed the other restrictions as a prohibition on trading for the brokers' own accounts; providing any kind of banking services for their clients, other than those required for financial transactions at the Exchange; and on providing any kind of guarantees regarding the flow and direction of the financial market. As he observed, these restrictions were drafted so as to maintain the "trustworthiness and neutrality" that were essential to the task of financial intermediation. See ibid, 62-64; Jean-François Fournel, *Code de commerce, accompagné de notes et observations* (Paris: Stoupe, 1807), 63-66.

limited to the profits and risks generated by their professional duties, no wrongdoing had occurred.[179]

Mollot's interpretation appeared to rest on shaky legal grounds, however. The most relevant law, article 85 of the Commercial Code, in fact said nothing about the prohibition being restricted to only those ventures extrinsic to the brokers' professional duties, suggesting potentially much greater restrictions and penalties.[180] In order to circumvent this danger, Mollot immediately probed further into the nature of transmissible office. He wrote, "As division or partial cession of office, the convention is equally valid. It is the consequence of the law of 28 April 1816, which declared cessionable the offices of brokers and *courtiers*. If this law permits the cession of the totality of the financial interest, it implicitly authorizes the division or partial cession as well."[181] If the brokers' office was transmissible in whole to individuals, then it must also be transmissible in part to multiple parties, since both whole and partial cession derived their legitimacy from the same 1816 law, which was still in vigor. What the brokers did in contracting for the division of their offices was therefore entirely valid, within the legitimate purview of their property rights as determined by the 1816 law.

Mollot argued that the result of these contracts amounted to a kind of "coproperty," with the rights and interests split up between the broker and the silent partners furnishing capital and sharing the profits.[182] A well-established notion of jointly-held property,[183] the concept of

[179] Mollot, *Bourses de commerce*, 64-65.
[180] The entire section of article 85 on the subject read: "He [the broker or *courtier*] may not be involved either directly or indirectly, under his own name or through an interposed name, *in any commercial enterprise*." See Fournel, *Code de commerce*, 63. Original emphasis.
[181] Mollot, *Bourses de commerce*, 65.
[182] Ibid., 65.
[183] As one legal theorist had it, "Property is the most extended right over a thing, the right that places the thing under the most absolute empire of the will of the rights-bearer. *Coproperty* is nothing other than property residing no longer in the hands of a single individual, but in the hands of two or more; there is therefore *coproperty* in a double sense: a relation of rights-bearers to the thing, and a relation of rights-bearers to each other..." See Jean-François

coproperty, in fact, frequently stood in contradistinction to contracts of business association; legal doctrine typically held that coproperty could exist without explicit affirmation between the individuals involved, whereas business association required voluntary consent.[184] Mollot's rhetorical tactic was to employ this notion of coproperty, whose validity was settled law, and use it to legitimize the business contracts of the brokers, which might otherwise risk violating article 85 of the Commercial Code. The brokers' and their partners' business association, he suggested, was legitimate because it was a kind of coproperty, insofar as it related to the shared exploitation of office. Indeed, after introducing it as coproperty, Mollot proceeded to treat the brokers' contracts over their offices as a kind of business association, bridging the conceptual gap between licit transmissible property right and illicit commercial venture. Coproperty in office was to be regulated by the appropriate law relating to businesses. The brokers' offices, for instance, could be unlimited or limited partnerships, ruled by the corresponding liability rules; the association required a separation between active management and silent partnership, particularly given the public function the broker served; and commercial law outlined the proper steps for the transmission and liquidation of the business relationship, just as with other forms of business in the economic sphere.[185] Without the intervening step of labeling the offices as coproperty, these contracts could be accused of dissipating the trust and neutrality required of the upright financial intermediary, substituting private commercial motives for dispassionate conduct in financial transactions at the Exchange; but with this step taken, exclusive, transmissible office

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Demole, *Théorie de la formation du droit, et son application à la copropriété des immeubles. Dissertation pour obtenir le grade de Docteur en Droit* (Genève: Bonnant, 1841), 19. Original emphasis.

[184] For instance, the heritors of a deceased person might hold coproperty rights in the estate, without necessarily agreeing to form any kind of mutual association between themselves. See Malepeyre and Jourdain, *Traité des sociétés commerciales, suivi de modèles des divers genres d'actes de sociétés commeciales* (Bruxelles: Tarlier, 1836), 11-12; see also J.-M Pardessus, *Cours de droit commercial*, vol. 3 (Paris: L. Jacob, 1815), 4-8.

[185] Mollot, *Bourses de commerce*, 65-68.

could be seen as a legitimate property right, which could be then be combined with others' capital to form perfectly valid business associations. Venality of office was thus converted into a legitimate form of coproperty and of business association; what had been a legal atavism in a regime of legal equality was transformed into an integral element of a liberalizing economy. Through this interpretation combining the 1816 law, coproperty, and commercial legal rules, Mollot argued, the brokers were absolved of any charges of transgressing the norms of good professional conduct. No further restrictions on their practice would therefore be necessary.

Mollot's rhetorical success can be seen in the frustration experienced by the brokers' later opponents. In 1841, François Dumons de la Gironde launched another salvo in the debate, *De la liberté professionnelle et de l'abolition de la vénalité des offices et des privilèges*. Insisting on the necessity of "professional liberty," he demanded that privilege and venality be abolished. Doing so, he declared, would be

> MORE TRUE TO THE DOMINANT SPIRIT AND TENDANCIES OF OUR AGE, because – and this reason is conclusive – privileges and monopoly each day become more distant from our public morals and become more and more odious, while PROFESSIONAL LIBERTY – organized – must be the term, as it is the logical and necessary application of the principles of liberty and equality written in ineffaceable characters in our codes and our constitution, engraved in the French heart. It is the obligatory consequence of the social transformation begun in 1789 and which ineluctably follows its course, despite the obstacles and the guilty resistance that vainly oppose it...[186]

In keeping with previous critiques of the public functionaries, Dumons claimed such venality and corporate privilege could only be vestiges of prerevolutionary sentiment, contrary to the

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[186] François-Marie-Ernest Dumons de la Gironde, *De la liberté professionnelle et de l'abolition de la vénalité des offices et des priviléges. Mesure d'intérêt public, dont l'abolition procurerait au trésor des ressources considérables, sans emprunt, augmenterait les revenus de l'état, et permettrait de dimunuer les impôts; concernant les officiers ministériels, agréés, agents d'affaires, imprimeurs, pharmaciens, boulangers, bouchers, etc*. (Paris: Worms, 1841), 20-21. Original emphasis. This pamphlet developed themes first laid out in a slightly earlier work. See François-Marie-Ernest Dumons de la Gironde, *Réflexions sur la création et la transmission des offices et charges de notaires, avoués, Agens de Change, etc., présentées à la commission chargée par m. le Ministre de la justice d'examiner ces questions* (Paris: Vinchon, 1839).

"principles of liberty and equality" that now characterized France's legal codes, thus meriting their abolition. But privilege and venality would not be eradicated without compensation. For Dumons readily acknowledged that the brokers and other public functionaries did maintain real property rights in their offices; the loss of these rights would therefore be counterbalanced by an appropriate indemnity.[187] Indeed, Dumons argued that such an indemnity was an absolute necessity, "because it is repugnant to us to think that, in a civilized nation like France, anybody can *seriously* consider attacking society at its heart, at its base, at its constitutive principle, in contesting the *right of property*, a right that one can never violate with impunity regarding the tranquility and stability of states, for the security and the happiness of the world."[188] To do away with the brokers' rights without just compensation would thus be to poison the heart of post-revolutionary society; liberty and equality would have to be equilibrated with property.

Dumons' pamphlet ultimately testified to the conceptual impasse facing the brokers' opponents. The potential costs of indemnifying the public functionaries would be substantial – later estimates ranged from 60 million to 910 million francs total.[189] The moral charges against the brokers would therefore have to clear a high standard in order to justify the expense. The argumentative dilemma was that the Dumons' two main claims served to stymie each other. The brokers' exclusive rights represented a kind of corporatism no longer appropriate in a regime of legal equality; at the same time, these rights constituted a real form of property rights, which were the "constitutive principle" of the nation. But if they were real property rights – and both Mollot and Dumons agreed on this point – what then would the rational basis be for their

[187] Dumons, *De la liberté professionnelle*, 10-11.
[188] Ibid, 40. Original emphasis.
[189] Auguste Duclos, *Mémoire au Garde des Sceaux sur la suppression de la vénalité des offices* (Chatelleraut: A. Rivière, 1859), 126; Vraye, *Du remboursement des offices ministérielles, et de la suppression de leur vénalité* (Paris: Librairie générale de jurisprudence, 1860), 234-235.

expropriation? If these privileged and venal rights were illegitimate in terms of legal equality, then it seems that they should not have formed a legitimate property interest. But then, since Dumons maintained that these rights did form a valid property interest, one that the state must compensate with an indemnity in order to carry out legal expropriation and not coercive theft, then it became quite difficult indeed to argue that they fundamentally transgressed norms of legal equality. The difficulty, moreover, was intensified, as both the brokers and the existing body of law held that these exclusive rights in fact served the public interest, not private ends; Dumons was making claims about ostensible venality, when this venality had already found a place alongside legal equality and economic liberty. By swearing that liberty and equality would have to be balanced with property, Dumons situated his claims on the brokers' conceptual terrain, as their legal counsel had also vigorously argued that the transmission of office was thoroughly valid insofar as it was property. Essentially agreeing with the linchpin of the brokers' legal claims, Dumons thus kneecapped his own critique of their privilege and venality.

Indeed, despite Dumons' impassioned pleas, the brokers' opponents' hopes would go unfulfilled; the state would not move to cancel the rights of transmissibility of office. As one later critic would opine about the July Monarchy, "Issuing from a revolution provoked by an attack on public liberties, the Government of 1830 frequently forgot this origin."[190] It was, the author suggested, to the regime's shame that it propounded the virtues of "public liberty," while permitting venality of office to survive. But the legal disputes about the brokers' offices demonstrate that this juxtaposition may not necessarily have been rank hypocrisy. As both Mollot and Dumons attested, liberty, equality, and property combined to recuperate what had

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[190] Vraye, *Du remboursement*, 195.

appeared to be privilege and venality in post-revolutionary society. The brokers' property rights in office would persist, through the July Monarchy and beyond.

Conclusion

In 1830, the anonymous author of *Observations* appeared thoroughly convinced of the rightness of the public functionaries' privileges and rights in office. The brokers, however, were less sure. They displayed marked ambivalence regarding the appropriate defense of their rights in post-revolutionary society. The brokers seemed to endorse the pamphlet's argument that the functionaries' rights were not privilege, but necessary steps taken in the public interest. At the same time, the broker's secretary also advised a judicious silence over the particulars of the transmission of office, in the worry that they would recall Old Regime venality. Best, he intimated, not to remind the public of this legal evil that the Revolution had supposedly abolished.

After 1830, the brokers were more willing to publically stand behind their rights of property in office, most especially that of transmission. The legal travails of the brokers across the Restoration and the July Monarchy attest to the increasing assertiveness of the defense of these exclusive rights. During the Restoration, facing the aftermath of Sandrié-Vincourt's catastrophic financial failure, the Company of Parisian Brokers' legal counsel defended it as a *corps moral*, but one that individualized the involved parties, rather than united them in bonds of *solidarité*. The brokers' monopoly on intermediation at the exchange could be framed as upholding the public interest, because there was no collective end for the brokers to pursue, as indicated by their lack of collective liability for Sandrié-Vincourt's losses. The individualizing logic of financial intermediation, which placed broker and counterparty on opposite sides of the

transaction, transformed privilege into legitimate right, validated by appeals to the public interest; the Company was a *corps moral*, but it facilitated individual economic ends.

During the July Monarchy, the Company supplemented this defense of what looked like privilege with a defense of what looked like venality. The brokers, Mollot freely admitted, were in fact typically not isolated economic actors, but rather backed by the capital of other investors. This pooling of capital for the mutual extraction of profits derived from the monopoly on financial intermediation turned the office of broker into a form of business association, one over which both the brokers and their silent partners together maintained strong property claims. With these property claims came the right to dissolve the business association or transmit the relevant property interests to other parties of one's choosing; professional office could thus be sold and transmitted because it constituted a form of "coproperty." And to assault the rights of property would be to undermine the concept that undergirded post-revolutionary law's normative authority. The historical irony is that in an ostensibly "bourgeois," liberalizing regime, the brokers were more forthright in their defense of exclusionary corporate rights. But what had been kept silent could now be spoken outright. Transmission of property in office, sealing off the profession of the broker from the wider labor market, was consonant with economic liberty and legal equality.

What the survival of the brokers' exclusive rights ultimately suggests is a reassessment of the relations between legal equality, economic liberalism, and corporate privilege in post-revolutionary France. Historians have long noted that a post-revolutionary discourse of economic liberty changed the terms on which anticompetitive regulations could be defended; these regulations had to be cannily justified by their beneficiaries as somehow consonant with a

liberalized market.[191] This historiographic assessment undoubtedly fits the brokers' situation, to a degree. The brokers' and their advocates were assuredly not reasoning in the Kantian mode, divorcing their substantive claims from any particularistic, empirical interests. Much was at stake, presumably motivating the force and direction of their rhetoric. At the same time, this rhetoric had to be – and was – convincing to others. The brokers and their legal counsel were not just sketching out a synoptic review of legislation, but putting forth legal defenses during trials and public interventions during times when that legislation had the potential for drastic revision; even Mollot's expansive treatise on financial exchanges was an attempt to shape the interpretation of the governing commercial law. This discourse had to convince judges and legislators that the brokers' corporate rights still merited a place in society. And it did convince them. The brokers were not so much spinning out tendentious "denials and excuses," but revealing the contours of equality and economic liberty in post-revolutionary France. What had been privilege and venality were transformed from Old Regime holdovers into justifiable parts of the new economic and legal order.[192]

The transformation was never uncontroversial. Challenged during the Restoration and July Monarchy, challenged again in later regimes,[193] these corporate rights nonetheless proved remarkably resilient. They would, in fact, be coterminous with the Company itself, not being

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[191] Hirsch, "Revolutionary France, Cradle of Free Enterprise," 1285.

[192] To be clear, this argument is not meant to suggest that the guilds or corporations were necessarily economically backwards as prerevolutionary institutions. As scholars such as Allan Potofsky and Gail Bossenga have argued, they could also take their place among the more dynamic elements of the Old Regime. But the formal destruction of privilege and venality changed the legal and interpretive environment. See Potofsky, *Constructing Paris*; Gail Bossenga, *The Politics of Privilege: Old Regime and Revolution in Lille* (New York: Cambridge University Press, 1991).

[193] Gilardeau, *De la vénalité des offices* (Paris: Comon, 1848); Duclos, *Mémoire*; Vraye, *Du remboursement*; Raoul de la Grasserie, *Des offices: de l'abolition de leur vénalité, et de leur rachat, de la suppression des frais de justice, voies et moyens financier pour y parvenir sans charge pour le Trésor public* (Rennes: Baraise, 1887).

retired from the law books until the final dissolution of the Company in 1988.[194] The legal successes of the brokers of Paris ultimately reveal the distinctive reconciliation of exclusionary corporatism, legal equality, and economic liberalism in post-revolutionary France.

[194] Lagneau-Ymonet and Riva, *Histoire de la Bourse*, 91-97. According to the law of 22 January 1988, the Company was dissolved as an institution under ministerial purview, becoming instead the "Company of French Exchanges [*Société des bourses françaises*]." Financial intermediation was privatized, with multiple firms now permitted to broker transactions at the Exchange. This liberalizing move, however, did not necessarily render the distribution of the profession more equitable, as financial intermediation remained the preserve of a select business elite. As Lagneau-Ymonet and Riva observe, "Financial deregulation did not suppress the monopoly on financial intermediation; it changed the beneficiaries."

The Honest Speculator: Debt, Honor, and Financial Regulation in Restoration France

"Sir, the law cannot obstruct me on this point, regarding my property, regarding my will; it cannot prevent me from purchasing or selling, if it pleases me to do so."[1] Forceful words, but the man speaking them did not exist. He was an invention, a rhetorical device created by Paris stockbroker Vincent Perdonnet as part of his legal defense in a landmark series of trials spanning 1823-1824, which saw him facing off against the aristocrat Charles-Théodore-Palamède-Antoine-Félix de Tertulis, Comte de Forbin-Janson. The fictional speaker represented an average investor, seeking to obtain substantial profits through risky speculative ventures at the Paris Stock Exchange. As scripted by Perdonnet, this hypothetical investor held no doubts that financial speculation was permitted by laws and sanctioned by society. After all, public debt futures contracts – the primary speculative vehicle – remained the investor's property and therefore under his dominion. Were it otherwise, the investor suggested, then France's system of law would fall into disorder, with individual will and the circulation of property unjustly restricted.

This imaginary investor's faith would promptly be shaken to its core. Perdonnet confronted him with an imaginary stockbroker, tasked with disabusing the deluded investor of his too-rosy picture of France's economic order. The stockbroker agreed that laws should step out of the way of the individual, permitting him to transact as he saw fit. But, Perdonnet argued through his fictive mouthpiece, a malign new legal interpretation of financial speculation had arisen. The investor, Perdonnet argued, would be able to speculate at the Paris Stock Exchange;

[1] Vincent Perdonnet, *Plaidoyer de M. Perdonnet, agent de change; contre M. le Cte de Forbin-Janson* (Paris: Bailleul, 1823), 52.

the risks, however, would be borne entirely by the intermediary party – the stockbroker – as courts had recently held that the futures contract was an illicit financial form, stripping it of many legal protections. A crafty investor could therefore speculate in risky gambits, then repudiate his debts if his venture turned out poorly; the corresponding stockbroker would be left footing the bill. Upon hearing this news, the imaginary investor – a paragon of virtue, no doubt – was thunderstruck. "Thus the public would have the privilege of speculating on the credulity or the imprudent temerity of stockbrokers, and of exploiting, to its profit (without any other danger than that of seeing its *bad faith* recorded in a holding), the confidence that they are obliged to grant to their clients, because it would be impossible to comply with the law!!!" To such a sorry state of affairs, the imaginary stockbroker could only soberly respond, "Yes, sir."[2]

This trial marked an important development in the concept of property in post-revolutionary France. At stake was the nation's position on the relations between the legitimate boundaries of property and financial risk. How might or might not a discursive universe that typically valorized land over mobile property and liquid assets be reconciled with financial speculation? How might one promote an affirmative defense of financial speculation, inherently risky, that figured it not only as a regrettably ineradicable element of the modern economy, but as a valuable tool for states and citizens alike? The course and results of the Perdonnet and Forbin-Janson trial highlight the contested nature of France's jurisprudential approach to the appropriate balance between risk, property, and the ambiguous moral character of speculation.

The legal confrontation between Perdonnet and Forbin-Janson was not, of course, the first time such themes had been broached in France. As argued in Chapter two, the relations

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[2] Ibid., 52-53. Original emphasis.

between property, finance, and public debts were debated directly between Napoléon and a seasoned team of veteran stockbrokers at the Council of State in 1808. Building upon previous discourses on public debts and property, the stockbrokers carved out a space for the futures contract within France's legal terrain. In particular, Article 544 of the 1804 Civil Code – the main document defining the landscape of France's civil law system – gave wide expanse to the uses of property: "Property is the right to enjoy and dispose of things in the most absolute manner, provided one does not make a usage prohibited by laws or regulations."[3] The stockbrokers overarching claim was that the futures contract was covered by this expansive definition of property; to abolish it would be an illegitimate form of regulation, an unmerited diminution of the possible uses of property.

Napoléon did not abolish the public debt futures form at that 1808, and public debt futures became further anchored in the daily practice of financial transactions at the Exchange. However, the expansive definition of property set out in the Civil Code would be circumscribed by other domains of law. Articles 421 and 422 of the 1810 Penal Code ruled certain forms of speculation illegal, including those involving public debt.[4] However, just what counted as legal or illegal speculation in the public debt remained ambiguous; in the absence of definitive statutory guidance, this decision was largely left to the courts. Sanction generally fell down upon only those contracts in which prices were netted without securities exchanging hands; the vast majority of futures contracts were seen as legally valid. This interpretation was confirmed by court decisions in 1810, 1812, and 1814.[5] Perdonnet himself had been involved in an earlier case

[3] *Code Napoléon. Édition originale et seule officielle* (Paris: Imprimerie Impériale, 1807), 142.
[4] Articles 421 and 422, *Code pénal* (Paris, 1810), 99.
[5] Nelly Hissung-Convert, *La spéculation boursière face au droit, 1799-1914* (Paris: L.G.D.J., 2009), 64-65.

that upheld futures contracts as valid commerce in 1806.[6] As argued in the previous chapter, the hesitation between the push for substantively expansive property rights and the desire to restrict what were deemed illicit or immoral uses of property, such as various forms of corporatism, would continue into the Restoration regime.

The legality of public debt futures was thus caught in a kind of precarious standoff. After the 1808 meeting in the Napoleonic Council of State, it benefitted from executive acceptance, however grudging, and juridical validation; but without definitive statutory guidance, this relative stability could be upended by sufficiently influential reversal of jurisprudence. Opportunities for such a reversal abounded after the collapse of the Napoleonic regime. Chapter three highlighted how the Restoration state had turned to public debt to finance payment on a substantial war indemnity after the fall of Napoléon in 1815. That debt now circulated at the Exchange, where speculators could bet on a rise or decline in prices. But the ways in which financial speculation at the Exchange appeared to sever the links between property, materiality, and time would continue to prove both troubling and troublingly difficult to control. The course and outcome of the Perdonnet-Forbin-Janson trial thus revealed the moral faultlines over financial speculation and the acceptable uses of property in a regime seeking to stabilize itself after war, revolution, and social upheaval.

Historiographical Approaches to Financial Speculation

While the Introduction reviewed the literature on financial capitalism and financial institutions broadly conceived, this section will examine the historiography of financial

[6] *Journal du Palais. Récueil le plus ancient et le plus complet de la jurisprudence Française*, 3rd ed, vol. 5, ed. Ledru-Rollin (Paris: F-F Patris, 1838), 195.

speculation more specifically. Narrowing the historiographic focus in this fashion will highlight the changing role played by financial speculation in the transformation of the French economic world, as well as the intellectual grounds on which the legal battle between Perdonnet and Forbin-Janson took place.

Scholarly attention to financial speculation is nearly coeval with the foundation of formalized exchanges themselves. The dramatic expansion in trade following the formation of the Dutch East India Company in 1602 led to the creation of the Amsterdam Stock Exchange;[7] in 1688, Joseph de la Vega published the first known book specifically on stock exchanges, *Confusion of Confusions*.[8]

More recently, the French case during the nineteenth century has increasingly come under academic scrutiny.[9] This scrutiny ranges from detailed economic analyses of the Exchange's efficiency[10] to literary analyses of speculation's place in the nineteenth-century novel.[11] As indicated in the Introduction, by far the most extensive treatment of financial speculation specifically is Nelly Hissung-Convert's *La spéculation boursière face au droit, 1799-1914*. She essentially concludes that financial speculation played a substantial role in the transformation of French capitalism; the gradual stripping away of legal and juridical barriers to speculation thus mirrored, *in nuce*, the implantation of a form of capitalism in France during the

[7] Larry Neal, "Venture Shares of the Dutch East India Company," in William N. Goetzmann and K. Geert Rouwenhort, eds., *The Origins of Value: The Financial Innovations that Created Modern Capital Markets* (New York: Oxford University Press, 2005), 165-169.
[8] Joseph Penso de la Vega, *Confusion des Confusiones*, trans. Hermann Kellenbenz (Boston: Kress Library of Business and Economics, 1957).
[9] Financial speculation in France during the eighteenth century has, of course, long been the subject of much scholarly work. See Introduction, Chapter 2.
[10] Pedro Arbulu, *La Bourse de Paris au XIXe siècle: Efficience et performance d'un marché financier emergent* (Bordeaux: Éditions Connaissances et Savoirs, 2007).
[11] Christophe Reffait, *La Bourse dans le roman du second XIX siècle: Discours romanesque et imaginaire social de la spéculation* (Paris: Honoré Champion, 2007).

nineteenth century.[12] Supporting Hissung-Convert's argument is the work of Paul Lagneau-Ymonet and Angelo Riva. Across a series of works, they argue that the Paris Stock Exchange in general, and financial speculation in particular, gradually became legally stabilized as capitalism became increasingly formalized and financialized across the nineteenth century. As they write, the legal recognition of public debt futures "therefore participated in the passage from a landed capitalism to a monetary capitalism, of which the financial market became one of the cardinal institutions."[13] This transition from landed to "monetary" capitalism was, however, was always discontinuous and contested, particularly over the disputed moral status of financial speculation. Thus, the process of rebuilding the viability of the Exchange, after the upheavals of the Revolution, necessitated the conceptual legitimation of financial speculation – far from an assured prospect.

The Perdonnet-Forbin-Janson case typically marks an important moment in the historiography of this legitimation. Hissung-Convert, for instance, sees this case as an inflection point in the jurisprudence on financial speculation, indicating a more hostile attitude than before on the part of the magistracy,[14] an argument supported by Lagneau-Ymonet and Riva.[15] These accounts typically take a long-term view. However, without denying the value of these previous

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[12] Nelly Hissung-Convert, *La spéculation boursière face au droit, 1799-1914* (Paris: L.G.D.J., 2009), 591.
[13] Paul Lagneau-Ymonet and Angelo Riva, "Les opérations à terme à la Bourse de Paris au XIXe siècle," in Nadine Levratto and Alessandro Stanziani, eds., *Le capitalisme au futur antérieur: Crédit et spéculation en France, fin XVIIIe – début XXe siècles* (Bruxelles: Bruylant, 2011), 108. See also Paul Lagneau-Ymonet and Angelo Riva, *Histoire de la Bourse* (Paris: Découverte, 2012); Pierre-Cyrille Hautcoeur and Angelo Riva, "The Paris Financial Market in the Nineteenth Century: Complementarities and Competition in Microstructures," *The Economic History Review*, vol. 65, no. 4 (2012), 1326-1353; Alessandro Stanziani, *Rules of Exchange: French Capitalism in Comparative Perspective, Eighteenth to Early Twentieth Centuries* (New York: Cambridge University Press, 2012).
[14] Hissung-Convert, *La spéculation boursière*, 128-133.
[15] Lagneau-Ymonet and Riva, "Les opérations à terme," 121-122. Joost Jonker, in a chapter on securities markets, does allude to the Perdonnet-Forbin-Janson case, though he gets several details wrong, such as the outcome of the trial and the nature of regulation on financial speculation in nineteenth-century France. See Joost Jonker, "Competing in Tandem: Securities Markets and Commercial Banking Patterns in Europe during the Ninteenth Century," in Douglas J. Forsyth and Daniel Verdier, eds. *The Origins of National Financial Systems: Alexander Gerschenkron Reconsidered* (New York: Routledge, 2003), 74-79.

studies, this chapter will take a more fine-grained approach, examining the legal controversy in a period during which the "monetary capitalism" described by Lagneau-Ymonet and Riva had not yet been inarguably installed. This more granular approach helps illuminate the discursive battles over financial capitalism in nineteenth-century France, by excavating the shifting legal strategies deployed to defend or repress it. As shown in Chapter two, futures contracts in public debt had met with grudging toleration by the Napoleonic regime, but, crucially, they did not receive explicit statutory legitimation; this chapter will investigate what happens when this form of financial speculation was only tenuously rooted in French legal architecture. In so doing, it will add to the historiography of financial speculation in France by showing how this speculation on public debt might or might not find a home in the post-revolutionary moral universe.

Perdonnet, Forbin-Janson, and the Contested Legitimacy of Speculation

Perdonnet was no stranger to the French court system. In 1806, he had fought, and won, a case regarding the legality of financial speculation through public debt futures. This decision was also reinforced by subsequent jurisprudence crossing the Napoleonic and Restoration regimes. Perdonnet must therefore have felt quite secure in his legal footing when Forbin-Janson first requested his services on November 25, 1822. Initially, Perdonnet refused to sign on as Forbin-Janson's broker – nearing the end of a lengthy career, Perdonnet had his eyes set on his imminent retirement and thus was reluctant to take on any major new business, particularly ones involving potentially immense sums ordered by an individual. But Forbin-Janson was persistent. The very next day, Forbin-Janson returned and, as Perdonnet would later recount, regaled him with tales of "his long habitude in affairs of this genre, of the constant prudence with which he has guided these affairs, of the success he has obtained, of the advantages offered by his name, his rank, and

his illustrious relations, in order to be promptly informed of circumstances likely to influence public credit."[16] In addition, Forbin-Janson proudly highlighted his own personal, as well as familial, wealth, which, he stressed, should allay any fears Perdonnet might have about defaulting on his obligations. Finally, Forbin-Janson promised to deposit some securities with Perdonnet, to be liquidated if needed to cover debts. This fusillade of assurances finally won Perdonnet over. As he wrote, "The totality of this language, the consideration of the distinguished rank that the Forbin-Janson family occupied in society, and the fear of offending monsieur le comte determined me not to persevere in my refusal."[17]

Flattery and personal fortune had not quite worn away all of Perdonnet's reserve, however, as he stipulated a number of conditions before agreeing to do business. First, his orders for Forbin-Janson would not exceed inscriptions above 150,000 francs of *rente*. Second, as guarantee, Forbin-Janson was to deposit stock in the company managing the Canal de Bourgogne, with a value of 150,000 francs, tabulated at par. And third, he was to augment this deposit according to the market fluctuations in the above stock, with a view towards maintaining a steady buffer of 150,000 francs.[18]

In what would prove to be an ill omen, Forbin-Janson was only too pleased to cooperate – to a degree. He transferred to Perdonnet stock in the Canal company, just not quite in the amount Perdonnet had requested: the total par value of the inscriptions amounted to 120,000

[16] Vincent Perdonnet, *Historique rapide de mes rapports avec monsieur le Comte de Forbin-Janson, et des operations que j'ai fait pour son compte* (n.p.), 1. Centre des archives économiques et financières [CAEF] B-0068562/3.
[17] Ibid., 1.
[18] Ibid., 2.

francs, as opposed to 150,000.[19] This discrepancy notwithstanding, Perdonnet did agree to serve as Forbin-Janson's agent.

The pair initially experienced some financial success. Through a series of purchases and resales over the course of November and December 1822, all utilizing the futures contract form, Forbin-Janson gained a net profit of 22,395 francs. He promptly re-invested the initial capital – 150,000 francs – back into future contracts in public debt. And it was at this moment that the trouble began.

In this specific futures contract, the price and quantity of *rentes* to be bought or sold were locked in at the time the contract was drawn up. Forbin-Janson was, moreover, an *haussier*, that is, a speculator betting on a rise in prices in the public debt. At the end of December 1822 and beginning of January 1823, he ordered Perdonnet to repurchase 150,000 francs of *rente*, with the price of the *rente* locked in at 89 francs; the final settlement date was to be the end of January, or earlier at Forbin-Janson's will.[20] In that month-long time interval, Forbin-Janson was hoping the price of the public debt would rise, meaning that he could purchase *rentes* at the contractually stipulated below-market rates; in turn, he would then be able to turn around and re-sell his inscription of debt on the spot market – that is, immediately – thereby reaping potentially windfall profits. This financial maneuver, however, was not without risks. If prices moved in the contrary direction – fell instead of rose – then the purchaser would not be able to re-sell at a profit, covering the expense of the initial contract out of his or her earnings. In such a case, the purchaser would have to cover the spread between the contractually stipulated higher price and

[19] Ibid., 2.
[20] Ibid., 2-3.

the lower market rate out of his or her own personal funds, a potentially daunting risk given the vast sums involved.

To Perdonnet and Forbin-Janson's presumed horror, this potential risk quickly became actual. The public debt markets witnessed a sudden and substantial downturn, prompting Perdonnet to urge Forbin-Janson to withdraw his investment as soon as possible, so as to minimize his losses.[21] But Forbin-Janson was strangely, and troublingly, quiet. He would not respond until 19 January 1823. Tragedies were beginning to pile up around his person – his uncle, the illustrious and similarly nomenclaturally gifted Victurnien-Bonaventure-Victor de Rochechouart, marquis de Mortemart, had died suddenly, diverting his attention from the turbulent Parisian financial markets for several unfortunate days. But, he urged Perdonnet to remain in "perfect security," since he would certainly be able to cover any potential losses out of his personal fortune. Indeed, he wrote, "the faithfulness to fulfill my commitments is not something that may depend on the rise or fall [of public debt.]"[22] He also promised to come visit Perdonnet to confirm his upcoming transactions on 21 January 1823.

Forbin-Janson's attestation of faith was not quite enough to soothe Perdonnet's worries, particularly given the ongoing downward trend in the price of the public debt. Moreover, Forbin-Janson's communication and presence had become increasingly erratic – he delayed the 21 January meeting until 24 January, at a time during which days mattered. In this visit, he further assured that he would be able to meet his obligations, promising a payment of 250,000 francs in

[21] Ibid., 3.
[22] Duprat, *Mémoire pour m. Perdonnet, agent de change à Paris, demandeur en cassation de l'arrêt de la Cour royale de Paris, du 9 août 1823, contre m. de Tertulis, Comte de Forbin-Janson,* défendeur (Paris: Éverat, 1823), 7.

specie to Perdonnet by 4 February 1823, with more income to arrive from the mortgage of a piece of land valued at 1 million francs.[23]

Several more days of silence followed, with letters from Perdonnet going worryingly unanswered. Finally, on 30 January 1823, the day before the trade was to be executed, Perdonnet finally heard back. "I was not able to respond quickly to the letter I received from you yesterday morning," Forbin-Janson wrote, "an urgent affair forced me to leave." Declining to specify just what this "urgent affair" might have been, Forbin-Janson continued: "Everything that this letter includes is *perfectly just, reasonable, conforming to that which we had agreed upon*."[24] In other words, Perdonnet was to complete the futures contract, purchasing 150,000 francs of *rente* at a pre-established rate of 89 francs, then re-sell those inscriptions of *rente* at the going market rate.

Perdonnet did just that. The result, communicated to Forbin-Janson in a letter of 1 February 1823, was a substantial debt for the Comte to pay: 341,325 francs, to be exact. Acting with uncharacteristic celerity, Forbin-Janson wrote back that same day, confirming that Perdonnet's account of the trade was "*perfectly exact*."[25] Forbin-Janson had been searching long and hard for ways to borrow against his property; in the meantime, he authorized Perdonnet to sell the stock in the Canal de Bourgogne, as way to quickly raise some cash.[26] The proceeds from this sale, however, were rather disappointing, resulting in Forbin-Janson's outstanding debt still amounting to 281,385 francs. Perdonnet expected to receive Forbin-Janson in his office on 3 February 1823, to settle up payment and close out the contract.[27]

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[23] Ibid., 7.
[24] Ibid., 9-10. Original emphasis.
[25] Ibid., 11. Original emphasis.
[26] Ibid., 11.
[27] Ibid., 11-12.

Perdonnet would not see him that day. Instead, Perdonnet welcomed Forbin-Janson's lawyer, Luxeuil, into his office, who delivered the following sobering news. Unable to borrow against his land, Forbin-Janson had vanished. Moreover, Perdonnet was not the only stockbroker embroiled in Forbin-Janson's financial odyssey; he had, in fact, contracted with six other stockbrokers, with debts totaling about the impressive sum of 1,120,00 francs. Though substantial, Forbin-Janson's assets were not sufficient to cover this entire amount, meaning that his total outstanding debt remained at 281,325 francs, as Forbin-Janson's other creditors would be paid out first.[28]

Perdonnet and Forbin-Janson's lawyer did attempt to find some kind of equitable agreement, in which Forbin-Janson would pay some reduced part of the debt. These negotiations, however, quickly deteriorated, though accounts differ as to whom was the culpable party. As Forbin-Janson's legal team would later claim, the comte "had loyally offered all he possessed; his family intervened and proposed to clear the landed fortune [*la fortune immobiliaire*] of a considerable number of mortgages burdening it. These offers were refused, and the negotiations broken."[29] Perdonnet's recollection was rather different. In his retelling, the family Forbin-Janson's generous offer to clear several properties of their debts had come to naught, as the comte's own name had not been enough to secure a line of private credit. Moreover, he claimed that Forbin-Janson's "offers" to renegotiate his debt had in fact been less than charitable; as he wrote, the final offer of Forbin-Janson's lawyer Luxeuil "was so unreasonable that the debtors, despite their quite real conciliatory dispositions, had to reject it, because it imposed on them …

[28] Ibid., 12-13.
[29] Charles-Théodore-Palamède-Antoine-Félix de Tertulis, comte de Forbin-Janson, Odilon Barrot, J.-B. Sirey, J.-M. Delagrange, *Mémoire à consulter et consultation pour M. le Comte de Forbin-Janson, contre l'arrêt des deux chambres reunies de la Cour royale de Paris, rendu le 9 aôut 1823* (Paris: J. Testu, 1823), 12.

the obligation to take care of the interminable liquidation of the comte de Forbin-Janson's affairs, so as to recover only twenty to twenty-five percent of their debts…"[30] The blame for the breakdown of negotiations thus could be attributed to Forbin-Janson's continuing bad faith in matters financial.

Regardless of who truly did bring the talks to an end, end they did. On 20 may 1823, the case of Perdonnet versus Forbin-Janson made its first appearance in the courts, at the Tribunal de commerce de la Seine.[31]

Forbin-Janson's legal strategy involved two primary claims. First, he argued that the case was not justiciable before the Tribunal de Commerce, since his transactions with Perdonnet did not, in fact, constitute a legitimate business deal; since the Tribunal de Commerce was habitually more favorable to stockbrokers and the world of finance generally, Forbin-Janson wanted jurisdiction shifted to the civil courts.[32] His second gambit was to invoke the "*exception du jeu*." This phrase referred to the principle that illicit gambling debts could not create legally binding obligations – you couldn't take someone to court for refusing to pay up after a card game. And since, according to Forbin-Janson, futures contracts were exactly just such gambling debts, he could not be forced to pay his debts to Perdonnet. Perdonnet, unsurprisingly, disagreed, maintaining that the matter under review was indeed a commercial transaction, and that futures contracts were legitimate forms of finance. Confirming Forbin-Janson's suspicions, the Tribunal de Commerce found in favor of Perdonnet, ordering Forbin-Janson to pay up or face debt imprisonment.[33]

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[30] Perdonnet, *Historique rapide*, 9.
[31] Duprat, *Mémoire pour m. Perdonnet*, 13.
[32] Ibid., 13.
[33] Ibid., 13.

Through a series of appeals, the case eventually reached the Cour royale de Paris, with oral argument taking place on 28 June 1823. The opening peroration by the *avocat-général*, Quequet clearly laid out the stakes of the trial: "If you believe the appellant [*demandeur originaire*], Mr. Perdonnet, the decision that society expects from you stems from the greatest interests of the State, whose prosperity is linked to the perpetuity of the transactions that have been made for many years at the Exchange." But, he continued, "If you believe the defendant, Mr. comte de Forbin-Janson, the interest of all families calls out against these abusive and intolerable uses."[34]

As an *avocat-général*, Quequet was charged with representing the public interest before the court; his position was that the kinds of public debt futures under consideration were indeed prohibited by law.[35] In addition, both Forbin-Janson and Perdonnet would have the chance to lay out their legal claims in fuller detail.

Forbin-Janson had abandoned his claim that the case should not have been justiciable before the Tribunal de Commerce.[36] But he fiercely maintained that futures contracts were illegitimate. To advance his case, Forbin-Janson had assembled an exceptionally high-powered team of lawyers, including Pierre-Nicolas Berryer, who had famously, though ultimately unsuccessfully, defended Marshal Ney, as well as his son Pierre-Antoine, who would himself later defend such figures as Lamennais, Chateaubriand, and Louis Napoléon.[37]

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[34] *Journal des débats politiques et littéraires*, 10 août 1823, 3.

[35] C.-L. Lesur, *Annuaire historique universal pour 1823, avec un* Appendice*, contenant les actes publics, traités, notes diplomatiques, papiers d'États et tableaux statisques, financiers, administratifs et nécrologiques; — une Chronique offrant les événemens les plus piquans, les causes les plus célèbres, etc; et une revue des productions les plus remarquables de l'année, dans les sciences, dans les lettres et dans les arts* (Paris: A. Dezplaces et Cie, 1824), 813.

[36] Duprat, *Mémoire pour m. Perdonnet*, 14.

[37] M.-N. Bouillet and A. Chassang, *Dictionnaire universel d'histoire et de géographie*, 26th ed. (Paris: Hachette et Cie, 1878), 222. The other lawyers on Forbin-Janson's legal team were Coffinières, Bonnot, and Hennequin. Forbin-Janson had chosen his team well, and for reasons beyond its professional lustre; the very next year, Coffinières

These lawyers compiled a legal brief, *Consultation pour m. le comte de Forbin-Janson*, that detailed the legal strategy they and Forbin-Janson would pursue before the court. Futures contracts as a whole, they made clear, were not necessarily to be prohibited; any such contracts in which the seller proved possession of the relevant securities, and the purchaser of the commensurate funds, before completion of the transaction were perfectly acceptable.[38] Such contracts were generally less risky; they were also generally less profitable, since both parties' investments were constrained by their present resources. Speculative ventures therefore tended to cluster around the kind of futures contracts that trafficked in more attenuated forms of materiality and temporality, with the seller perhaps not holding securities at the first instant of the contract or the purchaser not confirming his or her sufficient liquidity at that time either. Forbin-Janson and his legal team were unstinting in their condemnation of such futures contracts: "The law does not at all recognize these monstrous contracts of sale, in which the one who sells does not have the merchandise, the one who purchases does not have the money, and neither one nor the other has the intention of ever realizing the transaction."[39] This desire to only gamble on the fluctuation of prices – to never "realize the transaction," since the intention was to speculate on public finance, rather than exchange property – rendered this form of futures contract utterly

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would publish a lengthy volume that thundered against the validity of public debt futures contracts. In Coffinières' view, while spot transactions were an acceptable and moral form of commerce, the rise in futures contracts had a much more socially deleterious nature: "And so, the personal interest of the stockbrokers and the mania for speculation, ridiculous for those who have neither capital nor credit, disastrous for those who possess an honorable fortune; such are the causes that have given a completely new direction to the negotiation of public securities." As will be shown, much of this same logic was to be deployed in Forbin-Janson's particular case. See A.S.G. Coffinières, *De la Bourse, et des spéculations sur les effets publics. Ouvrage dans lequel les marchés à terme sont considérés d'après les lois, la morale, et le crédit public* (Paris: Belin-le-prieur, 1824), 83-85. For an overview of the legal profession during this period, see Michael P. Fitzsimmons, *The Parisian Order of Barristers and the French Revolution* (Cambridge: Harvard University Press, 1987).

[38] Berryer fils, Coffinières, Berryer père, Bonnet père, Hennequin, avocat plaidant, *Consultation pour M. le Comte de Forbin-Janson* (Paris: J. Didot, 1823), 4.

[39] Ibid., 2.

intolerable. Thus, a prior deposit of securities and funds was necessary to legitimate futures contracts, since this deposit would serve to ground the financial transaction in more familiar forms of materiality and time.

Elaborating on this claim, the lawyers continued: "The reason is that the deposit alone establishes the reality of the transaction… Without prior deposit, there is no longer any definite object of the transaction; it must be considered as fictive, it cannot any longer be, in the eyes of the magistrates, anything other than a bet on the rise or fall [of public securities], than a gamble on the rate at which these securities will be negotiated at a specific epoch [*une époque déterminée*]. And under this inevitable character of betting and gambling, not only is the agreement null, but all legal action is denied by civil law."[40] Without prior deposit – that is, without radically reducing the range of financial speculation – the futures contract devolved into purely illusory fiction. Without prior deposit, the futures contract could not be separated from proscribed gambling. By establishing materiality and arresting financial time at the moment the contract was drawn up, futures contracts could be permitted, however drastically circumscribed; without these elements, they could not. As one of Forbin-Janson's lawyers, Coffinières, would elaborate in a later work, such illicit forms of futures contracts "focus on ideal values, on fictional capital; they are numbers, not things."[41]

Moreover, despite the fact that they were facing a stockbroker in court, Forbin-Janson's lawyers also claimed that massively restricting the public debt markets through prohibiting this form of the futures contract, in fact, would also benefit the stockbrokers themselves. "In order to conserve for them [the stockbrokers]," the lawyers wrote, "the character and necessary authority

[40] Ibid., 4-5.
[41] Coffinières, *De la Bourse*, 111.

to those agents whose sole testimony can prevail in front of the courts, it was necessary to shelter them from the risks [*chances*] and tremors of commerce; it was necessary that, tossed into the middle of the most colossal and the most audacious transaction, they were not exposed to any personal peril, to any loss capable of shaking their credit or casting umbrage on their exactitude. As intermediaries [*négociateurs*], they are public depositaries, and do not and cannot contract any kind of personal obligation…"[42] The stockbrokers were financial intermediaries, meaning that legally, they only served to join together outside buyers and sellers – their clients, from whom they drew a commission on the transaction; the stockbrokers were thus forbidden from trading on their own accounts. But, Forbin-Janson's lawyers argued, by permitting futures contracts without prior deposit, the stockbrokers risked holding the bag when a client assumed debts greater than he or she could pay off – as had in fact happened in this very case, when Forbin-Janson refused to pay up. Thus, somewhat ironically, it was Forbin-Janson's default on his debts that was here deployed to shore up the legal claim that he should never have had the ability to contract those debts in the first place, because if permitted to do so, someone might default on them. As financial intermediaries, Forbin-Janson's lawyers argued, the public needed to be assured of the stockbrokers' "exactitude" and credit; but the public debt futures contracts in question threatened that very professional reliability.

Given the importance of stability in the public debt markets, the lawyers therefore argued that these kinds of public debt futures must be judged illegitimate. "And so, it is in the interest of the public order," they concluded their defense, "that the stockbrokers were instituted, it is in the interest of the public order that duties were imposed on them, it is in the interest of the public

[42] Berryer et al, *Consultation*, 5.

order that the deposit was required to confirm the reality of transactions on public securities, it is in the interest of the public order that fictive speculations, games, gambles, do not give rise to any legal action…"[43] For such reasons, Forbin-Janson's lawyers terminated the *Consultation*, the Cour royale must overturn the lower court's decision and find in favor of the comte.

During the actual trial before the Cour royale de Paris, Forbin-Janson's legal team broadly followed the strategy outlined in the *Consultation*, while also ratcheting up the illusory and intellectually disrespectable aspects of financial speculation. Antoine-Louis-Marie Hennequin was assigned the task of oral argument. In the process of propounding Forbin-Janson's case, he stressed that the public debt futures contracts under question were illegal, thereby freeing the comte from his obligations. Moreover, Hennequin made clear that the form of financial capitalism represented by the Paris Stock Exchange did not truly have a home in Restoration France. As he darkly intoned, "The Exchange is the land of false news, it is the land of imaginary dangers and of deceptive prosperity; it is there that individuals that are couriers in all the capitals, as well as correspondents in all the markets of Europe, circulate, spread or retire at will news that make public funds fluctuate. … It is there that a French family is ruined by an intrigue of a seraglio or by an uprising of janissaries that, in truth, has not happened."[44] Futures contracts had plunged Forbin-Janson into immense debt, it was true; but beyond this particular debt instrument, Hennequin implicated the genre of financial capitalism found at the Exchange Bourse as a whole. This form of capitalism trafficked in rumor and deception, so as to sway the direction of prices. At the word of a report, probably false, from afar, French families might see their wealth – and their virtue – wiped out in an instant, Hennequin suggested. And even when if

[43] Ibid., 11.
[44] *Journal des débats politiques et littéraires*, 20 juillet 1823, 3.

one's speculative gambles chanced to turn out successful, the wealth created by financial capitalism at the Exchange was unstable, immaterial, illusory; the wealth created by financial capitalism was not truly productive, but instead nothing other than "deceptive prosperity."

Closing out his argument before the Cour royale, Hennequin connected the current case to financial scandals past, specifically to the "System of Law" from the early eighteenth century. In a few brief years, the System witnessed meteoric rise and precipitous collapse; Law himself died a pauper in Venice.[45] The present case, Hennequin suggested, quite clearly harkened back to this landmark financial scandal of almost exactly a century before: "In the time of the Regency, a dangerous stranger came to France, with a seductive system, carrying away all spirits, upsetting all positions… However, the illusion was dissipated too late, the error recognized when there was no longer time to apply the remedy. Then the courts of justice intervened… Imitate, Messieurs, these formerly sovereign courts, put a stop to speculation [*agiotage*], and public opinion will decide in your favor; it will applaud your virtuous resistance; and you, ministers, who hold the tiller [*timon*] of State, open your eyes, prevent great misfortune, and you will have affirmed public morality."[46] Law had long served as a kind of metonymic symbol for untrustworthy financial practices during the eighteenth century and into the Revolution;[47] Hennequin's defense here showed how this charge remained potent into the Restoration as well. By invoking the scandal of Law, Hennequin suggested that the current case was not just a private spat between a creditor and a debtor, but rather an event concerning the public good. The coming verdict offered a chance to render judgment on the way financial capitalism articulated with post-

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[45] On John Law, see Antoin E. Murphy, *John Law: Economic Theorist and Policy-Maker* (New York: Oxford University Press, 1997).

[46] *Journal des débats politiques et littéraires*, 20 juillet 1823, 4.

[47] Rebecca L. Spang, "The Ghost of Law: Speculating on Money, Memory and Mississippi in the French Constituent Assembly," *Historical Reflection / Réflexions Historiques*, vol. 31, no. 1 (2005), 3-25.

revolutionary states. In order to preserve a moral form of financial capitalism, Hennequin concluded, the Cour royale must overturn the prior court's decision and find for Forbin-Janson.

As in the initial trial before the Tribunal de commerce, Perdonnet argued almost directly contrary to Forbin-Janson's position. Pleading for himself, Perdonnet mounted a thoroughgoing defense of financial speculation through futures contracts as not just legally valid, but morally acceptable as well. In terms of futures contracts' legality, he argued first that this form of financial speculation did eventually take material form, since, at the termination of the contract, money and securities did indeed change hands; futures contracts were thus not simply a game of differences. Moreover, the legislation defining illegal financial speculation only required that the inscriptions of public debt be available at Paris Stock Exchange at the time of contract, not that they had to actually possessed by the stockbroker, as ordered by his client, at that point; thus, Perdonnet observed, the standard financial practice of drawing up a futures contract first and only actually obtaining the inscriptions of public debt once the contract was closed out was wholly in line with the law's commands. Indeed, as Perdonnet himself had experienced, previous jurisprudence had upheld the futures contract on just these grounds.[48] But most crucially, Perdonnet observed that in fact, the definitive statement on the legality of public debt futures had not yet been made. Article 90 of the Commercial Code, which was the legal institution governing transactions at the Stock Exchange, literally used the future tense, in stating that there will be "rules of public administration regarding all that is related to the negotiation and transmission of the property of public funds."[49] These rules, however, had not yet been issued, remaining to be

[48] Perdonnet, *Plaidoyer de m. Perdonnet*, 22-36.
[49] Fournel, *Code de Commerce, accompagné de notes et observations* (Paris: Dufresne, 1807), 68.

drafted by some future legislature. As Perdonnet exclaimed, "A promise in a code! This perhaps has never been seen before."[50]

Indeed, the question of futurity weighed heavily on Perdonnet's mind. As he wrote, "The legislator governs neither for the past, nor even for the present; — he governs for the future, and for the *future solely*."[51] The state, in this view, must take an *ex ante* perspective, seeking to adopt the optimal rules for society going forward, rather than retroactively assigning culpability, which instead was the province of the magistrate. Thus, for Perdonnet, whenever the state did decide to fulfill the promise of Article 90 of the Commercial Code, it should do so in a way to produce good social outcomes; in the meantime, without clear guidance according to the law, the judge should follow prior jurisprudence and longstanding usage, which had consecrated the validity of futures contracts.[52] To do otherwise would be to leave law in a disordered state, as Perdonnet's imaginary and bewildered interlocutor remarked in this very defense.

All this argumentation ultimately relied upon an affirmative defense of financial speculation, which Perdonnet was only too happy to provide. He baldly stated, "Speculation on public debt, through futures contracts … is not only useful, but necessary to government, to commerce, and to society, of which all branches have a right to equal protection."[53] Public debt, Perdonnet observed, had become the "thermometer" of a state's credit and of the "confidence that individuals placed in it."[54] Futures contracts served to smooth out day-to-day volatility in the price of the public debt, since they responded to speculators' future expectations, rather than

[50] Perdonnet, *Plaidoyer de m. Perdonnet*, 36.
[51] Ibid., 58. Original emphasis.
[52] Ibid., 54.
[53] Ibid., 64.
[54] Ibid., 66.

daily rumors or bad tidings that might precipitate a sudden drop in price. Thus, financial speculation, even when it bet on a decline on the price of the debt, served the state's advantage.[55]

This form of speculation also redounded to the individual's benefit. Through a combination of futures contracts and spot transactions, individuals could effectively borrow money at a comparatively low rate of interest and with few tedious obstacles to surmount. These individuals could, in turn, re-invest this sudden influx of money back into productive enterprise, or perhaps purchase land, converting mobile property into real estate.[56] Public debt futures therefore, in this view, were not simply parasitic on the notionally "real" economy, but rather an integral part of acceptable commerce.

Financial speculation, according to Perdonnet, thus helped states and individuals prosper and flourish. It was therefore a valid part of France's moral universe and economic landscape. Naturally, some would maliciously choose to abuse the chances for speculation. As Perdonnet observed, "In fact, experience has told us that the honest speculator, who sees himself ruined by the unfortunate results of his operations, does not behave as did m. de Forbin-Janson. – he abandons the field and retreats from the Stock Exchange, informing the stockbroker of his deplorable situation and, in authorizing him to act as he believes appropriate to his own interest, approves in advance what he will have felt obliged to do."[57] Forbin-Janson, according to Perdonnet, had done none of these things. Forbin-Janson, according to Perdonnet, had thus acted as a dishonest speculator. And therefore, according to Perdonnet, the Cour royale must uphold the lower court's opinion and find in his favor.

[55] Ibid., 66-67.
[56] Ibid., 69-70.
[57] Ibid., 11.

The Cour royale disagreed. Though it did explicitly chide Forbin-Janson for his "bad faith" in repudiating his losses after having reaped the benefits of earlier speculations, the court found that Perdonnet had never made a "real offer" to actually deliver the inscriptions of public debt in question.[58] As Perdonnet did not actually possess those inscriptions at the time the contract was drawn up, the court found that these futures contracts were in fact a form of illicit gambling, legally null and incapable of serving as the basis for debt recovery litigation.[59] This decision was a reversal of previous jurisprudence, but, in the court's view, the stakes were grave. The decision stated that, considering "that the strict execution of laws and regulations in this matter can alone brake the immoderate ardor to enrich oneself, which has seized the fathers of families, who, in place of engaging in honest and useful professions, throw themselves into transactions disavowed by morality, and are always followed by complete ruin or scandalous fortune."[60] The court thus overturned the decision of the Tribunal de Commerce, finding against Perdonnet and liberating Forbin-Janson from his debts.

The appellate trial between Perdonnet and Forbin-Janson had attracted substantial public attention; as the *Journal des Débats* noted, the number of spectators attending the trial corresponded more closely to a political scandal.[61] The Cour royale's verdict had also caught the attention of the city's financial elite. Worried over the potentially chilling effects the decision might have on the public debt markets, a group of twenty-five bankers – including such luminaries as Jacques Laffitte, the Mallet brothers, and the Périer brothers – circulated a "*parère*" (a sort of public intervention on legal-commercial matters) in later 1824. In this

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[58] Duprat, *Mémoire pour m. Perdonnet*, 19.
[59] Ibid., 18-19.
[60] Ibid., 19.
[61] *Journal des Débats,* 20 juillet 1823.

document, the assembled bankers argued that, while the seller may not possess the relevant securities initially, public debt futures were always completed, with money and securities changing hands; this fact, they claimed, "does not permit one to consider these sorts of transactions as gambles on the prices of public securities."[62] Moreover, they asserted, these sorts of futures contracts were in the interest both of government and of commerce in general. In the interest of government, because "the State could negotiate loans [*faire les négociations de rente*] necessitated by the now-adopted financial system without the aid of these sorts of contracts; and yet the credit-based financial system is one of the principal conditions of the force and power of modern governments." And in the interest of commerce, because futures contracts served as collateral in other business transactions, as well as providing a safe place to park funds in the absence of other, more remunerative opportunities. In addition, "on the one hand, public debt has become a truly representative sign and has augmented the mass of capital, and, on the other, all inactive capital finds a use for as much and as little time as is suitable for its possessor. This augmentation of the representative sign and of circulating capital necessarily tends to lower the price [of capital], which is to say the rate of interest, and in so doing, renders to commerce the most useful of all services."[63] After the public debt's renovation during the Revolution,[64] it had

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[62] J. Laffitte, Mallet frères, Périer frères, Rougemont de Lowemberg, Pillet-Will, Guérin de Foncin, L. Durand, J. Lefebvre, Gontard, Thuret, de Chapeaurouge, César Delapanouze, J.-P. Chevals, Ardoin Hubbard, Opperman Mandrot, R. Vassal, Jonas Hagermann, André Cottier, A. Odier, J.-A. Blanc-Colin, J.-G. Caccia, G. Odier et compagnie, J. Labat et compagnie, P.-F. Paravey et compagnie, *Parère sur les marchés à terme d'effets publics faits à la Bourse de Paris par le ministère des Agents de Change*, quoted in Chambre syndicale, *Mémoire de la Chambre syndicale des Agents de Change de Paris présenté à m. le Ministre secrétaire d'État des finances, et tendant à obtenir un règlement sur la négotiation des effets publics* (Paris: J.-B. Gros, 1843), 122-124. The version of the parère compiled in the above *Mémoire* lists the publication date as 15 November 1824. However, the parère makes no mention of the Cour de cassation, discussing only the Cour royale's decision. Moreover, it was clearly intended to sway jurisprudence on public debt futures contracts. Given that it cites the Cour royale decision on the Perdonnet case by name as wrongly decided jurisprudence that should be overturned, it seems likely that the parère must have been circulated in advance of its official publication, in an attempt to influence the upcoming ruling of the Cour de cassation.
[63] Ibid., 123-124.
[64] See chapter one.

become a “truly representative sign,” suggesting that the debt did truly index financialized faith in the robustness of the state. But this sign needed to circulate to be effective. And it was the liquidity provided by futures contracts – the ability of investors to place funds in public debt futures for “as much and as little time” as desired – that enabled such wide circulation, with all its attendant benefits. For these reasons, the high banking sector threw its support behind Perdonnet.

The *parère*’s circulation was well-timed, as Perdonnet had one chance remaining. In fact, both he and Forbin-Janson had appealed the Cour royale decision to France’s high court, the Cour de cassation, with the case being argued on 11 August 1824. Though he had won the decision, Forbin-Janson had reacted apoplectically to the Cour royale’s statement that he had acted duplicitously; as an illustrious aristocrat, to see his honor tarnished in the verdict had wounded him deeply. In a series of public legal briefs, he vigorously defended himself against such judicial contumely. “Honor,” he asked, “this first of all goods, must it not be the most inviolable of all properties?”[65] And yet, he lamented, the Cour royale had failed in its duty to protect property, one of the key obligations of justice in a post-revolutionary moral universe. Worse still, given the spectacular nature of the trial – its coverage in newspapers, its public appeal – this “injurious epithet” that the court’s decision had tarred him with had itself circulated around Paris and, indeed, beyond: “Every journal printed in the capital repeated this outrageous denomination and made it circulate in the whole world. The general interest of the trial, its solemnity, had attracted a most extraordinary attention. How many French, for whom my name was not wholly unfamiliar, must have felt the impression of a calumny that usurped the authority

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[65] Comte de Forbin-Janson, *Requête en prise à partie de M. le Cte de Forbin-Janson, contre la 1re et la 3e chambre de la Cour royale de Paris* (Paris: Lachevardière fils, 1824), 3-4.

of a judicial sentence!"[66] The charge that he had acted in bad faith, the comte maintained, was plainly false; and yet, by being published in an official legal document, this odious falsehood would be taken as true. There must be, in his view, some legal recourse against such a scurrilous charge. For Forbin-Janson, to defend his personal honor was therefore to defend the sanctity of property, indeed of the entire justice system. As he thundered, "It is not only my cause that I defend, but that of all citizens, that of society as a whole, for which it is crucial that the organs of the laws must not be above the law."[67] He demanded that the Cour de cassation strip the offending phrase from the official decision.

The court declined, rejecting his appeal.[68]

Perdonnet was now tasked with defending his case before the high court. Once again, he pled on his own account. And once again, he argued extensively that the futures contract was legally valid and did not fit the definition of illegal gambling. But he also took the opportunity to expand his affirmative defense of financial speculation. Rhetorically addressing the Cour royale, he charged "You have destroyed your own work; – you have recreated chaos. You have forbidden me from following decisions to which, for twenty-one years, you had commanded me to obey. You have condemned one of the necessities of society. You have killed mobile property, the most mobile after cash."[69] He fully acknowledged that the court had done so in the hopes of

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[66] Ibid., 6.

[67] Forbin-Janson, Odilon Barrot, J.-B Sirey, J.-M. Delagrange, *Mémoire à consulter et consultation pour M. le Comte de Forbin-Janson, contre l'arrêt de deu chambres réunies de la Cour royale de Paris, rendu le 9 août 1823* (Paris: J. Testu, 1824), 11. The comte had once again assembled a high-powered legal team. Jean-Baptiste Sirey was an eminent legal expert, who spearheaded one of the primary compilations of French law during the nineteenth century, the *Recueil Sirey*. Odilon Barrot was, in addition to a renowned lawyer, also an esteemed politician; he would later serve as head of government (albeit for an abbreviated time in an abbreviated regime) during the Second Republic.

[68] Duprat, *Mémoire pour m. Perdonnet*, 19.

[69] Vincent Perdonnet, *Plaidoyer de m. Perdonnet, Agent de Change à Paris, Demandeur en Cassation de l'arrêt de la Cour royale de Paris, du 9 août 1823; contre m. de Tertulis, comte de Forbin-Janson, Défendeur* (Paris: David, 1824), 49.

promoting the social good. But, in his view, the court had followed a superannuated vision of the good, one locked in an antiquated vision of the economic order. And how could this antiquated vision still hold sway, Perdonnet inquired, "when time, the form of government, the ever-increasing movement of credit and industry, has created new needs, new relations, and system of finances completely different from the former; – when the government of today encourages and protects that which the government of the past believed must be condemned and forbidden; – when, at last, that which formerly could have born harm, is now useful, necessary, I almost said indispensable?"[70] The twinned change in the form of government and the implantation of a form of financial capitalism had altered the moral logic by which the magistrate should judge. Credit – particularly the renovation of credit in the wake of the French Revolution and the Napoleonic episode – had become a central aspect of the contemporary regime. And, as Perdonnet claimed, "one of the greatest means of credit, it is the active circulation of values, – it is the facility of speculation."[71]

Here then was the "chaos" that the Cour royale's decision threatened to unleash, if it were allowed to stand. Public debt futures would certainly not vanish from the Paris Stock Exchange. But now the stockbroker perpetually risked his client, like Forbin-Janson, invoking the *exception du jeu* and repudiating his debts; the stability of public credit, of the financialized form of public confidence in the state, would therefore be buffeted by uncertainty. In turn, this uncertainty would force stockbrokers and clients into deceptive practices, so as to shield themselves from legal risk. As Perdonnet warned the judges of the court, "you will constrain the agents of negotiations, the bondholders, the most circumspect, even the most honest speculators to fool the

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[70] Ibid., 24.
[71] Ibid., 81.

magistrates, by adopting fictions destined to defend themselves against these *savage* laws."[72] The attempt to purge immoral speculation from the Paris Stock Exchange had, in Perdonnet's view, rendered it more, not less deceptive.

Such was his apologia for financial speculation. "I have done my duty," Perdonnet concluded, "come what may."[73]

Having heard both sides, the judges on the Cour de cassation retired to their chambers to decide; deliberation took approximately an hour.[74] Upon their return, the presiding judges issued a concise, but thorough, decision. After a brief review of the agreed-upon facts of the case, the Cour royale's decision under appeal, and Perdonnet's argument, the high court began to elaborate its final verdict on the affair. The outlook was not good for Perdonnet. The Cour de cassation upheld the Cour royale's interpretation of previous legislation on the necessity for prior deposit of securities for futures contracts; in other words, the court high accepted as valid Forbin-Janson's invocation of the *exception du jeu*, his argument that public debt futures were illusory and deceptive if they were not first grounded in material possession at the time of initial contracting.[75] And in a further blow to Perdonnet, the high court disagreed that this restrictive interpretation of the law had been rendered obsolete either by practice or by the ambiguities of Article 90 of the Commercial code: "In law," the decision held, "one cannot hold as subject to prescription the execution of laws that the legislator himself, in publishing them, signals as indispensable to the good of the state and to the maintenance of public order…"[76] The fact that

[72] Ibid., 88.
[73] Ibid., 88.
[74] *Le Constitutionnel, journal du commerce, politique, et littéraire*, 12 août 1824, 4.
[75] *Bulletin es arrêts de la Cour de cassation rendus en matière civile*, vol. 26 (Paris: Imprimerie royale, 1825), 300-301.
[76] Ibid., 301. To be subject to prescription means to have lapsed legally due to a long period of disuse.

the kinds of futures contracts under consider had long been traded at the Exchange did not nullify their illegality, according to the Cour de cassation; against Perdonnet's arguments, the court here therefore held that Article 422 of the Penal Code did indeed demand that futures contracts be anchored in the definite materiality and temporality of prior deposit. Neither did the fact that prior jurisprudence upheld these kinds of futures contracts sway the judges, as the decision stated that the abrogation of a law can only come through another law, rather than a judicial decision.[77] This particular bit of reasoning went to a key point of post-revolutionary legal theory, specifically that magistrates should not usurp legislative sovereignty by making law; indeed, Article 5 of the Civil Code explicitly forbade any court from making law.[78] The court also rejected Perdonnet's claim that Article 90 of the Commercial Code meant that courts should follow financial custom, rather than outmoded statutory law: "thus, if, as it is claimed, that the matter in question cannot be reconciled with the needs of commerce, with the current system of finance, and with public credit, the Government alone has the right to weigh these considerations and to judge them."[79] Perhaps these kinds of futures contracts were indeed fundamental to contemporary states and to the contemporary system of finance; according to the court, it was up to the legislature to decide such a matter. But in the absence of such a decision – with the promise of Article 90 as yet unfulfilled – the high court saw no other choice but to repress the

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[77] Ibid., 301.
[78] Titre préliminaire, Article 5, *Code Napoléon. Édition originale et seule officielle* (Paris: Imprimerie Impériale, 1807), 2. At the same time, the immediately previous article of the Code commanded judges to decide the matter at hand, meaning that a magistrate could not refuse to issue a ruling due to legislative ambiguity. This dual directive created a situation in which, in the absence of commanding law, important judicial decisions did not technically have the binding authority of common-law precedent, but did tend to guide later legal decisions quite strongly. See Nina Nichols Pugh, "The Structure and Role of Courts of Appeal in Civil Law Systems," *Louisiana Law Review*, vol. 35, no. 5 (1975), 1164-1172
[79] *Bulletin*, 301.

disputed form of futures contracts, even if doing so might damage the state's interest in other domains. Thus, the Cour de cassation concluded,

> It follows from these facts, from the above laws, and from Article 1965 of the Civil Code, that the contract passed between the parties, and all acts to which it gave rise thereafter, are illegal and null; that it is no longer possible for stockbrokers to engage in such transactions to such operations; that the stockbrokers cannot, any more than can their clients, demand the execution of these acts from tribunals; and consequently, that in declaring inadmissible the application of Mr. Perdonnet, the *Cour royale* has complied with the laws and principles of matter.[80]

Perdonnet lost and would soon retire to his native Switzerland. Despite the adverse outcome of the trial, he remained quite wealthy, wealthy enough to leave a gift of 200,000 francs to his hometown of Vevey upon his death in 1850.[81] Forbin-Janson, his wounded honor notwithstanding, won the case and would not have to pay his debts; thenceforward he largely shunned public life, founding a sugar factory in the Vaucluse before dying in Paris in 1849.[82]

Aftermath of the Decision

The Perdonnet ruling set the juridical standard for illicit speculation going forward. Given the confidentiality of financial transactions at the Stock Exchange, enforcement of this standard was quite difficult. Public debt futures continued to be traded quite vigorously, far outstripping the spot market; by the onset of the July Monarchy in 1830, the futures market was at least fifty times greater than the spot market.[83] It is difficult to determine with certainty how

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[80] Ibid., 303. Article 1965 of the Civil Code was the law responsible for the *exception du jeu*.
[81] Vincent Perdonnet, *Lettre de m. Perdonnet père, à la municipalité de Vevey* (Vevey: Loertscher et fils, 1839), 106.
[82] Edgar Bourloton, Gaston Cougny, and Adolphe Robert, *Dictionnaire des parlementaires français, comprenant tous les membres des Assemblées françaises et tous les Ministres françaises depuis le 1er mai 1789 jusqu'au 1er mai 1889, avec leurs noms, états civils, états de services, actes politiques, votes parlementaires, etc*., vol. 3 (Paris: Bourloton, 1891), 25.
[83] Paul Lagneau-Ymonet and Angelo Riva, "Les operations à terme à la Bourse de Paris au XIXe siècle," in Nadine Levratto and Alessandro Stanziani, eds. *Le capitalisme au futur antérieur. Crédit et spéculation en France, fin XVIIIe – début XXe siècles* (Bruxelles: Bruylant, 2011), 110.

much of this volume of trade was composed of futures contracts with versus without prior deposit; such information typically only emerged in non-normative cases, such as litigation or bankruptcy. Nonetheless, the continued rise in the futures market suggests that, *ceteris paribus*, at least a substantial portion of this trade was done without prior deposit of funds or securities. The deposit requirement may have reduced the risk of futures contracts, but it also voided much of the speculative potential of those contracts as well; there thus would be little reason to invest in them as opposed to the spot market.[84] The dramatic growth in the public debt futures market must therefore have been attributable, in large part, to contracts done without prior deposit, even with the increased legal uncertainty. Indeed, the prices of the five percent *rente* – by far the most dominant security on the debt markets – displayed an overall rise, indicating a correlated fall in long-term interest rates, during the nineteenth century.[85] The size of the futures market thus swelled and the yield demanded by investors fell; despite the Cour de cassation's decision to strip futures contracts of much legal protection, investors broadly regarded public debt futures contracts as safe assets in which to place their funds.

When these financial transactions did eventuate in contentious litigation, the Cour de cassation's standard came into effect. Indeed, several more stockbrokers received the same judgment as did Perdonnet, failing to recover their debts in court.[86] In other cases, the precise fear of the dishonest speculator, contracting in public debt futures but refusing to pay up, that Perdonnet had articulated became a reality. A veteran stockbroker, Ernest Feydeau, recounted a

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[84] Ibid., 116.

[85] Pedro Arbulu, *La Bourse de Paris au XIX siècle: efficience et performance d'un marché financier émergent* (Bordeaux: Éditions Connaissances et Savoirs, 2007), 182-184. Jacques-Marie Vaslin also calls the nineteenth century the "golden century" of public debt. See Jacques-Marie Vaslin, "Le siècle d'or de la rente perpétuelle française," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 2 (Paris: Publications de la Sorbonne, 2007), 117-208.

[86] Nelly Hissung-Convert, *La spéculation boursière,* 143.

particularly memorable instance. A foreign client owed Feydeau a tidy sum, and Feydeau had gone to visit him to collect. Unfortunately for Feydeau, the client was familiar with the effects of the Perdonnet decision. "I do not deny that I owe you six thousand francs," Feydeau ruefully recounts his client saying, "but I am returning to my country, and, as French law does not recognize speculative gambles [*les jeux de Bourse*], I prefer not to pay you."[87] The client realized that under the Perdonnet standard, the courts would not recognize Feydeau's debts as valid. Nonetheless, Feydeau attempted to press his claim in person and, for his trouble, was kicked out of the client's apartment at gunpoint; he never collected the debt owed to him.[88]

Given the continued increase in the size of the futures market, the speculative opportunities afforded by futures contracts without prior deposit, and misadventures such as Feydeau's, the desire of the courts to stem financial speculation at the Paris Stock Exchange appears to have been quite subverted at the practical level. The Perdonnet standard would also eventually face criticism at the legislative and juridical level too. In 1832 and 1836, the appellate court in Paris issued decisions relaxing the deposit requirements on the purchaser, though maintaining them for the seller.[89] These rulings, however, kept in place the legal risk of debt repudiation that had ensnared Feydeau.[90] Such a disparity between purchaser and seller continued to draw attention and criticism. As the deputy Étienne Joseph Louis Garnier-Pagès noted in 1833, "A man gambles on the *rente* and loses; he has just one word to say: I will not pay. There is therefore in France, in the presence of the public ministry, men who have only to say: I purchased from a man who wants to deliver [inscriptions of *rente*], but I will not accept delivery;

[87] Ernest Feydeau, *Mémoires d'un coulissier* (Paris: Librairie Nouvelle, 1873), 25.
[88] Ibid., 25-28.
[89] Hissung-Convert, *La spéculation boursière*, 140.
[90] Though presumably not all such repudations were punctuated at pistol-point.

the loss that would be its consequence, I will never submit to. I lost, but I will not pay."[91] In line with Perdonnet's argument, for Garnier-Pagès as well the Cour de cassation's ruling had in fact made the Paris Stock Exchange more deceptive; rather than tamp down on illicit financial speculation, that ruling had instead simply made it easier for debtors to escape their debts unharmed.

Indeed, no less an authority than Raymond-Théodore Troplong – an expert on property, soon to be president of the Cour de cassation – wrote of the Perdonnet decision in 1845: "What would become of our credit if we were to restrict transactions at the Exchange to the spot market, and if we drove speculation, which must not be confounded with gambling, from it? In the space of a moment, you will see the *rente* sink under the weight of the decline [in prices], capital disappear, the interest rate, the regulator of which is at the Exchange, rise, and the government search in vain for the means of borrowing at advantageous terms. In addition, is there not a minister of finance who regards speculations on public funds as an auxiliary of credit and a support of the regular and high price of our public debt?"[92] The minister to whom Troplong referred was Jacques Laffitte, who had signed the *parère* of 1824 in support of Perdonnet. Moreover, Troplong here legitimated Perdonnet's argument that not just public debt, but financial speculation could be a moral good, insofar as it was a crucial support for modern, credit-driven states. To confuse honest speculation with dishonest gambling, as the court system had done, would therefore run counter to the public interest.

Under pressure from this kind of criticism, and with the trade in depositless public debt futures continuing apace, jurisprudence on financial speculation did eventually shift course.

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[91] *Moniteur universel*, 31 janvier 1833.
[92] Raymond-Théodore Troplong, *Commentaire du prêt, du dépot, du séquestre et des contrats aléatoires* (Bruxelles: Meline, Cans et Cie, 1845), 452.

After previously chipping away at the deposit requirement for purchasers, in 1857 the Cour de cassation dropped the deposit requirement altogether, for both purchasers and sellers.[93] Nonetheless, without definitive statutory law in place, financial speculation through public debt futures still stood the chance of a sudden shift in jurisprudence.

Conclusion

The Perdonnet case dramatized the contentious and uncertain implantation of financial capitalism in post-revolutionary France on two stages: interpersonal and governmental. During the seventeenth and eighteenth centuries, there was a distinct aristocratic ethos holding that debts of honor were between equals, while commercial debts, contracted with commoners, were "mere inconveniences" and repaid only with extreme indolence, if at all.[94] Moreover, honor and reputation were key to private credit, to the ability to borrow depending on the value of one's name.[95] The pre-trial wrangling between Perdonnet and Forbin-Janson suggests the afterlife, but also the slackening of this form of credit. Despite Forbin-Janson's high rank, Perdonnet expected all debts to be paid essentially in full, and promptly. Despite Forbin-Janson's illustrious name and family connections, he was not able to borrow against his land. Doubtless, honor did not cease to exist in the nineteenth century, but it did transform, becoming, in one historian's formulation, "invisible," something that broke onto the plane of explicit consciousness only when various social codes were violated.[96] Similarly, the bourgeois codes of honor dominant in

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[93] Hissung-Convert, *La spéculation boursière*, 349. Certain futures contracts could still be ruled fictive and illegal, though this now depended on the "intention" of the transacting parties.
[94] Clare Haru Crowston, *Credit, Fashion, Sex: Economies of Regard in Old Regime France* (Durham: Duke University Press, 2013), 10, 179, 196.
[95] Ibid., 168.
[96] William M. Reddy, *The Invisible Code: Honor and Sentiment in Postrevolutionary France, 1814-1848* (Berkeley: University of California Press, 1997), 6-14.

the nineteenth century were centered on bodily practices, especially those involved in sexual behavior and social reproduction.[97] This form of honor differed from a prior, more aristocratic sense of the term, which originally referred to property, before shading into individual qualities such as "reputation, beauty, and personal character."[98] It was to this older form of honor that the comte de Forbin-Janson referred in his appeal of the Cour royale decision, a form of honor that counted as property and inhered in the nobility. And it was this form of honor that the Cour de cassation refused to repair. The comte did manage to escape his debts – financial debts owed to a bourgeois – but he could not do so without tarnishing his honor. The opprobrium heaped upon Forbin-Janson represented a step, however tentative, in anchoring the legitimacy of financial capitalism in the moral universe of post-revolutionary France.

At the same time, the Perdonnet case also displays a state regime highly ambivalent regarding the risks presented by financial capitalism. In attempting to suppress public debt futures, the decisions of the Cour royale and Cour de cassation clearly viewed windfall profits and catastrophic losses stemming from risky price fluctuations at the Stock Exchange as immoderate, immoral, unacceptable. On the other hand, Tribunal de commerce was quite a bit more sanguine about these same risks. And other branches of the state also engaged in this same form of financial speculation through the state's attempt to amortize the debt, as Perdonnet had observed during his trial.[99] Indeed, finance minister Villèle, arch conservative, orated before the Chamber of Deputies on 30 April 1824: "No doubt that speculation [*agiotage*] bears its harms and dangers. But how, with the necessity imposed on us by our financial system, to support

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[97] Robert A. Nye, *Masculinity and Male Codes of Honor in Modern France* (New York: Oxford University Press, 1993), 9.
[98] Ibid., 16.
[99] Perdonnet, *Plaidoyer contre m. le Cte Forbin-Janson*, 49-50.

public credit in order to retain the capability of borrowing in extraordinary circumstances? How, I say, is it possible to conceive of a form of public funds that does not give rise to speculation? What produces speculation? The two chances of rise and fall. If you kill these chances, you kill credit."[100] As Perdonnet had articulated, financial speculation was now an ineradicable aspect of contemporary states. Indeed, it was so even despite ostensible legal prohibitions, with the deposit requirement pervasively flouted at the Exchange. As legal counsel to the stockbrokers wrote in 1853, "When the deposit has taken place (I do not know of any instance of this)…"[101] Four years later, the deposit requirement would be effectively abrogated by the Cour de cassation. Nonetheless, statutory law on financial speculation remained ambiguous and subject to juridical re-interpretation. The promise contained in Article 90 of the Commercial Code remained unfulfilled.

It would finally be fulfilled on 28 March 1885. On this day, a law specifically regarding futures contracts was promulgated. From the first article of the law: "All futures contracts on public funds and others … are recognized as legal. No one may, in order to escape the obligations arising therefrom, invoke article 1965 of the Civil Code, even if these obligations are resolved by the payment of a simple difference."[102] The risks of financial speculation had been fully legitimately by the state. The chances for complete ruin still existed, of course. But at the legal and juridical level, "scandalous fortune" had by now been converted into fortune alone.

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[100] Villèle, quoted in Troplong, *Commentaire du prêt*, 452.
[101] François-Étienne Mollot, *Bourses de commerce, agents de change et courtiers, ou législation, principes et jurisprudence qui les organisent, qui les régissent, en France ou dans les colonies, et peuvent être applicables à d'autres officiers-publics, tels que receveurs généraux, notaires, commissaires-priseures, etc*. 3rd ed. (Paris: Cotillon, 1853), 379.
[102] Article 1, Loi de 28 mars 1885. https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006073428&dateTexte=19880131 (accessed 7/8/16).

Perdonnet lost his individual case. But his renowned legal defense, his apologia for financial speculation as an affirmative good, illuminated how the logic of financial capitalism was, eventually, anchored in the moral universe of nineteenth-century France.

Settling Accounts: The *Émigré* Indemnity and Financing Citizenship in Restoration France

Annette Saunier was angry. In an 1824 open letter, she, an elderly resident of Paris and concerned citizen, excoriated Joseph de Villèle, Finance Minister and head of government, for heartlessly leading French families into ruin, her ire provoked by the minister's plan to restructure the public debt in order to indemnify certain qualifying *émigrés*. Citing his own claim that small holders, such as herself, of the five percent *rente*, the main vehicle for public debt, amounted to ten thousand families, she reasoned that these ten thousand equated to roughly seventy thousand persons, each with sufficient reason to curse his name each day. Articulating a kind of imprecatory calculus, Saunier observed that "in supposing that the minister [Villèle] would only be cursed a single time by each individual every twenty-four hours, the result is seventy thousand maledictions per day, around three thousand per hour, and about fifty per minute."[1] For Saunier, this maledictory clangor, daily raised throughout France, was proof of the iniquity of Villèle's plan.

The plan in question offered bondholders a forced choice of either having the capital value of their inscriptions of *rente* reimbursed, or accepting a lower rate of interest, as the non-reimbursed five percent *rente* was to be replaced by a new security: the three percent *rente*. The state's debt-servicing costs would be significantly reduced, with the consequent savings helping finance an indemnity for *émigré* property expropriated during the French Revolution, paid out in inscriptions of this new three percent *rente*. The law thus transferred wealth away from bondholders towards the *émigrés*, converting property claims into public debts.

[1] Annette Saunier, *À son excellence le ministre secrétaire d'état des finances* (Paris: Boucher, 1824), 10.

It was this transfer that Saunier found so odious. Indeed, in her view the plan, which aimed to ameliorate the state's finances, at the same time would do an injustice to French citizens, locking state and citizen in an irreducible antagonism. She wrote, "The proposed measure is advantageous, it is said, to the State and to bondholders [*rentiers*]; but the State is the conjunction of the interests of all, and if the measure is advantageous only to the class concerned by it, since this class is a part of the State, why not leave to the State the liberty of adopting or rejecting the measure that interests a single class?"[2] Saunier appeared to set the public interest represented by the state against the more narrow private interest represented by the bondholders ("the class concerned by the measure"). However, Saunier was herself a member of the bondholding class, and the rest of her pamphlet did not seem to evince any notable hint of self-loathing.[3] The "single class" that was undermining the public interest was therefore not bondholders in general, but a new class of bondholders created by Villèle's proposal: the *émigrés*. Purchase of the public debt, which was meant to represent an investment in the stability and longevity of the state, therefore threatened to destabilize it, Saunier argued. Villèle's proposal, Saunier sadly observed, could for French families be nothing other than "a principle of discord and division."[4]

The charge of fomenting disunity represented a particularly stinging critique, as one of the primary aims of Villèle's proposal was to bring a close to one of the lasting grievances stemming from the Revolution: the expropriation of *émigré* lands. Beginning in 1792, the property of those having fled France was taken by the state, with much of it then sold to new

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[2] Saunier, *À son excellence*, 15.
[3] More particularly, Saunier held usufructuary rights over an inscription of 1200 francs of *rente*, meaning that she received the interest payments on the underlying capital, but could not sell or transmit her inscription, as full ownership rights belonging to another party. See ibid., 16.
[4] Ibid., 15-16.

owners, becoming the so-called *biens nationaux*.[5] Many of the *émigrés* had returned to France during the later revolutionary and Napoleonic periods. But their property remained in new hands, in some case having passed through multiple possessors and transmissions of title. The combination of the physical return of the *émigrés* to French territory with the continued concentration of their previously owned property in new hands prompted multiple troubling questions. Was the revolutionary expropriation justified and legitimate? If the expropriation were legitimate, then would an appropriate indemnity actually reconcile the *émigrés* to the new regime? If illegitimate, how then would the state deal with the new titleholders, who had generally acquired their property through appropriate legal channels, and whose property, after all, had been explicitly protected by the Charter of 1814? And if the *émigrés* and the new titleholders could both be said to have legitimate claims on the same parcels of land, could the Restoration truly be sure it had put revolutionary social upheavals to bed?

The desire to cleanse property of any lingering stain of illegitimacy, frequently expressed in parliamentary and ministerial discourse, provided the initial impetus for the law. In order to pacify potentially hostile parties within the social body and, hopefully, bring to a close a controversial episode of the Revolution, the *émigrés* would have to be justly compensated for their expropriated property. But subtending this compulsion to put specific revolutionary grievances to rest was an expansive financial logic, which concerned the nature of the post-revolutionary state and citizenship in general. Here, different stances on how the state dealt with its debt reflected varying positions on what the state owed to its citizens. Was it fair for the state to write down its debt obligations, if it did so in the name of the general interest? How secure

[5] P.L. Le Caron, *Code des émigrés, ou recueil des dispositions législatives, concernant les impositions, le séquestre, la confiscation, la régie et la vente des biens des anciens propriétaires appelés à recueillir l'indemnité, de 1789 à 1825* (Paris: Guyot, 1825), 262-263.

was civic investment in the state’s fortunes? How was it that public finance could create lasting bonds between state and citizen? And moreover, how would these bonds extend from the Paris Stock Exchange, where the public debt was traded, to the rest of the French territory? The financial stakes of the indemnity law thus concerned the mutual obligations public debts placed on state and citizen. The controversy over the law illuminated the burgeoning financialization of citizenship in post-revolutionary France.

Expropriation, Indemnity, Citizenship – A Historiographic Overview

The Revolutionary expropriation and sale of the *biens nationaux* has been the subject of substantial scholarly attention.[6] Labeled, in Georges Lecarpentier’s phrase, “the most important event of the Revolution,”[7] the expropriation and sale of the *biens nationaux* has represented one of the central cases in terms of the Revolution’s distributional effect on French society. For Lecarpentier, while not necessarily a financial success for the state, the *biens nationaux* – especially those originally in clerical possession – were successfully transferred to other, more socially representative hands.[8] Specifically, Lecarpentier held that the *biens nationaux* wound up with predominantly rural owners, though bourgeois purchasers, in his view, obtained the

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[6] As Bernard Bodinier and Éric Teyssier note, the question of the *biens nationaux* had already been broached in the nineteenth century, figuring in the works of historians such as Jules Michelet, Louis Blanc, and Hippolyte Taine. However, these studies, they argue, were not the product of “scientific research,” given the frequently unrepresentative source base involved. See Bernard Bodinier and Éric Teyssier, *<<L’événement le plus important de la Révolution>>: La vente des biens nationaux (1789-1867) en France et dans les territoires annexés* (Paris: Éditions du Comité des travaux historiques et scientifiques, 2000), 44-50. For the classical statistical work on the volume and nature of the emigration, see Donald Greer, *The Incidence of the Emigration During the French Revolution* (Cambridge: Harvard University Press, 1951). Greer estimates that the total number of *émigrés* roughly amounted to 129,000 persons. See Greer, *The Incidence of the Emigration*, 20.

[7] Georges Lecarpentier, *La vente des biens ecclésiastiques pendant la Révolution française* (Paris: Alcan, 1908), 4. Lecarpentier also recognized the establishment of legal equality and political liberty as belonging among the chief revolutionary achievements.

[8] Georges Lecarpentier, *La propriété foncière du clergé sous l’ancien régime et la vente des biens ecclésiastiques pendant la Révolution*, 4th ed. (Paris: Bloud, 1902), 37-38.

maximum benefit, purchasing their land mostly before the *assignat* collapsed in value. However, Lecarpentier’s early study has been taken to task for being based upon an unreliable sample size.[9] Situated more thoroughly in archival sources, Marcel Marion’s *La vente des biens nationaux pendant la Révolution* attempted to address systematically some of the main distributional questions about the *biens nationaux*, such as whether large estates were successfully fragmented, which class benefited the most from the expropriation, whether the resultant distribution was productive, as well as whether the repartition of the land successfully displaced French social hierarchies.[10] Marion’s conclusion ran along two axes. From a financial point of view, he argued that the sale of the *biens nationaux* was a distinct failure, especially as it failed to solve the pressing issue of the state debt.[11] However, on the social and political level, the program was rather more successful, though not without qualifications. Marion claimed that the partitioning of the *biens nationaux* did substantially increase the number of small landowners – though he notes that it definitely did not render ownership universal, as most purchasers of the *biens nationaux* were already landowners. At the same time, this division of the land was not necessarily wholly egalitarian, as mid-sized and large estates also benefited from the expropriation.[12] This new distribution of the land, Marion claimed, did shape the political order of post-revolutionary France. In his view, this new distribution of land ownership “made of this country a democracy, but a conservative democracy. ... this democracy never tolerated that its right of property be put

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[9] Bodinier and Teyssier claim that Lecarpentier looked at about five percent of the national territory. See Bodinier and Teyssier, <<*L’événement le plus important de la Révolution*>>, 55. Similarly, they take another early trailblazing study, Amédée Vialay’s *La vente des biens nationaux pendant la Révolution française*, to task for employing a similarly unrepresentative source base. See ibid., 60.
[10] Marcel Marion, *La vente des biens nationaux pendant la Révolution* (Paris: Honoré Champion, 1908), v-vi.
[11] Ibid., 412-413.
[12] Ibid., 412, 413-419.

in peril."[13] Born out of the upheaval of expropriation, for Marion this new collection of landowners were wary of any further social disruptions, threatening such disruptions might be to their newly established property rights.

More recent scholarship has once again taken up the issue of the *biens nationaux*. The effective social redistribution of the land has been called into question. Michel Vovelle has suggested that though the peasantry certainly was not locked out of land ownership, rural and urban bourgeois ownership was substantially more common.[14] Similarly, another recent study claims that the peasantry as a class increased its ownership of the land by about three percent – significant, but not quite a "tidal wave."[15] Bernard Bodinier and Éric Teyssier's expansive cliometric work appears to corroborate this picture, while nuancing it as well. They note that while the majority of purchasers acquired fairly small lots, in terms of total estate size, large still outweighed the small.[16] The Revolution may not have been touched off by an ostensibly self-identifying bourgeois class, but, in this view, it seems the land settlement resulting from the sale of the *biens nationaux* did concentrate power in bourgeois hands.[17]

As the culmination of a lengthy reconciliatory process prompted by the revolutionary expropriations, the 1825 indemnity law has also fallen under academic scrutiny. An important

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[13] Ibid., 419.
[14] Michel Vovelle, *La découverte de la politique: géopolitique de la Révolution française* (Paris: Découverte, 1993), 82-86; on the political stakes of bourgeois land acquisition in the countryside, see especially Paul Bois, *Paysans de l'Ouest; des structures économiques et sociales aux options politiques depuis l'époque révolutionnaire dans la Sarthe* (Le Mans: Vilaire, 1960).
[15] Gérard Béaur, "Révolution et redistribution des richesses dans les campagnes: mythe ou réalité?" *Annales historiques de la Révolution française*, vol. 352 (2008), 213. For a countervailing view, P.M. Jones claims that while the peasantry may not have been the dominant purchasers during the initial phases of the sale of the *biens nationaux*, bourgeois property-owners frequently did wind up selling title to the peasantry in the long run; this process, Jones argues, means that the peasant class "carried out a stealthy conquest of the soil in the two and three decades that followed [the years 1791-1799]." See P.M. Jones, *The Peasantry in the French Revolution* (New York: Cambridge University Press, 1988), 161.
[16] Bodinier and Teyssier, <<*L'événement le plus important de la Révolution*>>, 204-208.
[17] See also Bernard Bodinier, "La vente des biens nationaux: essai de synthèse," *Annales historiques de la Révolution française*, vol. 315 (1999), 7-19.

moment in the political history of the Restoration marking the start of the downward arc of Villèle's career, several overviews of the period have addressed the 1825 law; these works typically view the law arising out of a combination of the opportunity to ameliorate the state's finances, the desire to heal the rift between the *émigrés* and new property-owners stemming from the origins of the *biens nationaux*, and the intricacies of legislative politics, in which Villèle, representing the political right, was challenged by a newly resurgent liberal opposition.[18]

The most extensive study specifically to target the indemnity process remains André Gain's 1929 work, *La Restauration et les biens des émigrés*, in which he carefully reconstructs the long-term path of the indemnity debate.[19] Beginning with the expropriation of *émigré* property during the Revolution, he notes that the initial major proposals for an indemnity arose during the first Restoration of 1814. Postponed for procedural reasons, then interrupted by Napoléon's return and the subsequent invasion of France by the allied powers, the indemnity would have to wait until the second Restoration.[20] This later process Gain titles the "conquest of the indemnity,"[21]

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[18] Francis Démier, *La France de la Restauration (1814-1830): l'impossible retour du passé* (Paris: Gallimard, 2012), 716-725; Munro Price, *The Perilous Crown: France Between Revolutions, 1814-1848* (New York: Macmillan, 2007), 116-117; Guillaume de Bertier de Sauvigny, *The Bourbon Restoration*, trans. Lynn M. Case (Philadelphia: University of Philadelphia Press, 1966), 369-374; Robert Tombs, *France, 1814-1914* (New York: Longman, 1996), 342-343. Both Bertier de Sauvigny and Tombs also argue that existing property-owners generally favored the law, since uncertainty over legal title was keeping land prices unnaturally low.

[19] See also Gain's article summarizing his work, "La restauration et les biens des *émigrés*," *Revue d'histoire moderne*, vol. 4, no. 24 (1929), 431-434. Gain's work represents the capstone of a historiographical tradition that approached the indemnity question primarily through a parliamentary lens, frequently in synoptic accounts of the Restoration's financial history; Gain's major intervention is to carry out this tradition in exhaustively systematic fashion, in addition to combining it with deep archival research into the distributional issues of the *biens nationaux*. See A. Calmon, *Histoire parlementaire des finances de la Restauration*, vol. 2 (Paris: J. Claye, 1870), 1-137; Jean Eymard, *La politique financière sous la Restauration (1815-1830)* (Paris: Presses Universitaires de France, 1924), 146-200; Jean Fourcassié, *Villèle* (Paris: Arthème Fayard, 1954), 270-277, 311-319; Jean Vidalenc, *La Restauration, 1814-1830*, 5th ed. (Paris: Presses Universitaires de France, 1983), 41-44, 88-90; Charles-Louis-Gaston, marquis d'Audiffret, *Souvenirs sur l'administration financière de M. le comte de Villèle* (Paris: Plon, 1855), 18-25.

[20] André Gain, *La Restauration et les biens des émigrés. La législation concernant les biens nationaux de seconde origine et son application dans l'Est de la France (1814-1832)*, vol. 1 (Nancy: Société d'impressions typographiques, 1929), 187-200.

[21] Ibid., 311.

signifying the lengthy track by which those advocating for indemnity, according to Gain predominantly royalist politicians in addition to the *émigrés* themselves, sought restitution for expropriated land. For Gain, such a conquest ultimately proved ironic. Despite the indemnity, he argues, the *émigré* nobles were never able to regain either vast wealth or power in the provinces, as the increase in revenue derived from the indemnity did not permit the vast majority of the *émigrés* to rebuild particularly large estates, stymieing attempts to reconstitute land-based political power.[22] But if the *émigrés* were unable to effect a return to Old Regime social patterns through economic means, Gain does claim that the indemnity law was, broadly, a political success, insofar as it eventually established the moral security of property title. This definitive land settlement, he argues, finally healed "the *last wounds* of the Revolution."[23]

While respecting his assiduous reconstructive work, more recent scholarship has challenged Gain's view on the questionably pacific results of the indemnity law. In particular, Almut Franke has focused on the turbulent afterlife of the law, claiming that Gain overemphasized its effectiveness at promoting social reconciliation.[24] She notes that in response to pressing budgetary concerns, French governments considered compelling repayment of the indemnity in 1830, 1848, and 1851.[25] Moreover, though the state tabled any parliamentary

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[22] André Gain, *La Restauration et les biens des émigrés. La législation concernant les biens nationaux de seconde origine et son application dans l'Est de la France (1814-1832)*, vol. 2 (Nancy: Société d'impressions typographiques, 1929), 417-430. Gain argues that the *émigré* nobles shied away from large-scale purchases of property for several reasons: nobles of middling means, he claims, preferred the relative ease and security that urban and small-town life afforded; the system of the indemnity payments rendered difficult acquiring the requisite funds, especially as the three percent *rentes*, the means through which the indemnity was paid, were subject to significant price fluctuation at the Paris Stock Exchange; and a sense that the returns to land were slipping in comparison to financial wealth.

[23] Ibid., 442. Original emphasis.

[24] Almut Franke, "*Le milliard des émigrés*: The Impact of the Indemnity Bill of 1825 on French Society," in Kristy Carpenter and Philip Mansel, eds., *The French* Émigrés *in Europe and the Struggle against Revolution, 1789-1814* (New York: St. Martin's Press, 1999), 132.

[25] Ibid., 125-132. Alain Corbin also notes that calls for restitution of the indemnity were a means of mobilizing rural discontent, especially for socialist-democratic politicians during the Second Republic. See Alain Corbin, *The Village*

discussion of repayment after 1851, she argues that the legacy of the indemnity remained controversial at the social level. Looking at historical works from the late nineteenth and early twentieth centuries, she sees advocates and opponents of the indemnity still feuding over the legitimacy of the law.[26] Thus, she claims, the indemnity debate constituted a kind of mnemonic politics, which lasted long after 1825.[27] The law may have forcibly shut the books on the legality of property title in the new regime, but the social reconciliation that was one of the law's chief aims was, according to Franke, tepid at best.

If Gain and Franke ultimately suggest a historiographic focus on the social and distributional results of the 1825 law, less examined has been the specific role finance played in structuring these results. Certainly, the financial mechanisms through which the law operated have attracted attention, particularly in synoptic views of the financial politics of the Restoration. In such accounts, financial considerations may have played a role in prompting Villèle's proposed conversion of the public debt, but, on balance, politics is taken to shape finance, rather than any other more integrated relationship.

Some more recent scholarship has also re-approached the specifically financial aspects of the issue. In his work on the Paris Stock Exchange during the Napoleonic and Restoration eras, Maurice Gontard pairs an account of the political discourse over the indemnity with close attention to price fluctuations in the public debt at the Exchange. As other accounts had noted, the five percent *rente* had risen above par value, signifying that the state could obtain a better interest rate in the capital markets, which, in turn, provided the economic impetus for Villèle's

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of Cannibals: Rage and Murder in France, 1870, trans. Arthur Goldhammer (Cambridge: Harvard University Press, 1992), 26.

[26] Franke, "*Le milliard des émigrés*," 133-135.

[27] Ibid., 124.

proposal; Gontard builds on these accounts by showing how the subsequent fluctuations in the price of the *rente* helped shape the possible political options.[28] If the *rente* rose too high, speculative profit-seekers might deprive the state of popular support, while if it fell too low, the result could be financially ruinous for the state. Throughout the course of the deliberations of the law, the price of the *rente* was hovering around between roughly 100 francs and 104 francs, while falling as low as 97.70 francs at one point;[29] the threat of an over- or undervalued public debt was therefore a significant perceived danger. Gontard shows how Villèle was caught in a pincer movement between political opposition and economic fluctuation.

Taking a more macroeconomic view, Thomas Piketty, Gilles Postel-Vinay, and Jean-Laurent Rosenthal have included the indemnity as part of a broader article on the nature of wealth concentration and inequality in France. Their main interpretive goals are double: to understand the origins of pre-World War I inequality, as well as that inequality's relative decline during the twentieth century. For the latter goal, they argue that negative shocks – "war, inflation, and the Great Depression"[30] – to the portfolios of the very wealthy accounted for the decline in economic inequality, rather than an increased capture of the wealth share by non-elite groups. Regarding the origins of economic inequality, they suggest that the nineteenth century shaped the pattern of wealth, particularly as the elite came to be represented by a disproportionately elderly *rentier* class more heavily invested in financial holdings than in land.[31] Though they suggest that

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[28] Maurice Gontard, *La Bourse de Paris (1800-1830)* (Aix-en-Provence: Édisud, 2000), 191.
[29] Ibid., 197-203.
[30] Thomas Piketty, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, "Wealth Concentration in a Developing Economy: Paris and France, 1807-1994," *The American Economic Review*, vol. 96, no. 1 (2006), 237.
[31] Ibid., 252-255.

this particular form of wealth accumulation most accelerated after the 1850s, the indemnity was a part of this transition from real estate to financialized assets as the key form of wealth.[32]

This chapter will build upon this previous work on the indemnity. Gain's careful reconstructive work shows the importance of the political stakes of the indemnity, while, as Franke's work indicates, attention to the social reception of the law is also essential. Moreover, this chapter will also seek to recover some of the specifically financial aspects of the indemnity debate. Like Gontard, it will seek to show how finance and politics constructed and constrained each other; like Piketty, Postel-Vinay, and Rosenthal, it will show how financial wealth became a key marker of social status, though it will argue that this process began substantially earlier than the 1850s. By showing how the question of the *biens nationaux* was "financialized" through the particulars of the indemnity law, it will show how the shape of the post-revolutionary state was intertwined with financial issues.

In so doing, this chapter will also further connect the question of public finance with that of citizenship. Charles Tilly has succinctly defined citizenship as "a relation between 1) governmental agents acting uniquely as such and 2) whole categories of persons identified uniquely by their connection with the government in question. The relation includes transactions among the parties, of course, but those transactions cluster around mutual rights and obligations."[33] As he further notes, this relationship is essentially contractual, calling upon a tradition in liberal theory reaching at least as far back as Locke, and perhaps best exemplified by the "Social Contract" of Rousseau. But this contract between state and citizen was always in

[32] Ibid., 239, 246.
[33] Charles Tilly, "A Primer on Citizenship," *Theory and Society*, vol. 26, no. 4 (1997), 599.

flux. Indeed, as much historiographical work has shown, the meaning of citizenship was frequently bound up in extralegal categories, whether of gender, race, class, or other matters.[34]

This chapter will contribute to this historiographical corpus by highlighting the "financialization" of citizenship in post-revolutionary France. The aims of the indemnity law were manifold: reducing the state's debt servicing costs, cleansing the *biens nationaux* of any lingering stain of illegitimacy, hopefully reconciling the *émigrés* once and for all to the post-revolutionary regime. Taken together, these multiple purposes of the law formed a statement about what states owed citizens, and what citizens invested in states. The controversy over the indemnity law thus spoke to the meaning of membership in the Restoration political community. If, as Tilly has suggested, citizenship implied both rights and duties, the debates over the 1825 indemnity will show how the meaning of public debts served to encapsulate just those rights and duties, for both states and citizens.[35]

Indemnification: First Attempts

[34] For an overview of citizenship and voting rights in modern France, see Pierre Rosanvallon, *Le sacre du citoyen* (Paris: Gallimard, 1992); on the role of nationality, territoriality, and immigration, see Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge: Harvard University Press, 1992), Patrick Weil, *Qu'est-ce qu'un français? Histoire de la nationalité française depuis la Révolution* (Paris: Grasset, 2002), Gérard Noiriel, *The French Melting Pot: Immigration, Citizenship, and National Identity*, trans. Geoffroy de Laforcade (Minneapolis: University of Minnesota Press, 1996); on the gendering of citizenship, see Jennifer Ngaire Heuer, *The Family and the Nation: Gender and Citizenship in Revolutionary France, 1789-1830* (Ithaca: Cornell University, 2005), Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley: University of California Press, 2004), Judith Surkis, *Sexing the Citizen: Morality and Masculinity in France, 1870-1920* (Ithaca: Cornell University Press, 2006); on racial formations of citizenship, see Jean-Loup Amselle, *Affirmative Exclusion: Cultural Pluralism and the Rule of Custom in France*, trans. Jane Marie Todd (Ithaca: Cornell University Press, 2003), Gary Wilder, *The French Imperial Nation-State: Negritude and Colonial Humanism between the Two World Wars* (Chicago: University of Chicago Press, 2005).

[35] An analogous case here would be the relationship between taxation – especially property taxation – and voting rights. See Alan B. Spitzer, "Restoration Political Theory and the Debate over the Law of the Double Vote," *The Journal of Modern History*, vol. 55, no. 1 (1983), 54-70.

The drive for the restitution of *émigré* property was coeval with the creation of the *biens nationaux* during the Revolution.[36] Beyond French borders, the *émigrés* loudly denounced the legal measures taken regarding the *biens nationaux*. Within France, this protest took largely subdued form, owing to the continued proscription against the *émigrés* and the charges of counter-revolutionary activity that such protest might entail. The end of the Terror and the establishment of the Directory did brighten the outlook for the *émigrés* to a degree, with some measures of restitution enacted, largely for property expropriated due to administrative errors and for certain special categories of expropriated property; however, the Directory state did not encourage any widespread legal restitution.[37]

The process of the legal reintegration of the *émigrés* accelerated during the Consulate, with the official state lists of the *émigrés* drastically reduced by the laws of 12 ventôse year VIII and 28 vendémiaire year IX.[38] The legal sanction against the *émigrés* was formally abolished by the amnesty issued on 6 floréal year X.[39] However, while the *émigrés* could return to France, the exchange of property stemming from the revolutionary expropriation was not to be reversed. Indeed, the decree proclaiming the amnesty also reaffirmed the nationalization and redistribution of *émigré* property: "The amnestied individuals will not, in any case and under any pretext,

[36] Gain, *La Restauration et les biens des émigrés*, vol. 1, 1. As he writes, "The Empire and the Restoration inherited a situation that their advent had not at all created, since it went back to the very origin of the national sales, to the Year III, even to the beginning of the Year II."
[37] For instance, some restitution was ordered to the parents of *émigrés* by the decree of 6 thermidor an III. See P.L. Le Caron, *Code des émigrés, ou recueil des dispositions législatives, concernant les impositions, le séquestre, la confiscation, la régie et la vente des biens des anciens propriétaires appelés à recueillir l'indemnité, de 1789 à 1825* (Paris: Guyot, 1825), 262-263; Gain, *La Restauration et les biens des émigrés*, vol. 1, 14-18.
[38] Jean Vidalenc, *Les émigrés français, 1789-1825* (Caen: Association des Publications de la Faculté des Lettres et Sciences Humaines, 1963), 52.
[39] Le Caron, 354.

attack the partitions of presuccession, inheritance, or other acts or arrangements made between the republic and individuals before the present amnesty."[40]

This basic arrangement – *émigrés* returned to France, but with no reversion of title to property – was carried into the first Restoration of 1814. The Restoration's foundational document, the Charter, also attempted to quell any controversy over the revolutionary expropriations, declaring in article nine all property sacrosanct, including the *biens nationaux*: "All properties are inviolable, without any exception for those called *national*, the law not placing any difference between them."[41] This article was characteristic of the Charter's attempt both to re-establish monarchical power, while accepting a moderate version of revolutionary political developments.[42] However, such a compromise did not clear the suspicion lingering over property deriving from the *biens nationaux*. In an open letter to Louis XVIII, Falconnet, a former lawyer, enjoined the monarch to accept the "absolute nullity" of any sales of the *biens nationaux*.[43] He vigorously argued that the initial acts of expropriation had been illegitimate, undertaken out of malice and avarice.[44] With the *biens nationaux* being born out of such evil origins, the ensuing transfer of title could not have been in any way legal, since the revolutionary state was never a true property-owner: "He who is neither property-owner, nor empowered by the property-owner, thus cannot validly transfer to anyone else the belongings of the property-

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[40] Amnesty Titre II, art. 16, quoted in Le Caron, 360.
[41] Art. 9, La Charte Constitutionelle du 4 juin 1814, in *Les cinq codes, édition entièrement conforme à l'édition de l'imprimerie royale; avec des notes qui relatent les diverses abrogations et modifications y apportées par les lois subséquentes, telles que celles qui abolissent le* divorce, *le* droit d'aubaine*, etc; précédée de la* Charte Constitutionelle *et du* Tableau des distances*; suivies des lois sur les* elections *des 5 février et 23 juin, et sur la circonscription des colléges électoraux; de la loi sur le recrutement de l'armée; des tarifs des frais et dépens et des tables des matières* (Paris: Corbet, 1825), iv. Original emphasis.
[42] As Démier puts it, "Overall, the adopted system did not at all return to the France of Louis XVI, but resembled a little what the *monarchiens* of the Constituent Assembly of 1790 would have liked to establish." See Démier, *La France de la Restauration*, 68.
[43] A. Falconnet, *Lettre à sa majesté Louis XVIII, sur la vente des biens nationaux* (Paris: n.p., 1814), 31.
[44] Ibid., 11-17.

owner. In this case, the contract is nothing other than an illusion, a pure chimera."[45] Falconnet's uncompromising missive did not go unremarked: a countervailing pamphlet argued that because he denied article nine of the Charter, his project of restitution and property transfer could only fail, since law and royal authority had sanctified all types of property.[46] But the existence of this continuing public controversy over property suggested that *émigré* discontent could not simply be legislated away. Against the promise of the Charter, there did still seem to be troubling differences between kinds of property.

The Restoration government did attempt address this discrepancy, by restituting the unsold *biens nationaux* remaining in state hands through the law of 3 December 1814.[47] But this legal reconciliation would prove problematic, both in the method of its presentation by the state and in certain aspects of its execution. The comte Ferrand, an unswerving royalist and a minister of State, was tasked with presenting the project to the Chamber of Deputies on 13 September 1814; his presentation touched off a firestorm.[48] Ferrand did characterize the proposed law as a measure of reconciliation and re-integration, balancing out the property regime established by revolutionary redistributions; the law, he told the assembled deputies, "recognizes a right of

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[45] Ibid., 36. In another pamphlet from 1814, H. Dard, lawyer to the French High Court [*Cour de cassation*] came to a similar conclusion, claiming that since the revolutionary regimes had usurped both the legitimate king and the liberty of the people, their acts did not have any true legal character, which consequently invalidated any property transfers. See H. Dard, *De la restitution des biens des émigrés, considérée sous le triple rapport du droit public, du droit civil, et de la politique; et de la révocation de la loi des 25 octobre et 14 novembre 1792, qui a aboli les substitutions* (Paris: Le Normant, 1814), 8-12.

[46] P.J.S. Dufey, *Les acquéreurs de domaines nationaux, au tribunal de l'opinion, ou observations sur la lettre de m. Falconnet au roi, relative à la vente des domaines nationaux* (Paris: Gillé, 1814), 2.

[47] Démier, *La France de la Restauration*, 79-80. This law was supplemented by later legislation on 12 December 1814 and 28 February 1815. Upon his return from Elba, Napoléon did temporarily suspend these laws, in an effort to re-sequester the unsold *biens nationaux*; however, he did acknowledge the transfers of property subsequent to December 1814. After his definitive fall, the Restoration re-affirmed the legislation on the unsold *biens nationaux*. See Marc Bouloiseau, *Étude de l'émigration et de la vente des biens des émigrés (1792-1830)* (Paris: Imprimerie Nationale, 1963), 128.

[48] As Gain puts it, it would be "one of the most disastrous demonstrations of the first Restoration." Gain, *La Restauration et les biens des émigrés*, vol. 1, 141.

property that always exists, it legalizes the reintegration of it."[49] By returning the unsold *biens nationaux*, fissures in the right of property would nominally be healed. However, Ferrand made no secret of his dim view of the rightness of revolutionary property exchanges: the revolution was a series of "long torments" for which "history offers no other example"; in fleeing France, the *émigrés* had remained "good and faithful French," while those who remained had only recently returned to the king's good graces, having been sidetracked by the Revolution.[50] This rhetoric cast doubt upon the legitimacy of the claims of the new property-owners. Worse, Ferrand appeared to suggest that these newer claims to title might, in the future, be negated: "You will hasten to second the views of the King: doubtless, he must enjoy the happiness of those to whom he will return their properties; but believe as well that he needs this pleasure to soften the regrets he feels of not being able to give this act of justice the full extension that is in the depths of his heart ... we are permitted to believe that a day will come in which the happy state of finances will successively diminish the painful exceptions commanded by present circumstances."[51] Ferrand's rhetoric here hinged upon a key ambiguity, in that it was undetermined whom these future improved finances would compensate. Thus, "a day will come" that might witness more payments to the *émigrés* in compensation for expropriation; or it might witness widespread transfers of property back to the *émigrés*, with the compensatory payments rendered to the purchasers of the *biens nationaux*. Given Ferrand's plainly articulated disdain for revolutionary property redistribution, this latter option seemed a distinct possibility. In

[49] Comte Ferrand, Chambre des députés, séance du 13 septembre 1814, *Archives parlementaires de 1787 à 1860*, vol. 12, eds. J. Mavidal and E. Laurent (Paris: Paul Dupont, 1868), 631.
[50] Ibid., 630-631.
[51] Ibid., 632.

introducing a law meant to settle property disputes, Ferrand strongly suggested that the King in fact desired further restitution of property.

Ferrand's peroration was met with substantial disapproval, with the baron Pasquier and Villèle, both to be important government ministers in the second Restoration, disapproving of the speech's content, despite their support for the proposed law. Signifying popular uncertainty over state stability, the price of the *rente* dropped precipitously in the following week.[52] In later discussion of the law in the Chamber of Deputies, Ferrand's discourse would come under heavy criticism, with one deputy flatly contradicting Ferrand's claims to know what lay in the King's heart: "The King, *messieurs*, does not and cannot have in the depths of his heart anything other than the firm desire to keep the promises he has made. He declared that all were properties inviolable; that the acquired rights of third parties were to be maintained; that all properties will be constantly sacred; that the rights of third parties will be constantly maintained."[53]

Perhaps even more troubling were some of the specifics of the proposal. In particular, article six of the proposed law stated: "Goods assigned to a public service are excepted from the restitution, for the time that it will be judged necessary to leave them in this destination; but the indemnity due by the State for the enjoyment of these goods will be settled in the next budget."[54] The state here acknowledged that, in the event that full restitution of goods was impossible – if the relevant properties were currently held by the Legion of Honor, for instance, or in other

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[52] Gain, *La Restauration et les biens des émigrés*, vol. 1, 143-144. Donald Sutherland also cites Ferrand's public contretemps as an example of Louis XVIII's shaky grip over his cabinet. See D.M.G. Sutherland, *France 1789-1815: Revolution and Counterrevolution* (New York: Oxford University Press, 1985), 430-431. Ferrand's speech would remain controversial into the Second Restoration. See Pierre-François-Félix-Joseph Giraud, *Des Bourbons et des puissances étrangères au 20 mars 1815* (Paris: Fain, 1815).
[53] Bedoch, rapporteur, séance du 17 octobre 1814, *Archives parlementaires de 1787 à 1860*, vol. 13, eds. J. Mavidal and E. Laurent (Paris: Paul Dupont, 1868), 184.
[54] Séance du 13 septembre 1814, *AP*, vol. 12, 632.

active public administrative services – then the *émigrés* would be duly indemnified for their loss. The problem was that it was a fairly smooth logical transition from partial to full indemnification; if the state agreed that the *émigrés* merited an indemnity for *biens nationaux* still in state hands, then why not an indemnity for those in private hands as well? To suggest otherwise would be to re-introduce fundamental differences in kinds of property, potentially de-legitimizing it. Indeed, such a move is essentially what another deputy, the Comte d'Astorg suggested in further discussion of the law, recommending an inscription of ten million francs of *rente* be distributed to those *émigrés* whose property had been sold or transferred.[55] This proposal was eventually abandoned in the law's final form,[56] but the partial restitution ordered by the 3 December 1814 law provided the conceptual tools to make claims on a full indemnity for the *émigrés*.

Coming soon on the heels of the Comte d'Astorg's suggestions, the Maréchal Macdonald made precisely this conceptual move, in a session before the Chamber of Peers on 3 December 1814. Macdonald, a decorated war hero and the descendent of a Scottish family that had fled to France during the reign of Louis XIV,[57] charted a course that was at once moderate and radical: voicing the discontent of the *émigrés* while avoiding Ferrand's incendiary rhetoric, agreeing with the suggestion of an indemnity while expanding its reach dramatically.[58] Moreover, his proposal conceptualized the indemnity not just as a measure of restorative justice, rendering compensation for expropriated property, but also as a crucial intervention in the nature of citizenship in the

[55] Comte d'Astorg, séance du 25 octobre 1814, *AP*, vol. 13, 260-264.
[56] Marcel Ragon, *La législation sur les émigrés, 1789-1825* (Paris: Librairie Nouvelle de Droit et de Jurisprudence, 1904), 149-150.
[57] Gain, *La Restauration et les biens des émigrés*, vol. 1, 189.
[58] In addition to increasing the indemnity to be paid to the *émigrés*, Macdonald also proposed further payments to the French military. See 7 Décembre 1814, *Le Moniteur Universel*, no. 341 (Paris: Agasse, 1814), 1372-1373.

young Restoration regime. He claimed to have "considered only the misfortunes of the *patrie*, and those of a class of citizens worthy, I repeat, of all our interest."[59] The matter of the nation, he affirmed, had been dealt with by the Charter. But that of its citizens needed further attention, since the social grievances stemming from revolutionary property expropriations had not been adequately healed.[60] These lasting wounds, he maintained, were keeping *émigrés* from rallying to the Restoration state, while at the same time rendering new property-owners highly uncertain of their social and economic security. Thus, the re-establishment of the Bourbon monarchy in France needed to be further stabilized by a loyal and happy body of citizens. As he claimed, "But the foundations of this great edifice [the throne], hastily raised up amidst ruins, still needs to be consolidated by the cement of interests and affections."[61] Settling the issue of the *émigrés* and the *biens nationaux* once and for all, Macdonald suggested, would bind these interests and passions to the throne, placing the Restoration on much more secure footing.

Macdonald fully acknowledged that the claims of current property-owners, purchasers of the *biens nationaux*, could not be undermined. To do so would be to risk unleashing major social unrest.[62] The social peace was therefore to be established by a thoroughgoing indemnity to the *émigrés*: "Would it thus be true, *messieurs*, that of the many compelling reasons, a general pacification between all French, would be a balanced moment in minds, by the modest consideration of an annual indemnity of about twelve million?"[63] The indemnity, Macdonald suggested, would remove the thorn from the side of the social body, calming potential

[59] Ibid., 1372.
[60] Thus, Macdonald argued, the restitution law was not at all adequate, as it only addressed a small section of the *émigré* property claims. See Ibid., 1372.
[61] Ibid., 1372.
[62] Ibid., 1372.
[63] Ibid., 1373.

revolutionary conflict. And in doing so, it would ensure that all claimants to property were considered wholly "French." That is, the indemnity effectively vouched for the fact that the *émigrés* and purchasers of the *biens nationaux* both rightfully and validly belonged in the same regime, sweeping away any lingering issues of conflicted loyalties and past misdeeds. As Macdonald concluded, we will be happy "when our tranquil provinces, our cities free from all political dissension, no longer will present before the eyes of the King anything other than Frenchmen, satisfied of the present, forgetting the past, rich of the future; when finally this terrible denomination, which did us such harm during the era in which it was a title of proscription, which can still do us harm today when it tends to become a title of honor, will be banished from our language, as if it had been foreign to this discourse."[64] A general indemnity would ensure that past conflicts remained safely locked in the past. Macdonald argued that the specifically financial aspects of the indemnity would cement present satisfaction, both by ensuring the ongoing harmony of the French state and by establishing a finally secure distribution of property, providing the basis on which all French citizens could build future prosperity. Consequently, the indemnity would also collapse these two categories of citizens – *émigrés* and purchasers of the *biens nationaux* – into a single, stable category of French citizens. Macdonald implied that the proposed indemnity would in fact eliminate the term "*émigré*" from the language, conceptually banishing it beyond the borders of the French language and the French nation. There would only be a unified set of French citizens, whose lasting social conflicts had been quelled, and whose happiness and wellbeing were tied to the throne.

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[64] Ibid., 1373.

Macdonald had called for an indemnity, but had left unclear from where the funds for it would derive. A week later, he retook the lectern to outline the specifics of his plan. He acknowledged some difficulty in calculating the total value of the former *émigré* property to be compensated, given the multiple mutations in title the properties had undergone. Nonetheless, after having argued for several deductions to the capital value of the expropriated property, he estimated the total indemnity due at about one hundred million francs.[65] Though substantially lower than other estimates, and lower than the eventual indemnity in 1825, this sum was still much too great to be taken out of the Restoration's current revenues. Macdonald therefore suggested that it be paid in *rentes*. The precise amount of new public debt to be issued was still indeterminate.[66] But compensation for *émigré* property claims was to be financialized and debt-financed.

A commission was established to prepare a report on Macdonald's proposal, but, with the end of the year approaching, it would have to wait until a later parliamentary session, set for 1 May 1815.[67] Napoléon's entry into Paris on 20 March 1815 and the Hundred Days interrupted this process.[68] But this first Restoration witnessed the legal closure on *émigré* calls for property restitution, converting them into claims for a wide-ranging indemnity. Building upon earlier articulations, Macdonald had laid out the model for a general indemnity bill for the *émigrés*, in the process suggesting the matter might be settled by linking citizenship with debt-financing.

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[65] 18 Décembre 1814, *Le moniteur universel*, no. 352 (Paris: Agasse, 1814), 1416. The initial value was calculated rather higher, at 900 million francs. Macdonald deducted 300 million francs for outstanding debts on the properties, and another 300 million francs for the various levies on property ordered by the state since 1791, leaving 300 million francs total. This number he reduced even further to a third of its value, to account for the 1797 Bankruptcy of the Two-Thirds, arriving at the 100-million-franc estimate.
[66] Specifically, Macdonald recommended two ways to figure the quantity of *rentes* to be created: either it would be calculated on one-third of the revenue of the relevant properties, or it would be calculated on 2½ percent of the capital value of those properties, in both cases using 1790 as the benchmark. See ibid., 1416.
[67] Gain, *La Restauration et les biens des émigrés*, vol. 1, 197.
[68] Démier, *La France de la Restauration*, 98.

This interrelationship of citizenship, public debts, and *émigré* indemnification would take definitive form after 1815, during the Second Restoration.

Indemnity, Property, and The Trial of Nicolas Bergasse

After the definitive fall of Napoléon in the summer of 1815, the Restoration regime would retake control of the state that fall.[69] With its fragility exposed by the Hundred Days, the Crown hewed to a moderate line, attempting to reconcile the revolutionary and Napoleonic past with the current status of a restored monarchy. It reaffirmed the relative moderation of the Charter,[70] adopting as a motto the phrase "*union et oubli*" – unity in the French nation, forgetting of the revolutionary past.[71] Indeed, article 11 of the Charter specifically forbade dredging up of previous political opinions and votes, enjoining citizens and courts to keep potentially destabilizing political disagreements firmly sealed away in the past.[72]

However, with an unruly legislature dominated by ultraroyalists – the "*chambre introuvable*" – and the proximity of the revolutionary past, this counter-mnemonic policy was not always smoothly implemented; the revolutionary past could be publicly denounced with vigor, frequently by religious groups, casting doubt upon the ability of the regime to reconcile revolutionary political developments and the contemporary system of monarchy.[73] And given the

[69] Ibid., 153- 164.
[70] Ibid., 166.
[71] Anonymous, "Union et Oubli," *La Minerve française*, vol. 1 (1818), 190-191; Natasha S. Naujoks, *Between Memory and History: Political Uses of the Napoleonic Past in France, 1815-1830* (Ph.D. Diss: UNC – Chapel Hill, 2011), 75; Sheryl T. Kroen, *Politics and Theater: The Crisis of Legitimacy in Restoration France, 1815-1830* (Berkeley: University of California Press, 2000), 40-41.
[72] Art. 11, La Charte Constitutionelle du 4 juin 1814, in *Les cinq codes*, iv.
[73] Sheryl T. Kroen, "Revolutionizing Religious Politics during the Restoration," *French Historical Studies*, vol. 21, no. 1 (1998), 27-53; Darrin M. McMahon, *Enemies of the Enlightenment: The French Counter-Enlightenment and the Making of Modernity* (New York: Oxford University Press, 2002), 155-156. For attempts to peacefully reconcile the revolutionary past and monarchical present through "sentimental remembrance," see Natalie Scholz, "Past and

still-unresolved status of competing property claims to the *biens nationaux*, the category of French citizen remained fissile, divided between new property-owners and *émigrés*.

Into this discursive space stepped Nicolas Bergasse. A prominent lawyer and middling *philosophe* during the Old Regime, Bergasse had been a follower of Franz Mesmer, leading to his involvement in the Kornmann case in the 1780s.[74] Elected a deputy for the Third Estate to the Estates-General in 1789, during the early revolution Bergasse had espoused a moderate political philosophy combining monarchical power and revolutionary reforms.[75] Repulsed by the Revolution's radical turn, he had initially been a supporter of the Restoration, but quickly became disenchanted with its moral and legal compromises regarding what he viewed as revolutionary iniquities. This displeasure was most fully expressed in his pamphlet, *Essai sur la propriété*, which interrogated the nature of the post-revolutionary state through the question of *émigré* property. First published in 1815 but censored by the government, the pamphlet was re-published, with some apparent revisions, in 1821.[76]

Bergasse's *Essai* was a divided work. In the introduction, written after the main text, Bergasse clearly stated that his work concerned the fundamental nature of the post-revolutionary state: "The motives of my opinion resulted, for me, not only from those common notions of justice that even the most limited intelligence cannot mistake, but from the rather deep study that I believe to have done of the general principles of government, and above all of the essential

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Pathos: Symbolic Practices of Reconciliation during the French Restoration," *History and Memory*, vol. 22, no. 1 (2010), 48-80.

[74] On Bergasse's involvement in the case, see Sarah Maza, *Private Lives and Public Affairs: The* Causes Célèbres *of Prerevolutionary France* (Berkeley: University of California Press, 1993); Robert Darnton, *Mesmerism and the End of the Enlightenment in France* (Cambridge: Harvard University Press, 1995).

[75] Louis Bergasse, *Un défenseur des principes traditionnels sous la Révolution. Nicolas Bergasse, avocat au Parlement de Paris, député du Tiers État de la sénéchaussee de Lyon aux États-Généraux (1750-1832)* (Paris: Perrin, 1910), 69-161.

[76] Annelien de Dijn, "Aristocratic Liberalism in Post-Revolutionary France," *The Historical Journal*, vol. 48, no. 3 (2005), 672.

principles of monarchical government, principles without which I truly cannot conceive how long it could be assured to last."[77] Though much of the pamphlet would suggest returning to Old Regime state patterns, its major focus was not on returning sovereignty to the crown. Rather, Bergasse turned his attention to the proper order of the social sphere appropriate for a returned monarchical state. He argued that the main issue facing the Restoration state was the pall hanging over property, with purchasers of the *biens nationaux* retaining property that rightfully belonged to the *émigrés*. The problem, Bergasse ruefully acknowledged, was that reversion of title had become an impossibility, given the Restoration state's affirmation of revolutionary property transfers. Thus, he argued that in order to place the state on firm moral and social footing, a substantial indemnity was due to the *émigrés*.[78]

In the main text of the pamphlet, Bergasse pursued an almost completely opposite line of argumentation. He acknowledged Macdonald's earlier indemnity proposal, claiming that the Marshal deserved just praise for highlighting the plight of the *émigrés*, girding their status with the appropriate solemnity. However, he maintained that the indemnity itself could only be unjust, insofar as it would punish all taxpayers for the crimes of a few, while also incentivizing future expropriations.[79] Bergasse recommended a different path to bring the question of *émigré* property to a definitive close. He denied that purchasers of the *biens nationaux* had any legitimate property claims and that reversion of title would be impossible.[80] Indeed, he insisted not on the impossibility of transferring property back to the *émigrés*, but instead on the necessity of such a

[77] Nicolas Bergasse, *Essai sur la propriété, ou considérations morales et politiques sur la question de savoir s'il faut restituer aux émigrés les héritages dont ils ont été dépouillés; ouvrage ou il est parlé de quelques-unes des causes qui préparent la chute des états, et surtout des états monarchiques* (Paris: Égron, 1821), vi-vii.
[78] Ibid., ix-x.
[79] Ibid., 22-26.
[80] Ibid., 4-5.

process. Such a transfer would be the only way to mend what he held to be revolutionary crimes and heal festering social wounds. As he wrote, "And then, it is with crimes as with wounds: it is necessary that all the venom in the wound be taken out, if one wants the wound to heal. Similarly, it is necessary that all the evil that the crime produced be repaired, if one wants the traces to disappear. Leave the venom, and the wound will reclose itself, and the whole body will soon be infected by it. Leave the evil done by the crime, and the crime will swell through success; and soon, the emanations of evil will be distributed like a destructive poison in all the fibers of the social organization."[81] For Bergasse, the social wound ripped open by the revolutionary expropriations had to be cleansed and closed. To attempt to do so without returning property to the *émigrés* would be to leave visible traces of evil on the social body, to leave it fatally envenomed. Such a state of affairs would hardly promote reliable social peace in a rebuilding monarchical regime.

In addition to righting past wrongs, Bergasse's argument also aimed to establish the fundamental principles of a post-revolutionary monarchical state. These principles, he maintained, were being deranged by the unsettled issue of the *biens nationaux*. Having been forcibly wrenched from their original owners, the *biens nationaux* were injurious to the very nature of property, he claimed. In line with an older moral tradition of property theory,[82] Bergasse argued that property could be divided into three categories: personal, mobile, and real. Personal property, for Bergasse, referred to the mental faculties, particularly the will and the

[81] Ibid., 5.
[82] On this tradition, see J.G.A. Pocock, "The Mobility of Property and the Rise of Eighteenth-Century Sociology," in Anthony Parel and Thomas Flanagan, eds., *Theories of Property: Aristotle to the Present* (Waterloo: Wilfred Laurier Press, 1979), 141-166.

capacity for rational thought; despite its apparent necessity for human action, personal property quickly disappeared from Bergasse's argumentative landscape.[83]

The differences between mobile and real property, on the other hand, were taken to be foundational. Bergasse labeled mobile property as the product of human labor and capacities: fabricated things, but also the money equivalent into which those things could be converted. Mobile property passed from person to person, possessor to possessor, without leaving any durable traces of ownership; fungible products that could be transformed into money and back again, mobile property was thus fundamentally characterized by circulation.[84] According to Bergasse, this fugitive nature of mobile property rendered it morally dubious, since "by the nature of its operations, it places us ceaselessly between hope and fear, between the desire to acquire and the fear of losing, a state of things that cannot last without bringing us a bit too close to that personal interest, to that rational egoism, which seeks much less that which may benefit others, than it works to be guaranteed of what may harm itself."[85] The motive fueling the circulation of mobile property was personal interest, a desire for gain, which aimed to increase personal welfare through astute manipulation of this transitory form. But for Bergasse, this kind of "rational egoism" led to a radically disingenuous and anti-social form of subjectivity. With personal interest as the driving force behind this form of property, the common good was never secured, as transactions in mobile property always reached for individual, rather than mutual benefit. Because mobile property, by its very nature, changed hands constantly, there was no safe harbor in which to develop moral qualities, since (temporary) possessors always were on the

[83] Bergasse, *Essai sur la propriété*, 9-10. Bergasse would return later in the pamphlet to the question of rationality, but less through the means of personal property than through religion. See ibid., 111-128.
[84] Ibid., 11-12.
[85] Ibid., 29-30.

lookout for advantageous or disadvantageous opportunities of exchange. The circulatability of mobile property thus constantly pitched the human subject between "hope and fear."

Paradoxically, Bergasse also claimed that mobile property also increased human connections. Despite its foundations in circulation, he claimed, mobile property in fact placed people more in contact with each other than with things.[86] In order to be exchanged, possessors of mobile property had to be mutually interconnected, completed circuits of purchaser and seller, seller and purchaser. However, according to Bergasse, the issue was that this connection was essentially zero-sum: with lamentable frequency, one party's benefit entailed another party's loss.[87] Consequently, mobile property promoted viewing other people as another exploitable resource. The possessors of mobile property were therefore characterized "less by candor than by circumspection in words; less by simplicity than by precaution in conduct; less by generosity than by calculating in the everyday actions of life; by suppleness, by trickery, by subtlety in vice, when individuals are depraved; by severity, by method, I almost said by a sort of callousness in virtue, when they become faithful to the duties that their profession imposes on them."[88] Mobile property may increase human connectedness, but it did so at the expense of moral virtue.

Real property, on the other hand, preserved virtuous human interaction, by keeping the possessor in connection with land. As Bergasse wrote, real property was "the property of the earth, of the portion of the land that we cultivate, and from which we collect the fruits. The name of real property is also given, by a sort of fiction, to the edifices that we raise on the terrain that belongs to us."[89] Because real property consisted in a relation of people to land, rather than

[86] Ibid., 30.
[87] Ibid., 30-31.
[88] Ibid., 31-32.
[89] Ibid., 11.

people to each other through the medium of things, the endless cycle of hope and fear, acquisition and loss that characterized mobile property could be avoided, or rather, directed towards socially beneficial ends. According to Bergasse, real property was fundamentally a matter of conservation of the land. He argued, "If one hopes, it is for a richer harvest, more abundant pastures, produce in greater number. If one fears, it is of the damage that the inconstancy of the season may bring, damage almost always reparable and rarely disastrous enough to destroy this portion of the land that your fathers left you, this orchard that their hands planted, this vineyard that they created on a sterile hillside, these fields, which through useful labors they augmented the natural fertility."[90] Since real property was guided by conservation, rather than circulation, the attendant "hope and fear" was not of the advantage to be prised out of others, but of the greater productivity of the land.

Consequently, real property could escape the zero-sum trap that Bergasse had observed in mobile property. He wrote, "Have we found some useful method, has a new process succeeded for us, has our intelligence taught us to pull a greater share from the earth that we cultivate? The method, the process, the means that we have used to procure for ourselves more advantageous products, all of this does not belong to us from the moment that we put it to work. What we have done, more will do; moreover, we wish that more will follow our example."[91] Since advantage in real property stemmed from the relationship of individual to land, there was no reason to keep innovations and improvements a jealously guarded secret. According to Bergasse, no loss could be expected from sharing productive developments in land cultivation, whereas in mobile property, all depended on purchasers and sellers getting the better of one another. Real property

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[90] Ibid., 32.
[91] Ibid., 33-34.

thus could fructify in social beneficial fashion. Ironically, it was real property's "private" nature – its basis in the relationship of individual to land – that permitted it to advance the public good.

For Bergasse, real and mobile property were therefore essentially inimical forms. The problem with the *biens nationaux*, then, was that expropriation had contaminated the category of real property by converting it into mobile. The revolutionary expropriations had made land alienable and freely circulatable in a marketplace, as opposed to being passed down familial lines via inheritance.[92] Whereas real property promoted a connection between land and person, the revolutionary expropriations had severed that link, placing people dangerously close to one another, with landed property – which had once been stable and placid – now changing hands again and again in the search for individual gain. For Bergasse, the *biens nationaux* undermined the moral core of the concept of property.

This rift in the concept of property was especially pernicious, as, for Bergasse, the two kinds of property advanced opposed political agendas. Mobile property, with its transmission of property amongst multiple owners and leveling effects, promoted democracy.[93] And for Bergasse, a restored monarchy would in fact be gravely undermined by this rising democratization of society. Explicitly following a Montesquieuian line of argument, Bergasse claimed that monarchies must be characterized by honor.[94] He contended that such honor could only reliably be generated by a robust aristocratic stratum, since honor derived from an ingrained system of social differences.[95] More particularly, he argued for the necessity of a landed elite, to

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[92] Bergasse argued that real property could only truly maintain its moral qualities if it remained with the same family's hands for generations. He did acknowledge that, occasionally, real property did change ownership, but such transferrals should be limited as much as possible, he advised. See ibid., 62.
[93] Ibid., 37.
[94] Ibid., 54.
[95] Ibid., 48-49.

be ensured by the reinstatement of primogeniture. Only by amassing and holding large estates, he claimed, could the kind of moral qualities endemic to real property become socially general, since otherwise the deleterious qualities of mobile property would run wild, spurring by the ever-increasing partition of family property holdings.[96] In turn, this aristocracy would promote the kind of gentle *moeurs* that would pacify the social sphere, taming unruly human passions, and ensuring a peaceful and successful regime.[97] Generating both honor and agreeable *moeurs*, a landed social elite would be the best guarantee of rational and limited government:

> Honor is the firmest support of power, because it diminishes the weight of obedience in rendering it more voluntary, in removing from it that character of abjection and servitude that power signals in all countries governed by the despotism of a master. Honor is the best means of preventing the abuse of power, because if power breaches its natural limits, honor does not oppose to it any resistance properly speaking; however, honor stops it in a manner yet more certain in refusing to consent to that which it could not grant without shame, because, moreover, honor is only ever shown as the expression of public conscience, and consequently, as armed with all the force of opinion.[98]

Bergasse here called upon the notion of "intermediary bodies" protectively interposing themselves between a potentially overreaching state and a vulnerable citizenry; in this case, a landed social elite would both promote loyalty to the state and act as a brake on abuse through moral suasion.[99] Based in real property, this social elite was the domain of an aristocratic political system, and consequently, a necessity for a durable monarchy.

It was precisely this social elite, according to Bergasse, that mobile property undermined in advancing a noxious form of democratization. By circulating and parcelizing property, notably

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[96] Ibid., 43-47.
[97] Ibid., 54-56.
[98] Ibid., 59-60.
[99] Bergasse explicitly referred to Montesquieu's argument that the English had abolished "intermediary powers" at their own peril, in that there was no longer any security for the nation if liberty were to vanish. However, Bergasse noted that English cities and counties still had their own charters, and lords their privileges, suggesting that the French should reinstate such legal stratification. See ibid., 49n1.

by circulating the *biens nationaux*, mobile property had a leveling effect on society; it tended to equalize status, given the ceaseless transition of property from one possessor to another. With no large estates, there could be no protective differences in social status, such that there could be no development of a distinct aristocracy. And with all citizens thus placed on an equal footing, honor, the fundamental aspect of monarchies, would be dissipated. As a consequence, there would be nothing to prevent monarchy from falling into despotism, and liberty in the regime would vanish. As Bergasse wrote,

> ...continue to regulate real property by the law of mobile property; confuse in each place, by an absurd system of equality, the formerly dominant manor, the ancient dwelling of the *seigneur*, with ordinary dwellings and domains, and your nobility, separated from that which alone can give it a moral and political existence in the state, will be nothing other than a kind of *hors-d'oeuvre*, a pointless heap of titles without function. And I will state a truth that might stun: you will not be able to count on a durable liberty, *because there is no liberty in a monarchy if all are composed of the same crowd, the same multitude...* [100]

By advancing the conversion of real property into mobile – by replacing aristocracy with democracy – the *biens nationaux* were undermining the moral and political foundations of post-revolutionary monarchy. Indeed, Bergasse mourned, the revolutionary expropriations amounted to "guilty upheaval" in the domain of property, an upheaval that foreclosed any opportunity for true liberty in the Restoration monarchy.[101]

This deplorable state of affairs, Bergasse averred, could only be healed by returning the *biens nationaux* to what he saw as their rightful owners.[102] Bergasse was not insensitive to the loss this act would entail for the purchasers of the *biens nationaux*, suggesting an indemnity be paid them in compensation.[103] But title to property itself would revert to the *émigrés*. In his view,

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[100] Ibid., 48. Original emphasis.
[101] Ibid., 86
[102] Ibid., 110.
[103] Ibid., 135-136.

such an act of restitution would be the only way of ensuring a just, moral, and well-founded post-revolutionary state.

However, in the postscript, like the introduction composed after the main text, Bergasse circled back to the more accommodating tone he struck in the introduction. To be sure, he maintained the revolutionary expropriations were thoroughly unjust, a crime so great that there could be no thought of "bending justice." At the same time, he acknowledged that given the interval of time between the enactment of the expropriation laws and the final publication of his pamphlet in 1821, the relevant properties had likely changed hands several times. The current holders of the *biens nationaux* were not entirely the same group that had participated in their initial expropriation and they were therefore not deserving of the same level of scorn.[104] Justice, he admitted, must "vary according to the circumstances in which the social order is found," meaning that the direction of the indemnity would have to be reversed.[105] The *émigrés* would receive an indemnity, rather than regaining title to their former estates. However, Bergasse did try to cling to the supremacy of real property. He argued that the indemnity would have to equal the total value of the lost property, which would give the *émigrés* at least the opportunity to negotiate with the current possessors, in the hopes of repurchasing their former lands. This substantial indemnity would, at last, let "consciences be at rest."[106]

Bergasse's pamphlet testified to a double bind ensnaring advocates for the *émigrés*. The main body of the pamphlet argued that the expropriation had rendered the system of property and government in the Restoration fundamentally unjust, with the only possible solution a full reversion of title to the original property-holders. Yet the introduction and conclusion, while

[104] Ibid., 149.
[105] Ibid., 149.
[106] Ibid., 149.

agreeing with injustice of expropriation, claimed that an indemnity for the *émigrés* was the only way forward. Bergasse had argued extensively that real property was the only moral kind, but concluded by recommending an indemnity, which would take a financial and thus mobile form. Bergasse did try to hold out the hope that this mobile property of indemnity would be re-converted back into real property, but this hope was self-refuting: such a transaction between indemnified *émigré* and current property-owner would be person to person, governed by individual interests, which is to say, by the norms of mobile property. The solution to the expropriation of real property therefore seemed only to be possible through a reaffirmation of the rise of mobile property. The contamination of real property by mobile, in other words, was permanent.

Upon its publication in 1821, Bergasse's pamphlet prompted a legal scandal. The government charged the author with violating Article Nine of the Charter, which had assured the sanctity of all property.[107] In court, the Royal prosecutor asserted that Bergasse had endangered the public interest by questioning the legitimacy of property. The prosecutor claimed that to follow Bergasse's recommendations would be "to contradict the sovereign will and the general expression, to infect the enjoyment of the national acquirers with doubt and alarm, to fill with brambles and ryegrass the field of which they are forever the holders, to make them see phantoms in the manor where they have entered, to transform into tears and blood the dew that falls upon their harvests."[108] In addition, the state observed that property was the source of all "electoral operations." Bergasse's perilous rhetoric therefore appeared to endanger the basis of citizenship.

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[107] Gain, *La Restauration et les biens des émigrés*, vol. 1, 445-446.
[108] *Moniteur universel*, no. 119, 29 avril 1821, 594-595.

In his defense, Bergasse's legal counsel argued that while Bergasse's rhetoric had been quite heated in some places, his conclusions were much more moderate. Yes, Bergasse had appeared in places to call for a full restitution of property, but, the defense maintained, his final conclusion was for indemnification, not property transfer. Moreover, Bergasse's lawyer asked, "*Is the proposition of an indemnity in favor of the* émigrés *in itself punishable?*"[109] In fact, the defense claimed, would not Bergasse's suggestion of an indemnity actually heal property, by settling competing property claims once and for all, thereby exorcising those troubling phantoms from the "national acquirers'" manors?

The jury decided it would, and Bergasse was eventually acquitted.[110] Radicalizing Macdonald's earlier proposal, Bergasse reaffirmed the moral and legal cloud that hung over the *biens nationaux*. However, though the rhetorical force of his pamphlet derived from the supposed superiority of real property, Bergasse seemed to be led ineluctably to the necessity of reinforcing mobile property through indemnification. Indemnification, financializing the property claims of the *émigrés*, would be the only way to end the controversy definitively. And as Bergasse had laid out, ending this controversy over the property of *émigrés* would also be a matter of establishing firm civic foundations for the state, of marking out the parameters of state and citizen in Restoration France. Later pamphleteers and policymakers, amidst electoral shifts in the political landscape, would pick up this theme, rendering the indemnity a means of settling property disputes, but also of talking about citizenship and statehood.

Villèle, Citizenship, and The Stakes of Indemnity

[109] Ibid., 594-595. Original emphasis.
[110] Gain, *La Restauration et les biens des émigrés*, vol. 1, 1, 449.

A few months after the acquittal of Bergasse, the political balance of power in Restoration government changed dramatically. In the elections of October 1821, the ultra-royalist right witnessed a dramatic resurgence.[111] In December, Villèle was installed as Prime Minister. Though steeped in ultra-royalist political sympathies, Villèle did not seek an immediate return to pre-revolutionary legal principles; rather than directly attacking the Charter, Villèle instead attempted to install ultra-royalist policies without overly provoking liberal counter-mobilization (his success in this strategy was another matter).[112] Attempting to stay within the parameters of the Charter, Villèle pursued an ambitious legislative program, emblematized by the law on censorship of the press, the law on sacrilege, and the indemnity bill.[113]

However, despite the royalist majority in legislature, Villèle could count on less steadfast support than the electoral counts might suggest. The royalist bloc was fractious and friable, composed of subgroups of varying political loyalties.[114] The electoral victories of the ultra-royalists thus provided fresh impetus to pass a comprehensive indemnity bill in parliament, but the fragility of Villèle's political alliances meant that the stakes of the bill were subject to counter-interpretation. These stakes became particularly pitched, given the public conceptualization of the indemnity bill as less a particularistic matter of *émigrés* and purchasers of the *biens nationaux*, than as a general statement of the relations between state and citizen in the Restoration monarchy.

Nearing the end of his reign and life, Louis XVIII addressed the Chamber of Deputies on 24 March 1824. In an overview of the nation's status and policies, he noted an upcoming project

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[111] Emmanuel de Waresquiel and Benoît Yvert, *Histoire de la Restauration: naissance de la France moderne* (Paris: Perrin, 1996), 325.
[112] Ibid., 332.
[113] Ibid., 337-378.
[114] Ibid., 333.

that would either convert the outstanding public debt to a lower rate of interest, or else reimburse its capital value. "This operation," he stated, "which must have a happy influence on agriculture and commerce, will permit, when it is completed, the reduction of taxes and the closure of the last wounds of the Revolution."[115] With the empowered royalist faction in government,[116] the debt-financed indemnity articulated by Macdonald and elaborated by Bergasse seemed to have found real institutional traction.

Finance minister Villèle would unfold the program alluded to by the king in a session before the Chamber of Deputies on 5 April 1824. Though it would eventually address the question of *émigré* property, Villèle's presentation initially focused exclusively on the financial aspect of the proposed law. With the price of the five percent *rente* surpassing par value,[117] the state was facing two related problems: the high price of the *rente* had reduced yields on the public debt, suggesting that the state could obtain a lower rate of interest than the titular five percent;[118] and the institutionalized attempts to retire the debt through amortization meant that the French state was systematically overpaying on its own debt.[119] Villèle's plan attempted to do away with both these issues at once. His idea, at heart, was remarkably simple. He proposed to extinguish the five percent *rente*. Current bondholders would be offered a choice: either they could have the nominal capital of their inscriptions of *rente* reimbursed or they could accept the conversion of their inscriptions into three percent *rentes*, calculated against an underlying capital

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[115] *Moniteur universel*, no. 84, 24 mars 1824, 331.
[116] There were more parliamentary elections on 26 February and 6 March 1824, which further redounded to the royalist coalition's benefit, leaving it in control of more than four hundred seats. See Waresquiel and Yvert, *Histoire de la Restauration*, 359-360.
[117] The five percent *rente* had been trading as high as 104.50 francs on 27 March 1824. On April 6, soon after Villèle's appeareance at the Chamber of Deputies, it was fluctuating between 101.70 and 101.40 francs; by the end of that month, it had risen to 102.80 francs. See Gontard, *La Bourse de Paris*, 190-192.
[118] Gontard notes that capital could be obtained at the London, Frankfurt, and Amsterdam markets at a rate of roughly 2.5 percent. See ibid., 187.
[119] Villèle, séance de 5 avril 1824, *AP*, vol. 39, 709.

of seventy-five francs.[120] Either way, the state would see its debt-servicing costs substantially reduced. Villèle estimated that the outstanding public debt of approximately 140 million francs of five percent *rente* would be converted into 112 million francs of three percent *rente*, reducing both the capital value of the debt and its rate of interest. All told, Villèle predicted that the state would see an annual savings of 28 to 30 million francs.[121]

Villèle acknowledged that this plan might appear controversial, either due to its questionable legality or to its treatment of the current bondholders. But he assured the Chamber of Deputies that "our former laws, our new laws, our conditions with our lenders, the example of other countries, the creation of amortization; all is in agreement to render incontestable the right that we propose to use, that of offering to the bearers of our *rentes* reimbursement of their capital or diminution of their interest."[122]

The Chamber, however, was not yet convinced. A subsequent report on the proposed law, delivered on 17 April 1824 by a certain deputy Masson, attempted to dispel any remaining legal penumbras. The legal project before the Chamber, he began, "embraces in a few lines a financial operation of the vastest extent. This operation, boldly conceived in the general interest of the state, strains and disconcerts a multitude of particular interests, notably in the capital. From this comes that agitation of spirits that is manifested by all the issues open to complaint, by the journals, pamphlets, and conversations."[123] The report addressed a number of legal issues in an attempt to settle these unquiet spirits. Some worries – was the law to the state's advantage? was

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[120] Villèle, *AP*, 709. The price of the five percent *rente* was calculated against an underlying capital of 100 francs.
[121] Villèle, *AP*, 709. The initial sum for the public debt was 197,014,892 francs, from which Villèle deducted debt held in various state institutions or bestowed upon others by the state, as well as that debt regulated by special laws, arriving at the 140 million figure in non-state hands.
[122] Ibid., 710.
[123] Masson, séance de 17 avril 1824, *AP*, vol. 40, 19.

its timing appropriate? – were fairly easily calmed by appealing to the technicalities of public finance.[124] Other legal issues were thornier. Most fundamental was the question of whether the state had the right to reimburse the debt at all. In response, Masson pointed to Old Regime and Revolutionary laws that seemed to validate the right of the state to reimburse the debt to its creditors. Moreover, he argued, "had one never thought to reserve to the profit of the state this prerogative [of reimbursement], it would still be found in the general spirit of our legislation and in the text of article 1911 of the Civil Code, that had been falsely claimed to not be applicable in this case. When the government engages in transactions with individuals analogous to those that they make amongst each other, it becomes an ordinary contractant, and is subject to the law of all."[125] Article 1911 of the Civil Code qualified the *rente perpétuelle* as fundamentally repurchaseable.[126] Though this article generally referred to private financial transactions, Masson's point was that the state, in this instance, functioned as one such individual, an "ordinary contractant," governed by the same rules of private law as everyone else. Since private individuals had the right to liberate themselves from debt via repurchase, so too did the state.[127]

Reception of Villèle's Law and the Discourse of Public Debts and Citizenship

Villèle's proposal, Masson assured the Chamber, therefore rested on sound legal foundations. However, the "particular interests" he had mentioned were indeed disturbed.

[124] Ibid., 21-22. On the matter of benefit to the state, Masson referred to the estimated annual savings the law was projected to bring. Regarding the law's timing and executability, Masson claimed to have demanded the financial particulars of the law from Villèle, and then to have been satisfied with the result.
[125] Ibid., 20.
[126] Art. 1911, *Code civil*, 462.
[127] Masson did acknowledge that the state sometimes modified private law in the aims of the public interest. These modifications, however, were always stipulated by supplementary laws; and any such supplementary laws were absent in this case, he observed. See Masson, séance de 17 avril 1824, *AP*, vol. 40, 20.

Outside the chambers of high politics, in pamphlets and open letters, the meaning and rightness of the indemnity law were still up for vigorous debate. In hashing out these conceptual boundaries, this public debate helped steer the shape and destination of the law.

Annette Saunier had articulated the grievances of the small bondholder. Hers was not the only voice raised against Villèle's proposal. Some critics followed her imprecatory manner, penning satiric songs charging Villèle with personally profiting off the law.[128] Others argued the case more extensively. One Armand Séguin, former colleague of Antoine Lavoisier, was a tireless opponent of the proposed law, dashing off three pamphlets within the space of a few months, with many more soon to follow, bringing his total production on the subject to eleven works, all arrayed against the proposed law.[129] Across his voluminous output, Séguin's main point was that the law would actually bring about financial ruin, rather than salvation; most notably, the potential savings for the state to be gained through reducing the debt's interest rate

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[128] Anonymous, *Sur la réduction de la rente et le soi-disant remboursement de la dette publique. Chanson dediée à mm. les députés, par son excellence le ministre des Finances* (n.p.).

[129] The titles of his works attest to both the passion of his opposition and the thematic overlap of his claims: see Armand Séguin, *Du projet de remboursement ou de réduction des rentes*, 6th ed. (Paris: Guiraudet et Gallay, 1824); Armand Séguin, *Des conséquences du projet de réduction, relativement à de nouvelles négociations de rentes* (Paris: Guiraudet, 1824); Armand Séguin, *Un mot sur l'importante question de l'augmentation du capital nominal, en compensation de la diminution du revenu; et redressement des balances du compte présentée à la Chambre des Pairs, par m. le ministre des Finances* (Paris: Guiraudet, 1824); Armand Séguin, *Des indemnités et de la réduction des rentes, cinq pour cent. Moyen de parer aux principaux inconvéniens des projets ministériels, en conservant les avantages qu'on peut obtenir de ces projets* (Paris: A. Henry, 1825); Armand Séguin, *Moyens d'acquitter intégralement le milliard des indemnités, et d'atteindre le but politique auquel elles se rattachent, en parant aux principaux inconvéniens des projets ministériels sur l'indemnité et sur la dette publique* (Paris: Chaignieau jeune, 1825); Armand Séguin, *Observations sur les discussions relatives aux indemnités et aux acquisitions de domaines nationaux* (Paris: A. Henry, 1825); Armand Séguin, *Résultats inévitables de l'adoption du projet sur la réduction des rentes* (Paris: J. Tastu, 1825); Armand Séguin, *Balance entre l'avantage pécuniaire de la réduction des rentes et le désavantage pécuniaire de l'augmentation de leur capital nominal* (Paris: 1825); Armand Séguin, *Régulateur des rentiers, ou Guide et résultat des combinaisons et des spéculations rentières qu'engendrera la loi sur la dette publique et l'amortissement*, 2nd ed. (Paris: C.J. Trouvé, 1825); Armand Séguin, *Observations sur les considérations présentées à la Chambre des Pairs par m. le marquis de la Place, relativement au projet d'une réduction de la rente 5 p. 100, avec un acroissement du capital* (Paris: C.J. Trouvé, n.d.); Armand Séguin, *Memento et barême de la perspective de notre avenir financier en cas de naufrage au port* (Paris: A. Henry, 1825).

would be more than counteracted by the increased capital of the public debt, especially given a lengthened amortization period.[130]

The public interventions of Séguin, Saunier, and others constituted a negative argument regarding Villèle's plan. The characteristics of this argument were, broadly speaking, somewhat loosely held – more of a family resemblance than a strictly defined exclusive set – since the authors were not always in agreement about every particular. One point of contention, for instance, was the right of the state to reimburse its debt: some critics held that such an action was plainly illegal,[131] while others grudgingly admitted that the state did possess the right to reimburse, though it would surely be immoral to encourage the speculative mania over debt at the Exchange, in order to lower its servicing costs.[132] In any case, the choice Villèle's plan offered bondholders – either convert their public debt portfolios to a lower rate of interest or accept reimbursement of the nominal underlying capital – was taken to be a choice under duress. Most particularly, this choice under duress would severely harm small bondholders, who, critics claimed, relied on payments from their inscriptions of *rente* as one of their few consistent sources income: unable to survive long on the reimbursed capital, they would be constrained to convert their inscriptions to the lower interest rate, which would consequently place them in dire

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[130] Séguin, *Un Mot*, 5-9, 20-22; Séguin, *Des conséquences*, 3-7; Armand Séguin, *Du projet de remboursement*, 19-36. Séguin also claimed that the Villèle's plan would have grave social and economic repercussions. The decline in yield in the French capital markets, he claimed, would chase industrial investment out of France towards more hospitable financial milieux, consequently destabilizing the European balance of trade. In response, he suggested his own plan, which mainly involved finding substantial annual savings in reducing costs on tax collection, as well as changes to the process of amortization, most notably by legally prohibiting the *Caisse d'amortissement* from purchasing *rentes* above par value. See Séguin, *Du projet de remboursement*, 73-82, 141-163.

[131] Anonymous, *Du remboursement des rentes sous le point de vue légal, par un jurisconsulte* (Paris: Anthelme Boucher, 1824), 11-12; Saint-Paul, *Réflexions sur le projet de loi relatif au remboursement forcé des rentes sur l'état* (Paris: C.J. Trouvé, 1824), 6-10; Marquis de la Gervaisais, *De l'illégalité du remboursement, précédée d'une supplique à la Chambre* (Paris: A. Égron, 1824), 14-24; Marquis de la Gervaisais, *De l'immoralité du remboursement* (Paris: A. Égron, 1824), 7-8; Anonymous, *Sur le remboursement de la rente et sa réduction* (Paris: Porthmann, n.d.), 1-2.

[132] Ganilh, *De la réduction des rentes en 1824* (Paris: Bossange, 1824), 13-15, 38-39; G** (Pierre-Antoine Godard-Desmarest), *Réflexions sur le projet de remboursement de la dette publique* (Paris: Firmin Didot, 1824), 8-11.

financial straits indeed. Villèle's plan was thus likened to a forced confiscation of financial wealth, akin to the partial bankruptcy ordered by Abbé Terray in 1770.[133]

Critics also tended to claim that the state was not ruled by the same laws as private debtors and creditors.[134] In presenting the state's case, Villèle and Masson had pointed to article 1911 of the Civil Code, which granted debtors the right to liberate themselves of their debts at will. Critics vigorously denied the applicability of this law. Some contended that in this case, article 1911 was in fact superseded by article 2 of the same Code, which stipulated the non-retroactivity of laws, suggesting that the current regime could not void debt obligations contracted earlier.[135] More broadly, to treat the state as like any other ordinary contracting individual would be to fatally ignore the substantial disparities in power between the state and private individuals, blurring the boundaries between public and private law.[136] Moreover, public debts were qualitatively different than private debts.[137] Adjudicating public debts through private law, allowing the state access to the same legal avenues as private individuals, would thus inflate the power of the state, rather than give state creditors a moderating claim on it; as one author observed, "In no era, moreover, have state creditors ever invoked common law to escape the rigorous, unjust, and vexatious measures frequently committed against them; why then would

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[133] Saunier, *À son excellence*, 14-15; Saint-Paul, *Réflexions*, 8-10; la Gervaisais, *De l'immoralité*, 10-11, 15-16.
[134] This tendency was not universal; both Saunier and another critic, the comte de Malartic, did claim that private and public debts were governed by the same laws. In both cases, however, the authors still argued against Villèle's plan; for Saunier, the state had a moral duty not to convert or reimburse its debt superior to its legal capability to do so, while for Malartic, financial wisdom counseled a different method for reducing the state's servicing costs, a method that would largely operate through amortization. See Saunier, *À son excellence*, 4-5; comte de Malartic, *La question de la réduction de la dette publique traitée en chiffres* (Paris: Le Normant fils, 1824), 5, 9-13.
[135] La Gervaisais, *De l'illégalité*, 15-16; marquis de la Gervaisais, *Du bon droit et du bon sens en finances, ou du projet de remboursement des rentes* (Paris: A. Égron, 1824), 15; Anonymous, *Du remboursement des rentes sous le point de vue légal*, 7.
[136] Saint-Paul, *Réflexions*, 6-8; Anonymous, *Du remboursement des rentes sous le point de vue légal*, 10-12; Godard, *Réflexions sur le projet de remboursement*, 10-12; La Gervaisais, *De l'immoralité*, 14-15
[137] Anonymous, *Sur le remboursement de la rente et sa réduction*, 1-2.

they have it now intervene for the first time, but to their detriment!"[138] Public debts were governed by different rules than private debts, and it would be self-defeating folly, critics argued, for bondholders to empower the state claim otherwise. For these reasons, they claimed, if the state had to reduce its servicing costs and indemnify the *émigrés*, then it should seek to do so through alternative means, particularly through increased amortization, rather than reimbursement or conversion of the extant public debt.

In addition to a negative argument against Villèle's proposal, critics also formulated positive claims on what public debts signified about the relations between state and citizen. This positive argument is perhaps best articulated in an anonymously authored 1824 pamphlet, entitled *De la réduction de la rente, considérée comme principe de calamités morales dans l'état*. The author began by claiming that previous critics had examined the financial deficiencies of the proposed law; he, on the other hand, would "place it in relation to the interests of morality and the very health of the state."[139] In keeping with the discourse against Villèle's law, he noted that public debts and private debts were fundamentally different forms.[140] Looking back to the illustrious Old Regime legal theorist Charles Loyseau, the author observed that in private debts, there were legal means to compel debtors to pay, including formalized procedures for bringing insolvent debtors before judicial authority; with public debts, on the other hand, creditors had no effective legal recourse against state default. Loyseau had put it succinctly: "*...when he* [the king] *does not want to pay, he cannot be constrained*."[141] Though Loyseau was writing for a different

[138] Godard, *Réflexions sur le projet de remboursement*, 11-12.
[139] Anonymous, *De la réduction de la rente, considérée comme principe de calamités morales dans l'état* (Paris: Ponthieu, 1824), v.
[140] Ibid., 6.
[141] Charles Loyseau, quoted in ibid., 5. Original emphasis. See also Charles Loyseau, *Traicté de la garantie des rentes*, 4th ed. (Paris: Abel L'Angelier, 1610).

legal and political regime, the author suggested his arguments still held broadly true; creditors could no more bring Louis XVIII (or the French state more generally) before the courts than previous generations could an Henri IV or a Louis XII. Unconstrained by legal remedies, in public debts sovereign default presented an inescapable risk.

With this abiding risk in mind, the author saw two possible of means for the state to increase its debts: either by compulsion, or by inducement through the "lure" of financial gain.[142] However, despite these apparently unsavory origins, the author continued to defend the moral rightness and necessity of public debts for modern states. As he wrote, "it is the destiny of the majority of great things to have commenced through disorder. The *rente*, which originally could have been odious, has become, I do not fear to say, worthy of the protection and even of the favor of governments."[143] Public debts could provide safety to those without the means or disposition to manage real estate. Single young women and elderly widows, the poor and infirm, unlucky victims of crime and misfortune, artists and scientists sadly unblessed by financial acumen: holding an inscription of *rente* would provide them with much-needed security, enabling them to survive happily in society, according to the author.[144]

This social advantage of public debts was not just reserved for marginalized groups. The *rente*, the author argued, represented an essential means of integrating potentially disparate sectors of the civic body into a single, unified state. The centralization of public finance at the Paris Stock Exchange helped pull faraway provinces into the orbit of the capital; by appealing to financial concerns, the *rente* linked provincial interests to the political stability of the regime.[145]

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[142] Ibid., 6.
[143] Ibid., 7.
[144] Ibid., 7-9.
[145] Ibid., 10.

Moving from the regional to the individual level, the author also argued that the *rente* presented a particularly efficacious means of connecting individual citizens to the post-revolutionary state. As he wrote, "Before the Revolution, land rent contracts [*bail à rente foncière*] offered to owners of land who wanted to be saved from the difficulty and inconveniences of assessing it [*faire valoir*], a property joining to the advantages of certitude and importance that of ease. This contract fell into desuetude among citizens with the treatment to which it has been submitted, in the hatred of the former nobles who practiced it most particularly. From this has resulted an outflow of capital towards the state."[146] Land-rent contracts had previously provided a major destination of investment, providing security and comfort to potentially wary investors. But, tainted by the stain of aristocratic privilege, these contracts no longer appeared quite so attractive, the author suggested, consequently stimulating increased investment in the public debt. The author's underlying logic was that by shifting the target of investment from private land contracts to public debts, the state helped create an inclusive range of citizens with strong ties to the regime. "Let us therefore say," he wrote, "that a great part of the population of all classes of society, as well as the persons and families most worthy of consideration, receive life, or at least peace, from the institution of the public debt."[147] Through the *rente*, the state provided its citizens with a financial means of survival. Moreover, this exchange between citizens and the state in the form of the *rente* helped create a peacefully functioning civic sphere, in which possible social antagonisms were passed over in favor of mutual financial benefit. Investment in the public debt cut across "all classes," joining together citizens in a single financial project, a project whose central aim was the state's perpetuation. For the author, the *rente* did more than

[146] Ibid., 10-11.
[147] Ibid., 11-12.

soak up excess wealth, channeling private savings into state hands (though it did that too) – it was a means of creating a secure and peaceful civic body, in which all members, no matter their social status, no matter how near or how far from the capital, had a legitimate stake in the regime.

This ability of the *rente* to integrate citizens into the state, however, also empowered bondholders with commensurate claims on the state. The author wrote, "Citizens gave capital to the state, and they have created *rentes* from it. ... The consequences of this property exceed the family; they are extended, in a more or less sensible fashion, throughout society as a whole, through alliances, contracts, and engagements of all sorts. How could it be that a property that is the basis of so many acts and of such hopes did not constitute a permanent and incommutable property, a vested right, in fact?"[148] The author here in essence followed Bergasse's previous claims about mobile property, but reached a strikingly different conclusion. The *rente*, a form of such property, really did increase connections between people, circulating from hand to hand, and expanding beyond familial conservatorship. Moreover, it did so by fructifying commerce, in "alliances, contracts, and engagements." But, for the author and in marked distinction from Bergasse, it was precisely this restless nature of the *rente* that ensured its moral and legal validity; ironically, it was the *rente*'s very ability to circulate so widely that gave it a kind of legal permanence, insofar as the *rente* played such a crucial social function. Property claims in the *rente*, according to the author, therefore represented "a vested right," meriting the kind of heightened legal protections that Bergasse had once reserved for land.[149]

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[148] Ibid., 13.
[149] At the end of the pamphlet, the author did claim that there was a sort of "rivalry" between landowners and *rentiers*, given the different kinds of financial returns each could expect. The author's point, however, was that this rivalry made landowners poor judges of the appropriate legal rules for the *rente*; his work was therefore an

Specifically, the author disputed the right of the state to reimburse its *rente* at will. He acknowledged that the Civil Code did permit debtors to liberate themselves from debts through reimbursing the owed capital. But he argued that this provision of law did not apply when such reimbursement would cause the financial ruin of the creditor, as it would in the case of the public debt.[150] Bondholders' property rights were therefore essentially sacrosanct, normatively restricting the permissible range of state action. As the author wrote, "The right for the *rentiers* of the state to retain their *rentes* in their integrity is a right at least as just and reasonable as all other civil rights. If there could be a positive law in effect, whatever it may be, be it the Charter, that prohibited or harmed this right, then that law would have to be abrogated, because nothing that is unjust should have the privilege of duration."[151] Citizen-bondholders' claims on the state could potentially precipitate an overturning of the foundational law of the post-revolutionary regime.

Luckily, the author observed that post-revolutionary law did not need to be overturned, since it was in line with these bondholder claims.[152] Indeed, for the author the tight connection between state and citizen signified by public debts indicated the most salubrious path for the post-revolutionary regime. He wrote,

> The monarchy, weakened in its principle by its faults, for a long time suspended and defamed by anarchy and despotism, needs more than ever the force of public opinion and the support of all its citizens, in order to re-establish itself. If there is one means for this, it is assuredly the usage of its natural probity; since men, in general materialistic, take greater account of what authority does for their money than what it does for their intelligence. And it is when legitimate authority has such need of force, force which comes so easily to it, that it decides to harm the interest, the most vested right of all, of its *rentiers*, which is to say, of the sort of people who, in taking actions in its [authority's]

intervention in defense of the *rente* "according to the reason of justice, which is always the reason of state..." The specific nature of the *rente*, in other words, was what should guide state action in this case. See ibid., 31-32.

[150] Ibid., 15-16.

[151] Ibid., 15.

[152] Ibid., 15.

> fortune in moments when it was in peril, had had the most confidence in it, are the born friends of its maintenance and of its prosperity, and the natural enemies of revolt.[153]

Surely it was tempting for the state to default on its debt obligations during times of crisis. But such a default, the author suggested, would be to sacrifice the state's long-term vitality for temporary financial relief. In an attempt to move beyond legacies of despotism and political disaster, post-revolutionary monarchies needed to rely upon uncoerced civic support; private decisions to invest in the *rente* registered just such support. But by reducing returns to the public debt, the state would undermine one of the key markers of public opinion, discouraging citizens from displaying confidence in the regime. The monarchy would therefore be estranging itself from its natural allies, violating the security and trust of its citizens. As the author pronounced, "The *reduction* in the *rente* is, at last, nothing less and nothing more than the reduction of the force of legitimacy and the increase of its adversaries..."[154] Political legitimacy was thus tied to safety and legal protection of public debts. Public debt, the *rente*, helped mark out the definition of the rights and duties of post-revolutionary citizenship. By tying citizens, far-flung and near, of varying class positions, to the regime, public debts helped create a civic body invested in the continuation of the post-revolutionary monarchy. And at the same time, according to the author, the connection of the public debt to citizenship placed real restraints on the extent of state power.

This focus on the relations between public debts and citizenship placed critics and advocates of Villèle's plan in unexpected agreement. To be sure, advocates differed in their positive evaluation of the proposed law. Masson, for instance, issued a public intervention explicating the financial rightness of the plan, arguing that the massive savings of the law would

[153] Ibid., 25-26.
[154] Ibid., 26-27. Original emphasis.

eventually reduce the general tax level; taking the form of a series of letters from a provincial landowner to a *rentier*, an anonymously authored pamphlet also came to the defense of the economic necessity of Villèle's plan.[155] Another advocate argued in favor of the proposed measure's fundamental legality, claiming it was valid insofar as debtors were at all times empowered to pay back their obligations in full, assimilating the *rente* to private debts.[156] Even in accounts that counseled a slightly different path towards indemnity, the basic moral rightness of Villèle's proposal was acknowledged.[157] But as with critics of the law, the connection between well-managed public debts and the responsibilities of a state to its citizens was a central aspect of the argument. As one advocate concluded his tract, "Let us hope that the minister of our finances, fortified by the justice of the proposed measure, fortified by the immense means of financial action that the adoption of this measure will give to the King, so as to elevate France to the highest point of agricultural and industrial prosperity, will not withdraw at all before opposition that has no other origin than private interests, or an even more impure source still, the hateful jealousy of some partisan men, to which they sacrifice the public good."[158]

This relation of citizenship to the *rente* was most effectively articulated in a work by Jacques Laffitte, *Réflexions sur la réduction de la rente, et sur l'état du crédit*. A prominent banker and one of France's wealthiest men, Laffitte had a direct stake in the law, as he, along with two others, had been chosen to represent the underwriters of the loan creating the new three

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[155] Victor-Alexandre Masson, *Le milliard perdu et retrouvé, ou simple analyse de la conversion de 140 millions de rentes 5 p. % en 112 millions de rentes 3 p. %* (Paris: Pelicier, 1824); Anonymous, *Quelques preuves sur la nécessité d'admettre le projet de loi relatif à la conversion des rentes* (Paris: Cosson, 1824).
[156] H.G. Delorme, *Réponse à la lettre de m. le comte de Mosbourg, sur la réduction de la rente* (Paris: Boucher, 1824), 19.
[157] Léopold de Bellaing, *Indemnité en faveur des émigrés* (Paris: C.J. Trouve, 1824); Anonymous, *De l'indemnité des émigrés, devant servir de base à des institutions d'intérêt général qui la feraient considérer comme un grand bienfait public* (Paris: Boucher, 1824).
[158] Delorme, *Réponse à la lettre de m. le comte de Mosbourg*, 24.

percent *rente*.[159] Nonetheless, he heatedly assured his audience of his good rhetorical faith: his financial stake was but a "fleeting interest," and anyways, he stood to lose far more as a bondholder than he did to gain as one of a party of public debt underwriters.[160] Claiming the armor of impartial moral rightness through this offsetting financial loss, Laffitte sought to make a thoroughgoing affirmative defense of Villèle's law.

Some of his defense was broadly in line with the discursive strategy articulated by the law's advocates. Thus, Laffitte argued that the law was economically necessary, since it would reduce the state's debt-servicing costs, which, as the high price and low yield on the five percent *rente* indicated, had surged above what the capital markets would bear.[161] The conversion of the *rente* from a five percent to a three percent bond would, in turn, reduce the general rate of interest, increasing the accessibility of capital throughout the nation, spurring greater domestic investment, and creating a more favorable economic environment as a whole.[162] Moreover, Laffitte strongly defended the legal validity of the measure. Citing to the familiar article 1911 of the Civil Code, he argued that the state fully possessed the right to reimburse the five percent *rente*, since public and private debts were regulated by the same laws.[163] Indeed, Laffitte claimed, the reduction in value of bondholder portfolios was not fundamentally dissimilar to reductions in other forms of property; land-rent contracts varied with commodity prices, and long-term commercial loans were re-negotiated in relation to the prevailing economic climate. To shield

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[159] Jacques Laffitte, *Réflexions sur la réduction de la rente, et sur l'état du crédit* (Paris: Firmin Didot, 1824), 134. The other underwriters were represented by Baring and Rothschild. On Laffitte, see Fritz Redlich, "Jacques Laffitte and the Beginnings of Investment Banking in France," *Bulletin of the Business Historical Society*, vol. 22 no. 4/6 (1948), 137-161.
[160] Laffitte, *Réflexions sur la réduction de la rente*, 174-175.
[161] Ibid., 5-6.
[162] Ibid., 6-7, 152, 170-171.
[163] Ibid., 50-52.

public debts from a reduction in value that habitually struck other kinds of property amounted to a kind of unjust moral exemption.[164] For Laffitte, Villèle's law was therefore economically necessary, legally valid, and morally consistent.

Laffitte's sympathies clearly lay with Villèle's proposal. But in some key respects, the implications of his arguments also bridged the political divide, placing him closer to critics of the law. This unexpected agreement was most clearly visible in Laffitte's claims about public credit's essential socioeconomic and political roles. He argued that economic life, through which humanity provisioned its essential needs, was composed of two basic parts: capital and labor. Capital was created through such things as land, raw materials, machinery, and tools, as well as the money by which this capital could be exchanged; labor, in contrast, involved the exercise of the human faculties on this capital.[165] And credit, he argued, was the mediating term between the two. As he wrote,

> Capital does not always belong to those who employ it; on the contrary, those who possess it, and who are vulgarly called *wealthy*, tend not to employ it themselves, but to lend it to those who are forced to labor, on the condition of receiving a part of the product, through the means of which they can live in repose. This loan made by those who possess capital, to those who possess only their faculties, in the hope that the work will be prosperous enough for the capital to be mobilized, and paid according to the service rendered, this loan constitutes the phenomenon of *credit*.[166]

Credit was the means through which capital and labor could break out of their respective isolation and combine productively. Without credit to transfer, temporarily, capital from capitalists to laborers, there could be no reliable way of providing the material that human labor power would turn into commodities, and thus no way to produce the necessities of social

[164] Ibid., 58-59.
[165] Ibid., 13-14. Laffitte explicitly included both labor power and what might now be called human capital in this definition: "*labor* consists in the exercise of the faculties of man on all these objects, whether he makes use of his arms or of his intelligence." Original emphasis.
[166] Ibid., 14. Original emphasis.

reproduction, according to Laffitte. As he argued, "Yet, the whole social order depends entirely on credit, since capital are always found in the hands of those who *can* no longer work, and, not yet being found in the hands of those who *must* work, it is necessary that the first lend it to the second, without which production would be impossible; and humanity, divided between those who have but their arms and their intelligence, and those who have the primary materials and the instruments, would remain inactive, perishing from all kinds of needs."[167]

Within this overarching system of credit, Laffitte maintained that public debts played a centrally important role. The state provided essential services to its citizenry, such as law enforcement, the administration of justice, border defense, and so on: "all things indispensable to the maintenance of order, which alone renders production tranquil and possible."[168] These services came with a cost, typically paid out of the state's tax revenues. However, state expenditures frequently exceeded annual tax revenue, leaving governments with a choice: they could either enact a spike in the tax burden, which if sufficiently high, Laffitte observed, would have the nasty drawback of depriving citizens of requisite funds for their "personal industry"; or governments could finance services in the form of public debts.[169] Laffitte never denied the need for some level of taxation, but the thrust of his argument was to defend the rightness of the public debts as well. Through a combination of appropriate taxation and public borrowing, states could ensure the necessary environment for economic production to take place.

Moreover, Laffitte argued that the particular nature of public debts uniquely tied them to private fortunes. The government borrowed as a collective, public entity. "It results from this manner of proceeding," Laffitte observed, "that, operating in the name of all, the government has

[167] Ibid., 15. Original emphasis.
[168] Ibid., 18.
[169] Ibid., 18-19.

a credit that no one individual would have; that being placed in the center of society, and in the principal capital market, it finds at the least price, and with the greatest ease, what the taxpayer, isolated in villages and in the countryside, not having any personal credit, could not do at all, or could only do in nearly intolerable conditions."[170] Due to the government's size, social centrality, and proximity to the main capital markets, Laffitte maintained that it could negotiate better loan terms than could private individuals – he claimed that the state could find capital at an interest rate of about three or four percent, whereas private individuals in the countryside would be forced into rates between eight and twelve percent.[171] But since public debts occupied such a prominent place in the capital markets, the salutary terms obtained by the state would act as a kind of benchmark, lowering the cost of capital for private individuals as well. Consequently, for Laffitte the phenomenon of public debts would facilitate the lending of capital to labor, further enabling economic production. As he claimed, "The state thus renders a true service, in not taking capital from taxpayers, but from the capitalists themselves. It brings capital and labor closer together, it contributes to the great alliance between the human faculties and the material on which they are exercised, it produces a utility, a true wealth, it creates at last a *value*, fertilizes the future, rather than devouring it."[172] If credit was the mechanism by which capital could be transmitted to labor and back again, then public debts ensured that this mechanism worked smoothly. The "utility" in public debts was thus not – or not just – in the capacity of the state to debt-finance its public duties, but also in the debt's ability to actively create a "value," through facilitating the private reunion of human labor power and capital. By borrowing in the form of

[170] Ibid., 19.
[171] Ibid., 19-20.
[172] Ibid., 20. Original emphasis.

public debts, Laffitte maintained, states thus could ensure a more prosperous future for its citizens.

Given the still-fresh memory of dramatic upheavals in France's public debt, Laffitte was well aware he had to address its frequently turbulent history. He fully acknowledged that public debts could be fatally mismanaged, leading states and citizens alike into financial crisis. By way of rejoinder, he argued that "doubtless, credit is bad in the hands of bad governments, but all becomes so in their hands; that the best institutions only serve them ill; that opinion itself is depraved and becomes an imposture; that representative government is transformed into a means of impunity; that public prosperity, wealth, even good harvests only serve to harm. But I ask, is it necessary to destroy or arrest all this? Is public credit more guilty than the arts, the sciences, and the military genius that serve to constitute the powers of despotism and to make Europe regress?"[173] As Laffitte saw it, the problem lay less with public credit itself, than with despotism and bad government more generally. These latter led society as a whole astray, deforming an entire range of otherwise valuable and praiseworthy phenomena. Laffitte also suggested the importance of properly representative government to stable public debts. Under conditions of bad government, public opinion became a kind of falsity, no longer constituting any sort of reliable index of civil evaluations of the actions of the state; similarly, bad states ceased being responsive to this opinion. Consequently, absent both substantive constraints on state action and a publically available register of civic approval or disapproval of that state, there could be few effective brakes on dangerous spirals in the public debt. For Laffitte, catastrophes in public credit were not due to the thing itself, but to fundamental failures in political form.

[173] Ibid., 29-30.

The importance of representative (and responsive) government connected to another political virtue of the public debt, for Laffitte. In his view, public debts in fact promoted a strong and reliable representative government. He noted that critics of the public debt lamented that it established "a mobile region" in the core of the state, subject to potentially ruinous fluctuations and variations.[174] His response was that this variability and mobility was essential to all types of credit, both public and private – just as with public credit, private credit too fluctuated in price according to available information about borrowers and lenders. To seek to abolish this mobility would thus be to erase credit in general, which, in Laffitte's formulation, would mean to demolish the economic mechanism of production as a whole.[175] "These variations are more noticeable at the Exchange, it is true," he admitted, "but even this procures them an advantage: that of placing the government exposed and of rendering the state of its pulse clear for everyone."[176] Public debt's very mobility – its capacity as a kind of property that could be easily exchanged from hand to hand, with corresponding price fluctuations – here served to increase the state's representativeness. Public debts constrained the potential "impunity" of the state by registering public opinion; citizens could buy or sell public debt according to the "pulse" of the state, which would then give policymakers a (notionally) accurate depiction of the civic evaluation of that state. Thus, by circulating widely, public debts helped to ensure that opinion did not become a false kind of "imposture," thus furnishing the state a reliable means by which to measure the civic approval of its policies. The mobility of property encapsulated in public debts helped establish the relations between post-revolutionary states and citizens.

[174] Ibid., 30-31.
[175] Ibid., 30-31.
[176] Ibid., 31.

For Laffitte, the public debt had a hand not only in creating representative governments, but in also creating citizens as well. He claimed that one did not typically desire to "see France" outside of its main cities.[177] "But it is necessary," he stressed,

> to see this France in the countryside, far from the great rivers, far from the shores of the two seas, devoured by usury, abandoned to routine, and having neither canals nor roads by which capital, intelligence, and activity penetrate into a land; it is there where one would not find a single *écu* to employ in an industrial enterprise, and where one only knows how to lend personally or through mortgages, that it is necessary to have capital flow back and to destroy, by its abundance, usury, distrust, and routine.[178]

Seeing France, in this sense, suggested incorporating far-flung regions into a unified civic body. Citizens in the major urban centers were already a part of the prevailing system of economic reproduction, in which capital and labor were mediated by credit. The France of the countryside, however, was trapped by outmoded habits and deleterious financial practices. Specifically, the high cost of capital prevented productive industry from developing, or even the construction of the transport infrastructure that might connect these benighted regions of the country to other sources of capital. These retrograde social and economic patterns kept the nonurban regions from effectively joining together capital and labor, occluding potential rural citizens from fully participating in the resultant social order. But, Laffitte maintained, by stimulating a fall in the rate of interest, public debts would help return capital to the provinces, wiping away constraints on development, such as usury or personal suspicion; public debts would create citizens in the countryside by removing the barriers that prevented them from the joining the kind of credit-mediated and economically-driven society normally seen in cities, which Laffitte maintained was the only effective means to make one's way in post-revolutionary France.[179] By providing for the

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[177] Ibid., 154-155. Laffitte listed Paris, Lyon, Marseille, Bordeaux, and the region of Normandy as the places where France was visible.
[178] Ibid., 155.
[179] Ibid., 35-36.

conditions of possibility of nonurban economic development, public debts would enable one to "see France" throughout the national territory, in cities and in the countryside alike. Out of a social and economic archipelago, public debts created a national civic body, according to Laffitte.

True, he acknowledged, the rate of interest might fall by itself, without state influence. But the impressive bargaining power of the state represented in public debts precipitated the process. As Laffitte wrote, "And the government, which is one of the greatest consumers of capital, announcing that it reduced capital's price by a fifth, brought about this reduction by its powerful competition. Its example was irresistible, and should accelerate yet further the movement that leads us towards prosperity, civilization, and the kind of liberty promised henceforth to all peoples."[180] The reduction in interest rates brought about by public debts would disseminate credit throughout France, permitting the easy conjunction capital and labor, which, following Laffitte, would foster both "prosperity" and "civilization." Moreover, for him public debts were key to the agreements between post-revolutionary states and citizens. By enabling the economic and social mechanism of production to spread far and wide, public debts helped secure the liberty that was now due "all peoples," and which post-revolutionary states consequently owed to their citizens.

Laffitte began from an opposite evaluation of Villèle's plan than its critics. For him, the five percent *rente* was eminently reimbursable, since public debts did not, at least at first glance, differ from private debts. The economic benefits of the proposed reduction were, he argued, manifest and undeniable. But in order to make the claim for the social and economic importance

[180] Ibid., 167.

of Villèle's plan, Laffitte wound up espousing views that were not dissimilar to those articulated by the plan's critics, particularly those found in more expansive treatments, such as in the anonymous *De la réduction de la rente*. For both, public debts in general and the *rente* in particular were key to substantive political bonds in post-revolutionary France. For both, public debts placed constraints on state power – non-repurchasability in one case, limited government in the other. And most crucially, for both, public debts created a unified citizenry out of a potentially disparate national territory. Laffitte and the anonymous critic agreed that public debts linked the political capital – and economic capital – and the provinces, connecting economic development and political interests to a national whole; both connected public debts to representative government, in which political authority depended on responsiveness to public opinion for its legitimacy. And both conceptualized public debts as a key element in a properly functioning social order: for the anonymous author, public debts gave individuals of varying status a stake in the regime, smoothing over potential social conflict, while for Laffitte, public debts were a central part of the socioeconomic system of reproduction, in which credit brought together capital and labor. Across political cleavages over the specific indemnity bill, broad discursive agreement thus emerged that the public debt was a key metric of the appropriate relations between state and citizen in post-revolutionary France. And moreover, across these cleavages, public debts were seen as allied to nature of citizenship and the possible limitations of the state. Whether an advocate or opponent of Villèle's proposal, public debts, the post-revolutionary state, and citizenship had been placed in a mutually implicated relationship.

The Fall and Rise of the Indemnity Law

Villèle's proposal eventually succumbed to the controversy. Passing through the Chamber of Deputies with a substantial but not overwhelming majority (238 in favor versus 145 against), the project was later defeated in the Chamber of Peers, failing on a vote of 128 to 98.[181] This dramatic collapse of the bill was due to two sources: the unexpected crumbling of Villèle's previously dependable political support, as well as the discursive stakes of the law regarding the connections between public debts, the state, and citizenship.

Villèle had submitted the proposal to parliament with an overwhelming majority of royalists in both chambers; both the narrowness of the bill's passage through the Chamber of Deputies and its eventual failure in the Chamber of Peers meant that a substantial number of royalists had dropped their support, forming an unusual and temporary coalition with the liberal faction. Both liberals and royalists articulated an overlapping set of grievances with the bill, uniting opposition to the bill across political cleavages. As Gain argues, there were three major components to this opposition: concern that too many bondholders would opt for reimbursement of their capital rather than accept the conversion of their portfolios into three percent *rentes*, which would be financially ruinous for the state; a distrust of the banking houses – particularly the foreign houses – underwriting the new debt issue, which seemed to divert French wealth into to extra-national hands; and, most especially, opposition to the forcible conversion of extant bondholders' portfolios to lower rates of interest, sacrificing the rights of mobile property in the name of immobile, expropriated land.[182] Villèle therefore could not depend on votes from a key constituency, blocking his bill's clear path through the two chambers of parliament.

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[181] Gontard, *La Bourse de Paris*, 191-195.
[182] Gain, *La Restauration et les biens des émigrés*, vol. 1, 520-536.

This political collapse in the chambers was perhaps best exemplified by the unexpected opposition of François-René, vicomte de Chateaubriand. Chateaubriand, usually a staunch advocate for royalism and a conservative political policy more broadly, was serving in the cabinet with Villèle, acting as the Minister of Foreign Affairs, at the time the law was being discussed in the chambers. But, Gontard claims, Chateaubriand had ambitions of replacing Villèle as head of government and saw the failure of the law as an opportune moment to make his move.[183] In a meeting of 27 May 1824, Villèle accused him of stirring up opposition to the bill. Chateaubriand denied it, but also pointedly did not offer to speak in favor of the bill publically. He was summarily removed from office on 6 June, 1824, with Villèle curtly informing him of his dismissal via letter. Chateaubriand's opinion from then on was assured, moving from judicious silence on the law to outright opposition.[184] As he forcefully expressed in an open letter later that same year, after the law's failure to pass, some form of indemnity was indeed necessary, so as to ensure the final settlement of revolutionary social wounds and to heal any ruptures in property.[185] But, he steadfastly maintained, Villèle's proposal was ill-suited to that worthy task, especially as it attempted to finance the indemnity by way of an unjust and coercive conversion of the *rente*.[186] Thus, he lamented, "The royal thought, slipped into a law that repelled public opinion, was without effect..."[187] The Restoration monarchy, he suggested, was working against its own interests.

Chateaubriand's opposition dramatized the mixture of shifting political alliances with strong discursive investments in the meanings of property, public debts, and the indemnity that

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[183] Gontard, *La Bourse de Paris*, 195.
[184] Ibid., 195-197.
[185] François-René, Vicomte de Chateaubriand, *Lettre à un pair de France* (Paris: Le Normant, 1824), 6-7.
[186] Ibid., 37.
[187] Ibid., 28-29.

characterized the political course of the indemnity bill. His opposition was, of course, rhetorically inflected: he had a direct political and personal stake in seeing Villèle's proposal fail, which helps explain the force of his critique. At the same time, the specific form that critique took was shaped by the ongoing discourse surrounding the law; by opposing the law because it unjustly reduced the value of the *rente*, thereby injuring the rights of property, Chateaubriand connected to the continuing discourse in which property, public debts, and post-revolutionary citizenship were all connected. That Chateaubriand opposed Villèle may have been explainable according to political interests; that his critique took the shape that it did spoke to the discourse on the law that had been forming at least since the first formal proposal for indemnity in 1814.

This mixture of concrete political interests and the conceptualization of property, public debts, and citizenship can be seen in the second, ultimately successful attempt to indemnify the *émigrés* through new public debt issue. Louis XVIII died on 16 September 1824, with his brother, Charles X, subsequently assuming the throne.[188] Substantially more conservative than Louis XVIII had been, the new king once again made clear the desire to resolve the issue of property and the *émigrés* once and for all. On 21 November 1824, he expressed to the cabinet that the *émigré* indemnity stood at the top of his list of legislative wants; in a discourse before both chambers of legislature on 22 December 1824, this royal desire was made further manifest: "The King my brother found it a great consolation to prepare the means of closing the last wounds of the Revolution. The moment is come to execute the wise designs of which he had conceived. The situation of our finances will permit to accomplish this great act of justice and politics with increasing taxes, without harming credit, without subtracting any part of the funds

[188] Gain, *La Restauration et les biens des émigrés*, vol. 1, 556.

intended for various public services..."[189] While the first attempt at this indemnity had ultimately failed, the political impetus to turn this desire to "close the last wounds of the Revolution" into concrete policy, it seems, had not entirely disappeared.

With this refreshed impetus, but with his stinging recent failure in mind, Villèle brought a modified proposal for the indemnity before the Chamber of Deputies on 3 January 1825, tasking his colleague, Martignac, with explicating the foundations and procedures of the law. Martignac justified the law according to the by-now standard logic: the revolutionary expropriations had unjustly separated the *émigrés* from their property, title to which had then been transmitted to other hands; the Charter had proclaimed the sanctity of all kinds of property as a means of ensuring a peaceful civil sphere, nominally without disregard for the *biens nationaux*, but the lack of an appropriate indemnity for the *émigrés* threatened to undermine property's legitimacy; in order to protect this "most sacred" right, the indemnity was necessary, so as to remove any lingering stain on the concept of property.[190] Martignac did also acknowledge, albeit somewhat obliquely, that the previous indemnity bill had run into controversy and ultimately failed; as he stated, in addition to protecting property, the Charter also stipulated that "The public debt is guaranteed, and all manners of commitment taken by the state with creditors are inviolable."[191] The new indemnity law would therefore have to be financed by means that respected the inviolability of the public debt.

Villèle soon retook the word from Martignac to explain more precisely how this new law would differ from the old. The new indemnity, like the old, would be paid through new inscriptions of public debts, namely the three percent *rente*. But unlike in the prior bill, this new

[189] Charles X, quoted in Gain, *La Restauration et les biens des émigrés*, vol. 1, 558.
[190] AP, vol. 42, (Paris: Paul Dupont, 1879), 594-595.
[191] Ibid., 595.

rente would not be financed through a forced choice between reimbursement of capital or a mandatory reduction in the interest rate of the existing five percent *rente*; rather, an entirely new public loan would be taken out, meaning that the state would have to bear the costs of the new debt itself.[192] In order to mitigate the costs of this new public debt, Villèle proposed an optional conversion of the five percent *rente*. If they so desired, bondholders would have the choice of converting their existing five percent *rentes* into either three percent *rentes*, calculated against an underlying capital of seventy-five francs, which meant that the total capital value of their portfolios would in fact increase, though returning a lower rate of interest; or into four-and-a-half percent *rentes*, with an underlying capital of one hundred francs, in which case the lowered interest rate was offset by these new *rentes* being guaranteed against any future reimbursement for ten years. Unlike the previous bill, this choice was not mandatory; bondholders could also opt to retain their existing portfolios in inscriptions of five percent *rentes*.[193] Existing bondholders could thus choose whether to modify their own financial positions in order to reduce the state's interest costs and facilitate the payment of the *émigré* indemnity.

With this new law, Villèle attempted to finance, at least in part, the indemnity and cut the state's debt-servicing costs, while skirting the controversy that had plagued his previous bill. Despite these hopes, the proposal once again found itself mired in political controversy, with opposition voiced from both sides of the political divide. Liberals charged that the new law accorded a massive benefit, to the tune of one billion francs, to the members of a formerly privileged order; the indemnity was thus a kind of financial privilege reborn.[194] Benjamin

[192] Ibid., 604-605.
[193] Ibid., 605-606.
[194] Gain, *La Restauration et les biens des émigrés*, vol. 1, 589. *Moniteur universel*, no 49, 18 fev 1825, 213; *AP* 17 fev 1825.

Constant, stalwart Restoration liberal, also argued that far from pacifying social ills, the indemnity law was "a systematic plan of shedding opprobrium on the possessors of the *biens nationaux* ... of sullying the honor of a numerous class and of attacking its fortune."[195] Ultra-royalists, on the other hand, contended that the law did not go nearly far enough in compensating the *émigrés*. In line with Bergasse's original stance, ultra-royalist orators maintained that the direction of the indemnity should be reversed: the *émigrés* should receive their lands back, with the possessors of the *biens nationaux* compensated through the indemnity.[196]

More generally, the new law was accused of plying in purposeful obfuscation, intentionally confusing the voters through its complex tangle of financial reform, public debt policy, and indemnification. As one deputy, Bourdeau, had it: "The system of 1824 was clear, simple, candid, and intelligible in its disastrous effects. This one of 1825 is compound, tortuous, and less comprehensible in its results, which are perhaps more pernicious."[197] Villèle's efforts to decouple the indemnity from any sort of forced lowering of the interest rate on the public debt had cast the entire project under suspicion.

Indeed, the role of the public debt in the law remained a point of controversy. Critics charged that the law favored mobile property at the expense of landed property, which would foster agriculture and prosperity.[198] At worst, it was feared that the new public debt issue would give rise to increased speculation at the Paris Exchange, a chilling prospect for such critics. These accusations sometimes came laden with anti-Semitic sentiment. As Bourdeau claimed, the

[195] Gain, *La Restauration et les biens des émigrés*, vol. 1, 596. *Moniteur universel*, no 55, 24 fev, 1825, 258; *AP* 23 fev 1825.
[196] Gain, *La Restauration et les biens des émigrés*, vol. 1, 590-591. *Moniteur universel*, no 51, 20 fev 1825, 228; *AP* 18 fev. 1825.
[197] Gain, *La Restauration et les biens des émigrés*, vol 1, 637-638, *Moniteur universel*, no 78, 19 mars 1825, 396; *AP* 17 mars 1825.
[198] Gain, *La Restauration et les biens des émigrés*, vol. 1, 628-629, *AP* 18 mars 1825.

law would make France a "colony, at the head of which can be distinguished the Israelite phalanx, impatient for the conversion so as to pull out immense values for too long occupied in supporting the *rente* above par."[199] For critics, the law was clearly detrimental to France's future.

At the same time, even opponents of the law could sometimes articulate an unexpected connection to the basic principles of the law, particularly regarding the link between public debts and citizenship. This connection was most evident in Chateaubriand's much-anticipated oration in the Chamber of Peers on 26 April 1825. Chateaubriand was, of course, a vigorous opponent of the law, voicing many of the same concerns of other critics, pulling from both liberal and ultraroyalist lines of attack. For instance, he argued that the law would fatally divert funds away from productive investment, particularly in landed property; and he also desired to protect the rights of mobile property, through shielding existing bondholders from the threat of conversions in the *rente*'s interest rate.[200]

Chateaubriand's central critique, however, was that Villèle's law deceptively tied the *émigré* indemnity to the state's public debt policy. No matter that, in the 1825 version of the law, the conversion of the *rente* was nominally optional; according to Chateaubriand, this feature of the law hid its true coercive nature: since the state retained the right to reimburse the underlying capital in the future, bondholders would be forced to convert their five percent *rentes* into more secure three or four-and-a-half percent *rentes*, as the state would surely eventually seek to reduce its debt-servicing costs through reimbursement.[201] The law thus conflated necessary social reforms (the indemnity) with unnecessary financial measures (the conversion of the *rente*). Moreover, for Chateaubriand, such a legal conflation perpetuated a key pitfall of the post-

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[199] Bourdeau, quoted in Gontard, *La Bourse de Paris*, 202.
[200] *AP* vol. 45, 133, 139-140.
[201] Ibid., 133.

revolutionary regime, which was the way public finance at the Paris Exchange appeared to be enveloping ever-greater sectors of French society. As he wrote, "Today, the whole of France is called to the Exchange; all kinds of property are obligated to come and be lost there. Those who would like to avoid gambling, the law imprisons for debt, some for giving in to temptation, others to threats. All classes of society have learned the base language of speculation; a general inquietude has seized hold of minds [*esprits*]."[202] The Paris Exchange exerted an irresistible magnetic pull, drawing all forms of property into the specific realm of mobile property, public debts. Analogizing the process to civil debt imprisonment, Chateaubriand saw the circulation of public debts at the Exchange as ensnaring French society. Property-owners might disinvest in land for more attractive speculative opportunities in the public debt, while, at the same time, this public debt was continually threatened by the specter of state reimbursement; public debts thus destabilized property in general, according to Chateaubriand.

His evaluation of this state of affairs was negative, of course. But in making this evaluation, Chateaubriand articulated some of the key themes of the discourse on public debts and citizenship that had traversed both critics and advocates of the indemnity law. Though phrased as a lament, for Chateaubriand, public debts did join together multiple classes of society. Indeed, the unifying force of public debts in this respect was inescapable. Public debts affected all forms of property, touching bondholders large and small in the capital, as well as property-owners in more distant regions, who invested in various forms of property according to the *rente*'s fluctuating prices. Moreover, all citizens had a stake in public debts, insofar as these debts were tied to the post-revolutionary state's validity; a state that mismanaged its debt was directly

[202] Ibid., 138.

harming its citizens, and not just its creditors. For Chateaubriand, one of the responsibilities of a state to its citizens was thus to maintain the health of public credit. As he asked aloud, "At the beginning of a new regime, at the first session of this reign, was it truly the moment to embrace measures that weaken credit, destroy trust, alarm and divide citizens?"[203] He could only concluded it was not, and urged a vote against Villèle's new law.

Despite Chateaubriand's forceful peroration and the sharp critiques of the opposition, Villèle's proposal was, in the end, successful, passing through the Chamber of Peers on a vote of 134 in favor to 92 against.[204] Despite the continuing controversy over the law, it seems that Villèle's revisions from the first, 1824 proposal had been sufficient to preserve his political support. Charles X signed the bills into law on 1 May 1825.[205]

Critics and advocates of the indemnity had feuded over the rightness of Villèle's proposal. This feud was fought sometimes according to political interests, sometimes according to one's stance on public finance and mobile property, sometimes according to one's position on the rightness of the *émigré*'s property claims. But these political debates were also connected to a wider discourse on the nature of public debt. Whether an odious element of a regrettably financialized world or a just means of prosperity and civic integration, public debts, the state, and citizenship were entwined in post-revolutionary France.

Conclusion

The 1825 law marked the end of a decade-long legislative trajectory. The law colloquially came to be known as the "*émigré*'s billion," after the underlying capital of the new

[203] Ibid., 139.
[204] Gontard, *La Bourse de Paris*, 202.
[205] Ibid., 202.

three percent *rente* issue. In reality, the actual sum directly issued to the *émigrés* was a fair bit smaller, perhaps due to the byzantine process by which claims to the indemnity were verified.[206] Ironically, the largest single recipient of the indemnity so devoutly desired by the Restoration monarchs was the future king of the July Monarchy, the then-Duc d'Orléans Louis-Philippe, who received approximately 17 million francs.[207] Louis-Philippe's case was highly anomalous, however, as the average indemnity was much less munificent, amounting to an inscription of 1,377 francs in three percent *rentes*, as of 1830.[208] Even this figure must be further qualified, since indemnity claims were frequently split between multiple claimants, in one instance climbing as high as 52 parties to a single claim.[209] The average individual indemnity therefore came to an inscription of 492 francs of *rente*.[210] In general, the indemnity was characterized by a great many small claims and relatively few large claims.[211] Despite its sobriquet as the "Billion," the total capital value of the debt-financed indemnity came to 867 million francs.[212]

The 1825 law had aimed to reduce the state's borrowing costs, through providing an optional method for bondholders to reduce the public debt's interest rate voluntarily. In this respect, the state found moderate, but certainly not overwhelming, success. Very few

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[206] The fairly labyrinthine process began with the *émigré* claimants sending a dossier to the appropriate departmental prefect, who then forwarded it on to a higher committee. That committee made its decision, then sent the dossier back to the prefect, who subsequently opened up the dossier to competing claims. Assuming those claims were settled in favor of the initial *émigré*, the prefect forwarded the dossier to the Ministry of Finance, which made deductions for outstanding debts and payments already received. The dossier was then forwarded to a final commission, which ruled on the validity of the claim. If the claim was subsequently found valid, then the indemnity would, at last, be approved. See August-Charles Guichard, *4ème supplément au manuel de l'indemnité des émigrés, des déportés et condamnés* (Paris: Porthmann, 1825), 17-26.
[207] Price, 117.
[208] Christian Rietsch, "Le <<Milliard des *Émigrés*>> et la création de la rente 3%," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 2 (Paris: Publications de la Sorbonne, 2007), 239.
[209] Gain, *La Restauration et les biens des émigrés*, vol. 2, 209.
[210] Rietsch, "Le <<Milliard des *Émigrés*>>," 239.
[211] Ibid., 242-243.
[212] Ibid., 255.

bondholders opted to convert their portfolios into four-and-a-half percent *rentes*, with just slightly over a million francs of *rente* submitted to the interest rate cut. The conversion into three percent *rentes*, on the other hand, was more avidly pursued: over 30 million francs of five percent *rentes* were submitted, converted into roughly 24.5 million francs of three percent *rentes*.[213] Nonetheless, the five percent *rente* remained the dominant instrument at the Exchange; in 1830, the total capital value of the five percent *rente* amounted to roughly three billion francs, whereas the three percent *rente* came to 787 million. The five percent *rente* was finally retired by a law of 1852. And even though the three percent *rente* did witness rapid growth, by 1855 its total capital value was still below the mark set by the five percent *rente* a quarter century earlier.[214]

While the 1825 law marked the end of the indemnity's legislative path, its practical reality and social meaning continued to be grappled over. The legitimacy of the indemnity continued to be debated in public and deployed as a tool of political mobilization.[215] And the legacy of the indemnity was long indeed: the bureau in the Ministry of Finances in charge of handling indemnity claims was not closed until the 1920s.[216]

Emerging from this ongoing debate over *émigrés* and indemnities was a related, but distinct discourse on the interrelationship between property, public debts, and citizenship in a post-revolutionary state. For or against Villèle's multiple laws, citizenship in post-revolutionary France was tied to property, but not only in terms of property taxes or electoral rolls. Public

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[213] Ibid., 226. Rietsch notes that the four-and-a-half percent *rente* amounted to only 493 inscriptions.
[214] Jacques-Marie Vaslin, "Le siècle d'or de la rente perpétuelle française," in Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, eds., *Le marché financier français au XIXe siècle*, vol. 2 (Paris: Publications de la Sorbonne, 2007), 158-159. Vaslin sets the 1855 capital value of the three percent *rente* at 2.4 billion francs.
[215] Franke, "*Le milliard des émigrés*," 125-132; Corbin, *The Village of Cannibals*, 26.
[216] Franke, "*Le milliard des émigrés*," 132-133.

debts provided a means of creating citizens, but also of marking out the limitations of post-revolutionary, representative government. Public debts, primarily through giving bondholders a direct financial stake in the regime and secondarily through affecting interest rates and stimulating critical development in the wider economy, could create citizens out of a disparate and potentially fractious national territory. For some, this was a valuable feature of public debt, linking province to capital. For others, it was the overrunning of the capital into the normally morally upright provinces, forcing them into odious speculative activity at the Exchange. But for both sides, both property and France's civic body as a whole were unified through public debts at the Exchange. In a move that surely would have horrified Bergasse, property indeed provided the basis for post-revolutionary society, but it was mobile property in the form of the *rente*, not landed property, that did so in this case.

Public debts also provided these citizens with claims on the state, claims that bore real normative authority. Appropriate management of the public debt was one indicator of the "representativeness" of post-revolutionary, representative government. Default, forced conversion, involuntary reimbursement were to be avoided not simply because such actions would precipitate financial ruin for bondholders, but because these bondholders were citizens. Or rather, these actions, taken unilaterally by the state, signified a rupture in the agreement between sovereign and citizen, not just between credit markets and states. Villèle's initial proposal, with its forced choice between conversion to a lower interest rate and reimbursement of capital, appeared to violate this principle; his second, ultimately successful one did not.

Public debts thus helped put concrete reality to the "contract" between state and citizen. Well-managed governments deployed public debts to spur investment in economic development and to foster social integration throughout the national territory states, while also respecting the

property rights citizens held in the *rente*; public debts were therefore both financial instruments and political claims on the legitimacy of representative, limited government. Michael Sonenscher has asked the question of how "democratic states are committed to their commitments."[217] Certainly, the response to this question involves matters of political institution design, party formation, and future access to credit.[218] But these states are also bound by their debt obligations because public debts are an index of citizenship, of what states and citizens owe each other, in a post-revolutionary regime

[217] Michael Sonenscher, *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution* (Princeton: Princeton University Press, 2007), 38n.
[218] On these issues in relation to early modern financial capitalism, see Introduction.

Conclusion

"*Qui dit crédit ne dit pas comptant*."[1] A pithy statement on the nature of the circulation of debt and credit at the Paris Stock Exchange, this aphorism strikes, unfortunately, a less mellifluous note in English: "He who says credit does not say spot market," referring to transactions that were completed immediately, as opposed to futures contracts. Collectively written by the *Compagnie des Agents de Change de Paris* as part of a tract submitted to the Minister of Finance Lacave-Laplagne in 1843 requesting further clarification on the legal status of speculative finance, this statement encapsulated what had repeatedly been demonstrated at the Paris Stock Exchange in the post-revolutionary decades. Credit could not be contained by the comparatively less risky spot market; the *marché à terme*, the futures contract in public debt, represented the essence of credit. Futures contracts, the stockbrokers argued, "retard a too-rapid rise or a dire fall [in public debt prices]; the history of the Exchange these past twenty-five years proves as much to any who wish to study it."[2] Futures contracts were thus an essential part of France's financial architecture, insofar as they attenuated the risks that went along with investing in the public debt. The very ability to gamble on the future was what both enabled financial

[1] Chambre syndicale, *Mémoire de la Chambre syndicale des Agents de Change de Paris, présenté à M. le Ministre secrétaire d'État des Finances, et tendant à obtenir un règlement sur la négociation des effets publics. Avec appendice contenant à l'appui du mémoire: 1. les documents généraux sur l'organisation de la compagnie des Agents de Change de Paris; 2. les documents et la jurisprudence qui concernent particulièrement les marchés à terme; 3. une correspondance officielle sur le courtage illicite (*Paris: J.-B. Gros, 1843), 61. This particular phrase seems to have had something of an afterlife, appearing, in slightly altered form, more twenty years later in a joint report from the Ministry of Finance and the Ministry of Agriculture, Commerce, and Public Works: "But he who says credit says futures contract [*opération à terme*] and not spot market. See Ministère de finance et Ministère de l'agriculture, du commerce, et des travaux publics, *Enquête sur les principes et les faits généraux qui régissent la circulation monétaire et fiduciaire* (Paris: Imprimerie Impériale, 1867), 102.
[2] Chambre syndicale, *Mémoire*, 61.

speculation and ensured, in this view, the robustness of credit. Or, as the stockbrokers put it, "At the Exchange, the spot market is the present, credit is the future."[3]

But this financialized future was at risk. Ever since the Perdonnet decision twenty years earlier, the stockbrokers observed, public credit had been laboring under worrying legal uncertainty. The juridical standard established by this decision, according to the stockbrokers, threatened to sunder what had until then appeared to be quite established financial-political consensus. Citing the "*exception du jeu*," malignly inclined speculators could insouciantly free themselves from debts incurred at the Exchange. Not, of course, that the futures contract in public debt had thereby been stamped out from the financial landscape; indeed, it could not be so, if credit were to survive. And credit had survived, and thrived, at the Exchange. As the Paris stockbrokers exclaimed,

> Well! During and after these twenty years, the operation of the Exchange has remained the same, because it cannot change! The transactions in public debt [*effets publics*] have not varied in either form or extent, because they cling to the very essence of the state's credit and to the most urgent needs of society! The toleration, or better said the practice of the government itself, in matters of borrowing, has not been altered, because it concerns the needs of the Treasury and the very execution of financial laws! The confidence of the great speculators, of the honest speculators, of bondholders and investors in public debt [*rentiers et capitalistes*] has not been disturbed, because this confidence could not accept that justice had the intention, when it would be better informed, of shackling negotiations recognized as useful to the credit of the state, acknowledged and practiced by the government, legitimated by many conciliar judgements and even by certain contradictory decisions by the royal courts, negotiations that are moral because they are real, and guaranteed by the ministry of a public officer.[4]

The stockbrokers here suggested that the strictures of the Perdonnet standard might conceivably be appropriate if they were to fall upon illegitimate forms forms of property. But, the

[3] Ibid., 61.
[4] Ibid., 78-79.

stockbrokers stressed, such was most emphatically not the case. Public debt futures, they claimed, served the needs of state and society. These speculative instruments were so crucial that the state had regularly continued to employ them in matters of public finance, despite the standing condemnation issued through the Cour de cassation in the Perdonnet decision. Indeed, the centrality of public debt futures to the robustness of finance at the Exchange was attested to by the fact that the class of speculators – the honest ones, at least – continued to trade in them, thus staving off a collapse in the price of the debt.

None of those claims would matter, of course, if public debt futures were not truly an acceptable form of property. Against this most serious charge, that futures contracts were nothing other than groundless gambles with no true footing in material reality, the stockbrokers maintained that public debt futures were indeed morally acceptable, because they were "real." And, as previous generations of stockbrokers had argued before previous generations of lawmakers, this reality, and the moral justification it provided, went to the conceptual core of the right of property. In the post-revolutionary world, property was meant to constitute a realm of freedom, in contradistinction with the – theoretically, at least – more unequal world of Old Regime privilege. This freedom meant that, just as arbitrary rule had (nominally) been abolished in the political realm, so too had arbitrary restrictions on property rights been abolished in the legal realm. Conceiving property solely in a landed idiom, the argument went, would be one such arbitrary restriction. Public debt futures may not therefore have been real property. But they really were property.

As I have argued in this dissertation, these stockbrokers in 1843 were calling upon a long discursive tradition regarding the meaning of the institutions of financial capitalism. Later

generations would follow suit. In the following case, the resilience of the French state throughout the turbulent nineteenth century was visually tracked through a graph of bond prices.

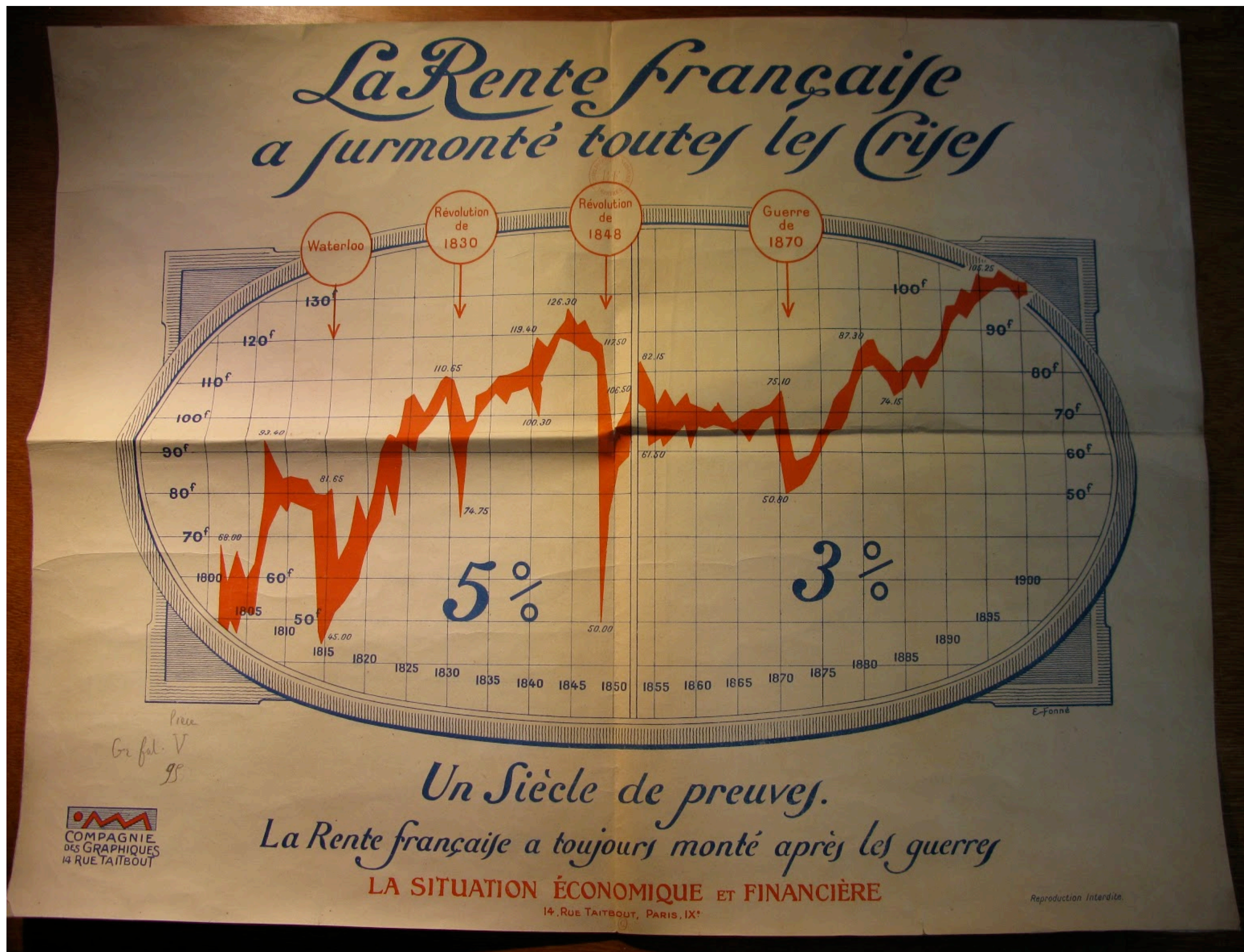

Fig. 1: "La Rente française a surmonté toutes les crises," Compagnie des Graphiques, 1905

"A century of proof," the creators of this graph proudly proclaimed. "The French *rente* has always risen after wars." Social crisis was continually, reliably followed by financial recovery. Or perhaps it was not so reliable. The above figure depicts both the five percent and the three percent *rentes*. Note, however, that the scale of the y-axis in fact changes in the middle, topping out at 130 francs on the left versus 100 francs on the right. The steady climb of prices after 1848

was therefore not nearly so steady as it was made to appear; thus was the rupture at midcentury visually smoothed over. This century of proof, it seems, stood in need of some judicious massaging. But regardless of whether bond prices really did claw their way back upwards so quickly after social upheaval, it was clearly of first importance that they be seen to do so. The rebound of French public debt signaled the return to normality after periods of intense crisis; given the pitched conceptual stakes, surely some graphical legerdemain is forgivable.

"The French *rente* has surmounted all crises." True, the crises to which the graph referred were military or otherwise conflict-driven in nature. However, as against previous intellectual formations supporting financial capitalism, public debt here existed not to fund warfare, but to survive it. To be a citizen of France meant supporting the continued existence of the public debt, since that debt was, as this graph suggested, coterminous with the continued existence of the nation. Frenchness – French citizenship – was thus encoded in financial terms. The *rente* was, in the fullest sense, French.

Portalis had considered property to be the "most sacred" right, the right that ensured the freedom of the political community. I have argued that property also enabled – conceptually and legally – the reconstruction of financial capitalism during the early nineteenth century, after it had been almost entirely wiped out. At the Paris Stock Exchange, crucial aspects of financial capitalism were justified by annexing them to the conceptual legitimacy that property afforded; public debts, futures contracts, exclusionary corporatism, financial speculation through what we would now call derivatives were all, in various fashion, defended by highlighting the dense linkages between these forms and property. Indeed, citizenship itself in the post-revolutionary regime had become financialized, insofar as socially divisive rifts in the pattern of property ownership were to be healed through public debts. Property therefore provided the conceptual

grounds for the sedimentation of a kind of financial capitalism into the moral and intellectual universe of post-revolutionary France. Not that this sedimentation was ever uncontroversial. Far from it. Indeed, it was vigorously contested, sometimes successfully. Such success would, however, prove short-lived. Through the concept of property, financial capitalism came to be quite deeply implanted in the discursive terrain of post-revolutionary France.

Financial capitalism had developed elsewhere and earlier. However, the historiography of European financial capitalism has, I have argued, either largely skipped over or dealt glancingly with the period studied by this dissertation. In so doing, this previous historiography has sketched an incomplete picture of just how this form of capitalism came to be so firmly rooted in European society. The demands of the fiscal-military state had bolstered the growth of financial institutions in the eighteenth century; but these institutions, renascent after almost total extinction during the Revolution, flourished through quite different theoretical justifications in the nineteenth century. This dissertation has attempted to trace out these other kinds of theoretical justifications.

This difference was connected to fundamental changes in the nature of the French economy. The intellectual grounds of nineteenth-century financial capitalism differed from prior formations because French capitalism as a whole had shifted. Over the course of the eighteenth century, the French economy increasingly came to be directed outwards, with foreign trade enjoying a preponderant role overall; an immense portion of this trade revolved around the colonial economy, most especially the Atlantic trade centered on St. Domingue. François Crouzet puts it thusly: "The eighteenth century can be truly called the Atlantic stage of European economic development. Foreign trade, and especially trade with the Americas, was the most dynamic sector of the whole economy (for instance, French colonial trade increased tenfold

between 1716 and 1787), and furthermore the demand from overseas markets was stimulating the growth of a wide range of industries as well as increased specialization and division of labor."[5] But France experienced an interrelated set of economic dislocations beginning in the 1790s and extending into the Napoleonic period: colonial uprisings threw the Atlantic trade into lasting turmoil, Napoléon's "Blockade" refocused commercial attention toward the continent, and the definitive establishment of British naval supremacy by the close of the Napoleonic wars immensely reduced the chances for violent conflict between the two powers. The result was a centripetal redirection of France's economy inwards: "So the Napoleonic wars made most European industries inward looking and geared first and foremost to national markets… This development had run its full course in France, where the Revolution had created a national market which was relatively quite large, so that manufacturers to whom war and postwar conditions had made access to foreign markets difficult were encouraged to limit their ambitions within their own borders."[6]

As scholars have noted, this inward turn greatly shaped the path of the French economy, helping create a pattern of industrialization strikingly divergent from that of England, but, arguably, quite competitive with it overall.[7] So too with financial capitalism. With foreign trade

[5] François Crouzet, "Wars, Blockade, and Economic Change in Europe, 1792-1815," *The Journal of Economic History*, vol. 24, no. 4 (1964), 568.
[6] Ibid., 587. Paul Cheney similarly speaks of an "involution" of the French economy: "Though intended to inflict pain up on the British, the primary consequence of the blockade was to revalorize, even if it did not reinvigorate, the agricultural sector and also to effect a massive involution of the French economy. In the space of a decade, France became more territorial and agrarian than it had been in over half a century…" See Paul Cheney, *Revolutionary Commerce: Globalization and the French Monarchy* (Cambridge: Harvard University Press, 2010).
[7] See for instance, Jeff Horn, *The Path Not Taken: French Industrialization in the Age of Revolution, 1750-1830* (Cambridge: The MIT Press, 2006). It should be noted that demographic factors also played a critical role in the nature of French capitalism, as France hit population slowdown much early than most anywhere else in Europe, consequently changing the nature of economic expansion. For an overview of the historiography of French economic performance, see the François Crouzet, "The Historiography of French Economic Growth in the Nineteenth Century," *The Economic History Review*, vol. 56, no. 2 (2003), 215-242.

no longer the engine driving the French economy, the conceptual power of the fiscal-military state had largely dissipated. With the economy focused inwards – frequently on agrarian or agricultural concerns – the discursive justification of financial capitalism switched to the concept of property.

The history of the Paris Stock Exchange in the nineteenth century attests to the power of this conceptual repositioning of financial capitalism. By the late Revolution, the Paris Stock Exchange was all but destroyed, with no fixed location, with investors bruised by immense state default, and with public debt hardly circulating. The concept of property helped re-anchor the Paris Stock Exchange and financial capitalism back in French soil. This process began in Paris, and this dissertation has therefore focused on Paris. But soon it spread to other corners of the country. In 1815, the provinces of France hardly maintained any significant stake in the public debt at all; fifteen years later, the provincial share of bondholders had increased to ten percent. By 1840, provincial portfolios accounted for nearly a third of public debt holdings overall.[8] Eventually, the financial capitalism generated at the Paris Stock Exchange reached more far-flung locales, particularly with regards to exporting capital to other nations in the form of foreign loans. As one historian of European finance has pointed out, between 1840 and 1870, Britain and France in fact sent similar amounts of capital abroad.[9] The form of financial capitalism represented by the Paris Stock Exchange therefore proved to be quite robust over the course of the nineteenth century. From a defeated debtor nation in 1815, France had transformed into a

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[8] Guy P. Palmade, *French Capitalism in the Nineteenth Century*, trans. Graeme M. Holmes (New York: Barnes & Noble, 1972), 89.

[9] Youssef Cassis, *Capitals of Capital: A History of International Financial Centres, 1780-2005*, trans. Jacqueline Collier (New York: Cambridge University Press, 2006), 63. Cassis notes that the destinations for this exported capital differed for the two nations, with England mostly sending it overseas, while France sent more than two-thirds to other parts of Europe. This difference appears consonant with the inward turn of the French economy articulated by Crouzet.

worldwide creditor nation, financing development at home and abroad through public debts. Jacques Laffitte would surely have been proud.

France in the nineteenth century witnessed a process of increasing financialization; our own times are now thoroughly financialized. Financial markets can precipitate global economic (and political) disasters, the news echoes with the steady drumbeat of sovereign debt crises current or incipient, and a National Debt Clock stands in New York showing a running counter of the United States public debt, with a helpfully ominous display of each family's share below. And yet financial capitalism continues its expansion – one recent estimate listed an astonishing $1.2 quadrillion invested in derivatives globally.[10] Many of these financial instruments are quite new; the theoretical justification for them, I have argued, is not. At the Paris Stock Exchange, public debts, financial speculation, exclusionary corporatism were vigorously defended as legitimate forms of post-revolutionary property. And the financial world continues to generate newer, more abstruse, more exotic forms of this property. At the beginning of the Napoleonic regime, Claude-Odile-Joseph Baroud had opined that people and things existed under the same domination. It appears he was right. The history of the Paris Stock Exchange presented in this dissertation has shown how financial capitalism became embedded in a moral and intellectual universe otherwise hostile to it, by armoring itself in the concept of property. In the post-revolutionary world, the two were, in the long run, inseparable. Perhaps, in the long run, they still are.

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[10] Sue Chang, "Here's all the money in the world, in one chart," *MarketWatch*, created 1/29/2016. http://www.marketwatch.com/story/this-is-how-much-money-exists-in-the-entire-world-in-one-chart-2015-12-18 (accessed 12/24/2016).

Bibliography

ARCHIVAL SOURCES

Archives Nationales (AN)

Series AFIV – Archives du pouvoir exécutif (1789-1815)

AFIV 1074. Mollien au Premier Consul. Undated.

AFIV 1086. Anonymous. *Considérations sur les avantages de l'éxistence d'une dette publique, et sur la nécessité d'un plan général et complet de bonne conduite en finance*. Paris: n.p., 1800.

AFIV 1086. Anonymous. "Lettre à l'auteur du mémoire intitulé: Considérations sur les avantages de l'éxistence d'une dette publique, et sur la nécessité d'un plan général et complet de bonne conduite en finance."

AFIV 1089B. Secrétairie d'État impériale et cabinet de Napoléon Ier.

Series F12 – Commerce et industrie

F12 973. "État des Agents de Change nommés par arrêté du Premier Consul, en date du premier thermidor an IX."

F12 973. Mollien au Chaptal. 17 thermidor an IX.

Archives de la Préfecture de Police (APP)

Series DA – Police Administrative

DA 31. Réglementation et vie quotidienne: commerces et industrie, mendicité, incendies, épidémies, expositions, voirie, prostitution, délinquance.

Centre des archives économiques et financières (CAEF)

Series B 0068562 – Affaires contentieuses

B 0068562/3. Anonymous. *Observations sur la profession des courtiers de commerce*. Paris: Dezauche, 1830.

B 0068562/3. Perdonnet, Vincent. "Historique rapide de mes rapports avec monsieur le Comte de Forbin-Janson, et des operations que j'ai fait pour son compte."

B 0068562/3. Secretary of the Company of Parisian Brokers. Handwritten notes on

Observations sur la profession des courtiers de commerce. Paris: Dezauche, 1830.

Series B 0068630 – Affaires contentieuses

B 0068630/1. Dupin, André-Marie-Jean-Jacques. *Mémoire à consulter et consultation, pour la Compagnie de mm. les Agens de Change de Paris, défendeurs; contre les syndics de la faillite de m. Sandrié-Vincourt, demandeurs*. Paris: Éverat, 1824.

B 0068630/1. "Extrait des registres contenant les procès-verbaux des déliberations de la Chambre Syndicale."

Series B 0069360/1 – Chambre syndicale des agents de change: procès-verbaux des séances (Entire series consulted; specific boxes cited below)

B 0069360/1. Session of 17 December 1807.

B 0069360/1. Session of 5 March 1808.

B 0069360/1. Session of 24 March 1808.

Series 1C 0037252 – Dossiers d'agents de change (Entire series consulted; specific box cited below)

1C 0037252/3. Dossier of Amédée Hyppolite Lechat.

PUBLISHED PRIMARY SOURCES

"24 sept 1724, Arrest du conseil d'estat portant establissment d'une bourse dans la ville de Paris, pour les négociations de lettres de change, billets au porteur et à ordre, et autres papiers commerçables, et des marchandises et effets; et pour y traiter des affaires de commerce, tant de l'intérieur que de l'extérieur du royaume." *Manuel des Agents de Change, banque, finance et commerce, contenant les lois, règlements et actes officiels qui régissent et intéressent l'exercice de leurs fonctions, spécialement en ce qui concerne l'institution de ces officiers publics, leurs attributions et obligations, la transmission et la négociation des effets publics et des valeurs mobilières, la dette publique, la Banque de France, la Caisse des dépots et consignations, les Caisses d'épargne, les sociétés, etc., 1304-1893*. Paris: Arthur Rousseau, 1893.

Aigoin, F.V. *Mémoire sur les finances, et sur les moyens de pourvoir aux besoins urgens de la République, présenté aux Commissions des finances des deux conseils, et au Directoire Exécutif, 23 fructidor, an 5 de la République*. Paris: Bureau central d'Abonnement à tous les Journaux, an V.

Anonymous. *Ce qu'il y a à faire*. Avignon: Bonnet fils, 1847.

---. *Chartes de 1830 et de 1814. La souveraineté du peuple étant aujourd'hui un principe de notre droit public, il importe à tous les citoyens de connaître la Charte; et la meilleure manière de la connaître, est de la comparer à celle dont elle dérive*. Paris: Sétier, 1831.

---. *De la Compagnie des Agents-de-Change, considérée dans ses rapports avec nos institutions constitutionnelles et le Commerce. Augmentation de 32,750,000 francs dans les recettes de l'État*. n.p., 1819.

---. *De la réduction de la rente, considérée comme principe de calamités morales dans l'état*. Paris: Ponthieu, 1824.

---. *De l'indemnité des émigrés, devant servir de base à des institutions d'intérêt général qui la feraient considérer comme un grand bienfait public*. Paris: Boucher, 1824.

---. *Du remboursement des rentes sous le point de vue légal, par un jurisconsulte*. Paris: Boucher, 1824.

---. *Le Grand Cri des Rentiers*. Paris: Claude fils, 1797.

---, ed. *Les cinq codes, édition entièrement conforme à l'édition de l'imprimerie royale; avec des notes qui relatent les diverses abrogations et modifications y apportées par les lois subséquentes, telles que celles qui abolissent le* divorce, *le* droit d'aubaine*, etc; précédée de la* Charte Constitutionelle *et du* Tableau des distances*; suivies des lois sur les* elections *des 5 février et 23 juin, et sur la circonscription des colléges électoraux; de la loi sur le recrutement de l'armée; des tarifs des frais et dépens et des tables des matières*. Paris: Corbet, 1825.

---, ed. *Loi sur les finances, du 28 avril 1816, conforme à l'édition de l'Imprimerie Royale, contenant les disposition réglementaires sur les budgets de 1814, 1815, et 1816; les contributions directes, ordinaires et extraordinaires; l'acquittements de l'arriéré; les droits d'enregistrement, du sceau, du timbre et des hypothèquesl les retenues sur les traitemens; la création et l'organisation d'une nouvelle Caisse d'amortissement et d'une Caisse de dépôts et consignations; les droits sur les boissons, les cartes, le tabac; les droits d'octroi; le nouveau tarif des douanes, etc*. 2nd ed. Paris: Guillaume, 1816.

---. *Nouvelles observations sur le défaut de noviciat, sur le mode actuel d'admission, et sur le nombre des agens de change de Paris*. Paris: Fain, 1820.

---. *Quelques preuves sur la nécessité d'admettre le projet de loi relatif à la conversion des rentes*. Paris: Cosson, 1824.

---. Review of *Paris dans le dix-neuvième siècle, ou réflexions d'un observateur sur les*

nouvelles institutions, les embellissemens, l'esprit public, la société, les ridicules, les femmes, les journaux, le théâtre, la littérature, etc., by Pierre Jouhaud. *The Critical Review*, ed. Tobias George Smollett 2/5 (1812), 472-483.

---. *Sur la réduction de la rente et le soi-disant remboursement de la dette publique, Chanson dediée à mm. les députés, par son excellence le ministre des Finances*. n.p., n.d.

---. *Sur le remboursement de la rente et sa réduction*. Paris: Porthmann, n.d.

---. "Union et Oubli." *La Minerve française*. Vol. 1. n.p, 1818.

Art. 90, *Code de commerce*. Paris: Imprimerie Impériale, 1807.

Art. 421-422, *Code penal*. Paris: Imprimerie Impériale, 1810.

Art. 544, *Code civil des Français: édition originale et seule officielle*. Paris: Imprimerie de la République, 1804.

B**, J.-B. *Le crédit public de la France restauré et raffermi par un meilleur mode de réaliser le prix des douze millions de rentes qui restent à négocier pour le Trésor*. Paris: Moreaux, 1819.

Battur, G.-B. *De la responsibilité solidaire de la Chambre syndicale des Agens de Change et de la Compagnie qu'elle représente, ou Mémoire pour mm. les Syndics provisoires de la faillite du Sieur Sandrié-Vincourt; contre la Compagnie des Agens de Change*. Paris: C.J. Trouvé, 1824.

Bedoch. Session of 17 October 1814. *Archives parlementaires de 1787 à 1860*. Vol. 13. Paris: Librairie Administrative de Paul Dupont, 1868.

Bergasse, Nicolas. *Essai sur la propriété, ou considérations morales et politiques sur la question de savoir s'il faut restituer aux émigrés les héritages dont ils ont été dépouillés; ouvrage ou il est parlé de quelques-unes des causes qui préparent la chute des états, et surtout des états monarchiques*. Paris: Égron, 1821.

Berryer fils, Coffinières, Berryer père, Bonnet père, and Hennequin, avocat plaidant. *Consultation pour M. le Comte de Forbin-Janson*. Paris: J. Didot, 1823.

Beyts, François Joseph. "Motion d'ordre sur les finances." *Corps législatif. Conseil des Cinq-Cents*, Séance du 14 fructidor an V.

Bulletin des arrêts de la Cour de cassation rendus en matière civile. Vol. 26. Paris: Imprimerie royale, 1825.

Cambon, Pierre-Jospeh. "Rapport sur la dette publique, sur les moyens à employer pour

l'enregistrer sur un grand livre et la consolider; pour admettre la dette consolidée en paiement des domaines nationaux qui sont en vente; pour retirer et annuler les anciens titres de créance; pour accélérer la liquidation; pour régler le mode annuel de paiement de la dette consolidée dans les chefs-lieux de district, et pour retirer des assignats de la circulation; fait à la séance du 15 août 1793, l'an II de la République une et indivisible, au nom de la commission des finances," in *Archives Parlementaire de 1787 à 1860. Recueil complet des débat législatifs et politiques des chambres françaises*. Vol. 72. Paris: Paul Dupont, 1907.

---. Session of 23 September 1792. *Archives Parlementaire de 1787 à 1860. Recueil complet des débat législatifs et politiques des chambres françaises*. Vol. 52. Paris: Paul Dupont, 1897.

Chambre syndicale. *Mémoire de la Chambre syndicale des Agents de Change de Paris, présenté à M. le Ministre secrétaire d'État des Finances, et tendant à obtenir un règlement sur la négociation des effets publics. Avec appendice contenant à l'appui du mémoire: 1. les documents généraux sur l'organisation de la compagnie des Agents de Change de Paris; 2. les documents et la jurisprudence qui concernent particulièrement les marchés à terme; 3. une correspondance officielle sur le courtage illicite*. Paris: J.-B. Gros, 1843.

Code civil des Français. Édition originale et seule officielle. Paris: Imprimerie de la République, 1804.

Code Napoléon. Édition originale et seule officielle. Paris: Imprimerie Impériale, 1807.

Coffinières, A.S.G. *De la Bourse, et des spéculations sur les effets publics. Ouvrage dans lequel les marchés à terme sont considérés d'après les lois, la morale, et le crédit public*. Paris: Belin-le-prieur, 1824.

Crétet, Emmanuel. "Rapport fait par Crétet, sur la résolution du 19 fructidor de l'an 5 relative aux finances de la République, au nom d'une commission composée des répresentans du peuple, Vernier, Dedelay-d'Agier, Lecouteulx, Canteleu, Regnier, Pilastre, Lebrun, Crétet." Conseil des Anciens, Séance du 8 vendémiaire an VI. Paris: Imprimerie Nationale, an VI.

d'Aigueperse, A.-J.-B. "Notice sur Boscary de Villeplaine." *Extrait des Mémoires de l'Académie de Lyon*. Lyon: Aimé Vingtrinier, 1859.

d'Astorg, Comte. Session of 25 October 1814. *Archives parlementaires de 1787 à 1860*. Vol. 13. Paris: Librairie Administrative de Paul Dupont, 1868.

Dard, H. *De la restitution des biens des émigrés, considérée sous le triple rapport du droit public, du droit civil, et de la politique; et de la révocation de la loi des 25 octobre et 14 novembre 1792, qui a aboli les substitutions*. Paris: Le Normant, 1814.

de Bellaing, Léopold. *Indemnité en faveur des émigrés*. Paris: C.J. Trouve, 1824.

de Chateaubriand, François-René, Vicomte. *Lettre à un pair de France*. Paris: Le Normant, 1824.

de Ferrand, Comte. Session of 13 September 1814. *Archives parlementaires de 1787 à 1860*. Vol. 12. Paris: Paul Dupont, 1868.

de Ferrière, Claude-Joseph. *Dictionnaire de droit et de pratique, contenant l'explication des termes de droit, d'ordonnances, de coutumes & de pratique*. *Nouvelle édition*. 2 vols. Paris: Brunet, 1769.

de Forbin-Janson, Charles-Théodore-Palamède-Antoine-Félix de Tertulis, comte. *Requête en prise à partie de M. le Cte de Forbin-Janson, contre la 1re et la 3e chambre de la Cour royale de Paris*. Paris: Lachevardière fils, 1824.

---, Odilon Barrot, J.-B. Sirey, and J.-M. Delagrange. *Mémoire à consulter et consultation pour M. le Comte de Forbin-Janson, contre l'arrêt des deux chambres réunies de la Cour royale de Paris, rendu le 9 aôut 1823*. Paris: J. Testu, 1823.

de Frayne, L. Ch. Bizet. *Précis des diverses manières de spéculer sur les fonds publics, en usage à la Bourse de Paris*. 3rd ed. Paris: Delaunay, 1818.

de la Gervaisais, Marquis. *De l'illégalité du remboursement, précédée d'une supplique à la Chambre*. Paris: A. Égron, 1824.

---. *De l'immoralité du remboursement*. Paris: A. Égron, 1824.

---. *Du bon droit et du bon sens en finances, ou du projet de remboursement des rentes*. Paris: A. Égron, 1824.

de la Gironde, François-Marie-Ernest Dumons. *De la liberté professionnelle et de l'abolition de la vénalité des offices et des priviléges. Mesure d'intérêt public, dont l'abolition procurerait au trésor des ressources considérables, sans emprunt, augmenterait les revenus de l'état, et permettrait de dimunuer les impôts; concernant les officiers ministériels, agréés, agents d'affaires, imprimeurs, pharmaciens, boulangers, bouchers, etc*. Paris: Worms, 1841.

---. *Réflexions sur la création et la transmission des offices et charges de notaires, avoués, Agens de Change, etc., présentées à la commission chargée par m. le Ministre de la justice d'examiner ces questions*. Paris: Vinchon, 1839.

de la Vega, Joseph Penso. *Confusion des Confusiones*. Translated by Hermann Kellenbenz. Boston: Kress Library of Business and Economics, 1957.

de Malartic, comte. *La question de la réduction de la dette publique traitée en chiffres*. Paris: Le Normant fils, 1824.

de Mondenard, Marquis. *Des finances de France, et du budget proposé pour 1816; avec un projet de loi pour un meilleur établissement financier*. Paris: Dentu, 1816.

Delorme, H.G. *Réponse à la lettre de m. le comte de Mosbourg, sur la réduction de la rente*. Paris: Boucher, 1824.

Dessain, Louis. *Projet pour la libération de la dette publique*. Paris: Ballard, 1815.

Dufey, P.J.S. *Les acquéreurs de domaines nationaux, au tribunal de l'opinion, ou observations sur la lettre de m. Falconnet au roi, relative à la vente des domaines nationaux*. Paris: Gillé, 1814.

Duprat. *Mémoire pour m. Perdonnet, agent de change à Paris, demandeur en cassation de l'arrêt de la Cour royale de Paris, du 9 août 1823, contre m. de Tertulis, Comte de Forbin-Janson,* défendeur. Paris: Éverat, 1823.

"Edit portant construction d'une Bourse à Toulouse, juillet 1549." *Manuel des Agents de Change, banque, finance et commerce, contenant les lois, règlements et actes officiels qui régissent et intéressent l'exercice de leurs fonctions, spécialement en ce qui concerne l'institution de ces officiers publics, leurs attributions et obligations, la transmission et la négociation des effets publics et des valeurs mobilières, la dette publique, la Banque de France, la Caisse des dépots et consignations, les Caisses d'épargne, les sociétés, etc., 1304-1893*. Paris: Arthur Rousseau, 1893.

Falconnet, A. *Lettre à sa majesté Louis XVIII, sur la vente des biens nationaux*. Paris: n.p., 1814.

F.A.P. *Lettre d'un Agent de Change à ses confrères*. Paris: Bailleul, 1818.

Feuchère. *Analise d'un projet de crédit public et de circulation*. Paris: L.-È. Herhan, 1816.

Feydeau, Ernest. *Mémoires d'un coulissier*. Paris: Librairie Nouvelle, 1873.

Fournel. *Code de Commerce, accompagné de notes et observations*. Paris: Dufresne, 1807.

Fournerat, Charles. *De la nécessité de mettre fin au privilège dont les notaires, avoués, huissiers, agens de change, et autres officiers ministériels, ont joui depuis 1816*. Paris: Félix Locquin, 1831.

G** (Pierre-Antoine Godard-Desmarest). *Réflexions sur le projet de remboursement de la dette publique*. Paris: Firmin Didot, 1824.

Ganilh. *De la réduction des rentes en 1824*. Paris: Bossange, 1824.

Giraud, Pierre-François-Félix-Joseph. *Des Bourbons et des puissances étrangères au 20 mars 1815*. Paris: Fain, 1815.

Grappe, Delacrois-Frainville, Lacalprade, Billecocq, Hennequin, Bourguignon, Berryer fils, and Battur, *Mémoire et consultation pour mm. les syndics provisoires de la faillite de Sandrié-Vincourt, Agent de Change à Paris; contre la Compagnie des Agens de Change de la même ville*. Paris: C.J. Trouvé, 1824.

Guichard, August-Charles. *4ème supplément au manuel de l'indemnité des émigrés, des déportés et condamnés*. Paris: Porthmann, 1825.

Jouhaud, Pierre. *Paris dans le dix-neuvième siècle, ou réflexions d'un observateur sur les nouvelles institutions, les embellissemens, l'esprit public, la société, les ridicules, les femmes, les journaux, le théâtre, la littérature, etc*. Paris: J.G. Dentu, 1809.

Journal des débats politiques et littéraires, Jul. 20, 1823.

Journal des débats politiques et littéraires, Aug. 10 1823.

"La Rente française a surmonté toutes les crises." Compagnie des Graphiques, 1905.

Laffitte, Jacques. *Réflexions sur la réduction de la rente, et sur l'état du crédit*. Paris: Firmin Didot, 1824.

---, Mallet frères, Périer frères, Rougemont de Lowemberg, Pillet-Will, Guérin de Foncin, L. Durand, J. Lefebvre, Gontard, Thuret, de Chapeaurouge, César Delapanouze, J.-P. Chevals, Ardoin Hubbard, Opperman Mandrot, R. Vassal, Jonas Hagermann, André Cottier, A. Odier, J.-A. Blanc-Colin, J.-G. Caccia, G. Odier et compagnie, J. Labat et compagnie, P.-F. Paravey et compagnie. *Parère sur les marchés à terme d'effets publics faits à la Bourse de Paris par le ministère des Agents de Change*, quoted in Chambre syndicale, *Mémoire de la Chambre syndicale des Agents de Change de Paris présenté à m. le Ministre secrétaire d'État des finances, et tendant à obtenir un règlement sur la négotiation des effets publics*. Paris: J.-B. Gros, 1843.

Le Caron, P.L. *Code des émigrés, ou recueil des dispositions législatives, concernant les impositions, le séquestre, la confiscation, la régie et la vente des biens des anciens propriétaires appelés à recueillir l'indemnité, de 1789 à 1825*. Paris: Guyot, 1825.

Le Constitutionnel, journal du commerce, politique, et littéraire, Aug. 12 1824.

Le Moniteur universel, Dec. 7, 1814.

Le moniteur universel, Dec. 18, 1814.

Le Moniteur universel, Apr. 29, 1821.

Le Moniteur universel, Mar. 24, 1824.

Le Moniteur universel, Feb. 18, 1825.

Le Moniteur universel, Feb. 20, 1825.

Le Moniteur universel, Feb. 24, 1825.

Le Moniteur universel, Mar. 19, 1825.

Le Moniteur universel, Jan. 31, 1833.

Lemercier, Pierre-Paul. *Comparaison des bases de la loi de finances du 18 avril 1816, avec quelques principes applicables au budget de 1817*. Paris: Patris, 1816.

Lesur, C.-L. *Annuaire historique universal pour 1823, avec un* Appendice*, contenant les actes publics, traités, notes diplomatiques, papiers d'États et tableaux statisques, financiers, administratifs et nécrologiques; — une Chronique offrant les événemens les plus piquans, les causes les plus célèbres, etc; et une revue des productions les plus remarquables de l'année, dans les sciences, dans les lettres et dans les arts*. Paris: A. Dezplaces et Cie, 1824.

"Loi n° 85 du 28 mars 1885." Legifrance.gouv.fr. https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006073428&dateTexte=19880131 (accessed July 8, 2016).

Loyseau, Charles. *Traicté de la garantie des rentes*. 4th ed. Paris: Abel L'Angelier, 1610.

Masson, Victor-Alexandre. *Le milliard perdu et retrouvé, ou simple analyse de la conversion de 140 millions de rentes 5 p. % en 112 millions de rentes 3 p. %*. Paris: Pelicier, 1824.

---. Session of 17 April 1824. *Archives parlementaires de 1787 à 1860*. Vol. 40. Paris: Paul Dupont, 1868.

Ministère de finance et Ministère de l'agriculture, du commerce, et des travaux publics. *Enquête sur les principes et les faits généraux qui régissent la circulation monétaire et fiduciaire*. Paris: Imprimerie Impériale, 1867.

Mollot, François Étienne. *Bourses de Commerce, Agens de Change, et Courtiers; ou législation, principes et jurisprudence qui les organisent, qui les régissent, en France ou dans les colonies, et peuvent être applicables à d'autres officiers publics, tels que receveurs-généraux, notaires, commissaires-priseurs, etc*. Paris: Delaunay, 1831.

---. *Bourses de commerce, Agens de Change, et courtiers; ou législation, principes et jurisprudence qui les organisent, et qui les régissent, ouvrage qui peut être applicable à d'autres officiers publics, tels que receveurs-généraux, notaires, commisseurs-priseurs, etc*. Bruxelles: H. Tarlier, 1834.

Pardessus, J.-M. *Cours de droit commercial*. 4 vols. Paris: L. Jacob, 1815.

Perdonnet, Vincent. *Lettre de m. Perdonnet père, à la municipalité de Vevey*. Vevey: Loertscher et fils, 1839.

---. *Plaidoyer de M. Perdonnet, agent de change; contre M. le Cte de Forbin-Janson*. Paris: Bailleul, 1823.

---. *Plaidoyer de m. Perdonnet, Agent de Change à Paris, Demandeur en Cassation de l'arrêt de la Cour royale de Paris, du 9 août 1823; contre m. de Tertulis, comte de Forbin-Janson, Défendeur*. Paris: David, 1824.

Peuchet, Jacques. *Manuel du Banquier, de l'Agent de Change et du Courtier, contenant les lois et réglemens qui s'y rapportent, les diverses opérations de change, courtage et négociations des effets à la Bourse*. Paris: Cosson, 1829.

Portalis, Jean-Étienne-Marie. *De l'usage et de l'abus de l'esprit philosophique durant le dix-huitième siècle*. Vol. 2. Paris: A. Égron, 1820.

---. "Exposé des motifs du projet du loi sur la propriété, Titre II, Livre II du Code civil, présenté le 26 nivôse an XII," in *Discours, rapports et travaux inédits sur le Code civil*, edited by Frédéric Portalis. Paris: Joubert, 1844.

Saint-Paul. *Réflexions sur le projet de loi relatif au remboursement forcé des rentes sur l'état*. Paris: C.J. Trouvé, 1824.

Saunier, Annette. *À son excellence le ministre secrétaire d'état des finances*. Paris: Boucher, 1824.

Sédillot, Louis-Pierre-Eugène-Amélie. *Manuel de la Bourse*. 3rd ed. Paris: Decourchant, 1829.

Séguin, Armand. *Balance entre l'avantage pécuniaire de la réduction des rentes et le désavantage pécuniaire de l'augmentation de leur capital nominal*. Paris: 1825.

---. *Des conséquences du projet de réduction, relativement à de nouvelles négociations de rentes*. Paris: Guiraudet, 1824.

---. *Des indemnités et de la réduction des rentes, cinq pour cent. Moyen de parer aux principaux inconvéniens des projets ministériels, en conservant les avantages qu'on peut obtenir de ces projets*. Paris: A. Henry, 1825.

---. *Du projet de remboursement ou de réduction des rentes*. 6th ed. Paris: Guiraudet et Gallay, 1824.

---. *Memento et barême de la perspective de notre avenir financier en cas de naufrage au port*. Paris: A. Henry, 1825.

---. *Moyens d'acquitter intégralement le milliard des indemnités, et d'atteindre le but politique auquel elles se rattachent, en parant aux principaux inconvéniens des projets ministériels sur l'indemnité et sur la dette publique*. Paris: Chaignieau jeune, 1825.

---. *Observations sur les considérations présentées à la Chambre des Pairs par m. le marquis de la Place, relativement au projet d'une réduction de la rente 5 p. 100, avec un acroissement du capital*. Paris: C.J. Trouvé, n.d.

---. *Observations sur les discussions relativesaux indemnités et aux acquisitions de domaines nationaux*. Paris: A. Henry, 1825.

---. *Régulateur des rentiers, ou Guide et résultat des combinaisons et des spéculations rentières qu'engendrera la loi sur la dette publique et l'amortissement*. 2nd ed. Paris: C.J. Trouvé, 1825.

---. *Résultats inévitables de l'adoption du projet sur la réduction des rentes*. Paris: J. Testu, 1825.

---. *Un mot sur l'importante question de l'augmentation du capital nominal, en compensation de la diminution du revenu; et redressement des balances du compte présentée à la Chambre des Pairs, par m. le ministre des Finances*. Paris: Guiraudet, 1824.

Troplong, Raymond-Théodore. *Commentaire du prêt, du dépot, du séquestre et des contrats aléatoires*. Bruxelles: Meline, Cans et Cie, 1845.

Vandermarcq, Agapit. *Du crédit public et du remboursement de la rente cinq pour cent*. Paris: Adolphe Éverat, 1836.

Villèle. Session of 5 April 1824. *Archives parlementaires de 1787 à 1860*. Vol. 39. Paris: Paul Dupont, 1868.

SECONDARY SOURCES

"André-Marie-Jean-Jacques Dupin." *A Dictionary of General Biography*, edited by William L.R. Cates. London: Longmans, Green, and Co., 1867.

Adelson, Judah. "The Early Evolution of Business Organization in France." *The Business*

History Review 31/2 (1957): 226-245.

Aftalion, Florin. *The French Revolution: An Economic Interpretation*. Translated by Martin Thom. New York: Cambridge University Press.

Alexander, R.S. "Restoration Republicanism Reconsidered." *French History* 8/4 (1994): 61-95.

Amselle, Jean-Loup. *Affirmative Exclusion: Cultural Pluralism and the Rule of Custom in France*. Translated by Jane Marie Todd. Ithaca: Cornell University Press, 2003.

Anonymous, "Notice sur la vie de l'auteur," in *De l'usage et de l'abus de l'esprit philosophique durant le dix-huitième siècle*, Jean-Étienne-Marie Portalis. 2nd ed. Paris: Moutardier, 1827.

Appadurai, Arjun. *Banking on Words: The Failure of Language in the Age of Derivative Finance*. Chicago: University of Chicago Press, 2016.

Arbulu, Pedro. *La Bourse de Paris au XIXe siècle: efficience et performance d'un marché financier emergent*. Paris: Connaissances et Savoirs, 2007.

Arrighi, Giovanni. *The Long Twentieth Century: Money, Power, and the Origins of Our Times*. 2nd ed. New York: Verso, 2010.

Ascher, Ivan. *Portfolio Society: On the Capitalist Mode of Prediction*. New York: Zone Books, 2016.

Atack, Jeremy and Larry Neal, eds. *The Origins and Development of Financial Markets and Institutions: From the Seventeenth Century to the Present*. New York: Cambridge University Press, 2009.

Bailey, Amanda. *Of Bondage: Debt, Property, and Personhood in Early Modern England*. Philadelphia: University of Philadelphia Press, 2013.

Banner, Stuart. *Anglo-American Securities Regulation: Cultural and Political Roots, 1690-1860*. New York: Cambridge University Press, 1998.

Béaur, Gérard. "Révolution et redistribution des richesses dans les campagnes: mythe ou réalité?" *Annales historiques de la Révolution française* 352 (2008): 208-239.

Bell, David A. *Lawyers and Citizens: The Making of a Political Elite in Old Regime France*. New York: Oxford University Press, 1994.

Bergasse, Louis. *Un défenseur des principes traditionnels sous la Révolution. Nicolas Bergasse, avocat au Parlement de Paris, député du Tiers État de la sénéchaussee de Lyon aux États-Généraux (1750-1832)*. Paris: Perrin, 1910.

Bergeron, Louis. *France Under Napoleon*. Translated by R.R. Palmer. Princeton: Princeton University Press, 1981.

Blaufarb, Rafe. *The Great Demarcation: The French Revolution and the Invention of Modern Property*. New York: Oxford University Press, 2016.

Bodinier, Bernard. "La vente des biens nationaux: essai de synthèse." *Annales historiques de la Révolution française* 315 (1999): 7-19.

--- and Éric Teyssier. *<<L'événement le plus important de la Révolution>>: La vente des biens nationaux (1789-1867) en France et dans les territoires annexés*. Paris: Éditions du Comité des travaux historiques et scientifiques, 2000.

Bois, Paul. *Paysans de l'Ouest; des structures économiques et sociales aux options politiques depuis l'époque révolutionnaire dans la Sarthe*. Le Mans: Vilaire, 1960.

Bordo, Michael D. and Eugene N. White. "A Tale of Two Currencies: British and French Finance during the Napoleonic Wars." *The Journal of Economic History* 51/2 (1991): 303-316.

Bosher, J.F. *French Finances, 1770-195: From Business to Bureaucracy*. New York: Cambridge University Press, 1970.

Bossenga, Gail. "Financial Origins of the French Revolution," in *From Deficit to Deluge: The Origins of the French Revolution*, edited by Thomas E. Kaiser and Dale K. Van Kley, 37-66. Stanford: Stanford University Press, 2011.

---. *The Politics of Privilege: Old Regime and Revolution in Lille*. New York: Cambridge University Press, 1991.

Bouchary, Jean. *Les Boscary: une famille d'Agents de Change sous l'Ancien Régime, la Révolution, le Consulat, l'Empire et la Restauration*. Paris: G. Thomas, 1942.

Bouchary, Jean. *Les manieurs d'argent à Paris à la fin du XVIIIe siècle*. 3 vols. Paris: Rivière et Cie, 1943.

Bouillet, M.-N. and A. Chassang. *Dictionnaire universel d'histoire et de géographie*. 26th ed. Paris: Hachette et Cie, 1878.

Bouloiseau, Marc. *Étude de l'émigration et de la vente des biens des émigrés (1792-1830)*. Paris: Imprimerie Nationale, 1963.

Bourloton, Edgar, Gaston Cougny, and Adolphe Robert. *Dictionnaire des parlementaires français, comprenant tous les membres des Assemblées françaises et tous les Ministres françaises depuis le 1er mai 1789 jusqu'au 1er mai 1889, avec leurs noms, états civils,*

états de services, actes politiques, votes parlementaires, etc. Vol. 3. Paris: Bourloton, 1891.

Braudel, Fernand. *Civilization and Capitalism, 15th – 18th Century*. Translated by Siân Reynolds. 3 vols. New York: Harper & Row, 1982-84.

Brewer, John. *The Sinews of Power: War, Money and the English State, 1688-1783*. New York: Alfred A. Knopf, 1989.

--- and Susan Staves, eds. *Early Modern Conceptions of Property*. New York: Routledge, 1995.

Brubaker, Rogers. *Citizenship and Nationhood in France and Germany*. Cambridge: Harvard University Press, 1992.

Bruguière, Michel. "Le Tribun Ganilh et la liquidation de la dette publique par le Consulat," in *Pour une renaissance de l'histoire financière, XVIIe-XXe siècles*. Paris: Comité pour l'histoire économique et financière de la France, 1991.

Bruguière, Michel. "Les techniques d'intervention de la Caisse d'amortissement dans le cours de la rente, 1816-1824." *Revue historique* 258 (1977): 93-104

Calmon, Marc Antoine. *Histoire parlementaire des finances de la Restauration*. 2 vols. Paris: J. Claye, 1868-1870.

Carpentier, A. and G. Frèrejouan du Saint, *Répertoire général alphabétique du droit français, contenant sur toutes les matières de la science et de la pratique juridiques, l'exposé de la législation, l'analyse critique de la doctrine et les solutions de la jurisprudence, et augmenté sous les mots les plus importants de notions étendues de droit étranger comparé et de droit international privé*. 35 vols. Paris: Librairie du recueil général des lois et des arrêts et du Journal du Palais, 1886-1924.

Caron, François. *Histoire économique de la France, XIXe-XXe siècles*. Paris: Colin, 1981.

Carruthers, Bruce G. *City of Capital: Politics and Markets in the English Financial Revolution*. Princeton: Princeton University Press, 1999.

Caselli, Fausto Piola, ed. *Government Debts and Financial Markets in Europe*. London: Pickering & Chatto, 2008.

Cassis, Youssef. *Capitals of Capital: A History of International Financial Centres, 1780-2005*. Translated by Jacquline Collier. New York: Cambridge University Press, 2006.

Cauwès, Paul. "Les commencements du crédit public en France: les rentes sur l'Hôtel de ville au XVIe siècle." *Revue d'économie politique* IX-X (1895-96).

Chang, Sue. "Here's all the money in the world, in one chart." Marketwatch.com. http://www.marketwatch.com/story/this-is-how-much-money-exists-in-the-entire-world-in-one-chart-2015-12-18 (accessed December 24, 2016).

Cheney, Paul. *Revolutionary Commerce: Globalization and the French Monarchy*. Cambridge: Harvard University Press, 2010.

Cohen, Margaret. "Panoramic Literature and the Invention of Everyday Genres." In *Cinema and the Invention of Modern Life*, edited by Leo Charney and Vanessa R. Schwartz, 227-252. Berkeley: University of California Press, 1995.

Colling, Alfred. *La prodigieuse histoire de la Bourse*. Paris: Éditions économiques et financières, 1949.

Collingham, H.A.C. and R.S. Alexander. *The July Monarchy: A Political History of France, 1830-1848*. New York: Longman, 1988.

Corbin, Alain. *The Village of Cannibals: Rage and Murder in France, 1870*. Translated by Arthur Goldhammer. Cambridge: Harvard University Press, 1992.

Crouzet, François. *La grande inflation: la monnaie en France de Louis XVI à Napoléon*. Paris: Fayard, 1993.

---. "The Historiography of French Economic Growth in the Nineteenth Century." *The Economic History Review* 56/2 (2003): 215-242.

---. "Wars, Blockade, and Economic Change in Europe, 1792-1815." *The Journal of Economic History* 24/4 (1964): 567-588.

Crowston, Clare Haru. *Credit, Fashion, Sex: Economies of Regard in Old Regime France*. Durham: Duke University Press, 2013.

Dalloz, D. and A. Dalloz. *Répertoire méthodique et alphabétique de législation, de doctrine, et de jurisprudence en matière de droit civile, commercial, criminel, administratif, de droit des gens et de droit public*. 44 vols. Paris: Bureau de la jurisprudence générale, 1845-1873.

Darnton, Robert. *George Washington's False Teeth: An Unconventional Guide to the Eighteenth Century*. New York: W.W. Norton, 2003.

---. *Mesmerism and the End of the Enlightenment in France*. Cambridge: Harvard University Press, 1995.

d'Audiffret, Charles-Louis-Gaston, marquis. *Souvenirs sur l'administration financière de M. le comte de Villèle*. Paris: Plon, 1855.

Davis, Ann. “Endogenous Institutions and the Politics of Property: Comparing and Contrasting Douglass North and Karl Polanyi in the Case of Finance.” *Journal of Economic Issues* 42/4 (2008): 1101-1122.

Davis, Lance and Larry Neal. “Micro Rules and Macro Outcomes: The Impact of Micro Structure on the Efficiency of Security Exchanges, London, New York, and Paris, 1800-1914.” *The American Economic Review* 88/2 (1998): 40-45.

de Dijn, Annelien. “Aristocratic Liberalism in Post-Revolutionary France.” *The Historical Journal* 48/3 (2005): 661-681.

Démier, Francis. *La France de la Restauration (1814-1830): l’impossible retour du passé*. Paris: Gallimard, 2012.

---. “L’impossible retour au régime des corporations dans la France de la Restauration, 1814-1830,” in *Naissance des libertés économiques. Liberté du travail et liberté d’entreprendre: le décret d’Allarde et la loi Le Chapelier, leurs conséquences, 1791-fin XIXe siècle*, edited by Alain Plessis. Paris: Institut de l’histoire de l’industrie, 1993.

Demole, Jean-François. *Théorie de la formation du droit, et son application à la copropriété des immeubles. Dissertation pour obtenir le grade de Docteur en Droit*. Genève: Bonnant, 1841.

Demolombe, Charles. *Cours de Code civil*. 31 vols. Bruxelles: Stienon, 1854.

Desan, Suzanne. *The Family on Trial in Revolutionary France*. Berkeley: University of California Press, 2004.

de la Grasserie, Raoul. *Des offices: de l’abolition de leur vénalité, et de leur rachat, de la suppression des frais de justice, voies et moyens financier pour y parvenir sans charge pour le Trésor public*. Rennes: Baraise, 1887.

de Sauvigny, Guillaume de Bertier. *The Bourbon Restoration*. Translated by Lynn M. Case. Philadelphia: University of Pennsylvania Press, 1966.

de Vries, Jan and Ad van der Woude. *The First Modern Economy: Success, Failure, and Perseverance of the Dutch Economy, 1500-1815*. New York: Cambridge University Press, 1997.

de Waresquiel, Emmanuel and Benoît Yvert. *Histoire de la Restauration: naissance de la France moderne*. Paris: Perrin, 1996.

Dickson, P.G.M. *The Financial Revolution in England: A Study in the Development of Public Credit, 1688-1756*. New York: St. Martin’s Press, 1967.

Doyle, William. *Venality: The Sale of Offices in Eighteenth-Century France*. New York: Clarendon Press, 1996.

Duclos, Auguste. *Mémoire au Garde des Sceaux sur la suppression de la vénalité des offices*. Chatelleraut: A. Rivière, 1859.

Dupont-Ferrier, Pierre. *Le marché financier de Paris sous le Second Empire*. Paris: Presses universitaires de France, 1925.

Eymard, Jean. *La politique financière sous la Restauration (1815-1830)*. Paris: Presses Universitaires de France, 1924.

Félix, Joël and Frank Tallet. "The French Experience, 1661-1815," in *The Fiscal-Military State in Eighteenth-Century Europe: Essays in Honor of P.G.M. Dickson*, edited by Christopher Storrs. Burlington: Ashgate, 2009.

Ferguson, Priscilla Parkhurst. *Paris as Revolution: Writing the Nineteenth-Century City*. Berkeley: University of California Press, 1994.

Finn, Margot C. *The Character of Credit: Personal Debt in English Culture, 1770-1914*. New York: Cambridge University Press, 2003.

Fitzsimmons, Michael P. *From Artisan to Worker: Guilds, the French State, and the Organization of Labor, 1776-1821*. New York: Cambridge University Press, 2010.

---. *The Parisian Order of Barristers and the French Revolution*. Cambridge: Harvard University Press, 1987.

Forster, Robert. "The French Revolution and the 'New' Elite, 1800-1850," in *The American and European Revolutions, 1776-1848: Sociopolitical and Ideological Aspects*, edited by Jaroslaw Pelenski. Iowa City: University of Iowa Press, 1980.

Forsyth, Douglas J. and Daniel Verdier, eds. *The Origins of National Financial Systems: Alexander Gerschenkron Reconsidered*. New York: Routledge, 2003.

Fourcassié, Jean. *Villèle*. Paris: Arthème Fayard, 1954.

Franke, Almut. "*Le milliard des émigrés*: The Impact of the Indemnity Bill of 1825 on French Society," in *The French* Émigrés *in Europe and the Struggle against Revolution, 1789-1814*, edited by Kristy Carpenter and Philip Mansel, 124-137. New York: St. Martin's Press, 1999.

Freedeman, Charles E. *Joint-Stock Enterprise in France, 1807-1867: From Privileged Company to Modern Corporation*. Chapel Hill: University of North Carolina Press, 1979.

---. *The Triumph of Corporate Capitalism in France, 1867-1914*. Rochester: University of Rochester Press, 1993.

Gain, André. *La Restauration et les biens des émigrés. La législation concernant les biens nationaux de seconde origine et son application dans l'Est de la France (1814-1832)*. 2 vols. Nancy: Société d'impressions typographiques, 1929.

---. "La restauration et les biens des *émigrés*." *Revue d'histoire moderne* 4/24 (1929): 431-434.

Ghachem, Malick W. "At the Origins of Public Credit: A Story of Stock-Jobbing and Financial Crisis in Prerevolutionary France." *'The Financial Crisis of 2008: French and American Responses,' Proceedings of the 2010 Franco-American Legal Seminar* (2011): 171-82.

Gilardeau. *De la vénalité des offices*. Paris: Comon, 1848.

Gille, Bertrand. *La banque et le credit en France de 1815 à 1848*. Paris: Presses Universitaires de France, 1959.

Girard, Louis. *Les libéraux français, 1814-1875*. Paris: Aubier, 1985.

Godechot, Olivier. *Les traders. Essai de sociologie des marchés financiers*. Paris: Découverte, 2001.

Goldstein, Jan E. *Console and Classify: The French Psychiatric Profession in the Nineteenth Century*. Chicago: University of Chicago Press, 1987.

Gontard, Maurice. *La Bourse de Paris (1800-1830)*. Aix-en-Provence: Édisud, 2000.

Gorges, J.-M. *La dette publique: histoire de la rente française*. Paris: Guillaumin et Cie, 1884.

Greer, Donald. *The Incidence of the Emigration During the French Revolution*. Cambridge: Harvard University Press, 1951.

Grossman, Herschel I. and John B. Van Huyck. "Sovereign Debt as a Contingent Claim: Excusable Default, Repudiation, and Reputation." *The American Economic Review* 78/5 (1988): 1088-1097.

Hamilton, Earl J. "Origin and Growth of the National Debt in Western Europe." *The American Economic Review* 37/2 (1947): 118-130.

Hansen, Valerie and Ana Mata-Fink. "How Business was Conducted on the Chinese Silk Road during the Tang Dynasty, 618-907," in *The Origins of Value: The Financial Innovations that Created Modern Capital Markets*, edited by William N. Goetzmann and K. Geert Rouwenhorst, 43-64. New York: Oxford University Press, 2005.

Hart, Marjolein 't, Joost Jonker, and Jan Luiten van Zanden, eds. *A Financial History of the Netherlands*. New York: Cambridge University Press, 1997.

Harvey, David. *Paris, Capital of Modernity*. New York: Routledge, 2006.

Hau, Michel. "Entrepreneurship in France," in *The Invention of Enterprise: Entrepreneurship from Ancient Mesopotamia to Modern Times*, edited by David S. Landes, Joel Mokyr, and William J. Baumol. Princeton: Princeton University Press, 2010.

Hautcoeur, Pierre-Cyrille and Angelo Riva. "The Paris Financial Market in the Nineteenth Century: Complementarities and Competition in Microstructures." *Economic History Review* 65/4 (2012): 1326-1353.

Haynes, Christine. *Lost Illusions: The Politics of Publishing in Nineteenth-Century France*. Cambridge: Harvard University Press, 2010.

Hesse, Carla. *Publishing and Cultural Politics in Revolutionary Paris*. Berkeley: University of California Press, 1991.

Heuer, Jennifer Ngaire. *The Family and the Nation: Gender and Citizenship in Revolutionary France, 1789-1830*. Ithaca: Cornell University, 2005.

Hirsch, Jean-Pierre. *Les deux rêves de commerce: entreprise et institution dans la région lilloise (1780-1860)*. Paris: Éditions de l'École des Hautes Études en Sciences Sociales, 1991.

---. "Revolutionary France, Cradle of Free Enterprise." *The American Historical Review* 94/5 (1989): 1281-1289.

Hissung-Convert, Nelly. *La spéculation boursière face au droit, 1799-1914*. Paris: L.G.D.J., 2009.

Hoffman, Philip T. and Jean-Laurent Rosenthal. "New Work in French Economic History." *French Historical Studies* 23/3 (2000).

Hoffman, Philip T., Gilles Postel-Vinay, and Jean-Laurent Rosenthal. *Priceless Markets: The Political Economy of Credit in Paris, 1660-1870*. Chicago: University of Chicago Press, 2000.

Hont, Istvan. *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective*. Cambridge: Belknap Press, 2005.

Horn, Jeff. *The Path Not Taken: French Industrialization in the Age of Revolution, 1750-1830*. Cambridge: The MIT Press, 2006.

Jones, P.M. *The Peasantry in the French Revolution*. New York: Cambridge University Press, 1988.

Journal du Palais. Récueil le plus ancient et le plus complet de la jurisprudence Française, edited by Ledru-Rollin. 3rd ed. Paris: F-F Patris, 1838.

Joubert, Alfred. *Les finances de la France. La rente et l'impôt, leur origine — leur histoire*. Paris: Chaix, 1893.

Kaiser, Thomas E. "Money, Despotism, and Public Opinion in Early Eighteenth-Century France: John Law and the Debate on Royal Credit." *The Journal of Modern History* 63 (1991): 1-28.

Kaplan, Steven L. *La fin des corporations*. Paris: Fayard, 2001.

Kaplan, Steven L. and Philippe Minard, eds. *La France, malade du corporatisme? XVIIIe – XXe siècles*. Paris: Belin, 2004.

Kessler, Amalia D. *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France*. New Haven: Yale University Press, 2007.

Kindleberger, Charles P. *A Financial History of Western Europe*. 2nd ed. New York: Oxford University Press, 1993.

Kott, Sébastien. "Restaurer la monarchie et restaurer les finances en France, 1815-1830: le financement de l'expédition d'Espagne," in *Les financiers et la construction de l'État: France, Espagne (XVIIe-XIXe siècles)*, edited by Anne Dubet and Jean-Philippe Luis, 217-235. Rennes: Presses Universitaires de Rennes, 2011.

Kroen, Sheryl T. *Politics and Theater: The Crisis of Legitimacy in Restoration France, 1815-1830*. Berkeley: University of California Press, 2000.

---. "Revolutionizing Religious Politics during the Restoration." *French Historical Studies* 21/1 (1998): 27-53.

Lagneau-Ymonet, Paul and Angelo Riva. *Histoire de la Bourse*. Paris: Découverte, 2012.

---. "Les opérations à terme à la Bourse de Paris au XIXe siècle," in *Le capitalism au future antérieur: crédit et spéculation en France, fin XVIIIe – début XXe siècles*, edited by Nadine Levratto and Alessandro Stanziani, 107-142. Bruxelles: Bruylant, 2011.

Landes, David S. "French Entrepreneurship and Industrial Growth in the Nineteenth Century." *The Journal of Economic History* 9 (1949): 45-61.

---. *The Unbound Prometheus: Technological Changes and Industrial Development in Western*

Europe from 1750 to Present. New York: Cambridge University Press, 1969.

Lecarpentier, Georges. *La propriété foncière du clergé sous l'ancien régime et la vente des biens ecclésiastiques pendant la Révolution*. 4th ed. Paris: Bloud, 1902.

---. *La vente des biens ecclésiastiques pendant la Révolution française*. Paris: Alcan, 1908.

Lee, Benjamin and Edward LiPuma. *Financial Derivatives and the Globalization of Risk*. Durham: Duke University Press, 2004.

Leet, Don R. and John A. Shaw. "French Economic Stagnation, 1700-1960: Old Economic History Revisited." *The Journal of Interdisciplinary History* 8/3 (1978): 531-544.

Leff, Lisa Moses. *Sacred Bonds of Solidarity: The Rise of Jewish Internationalism in Nineteenth-Century France*. Stanford: Stanford University Press, 2006.

Lehmann, Paul-Jacques. *Histoire de la Bourse de Paris*. Paris: Presses Universitaires de France, 1997.

Levy, Jonathan Ira. "Contemplating Delivery: Futures Trading and the Problem of Commodity Exchange in the United States, 1875-1905." *The American Historical Review* 111/2 (2006): 307-335.

Lévy-Leboyer, Maurice and François Bourguignon. *The French Economy in the Nineteenth Century: An Essay in Econometric Analysis*. Translated by Jesse Bryant and Virginie Pérotin. New York: Cambridge University Press, 1990.

Lucas-Dubreton, J. *The Restoration and the July Monarchy*. Translated by E.F. Buckley. New York: AMS Press, 1967.

Luckett, Thomas M. "Imaginary Currency and Real Guillotines: The Intellectual Origins of the Financial Terror in France." *Historical Reflections/Réflexions Historiques* 31 (2005): 117-139

Lüthy, Herbert. *La banque protestante en France de la révocation de l'Edit de Nantes à la Révolution*. 2 vols. Paris: SEVPEN, 1961.

Malmendier, Ulrike. "Roman Shares." in *The Origins of Value: The Financial Innovations that Created Modern Capital Markets*, edited by William N. Goetzmann and K. Geert Rouwenhorst, 31-42. New York: Oxford University Press, 2006.

Malepeyre and Jourdain. *Traité des sociétés commerciales, suivi de modèles des divers genres d'actes de sociétés commeciales*. Bruxelles: Tarlier, 1836.

Marcus, Sharon. *Apartment Stories: City and Home in Nineteenth-Century Paris and London*.

Berkeley: University of California Press, 1999.

Marion, Marcel. *Histoire financière de la France depuis 1715*. 6 vols. Paris: A. Rousseau, 1914.

---. *La vente des biens nationaux pendant la Révolution*. Paris: Honoré Champion, 1908.

Maza, Sarah. *Private Lives and Public Affairs: The* Causes Célèbres *of Prerevolutionary France*. Berkeley: University of California Press, 1993.

Mazeaud, Henri, Léon Mazeaud, Jean Mazeaud, and François Chabas. *Leçons de droit civil*, 4 vols. Paris: Montchrestien, 1986.

McCormick, John. *Popular Theatres of Nineteenth-Century France*. New York: Routledge, 1993.

McMahon, Darrin M. *Enemies of the Enlightenment: The French Counter-Enlightenment and the Making of Modernity*. New York: Oxford University Press, 2002.

Michie, R.C. *Guilty Money: The City of London in Victorian and Edwardian Culture, 1815-1914*. Brookfield: Pickering & Chatto, 2009.

Mieroop, Marc van de. "The Invention of Interest: Sumerian Loans," in *The Origins of Value: The Financial Innovations that Created Modern Capital Markets*, edited by William N. Goetzmann and K. Geert Rouwenhorst, 17-30. New York: Oxford University Press, 2005.

Miller, Judith A. *Mastering the Market: The State and the Grain Trade in Northern France, 1700-1860*. New York: Cambridge University Press, 1999.

Minard, Philippe. "Le métier sans institution: les lois d'Allarde-Le Chapelier de 1791 et leur impact au début du XIXe siècle," in *La France, malade du corporatisme? XVIIe-XX siecles*, edited by Steven L. Kaplan and Philippe Minard. Paris: Belin, 2004.

Morrisson, Morrison and Wayne Snyder, "The income inequality of France in historical perspective." *European Review of Economic History*, 4 (2000): 59-83.

Muldrew, Craig. *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England*. New York: St. Martin's Press, 1998.

Munro, John H. "The Medieval Origins of the Financial Revolution: Usury, *Rentes*, and Negotiability." *The International History Review* 23/3 (2003): 505-562.

Murphy, Antoin E. *John Law: Economic Theorist and Policy-Maker*. New York: Oxford University Press, 1997.

Naujoks, Natasha S. "Between Memory and History: Political Uses of the Napoleonic Past in

France, 1815-1830." PhD Diss., UNC – Chapel Hill, 2011.

Neal, Larry. *The Rise of Financial Capitalism: International Capital Markets in the Age of Reason*. New York: Cambridge University Press, 1990.

---. "Venture Shares of the Dutch East India Company," in *The Origins of Value: The Financial Innovations that Created Modern Capital Markets*, edited by William N. Goetzmann and K. Geert Rouwenhort, 165-176. New York: Oxford University Press, 2005.

Noiriel, Gérard. *The French Melting Pot: Immigration, Citizenship, and National Identity*. Translated by Geoffroy de Laforcade. Minneapolis: University of Minnesota Press, 1996.

Norberg, Kathryn. "The French Fiscal Crisis of 1788 and the Financial Origins of the Revolution of 1789," in *Fiscal Crises, Liberty, and Representative Government, 1450-1789*, edited by Philip T. Hoffman and Kathryn Norberg, 253-298. Stanford: Stanford University Press, 1994.

North, Douglass C. and Barry R. Weingast. "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England." *The Journal of Economic History* 49/4 (1989): 803-832.

Nye, John Vincent. "Firm Size and Economic Backwardness: A New Look at the French Industrialization Debate." *The Journal of Economic History* 47/3 (1987): 649-669.

Nye, Robert A. *Masculinity and Male Codes of Honor in Modern France*. New York: Oxford University Press, 1993.

Palmade, Guy P. *French Capitalism in the Nineteenth Century*. Translated by Graeme M. Holmes. New York: Barnes & Noble, 1961.

Parker, William. *The Paris Bourse and French Finance, with Reference to Organized Speculation in New York*. PhD Diss., Columbia University, 1919.

Petram, Lodewijk. *The World's First Stock Exchange*. Translated by Lynne Richards. New York: Columbia University Press, 2014.

Pezzolo, Luciano. "Bonds and Government Debt in Italian City-States, 1250-1650." In *The Origins of Value: The Financial Innovations that Created Modern Capital Markets*, William N. Goetzmann and K. Geert Rouwenhorst, 145-164. New York: Oxford University Press, 2005).

Piketty, Thomas, Gilles Postel-Vinay, and Jean-Laurent Rosenthal. "Wealth Concentration in a Developing Economy: Paris and France, 1807-1994." *The American Economic Review*, 96/1 (2006): 236-256.

Pocock, J.G.A. “The Mobility of Property and the Rise of Eighteenth-Century Sociology,” in *Theories of Property: Aristotle to the Present*, edited by Anthony Parel and Thomas Flanagan, 141-166. Waterloo: Wilfred Laurier Press, 1979.

Poovey, Mary. *Genres of the Credit Economy: Mediating Value in Eighteenth- and Nineteenth-Century Britain*. Chicago: University of Chicago Press, 2008.

---, ed. *The Financial System in Nineteenth-Century Britain*. New York: Oxford University Press, 2003.

Potofsky, Allan. *Constructing Paris in the Age of Revolution*. New York: Palgrave Macmillan, 2009.

Price, Munro. *The Perilous Crown: France Between Revolutions, 1814-1848*. New York: Macmillan, 2007.

Pugh, Nina Nichols. “The Structure and Role of Courts of Appeal in Civil Law Systems.” *Louisiana Law Review* 35/5 (1975): 1163-1202.

Ragon, Marcel. *La législation sur les émigrés, 1789-1825*. Paris: Librairie Nouvelle de Droit et de Jurisprudence, 1904.

Reddy, William M. *The Invisible Code: Honor and Sentiment in Postrevolutionary France, 1814-1848*. Berkeley: University of California Press, 1997.

---. *The Navigation of Feeling: A Framework for the History of Emotions*. New York: Cambridge University Press, 2001.

Redlich, Fritz. “Jacques Laffitte and the Beginnings of Investment Banking in France.” *Bulletin of the Business Historical Society* 22/4/6 (1948): 137-161.

Reeve, Henry. “Mollien,” in *Royal and Republican France. A Series of Essays Reprinted from the ‘Edinburgh,’ ‘Quarterly,’ and ‘British and Foreign Review.’* 2 vols. London: Longmans, Green, and Co., 1872.

Reffait, Christophe. *La Bourse dans le roman du second XIX siècle: Discours romanesque et imaginaire social de la spéculation*. Paris: Honoré Champion, 2007.

Repoux, Louis. *La Bourse des marchandises de Paris: histoire, organisation, fonctionnement, role économique*. 2nd ed. Paris: Librairie nouvelle de droit et de jurisprudence, 1910.

Rezaee, Amir. “Creation and Development of a Market: The Paris Corporate Bond Market in the 19th Century.” *Entreprises et histoire* 67/2 (2012): 24-36.

Rietsch, Christian. “Le <<Milliard des *Émigrés*>> et la création de la rente 3%,” in *Le marché*

financier français au XIXe siècle, edited by Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, 209-262. Vol. 2. Paris: Publications de la Sorbonne, 2007.

Riley, James C. *The Seven Years War and the Old Regime in France: The Economic and Financial Toll*. Princeton: Princeton University Press, 1986.

Riva, Angelo and Eugene N. White. 2010. "Danger on the Exchange: How Counterparty Risk was Managed on the Paris Bourse in the Nineteenth Century." National Bureau of Economic Research Working Paper Series, National Bureau of Economic Research, January.

Roehl, Richard. "French Industrialization: A Reconsideration." *Explorations in Economic History* 13 (1967): 233-281.

Romey, Carine. "Les opérations de Bourse," in *Le marché financier français au XIXe siècle*, edited by Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, 109-158. Vol. 1. Paris: Publications de la Sorbonne, 2007.

Rosanvallon, Pierre. *Le sacre du citoyen*. Paris: Gallimard, 1992.

Scholz, Natalie. "Past and Pathos: Symbolic Practices of Reconciliation during the French Restoration." *History and Memory* 22/1 (2010): 48-80.

Sewell, Jr., William H. *Work and Revolution in France: The Language of Labor from the Old Regime to 1848*. New York: Cambridge University Press, 1980.

Shovlin, John. *The Political Economy of Virtue: Luxury, Patriotism, and the Origins of the French Revolution*. Ithaca: Cornell University Press, 2006.

Sibalis, Michael. "Corporatism after the Corporations: The Debate on Restoring the Guilds under Napoleon I and the Restoration." *French Historical Studies* 15/4 (1988): 718-730.

Smith, Michael Stephen. *The Emergence of Modern Business Enterprise in France, 1800-1930*. Cambridge: Harvard University Press, 2006.

Sonenscher, Michael. *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution*. Princeton: Princeton University Press, 2007.

Spang, Rebecca L. *Stuff and Money in the Time of the French Revolution*. Cambridge: Harvard University Press, 2015.

---. "The Ghost of Law: Speculating on Money, Memory, and Mississippi in the French Constituent Assembly." *Historical Reflections / Réflexions Historiques* 31 (2005): 3-25.

Spitzer, Alan B. "Restoration Political Theory and the Debate over the Law of the Double Vote."

The Journal of Modern History 55/1 (1983): 54-70.

Stanziani, Alessandro. *Rules of Exchange: French Capitalism in Comparative Perspective, Eighteenth to Early Twentieth Centuries*. New York: Cambridge University Press, 2012.

Stasavage, David R. *Public Debt and the Birth of the Democratic State, 1688-1789*. New York: Cambridge University Press, 2003.

Steiner, Philippe. "Competition and knowledge: French political economy as a science of government," in *French Liberalism from Montesquieu to the Present Days*, edited by Raf Geenens and Helena Rosenblatt. New York: Cambridge University Press, 2012.

Suleiman, Ezra N. *Private Power and Centralization in France: The* Notaires *and the State*. Princeton: Princeton University Press, 1987.

Surkis, Judith. *Sexing the Citizen: Morality and Masculinity in France, 1870-1920*. Ithaca: Cornell University Press, 2006.

Sutherland, D.M.G. *France 1789-1815: Revolution and Counterrevolution*. New York: Oxford University Press, 1985.

Taylor, George V. "The Paris Bourse on the Eve of the French Revolution, 1781-1789." *The American Historical Review* 67/4 (1962): 951-977.

Theureau, Louis. *Étude sur l'abolition de la vénalité des offices*. Paris: Guillaumin, 1868.

Thompson, Victoria E. *The Virtuous Marketplace: Women and Men, Money and Politics in Paris, 1830-1870*. Baltimore: Johns Hopkins University Press, 2000.

Tilly, Charles, ed. *The Formation of National States in Western Europe*. Princeton: Princeton University Press, 1975.

---. "A Primer on Citizenship." *Theory and Society*, 26/4 (1997): 599-602.

Tombs, Robert. *France, 1814-1914*. New York: Longman, 1996.

van Bochove, Christiaan. "Configuring Financial Markets in Preindustrial Europe." *The Journal of Economic History* 73 (2013): 247-277.

Vaslin, Jacques-Marie. "Le siècle d'or de la rente perpétuelle française," in *Le marché financier français au XIXe siècle*, edited by Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, 117-208. Vol. 2. Paris: Publications de la Sorbonne, 2007.

Vause, Erika. "In the Red and In the Black: Bankruptcy, Debt Imprisonment, and the Culture of Credit in Post-Revolutionary France." PhD Diss., University of Chicago, 2012.

Velde, François R. "French Public Finance between 1683 and 1726," in *Government Debts and Financial Markets in Europe*, edited by Fausto Piola Caselli, 135-166. London: Pickering & Chatto, 2008.

---. 2009. "The Case of the Undying Debt." Federal Reserve Bank of Chicago Working Paper Series, Federal Reserve Bank of Chicago.

--- and David R. Weir. "The Financial Market and Government Debt Policy in France, 1746-1793." *The Journal of Economic History* 52 (1992): 1-39.

Vercamer, Em. *Étude historique et critique sur les jeux de bourse et marchés à terme*. Paris: A. Marescq, 1903.

Viaene, Alex. *L'efficience de la Bourse de Paris au XIXe siècle: une confrontation théorique face aux données empiriques des marchés à terme et à prime*. Paris: Connaissances et Savoirs, 2004.

---. "Les marchés à terme et conditionnels à la Bourse de Paris au XIXe siècle," in *Le marché financier français au XIXe siècle*, edited by Georges Gallais-Hamonno and Pierre-Cyrille Hautcoeur, 571-602. Vol. 2. Paris: Publications de la Sorbonne, 2007.

Vidalenc, Jean. *Les émigrés français, 1789-1825*. Caen: Association des Publications de la Faculté des Lettres et Sciences Humaines, 1963.

---. *La Restauration, 1814-1830*. 5th ed. Paris: Presses Universitaires de France, 1983.

Vovelle, Michel. *La découverte de la politique: géopolitique de la révolution française*. Paris: Découverte, 1993.

Vraye. *Du remboursement des offices ministérielles, et de la suppression de leur vénalité*. Paris: Librairie générale de jurisprudence, 1860.

Vührer, A. *Histoire de la dette publique en France*. 2 vols. Paris: Berger-Levrault & Cie, 1886.

Walker, Donald A. "A Factual Account of the Functioning of the Nineteenth-Century Paris Bourse." *European Journal of the History of Economic Thought* 8/2 (2001): 186-207.

Weil, Patrick. *Qu'est-ce qu'un français? Histoire de la nationalité française depuis la Révolution*. Paris: Grasset, 2002.

Weir, David R. "Tontines, Public Finance, and Revolution in France and England, 1688-1789." *The Journal of Economic History* 49 (1989): 95-124.

Whatmore, Richard. "War, trade and empire: the dilemmas of French liberal political economy,

1780-1816," in *French Liberalism from Montesquieu to the Present Day*, edited by Raf Geenens and Helena Rosenblatt. New York: Cambridge University Press, 2012.

White, Eugene N. "The French Revolution and the Politics of Government Finance, 1770-1815." *The Journal of Economic History*, 55/2 (1995): 227-255.

---. "Making the French Pay: The Costs and Consequences of the Napoleonic Reparations." *European Review of Economic History*, 5/3 (2001).

---. "The Paris Bourse, 1724-1814: Experiments in Microstructure," in *Finance, Intermediaries, and Economic Development*, edited by Stanley L. Engerman, Philip T. Hoffman, Jean-Laurent Rosenthal, and Kenneth L. Sokoloff. New York: Cambridge University Press, 2003.

Wilder, Gary. *The French Imperial Nation-State: Negritude and Colonial Humanism between the Two World Wars*. Chicago: University of Chicago Press, 2005.

Woronoff, Denis. *The Thermidorean Regime and the Directory, 1794-1799*. Translated by Julian Jackson. New York: Cambridge University Press, 1984.