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„Außergerichtliche und gerichtliche Konfliktlösung“

LOEWE Research Focus

"Extrajudicial and Judicial Conflict Resolution"

Arbeitspapier/Working Paper

Nr. 10 (2013)

Credit in the Body of Christ (Northern France, 1300-1600)

urn:nbn:de:hebis:30:3-322609

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This project began when I encountered an accusation made in 1496 in a jurisdictional dispute between the duke of Orléans and the bishop of Orléans. The king's attorney told the Parlement of Paris how "a sergeant found a certain person in the environs of Orléans with a full basket of blank citations with which to vex and trouble a bunch of poor winegrowers. When he seized the citations, he was cited and then excommunicated," joining what the duke's attorney believed were "twelve or fourteen thousand" excommunicates from whom the bishop sought to profit through the fees for sealing their absolutions.¹ I later encountered further accusations that bishops had made a "business" or *marchandise* of ecclesiastical justice, notably against the bishop of Angers in the mid-1520s and against the archbishop of Besançon in the 1570s.²

All of these episodes point to a practice that is nearly imperceptible to historians because the bulk of evidence for it is to be found in the interstices of the beaten paths of legal and social history and because it mixes economic and religious matters in a strikingly unfamiliar manner. From the thirteenth to the sixteenth century, excommunication for debt offered ordinary people an economical, efficacious enforcement mechanism for small-scale, daily, unwritten credit. At the same time, the practice offered holders of ecclesiastical jurisdiction an important opportunity to round out their incomes, particularly in the difficult fifteenth century. My sources come mostly from Northern France, though the practice appears to have existed across the continent. From one perspective, the practice was a grave abuse by which the Church sold its salvific magic to creditors. From another, the practice encouraged charitable, ostensibly interest-free lending within the Body of Christ and provided a mechanism of enforcement for credit that lacked any written proof or that was too minor to be worth pursuing in royal courts. This transitional practice reveals a level of credit below that of the letters of change, annuities secured on real property, or written obligations beloved of economic historians and historians of banking. Though the excellent works of Craig Muldrew and Laurence Fontaine, among others, have illuminated credit in the early modern world, the type of credit that most often gave rise to excommunications for debt is often only visible through this practice – a practice that illuminates the religious, social, and economic transformations of the sixteenth century. Studying the practice casts light on the transition from the face-to-face, local economies of the high Middle Ages to the regional economies of the early modern period, on how the Reformation shaped early modern regimes of credit, and on how the disappearance of ecclesiastical civil justice facilitated the emergence of early modern juridically sovereign territories.

Credit

Late medieval Europeans swam in a sea of credit. This was necessary, given the lack of any sort of formalized credit available to the very poorest and the chronic scarcity and deprecia-

¹ Archives nationales de France (henceforth AN), Paris, X^{2a}61, 256v, 250v.

² An accusation thrown at the bishop of Angers in 1525 by the king of France's prosecutor: AN, X^{1a}4876, 148v-149v. For the Angers case, see Tyler Lange, *The First French Reformation: Religious Reform and the Origins of the Old Regime*, Cambridge, forthcoming 2014, ch. 4 § I; for Besançon, see Lucien Febvre, *L'application du Concile de Trente et l'excommunication pour dettes en Franche-Comté*, in: *Revue historique* 103 (1910), S. 225-247, and 104 (1910), S. 1-39, at 3, 8.

tion of minor coinage.³ This was also a product of choice, as Panurge highlights in the *Tiers Livre* of François Rabelais first published in 1546: “But when, asked Pantagruel, will you be free of debt? ...Panurge responded: ‘God help me from ever being free of debt. I’d never again find anyone to lend me a penny.’” Panurge then justified this choice on a more theoretical basis: “...all my life, I’ve imagined debt as the link between Heaven and earth, as the sole sustenance of humanity – without which all humans would die. It is perhaps the universe’s great soul that, according to the philosophers, gives life to all things.” For this fictional giant, credit was what kept the world in motion. It even encouraged affection and charity among men, for whom, Panurge speculated, but one’s creditors would wake every morning to pray God for one’s well-being and success?⁴ Credit reconciled self-interest and the greater good. Indebtedness played the role assigned to the desires for consumption and for profit by Bernard Mandeville and Adam Smith in the eighteenth century – with the important difference that late medieval society was imagined as the Body of Christ composed of sinful believers striving for salvation, rather than as a polity composed of self-interested citizens.

I propose a fourfold thought experiment. First, imagine that your daily transactions were made on credit – and not the relatively standardized form offered by the credit card, for pre-modern Europeans lived in a monetized but cash-poor world in which the wealthy hoarded and kings debased valuable coins, and in which the small-denomination specie required for daily transactions was scarce. Daily life was a continuous negotiation for credit, the monetization of honor and reputation that permitted survival.⁵ Kings, landlords, bankers, merchants, artisans, and farmers ran their enterprises on the expectation of future taxes, dues, and profits. Rather than paying for goods or services at the time of delivery, pre-modern Europeans often reckoned-up periodically with purveyors and with servants, whether quarterly, semi-annually, or annually. With the local ale-wife or with a trusted servant, the balance could be carried over to the next quarter or year. Balances were negotiable, as records of excommunicates sometimes specify which (orally-contracted!) debts had been ceded to a third party probably in payment of other debts.⁶ With an unreliable purveyor or fired servant, one might demand or withhold the money owed, depending on the plausibility of legal recourse. Only the tax collector usually required immediate payment in cash. As a result, outstanding balances proliferated, with many being creditor and debtor at once to many different partners. Much of this credit was oral, given the expense of written obligations. Second, imagine that you believed in an afterlife that could only be attained through the sacraments of Holy Mother Church. Third, know that Holy Mother Church possessed a system of courts and that

³ Thomas J. Sargent and François R. Velde, *The Big Problem of Small Change*, Princeton, 2002; Laurence Fontaine, *L’Economie morale: Pauvreté, crédit et confiance dans l’Europe préindustrielle*, Paris, 2008; Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England*, New York, 1998; M. Berthe (Hg.), *Endettement Paysan et Crédit Rural dans l’Europe médiévale et moderne: Actes des XVIIes Journées d’Histoire de l’Abbaye de Flaran*, Toulouse, 1998; Martha Howell, *Commerce Before Capitalism in Europe, 1300-1600*, Cambridge, 2010.

⁴ François Rabelais, *Gargantua et Pantagruel*, bk. III, ch. 3: « ‘Mais, demanda Pantagruel, quand serez vous hors de debtes?’ ...respondit Panurge... ‘Dieu me garde d’en estre hors. Plus lors ne trouverois qui un denier me prestast. ...toute ma vie, je n’aye estimé debtes estre comme une connexion et colligence des cieulx et terre, un entretenement unique de l’humain lignaige, je dis sans lequel bien tost tous humains periuroient; estre par adventure celle grande ame de l’univers, laquelle, selon les academicques, toutes choses vivifie’ ».

⁵ Thomas V. Cohen explores this bargaining for credit (fede) in *Three Forms of Jeopardy: Honor, Pain, and Truth-Telling in a Sixteenth-Century Italian Courtroom*, in: *Sixteenth-Century Journal* 39:4 (1998), S. 975-998.

⁶ Archives départementales de la Seine-Maritime, Rouen (henceforth ADSM), G 5273, Register of Excommunicates in the Officiality of Montivilliers, 1499-1530, f. 27: “Dominus Johannes du bois presbyter suspensus a divinis pro judicatio somme vi l xii s t contra Ricardum vymart jus cessionis habentem a vigore capitaine de die xxi.ma mensis octobris anno v^c xv.” Priests were prohibited from celebrating the sacraments. What commerce was to laymen, the sacraments were to priests: their livelihood.

your creditor chose not to pursue you in a civil court but to make your salvation depend on paying up. Fourth, be aware that you borrowed seed corn, grain for subsistence, or perhaps the raw materials of your craft. As Joseph Stiglitz recently noted, growth in the United States in the decade before 2007 was “reliant on the bottom 80 percent consuming about 110 percent of their income.”⁷ Studies of pre-modern indebtedness suggest that unsustainably small farms, slow technological progress, and predatory leases and loans meant that a similar proportion of pre-modern Europeans had to borrow – not to consume but to survive.⁸ Since it appears that excommunication for debt constituted a considerable proportion of the activity of church courts, at least in certain areas, in the years before the Reformation, we must examine how the institution that was supposed to provide the means of salvation came to withhold them from those who borrowed to live.

Church Courts and the Rituals of Excommunication

Examining excommunication for debt – breaks in the web of lending that bound together late medieval society – suggests a post-Revisionist view of the Reformation in which the tension between “reform” and “corruption” shaped the believer’s day-to-day experience of the Christian faith. It also suggests how that tension might have structured economic life or market activity. Late medieval “folklorized” Christianity, in which rituals and festivals of putatively pagan origin coexisted with pieties foreshadowing those of the Protestant and Catholic Reformations, centered on securing real outcomes such as salvation, protection from plague, or a good harvest through the intercession of saints and through the performance of meritorious ritual actions including repetitive daily prayers, bodily mortification, pilgrimages, and gifts to the Church.⁹ The faith of the average Christian in the century before the Reformation was colorful, concrete, active, and commonsense. The goals of worldly and eternal salvation were clear. Sins were clear. Acceptable forms of penance were clear. Whether the sinner could ever atone sufficiently for his sins was not, hence the explosive growth in masses for the dead and similar devotions evident in certain regions.¹⁰ Though the believer was unsure that he could ever do enough, he could be sure that he would always be able to access the Church’s always-effective sacraments. Or would he?

The faithful who sought security in this world and salvation in the next were members of the institution administered by the successors of Saint Peter and the apostles. Through its monopoly of the administration of the sacraments, the hierarchical Church was the necessary intermediary for Christians seeking salvation. The first gatekeeper to the sacraments was the parish priest who administered baptism, the annual confession and Eucharist required since 1215, and the *viaticum* that guaranteed a dying believer’s chance at salvation. While the believer had to have recourse to a priest for the sacraments, both the priest and the believer had to be authorized to administer and to receive them. The second gate-keeper was therefore the official, the judge to whom bishops or other holders of ecclesiastical jurisdiction had by the late medieval period across Europe confided the power to judge cases concerning clerics, ecclesiastical property, marriage, wills, oaths and contracts, heresy, and matters

⁷ Joseph Stiglitz, *Inequality is Holding Back the Recovery*, NYT, January 20, 2013.

⁸ Olwen Hufton, *The Poor of Eighteenth-Century France*, Oxford, 1988; Fontaine, *L’Economie morale*; Jean Jacquart, *L’endettement paysan et le crédit dans les campagnes de la France moderne*, in: Berthe (Hg.), *Endettement paysan et crédit rural*, S. 283-298.

⁹ Bob Scribner, *Ritual and Popular Religion in Catholic Germany at the Time of the Reformation*, in: *Popular Culture and Popular Movements in Reformation Germany*, London, 1987, S. 17-47.

¹⁰ Carlos Eire, *From Madrid to Purgatory: The Art and Craft of Dying in Sixteenth-Century Spain*, Cambridge, 1995; Jacques Chiffolleau, *La comptabilité de l’au-delà. Les hommes, la mort et la religion dans la région d’Avignon à la fin du Moyen Age (vers 1320-vers 1480)*, Rome, 1980.

concerning participation in and exclusion from the sacraments.¹¹ Litigants could also choose to bring civil cases before the official. In late medieval Paris, there existed the *officialités* of the bishop, of the chapter, of the grand archdeacon, and of the major exempt monasteries. In the diocese of Grenoble, an additional official heard cases from deaneries belonging to the duke of Savoy. When the archdeacon, episcopal vicar, or the bishop himself inspected and judged parishes, priests, and parishioners on visitation, he became the gatekeeper.

In a Church structured by the power to judge (*potestas jurisdictionis*), in contradistinction to priests' sacramental power (*potestas ordinis*),¹² the official ordinarily wielded the power of the keys, the power to exclude and include Christians among the number of the saved by denying access to the sacraments. While the parish priest wielded this power in confession, in what was called "the internal forum" or "the court of conscience," ecclesiastical judges wielded this all-important power in "the external forum" or "judicial forum" of ecclesiastical tribunals. The official captured the essence of the late medieval Church, a juridical organization in which, to use the words of Paravy, receiving the Eucharist was not so much a sign of membership in a community but a "privilege" granted by a legal authority.¹³ Lay religious experience focused instead on exchange of the "pax" following the Lord's Prayer, on the adoration of the Eucharist at the elevation, and on the distribution of blessed bread.¹⁴ The concept of "communion-as-privilege" helps to explain why Jacques Toussaert interpreted the failure of many fifteenth-century residents of maritime Flanders to perform their Easter communion as reflecting "abstainers" voluntarily skipping the sacrament or justly excluded for unrepented sins.¹⁵ In fact, a parishioner had to gain the privilege of his or her Easter communion by confessing, securing absolution, and performing the required penance, a series of requirements that could only be accomplished if the believer had not been excommunicated. The sacraments had also to be available generally, as they were not when a territory was placed under interdict, in what was essentially a sacramental embargo.¹⁶ Toussaert's Flemish "veritable pagans" practiced a juridicized Christianity in which their sins had been transformed into crimes to be judged.¹⁷ The late medieval Church, built up since the millennium through an increasingly Romanized canon law, an increasingly imperial papacy, and an increasingly legally-minded clergy, and directed by lawyer-popes and lawyer-bishops, tended to see itself and to operate as a jurisdictional entity.¹⁸ Staffed by ecclesiastical judges, prosecutors, law-

¹¹ Paul Fournier, *Les officialités au Moyen Âge*, Paris, 1880; Anne Lefebvre-Teillard, *Les officialités à la veille du concile de Trente*, Paris, 1973; Véronique Beaulande, *Le malheur d'être exclu? Excommunication, réconciliation et société à la fin du Moyen Âge*, Paris, 2006.

¹² Laurent Villemin, *Pouvoir d'ordre et pouvoir de juridiction: Histoire théologique de leur distinction*, Paris, 2003.

¹³ Pierette Paravy, *De la chrétienté romaine à la Réforme en Dauphiné. Évêques, fidèles et déviants (vers 1340-vers 1530)*, Rome, 1993, S. 484, 751.

¹⁴ John Bossy, *The Mass as a Social Institution*, in: *Past and Present* 100 (Aug. 1983), S. 29-61; Virginia Reinburg, *Liturgy and the Laity in Late Medieval and Reformation France*, in: *Sixteenth Century Journal* 23:3 (Autumn, 1992), S. 526-547; Eamon Duffy, *The Stripping of the Altars: Traditional Religion in England 1400-1580*, New Haven, 1992.

¹⁵ Jacques Toussaert, *Le sentiment religieux en Flandre à la fin du Moyen Âge*, Paris, 1963, S. 440-443.

¹⁶ Elisabeth Vodola, *Excommunication in the Middle Ages*, Berkeley, 1986; Peter D. Clarke, *The Interdict in the Thirteenth Century: A Question of Collective Guilt*, Oxford, 2007.

¹⁷ Laurent Mayali, "'Duo erunt in carne una' and the Medieval Canonists," in: *Iuris Historia: Liber Amicorum Gero Dolezalek*, Berkeley, 2008, S. 161-175.

¹⁸ Lange, *The First French Reformation*, Ch. 1, § I-II; Gabriel Le Bras, *Les origines canoniques du droit administratif*, in: *L'évolution du droit public: Études en l'honneur d'Achille Mestre*, Paris, 1956, S. 395-412; Pierre Legendre, *Du droit privé au droit public: Nouvelles observations sur le mandat chez les canonistes classiques*, in: *Mémoires de la Société pour l'Histoire du Droit et des Institutions des anciens pays bourguignons, comtois et romands* 30e Fascicule (1970-1971), S. 7-35; Laurent Mayali, *Romanitas and Medieval Jurisprudence*, in: *Lex et Romanitas: Essays for Alan Watson*, Berkeley, 2000, S. 121-138.

yers, and notaries, governed by a code of laws and series of precedents, and organized according to an appellate hierarchy, church courts manifested this juridicized Christianity less by admonishing Christians of their sins than by prosecuting legal subjects for their crimes.

Excommunication for debt confirmed that credit was at once a moral, social, and economic quantity that reflected the state of one's soul, one's social status, and one's economic position. It mobilized the sanctions of the Church to repair the wounded credit of a lender, seller, or other aggrieved party. To take an example from late medieval Paris, Agnesot, wife of Jean de La Court, paid 4 deniers parisis (5 d.t.) in court costs on 31 July 1385 to have the cleric Jean Sassier sentenced to pay her 2 francs (2 l. 8 s.t.) for calling her a whore in court. On 19 August, now authorized to act independently in court by her husband, she paid 8 d. par. (10 d.t.) to have Sassier warned that he could be excommunicated for his debt. On 28 August, Sassier promised to pay. On 2 September, Agnesot proposed to have Sassier excommunicated for nonpayment. The official convened them for further arguments, for which she and he each paid 8 d. par. (10 d.t.). On 4 September, the official ordered him to pay within the week or be excommunicated. On 26 September, Agnesot came to court to confirm that he had paid.¹⁹ Sassier was not excommunicated. For 20 d.p. (25 d.t.), Agnesot repaired her credit and received 2 francs (2 l. 8 s.t.). Christophe d'Auxerre, on the other hand, to draw another example from Paris, was excommunicated at the request of Colin de Grandchamp for an unpaid debt of 4 francs, 14 sous par. (5 l. 16 s. 10 d.t.) recognized by the Châtelet, the lowest level of royal justice in Paris, and for court costs of 15 s. par. (18 s.t.). However, on 19 June 1387, Christophe came before the official of Paris with a payment plan, paying 12 d. par. (14 d.t.) for a conditional absolution.²⁰

Credit, in short, was a comprehensive, non-numerical evaluation of the place of someone within society. In the late Middle Ages, society was – it was not just imagined to be – the Body of Christ. Christians were bound not only to perform the duties requisite to salvation, minimally, annual confession and reception of the Eucharist, but to preserve the bonds of charity with their fellows. Charity could manifest itself as forgiveness, particularly of insults or quarrels, or as charitable, interest-free lending. If a believer failed to repay such a loan, this uncharitable act warranted his exclusion from the Body of Christ. Had Christophe d'Auxerre failed to offer a payment plan to his creditor, his excommunication would have proceeded to what were called its aggravation and the reagravation. Warnings or monitions, excommunications, aggravations, and reagravations were delivered personally or announced during the main Sunday mass to the accompaniment of liturgical curses.

The collections of legal templates known as formularies illustrate how the rituals of excommunication mark progressive exclusion from the religious and economic community. A simple excommunication often passed without ceremony. Having failed to respond to a canonical summons, the delinquent was denounced as excommunicate at the Sunday parish mass and his name was entered into the officiality's register of excommunicates. If this failed to bring about the desired effect, the officiality proceeded to more elaborate formulas. Under its "rubric on excommunications," the 1474 Style of the Officiality of the Abbey of Corbie provided the most explicit progression of ceremonial curses. The first excommunication is a simple injunction to parish priests in a case explicitly of debt:

The Official of Corbie greets the curate or priest of X. We command you to announce or to have announced the sentence of excommunication pronounced by us against

¹⁹ Joseph Petit (Hg.), *Registre des Causes Civiles de l'Officialité Épiscopale de Paris, 1384-1387*, Paris, 1919, S. 166, 177, 181-182, 184, 186, 194. I will give all amounts also converted into livres, sous, and deniers tournois.

²⁰ Petit, *Registre*, 484.

Peter N for debt at the request of John N openly and solemnly in your church and to notify us of this if necessary.

The second enjoined the priest to repeat the sentence “as many times as you shall celebrate the divine office on Sundays, feasts, and weekdays,” while ringing the church bells and extinguishing candles. The third asked the priest to command that the obdurate excommunicate be shunned. The priest was to:

forbid all your parishioners on pain of excommunication lest they should presume consciously to communicate with the excommunicate as long as he should remain under sentence of excommunication with respect to food, drink, the village oven, the mill, fire, water, socializing, chatting, working, selling, paying, sitting, walking, greeting him, entering his house, eating, drinking, selling or giving him bread, wine, meat, fish, or other of life’s necessities, or any other act.

The fourth added that no work could be done for the excommunicate and that his family had to be shunned as well. The fifth – entitled “be they ruined” (*confundantur*) – provided that the “unrepentant” (*animo indurato*) man who “feared not the [power of the] keys” (*non formidat claves*) be denounced twice at vespers and thrice at mass with ringing bells, candles lit then extinguished, and the clergy prostrate. Tradesmen were commanded not to trade with him or his family.²¹ A matter of debt, certainly a breach of the bonds of credit that bound individuals to each other, became a matter of “contempt of Holy Mother Church” and led to the exclusion of the excommunicate and his family from the community of those seeking salvation through Holy Mother Church, which was also the economic community within which the excommunicate subsisted.

The liturgical curses deployed against excommunicates were modeled after those used in the high Middle Ages to defend church property.²² These forms survived into the early modern period, explicitly in matters of debt.²³ Designed to terrify, to shame, and to effect the death and damnation of the excommunicate, these liturgical curses were intensifications of a simple excommunication. The title of a “form of a letter of malediction” from Marseilles c. 1490 recalls the Middle English meaning of the verb “cursen” as “to excommunicate.”²⁴ It provides that the priest was to announce the excommunicate’s pertinacity at mass. Then, “with acolyte, in surplice and stole, carrying a cross and holy water, he was go to the church door singing Psalm 108 to the end and throwing three stones from the church door in sign of

²¹ Bibliothèque nationale de France (henceforth BnF), Paris, ms lat 18371, f. 66-68: “Officialis corbeiensis curato vel presbitero tali salutem mandamus vobis quatenus sentenciam excommunicationis a nobis latam in petrum N pro debito occasione et ad instantiam johannis N palam presencie et solemniter in plena ecclesia vestra immonetis au immonari faciatis et de hoc nobis rescripbatis si opus sit. Datum etc. ...

Ut supra usque palam presencie et solemniter in plena ecclesia vestra singulis diebus dominicis festivis et non festivis candellis accensis campanis pulsantis tociens quociens voc divina celebrabitis officia innovatis aut innovari faciatis et de hoc nos certificetis. ...

Ut supra usque palam presencie ut et sicut r.a innovetis aut innovari faciatis inhiben omnibus et singulis parochianis vestris in generali ne quis ipsorum sub pena excommunicationis cum dicto vel dicta sic excommunicato quamdiu in dicta excommunicationis sententia permanserit cibo potu furno molendino ygne aqua societate loquellere curendo vendendo reddendo sedendo scando eum salutando domum suam intrando comedendo bibendo panem vinum carnes pisces et alia vite necessaria cedendo vendendo vel administrando aut alio aliq actu legitimo scienter participare presumat Et de hoc etc.”

²² Lester K. Little, *Benedictine Maledictions: Liturgical Cursing in Romanesque France*, Ithaca, 1993.

²³ See the cited manuscript formularies, Roger Aubenas (Hg.), *Recueil de lettres des officialités de Marseille et d’Aix (XIVe-XVe siècle)*, Paris, 1937, and Jacques Éveillon, *Traité des excommunications et monitoires. Avec la maniere de publier, executer, et fulminer toutes sortes de Monitoire, et excommunications*, Paris, 1672), S. 374-384.

²⁴ Little, *Benedictine Maledictions*, S. 44.

the eternal curse that God placed on Dathan and Abiron, whom the earth swallowed alive.”²⁵ According to the late sixteenth-century statutes of the Norman diocese of Évreux, a coffin draped “as if there were a dead man to bury” surrounded by candles and a basin of holy water was placed before the pulpit. The excommunication was fulminated, the candles extinguished, the coffin aspersed, and the congregation encouraged “to weep for the excommunicate as if he were truly dead.” A dry funeral, so to speak. In the Southern French diocese of Périgueux, the instigator of the excommunication paid to bring a coffin to the church door. After Sunday’s high mass, the priest came with two acolytes in liturgical garb to sing Psalm 108 while the church bells rang. They then burnt the coffin, each casting six stones at it. In the nearby dioceses of Vienne, Embrun, Grenoble, Avignon, and apparently those of Lyon and Augsburg, the ceremony similarly involved ringing church bells, extinguishing candles, overturning the processional cross, singing the response *Revelabunt celi* (based on Job 20-21), the antiphon *Media vita*, and Psalm 108, and throwing three stones from the church door.²⁶ In sum, at the paid request of a creditor or other offended party, the clergy launched curses designed to kill and to damn the debtor or other offender.

The chosen psalm, 108 in the Vulgate, 109 in modern editions, illuminates the whole ceremony. It is a counter-curse invoking Jehovah against an enemy:

...Set thou a wicked man over him: and let Satan stand at his right hand.

When he shall be judged, let him be condemned: and let his prayer become sin.

Let his days be few; let another take his office.

Let his children be fatherless, and his wife a widow.

Let his children be continually vagabonds, and beg...

Let the usurer (*V foenerator*, *AV extortioner*) catch all that he hath... (6-11)

The debtor is to be identified with a “sinner” and “deceiver” (v. 2) to be cursed, while his creditor is to be identified with the “poor man with contrite heart” (v. 17), the “suffering poor man” with “anxiety in his breast” and “knees weakened from fasting” (v. 22-23). The creditor asks God to stand “at the right hand of the poor man, to save my soul from my persecutors” (v. 31). Use of this text puts the debtor in the place of persecutor, and his creditor in the place of the righteous, powerless poor man whom the Church was supposed to aid. No one could mistake who the victim was, for the Marseille formulary specified that the object of the letter had been “excommunicated, aggravated, and reagravated... at the request of such a person from such a place.”²⁷ With the invocation of Dathan and Abiron, punished for their revolt against Moses’s priestly authority, the ceremony affirmed that the Church would protect “poor,” powerless creditors with its magic. These texts help us to make sense of a practice that is, to our sensibilities, a gross abuse. To wit, excommunication for debt punished the

²⁵ Aubenas, Recueil, II: 57-58. The psalm title given as *Deus laudem mean ne carceris* surely an error for *tacueris*.

²⁶ Éveillon, *Traité*, S. 378. For *Revelabunt celi*: “The heavens shall disclose the iniquity of Judas and the earth shall rise up against him and his sin shall be manifest in the day of the Lord’s wrath with those who said to the Lord God, ‘Leave us, we do not wish knowledge of your ways’” (my translation from the University of Waterloo’s Cantus database of Gregorian chant, where the text is found as early as 980 in a manuscript from Saint-Gall and as late as 1580 in an antiphony from Augsburg: <http://cantusdatabase.org/id/007543>). For *Media vita*, “In the midst of life we are already in death, / From whom can we seek help except you, Lord, / Who on account of our sins is rightly angered? / Holy God, holy strong, holy and merciful Savior, / Deliver us not to bitter death” (Little, *Benedictine Maledictions*, S. 237). This tradition is confirmed by the inclusion of this psalm, response, and antiphon in an early sixteenth-century manuscript of liturgical music from Lyon: Fiona Shand, *A New Continental Source of a Fifteenth-Century English Mass*, in: *Music & Letters* 88: 3 (2007), S. 405-419, 406, note 3.

²⁷ Aubenas, Recueil, II: 58.

failure to repay a charitable loan that constituted an insult to the community and thus an insult to Christ's Body.

The creditors who sought to exclude their debtors from Heaven were not, at least in the record, usurers. Lenders never portrayed themselves and church courts never recorded them as lending at interest. Since much medieval lending was disguised as a property transfer or the recompense for effort, risk, or opportunity, creditors simply took their places alongside, say, the priest Mathieu de Oisy to whom Copin de Sarcelles owed 46 s. par. (55s. 2 d.t.) for a gray horse bought in 1387.²⁸ Legally, they were wounded parties, unpaid sellers or service-providers, as many of the considerable number of believers at least temporarily denied the sacraments through the working of ecclesiastical courts undoubtedly were. Assuming households of four persons, excommunication touched 6.5 to 24% of households in the archdeaconry of Paris between 1426 and 1439.²⁹ In Toussaert's Flanders, around 1450 each parish had an average of 35.6 excommunicate parishioners in villages of at the most a couple of hundred residents.³⁰ At Beauvais, for instance, the Official's accounts from 1480 to 1487 specify the cause for 191 of 234 excommunications, of which 176 concern nonpayment of debts. Similarly, the Official of the Abbey of Corbie noted 142 excommunications in 1531, of which 116 were for debt and 10 for unpaid judicial fines or court costs.³¹ In the Dauphiné, during roughly the same period up to 25% of the heads of households in some villages were excommunicated for debts.³² While priests commonly – though not always – absolved these unfortunates on their deathbeds and bishops sometimes granted temporary absolutions so that excommunicates could make their Easter communion, over time the banalization of such punishments made the Church seem to be the instrument of creditors – particularly when the priest withheld absolution from a dying man or woman, condemning him or her to burial in unconsecrated ground and perhaps to eternal damnation.³³ That in 1446 the curé of Varces in the Dauphiné complained to his bishop that he spent most of his time at mass reading citations and sentences of excommunication, that legal costs could double the amount of a debt, that in 1447 the debts of the excommunicates at Les Adrets in the Dauphiné were as much as the village's annual taxes, that twenty-five percent of the letters in a formulary com-

²⁸ Petit, *Registre*, S. 421. On such forms of lending, Bernard Schnapper, *Les rentes au XVIe siècle: Histoire d'un instrument de crédit*, Paris, 1957.

²⁹ AN Z¹⁰17, Register of Excommunicates in the Archdeaconry of Paris, 1426-1439. This is an assumption based on households of four persons and on a reduction in the population figures for the large right bank-parishes from the population figures given by the 1767 pouillé proportional to the populations of Paris c. 1430 and c. 1730 – generously 1/3. This presumes that the right-bank parishes of the city were densely populated in the fifteenth-century, as much of the subsequent expansion in population from 100,000 to 600,000 residents occurred in outlying districts. Dividing by 6 doubles the percentages to give a range of from 13.5% to 48% households touched by excommunication.

³⁰ Toussaert, *Sentiment religieux*, S. 442.

³¹ Beaulande, *Malheur d'être exclu*, S. 196.

³² Paravy, *Chrétienté romaine*, S. 462-466.

³³ Paravy, *Chrétienté romaine*, S. 483-484; BN lat 10930 (Formulary for the Officiality of Le Mans, 1429), f. 12v-13: "quo modo presbiter debet absoluere morientem in articulo mortis:

Dominus noster episcopus X per suampiissimam mram te absolvat Et ego auctoritate omnipotentis dei et petri et pauli apostolorum eius et domini nostri pape G divini providentie pape xi in hac parte in commissa ab omnibus peccatis tuis de quibus fuisti vos ore confessus et corde contritus eciam a sententia excommunicacionis si quam meministi steterit ut ignoranter et eadem auctorite et auctoritatibus quibus super do penam et culpam in quantum claves sancte matris ecclesie si extenduntur in nomine patris et filii et spiritus sancti amen.

Dispensatio ut corpus mortui excommunicati sepeliatur in terra sancta:

Guido episcopus etc rectori etc si vobis constitit quod B tempore quo vivebat esset verus catholicus et quod dum in extremis laborabat signa penitencia apparuerit in eodem non obstante quod non recepit in extremis confessionem p/ et eucaristie sacramentum super quibus tenore presencium nostre dispensamus corpus seu cadaver ipsius tradatur esse sepulture Datum etc."

piled for the *officialités* of Marseilles and Aix around 1490 concerned excommunication for debt suggests that the Pre-Reformation Church was in effect selling its salvific magic to lenders.³⁴ Such events encouraged ill feeling, detachment from the hierarchical Church, and even abandonment of the established Church. In mid-fifteenth-century Dauphiné, this meant recourse to an increasingly radical, separatist Waldensianism; in Europe after 1517, it meant a turn toward forms of Protestantism.³⁵ In addition to killing relations of trust between clergy and faithful, excommunication for debt poisoned communal relations at the same time as it filled a useful, otherwise unfulfilled economic function. Paravy offers examples of creditors accusing debtors, whose curses they feared, of witchcraft, and, in one case, of debtors accusing a creditor of witchcraft.³⁶ The sanctions designed to promote reverence for the Church's precepts and jurisdiction could as well fissure as unify the sacramental community. Parish-by-parish lists of excommunicates, court records, accounts, formularies, and complaints attest to the practice across France. The phenomenon appears to have existed in the British Isles, in Germany, and in Italy. One suspects that it was nearly universal.

Demand for Excommunication for Debt

Excommunication for debt illuminates an aspect of canon law and of the operation of church courts often absent from histories of canon law and church courts. Because historians of canon law often concentrate on learned treatises or on procedural prescription and because social historians prefer to mine legal records for information about family life, one does not often encounter an examination of the role of custom in medieval church courts. To put the matter differently, a study of excommunication for debt shows us how church courts were not simply instruments of evangelization by citation but in fact responded to very real demand on the part of believers, particularly with respect to their civil competence.

What those believers demanded was in fact authentication of contracts – both written and unwritten! Olivier Guyotjeannin has proposed that the crystallization of officialities as bureaucratic institutions in the years around 1200 (at least in France) responded to the pressures of considerable lay demand for the authentication of written contracts with the seal of the officiality – for, to use the *terminus technicus*, its *jurisdiction gracieuse*.³⁷ What my study of the records of excommunication for debt reveals is that lay demand for the enforcement of unwritten contracts composed a considerable proportion of the activity of church courts from the late thirteenth century. Synodal statutes from the diocese of Coutances prior to 1294 specify that parish priests were to keep a “table or sheet on which he write the names of the excommunicates of his parish, and for which causes, and how many times, and at whose request, and by whose authority.”³⁸ This suggests that the practice had become quite common, more so than would be the case for ordinary ecclesiastical offences. Matters of debt are present in formularies of the officiality of Tréguier dating from c.1312-1315.³⁹ As in the documents from Coutances, the archidiaconal officiality of Chartres appears to have kept parish-by-parish lists of excommunicates (without specification of cause) from the early 1340s at the latest.⁴⁰ By the early fourteenth century, officialities kept registers that specified when, at the request

³⁴ Paravy, *Chrétienté romaine*, S. 463-464: Les Adrets, 2,500 florins / 3,333 l.t.; Aubenas, Recueil.

³⁵ Paravy, *Chrétienté romaine*, S. 750-751.

³⁶ Paravy, *Chrétienté romaine*, S. 824-825.

³⁷ Olivier Guyotjeannin, *Jurisdiction gracieuse ecclésiastique et naissance de l'officialité à Beauvais (1175-1220)*, in: *A propos des actes des évêques: Hommage à Lucie Fossier*, Nancy, 1991, S. 295-310.

³⁸ *Concilia Rotomagensis provinciae accedunt diocesanæ synodi...*, Rouen, 1717, S. 543-559, at 545, c. 15.

³⁹ *Formulary of the Diocesan Officiality of Tréguier*, c. 1312-1315, BnF, Nouvelles acquisitions latines 426.

⁴⁰ *Registers of the Officiality of Chartres*, bound in *Register of Excommunicates from the 1340s*, Archives Départementales de l'Eure-et-Loire, Chartres (henceforth ADEL), G 813.

of whom, for what cause, often for what amount a believer had been excommunicated, and, ideally, when he had been absolved.⁴¹

These registers are indispensable to the history of the practice, as are financial accounts and formularies. Excommunications for debt were primarily automatic consequences of a failure to appear in response to a citation, that is, for contumacy in response to an oral citation. The matter does not therefore often appear in surviving registers of the audiences of officialities. Only when the cited party appeared at the officiality to acknowledge or to contest the debt do such matters appear in the registers of audiences. Then, the judge could hear debates “on the probative value of an account” (*super agnitionem cedulae*) if written proof existed or record the recognizance of a debt, marked “Obligation” (*obligatio*) or “Recognizance” (*condempnatio*) in the margin.⁴²

The use of spiritual sanctions to enforce debt was a practice conducted, not necessarily off the books, but off the books that historians ordinarily examine. A creditor had simply to come to an auditor of the officiality and allege an unpaid debt. For this, the auditor would command a sergeant (often a proctor of the officiality) to cite the defaulting borrower, usually only once. At times, as in the accusation against the bishop of Orléans with which I began, it appears that sergeants or proctors were sometimes sent out to sell written citations. When they passed through a village and encountered someone who wished to collect an unpaid debt, all that had to be filled in was the names and the date, left blank on the already-sealed citation.⁴³ All this would appear in the accounts of the officiality, the register of excommunicates, and perhaps in a sort of aide-mémoire for the summoner. At Paris, the latter were five-centimeter long scraps of parchment containing laconic instructions: e.g. “Cite Jean X, executor of Jean de Crois, dwelling in the rue Saint-Honoré, in the court of the Lord Archdeacon of Paris on Wednesday at the request of Gérard Raundat, OP, to respond in justice / [Signed] Germanet.”⁴⁴ Furthermore, The provision of the Ordinance of Villers-Cotterêts (1539) that citations be written and their cause be specified is clearly a response to this – as is its restriction of the citation of layfolk in non-spiritual matters.⁴⁵ When the cited believer failed to appear before the official, whether because he had failed to hear the citation or because he had chosen to flout the “spiritual sword,” he was automatically excommunicated and his name was enrolled upon the officiality’s register of excommunicates. His name would

⁴¹ Essentially all of the excommunicates at Montivilliers (1499-1530) were absolved, while only 41% at Paris (1426-1439) are recorded as having been absolved. This could reflect a higher number of long-term, obdurate excommunicates but more likely reflects the sloppy record-keeping of the archdiaconal officiality.

⁴² e.g. AN Z¹⁰⁸, f. 36v, 15 may 1500; AN Z¹⁰⁴, f. 6v, “Cond.,” Sabbati post festum bte marc evangeliste, 1477: “Hodie henricus planche citatus... ad requestam luquini de fucheres actoris confessus fuit debere contenta in petitionem alias redacta / quam sommam promisit solvere infra festum penthecostes;” f. 7, “Oblig.”: “Hodie Jacobus Jolin laborator apud chanveriacum confessus fuit debere magistro guillelmo de lorrano presbytero curato ecclesie parrochialis sancti petri ad boves in civitate parisiis summam duodecim francorum ii s p / Racione veri mutui per dominum creditorem eidem johanni facti diversis vicibus a duobus annis citra / quam summam promisit solvere videlicet quadraginta s infra festum assumptionem beate marie virginis / quadraginta solidorum in festo sancti martini / xl^{ta} s in festo assumptionis inde sequenti anno lxxviii^o et residuum in sequenti festo sancte martini hyemali sub pena excommunicacionis etc Et fuit monitus ut in forma Et eligit suum domicilium in loco predicto / ii^o s / cred.”

⁴³ Febvre, *Excommunication*, pt. II: 5.

⁴⁴ Insert in Z¹⁰⁵, Register of Civil Cases of the Archdiaconal Officiality of Paris, 1479-1480: “Cit[etis] in cur[ia] d[omi]ni archid[iaconi] par[isiensis] ad diem mercurij / joh[ann]em _____ execut[orem] joh[ann]is decreois / com[m]or[antem] in vico s[an]c[t]i honorati super [requestam] girardi / raundati ord[inis] frat[rum] p[redicatorum] quod justum r[espons]urus / germanet.”

⁴⁵ Isambert et al., *Recueil général des lois*, Paris, 1821-1833), XII: 600-640. Art. 1-4, pp. 601-602, restrict church courts to purely spiritual matters and bar them from trying personal actions between layfolk or from delivering verbal citations.

have been struck when he had renegotiated with or paid his creditor and had paid the sealing fee for his absolution. Appropriately enough, it appears that proctors summoned on credit and that the sealer sealed absolutions on credit.⁴⁶ This only makes sense, as citations likely reflected a need for ready cash on the part of the lender or seller. In a time of pressing need, these may not even have had the pennies with which to pay the summoner. Indeed, it makes little sense to distinguish between creditors and debtors, as nearly everyone was both. Whether one appeared as one or the other depended largely upon the credit of others. If one of your creditors called in your debt, you were a debtor. If you called in the debt of one of your borrowers, you were a creditor.

When one analyzes registers of excommunications, one comprehends the magnitude of the practice. I will explore that of the diocesan officiality of the archdeacon of Chartres from 1380 to 1434, that of the archdeacon of Paris from 1426 to 1439, and that of the abbess of Montivilliers in Normandy from 1499 to 1530. For Paris, I have compiled a database of 3,069 entries. Since the archdeaconry primarily covered the right bank parishes of Paris and adjacent villages, most of the excommunications concern the commercial heart of Paris. Sadly, this register does not always specify the amount at the base of a given excommunication, because many were the outcome of a failed citation rather than actual litigation. Of 3,069 citations, 1,889 or 62%, were for simple contumacy (*pro contumacia*) as opposed to 433 or 14% for an (adjudged) amount (*pro re [judicata]*) reflecting either a debt confessed in court or a written obligation sealed by the officiality or perhaps by the Châtelet and 43 or 1.4% for both contumacy and a sum. 29 or 1% were for court costs. 116 or 4% were for court costs and contumacy. The distribution among years was fairly regular. From 1426 to 1438 inclusively, an average of 211 excommunications were registered in the archdeaconry of Paris. Excluding the peak years of 1429 (292 excommunications), 1434 (345), 1435 (300), and 1437 (275), the average is 170. However, there remain 184 excommunications for which it is unclear whether they were issued in 1427 or 1428.⁴⁷ Depending on the distribution, including these would raise the overall average and push those two years into the range of the peak years previously mentioned. This is a considerable number. Over the slightly more than thirteen years covered by the register, one member of between 6.5 and 24% of the households of the big right-bank parishes had been excommunicated. It is true that a few of these were for moral cases and that a small minority of these excommunications were incurred by “repeat offenders.” Ecclesiastical justice nevertheless played a considerable and evident role in minor credit in late medieval Paris.

The late 1420s and 1430s were difficult years for Paris. The Hundred Years War continued to afflict a divided France. Following the bloody entry of the Burgundians and English into Paris in 1418 and the deaths of Henry V and of Charles VI in 1422, the Regent Bedford and the young Charles VII struggled for control of France.⁴⁸ While the victories of Joan of Arc turned the tide in 1429, it was not until 1436 that the French regained Paris. The following table compares the numbers of excommunicates with grain prices in sous/setier, suggesting some correlation between price movements and excommunications.⁴⁹

⁴⁶ Hence the predominance of court officers as excommunicators, particularly at Paris, where they constituted 39% of the excommunicators.

⁴⁷ There are also 26 excommunications for 1439, obviously an incomplete listing, and 30 for which the date is unclear.

⁴⁸ Guy Fourquin, *Les campagnes de la région parisienne à la fin du Moyen Âge du milieu du XIIIe siècle au début du XVIe siècle*, Paris, 1964.

⁴⁹ Unfortunately, the price series begins in 1431 and the register ends in 1439. See Richard and Margaret Bonney's *European State Finance Database*, <http://esfdb.websites.bta.com>, drawing on Micheline Baulant, *Le prix de grains à Paris de 1431 à 1788*, in: *Annales ESC* (1968), S. 538-539. The excommunication numbers lag

Year	142	142	143	143	143	143	143	143	143	143	143	143	144
	8	9	0	1	2	3	4	5	6	7	8	9	0
Exc	160	292	163	201	157	175	345	300	208	275	159		
Grain				2.76	2.25	5.50	1.89	1.37	1.68	4.06	5.95	4.18	1.17

Though the years between 1426 and 1439 were certainly atypical years, comprehending the political, social, and economic dislocations of war, it does not appear that daily life ground to a halt according to the records of excommunication. Indeed, how could it? The inhabitants of this metropolis of 80,000 to 100,000 needed to provision themselves. This is why the Paris records are studded with tradesmen, women including female merchants, and a few high-level bankers and merchants. These last included Master Jean de la Poterne, goldsmith, moneychanger, and twice *échevin* of Paris, who was probably particularly vulnerable. Excommunicated sixteen times, and only twice by the official's prosecutor and once by his receiver of fines, Master John was probably at the center of a considerable network of lending and borrowing and surely faced the extraordinary financial demands both of office and of a wealthy subject vulnerable to demands for forced loans from royal officials or magnates. Though it appears that he often could not pay immediately when others called in his debts, he nevertheless retained great "credit," given his position. Conversely, Jean le Queux probably issued numerous small loans, as he excommunicated others sixty-four times, putting him in a range that ranks him with the summoners of the officiality. Women are important among the mass of excommunicators and excommunicates. This includes married woman authorized to act legally in their own name, female merchants (*marchandes publiques*), and married women excommunicated together with their husbands. Since excommunications were ordinarily directed not at the individual but at an economic cell, husbands and wives were excommunicated together as "X and his wife Y." Interestingly, one encounters quite often that "Y wife of X and her husband are excommunicated."⁵⁰ This suggests that the former formulation reflects debts contracted by the husband and the latter debts contracted by the wife. This is reasonable, since I propose that excommunication for debt principally concerned minor sums, as women would necessarily have been involved in market relations, even if not directly in the labor market, as many of them would also have been. It is likely that women's economic participation was broadest at the bottom of the social scale, where survival depended on each additional denier and on the credit of the couple as a unit – or perhaps even more on the wife's credit with the baker, butcher, and tavern keeper.⁵¹

The sixteenth-century transformation of ecclesiastical justice is invisible in the the mid-fifteenth century register of the archdeaconsy of Paris, which probably records the practice at its peak. In it, we find an oscillation between off-peak years of 170 excommunications per year and peak years of 300 excommunications per year – a considerable figure. When we again find a relevant source, the accounts of the archdeaconsy of Paris from March 1, 1494 (NS) to February 28, 1495 (NS), it appears that the overall number of excommunications had declined from the mid-century level. Out of a total income of 481 l. 10 s. 5 d. par., citations

the prices, as the former reflects the old-style year beginning at Easter and the latter have been regularized to the new-style year beginning January 1.

⁵⁰ e.g. AN Z¹⁰17, f.44, (1438, parish of Saint-Paul): "Excommunicati sunt uxor Johannis anglici et eius maritus ad instantiam guilloti cruel [pro] contumacia / absoluti mediante cessionis [bonorum]." Jean Langlois and his wife ceded all their property to Guyot Cruel, probably in a matter of some kind of debt.

⁵¹ One is tempted to retroject Hufon, *Poor of Eighteenth-Century France*, but might consult Bronislaw Geremek, *The Margins of Society in Late Medieval Paris*, Cambridge, 1987.

brought in 19 s. 11 ½ d., general monitions and so on 1 l. 14 s. 10 ½ d., and absolutions 9 l. 5 s. 9 ½ d. These were not enormous sums in comparison to the two largest items in the archdeacon's income, fines of 74 l. 1 s. 8 d. (15.3%) and payments on the occasion of visitations of 206 l. (42.8%), but did help to provide 187 l. 3 s. 5 ½ d. of profit to the archdeacon after the deduction of operating expenses. If we assume that a citation cost 4 d., as is likely and as it apparently cost in the late fourteenth century, at most 48 citations were issued, though the real figure is likely lower on account of the inclusion of the sealing fees for other types of letter in this category. Thirteen general monitions were issued at a cost of 1 s. each. 42 absolutions were sealed for 4 s. each, as were 10 relaxations for 2 s. each.⁵² The officiality's profit from excommunication obviously came primarily from the fees for sealing absolutions. In comparison to mid-century, when the officiality might have taken in between 34 and 60 l. from between 170 and 300 required absolutions, the archdeacon received 9 l. from a maximum number of 52 or so required absolutions in 1494.

Most of the financial benefit of the procedure accrued not therefore to the archdeacon but to the lender or seller who requested the excommunication. Indeed, if a citation only cost 4 d. at Paris, it was a particularly cheap means of recovering small debts and of repairing one's credit or damaging another's, particularly since the royal court of first instance, the Châtelet, was formal documentation. According to Julie Claustre, in 1488-1489 80% of imprisonments for debt at the Châtelet of Paris were in consequence of debts sealed by the prévôté of Paris; the remaining 20% were almost all in consequence of debts pursued by royal officers in the course of their offices.⁵³ Even if an obligation had been drawn up by notaries and sealed by the clerks of the Châtelet, enforcement was costly. Imprisoning a debtor for a day or two, a common strategy, would have cost 2 s. 8 d. alone, approximately the daily wage of a construction laborer in 1500-1505 (2 s. 6 d.).⁵⁴ As a result, the debts pursued at the Châtelet were relatively large, with 71% for amounts greater than 50 s., 47% for amounts greater than 100 s., and 4% for amounts greater than 1000 s.⁵⁵ If creditors chose to pursue their debts before church courts, the fees were lighter, the procedure quicker, and proof based on sworn testimony. At Paris in 1494 and at Sens in the early sixteenth century, to warn a borrower that he would be excommunicated if he failed to pay cost 4 d. Church courts were the best place to pursue minor debts that lacked written proof. At Chartres, the average debt recorded was 25 s.t. and the median 10 s.t. At Paris, the average was 7.5 s.p. (9.375 s.t.) and the median 5 s.p. (6.25 s.t.) At Montivilliers, the average debt was 71.5 s.t., distorted by a number of large debts (the largest of 603 l. 5 s. 8 d.t.), as the median was only 30 s.t.⁵⁶ Barring the Paris data, which record the amount only of a few loans, the average debt pursued this way rose from a little over a pound tournois around 1400 at Chartres to just under 4 l.t. a century later in the commercial lands at the mouth of the Seine. The median, however, rose from half a pound tournois to only a pound and a half tournois.

The following image of the database for the archidiaconal officiality of Paris, created with Gephi, an open-source network-visualization program provides another way of looking at the phenomenon. In spite of the paucity of amounts specified in the Paris data, it visually confirms the officiality's involvement in private, civil, debt matters.

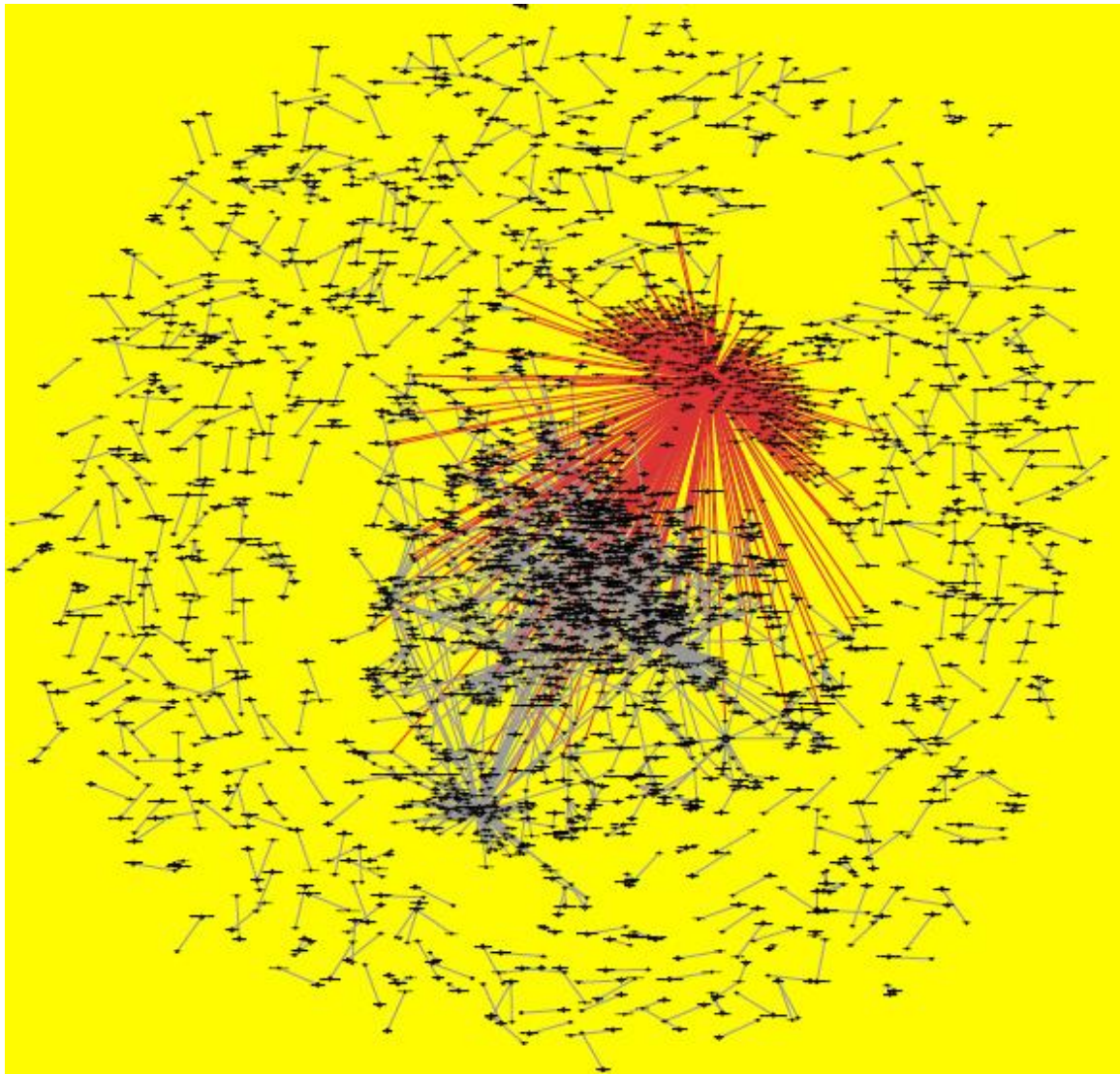
⁵² AN LL 517 n. 74.

⁵³ Julie Claustre, *Dans les geôles du roi. L'emprisonnement pour dette à Paris à la fin du Moyen Âge*, Paris, 2007, S. 171-193.

⁵⁴ Claustre, *Geôles*, 351; Micheline Baulant, *Prix et salaires à Paris au XVI^e siècle: Sources et résultats*, in: *Annales ESC* 31:5 (1976), S. 954-995, 981.

⁵⁵ Claustre, *Geôles*, S. 213.

⁵⁶ ADEL G 817; Z¹⁰17; ADSM, G 5273, *Register of the Excommunicates in the Officiality of Montivilliers, 1499-1530*.



Each dot represents an individual or an economic cell and each line is line pointing from the requester to the excommunicate, the thickness of which reflects the number of excommunications passing from source to target. The size of the node signifies the number of excommunications made by that individual, on a logarithmic scale. The red sun at the center of this conceptual, not geographical diagram is the archdeacon's prosecutor, the *promotor justitiae*. The arrows emanating from him represent the few excommunications given as punishments,⁵⁷ excommunications incurred in the course of moral and civil litigation, as well excommunications in respect of debts reflecting court costs (*pro suo salario*). The grey ball at the far end of the center from the prosecutor represents the receiver of fines. The arrows emanating from him reflect his attempts to recover unpaid fines. Between then is a gray mass composed of the proctors of the court, frequent excommunicators, and those they excommunicated. The proctors are there because they served the citations and, it appears, did so on credit. The arrows emanating from them probably represent efforts to reclaim unpaid fees. Frequent excommunicators are major small-time lenders, whether merchants, artisans such as bakers, or usurers – whose usury is of course invisible in the records of procedure predicated on a view of lending as “amicable, interest-free loans” (*ex amicabile mutuo*). There are, of course, relatively few of these. Of repeat excommunicators (those with high OutDegree), nine of the eleven greatest are officers of the court, likely seeking to recover court costs and

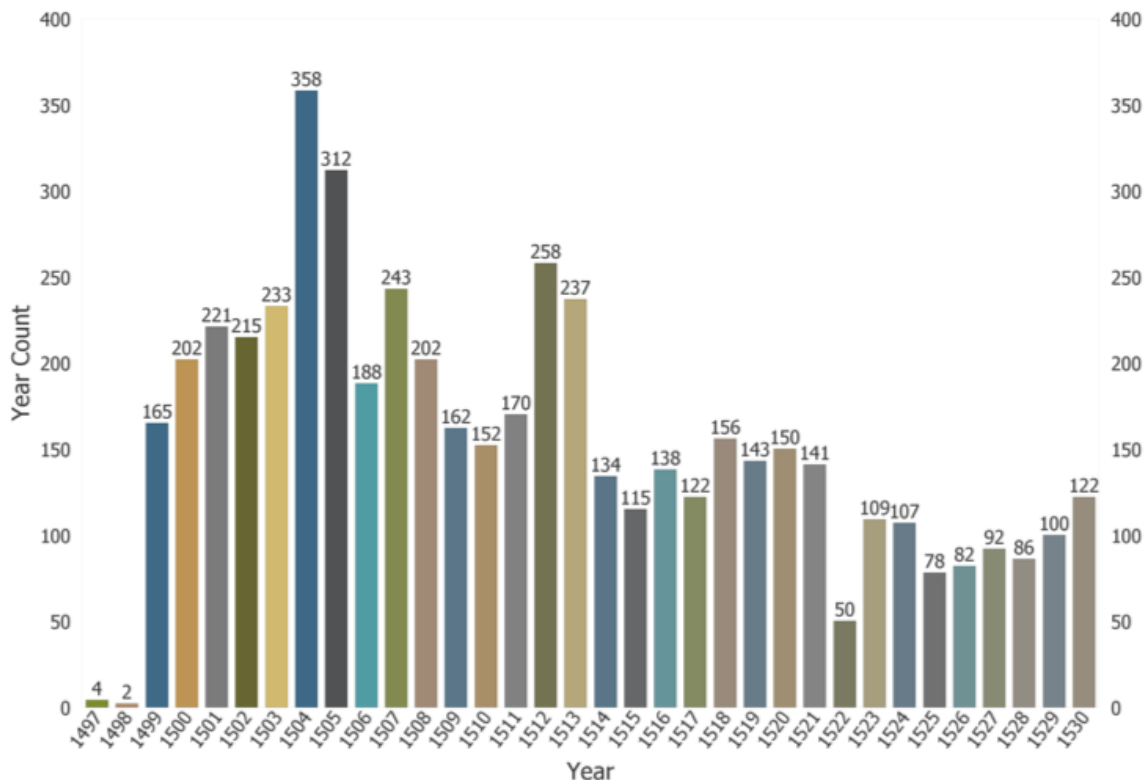
⁵⁷ Beaulande, Malheur, S. 77-154.

their salaries. The band of potential (small-scale!) usurers probably extends from the five who excommunicated ten times to the two who excommunicated sixteen times. Of repeat excommunicates (those with high InDegree), no one was excommunicated more than thirty-eight times, although the next most excommunicated two individuals were each excommunicated twenty-one times.

Number	InDegree	OutDegree
0	1199	1632
1	1252	993
2	224	174
3	98	48
4	43	27
5	34	10
6	15	9
7	17	3
8	13	1
9	3	5
10	5	1
11	1	0
12	3	1
13	2	3
14	3	1
15	0	0
16	1	2
17	1	0
18	2	0
19	1	0
20	1	0
21	2	1 (Proctor)
22	0	1
26	0	1 (Proctor)
38	1	1 (Sealer)
50	0	1 (Proctor)
64	0	1
65	0	1 (Proctor)
85	0	1 (Proctor)
91	0	1 (Proctor)
130	0	1 (Receiver of Fines)
599	0	1 (Promotor of Justice)

Returning to the chart, the outer ring of nodes and edges (in network-analysis speak) is most important, for it represents what are overwhelmingly attempts to call in outstanding balances between private individuals. Since most of these reflect only one excommunication, we might interpret this outer ring as conveying the magnitude of minor credit in late medieval Paris, particularly since we only see breaks in networks represented here. The floating mass of credit on which society functioned is otherwise invisible. One might object that only 1289 individuals were responsible for all 3069 excommunications and that 1722 individuals made up the totality of excommunicates (for those whose names are legible). This means that at least 1632 individuals in our sample never excommunicated anyone and that at least 1199 individuals were never excommunicated. However, if one accounts for the activity of court officials, the balance is closer to even among excommunicates and excommunicated. From the evidence, most Parisians were creditors and debtors at the same time.

This impression of the operation of church courts in matters of minor credit is confirmed by a later source from the Norman coast. The exempt jurisdiction of the abbess of Montivilliers between 1499 and 1530 covered parishes around the mouth of the Seine downstream from Rouen, including the port of Harfleur. The abbess's ecclesiastical tribunal appears to have provided a valuable economic service in a region of high commercial activity. While at Paris



the Châtelet may have stolen some of the archdeacon's business, at Montivilliers only large, formally drawn up documents appear to have escaped the jurisdiction of the abbess of Montivilliers. In addition, the following chart testifies to the decline of instances of excommunication for debt in the sixteenth century.

The categories of registers of excommunicates suggest that the practice was driven by demand, rather than by a standardized, top-down, doctrine-driven movement across Europe. At Paris, some excommunications for debt were recorded as "for an amount" or "matter" (*pro re*) or "for a confessed or adjudged amount" (*pro re confessata* or *judicata*), but the majority were recorded as "for contumacy" (*pro contumacia*). At Montivilliers, some excommunications came under the rubric of those "for contumacy," but the vast majority were classed as being made "for an adjudged sum" (*pro iudicato summae*). According to Véronique Beaulande, other Northern French officialities instead used the rather more explicit categorization of excommunications "for debt" (*pro debito*).⁵⁸ In England the category of "breach of faith" (*fidei laesio*) appears to have prevailed for the categorization of an action to recover a debt.⁵⁹ Rather than reflecting a movement within canonical scholarship, the development of excommunication for debt appears to have responded to economic needs felt across the continent and satisfied through broadly similar canonical procedures.

⁵⁸ Beaulande, Malheur, S. 185-211; BN lat 18371 (late fifteenth-century style of the Officiality of Corbie), f. 61, 68: "pro debito occasione."

⁵⁹ R. H. Helmholz, *Assumpsit and Fidei laesio*, in: *Canon Law and the Law of England*, London, 1987, S. 263-289; Charles Donahue, Jr (Hg.), *The Records of the Medieval Ecclesiastical Courts (Part II: England)*, Berlin, 1994.

Formularies consequently offer analogous if not identical formulas for letters of *Nisi*, citations, for excommunications, for *cessiones bonorum*, for aggravations, for reaggravations, and for absolutions or relaxations. Letters of *Nisi* are at the root of some excommunications, as their probative force was immediate. These letters sealed by the officiality included a clause providing for the excommunication of the borrower should he default. Again, however, it appears that many excommunications for debt lacked written proof, resting only on simple promises. The *cessio bonorum* was a procedure borrowed from civil or Roman law by which a creditor was absolved of his debts by renouncing all his property to his debtors.⁶⁰ This absolution was not absolute, for the *cessiones* recorded in the registers of the audiences of the archidiaconal officiality of Paris specify that the debtor in question was only absolved until the debtor should come to a “richer life-situation” (*pinguiorem fortunam*).⁶¹ Even having renounced his property, the borrower remained in a sort of debt peonage, with his creditors preserving a claim to any future income or property should he escape his present misery. From the perspective of the creditor and the court, that was just, since the debtor had broken faith with another member of the body of Christ.

A formulary compiled in the Breton diocese of Tréguier around 1312-1315, only a few years after the death of the canon lawyer Saint-Ives (1253-1303, diocesan official from 1284) contains excommunication and citation formulas, some for heresy and some for debt.⁶² Perhaps because of its age and its peripheral origin, its phrasing does not align with that of later formularies, which refer either to *mutua* or charitable, interest-free loans or to legitimate sales. For example, the “protocol of letters in courts christian” (*protocole d’expéditions qui se font en cour d’église ou officialité*) of 1429 from Le Mans provides a template, “letter of citation for a monetary debt” (*littera citatoria in causa pecuniaria*), for the recovery of money lent “as a loan” (*ex causa mutui*) through the assignation of a term within which to pay on pain of automatic excommunication.⁶³ The formulary (c. 1488) of the monastic officiality of Corbie likewise directs the “recognizance of a debt” (*instrumentum recognitionis debiti*) at money lent “in a friendly loan” (*ex amicabile mutuo*).⁶⁴ Illustrating how debts of consumption and subsistence might be at the root of an excommunication, the Le Mans formulary contains formulas for the recovery of “monetary debts contracted for the purchase of some bread or other item” (*quamdam peccuniam... occasione panis vel alterius rei*).⁶⁵ At Montivilliers in the first third of the sixteenth century, many underlying debts are explicitly to tavern keepers or “for expenses at a tavern.”⁶⁶ Because these reflected the credit on which commerce functioned and an offense against the body of Christ, the late fifteenth-century style of the officiality of Corbie provided that these cases were to move quickly. Its “simple monition” (*monicio simplex*) provides that if the specified person failed to pay up “within five days... we would excommunicate him and declare him to be such.”⁶⁷ From a formulary of roughly 1529 from the diocese of Saint-

⁶⁰ On the *cessio bonorum*, see Adolf Berger, *Encyclopedic Dictionary of Roman Law*, in: *Transactions of the American Philosophical Society*, New Ser. 43:2 (1953), S. 387: “A debtor who became insolvent without his fault might voluntarily surrender his property to his creditors in order to avoid an execution by a compulsory sale thereof which involved infamy.” See too Claustre’s index, s.v. “cession de biens.”

⁶¹ e.g. Archives Nationales, Z¹⁰⁸, f.10 (Dec. 30, 1499).

⁶² BN NAL 426, 6-6v.

⁶³ BN lat 10930, 7. See too Febvre, *Excommunication*, II: 5-8.

⁶⁴ BN lat 17766, 2v.

⁶⁵ BN lat 10930, 21v.

⁶⁶ e.g. ADSM G 5273, 34v (1520): “Nicolaus lescolier nepos magistri nicolay excommunicatus pro iudicato somme xii^{im} solidorum turonensium pro expensis taberne contra Johannem des preez in domo eiusdem facto de die xxvi^a mensis octobris.” Apparently this reflected a credit crisis or the spendthrift habits of a well-placed young clerk, as Lescolier was excommunicated on fos. 34v and 35 for debts of 3s on August 3, 14s on September 21, 48s on October 4, and 7s 6d on January 19 (1521, NS).

⁶⁷ BN lat 18371, 55v.

Brieuc in Brittany, we learn that excommunication was a rapid remedy. The cited debtor was to be automatically excommunicated in “minor” cases, presumably the cases under 10 s. that did not require written citation, after eight days; in major cases, after fifteen days. Ten days after the excommunication, if the cited believer remained obdurate, his sentence was to be “aggravated.” Ten days after that, his sentence was to be “reaggravated.” Ten days after that, his family and tenants (if any) were to be interdicted or banned from the church.⁶⁸ After a year, all obdurate excommunicates were liable to prosecution as presumptive heretics.⁶⁹ If this seems harsh, the – admittedly late, c. 1529 – statutes of Saint-Brieuc did try to mitigate the practice. They forbade excommunications for sums of less than 12 d. and provided that excommunicates were to be recorded and reported at diocesan synods.⁷⁰ Major cases of debt, greater than 10 s. for ordinary folk and greater than 32 s. 6 d. (one mouton d’or) for exempt persons (= clergy?), required more formal and careful procedures than simple oral citation.⁷¹ What is more, the presumption of authenticity was only applied to obligations sealed by the officiality.⁷² Elsewhere, the 1474 Style of Corbie required that simple paper accounts (*cédules*) be acknowledged by the issuer to be valid proof of a debt.⁷³ In church courts, excepting documents ratified by the court itself, the Christian’s word was the basis of proof. On this basis, a matter of debt, certainly a breach of the bonds of credit that bound individuals to each other, became a matter of “contempt of Holy Mother Church” and led to the exclusion of the excommunicate and his family from the community of those seeking salvation through Holy Mother Church – which was also the economic community within which that unlucky excommunicate subsisted.

The formal aspects of excommunication for debt reveal a perverse aspect of late medieval economic life. The most minor, the most common debts were sanctioned most severely. With his eternal salvation at stake, the debtor who owed the present-day equivalent of a day laborer’s wage, say, \$150, would be forced to mortgage his future to his creditors and ruin the credit with which he purchased his daily bread. Larger debts, those secured on real property, were instead brought before royal or other secular courts. For those, whose value often ran to the equivalent of a present-day home mortgage, say, \$500,000, a defaulting borrower might risk his property and his body – though, as Julie Claustre has demonstrated, the obligation *corps et biens* was not yet generalized at the end of the Middle Ages and imprisonment for debt was most often for only a day or two – but not his soul. Economic violence is often invisible or barely perceptible, as it is today. Excommunication for debt joins rack-renting, sharecropping, and foreclosing on mortgaged property as the late medieval and early modern means par excellence of expropriating landowning peasants and of keeping the lower classes financially bound to the rich. At the same time, it offered a cheap, effective remedy to poor creditors facing a pressing cash need, perhaps to pay taxes or tithes and seigneurial dues converted into cash payments. In the passage cited earlier, Rabelais’s Panurge described debt as that which bound the human race together in relations of charity. However, excommunication for debt allowed creditors to break those relations. Rather than praying for the health and welfare that would enable debtors to repay their debts, creditors could have them thrown out of the community in this world and potentially in the next. Whether this reflected malice or pressing need is inscrutable in the record.

⁶⁸ BN lat 1458, 121.

⁶⁹ Elisabeth Vodola, *Excommunication*, S. 164-190 and *passim*.

⁷⁰ BN lat 1458, 127.

⁷¹ BN lat 1458, 116r-v.

⁷² BN lat 1458, 119v.

⁷³ BN lat 18371, 78.

The Supply of Excommunication for Debt

While demand drove the practice of excommunication for debt, there were also supply-side factors. The late medieval crisis of landed incomes made judicial income an increasingly important component of the income of prelates who possessed powers of jurisdiction (*potestas jurisdictionis*). Guy Bois suggested with respect to the French nobility that the fourteenth- and fifteenth-century decline of landed incomes led nobles to throw their cards in with the expanding royal state so as to secure a larger portion of the growing royal tax take.⁷⁴ Even after the economy had recovered in the late fifteenth and early sixteenth centuries and the sixteenth-century price revolution had become evident, nobles continued to seek additional shares of the surplus of agricultural production through the State's welfare system for the privileged. Churchmen were not immune from the effects of this economic conjuncture, and it appears that the quantitative peak of excommunications for debt peaked in the fifteenth century and diminished rapidly thereafter. Demand and supply coincided to favor the practice, until sixteenth-century price increases and the actions of European government worked to reduce both the supply of and the demand for ecclesiastical civil justice.

Economic changes encouraged legal developments. Michèle Bordeaux has demonstrated that ecclesiastical incomes had barely reattained the levels of 1300 towards 1500.⁷⁵ Bordeaux cannot provide the breakdown of his incomes, since her sources, primarily tariffs of clerical taxation, do offer this. We must piece together the changing makeup of ecclesiastical incomes from the surviving, fragmentary accounts. These suggest that judicial revenue made up for the fall in landed income in the fourteenth and fifteenth centuries. At Grenoble, in 1361, early in the late medieval crisis, a notary purchased the farm of the officiality for 500 fl. (666 l. 13 s. 4 d.t.) of entry fees and an annual payment of 300 fl. (400 l.t.) to the bishop. The annual payment was doubled from 1381 and attained 1400 fl. (1866 l. 13 s. 4 d.t.) by the mid-fifteenth-century, when, together with the revenues of the *officialité foraine* of Chambéry, farmed-out judicial revenue amounted to roughly 2,150 fl. (2,866 l. 13 s. 4 d.t.), or half of the bishop's income. Though this fell in 1497 to 1,650 florins (2,200 l.t.), it remained 16% of the bishop's income – of roughly 10,000 florins (13,750 l.t.).⁷⁶ At Grenoble, judicial income clearly peaked in the middle of the fifteenth century, at exactly the worst economic conjuncture of the century.

The pattern for the much richer, and much more richly documented archbishopric of Rouen, is similar. Its unique series of accounts permits me to say that in 1378 55% (10,730 of 19,463 l.t. total) of the archbishop's income came from judicial business, in 1400 56% (6,216 of 11,105 l.t.), in 1450 41% (1,175 of 2,876 l.t.), in 1501 37% (5,601 of 15,327 l.t.), in 1545 21% (6,641 of 31,277 l.t.), and an ever-diminishing percentage thereafter. Percentages are not the entire story, as the absolute amount of judicial income declined even as other sources of income grew. At Rouen, the *Registre des excommuniés* brought in 468 l.t. in 1378, 329 l.t. in 1400, 13.5 l.t. in 1450, 44.9 l.t. in 1501, 11.1 l.t. in 1545, and .77 l.t. in 1591, before disappearing entirely from the accounts.⁷⁷ If we assume parity of citations and absolutions and that

⁷⁴ Guy Bois, *The Crisis of Feudalism: Economy and Society in Eastern Normandy, c.1300-1550*, Cambridge, 1984.

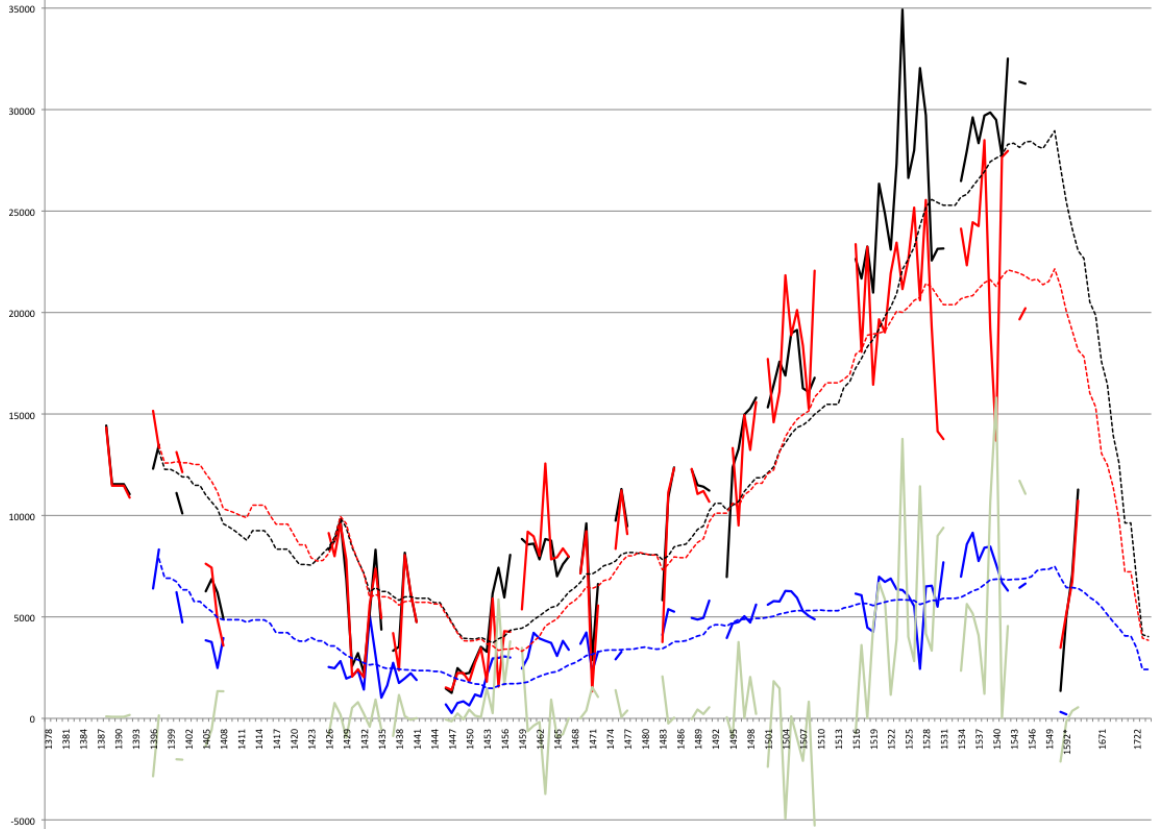
⁷⁵ Michèle Bordeaux, *Aspects économiques de la vie de l'Église aux XIVe et XVe siècles*, Paris, 1969, S. 339-362.

⁷⁶ Paravy, *Chrétienté romaine*, S. 277-287.

⁷⁷ Spreadsheet based on AD Seine Maritime, Rouen, G 8-G 137. Summary table of figures presented:

Year	1378	1400	1450	1501	1545	1591
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these cost as much at Rouen as at Paris (4 d.p. and 4 s.p., respectively), the figures imply 1,755 citations in 1378, 1,234 in 1400, 51 in 1450, 168 in 1501, 42 in 1545, and 3 in 1591. This suggests that the officiality of Rouen met a need for the enforcement of minor, unwritten contracts that was increasingly met by royal courts and by more elaborate forms of credit. It is not coincidental that the functioning of the *plaids à mace* of the bailliage of Rouen grew in this period, as its records, preserved from 1483, demonstrate. The following chart of the revenues of the archbishop of Rouen from 1378 to 1550 demonstrates the movement of landed income during the late Middle Ages and the sixteenth-century price revolution as well as the



importance of judicial income in the fifteenth century.

The black line is revenue. The red line is expenses. The blue line is judicial revenue. The dotted lines are a twenty-year moving average. The collapse after 1550 is due to the absence of and fragmentary nature of the data, rather than any real decline in the revenues of one of the two richest dioceses in France (the other is Narbonne). What is clear is that revenue fell precipitously to its mid-fifteenth-century nadir before beginning an astonishing rise at the end of the century. Judicial revenue became proportionately more important in the fifteenth century, particularly after 1450 (here the moving average is not helpful). Finally, con-

Judicial Revenue/Total	10,730/ 19,463 l.t.	6,216/ 11,105	1,175/ 2,876	5,601/ 15,327	6,641/ 31,277	
Percentage	55%	56	41	37	21	
Reg. of Exc.	468 l.t.	329	13.5	44.9	11.1	.77
Number Cited	1,755	1,234	51	168	42	3

sidering the grayish line that represent the balance (revenue minus expenses), it is clear the archbishops of Rouen were turning a fine profit in the sixteenth century, even with the considerable expenses of cathedral-building and increasingly frequent royal taxation weighing upon them. Like other prelates, the archbishops of Rouen benefitted through the recovery of prices and their considerable increase in the sixteenth century through direct seigniorial income (the “temporalities”), tithes, annuities secured on their properties, other types of lending, and the revenue from vacant benefices – all of which were inflated by rising agricultural prices. For example, at Douai, assuming 1360-1370 as an index of 100, grain prices were at 96 in 1390-1400, 130 in 1440-1450, 143 in 1490-1500, and 178 in 1510-1520.⁷⁸ At Paris, the price of a setier of wheat in 1431 was 2.76 sous, in 1450 .75 s., in 1500 1.09 s., in 1520, 1.69 s., in 1550 4.15 s., and in 1600 a considerable 8.65 s.⁷⁹ In other words, taking 1431 as a probably inflated index of 100, the price of wheat per setier was 27 in 1450, 39 in 1500, 61 in 1520, 150 in 1550, and 313 in 1600. While the recovery was slower than at Douai, at Paris we can see the immensity of the sixteenth-century price revolution, particularly with respect to the most important commodity. The figures from Rouen correspond to an increase of this magnitude. By 1550, judicial income was insignificant in the archbishop’s enormous income.

For bishops of poorer territories, revenues appear to have recovered more slowly and less spectacularly. At Besançon in the Franche-Comté, Archbishop Claude de la Baume resisted the abolition of excommunication for debt six years longer than the other prelates of the Spanish Netherlands (1565-1571). This surprisingly late example reflects the relative poverty of the archbishop of Besançon, whose diocese otherwise brought him only 3,000 comtois francs (4,500 l.t.) annually. The 4,000 or 5,000 comtois francs of income from the seal would certainly have been welcome. An inquest launched by Philip II of Spain to investigate the practice estimated that the resulting legal fees drained the province of 40,000 to 80,000 fr. (60-120,000 l.t.) annually in the 1560s.⁸⁰ Even accounting for the wages of practitioners and the officiality’s operating costs, the bishop’s share of this was doubtless considerable in comparison to his minuscule landed income.⁸¹ What was the effect of this on the ground? Philip II’s inquest offers some eloquent examples. For expenses of, as one of the witnesses specified, “prest... commandises de bestial, paiement de despence de bouche faicte chieu les taverniers, responces pour debt d’aultruy, actions d’injures, paiement de marchandises données à crédit et autres semblable cas,”⁸² the regions’ parish priests testified to 85 excommunicates, to more than 200 excommunicates, even to 580 excommunicates within a particularly large parish.⁸³ Against a few perennially indebted – or perhaps perennially unlucky, given the proliferation of relations of credit – believers these sentences piled up: in a register of 1570, Lucien Febvre counted, within one quarter of an enormous parish, “98 parishioners... excommunicated in consequence of one citation; 18 by 2; 10 by 3; 3 by 4; 7 by 5; 6 by 6; 1 by 8.” In another quarter, 70 were excommunicated as the result of one citation, “25 by 2, 7 by 3, 4 by 4, 7 by 5, 2 by 9, 1 by 12, and 3 by 13.” At Longechaux, Michel Gousot was excommunicated 22 times, 14 for contumacy, his two sons twice each; Pierrot Regnier was excommunicated 28 times, Claude Regnier 32 times!⁸⁴ Of course, the archbishop of Besançon would not have been able to profit from a booming business of citation, excommunication, and absolution in civil matters had there not existed a considerable web of debt ty-

⁷⁸ Bordeaux, *Vie économique*, 349.

⁷⁹ Richard Bonney, *European State Finance Database* after M. Baulant, *Les prix des grains à Paris de 1431 à 1788*, in: *Annales ESC* 23 (1968), S. 538-9.

⁸⁰ Febvre, *Excommunication*, II: 15, 29.

⁸¹ Febvre, *Excommunication*, II: 28.

⁸² Febvre, *Excommunication*, II: 2.

⁸³ Febvre, *Excommunication*, II: 13-14.

⁸⁴ Febvre, *Excommunication* II: 15. The present-day population of Longechaux is 55. Even had it been 200 in the sixteenth century...

ing his flock together. Even though Febvre's exemplary numbers represent a late and exceptional metastasis of excommunications for debt, with the evidence from Chartres, Paris, and Montivilliers, they convey the ubiquity of minor, unwritten relations of credit. The demand, it seems, was great. The supply of ecclesiastical justice cannot be ignored in explaining the phenomenon of excommunication for debt.

The procedure's effectiveness presupposed belief in the efficacy of the sacraments from which the excommunicated debtor was barred. As such, it generated complaints across Christian Europe and encouraged an attitude of detachment from the institutional Church that in some places aided the passage to Protestantism. In fifteenth-century England it was not unrelated to popular Lollardy; in the Dauphiné during the same time this indifference favored a more aggressively separatist Waldensianism.⁸⁵ Even when its prevalence did not lead directly to heterodoxy, it could produce violent, bitter responses. At Pirton in the diocese of Lincoln around 1446, twelve men forced the summoner and his clerk to eat the writ of excommunication they were about to serve, for which most were appropriately excommunicated.⁸⁶ As such men likely still sought salvation, their attitude to the institutional Church must have been complex, to say the least. It is not coincidental that the apparent peak of the practice in the late fifteenth century was followed by the reorganization of the spheres of ecclesiastical and royal justice in France and England and then by the Protestant Reformation. Both were clearly reactions to the type of Church that could offer this sort of civil remedy.

A considerable number of believers were touched by the excommunication by debt. Some were ruined by it, ceding their meager property to their creditors in the hope of absolution, and some died excommunicate, denied the sacraments, burial in consecrated ground, and the hope of salvation that both guaranteed. As the projections from the Franche-Comté suggest, it required a considerable number of excommunications to make real money. Thus in 1494, each absolution brought the archdeacon of Paris six times as much (2 s.p.) as each citation (4 d.p.). At the metropolitan officiality of the archbishop of Sens, in the early sixteenth century, each citation cost 4 d.t. and each sentence 4 s. 6 d. A general monition cost 2 s. and an absolution 5 s. Each temporary absolution for testifying in court or pursuing a case cost 4 s. 4 d., each absolution with the consent of the creditor cost 3 s. 10 d., and each single-day absolution was taxed at 12 d. for the first day and 5 d. for each subsequent day, with an additional 20 d. for the seal of the officiality and a further 20 d. for the official's signet.⁸⁷ By 1583, however, demand had apparently dropped, for even with considerable inflation, a general monition from the officiality of the bishop of Auxerre cost only 15 d.⁸⁸ By then, as the example of Rouen demonstrates, such fees were essentially equivalent to rounding error on episcopal incomes and only came in, as my conclusion will suggest, in response to demand for a new type of use of the power of the keys in matters of property and violent crime. Up to the middle of the sixteenth century, however, believers continued to use spiritual sanctions in matters of debt. With no better choice, they were trapped between economic and religious imperatives.

Transition: The Reformation and the Early Modern World

Late medieval society was the Church, both a sacramental community constituted by collective rituals, as John Bossy has argued, and a juridical organization in which, to repeat the words of Paravy, receiving the Eucharist was as much a "privilege" granted by a legal author-

⁸⁵ A. Hamilton Thompson, *The English Clergy and their Organization in the Later Middle Ages*, Oxford, 1947; Paravy, *Chrétienté romaine*.

⁸⁶ Cited in Hamilton Thompson, *English Clergy*, Appendix II, S. 208.

⁸⁷ BN lat 4812, 74v, 76v.

⁸⁸ BN lat 4812, 54.

ity as a sign of membership in a community.⁸⁹ The opportunity to participate in those rituals depended on prelates' judgment and on the will of one's creditors. Conversely, economic life was predicated to a degree on one's participation in that sacramental community. With few exceptions, the sacramental community was the economic community with respect to local commerce. The redress of a situation in which creditors could potentially purchase the damnation of borrowers flowed naturally from fifteenth-century calls for reform of the Church "in head and in members" stemming from the conciliar response to the Great Western Schism. They facilitated the sixteenth-century redefinition of the European jurisdictional landscape of which the Protestant Reformation was only one aspect. With the coming of Protestantism, church courts disappeared or so modified so as to be unrecognized. What is not commonly recognized is the degree to which church courts were remodeled in Catholic territories in a process that began well before the Protestant Reformation.

In France, royal officials mobilized accusations of abuses of excommunication against ecclesiastical justice, as in the example with which I began. That particular dispute came before the Parlement of Paris through an *appel comme d'abus*, a procedure that permitted appeals from church courts to royal courts. Developed in the late 1440s to enforce conciliar reform decrees, over the next century the Parlement extended the procedure's scope into what was effectively appellate review of the decisions of church courts.⁹⁰ Its frequency increased sharply in the late 1520s, when the emergence of Protestant heresy impelled the king's judges to more aggressive intervention in the ecclesiastical realm. Royal legislation too addressed the perceived abuses of church courts: for instance, in 1539 the first articles of the famous ordinance of Villers-Cotterêts were targeted at perceived abuses of ecclesiastical sanctions.⁹¹ The Church also reformed itself, perhaps too late: in 1594 the provincial council of Avignon forbade excommunication for sums less than 20 écus (60 l.t.) and in 1609 the council of Narbonne forbade excommunication for sums smaller than 20 l.t. However, in 1601 the Parlement of Paris had declared an excommunication for 33 l.t. abusive.⁹² These high sums would have barred church courts from trying matters of daily credit, illustrating the slow adoption of the provisions of the ordinance of Villers-Cotterêts, at least in Southern France. These conciliar canons imply that excommunication for debt was viewed as an unacceptable use of spiritual sanctions. By 1600, debt litigation had mostly passed to royal or, in the case of the Parisian Merchants' Tribunal, semi-royal justice.⁹³ In the seventeenth century, church courts remained, though their competence was essentially restricted to the *état civil* or matters of baptism and marriage, and clerical discipline, including turning criminals in major orders over to royal justice. Their judgments were subject to the review of royal courts. The law on which they functioned was shaped by the king's legislation and the decisions of his courts.⁹⁴

⁸⁹ Paravy, *Chrétienté romaine*, S. 484, 751; John Bossy, *The Mass as a Social Institution, 1200-1700*, in: *Past and Present* 100:1 (1983), S. 29-61; idem, *Christianity in the West, 1400-1700*, Oxford, 1985.

⁹⁰ Robert Généstal, *Les origines de l'appel comme d'abus*. Notes de cours publiées par les soins de Pierre Timbal. Avant-propos par Jean Dauvillier, Paris, 1951; Léon Pommeray, *L'officialité archidiaconale de Paris et sa compétence criminelle*, Paris, 1933, S. 440-441; Lefebvre-Teillard, *Officialités*, 70.

⁹¹ Isambert, *Recueil général*, XII: 600-640. Art. 1-4, pp. 601-602, restrict church courts to purely spiritual matters and bar them from trying personal actions between layfolk or from delivering verbal citations.

⁹² Pierre Dupont, *Les monitoires à fins des révélations dans la procédure séculière*, Paris, 1930, S. 67; Eric Wenzel, *La pratique du monitoire à fin de révélation sous l'Ancien Régime, à travers l'exemple du diocèse d'Autun (1670-1790)*, in: *Mémoires de la Société pour l'histoire du droit et des institutions des anciens pays bourguignons, comtois et romands* 57 (2000), S. 283-300.

⁹³ Amalia Kessler, *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France*, New Haven, 2007; Philip T. Hoffman, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, *Priceless Markets: The Political Economy of Credit in Paris, 1660-1870*, Chicago, 2001.

⁹⁴ Tyler Lange, *Droit canon et droit français à travers l'activité du Parlement de Paris à l'époque des Réformes*, in: *Revue historique de droit français et étranger* 91:2 (June, 2013), S. 243-267.

Elsewhere in Europe, similar movements were afoot. In England, from the late fifteenth century, the use of writs of prohibition to bar courts Christian from hearing debt cases increased. In common-law courts, actions of trespass were expanded to comprehend new species of contract and debt.⁹⁵ From the middle of the century, borough courts stepped in to provide a cheap, effective means of enforcing minor, quotidian credit. As in France, the spread of written obligations and credit arranged by attorneys (notaries in France) helped to replace older forms of purely oral obligation, though not completely. In the Catholic Franche-Comté, the Regent Margaret supported the Parlement at Dôle in its ultimately successful “battle against ecclesiastical jurisdiction.” The Parlement of the Franche-Comté had unsuccessfully resolved in 1532 to forbid excommunications in matters concerning less than ten francs (15 l.t.).⁹⁶ This demand was reiterated in the 1550s and lay behind the drive to implement the provisions of the Council of Trent in the 1560s and 1570s. However, as Febvre put it: “to suppress to use of excommunication in temporal matters, in matters of debt would be to suppress the officiality itself” and to ruin the town of Besançon fed by that spiritual commerce.⁹⁷ The jurisdiction withered after the practice was suppressed in 1572, though not after enriching a few archbishops, scores of legal practitioners, and, Febvre argues, a whole class of expropriating bourgeois who used the officiality of Besançon to enforce their usurious loans.

Even as the economic incentives for prelates disappeared and as the civil competence of officialities disappeared in response to the reforms of secular rulers, the Council of Trent reduced the number of clergy who lived from the revenue of ecclesiastical justice by limiting recourse to excommunication and by reducing the autonomy of exempt ecclesiastical institutions, chapters, and archdeacons.⁹⁸ However, neither conciliar canons nor canonical doctrine lay behind either the origins or the disappearance of the practice of excommunication for debt. One might search in vain through the learned commentaries of medieval jurists for a discussion of the practice and find nothing but weak justifications based on “breach of promise” (*fidei laesio*) or the covenantal value of a simple promise aside. One finds abundant discussions of usury but mostly oblique discussions of excommunication for debt, as when Guillaume Durand (c.1230-1296) stated c.1271-1272 that an excommunicate could be absolved at the request of his creditor even had he not paid, because “satisfaction is whatever the creditor shall wish.”⁹⁹ Though jurists and theologians loved to discuss usury, it was rarely a matter for church courts. Debt, in fact, was rarely a matter for church courts in the sense that it was not often litigated. As we have seen, and as the rareness of matters of debt in the registers of court audiences and its frequency in registers of excommunicates suggests, excommunications for debt were most often the automatic results of citations. Citations were not issued in formal hearings, excommunications came automatically, and relaxations or absolutions came from the notaries and sealer of the court. The whole procedure took place off the books, in a sense.

What this suggests is that this particular competence was only of interest to prelates possessing rights of jurisdiction at a particular, circumscribed conjuncture, for only in great quantities did it provide a reasonable profit to church courts. As such, it was important at the worst of the late medieval crisis of landed incomes. Before and after, it was less important. Whence the demand for the procedure? We can securely identify two potential sources: ordinary people facing credit crises and those like the usurious bourgeois of Besançon, the latter akin to

⁹⁵ Muldrew, *Economy of Obligation*, S. 204-215; R. N. Swanson, *Church and Society in Late Medieval England*, Oxford, 1989, S. 189; Helmholz, *Assumpsit and Fidei laesio*; idem, *Debt Claims and Probate Jurisdiction in Historical Perspective*, in: *American Journal of Legal History* 23:1 (Jan. 1979), S. 68-82.

⁹⁶ Febvre, *Excommunication*, II: 20.

⁹⁷ Febvre, *Excommunication* II: 21-22.

⁹⁸ Lefebvre-Teillard, *Officialités*, 25-32; Council of Trent, 25th Session, *De Reformatione*, c.3.

⁹⁹ *Speculum iudiciale*, Basel, 1574, l.4, t.3, p.361, n.8.

those who purchased annuities from peasants so as to foreclose on their farms.¹⁰⁰ The former are probably more important to the proliferation of excommunicated debtors. Excommunication for debt was certainly an abuse, the stakes out of proportion to the penalty. And yet everybody lived by credit. In this sense, the practice fulfilled an important function. In a period in which small coinage was scarce, in which credit was a social, moral, and economic quantity, and in which secular rulers did not concern themselves with minor debt, church courts allowed for the easy exchange of unwritten credit because a man's or a woman's word was always secured, in final analysis, on his or her eternal soul. The practice reveals more about late medieval religion than we might imagine, for the inverse of recognizing that credit was a social, moral, and economic concept is to recognize that the sacramental community was also an economic entity. There was no "market" conceptually separate from society, only the "Body of Christ" within which Christians were saved. There was no FDIC, no Federal Reserve, no Consumer Protection Bureau, only the seigneurial, municipal, church, and royal courts.

The rise and fall of excommunication for debt therefore marks one aspect of the transition from the medieval to the early modern European world, from a conceptually unified Western Christendom to a Europe of territorial polities riven by religious differences. The reformation of the law undertaken by princes during Europe's long Reformation (1400-1700) reconfigured the jurisdictional relationships within their territories. In Catholic lands, canon law stood, but increasingly only insofar as tolerated or modified by the legislation of the local ruler. After 1500-1550, canon law was less a competing source of practical law than a restricted body of law governing a particularly circumscribed area, usually baptisms, marriages, and sometimes wills. This reformation of the law reduced the supply, so to speak, of excommunication for debt. It did so through limits on the amounts for which a Christian could be excommunicated, through the organizational reforms of the Council of Trent that aimed to make bishops more powerful over archdeacons and exempt clergy, and through the efforts of secular courts to offer new forms of civil justice, particularly in matters of debt. By 1600, the king's law was paramount in France, as the Common Law had secured its predominance over other forms of law in England. The withering of excommunication for debt signals the emergence of early modern juridical orders across Europe. The threat of excommunication survived in different forms, but primarily for moral cases. Only in France did general monitions persist after the end of the sixteenth century.¹⁰¹ Until the end of the Old Regime (and in two instances under Napoleon) the state found it useful to have priests threaten witnesses who did not disclose what they knew of a crime with excommunication.

Excommunication for debt points to another transition as well, the economic transition that goes by many names: "the transition to capitalism," "the sixteenth-century price revolution," "the age of first empires," "the age of civil litigation," and even "the Renaissance." In other words, the practice stands athwart the medieval and early modern economic worlds, the integration of local, primarily face-to-face economies into regional economies. In these, relations of trust were less certain and knowledge of one's borrowers was difficult to come by, even as relations of credit grew increasingly necessary to commerce and even to subsistence. Excommunication for debt helped to extend the community of trust, for in a Christian community all were bound by the hope of salvation. It may have made small-scale credit efficient, since the monetary cost of the practice was small though its emotional and religious cost may have been considerably greater. In England, where actions of *assumpsit* and other forms of trespass supplanted excommunication for debt in the sixteenth century, secular

¹⁰⁰ e.g. Thomas Brennan, Peasants and Debt in Eighteenth-Century Champagne, in: *Journal of Interdisciplinary History* 37:2 (Autumn, 2006), S. 175-200.

¹⁰¹ Dupont, *Monitoires*; Wenzel, *Pratique du monitoire*.

courts faced a surge of litigation. Doubtless this reflected mid-century commercial development, as Craig Muldrew proposes on the basis of probate inventories, but it surely also reflected the disappearance of the civil jurisdiction of church courts. By 1550, pleas of debt were not entered in beleaguered church courts. Across the Channel, while it appears that a few actions to recover debts remained before French officialities, the bulk of civil litigation passed into royal courts, whose caseload increased enormously over the century. It is nevertheless possible that here lies one of the origins of the divergence between France and England, for annuities (*rentes constituées à prix d'argent*) were not the negotiable, flexible instruments of credit contested in Muldrew's borough courts. Even though large "merchants were obliged to convert unrecoverable debts into annuities,"¹⁰² this possibility was not viable for small debts to many different individuals, but only for repeated transactions on credit with a single individual. Because of the deeper penetration of Romano-canonical thinking about obligations, the disappearance of the civil competence of church courts in matters of debt left French subjects legal recourse only for expensive, written obligations.¹⁰³

The emergence of officialities signals the quickening of commerce at the end of the twelfth century. The visibility of excommunication for debt by the end of the thirteenth century probably reflects further commercial expansion coupled with the strains of overpopulation, economic inefficiencies (from currency manipulation and peasant indebtedness to the lack of other effective remedies), and the need for prelates to supplement their declining incomes. The withering of the practice represents the acceptance of the state as guarantor of credit. It is perhaps a forerunner of the transition detected by Michel de Certeau in the mid-seventeenth century, when the organizing categories of society shifted from religious to political ones.¹⁰⁴ As the appearance of excommunication for debt in the fourteenth century signals a failure of private forms of guarantee for credit (pledges etc.), its virtual disappearance by the end of the sixteenth century signals the acceptance of the state's economic role. Michael Breen recently wrote, drawing on Julie Hardwick, that "the early modern French state was less a concrete entity than a claim to authority, one that ordinary French men and women readily borrowed to organize and to maintain the structures of daily life."¹⁰⁵ Excommunication for debt is the transition between private guarantees of debt and the state's "public" guarantees. In the sixteenth century, changing religious sensibilities turned consumers – consumers of justice – away from the Church as a guarantor of contracts and toward the State. The state, it seems, had gained sufficient credit to begin its modern role as arbiter of the economy. Credit no longer rested on an individual's hope of salvation but on the state's guarantee of his or her property rights.

¹⁰² Schnapper, *Rentes au XVIe siècle*, S. 284.

¹⁰³ W. J. Zwalve, *Sola scriptura*, An essay in comparative legal history on 'obligacions' in thirteenth-century France and England, in: *Tijdschrift voor Rechtsgeschiedenis* 80 (2012), S. 95-128; Hoffman, Postel-Vinay, and Rosenthal, *Priceless Markets*.

¹⁰⁴ Michel de Certeau, tr. Tom Conley, *The Inversion of What Can Be Thought and The Formality of Practices*, in: *The Writing of History*, New York, 1988, S. 125-146 and 147-205.

¹⁰⁵ Breen, *Law, Society, and the State in Early Modern France*, in *Journal of Modern History* 83:2 (2011), S. 346-386, at 384.