Introduction

For my friends, anything – for my enemies, the law.

—Getúlio Vargas, president of Brazil, 1930–45 and 1951–54

The entire French financial community was put on trial in the spring of 1716. King Louis XIV had died the year before, and France had spent most of his long reign in a series of wars that were increasingly expensive and decreasingly successful. The final one, the War of the Spanish Succession, left the French government in grim financial circumstances. The royal debt in 1715 was about the same in real terms as it would be at the outbreak of the French Revolution in 1789, but the tax burden fell on a smaller, poorer population.[1] Faced with a fiscal crisis, the Duc d'Orléans, governing as Regent for the young Louis XV, issued an edict establishing a special court called the *chambre de justice* to investigate and prosecute any banker, financier, tax collector, or purchasing agent who had mishandled the government's money. At the tribunal's first meeting in March, Chancellor Daniel Voysin de La Noiraye told the assembled judges, "You will restore abundance to the kingdom, by forcing certain men to return to the king's coffers the considerable sums by which they have profited unjustly."[2] The edict that established the *chambre de justice* called on it to pay special vigilance for a new type of financial criminal: *agioteurs*, who were "another kind of people, hitherto unknown, who have committed gross usury by trafficking continuously in assignations and Mint Bills," which is to say, speculating in new monetary innovations.[3]

There was an international financial crisis in 1825, centered on the London money market. Nine sovereign governments defaulted on their

[1] Philip 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), 69–71.

[2] Bibliothèque nationale de France (BNF), *Manuscrits Français*, 7586, "Arrests rendus en la Chambre de justice establie par édit du mois de mars 1716, dont la première séance a esté tenue au couvent des Grands-Augustins, le samedy 14 mars 1716, et la dernière séance tenue le lundy 22 mars 1717," fol. 3r.

[3] BNF, *Collection Clairambault* 767, 86v.

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debts, more than 100 banks failed in England and Wales, and the British economy was thrown into recession. That crisis also featured speculation, new financial innovations, and large-scale mismanagement. Nobody was prosecuted for anything, nor was there any indication or suggestion that anybody should have been. The idea of prosecuting the entire financial community would have been unintelligible and unthinkable. But that was new. Throughout the long eighteenth century, crisis after crisis had been followed by efforts at public accountability, taking various forms from forensic accounting to prosecution before public tribunals. Demands for accountability never quite went away, but the 1825 crisis marked a shift. It was the first financial crisis that was not the fault of anybody in particular.

How did certain forms of economic endeavor come to be understood as realms of impunity, where private actions might have disastrous public consequences and yet be exempted from public accountability? This book shows how the legal, cultural, and political order of financial capitalism moved from the world of the *chambre de justice* to the world of the nineteenth century and after, where financial crises and economic disasters were understood as inevitable outbursts of irrationality or as unpredictable accidents. Somehow, between about 1690 and about 1830, financial crises stopped being crimes and became natural disasters.

Impunity – the ability of some privileged actors to get away with causing harm – is a core feature of modern financial capitalism. In the early modern period, impunity was an ad hoc privilege doled out by the sovereign; today, impunity is something built into the market itself. We accept that capital markets will occasionally ravage societies, without any specific individuals being to blame. *Impunity and Capitalism* shows how this change happened.

The *chambre de justice* had been used before, in 1665, 1674, and at least eight times in the sixteenth century.[4] Most of those had been political weapons used by the judicial community against finance ministers, so the 1716 *chambre* was unusual in that it was conducted by the justice and finance ministers together against the broader financial community.[5] Following the legal procedures of the Ordinance of 1670, there was no

[4] Evidence from those two is in Archives Nationales (AN) G/7/1837. For a thorough discussion of how exactly a *chambre de justice* worked, see Roland Mousnier, *The Institutions of France Under the Absolute Monarchy, 1598–1789, Vol. 2: The Organs of State and Society* (Chicago: University of Chicago Press, 1984), 485–9.

[5] For more on how the 1716 *chambre* differed from previous ones, see Erik Goldner, “Corruption on Trial: Money, Power, and Punishment in France’s *Chambre de Justice* of 1716,” *Crime, Histoire & Sociétés/Crime, History & Societies*, Vol. 17, No. 1 (2013): 5–28.

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presumption of innocence or right to counsel – the investigation assumed prima facie that the private lenders to the state had done *something* illicit at some point.[6] The judges issued a public invitation to anyone who felt they had been wronged by financiers to come forward and provide evidence. Over its year in operation, the *chambre* completed forty-three cases involving eighty-nine defendants.[7] Some trials involved evidence from between 80 and 100 witnesses, so it is possible that close to 1,000 people arrived at the court in Paris to denounce members of the financial world. Some of those convicted were banished for five years, some were sentenced to labor in the galleys, and many were fined.

Although the *chambre de justice* had sweeping powers to investigate and imprison, its main work was forensic and fiscal, since at any given time, the Crown had no clear idea just how much debt it owed or revenue it earned. The 1716 *chambre* required, for the first time, that all of the individuals within its area of jurisdiction be required to submit statements of their personal finances. After six months of trial and evidence, the government apparently decided that progress was too slow. In September 1716, the Regent issued a new edict declaring that the court would review the submitted financial statements and issue fines in exchange for amnesty.[8] Samuel Bernard, the richest man in Europe and the personal banker to Louis XIV who will feature very prominently in our story, paid 6 million livres to exempt himself from the *chambre*'s jurisdiction; Antoine Crozat, owner of the monopoly to the Louisiana colony and the tobacco farm monopoly, was assessed at a fine of 6.6 million livres.[9] They were by far the largest individual creditors of the state, but they were two among the 4,399 people fined by the *chambre*, albeit the two names followed by the largest numbers.[10] In total, the *chambre* issued 220 million livres in fines, amounting to about one-third of the stated wealth of the financial community. With its work still ongoing, the *chambre* was abruptly closed in the spring of 1717. Some said it was too slow, but the former finance minister Nicolas Desmaretz accused it of "destroying credit and confidence," implying that the cure was worse than the disease.[11] And indeed, the *chambres de justice* were

[6] Richard Andrews, *Law, Magistracy, and Crime in Old Regime Paris, 1735–1789, Vol. 1: The System of Criminal Justice* (Cambridge: Cambridge University Press, 1994), 422–35 and 473–9.
[7] BNF, *Nouvelles acquisitions françaises* 8446, fols. 16v–19r.
[8] BNF, *Collection Clairambault* 767, fols. 257v–259v.
[9] Jacob Price, *France and the Chesapeake: A History of the French Tobacco Monopoly, 1674–1791, and of Its Relationship to the British and American Tobacco Trades* (Ann Arbor: University of Michigan Press, 1973), 1: 57.
[10] *Liste des gens d'affaires taxés en 1716, par le chambre de justice*, AN/U//2506.
[11] Cited in Goldner, "Corruption on Trial," 24.

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partly commissioned to satisfy public opinion.[12] Many financiers would flee with their mobile capital as soon as they learned a *chambre de justice* was going to be held, and those who remained would find themselves subject to public denunciation.[13]

The *chambre de justice* of 1716 was the last one ever held. Historians of the nineteenth and twentieth century wrote of it with horror and disapproval. For some, it was proof of the backward despotism of the Old Regime; for others, it was obviously a cynical political maneuver to replace one financial cabal with another, and still others detected a structured sovereign default concealed by shifting blame from government mismanagement to popular villains.[14] But the problems of accountability, responsibility, and culpability for financial crises did not go away after 1716. Indeed, as financial markets grew more complex and as the demands of the fiscal-military state increased over the long eighteenth century, crises grew more destructive and public opinion grew more influential. The problems of power and accountability in the expanding world of modern capitalism grew ever more acute.

Until the late seventeenth century, only the sovereign could act with impunity – either defaulting on his private debt or debasing the currency or arbitrarily violating property rights, as when Louis XIV habitually made the nobility repurchase their titles. Since there was no mechanism for prosecuting the sovereign, very little otherwise mattered – for instance, there was little technical finesse to the serial defaults of the mighty Habsburg King Philip II, and no sovereign needed to care about jurisdictional arbitrage. Finance was contained in the same moral and legal order as everything else, and it was an order where justice was the result of inequality and hierarchy. Each segment of Old Regime society was thought to perform a specific social function, finance included, with corresponding rights, rewards, and obligations.[15] There was no universal

[12] Cf. Jean Buvat, *Gazette de la régence*, edited by Edouard de Barthélemy, (Paris: G. Charpentier, 1887 [1715–1719]), June 19, 1716, 86: “Trois choses agitent actuellement la France: La religion, le gouvernement et la chambre de justice.”

[13] Jean Buvat, *Journal de la régence*, edited by Émile Campardon (Paris: H. Plon, 1865 [1715–1723]), 1: 187–190 and 197–227 shows the publicity of naming and shaming financiers.

[14] J. F. Bosher, *French Finances 1770–1795: From Business to Bureaucracy* (Cambridge: Cambridge University Press, 1970), 18; Françoise Bayard, *Le monde des financiers au XVII siècle* (Paris: Flammarion, 1988), 129–32; Daniel Dessert, *Argent, pouvoir et société au Grand Siècle* (Paris: Fayard, 1984), 242; Marcel Marion, *Histoire financière de la France depuis 1715* (Paris: Rousseau, 1914), 1: 73–4.

[15] See Thomas Piketty, *Capital and Ideology* (Cambridge, MA: Harvard University Press, 2020), 51–73 for a discussion explicitly relating these ideas to legitimating economic inequality.

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public law, so violations, accountability, and clemency were all within the private purview of royal prerogative. The sovereign, in turn, was thought to be accountable to God, so even the appearance of impunity on earth would be subject ultimately to a higher law.[16]

That was the old world of the *chambre de justice*. The *chambre de justice* was a strange institution that is only understandable in the context of the other strange institutions of Old Regime France. But it was also emblematic of a specific moment in the evolving historical relationship between finance and justice, the economy and political legitimacy, capitalism and morality. The *chambre* of 1716 marked the last time a sovereign government could act with impunity relative to the international financial system. I argue that the capacity for impunity changed through the course of three international financial crises: 1720, 1787–97, and 1825. Each crisis after 1720 has been informed by the distorted historical memory of previous crises, and the resolution of each crisis has defined the institutional parameters in which the next crisis took place. Each time, popular anger at perceived injustice and the attendant improvised policy responses produced efforts to eliminate the capacity for impunity, but succeeded only in changing who could act with impunity, and how. The 1720 crisis marked the culmination of a long process that moved impunity from a personal characteristic of sovereigns to a professional attribute adhering to the necessary functions of technically skilled managers of capital. The 1787–97 crisis politicized impunity, deploying it as a tool of statecraft and governance in England and coding it as a category of counterrevolutionary malfeasance in France. The Panic of 1825 settled the parameters of impunity in the reconstructed international financial system by explaining away the causes of crises and restricting discretion in response to them. For the rest of the nineteenth century, markets themselves acted with impunity, and crises were natural, inevitable, and intelligible.

The creation of a privileged realm of "the economy," understood as separate from government, society, or morality, has long been a central question in understanding the history of capitalism in general.[17] *Impunity and Capitalism* argues that the emergence of modern capitalism depended not only on the creation of privileged "market" spaces where actors could pursue self-serving profit without fear of moral disgrace, but also depended on the creation of privileged zones of action where certain actors

[16] See, inter alia, Reinhard Bendix, *Kings or People: Power and the Mandate to Rule* (Berkeley: University of California Press, 1978).

[17] The literature runs at least from Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (New York: Beacon Press, 2001 [1944]) to the followers of Timothy Mitchell, "Fixing the Economy," *Cultural Studies*, Vol. 12, No. 1 (1998): 82–101.

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could pursue dangerous and destructive economic activities without fear of legal repercussion. To make this case, I first need to explain what capitalism is, where the concept of impunity comes from, why it is appropriate in these historical contexts, and how I am adapting it to financial crises.

What Is Capitalism?

Capitalism is an economic system constituted by markets in the factors of production, which are land, labor, and capital. It is not a matter of commodity markets. There is evidence of people buying and selling produce or handicrafts in contexts as varied as Ancient Rome and the Soviet Union. I am also skeptical that capitalism depends on cultural or intellectual attributes like rational calculation, profit motives, or future orientation. It is very possible to find people showing those behaviors in not especially capitalist contexts, and undoubtedly to locate examples of capitalist people acting irrationally or with a weak grasp of future outcomes. What makes capitalism distinctive as an economic system is that individuals can buy and sell the things that produce all other things.

Markets in the factors of production in turn require a large set of legal, political, and institutional arrangements. There need to be contracts, and courts to enforce them. There needs to be a legal concept of private property rights, which need to be unitary and alienable. There needs to be some enforcement authority for laws and contracts, usually a state. Private property is essentially a kind of violence voucher: it represents an ability to call on violence, usually legitimate state violence, in order to exclude all other humans from some subset of the world. Private property does not exist without exclusion, without the credible threat of violence, and without recognition of the legitimacy of the violence claim. When private property is bought and sold in markets, that means value is allocated through *prices*, rather than through custom or tradition. Together this means that historically it makes more sense to think of capitalism as a spectrum rather than a binary. The Dutch Republic almost certainly had private property and markets in the factors of production before anywhere else, as well as neutral contract enforcement.[18] In most of Europe and the wider Atlantic, markets for capital – indeed, *international* markets for capital – preceded wage labor and enclosed, alienable land rights. Throughout this book, I use variants on the phrase "financial capitalism" to refer to the complex of people, practices, institutions, and laws that

[18] Oscar Gelderblom, *Cities of Commerce: The Institutional Foundations of International Trade in the Low Countries, 1250–1650* (Princeton: Princeton University Press, 2013).

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produced and reproduced capital markets. But that should not obscure the fact that "financial capitalism" also existed in time and space, mostly prior to capitalism in general.

This is a somewhat schematic and formalist definition of capitalism, and it will not be persuasive to every reader, especially those who have their own competing definitions. Its purpose is to draw attention to specific features of capitalism as an economic system. Capitalism has created a world of anonymous exchanges and layers of intermediation that communicate cause and effect in unpredictable ways, and open up gaps in monitoring, knowledge, and community norms. It has also been predicated on a variety of public/private separations. Private costs and benefits can diverge from social costs and benefits; private control of resources and infrastructures and services can prove contrary or objectionable to democratic or community values. The idea of an economic sphere that is separate from politics, law, or morality is at the heart of this book, and impunity often shows up in the gaps between these social spheres, public/private distinctions, and participants in transactions. Anxieties about and conflicts over impunity tend to occur when private exchange has public consequences (as in a financial crisis, or over sovereign debt) and often concerns institutions that straddle a public/private or economic/political divide, like central banks and "general banks" before them. Indeed, the early history of central banking has been so fraught with accusations of impunity, debates over constitutional legitimacy, and changing boundaries of governance in crisis situations that this book will partly function as a history of early central bank institutions. Central banks are one of the main institutional forms through which states have tried to govern markets and resolve or prevent crises, which means they are one of the key friction points in the history of financial capitalism. Most economic history writing on central banks is concerned with *stability*, especially from the late nineteenth century onward.[19] Do they increase financial stability through monetary policy, coordination, and lender of last resort activity, or do they decrease it by intervening in the private banking system, creating moral hazard, and through inept monetary policy? Thinking about impunity instead motivates a shift in *temporal* perspective, toward the early development of central banks as they emerged as a constituent feature of financial capitalism, and, in *content*, toward questions of power instead of stability, legitimacy instead of efficiency.

[19] Charles Goodhart, *The Evolution of Central Banks* (Cambridge, MA: MIT Press, 1988); Charles Calomiris and Stephen Haber, *Fragile by Design: The Political Origins of Banking Crises and Scarce Credit* (Princeton: Princeton University Press, 2014).

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What Is Impunity?

Impunity is the ability to cause harm without facing consequences. It is a form of *injustice* that is almost always the result of some existing structure of *inequality*. Scholarship on transitional justice has revealed three major problems that are directly relevant to my concept of impunity. I will call them the "scale problem," the "precedent problem," and the "culpability problem." It will be clear that all three are related, but it will be useful to keep them distinct from one another for now.

The scale problem refers to the asymmetry between the human capacity for causing harm and the law's capacity for restitution. The easiest way to imagine this problem is to imagine a situation in which the penalty for murder is execution or a life sentence and someone is convicted of killing a dozen people. It is clear how this sort of problem can bedevil post-conflict trials, but it also exists in economic forms.[20] If anything, economic questions are more complicated because of the number of unknown variables in economic transactions, the difficulties of calculating risk, the interconnectedness of markets, and the difficulty assessing expected gain that went unrealized by victims. Consequently, most legal systems have some mechanism for limiting the scale of responsibility only to proximate fault. As the legal philosophers H. L. A. Hart and Tony Honoré wrote, "All legal systems in response either to tradition or to social needs both extend responsibility and cut it off in ways which diverge from the simpler principles of moral blame. In England a man is not guilty of murder if the victim of his attack does not die within a year and a day. In New York a person who negligently starts a fire is liable to pay only for the first of several houses which it destroys."[21] These limits are different across time and space, and contested nearly everywhere. As the judge William Shankland Andrews wrote in his dissent to the American tort case *Palsgraf* v. *Long Island R.R. Co.*, "What we do mean by the word 'proximate' is that because of convenience, of public policy, of a rough sense of justice, the law arbitrarily declines to trace a series of events beyond a certain point. This is not logic. It is practical politics."[22] Indeed, the tort–crime distinction is an eminently political one, and it has

[20] Thus, the seventy-two-year-old Bernard Madoff was sentenced to 150 years in prison in 2009. The far less well-known Chamoy Thipyaso was sentenced in a Bangkok court in 1989 to 141,078 years for defrauding more than 16,000 people in a pyramid scheme. So far as I know, this is still the world's longest sentence for corporate fraud, but she only served eight years.

[21] H. L. A. Hart and Tony Honoré, *Causation in the Law* (Oxford: Clarendon Press, 1985), 63.

[22] *Palsgraf* v. *Long Island R.R. Co.*, 248 N.Y. 339, 162 N.E. 99 (1928), cited in Hart and Honoré, *Causation in the Law*, 85.

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been institutionalized through assigning some sorts of harms specific recognition as insurable liabilities.[23]

The precedent problem refers to the human capacity to devise new sorts of wrongdoing that were not foreseen by legislators or regulators. This capacity in turn often tends to be a function of technology and scale. The most dramatic examples in the history of international law are the creation of the concept "crimes against humanity" in the Second and Fourth Hague Conventions (of 1899 and 1907, respectively), and Raphael Lemkin's efforts to codify the concept of "genocide" in 1948–51.[24] These are dramatic examples, but the more quotidian economic equivalent to the problem should be intuitively clear. It is a cliché that Wall Street's financial innovations will always outpace the Security and Exchange Commission's regulatory capabilities – one can imagine the magnitude of this problem when the ramshackle and jurisdictionally fragmented legal regimes of early modern states confronted the emergence of financial markets at the beginning of the eighteenth century. Then as now there was at least as much effort and resources devoted to avoiding regulation as to enforcing it.

The culpability problem refers to the difficulty of assigning blame. In international law, this problem tends to occur because political leaders seldom commit any crimes themselves, or leave any clear written documentation of having conspired to commit crimes. And at the same time, "rank and file" offenders can usually point to coercion, whether dubious as in Adolf Eichmann's case or plausible as in the case of child soldiers in Sierra Leone.[25] Here again the economic parallel is a function of laws governing corporate structure, liability, and risk. Are individuals only culpable for foreseeable harm? A merchant who fails to fulfill a contract probably knows the effect on the other party, but not anyone else that party may have contracted with. Should blame be a function of the likelihood of harm, or of intentions? Likelihood of harm implies a calculation of risk, while intention raises the problem of many individual actors producing unintended consequences. As with the previous two problems, the

[23] Tom Baker, "Liability Insurance at the Tort-Crime Boundary," *Social Science Research Network Electronic Paper Collection* (University of Pennsylvania Research Paper No. 08-52, 2008).

[24] Mark Lewis, *The Birth of the New Justice: The Internationalization of Crime and Punishment, 1919–1950* (Oxford: Oxford University Press, 2014).

[25] Eichmann's "*Befehlt ist Befehlt*" defense famously failed, but jurisprudence on the question is still surprisingly conflicted. Article 33 of the 1998 Rome Statute of the International Criminal Court allows for differing interpretations based on the lawfulness of the orders in question. By contrast, in 2007, the Special Court for Sierra Leone convicted three Armed Forces Revolutionary Council rebels of war crimes for coercing child soldiers.

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culpability problem is treated differently in different times and places, and is often subject to shifts in popular morality. To take one example, were all stockjobbers in Exchange Alley equally culpable for the crisis of 1720, including those who lost their fortunes? Or just the directors of the South Sea Company?[26] The answer changed over time. Across the eighteenth century, the English Court of Chancery became increasingly unsympathetic to the losers in risky contractual arrangements, even if the contracts could be proven to be unfair.[27] This problem especially, but the other two as well, is compounded by the technical challenge of understanding how international finance works, and the forensic difficulty of retracing what exactly anyone did, and when, let alone why.[28]

One useful way to think about impunity is to imagine a series of concentric circles. At the center are people who knowingly do illegal things and get away with it. Outside them are people who are following rules, but they are rules made by people in the first group, or are part of institutions that are causing harm, or later determined to be unacceptable. And last, there are people in activities that are not yet governed by formal laws, where harm and justice are contested. Each group belongs to the history of impunity, but the problems of culpability, precedent, and scale weigh differently on each, and the impunity of the center group is more "real" than the outer group, which is more "perceived" or discursive.

The institutions of capitalism are very good at assessing some kinds of harms and ensuring that they are predictable or manageable. Systems like bankruptcy, contract lawsuits, higher credit costs, and even criminal prosecution all exist to make sure that economic actors play by the "rules of the game." Those systems are not ahistorical facts. They are constantly in development, as new actions are assessed as harms and in response to new ideas of fairness and consequences. Capitalism is also very bad at assessing other kinds of harms, including harms not directly incurred by voluntary participants in market exchange. Economists use the term "negative externalities" to refer to many of these harms, harms imposed on a third party unrelated to a transaction, or a cost of a transaction that is not paid by one party. It is also very bad at dealing with systemic failure. And of course the history of capitalism has also been constituted

[26] Richard A. Kleer, "Riding a Wave: The Company's Role in the South Sea Bubble," *The Economic History Review*, Vol. 68, No. 1 (February 2015), 264–85.

[27] P. S. Atiyah, *The Rise and Fall of Freedom of Contract* (Oxford: Clarendon Press, 1979), 82.

[28] The opaque connections between cause and effect entailed by impersonal markets has given rise to a large literature on capitalist humanitarianism stemming from Thomas Haskell, "Capitalism and the Origins of the Humanitarian Sensibility, Part 1," *The American Historical Review*, Vol. 90, No. 2 (April 1985), 339–61.

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by forms of exploitation and inequality that were sometimes considered just and natural and at other times have become the source of outrage. Most of the time, the distribution of harm and consequence is contained in a moral and legal order that renders it intelligible, naturalized, and, in some form, just. But in moments of systemic financial crisis, the accumulation of impunity has provoked a wider crisis of political legitimacy in the moral and legal order itself.

The Problem of Impunity in Transitional Justice, and in History

Since 2008, many scholars have focused on the dark side of economic history: default and financial repression for Carmen Reinhart and Kenneth Rogoff, fraud for George Akerlof and Robert Schiller, violence and coercion for the "new History of Capitalism," and the political power of the richest 1 percent for Thomas Piketty.[29] The concept of impunity pushes this work further, and since the study of malfeasance and inequality is relatively new to economic history, I will draw on conceptual insights from other disciplines to build my case.

As a concept, impunity belongs to the field of international law and transitional justice, not economic history. Fortunately, those worlds overlap frequently enough that some transmission can be justified, all the more so because legal scholars have increasingly become interested in the ways that laws transform *things* into *capital*.[30] At the same time, as instances of transitional justice have proliferated in the contemporary world, the subject has attracted more and more interest from historians. Transitional justice is a very recent concept, referring to "the processes of trials, purges,

[29] Carmen Reinhart and Kenneth Rogoff, *This Time Is Different: Eight Centuries of Financial Folly* (Princeton: Princeton University Press, 2009); George Akerlof and Robert Schiller, *Phishing for Phools: The Economics of Manipulation and Deception* (Princeton: Princeton University Press, 2014); Ian Klaus, *Forging Capitalism: Rogues, Swindlers, Frauds, and the Rise of Modern Finance* (New Haven: Yale University Press, 2014); Sven Beckert, *Empire of Cotton: A Global History* (New York: Knopf, 2014) among many others; Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Harvard University Press, 2014), idem, *Capital and Ideology*.

[30] Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010); Christine Desan, *Making Money: Coin, Currency, and the Coming of Capitalism* (Oxford: Oxford University Press, 2015); David Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton: Princeton University Press, 2016); Charles Maier, *Once Within Borders: Territories of Power, Wealth, and Belonging Since 1500* (Cambridge, MA: Harvard University Press, 2016); Jenny S. Martinez, *The Slave Trade and the Origins of International Human Rights Law* (Oxford: Oxford University Press, 2012); Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton: Princeton University Press, 2019).

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and reparations that take place after the transition from one political regime to another."[31] Since it is a subject with a standardized legal vernacular and set of concepts, transitional justice allows for conversation and collaboration between historians of subjects as varying as Colombia in the 1980s, the south side of Chicago in the 1990s, and Spain in the 1970s.[32] But essentially the only instance of transitional justice before Nuremberg to attract sustained attention from historians is the French Revolution.[33]

The transitions in this book are not only transitions from one government or one form of government, or even one constitution to another. Between 1680 and 1720, then again between the 1780s and 1810s, Western Europe experienced wholesale transitions in its moral, legal, and social orders. The French Revolution was certainly one of these. The reconstruction of law, justice, and democracy after the Terror was a fraught and well-documented moment when a political transition necessitated grappling with how to hold individuals from the previous regime accountable for mass crimes as conceived by the new one. In a string of publications, the historian Ronen Steinberg has argued that the process of democratization and the creation of universal public law between 1789 and 1793 established accountability as a core principle of the French constitutional order. The mechanisms of transitional justice after the Terror continued to recognize and employ the same language and concepts of accountability, leading him to the conclusion that Thermidor was a continuation of the Revolution – neither an end nor a reactionary betrayal.[34] The historian Howard Brown argues that successive constitutional projects (1795, 1799, 1802) were unable to produce democratic legitimacy, ultimately collapsing under the pressures of popular violence and politicized justice into the first version of a modern security state.[35]

[31] Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge: Cambridge University Press, 2004), 1.

[32] See the many essays in Christine Bell (ed.), *Transitional Justice* (London: Routledge, 2017) and Melissa Williams, Rosemary Nagy, and Jon Elster (eds.), *Transitional Justice* (New York: New York University Press, 2012).

[33] Elster, *Closing the Books* is the exception, and even he skips from ancient Athens to 1660 (briefly) to 1814. For an overview since Nuremberg, see Ruti G. Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Journal*, Vol. 16 (2003), 69–94.

[34] Ronen Steinberg, "Transitional Justice in the Age of the French Revolution," *The International Journal of Transitional Justice*, Vol. 7 (2013), 267–85; idem, "Terror on Trial: Accountability, Transitional Justice, and the Affaire Le Bon in Thermidorian France," *French Historical Studies*, Vol. 39, No. 3 (August 2016), 419–44; idem, *The Afterlives of the Terror: Facing the Legacies of Mass Violence in Postrevolutionary France* (Ithaca: Cornell University Press, 2019).

[35] Howard Brown, *Ending the French Revolution: Violence, Justice, and Repression from the Terror to Napoleon* (Charlottesville: University of Virginia Press, 2006).

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These interpretations are a compelling new direction for the historiography on the French Revolution, and I intend to push them further. The Terror and Thermidor are urgent examples of transitional justice, but not the only ones, even in the Revolutionary years, and the temptation of viewing the Terror as an isolated or paradigmatic case risks overlooking how the Terror emerged from and reacted against an existing tradition of how laws and norms could be reconstituted by political action. The Terror itself was a process of transitional justice (or at least, the Terrorists conceived of it that way) in that it was clearly made up of trials, purges, and reparations in the transition of political regimes. So too was the ongoing crisis of the Directory, and the Restoration after 1815, albeit on very different principles of law, justice, and property.

Pushing the point further, neither the Constitution of 1791 nor the suspended Jacobin Constitution of 1793 were the first postrevolutionary constitutional orders in modern European history. The Glorious Revolution of 1688 concluded a long struggle for political legitimacy, and established a new constitutional order that entailed settling debates about representation, property, justice, and state power. In the pages that follow, I will argue that 1688 opened a phase of transitional justice that did not end until the conclusion of the South Sea Bubble and the establishment of Prime Minster Robert Walpole's one-party rule. I am not the first historian to think so: Rachel Weil has shown that the profusion of plots real and imagined in the 1690s revealed anxieties and debates about the new government's credit and longevity, while Tim Harris has argued that the constitutional crisis of the 1660s was not resolved by the 1688/91 revolutions, but rather was violently contested through at least 1707, if not 1720.[36] That unsettled constitutional period corresponded to decades of warfare, and to the Financial Revolution, meaning that questions of property rights and procedural justice in Britain were settled in the context of postrevolutionary warfare, just as they would be in France in the 1789–1815 period. We are used to thinking of these periods as moments of domestic political change and international struggles for imperial hegemony. But they also each fundamentally transformed the reach of financial crises, the complexity of financial markets, and the political stakes of financial regulation. And in doing so, they also transformed who could act with impunity in the economy, and how.

[36] Rachel Weil, *A Plague of Informers: Conspiracy and Political Trust in William III's England* (New Haven: Yale University Press, 2013); Tim Harris, *Revolution: The Great Crisis of the British Monarchy, 1685–1720* (London: Penguin Books, 2006), 477–519.

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The influential school of "institutionalist" economic historians, following the work of Douglass North and his coauthors, has argued that modern economic growth was the result of establishing and following a set of rules – especially rules that constrained sovereign immunity. Once sovereign exception was eliminated, it was clear that private property rights could not be violated arbitrarily, thereby making investment safer and capital more abundant. Though there is much dispute about when exactly these rules were established, the canonical version locates it in the Glorious Revolution.[37] Other historians have explored the mechanisms for dealing with contract violation across this same time period, examining bankruptcy law and debtor's prisons.[38] They have mostly concluded that those contract enforcement regimes worked well, and should be understood as rational solutions under their circumstances. But bankruptcy and contract enforcement are subsets of the bigger problem of economic harm. Unlike financial crises and sovereign authority, the legal standing of a bankruptcy and jurisdiction over it are both clear. A financial crisis or a revolutionary change to the legal system present different problems, and I am specifically interested in the shifting boundary between violations of the legal order and *alegal* practices and institutions: those which are not clearly within a legal jurisdiction, not yet regulated, or not recognized as legal harms.

Thus, I argue that impunity was not eliminated by the constitutional settlement of 1688, or the Financial Revolution, or the French Revolution, or the establishment of the nineteenth-century gold standard. Instead, the long eighteenth century saw a cumulative process, in which new forms of impunity were added to the old, reacting and building upon existing regimes, replacing them in parts, but never completely. The history of impunity in financial capitalism is one of proliferation and modification more than succession. And that proliferation happened exactly through the creation of new sets of rules and institutions.

[37] Douglass North and Barry Weingast, "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England," *The Journal of Economic History*, Vol. 49, No. 4 (December 1989): 803–32. The subsequent literature is immense. See, for instance, Avner Greif, *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade* (Cambridge: Cambridge University Press, 2006).

[38] Julian Hoppit, *Risk and Failure in English Business, 1700–1800* (Cambridge: Cambridge University Press, 1987); Ron Harris, *Industrializing English Law: Entrepreneurship and Business Organization, 1720–1844* (Cambridge: Cambridge University Press, 2011); Erika Vause, *In the Red and in the Black: Debt, Dishonor, and the Law in France between Revolutions* (Charlottesville: University of Virginia Press, 2018).

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Financial Crisis and Transitional Justice

Contrary to the view that the rules were set by 1688, the eighteenth century was an era of radical redefinitions of property rights, both in Britain and in France, and those national processes shaped the formation of financial capitalism at an international level. The redefinition of property in the French Revolution is well known, though only recently returning to the center of the historiography.[39] But even in Britain, after 1688, "property was often heavily taxed, frequently expropriated, and, exceptionally, eradicated through redefinition."[40] Especially in emergency situations, and in spaces of uncertain or overlapping sovereignties, the laws that turned assets into capital were amended, abolished, or enforced in unpredictable ways. Given the emphasis in the institutionalist literature on constraining the sovereign, the question of exceptions needs to be more thoroughly investigated. In its strongest form, the institutionalist argument suggests that all economic actors are bound by institutions at all times, because nearly anything can be explained as an efficient, rational response to the constraints of rules and norms.[41] Exceptions have not become increasingly rare after 1688; instead, the possibilities for impunity have changed rather than been eliminated altogether.

For many "institutionalist" economic historians who follow the inspiration of North and Weingast, the economic "rules of the game" reflect universal principles of efficiency, utility, trust, and credibility. Marxist and *marxisant* economic historians are difficult to find nowadays, but that older tradition, as well as the new History of Capitalism, tend to see economic institutions as the outcome of power and governance, of class struggle and inequality. Thus, for some, the institutions and mechanisms that govern modern capitalism are the rational result of laws, efficiency, information, and rational decisions, and they bind all market participants. For others, modern capitalism is a system of violence and exploitation that either conceals the decisions and self-interest of powerful actors or, more likely, is an extension of it by other means.

[39] Rafe Blaufarb, *The Great Demarcation: The French Revolution and the Invention of Modern Property* (Oxford: Oxford University Press, 2016); Vause, *In the Red and in the Black*.

[40] Julian Hoppit, "Compulsion, Compensation, and Property Rights in Britain, 1688–1833," *Past and Present*, Vol. 210, No. 1 (February 2011), 93. For other critical takes on 1688 establishing secure property rights, see Geoffrey Hodgson, "1688 and All That: Property Rights, the Glorious Revolution and the Rise of British Capitalism," *Journal of Institutional Economics*, Vol. 13, No. 1 (2017), 79–107 and, more generally, Rosa Congost, "Property Rights and Historical Analysis: What Rights? What History?" *Past and Present*, No. 181 (November 2003), 73–106.

[41] Sheilagh Ogilvie, "'Whatever is, is Right'? Economic Institutions in Pre-Industrial Europe," *The Economic History Review*, Vol. 60, No. 4 (November 2007), 649–84.

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Rather than accept the positivist/idealist binary and export it to economic crises, I echo the argument of the legal scholar Ruti Teitel: "[T]he conception of justice in periods of political change is extraordinary and constructivist: it is alternately constituted by, and constitutive of, the transition. The conception of justice that emerges is contextualized and partial: What is deemed just is contingent and informed by prior injustice."[42] This is as true for economic transition as it is for political transition. Redefinitions of property rights, financial regulation, and the structures of inequality after financial crises are also constructivist, and informed by the experience of prior crises. To adapt another famous phrase, people make sovereign and exceptional decisions, but they do not make them in conditions of their own choosing, but under circumstances transmitted from the past.

A powerful objection to my narrative approach is that the contingencies of a few financial crises in a few European countries are only epiphenomena. The existence of corruption, scandals, and powerful people behaving badly might tell us *something*, but only when variation is systematically considered across a wide set of cases, removing outliers, confounders, and sources of bias and cognitive error. But rules are made in moments of crisis and contingency, with unpredictable results and path-dependent consequences. Moreover, even the most cursory exposure to the texture of historical documents produces the overwhelming impression that rules are imperfectly implemented even in the best of times, so it is vital to consider how any given institutional arrangement deals with exceptions.[43] The institutionalist view that establishing the "rules of the game" will unleash prosperity and growth needs to grapple with a serious puzzle: the basic fabric of modern capitalism is full of people breaking the rules and paying no price for it. That is true at the innovative frontier of capitalism where practices and production is not yet regulated, but it is especially true of financial crises, and if financial crises are indeed hardy perennials that are intrinsic to modern capitalism, they not epiphenomenal. The production of laws, norms, and institutions has often happened in states of exception, and their normal operation almost always allows for the possibility of emergency suspension in time and space, as well as their unequal application to different people.

People who follow the rules do not leave traces in archives the way people who break them do, but that is no reason to avoid thinking

[42] Ruti Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000), 6.
[43] One example of endemic corruption is Mark Latham, "'The City has been Wronged and Abused!': Institutional Corruption in the Eighteenth Century," *Economic History Review*, Vol. 68, No. 3 (August 2015), 1038–61.

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systematically about the nature and extent of rule breaking. Crises in general raise questions about market and regulatory failure, and the problem of impunity raises the question of how and why there can be exceptions to rules and institutions. For economic historians who are preoccupied with institutions, the "path to the modern economy" consisted of scaling up the trust mechanisms of merchant communities and kinship networks into generalized "rules of the game." By contrast, efforts to achieve impunity indicate the limits of social cohesion relative to individual gain, while popular accusations of impunity indicate the collision between public morality and economic complexity. Actual instances of impunity can either indicate the limits of rules and their application by pointing to exceptions or indeed raise the question of who makes the rules, and for what purpose, by pointing to the inequalities and power relations that comprise a constitutional order. There is enough historical and contemporary evidence to indicate a need to approach these questions again, from the perspective of institutional exceptions: that is, from the perspective of a monopolist who gets to set the costs of violating the rules of the game.

There are three currents throughout this book where the changing institutions of financial capitalism touch on other processes, each with their own histories, and, indeed, their own patterns of impunity. The first is empire. This book is about finance, because finance is one of the most important and powerful forces in the modern world, and it focuses on Britain and France in the long eighteenth century because that is where the institutions of modern finance were created. But at that same time, Britain and France were also conducting a century-long struggle for global imperial hegemony, involving acts of genocide, the enslavement of millions of people, and the violent deaths of millions more. Modern finance developed in part (if not in majority) as a way to facilitate those sustained acts of violence by "fiscal-military states," so empires will always be in the background of this story. That said, most of the empires that appear in this book turned out to be imaginary. Time and again, from the projectors of the South Sea Bubble in 1720 to the mania for Latin American debt and mining shares in the 1820s, Europeans were so enthused by the prospect of quick wealth in imperial or informally subordinate places that they lost a lot of money. "Irrational exuberance" was an especially imperial ailment.

The second current is the increasing complexity of the modern state, especially its fiscal bureaucracy. The state's insatiable appetite for money drove many of the financial innovations discussed in this book, and many of the immune actors I discuss receive their special treatment because of their ties to state power. But that increasing complexity and the special

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position of finance seem to run in opposite directions. States grew continually more powerful, but they also seem to exercise less rather than more control over financial markets, hence the familiar Polanyian story of the "dis-embedding" of capitalism from society in the nineteenth century. Instead of a story of monotonically increasing state power, or of a single shift from an early modern to a modern state, this book shows how states and markets have fought over whether finance would be autonomous from the moral and legal order, and how that fight was different under the absolutist fiscal-military state of the eighteenth century and the liberal state of the nineteenth.

And finally, the third current is bigotry. The tendency to not historicize financial crises, and the assumption that they are inevitable, natural events has meant that the problem of impunity has not been given scholarly treatment. In consequence, the discussion of economic malfeasance has been left to the world of popular morality, where it has flourished in the form of poisonous denunciations either of the job-stealing capacity of immigrants or of the taxpayer-defrauding schemes of corrupt bureaucrats or of the government-manipulating powers of foreign capitalists. The pattern of scapegoat hatred has differed with each crisis in this book, although foreigners were always a favorite target. In England after 1720, the moral panic was peculiarly gendered. Eighteenth-century France was especially worried about conspiracies of foreign Protestants. Early central banks were often accused of being conspiracies for government corruption. And although it was by no means new, the nineteenth century was especially marked by anti-Semitic claims that banking and finance was a Jewish conspiracy. In moments of severe crisis, the presumed impunity of the chosen villain could become a critique of the legitimacy of the state or economic system as a whole. It is necessary to consider how apparently epiphenomenal cases of malfeasance can catalyze a widespread moral critique of capitalism. We know too much about the tendency of markets to fail and inequality to increase to dismiss that outrage, and refusing to theorize a replacement history only cedes the ground to xenophobic demagogues.

Many of those claims of conspiracy are still with us today, and since the 2016 presidential election, a range of scholars have turned their alarmed attention to the ways that economic grievance can produce radical politics of both the left and the right.[44] The fallout of the 2008 crisis has shaped most of the politics and much of the scholarship of the last twelve

[44] For instance, Barry Eichengreen, *The Populist Temptation: Economic Grievance and Political Reaction in the Modern Era* (Oxford: Oxford University Press, 2018).

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years, and this book is no different. Indeed, many books on the history of financial crisis are written in the aftermath of other crises – to take only two of the most-cited examples, both Charles Kindleberger's *Manias, Panics, and Crashes* and Larry Neal's *Rise of Financial Capitalism* begin their first sentences with references to the economic dislocations of their own decades. But although these books usually intend to derive useable lessons from history, their long time spans and universal coverage tends to reveal their base assumption that crises are, in Kindleberger's phrase, "a hardy perennial" – essentially impossible to eradicate.[45]

This narrative of eternal human folly and predictable patterns of crisis is something like an act of Freudian repression – a comforting story that hides a more traumatic past. In part this is due to the nature of historical memory itself.[46] As the economic historian Barry Eichengreen has argued, our efforts to ostensibly learn lessons from history does not ensure that crises are avoided or painlessly resolved so much as they guarantee that each crisis is always unique.[47] As the public and as policymakers attempt to reason with historical analogies, they are likely to apply supposedly timeless lessons to differing contexts, to attempt to solve or regulate the *last* crisis rather than the current one, and to fail to address new financial innovations, technologies, and political developments.[48] Contemporary economic commentators are fond of showing the ways that a modern investment banker would be right at home in Exchange Alley in the 1690s, or how a stockjobber of 1720 would adapt easily to contemporary Wall Street. The holder of a venal tax receiving office who was sentenced to the galleys in 1716 might look at the bonuses paid to executives of AIG after their taxpayer-funded bailout and disagree. The prevailing methodology of ahistorical pattern identification has produced valuable knowledge, but a focus on impunity allows for a history of financial crises that is methodologically *historical*, meaning focused on change over time, and on the way that the solutions or memories of one crisis can set the parameters for understanding and acting in the next crisis.

[45] Charles Kindleberger, *Manias, Panics, and Crashes: A History of Financial Crises* (New York: Basic Books, 1978), 1–21.

[46] For a recent example of economic historians dealing with historical memory, see the essays in Yussuf Cassis and Catherine Schenk, (eds.), *Remembering and Learning from Financial Crises* (Oxford: Oxford University Press, 2021).

[47] Barry Eichengreen, *Hall of Mirrors: The Great Depression, the Great Recession, and the Uses – and Misuses – of History* (Oxford: Oxford University Press, 2015).

[48] Barry Eichengreen, "Economic History and Economic Policy," *The Journal of Economic History*, Vol. 72, No. 2 (June 2012), 289–307.

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I too am a historical subject, and was shaped by the fallout of the 2008 crisis. My aim here is not to show how our current age of impunity has its origins centuries in the past. My aim is to show how impunity has changed, and can change.

Plan of the Book

Part I of this book, comprising Chapters 1–3, traces changes in financial impunity from a series of failures in 1709 through the fallout of the crisis of 1720. Chapter 1 illustrates the old world of impunity by focusing on the financial crisis of 1709 – an exemplary case of the old model of crisis. Very little has been written on the failure of 1709, when Samuel Bernard, the richest man in Europe and the personal banker to Louis XIV, went bankrupt. His failure triggered a liquidity crisis in the annual Lyon faire, paralyzing the Italy/Switzerland/Rhineland credit networks and undercutting the fiscal base of the Lyon municipal government during the coldest winter in a half-millennium. Lyon was unable to provide expected famine relief, leading to the deaths of at least a thousand people, but Bernard received blanket immunity from prosecution.

Chapters 2 and 3 discuss the world's first international financial crisis, known as the South Sea Bubble in England and the Mississippi Bubble in France. Both were really parts of a single financial crisis that wracked European markets through the summer and winter of 1720. In contrast to 1709, the 1720 crisis continues to be the object of wide fascination, especially the romantic figure of John Law, the Scottish gambler, convicted murderer, and economic theorist who briefly became controller general of the French finances. Today there is consensus that John Law was a serious financial thinker who genuinely believed in his plans, that most participants in the Bubbles were acting rationally, and that most dramatic anecdotes are propaganda, folklore, or exaggerations.[49] Instead of retelling the standard narrative of his rise and fall, I split the discussion of the crisis of 1720 in half. Chapter 2 uses the records of the stock speculator James Brydges during the Mississippi and South Sea Bubbles to illustrate the different capacity for impunity in the 1720 crisis relative to 1709. After 1720, impunity was professionalized and impersonal, a characteristic of skilled managers of capital operating in international markets with limited securities regulation and formal legal inequality.

[49] The rationality revision began with Antoin Murphy, *John Law: Economic Theorist and Policy-Maker* (Oxford: Oxford University Press, 1997) and continues, cf. Richard A. Kleer, "Riding a Wave: The Company's Role in the South Sea Bubble," *The Economic History Review*, Vol. 68, No. 1 (February 2015), 264–85.

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The frantic activity in Exchange Alley and the Rue Quincampoix was connected by flows of capital, information, and personnel that were beyond the capacity of either the British or the French government to regulate. When the fraud of the South Sea directors was revealed, they were not prosecuted in the criminal court of the Old Bailey; rather, they were brought before the House of Commons to be tried on four new laws drawn up for that express purpose, which meant that the Commons constituted itself as an emergency inquest to try other members of Parliament for a scheme that the Commons had itself authorized – an event close to, but crucially different from, the *chambre de justice*.

Chapter 3 shows how eighteenth-century economic theorists tried to solve the problems raised by this first international financial crisis. In both Britain and France, the middle decades of the eighteenth century lived in the shadow of 1720, which haunted the minds of public opinion, economic theorists, and policymakers. Many of the important books on political economy before 1755 were written by people personally involved in the 1720 crisis, and all of them were attempts to understand both what had happened and who had been at fault. Law himself, as well as Richard Cantillon, Nicolas Dutot, the Pâris brothers, Jean-François Melon, John Trenchard and Thomas Gordon, and even David Hume developed their general economic theories in the course of writing the economic history of 1720, and many of them were overridingly concerned with the threat of economic despotism implied by the rise of new financial practices. This chapter demonstrates that, in addition to his well-known experiments with paper money, John Law's System was a project for creating a politically independent central bank. His arguments, and those of his supporter Nicolas Dutot, tried to establish a legitimate political role for autonomous monetary policy, while his detractors in the 1730s and 1740s argued that central banks constituted conspiracies among cosmopolitan elites, not virtuous governance. This neglected episode in the history of economic thought established the data, rhetorical practices, and concepts for later theories over whether the monetary system can or should be within the scope of human agency. Participants in the debate developed the conceptual foundations of self-ordering economic systems, pioneered the use of calculative reasoning in public debate, and tried to theorize the constitutional relationship between government, money, and commerce. In contrast to other scholars who have researched calculative debates and self-ordering systems after the Financial Revolution, I show that these authors were trying to use an emergent episode in their understanding of economic history to uncover the principles of justice, legitimacy, and agency in the newly formed cosmopolitan *dominium* of commerce and finance.

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Part II, comprising Chapters 4–5, discusses the great transition of the French Revolution. Chapter 4 describes the "normal" parameters for financial impunity in the 1770s and 1780s by analyzing the manipulations of Étienne Clavière and his colleagues on the Paris Bourse. When their stock speculations undercut the last efforts at fiscal reform, the contained world of financial capitalism spilled over into a wider crisis of political legitimacy. Upending the constitutional order in France began a sequence of events that deranged the practices of international finance as well. Changes to the legal category of property rights and the debate over nationalizing the royal debt prompted uncertainty and capital flight from France, which was exacerbated by issuing the *assignats* in 1791. The sequester of foreigners and foreign property under the Terror of 1793 broke international trade, and the combination of hyperinflation in France in 1795–97 with the suspension of gold convertibility in England in 1797 upended the international monetary system.

This separation allowed for about fifteen crucial years in which British and French finance developed along different and isolated tracks, which in turn ensured that the international financial system was recast after 1815 on a different basis from what had obtained before 1789. Chapter 5 therefore investigates the separate attempts in Paris and London to reassert political control over finance, and argues that the revolutionary interregnum marked a nationalist politicization of impunity. The Revolutionary years vastly increased the power of the Bank of England, thereby setting out a new template for what a central bank can do, as well as raising new political questions over what it *should* do. By the first decades of the nineteenth century, central banks became the main institutional repository for financial governance and discretion. The chapter traces the increasing governance power of the Bank of England, and the fitful attempts by the Directory and the Napoleonic regimes to set up their own central bank.

Part III of the book delivers us to a world of impunity that is recognizably our own. The final chapter, Chapter 6, discusses the reconstruction of international finance that produced the crisis of 1825. It illustrates how different the new international financial crises were from pre-Revolutionary crises, and especially how differently the problem of impunity was addressed. Beginning with the financing of the French reparations loan of 1815–17, and continuing with the resumption of gold convertibility at the Bank of England in 1820–21, the postwar financial system was characterized by cooperation between central banks and large international banking houses. There were many points of continuity in both practices and personnel back to the 1780s, but the period until 1825 was fundamentally the process of learning how the new system worked. The crisis itself was a lesson

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in the new dangers of international lending, and the response to the panic in late 1825 was the first instance of learning how cooperation between bankers could mitigate a financial crisis. The institutions of nineteenth-century international finance were finally established by the end of 1826. It was understood by the public and by policymakers that the passions of the financial market could and would generate periodic crises, that government finance could and would be conducted through the intermediary services of international banks, and that the responsibility of central bankers in moments of crisis was first and foremost to preserve the functioning of the system through maintaining gold convertibility, not rescuing banks or investors, let alone addressing unemployment.

The gold standard system ensured exchange rate and balance of payments stability, which reduced risk and facilitated an enormous boom in global trade. But it also ensured that crises, which occurred about once per decade, were paid for through adjustments in the domestic economy. The Bank of England would raise its interest rate to draw in gold and keep from having to suspend convertibility, and those higher interest rates would drive many business owners and farmers into ruin, thereby spreading the crisis from finance to the real economy. With no mechanism for inflationary monetary policy, the evaporation of liquidity during a crisis meant that borrowers had their loans called in and businesses lost customers, ensuring a long, slow, grinding recovery. To the average person in the nineteenth century, financial crises were as regular and as unknowable as terrible storms, and like storms, one of their constitutive characteristics was that they could and would ruin many people's lives without anyone clearly being at fault. Having started in a world of sovereign impunity, financial capitalism arrived at a world in which impunity was a feature of markets themselves.

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