

The crown and judicial venality in the Parlement of Toulouse, c. 1490-1547



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Abstract 1

Notoriously, the French monarchy began to exchange judicial posts in its courts of law for cash to raise emergency funds in the early sixteenth century. The fact that all sorts of royal posts subsequently became venal or hereditary is a familiar aspect of *ancien régime* France, yet very little work exists on the genesis of this institution. This thesis traces the meanings, practices, and effects of ‘venality’ between 1490 and 1547. It does so by studying the relationship between the crown and the second most important law court of the kingdom, the Parlement of Toulouse. Traditional interpretations of office sale have tended to explain the phenomenon as a tale of royal hypocrisy, and have prioritised research on the Parlement of Paris. In contrast, this study argues that the study of a provincial court forces us to reconsider the chronology, techniques, and outcomes of early venality. A considerable amount of unexploited archival and printed material exists on office sale. By approaching it through the lens of legal culture, this thesis proposes an investigative model not only capable of explaining why venality emerged, but also why it was so vilified. Existing studies of office sale have tended to ignore legal talk and legislation as misleading or dissimulative. By paying particular attention to law and language, however, this study argues that the sale of judicial offices was a deeply ambiguous theme in the first half of the sixteenth-century that was open to constant interpretation. It was this very slipperiness that allowed a variety of actors to engage with it. Early office sale prolonged late medieval practices, but also heralded unprecedented changes, influencing the formation of the early-modern state. By studying the phenomenon, this thesis offers a rich and multifaceted picture of the relations and functioning of the crown and its tribunals.

Cover illustration: Barthélemy de Chasseneuz, *Catalogus gloriae mundi* (Lyon: Denis de Harsy; Simon Vincent, 1529) (Bodleian Library, Oxford: Douce C subt. 172), part VII.

Abstract 2

The fact that all sorts of royal offices were venal or hereditary is a familiar aspect of *ancien régime* France, yet very little work has been carried out on the earliest period of the sale of offices. In particular, how the venality of judicial functions was established has received scant attention, which is all the more surprising since it was the selling of these posts that elicited the greatest howls of disapproval. This thesis investigates the genesis of the institution by studying closely one sovereign court of law, the Parlement of Toulouse, and its relationship with the French monarchy from the late fifteenth to the mid-sixteenth centuries.

Pointed research into the inception of the sale of offices based on archival material is relatively uncharted territory. Ever since the writings of the jurist Charles Loyseau (1564-1627), most accounts of the development of venality in early-modern France have presented an identical story. Initially, offices were exchanged privately and clandestinely. François Ier (r.1515-1547) was the first king to sell judicial posts publicly to bolster royal coffers. The venal ‘moment’ apparently came in 1522, when offices were created for the express purpose of sale in the Parlement of Paris. Simultaneously, a body was established to administer the income from these transactions, the *parties casuelles*. In short, from that point on venality became an officially sanctioned if unspoken policy, with the monarchy embarking on an irreversible process by which offices would become not only marketable, but eventually subject to laws of inheritance. This thesis challenges such a traditional interpretation by tracing the meanings, practices, and effects of venality in its formative years.

Contrary to what we read in most surveys, the founding of new judgeships for cash in Paris was not the first of its kind. It was preceded by creations in other law courts of France. In 1519, eight newly established judges were received to the Parlement of Toulouse, each of whom had loaned 4,000 *livres* to the crown. By considering the experiences of this important provincial court of law, this thesis argues that assumptions about how the sale of judicial offices was first envisioned and practised must be revised.

Existing research has tended to explain the propagation of venality through one-dimensional depictions of the monarchy as essentially dissimulative. However, what is so striking about the sale of judicial posts is that it was not simply foisted upon an impassive magistracy, but was the subject of constant negotiation, interpretation, and debate. Studies have overlooked the extent to which the sale of offices in its early forms left a complicated trail in a broad range of archival and printed sources. Previously, studies of office sale have tended to overlook legal talk and legislation as misleading or disingenuous. Instead, this thesis suggests that approaching venality through the lens of legal culture, paying particular attention to law and language, can help explain why venality emerged, but also why it was so vilified.

Nothing was necessarily inexorable about the arrival of judicial venality. Throughout this dissertation, the practice of selling offices is presented as an experiment undertaken by the monarchy. Although the crown pursued this device, the project was not merely for the king to define, but found itself hotly debated and engaged with from a variety of perspectives. Using a wide range of sources from French national, departmental, and municipal archives, this thesis explores what

venality involved as much as how it was interpreted. By anticipating a future state in which it became a regular occurrence for judgeships to be bought and sold, existing scholarship has underemphasised the extent to which this earlier period was filled with uncertainties. These ambiguities are crucial to understanding how the sale of judgeships functioned and why it became successfully implanted in courts of law. This research stresses that words mattered. Methodologically, it focuses on the discursive aspects of court and governmental records, though by no means solely or uncritically. By taking seriously statements made by the crown, by judges, by lawyers, and by litigants, it is possible to delineate the problems and opportunities that judicial venality presented to a variety of parties. Drawing on these voices, it is clear that there was no exclusive way in which the sale of offices was conceived in the first half of the sixteenth century. Open to constant interpretation, this very slipperiness allowed a variety of actors to engage with it, and in different ways.

This thesis is divided into three parts, of two chapters each. The first part discusses the sale of judicial offices from a monarchical perspective, considering broadly the objectives with which this activity was pursued. Chapter 1 considers official statements and legislation that existed in this period. It is frequently assumed that laws are the very worst place to learn about venality, since they largely prohibited it. However, studying royal acts received by the Parlement of Toulouse reveals clear tendencies. Banning the sale of offices reached a climax in the 1490s, after which it declined. So too did promoting the alternative recruitment practice of ‘election’. In their place, a far more indecisive set of idioms developed as kings began to receive money for judicial offices. Through these templates, the crown could address its activities and their purposes obliquely or directly. Hesitant to delineate its project in

anything but contradictory terms though, this incertitude enabled the crown to conduct its experiment more freely.

What characterised that experimentation? Chapter 2 moves from royal speech to consider the crown's deeds as it practised venality. It argues that a close reading of monarchical activity in trafficking offices both in the Parlement of Toulouse and in the region of Languedoc can offer invaluable information about how the royal administration viewed office sale. This chapter explores what selling offices in the Parlement might signify to the crown in hard financial terms. The monarchy had distinct ideas about how the sale of different categories of offices should be used. Although venality may not have been intended as a permanent feature initially, analysing some of its aspects makes its slide towards entrenchment clearer. Indirectly, selling offices in the wider region led the monarchy into a debate about the presence of royal agents in the intermediary jurisdictions. This foreshadowed the creation of much denser networks of tribunals operating beneath the parlements.

Part two considers the reception and meaning of the sale of judicial offices in the Parlement of Toulouse and beyond. Chapter 3 is concerned thematically with the receptions of officers to this court, whom we follow from their nomination to installation. This chapter traces the chronological changes that occurred at various stages of the reception procedure to analyse how the Parlement greeted the sale of offices. Far from being theoretical, the royal legislation visited in Chapter 1 was used by the court, as it implemented its prescriptions by integrating oaths against venality, elections, and examinations into its recruitment practices. By the 1530s, people in pursuit of office realised that they needed to supply cash to obtain their positions. Yet

this was far from the only issue that might determine a successful bid for office. Similarly, although the Parlement resisted the reception of certain individuals, obstructions on the grounds that offices had been purchased were few. Usually, problematic receptions had a number of other causes. Finally, if the Parlement was forced to accept candidates, it could impose conditions on the new magistrates independently of royal wishes. Over the course of the period, the nature of the reception procedure changed, so that it became routine for incoming judges to acknowledge loans made to the monarchy. In the light of court records, then, venality appears less disruptive than it is often made to appear.

Chapter 4 draws back to consider how venality was understood and why it was so reviled by studying printed works alongside utterances made in courts. Selling positions in the judiciary was interpreted and theorised with reference to a number of classical, scriptural, and legal texts, not all of which rejected it in clear-cut terms. The word ‘venality’, used to refer to the crown’s practices of office sale, was a product of a debate that gathered strength in the second half of the sixteenth century. This was an excoriating tirade that found the monarchy’s practices utterly abhorrent. Nevertheless, before 1550 it was possible to maintain that magistracies were not being sold. This chapter closes with an analysis of court cases involving office sale. Why was it so difficult to prosecute? By studying the jurisprudence of the Parlement of Toulouse and other courts, this thesis argues that rulings often demonstrated tacit support for the royal sale of offices. This served to reinforce a sense that venality was prohibited for all except the monarchy. By favouring a royal monopoly of office sale, the Parlement of Toulouse and its officers contributed to the arrival of venality.

Part three considers the impact of the sale of offices on the Parlement of Toulouse. Chapter 5 takes the gravest concerns levelled against venality in the previous chapter as its starting point. Allowing judges to buy their way into office brought with it fears that individuals would behave criminally. This chapter considers three fairly exceptional cases in which judges of the Parlement came to trial for crimes to explore what appeared to be one of the fatal consequences of a venal judiciary. In practice, it is difficult to connect venality clearly to these cases. However, these trials can also be explained by complex political motives. Behind these prosecutions lay the monarchy's deep anxieties regarding the consequences of office sale. No matter how incoming judges obtained their offices, the Parlement continued to monitor and discipline its members closely, acutely aware of how the court was perceived.

Finally, Chapter 6 considers the changes wrought by the sale of judicial offices on the everyday functioning of the Parlement of Toulouse and its relationship with the monarchy. Despite rampant fictionalising of venality's effects, the court remained functional. The sale of offices coincided with a tribunal that was becoming increasingly secular, and whose judges – during this period at least – were likely to be remunerated well and reliably. If this helps explain in part why judges were drawn to the crown's new policies, this did not mean that magistrates became less competent or dependable. The first 'venal generation' was in fact marked by a far less truculent attitude to the crown. Common interests and collaboration explain the success of office sale, and money was not always the most important feature of such exchanges: the monarchy gained loyal administrators and its judges achieved social ascension.

This thesis demonstrates that during its first decades, selling judgeships was a complex issue, one difficult to extricate from preoccupations that can appear less than obvious now. This study therefore sheds light on the quarrels and concerns integral to the story of the birth of venality. Simultaneously, out of the criticism of the monarchy's new revenue-raising method, something ineffably recognisable was born: a notion of access to office that was synonymous with systemic corruption. The sale of judicial offices is not, mostly, a tale of royal deception. Venality was a nuanced practice; one attacked, mitigated, and played out by the denizens of law courts in their everyday activities. As a result of these interactions, the relationship between the king, his courts, and the justice they delivered was utterly transformed. Early office sale might have extended late medieval practices, but it also heralded unprecedented changes. The importance of venality is to be sought in the fact that it fomented a search for meaning. It is for this reason that its early practice was a crucial moment in early-modern state formation: in the interpretation of a new, controversial recruitment method, observers sought to define the moral bounds of the nascent state. By participating in and construing venality, individuals engaged with the crown's new project. Both figuratively and literally, the royal sale of offices was one of the 'transactional terms' in which the early-modern state coalesced.¹

¹ Michael Braddick, 'State formation and social change in early modern England: a problem stated and approaches suggested', *Social History* 16:1 (1991), p. 7.

... when a man sits down to write a history,---tho' it be but the history of a *Jack Hickathrift* or *Tom Thumb*, he knows no more than his heels what lets and confounded hindrances he is to meet with in his way,---or what a dance he may be led, by one excursion or another, before all is over. Could a historiographer drive on his history, as a muleteer drives on his mule,—straight forward;----for instance, from *Rome* all the way to *Loretto*, without ever once turning his head aside either to the right hand or to the left,—he might venture to foretell you to an hour when he should get to his journey's end;-----but the thing is, morally speaking, impossible [...] To sum up all; there are archives at every stage to be look'd into, and rolls, records, documents, and endless genealogies, which justice ever and anon calls him back to stay the reading of:---- In short, there is no end of it;-----for my own part, I declare I have been at it these six weeks, making all the speed I possibly could— and am not yet born [...]

Laurence Sterne, *The Life and Opinions of Tristram Shandy, Gentleman*, ed. Melvyn New and Joan New (London, 2003), pp. 34–35 (I.XIV).

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Had I completed my doctoral studies successfully in sixteenth-century Toulouse I might at this stage expect my mentors to indulge in a little venality themselves, from which I am fortunately spared now. For if we're to believe Étienne Pasquier, in Toulouse

les nouveaux Docteurs ont accoustumé de faire present de boëttres de dragees aux Docteurs Regens, par forme de gratification de leur nouvelle promotion: Ce que j'ay veu de mon temps plusieurs Regens avoir eschangé en argent.²

² Étienne Pasquier, *Les recherches de la France* (Paris, 1621), p. 60 (II.iv).

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Abbreviations and conventions

ADA	Archives départementales de l'Aude, Carcassonne
ADHG	Archives départementales de la Haute-Garonne, Toulouse
AMT	Archives municipales de Toulouse
AN	Archives nationales, Paris
<i>Barrillon</i>	Jean Barrillon, <i>Journal de Jean Barrillon, secrétaire du chancelier Duprat, 1515-1521</i> , ed. Pierre de Vaissière, 2 vols. (Paris: H. Laurens, 1897-1899)
<i>Bernier</i>	Jehan Masselin, <i>Journal des états généraux de France tenus à Tours en 1484 sous le règne de Charles VIII</i> , ed. and trans. Adhelm Bernier (Paris: Imprimerie Royale, 1835)
BnF	Bibliothèque nationale de France, Paris
CAF	<i>Catalogue des actes de François I^{er}</i> , 10 vols. (Paris: Imprimerie Nationale, 1887-1908)
CAH	<i>Catalogue des actes de Henri II</i> , ed. Jean-Paul Laurent, Marie-Thérèse de Martel, Marie-Noëlle Baudoin-Matuszek, Anne Merlin-Chazelas, and Roseline Claerr, 7 vols. to date (Paris: Imprimerie Nationale; CNRS, 1979-2009)
<i>Chalande</i>	Jules Chalande, <i>Histoire des rues de Toulouse: monuments, institutions, habitants: premières, deuxièmes et troisième parties</i> (Marseille : Lafitte Reprints, 1982)
<i>Dubédat</i>	Jean-Baptiste Dubédat, <i>Histoire du parlement de Toulouse</i> , 2 vols. (Paris: Arthur Rousseau, 1885)
GR	Gustave Dupont-Ferrier, <i>Gallia-regia ou état des officiers royaux des bailliages et des sénéchaussées de 1328 à 1515</i> , 7 vols. (Paris: Imprimerie Nationale, 1942-1966)
<i>Hamon</i>	Philippe Hamon, <i>L'argent du roi: les finances sous François I^{er}</i> (Paris: Comité pour l'histoire économique et financière de la France, 1994)
HGL	Claude de Vic, Joseph Vaissette, and Alexandre Du Mège, <i>Histoire générale de Languedoc</i> , 10 vols. (Toulouse: J.-B. Paya, 1840-1846)
<i>Isambert</i>	<i>Recueil général des anciennes lois françaises, depuis l'an 420 jusqu'à la Révolution de 1789</i> , ed. Athanase-Jean-Léger Jourdan, Decrusy, François-André Isambert, and Alphonse-Honoré Taillandier, 29 vols. (Paris: Belin-Leprieur, 1821-1833)

<i>La Faille</i>	Germain de La Faille, <i>Annales de la ville de Toulouse</i> , 2 vols. (Toulouse: Guillaume-Louis Colomyez, 1687-1701)
<i>Maugis</i>	Édouard Maugis, <i>Histoire du parlement de Paris de l'avènement des rois Valois à la mort d'Henri IV</i> , 3 vols. (Paris: A. Picard, 1913-1916)
<i>Mousnier</i>	Roland Mousnier, <i>La vénalité des offices sous Henri IV et Louis XIII</i> , 2 nd ed. (Paris: Presses Universitaires de France, 1971)
NAF	Nouvelles acquisitions françaises
<i>Navelle</i>	André Navelle, <i>Familles nobles et notables du Midi toulousain au XV et XVIème siècles: généalogie de 700 familles présentes dans la région de Toulouse avant 1550</i> , 11 vols. (Fenouillet: Publications Recherches historiques du Midi, 1991-1994)
ORF	<i>Ordonnances des roys de France de la troisième race</i> , ed. Eusèbe Jacob de Laurière, Denis-François Secousse, Louis-Guillaume de Vilevault, Louis-Georges-Oudard Feudrix de Bréquigny, Claude Emmanuel Joseph Pierre de Pastoret, and Jean-Marie Pardesus, 21 vols. (Paris: Imprimerie Royale, 1723-1849)
ORF-FR	<i>Ordonnances des rois de France. Règne de François I^{er}</i> , 9 vols. (Paris: Imprimerie Nationale; Centre nationale de la recherche scientifique, 1902-1992)
PO	Pièces originales
<i>Rabelais</i>	François Rabelais, <i>Œuvres complètes</i> , ed. Jacques Boulenger and Lucien Scheler (Bruges: Éditions Gallimard, 1955)
<i>Treze livres</i>	Bernard de La Roche-Flavin, <i>Treze livres des parlemens de France</i> (Bordeaux: Simon Millanges, 1617)
<i>Viala</i>	André Viala, <i>Le parlement de Toulouse et l'administration royale laïque: 1420-1525 environ</i> , 2 vols. (Albi: Imprimerie des Orphelins Apparentis, 1953)
<i>Vindry</i>	<i>Les parlementaires français au XVI^e siècle</i> , 4 parts in 2 vols. (Paris: H. Champion, 1909-1912)

Translation

In the interests of space and readability, all translations of French sources in the text are my own unless otherwise indicated. Key terms have been preserved or mentioned where appropriate, and original passages that are quoted directly are reproduced in the footnotes. The orthography of titles and translations has been respected as much as possible, with the exception of the letters i, u, and v, which have been standardised

where relevant. Accents and punctuation have been introduced for clarity of grammar or syntax, and only a minority of abbreviations used in manuscript sources have been left contracted (for example, ‘led.’ for ‘le dit’).

Citation

In all instances possible, foliation and pagination have been used to reference archives, manuscripts, and books. Where there are no folio or page numbers, dates of serial records and book signatures have been used. Citations of royal acts and books include a bracketed reference to the article number, chapter, or section referred to where pertinent.

Names

Since the names of the officers and staff of the Parlement of Toulouse I discuss had no fixed forms of spelling, generally the names that are used are those employed by the officers themselves (although even then an individual might sign his name unpredictably). Modern conventions are adopted for the names of well-known actors: the king is François, not ‘Francoys’; the chancellor is Duprat and not ‘De Prato’.

Dating

Until 1565, the year was said to begin on Easter Sunday. Following a royal act of 1564, this was changed to 1 January.³ All dates in the old style have been modified to take this into account. For example, the *ordonnances* of Blois of March 1498 predated Easter, and so are listed here as taking place in the year 1499. The judicial year began the day after Saint Martin’s Day, on 12 November. If that day happened to be a Sunday, the Parlement of Toulouse opened on 13 November.

Money

Almost all references that occur in the text to money are to *livres tournois*, the official money of account. Each *livre* was made up of 20 *sols* each, and each *sol* was worth 12 *deniers*. Most other references are to the standard liquid currency, the *écus d’or au soleil*. The conversion rate of *livres tournois* to *écus* fluctuated over the period, starting at 2 *livres* to every *écu* at the start of the reign of François Ier, but then rising to 45 *sols* or 2 *livres* 5 *sols* to every *écu*. Yet another denomination of account, for the most part relating to judicial fines or gifts, was the *livre paris*. Each *livre paris* was worth 25 *sols tournois*, so 1,250 *livres tournois* was worth 1,000 *livres paris*.

³ Bernard Barbiche, *Les institutions de la monarchie française à l’époque moderne: XVI^e-XVIII^e siècle* (Paris, 1999), p. 65.

Introduction

The French monarchy and its judges in the sixteenth century

De là vint à Thoulouse, où aprint fort bien à dancier et à jouer de l'espée à deux mains, comme est l'usance des escoliers de ladicte université; mais il n'y demoura guères quand il vit qu'ilz faisoient brusler leur régens tous vifz comme harans soretz...⁴

On 11 January 1515, the judges of the Parlement of Toulouse were sat in the high seats of the *grand' chambre*, listening closely as lawyers argued out a case. One was summarising prior to advising a sentence, when suddenly he was interrupted: a court bailiff (*huissier*) made his way through the spectators carrying a packet of letters. Ascending to a judge sat in the centre, the *huissier* whispered some urgent news into his ear. The king, Louis XII (r.1498-1515), was dead.⁵

Eighteen years later, on 4 August 1533, very little appeared to have changed on the surface as the court opened to hear pleaders as usual. Yet this day was different, for the new monarch under whose name justice was being rendered was here in person. It was Antoine Duprat (1463-1535) whom the judges of the Parlement welcomed first. Duprat was more than familiar with his surroundings, having worked at the court as *avocat du roi* between 1495 and 1503. From there he had reached the summit of the French judicial hierarchy, for he was now chancellor. After a short delay, François Ier (r.1515-1547) entered the *grand' chambre* accompanied by his

⁴ *Rabelais*, p. 188 (*Pantagruel*, V).

⁵ ADHG 1B2337, fols. 643r^o–644v^o (11.01.1515); 1B16, fols. 51r^o–51v^o (11.01.1515).

entourage. Following an address to the Parlement, and a response, François Ier ordered the doors to be opened. The public entered, and pleading began.⁶

Like Pantagruel, the famous fictional giant created by François Rabelais (c.1483/1494-1553) and cited in the epigraph above, François Ier only made one stay in Toulouse. In *Pantagruel* (1532), the oversized hero cut his visit to the city short while on his tour of the French universities. Pantagruel had witnessed the terrifying punishment inflicted upon a man identified commonly as Jean de Caturce, a student whom the Parlement of Toulouse had executed for heresy in June 1532.⁷ It was in 1533 that, for the first and only time, the king sat amongst these magistrates in court. Yet the tribunal that hosted one monarch and the one that had learned of his predecessor's death were very different. Some of these transformations were palpable: the personnel that thronged around François Ier were far more numerous. Others were harder to perceive, but even more dramatic. By 1533, many of the court's officers – from bailiffs and scribes, right up to the judges themselves – had given the crown money to obtain their positions. What are we to make of the fact that an institution that condemned a man to death was composed of men who had bought their places?

i) The problem of 'venality'

This thesis is about 'venality' – the sale of public offices. It will explore how the French monarchy and one specific court of law, the Parlement of Toulouse,

⁶ ADHG 1B26, fols. 277v^o–278r^o (04.08.1533); *La Faille*, vol. 2, pp. 86–87; *Dubédat*, vol. 1, pp. 170–171.

⁷ *La Faille*, vol. 2, p. 78; William Monter, *Judging the French reformation: heresy trials by sixteenth-century parlements* (Cambridge MA, 1999), pp. 65–66.

construed, received, and were affected by venality from the late fifteenth to the mid-sixteenth centuries.

The fact that all sorts of royal offices were venal or hereditary is a familiar aspect of *ancien régime* France. Almost all accounts of early-modern French society have something to say about the fact that royal posts in a variety of spheres were openly available for purchase. Eventually, they could be retained within families as a species of property. The sale of offices has sometimes seemed an ever-dependable antagonist, easily caricatured as a doomed device used against better judgement by the monarchy to procure funds. Its formal abolition during the French Revolution on 4 August 1789 was, then, a long overdue, watershed moment.⁸

Koenraad Swart first gathered the most conclusive evidence that the transmission of positions of authority for money was endemic to the pre-modern world.⁹ A ‘global problem’, to use Pierre Goubert’s phrase, venality was present from antiquity to the late nineteenth century, from China to the colonial Americas. Within Europe, the phenomenon took place in principalities as well as in republics, affecting a broad range of public offices.¹⁰ Purchasing and selling functions was once a routine

⁸ William Doyle, ‘4 August 1789: the intellectual background to the abolition of venality of offices’ in his *Officers, nobles and revolutionaries: essays on eighteenth-century France* (London, 1995), pp. 141–153; William Doyle, *Venality: the sale of offices in eighteenth-century France* (Oxford, 1996), pp. 275–311.

⁹ Koenraad W. Swart, *Sale of offices in the seventeenth century* (The Hague, 1949).

¹⁰ André Andréadès, ‘La vénalité des offices est-elle d’origine byzantine?’, *Nouvelle revue historique de droit français et étranger* 45 (1921), pp. 232–241; Pierre Goubert, ‘Un problème mondial: la vénalité des offices’, *Annales. Histoire, Sciences Sociales* 8:2 (1953), pp. 210–214; John H. Parry, *The sale of public office in the Spanish Indies under the Hapsburgs* (Berkeley CA, 1953); Robert M. Marsh, ‘The venality of provincial office in China in comparative perspective’, *Comparative Studies in Society and History* 4:4 (1962), pp. 454–466; Francisco Tomás y Valiente, *La venta de oficios en Indias (1492-1606)* (Madrid, 1972); Roland Mousnier, ‘Le trafic des offices à Venise’ in *La plume, la faucille et le marteau: institutions et société en France du moyen âge à la Révolution*, ed. Roland Mousnier (Paris, 1970), pp. 387–401; Ali Reza Sheikholeslami, ‘The sale of offices in Qajar Iran, 1858-1896’, *Iranian Studies* 4:2-3 (1971), pp. 104–118; Melissa Meriam Bullard, *Filippo Strozzi and the Medici: favor and finance in sixteenth-century Florence and Rome* (Cambridge, 1980), pp. 125–

form of interaction: one of the most famous observers of seventeenth-century English affairs, Samuel Pepys (1633-1703), recorded that his mouth ‘watered’ when one of several bidders over the summer of 1660 offered him £1,000 for his office in the admiralty.¹¹ Ubiquitous to the early-modern world, when our eyes meet with these practices, they tend to strike us as uncomfortably alien, as almost unpardonably corrupt.

Despite this otherness to office sale, it is evident that the French Revolution did not do away with it entirely.¹² The sale of offices left marks in Europe that have been difficult to erase. Perhaps the most striking example of the persistence of venality lies in the sale of notarial positions in France, which reappeared in the early nineteenth century. Under the Fifth Republic, notaries continue to enjoy a ‘droit de présentation’, by which outgoing officials are able to designate their successors. Those acquiring such notarial practices usually do so for a substantial fee. This right was upheld as recently as 2014 by the Conseil constitutionnel.¹³ The dilemma of venality is not one with which our ancestors alone tussled.

127; *Ämterkäuflichkeit: Aspekte sozialer Mobilität im europäischen Vergleich (17. und 18. Jahrhundert*, ed. Adolf M. Birke, Ilja Mieck, and Klaus Malettke (Berlin, 1980); Peter Partner, ‘Papal financial policy in the renaissance and counter-reformation’, *Past & Present* 88 (1980), pp. 17–62; Paul Veyne, ‘Clientèle et corruption au service de l’État: la vénalité des offices dans le Bas-Empire romain’, *Annales. Histoire, Sciences Sociales* 36:3 (1981), pp. 339–360; *Ämterhandel im spätmittelalter und im 16. Jahrhundert*, ed. Ilja Mieck (Berlin, 1984); Anne Vandembulcke, *Le pouvoir et l’argent sous l’ancien régime: la vénalité des offices dans les conseils collatéraux des Pays-Bas espagnols (seconde moitié du XVII^e siècle)* (Kortrijk-Heule, 1992); Inés Gómez González, *La justicia en almoneda. La venta de oficios en la chancillería de Granada (1505-1834)* (Granada, 2000); Mary Lindemann, *The merchant republics: Amsterdam, Antwerp, and Hamburg, 1648-1790* (New York NY, 2015), pp. 55–73.

¹¹ Samuel Pepys, *The diary of Samuel Pepys*, ed. Robert Latham and William Matthews (London, 2000), vol. 1, pp. 185 (26.06.1660), 210 (30.07.1660), 216 (06.08.1660). These entries are mentioned in Douglas W. Allen, ‘Purchase, patronage, and professions: incentives and the evolution of public office in pre-modern Britain’, *Journal of Institutional and Theoretical Economics* 161:1 (2005), pp. 57–58.

¹² Doyle, *Venality*, pp. 312–323.

¹³ Note the uncanny resemblance between this *droit de présentation* and ‘resignations’: Doyle, *Venality*, p. 314. For the decision of the Conseil constitutionnel, ‘Décision n° 2014-429 QPC du 21 novembre 2014’, retrieved 10.2016, at [<http://www.conseil-constitutionnel.fr/conseil->

Conversely, it is also true that rejecting the purchase of functions is not just a stance assumed by today's governments and their citizens. The sale of offices generated repeated and widespread complaints, even revulsion, in the early-modern world, especially when it concerned judgeships. An overarching question of this thesis, then, is why, if it was so contentious and unpopular, were the kings of France able to exploit this device to recruit their judicial agents on a scale unparalleled in other European states?

Understandably, the sale of offices in France has fascinated many generations of historians. Doctoral students at French law faculties wrote the very first academic works on the subject in the late nineteenth and early twentieth centuries. Above all, they concentrated on the juridical rules that governed the sale of offices under a timeless *ancien régime*.¹⁴ In the 1930s, Georges Pagès called for a more rigorous study of the phenomenon, and Martin Göhring traced perceptions of the practices in literature.¹⁵ Originally published in 1945, the classic thesis of Roland Mousnier tackled the early seventeenth-century manifestations of venality definitively through meticulous archival research, which had not been attempted before.¹⁶

In the second half of the twentieth and into the twenty-first centuries, historians continued to address the issue. William Doyle researched the system in the eighteenth century, and many scholars continue to approach the sale of offices from

constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2014/2014-429-qpc/decision-n-2014-429-qpc-du-21-novembre-2014.142698.html].

¹⁴ Eugène Duval, *Des milices en droit romain: de la vénalité des offices en droit coutumier* (Paris, 1875); Paul Louis-Lucas, *Étude sur la vénalité des charges et fonctions publiques et sur celle des offices ministériels depuis l'antiquité romaine jusqu'à nos jours* (Paris, 1889), vol. 2; Maurice Homais, *De la vénalité des offices sous l'ancien régime* (Paris, 1903).

¹⁵ Georges Pagès, 'La vénalité des offices dans l'ancienne France', *Revue Historique* 169 (1932), pp. 477–495; Martin Göhring, *Die Ämterkäuflichkeit im Ancien Régime* (Berlin, 1938).

¹⁶ Roland Mousnier, *La vénalité des offices sous Henri IV et Louis XIII*, 2nd ed. (Paris, 1971).

the perspective of the Revolution.¹⁷ Studies of venality have clustered especially around the seventeenth century, when its legal status was defined meticulously and it was practised much more openly. Recent investigations into the sale of offices have focused particularly on the introduction of a well-rehearsed routine into newly acquired territories, or on institutions that had barely been explored previously, like the intermediary jurisdictions of the *présidiaux*.¹⁸ Others scholars, like Jean Nagle, have studied the operation of venality throughout the *ancien régime*.¹⁹ Although a wide range of studies exists on French venality between 1600 and 1789, the fifteenth and sixteenth centuries remain relatively uncharted territory. Medievalists gave office sale close attention in the era before it was practised by the monarchy, but in recent times interest in late medieval venality has waned.²⁰

¹⁷ William Doyle, *Venality; Officers, nobles and revolutionaries; France and the age of revolution: regimes old and new from Louis XIV to Napoleon Bonaparte* (London, 2013); David D. Bien, 'Les offices, les corps et le crédit d'état: l'utilisation des privilèges sous l'ancien régime', *Annales. Histoire, Sciences Sociales* 43:2 (1988), pp. 379–404; Stephen Miller, 'Venal offices, provincial assemblies and the French Revolution', *French History* 28:3 (2014), pp. 343–365.

¹⁸ Maurice Gresset, *L'introduction de la vénalité des offices en Franche-Comté: 1692-1704* (Paris, 1989); Christophe Blanquie, *Justice et finance sous l'ancien régime: la vénalité présidiale* (Paris, 2001); Mark Potter, 'War finance and absolutist state development in early modern Europe: an examination of French venality in the seventeenth century', *Journal of Early Modern History* 7:1 (2003), pp. 120–147; Darryl Dee, 'Judicial politics, war finance and absolutism: the parlement of Besançon and venality of office, 1699-1705', *French History* 19:4 (2005), pp. 440–462; Vincent Meyzie, *Les illusions perdues de la magistrature seconde: les officiers «moyens» de la justice en Limousin et en Périgord (vers 1665-vers 1810)* (Limoges, 2006), pp. 204–237.

¹⁹ Jean Nagle, *Le droit de marc d'or des offices: tarifs de 1583, 1704, 1748: reconnaissance, fidélité, noblesse* (Geneva, 1992); *Un orgueil français: la vénalité des offices sous l'ancien régime* (Paris, 2008).

²⁰ Gustave Dupont-Ferrier, *Les officiers royaux des bailliages et sénéchaussées et les institutions monarchiques locales en France à la fin du moyen âge* (Paris, 1902); *Études sur les institutions financières de la France à la fin du moyen âge*, 2 vols. (Paris, 1930-1932); François Olivier-Martin, 'La nomination aux offices royaux au XIV^e siècle d'après les pratiques de la chancellerie' in *Mélanges Paul Fournier* (Paris, 1929), pp. 487–501; Charles Lefebvre, 'Les juristes du moyen âge et la vénalité des charges' in *Miscellanea historica in honorem Leonis van der Essen* (Brussels; Paris, 1947), pp. 273–285; Bernard Guenée, *Tribunaux et gens de justice dans le bailliage de Senlis à la fin du moyen âge (vers 1380- vers 1550)* (Paris, 1963); *L'occident au XIV^e et XV^e siècles: les états*, 2nd ed. (Paris, 1981); René Fédou, *Les hommes de loi lyonnais à la fin du moyen âge: étude sur les origines de la classe de robe* (Paris, 1964); Peter S. Lewis, *Later medieval France: the polity* (London, 1968); Françoise Autrand, 'Offices et officiers royaux en France sous Charles VI', *Revue Historique* 242:2 (1969), pp. 285–338; 'Vénalité ou arrangements de famille: la résignation des offices royaux en France au XV^{ème} siècle' in *Ämterhandel im spätmittelalter*, pp. 69–82.

Surprisingly few scholars have written about the sale of offices in the first half of the sixteenth century. Christopher Stocker explored the topic extensively, publishing a seminal though often overlooked article in 1978 on early office sale between 1512 and 1524.²¹ Within it, Stocker posited that venality was a haphazard technique employed by the monarchy with mixed results. In the early reign of François Ier, selling high judicial offices – or, more accurately, bequeathing them for loans that would be reimbursed – was an inefficient venture. It was resisted, produced feeble proceeds, and signalled no radical departure for royal administration. Robert Descimon must also be credited for his prodigious output on the sale of offices.²² In tension with Stocker however, Descimon's writings have pinpointed in early sixteenth-century venality the start of a gradual but decisive shift, by which the monarchy laid the foundations for a public, 'legal' venality. This innovation coexisted with an older, 'customary' system that saw offices trafficked privately.

²¹ Christopher W. Stocker, 'Offices and officers in the parlement of Paris, 1483-1515' (Unpublished Ph.D thesis, 1965); 'Office as maintenance in Renaissance France', *Canadian Journal of History* 6:1 (1971), pp. 21–43; 'The politics of the Parlement of Paris in 1525', *French Historical Studies* 8:2 (1973), pp. 191–212; 'Judicial reform and renaissance monarchy', *Proceedings of the third annual meeting of the Western Society for French History*, ed. Brison D. Gooch (1976) pp. 13–22; 'Public and private enterprise in the administration of a renaissance monarchy: the first sales of offices in the parlement of Paris (1512-1524)', *The Sixteenth Century Journal* 9:2 (1978), pp. 4–29.

²² Robert Descimon, 'Modernité et archaïsme de l'état monarchique: le parlement de Paris saisi par la vénalité (XVI^e siècle)' in *Genèse de l'état moderne: bilans et perspectives*, ed. Jean-Philippe Genet (Paris, 1990), pp. 147–161; 'Power elites and the prince: the state as enterprise' in *Power elites and state building*, ed. Wolfgang Reinhard (Oxford, 1996), pp. 101–121; 'La vénalité des offices et la construction de l'état dans la France moderne: des problèmes de la représentations symbolique aux problèmes du coût social du pouvoir' in *Les figures de l'administrateur: institutions, réseaux, pouvoirs en Espagne, en France, et au Portugal*, ed. Robert Descimon, Jean-Frédéric Schaub, and Bernard Vincent (Paris, 1997), pp. 77–93; 'La vénalité des offices comme dette publique sous l'ancien régime français. Le bien commun au pays des intérêts privés' in *La dette publique dans l'histoire*, ed. Jean Andreau, Gérard Béaur, and Jean-Yves Grenier (Paris, 2006), pp. 177–242; with Martine Bennini, 'Économie politique de l'office vénal anoblissant' in *Épreuves de noblesse: les expériences nobiliaires de la haute robe parisienne (XVI^e-XVIII^e siècle)*, ed. Robert Descimon and Élie Haddad (Paris, 2010), pp. 31–45; 'Au XVI^e siècle, l'office de la Chambre des Comptes de Paris comme investissement: les marchands bourgeois face à la fonction publique' in *Contrôler les finances sous l'ancien régime. Regards d'aujourd'hui sur les chambres des comptes*, ed. Dominique Le Page (Paris: 2011), pp. 305–324; 'La vénalité des offices politiques et perpétuels de la municipalité de Paris (procureur du roi, greffier et receveur de la ville) XVI^e siècle-années 1750' in *Le pouvoir municipal de la fin du moyen âge à 1789*, ed. Philippe Hamon and Catherine Laurent (Rennes, 2012), pp. 59–82.

The contributions of Stocker and Descimon have been invaluable. They are, however, not without shortcomings. Stocker approached the problem of office sale from a ““medieval” perspective’, eschewing seeing it ‘from the point of view of the formalized system of venality that was to develop in the seventeenth century’.²³ As a result, his analysis broke off brusquely in 1525. Studying his evidence ‘in the context of the past political experience of the monarchy’, Stocker stressed continuities, postponing the arrival of venality to a later date. In doing so, he was unconcerned with explaining its later successes. Contrastingly, Descimon grasped the phenomenon by exploring its later manifestations. Although quite rightly emphasising the gradual nature of the changes he described, Descimon’s writings confirm that his interpretation is rooted in the seventeenth century. For him, venality progressed through ‘stages’ or ‘steps’ and slowly ‘was perfected’ and ‘completed’, becoming implanted in the legal system.²⁴ Descimon’s account therefore places an uncomfortable, teleological pressure on the earlier age of office sale, one inclined to conceive of the first half of the sixteenth century as anticipatory.

A new approach is needed that balances these two points of view. The findings put forward by Stocker and Descimon have another trait, this time common to both. They tend to focus on Paris and its Parlement in particular as the normative test-chamber for venality. Yet this view from the ‘centre’ is not necessarily the most pertinent, nor the most informative, as we shall see shortly. Unlike Stocker, this thesis will tackle issues of longevity by investigating those inertial forces that caused office sale to be intensified. Parting ways with Descimon, though, it will emphasise that

²³ Stocker, ‘Office as maintenance’, p. 22.

²⁴ Descimon, ‘Modernité et archaïsme de l’état monarchique’, p. 157; ‘La vénalité des offices comme dette publique’, p. 189; Descimon and Bennini, ‘Économie politique de l’office vénal anoblissant’, pp. 33–34; Descimon, ‘La vénalité des offices politiques et perpétuels’, p. 60.

forms of office sale were highly contingent. For contemporaries, they did not necessarily lead in logical steps to what only retrospectively was destined to occur. No study exists as yet on the sale of offices in pre-1550 France. The major theme of this thesis is to trace the meanings, practices, and effects of venality between roughly 1490 – during the reign of Charles VIII (r.1483-1498) – and 1547, the year of the death of François Ier. It seeks to revise a conventional account that is usually seen through the eyes of seventeenth-century observers, and one above all others.

It is the published work of Charles Loyseau (1564-1627) that continues to inform the historiography of venality. Loyseau, a Parisian jurist and lawyer practising at the Parlement, wrote a taxonomy of offices, the *Cinq livres du droict des offices* (1610). This text has supplied a simple schema for the arrival of office sale that has flavoured much of the work on the subject. Most accounts of the development of venality in early-modern France present an identical story, leaning on Loyseau as a credible source. Initially, offices were exchanged for cash privately and clandestinely. It was during the reign of Louis XII that the monarchy first sold offices itself, initially as a means of paying off debts, to avoid increasing taxation, and to finance military campaigns in Italy. However, the sale of judicial offices was not yet on the agenda.²⁵ Loyseau identified François Ier as the first king to sell judicial posts to bolster royal coffers. He contended that this unprecedented ‘public venality’ necessitated the creation of new financial bodies. The king created the ‘*bureau des parties casuelles* in 1522, to serve as a boutique for this new merchandise’.²⁶ With this spectacular manoeuvre, if we are to believe Loyseau, the crown regularised the revenue from the

²⁵ Charles Loyseau, *Cinq livres du droict des offices*, 2nd ed. (Paris, 1613), p. 290 (III.i.86-89).

²⁶ ‘... erigeant le bureau des parties casuelles, en l’an 1522 pour servir de boutique à cette nouvelle marchandise’, Loyseau, *Cinq livres*, pp. 290–291 (III.i.91).

sale of offices and created the administrative framework necessary to purchase posts – a turning point in the history of venality.

Another key feature of this reign was that offices were created for the express purpose of being sold. Thus, for many historians, the formation of the *parties casuelles* was embroiled with another significant event. It was in 1522 that François Ier created twenty new councillorships in the Parlement of Paris, hoping by this means to raise 120,000 *livres* from the incumbents. If the monarchy had a venal ‘moment’, it was apparently in 1522: that was when it first sold offices on a systematic basis, institutionalising the practice.²⁷ From that point on, venality became an officially sanctioned if unspoken policy. The crown embarked on an irreversible process by which it would not only sell offices, but also eventually subject them to laws of inheritance. It was in December 1604 that the famous *droit annuel* or *paulette* guaranteed heredity of office in exchange for an annual fee.²⁸ To this day, the early 1520s are viewed as the ground zero of a publicly practised, ‘legal’ venality, an analysis that continues to enjoy favour in Descimon’s account.

Loyseau had more to say about early judicial venality. At first, he wrote, these judicial posts were not in fact sold as such, but conferred by the crown for loans.

²⁷ For examples of works that ‘date’ venality and the *parties casuelles* to 1522: Louis-Lucas, *Étude sur la vénalité des charges*, vol. 2, p. 21; Paul Dognon, *Les institutions politiques et administratives du pays de Languedoc du XIII^e siècle aux guerres de religion* (Toulouse, 1895), p. 410; Dupont-Ferrier, *Les officiers royaux des bailliages et sénéchaussées*, p. 774; Homais, *De la vénalité des offices*, p. 30; Guenée, *Tribunaux et gens de justice*, p. 174; *Lexique historique de la France d’ancien régime*, ed. Guy Cabourdin and Georges Viard, 2nd ed. (Paris, 1981), p. 236; Arlette Lebigre, *La justice du roi: la vie judiciaire dans l’ancienne France* (Paris, 1995), p. 62; Doyle, *Venality*, p. 4; Jacques Ellul, *Histoire des institutions: XVI^e-XVIII^e siècle*, 4th ed. (Paris, 1999), vol. 3, p. 58; Potter, ‘War finance and absolutist state development in early modern Europe’, p. 127; Séverine Debordes-Lissilour, *Les sénéchaussées royales de Bretagne: la monarchie d’ancien régime et ses juridictions ordinaires, 1532-1790* (Rennes, 2006), p. 105; Benoît Garnot, *Histoire de la justice: France, XVI^e-XXI^e siècle* (Paris, 2009), p. 258; Marie Houllé, *Politiques de la parole: le parlement de Paris au XVI^e siècle* (Geneva, 2011), p. 184.

²⁸ *Edicts et ordonnances des roys de France, depuis s. Loys*, ed. Antoine Fontanon (Paris, 1611), vol. 2, pp. 575–576.

Loyseau implied that this was something of a subterfuge though, since these advances were ‘never to be returned, and rather a sale merely disguised by this name’.²⁹ Once more, historians took Loyseau’s allusions to be authoritative: they parroted his insistence that loans from newly received magistrates were a ‘fiction’, and nothing more than blatant sales.³⁰

Studying early sixteenth-century office sale through the writings of Loyseau exclusively has had unfortunate consequences, but their hold on historians continues. The crown’s sale of offices has an identifiable beginning (1522), was practised through a purpose-built royal department established simultaneously (the *parties casuelles*), and may have included a superficial, loans-based component, which in reality served to conceal payments. It is the aim of this thesis to develop this simplistic analysis on the origins of royal venality on a number of grounds.

Firstly, contrary to what we read in most surveys of early-modern France, the founding of new judgeships for cash in the Parlement of Paris was not the first of its kind. It was preceded by creations in other courts of law of the kingdom. In the summer of 1519, for instance, eight newly created councillors were received to each of the parlements of Toulouse, Bordeaux, and Rouen.³¹ In Toulouse, these magistrates were required to loan 4,000 *livres* each to the crown to obtain their positions.³² It was not, then, in 1522 that venality experienced its ‘jump-off’, nor did the as-yet non-

²⁹ ‘...mais c’estoit un prest à jamais rendre, & plustost une vente déguisée de ce nom’, Loyseau, *Cinq livres*, p. 291 (III.i.93).

³⁰ Dognon, *Les institutions politiques et administratives du pays de Languedoc*, p. 410; Maugis, vol. 1, pp. 178, 224–226; Mousnier, p. 63; Roger Doucet, *Les institutions de France au XVI^e siècle* (Paris, 1948), vol. 1, pp. 177, 411; Gaston Zeller, *Les institutions de la France au XVI^e siècle*, 2nd ed. (Paris, 1987), p. 134; Ellul, *Histoire des institutions*, vol. 3, pp. 58–59.

³¹ *Barrillon*, vol. 2, pp. 123–124.

³² See Chapter 2, section i.

existent *parties casuelles* administer these ‘sales’. The monarchy was practising venal techniques earlier than is usually recognised. This thesis therefore rejects a clear-cut date at which royal venality simply exploded onto the scene.

Secondly, from the evidence cited above, it is also obvious that prioritising the Parlement of Paris and studying it in isolation has blinkered us to ways in which other tribunals were affected. Arnoul Le Ferron (1515-1563), lay councillor of the Parlement of Bordeaux, remarked that although François Ier did create new offices for cash in Paris, he also instituted councillors in other parlements, though there was much less of a ‘clamour’ about these.³³ As well as suggesting a new timeline, it will be important to revise existing interpretations of venality by considering institutional space. Why did the creation and sale of offices occur in provincial parlements before it reached the Parlement of Paris, and why were they apparently well received? The study of these younger courts is an enticing and fresh entry-point into the problem of venality.

Finally, to study venality between 1490 and 1547, it is essential to rely on archival records and other contemporary sources. Although works like Roland Mousnier’s are taken as the most complete accounts of early sixteenth-century venality, for the most part – and by the author’s own admission – most of their observations are founded on compilations of prescriptive royal *ordonnances* or on later guides to officeholding like Loyseau’s.³⁴ Even Loyseau’s contemporaries cast doubts over some of his statements. The magistrate of the Parlement of Toulouse Bernard de La Roche-Flavin (1552-1627) attested to venality as a form of loan to the

³³ Arnoul Le Ferron, *De rebus gestis Gallorum libri IX* (Paris, 1554), p. 66 (V).

³⁴ Mousnier, pp. 5, 35–92.

crown with far less cynicism. He claimed to have known judges who were reimbursed the cash that they had provided for their offices.³⁵ This already hints at the fact that early office sale was heterogeneous. If we want to excavate the character of the venality of judicial offices pre-1550, we must study records of the time.

This thesis leans on scholarship of both late medieval and early-modern history. In drawing on these two pools of literature, it seeks to bridge both, and to contribute to recent conversations on periodisation that have occurred both in academic and more casual settings.³⁶ Venality involved the prolongation of existing practices as well as distinctive changes. Focusing on the late fifteenth to the mid-sixteenth centuries as an interval *sui generis* will shed light on a ‘crucial transitional period’.³⁷

We have already seen that provincial tribunals deserve attention if we are to understand how the sale of judicial offices was first envisioned and practised. The next section will turn to consider the general and specific subjects of this thesis: offices, the judicial hierarchy, and the Parlement of Toulouse.

ii) Offices and the Parlement of Toulouse

³⁵ Treze livres, p. 84; see Chapter 2, section ii.

³⁶ Phil Withington, *Society in early modern England: the vernacular origins of some powerful ideas* (Cambridge, 2010); *Bridging the medieval-modern divide: medieval themes in the world of the reformation*, ed. James Muldoon (Farnham, 2013); Jacques Le Goff, *Faut-il vraiment découper l'histoire en tranches?* (Paris, 2014); see also the excellent series of contributions on ‘early-modern’ periodisation by Laura Sangha, Mark Hailwood, Jonathan Willis, and Brodie Waddell at *the many-headed monster*, retrieved 08.2016, at [<https://manyheadedmonster.wordpress.com/tag/periodisation/>].

³⁷ Stocker, ‘Office as maintenance’, p. 43 n. 51.

This study concerns venal offices, but what exactly was ‘office’? In Charles Loyseau’s pithy formulation, office was a ‘dignity with public function’, or a ‘dignity with ordinary function in the state’.³⁸ It was at once, therefore, honorific – perhaps principally so – but it also entailed a set of duties. The identification of office as a permanent, lifelong post in the royal administration was one that had emerged only slowly from the late-medieval period. Famously, it was in October 1467 that Louis XI (r.1461-1483) decreed that officers would enjoy their posts permanently unless removed by death, resignation, or forfeiture, a law confirmed by Charles VIII.³⁹

Different substrata of royal offices existed. By the late fifteenth century, ‘offices of judicature’ were recognised as forming a distinct group. They were often contrasted with financial offices. In general, ‘judicial offices’ signified all those sitting on tribunals and exercising the power to decide legal cases. Yet these individuals’ courts could not function without other *gens de justice*, their supporting army of auxiliaries that included bailiffs, sergeants, clerks, scribes, and financial officers responsible for paying out wages (*gages*). By studying officers belonging to a parlement, this dissertation focuses on judges who processed civil and criminal cases rather than the crown’s financial and fiscal affairs, for which the Chambres des Comptes and the Cours des Aides existed. ‘Judicial venality’ refers to the sale of judgeships in courts of law in particular – it was the sale of these posts that elicited the greatest howls of disapproval.

Offices and the different institutions to which they belonged were arranged in complex hierarchies. When the crown began to receive money for offices, it did so

³⁸ ‘l’office est dignité, avec fonction publique’; ‘dignité avec fonction ordinaire en l’estat’, Loyseau, *Cinq livres*, pp. 13–14 (I.i.98, 110).

³⁹ *Isambert*, vol. 10, p. 542; ADHG 1B1900, fol. 62v^o.

using magistracies at virtually all levels of the judicial system. What was the structure of the judiciary in early sixteenth-century France? At the head stood the *chancelier*, the chancellor:

Table 1. Chancellors of France, c.1490-1550

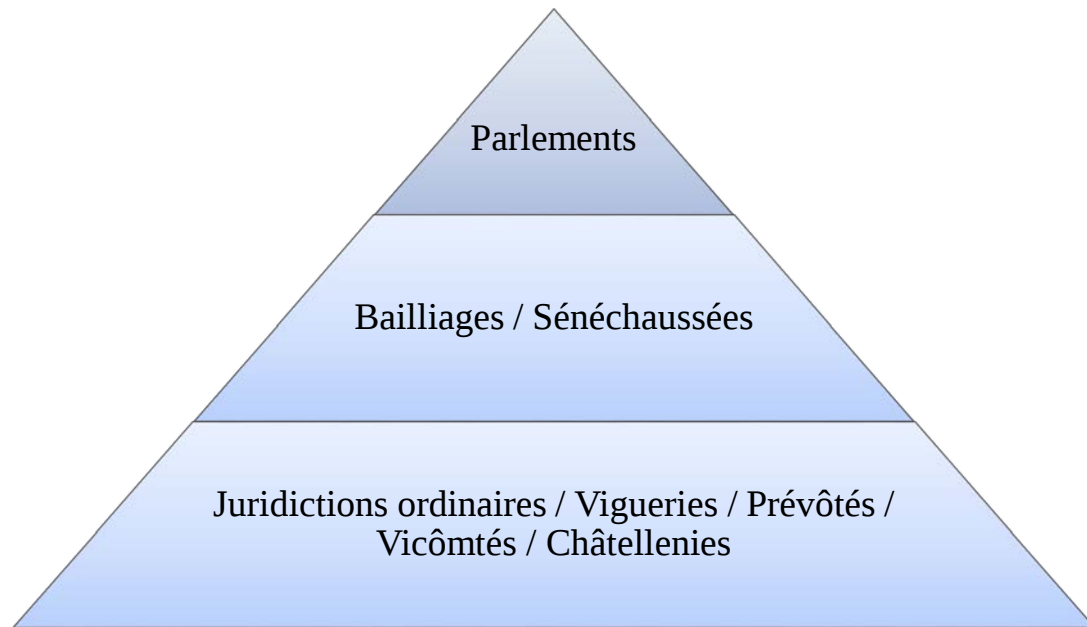
Name	Dates	* denotes a <i>garde des sceaux</i>
Guillaume de Rochefort	1483-1492	
Adam Fumée	1492-1494	*
Robert Briçonnet	1495-1497	
Guy de Rochefort	1497-1507	
Jean de Ganay	1507-1512	
Étienne Poncher	1512-1514	*
Antoine Duprat	1515-1535	
Antoine du Bourg	1535-1538	
Mathieu de Longuejume	1538	*
Guillaume Poyet	1538-1545	
François de Montholon	1542-1543	*
François Errault	1543-1544	*
Mathieu de Longuejume	1544-1545	*
François Olivier	1545-1560	

The chancellor did not only oversee the activity of the *chancellerie* – the apparatus that drafted and issued royal acts – but that of the entire judiciary.⁴⁰ In the absence of a chancellor, or to bypass a suspect one, a keeper of the seals (*garde des sceaux*) was occasionally appointed. Both as institutions and through their individual members, parlements were in constant communication with the chancellor regarding official and personal business.

Beneath the chancellor spread a tripartite pyramid of jurisdictions, representing the hierarchy of pleas:

⁴⁰ Hélène Michaud, *La grande chancellerie et les écritures royales au seizième siècle (1515-1589)* (Paris, 1967), pp. 23–61; Anne Rousselet-Pimont, *Le chancelier et la loi au XVI^e siècle: d'après l'œuvre d'Antoine Duprat, de Guillaume Poyet, et de Michel de L'Hospital* (Paris, 2005).

Figure 1. The judicial hierarchy in early sixteenth-century France



At the top, the sovereign courts of the parlements enjoyed the largest territorial jurisdictions. They were the final sites at which civil and criminal appeals could be lodged, resulting in definitive rulings. At the very start of the sixteenth century, they were based in Paris, Toulouse, Grenoble, Bordeaux, and Dijon. Over the course of the century were added the parlements of Aix-en-Provence (1501) and Rouen (its existing *échiquier* became a royal institution in 1499, and a Parlement in 1515). The periodically held Parlement of Brittany became permanent in 1554 and later settled in Rennes.⁴¹

⁴¹ To this list, we could add the many transitory courts operational in this period and associated with the kingdom's expansion. These included: the Senate of Milan, a sovereign court run by the French monarchy during Louis XII's rule there: Ugo Petronio, *Il Senato di Milano: istituzioni giuridiche ed esercizio del potere nel Ducato di Milano da Carlo V a Giuseppe II* (Milan, 1972); the Parlement of Dombes, which operated as a small royal tribunal based in Lyon between 1523 and 1560: Pierre Lenail, *Notice historique sur le parlement de Dombes, 1523-1771* (Lyon, 1900); the Parlement of Chambéry in Savoy, created formally in 1538 and suppressed in 1559: Marie Houlemare, 'Le parlement de Savoie (1536-1559), un outil politique au service du roi de France, entre occupation pragmatique et intégration au royaume', *Revue Historique* 665:1 (2013), pp. 89–117; and the Parlement of Turin in Piedmont,

By and large, the parlements received appeals from the middling courts of the jurisdictional hierarchy, the *bailliages* and the *sénéchaussées*, of which there were around a hundred in the sixteenth century. By the sixteenth century, these courts were more likely to be overseen by delegated lieutenants. In turn, these intermediary jurisdictions received appeals from the most local of judicial panels. These courts were run by *prévôts* or their cognates, depending on the region: *juges ordinaires*, *viguers*, and *châtellains* of the Midi, or the *vicomtes* of Normandy. Paris had its own primary jurisdiction, the *châtelet*.⁴²

However, this appellate structure was complicated by the existence of parallel tribunals representing the king's 'extraordinary' justice. The king could 'evoke' and decide cases personally through the intervention of his innermost council, the *conseil privé*. Alternatively, the *maîtres des requêtes de l'hôtel* could intercede. They were high-ranking judicial agents with discretionary powers to investigate personnel and sit in on proceedings in royal tribunals.⁴³ More significant was the Grand Conseil. Originally, this panel of councillors was detached from the *conseil privé* to lighten its workload by hearing and judging cases. In time, the Grand Conseil became a veritable sovereign court itself. It became a special site for resolving disputes between officers or in which parlements were suspected of partiality. The king evoked cases there and to other, ad hoc commissions, but these occasions were often contentious. Since they meant reviewing the supposedly final rulings of sovereign courts and taking

formed in 1539 and suppressed in 1559: Monter, *Judging the French reformation*, p. 5. For another short-lived blueprint of a 'Parlement of Poitiers', see Appendix Table 4.

⁴² Gustave Ducoudray, *Les origines du parlement de Paris et la justice aux XIII^e et XIV^e siècles* (Paris, 1902), p. 585.

⁴³ Maïté Etchechoury, *Les maîtres des requêtes de l'hôtel du roi sous les derniers Valois (1553-1589)* (Paris, 1991).

cognizance of lawsuits from their jurisdictions, the parlements and the ‘prerogative’ court of the Grand Conseil feuded bitterly early in our period.⁴⁴

What was the city of Toulouse like in the sixteenth century? In one pleas session before the Parlement of Toulouse, Barthélemy Robin – *avocat du roi* and future judge – extolled his home city. He called it second only to Paris, significant because of its location on the kingdom’s border. Toulouse was a city celebrated throughout Christendom for its spirituality, Robin said, for here rested the bodies of saints. But Toulouse also mattered in temporal affairs: it was here that the royal Parlement was based, as well as the University of Toulouse, one of the ‘most famous’ faculties of law in the entire kingdom.⁴⁵

Robin’s panegyric rhetoric was well founded. Small by today’s standards, the city was the fourth largest in France, home to some 50,000 inhabitants.⁴⁶ Toulouse was the de facto capital of the haut-Languedoc, the hub of local royal administration. Ever since the incorporation of the region into the crown’s domains in 1271, the monarchy had made its presence felt. By the late fifteenth century, signs of royal power were most obviously evidenced by the labyrinthine organisation of its courts of law and their swarm of officials. Toulouse was home to the Parlement, to the court of the *sénéchal* – mostly run by his primary lieutenant, the *juge mage* – to the court of the *viguier*; to the courts of the *juges d’appiaux civil et criminel*; and to the court of the *juge ordinaire*. The city possessed its own municipal jurisdiction exercised by the

⁴⁴ Monique Pelletier, ‘Le Grand Conseil de Charles VIII à François Ier, 1483-1547’ (Thèse soutenue à l’École des Chartes, 1960); Tyler Lange, *The first French reformation: church reform and the origins of the old regime* (Cambridge, 2014).

⁴⁵ ADHG 1B2338, fol. 162r^o (27.11.1517).

⁴⁶ Philip Benedict, ‘French cities from the sixteenth century to the Revolution: an overview’ in *Cities and social change in early modern France*, ed. Philip Benedict (London, 1989), pp. 9–10.

capitouls, the eight annually elected mayors. Toulouse was the focal point of judicial activity far beyond Languedoc, though. This owed much to the institution of its Parlement.

Although they meted out the same royal justice, parlements were not carbon copies of one another. One satirical author of the time gave to each of these sovereign courts a different *modus operandi*: ‘rigour of Toulouse, humanity of Bordeaux, clemency of Rouen, justice of Paris’.⁴⁷ The Parlement of Toulouse had a complex genesis. Later authors and *parlementaires* liked to trace this court’s origins, hazily, to the thirteenth century, claiming that it arose from temporary sessions held by the king to render justice in the region. Plans for a sovereign court based in Toulouse were revived with vigour in the 1440s, and the Parlement of Toulouse was established permanently in October 1443.⁴⁸

The court’s officeholding staff included presidents (*présidents*) and councillors (*conseillers*), who were the tribunal’s judges. Collectively, they were responsible for hearing, discussing, and determining cases. The presidents were senior figures: they oversaw the conduct of the entire company. There were two sorts of councillorships: the *clercs*, which were reserved for churchmen, and the *lais*, which were occupied by laymen. As well as the magistrates, the Parlement of Toulouse was equipped with other royal officers. *Greffiers* were scribes: they headed small teams of clerks responsible for recording the court’s activities and handling submitted documents. *Huissiers* were bailiffs. They maintained silence in public sessions and

⁴⁷ ‘rigueur de Thoulouse, humanité de Bordeaux, miséricorde de Rouan, justice de Paris’, Bonaventure des Périers, *Nouvelles recreations et joyeux devis* (Lyon, 1558), p. xcix.

⁴⁸ Viala, vol. 1, pp. 43–79; Henri Gilles, ‘La création du parlement de Toulouse’ in *Les parlements de province: pouvoirs, justice et société du XV^e au XVIII^e siècle*, ed. Jacques Poumarède and Jack Thomas (Toulouse, 1996), pp. 29–39.

served court decisions. The Parlement was also equipped with representatives of the crown in disputes that involved the monarchy: the *gens du roi*. The *procureur du roi* was an attorney of sorts: he steered procedure through the court. His spokesperson was the *avocat du roi*, a barrister who composed pleas and spoke in court. Finally, another key officer of the Parlement was the *receveur*, a financial agent who paid out *gages* and collected fines.

Even after the creation of other parlements, the jurisdiction of the Parlement of Toulouse was vast (see Appendix Figures 1 and 2). The courthouse was located to the south of the city (see Appendix Figure 3). Its judicial complex was housed in the archaic and crumbling fortress of the Château Narbonnais, an imposing, feudal edifice (see Appendix Figures 4 and 5a).⁴⁹

The court was subdivided into a number of physical and organisational chambers, to which presidents and councillors were assigned. The most important was the *grand' chambre*, in which pleas were usually held (see Appendix Figures 5b and 6). The Parlement possessed other sub-divisions: the *chambre des enquêtes*, and from 1519 a *chambre criminelle*. In 1543, a second *chambre des enquêtes* was created, followed by a *chambre des requêtes* in 1544. As well as serving these specific departments of the Parlement, the judges often met together, 'all chambers assembled', to settle particularly thorny cases, to discuss matters affecting the whole company, or to enact laws.

⁴⁹ Maurice Prin and Jean Rocacher, *Le château Narbonnais: le parlement et le palais de justice de Toulouse* (Toulouse, 1991); Jean Rocacher, 'Histoire des bâtiments du parlement de Toulouse' in *Les parlements de province*, pp. 55–73.

Although the Parlement of Toulouse was primarily a court of law, it would be misleading to suggest that its competence ended there. Such sovereign courts were regional embodiments of the monarchy, endowed with substantial – if ill-defined – ‘kingly’ powers: each was at once a ‘court of justice, governmental council, and administrative authority’.⁵⁰ As well as their purely judicial role, these courts had legislative capacities: the registration of royal acts had to occur here, where they were ‘read, published, and registered’ to become binding law. Magistrates were not only responsible for promulgating royal law, but also ‘authored’ it themselves, by emending royal acts or issuing their own *ordonnances*.⁵¹

These same sovereign courts also held a broad authority in ‘la police’, powers of local regulation. Painstaking attention to seemingly irrelevant regional matters often infuriated local leaders. For instance, in the Parlement of Toulouse, the *gens du roi* took it upon themselves to attack illegal street-selling taking place in the square near the courthouse of cooked geese, which were sold smothered in garlicky sauces to conceal the fact that they were days old. If the intervention seemed trivial, the *procureur du roi* protested that it was a matter of public health, since such practices promoted the spreading of plague and other diseases.⁵² The Parlement regularly issued orders for local authorities to enforce regulations regarding, for example, the driving of carts, the weight and whiteness of bread, the cost of meat, and the public sale of fish. The Parlement intervened in a variety of civic matters, including the

⁵⁰ Gérard D. Guyon, ‘Un arrêliste bordelais: Nicolas Boerius (1469-1539)’, *Annales de la faculté de droit, centre d’études et de recherches d’histoire institutionnelle et régionale (Université de Bordeaux I)* 1 (1976), p. 18.

⁵¹ Élise Frêlon, *Le Parlement de Bordeaux et la «loi» (1451-1546)* (Paris, 2011), p. 25.

⁵² AMT AA13 no. 91 (22.08.1519).

annual election of *capitouls*, in pursuit of the ‘common good’.⁵³ Municipal government and subordinate jurisdictions were not the only authorities to vie with the Parlement. Other agencies with great sway in the region included the governor of Languedoc.⁵⁴ The Estates of Languedoc were another. Increasingly organised by the late fifteenth-century, the ‘three estates’ of Languedoc – composed of the clergy, the nobility, and the ‘common’ estate, representing towns – were convoked at least annually by the king. Their main purpose was to review and consent to the taxes the monarchy imposed, allocate, and levy them. These assemblies were also opportunities to convey grievances to the crown. The Estates of Languedoc had permanent legal representation in the Parlement of Toulouse to defend the interests of the region and its residents.⁵⁵

Why is it important to study parlements, and the Parlement of Toulouse in particular, when researching early royal venality? At first glance, this Parlement is by no means obscure. It was there that the famous trial of ‘Martin Guerre’ unravelled in 1560.⁵⁶ Jean-Baptiste Dubédat was one of several scholars who gave the tribunal and its officers attention from the late nineteenth century.⁵⁷ The court has also been

⁵³ For examples of such interventions, ADHG 1B20, fols. 506v^o–507r^o (03.05.1525); see also Schneider, *Public life in Toulouse*, p. 69; Thierry Mailles, ‘Les relations politiques entre le parlement de Toulouse et les capitouls, de 1540 environ à 1572’ in *Les parlements de province*, pp. 509–521. Disputes between the judges of the Parlement and the *capitouls* over their respective powers of ‘police’ reached a spectacular nadir when both sides were heard before the Grand Conseil: AMT FF65 (Grand Conseil at Bordeaux, 20.06.1530).

⁵⁴ Bernard Chevalier, ‘Gouverneurs et gouvernements en France entre 1450 et 1520’ in *Histoire comparée de l’administration (IV^e-XVIII^e siècles)*, ed. Werner Paravicini and Karl Ferdinand Werner (Munich, 1980), pp. 291–307; Mark Greengrass, ‘War, politics and religion in Languedoc during the government of Henri de Montmorency-Damville (1574-1610) (Unpublished D.Phil thesis, 1979); Thierry Rentet, *Anne de Montmorency: grand maître de François Ier* (Rennes, 2011).

⁵⁵ Henri Gilles, *Les états de Languedoc au XV^e siècle* (Toulouse, 1965); James Eastgate Brink, ‘The estates general of Languedoc: struggles for provincial autonomy in early 16th century France’, *Legislative Studies Quarterly* 5:3 (1980), pp. 437–446.

⁵⁶ Jean de Coras, *Arrest memorable du Parlement de Tholose* (Lyon, 1561); Natalie Zemon Davis, *The return of Martin Guerre* (Cambridge MA, 1983).

⁵⁷ Jean-Baptiste Dubédat, *Histoire du parlement de Toulouse*, 2 vols. (Paris, 1885); Eugène Lapierre, *Le Parlement de Toulouse* (Paris, 1875); Henry Amilhou, *Nos premiers présidents, revue historique*,

exceptionally studied with respect to its cognizance of church disputes and its reactions to religious reform.⁵⁸ Most comprehensive of all was André Viala's monograph on the court, which tackled its formation, composition, and activity until 1525.⁵⁹ Nonetheless, the Parlement of Toulouse has tended to be studied either during its earliest years or in those leading up to its disestablishment. As a result, 'much remains to be done' in the study of this court.⁶⁰

On the subject of venality in particular, existing studies of the Parlement of Toulouse are often superficial. Dubédat's offering, for instance, features no references and relies heavily on an anonymous manuscript held by the Bibliothèque nationale, reproducing its infelicities.⁶¹ Viala's study is admirable, but it comes to an arbitrary close in 1525, and proceeds on the assumption that venality only reached the court in the 1520s.⁶² A study of the Parlement of Toulouse with venality as the focus of attention would therefore be a first.

politique et judiciaire (Paris, 1882); Fleury Vindry, *Les parlementaires français au XVI^e siècle* (Paris, 1912), vol. 2.ii; Louis Delaruelle, *Un président au parlement de Toulouse: Jacques Minut* (Toulouse, 1923).

⁵⁸ Gabriel Loirette, 'Le Parlement de Toulouse et la réforme en Languedoc à la fin du règne de François I^{er} (1542-1547)', *Bulletin de la société archéologique du Midi de la France* 47 (1921-1925), pp. 484-485; Jean-Louis Gazzaniga, *L'Église du Midi à la fin du règne de Charles VII (1444-1461): d'après la jurisprudence du Parlement de Toulouse* (Paris, 1976); Raymond A. Menzter, *Heresy proceedings in Languedoc, 1500-1560* (Philadelphia PA, 1984); Stéphane Capot, *Justice et religion en Languedoc au temps de l'Édit de Nantes: la chambre de l'édit de Castres, 1579-1679* (Paris, 1998); Monter, *Judging the French Reformation*; Kevin Gould, *Catholic activism in south-west France, 1540-1570* (Aldershot, 2006).

⁵⁹ André Viala, *Le parlement de Toulouse et l'administration royale laïque: 1420-1525 environ*, 2 vols. (Albi, 1953).

⁶⁰ Pierre Prétou, *Crime et justice en Gascogne à la fin du moyen âge (1360-1526)* (Rennes, 2010), p. 226.

⁶¹ For example, both texts cite 'Pierre de Nupces' as the first councillor received to the Parlement of Toulouse to disclose a loan to the king, when the episode in fact concerned his son, François: BnF MS fr. 8660, fol. 119^o; Dubédat, vol. 1, p. 139; Appendix Table 3a. For more on this manuscript, attributed to the Jesuit priest père Lombard, Marcella Leopizzi, *Les sources documentaires du courant libertin français: Giulio Cesare Vanini* (Paris, 2004), p. 176 n.87.

⁶² Viala, vol. 1, p. 202.

An exploration of the sale of offices in the Parlement of Toulouse has more to recommend it than a gap in research. This court is worth examining because it was the exemplar pilot institution, the first of its type to be created after the Parlement of Paris. The records of the Parlement of Toulouse, too, are noteworthy for their abundance and quality. This well-preserved collection offers an occasion to study a sovereign court closely, a task far less feasible for other courts whose earlier registers have fared badly.⁶³

Concentrating on office sale in the Parlement of Toulouse in this period in particular has other merits. Whereas a vast bibliography exists on the Parlement of Paris in the same era, its counterparts in the provinces remain underexplored.⁶⁴ As we have already seen, venality has been studied well enough as it affected ‘the’ Parlement. In contrast, volumes on the other parlements are relatively few and often dated.⁶⁵ Over twenty years ago, a conference held in Toulouse called for greater

⁶³ Marie-Thérèse Aubry, Monique Langlois, and Chantal Reydellet, ‘Les parlements de France et leurs archives’, *La Gazette des Archives* 125-126 (1984), pp. 125–143.

⁶⁴ Félix Aubert, *Histoire du parlement de Paris, de l’origine à François I^{er}*, 2 vols. (Paris, 1894); Ernest Désiré Glasson, *Le Parlement de Paris, son rôle politique depuis le règne de Charles VII jusqu’à la Révolution* (Paris, 1901); Gustave Ducoudray, *Les origines du parlement de Paris et la justice aux XIII^e et XIV^e siècles* (Paris, 1902); Édouard Maugis, *Histoire du parlement de Paris de l’avènement des rois Valois à la mort d’Henri IV*, 3 vols. (Paris, 1913-1916); Roger Doucet, *Étude sur le gouvernement de François I^{er} dans ses rapports avec le Parlement de Paris*, 2 vols. (Paris; Algiers, 1921-1926); Joseph H. Shennan, *The parlement of Paris* (London, 1968); François Autrand, *Naissance d’un grand corps de l’état: les gens du parlement de Paris, 1345-1454* (Paris, 1981); Sarah Hanley, *The lit de justice of the kings of France: constitutional ideology in legend, ritual, and discourse* (Princeton, 1983); Nancy L. Roelker, *One king, one faith: the Parlement of Paris and the religious reformation of the sixteenth century* (Berkeley CA, 1996); Sylvie Daubresse, *Le parlement de Paris ou la voix de la raison (1559-1589)* (Geneva, 2005); Marie Houlemare, *Politiques de la parole: le parlement de Paris au XVI^e siècle* (Geneva, 2011).

⁶⁵ For examples of works old and recent on the parlements of Grenoble, Bordeaux, Dijon, Rouen, and Aix-en-Provence in this period, see: *Le parlement de Dauphiné: des origines à la révolution*, ed. René Favier (Grenoble, 2001); Elisabeth-François de Lacuisine, *Le Parlement de Bourgogne, depuis son origine jusqu’à sa chute*, 2 vols. (Dijon, 1857); Charles-Bon-François Boscheron Des Portes, *Histoire du parlement de Bordeaux depuis sa création jusqu’à sa suppression (1451-1790)*, 2 vols. (Bordeaux, 1877); Jonathan K. Powis, ‘The magistrates of the parlement of Bordeaux, c. 1500-1563’ (Unpublished D.Phil thesis, 1975); Frêlon, *Le Parlement de Bordeaux et la «loi»*; Amable Floquet, *Histoire du parlement de Normandie*, 7 vols. (Rouen, 1840-1842); Jonathan Dewald, *The formation of a provincial nobility: the magistrates of the parlement of Rouen, 1499-1610* (Princeton NJ, 1980); Prosper Cabasse,

discussion of these regional courts.⁶⁶ Yet in 2011, Élise Frêlon observed that still little contemporary research concentrated focusedly on provincial sovereign courts.⁶⁷ More generally, the parlements of the sixteenth century have been approached in tried and tested ways. They have always been of interest, for instance, because of their political role, and have also garnered attention from institutional historians.⁶⁸ Parlements have also been of interest to social historians. By anatomising their members as a judicial elite, scholars have sought to grasp the emergence of the ‘robe’ nobility by charting its trajectories and fortunes.⁶⁹

Many of these themes are so well known and explored that it was observed recently that approaches to parlements are limited in scope, showing ‘the least proclivity for innovation’.⁷⁰ An analysis of early venality in provincial parlements offers a signal opportunity to re-enter existing debates, as well as to consider them from an entirely new angle.

iii) ‘n’estoit besoing de donner argent pour avoir office’

In 1510 a contender for judicial office in Toulouse, Anthoine de Fayet, announced before the Grand Conseil that until recently ‘it was not necessary to give

Essais historiques sur le parlement de Provence, depuis son origine à sa suppression, 1501-1790, 3 vols. (Paris, 1826); *Le parlement de Provence, 1501-1790* (Aix-en-Provence, 2002).

⁶⁶ Jacques Poumarède and Jack Thomas, ‘Introduction’ in *Les parlements de province*, pp. 7–25.

⁶⁷ Frêlon, *Le Parlement de Bordeaux et la «loi»*, p. 5.

⁶⁸ Aubert, *Histoire du parlement de Paris*; Maugis; Doucet, *Étude sur le gouvernement de François I^{er}*; Viala; Powis, ‘The magistrates of the parlement of Bordeaux’.

⁶⁹ Powis, ‘The magistrates of the parlement of Bordeaux’; Dewald, *The formation of a provincial nobility*; Autrand, *Naissance d’un grand corps de l’état*; Robert Descimon ‘The birth of the nobility of the robe: dignity versus privilege in the parlement of Paris’ in *Changing identities in early modern France*, ed. Michael Wolfe (Durham NC, 1997), pp. 95–123.

⁷⁰ Michael P. Breen, ‘Law, society, and the state in early modern France’, *The Journal of Modern History* 83:2 (2011), p. 362.

money in order to obtain office'.⁷¹ Was this a rhetorical snub aimed at his rival for office? Or was Fayet really bearing witness to a radical regime shift, towards a method of provision to office in which recruits were expected to pay (but whom?) for access to office?

Parsing such testimony can be very difficult, but it is crucial. When it comes to the study of parlements and venality in particular, words have often been dismissed. According to existing narratives, we are unlikely to locate the real reason for the success of office sale in official texts or written documents. Language usually matters very little, since the logic of venality is found beyond articulation, in habits and practices – in *les mœurs*.⁷² In fact, speech is often deemed positively distracting because of the monarchy's apparent hypocrisy. The crown only spoke about venality, we are often told, to ban it, and these prohibitions failed because kings violated them constantly.

Fayet's plea in the Grand Conseil is evidence that in the early sixteenth century, people did speak about the purchase of judicial positions. Such 'talk' was pervasive, multifaceted, and significant. Simply put, these were developments about which people communicated. In 1521, an *avocat* in the Parlement of Paris repeated gossip he had heard that one magistrate had not been given his office for free.⁷³ In

⁷¹ AN V⁵1043, fol. 13v^o (Grand Conseil at Blois, 21.02.1510). For more on this episode, see Chapter 4, section iii.

⁷² Gustave Dupont-Ferrier, *La formation de l'état français et l'unité française (des origines au milieu du XVI^e siècle)* (Paris, 1929), p. 201; Pagès, 'La vénalité des offices dans l'ancienne France', pp. 477, 484; Henri Jassemin, *La chambre des comptes de Paris au XV^e siècle* (Paris, 1933), p. 39; Doucet, *Les institutions de France*, vol. 1, p. 409; Zeller, *Les institutions de la France*, pp. vii–viii; Mousnier, p. 92; Viala, vol. 1, p. 202; Robert Mandrou, *Introduction to modern France, 1500-1640: an essay in historical psychology*, trans. R. E. Hallmark (London, 1975), pp. 111–112, 247–248.

⁷³ Nicolas Versoris, *Livre de raison de Me Nicolas Versoris, avocat au parlement de Paris 1519-1530*, ed. G. Fagniez (Paris 1885), pp. 19–20. This remarkably well-documented venal transaction concerned

Marseille, an apothecary recorded his distress when he heard reports that three notaries had purchased their offices from a royal representative in 1536 for between 50 and 100 *écus* each.⁷⁴ Early venality was met with rumour and hearsay and, frustratingly, the sale of judicial offices was the subject of more than one irretrievable oral exchange. Without these, it is important to acknowledge the extent to which the sale of offices in its early forms left a complicated trail in a broad range of archival and printed sources. Venality arose in diverse contexts, from legal disputes over specific offices to treatises on politics, from scholarly debates on law to the meetings of regional assemblies. The propagation of the sale of offices has been explained through a one-dimensional depiction of the monarchy as dissimulative, with little regard for utterances. A far more satisfying interpretation of early venality, however, must stress that words mattered a great deal. By studying an array of sources in which it was invoked, we shall see that the sale of offices was imbued with a multiplicity of meanings, and was far more ambiguous than is usually recognised. This approach will not only elucidate the arrival of judicial venality, but will also address why it was so controversial.

This thesis proposes to comprehend venality through legal culture, and more specifically, through an analysis of law and language. Much can be learned from the work of legal and cultural anthropologists, literary scholars, and sociologists here. Bringing law into the picture is important. After all, we are interested in how venality became part of the legal framework of early-modern France. But what exactly is

a short-lived councillor called Jacques Olivier: see Stocker, 'Public and private enterprise', pp. 9–10, 19–20.

⁷⁴ Honorat de Valbelle, *Histoire journalière d'Honorat de Valbelle (1498-1539): journal d'un bourgeois de Marseille au temps de Louis XII et de François Ier*, ed. V. L. Bourrilly, trans. L. Gaillard (Aix-en-Provence, 1985), vol. 1, p. 277. The royal representative was none other than Jehan Feu: see Chapter 1, section i.

‘law’? In 1983, Clifford Geertz described the ‘endless discussion’ taking place over how to define the word. Did it consist ‘in institutions or in rules, in procedures or in concepts, in decisions or in codes, in processes or in forms’?⁷⁵

In the late 1970s, anthropologists studying acephalous, tribal societies were likely to answer that law was ‘processual’.⁷⁶ Turning away from prescriptive legislation, they paid attention to the ‘actions and strategies of real people’.⁷⁷ Process-based approaches set out to understand the contexts and relationships in which disputants are embedded, their motivations and options in both opening and bringing conflicts to a close. To say that this approach has influenced historians would be an understatement: it has challenged ‘top-down’ readings of the law, allowing researchers to shed light on ‘actual legal practice’.⁷⁸ Rather than equating the law with an abstract set of rules, it has been seen as ‘the product of ongoing dialogues, negotiations, and contestations’.⁷⁹ A processual approach requires asking who used courts and for what purpose, for it was not the case that ‘rules alone were responsible for the rise of law in late medieval Europe’.⁸⁰ Venality would seem an ideal candidate for study from a ‘processual’ perspective. For many historians, office sale had so little to do with legislation that it benefits from being studied in operation wherever possible, without reference to misleading legal texts.

⁷⁵ Clifford Geertz, *Local knowledge: further essays in interpretive anthropology*, 3rd ed. (New York, NY, 2000), p. 168.

⁷⁶ Simon Roberts, *Order and dispute: an introduction to legal anthropology* (Harmondsworth, 1979); Sally Falk Moore, *Law as process: an anthropological approach*, 2nd ed. (Oxford; Hamburg, 2000).

⁷⁷ Simon Roberts, ‘The study of dispute: anthropological perspectives’ in *Disputes and settlements: law and human relations in the west*, ed. John Bossy (Cambridge, 1983), p. 4.

⁷⁸ John Jordan, ‘Legal culture in a turbulent time: law and society in early modern Saxony’ (Unpublished D.Phil thesis, 2013), pp. 11–12.

⁷⁹ Breen, ‘Law, society, and the state in early modern France’, pp. 355–357.

⁸⁰ Daniel Lord Smail, *The consumption of justice: emotions, publicity, and legal culture in Marseille, 1264-1423* (Ithaca NY, 2003), p. 4.

Nonetheless, in recent years proponents of ‘legalism’ have suggested that we should return to a closer investigation of formal rules. They have urged researchers to explore ‘what law promises, not just what it does’.⁸¹ It has appeared difficult to bridge these visions of the law as rules and of the law as process. However, one means of doing so is by employing the notion of ‘legal culture’, a research tool first proposed by Lawrence Friedman. In 1969, Friedman argued that legal systems could be broken down into three components. The first were structural, by which he meant institutions, their officers, and the way these actually functioned. Second came substantive components: these were the ‘outputs’ of legal systems, like doctrines and statutes. The third element, Friedman explained, was ‘cultural’: ‘the values and attitudes which bind the system together, and which determine the place of the legal system in the culture of the society as a whole’. Studying legislation without process and vice versa might result in a failure ‘to distinguish between mere paper systems and reality’. Yet a far more serious shortcoming was that the study of structural or substantive components exclusively would leave many aspects of the legal system hidden from view. Friedman offered ‘legal culture’ as ‘the term we apply to those values and attitudes in society which determine what structures are used and why; which rules work and which do not, and why’.⁸² Rather than prioritising either ‘rules’ or ‘processes’, using ‘legal culture’ as a heuristic device encourages a comprehensive vision of law as a combination of legal rules, institutions, procedures, users, values, and their complex relationships. Recently, John Jordan has advocated the use of this

⁸¹ Fernanda Pirie, *The anthropology of law* (Oxford, 2013), p. 2; *Legalism: anthropology and history*, ed. Paul Dresch and Hannah Skoda (Oxford, 2012).

⁸² Lawrence M. Friedman, ‘Legal culture and social development’, *Law & Society Review* 4:1 (1969), pp. 34–35.

investigative model to present a more holistic picture of the interactions between the municipal court of Freiberg and the town's residents in the sixteenth century.⁸³

Examining office sale as a facet of legal culture means investigating the legal texts that discussed it alongside the behaviour of people in courtrooms. It involves exploring how institutions, officials, and litigants interacted, and how that legal system was perceived. It unites 'rules' with 'processes', two ways of thinking about law that Simon Roberts argued were 'complementary' in any case.⁸⁴ As well as the notion of culture, another way of bringing together these two threads is through 'language'. Thanks to work by scholars across a wide range of disciplines, historians have long been aware of the discursive aspects of law and of its close associations with the construction of narratives.⁸⁵ Far from being meaningless, suspect statements that obstruct understanding, the language of the law merits attention because 'language is the process whereby cultural understandings are enacted, created, and transformed in interaction with social structure'.⁸⁶

Recent works on the parlements of France have found legal rules and discourse to be worthy areas of research. Marie Houlemare's work on the Parlement of Paris has drawn our attention to the importance of language in an institutional setting. She demonstrated that this court relied primarily not on coercive force, but on

⁸³ Jordan, 'Legal culture in a turbulent time', pp. 15–19; John Jordan, 'Rethinking *Disputes and settlements*: how historians can use legal anthropology' in *Cultures of conflict resolution in early modern Europe*, ed. Stephen Cummings and Laura Kounine (Farnham, 2016), pp. 17–50.

⁸⁴ Roberts, 'The study of dispute', pp. 5, 11.

⁸⁵ *Law's stories: narrative and rhetoric in the law*, ed. Peter Brooks and Paul Gewirtz (New Haven CT, 1996); *Rhetoric and law in early modern Europe*, ed. Victoria Kahn and Lorna Hutson (New Haven CT, 2001); Breen, 'Law, society, and the state in early modern France', p. 356; Jordan, 'Rethinking *Disputes and settlements*', p. 27;

⁸⁶ Elizabeth Mertz, 'Review essay: language, law, and social meanings: linguistic/anthropological contributions to the study of law', *Law & Society Review* 26:2 (1992), p. 423.

persuasion and rhetoric in the construction and reinforcement of its legitimacy.⁸⁷ Élise Frêlon's study of the Parlement of Bordeaux concentrated above all on this court's participation in the shaping and enforcement of laws.⁸⁸ In studying office sale through the lens of legal culture for the first time, this study will blend both emphases on legislative texts and language. The main thrust of this enterprise is a study of meaning. To use the words of a famous anthropologist, it is the 'study of language in the context of culture'.⁸⁹

An approach to venality that takes words and legal texts seriously means reconsidering the crown's supposedly high-minded declarations relating to office sale. Lawrence Rosen is one proponent of viewing law as culture and being attuned to its special relationship with language. He pointed out that 'one form of power that frequently escapes notice is the power to control the terms of the discussion'. Rosen added that legal systems are 'forums for capturing the terms of discussion'.⁹⁰ From this perspective, instead of seeing legislative texts as impediments to the authentic study of venality, they can be used to reveal how the monarchy framed the 'terms of the discussion'. Incorporating a view of the law as process, however, means following these royal acts through and monitoring their implementation. Usually spurned as untrustworthy in studies of venality, discourse is key to understanding its status in the first half of the sixteenth century. By anticipating a future state in which it became a regular occurrence for judgeships to be bought and sold, existing scholarship has overlooked the extent to which this earlier period was filled with uncertainties. These ambiguities are critical to understanding not only how the selling of judicial functions

⁸⁷ Houlemare, *Politiques de la parole*, pp. 22–29, 560–561.

⁸⁸ Frêlon, *Le Parlement de Bordeaux et la «loi»*, pp. 23–25.

⁸⁹ Bronislaw Malinowski, *A scientific theory of culture and other essays* (Chapel Hill NC, 1944), p. 5.

⁹⁰ Lawrence Rosen, *Law as culture: an invitation* (Princeton NJ, 2008), p. 166.

operated, but also how it was implanted successfully into courts of law. The multifaceted, often nebulous meanings of venality made it easier to compartmentalise, to attack certain strains while pardoning others. When even the monarchy seemed unsure about the merits of venality, the sale of judicial offices is not, predominantly, a tale of royal deception. It was a nuanced practice; one attacked, mitigated, and played out by the denizens of law courts in their daily activities.

Nineteenth- and twentieth century scholarship often broached venality with the assumption that it was an ‘abuse’, a form of ‘corruption’, or a ‘vice’.⁹¹ More recent historiography has counteracted moralising attitudes by contextualising office sale: it was ‘hardly corrupt when it was the system’.⁹² The application of a contemporary notion of ‘corruption’ appears out of place in a study of venality, especially since it has been considered problematic to apply the term to the early-modern world generally.⁹³ ‘Corruption’ had a very specific sense in sixteenth-century criminal law. The Dutch jurist Joos de Damhouder (1507-1581) described it as being related to another crime, ‘concussion’. The latter occurred when a judge deliberately used his office to pressurise litigants into giving him money or gifts for a certain judicial outcome. ‘Corruption’ was the passive equivalent to *concussion* – it was

⁹¹ Dognon, *Les institutions politiques et administratives du pays de Languedoc*, p. 411; Dupont-Ferrier, *Les officiers royaux des bailliages et sénéchaussées*, p. 81; Maugis, vol. 1, pp. 125, 179; Pagès, ‘La vénalité des offices dans l’ancienne France’, p. 484; Swart, *Sale of offices*; Viala, vol. 1, p. 136.

⁹² Lindemann, *The merchant republics*, p. 57; Guenée, *L’occident au XIV^e et XV^e siècles*, p. 282; Ralph E. Giesey, ‘Rules of inheritance and strategies of mobility in prerevolutionary France’, *The American Historical Review* 82 (1977), pp. 281–282.

⁹³ Maryvonne Génaux, ‘Early modern corruption in English and French fields of vision’ in *Political corruption: concepts & contexts*, ed. Arnold J. Heidenheimer and Michael Johnston (London, 2002), pp. 113–114. For a stance cautioning against the use of ‘corruption’ as a term of analysis for the early-modern period, Joel Hurstfield, ‘Political corruption in modern England: the historian’s problem’ in *Freedom, corruption and government in Elizabethan England*, ed. Joel Hurstfield (London, 1973), pp. 137–162. For a contrary perspective, Jean-Claude Waquet, *De la corruption: morale et pouvoir à Florence aux XVII^e et XVIII^e siècles* (Paris, 1984); Linda Levy Peck, *Court patronage and corruption in early Stuart England* (Boston MA, 1990).

when private parties solicited judges with presents or money and the magistrate accepted these.⁹⁴

Although elusive, venality was associated with corruption in intricate ways. Revealingly, after his entry on ‘corruption’, Damhouder addressed another crime: ‘the purchase of offices’.⁹⁵ One of the main findings of this thesis is that the word and category ‘venality’ – used as a pejorative synonym for royal office sale – have their origins in the mid-sixteenth century. It was as a result of the monarchy’s new revenue-raising methods that something ineffably recognisable was born: a notion of access to office that was synonymous with systemic corruption, a source of dysfunction. As we know of early-modern France, the ‘line between opportunistic reimbursement for expenses previously incurred and the straightforward theft of public funds was rarely drawn clearly’.⁹⁶ This thesis is concerned with those limits, of defining ‘corruption’ without being teleological.

What is so striking about the sale of judicial posts is that it was not simply foisted upon an impassive magistracy, but was the subject of constant interpretation, negotiation, and debate. Establishing the sale of offices required the cooperation of a multitude of actors. If official texts were attempts to manage perceptions, these ‘terms of discussion’ were very much up for debate, and the crown did not have a monopoly in defining venality. Historians have long sensed that there was a ‘quarrel’ over

⁹⁴ Joos de Damhouder, *La practique et enchiridion des causes criminelles* (Louvain, 1555), pp. 291–296.

⁹⁵ ‘D’achat d’offices’, Damhouder, *La practique et enchiridion des causes criminelles*, pp. 296–301.

⁹⁶ David Parrott, *Richelieu’s army: war, government and society in France, 1624-1642* (Cambridge, 2001), p. 246.

venality, but have not focused on the complexity of the exchanges involved.⁹⁷ Since it pays close attention to such relationships, this study also touches on the complex role office sale played in state formation. The inception of venality has often appeared outstandingly paradoxical in the story of the development of both law and the state. It was during this period that legal activity exploded in European polities, a phenomenon Richard Kagan termed nothing short of a ‘legal revolution’.⁹⁸ If it was the royal system of justice that appeared to triumph over alternatives, then in France, it seemed as though the monarchy had committed itself to an apparently inconsistent course. By inventing and selling positions in courts of law, it allowed individuals to appropriate a portion of its power that, owing to its permanent indebtedness, it could never repurchase. The result was a governmental system that was ‘no longer medieval but not yet modern’.⁹⁹ At a time traditionally seen to mark the birth of the ‘modern state’, the decision to allow private possession of public power appears conspicuously backward looking.

Previously, judicial agents were seen as instruments used intentionally by centralising states to penetrate the provinces, in order to – in Weberian parlance – secure the state’s authority through the monopoly of legitimate violence. Current research would find it troubling to discuss the ‘state’ as though it were a concrete entity capable of extending and imposing itself on the rest of society without operators. State formation, Michael Braddick has argued, must be viewed in

⁹⁷ Jean Nagle, ‘Les officiers «moyens» français dans les enquêtes sur les offices (XVI^e-XVIII^e siècles)’ in *Les officiers «moyens» à l’époque moderne: pouvoir, culture, identité*, ed. Michel Cassan (Limoges, 1998), p. 25.

⁹⁸ Richard L. Kagan, ‘A golden age of litigation: Castile, 1500-1700’ in *Disputes and settlements: law and human relations in the west*, ed. John Bossy (Cambridge, 1983), p. 145.

⁹⁹ William Beik, *Absolutism and society in seventeenth-century France: state power and provincial aristocracy in Languedoc* (Cambridge, 1985), pp. 13–14; William Beik, ‘Review article: the absolutism of Louis XIV as social collaboration’, *Past & Present* 188:1 (2005), p. 199.

‘transactional terms’.¹⁰⁰ In this interpretation, the state is best viewed as a cultural construct, a network of those making use of its functions. Judges were, of course, not the mere conduits of the state, but ‘intermediaries who constantly negotiated between political authorities and the populace’.¹⁰¹

In Toulouse, the magistrates of the Parlement were the discernable face of the ‘state’, but they were not merely the crown’s tools. This thesis will shed light on these important mediators of the nascent state. Why was the provision of loans for posts such an important component of early office sale, one that could be justified by both the monarchy and its judges? Rather than being a contrived plan from the outset, the implementation of office sale is best understood as a remarkable example of the ‘*experimental*’ nature of early modern governance’.¹⁰² This study will not cut the Gordian knot by providing a simple schematic for the relationship between venality and state formation, but it will stress the importance of the law and legal officials in this process. Those magistrates who engaged with the crown’s venal project collaborated: they were not coerced. The emphasis placed here on cooperation and collusion in the forming of the state is reminiscent of the literature on ‘absolutism’ that has proliferated in recent years.¹⁰³ Selling offices was a crucial episode in early-modern state formation because it fomented a search for meaning: in the interpretation of this new, controversial recruitment method, observers sought to define the moral bounds of the state.

¹⁰⁰ Michael Braddick, ‘State formation and social change in early modern England: a problem stated and approaches suggested’, *Social History* 16:1 (1991), p. 7.

¹⁰¹ Breen, ‘Law, society, and the state in early modern France’, p. 361; *Law, city, and king*, pp. 22–25.

¹⁰² Steve Hindle, *The state and social change in early modern England, 1550-1640* (Basingstoke, 2000), p. 9.

¹⁰³ Beik, ‘Review article: the absolutism of Louis XIV as social collaboration’; *Absolutism and society in seventeenth-century France*.

This thesis utilises a wide range of sources. The major serial legal records used are those of the Parlement of Toulouse. These include registers of royal acts, as well as the court's main registers of *conseils* (judgements and decisions made in private) and *audiences* (pleas made by lawyers, litigants, and ensuing decisions). At first, many of these records were produced on paper, before being copied up into 'neat' parchment registers (see Appendix Figure 8). Decisions could be interlocutory or definitive (an *arrêt*). Other archival records used in the Archives Départementales de la Haute-Garonne include the proceedings of the Estates of Languedoc, notarial sources, and manuscripts. Material from the Archives municipales of Toulouse was used to study local administrative matters, specific royal acts, and transcripts of cases. What makes this more than a provincial study, though, is its reliance on other forms of evidence. Although court records are invaluable for capturing the voices of litigants, they can be problematic for comprehending the opinions of magistrates. Whilst verdicts are well recorded, the deliberations of judges themselves are not. This was integral to the operation of parlements, in which it was usual to present rulings as the result of unanimous opinions, to show that internal dissension was rare.¹⁰⁴ There are indeed moments when the 'the difficulty and diversity of opinions' are mentioned, but for the most part, the voices of individual judges are absent.¹⁰⁵ This makes the reliance on alternative sources all the more important. In Paris, the Archives nationales provided evidence concerning royal finances, justice, and other jurisdictions, and the Bibliothèque nationale offered a variety of manuscripts on the Parlement, its officers, and epistolary evidence. Finally, this thesis also relies upon a great deal of contemporary printed works, as well as catalogues of royal acts and officers compiled by researchers.

¹⁰⁴ Houlemare, *Politiques de la parole*, pp. 25, 124.

¹⁰⁵ 'la difficulté et diversité d'opinions', ADHG 1B14, fol. 597r^o (25.11.1510).

This thesis is structured in three parts of two chapters each, distinctly but connectedly dealing with the ‘conceptions’, ‘perceptions’, and ‘impact’ of judicial venality.

The first part deals with the sale of judicial offices from a monarchical perspective. Chapter 1 considers official statements and legislation of this period. Royal acts received by the Parlement of Toulouse reveal a clear tendency: banning the sale of offices reached its apogee in the 1490s, after which prohibiting venality declined. So too did the promotion of the recruitment practice of election. In their place, a far more indecisive set of idioms was deployed as kings began to receive money for judicial offices. Hesitant to delineate its project in anything but contradictory terms though, this incertitude enabled the crown to conduct its experiment more freely.

What characterised this experimentation? Chapter 2 moves from royal speech to consider the crown’s deeds as it practised venality. A close reading of monarchical activity in trafficking offices both in the Parlement of Toulouse and in the wider region can offer invaluable information about how the royal administration envisioned its project. This chapter explores what selling offices in the Parlement could signify to the crown in hard financial terms, how that money was to be used, and why these practices might be predisposed to entrenchment. Indirectly, selling offices throughout Languedoc and beyond led the monarchy into a debate about the presence of royal agents in the intermediary jurisdictions. This foreshadowed the creation of much denser networks of tribunals operating beneath the parlements.

Part two considers the reception and meaning of the sale of judicial offices in the Parlement of Toulouse and beyond. Chapter 3 is concerned thematically with the receptions of officers to this court, whom we follow from their nomination to installation. By the 1530s, people in pursuit of office realised that they needed to supply cash to obtain their positions. Yet this was far from the only matter that might determine a successful bid for office. Similarly, although the Parlement resisted the reception of certain individuals, obstructions on the grounds that offices had been purchased were few. Finally, reception procedure changed over the course of the period, so that it became routine for incoming judges to acknowledge loans made to the monarchy.

Chapter 4 draws back to consider how venality was understood and why it was so reviled by studying printed works in particular. Selling positions in the judiciary was interpreted and theorised with reference to a number of classical, scriptural, and legal texts, not all of which rejected it in clear-cut terms. The word ‘venality’, used to refer to the crown’s practices of office sale, was a product of a debate that gathered strength in the second half of the sixteenth century. This was an excoriating critique that found the monarchy’s practices utterly abhorrent. This chapter closes by studying the jurisprudence of the Parlement of Toulouse to understand why venality failed to be prosecuted. Court rulings often demonstrated tacit support for the royal sale of offices, and by favouring the royal monopoly on office sale, the Parlement contributed to the arrival of venality.

Part three considers the impact of the sale of offices on the Parlement of Toulouse. Chapter 5 explores three fairly exceptional cases in which judges of the Parlement came to trial for crimes to test what appeared to be one of the fatal consequences of a venal judiciary. Behind these prosecutions lay the monarchy's deep anxieties regarding the consequences of office sale. No matter how incoming judges obtained their offices though, the Parlement continued to monitor and discipline its members closely, acutely aware of how the court was perceived.

Finally, Chapter 6 considers the changes wrought by the sale of judicial offices on the everyday operation of the Parlement of Toulouse and its relationship with the monarchy. The sale of offices coincided with a tribunal that was becoming increasingly secular, and whose judges – during this period at least – were likely to be remunerated well and reliably. If this helps explain in part why judges were drawn to the crown's new policies, this did not mean that magistrates became less competent or dependable. The first 'venal generation' was in fact marked by a far less truculent attitude to the crown. Common interests and collaboration explain the success of office sale, and money was not always the most important feature of such exchanges: the monarchy gained loyal administrators, and its judges achieved social ascension.

By tackling early venality through legal culture and investigating it on its own terms, this thesis explores its enigmas and heterogeneous nature. The story of early venality is, perhaps disappointingly, not one of deceit and nefarious deeds. The ascent and downfall of a rapacious judge like Jehan de Ulmo was truly extraordinary.¹⁰⁶ The complex entanglement of the crown and its judges, yoked together by venality, is far

¹⁰⁶ See Chapter 5, section i.

better represented by the trajectory of other officers, like Durand de Sarta, who proved themselves as loyal servants of the king. For the most part, the calamitous nature of selling judicial offices has been overemphasised. Instead, it is better characterised by the consistent ability of individuals to rationalise and restrict their conceptions of royal office sale, by the pursuit of short-term goals in close collaboration.

Part I
Conceptions

Royal language and venality

A quoy respondit Pantagruel: «Mon amy, je n'entend point ce barragouin; pourtant, si voulez qu'on vous entende, parlez aultre langaige.»¹⁰⁷

Historians have often, and rightly, questioned the utility of legislative sources as a means of studying the past. Those writing about the sale of judicial offices have urged particular caution, for French kings never consecrated it officially, and we are told that it was mostly invoked to be condemned. It is only reluctantly, and for want of more reliable evidence, that laws have seemed helpful in describing venality.¹⁰⁸ The acts of French kings have been depicted as high-minded and dissembling, diverging sharply from their activities. Bernard Quilliet observed that just as monarchs were beginning to profit from offices early in the sixteenth century, their characteristic legislative preoccupation was to prohibit the practice.¹⁰⁹ It would appear that we are dealing with straightforward hypocrisy. Even if laws were perhaps well intended, they were ineffectual and had to be repeated. For this reason, they have been regarded as 'dead letters' or 'empty threats'.¹¹⁰

This chapter argues that if royal statements are not able to tell us about how the sale of judicial offices was conducted, they can still be used productively in other

¹⁰⁷ *Rabelais*, p. 208 (*Pantagruel*, IX).

¹⁰⁸ Georges Pagès, 'La vénalité des offices dans l'ancienne France', *Revue Historique* 169 (1932), p. 477; Gaston Zeller, *Les institutions de la France au XVI^e siècle*, 2nd ed. (Paris, 1987), pp. vii–viii; Françoise Autrand, 'Vénalité ou arrangements de famille: la résignation des offices royaux en France au XV^eme siècle' in *Ämterhandel im spätmittelalter und im 16. Jahrhundert*, ed. Ilja Mieck (Berlin, 1984), p. 70.

¹⁰⁹ Bernard Quilliet, *Louis XII: père du peuple* (Paris, 1986), p. 340; *La France du beau XVI^e siècle: 1490-1560* (Paris, 1998), pp. 466–467.

¹¹⁰ Mousnier, p. 36; Janine Garrisson, *A history of sixteenth-century France, 1483-1598: renaissance, reformation and rebellion*, trans. Richard Rex (Basingstoke, 1995), p. 122.

ways. As James Boyd White argued, it may not be helpful at all to think of law as ‘rules, or directives’, nor as an idealistic façade ‘to mask or obscure... realities’. Another way of thinking about law, he suggests, is as culture or language – ‘a set of ways of making sense of things and acting in the world’.¹¹¹ In this spirit, instead of seeing royal legislation as distracting from an authentic study of venality because it is supposedly disconnected or insincere, it is useful precisely because it reveals how the crown attempted to frame a discussion of its practices. Analysing the crown’s formal statements on office sale, this chapter explores the arguments the monarchy used to present the haphazard project on which it had embarked. More than empty talk, royal acts were outstanding opportunities to define venality. This and subsequent chapters will demonstrate that they contributed greatly to interpretations of office sale, becoming perennial influences on practices and perceptions.

Royal language is studied here through a close reading of the royal acts received by the Parlement of Toulouse and transcribed in its registers (ADHG 1B1899-1903, 1444-1547). These provide a corpus of monarchical texts that take us beyond the most famous pieces of legislation, and avoid relying exclusively on later, flawed compilations. The ‘royal acts’ discussed encompass broad sub-categories: they include *ordonnances* on justice, laws with the most global of applications and containing numerous clauses, as well as royal letters issued as edicts, declarations, and charters. When this array of general and specific acts is studied, it appears reductive to suggest that the crown banned venality all the while practising it.¹¹²

¹¹¹ James Boyd White, *Justice as translation: an essay in cultural and legal criticism* (Chicago IL, 1990), p. xiii.

¹¹² Marcel Marion, *Dictionnaire des institutions de la France au XVII^e et XVIII^e siècles* (Paris, 1923), p. 550.

This chapter is split into three sections. The first considers how venality was outlawed. Secondly, we shall turn to consider an alternative method of recruitment the crown championed against venality: ‘election’. The third section discusses how the monarchy spoke about venality ambivalently after it had started to trial the technique. Far from straightforward, monarchs left the meaning of office sale open-ended and confused. Perhaps intentionally, the crown profited from its silences and irresolution.

i) Banning the sale of office

French kings had produced legislation against the exchange of royal posts for cash long before the establishment of the Parlement of Toulouse. Previously, monarchs had ‘farmed out’ certain judicial functions to the highest bidders for agreed terms. Criticised for this, over the fourteenth and fifteenth centuries royal legislation displayed a curious irresolution over the legality of leasing out court-based posts, alternately approving and censuring it.¹¹³ The practice survived, but became decreasingly associated with judicial positions. It was clear that awarding judgeships for money – even for short periods – was deemed thoroughly inappropriate.

Another target of royal legislation had been the sale of judicial posts occurring between private parties. These were ‘resignations’, a practice with roots in feudal and ecclesiastical custom that allowed individuals to retire from their offices and transfer them to a successor. Often this might involve a surreptitious financial transaction.¹¹⁴ Ever since the statutes of Louis IX (r.1226-1270), the crown had held a wavering stance over resignations. Generally, the tack of the monarchy’s legislation turned

¹¹³ Maurice Homais, *De la vénalité des offices sous l’ancien régime* (Paris, 1903), pp. 14–16.

¹¹⁴ Jean Favier, *Dictionnaire de la France médiévale* (Paris, 1993), p. 950.

against transmissions of judicial posts for money. Pronouncements in 1314, 1327, and 1356 made this very clear.¹¹⁵ In January 1408, profiting from resignations was forbidden, and offending officers were told that they would be removed.¹¹⁶ The crown was under considerable pressure to curb the transfer of magistracies for money.¹¹⁷ Foisted upon the monarchy by the *Cabochien* reformers of Paris in May 1413, one *ordonnance* contained forceful prohibitions of office sale through resignation. Officers of the entire judicial hierarchy, the text observed, had become accustomed to sell their positions on, which was of appalling example, and members of the royal entourage were requesting offices with the intention of profiting from them. Buying and selling judicial posts was forbidden. All offenders would lose their posts and be struck with an onerous fine.¹¹⁸

Less than half a century later, the problems appeared to be aggravated. Charles VII (r.1422-1461) issued *ordonnances* from Montils-les-Tours in April 1454 seeking to redress the state of justice. One article acknowledged that many had paid existing officers sums of cash to obtain judicial posts, which had resulted in great damage to the commonweal (*la chose publique*). Claiming to follow the laws of previous kings, these *ordonnances* stipulated that officers would no longer receive any promises or gifts of personal or real property (*meuble, immeuble*) to try to obtain offices from the king. Attempted contraventions would result in penalties: both the seller and purchaser would be subjected to a fine quadruple the price paid for the office. The

¹¹⁵ Eugène Duval, *Des milices en droit romain: de la vénalité des offices en droit coutumier* (Paris, 1875), pp. 300–301.

¹¹⁶ *ORF*, vol. 9, p. 288 (31).

¹¹⁷ For examples of criticism of office sale in Provence, which was incorporated into the kingdom in the 1480s: *Le livre potentia des états de Provence (1391-1523)*, ed. Gérard Gouiran and Michel Hébert (Paris, 1997), pp. 195, 220–221, 231, 269, 284, 346, 370, 407; *Regeste des états de Provence, 1347-1480*, ed. Michel Hébert (Paris, 2007), pp. 213, 252, 293–294, 311, 364, 422.

¹¹⁸ *ORF*, vol. 10, pp. 119, 124–125 (202, 217).

guilty official would face the king's indignation and be 'grievously punished'. As for the would-be-officer, he would be forever barred from royal service as well as losing the place he had solicited. Another article applied these measures to *baillis* and *sénéchaux*, whom it was alleged had instated their lieutenants for money.¹¹⁹ The monarchy adopted a novel and uncompromising approach towards the sale of judicial offices. What was so original about this legislation was not just its pecuniary sting – it was the degree to which it leaned on venerated legal resources.

Significantly – and seldom observed – this piece of monarchical writing was grafted almost verbatim from Roman law. By borrowing portions of its text so heavily, the French monarchy associated its condemnation of the sale of offices with the Justinian *Corpus iuris civilis* (529-534). Formed of four parts (the Codex, the Digest or Pandects, the Institutes, and the Novellae), this central text of law contained several decrees about the sale of offices as outlawed under the late Roman Empire. In the Novellae, the constitutions from the reign of Justinian (r.527-565), provincial governors were prohibited from obtaining office by purchase, with a familiar threat of running the emperor's indignation and a quadruple fine.¹²⁰ This was not the last time that French kings would adorn their prohibitions of judicial venality with the language of Roman law. The Parlement of Toulouse possessed at least one copy of this text in a compilation of *ordonnances* kept in the *chambre des enquêtes*.¹²¹ It was the first royal statement guaranteeing a position against judicial venality enacted in the court's lifetime.

¹¹⁹ *ORF*, vol. 14, pp. 304–305 (84, 88).

¹²⁰ *Corpus iuris civilis*, ed. Denis Godefroy (Geneva, 1589), vol. 2, p. 38 (Nov.8.vii). The Novellae have separate pagination.

¹²¹ AMT AA76, fols. 413–414. This document is a seventeenth-century copy of an original compilation. For more on this register, Patrick Arabeyre, 'Le premier recueil méthodique d'ordonnances royales françaises: le *Tractatus ordinationum regiarum* d'Étienne Aufréri (fin XVe-début du XVIe siècle)', *Tijdschrift voor Rechtsgeschiedenis* 79 (2011), p. 400.

A generation later, the sale of judicial offices was still causing alarm. In early 1484, representatives of the three estates from across the kingdom gathered at the Estates-General held in Tours.¹²² Together, they redacted their grievances into a joint ‘cayer’ of articles to present to the king. One of its chapters concerned justice, which the delegates held to be vital to the sustenance of the kingdom. According to the deputies, justice was imperilled by the poor selection of magistrates. The Estates-General denounced current venal practices they held to be behind such careless appointments: apparently, letters of provision to office had been left blank for the names of the highest bidders to be inserted, regardless of their ability. In this way, offices had been purchased by the inexperienced, and justice was not properly administered.¹²³ The Estates-General declared its horror that so many had been received to office ‘by venality’, and the buying and selling of offices of judicature was declared illicit.¹²⁴ Fines, as well as life disqualification from holding office, were the recommended penalties.

Faced with these criticisms, the king pledged in somewhat half-hearted terms to uphold existing legislation. In 1485, the Parlement of Toulouse received its own copy of the *cayer* and its responses, issued as a royal act. The ban was, once more, the result of external agitation.¹²⁵ Above all, the act was an assurance to abide by

¹²² Present amongst the delegates were individuals with connections to the Parlement of Toulouse. For example, Odinet Le Mercier represented the third estate of the *sénéchaussée* of Toulouse – he was the court’s *receveur*, *Bernier*, pp. 30–31. Also in attendance was Pierre de Saint-André, representing the nobility of the *sénéchaussée* of Carcassonne. At the time he was *juge mage* of Carcassonne, but he later became second president (1507), then first president (1509) of the Parlement of Toulouse, occupying this post until his death in 1525, *Bernier*, pp. 32–33; *GR*, vol. 1, pp. 545, 548, 551.

¹²³ ADHG 1B1900, fols. 61v^o–62r^o, 64r^o.

¹²⁴ ‘par venalité’, ADHG 1B1900, fol. 70r^o.

¹²⁵ The issue of venality was not yet necessarily germane to the Parlement of Toulouse or its jurisdiction, however: delegates from Languedoc presented their own grievances in 1484, which

principles that already proscribed venality. Yet the monarchy would also demonstrate that it could be proactive.

By far the most thunderous pronouncement abolishing the sale of judicial offices came in *ordonnances* issued from Paris in July 1493. In being so intransigent on the point, they were deeply innovative. Again, the ban was set within a general framework of remedying justice. The monarchy intimated that perhaps indeed court positions had been sold before. From then on however, no one could purchase offices of judicature in any jurisdiction of the kingdom. Officers were not to ‘give nor promise, nor have to give or promise, through themselves or another, gold or silver nor things equivalent’.¹²⁶ To be certain of this, they were now to take a solemn oath (*serment*) to that effect before being received by their court. If officers were found to have done the contrary, they would be expelled from office, and the post made available to other candidates.

The oath introduced in 1493 was also inspired by the *Corpus iuris civilis*. An oath against venality is mentioned in at least two places there. The eighth Novella invoked an oath before God required by governors of the late Roman provinces that they had not paid any money to obtain office. An oath is also found in the Codex. In an earlier decree by Theodosius II and Valentinian III of 439, provincial governors had to swear that they had not given anything through themselves or others, but had obtained their offices freely.¹²⁷ The 1493 *ordonnances* employed exactly the same

contained no complaints about the sale of judicial offices, [Pierre de Caseneuve], *Le franc-allevé de la province de Languedoc*, 2nd ed. (Toulouse, 1645), part ii, pp. 43–70; *Viala*, vol. 1, p. 136.

¹²⁶ ‘... ne pour iceulx avoir, bailler ne promettre, ne faire bailler ne promettre, par luy ne autre, or, argent ne chose equipollent...’, *ORF*, vol. 20, p. 402 (68).

¹²⁷ *Corpus iuris civilis*, vol. 2, pp. 38 (Nov.8.vii), 686–687 (C.IX.xxvii *Ad legem Iuliam repetundarum* 6).

phraseology. Significantly, the eighth Novella opened with a preface about emperors selling magistracies themselves. It was this first disgrace that caused officials to extort subjects, in order to recoup the costs that they had spent acquiring their positions. Selling judgeships was inextricably linked to injustice – if they had paid for their offices, there was no reason why avaricious judges might not profit from sentencing, accepting payments from and abetting criminals. The calamities resulting from offices being *venalia*, for sale, were endless.¹²⁸ In choosing to import an identical oath into its *ordonnances*, the late fifteenth-century French monarchy affiliated its prohibition of venality with the language and authority of Roman law deliberately. This decision might have repercussions.

Although the royal act of 1493 does not appear in surviving registers of royal acts, the Parlement of Toulouse did have a copy of it.¹²⁹ Specific articles against office sale were well known and invoked in hearings.¹³⁰ Historians writing about venality have tended to see laws as mere camouflage for underhand behaviour. The oath of 1493, in particular, tends to be presented as futile or naïve, but this attitude fails to explain whether and why these articles were observed. A far greater conundrum is to account for why they came to be applied in the Parlement of Toulouse at all.

The first instance I have found of the oath of non-venality being sworn by a judge of the Parlement of Toulouse occurred in January 1502 in a set of exceptional circumstances.¹³¹ It was only in the aftermath of this event that candidates to

¹²⁸ *Corpus iuris civilis*, vol. 2, pp. 35–36 (Nov.8.praefatio).

¹²⁹ AMT AA76, fol. 582.

¹³⁰ See Chapter 4, section iii.

¹³¹ See Chapter 3, section iii.

judgeships had to take the oath as a matter of course. These details are significant. André Viala saw the royal act of 1493 as a ‘dead letter’ in thwarting the sale of judicial offices.¹³² However, its deployment after a lapse of nine years suggests that the court reached for the *ordonnances* in response to specific difficulties as it experienced them. The introduction of laws did not mean that the Parlement simply followed orders blindly, and when it chose to apply them, it did not do so under the impression that this was a pointless exercise. Shared objectives ran throughout this prohibition of venality. The crown expressed its desire to intervene, and supplied practical tools like the oath as a means of preventing venality. It was up to the courts to operate them and, very clearly, they did. To the Parlement of Toulouse, the *ordonnances* of 1493 provided a procedural guide for receiving new judges that appeared persuasive and serviceable.

Making laws against office sale continued to the very end of the fifteenth century. Louis XII has been seen as a ‘great reformer’ for his copious legislative activity.¹³³ The most famous laws of his reign were issued from Blois in March 1499.¹³⁴ These *ordonnances* had much to say about the purchase of judicial appointments. As previously, prohibiting the sale of offices was depicted as a means of restoring justice. The lieutenants of intermediary royal jurisdictions were now enjoined explicitly to take the oath of non-payment instituted under Charles VIII.¹³⁵ Aiming to supplement the oath, the most striking article against the sale of judicial posts introduced a fascinating process of lawful disobedience (see Appendix Figure

¹³² Viala, vol. 1, pp. 202–203.

¹³³ Quilliet, *Louis XII*, p. 334.

¹³⁴ Nicolas de Saint-Pierre, second president of the Parlement of Toulouse, was one of those summoned to help redact this document, and was present when the laws were announced, ADHG 1B1900, fol. 160v^o.

¹³⁵ ADHG 1B1900, fol. 144v^o (50, 51).

9). It observed that although it was unlawful to purchase offices of judicature, this law had been infringed by permissions obtained from Louis XII and his predecessors. The crown declared its intention not to stray from the law, ordering that if by ‘importunity’ letters permitting offices to be bought were drawn up, under no circumstances should any judges of the jurisdictional hierarchy obey them.¹³⁶

This was a rather puzzling statement. The sale of judgeships was being strongly condemned, but this was accompanied by the insinuation that Louis XII had permitted it to occur himself, and that he might well do so again. Even the king’s exceptional licence, his *cong  *, had to bow to the law that banned venality though, and paradoxically in order to serve the king adequately on this point it might be necessary to disobey him. Straining the king’s responsibility, the crown reserved the right to continue awarding dispensations, requiring the cooperation of its judicial agents to extirpate venality. Incredibly, this was at precisely the moment that Louis XII began to receive loans in arcane financial arrangements for installing new judicial officers.¹³⁷ Although they contained a prohibition, the *ordonnances* of 1499 regarded judicial venality with a conspicuous ambivalence.

Unlike previous royal acts, it is possible to trace exactly how this legislation reached the Parlement of Toulouse. Its registers describe how, on 20 August 1499, the bishop of Albi, Louis I d’Amboise (1433-1503), presented the act to the court. Having studied the *ordonnances*, the Parlement ordered a team of nine of its judges to review the articles and report back. It was exactly a week later that the court decided to register the act. Following one more reading, the Parlement read, published, and

¹³⁶ ADHG 1B1900, fol. 143v^o (40).

¹³⁷ See Chapter 2, section i.

registered the royal legislation. The originals were transcribed into the court's registers, and copies were then diffused throughout the region.¹³⁸ Perhaps surprisingly, the *ordonnances* of 1499 are the last legislative text prohibiting venality to appear in the registers of the Parlement in our period. In the following century, proscribing the sale of offices was an inclination that all but disappeared.

In the first half of the sixteenth century, laws prohibiting venality became sparse, derivative, and regional in scope.¹³⁹ The reign of François Ier, the 'father of letters', is celebrated for its numerous laws. Despite an otherwise fervent legislative activity, the crown suddenly became taciturn when it came to forbidding venality.

The only laws of the whole reign banning the sale of judicial offices came in 1535, in the form of two royal acts on the reformation of justice in Provence specifically. First came an act issued from Joinville in September, followed by a second from Is-sur-Tille in October. By prescribing the oath of non-venality, the first replicated the *ordonnances* of 1493. The second act, though, was specifically tailored for the Parlement of Aix-en-Provence. It also recommended the use of the oath before receptions. One novelty was that incoming officers had to confirm that they had not paid to obtain resignations specifically, and it was stipulated that a separate register

¹³⁸ ADHG 1B11, fols. 113r^o (20.08.1499), 115r^o–115v^o (27.08.1499). For more on the bishop of Albi's pivotal role in royal administration, Louis de Lacger, *Louis d'Amboise, évêque d'Albi, 1474-1503: l'homme d'état et le protecteur des arts* (Albi, 1950). He had come to the Parlement of Toulouse on other royal business besides the registration of the *ordonnances* of 1499: ADHG 1B2329, fols. 417r^o–417v^o (21.08.1499), 421v^o–422r^o (22.08.1499).

¹³⁹ This tendency was already apparent from the reigns of Charles VIII and Louis XII. Acts of 1494 and 1507 repeated existing *ordonnances* against the sale of offices, bringing them to Brittany and Normandy respectively. For Brittany, see *ORF*, vol. 20, p. 528 (19). Except for minor divergences in language, this article was identical to article 68 of the 1493 act. In the case of Normandy, this was not, strictly speaking, a royal act but rather a compilation of existing acts created by the *échiquier* court at Rouen. Article 47 was a variation of article 84 from the 1454 *ordonnances*; article 21 repeated article 40 of the 1499 *ordonnances*. The 1507 compilation appears in its entirety at the end of *Le grant coutumier du pays et duché de Normendie* (Rouen, 1515). It is cited, albeit with omissions, in *Isambert*, vol. 11, pp. 464–515.

should be kept containing copies of officers' letters of provision and their oaths. Otherwise, this prohibition repeated the 1499 *ordonnances*: the court would ignore official orders to receive those whom it seemed had acquired their offices venally.¹⁴⁰ Not only were these texts fairly peripheral: for the most part, they repeated existing acts with little modification in what were decidedly different circumstances. Neither act appears in the registers of the Parlement of Toulouse, which is unsurprising given their regional scope. Nonetheless, they could not have escaped the court's knowledge, for one of its own members had been involved in their shaping.

A lay councillor of the Parlement of Toulouse since 1524, Durand de Sarta helped prepare this legislation. He was sent as a royal commissioner to Provence to work alongside his colleagues Denis Poillot of the Parlement of Paris, Jehan Feu of the Parlement of Rouen, and Nicolas Dupré of the Chambre des Comptes of Paris.¹⁴¹ Sarta was on leave from his home parlement for around 21 months, during which time he worked throughout Provence and in Paris.¹⁴² Although his activities on behalf of the crown in Provence have received little attention, their relationship with the two royal acts that ensued is critical in determining how their clauses against venality should be read.

¹⁴⁰ *Ordonnances du treschrestien roy de France, Francoys premier... ordonnées estre gardées et observées en ses pays de Provence...* (Lyon, 1536), pp. ii v^o, xciii v^o; *ORF-FR*, vol. 7:iii, pp. 274–275, 290.

¹⁴¹ Poillot was fourth president, Feu was second president, and Dupré was a *maître ordinaire*. Feu was responsible for delivering the royal acts to Provence for registration in 1536. For testimony relating to their activities, Honorat de Valbelle, *Histoire journalière d'Honorat de Valbelle (1498-1539): journal d'un bourgeois de Marseille au temps de Louis XII et de François Ier*, ed. V. L. Bourrilly, trans. L. Gaillard (Aix-en-Provence, 1985), vol. 1, pp. 262, 274–277.

¹⁴² Sarta was absent from the Parlement of Toulouse on this commission from 7 April to 10 May 1534, and then again from 13 June 1534 to 2 August 1535. He was paid at a rate of 5 *livres tournois* per day, BnF MS fr. 25721, pièce 446; 15632, fol. 153v^o. Sarta then continued to work in the notorious Tour Carrée from 3 August 1535 to 12 February 1536, BnF MS fr. 25721, pièce 445.

Sarta and his fellow commissioners had been confided with two assignments. Firstly, the judges were to enact a general reformation of justice, integrating Provençal peculiarities to French customs. The second commission concerned the Parlement of Aix, then at the centre of considerable scandal. It was up to the officials to investigate allegations made by the court's *gens du roi* against personnel.¹⁴³ As the commissioners explained to the king, amongst the accusations were claims that two councillors were guilty of 'having purchased their offices'.¹⁴⁴ The commission had stumbled upon apparently genuine incidents of venality. Yet in the end, Sarta and his colleagues recommended that the king deploy a repetitious text prohibiting office sale.¹⁴⁵ The monarchy duly incorporated this recommendation into its legislation. But what exactly was being prohibited here? It was unlikely to be royal venality. One project undertaken by the crown late in 1529 had sought to make the offices of Provence permanent where they had been annual. By selling the offices, this operation was expected to raise over 45,000 *écus* and concerned over 250 individual posts from major judgeships to local notarial positions.¹⁴⁶ Some of the commissioners, like Jehan Feu, were implicated in the sale of offices in Provence.¹⁴⁷ Even more problematically, the judges investigating the alleged venality in the Parlement of Aix had transferred money themselves to obtain their offices. Ten years earlier, Durand de Sarta had been received to the Parlement of Toulouse, admitting

¹⁴³ The commission was especially interested in allegations against the president of the Parlement, Barthélemy de Chasseneuz. He was not found guilty of the charges, but other judges were affected. Most grievously of all, as a result of this commission's activity Pierre Mathei was removed from office. Guilty of *concussions* and extortion, Mathei was also banished from the kingdom and his goods were confiscated to the crown, CAF, vol. 3, p. 160 [8232]; vol. 7, p. 192 [24157]; Valbelle, *Histoire journalière*, vol. 1, pp. 273–274; J.-Henri Pignot, *Barthélemy de Chasseneuz, premier commentateur de la coutume de Bourgogne et président du Parlement de Provence* (Paris, 1880), pp. 245–246.

¹⁴⁴ 'avoir achapté leurs offices', AN J846 11²⁰, fols. 16v^o–17r^o (Poillot, Feu, Sarta, and Dupré to François Ier, Aix-en-Provence, 17.07.1534).

¹⁴⁵ Sarta signed a document recommending that the king 'face deffenses' against venality by means of 'le serment', AN J846 11²¹, fol. 1r^o (Paris, 28.07.1535).

¹⁴⁶ 'Rolle des offices de Prouvence', AN J846 11¹⁶, fols. 1r^o–9v^o.

¹⁴⁷ See Introduction, section iii.

under oath that he had loaned money to the king for his position.¹⁴⁸ Did the commission envision these *ordonnances* as an attack on the private sale of offices only, then? If so, was a reiteration of the oath of non-venality really an effective means of prevention? In the end, the commissioners did not prosecute anyone for infracting laws against venality.¹⁴⁹

There are crucial observations to be made about how the crown legislated against venality. Constantly, prohibiting the sale of offices was presented as a means of repairing justice and preventing harm to the commonweal. The main source used to develop ideas on forbidding office sale was Roman law, which royal prohibitions appropriated. However, royal acts give every impression that the monarchy was forced to acknowledge the sale of offices as a problem, and had to reconsider its regulations frequently. Far from repeating identical laws, the 1490s saw royal acts produced of a considerably tougher tone and ingenuity. These furnished two deterrents – oaths against venality and a process of legitimate disobedience – and two forms of chastisement – fines, and permanent removal from office. It was through collaborative enforcement that the sale of offices could be neutralised: the crown equipped its courts with these laws as weapons, which officers were expected to wield. They sat jarringly, though, beside hints that the crown could or might attempt to override its own prohibitions. The quintessential behaviour of kings was more complex than practising and banning venality all at once. Where the sale of offices had been prohibited ferociously, this activity was mostly abandoned in the sixteenth century. Those monarchs who first sold offices in fact banned venality the least, and

¹⁴⁸ See Appendix Table 3a, n.9.

¹⁴⁹ The identities of the two judges of the Parlement of Aix suspected of purchasing their offices could be amongst those names mentioned in AN J846 11²¹, fols. 12r^o–12v^o. In the end, it was the very source of these allegations, the *gens du roi*, who were found guilty, *CAF*, vol. 3, pp. 147 [8161, 8162], 151 [8184].

when they did, they did so imitatively, with perplexing objectives, and on a local level.

This means that the most path-breaking bans of office sale were those of the fifteenth century. In the century that followed, the crown entered into a protracted legislative silence regarding the prohibition of venality. The only serious subsequent attempt to bar the sale of judicial offices came during the reign of Henri III (r.1574-1589). For the first time since the fifteenth century, the crown attempted to introduce fines to punish the sale of judgeships. By then, however, the monarchy had been practising office sale for some sixty years. This sudden drive to make law was perhaps unexpected.¹⁵⁰

We have seen how the Parlement of Toulouse had close connections with legislative texts against venality. Yet it had never been proscribed as a specific problem affecting this court or its jurisdiction, and the Parlement received no new laws prohibiting the practice in the first half of the sixteenth century at all. How the court used the raw materials of *ordonnances*, a major frame of reference, is the subject of Chapter 3.

Of course, language resisting venality was not the only one the monarchy had at its disposal, and which the Parlement of Toulouse received. The crown had, in fact, conceived of a method of appointment to rival it completely.

¹⁵⁰ *Isambert*, vol. 14, pp. 405–406 (100); Henri III, *Edict du roy, de la reduction des offices de judicature, & provision gratuite de ceux qui ne seront sujets à suppression* (Paris, 1582); Mark Greengrass, *Governing passions: peace and reform in the French kingdom, 1576-1585* (Oxford, 2007), pp. 283–286.

ii) An alternative form of recruitment

French monarchs had not ruled by negation alone, of course. Developing in parallel to laws against venality, kings elaborated an alternative vision of how its courts' staff ought to be recruited. This procedure, directed firmly against the sale of offices, was known as 'election' or 'nomination'.

Who should occupy judicial offices? In its efforts to answer this question, the language of royal acts was static. Officers of judicature were to be selected on the basis that they were *ydoine* or *idoine* (apt), and *souffisant* or *suffisant* (able). Though open-ended and nearly synonymous, the prolific appearance of these expressions in royal acts was a guarantee that judicial officers would be of skill and probity. Immediately after rejecting venality, the *ordonnances* of 1454 stated that offices should be conferred to persons 'able and apt'. If they did not pay for their offices, royal agents would administer justice without fraud.¹⁵¹ The implication here was that those who had bought offices were plainly neither able, nor apt. These words, we might add sceptically, were rather obtuse or even meaningless catch-alls. Their almost tautological resilience was pragmatic. The crown was not oblivious to the fact that determining just who was 'able' to exercise office could be challenging. To that end, kings had made assurances that it was entirely possible to gauge aptitude.

By the fifteenth century, the crown had articulated a new method of recruitment. Posts in royal tribunals would be filled by a species of co-option known as 'election' or 'nomination'. The procedure had rather vague origins, and may have started in the

¹⁵¹ *ORF*, vol. 14, p. 304 (84).

fourteenth century. Eagerly received, a string of acts relating to it were issued in 1389, 1406, and 1408.¹⁵² The 1413 *ordonnance* of the *Cabochien* reformers included stern regulations on ‘election’, explaining how vacant posts in the Parlement of Paris would be filled by means of ‘scrutine’, which may have involved casting hidden votes. After several candidates had been nominated, the judges would decide to whom posts would be given.¹⁵³ Radically absent from this recruitment procedure was any mention of the king’s role.

However, a royal act issued in October 1446 concerning the Parlement of Paris affirmed that the ultimate selection of officers was a royal prerogative. These regulations established a protocol for occasions when presidencies and councillorships fell vacant. In the presence of the chancellor, the Parlement would choose one to three individuals found ‘apt and able’, using the ‘scrutine’ method. Their names, and suggestions on the most fitting appointment, would be sent to the king, who would be able to gift the office more effectively.¹⁵⁴ This procedure was extended to the lower jurisdictions by the *ordonnances* of 1454. Before officers there declared those they thought eligible for vacancies, they would swear on the bible to pick only those who in their consciences seemed of the greatest aptitude and integrity. When *baillis* and *sénéchaux* committed their lieutenants, they were also to ‘elect’ them, following the advice of the officers of their courts.¹⁵⁵

The Parlement of Toulouse came to receive its own guide to elective recruitment during the reign of Louis XI. A royal act issued on 16 January 1466

¹⁵² Gustave Ducoudray, *Les origines du parlement de Paris et la justice aux XIII^e et XIV^e siècles* (Paris, 1902), pp. 71, 145.

¹⁵³ *ORF*, vol. 10, p. 103 (154).

¹⁵⁴ *ORF*, vol. 13, p. 472 (1).

¹⁵⁵ *ORF*, vol. 14, pp. 304–305 (83, 87)

conceded that recent appointments had emanated directly from the monarch. This was at odds with royal *ordonnances*, which had argued passionately for the participation of tribunals in nominations to offices. Louis XI confirmed that whenever a vacancy arose, up to three people would be elected, and their names would be sent along with the opinions of the judges on whom, in their consciences, seemed the best appointment. With this information, the king could make the provision as he saw fit.¹⁵⁶ Now, the Parlement of Toulouse was equipped with its own code to observe whenever a judgeship vacated, one entirely in keeping with elective techniques that had been delivered to other courts of law.

Like forbidding venality, the zeal for election came from without, and the monarchy was implored to hone its potent creation further. The deputies at the Estates-General of 1484 argued at length in favour of it. Kings like Charles VII, they said, had been aware that they were accountable for the morality of their officers. They relied on existing judges to discern the meritorious: whenever judicial posts became available, tribunals elected three people deemed ‘apt and able’, and the king would then select one of these nominees to receive the office. It was through this joint association that the royal conscience was ‘acquitted’ before God, since justice would be administered well, and by the right officers. According to the delegates, the sale of judicial posts disrupted this system of appointment that had been functioning healthily until the death of Charles VII. Provisions to all judicial offices should be through this form of election only. The king consented formally to these points.¹⁵⁷ If it was unclear previously that the monarch was obliged to choose as his judges only those presented by courts, this was what seemed to have been agreed now.

¹⁵⁶ ADHG 1B1899, fols. 86v^o–87r^o.

¹⁵⁷ ADHG 1B1900, fols. 61v^o–62r^o, 64v^o.

The *ordonnances* of July 1493 also made the case for election as the only means of evaluating the merit of officers with any accuracy. It was repeated that when lower court chiefs chose their lieutenants, they would do so only with the counsel of their legal staff. Together, they would swear to choose only the ablest for lieutenancies. In the sovereign courts, the procedure appeared to undergo yet another permutation. When posts became available in parlements, the *gens du roi* would now suggest appropriate candidates to the nominators. Judges would have to take these recommendations into account when selecting three individuals to present to the king.¹⁵⁸

Under Louis XII, recruitment to judicial office was developed in a striking way. The *ordonnances* of 1499 outlined admission to the sovereign courts in great detail. As other *ordonnances* had decreed, presidents and councillors of the parlements could only be appointed through election. Yet it was observed that this method of appointment had not entirely ruled out foul play. To avoid partialities when nominations took place, the presidents and councillors of sovereign courts would take an oath before their first presidents to elect only those whom in their consciences were the most exceptional. These nominations were to be conducted aloud, and no longer by ‘balottes’, inferring that previously they had taken place in secret, which may have been a source of unrest.¹⁵⁹

Royal acts of the late fifteenth century imagined ‘election’ as a procedure that would control admission to judicial officeholding with the input of two parties. The

¹⁵⁸ *ORF*, vol. 20, pp. 403, 406 (73, 88).

¹⁵⁹ ADHG 1B1900, fols. 142v^o–143r^o (31, 32).

first was collegiate approbation, as members of tribunals proposed individuals. The second was the king, who had the final say. Like thwarting the sale of offices, this was imagined as a joint endeavour, involving monarch and magistrates working closely together. Royal discourse had forged a clear link between this free system of recruitment and aptitude. The crown had insisted on its role in naming officers, but also seemed to accept that it would only choose from candidates put forward by courts. Though it rested on the familiar motif of the selection of a small number of potential recruits, the procedures of election were not fixed and were defined progressively. In Chapter 3, we shall see to what extent the Parlement of Toulouse implemented these features, and how the monarchy participated in the process. Letters of provision to office processed by the court contained clauses indicating that individuals had been given offices because they had been nominated.¹⁶⁰ In these instances, it seemed that election was operating smoothly.

However, there were also signs that not all was going to plan. The 1499 *ordonnances* hinted at the fact that election might be troubling to the royal administration. A further novelty of these *ordonnances* was the introduction of examinations for prospective presidents and councillors of the parlements. Before their receptions, nominees would be questioned closely by the presidents and selected councillors, to determine whether they were ‘able and apt’. If they were, their reception would proceed. If not, it would halt, and the king would be informed so that someone else could be named to the office.¹⁶¹ Testing potential officers meant that courts could reject them if they were incompetent, but this seemed designed for scenarios in which the king had chosen a candidate without consultation. An act on

¹⁶⁰ According to letters of provision dated 25.06.1504, for example, Étienne Aufréri, received the presidency of the *enquêtes* ‘ouquel office il nous a esté nommé’, ADHG 1B1900, fol. 216r^o.

¹⁶¹ ADHG 1B1900, fol. 142v^o (30).

the reformation of justice issued from Lyon in June 1510 argued that, because there had been such diverse royal pronouncements on the election of lieutenants in the intermediary jurisdictions, trials had erupted between pretenders to these offices across the kingdom.

More seriously, royal acts received by the Parlement of Toulouse in the early sixteenth century reveal something of a swerve: not only suspicious about election, the crown had also developed protocols for overriding it entirely. In councillors' letters of provision, secretaries inserted dispensatory clauses that intentionally overruled the *ordonnances*, ordering that individuals be received to office notwithstanding the fact that the court had not nominated them.¹⁶² Another technique was to wield the practice of election to the crown's own ends. This occurred when an officer who had once been nominated to a councillorship by the court found himself named directly by the crown, though not in the same circumstances or for the office to which he had originally been elected. The crown used the fact that the Parlement of Toulouse had previously endorsed a candidate to push the court into accepting him.¹⁶³ 'Election' was therefore a fragile construction, which could be dispensed with or simply manipulated, as a marker of a candidate's suitability when it was convenient.

Even more pronouncedly than prohibiting the sale of offices, promoting election was jettisoned from the royal legislative agenda. Under François Ier, the change of temperament manifested itself for the most part by omission. No royal act in the first

¹⁶² See the letters of provision to a lay councillorship in favour of Raymond Berail, issued on 28.10.1502, or those issued to Jehan de Lanjac for a *clerc* councillorship on 28.05.1511, ADHG 1B1900, fols. 211r^o, 249v^o–250r^o.

¹⁶³ See the royal letters on the subject of Pierre Faure's reception to a lay councillorship, issued on 21.06.1499, 07.10.1499, and 16.05.1500: ADHG 1B1900, fols. 203r^o, 204r^o, 205r^o, 207r^o; and also those of Jehan du Tornoer for a *clerc* councillorship, dated 30.08.1543, ADHG 1B1903, fol. 60r^o.

half of the sixteenth century insisted on the firm place of election in the recruitment of judicial personnel. Royal language became deeply equivocal.

Statements tended to imply that the appointment of judges was purely the crown's choice. Earlier royal acts had counterbalanced their bans on venality by offering election as an alternative form of recruitment. However, despite their prohibition, the acts of 1535 for the reformation of justice in Provence failed to specify how judicial offices were to be selected. In the absence of election, this was about whom the king alone wanted to gratify by gifting office. Election faded from royal discourse. The records of the Parlement of Toulouse reveal a slight but consequential shift in tone, indicating that the court's power to participate in the selection of its own members was being marginalised. Under François Ier, whenever the crown established completely new judgeships in the Parlement, it offered no guarantee that the process of co-option would be observed. Royal acts repeated that the recipients of newly instituted councillorships and presidencies would be chosen or 'elected' by the monarch himself – 'by us' – with no mention of the court's contribution.¹⁶⁴ This was a small but groundbreaking development, for the monarchy no longer desired to restrict itself by having to choose only from individuals presented by courts.

Occasionally, there were indications that election might be renewed. In November 1531, François Ier pledged to maintain twelve *clerc* councillors in the Parlement of Toulouse. In order to ensure that the offices were indeed reserved for churchmen, the act requested that if a church office fell vacant, the judges would

¹⁶⁴ ADHG 1B1901, fols. 39v^o, 95v^o; 1B1902, fol. 122r^o; 1B1903, fols. 55v^o, 94r^o.

nominate someone, following royal *ordonnances*.¹⁶⁵ Perhaps the court did have a role in naming individuals to office after all. Yet the act made it equally clear that it had been the ‘importunity’ of direct nomination that had led to there being fewer *clerc* officers than there were supposed to be in the first place. Such a hint at election was rather exceptional, and it did not approach a full-blown manifesto on the practice.

Indeed, one later development under François Ier seemed to confirm that election was no longer operational. This did not mean that recruitment to the parlements would be uncontrolled, however. In May 1543, the crown confirmed that it had selected the individuals about to take up fifteen new councillorships in the Parlement of Toulouse. The court had been reluctant to receive them. As a concession, one royal act claimed that the candidates still had to be found worthy before they were welcomed. The new recruits would be thoroughly examined on ‘theory’ and ‘practice’, by a committee of the courts’ presidents and six councillors. If found apt, there would be no further impediments, and officers would be received. If inadequate, candidates would be refused, and the king would provide replacements. To help define ‘aptitude’ further, councillors would only be received to the Parlement of Toulouse if they had practised previously in a sovereign or principal intermediary court, or had exercised a judicial office for the space of a year. Although it was now unlikely to be able to select its own councillors, the Parlement received a means by which it could restrain the king’s choices.¹⁶⁶

The crown continued to propose examination as a means of evaluating new judges. An act issued from Moulins in August 1546 aimed to abolish all offices

¹⁶⁵ ADHG 1B1902, fol. 11r^o.

¹⁶⁶ ADHG 1B1903, fols. 42v^o–43r^o.

created since the start of the reign, but it also discussed how judgeships ought to be acquired. From now on, no one could become a councillor or president in a parlement unless they were thirty years old. The exam would comprise an investigation into the life and morals of candidates, and would take place first thing in the morning before all the chambers. It would be based on a random opening of law texts, with an ensuing component on 'practice'. In the presence of the *gens du roi*, opinions would be collected, and the applicant would only be received if four fifths of the company were favourable.¹⁶⁷ Once more, the message relayed by the crown seemed to substantiate that although courts could verify the abilities of new magistrates, co-option was no longer plausible.

Although the crown never reneged on election officially, these developments make it clear that the monarchy grew extremely reluctant to commit to it again. If by the mid-sixteenth century French royal law had forsaken prohibitions of venality, the fate of elections was similar. The procedure had been constructed in direct opposition to the sale of offices in the late fifteenth century, as a process of recruitment using existing officers to help identify aptitude and ability in prospective ones. Just like bans on venality, close collaboration was necessary for election to function. Under François Ier, that cooperation was no longer expected. The crown would name judges, though they were not necessarily 'apt' or 'able'. Election was no longer on the agenda, but examinations were gained as a means of filtering candidates to judgeships. The exam did not preclude venality of course. If anything, kings had found a means of enabling their judges to be found 'apt and able', despite providing sums of money to the crown.

¹⁶⁷ ADHG 1B1903, fols. 194r^o–195v^o.

The dwindling of laws against venality and in favour of election went hand in hand, and law became indeterminate. This did not mean that the crown said nothing at all about the sale of offices that it was practising.

iii) Articulating venality

Filling the void left by a discourse of prohibition and one of free provisions was an altogether more ambivalent assessment of judicial venality. This section considers the arguments the crown deployed in the first half of the sixteenth century to persuade its officers and subjects that its venal behaviour could be either salutary or reprehensible. The main observation, therefore, is that there was no unique idiom in which the sale of offices was discussed. The crown had several templates at its disposal. In overlapping and contradictory terms, the sale of judicial offices could be presented as beneficial, necessary, or a regretful event.

An important point at which the crown invoked the sale of judicial offices implicitly was whenever it created new judgeships. This has always seemed a classic feature of venality, since it was in part motivated by the fact that such posts could be sold. Although these new judgeships represented opportunities to profit, they required justification. The crown never argued that increasing the number of royal offices was intended solely to generate funds. Above all, it insisted that these would be beneficial. The foremost official objective here was securing the brief and inexpensive administration of justice. Royal acts received by the Parlement of Toulouse creating new magistracies reveal particular instances of this kingdom-wide discourse.

The argument that expanding courts would benefit justice in fact predated the monarchy's practice of venality. When eight new councillorships were established in the Parlement of Toulouse in December 1491 by royal act, the crown claimed that the Estates of Languedoc and the Parlement itself had requested the new judges. With cases burgeoning, the court was simply unable to cope with demands, and the judgeships would ensure that the length and cost of trials were reduced.¹⁶⁸ When another eight councillorships were created in the court in May 1519 – for loans this time – the creation was justified in very reminiscent terms. The presence of more judges had been requested specifically. As 'distributer' of justice, it was incumbent on the king to intervene, in order to acquit himself in the eyes of God, and so that his subjects did not consume their wealth and beings in unnecessarily long trials. Altering the composition of the court was deemed appropriate for the sake of justice.¹⁶⁹ When further councillorships were created in the Parlement, royal acts continued to make the case that this was to reform a slow and costly judicial system, and to assist a court that had become inundated with litigation.¹⁷⁰

In what ways did the presence of more judges improve justice? Royal acts explained lucidly why increasing the number of officers would make the Parlement of Toulouse function more efficiently. New judgeships would allow the Parlement to hold a fully-fledged criminal court, which it lacked. In 1491, the eight councillorships were intended to help form a new 'chamber', dealing exclusively with swarming criminal cases.¹⁷¹ When these did not suffice, the councillors created in 1519 were

¹⁶⁸ ADHG 1B1900, fols. 112v^o–113r^o.

¹⁶⁹ ADHG 1B1901, fols. 39r^o–39v^o.

¹⁷⁰ ADHG 1B1901, fol. 95v^o; 1B1902, fols. 80v^o, 122r^o; 1B1903, fol. 41v^o.

¹⁷¹ ADHG 1B1900, fol. 112v^o.

intended to staff the new chamber. Until then, the royal act claimed, it had been impossible to hold it with any regularity because there were too few councillors. When judges were ill or absent, or perhaps forced to abstain from specific cases because parties held them to be biased (the process of *récusation*), there were not enough councillors to proceed to judgement. By increasing the number of judges, the crown proposed that regular criminal sessions could be held. There would be no need to remove judges from the existing *grand' chambre* or *chambre des enquêtes*, which could continue to work on equally mounting civil litigation.¹⁷²

Time and again, establishing more judges was seen as a means of resolving technical, procedural conundrums that occurred when councillors were unwell, not present, or 'recused' by parties, which ground cases to a halt, or caused them to be 'evoked' exorbitantly to another court.¹⁷³ Following the establishment of a criminal jurisdiction in the Parlement of Toulouse, royal acts made the case for the establishment of other useful chambers, requiring new personnel. More councillorships and presidencies were needed in the spring of 1543 to hold a second chamber of *enquêtes*, and in February 1544 to form a *chambre des requêtes*. The latter, which judged privileged cases, would spare parties travelling all the way to Paris.¹⁷⁴ Both new chambers were presented as means of improving the delivery of justice. It was also possible to argue for the creation of specific types of office. Because lay councillors were the only ones capable of opining in criminal cases, the monarchy argued it had reason to create these over church councillors if a criminal court was to be established.¹⁷⁵ The crown also argued for the creation of other staff. A

¹⁷² ADHG 1B1901, fol. 39r^o–39v^o.

¹⁷³ ADHG 1B1901, fol. 95v^o; 1B1902, fols. 81r^o, 122r^o.

¹⁷⁴ ADHG 1B1903, fols. 54v^o–55r^o, 92v^o–94v^o.

¹⁷⁵ ADHG 1B1902, fol. 122r^o. See Chapter 6, section i.

royal act from 25 August 1523 insisted that the court needed a second *avocat du roi*, particularly on account of how much of the king's domain lay in the jurisdiction of the Parlement of Toulouse.¹⁷⁶ This was another line of reasoning the crown employed frequently: it was the vastness of the court's jurisdiction (*ressort*) that justified augmenting the number of councillors.¹⁷⁷

Finally, royal acts exhibited a self-perpetuating logic: the rationale and success of previous interventions justified yet further establishments. Royal acts received in Toulouse also praised the growth of the parlements of Paris and Bordeaux.¹⁷⁸ The Parlement of Paris provided a fascinating counterpoint for creations in the Parlement of Toulouse. When twenty new judges were instituted in the Parisian court in 1522, the monarchy justified this manoeuvre by pointing out the benefits that additional councillorships had brought to the Parlement of Toulouse and other sovereign courts in 1519. In 1543, this argument was reversed: it was the establishment of twenty councillors in the Parlement of Paris of 1522 that validated there being additional judges in Toulouse.¹⁷⁹ The Parisian court also provided the model for the creation of 'secondary' presidents in each *chambre des enquêtes* and for the *chambre des requêtes*.¹⁸⁰

When they created new offices, monarchs were responsible for explaining why this undertaking was important. Although many of these creations were driven by financial concerns, royal acts set out to prove exactly how a 'creue' in the number of officers could help break vicious cycles that postponed the resolution of cases. As

¹⁷⁶ ADHG 1B1901, fols. 197v^o–198r^o.

¹⁷⁷ ADHG 1B1902, fol. 80v^o; 1B1903, fols. 41v^o, 55r^o.

¹⁷⁸ ADHG 1B1901, fol. 95v^o; 1B1902, fol. 80v^o.

¹⁷⁹ *Barrillon*, vol. 2, p. 312; ADHG 1B1903, fol. 41v^o.

¹⁸⁰ ADHG 1B1903, fols. 55r^o, 92v^o–93r^o.

Jonathan Powis has asserted, the establishment of new magistracies appears less as the ‘financial innovation of hard-pressed kings, but rather as their exploitation of a growing popular demand for more, and more expert, judges’.¹⁸¹ Royal acts establishing new judgeships depicted the crown as morally obliged to intervene, and were founded on the argumentative principle that it contributed to the public good. Nonetheless, explaining that new judgeships were beneficial was only a tangential way of rationalising office sale. It avoided the topic of money entirely. Over the first half of the sixteenth century though, it was regularly commixed with arguments that recognised – rather more frankly – that offices were being exchanged for money.

A second way the monarchy depicted the sale of judicial offices was through the language of necessity. In this mode, the crown recognised quite candidly that it was receiving money from incoming judicial officers. This was justified by invoking ‘necessity’ or ‘need’. Royal texts assured that the proceeds received from offices were an emergency measure, the money being used to aid the king’s ‘affairs’ or his ‘wars, an activity dictated only by unanticipated financial duress and without repercussions. Another component of this discourse was to maintain that the judgeships in parlements had not been bought. The funds candidates acquiring these offices had given to the king were presented consistently as loans.

The monarchy addressed the Parlement of Toulouse using these arguments. In the spring of 1543, the court was sent a number of royal letters relating to the creation of fifteen new councillorships. One act recognised that loans of 2,000 *écus* had been

¹⁸¹ Jonathan Powis, ‘The magistrates of the parlement of Bordeaux, c. 1500-1563’ (Unpublished D.Phil thesis, 1975), p. 41.

presented by each of the candidates, to ‘succour our affairs’.¹⁸² That these loans would be reimbursed was also confirmed. If, for reasons of incompetence or kinship with existing members, the court found any of the candidates inadequate, it was given a set of rules for how to refund those turned away. Not without tension, the same creation could be presented as profiting justice and the crown simultaneously. Conceding that the reception of loans for offices was driven by necessity gave royal language a negotiating quality. This was why, when the new judgeships were created in 1543, the monarchy suggested that these positions could be removed from the Parlement in the future if they were found to be prejudicial.¹⁸³ Obviously, this called into question how beneficial they truly were. The court’s registers of royal acts contain other examples of the crown speaking forthrightly about how specific councillors were to be reimbursed, or attesting to loans.¹⁸⁴ If these were mere asides, towards the end of the reign of François Ier, some royal acts were prepared to address how the crown envisaged the sale of judicial offices much more directly.

When they were received to their offices in the 1540s, councillors of the Parlement of Toulouse came armed with special ‘dispensations’ attached to their letters of provision. These supplementary royal acts exonerated individuals for the loans they had made on the basis of ‘urgent necessity’, and the court was instructed not to defer the judges’ receptions.¹⁸⁵ This was as close as the monarchy was prepared to authorise the judicial venality it was practising. Presented as an exceptional

¹⁸² ‘pour subvenir à noz affaires’, ADHG 1B1903, fol. 43v^o–44r^o.

¹⁸³ ADHG 1B1903, fols. 42r^o–42v^o; Antoine Duprat made a similar promise regarding the twenty councillorships of the Parlement of Paris created in 1522, *Barrillon*, vol. 2, p. 313.

¹⁸⁴ See Chapter 2, section ii.

¹⁸⁵ See the receptions of Jacques Sortes to a new lay councillorship, Nicolas Benoist and Pierre Sabatier to lay councillorships vacant by death, and Jehan Carrière to a newly created lay councillorship in the *chambre des requêtes*, ADHG 1B36, fol. 474r^o (03.09.1543), 1B38, fols. 212r^o (20.02.1545), 258r^o (14.04.1546).

divergence from law, transferring cash for offices was mitigated intentionally and momentarily. That this was pursued in other jurisdictions of the kingdom at precisely this moment in time is also evident.¹⁸⁶ On a case-by-case basis, then, it seems that the crown was perfectly prepared to develop the paperwork to show that judicial offices could be exchanged for money, under certain conditions. This intervention never amounted to a full-blown defence of venality. However, resting on the language of urgent need, it supplied an explanation for why loans had been taken from incoming judicial officers. Under Henri II (r.1547-1559), such individual dispensations became general in 1554.¹⁸⁷

Appealing to necessity was hardly novel. The aphorism of French jurists as far back as the thirteenth century conceded that *necessitas legem non habet* – necessity has no law. It could be used to justify deliberate contraventions of *ordonnances* in instances of war for the public good.¹⁸⁸ If receiving money for offices was one such contravention, this does not mean that it was done without a sense of culpability.

It was, finally, in a repentant mode that the crown discussed the sale of judicial offices. Royal acts expressed what was taking place with remorse and regret. This inflection emerged clearly after the first ‘wave’ of councillors had been received to parlements in exchange for loans. In candid closed letters addressing the Parlement of

¹⁸⁶ In the Parlement of Rouen, fifteen newly created judges received similar dispensations in April 1543. These stated that transfers of cash made to the crown were loans, and not infractions of *ordonnances* against venality, CAF, vol. 6, pp. 701–705 [22569, 22572–80, 22584–7, 22592]. The Parlement of Grenoble was also affected, CAF, vol. 6, p. 707 [22601]. One royal secretary’s formulary contains templates of acts, dated to early 1540, for intermediary judicial officers in Rouen to be received ‘nonobstant qu’on ait baillé argent’, BnF MS fr. 14368, fols. 152v^o–152r^o. In the court of the *table de marbre* in Paris, new councillors arrived in March 1544 with letters dispensing them for loans to the king to support his ‘grans et urgens affaires de guerre’, AN Z^{1E} 329, fols. 44r^o–47r^o.

¹⁸⁷ *Maugis*, vol. 1, p. 191.

¹⁸⁸ Jacques Krynen, “‘De nostre certaine science...’: remarques sur l’absolutisme législatif de la monarchie médiévale française’ in *Renaissance du pouvoir législatif et genèse de l’état*, ed. André Gouron and Albert Rigaudière (Montpellier, 1998), p. 143.

Toulouse on 31 March 1524, François Ier explained how, since his accession, he had meant to give offices to experts committed to justice. However – in the jargon of necessity – the king admitted that he had been forced to take loans from those obtaining offices of judicature, in order to defend the kingdom. This had occurred to his ‘great regret and utmost displeasure’. Disastrously, it had seated many men not nearly as capable as those that might have been found had offices been given away freely. Gravely ill, the king’s mother Louise de Savoie (1476-1531) had apparently implored the king to cease profiting from offices, which would also prevent them from committing misdemeanours. François Ier followed his mother’s advice, observing by her sudden recovery that nothing could be more agreeable to God than to suppress venality. The king ordered that three or four of the most experienced members of the Parlement of Toulouse would, after an oath on the bible, draw up a list of the most suitable candidates for judicial offices, within the court and in other jurisdictions. This would be sent to the king, so that he could confer posts to the individuals and discontinue the sale of offices.¹⁸⁹

At first glance, this fascinating document reveals that the crown desired to turn its back on a practice begun hesitantly, and one always regarded as temporary.¹⁹⁰ It was an admission that venality had had a devastating effect on the competence of judges, hinting strongly at a return to elective practices. Nevertheless, this statement sits uncomfortably besides another royal act, registered in the Parlement of Toulouse

¹⁸⁹ ADHG 1B1901, fol. 95r^o. The Parlement of Paris received a similar letter dated 21 March 1524, AN X^{1A}1526, fol. 210r^o (07.05.1524); Roger Doucet, *Étude sur le gouvernement de François I^{er} dans ses rapports avec le Parlement de Paris* (Paris, 1921), vol. 1, p. 173.

¹⁹⁰ Christopher W. Stocker, ‘Public and private enterprise in the administration of a renaissance monarchy: the first sales of offices in the parlement of Paris (1512-1524)’, *The Sixteenth Century Journal* 9:2 (1978), pp. 24–25.

weeks later, which created further councillorships for loans.¹⁹¹ The crown could employ the language of remorse, but this had to contend with arguments about the benefits of office creations, and might be pushed aside by the dictates of necessity. At times, the monarchy's strange inflections seemed to confirm that the transfer of judicial posts for cash resulted in the appointment of judges that the crown would not ordinarily have chosen, or that were unsuitable. When royal letters dated 4 October 1545 defended Arnaud du Ferrier's right to a judgeship, for instance, they did so because he had obtained his office 'freely, and without a loan... which is sufficient demonstration of the recommendation in which we have held him'.¹⁹²

In the rhetoric of regret, royal acts came to lament the existence of so many new offices. It was from Moulins in August 1546 that the king declared his intention to suppress all the judicial offices established during his reign. The royal act admitted roundly that they had been created because of 'urgent necessity', but that this had been to the king's 'utmost regret and displeasure'. Yet the crown also blamed legal professionals for failing to vet incoming officers as scrupulously as they should have done. The best means of restoring justice to its 'first splendour', and allowing the king to unburden his conscience by relieving his subjects, was to retrench the number of judges, having but a few, who were 'removed from all species of avarice'.¹⁹³

This act was an indication of how flexible arguments about the sale of offices were. Previous royal acts suggested that for justice to be administered well more officers were required, but the act of 1546 reversed this logic. Too many judicial

¹⁹¹ ADHG 1B1901, fols. 95v^o–96r^o.

¹⁹² 'liberalement et sans aucun prest... qui est une demonstration souffisante de la recommandation en laquelle nous l'avons eu', ADHG 1B1903, fol. 159v^o.

¹⁹³ 'esloignez de toute espece d'avarice', ADHG 1B1903, fols. 194r^o–195v^o.

officers could cause delays and expense in the rendering of justice, and needed to be removed. By repenting for the mingling of finances and justice, the monarchy adopted a rhetoric which Philippe Hamon has called its 'guilty conscience'.¹⁹⁴ Constrained by financial pressure, this feeling of remorse had its roots in the ancient ideal that the king should be able to 'live of his own', sustained by his domain revenues, rather than by relying on abnormal fiscal devices. This confessional rhetoric depicted the sale of offices as a transitory measure that had subverted justice. By apologising for venality, the crown recognised that it had struck a moral limit in the search for financial expedients.

In the first half of the sixteenth century, selling offices could be presented in synchronic languages as advantageous for justice, as necessary for the financial survival of the monarchy, or as a disastrous turn of events. These readings interacted in bewildering and paradoxical ways. Creating new offices could be good news for justice and litigants, and maybe better news for royal finances, but it could also mean overstaffing and exorbitant fees. Receiving money from offices could be forgiven by claiming that these were reimbursable loans driven by necessity – but, distressingly, these exchanges also admitted unworthy judges. The crown interpreted its actions waveringly and discordantly. Rather than seeing royal acts as smokescreens for underhand behaviour, it is far more tempting to suggest that the monarchy – only ever speaking glancingly and through adapted templates – was profoundly unsure about the place of venality in the kingdom.

¹⁹⁴ Hamon, pp. 445, 517–522.

This chapter has demonstrated how inappropriate it is to suggest that kings said one thing and did another when it came to venality. For a start, it was rarely one thing that was said. Laws banned venality innovatively, and instead proposed to elect magistrates. When the crown began to sell posts however, both stances were discarded from royal acts. In their place, improvised and indecisive ways of presenting the sale of judicial offices developed. By avoiding clear law making, royal acts blurred the status of venality in the first half of the sixteenth century. The subject was slippery, its interpretation unstable. There were obvious advantages to be had in such partial explanations. By not hemming itself in, the crown was able to experiment with venality more freely. The precise nature of that experimentation is the subject of Chapter 2.

Practising venality in Toulouse and beyond

... guerre faicte sans provision d'argent n'a qu'un souspirail de vigueur. Les nerfz des batailles sont les pécunes.¹⁹⁵

In François Rabelais's *Pantagruel*, the eponymous giant's roguish companion Panurge is afflicted with a particularly debilitating and chronic ailment. He suffered from the incomparable pain of 'faulx d'argent' – the lack of cash. However, Panurge did not let this condition trouble him too much: he had sixty-three means of making money, all of them devious, and some even depraved.¹⁹⁶

Rabelais could well have been describing the French monarchy's finances in the first half of the sixteenth century. These were exceptionally bellicose and therefore costly years. Between the start of the Italian wars in 1494 and 1547, France was embroiled in hostilities lasting a total of thirty-five years across three reigns. Royal decision-makers involved in financing the campaigns panicked constantly that troops would go unpaid owing to the 'great scarcity of ready money'.¹⁹⁷ In the south, the Parlement of Toulouse oversaw preparations for an imminent attack by the kingdom's enemies.¹⁹⁸ Four of the court's judges attended a crisis meeting of the municipal government in 1544, convened to discuss the invasion of Roussillon by Imperial

¹⁹⁵ Rabelais, p. 135 (*Gargantua*, V).

¹⁹⁶ Rabelais, pp. 237, 243, (*Pantagruel*, XVI, XVII).

¹⁹⁷ 'la grand[e] sterillité d'argent', BnF MS fr. 2995, fols. 137r^o–137v^o, cardinal François de Tournon to Jean d'Humières, lieutenant-general for the king in Piedmont, Lyon (19.07.[1537]).

¹⁹⁸ For examples, ADHG 1B15, fols. 459v^o–460r^o (20.02.1514); 1B20, fols. 4r^o–4v^o (19.11.1523).

forces. It was agreed there that ‘when it comes to war, the most necessary thing is money and coin’.¹⁹⁹

The association of venality with warfare is familiar and apparently clear-cut. Fighting in Italy and later against the Habsburgs was costly. Facing unprecedented expenses, the monarchy realised that financing war through taxes that were slow to collect and from which many were exempted would never suffice. To defray the costs of combat, kings turned to new fiscal expedients. French kings could no longer afford to stand by idly as individuals trafficked offices privately. Adopting a practice undertaken by other penurious European states, they now sold offices as fighting approached.²⁰⁰ In the seventeenth century, Charles Loyseau confirmed that war drove office sale.²⁰¹ By that time, venality followed predictable patterns: the escalation towards war correlated with the creation and sale of offices. When peace returned, many of these posts were suppressed.²⁰²

Is the connection between war and the sale of offices really so straightforward though? In the 1950s, Pierre Goubert queried whether wars alone ‘explained’ venality sufficiently.²⁰³ More recently, Mark Potter also questioned whether such a correlation

¹⁹⁹ ‘la chose plus neccessaire au fait de la guerre est l’argent et peccune’, AMT BB10, fol. 18r^o (29.07.1544).

²⁰⁰ Marcel Marion, *Dictionnaire des institutions de la France au XVII^e et XVIII^e siècles* (Paris, 1923), p. 549; Roger Doucet, *Les institutions de France au XVI^e siècle* (Paris, 1948), vol. 1, p. 9; Koenraad W. Swart, *Sale of offices in the seventeenth century* (The Hague, 1949), p. 116; Mousnier, p. 41; Robert Descimon, ‘Modernité et archaïsme de l’état monarchique: le parlement de Paris saisi par la vénalité (XVI^e siècle)’ in *Genèse de l’état moderne: bilans et perspectives*, ed. Jean-Philippe Genet (Paris, 1990), p. 150; Hamon, pp. 133, 246; William Doyle, *France and the age of revolution: regimes old and new from Louis XIV to Napoleon Bonaparte* (London; New York NY, 2013), p. 7.

²⁰¹ See Introduction, section i.

²⁰² David Parker, *Class and state in ancien régime France: the road to modernity?* (London, 1996), pp. 158, 267; Bernard Barbiche, *Les institutions de la monarchie française à l’époque moderne: XVI^e-XVIII^e siècle* (Paris, 1999), pp. 80–81.

²⁰³ Pierre Goubert, ‘Un problème mondial: la vénalité des offices’, *Annales. Histoire, Sciences Sociales* 8:2 (1953), p. 212 n.3.

was as obvious as it seemed.²⁰⁴ In this chapter, we shall explore how the crown first practised venality during the first half of the sixteenth century to reassess some of the causes, conceptions, and effects of office sale.

The previous chapter demonstrated that in its official language the crown was hesitant about defining the sale of offices too closely. Traditional historiography has tended to suggest, however, that French monarchs betrayed any loud declarations of principle almost immediately.²⁰⁵ By hypocritically and systematically violating their own laws, kings paved the way towards a 'legal' venality of office. In recent years, researchers have approached the reigns of Charles VIII, Louis XII, and François Ier more prudently, stressing that the sale of offices in its later forms could hardly have been their design.²⁰⁶ Thanks to the work of Roland Mousnier and Robert Descimon, the monarchy's practices across the sixteenth and in the early seventeenth centuries are well known. However, the circumstances in which the crown engaged in venality before 1550 are still poorly understood. Venality has often been studied from the perspective of the individual courts of law it affected.²⁰⁷ Alternately, its overall place in royal finances has been scrutinised.²⁰⁸ Only extremely rarely have both sides of the story been connected. This chapter proposes to study both the crown and one of its courts conjointly. By studying the monarchy and its interactions with the Parlement of

²⁰⁴ Mark Potter, *Corps and clienteles: public finance and political change in France, 1688-1715* (Aldershot, 2003), p. 28.

²⁰⁵ *Maugis*, vol. 1, pp. 128–129.

²⁰⁶ Christopher W. Stocker, 'Public and private enterprise in the administration of a renaissance monarchy: the first sales of offices in the parlement of Paris (1512-1524)', *The Sixteenth Century Journal* 9:2 (1978), pp. 4–29; Descimon, 'Modernité et archaïsme de l'état monarchique', *Hamon*, pp. 553–554.

²⁰⁷ *Maugis*, vol. 1, pp. 128–135, 177–179; Stocker, 'Public and private enterprise'; Descimon, 'Modernité et archaïsme de l'état monarchique'; Jonathan Dewald, *The formation of a provincial nobility: the magistrates of the parlement of Rouen, 1499-1610* (Princeton NJ, 1980), pp. 135–145.

²⁰⁸ Gilbert Jacqueton, 'Le trésor de l'épargne sous François I^{er} (1523-1547)', *Revue Historique* 55:1 (1894), pp. 8, 40–42; Martin Wolfe, *The fiscal system of renaissance France* (New Haven CT, 1972), pp. 19, 101–103; *Hamon*, pp. 104–109, 181–183.

Toulouse, I will evaluate the significance of office sale in this court within the wider context of royal finances. What made it plausible? If it was embarked upon uncertainly, what meant that this recruitment method was predisposed to entrenchment? A study of how the crown conceived of its experimental project and how its courts were affected will allow us to understand venality as far more than a ‘consequence’ of war.

In exploring these themes, this chapter relies upon institutional and non-institutional sources from national and departmental archives. The focus is on but not restricted to one particular court of law. Throughout this investigation, the experiment of office sale is considered holistically, as it operated at various levels of the judicial hierarchy. What has made the history of early venality so difficult is the phenomenal loss of financial records that occurred following a fire in the *Chambre des Comptes* in 1737. Although this makes reconstituting royal practices a challenge, the task is by no means impossible. Using court records can shed light on what early venality involved and, likewise, a range of archives produced by the royal administration elucidates the place of the *Parlement* within the crown’s finances.

The first section of this chapter considers how the monarchy first started selling offices, and how much it might expect to make by this method in the *Parlement* of Toulouse. In section ii, we turn to consider how the sale of offices was organised institutionally, examining the ways in which the monarchy envisioned its practices, and how lasting these changes were perceived or likely to be. Finally, section iii explores how creating new offices was often an opportunity for the crown to negotiate for financial gain.

i) Selling offices in the Parlement of Toulouse

How the crown first began to sell offices within the Parlement of Toulouse and its jurisdiction is not clear, but evidence that judicial functions could be purchased in the region is pervasive towards the end of the fifteenth century. At first glance however, these transactions seemed to occur independently of monarchs.

A flood of cases processed by the Parlement of Toulouse suggested that individuals were acquiring royal judicial offices in the region through private financial exchanges. For example, in 1489 the *avocat du roi* charged Jehan du Mas, the judge of Compeyre, with having given a lord 100 *écus* to obtain his post.²⁰⁹ In 1504, the *gens du roi* claimed to have witnesses who could demonstrate that a *lieutenant clerc*, Jehan Gineste, had presented the *sénéchal* of Rouergue with 100 *écus* for his office, as well as a damask robe for his wife.²¹⁰ During another trial that year, Guy d'Apchier was accused several times of buying the office of *bailli et gouverneur* of Marvejols, an 'office of judicature', from a resigning judge. Against the *ordonnances*, he had failed to swear the oath of non-venality. However, d'Apchier's lawyer argued that his competitor for the office, Gailhardet de Montcalm, had in fact supplied 400 *livres* to obtain it himself.²¹¹ A decade later, Pierre Roquette, the judge of Lauragais, was accused of purchasing his office for 500 *livres*, and also of naming a lieutenant for 25 *livres*.²¹² Similarly, in 1514 the Parlement of Toulouse heard that the *sénéchal* of Rouergue had issued letters of provision for the office of

²⁰⁹ ADHG 1B2328, fol. 338r^o (07.04.1489).

²¹⁰ ADHG 1B2332, fols. 371r^o (28.03.1504), 438r^o–438v^o (06.05.1504).

²¹¹ ADHG 1B2332, fols. 496v^o–498r^o (17.05.1504).

²¹² ADHG 1B2337, fols. 58v^o, 70v^o (undated; before December 1514).

his lieutenant with the name left blank, for it to be given to the highest bidder. In this case, a young licentiate called Bernard Savinhac snapped it up.²¹³

The purchase of offices appeared to affect tribunals based within the city of Toulouse as well. In 1495, a case opened in the Parlement concerning the office of *juge mage* in the court of the *sénéchal* of Toulouse. It pitted the pretender to the office, Jehan de Chavaignac, against Mathieu Bosquet, the representative (*syndic*) of the Estates of Languedoc. Bosquet argued that Chavaignac had given 5,000 *livres* to Guy ‘Guynot’ de Lauzières, the king’s *maître de l’artillerie*, in order to have the office of *juge mage* resigned in his favour. Chavaignac riposted that Bosquet had attempted to purchase the office himself, by offering up 5,500 *livres*, or 2,000 *écus* and his office of judge of Lauragais, to the same man.²¹⁴ A case heard before the Grand Conseil in 1510 once more suggested – curiously – that royal artillery officers had received money to arrange the provision of judicial posts local to Toulouse. Anthoine de Fayet suggested that his rival for office, Anthoine de Morllon, had bought the ‘right’ to the post of *juge d’appeaux des causes civiles* in the *sénéchaussée* of Toulouse from an artillery officer.²¹⁵ As we shall see, the involvement of these artillery officers in the brokering of local judicial positions for cash is a substantial clue, a sign that the monarchy was not at all unaware of what was taking place.

²¹³ ADHG 1B2337, fols. 241r^o (04.12.1514), 367r^o–368r^o. Note that the *gens du roi* cast doubts over this accusation. The citations to this and the example above were placed in the wrong order in *Viala*, vol. 1, pp. 199–200.

²¹⁴ ADHG 1B10, fols. 1v^o–2v^o (13.12.1495); 4r^o (14.12.1495). This case was not in 1489 or 1493 as claimed by *Viala*, vol. 1, p. 199. For more on Guynot de Lauzières, see Jean d’Auton, *Chroniques de Louis XII*, ed. René de Maulde La Clavière (Paris, 1889), vol. 1, p. 25 n.1; David Potter, *Renaissance France at war: armies, culture and society, c. 1480-1560* (Woodbridge, 2008), p. 156.

²¹⁵ AN V⁵1043, fol. 8r^o (21.02.1510, Grand Conseil at Blois). We shall return to examine some of these cases in Chapter 4, section iii.

Using litigation to detect the sale of offices between private parties within the Parlement of Toulouse is slightly harder. In 1492, a lawyer claimed that Thomas Grossin, *sommelier* to Queen Anne de Bretagne, had pursued the creation of a new office of *huissier* in the court and obtained this position. He had only worked for this office though, his opponent pressed, with the intention of ‘selling it and having money for it, and his traffickers are standing by’.²¹⁶ Other offices of the Parlement also became transferable for money, and by the end of the fifteenth century it is very probable that the *gens du roi* were affected.²¹⁷ At the start of the sixteenth century, rumours circulated indicating that judgeships of the Parlement of Toulouse were changing hands for cash too. Speaking before the Grand Conseil, Anthoine de Fayet posited that one councillor of the Parlement had paid 2,500 *écus* for his post.²¹⁸ In 1504, a professor of law at the University of Toulouse arranged to borrow 3,000 *livres*, ostensibly to purchase a resignation from an existing councillor.²¹⁹ By the early sixteenth century therefore, it is conceivable that most offices in the Parlement of Toulouse had a recognised financial value, and might be transmitted for money surreptitiously.

²¹⁶ ‘icelui Groussin ne l’a obtenu ne poursuit sinon pour la vendre et en avoir argent et a ses marchans tous prestz’, ADHG 1B8, fol. 474v^o (16.04.1492).

²¹⁷ It is not possible to situate this transition with great precision. The arrival of Antoine Duprat as *avocat du roi* in 1495 roused deep suspicions from judges of the Parlement: Anthoine de Morlhon and Jehan de Pavie complained that Duprat had received the post only because its former holder and subsequent first president, Jehan Sarrat, resigned it to him in a murky deal between Sarrat and Duprat’s mother’s relatives, the Bohier or Boyer family, ADHG 1B9, fols. 548r^o–548v^o (29.08.1495); 556v^o–557v^o (07.09.1495). The matter remains vague. Although it is highly likely that the post was perceived to have a financial value, this was first and foremost a ‘family arrangement’: see Françoise Autrand, ‘Vénalité ou arrangements de famille: la résignation des offices royaux en France au XV^{ème} siècle’ in *Ämterhandel im spätmittelalter und im 16. Jahrhundert*, ed. Ilja Miecz (Berlin, 1984), pp. 69–82.

²¹⁸ Fayet named this venal councillor as ‘Morllon’, AN V⁵1043, fol. 13v^o (21.02.1510, Grand Conseil at Blois). The best candidate for this accusation is the *clerc* councillor Jehan de Morlhon. His reception is indeed suspect, since royal letters accompanying the provision mentioned that Morlhon could hold the office ‘en quelque maniere que par le roy en seroit pourveu’, ADHG 1B10, fols. 116r^o–116v^o (20.05.1496). There is a case to be made for a venal arrangement here – whether this was to profit an outgoing predecessor is ambiguous, since it is not known how the office became vacant.

²¹⁹ Viala, vol. 1, p. 201.

Whether they involved offices in the Parlement or smaller regional judgeships, what unites these cases is that the crown did not appear to be making any money from posts in its tribunals. It was usually a third party that profited, either by attributing offices received from the king, or by conferring those that at the time did not require the monarch's involvement, like lieutenancies. However, it would be a mistake to suggest that kings were not implicated at all. By allowing individuals to profit from office transfers and nominations, the monarchy had long recognised their conventional value, sometimes providing an explicit endorsement of the resulting transactions. This was particularly the case for non-judicial offices: for example, one *ordonnance* from 1387 allowed sergeants to exchange their posts for cash, though this was exceptional because theirs were 'petty offices' from which a personal profit was expected.²²⁰ As such, there is nothing illogical about seeing the gifting of offices as a species of public venality.²²¹ Instead of paying ready cash, the king could acquit a debt or recompense favourites and servants with offices. That these posts could be exchanged for money was an understood component of the reward.²²² This surely helps to explain the presence of the royal artillery officers in the examples cited above. These were men who were not expected to exercise judicial functions personally, but whom the king wished to see rewarded. Indeed, the *maître de l'artillerie* Lauzières was explicitly given 'the permission and faculty to resign the said office and to profit from it'.²²³ Offices should be seen as one of the ways in which French kings 'lavished attention on their artillery', their new, prestigious

²²⁰ Bernard Guenée, *Tribunaux et gens de justice dans le bailliage de Senlis à la fin du moyen âge (vers 1380- vers 1550)* (Paris, 1963), p. 173.

²²¹ Olivier Mattéoni, *Servir le prince: les officiers des ducs de Bourbon à la fin du moyen âge* (Paris, 1998), pp. 289–290.

²²² Olivier Martin, 'La nomination aux offices royaux au XIV^e siècle d'après les pratiques de la chancellerie' in *Mélanges Paul Fournier* (Paris, 1929), pp. 495–497.

²²³ 'congié et faculté de resigner led. office et d'en prandre proufit', ADHG 1B10, fol. 3v^o (14.11.1495).

fighting force.²²⁴ As we shall see, the notion of office being a ‘gift’ (*don*) bestowed by the king to his entourage for sale was not one set to expire abruptly.

Gradually, the monarchy began its own experimentation with office sale. Instead of using offices to gratify royal servants, the objective that slowly emerged here was to accrue ready cash. Two interconnected components were involved initially.

Firstly, contenders for high judicial offices would have to relinquish lesser posts that they already held to the crown in order to obtain higher rank. It was clear that royal financial officials had few misgivings about then selling these lesser posts outright. Working for the monarchy, they mimicked the private parties who were already exchanging such positions for cash. In the reign of Louis XII, turning in offices to the crown was practised regularly, and this continued into the early reign of François Ier. Exceptionally, certain posts were deemed more acceptable to buy and sell, and one of the offices that came to be associated most conspicuously with the process was the office of *notaire et secrétaire du roi*. With express royal permission, it had been permissible to profit from resigning these positions at least from the time of Louis XI.²²⁵ In this post an extraordinary loophole was discovered by which those wishing to solicit posts in sovereign courts could circumvent royal *ordonnances* against their sale. Since purchasing the office of *notaire et secrétaire du roi* from a private party could be defended, individuals obtained this position with a view to returning it to the crown, perhaps with other offices they possessed. In exchange, they would receive a higher office.

²²⁴ Potter, *Renaissance France at war*, pp. 153–154.

²²⁵ BnF MS fr. 5727, fol. 98v^o.

Christopher Stocker demonstrated that this was exactly the behaviour of those who endeavoured to obtain councillorships in the Parlement of Paris between 1505 and 1521.²²⁶ Office exchanges in this vein occurred in the Parlement of Toulouse too, and from an earlier date. Once more, posts whose sale could be tolerated were purchased with the express purpose of obtaining offices that were strictly not for sale. In 1499, Pierre Faure presented himself to the Parlement hoping to receive his new office of lay councillor. Faure had received this position through ‘permutation’, by exchanging it for an office of *notaire et secrétaire du roi* he already held. Later, it transpired that Faure had in fact purchased that position purely to swap it with someone who had been named to a vacant councillorship. Although the *avocat du roi* Antoine Duprat queried this transaction closely, Faure’s lawyer argued that the purchase of secretarial offices such as this one was routine, and did not mark a violation of royal *ordonnances*.²²⁷ A means of evading the law had clearly been established. By purchasing offices like those of *notaire et secrétaire du roi*, customarily venal posts could be swapped for those that were never meant to be accessed by cash. Of course, this was a controversial issue. It also rested on the fact that the monarchy was able to sell the offices that it received in these transactions. In other words, it was clear that the crown had also developed the capacity to profit directly by selling offices.

²²⁶ Stocker found five examples of the office of *notaire et secrétaire du roi* being handed over to the crown as part of deals to obtain councillorships. For more on the office of *notaire et secrétaire du roi* and its venality, see Hélène Michaud, *La grande chancellerie et les écritures royales au seizième siècle (1515-1589)* (Paris, 1967), pp. 96–107. These secretarial offices would enjoy a long association with venality, and were often known as ‘savonnette à vilain’ in the eighteenth century for the nobility they conferred.

²²⁷ ADHG 1B2329, fol. 340r^o (27.07.1499). For more on the arguments used in this case see Chapter 4, section i.

This introduces the second component of early royal venality: the systematic reception of ready money for offices, either as an unambiguous payment or as a loan. As we have seen, the crown was content to see certain offices sold without difficulty. However, it is not clear that the monarchy's initial intention was to keep the money it handled in such transactions. When those attempting to obtain high judicial offices traded in posts they already possessed to the king, these did not necessarily match the perceived 'value' of the offices that they were pursuing – offices that, nonetheless, were not supposed to be sold. To cover the difference, as well as giving up posts they held for the crown to sell on, contenders for high judicial offices sometimes provided loans. If individuals had no offices to trade, they might provide a loan only. The crown would then pay these lenders back, partly using money from the offices that had been traded in. In this complicated manner, although the monarchy did sell the offices it received, it did so with a view to reimbursing individuals who had relinquished posts or provided loans for judgeships.²²⁸ By negating transactions for higher judicial offices, the king's hands appeared to be clean, since he had only supervised the exchange. Neither the monarch nor the new judge appeared to have sold or bought the office in question. It was the crown's desire to prevent the highest judgeships from looking like they were being sold that resulted in such obscure deals. Gradually, new judges of the highest courts of the kingdom accessed their posts mostly through loans made to the crown. Under Louis XII, the royal administration regarded itself less as a nexus for financial exchanges, and began to experiment with utilising the cash it received. As we saw in Chapter 1, section iii, the monarchy justified this requirement on the basis that urgent resources were needed to help fund the Italian wars. Royal policy regarding access to offices in sovereign courts, then,

²²⁸ Stocker, 'Public and private enterprise', p. 6.

inaugurated a system of venality based on making loans to the crown, which was related to but distinct from the pure sale of offices the monarchy was practising lower in the judicial hierarchy. It was a distinction that the crown fought to maintain over the first half of the sixteenth century.²²⁹

One example involving the Parlement of Toulouse will serve to demonstrate with greater clarity such complex operations in practice. In 1503, the court's *avocat du roi* Antoine Duprat obtained letters of provision to become a *maître des requêtes*. To acquire the office, he had transferred his position in the Parlement of Toulouse to the king. Upon reception to his new office however, Duprat disclosed that he had also loaned the king 4,500 *livres* at the request of senior royal financial officials. They had informed him that the king was in desperate need of money to fund the war in Roussillon and Naples, and Duprat had complied on the understanding that he was to be reimbursed.²³⁰ Meanwhile, there can be no doubt that the office of *avocat du roi* in the Parlement of Toulouse that Duprat had left behind to the crown was a source of profit. It was Barthélemy Robin who presented himself to be received as the court's new *avocat du roi*. Before Robin was welcomed, the *procureur du roi* told the judges that he had heard that Robin had bought his office. For this reason, the Parlement of Toulouse prevented Robin from taking the oath of non-venality.²³¹

These two provisions to office alone illustrate a combination of royal practices. Duprat had given up a lesser post in the Parlement of Toulouse, which was then sold outright by the crown. He had also provided a loan, for which he hoped to be repaid,

²²⁹ Descimon, 'Modernité et archaïsme de l'état monarchique', pp. 150–152.

²³⁰ René de Maulde La Clavière, *Procédures politiques du règne de Louis XII* (Paris, 1885), pp. 709–711.

²³¹ ADHG 1B12, fols. 249v^o–250r^o (12.12.1503), 252r^o (13.12.1503).

in order to secure access to his new judgeship. It is then possible that Robin's purchase of Duprat's old office was used to compensate this loan partially.²³² These features characterise how kings practised venality in the early sixteenth century: they organised the sale of lesser offices, and managed loans for more important judgeships.

The challenge, though, was that the crown had to wait for existing offices to fall vacant before it could invite new recruits to provide funds for the posts. One means of dramatically increasing the number of offices available was to create some: a batch of new posts could yield far greater sums to the king in a single manoeuvre than periodically occurring vacancies. Studies usually point to 1522 as the *annus mirabilis* of venality. We are often led to believe that this was the year in which the royal sale of offices was embarked upon 'officially'.²³³ In part, this is because that year saw twenty councillorships created in the Parlement of Paris to raise money. However, by permitting individuals to profit from resignations and selling certain types of posts outright, we have seen that the monarchy was already deeply involved in office sale. This iconic venal 'moment' is further troubled by the fact that as early as 1519 judgeships were created in sovereign courts throughout the kingdom for cash. In the Parlement of Toulouse, the new judges created at this time loaned 4,000 *livres* for their offices. Even more fascinatingly, one recruit to an office that already existed was required to lend the same sum.²³⁴ What this reveals is that the monarchy did not begin to sell offices in an institutional capacity in the Parlement of Paris in 1522. In fact, it was merely continuing an experiment long underway.

²³² A theory put forward in Stocker, 'Public and private enterprise', p. 8 n.16.

²³³ See Introduction, section i.

²³⁴ See Appendix Table 3a, n.3.

From the 1520s onwards, it was clear that new judges of sovereign courts would have to lend money to the crown in order to obtain their positions. To begin to understand how and why the crown managed its remarkable programme of office sale, we need a better idea of the scale of royal venality in the Parlement of Toulouse. The remainder of this section is concerned with quantifying the royal sale of offices in this court with a view to analysing why this was a course the monarchy favoured and pursued.

One initial means of deducing how much the crown could expect to make from venality lies in investigating the creations of new offices. We have already seen that associating the monarchy's profits from offices with the establishment of new posts alone can be misleading. However, it is also the easiest starting point for working out how much royal venality could produce, largely because identifying the numbers of offices that were made available through such operations is straightforward. Appendix Table 1 shows the different offices created in the Parlement of Toulouse in our period. Before discussing the value of these posts and what the crown could expect to earn from them, I shall briefly compare the number of councillorships created in this court with those created in other parlements. This will give us a much better idea of where the Parlement of Toulouse sat in the broader project of office sale, and will help account for some of the rhythms of royal venality.

Appendix Table 2 details the creations of councillorships across the parlements of France in the first half of the sixteenth century. What statements does this table permit us to make? It is immediately clear that creations of councillorships in the Parlement of Paris occurred in only two jolts, in 1522 and between 1543 and 1544. In

contrast, the provincial parlements began to expand earlier, from 1519, and continued to receive additional councillors through smaller additions in the 1520s and in the late 1530s. This firmly dispels the received idea that there were simply ‘two waves’ of office creations in the reign of François I^{er}.²³⁵ Another observation is that the creations in the Parlement of Paris were on the whole much larger than any of those experienced in the regional courts. Nonetheless, all the parlements encountered the greatest change of all in the 1540s, when new councillors were instituted in the sovereign courts concurrently, and in unprecedented numbers.

Comparisons with Paris aside, there are noteworthy divergences amongst the provincial parlements. The Parlement of Toulouse most closely followed the pattern of office creations affecting the parlements of Rouen and Bordeaux. Smaller creations of councillorships occurred in the parlements of Dijon, Grenoble, and Aix. These differing degrees of growth reflected the sizes of the separate institutions. Though all parlements by name, the composition of sovereign courts varied considerably. The largest regional courts were Toulouse, Bordeaux, and Rouen, and these also cost the crown the most to run. In comparison, the number of councillors working in Aix, Dijon, and Grenoble was fairly small.²³⁶

It is through assessing the proportional growth in the total body of councillors within each parlement that we gain a better insight into the impact of office creation on court structures. By the end of the reign of François I^{er}, the number of councillors in the Parlement of Paris had increased over one and half times. In contrast, the

²³⁵ Jean Jacquart, *François I^{er}* (Paris, 1981), p. 238.

²³⁶ In 1537, the crown assigned 21,262 *livres* 9 *sols* 7 *deniers* for the annual payment of the officers of Toulouse, 20,042 *livres* 10 *sols* for those of Bordeaux, and 17,590 *livres* 15 *sols* 8 *deniers* for those of Rouen. So much smaller in comparison was the cost of the Parlement of Dijon to the crown, at only 6,361 *livres* for the year, ADHG 1B1902, fols. 82r^o–87r^o.

number of councillors in the parlements of Toulouse and Bordeaux had increased around two and half times.²³⁷ The creation of offices had a much more extraordinary impact on the organisation of regional courts than it did on the Parlement of Paris.

Although there were idiosyncrasies, there was also a clear coordination to the creations of councillorships in the parlements of France. What motivated them? In Toulouse, Bordeaux, and Rouen, the first creations came in May 1519. Crucially, this was the moment of the king's candidacy to the imperial throne, an ultimately unsuccessful operation that escalated upon the death of Maximilian I in January 1519.²³⁸ It involved providing substantial financial pledges and gifts to the seven electors in an effort to sway the outcome. In the spring, the king sent over 400,000 *écus* to his ambassadors in the German states for this purpose. The chancellor's secretary, Jehan Barrillon, described how the creation of councillorships in the parlements was a direct response to the costs of the election, a measure 'to obtain money'.²³⁹ These offices would help raise funds needed by the electors and other German princes, as well as subsidising the travel of royal emissaries. In the end, François Ier struggled to raise money in his electoral bid, and it is possible that receiving loans for offices represented a final 'belated and clumsy' solution.²⁴⁰ Financial need also only partially explains the institution of new offices in these three parlements, and we must recall that the officers were also intended to staff new criminal chambers.²⁴¹ Contrary to statements that link venality with war in a rigid

²³⁷ The number of councillors in the parlements of Paris, Toulouse, and Bordeaux (respectively eighty, twenty-four, and twenty-four) is mentioned in ADHG 1B8, fol. 474r^o (16.04.1492).

²³⁸ François-Auguste Mignet, 'Une élection à l'empire en 1519: première rivalité de François I^{er} et de Charles-Quint', *Revue des Deux Mondes* (1854), pp. 209–264.

²³⁹ 'pour avoir argent', *Barrillon*, vol. 2, pp. 123–124.

²⁴⁰ *Hamon*, pp. 51–52, 105, 153.

²⁴¹ See Chapter 1, section iii and Chapter 6, section i.

way, the first major occurrence of creations in the parlements for cash was actually a tense dynastic engagement that was principally diplomatic rather than martial in tone.

Later periods of office creation, however, were almost certainly motivated by conflict. The timing of military campaigns and the creations of new posts in the parlements overlap considerably. The years 1521 to 1523 were the first of the opening war between François Ier and Charles V. From the declaration of war up to the defeat of France at Pavia in 1525, this first phase of fighting cost up to 20 million *livres*. Such expenditure would appear to justify that the loans received from new officers were indeed intended to subsidise the king's 'urgent affairs'. At first glance, the years 1537 to 1538 could appear anomalous as years of office creations, given that at their close this was a period of truce. Nonetheless, it was also a time of uneasy and armed peace, and 1537 did in fact see combat on two fronts in Picardy and Piedmont. The cost of warfare between 1536 and 1538 has been estimated at 15 million *livres*. Finally, the most prolific phase of kingdom-wide office creations, 1543 to 1544, coincided with war once more. By far and away the most costly, the campaign through to 1546 cost over 30 million *livres*, which helps explain why the magnitude of office creations was so spectacular at the end of this period.²⁴²

Equipped with an understanding of how the creation of offices in the Parlement of Toulouse was motivated by these moments of exigency, and within a kingdom-wide programme affecting multiple sovereign courts, we are now in a position to begin to estimate how much the court's new offices could supply to the crown.

²⁴² Hamon, pp. 46–47; 104–105.

Appendix Table 3a draws together all the information that I have found relating to the venality of judgeships in the Parlement of Toulouse in this period. From the surviving evidence, it is clear that the monarchy was able to raise at least 146,325 *livres* in loans by charging for admission to magistracies.

It is likely, though, that this figure is only a low estimate of the amount of money the crown was able to generate through loans for offices. It was implied, for example, that all those councillors created in 1519 loaned 4,000 *livres* each to the crown, a procedure that would have brought the monarchy 32,000 *livres* in one fell swoop. Calculating how much money the crown made from newly created offices in the Parlement of Toulouse would be unproblematic in these conditions: we could simply multiply the value of judgeships by the number that were created. The problem is that information is missing. Although we might know exactly how many positions were created, it is not always clear what sums of money were involved. For example, the monarchy created new magistracies in 1543 with the expectation that each of the new candidates would raise 4,500 *livres* in loans. In practice though, and for no apparent reason than their own initiative, some recruits loaned far more, up to twice that value. Furthermore, councillors were not the only judges expected to provide loans when their offices were created. Presidencies of the *chambres des enquêtes* were to attract loans of 3,000 *écus*.

In short, even if we possess precise figures for the number of offices created and their nominal value, it is very difficult to ascertain precisely how much these could bring in, and an approximation is inevitable. In the reign of François Ier, the four main spurts of creations of councillorships in the Parlement of Toulouse could have

brought in as much as 164,000 *livres*. If presidencies are counted, this figure might reach nearer 197,500 *livres*.²⁴³

The problem with this figure is that it only takes account of new offices, and not existing posts for which the crown also received loans when they fell vacant. As Appendix Table 3a demonstrates, the sums presented for vacant councillorships were just as variable as those received for new ones. Assuming that receiving loans for councillorships only began with the 1519 creations, around fifty or so of these posts became available through to 1547 from which the crown could extract advances. Multiplying this by the nominal value of a councillorship at 4,500 *livres*, we obtain a total of 225,000 *livres*. Together with the money raised through creations of presidencies and councillorships, we reach 422,500 *livres*. Including vacant presidencies for which loans might have been received too, this value could have climbed closer to the 476,100 *livres* mark.²⁴⁴

Yet judgeships were not the only posts for which the monarchy was receiving money in the Parlement. Under François Ier the *gens du roi*, *greffiers*, and *huissiers* provided money to obtain their posts, sometimes as unambiguous payments. Sources to identify the value of these offices are extremely fragmentary, but those that are known are reproduced in Appendix Table 3b. This table suggests that the crown made

²⁴³ To reach this estimation, I have calculated that the councillorships created in 1519 raised 32,000 *livres*; those of 1523 a maximum of 12,000 *livres*, those of 1537 to 1538, 30,000 *livres* at most; and finally that those created in 1543 and 1544 produced at least 90,000 *livres*, giving a total of 164,000 *livres* in loans. Counting the five different presidencies created in 1519, 1543, and 1544, and assigning them a value of 6,700 *livres*, we reach a total of 33,500 *livres*. This gives a combined total of 197,500 *livres*.

²⁴⁴ Assuming that eight presidential vacancies of the Parlement of Toulouse – excluding the first presidency – in the years 1519 to 1547 could generate loans, and using the only known value of a presidency of 6,700 *livres*, we obtain a total of 53,600 *livres*. Whether and what sums presidents loaned for their offices is extremely uncertain. See Appendix Table 4 for projected values of presidencies in the ‘Parlement of Poitiers’, which were much higher.

38,370 *livres* from the sale of those positions that are documented. If we estimate how much the sale of undocumented positions of this type could have brought the crown, we reach a figure of around 90,600 *livres*.²⁴⁵

Totalling the money that could be raised from the court's judgeships with that of its other staff, we obtain a rough figure of 566,700 *livres*. Although this is a conjectural value, we now have an idea of just how much hard cash the sale of offices in the Parlement of Toulouse could supply the crown. What is most arresting is the disproportionate weight of judgeships in this project. It was through loans from magistrates that most of this money could be made. Philippe Hamon estimated that over the course of the reign of François Ier, the monarchy would have struggled to make more than 6 million *livres* from the sale of offices. Its activity in the Parlement of Toulouse would therefore account for around 9.4 per cent of the revenue to be had from offices in total.²⁴⁶ Selling offices could be profitable, and using courts of law as an arena in which to practise it especially so. What these results make apparent is the weight of the Parlement of Toulouse as a whole in this project. Since this institution was such an important provider of cash for offices, it warrants much closer inspection.

From a certain perspective though, it might pay to be cautious. In light of the crushing war expenses the monarchy faced, perhaps the financial support that the sale

²⁴⁵ The calculation requires justification. There were six vacancies affecting the *gens du roi* between 1519 and 1547 (including resignations and creations). Multiplying these by the average of the two known values of the offices of *procureur* and *avocat du roi* (2,550 *livres*) gives us a total of 15,300 *livres* (likely an underestimate, given how much the crown believed it could gain from such posts – see Appendix Table 4). Five vacancies affected the *greffiers*, and the value of these is slightly clearer, at between 12,000 to 13,000 *livres*. This gives us a total of 62,500 *livres*. Finally, around sixteen vacancies affected the *huissiers*, and the value of these posts ranged from 400 to over 1,000 *livres*. Using a value of 800 *livres* and multiplying this by the number of vacancies, we obtain a total of 12,800 *livres*. Overall the three different types of offices may have provided the crown with 90,600 *livres*.

²⁴⁶ Hamon, p. 110.

of offices could bring has been overemphasised. For instance, the 566,700 *livres* that selling offices in the Parlement of Toulouse could have produced would have failed to meet the running costs of Anne de Montmorency's army in Piedmont between October and December 1536 alone, which rose to 596,348 *livres*.²⁴⁷ Compared with established royal revenue streams, the income from office sale was minor. The crown's greatest annual income came from the *taille* tax, which by 1545 could bring in as much as 4.6 million *livres*. In contrast, the money received from offices in the 1520s fluctuated at around 150,000 *livres* a year.²⁴⁸ Venality was a long way from its later status, when it became utterly indispensable to the functioning of royal finances.²⁴⁹

Yet it would be unfair to compare the sale of offices in its earliest days with habitual forms of royal revenue. Venality belongs more appropriately to what has been termed a 'third fiscality'. Developing in the late middle ages, this comprised a series of money-raising techniques that supplemented the crown's traditional 'ordinary' and 'extraordinary' incomes.²⁵⁰ The motive for selling offices in courts of law becomes all the more obvious when we take account of how its proceeds fared alongside other financial expedients. The reign of François Ier saw the extensive use of *décimes* taxes on clergy revenues, forced loans imposed on towns, and the alienation of the royal domain.²⁵¹ Some techniques were entirely new. In 1522, the crown issued *rentes* guaranteed by the *hôtel de ville* in Paris. These government bonds

²⁴⁷ Potter, *Renaissance France at war*, p. 218.

²⁴⁸ Hamon, pp. 66, 109–110.

²⁴⁹ Mousnier, p. 68.

²⁵⁰ Jean-François Lasselmonie, *La boîte à l'enchanteur: politique financière de Louis XI* (Paris, 2002), pp. 479–480.

²⁵¹ Hamon, pp. 95–96, 99, 110–114. For forced loans and alienations in Languedoc, see Paul Dognon, *Les institutions politiques et administratives du pays de Languedoc du XIII^e siècle aux guerres de religion* (Toulouse, 1895), pp. 647–648.

operated as a system of public credit, and its features have been likened to royal venality.²⁵² In the reign of François Ier, however, the monarchy only collected 725,000 *livres* from this new policy, and it was only under Henri II that *rentes* would contribute greatly to crown revenues.²⁵³ The monarchy relied on an assortment of smaller financial measures to raise cash, some of which are difficult to discern. They included imposing specific dues, and selling letters of nobility or of naturalisation.²⁵⁴

Venality exhibited many features in common with these fiscal devices, and by the mid-sixteenth century, it was certainly among the most important of them. However, receiving money for judicial offices made financial sense not because it challenged or replaced existing expedients, but because it complemented and even reinforced them. Royal venality carried advantages that certain other forms of emergency money making did not. Targeting a distinct band of contributors in men of law and relying on their individual and voluntary contributions made venality a means of avoiding the potential hostility encountered by other methods, such as forced loans.²⁵⁵ Simultaneously, the sale of offices created more royal agents whom the monarchy could appoint to manage its money-raising measures.²⁵⁶ In this way, the use of one expedient strengthened others. Venality is best understood as a rapidly developing implement for raising money amongst a repertoire that it helped consolidate. Like Panurge, French kings had many ‘*manières d’en trouver*’.

²⁵² Descimon, ‘Modernité et archaïsme de l’état monarchique’, pp. 155–156.

²⁵³ *Hamon*, p. 191.

²⁵⁴ Fascinatingly the future lay councillor of the Parlement of Toulouse Michel de Pira appears to have purchased a packet of twenty letters of naturalisation from the crown for 25,000 *livres* in 1516, *Hamon*, pp. 114–117; Robert Knecht, *Renaissance warrior and patron: the reign of Francis I* (Cambridge, 1994), pp. 187–188, 191.

²⁵⁵ See AMT AA 13 no. 170 (28.07.1524), for an example of the municipality of Toulouse resisting a loan of 10,000 *livres* to the king, for which the royal commissioners were Helie Reynier and Michel de Pira, both lay councillors of the Parlement of Toulouse.

²⁵⁶ See Chapter 6, section iii.

ii) Systems and conceptions of office sale

For the king, selling offices in the Parlement of Toulouse was an untested undertaking. How and with what spirit was this task approached? This section studies the functioning and ethos underpinning the practice of venality in greater depth. It will address the ways in which the monarchy organised itself institutionally, analysing how money raised in this manner was used and just how permanently such changes were envisaged.

Notoriously, the reign of François Ier saw the foundation of an institution whose purpose was to organise and collect money from the sale of offices, the *recette-générale des parties casuelles*. Despite generations of research, historians still deploy generalisations about the origins of this branch of royal finances, many of which are derived from the work of Charles Loyseau.²⁵⁷ The foundation of the *parties casuelles*, often erroneously placed in 1522, is presented frequently as a spectacular turning point, a manoeuvre that established venality officially. It is sometimes implied that this ‘bureau’ oversaw a central, open marketplace, from which posts could be purchased directly. Perceptions of the early *parties casuelles* have been revised substantially.²⁵⁸ More recently, historians have tended to view this establishment in two ways. One interpretation sees the *parties casuelles* as an inchoate forerunner of what it would become, a minor department that generated small proceeds.²⁵⁹ An alternative analysis has depicted the *parties casuelles* as a vital step in a much longer

²⁵⁷ See Introduction, section i.

²⁵⁸ Gaston Zeller, ‘De quelques institutions mal connues du XVI^e siècle’, *Revue historique* 194:3 (1944), pp. 196–198; Stocker, ‘Public and private enterprise’, pp. 21–23; Hamon, pp. 553–554.

²⁵⁹ Stocker ‘Public and private enterprise’, pp. 24–25; Hamon, pp. 553–554.

process through which ‘legal’ venality was ‘perfected’, eventually becoming the well-known hereditary system of the seventeenth century.²⁶⁰ In this section, I argue that the nature of this institution was equivocal under François Ier. There are indeed indications that it had been cobbled together for a variety of purposes; towards the end of the period, though, the *parties casuelles* was associated increasingly with the sole task of selling offices.

What most upsets the traditional chronology is the fact that the crown received money for offices through its financial officials long before the *parties casuelles* existed. The first discernable royal agent to receive money from officers of the Parlement of Toulouse was the *trésorier de l’extraordinaire des guerres*, a financial officer responsible for the crown’s ‘extraordinary’ war expenses.²⁶¹ Lambert Meigret, the treasurer of this account between 1516 and 1522, confirmed in July 1519 that he had received 4,000 *livres* in ready cash as a loan from Tristan du Soustre, one of the men appointed to a new councillorship.²⁶² It was to the *extraordinaire des guerres*, then, that incoming judges of the Parlement of Toulouse directed their cash advances initially. Prior to the *parties casuelles*, there is reason to believe that the *extraordinaire des guerres* was only the most important of several receptacles for funds generated by office sale at this stage.²⁶³ The emphasis that continues to fall on 1522 and the *parties casuelles* is therefore misplaced – it was not then or through this new institution alone that royal venality was institutionalised.

²⁶⁰ Descimon, ‘Modernité et archaïsme de l’état monarchique’, pp. 152, 156–157; Martine Bennini and Robert Descimon, ‘Économie politique de l’office vénal anoblissant’ in *Épreuves de noblesse: les expériences nobiliaires de la haute robe parisienne (XVI^e-XVIII^e siècles)*, ed. Robert Descimon and Élie Haddad (Paris, 2010), pp. 32–34.

²⁶¹ This corroborates Stocker, ‘Public and private enterprise’, pp. 21–22.

²⁶² ADA 20J18, pièce 3 (10.07.1519).

²⁶³ Hamon, p. 443.

Royal financial administration did experience a transformation, but it was not in 1522 as Loyseau and many historians since have argued. In 1524, as a result of a restructuring of the crown's financial management, an official was devised who would collect the '*parties casuelles et inopinées*' – that is, cash from occasional and unanticipated sources. This was the *receveur-général des parties casuelles*. Although this receiver was indeed in charge of collecting money from the sale of offices, the remit of his activity was much broader at first, since he also collected money generated by other financial expedients. Between 15 June 1524 and 31 December 1528, the new account of the *parties casuelles* received its largest revenue from selling offices. Yet this represented only 56 per cent of the account's total income.²⁶⁴

The records of the *parties casuelles* have not fared well. It is for this reason that no definitive account of the institution in the sixteenth century exists. Only two registers of its accounts survive, covering the years 1525 and 1528 (AN KK351-2). These documents chart income and expenditure and were kept by the receiver of the time, Pierre d'Apesteguy. Unashamedly, they claim to record the 'receipt for the sale and resignations of offices'. Reading these files, it is difficult not to see anything but a deliberate effort to profit from offices.

Virtually no information is to be found about the Parlement of Toulouse in these accounts. Yet the records do reveal one transaction affecting the court. In February 1525, Apesteguy noted that Lucas Viguiet had presented him with 800 *livres* for a newly created office of *huissier* in the Parlement of Toulouse.²⁶⁵ Although the surviving accounts of the *parties casuelles* reveal that the crown was making even the

²⁶⁴ AN J1040 no. 17; Zeller, 'De quelques institutions mal connues'; Doucet, *Les institutions de France*, vol. 1, p. 411 n. 3; Stocker, 'Public and private enterprise', pp. 22–24; Hamon, pp. 257–261.

²⁶⁵ AN KK351, fol. 6r^o.

smallest offices profitable, rarely are senior judicial posts encountered, although there are entries for councillorships in fiscal courts, posts of *gens du roi*, and judgeships in intermediate jurisdictions.²⁶⁶ Whether by accident or design, the surviving records of the *parties casuelles* supply very little information about how judges in the parlements were to be treated.

All indications confirm, however, that it was to this department that judges of the Parlement of Toulouse began to present their loans. In 1537, Anthoine de Malras delivered 6,000 *livres* to the *parties casuelles* for his councillorship.²⁶⁷ One man's name became extremely prominently associated with the operation of the *parties casuelles* in the 1540s and into the reign of Henri II. During these years, it was Jehan Laguette who held the post of *receveur* of the *parties casuelles*.²⁶⁸ Documents teem with evidence that the new recruits of the Parlement of Toulouse sent their cash advances to Laguette.²⁶⁹ In return, the *receveur* issued a 'quittance' or 'acquit', a receipt of the transaction that could be used for purposes of reimbursement.

It is no coincidence that Laguette's name became more prominently associated with office sale in the 1540s. Despite its original financial breadth, gradually the receiver of the *parties casuelles* was denied the collection of a multitude of 'extraordinary' funds, which were turned over to the *épargne*. From December 1542, the receiver of the *parties casuelles* was subordinated in rank definitively to his equivalent at the *épargne*. The *trésorier de l'épargne* would supervise the transactions

²⁶⁶ To take but one example of a position within a fiscal court being sold, in August 1528 Estienne de Combes is listed as having paid 1,200 *livres* for a position of councillor in the Cour des Aides of Montpellier, AN KK352, fol. 20v^o.

²⁶⁷ BnF MS fr. 25721, pièce 481.

²⁶⁸ Hamon, p. 262 n.54.

²⁶⁹ See Appendix Table 3a, n.17, n.24, n.27, and n.33.

of the *parties casuelles* closely from now on, and the latter's responsibilities were pruned down to the collection of cash from offices almost exclusively. Clearly, the *parties casuelles* became a division of royal finances centered on venality.²⁷⁰

At the end of the reign of François Ier, the *parties casuelles* was a very different establishment to the one founded in the mid-1520s. By 1547, a highly specialised financial official supervised the sale of offices aided by a small team of clerks. Understanding this transition will continue to be elusive because of the extremely poor survival rate of the sources. Tantalisingly, there was a time when all transactions for offices could have been verified. Laguerre kept thorough accounts, and tangential mentions reveal that one of his books for the year finishing 1544 alone had around 500 folios or more, containing evidence of judges' loans.²⁷¹ Without these records, any quantification of the *parties casuelles* is impossible. Yet it is still possible to evoke, if imprecisely, that one of the functions and consequences of this new royal treasury was to streamline the returns from office sale, making them much more 'visible' to the crown.²⁷²

A question that has received very little attention is how the money received by the *parties casuelles* was used across the reign of François Ier.²⁷³ Once more, the sources available for investigating this problem are slim. What they indicate, however, is that venality was not predominantly a device to raise war funds.

²⁷⁰ Hamon, pp. 262–263, 277, 443.

²⁷¹ BnF PO 363 (dossier 7836), fols. 25v^o–26r^o.

²⁷² Hamon, p. 443

²⁷³ For a treatment of this question in the late sixteenth and early seventeenth centuries, Mousnier, pp. 427–433.

As we have seen, officially the sums that judges loaned to the king were meant to succour his ‘urgent affairs’ or to support ‘his wars’.²⁷⁴ What we still fail to grasp though is how individual judgeships actually contributed to such disbursements. It is easy to formulate estimates for how much a single councillorship in the Parlement of Toulouse might extend in precise military terms. A loan for a single councillorship could perhaps maintain as many as 300 mercenaries for three months.²⁷⁵ This is all very well, but is there any information to suggest that this is the type of activity the monarchy actually encouraged?

Fortuitously, the survival of a *mémoire* produced by the *conseil privé* gives us concrete evidence about how the money from high judicial offices was allocated. Meeting at Fontainebleau on 8 June 1537, the council discussed pressing financial matters, or ‘things requiring to be dealt with promptly’.²⁷⁶ Together, the senior administrators in attendance cobbled together a list of the financial resources available to them. One of these consisted in receiving 6,000 *livres* in the form of a loan for the resignation of a councillorship in the Parlement of Toulouse held by Michel de Pira.²⁷⁷ In all, the *mémoire* listed further loans for judicial offices intended to bring in over 40,000 *livres* to help defray urgent expenses. What exactly was this money supposed to cover? Concerns were military in nature: ‘for the payment of the galleys’; ‘for that of the *gendarmerie*’.²⁷⁸ More specifically, the troops of *Landsknechte* under the command of Niccolò de’ Rustici, also known as the *capitaine Bossu*, were

²⁷⁴ See Chapter 1, section iii.

²⁷⁵ This calculation is based on the loan for a councillorship being 4,500 *livres*, and an average cost of hiring mercenaries at 5 *livres* a unit per month, *Hamon*, p. 26.

²⁷⁶ ‘choses à quoy il est requis de pourveoir promptement’, AN J965 no. 11⁴. In attendance were Louis de Bourbon, Jean Du Bellay, Anne de Montmorency, Philippe Chabot, Antoine du Bourg, and Guillaume Poyet.

²⁷⁷ See Appendix Table 3a, n.16.

²⁷⁸ ‘Au payement des galleres, à celui de la gendarmerye’ J 965 no. 11⁴.

expecting a payment of 30,000 *livres* that had defaulted. An additional company of *Landsknechte*, numbering 1,200 and based near Langres, also required payment.²⁷⁹

However, satisfying expenses of a martial order was not the only worry gnawing at the *conseil privé*. The crown was not just obligated to men of war, but men of law. ‘We must see to the payment of the people of the Parlement in Paris’, the memorandum reads.²⁸⁰ Evidently, the funds collected from offices did not only exist to meet the demands of warfare.

Money received from the sale of offices could be used to cover the stipends of royal officers. It also supported other occasional payments made to judicial officers, including those of the Parlement of Toulouse. The funds of the *parties casuelles*, were used, for instance, to reimburse Jehan Robert, lay councillor of the Parlement, for his appearance to give testimony at the trial of chancellor Guillaume Poyet in 1543. The same source provided Pierre de Lagarde and Jehan de Ausono, also councillors of the Parlement of Toulouse, with 100 *sols* each per day that they worked as Poyet’s judges.²⁸¹ In 1537, the *parties casuelles* paid out 135 *livres* to Jehan de Bagis, a councillor of the Grand Conseil and later president of the *chambre des requêtes* of the Parlement of Toulouse. This was for work Bagis had completed in Languedoc on the king’s behalf, during a mission to impose forced loans on towns.²⁸² In this strikingly circular way, money from one financial expedient – the sale of offices – was being fed back in to subsidise the mounting of yet further fiscal operations. Selling offices

²⁷⁹ On the *Landsknechte* or *lansquenets*, see Potter, *Renaissance France at war*, pp. 131–143.

²⁸⁰ ‘Fault pourveoir au payement des gens de la court de Parlement a Paris’, AN J 965 no. 11⁴.

²⁸¹ AN MC/ET/XXXIII/19 (03.11.1543); BnF PO 1278 (dossier 28780), pièce 8. For more on Poyet’s trial see Chapter 4, section iii.

²⁸² AN J961¹¹ no. 41.

did not consolidate a simple war chest: it supported all manner of charges relating to justice and the work of royal agents.

Office sale also continued to be a powerful tool of patronage. Previously, if the king wished to gratify favourites, smaller offices would be gifted to them, which they would sell on to their private profit. Now, the money the crown collected from specific offices was often assigned to individuals whom the king wished to see rewarded.²⁸³ The tradition that saw offices as profitable ‘gifts’ was tenacious. Since the crown identified explicitly how cash from the sale of lesser posts was to be used, a substantial amount of information exists on their sale in the Parlement of Toulouse. Most typically, they involved the posts of *huissier* and *greffier*.

Examples of such sales are included in Appendix Table 3b. These demonstrate that available offices of *huissier* in the Parlement of Toulouse were sold to provide cash to royal household servants. Three offices were used in this way.²⁸⁴ François Ier also sold another office of *huissier* in the court in order to pay his jeweller.²⁸⁵ Yet the monarchy did not always collect and gift the profits for these positions, and continued to gift offices for others to sell. In 1546, the king gifted a vacant office of *huissier* in the Parlement to a *seigneur* and *dame*, permitting them to name the next holder of this office and to profit from their nomination directly. For this reason, the *secrétaire des finances* Guillaume Bochetel remarked that ‘Laguette did not receive anything’ from the provision of this office.²⁸⁶

²⁸³ Stocker, ‘Public and private enterprise’, p. 25.

²⁸⁴ See Appendix Table 3b, n.5, n.8, and n.11.

²⁸⁵ See Appendix Table 3b, n.9.

²⁸⁶ ‘Laguette n’en a receu chose’, BnF MS 5127, fol. 18r^o (21.07.1546).

Similar observations can be made regarding the offices of *greffier* in the Parlement. One such post was gifted to Henri II de Navarre (r.1517-1555), which he sold to fulfil a pension assigned to him of 12,000 *livres*.²⁸⁷ The sale of another post of *greffier* was used to contribute to the marriage of a royal familiar – a function the sale of offices performed more generally too.²⁸⁸ Some of the money from the sale of the latter post was also used to compensate the widow of a royal servant. It is not the only instance in which profits the monarchy received for offices or offices themselves were used as a form of compensation for personal damage or loss.²⁸⁹

A common impression of early-modern France is that the monarchy created a flurry of marketable offices whenever it found itself in financial difficulties as a result of war. Evidence drawn from the Parlement of Toulouse, however, suggests a more complicated picture. When the crown sold offices, it continued to consider some in particular as honorific gifts that belonged to the king to bestow, and whose proceeds would benefit familiars rather than the monarchy itself. Cultures of officeholding retained continuities with late medieval traditions, though now the crown was selling offices on behalf of private parties.

What made venality a successful implement is that the money it generated had no obligatory destination.²⁹⁰ It was a flexible ‘allocative device’, to use a phrase coined by Linda Levy Peck, generating cash that could be assigned quickly according

²⁸⁷ Appendix Table 3b, n.10.

²⁸⁸ Appendix Table 3b, n.7. For examples of offices or the proceeds from offices being used as contributions to dowries or marriage pacts, which affected judicial offices too: BnF MS fr. 5127, fol. 25r^o (20.01.1547); *CAF*, vol. 2, p. 46 [4076]; vol. 3, p. 703 [10727]. The most important case affecting the Parlement of Toulouse was that of the lay councillor Bertrand de Rességuier – see Chapter 3, section ii.

²⁸⁹ Outstanding examples include: *CAF*, vol. 2, pp. 737–738 [7325]; vol. 3, pp. 437–438 [9527].

²⁹⁰ Jacqueton, ‘Le trésor de l’épargne sous François I^{er}’, p. 41.

to diverse needs.²⁹¹ Creditors of the monarchy and those seeking financial reward knew that it might be easier to receive payment through offices. Just as keenly as those looking to be promoted to office, then, a whole series of individuals followed the news of vacating offices keenly, seeing in them opportunities to be paid money that they were owed or felt they merited. In many instance, the king was content to approve such requests. Venality was not just an instrument of the crown's fashioning, and which serviced its needs uniquely.

In keeping with late medieval traditions however, the kinds of office that could be gifted for profits were delineated carefully, if implicitly. Through examples drawn from the Parlement of Toulouse, we have seen that it was mostly the posts of *huissier* or *greffier* whose sale was gifted to the royal entourage. It is no coincidence that we find these posts and the money they provided explicitly identified in the sources, whereas the use of money from judgeships in the Parlement remains obscure or largely anonymous. The offices of *greffier* and *huissier* could be sold openly far more acceptably, since they were 'manual' functions without 'jurisdiction'.²⁹² There was, therefore, an important bifurcation in the ways in which offices were conceived.

On the one hand, there were offices that categorically carried no decision-making powers, but that merely consisted in executing orders, maintaining records, or – famously – managing crown finances. The venality of these posts was easier to stomach. On the other hand, there were presidencies and councillorships in sovereign courts, for which office purchase was prohibited. There were no sanctions in place if

²⁹¹ Linda Levy Peck, 'Monopolizing favour: structures of power in the early seventeenth-century English court' in *The world of the favourite*, ed. John H. Elliott and Laurence W. B. Brockliss (New Haven CT; Leiden, 1999), p. 61.

²⁹² See Chapter 4, section i.

these officers were to provide reimbursable advances, though. In the first half of the sixteenth century, the outright sale of offices was practised alongside a regime of loans-based venality. The monarchy was eager to maintain this binary vision of officeholding, but it was not altogether without its grey zones.²⁹³ Amongst the personnel of the Parlement of Toulouse, the demarcation line between those royal offices that could be sold and those that could not, but could provide loans, ran roughly between the *huissiers* and *greffiers* in the former camp, and the councillors and presidents in the latter. Just how committed was the monarchy to supporting this division between loans for offices and outright sales?

Traditionally, historians followed Charles Loyseau's distrust of venality in its 'loaning' form.²⁹⁴ Rather than a 'fiction' or ploy invented to circumvent laws about venality, later researchers have treated the crown's claims much more seriously, by suggesting that officers were indeed reimbursed.²⁹⁵ In using the term, then, the monarchy was not just spouting empty language to soothe its conscience. Nevertheless, this analysis has perhaps been overly confident about the strength of the arrangements for officers' repayment when it has asserted, for instance, that loans were 'more often than not actually reimbursed'.²⁹⁶ Such a claim underemphasises the difficulties the monarchy encountered in the management of this scheme in the long term. In fact, it is not clear how feasibly such a system, which suffered from severe structural shortcomings, could endure.

²⁹³ In the Parlement of Toulouse, the ultimate 'grey zone' can be located in the offices of the *gens du roi*. Some apparently provided loans for their offices, but others made payments – see Appendix Table 3b, n.1 and n.2. For earlier arguments that the offices of the *gens du roi* should not be sold, Katia Weidenfeld, *Les origines médiévales du contentieux administratif (XIV^e-XV^e siècles)* (Paris, 2001), p. 97. The venality of posts of *avocat du roi* did cause consternation: see above, section i, and Chapter 5, section i.

²⁹⁴ See Introduction, section i.

²⁹⁵ Dewald, *The formation of a provincial nobility*, pp. 136–137; Hamon, pp. 181–183.

²⁹⁶ Hamon, p. 554.

Consistently, the monarchy and its representatives represented the transfers of cash for judgeships in sovereign courts as loans. As we shall see in Chapter 3, when judges were welcomed to the Parlement of Toulouse, they often echoed the royal voice: the sum that they had given to the king was an advance, which they fully intended to recover.²⁹⁷ Beyond paying lip service to the notion of reimbursement, these officers also worked to secure it. On the surface, then, both king and magistrates appeared to treat the exchanges of money as genuine loans. The question was, how was it meant to take place, and how smoothly did it occur?

Typically, when the crown confirmed receipt of a loan from an officer, it issued an *acquit*, an instrument with which the officer could pursue reimbursement at their own initiative. Unlike some later forms of venality, these loans were without interest.²⁹⁸ Sometimes, councillors of the Parlement of Toulouse obtained orders for reimbursement almost as soon as they were provided with offices.²⁹⁹ In contrast, some officers who had loaned for their councillorships in 1519 and 1521 only received authorisation for refunds as late as October 1533.³⁰⁰ Perhaps instructions for reimbursement only began in the 1530s, when the monarchy felt a little more comfortable financially, and when the costs of warfare were at a low ebb. Royal orders to settle debts to officers resulted in paperwork being produced, but we must be wary not to mistake this activity with satisfactory repayment. A very real quandary is

²⁹⁷ See Chapter 3, section iii.

²⁹⁸ Anne Vandembulcke, *Le pouvoir et l'argent sous l'ancien régime: la vénalité des offices dans les conseils collatéraux des Pays-Bas espagnols (seconde moitié du XVII^e siècle)* (Kortrijk-Heule, 1992), p. 138.

²⁹⁹ See Appendix Table 3a, n.12, n.14, and n.15.

³⁰⁰ See Appendix Table 3a, n.1, n.3, n.4, and n.7.

whether magistrates were ever returned their money, and if they did, where did it come from?

The crown did not propose to refund the judges of sovereign courts from centralised coffers. Instead, most of the magistrates of the Parlement of Toulouse were assigned repayment from the account of the *exploits et amendes* of their court.³⁰¹ The *amendes* were managed by a *receveur*, whose purpose it was to collect all the fines applied by the court in judgement, as well as other fees that were reserved to the king. The cash it received was therefore royal income raised through the administration of justice. A precedent for this procedure is to be found in the reign of Louis XII: when Antoine Duprat provided a loan for his office of *maître des requêtes*, he was to be reimbursed this sum from the *exploits et amendes* of the Parlement of Toulouse.³⁰² When the crown ordered an officer who had made a loan to be reimbursed, then, the officer in question expected to receive his money from a financial postholder known to him, whose task it was to collect and distribute sums amassed in everyday court business.

Did this official ever repay the judges successfully? Evidence is scarce that magistrates of the Parlement of Toulouse were reimbursed their loans, but its absence is no proof that it did not occur. Notarial records might confirm either total or partial reimbursements, as has been shown was the case for councillors of the Parlement of Paris.³⁰³ In the early seventeenth century, one author, who had been a judge in both the parlements of Paris and Toulouse, assured his readers that magistrates were indeed

³⁰¹ In very rare instances, total or partial reimbursements were assigned on the *parties casuelles*. See Appendix Table 3a, n.17 and n.27.

³⁰² Maulde La Clavière, *Procédures politiques du règne de Louis XII*, p. 711.

³⁰³ Hamon, p. 183.

reimbursed for their loans long into the sixteenth century. His claim, though, implied that repayment schemes eventually floundered, and that they might have favoured the Parisian *parlementaires* because of their connections and proximity to the royal court.³⁰⁴ Although repayment may not have been impossible, there are clear indications that it could be a struggle. By insisting on the use of the courts' *exploits et amendes* funds to return officers their loans, the crown's determination to pay its debts suffered from intrinsic flaws.

For a start, it made little financial sense to reimburse so many officers from the *exploits et amendes* of the Parlement of Toulouse, which were a limited resource. In 1505, it held 19,000 *livres*.³⁰⁵ Reimbursing the fifteen councillors created in 1543 alone (at an estimated 4,500 *livres* each) would create a hypothetical strain of 67,000 *livres* on these court reserves in one blow, an enormous sum to disburse. If dozens of judges each had a claim to the money of the *exploits et amendes*, we must not be surprised that its *receveur*, suddenly saddled with disbursements that were not the primary purpose of his office, was not likely to cooperate by paying out. The court fines account was used to cover the 'ordinary expenses' of the Parlement of Toulouse, which meant everything needed for the day-to-day running of the tribunal, from wax for candles, to wood for fireplaces; parchment and writing supplies, to binding and preserving court records. The *exploits et amendes* were also used to pursue much-needed repair work on the crumbling buildings of the Château Narbonnais, as well as constructing entirely new structures, such as the court's clock tower. It was a fund

³⁰⁴ '... ceux du Parlement de Paris estant pres du Roy, & ayant du credit, se firent longues années rembourser: & de mon temps en l'année 1582 il y avoit plusieurs de nos anciens qui avoient esté remboursez', *Treze livres*, p. 84.

³⁰⁵ Maulde La Clavière, *Procédures politiques du règne de Louis XII*, p. 711.

used to subsidise trips made by the magistrates to the king.³⁰⁶ The reimbursement of judges who had made loans had to compete with outlays that were integral to the operation of the court. It is not surprising that, in these circumstances, it might be pushed to one side.

More problematically, not all of the money the court received through fines was within its control. When the Parlement adjudicated *amendes au roi*, the fines received became the crown's and could be alienated to whomever the king pleased. On the sole occasion that François Ier visited the Parlement of Toulouse in 1533, the stormy issue of gifting court fines came up during the court's remonstrances.³⁰⁷ Another troubling matter was the high turnover rate of staff at the *exploits et amendes* in the Parlement at the precise time its officers were requesting reimbursements from their account.³⁰⁸ Was it not also disturbing that the crown intended to repay judges from funds accumulated as a result of sentencing? Had this not been why, in 1535, the judges on the commission to reform justice in Provence recommended that the king install officers 'equipped with *gages* from a source other than fines'?³⁰⁹ Such an arrangement might seem to exacerbate the fear that venal judges would only too keenly sell their verdicts, sentencing zealously with a rapacious intent.³¹⁰

Examples from the Parlement of Toulouse suggest that the process of reimbursement was problematic. Judges had to make multiple attempts to be paid

³⁰⁶ For examples, see ADHG 1B28, fols. 1r^o–1v^o (13.12.1534), 45r^o (18.12.1534).

³⁰⁷ ADHG 1B26, fol. 277v^o (04.08.1533).

³⁰⁸ Pierre II Potier, who received both court fines and *gages*, resigned from the management of the former in the 1530s. In his place, the Parlement employed in succession as *receveur des exploits et amendes* Jehan Feauldière, Guillaume Le Myre, and Alain Le Grand, before finally settling on Arnaud de Gabrilhagues or du Gabre in 1545: ADHG 1B26, fol. 30v^o (16.12.1532); 1B27, fol. 1v^o (13.12.1533); 1B32, fol. 86v^o (03.01.1539); 1B38, fol. 264r^o (18.03.1545). For a mention of the venality of this office, *CAF*, vol. 3, pp. 684–685 [10642].

³⁰⁹ 'pourveu de gaiges ailleurs que sur les emendes', AN J846 11²¹, fol. 1r^o (Paris, 28.07.1535).

³¹⁰ See Chapter 4, sections i and ii.

back.³¹¹ The greatest evidence of a single reimbursement is that of Pierre de Lagarde. Over five years he received three orders for repayment. Lagarde was hoping to be reimbursed at least partially through a fine applied by the Parlement of 3,500 *livres*, a fine that, unfortunately, was gifted subsequently by the king to someone else. Despite receiving royal permission to be repaid, it is not clear that Lagarde received his money. More troublingly perhaps, it seemed that this judge had identified the fine from which he hoped to be paid back himself.³¹²

In the Parlement of Paris, *receveurs* who were delivered orders to reimburse judges answered that they would do so happily just as soon as the court's regular expenses were met.³¹³ This language was evasive. Although on the surface the monarchy had identified a clear path by which judges were meant to recover their money, it remained rudimentary. The competition for and manipulation of courts' *exploits et amendes* made reimbursing the loans of magistrates thoroughly problematic. Relying on this resource for the purpose looks – at best – to be a case of wishful or short-term thinking. At worst, this was indeed deceit.

If payments were slow coming or never came at all, then there was a real risk that judges would die and pass the crown's debt on to their successors. This was a scenario that raises further doubts about the seriousness of the monarchy's reimbursement schemes. In 1548, for example, Guillaume Maignan, the nephew of a deceased councillor of the Parlement of Toulouse, attempted to recover the loan of 6,000 *livres* his uncle had presented for his office in 1537. This time, an *acquit* arranged for the funds to come not from the court's fines, but from the central

³¹¹ See Appendix Table 3a, n.4 and n.12.

³¹² See Appendix Table 3a, n.5.

³¹³ AN MC/ET/XIX/151 (07.03.1539).

treasury, the *épargne*. In doing so, this royal instruction acknowledged that an earlier order for payment mandated under François Ier from the *exploits et amendes* had failed to come to fruition.³¹⁴ In the 1550s, attempts were made to source the cash to reimburse officers in the Parlement of Toulouse from alternative sites.³¹⁵ By the 1560s, the monarchy had devised a new and remarkably venal means of reimbursement in the form of *rentes*. By providing a further loan, men who had loaned for a judgeship or their heirs were invited to purchase a *rente* on the *hôtel-de-ville*, which they could then sell to be reimbursed. The monarchy's debt still stood though, and the king was merely obligated to someone else.³¹⁶ By shifting the financial channels, the crown conceded that repayment using the court's fines had failed. Held to its word by claimants, the monarchy still demonstrated its unwillingness for officers' loans to lapse into permanent payments, a notion that, during the wars of religion, became more chimerical than ever.

With good reason it can be asked whether the monarchy could ever hope to back-pedal from a full-blown system of office sale. Assigning repayment on the *exploits et amendes* suffered from so many ingrained difficulties, that there was little hope that such a scheme could last. We might well wonder whether the crown truly expected every judge to pursue his reimbursement actively.³¹⁷

Royal administrators saw judicial offices as opportunities to profit, and fairly unashamedly. If they were resources to be tapped, however, the crown was concerned

³¹⁴ See Appendix Table 3a, n.12.

³¹⁵ See Appendix Table 3a, n.28 and n.30.

³¹⁶ See, for example, a case involving a councillor of the Parlement of Rouen received in 1544: BnF PO 363 (dossier 7836), fols. 24r^o–29r^o; Descimon, 'Modernité et archaïsme de l'état monarchique', pp. 158–159.

³¹⁷ See Chapter 6, section ii.

about who ended up with these posts in particular. Money was an important facet of appointments, but it had to be weighed against other considerations.

An intervention concerning the provision of a judicial office by the king himself offers us insight into the anxieties gripping the ruling elite. In 1537, writing to the chancellor from the battlefield in Picardy, François Ier recapitulated his decision to give a councillorship that had become available in the Parlement of Paris to a specific candidate, as long as he was deemed ‘able’ to exercise the office. However, the king recalled that his sister Marguerite de Navarre (1492-1549) had also requested the office for the nephew of its previous occupant. Wishing to grant his sister’s request, but aware that the office now had two claimants, François Ier asked for Marguerite’s candidate to be examined. Then, he told his chancellor, whichever of the two potential judges was found ‘most able’ would be supplied with the office. The only condition, however, was that the most proficient candidate would also need to be able to supply 6,000 *livres*.³¹⁸ For the monarch, a complex array of specifications had to be met before a judgeship could be gifted. Royal policies of provision to office rested on a shifting triangle of commitments based on patronage, merit, and money. Every provision was an occasion to raise loans, but what would happen if the most able candidates were unable to provide them? This prospect was deeply troubling to the monarchy, and was reflected in its official language.³¹⁹

Venality was not always worth encouraging for the different actors involved in the provision to judgeships. In 1532, Anne de Montmorency (1493-1567) wrote to the king, trying to dissuade him from allowing the resignation of a councillorship in the

³¹⁸ François Ier to Antoine du Bourg, camp near Hesdin (13.04.1537), AN J965 no. 6⁹.

³¹⁹ See Chapter 1, section iii.

Parlement of Aix. He claimed that it had been secured ‘through an ample sum of cash’, apparently paid to the crown. Montmorency had an alternative candidate in mind, and reminded the king of his own declarations that ‘no money at all would be taken from judgeships’, implying that the monarch ought to stick to the *ordonnances* prohibiting venality.³²⁰ He vouched for his man’s age, reputation, and lengthy, unrewarded royal service. Five years later, Montmorency wrote a letter to the chancellor addressing the resignation of a councillorship that was about to occur in the Parlement of Paris. The new judge, Montmorency wrote, was very strongly recommended to him by his kin, whom he wished to gratify. Keen to sway the chancellor in favour of the resignation, Montmorency promised that his candidate would ‘be able to transfer some amount of cash to support the king financially’.³²¹

Montmorency’s language reveals the malleability of the notion of ‘venality’. Rather than seeing in his activities the opportunism of a courtier, it is more enlightening to observe that the sale of offices was a construct capable of manipulation by those elites around the king. In the eyes of most of the monarchy’s decision makers, the fact that offices could and should be sold was largely undisputed. Yet it was not always necessarily the most important of their concerns.

In this section, we have seen how the crown’s financial reorganisation created an establishment that was eventually concerned with collecting all the income from the sale of offices. Such a move was unprecedented, and might seem to herald the normalisation of venality. Nevertheless, selling offices was conducted through a two-

³²⁰ ‘moyennant quelque bonne somme de deniers...’; ‘par vous a esté déclaré et dict qu’il ne seroit prins aucuns deniers des offices de jugerie’, Thierry Rentet, *Anne de Montmorency: grand maître de François I^{er}* (Rennes, 2011), pp. 137–138.

³²¹ ‘Il pourra bailler quelque somme d’argent pour subvenir aux affaires du roy’, Anne de Montmorency to Antoine du Bourg, Abbeville (26.06.1537), AN J965 no. 9¹⁵.

tiered system of loans alongside outright payments, and money received from different types of offices was employed with great range. At the same time, the reimbursement of loans faced challenges so serious that it was, perhaps, only a matter of time before access to high judicial functions became assimilated to purchases. Under François Ier, the sale of offices combined traditional and innovative elements, benefiting private and royal interests. If royal venality grew from strength to strength, by no means had this been a plan present from the outset. Selling newly created offices might be called off altogether, especially if money could be secured by other means.

iii) Negotiation and the process of state formation

In the late 1520s, the crown absolved Claude Laurencin, a *panetier ordinaire* to Louise de Savoie, for homicide and for his subsequent evasion from prison dressed as a priest. His ‘pardon tale’ revolved around a staunch defence of the king, who had been insulted by a resident of Lyon, François Dupré.³²² As hostilities between the pair escalated Dupré was killed, but the initial spark of enmity related, very curiously, to royal policies of office creation.

François Dupré had been speaking in the city hall when he mentioned a circulating rumour. Apparently, François Ier and his mother Louise de Savoie were sounding out the establishment of a parlement in Lyon. Dupré scoffed that this was entirely motivated by the need for cash: if the inhabitants of Lyon let slip that they had money that could fund this institution, he said, they would be forced to surrender

³²² Natalie Zemon Davis, *Fiction in the archives: pardon tales and their tellers in sixteenth-century France* (Cambridge, 1987).

it to the crown, and the proposed tribunal would never see the light of day. Deliberately, then, the king and his mother had perpetuated the rumour of a new court to see if they could siphon locals' funds, and so wilfully 'tricked' the residents.³²³ Laurencin informed the king of these slanderous suppositions, which roused Dupré's anger and eventually led to their violent confrontation.

This vivid example introduces the theme of this final section. The creation and sale of offices by the monarchy was an experiment that provoked debate and hostility. Subjects discussed the creations of new offices and jurisdictions, questioning the crown's logic for them, and asking for them to be withdrawn. Research into the monarchy's failed enterprises can give us fascinating insights into how the creation of posts for money was conceived. The attempt to establish a court in Lyon, as in the example above, was far from isolated. A blueprint exists from this period, for instance, sketching out the establishment of a parlement in Poitiers with a multitude of officers – a project intended to provide the king with 80,000 *écus*, but one that remained on paper.³²⁴ This section considers exchanges between the crown and institutions in Languedoc specifically, exploring how and why the monarchy was prepared to either modify its creations of new venal offices to mollify opposition, or to abort its schemes entirely. The chief interlocutors with the monarchy in the region were the Parlement of Toulouse and the Estates of Languedoc. It is particularly through the analysis of venal offices created in lower jurisdictions, about which documentation is especially scarce, that we shall come to appreciate three facets of venality. Firstly, it involved a bargaining dynamic in which the monarchy almost always emerged as the dominant partner. Secondly, royal office sale in the lower

³²³ AN JJ243, fols. 121r^o–122v^o.

³²⁴ See Appendix Table 4.

jurisdictions paralleled the creation of offices in sovereign courts, but started earlier and did not usually involve loans. Finally, selling offices contributed indirectly to the process of state formation, as it involved increasing the number of royal agents in intermediary courts of law dramatically.

We shall begin by examining negotiations relating to office creations in the Parlement of Toulouse, before considering the creation of posts in its subordinate jurisdictions. Whenever the king considered creating posts in this court, another body usually consulted were the Estates of Languedoc. In fact, the demand for a greater number of judges in the Parlement had originated with the Estates. Between 1506 and 1509, the Estates of Languedoc attempted to obtain the installation of six new lay councillorships in the Parlement of Toulouse, petitioning the king for such a project at length. These judgeships were needed, the Estates argued, to operate the court's criminal chamber on a regular basis.³²⁵ The Parlement was hostile to the project on the basis that creating more lay than church councillors would 'deform' the court, but conceded that if the king really wanted to create offices for the purposes of a criminal chamber, there needed to be twelve or at the very least ten councillors, half of them *clerc*, half lay.³²⁶ The scheme fizzled out. What it demonstrated, though, was a genuine desire from the Estates to increase the number of judges in the Parlement. By its own arguments, too, the Parlement implied that it would need more members in order to run more effectively. It supplied the monarchy with arguments that further creations were justified.

³²⁵ ADHG 1C2276, fols. 257r^o–257v^o (December 1506); *Viala*, vol. 1, pp. 95–97.

³²⁶ ADHG 1B13, fol. 588v^o (22.03.1508); 1B14, fols. 124v^o–125r^o (19.03.1509); 1C2276, fols. 282r^o–284r^o (January 1509). For more on the necessity to balance the lay and *clerc* elements of the court, see Chapter 3, section ii and Chapter 6, section i.

When new judgeships were created for loans in 1519, the same concerns as the abortive episode above flared. The eight councillorships were all supposed to be laymen – the court agreed to register the creation of these judgeships, but implored the king to respect the ‘former institution’ of the court by turning half of the new councillorships into church posts. The court dispatched *huissier* Simon Calot to the chancellor, to persuade the king of this plan, and the monarch agreed.³²⁷ Half of the new judges received were given church positions, even though they were lay and married. Once more, it seemed that for the Parlement, the major obstacles to accepting new creations from the crown were the issues of secular and church judgeships.

Subsequent creations of councillorships in the Parlement suggested that this continued to be a problem. One royal act creating new judgeships in 1523 took several months to register, and required the king’s repeated and express orders to do so. The court resisted this creation because both councillorships were intended to be lay, and in January 1524, all those judgeships created in 1519 were made lay once more.³²⁸ Perhaps the Parlement only conformed after it heard assurances that the king would no longer receive loans for councillorships in March that year.³²⁹

Creations of offices in the Parlement of Toulouse other than councillorships proved far more contentious. In June 1523, three offices of *huissier* were established. There was no particular pressure to register this royal act initially, considering that one of the men hoping to take up this position only purchased it in 1525.³³⁰ Yet

³²⁷ ADHG 1B17, fols. 396v^o (27.05.1519), 397v^o–398r^o (28.05.1519); see Appendix Table 1.

³²⁸ See Appendix Table 1; *La Faille*, vol. 2, p. 41.

³²⁹ See Chapter 1, section iii.

³³⁰ See Appendix Table 3b, n.3.

formalising the creation encountered virulent opposition in court from the original eight *huissiers* of the Parlement, together with the Estates of Languedoc. Multiple royal letters confirmed the creation, and the three new *huissiers* were only established after a trial in February 1527.³³¹ Far more controversial was the royal act creating a post of second *avocat du roi*. Issued in 1523, it was only registered three years later, since it spawned a complicated lawsuit in the Parlement of Toulouse that was later evoked to the Grand Conseil. Opposing the new creation were the Estates of Languedoc – later joined by the estates of Quercy and Rouergue – and the existing *avocat du roi* of the Parlement, Jehan Deygua. They contended that the post was redundant and onerous. Supporting the royal act was Jehan de Ulmo, who hoped to become second *avocat du roi*, and others.³³² When it emerged that the creation of this post had been purchased for 1,800 *écus*, its opponents attempted to persuade the king to annul the office altogether if the Estates reimbursed the incumbent. 4,000 *livres* were set aside for this task. However, Ulmo obtained further royal letters mandating that the office should be created. In the end, the judges of the Grand Conseil ruled that the royal act creating a second *avocat du roi* had to be registered by the Parlement of Toulouse.³³³

Although the Estates of Languedoc were unsuccessful in their attempt to ‘extinguish’ this office, this was a sign that it might be possible to buy out undesirable creations. The arrival of four additional councillorships in the Parlement of Toulouse in 1537 roused further debate. Despite opposition from the Estates of Languedoc, the

³³¹ See Appendix Table 1.

³³² See Chapter 5, section i.

³³³ ADHG 1C2277, fols. 294v^o–295r^o, 297r^o–298v^o; 1C994, fols. 488v^o–489v^o (February 1525); 1C2277, fols. 314r^o–314v^o, 330r^o–330v^o (October 1525); AN V⁵1045, fols. 164r^o–165v^o (Grand Conseil at Angoulême, 25.06.1526), 205v^o–206r^o (05.09.1526, Grand Conseil at Tours).

court registered these creations.³³⁴ The conditions in which a single councillorship was created in 1538 have left very few traces in the court's records. However, what is clear is that the monarchy was required to bargain with the Parlement far more when it began to create new judgeships there in the 1540s. For example, it reduced the original scale of its creation from twenty to fifteen councillorships.³³⁵ This reduction appeared to be one conciliatory measure the crown employed as a means of placating any misgivings the court might have, but it had others too. By May 1543, the monarch was worried that the Parlement of Toulouse had been dragging its feet in confirming the creation of the fifteen new judges. The court had apparently complained about the effect such an unprecedented augmentation would have on the 'integrity' of the king's justice, and the royal voice acceded to these concerns, agreeing that the new magistrates had to be of the greatest virtue. As such, the crown produced rules regarding how candidates were to be examined and rejected if they were related to existing councillors, together with instructions on how those candidates the Parlement refused were to be reimbursed.³³⁶ By giving the court more control over admissions, these instruments were intended to appease the Parlement.

Far more controversial was the decision to establish a *chambre des requêtes* in 1544.³³⁷ The Estates of Languedoc opposed the establishment of this new jurisdiction vehemently. They argued that the *chambre des requêtes* was superfluous, since the matters it decided could be judged by existing magistrates of the judicial hierarchy and at a fraction of the cost. The Estates of Languedoc recommended the suppression of the chamber, but felt that those councillors already received to the *requêtes* should

³³⁴ ADHG 1B30, fol. 306v^o (06.06.1537); see Appendix Table 1.

³³⁵ See Appendix Table 1.

³³⁶ ADHG 1B1903, fols. 42v^o–44r^o. See Chapter 1, section ii.

³³⁷ See Appendix Table 1.

be absorbed into the rest of the Parlement.³³⁸ Although eventually the crown released royal letters disestablishing it in the summer of 1547, the *chambre des requêtes* continued to operate until early 1549.³³⁹

When it comes to office creations in the Parlement of Toulouse, what is striking is the lack of tension between crown and court. The tribunal clearly had reservations about some aspects relating to new offices – especially their church or lay status – but there was considerably less ‘resistance’ to these innovations than might be expected, especially in comparison with the Parlement of Paris over the course of the sixteenth century.³⁴⁰ Very little indicates that the Parlement of Toulouse was reluctant to accept new judgeships purely because of an aversion to venality. Although the creation of new magistracies in the Parlement was never called into question seriously, it seems evident that the monarchy was eager to make such creations more palatable to the court at moments. Notably, positions other than judgeships were those that caused the greatest contention, sparking lengthy legal disputes and even raising the possibility that the existence of new offices could be averted if the venal pursuant could be indemnified. This was a pattern of interaction that affected the jurisdictions operating beneath the Parlement of Toulouse far more than it did the sovereign court. There, as we shall see, the monarchy created, abolished, and recreated offices multiple times.

The first major creation of posts for cash in the judicial hierarchy came early in the reign of François Ier, in February 1515. A royal act announced the creation of one to two ‘enquêteurs et examinateurs’ in every intermediary royal jurisdiction of the

³³⁸ ADHG 1C2278, fols. 295r^o–295v^o (June 1544), 309v^o (November 1544), 350v^o (November 1545).

³³⁹ CAH, vol. 1, p. 226; vol. 3, p. 93; ADHG 1B4321; 1B4322.

³⁴⁰ Doucet, *Étude sur le gouvernement de François I^{er}*, vol. 1, p. 154; Sylvie Daubresse, *Le parlement de Paris ou la voix de la raison (1559-1589)* (Geneva, 2005), p. 332.

kingdom.³⁴¹ The monarchy justified the creation of these offices as part of an effort to make tribunals more uniform and less expensive. Primarily, the *enquêteurs* would carry out investigations, allowing judges to continue deciding cases without having to leave their tribunals. Previously, such activities had been delegated to local legal practitioners, whom the crown argued were untrustworthy and abused such commissions. After the crown sent numerous letters to the Parlement ordering this act to be registered, the initially reluctant court obeyed to avoid ‘scandal’. The *enquêteurs* would be created, but only until the king was ‘better informed’ about the effect of these offices on justice and the commonweal.³⁴²

In the meantime the judges decided to temper the royal act with ‘modifications’. Through these the magistrates of the Parlement of Toulouse did more than record the law – they ‘corrected’ it.³⁴³ The most important of their ‘modifications’ was to impose specific caps on the number and location of *enquêteurs* created, which can be seen in Appendix Table 5a. This made their total number smaller than the original royal act had implied.³⁴⁴ The Estates of Languedoc had opposed the creation of *enquêteurs* on the basis that they had not been consulted and that the offices would prove detrimental to law graduates’ livelihood. Favouring a policy of total abolition, the Estates agreed to support the modified creation elaborated by the Parlement if this proved impossible.³⁴⁵

³⁴¹ ADHG 1B1900, fols. 302v^o–304r^o.

³⁴² ADHG 1B16, fols. 241v^o (23.08.1515), 484v^o–485r^o (11.08.1516).

³⁴³ Élise Frêlon, *Le Parlement de Bordeaux et la «loi» (1451-1546)* (Paris, 2011), pp. 25, 101–154.

³⁴⁴ ADHG 1B16, fols. 485v^o–487v^o (11.08.1516).

³⁴⁵ ADHG 1C2277, fols. 50v^o–52r^o; 1C993, fols. 208r^o–209r^o (August 1515); 1C2277, fols. 79r^o–80r^o; 1C993, fols. 263r^o (October 1516), 296r^o (August 1517).

Faced with a reinterpretation of its act and urgent pleas to call off the entire venture, the monarch responded by sending François Ier's *valet de chambre*, Guillaume Feau, *seigneur d'Yzernay* to the Parlement of Toulouse. He explained that all new *enquêteurs* should be left to enjoy their offices peaceably, and the court should retract its 'modifications'. After receipt of further royal acts, the court duly complied.³⁴⁶ The crown's next manoeuvre was to delineate just how many *enquêteurs* it wished to create within the jurisdiction of the Parlement of Toulouse. Despite opposition from the court's own *avocat du roi*, who argued that newly created offices 'could prove harmful to the commonweal', the court registered this royal act.³⁴⁷ As Appendix Table 5a indicates, this royal declaration easily envisioned the creation of twice as many *enquêteurs* as the Parlement was prepared to implement.

The *enquêteurs* were not the only offices in the judicial hierarchy to be created by the monarchy for cash. In May 1519, the crown announced the creation of councillors or 'reporters' (*conseillers-rapporteurs*) in the intermediary courts beneath the Parlement of Toulouse. An act explained, once more, that law graduates had previously been admitted 'indiscriminately' to local courts, where they assisted judges in deciding cases. This was intolerable for a number of reasons. Since these graduates were also practitioners, they would inevitably leak confidential information. Such a system also introduced young and inexperienced men into judges' councils, which damaged justice, litigants, and the commonweal. It was on this basis that the monarchy introduced the offices of councillor-reporters as certified royal officers to replace graduates.³⁴⁸ As Appendix Table 5b demonstrates, the monarchy created

³⁴⁶ ADHG 1B17, fol. 135v^o (09.05.1518); 1B18, fols. 13v^o–14r^o (28.11.1519).

³⁴⁷ 'porroient estre au temps advenir dommageables à la chose publicque', ADHG 1B18, fols. 127v^o–128r^o (12.03.1520).

³⁴⁸ ADHG 1B1901, fols. 40r^o–41v^o.

precise numbers of councillor-reporters in Languedoc and beyond. In the court of the *sénéchal* of Toulouse, the post could fetch 400 to 1,000 *livres*. The transcript of a trial heard in the Parlement makes it emphatically clear that this money was not considered a loan.³⁴⁹

The institution of the councillor-reporters caused uproar. Invited to comment about this creation by the Parlement, its *procureur du roi* François d'Olive suggested that it would deal a great blow to the university, and impoverish the families of many law graduates in the region. Barred from the councils of their local courts, young lawyers would miss out on a singular educational experience. Consequently, the quality of the legal professionals serving the king and commonweal would diminish in the long term. Despite this unease, the Parlement of Toulouse registered the creation. The Estates of Languedoc echoed many of Olive's fears, and pleaded with the king to abolish all recently created judicial posts as pernicious to the commonweal of Languedoc.³⁵⁰

The Estates of Languedoc had reason to be optimistic about this venture. Late in 1519, at the Estates' request, the king had agreed to suppress a flurry of predominantly financial offices that had been created. There was one catch though: the Estates of Languedoc would have to pay 71,800 *livres*, the total sum the crown expected to raise through the sale of the new offices.³⁵¹ The Estates consented to and delivered this payment, but they also hoped to carry the abolition further, to include the councillor-reporters and *enquêteurs*. Persistence paid off. In May 1522, the crown

³⁴⁹ ADHG 1C2277, fol. 483v^o (November 1531); See Appendix Figure 10.

³⁵⁰ ADHG 1B17, fols. 398r^o–398v^o (28.05.1519); 1C2277, fols. 142r^o–143r^o; 1C993, fols. 383r^o–386v^o (November 1519).

³⁵¹ CAF, vol. 1., p. 222 [1221]; vol. 5, p. 473 [17112]; ADHG 1C2277, fols. 156v^o–158v^o (November 1519).

confirmed that all new offices in Languedoc would be extinguished. This ‘contract’ or ‘charter’ conceded that the posts of councillor-reporter and *enquêteur* were detrimental, and had been responsible for driving out notable practitioners from courts of law. Graduates would be readmitted to judicial activities. The Estates of Languedoc and each *sénéchaussée* affected would take charge of reimbursing all those who could prove that they had paid for the offices to be extinguished. Innovatively, the contract included a clause stipulating that the king would not create new offices in Languedoc without the consent of the Estates. There was only one serious exception. Almost all of the councillor-reporters of the court of the *sénéchal* of Toulouse were already in place. Since this was the case, they alone would be allowed to exercise their offices for the duration of their lives. If their offices vacated, graduates would assume their positions.³⁵² The contract of May 1522 was not granted freely. Suppressing the offices of *enquêteurs* and councillor-reporters came at a price of 50,000 *livres*. The Estates of Languedoc complied.

Paying the king for the abolition appeared to be progressing smoothly when a complication arose. The Estates of Languedoc learned that Guillaume Gouffier, *seigneur* de Bonnavet and *amiral* (1488-1525) had a claim to profit from some of the offices of *enquêteurs* and councillor-reporters that had been allocated to him by the king. After mediation by Jehan de La Martonie, a councillor from the Grand Conseil, the Estates agreed to concede a ‘free gift’ to the *amiral* for the money he claimed to be losing from the suppression of offices. Bonnavet would be paid 12,000 *livres* spread over two years.³⁵³

³⁵² ADHG 1B1901, fols. 110v^o–126r^o; *Les articles & confirmation des previleiges du pais de Languedoc, suppression & abolition des offices des conseilliers crees es auditoires des cours des senechaux* ... (Toulouse, 1522).

³⁵³ ADHG 1C2277, fols. 222r^o–235r^o; 1C994, fol. 106r^o (August 1522).

How should we interpret these complex interactions between the king and provincial institutions? They had resulted in two financial transactions between the Estates of Languedoc and the crown, of 71,800 *livres* and 50,000 *livres* each, a suppression of nearly all of the newly created judicial posts at the sub-sovereign court level, and a promise not to institute new posts without first consulting the Estates. Especially striking is the timing of these developments. Far from exploding onto the scene in 1522, by that stage venality had long stimulated a fervent debate in Languedoc. The aim of the Estates to compensate *amiral* Bonnivet is another aspect on which to comment. On the surface, the use of newly created offices to recompense a royal favourite appears similar to themes that we have already encountered. However, there seems to have been more at play in this particular gift of offices. Bonnivet was not just a frequent creditor of the king. Most significantly of all, from January 1519 he had been a key participant and financier of the diplomatic team sent to negotiate with the electors of the Holy Roman Empire for François Ier's claim to the imperial throne. Once more, this episode demonstrates that some of the crown's earliest trials of office sale were connected intimately with the candidacy for Empire.³⁵⁴

Clearly, what venality offered the monarchy was choice. It could either elect to sell offices to individual creditors, or forestall such creations by accepting lump sums from the Estates. This put the crown in the driving seat. As Appendix Table 5b demonstrates, in the late 1530s and 1540s, the crown continued to create councillor-

³⁵⁴ Bonnivet had been gifted offices of *enquêteurs* as early as 1515, but as we have seen above, their numbers were only fixed in 1520, *Hamon*, p. 396; Mignet, 'Une élection à l'empire en 1519', pp. 231–232, 250; Pierre Carouge, 'Artus (1474-1519) et Guillaume (1482-1525) Gouffier à l'émergence de nouvelles modalités de gouvernement' in *Les conseillers de François I^{er}*, ed. Cédric Michon (Rennes, 2011), pp. 229–253.

reporters in regions outside Languedoc, but within the jurisdiction of the Parlement of Toulouse. The monarchy did not just side step its contract of 1522: it also violated it directly. Posts that had been abolished that year were resurrected. From the late 1530s onwards, the Estates of Languedoc looked on as its cherished charter was infringed repeatedly by the hydra-like respawning of offices. A regular component of its meetings was a discussion of the latest offices that had returned, together with weary observations that this was ‘against the charter’, and that the abolition of these offices would be pursued.³⁵⁵ Officers needed to be paid back in order to be removed. However, the Estates of Languedoc refused to take charge of such reimbursements, devolving the matter to the municipal level, so that even the smallest communities debated royal policies of office creations. Often, these refused to subsidise officers’ reimbursements.³⁵⁶

In the early 1540s, the Estates of Languedoc noted that the crown was creating new offices with aplomb, with *enquêteurs* reappearing in 1542.³⁵⁷ The following year, the situation seemed critical: councillor-reporters and *enquêteurs* were being established in droves, in offices that existed before the 1522 contract and as entirely new ones. A sign of the Estates’ desperation to secure abolition this time was their decision to open a dialogue with the king to arrange a financial ‘composition’. In exchange for 100,000 *livres* urgently required for the war effort, François Ier agreed to another general abolition. The Estates accepted these conditions.³⁵⁸ The resulting royal act recognised that the new creations infringed the contract of May 1522, and that in any case they had involved ‘small offices of little importance to us and of great

³⁵⁵ See, for example, ADHG 1C2278, fols. 55v^o–56r^o (November 1537).

³⁵⁶ ADHG 1C2277, fols. 257r^o–258v^o (July 1523).

³⁵⁷ CAF, vol. 6, p. 656 [22326].

³⁵⁸ ADHG 1C2278, fols. 264v^o–265r^o (October 1543); 281v^o (May 1544).

uselessness' to Languedoc.³⁵⁹ It went on to explain that all those who had succeeded in obtaining offices 'by purchase' (*par achapt*) would have to be reimbursed. Substantial evidence survives regarding how a portion of the 100,000 *livres* 'composition' was collected in the city Toulouse. The existence of such tax registers make it feasible to analyse just how the abolition of newly created offices affected even the lowliest of individuals in sixteenth-century France.³⁶⁰

Creating judicial offices in Languedoc – or threatening to create them – was only an advantageous strategy for the monarchy. It presented the crown with options: it could rely on individual purchasers of office, or it could make deals to annul new offices for a lump fee. Whilst the terms of such contracts were binding, this did not prevent new offices from resurfacing when new buyers appeared, necessitating further financial agreements to suppress them. By choosing to pay, the Estates and municipalities retained a right to choose how to distribute such abolition taxes on contributors.³⁶¹ James Eastgate Brink concluded that the dialogue and resulting contracts concerning office sale between the Estates of Languedoc and the king in this period were evidence that the province 'successfully resisted [the] monarchy's attempts at arbitrary rule'.³⁶²

If this appears too optimistic a conclusion, it also relies more problematically on an analysis of two supposedly rival forces: the centralising monarchy and the fiercely

³⁵⁹ 'petitz offices de petite importance pour nous et de grande inutilité pour led. pays', ADHG 1B1903, fols. 103v^o–107v^o.

³⁶⁰ AMT BB10, fols. 16v^o–17r^o (10.07.1544); CC236; CC327; CC433; CC506; CC778.

³⁶¹ René Souriac, 'Méthodes gouvernementales et autonomies provinciales: le cas du Comminges au XVI^e siècle' in *Pays pyrénéens & pouvoirs centraux: XVI^e–XX^e s.*, ed. Michel Brunet, Serge Brunet, and Claudine Pailhes (Foix, 1995), vol. 2, pp. 45–46.

³⁶² James Eastgate Brink, 'The estates general of Languedoc: struggles for provincial autonomy in early 16th century France', *Legislative Studies Quarterly* 5:3 (1980), p. 444.

proud region. In reality, during the reign of François Ier, the creation of new posts for money in the jurisdiction of the Parlement of Toulouse and in the court itself involved a range of actors interacting in a complicated fashion. Such a story is more nuanced than it is usually presented, and involved constant dialogue within and outside the royal court, tribunals, regional assemblies, and municipalities.

Perhaps the greatest consequence of this negotiation was the continued existence – despite acts of abolition – of an enclave of twenty-four councillor-reporters in the court of the *sénéchal* of Toulouse. In an unprecedented manner, the crown had become involved in the staffing of its subordinate jurisdictions. It provoked debates about whether men with no oath to the crown – graduates – provided better justice than officers. Toulouse was a test site for this new breed of official. Even where these creations were not followed through, the establishment of new royal judges in lower jurisdictions set a precedent, foreshadowing the existence of a legion of middling venal officials, in recent times called the ‘officiers moyens’. In January 1552, the introduction of around sixty *présidiaux* tribunals – each staffed by their own, venal magistrates – revealed that the crown had shifted the balance once more away from admitting local graduates into judgements.³⁶³ Traditionally derided as a shameful venal manoeuvre, it has been demonstrated recently that these jurisdictions provided a credible alternative to the parlements. Hearing a variety of

³⁶³ Paul Dognon, *Les institutions politiques et administratives du pays de Languedoc du XIII^e siècle aux guerres de religion* (Toulouse, 1895), p. 417; *Les officiers «moyens» à l’époque moderne: pouvoir, culture, identité*, ed. Michel Cassan (Limoges, 1998); Christophe Blanquie, *Justice et finance sous l’ancien régime: la vénalité présidiale* (Paris, 2001), pp. 15, 27; *Offices et officiers «moyens» en France à l’époque moderne: profession, culture*, ed. Michel Cassan (Limoges, 2004); Vincent Meyzie, *Les illusions perdues de la magistrature seconde: les officiers «moyens» de la justice en Limousin et en Périgord (vers 1665-vers 1810)* (Limoges, 2006); Roseline Claerr, ‘L’histoire d’une prise de décision: les edits des présidiaux (janvier et mars 1552) in *La prise de décision en France (1525-1559): recherches sur la réalité du pouvoir royal et princier à la renaissance*, ed. Roseline Claerr and Olivier Poncet (Paris, 2008), pp. 161–177; Michael P. Breen, ‘Law, society, and the state in early modern France’, *The Journal of Modern History* 83:2 (2011), pp. 365–371, 385–386.

civil and criminal cases without further appeal, and offering a far more proximal site for dispute resolution, the demand for these institutions was clear, and their vitality throughout the *ancien régime* is an indication that they dispensed functional services. Indirectly, venality altered the judicial framework of early-modern France; but this was not a sudden imposition from above. By extending the number of officers, those ‘embodiments’ of the state, to use Michael Braddick’s expression, the result was a contested, negotiated process of state formation, one that did not stem from a drive for ‘centralisation’, but was rather the product of ‘social dynamics’.³⁶⁴

In this chapter, we have seen that the monarchy could draw over half a million *livres* by charging for access to office in the Parlement of Toulouse, but that these interventions were motivated by multifaceted motives. We have also explored why some of the practices involved were prone to entrenchment, and some of the far-reaching consequences of the crown’s activities. Part II turns to consider perceptions of venality, firstly by studying how a court of law received new officers.

³⁶⁴ Michael Braddick, *State formation in early modern England, c. 1500-1700* (Cambridge, 2000), pp. 20–21; Steve Hindle, *The state and social change in early modern England, 1550-1640* (Basingstoke, 2000), p. 23.

Part II
Perceptions

Reception to office in the Parlement of Toulouse

Et de faict, on le voulut faire maistre des requestes et président en la Court; mais il refusa tout, les remerciant gracieusement: «Car il y a (dist-il) trop grande servitude à ces offices....»³⁶⁵

How did individuals obtain offices within the judicial structure of sixteenth-century France? What impediments did they face, and under what conditions were they invested with their judicial powers?

In this chapter, we shall investigate these descriptive questions alongside analytical ones by considering the role played by the sale of offices in the process of recruitment to courts of law. After they were named officially to posts by royal letters (*lettres de don* or *lettres de provision*), men presented these documents for inspection at the court in which they hoped to work. ‘Reception to office’ was the formal procedure by which these letters were verified and a candidate for office was instated or rejected.³⁶⁶ After being ‘sworn in’, an officer could begin to draw his *gages* and perform the duties attached to his position. Men only became officers, then, at the conclusion of this process.

Although they have been studied far less thematically in the Parlement of Toulouse, receptions to office in the Parlement of Paris have been extremely well researched.³⁶⁷ Most accounts of officers’ installations in the Parlement of Paris in this period have a similar flavour. In the classic narratives conceived by Édouard Maugis

³⁶⁵ Rabelais, p. 226 (*Pantagruel*, XIV).

³⁶⁶ Mousnier, pp. 108–110, 206–213.

³⁶⁷ The procedure itself is only touched upon in Viala, vol. 1, pp. 114–115, 187–287, which considers recruitment in much broader terms.

and Roger Doucet, and even in more recent studies, the Parlement of Paris did its best to maintain a decaying procedure of ‘election’ to office, which was replaced aggressively by venality. The impression received from such studies is that most of the contention relating to officers’ successful installations related to the fact that their positions had been purchased. It was by refusing to accept certain councillors that the Parlement of Paris ‘resisted’ the crown’s new fiscal expedients.³⁶⁸

By studying acts of reception from the registers of *conseils* of the Parlement of Toulouse alongside a variety of sources, this chapter proposes to modify this picture. Venality did play a part in pursuing, obtaining, and being received to judgeships. However, its status has tended to be overemphasised, as it was entangled with many other considerations. An ingrained difficulty of the sources is the extent to which it is possible to detect whether venality was rejected as an inherent ill or because of its effects. Were other issues a pretext for denouncing office sale, or were they important in their own right? What will become apparent is that it was not just money that allowed candidates to obtain office, and that venality was very far from being the only reason for rejecting candidates. Finally, the fact that new recruits had loaned money for their offices was not as concealed as it has been suggested. Even though swelling numbers of venal judges arrived to the Parlement of Toulouse, the court still had a say as to whether those men were received to office, and with what stipulations.

Mirroring the process of becoming an officer, this chapter is split into three sections. The first concerns how offices in the Parlement became available and how

³⁶⁸ *Maugis*, vol. 1, pp. 5, 109, 128–135, 177, 179; Roger Doucet, *Étude sur le gouvernement de François I^{er} dans ses rapports avec le Parlement de Paris* (Paris, 1921), vol. 1, pp. 51, 63–67, 152–155, 161–169; Robert Descimon, ‘Modernité et archaïsme de l’état monarchique: le parlement de Paris saisi par la vénalité (XVI^e siècle)’ in *Genèse de l’état moderne: bilans et perspectives*, ed. Jean-Philippe Genet (Paris, 1990), pp. 147–161.

they were obtained. Secondly, we shall explore how the court scrutinised those who had obtained letters of provision, and why certain receptions were problematic. Finally, section iii will examine the caveats with which the Parlement received new judges. As we shall see, the place of venality in these processes was often subtle, and did not amount to a simple confrontation between crown and court.

i) Provision to office

How did judgeships become available in the Parlement of Toulouse? By law, offices became vacant and available upon request (*impétrable*) only by death, forfeiture, or resignation.³⁶⁹

The first of these is self-explanatory. When a president or councillor died in office, the post was considered unoccupied. Forfeiture was when an office became available because its holder had been stripped of his post by a court of law. Resignation encompassed a collection of practices by which an outgoing officer designated a successor to be received in his place. By its very nature then, a resignation was not so much a means of making offices available as transferring them.

To these three modes of vacancy, a further two could be added. First of all, ‘promotion’ might make judgeships available. This could occur internally, as a judge moved up or across the court hierarchy, freeing up the post being departed. External promotion was also a possibility. This was when a president or councillor departed the Parlement of Toulouse either for another office or to pursue another vocation. The defining trait of both internal and external promotions was that individuals left their

³⁶⁹ See Introduction, section ii.

offices without naming specific successors. Secondly, offices could become obtainable when entirely new ones were created. As we have already seen, a great number of judgeships became available in sovereign courts by this means.³⁷⁰

This section considers how offices vacated in the Parlement of Toulouse by these five routes. Appendix Table 6 shows how the offices of president and councillor in the Parlement became available to candidates between 1490 and 1545, split into five-year intervals.

Over the course of the period, offices mostly became available in the Parlement of Toulouse because their previous occupants had died: over forty per cent of offices vacated by this means. Second came creations, which resulted in thirty per cent of all vacancies. Resignations were next, about equal to internal and external promotions combined, at thirteen per cent of all vacancies. Finally, forfeiture was a rarity, accounting for less than two per cent of all offices becoming available. In just two instances there was no conclusive evidence about how councillorships became available.³⁷¹ Although death was the most important cause of vacancies across the period, this table also conveys some of the dramatic changes that affected recruitment to the court. Periods of office creation, for instance, increased the number of posts that could be obtained by a considerable margin.

Death caused around one judgeship to become available in the Parlement of Toulouse a year on average. Mortality was important when it came to offices: ‘one

³⁷⁰ See Chapter 2, section i.

³⁷¹ The judges whose departures from office in the 1490s have not been determined are the *conseillers* *clercs* Guillaume de Saudonville and Jehan Bohier.

cannot accede to the office of a living man, except by resignation or forfeiture'.³⁷² Royal acts had stated multiple times that letters of provision to offices still being exercised were null, and they were considered a serious infraction.³⁷³ Fascinatingly, the way offices became available influenced how they were filled: death and election had a distinctive association. As the table below indicates, in all but one case, the court's nomination of candidates to the king was triggered by the death of a current president or councillor.³⁷⁴

Table 3.i. Number of elections held compared with total vacancies and vacancies by death.

Years	Total vacancies	Vacancies by death	Elections held
1490-1495	17	5	5
1495-1500	7	6	5
1500-1505	11	6	5
1505-1510	8	5	5
1510-1515	6	4	4
1515-1520	22	8	3
1520-1525	17	12	11
1525-1530	6	-	-
1530-1535	8	7	2
1535-1540	23	6	3
1540-1545	36	7	1
Total:	161	66	44

Overall, vacant offices prompted an election less than a third of the time. From the reign of François Ier in particular, the frequency of elections no longer correlated with the number of judges dying in office as they had once. Starkly, these figures expose just how short the practice of election fell from the ideal of elective magistracy elaborated by royal *ordonnances*.³⁷⁵

³⁷² 'On ne peult impetrer l'office d'ung homme vivant, sinon par resignation, ou forfaicture', Robert Estienne, *Dictionnaire françois-latin* (Paris, 1549), p. 414.

³⁷³ Katia Weidenfeld, 'L'incertitude du droit devant les juridictions parisiennes au XV^e siècle', *Cahiers de recherches médiévales et humanistes* 7 (2000), retrieved 09.2016 at [http://crm.revues.org/811].

³⁷⁴ The one exception involved a councillorship vacant by promotion, which remained vacant when the subsequent candidate was rejected, ADHG 1B14, fols. 55v^o–56r^o (16.01.1509).

³⁷⁵ See Chapter 1, section i.

The registers of the Parlement contain much information about elections. Before nominating individuals to vacant posts, the court had to confirm that judges had died. On one occasion this was all too straightforward: one councillor, Arnaud de Saint-Felix, collapsed after participating in a deliberation in court, and died. Three days later, an election to his vacant office took place.³⁷⁶ In 1513, one judge was dispatched to visit councillor Philippe des Astars, who was said to have died at home. The election to his office was held the next day.³⁷⁷ Whenever judges held elections, the court recorded that it had been certified of the deaths of former officeholders.

During elections, the Parlement incorporated the latest royal guidelines as they appeared in the *ordonnances*. As we have seen, the articles of 1493 required the participation of the *gens du roi*, whose task it was to propose suitable nominees to the electors.³⁷⁸ The court's records first mention this procedure in 1500. After the death of a lay councillor, the magistrates heard from Antoine Duprat and Arnaud Faure, the *avocat* and *procureur du roi* on who would be 'sufficient and apt' for the vacant position. From then on, the intervention of the *gens du roi* was a staple feature of nominations. In accommodating these officers into elective practices, the Parlement of Toulouse observed royal *ordonnances* closely, acknowledging that these representatives of the king played an important role in determining who was 'apt' and 'able' to exercise office.

The 1499 *ordonnances* had introduced an additional component that became integral to election. After they were published, the court began to precede nominations by oath taking. The electors swore to nominate only those whom in their

³⁷⁶ ADHG 1B14, fol. 538r^o (14.08.1510).

³⁷⁷ ADHG 1B15, fol. 313r^o (05.05.1513).

³⁷⁸ See Chapter 1, section ii.

consciences were apt, with their hands placed on the bible, open on a depiction of the crucifixion of Christ.³⁷⁹ Once every judge had sworn his oath, nomination could begin. On rare occasions, court registers address the procedure for collecting votes. After the death of a president in 1508, the judges of the Parlement discussed how best to interpret the royal *ordonnances* on election. Establishing firm provisions would make it possible to avoid any ‘scandal’ (*escandale*). The magistrates decided that in keeping with royal *ordonnances*, nomination would occur by means of a ‘scrutine’. This involved the selection of a small committee of vote-collectors, or *escrutateurs*. Where they can be identified, these vote-collectors usually consisted of two to three presidents or senior councillors.³⁸⁰ Having cast their own votes, the *escrutateurs* received the judges one by one, and the *greffier civil* recorded their choices. The votes were then totalled, and it was discovered whom the majority had nominated. Collecting opinions could be lengthy, but in one case it was apparently possible to accomplish the whole process within two hours.³⁸¹

Reflecting royal language, those elected were usually described as ‘sufficient’ and ‘capable’ to hold the offices in question.³⁸² But who was *ydoine et suffisant*? The open-endedness of the expression led to a tortuous discussion in the Parlement of Paris in 1537, during which the judges pondered whether they had to nominate the ‘most apt’, or someone simply ‘apt and able’.³⁸³ To vacant presidencies, the Parlement of Toulouse tended to nominate from within, recommending existing lay

³⁷⁹ ADHG 1B11, fols. 280r^o–280v^o (11.09.1500).

³⁸⁰ ADHG 1B13, fol. 653v^o–654r^o (31.05.1508); 1B18, fols. 565r^o–565v^o (06.05.1521); 1B30, fols. 2r^o–2v^o (15.11.1536). For the parallels between this method of nomination and chapter elections, see Véronique Julerot, «*Y a ung grant desordre*»: élections épiscopales et schismes diocésains en France sous Charles VIII (Paris, 2006), p. 72.

³⁸¹ One election began when the court entered at 7 in the morning, and was concluded before 9: ADHG 1B20, fols. 373r^o–373v^o (16.02.1525).

³⁸² ADHG 1B9, fol. 159r^o (09.07.1493); 1B11, fols. 598v^o–599r^o (06.05.1502).

³⁸³ X^{1A}1540, fol. 5r^o (15.11.1537).

councillors or the *avocat du roi*. The court's second or third presidents were natural choices when the first presidency became available. Also named to presidencies were high-ranking judges from across the kingdom, some of which were former members of the Parlement of Toulouse. When making recommendations for councillorships, the court only named licentiates or doctors in canon law, civil law, or both. Many were identified as *avocats* active and practising in the Parlement. The court's *gens du roi* were sometimes suggested, and some nominees held judicial offices in subordinate jurisdictions of the region or Toulouse itself. Others named to councillorships held councillorships in the Grand Conseil. Some nominees were professors from the law faculty of the University of Toulouse or the University of Paris. Those put forward for *clerc* councillorships might hold positions in ecclesiastical courts.

Candidates could be proposed several times, although they might not necessarily obtain the offices to which they were named. The judge of Saint-Affrique and *avocat* in the Parlement Anthoine Guini was elected twice, without becoming a councillor.³⁸⁴ Similar was the case of Arnaud Peylier, an *avocat* elected twice unsuccessfully.³⁸⁵ One councillor of the Grand Conseil, Philippe des Astars, was nominated twice before he received a judgeship.³⁸⁶ The Parlement elected Vidal de Thèbe three times, but when he eventually received a *clerc* councillorship in 1518, it was as the result of a direct nomination by the king rather than an election. As we shall see, this was a common phenomenon.³⁸⁷

³⁸⁴ ADHG 1B9, fol. 159r^o (09.07.1493); 1B15, fols. 313r^o–313v^o (06.05.1513).

³⁸⁵ ADHG 1B11, fols. 589v^o–590r^o (06.05.1502); 1B14, fol. 541v^o (17.08.1510).

³⁸⁶ ADHG 1B11, fol. 90v^o (18.06.1499); 1B12, fols. 618r^o–618v^o (07.07.1505).

³⁸⁷ ADHG 1B14, fols. 55r^o–55v^o (16.01.1509); MS 130, fols. 364–365 (12.07.1511); 1B16, fol. 418v^o (19.05.1516); 1B17, fol. 264v^o (12.11.1518).

Once the votes were counted, the result was announced to the judges. On rare occasions, problems arose when certain individuals were nominated. For instance, it was deemed inappropriate to nominate relatives of existing judges, or elderly men, or those from a region the Parlement deemed to be overrepresented in the court already. Their names were withdrawn from the election.³⁸⁸ Deciding whom to elect was doubtless subject to pressures obfuscated by the judicial records, which present the process as harmonious. Fascinatingly, one of the kings most associated with promoting election in sovereign courts was also keen to manipulate it. Charles VIII sent letters to the Parlement of Paris asking the judges there to nominate specific individuals when councillorships became available. His sister, Anne de France (1461-1522), her husband Pierre II de Beaujeu, duc de Bourbon (1438-1503), and Robert Briçonnet, archbishop of Reims (c.1450-1497) also all sent ‘recommendations’ to the same court on whom to nominate.³⁸⁹ These attempts to influence demonstrate that although historians tend to present ‘election’ as an almost constitutional procedure, an ‘official’ mechanism opposed to informal arrangements, it coexisted with rather than replaced traditional forms of provision to office, which involved patronage networks and solicitation.

After an election, the Parlement of Toulouse redacted an act recording the procedure containing the names and details of the three individuals nominated to the vacant office. With the election complete, the court needed to transmit the details to the king.³⁹⁰ The Parlement of Toulouse usually employed *huissiers* to carry such

³⁸⁸ ADHG 1B11, fol. 90v^o (18.06.1499); 1B11, fol. 90v^o (19.06.1499); 1B18, fol. 561v^o (27.04.1521).

³⁸⁹ BnF MS NAF 8452, fols. 49r^o, 50r^o, 53r^o, 55r^o, 62r^o.

³⁹⁰ For examples of elections sent as letters to the king by the parlements of Dijon and Grenoble, BnF MS fr. 2961, fol. 102r^o (31.05.1505); 10946, fol 377r^o (27.03.1513).

letters to the royal court.³⁹¹ A comment by a nominee earlier in the period, though, suggests that it might have been up to those nominated to solicit the office themselves by producing evidence of their election before the king and his council.³⁹²

At this point, the Parlement of Toulouse had conducted a *bonne élection* by the book and in accordance with royal *ordonnances*. How often was one of its nominees provided with office, then? As the following table indicates, such an occurrence was very infrequent.

Table 3.ii. Success rate of elections in the Parlement of Toulouse.

Years	Elections held	Successful	% of elections successfully filling offices vacated:	
			i) generally	ii) by death
1490-1495	5	2	11.8	40
1495-1500	5	2	28.6	33.3
1500-1505	5	4	36.4	66.7
1505-1510	5	1	12.5	20
1510-1515	4	2	33.3	50
1515-1520	3	-	-	-
1520-1525	11	4	23.5	33.3
1525-1530	-	-	-	-
1530-1535	2	1	12.5	14.3
1535-1540	3	1	4.3	16.7
1540-1545	1	-	-	-
Total:	44	17		

Set out and repeated by royal *ordonnances*, the idealised way for a candidate to become a judge in a sovereign court was through election. The nomination practices of the Parlement of Toulouse reveal just how seldom this occurred. At its very best, election accounted for filling around a third of all vacant judgeships in the Parlement. Of 161 total openings in the court, only 10.6 per cent were filled by the method of

³⁹¹ ADHG 1B16, fol. 435v^o (04.06.1516); 1B18, fol. 518v^o (13.03.1521).

³⁹² ADHG 1B9, fol. 548r^o (29.08.1495).

election.³⁹³ Although it experienced something of a peak under Louis XII, by the reign of François Ier the success rate of elections plummeted. At first glance, then, the notional recruitment method of election was an erratic method of provision to office, even a dismal failure, which in no way lived up to the expectations of royal *ordonnances*.

However, it would be mistaken to suggest that direct nomination from the king – or venality – simply steamrolled over election. Of its own volition, the Parlement of Toulouse sometimes decided to suspend elections. From 1515 onwards, the court began to receive men who were lay and married and yet had been named by the king to *clerc* councillorships. If venality influenced such appointments, then it has been difficult to detect. In such conditions, when the next lay councillorship became available, rather than hold an election, the Parlement preferred to implore the king to transfer the layman holding a church judgeship to the vacant office instead. This continued through to 1520. The court deferred nomination, in order to correct the ‘deformity’ of laymen holding church posts.³⁹⁴ By 1521, however, the Parlement decided not to postpone elections any longer. Such determination was short lived. In subsequent decades, fewer elections were held and direct royal nominations were the principal method of provisions to judgeships. The last election to a lay councillorship occurred in 1521.³⁹⁵ From then on, the court only ever elected to vacant clerical councillorships or presidencies. The royal act of November 1531 that pledged to preserve twelve church councillorships in the Parlement hinted at the fact that the

³⁹³ Because he did not count offices made available by creation when considering the court’s elective practices in the first quarter of the sixteenth century, André Viala calculated that 24.1 per cent of vacancies resulted in a successful election, *Viala*, vol. 1, pp. 191, 193.

³⁹⁴ ADHG 1B16, fols. 435r^o (04.06.1516), 512r^o–512v^o (09.09.1516); 1B17, fol. 205v^o (02.08.1518); 1B18, fols. 108v^o (28.02.1520), 373v^o–374r^o (06.09.1520), 377v^o (10.09.1520); 470r^o–470v^o (30.01.1521).

³⁹⁵ ADHG 1B18, fol. 611v^o (16.07.1521).

court was encouraged to nominate individuals to vacant *clerc* positions.³⁹⁶ This may serve to explain the longevity of elections to church councillorships.

Overall, the successes of elective methods of recruitment in the Parlement of Toulouse look poor. From another perspective though, it may be unhelpful to consider election in narrow terms as a bureaucratic or impartial mode of recruitment, isolated from other forms of provision to office, and whose achievements can only be measured by the number of times the monarch selected one of the three candidates he was presented. One of the great merits of election was that it introduced a number of candidates to the crown, whom the Parlement had approved and esteemed competent enough to work in a sovereign court. Remarkably, around thirty individuals who had been nominated by the court to vacant councillorships previously went on to receive judgeships in the Parlement to which they were not elected. This raises fascinating questions. When the court elected an individual, did the monarchy pay heed to this recommendation and recall it when other offices became available? Or were those elected encouraged by their nomination to solicit available offices from the king themselves? Election was a means of establishing links between provincial courts and the crown. It put the monarchy in touch with distant practising lawyers, who in turn could prove their merit by their tribunal's approbation when pursuing office at the royal court. The most important effects of election, therefore, may have left only minimal traces in the archives.

If election was not how most men became judges of the Parlement of Toulouse, how did they obtain office? The usual path to offices, perfectly ordinary and legal,

³⁹⁶ See Chapter 1, section ii.

was simply to ask for them. As there is far less documentary evidence about these provisions, we must enter into the shadowy world of interpersonal relationships. For the most part, receiving a judgeship in the Parlement involved family arrangements, patronage, contacts, demonstrable competence, and indeed money. The latter only became important gradually though, and never in isolation of many of the other features. To explore how most officers obtained their positions, it is to other forms of office transmission that we now turn.

Resignation, also referred to as ‘renunciation’, allowed an exiting officer to leave the post to a replacement of his choosing. In the Parlement, it was possible to resign councillorships, and all presidencies except the first. Permission to resign required the approval of the king or chancellor, and it was necessary to present requests to these authorities. Often, solicitation in person was impossible for judges. Magistrates seeking to resign therefore named legal representatives (*procureurs*) to petition on their behalf through a notarial instrument. Several such instruments survive concerning judges of the Parlement of Toulouse, elucidating the practices and expectations of resignation.

As Appendix Table 6 indicates, 21 judges were received to the Parlement of Toulouse as a result of resignation. Elided from this figure are two significant phenomena though. Firstly, it does not include instances in which an individual who was not yet received to office resigned it, for it was possible to resign an office for which one only had the title.³⁹⁷ Secondly, not every attempt to renounce office met with success, and these instances are also excluded from the figure above. Sometimes,

³⁹⁷ For examples, ADHG 1B11, fols. 530r^o–530v^o (17.01.1502), 552r^o–552v^o (23.02.1502); 1B37, fols. 357v^o–358r^o (23.04.1544).

a judge died before he had time to complete a notarial instrument of resignation.³⁹⁸ Other times, a resignation was not approved, and the office intended for transfer went to another candidate.³⁹⁹ In a final twist, occasionally some transfers of offices intended as resignations worked out, but not because a councillor was able to resign. For instance, Raymond de Merlanes had drawn up an instrument to resign his councillorship to his brother-in-law Pierre de Gargas. However, after Merlanes died, Gargas was still received to his office, although it was one declared vacant by the death of Merlanes rather than by his resignation.⁴⁰⁰ In this manner, vacancies by death might conceal prior arrangements with the crown.

What was the recipe for a successful resignation? Judges relied on well placed patrons: presidents and councillors of the Parlement of Toulouse chose as their *procureurs* high judicial officers close to the royal court, as well as members of the king's entourage and household who had daily and direct access to the monarch.⁴⁰¹ Obtaining permission to resign also depended on an element of persuasion. In 1540, Saux Hebrard met with a notary to organise a *procuration* to resign. His case to the crown was clear: owing to his age, he felt unable to exercise his office well enough. He suggested that his son, Anthoine, a competent *avocat* in the Parlement, would be an excellent replacement. Hebrard deserved this treatment for his services to the crown: he had functioned as a councillor for over twenty years, and before that had been *juge ordinaire* of Quercy and Montauban for up to fifteen years. In the end, Hebrard secured his resignation, and his son received his lay councillorship.⁴⁰² When

³⁹⁸ ADHG 3E1577 (16.08.1491); 1B8, fols. 385v^o–386r^o (22.08.1491).

³⁹⁹ ADHG 3E5187 (07.05.1540); 1B34, fol. 2r^o (12.1.11540).

⁴⁰⁰ ADHG 35188 (04.12.1540); 1B36, fol. 3r^o (17.11.1542).

⁴⁰¹ ADHG 3E5187 (07.05.1540); 3E5188 (04.12.1540); 3E5199 (16.09.1542); 3E5220 (06.09.1547); 1B22, fols. 612r^o–612v^o (07.05.1529).

⁴⁰² ADHG 3E5187 (07.05.1540); 1B34, fols. 416v^o–417r^o (02.08.1541).

other councillors sought to obtain resignations, they too stressed their lengthy service to the crown, the infirmities preventing them from fulfilling their duties effectively, and the integrity and aptitude of their replacements.⁴⁰³

Resignation was an obvious means for retaining offices within families. In ten cases of the 21 successful resignations of the period, offices were transmitted between fathers and son or uncles and nephews. This leaves eleven resignations unaccounted for. It is unlikely that these transactions occurred between complete strangers, however. Resignations were often extremely complex arrangements between families. In 1529, for instance, Guillaume de Tournouer resigned his presidency in the Parlement to Panthaleon Joubert. In exchange, Joubert gave up his lay councillorship to Tournouer's son, Gabriel.⁴⁰⁴ The logic that guided some resignations can be elusive. Claude de Taneria originally intended to resign his lay councillorship to his son, Jehan, an *avocat* in the Parlement. The following year though, Taneria had drawn up a new instrument resigning his office to François Barthélemy, an *avocat* too, but who agreed to resign his post of *notaire et secrétaire du roi* to Taneria's son.⁴⁰⁵ It was not the only office swap recorded that involved a deliberate departure from the Parlement.⁴⁰⁶

These resignation pacts illustrate themes relating to venality. The families involved in them behaved as though offices had value, attempting to conserve them or obtain alternative offices if they were ceded. What is less visible in these sources is that the monarchy had started to tax resignations, and it was now necessary to make

⁴⁰³ ADHG 3E5220 (06.09.1547); 3E5231 (22.04.1549); 3E6019 (14.03.1552).

⁴⁰⁴ ADHG 1B22, fols. 613v^o–614r^o (08.05.1529), 629v^o (03.06.1529). For a more contentious example of resignation arrangements between families see Appendix Table 3b, n.4.

⁴⁰⁵ ADHG 3E5816 (13.08.1541); 3E5199 (16.09.1542, 18.09.1542); 1B36, fol. 194r^o (16.03.1543).

⁴⁰⁶ ADHG 3E6877 (20.01.1559).

‘offers’ to the monarchy to secure them.⁴⁰⁷ The crown was also nervous about the possibility of private parties profiting from resignations that were granted too easily. This was why those resigning were usually so emphatic that what they were proposing was a family arrangement. Proving kinship would help convince the monarchy that no private venality was involved. One example will demonstrate the uncertainties that office sale presented in connection with resignations.

In 1537, the *clerc* councillor Arnaud de Casa resigned in favour of Odet Daries. Durand de Sarta, now second president of the Parlement of Toulouse, wrote in favour of the resignation. Sarta assured the chancellor that Casa was a relative of Daries, and that to obtain the resignation he had ‘made no promises of money whatsoever’.⁴⁰⁸ As well as reassuring the chancellor that no private venality had occurred, the president sang Daries’s praises regarding his ‘califfications’ as a highly regarded lawyer and scholar at the University of Toulouse. Daries benefited from the testimonial of another friend and judge, Jehan de Bagis. Bagis confirmed Daries’s competence as lawyer, his impeccable reputation and, once more, the fact that there was nothing suspect about his resignation arrangement, since he was related to the outgoing judge.⁴⁰⁹ Later that same year, Daries obtained his letters of provision to Casa’s office, and was received as a *clerc* councillor to the Parlement of Toulouse, despite the fact that he was a married layman. Upon reception, he divulged that he had provided the king with a loan of 2,000 *écus* to obtain the resignation.⁴¹⁰

⁴⁰⁷ See Appendix Table 3b, n.4 and Appendix Table 3a, n.6.

⁴⁰⁸ ‘... pour obtenir lad. renunciation il n’avoit faicte aulcune promesse d’argent’, Durand de Sarta to Antoine du Bourg, Toulouse (18.03.1537), AN J966 no. 42².

⁴⁰⁹ Jehan de Bagis to Antoine du Bourg, Paris (05.04.1537), AN J967 no. 31.

⁴¹⁰ See Appendix Table 3a, n.11.

Casa's resignation to Daries illustrates the complex ways resignation interacted with venality. Clearly, where relations between parties were unknown, private office sale was strongly suspected. It was important to present kinship, even if in the case of Casa and Daries it remained vague. Just as the monarchy was keen to stamp out private venality, it was also triumphing in controlling office sale: Daries was required to provide a loan to secure the resignation. Simultaneously, the success of the resignation depended upon reiterated guarantees from existing officers that the appointment was wise. Many provisions to office worked in this way. Family, money, and merit were important facets in naming new judges, but the crown had to be convinced by more than one in isolation.

There are only three recorded instances of judgeships being forfeited in the Parlement of Toulouse between 1490 and 1545. We shall learn more about these cases in Chapter 5. Even though these offices became available as a result of unusual and dramatic events, the usual methods of seeking office applied. Immediately after the conviction of one judge in the Parlement of Toulouse, Pierre de Clermont-Lodève wrote to Anne de Montmorency, explaining how someone in pursuit of a councillorship had contacted him to let him know of the vacancy. He begged Montmorency to speak about this candidate to the king, but the attempt to influence this provision was ultimately fruitless.⁴¹¹

Promotions were also responsible for vacancies in the Parlement of Toulouse. Most 'internal' promotions involved existing presidents or councillors moving up to either the first or a different presidency, but some involved shuffling candidates to

⁴¹¹ Pierre de Clermont-Lodève to Anne de Montmorency, Béziers (19.08.1528), BnF MS fr. 3074, fol. 47.

positions more appropriate to their status. For instance, in 1504 a churchman was transferred from a lay councillorship to a *clerc* post, and in 1516 and 1518 laymen holding *clerc* positions were transferred to lay judgeships.⁴¹² ‘External’ promotions operated similarly, but instead of moving up or across the court hierarchy, officers left the Parlement for other functions. Many left to become presidents and councillors in other parlements, *maîtres des requêtes*, or councillors of the Grand Conseil. In one case, a *clerc* councillor left through ‘promotion’ by becoming the bishop of Angoulême.⁴¹³

The creation of new judgeships was second only to death as the greatest cause of office vacancies in the Parlement of Toulouse. Appendix Table 6 demonstrates clearly how dramatically the establishment of new posts could alter the availability of offices. From 1510 to 1515 no new offices were created, and on average there were 1.2 judgeships available per year. In contrast, during the most concentrated phase of office creation between 1540 and 1545, 6.6 posts became available per year on average.

Candidates who obtained newly created posts did so through the familiar routes of petitioning and patronage. Just as for vacancies occurring by other means, news travelled fast. Hopeful judges appealed to their superiors and friends when they caught wind of planned creations. When the monarchy created judgeships in the Parlement in 1491 some of the new recruits had relied on well-placed intercessors to receive their positions.⁴¹⁴ It would be wrong, however, to suggest that the creation of

⁴¹² ADHG 1B12, fols. 414v^o–414r^o (05.05.1504); 1B16, fols. 532v^o–533r^o (25.11.1516); 1B17, fol. 264v^o (12.11.1518).

⁴¹³ ADHG 1B14, fol. 50v^o (12.01.1509).

⁴¹⁴ ADHG 1B8, fols. 470r^o–471r^o (11.04.1492).

new offices was completely incompatible with elective practices. When new magistracies were created in the Parlement in 1519, questions about how these officers ought to be selected surfaced. The *procureur du roi* François d'Olive advised the court to elect officers before confirming the creation, since unsuitable individuals could be named to the new posts if the creation were approved prematurely.⁴¹⁵ Although there is no evidence that the Parlement proceeded to an election, of the eight new councillors created in 1519, the court had nominated four to vacant offices previously.⁴¹⁶ When two further lay councillorships were created in 1523 and their occupants were welcomed the following year, they too had been nominated before.⁴¹⁷ These same magistrates also provided loans, confirming that at this stage venality and election were not necessarily opposed forces, as it was argued by royal *ordonnances* and as it has been implied by historical literature.

When obtaining newly created offices, pursuants depended once more on interconnected aspects: solicitation by patrons; competence in law; access to information about offices available; evidence of a previous election; and readiness to provide cash. In 1537, the second president of the Parlement Durand de Sarta wrote to the chancellor to recommend Vincent Maignan for a new councillorship. Sarta vouched for Maignan's professional aptitude, emphasising that he had studied diligently, acted as *official* to the archbishop of Toulouse, and had once been nominated by the Parlement of Toulouse to a vacant church councillorship. Maignan

⁴¹⁵ ADHG 1B17, fol. 398r^o (28.05.1519).

⁴¹⁶ Jehan Roguier, Helie Reynier, Tristan du Soustre, and Jehan Robert had all been elected to vacant councillorships previously, but ended up obtaining new councillorships created in 1519: ADHG 1B11, fols. 598v^o–599r^o (06.05.1502), 642r^o (26.08.1502); 1B15, fol. 313r^o–313v^o (06.05.1513); 1B16, fols. 512r^o–512v^o (09.09.1516); 1B17, fols. 449r^o (28.07.1519); 450r^o (29.07.1519); 456v^o–457r^o (05.08.1519).

⁴¹⁷ Estienne de Paulo and Durand de Sarta had been elected to vacant councillorships previously, but obtained the new councillorships created in 1523: ADHG 1B17, fol. 473v^o (04.02.1521); 1B18, fol. 611v^o (16.07.1521); 1B20, fol. 177v^o (31.05.1524).

had been alerted to the fact that the king was planning to increase the number of councillorships in the Parlement of Bordeaux – Sarta asked the chancellor to give Maignan one of these positions.⁴¹⁸ In the end, Maignan received a new *clerc* judgeship, but one created in the Parlement of Toulouse. We might wonder whether a church councillorship was created on the basis of Maignan’s expression of interest. Months later, Sarta wrote to the chancellor again. Maignan was in the process of providing the crown with a loan for his office, and Sarta appeared to be supervising this transaction, confirming to the chancellor that the money that remained was on its way.⁴¹⁹

Another letter from an *avocat* of the Parlement of Toulouse concerned newly created offices. Jehan de Ausono wrote to the chancellor directly. His letter of recommendation highlighted his lengthy service as a lawyer, and his great desire to acquire an office to serve the king and chancellor. Ausono had heard that two councillorships were being created in the Parlement, and requested one of them. He went further, as though he knew what was expected of him: ‘as for the money that it will be necessary to loan to the king’, Ausono wrote, ‘I shall deliver it immediately to Paris or wherever it pleases you – just as my brother in law *monsieur* the second president of Toulouse is writing you’.⁴²⁰ Durand de Sarta can, for a second time, be implicated in the provision of loans for offices to the crown. Ausono’s letter also bears witness to how information changed about new office creations: four and not

⁴¹⁸ Durand de Sarta to Antoine du Bourg, La Ferté (24.02.1537), AN J966 no. 42¹. For Maignan’s nomination by the Parlement, ADHG 1B20, fol. 44r^o (30.12.1523).

⁴¹⁹ Durand de Sarta to Antoine du Bourg, Toulouse (23.05.1537), AN J966 no. 42⁵. For Maignan’s loan, see Appendix Table 3a, n.12.

⁴²⁰ ‘Et l’argent que fauldra prester au roy je delivreré incontinent à Paris ou la ou vous plaira, ainsi que monsieur le second president de Thoulouse mon beaufreere vous escript’, Jehan de Ausono to Antoine du Bourg, Toulouse (05.04.1537), AN J967 no. 27¹. Durand de Sarta and Ausono were kin as both had married daughters of the former councillor of the Parlement of Toulouse, Jehan de Clausa, *Navelle*, vol. 3, p. 174.

two councillorships were created in 1537. In the end, though, Ausuno did not receive a newly created post: he received one that became available by death, and by providing a loan of 6,000 *livres*.⁴²¹

Unlike the 1520s, when judges expressed ‘surprise’ when they were asked to lend money to the crown for their positions, by the late 1530s, those pursuing offices were all too aware of this requirement.⁴²² Future officers of the Parlement found means of amassing the necessary funds. Some relied on family members: Pierre Robert had his father Jehan to thank when he obtained a new judgeship in the Parlement in 1543. A lay councillor himself, Jehan Robert pledged to furnish the 2,000 *écus* necessary for his son’s office by transferring this sum to a candidate who had been unable to take up his position.⁴²³ Arnauld Galdon was also one of the new recruits of 1543 who received assistance from his father. As part of a marriage pact between Arnauld and Anne, the daughter of the *parlementaire* Odet Daries, Arnauld’s father pledged to provide 2,000 *écus* for the loan needed for the councillorship, as well as 1,500 *livres* to cover the ‘pursuit’ of this office.⁴²⁴ Candidates for judgeships also borrowed the money needed for their loans, as did Jehan du Tornoer in 1543, through the services of Italian bankers operating in Lyon.⁴²⁵ Some future councillors sold property to raise the funds they needed: Mariet d’Angilbaud sold a *métairie* he possessed in Montauban.⁴²⁶

⁴²¹ See Appendix Table 3a, n.13.

⁴²² Christopher W. Stocker, ‘Public and private enterprise in the administration of a renaissance monarchy: the first sales of offices in the parlement of Paris (1512-1524), *The Sixteenth Century Journal* 9:2 (1978), p. 10.

⁴²³ See Appendix Table 3a, n.29.

⁴²⁴ See Appendix Table 3a, n.31.

⁴²⁵ See Appendix Table 3a, n.24.

⁴²⁶ See Appendix Table 3a, n.32.

In this section, we have seen how individuals succeeded in obtaining letters of provision to presidencies and councillorships in the Parlement of Toulouse. A hypothetical officer usually had to use his family, allies, and patrons to access available judgeships in the court, seeking out information about offices becoming available, and soliciting the king or chancellor through requests and intercessors. Candidates needed to be able to provide evidence of their legal proficiency, and a previous nomination by the Parlement could be of great assistance. By the late 1530s, the exchange of money to the crown was an established component of provision to office. It did not, however, displace conventional ways in which offices were pursued. Armed with letters of provision from the *chancellerie*, the would-be officer made his way to Toulouse to be formally instated.

ii) Problematic receptions

To be received to office in the Parlement of Toulouse, candidates first addressed a petition to the court, asking for their letters of provision to be registered. These were submitted together with any ancillary royal letters.⁴²⁷ It was then necessary to wait for a response.

In the smoothest of scenarios, the presidents and councillors read the letters of provision together, and a deliberation would ensue. If the majority of the judges were favourable, then the officer would be received in the presence of the whole court. However, it was extremely rare for a president or councillor to be welcomed without encountering additional elements of procedure. The *gens du roi* became increasingly

⁴²⁷ Gabriel Cayron, *Stil et forme de proceder* (Toulouse, 1611), pp. 441–442.

involved in the reception process during this period. In 1521, the court decided that no president or councillor would be received to office if the *procureur du roi* had not been consulted or shown the letters of provision.⁴²⁸ Before that time, the Parlement summoned the *gens du roi* to review only those cases the judges found concerning. Very few reception acts fail to mention that the decision to receive new judges was taken conditionally, only ‘oyz les gens du roy’, once the *gens du roi* had been heard. In this way, this legal team acted as the guardians of admission to the Parlement. Although they did not ultimately decide whether or not a new recruit should be received, the advice of the *gens du roi* guided the court’s decisions. As well as dissuading the judges from receiving specific individuals, the *gens du roi* could initiate legal proceedings against a candidate, if they reason to do so.

Though they were empowered to resist candidates to office, the *gens du roi* could also present favourable opinions. Often this took the form of a muted negative formulation: they knew of no reason why the new judge should not be welcomed. When they inspected letters of provision presented by Pierre de Nupces, for instance, the *gens du roi* replied that they knew of nothing that might prevent his reception, but were sufficiently ‘informed of his good fame and renown’.⁴²⁹ Only very rarely did the *gens du roi* feel unable to comment on candidates, either because they claimed not to know them, or because the matter had been raised at short notice.⁴³⁰ Where there was no cause for preventing a reception, the *gens du roi* deferred to the court’s judgement.

⁴²⁸ ADHG 1B18, fol. 531v^o (20.03.1521).

⁴²⁹ ‘ilz ne scavoient chose pour empescher la reception dud. de Nupces, et estoient informez de ses bonne fame & renommée’, ADHG 1B12, fol. 415r^o (07.08.1504).

⁴³⁰ ADHG 1B13, fol. 68v^o (02.03.1506); 1B16, fol. 406r^o (26.04.1516).

Unfortunately, what motivated the presidents and councillors to receive judges in their company is for the most part inscrutable. Only the decisions of the Parlement of Toulouse survive, rather than its deliberations, so we are left with only the formal reasons for which the receptions of certain individuals were resisted. This makes the arguments put forward against certain candidates by the *gens du roi*, other lawyers, and private parties all the more important. In coming to oppose certain receptions, they articulated a number of concerns in their pleas in attempts to persuade judges. We may not, perhaps, be able to access some of the underlying reasons why the Parlement rebuffed some candidates to office. Yet paying attention to arguments made to win judges over will give us an idea of the plausible, legal reasons for which a reception might be resisted, of statements with a certain ‘persuasive force’.⁴³¹

Before analysing these complications, it is important to consider another procedural step that became a mandatory element of reception to the Parlement of Toulouse. The crown introduced ‘examinations’ formally in 1499.⁴³² From that moment on, it was increasingly likely that the Parlement would respond to a request for reception by naming an examination committee, and waiting to hear from this panel before deciding to receive incumbents.

Given the loose semantics of the term, to an extent those wishing to be received to judgeships in the Parlement had always been ‘examined’ or heard. From the early sixteenth century, though, examinations took place with overt reference to royal *ordonnances*, and rare were those who were not ‘préalablement examiné’.

⁴³¹ See Katia Weidenfeld in particular: ‘L’incertitude du droit devant les juridictions parisiennes au XV^e siècle’, *Cahiers de recherches médiévales et humanistes* 7 (2000), retrieved 09.2016 at [<http://crm.revues.org/811>].

⁴³² See Chapter 1, section ii.

Examination panels tended to draw together a number of the court's presidents, together with between two to four councillors. Over time, the number of councillors on examination committees increased.⁴³³ The event itself took place in a smaller room of the court, away from the *grand' chambre*.⁴³⁴ After examinations took place, assessors reported back to the court individually or as a group, relating their interview with the candidate before all the judges of the Parlement.⁴³⁵

Questions arose regarding how to interpret the royal *ordonnances* on examinations. Should the presidents lead them, accompanied by the councillors who were merely in attendance and were not to question the candidate directly? The phrasing of the royal laws was ambiguous, and the court debated the issue. In 1504, the judges were content to have councillors question a candidate as well as the presidents.⁴³⁶ The substance of examinations is not entirely clear. One proposed to test a candidate's 'ability, knowledge, and learning'.⁴³⁷ Another was questioned on his 'learning and ability'.⁴³⁸ A report produced by an examination panel found that the candidate replied, 'earnestly, sufficiently, and with good gravity and modesty to the questions of law that they had asked him', adding that the recruit was a 'notable person, scholarly and well-mannered'.⁴³⁹

⁴³³ ADHG 1B12, fols. 274v^o (13.01.1504), 416r^o (08.08.1504), 520v^o (18.02.1505); 1B13, fols. 69r^o (02.03.1506), 646v^o (23.05.1508); 1B14, fols. 333r^o (24.11.1509), 841v^o (03.09.1511); 1B18, fol. 619v^o (19.08.1521); 1B29, fol. 2v^o (12.11.1535); 1B36, fol. 490r^o (07.09.1543).

⁴³⁴ 'en la chambre des enquestes'; 'en la chambre neufve basse', ADHG 1B13, fol. 69r^o (02.03.1506); 1B18, fol. 619v^o (19.08.1521).

⁴³⁵ ADHG 1B12, fol. 279r^o (19.01.1504); ADHG 1B31, fol. 437v^o (31.07.1538).

⁴³⁶ ADHG 1B12, fol. 277r^o (18.01.1504).

⁴³⁷ 'souffisance, science & lictérature', ADHG 1B11, fol. 552r^o (23.02.1502).

⁴³⁸ 'sa lictérature & souffisance', ADHG 1B12, fol. 416r^o (08.08.1504).

⁴³⁹ 'il avoit respondu peremptoirement, souffisamment et en bonne gravité et modestie aux interrogatoires de droit ... il estoit notable personnage, clerc et bien moriginé', ADHG 1B12, fol. 520v^o (18.02.1505).

Examination committees were certainly interested in ‘questions of law’, and this referred to a demonstration of capacity in theoretical and scholarly material. The theme that dominated such discussions was Roman law, and interpretation of the *Corpus iuris civilis*. Most candidates were expected to prepare a commentary on a passage drawn from this text at random, for which they were given a number of days to prepare. As well as delivering prepared statements, during the examination candidates’ expositions would be challenged by the commissioners. An additional task involved opening different parts of the *Corpus* on the spot, and offering explanations of the different laws.⁴⁴⁰ Although the records of the Parlement of Toulouse do not for the most part offer substantial details, they do reveal that before Raymond Berail was received to a lay councillorship, he was invited to interpret the law *filium quem habentem* from the chapter of the *Codex familiae heriscundae*.⁴⁴¹

Examination involved theory, but it also took into account experience of legal practice. In 1521, Bertrand de Rességuier was examined on his ‘knowledge, as much as his practical experience’.⁴⁴² Raymond Berail’s examination raised alarm about his practical competence since his assessors found him ‘weak’. They gave Berail a minor case, which he was allowed to study over two days, preparing briefs and reporting it before the court in the *grand’ chambre*, in simulation of the day to day work of a councillor.⁴⁴³

⁴⁴⁰ Treze livres, pp. 358–359; Maugis, vol. 1, pp. 181–184; Jonathan Dewald, *The formation of a provincial nobility: the magistrates of the parlement of Rouen, 1499-1610* (Princeton NJ, 1980), p. 28.

⁴⁴¹ 1B12, fol. 281v^o (24.01.1504).

⁴⁴² ‘tant en science que pratique’, ADHG 1B18, fol. 619v^o (19.08.1521).

⁴⁴³ ADHG 1B12, fol. 279r^o (19.01.1504).

Historians have often been quick to dismiss the value of examination, seeing in it a ‘fictional obstacle’ or mere formality.⁴⁴⁴ However, it could be a serious ordeal. As we saw above, Raymond Berail was invited to comment on a specific law from the Codex. There is no reason to believe that this was an easy assignment, as even the greatest jurists of the sixteenth century regarded the law Berail had drawn as arcane. Andrea Alciato (1492-1550) argued that this inheritance law was so ‘difficult to understand’ and ‘confusing to interpret’ that there was perhaps none like it in the entirety of civil law.⁴⁴⁵ Many would-be judges ‘feared’ examination.⁴⁴⁶ The famous reporter of the Martin Guerre case, Jean de Coras (1515-1572), endured a nervous and tongue-tied questioning for his lay councillorship in the Parlement of Toulouse in 1553.⁴⁴⁷ Not everyone was convinced or intimidated by the supposed rigour of examinations. Towards the close of the century, Regnault Dorléans, a councillor in the presidial seat of Vannes in Brittany, explained with jaded humour that to be received to a judicial position all a man had to do was to ‘make pretty orations and tickle the ears of the commissioners for an hour or two’, and he would be deemed sufficient.⁴⁴⁸

Examinations might not be necessary for every recruit. When incoming judges had served in a sovereign court before, they were waived.⁴⁴⁹ Equally, new magistrates were sometimes examined elsewhere: the chancellor could examine all candidates to

⁴⁴⁴ Roger Doucet, *Les institutions de France au XVI^e siècle* (Paris, 1948), vol. 1, p. 176.

⁴⁴⁵ Andrea Alciato, *Paradoxorum ad pratum, libri sex* (Lyon, 1543), p. 102.

⁴⁴⁶ ‘craignoit... l’examen’, ADHG 1B1903, fol. 7v^o.

⁴⁴⁷ Géraud de Maynard, *Notables et singulières questions du droict escrit* (Paris, 1638), p. 82.

⁴⁴⁸ ‘il declamera & chatouillera les oreilles des commissaires pour une heure ou 2 par un contentement de bien dire, le rapport se fera de sa suffisance’, Regnault Dorléans, *Les observations de diverses choses remarquées sur l’estat, couronne & peuple de France* (Vannes, 1597), p. 98.

⁴⁴⁹ ADHG 1B14, fol. 25r^o (12.12.1508); 1B22, fol. 645v^o (19.07.1529).

high judicial offices either personally or by commission.⁴⁵⁰ Alternative sites of assessment became significant when the Parlement of Toulouse rejected candidates based on poor examination performance. In 1521, Bertrand de Rességuier was found ‘neither apt nor able’ to exercise the office of lay councillor.⁴⁵¹ In keeping with royal *ordonnances*, the Parlement alerted the king and chancellor as to his insufficiency. In response, the monarch expressed his astonishment at this ‘divergence’ of opinion, since he had been satisfied by the candidate’s abilities. François Ier had Rességuier re-examined, this time by members of the Parlement of Paris. This panel ‘certified’ that Rességuier was competent. A report from so ‘great, notable, and qualified’ a panel of judges allowed François Ier to declare that he was now suitably informed of Rességuier’s merits. The Parlement of Toulouse was to receive Rességuier without delay.⁴⁵² It appears that Rességuier had to undergo yet another examination before the court received him formally. Throughout the reception, the Parlement disregarded what it termed an ‘alleged’ examination that had taken place in Paris.⁴⁵³ Rességuier’s encounters with examinations reveal that there were alternatives to being examined by a destination court, which could be exploited by the crown or prospective judges to demonstrate their competence. One later reception, involving Gaspard Molinier’s provision to a vacant lay councillorship, was very similar: after rejecting him as insufficient, the Parlement received news that the king had examined Molinier elsewhere, ordering the court to proceed to reception.⁴⁵⁴ The Parlement could claim that a candidate was incompetent: but the king could prove otherwise.

⁴⁵⁰ Hélène Michaud, *La grande chancellerie et les écritures royales au seizième siècle (1515-1589)* (Paris, 1967), p. 51.

⁴⁵¹ ‘n’estre ydoine ne souffisant’, ADHG 1B18, fol. 619v^o (19.08.1521).

⁴⁵² ADHG 1B1901, fol. 131r^o–132r^o.

⁴⁵³ ADHG 1B19, fol. 240v^o (28.08.1522).

⁴⁵⁴ Parlement of Toulouse to Antoine du Bourg, Toulouse (16.09.1536) AN J968 no. 51³; ADHG 1B1902, fols. 67r^o–68r^o; 1B30, fols. 135r^o–135v^o (23.02.1537).

As well as examinations, impediments to reception could come from elsewhere. Usually, those the court found ‘insufficient’ when examined experienced a combination of problems that threatened to bring their receptions to a halt. Prospective judges were scrutinised in intense and often unanticipated ways. One future *clerc* councillor conveyed his surprise. Arnould de Roquette said that when he had been asked to enter the *grand’ chambre* to take an oath to tell the truth, he was expecting only to be invested with his judgeship. He was ‘greatly astonished’ when the *avocat du roi* raised a completely different subject. Lost for words, Roquette likened his experience to the story of Esther who, coming before King Ahasuerus, fainted in terror.⁴⁵⁵ A host of concerns could stall presidents and councillors from being received to office, which we will now examine.

From the outset, it is worth mentioning that in only three cases is it possible to connect problematic receptions with venality. In 1499, Pierre Faure’s bid for office was considered suspect because he had purchased an office of *notaire et secrétaire du roi*, which he had then resigned to obtain a lay councillorship.⁴⁵⁶ Later, in 1521, the Parlement heard a rumour that Bertrand de Rességuier – the candidate who was examined multiple times – had ‘purchased his office’, and it was also said that he had acquired it as part of a dubious marriage arrangement, for which he was expected to supply 2,000 *livres*.⁴⁵⁷ Rességuier denied that he had given or intended to give any money for the office, although it was true that he was due to receive it through his upcoming marriage to the daughter of a king’s *médecin ordinaire*, Pierre Trémolet. The court wrote to the king that they had been ‘alerted that you gave the office to Trémolet, your doctor, in order to marry his daughter, but Rességuier gave money for

⁴⁵⁵ ADHG 1B9, fols. 326v^o (17.07.1494), 328v^o (18.07.1494).

⁴⁵⁶ ADHG 1B2329, fols. 339r^o–339v^o (23.07.1499).

⁴⁵⁷ ‘il avoit achapté led. office’, ADHG 1B18, fol. 619v^o (19.08.1521).

it. When he was interviewed about this, he made some statements that seemed strange to us'.⁴⁵⁸ Finally, the third case concerned Guillaume de Lamamyé. The *gens du roi* argued that his councillorship 'might have been pursued by money'.⁴⁵⁹

Although the theme of office purchase did arise during the receptions of these three judges, in the end it neither prevented their receptions, nor was it the only reason they faced difficulties. Two of these councillors had been named to the wrong type of post – Faure, a churchman, was hoping to take up a lay judgeship, and Lamamyé, a married layman, was eventually accepted to a church councillorship. As we saw above, Rességuier faced difficulties during his examination. Lamamyé was also suspected of pursuing his office before it was declared vacant.

In other words, there were a complex, interconnected series of reasons – beyond office sale – for which candidates to the Parlement might be probed, and it would be misleading to suggest that venality was the only, or even the main concern when the magistrates decided to receive new recruits.

More generally, when the Parlement received new judges, it paid attention to the form and content of letters of provision, which involved verifying their authenticity and the circumstances in which they had been issued.⁴⁶⁰ Some judges were required to have their letters of provision rewritten to clarify the circumstances

⁴⁵⁸ 'advertys que aviez donné led. office à Tremolet votre medecin pour marier sa fille, mais icellui Resseguier en donnoit argent. Et, sur ce oy, a fait des seremens qui nous semblent estranges', Parlement of Toulouse to François Ier, Toulouse (20.08.1521), BnF MS fr. 2962, fol. 62r^o. Rességuier made no disclosure of venality when he was eventually received to office, ADHG 1B19, fol. 240v^o (28.08.1522).

⁴⁵⁹ 'auroit esté pouruivy par argent', ADHG 1B22, fol. 442v^o (21.11.1528).

⁴⁶⁰ ADHG 1B8, fols. 470r^o–471v^o (11.04.1492); 1B17, fol. 397r^o (28.05.1519).

in which their offices had vacated or, especially earlier on, to indicate whether a judge had or had not been elected by the Parlement.⁴⁶¹

One of the most important and consistent sources of concern at receptions to office related to the admission of laymen to posts reserved for churchmen. The resulting imbalance between lay and *clerc* offices caused deep anxiety in the Parlement. Initially it may seem pedantic or even baffling that this reason was put forward to oppose the reception of so many judges. It is difficult to know if the sale of offices was being criticised furtively here through one of its symptoms, as the phenomena were so profoundly connected. However, since it was raised so frequently and so ardently, it was far more than a pretext.⁴⁶² In 1519, the *procureur du roi* expressed disquiet when the new councillorships created that year were all announced as lay. The Parlement of Toulouse had been founded as a ‘mixed corps’, split equally between lay and *clerc* councillors. Altering the court’s composition would have detrimental consequences for its privileges. Worse, it would ‘diminish the authority of the king and of his court’.⁴⁶³

Men occupying the ‘wrong’ sort of judgeship were anomalous, and there were uncertainties about how they would exercise their offices or be paid.⁴⁶⁴ The Parlement of Toulouse warned of the slippery slope of such appointments: they would have ‘pernicious consequences’.⁴⁶⁵ Incessantly, the court queried the reception of laymen to *clerc* councillorships. By 1528, when there were only six church councillors in the

⁴⁶¹ ADHG 1B11, fol. 530v^o (17.01.1502); 1B12, fol. 635r^o (01.08.1505); 1B15, fol. 123r^o (14.06.1512); 1B19, fol. 6r^o (20.11.1521).

⁴⁶² See Chapter 6, section i.

⁴⁶³ ‘se pourront diminuer l’auctorité du roy et de sa court’, ADHG 1B17, fol. 398r^o (28.05.1519).

⁴⁶⁴ ADHG 1B2329, fol. 284v^o (04.06.1499).

⁴⁶⁵ ADHG 1B11, fol. 601v^o (11.05.1502).

court, the *gens du roi* encouraged the judges to inform the king of the harm that would arise if this imbalance were not rectified.⁴⁶⁶ When they were received to the wrong type of office, the Parlement enjoined new judges to pursue the next available lay councillorships.⁴⁶⁷ In November 1531, the monarchy pledged to maintain a minimum of twelve church councillors in the Parlement of Toulouse.⁴⁶⁸ Yet laymen continued to be named to vacant offices. The judges wrote irritably to the chancellor: they had been promised that ‘no one would be received to the place of councillor without first returning the number of church councillorships to what it was formerly’.⁴⁶⁹ Yet new recruits received dispensations from the monarchy allowing them to hold church judgeships even if they were lay and married, and the court was often forced to accept these.

Another reason for which the reception of officers could be delayed related to the reactions of existing judges whose positions might be affected. For instance, when the second or third presidency fell vacant, it was customary for the third president or fourth president to move up to the now vacant rank. In 1537, however, the king named Durand de Sarta to a vacant second presidency directly, and the then-third president, Panthaleon Joubert, opposed his reception formally.⁴⁷⁰ Private parties were also able to oppose the reception of judges in sovereign courts, particularly where they could lay a claim to the office in question.⁴⁷¹ Candidates might also be resisted because it was felt there were already too many councillors from a certain region

⁴⁶⁶ ADHG 1B22, fols. 442r^o–442v^o (21.11.1528).

⁴⁶⁷ ADHG 1B22, fols. 445v^o–446r^o (25.11.1528).

⁴⁶⁸ See Chapter 1, section iii.

⁴⁶⁹ ‘nul ne seroit receu aud. estat de conseiller que prealablement le nombre de [ceux] d’eglise que avoit acoustumé estre d’ancienneté ne fust réduit, par le moins jusques au nombre de douze’, Parlement of Toulouse to Antoine du Bourg, Toulouse (16.09.1537), AN J968 no. 51³.

⁴⁷⁰ ADHG 1B30, fols. 68v^o–71r^o (02.01.1537).

⁴⁷¹ ADHG 1B17, fol. 450r^o (19.07.1519); see Chapter 4, section iii.

within the jurisdiction of the Parlement, or because they had too many relatives within the court.⁴⁷²

A more serious cause for deferring reception was when criminal charges were pending against new recruits. As the *procureur du roi* put it, ‘he who is charged with a crime must not become an officer’.⁴⁷³ Several incoming magistrates found themselves questioned closely regarding allegations that they had committed crimes, produced defamatory statements against the Parlement, or had abused judicial posts.⁴⁷⁴ Some charges might be very specific. Michel de Pira, whom the king had named to a lay councillorship, was charged with committing *concussions*, but it was also stated that he was not a native of the kingdom, that his father had been convicted of heresy, and that his brother-in-law resided in the Jewry of Avignon.⁴⁷⁵ Eventually, the Parlement of Paris decided Pira’s case for reception to office. The Parlement of Toulouse contacted its counterpart regarding the Pira case, explaining that he was suspected of crimes and of being descended from heretics. The court asked the Parlement of Paris to rule favourably ‘so that French justice is not stained by the reception of a foreigner ill-renowned by such charges and crimes’.⁴⁷⁶ In the end, the Parlement of Paris ruled in Pira’s favour, absolving him of all charges.⁴⁷⁷

⁴⁷² ADHG 1B8, fol. 404r^o (16.11.1491); 1B12, fols. 274r^o–274v^o (13.01.1504), 281v^o–282r^o (24.01.1504); BnF MS fr. 2962, fol. 62r^o.

⁴⁷³ ‘celui qui est chargé de crime ne doit estre officier’, ADHG 1B2332, fol. 37v^o (01.12.1504).

⁴⁷⁴ ADHG 1B8, fols. 452r^o–453r^o (05.03.1492); 1B9, fol. 327v^o (18.07.1494); 1B12, fols. 274r^o–274v^o (13.01.1504), 281v^o–282r^o (24.01.1504); 1B14, fols. 50r^o–52v^o (12.01.1509), 97r^o (28.02.1509).

⁴⁷⁵ ADHG 1B18, fols. 128v^o–129r^o (12.03.1520), 398v^o (14.11.1520), 608v^o (27.06.1521); 1B19, fol. 413r^o (09.04.1523).

⁴⁷⁶ ‘afin que la justice de France ne soit maculée par la reception d’un personnage estrangier diffamé de semblables cas et crimes’, Parlement of Toulouse to the Parlement of Paris, Toulouse (28.06.1521), BnF NAF 8452, fol. 180r^o.

⁴⁷⁷ AN X^{1A}1524, fol. 333r^o (04.08.1522).

There were many reasons why incoming judges of the Parlement of Toulouse could find their bid for reception resisted, and in only a minority of cases was venality one of the issues raised. Although many receptions were protracted, very few candidates were rejected outright. In only one case was a prospective judge turned away because of a criminal conviction, and in the 1540s, two or three candidates were also rejected, perhaps on the basis of examination performance, kinship, or lack of suitable experience.⁴⁷⁸ For the judges who endured the screening process, the next step was to be installed in office.

iii) Possession of office

Owing to some of the problems exposed in the previous section, the lapse of time between the presentation of a candidate's letters of provision and the decision of the Parlement to receive him as a judge could be great. Pierre Faure and Michel de Pira had to wait three years before taking up their councillorships. Once the court decided to welcome a new recruit, though, the procedure of installation could take place.

To be placed in 'possession et saisine' of his judgeship at last, as the legal phrase ran, a candidate had to perform an oath relating to the duties of his office. Only once this was taken would a new recruit sit alongside his new colleagues in the Parlement of Toulouse. Unsurprisingly, oaths were ubiquitous in this courthouse. In the court's registers, the final oath sworn by candidates at reception is usually referred to as the 'accustomed oath' ('le serement en tel cas acoustumé'), without further

⁴⁷⁸ 1B14, fols. 50r^o–52v^o (12.01.1509); see Appendix Table 3a, n.27, n.29, and n.30.

elaboration. Occasionally, the contents of such vows are specified. New presidents and councillors of the Parlement swore upon the bible to exercise their offices loyally and well; to reject ‘corrupting’ gifts; to administer justice to the poor as to the rich; not to reveal the court’s ‘secrets’; to honour and obey the king, the court, and their instructions; to defer to presidents and senior councillors; and to uphold royal *ordonnances*.⁴⁷⁹ Once this oath was taken, the office was finally conferred upon the individual named in the letters of provision.

In Chapter 1, however, we saw that from 1493 royal *ordonnances* had introduced a separate oath to be taken by new candidates, one intended to reveal whether or not they had purchased their offices.⁴⁸⁰ Before they could swear their oath of ‘duty’, candidates first had to take the oath of non-venality. We have already seen how historians have approached this oath sceptically. Roland Mousnier conceded that it ‘might have been effective’, but for many the oath was futile, a means of assuaging the conscience of the crown.⁴⁸¹ According to André Viala, the Parlement of Toulouse first employed this oath in 1498.⁴⁸² On closer inspection however, the entries to which Viala referred all alluded to the swearing of the ‘accustomed’ oath – in other words, the one we have just seen, taken on entry into office. If the Parlement was not yet applying it in 1498, when and why did the court first incorporate the oath of non-venality into its reception of new judges?

⁴⁷⁹ ADHG 1B12, fols. 414v^o–415r^o (05.08.1504), 416r^o (08.08.1504), 520v^o–521r^o (18.02.1505), 635v^o (01.08.1505); 1B13, fols. 69r^o (02.03.1506), 134v^o (08.05.1506), 648r^o (24.05.1508); 1B30, fols. 19v^o (27.11.1536), 135v^o (23.02.1537), 313v^o (09.06.1537), 346v^o (27.06.1537), 349v^o (30.06.1537), 428r^o (18.08.1537); 1B34, fol. 417r^o (02.08.1541); *Treze livres*, pp. 380–381.

⁴⁸⁰ See Chapter 1, section i.

⁴⁸¹ Mousnier, p. 65.

⁴⁸² Viala, vol. 1, p. 202 n.2.

It was in January 1502 that Jehan Séguier presented his letters of provision for the office of lay councillor in the Parlement. Séguier had obtained this position through the resignation of Claude de Seyssel (c.1450-1520), the well-known councillor to Louis XII. Seyssel had been named to the vacant office originally, but had resigned his claim in favour of Séguier. The Parlement suspected that this transfer was the result of a private financial arrangement. Firstly, the judges decided to summon the *gens du roi*, to hear if they knew whether Séguier had bought the office. Secondly, Séguier would ‘purge himself’ by taking the oath of non-venality. If he could do so successfully, he would be admitted to office.⁴⁸³ Antoine Duprat and Arnaud du Faur, the *gens du roi*, were invited into the chamber. They vouched for Séguier’s university record and character, but conceded that they did not know if Séguier had given any cash to obtain his office. The following day, Jehan Séguier was invited to take the oath of non-venality, through which he acknowledged that he had not ‘given, nor promised to give, arranged to have given or promised gold, silver, or anything equivalent’ to acquire his office, ‘nor did he have any knowledge that anyone had given money on his behalf nor promised to do so’.⁴⁸⁴ With the judges satisfied by his answer, Séguier was received to his councillorship.

After Séguier’s arrival, this oath was deployed consistently at receptions to judgeships of the Parlement of Toulouse. Usually, the oath of non-venality occurred in the *grand’ chambre*, as soon as the judges had made their decision to receive a candidate. The prospective magistrate was invited in ‘immediately’, and once he had arrived the doors to the chamber were closed. Standing at the bar, he was presented

⁴⁸³ ‘par serement... se purgera’, ADHG 1B11, fols. 530r^o–530v^o (17.01.1502).

⁴⁸⁴ ‘de n’avoir donné ne promis donner fait donner ne promectre or argent ne autre chose equipollent ... ne sceu que homme pour lui en ait donné ne promis donner’, ADHG 1B11, fols. 531r^o–531v^o (18.01.1502).

with a bible, open on a depiction of the crucifixion, over which he would place his hands, and swear to tell the truth. The candidate was asked if he had given or promised, or arranged to have given or promised, gold, silver, or anything equivalent to obtain his office, whether personally or through another's intervention, directly or indirectly, or whether it was his intention to do so. Although the precise phraseology varied, it always echoed the royal *ordonnances*. For the most part, and rather tersely, the answer was a satisfactory 'non'.

However, candidates sometimes gave unusual and revelatory retorts. Jehan de Lavour, for instance, elaborated his 'non' by explaining that he had obtained his *clerc* councillorship through the resignation of an uncle 'freely', obtaining the letters of provision 'without money'.⁴⁸⁵ Other replies were more ambiguous. Mathieu Bosquet also replied in the negative when asked if he had purchased his office, yet he felt the need to clarify that he had given a servant who went to the royal court to solicit the office 20 *écus*. Bosquet also explained that he had paid the tax for the wax seal applied to his letters of provision, and that he had also promised to give 10 *écus* to the secretary who had composed them.⁴⁸⁶ When did such behaviour become inappropriate? It was not entirely clear: under this oath, prospective judges were given a space in which to articulate potential contraventions of *ordonnances*. Some applicants, like Pierre de Andrea, were nonchalant. Rather than answering with a straight denial, Andrea explained that he had 'worked' to obtain a lay councillorship, speaking about it with some friends. Although he had not paid for it, if his friends had given cash on his behalf, he had no idea about it.⁴⁸⁷

⁴⁸⁵ 'son oncle libéralement le lui avoit donné et sans argent', ADHG 1B11, fols. 552r^o–552v^o (23.02.1502).

⁴⁸⁶ ADHG 1B12, fol. 10r^o (09.12.1502).

⁴⁸⁷ ADHG 1B15, fol. 367r^o (12.08.1513).

Under oath, some new councillors claimed that they had not bought their offices, but that they had indeed transferred offices they already held to the crown. This was an obvious allusion to some of the early venal practices we observed in Chapter 2.⁴⁸⁸ When they were invited to take their oaths, for instance, Pierre Faure and Guillaume Benoît tempered their claims by declaring that they had given an office of *notaire et secrétaire du roi* and an office of councillor in the Parlement of Bordeaux to obtain their respective offices.⁴⁸⁹ Jehan de Pleux qualified his answer in a similar way, answering that he had not transferred money for his office, but had turned over his office of judge of Lauragais, as well as another one he had. Pleux added that some of his wife's relatives had provided 200 *livres* towards undisclosed 'costs' in pursuit of the office, but he added that he had not and did not intend to contribute to these.⁴⁹⁰ The oath of non-venality produced equivocal, sometimes disquieting responses. At times, though, it was also completely contrived.

It is clear that in 1519, for instance, candidates to judgeships deliberately suppressed information relating to payments made for their offices. Men received to new and existing councillorships that year had made loans of 4,000 *livres* to the king, and yet they failed to disclose these exchanges during their oaths of non-venality.⁴⁹¹ The oath should be handled with care: it was an ambiguous device, one that made it possible to withhold and conceal as much as expose. In the 1520s, as the provision of loans to the king to obtain offices became more frequent, the oath became a means of disclosing details about venality. When François de Nupces and Simon Reynier were

⁴⁸⁸ See Chapter 2, section i.

⁴⁸⁹ ADGH 1B11, fols. 634v^o–635r^o (12.07.1502); 1B12, fols. 231r^o–231v^o (13.11.1502).

⁴⁹⁰ ADHG 1B15, fol. 208v^o (07.10.1512).

⁴⁹¹ See Appendix Table 3a, n.1, n.2, n.3, n.4, and n.5.

received to lay councillorships in 1521, they revealed during their oaths of non-venality that they had loaned 4,000 *livres* and 6,000 *livres* for these positions. They clarified that their intentions were to be reimbursed, and that they had been gifted their positions before making the cash transfers. These were the first loans to the crown that were revealed in the Parlement of Toulouse under the oath of non-venality. Strikingly, they were also largely unproblematic. The court welcomed both Nupces and Reynier immediately, asking only that within the next two months they provide evidence of their transactions with the monarchy, with no sanction specified in case they failed.⁴⁹²

Divulging their loans to the crown through the oath of non-venality, new judges insisted that they planned to recover their money, replicating the monarchy's wishes to treat these loans as genuine. The oath of non-venality was modified to take account of these disclosures. Estienne de Paulo and Durand de Sarta were both admitted to councillorships in 1524 after they swore that they had paid nothing for these offices, 'but only loaned to the king a certain sum of money'.⁴⁹³ The pair was received without the court requesting to see proof of these transactions. In the 1530s, five new judges swore oaths containing clauses that they had loaned sums of money to the king, often confirming that this had been for his 'urgent affairs'.⁴⁹⁴ Once more, the oath was an occasion for new recruits to confirm the purposes of their loans and their intentions of being reimbursed.

By including such disclaimers, new judges could argue that they were not participating in the outright purchase of their offices. If most officers received to the

⁴⁹² See Appendix Table 3a, n.6 and n.7.

⁴⁹³ See Appendix Table 3a, n.8 and n.9.

⁴⁹⁴ See Appendix Table 3a, n.10, n.11, n.12, n.13, and n.15.

court were still concealing information relating to venality during their oaths, this changed dramatically in the 1540s. It was as the Parlement of Toulouse experienced its largest wave of office creations yet that as many as twenty new magistrates testified to their loans to the crown during oaths of non-venality.⁴⁹⁵ There is some evidence that candidates failed to mention loans, or supplied misleading information.⁴⁹⁶ Yet the language deployed during the oath of non-venality was purposeful. As in earlier examples, it featured a conjunction clause: the candidate had not given anything for his office ‘but’, ‘except for’, or ‘other than’ (*fors; excepté; outre*) the sum that he had loaned to the king. The phraseology was telling in another way. Many new judges confirmed, using adjectives, that they had transacted with the king ‘lovingly’ or ‘freely’, with a strong emphasis, again, on the king’s pressing and ‘urgent affairs’.⁴⁹⁷ This served to make a loan to the crown a species of exchange very different from private office sale. This was not a transfer that could be penalised by law, but rather a form of service.

Far from being hushed up, by the 1540s loans made to the king were declared openly. Judges disclosed the purpose, nature, and size of their transfers to the crown. Rather than being a sham, the oath of non-venality was able to rationalise loans made to the king, making such admissions a standard feature of reception to office. Recording oaths of non-venality with this information included meant that the Parlement of Toulouse possessed a log of its members who had loaned to the crown. The court welcomed new judges whom it knew had exchanged cash for their offices,

⁴⁹⁵ See Appendix Table 3a, n.17, n.18, n.19, n.20, n.21, n.22, n.23, n.24, n.25, n.26, n.28, n.29, n.30, n.31, n.32, n.33, n.34, n.35, n.36, and n.37.

⁴⁹⁶ Estienne Bonal, for example, made no mention of his father’s loan, and Georges du Gabre mentioned a loan of 4,500 *livres*, when he had in fact loaned 9,000: see Appendix Table 3a, n.17 and n.27.

⁴⁹⁷ See Appendix Table 3a, n.22, n.28, and n.33.

and in greater numbers than ever. Instead of resisting the crown's early practice of office sale, the oath of non-venality instituted in 1493 was capable of absorbing those practices. When they revealed their loans to the king via the oath, magistrates performed a rite of installation, an 'act of social magic' to use the terminology of Pierre Bourdieu.⁴⁹⁸ Preserved for posterity, these judges were instated by avowing their actions, which to a degree also excused them. If this made the species of venality based on loans easier to digest, this did not mean that the Parlement of Toulouse received new officers completely unconditionally.

Even when judges were invited to take their final oath of installation, the Parlement of Toulouse could limit new officers' activities in ways never stipulated by the crown. One tendency was to withhold from new magistrates the right to exercise their offices fully, temporarily reducing them to the position of privileged observers. Raymond Berail, for example, was received on condition that he did not report or discuss any cases until a year had elapsed. Instead, he would listen diligently to the others, in order to learn what 'every councillor of a sovereign court must know' to best serve king and commonweal.⁴⁹⁹ Often, such rulings had a pedagogical intent: during their probationary periods, new judges were not only to observe, but also to study the court's archives or shadow senior councillors. Between 1490 and 1547, the court issued a total of nine such restrictions. Four councillors were told that they could not judge cases for a year, but another four were given smaller terms, usually a number of months. In one case, the court ruled that a new judge would not be

⁴⁹⁸ Pierre Bourdieu, 'Les rites comme actes d'institution', *Actes de la recherche en sciences sociales* 43 (1982), p. 59.

⁴⁹⁹ 'ce que chacun conseiller de cour souveraine doit scavoir', ADHG 1B12, fol. 282r^o (24.01.1504).

permitted to report until two years after his reception.⁵⁰⁰ Sometimes, the ban on reporting cases could be lifted.⁵⁰¹

The Parlement also imposed restrictions on councillors when they were received to the wrong type of office. Yet again, the issue of church and lay councillors was one that occupied the court's time considerably. Unmarried laymen received to clerical posts were usually asked whether they were priests or in holy orders, whether they intended to be, or whether they intended to marry.⁵⁰² Sometimes, unmarried men were received to church councillorships conditionally: they had to consent to be removed from office if they married. Initially, the Parlement appeared satisfied with equating celibacy with the right to hold church councillorships. Later in the period, the court's position became more intransigent, shifting from a negative to a positive requirement. Laymen obtaining *clerc* councillorships were given a year to be received to the priesthood or to holy orders, otherwise their offices would be declared vacant. Even more dramatically, one candidate was told he could not exercise his office at all until he could provide evidence of this.⁵⁰³

Unsurprisingly, some men received with these caveats broke their promises. Usually, they transgressed their vows with royal permission, obtaining derogations that allowed them to marry despite being *clerc* councillors, and without fear of losing their offices. The Parlement registered these acts, though sometimes with great difficulty. One contravention in particular roused the court's ire. A layman with a

⁵⁰⁰ ADHG 1B19, fol. 240r^o (28.08.1522); 1B22, fols. 391r^o (04.09.1528), 629v^o (03.06.1529); 1B36, fols. 3r^o (17.11.1542), 489v^o–490r^o (07.09.1543); 1B37, fols. 213r^o (23.02.1544), 353v^o (22.04.1544); 358r^o (23.04.1544).

⁵⁰¹ ADHG 1B37, fols. 17r^o–17v^o (23.11.1543).

⁵⁰² ADHG 1B11, fols. 552r^o–552v^o (23.02.1502), 1B16, fol. 496r^o (27.08.1516); 1B24, fols. 22r^o–22v^o (05.12.1530).

⁵⁰³ ADHG 1B24, fols. 22r^o–22v^o (05.12.1530); 1B29, fols. 2r^o–2v^o (12.11.1535).

church councillorship, who had promised to pursue holy orders, had instead married and received royal dispensations. The court responded by fining the magistrate 400 *livres*, telling him to pursue a lay councillorship, and prohibited him from participating in judgements for a year. He was also banned from attending public sessions or processions while he retained the *clerc* councillorship.⁵⁰⁴

Far more rarely did the Parlement have to deal with churchmen occupying lay councillorships. When it occurred however, just as in the reverse situation, the court imposed specific, often unforeseen conditions on its new recruits. When an opportunity arose in 1504 for Pierre Faure, a churchman occupying a lay judgeship, to be transferred to a vacant *clerc* councillorship, the Parlement ordered him to relinquish his current post, or face a ban on entering the court, exercising his office, and receiving his *gages*. Faure bowed to the court's orders.⁵⁰⁵ Anthoine de Lautrec received a lay councillorship in 1543, but during his reception it became clear that he also held benefices. Once more, the court ruled a conditional reception: he could take up his office, but if Lautrec subsequently took holy orders or became a priest, he would have to secure a church councillorship.⁵⁰⁶

Councillors received to the 'wrong' type of post raised questions relating to everyday working arrangements. If a layman held a church position, would he sit amongst the *clercs* or the laymen? The Parlement instructed Jehan de Baulat, a

⁵⁰⁴ ADHG 1B25, fols. 421v^o (13.01.1532). This episode concerned Estienne Sacaley, who eventually resigned his *clerc* councillorship to a churchman with a lay office, ADHG 1B30, fol. 127v^o (17.02.1537).

⁵⁰⁵ ADHG 1B12, fol. 414v^o (05.08.1504).

⁵⁰⁶ ADHG 1B36, fol. 427v^o (09.08.1543).

layman received to a church office, to sit beside the church councillors. Yet as a layman, he was also made to promise that he would report criminal cases.⁵⁰⁷

Received with reservations such as these, a candidate could now take the ‘accustomed’ oath, which placed him in possession of his office. The new judge took his place on the bench according to his status as the newest recruit. On the fold of his parchment letters of provision, the *greffier* signed a statement confirming their registration in the Parlement of Toulouse.⁵⁰⁸

This chapter has described the reception of new judges to the Parlement of Toulouse between 1490 and 1547. The place of election in recruitment to the court was complex, and cannot be considered a simple failure. In practice, purchasing office and elective procedures were not contradictions of one another in this period. They were individual components amongst a multitude of techniques required to obtain office that included solicitation, patronage, family, and demonstrable competence. If potential judges recognised that they needed to provide loans, they were also aware of the need for these networks and skills. Significantly, senior members of the court supervised and encouraged the transfer of loans to the crown themselves. In only three cases did the court resist what it suspected were venal appointments. Yet this was not the only aspect the Parlement found troubling about the arrival of new members. The judges spent a great deal of time hearing, debating, and deferring receptions on the basis of other concerns. Some – like the growing number of lay to church councillors – were intertwined with venality and difficult to extricate from it. Finally, this chapter has demonstrated that before they were received, many

⁵⁰⁷ ADHG 1B16, fols. 141r^o–141v^o (07.05.1515).

⁵⁰⁸ ADHG 1J840.

councillors explained lucidly that they had provided loans to the crown to obtain their offices. The Parlement also possessed considerable discretion in receiving these officers, imposing limits on how they would exercise their judgeships.

On the whole, venality does not appear to have been disruptive to the court's reception practices. Transfers of money to the king were a regular and overt feature of reception procedure. Within the court, a series of ulterior concerns were at play in processing receptions that could serve to diminish the threat of royal venality. The fact that judgeships had been purchased was often secondary, and the court was far more alert to questions of institutional 'fit', reputation, and competence. We might well agree with and paraphrase Françoise Autrand, then, who observed that 'venality is hunted down with greater ardour by historians of the [twenty-first] century than it was by judges of the [sixteenth]'.⁵⁰⁹ But was the sale of offices really viewed as so innocuous? A perspective drawn solely from the registers of the Parlement might hide some of the grave fears associated with venality of office.

⁵⁰⁹ Françoise Autrand, 'Offices et officiers royaux en France sous Charles VI', *Revue Historique* 242:2 (1969), p. 323.

Venality in debate

Attendu mesmement que tout leur directoire en judicature usuale a esté baillé par un Tribunian, homme mescréant, infidèle, barbare, tant maling, tant pervers, tant avare et inique, qu'il vendoit les loix, les édictz, les rescriptz, les constitutions et ordonnances en purs deniers à la partie plus offrante⁵¹⁰

Stepping back from the more formalistic language of court registers initially, this chapter analyses arguments put forward in print in particular with a view to exploring how the sale of offices was interpreted in France over a slightly longer timeframe.

William Doyle observed that, when it came to the sale of office, ‘successive meetings of estates, both general and provincial, brought repeated adverse comments, not to mention caustic condemnation from most sixteenth-century observers of public affairs’.⁵¹¹ This chapter is concerned with these observers, engaged in dialogue as it were with the royal interpretation and practice of venality that we examined in Chapters 1 and 2. It seeks to comprehend why the sale of judicial offices in particular was such a provocative topic. What made it so ethically abhorrent? The unanimous aversion shown towards venality is usually taken as self-evident and repetitious. It was a lugubrious development simply to be stomached, one of those unpleasant

⁵¹⁰ *Rabelais*, p. 486 (*Tiers Livre*, XLIV).

⁵¹¹ William Doyle, *Venality: the sale of offices in eighteenth-century France* (Oxford, 1996), p. 8.

features that many wished to see wither away, but that until the Revolution remained a dream.⁵¹²

In contrast, the objective of this chapter is to return the critique of venality to its context in order to understand why it was so demonised. Arguments against the sale of judicial offices were rooted in a host of themes. Tirelessly evoked, the topic percolated sixteenth-century literature far more deeply and eclectically than has been acknowledged. The impulse for writing about it can only be understood as a need to grasp the manifestations, consequences, and causes of an increasingly permanent experiment initiated by the French monarchy. It was through the spilling of much ink over the century that a critical nomenclature associated with law and officeholding was consolidated. The result was not just a vocabulary that rejected the sale of office, but a shorthand term that could be used to denigrate it.

As the sale of offices became entrenched in the legal system, a discussion gathered strength regarding the crown's practices. The very word and category 'venality' were a product of this debate. French etymological researchers have dated the earliest usage of 'venality' to 1573, when it appeared in a book published by Guillaume Paradin on the city of Lyon.⁵¹³ This work actually cited the word through a royal act of 1531 that has not been traced.⁵¹⁴ However, the context of its usage is indicative. As it was used there, 'venality' was actually in the plural form, and possessed a distinct shade of meaning. It referred, vaguely, to a disposition for

⁵¹² Doyle, *Venality*, pp. 239–274.

⁵¹³ 'Vénalité, subst. fém', *Centre Nationale de Ressources Textuelles et Lexicales*, retrieved 08.2016, at <http://www.cnrtl.fr/etymologie/vénalité>.

⁵¹⁴ 'mandons... audit Seneschal de Lyon... de soy informer bien & deuëment des concussions, larrecins, venalitez de justice...', Guillaume Paradin, *Mémoires de l'histoire de Lyon* (Lyon, 1573), p. 370.

profiteering, and we see that it was related to varieties of theft, crime, embezzling and abuse of office. The word ‘venality’ was used in this manner in the Parlement of Toulouse too. In 1547, the *gens du roi* attacked the ‘disorder and venality’ taking place in the local court of the inquisitor, because lawyers there were being chosen to judge cases arbitrarily, and charging litigants excessively.⁵¹⁵ This ‘venality’ was not about how judges habitually obtained and exercised their posts, but related mostly to preventable incidents in which undue profits were being drawn.

Yet ‘venality’ was also emerging as a more substantive term, one corresponding with the ‘official’ practice of royal office sale. *Vénalité* used as a synonym for the monarchy’s sale of offices was a neologism. It was from the second half of the sixteenth century that this sense emerged definitively, becoming widespread by the 1580s, but the term had certainly been used in similar way much earlier. Some of the earliest examples of its appearance in print are in the transcription of a speech made by Jean de Rély (1430-1499) at the Estates-General of Tours in 1484. There, he denounced the ‘venality of offices’ as a corruption of justice, with unambiguous reference to office purchase.⁵¹⁶ The word was used in the same way in the registers of the Parlement of Toulouse: the court registered an act produced after the Estates-General of 1484 that referenced access to offices ‘par vénalité’.⁵¹⁷ The most fascinating use of the term ‘venality’ I have found in this court’s records, however, occurs in connection with the University of Toulouse.

⁵¹⁵ ‘desordre et venalité’, ADHG 1B2379 (17.08.1547); see Appendix Figure 11.

⁵¹⁶ ‘Justice, sire, est toute corrompue ... par venalité des offices’, *C’est l’ordre tenu et garde en la notable & quasi divine assemblée des troys estatx* (Paris, 1518), p. xv r^o.

⁵¹⁷ ADHG 1B1900, fol. 70r^o; see Appendix Figure 11.

More precisely, in 1537 the Parlement discovered that professorships were changing hands for cash. The court was appalled by these exchanges, which had reduced the regencies of the University to ‘venality, pact, and succession’, making them ‘virtually hereditary’. The result was ‘great scandal’, the dishonour and ruin of the University, but also the corruption of students’ doctrine, and ‘inestimable’ damage to the commonweal.⁵¹⁸ What is salient about ‘venality’ in this episode is that it anticipated how royal office sale would be described later in the century. Turning posts into property appeared to give rise to a chain of abuses. Inescapably, the way offices were filled influenced how they were exercised, which affected not just one institution, but the entire framework. These examples demonstrate that the term ‘venality’ existed much earlier than is believed. It was in the last forty years of the sixteenth century especially that it became shorthand for the crown’s sale of offices, with negative connotations. This change in meaning is crucial to understanding how venality arrived. Until the 1550s, office sale could be viewed ambiguously. This chapter argues, then, that a defining moment of interpretation came in the second half of the sixteenth century. It was then that usage of the term surged, paralleling the monarchy’s deeper experimentation with selling offices. The term was emblematic of the new territory that had to be charted and given a name by critics, of the need to make sense of the monarchy’s activities with a pithy expression.

⁵¹⁸ ‘receu or et argent ou autre chose equippollente et toutellement redigé lesd. chaires et regences à venalité, paction, et succession quasi hereditaire’, ADHG 1B30, fols. 352v^o–353r^o (04.07.1537); see Appendix Figure 11. For more on venality as it affected professorships of the University of Toulouse: Henri Gilles, ‘La nomination des régents à la faculté de droit de Toulouse au XVI^e siècle’ in *L’humanisme à Toulouse (1480-1596)*, ed. Nathalie Duvois (Paris, 2006), pp. 59–68; AMT GG892 (16.11.1536); Guillaume Benoît, *Repetitio admodum solennis c. Raynutius* (Lyon, 1529/1530), p. 18r^o (II.59). For the participation of judges of the Parlement of Toulouse in this venality, see Chapter 5, section iii.

But, we should rightly ask, who were these critics? The first two sections of this chapter in particular refer to printed texts that referenced office sale in the sixteenth century. This is an intertextual exercise, which involves exhuming forgotten works as well as revisiting classics, and the material used is suggestive rather than exhaustive in scope. Authors mobilised every tool they could to assess the sale of judicial posts. Strikingly though, a disproportionate number of the voices that we will hear came from within the legal community. Many were practitioners, pleading *avocats* or officers of the intermediate jurisdictions. By the later sixteenth century, these were the same individuals who now struggled to access higher judicial functions whose prices had inflated.⁵¹⁹ Produced overwhelmingly by legal professionals, it will be fruitful to consider the writings assailing venality as part of a nascent ‘legal public sphere’, to borrow a notion proposed by both Sarah Hanley and Michael Breen.⁵²⁰

This ‘legal public sphere’ submitted the monarchy’s cobbled statements about venality to the test and found them wanting. But why did these writers interpret what was happening so negatively? The rejection of office sale was rooted in a host of themes that need to be unpacked. It will be impossible to analyse every aspect here, but the first and second sections will give a flavour as to why venality came to be seen as so repugnant, as well as suggesting why this verdict might not have been quite so clear earlier on.

⁵¹⁹ Marie Houlemare, *Politiques de la parole: le parlement de Paris au XVI^e siècle* (Geneva, 2011), p. 185.

⁵²⁰ Sarah Hanley, ‘Social sites of political practice in France: lawsuits, civil rights, and the separation of powers in domestic and state government, 1500-1800’, *The American Historical Review* 102:1 (1997), p. 34; Michael P. Breen, *Law, city, and king: legal culture, municipal politics, and state formation in early modern Dijon* (Rochester NY, 2007), p. 9.

This chapter is divided into three sections. The first explores what was so offensive to legal thought about office sale. Section ii explores the moral and religious reasons why venality was censured. Naturally, such a neat caesura between legal and moral languages is wholly artificial: the ‘association of law with moral or practical philosophy’ is, of course, close.⁵²¹ It was a complex and interwoven legal, humanist, and Christian culture that rejected office sale. We must obviously tread cautiously as we unravel these threads: ‘attacks on venal judges are as old as literature’.⁵²² Yet some of the terms of the debate were undoubtedly new, and represented a reaction to unprecedented events. The result was a critical language with some powerful and lasting claims. ‘Venality’ entered the lexicon as a vernacular label referring to a sordid breach of integrity not merely as a trait, but as a systemic vice. In the third section, we will return to the setting of the courtroom and to the first half of the sixteenth century to study the jurisprudence of the Parlement of Toulouse and other sovereign courts of law. If this period witnessed the emergence of a cutting critique of venality, why was the practice so successful? One explanation is that legislation prohibiting office sale was difficult to enforce. Venality was often prosecuted only peripherally, and was usually not the most important aspect of cases. Significantly, however, a selection of ‘show trials’ during the reign of François Ier resulted in several major figures being tried and convicted for selling offices. Although venality was indeed prosecuted here, this tended to support the notion of a royal monopoly over office sale. In this way, before ‘venality’ emerged as a critical term, the notion of office sale was malleable. It was this very slipperiness of meaning that characterised its status in the first half of the sixteenth century, and which facilitated its arrival.

⁵²¹ Ian Maclean, *Interpretation and meaning in the renaissance: the case of law* (Cambridge, 1992), p. 27.

⁵²² John A. Yunck, *The lineage of Lady Meed: the development of mediaeval venality satire* (Notre Dame IN, 1963), p. 147.

i) Juristic arguments

As we have just learned that venality affected the University of Toulouse as well as its Parlement, it seems fitting to begin our excavation of attitudes to venality with an observer active in both the domains of the legal scholar and of the magistrate (see Appendix Figure 12). Guillaume Benoît (1455-1516) taught law and later became a lay councillor of the Parlement of Toulouse in 1503. Benoît is famous for an extended commentary on a canon law. In one passage, his *Repetitio* (first published posthumously in 1523) tackled the subject of office sale, making it clear that this was an established, scholarly topic, and part of the curriculum that he was teaching at the University of Cahors.⁵²³

Benoît announced his characteristically digressive foray into the subject by asking if it was ever lawful to give or receive money to obtain public office.⁵²⁴ Perhaps surprisingly, Benoît's was not a blank condemnation. He observed that it was technically permissible for a prince to sell offices. Here, Benoît showed an affinity with commentators of Roman law, who had provided cautious arguments in favour of office sale, just as long as it was conducted publicly. Canon law commentators added their own distinctive spin, suggesting that the sale of judicial functions could be considered akin to simony, since it involved powers derived from God. For them,

⁵²³ Patrick Arabeyre, *Les idées politiques à Toulouse à la veille de la réforme: recherches autour de l'œuvre de Guillaume Benoît (1455-1516)* (Toulouse, 2003), pp. 81–133.

⁵²⁴ Benoît, *Repetitio*, p. 17r^o (II.52).

only the sale of offices with ‘jurisdiction’ was anathema.⁵²⁵ This influenced Benoît’s interpretation greatly: the sale of mere ‘administrative’ functions could be considered legitimate. Venality was not prohibited by divine law, but only civil law – to which princes were not held because, in the famous adage, they were absolved of the laws.⁵²⁶ This was why – and Benoît appeared to be referring to contemporaneous events – the pope was able to sell temporal functions without sin. Yet it was absolutely forbidden for anyone else to partake in this trafficking.⁵²⁷ Even if it contradicted Roman law, then, the king did no wrong when he sold offices. Later in the sixteenth century, Joos de Damhouder also argued that if princes drew up contracts to sell offices or – significantly – if their officers did, then they could be excused, even if he deemed this an appalling scenario.⁵²⁸

We must pause here, because such reflections explain a great deal about how the monarchy’s sale of offices was first conducted and understood. The sale of certain positions in courts of law presented no dilemma. For example, the monarchy had no qualms about selling offices of *huissier* or *greffier* in the Parlement of Toulouse, as we have seen, because these offices wielded no ‘jurisdiction’.⁵²⁹ Where exactly the line was drawn was an open question. In 1499, after it had transpired that Pierre Faure had purchased the office of *notaire et secrétaire du roi* in order to trade it for a councillorship, Faure’s lawyer argued ‘that offices of secretary are without jurisdiction and thus they can be bought, and they are bought and sold every day’.⁵³⁰

⁵²⁵ Charles Lefebvre, ‘Les juristes du moyen âge et la vénalité des charges’ in *Miscellanea historica in honorem Leonis van der Essen* (Brussels; Paris, 1947), pp. 278–283.

⁵²⁶ ‘Princeps legibus solutus est’, *Corpus iuris civilis*, vol. 1, p. 12 (Dig.I.3.xxxi).

⁵²⁷ Benoît, *Repetitio*, p. xvii r^o (II.52).

⁵²⁸ Joos de Damhouder, *La practique et enchiridion des causes criminelles* (Louvain, 1555), p. 299.

⁵²⁹ See Chapter 2, section ii.

⁵³⁰ ‘ainsi feust dit que les offices de secreteres sont sans juridiction et sic possunt emi & chacun jour se achaptent’, ADHG 1B2329, fol. 340r^o (23.06.1499).

The *avocat* was alluding to learned texts to validate a venal transaction. Significantly, the contours of ‘venality’ were not yet drawn: it was possible to contest and compartmentalise in a way that became unfeasible later. As we have already seen, the monarchy was adamant that the judgeships of its parlements – offices with unquestionable ‘jurisdiction’ – were not for sale, but accessible for reimbursable loans. When the crown began to sell offices then, it did so employing a twofold system that had juridical pedigree. It was acceptable to sell ‘manual’ functions, but not judicial offices. Until the second half of the sixteenth century it was possible, with some quibbling, to maintain that magistracies were not being sold. But the loans system eventually collapsed, and critics began to address the fact that the judiciary had become accessible by cash.

Although Benoît accepted latent arguments for royal venality, he felt that the sale of judgeships was iniquitous. It opened up the path to *concussions*, spawned infinite ills, and even if it might circuitously succeed in installing worthy men, it set an appalling precedent. Judges, in particular, considered purchased offices as ‘theirs’, threatening to abuse their positions just as Sulla (c.138-78BC) had done as praetor.⁵³¹ Like Thomas Aquinas (1225-1274), Benoît recognised that it was theoretically possible for potentates to sell offices. Yet he too denied that the expedient should ever be practised.⁵³² This opinion became increasingly strident over the course of the century. The following passages break down some of the juristic reasons why venality was seen as calamitous.

⁵³¹ According to Plutarch, when Sulla threatened to use the authority of his praetorship, he was met with the quip: ‘Tu as raison de l’appeller ton office: car il est voirement tien, puis que tu l’as acheté’, Plutarch, *Les vies des hommes illustres grecs et romains*, trans. Jacques Amyot (Paris, 1583), p. 297.

⁵³² Benoît, *Repetitio*, pp. xvii r^o–v^o (II.54); Thomas Aquinas, *Political writings*, ed. and trans. R. W. Dyson (Cambridge, 2002), pp. 235–236.

Observers linked the increase in the number of royal officials instinctively to their sale. In 1515, there had been an estimated 4,041 judicial and financial officers; by 1573, this figure had swollen to over 19,400.⁵³³ Steadily, this expanding judicial infrastructure was seen as problematic. When the crown created new offices, it argued that this was the best means of expediting a more responsive, less costly justice.⁵³⁴ But for critics, venality increased the size of the judiciary at the expense of litigants. Jean de Marconville linked the ‘unbridled’ number of judges with the ‘corruption of commonweals’.⁵³⁵ Critics cited Plato’s *Republic* to demonstrate that the corrupted state was that in which there were many doctors and judges: just as doctors thrived on idleness and gluttony, magistrates were nourished by disloyalty and contention.⁵³⁶

Not only were the consumers of royal justice affected by venality. Paradoxically, selling offices cost the crown dearly too. New posts carried *gages*, and although inventing a new office would provide a one-off payment, the king would then have to support this agent financially for a further ten, twenty, or even thirty years. Creating new officials for cash only ever resulted in the crown becoming ‘impoverished’, maintained Regnault Dorléans.⁵³⁷ The pseudonymous *Secret des finances* (1581) alleged that the ‘venality of offices and their plurality’ was mathematically absurd: any money raised by this means was always counteracted by

⁵³³ Roland Mousnier, *Le conseil du roi de Louis XII à la révolution* (Paris, 1970), p. 18. According to the 1573 ‘census’, the Parlement of Toulouse now had five presidents and a total of seventy-one councillors, BnF MS fr. 4436, fols. 167r^o–168r^o.

⁵³⁴ See Chapter 1, section iii.

⁵³⁵ ‘une corruption de république’, Jean de Marconville, *La manière de bien policer la république chrestienne* (Rouen, 1582), pp. 19–20, 22.

⁵³⁶ Plato, *The republic*, ed. G. R. F. Ferrari, trans. Tom Griffith (Cambridge, 2003), p. 96 (405a); *Discours sur les estats de France* (Paris, 1586), p. 11v^o; Matthieu Coignet, *Politique discourses upon trueth and lying*, trans. Edward Hoby (London, 1586), p. 87.

⁵³⁷ Regnault Dorléans, *Les observations de diverses choses remarquées sur l’estat* (Vannes, 1597), p. 99.

the much greater costs of maintenance.⁵³⁸ This was why the Breton magistrate and writer Noël du Fail (c.1520-1591) argued that to forge new courts for cash continuously was but a ‘specious medicine’.⁵³⁹ Since judicial offices also granted fiscal exemptions, the expense of paying officers would fall repeatedly on the rest of the populace. As one author put it, the ‘bourgeois, merchants, and the common people’ footed the bill for new, venal creations.⁵⁴⁰

The sixteenth century is famous for its rates of inflation. Yet the stipends of royal judges failed to increase in proportion and their delivery was often uncertain. It was believed that, unpaid and out of pocket from acquiring their positions, officers would attempt to earn fraudulently. This discussion centered on the charging of *épices*, the customary charges paid by litigants at the conclusion of cases. For the scholar Loys Le Roy (c.1510-1577), it was ever since judicial offices had become ‘venal and lucrative’ that trials had been taxed uncontrollably, and that *épices* had risen.⁵⁴¹ Profiteering from cases was satirised most brilliantly by François Rabelais: his terrifying *chatz fourréz* – furred law-cats – bedecked, like French judges, in ermine-trimmed robes, agreed to conclude a trial with glee upon receiving a ‘fat purse’ of *épices*.⁵⁴² To observers, *épices* seemed to be the only real means of revenue, but they suggested that pleaders were fleeced through deliberately convoluted procedures. Outside this quasi-legal regime of remuneration, venal judges were suspected of partaking in downright criminal behaviour.

⁵³⁸ ‘la venalité des offices & pluralité d’iceux’, Nicolas Froumentau, *Le secret des finances de France* (1581), livre 3, pp. 431–433.

⁵³⁹ ‘medicaments speciaux’, Noël du Fail, *Les contes et discours d’Eutrapel* (Rennes, 1587), p. 19.

⁵⁴⁰ ‘les bourgeois, & marchans, & le menu peuple... en demourent accablez’, Pierre de Saint-Julien, *De l’origine des bourgongnons* (Paris, 1581), p. 180.

⁵⁴¹ ‘après... que les offices de judicature ont esté rendues venales & lucratives’, Loys Le Roy, *De l’excellence du gouvernement royal* (Paris, 1575), pp. 25–26.

⁵⁴² Rabelais, pp. 782–783 (*Le cinquième livre*, XIII–XIV).

Venality was constantly connected to rising litigation rates. French litigiousness was viewed as a national disease, the ‘true French pox’, claimed the lawyer and protestant refugee François Hotman (1524-1590).⁵⁴³ Instead of calming this mania, judges were accused of fomenting the number, length, and expense of trials. They were arch-masters of ‘chicane’. Here was a word repeated tirelessly to describe French litigiousness, a term that had long held sinister connotations in relation to the judicial system. Preachers like Michel Menot (d.1518) had railed against *chicaneurs*, the ‘parasites of offices’.⁵⁴⁴ Rendered into English as ‘pettifoggery’ or ‘legal wrangling’, *chicane* referred to the skilful deceit with which men of law prevaricated in order to take higher fees; to ‘pluck the goose without making it scream’, as one proverb put it.⁵⁴⁵

Judges were aided in this deviousness by the use of Roman law. In Chapter 1, we saw that royal acts that banned venality often imported entire passages of Roman law verbatim.⁵⁴⁶ Had this been wise, or foolish? Matthieu Coignet (c.1514-1586) praised the oath instituted by Theodosius II and Valentinian III and ‘their wisdom’.⁵⁴⁷ The anonymous author of a pamphlet rejecting venality claimed inspiration from the eighth Novella. Its words, the same author noted, should ‘be engraved in the hearts of kings, to flee and abhor the venality of places and offices in their kingdoms as a most

⁵⁴³ François Hotman, *Francogallia*, ed. and trans. R. E. Giesey and J. H. M. Salmon (Cambridge, 1994), pp. 522–523.

⁵⁴⁴ ‘escornifleurs d’offices’, Michel Menot, *Sermons choisis (1508-1518)*, ed. Joseph Nève (Paris, 1924), pp. 28, 31.

⁵⁴⁵ For more on English ‘pettyfoggers’, Christopher W. Brooks, ‘Pettyfoggers and vipers of the commonwealth: the ‘lower branch’ of the legal profession in early modern England (Cambridge, 1986). On the proverb, ‘On plume l’oye sans la faire crier’, Randle Cotgrave, *A dictionarie of the French and English tongues* (London, 1611), s.v. ‘Oye’.

⁵⁴⁶ See Chapter 1, section i.

⁵⁴⁷ Coignet, *Politique discourses*, pp. 207–208.

pernicious evil'.⁵⁴⁸ For Roland Pietre, an *avocat* in the Parlement of Paris, the eighth Novella taught correctly that the 'beginning and end of all iniquity and injustice is the venality of places and offices'.⁵⁴⁹ Yet in simply repeating decrees drawn from Roman law, was the crown legislating lazily? If monarchs appropriated the words of late Roman emperors, might they not also imitate their deeds?

The emerging method of legal teaching known as the *mos gallicus* (French method) challenged the applicability of Roman law to France in a bitter and sustained invective.⁵⁵⁰ A movement spearheaded in France by Guillaume Budé (1467-1540), his *Annotationes in pandectas* (1508) led the humanist charge against medieval learning.⁵⁵¹ The *mos gallicus* tradition questioned the applicability of the *Corpus iuris civilis* to France. Legal humanists argued that the commentators of these texts had fundamentally misinterpreted Roman law through severe transcription errors and a scholastic method. These exegetes had disregarded the fact that the *Corpus* was composed of laws articulated in very different historical circumstances. Hotman's *Antitribonian*, written in 1567, recapitulated many of these themes. He questioned the pedantry of drilling university students of law in the *Corpus*, who learned nothing about practice in French courts. Roman and Byzantine magistrates were obsolete and corresponded in no way to the offices of France – so why were they studied? Treated as a timeless code, the *Corpus* encouraged the rigid application of antiquated laws, resulting in lengthy, expensive procedures: it was the very manual for 'chicaneries'.

⁵⁴⁸ 'ils meritent estre gravez és coeurs des roys pour fuyr et abhorrer (comme un mal tres pernicleux) la venalité des estats, & offices de leurs royaumes', *Apologie sur la venalité des estats* (1586), pp. 2, 5.

⁵⁴⁹ 'le commencement & la fin de toute iniquité & injustice, estre la venalité des estats et offices du public', Roland Pietre, *Le premier livre des considerations politiques* (Paris, 1566), Sig. D iii r^o.

⁵⁵⁰ Donald R. Kelley, 'Civil science in the renaissance: jurisprudence in the French manner', *History of European Ideas* 2:4 (1981), p. 261.

⁵⁵¹ Julian H. Franklin, *Jean Bodin and the sixteenth-century revolution in the methodology of law and history* (New York NY, 1966), pp. 18–24.

In places where Roman law was not observed, there was not a hundredth as many lawsuits as in France. There was nothing even particularly ‘Roman’ about the books compiled by Justinian. The greatest travesty of all was that the *Corpus* was an impure work, one hoarded under the epigone and extremely suspect supervision of Tribonian. Slicing it up into gobbets, Tribonian had overseen the obfuscation of Roman law. Citing Procopius, Hotman argued that this same compiler was appallingly venal: he trafficked the laws, establishing or abolishing them for money.⁵⁵² The true lesson taught by the *Corpus*, then, was only how to stop venality in vain. Its very redaction had been a matter of personal gain. The vilification of Tribonian in the sixteenth century was legendary. As the epigraph to this chapter demonstrates, in 1546 Rabelais had called him ‘so avaricious and wicked’ that he sold the laws for cash to the highest bidder.

For critics, the monarchy’s reliance on the authority of Roman law could be unconvincing. They exposed office sale to be an affliction suffered by Roman emperors. When they multiplied and sold posts to the ‘entire ruin’ of France, French kings actually seemed to resemble Roman emperors, pointed out a councillor in the *présidial* of Riom, Jean Combes (1512-1590).⁵⁵³ Another author lamented that the ‘entire destruction and ruin of the Roman republic’ appeared to have started nowhere else but ‘in this selling and trafficking of places & offices’.⁵⁵⁴ Long before the kings of France, the emperors Vespasian (r.69-79) and Elagabalus (r.218-222) had ‘made all

⁵⁵² François Hotman, *Antitribonian* (Paris, 1603), pp. 2–3, 17–18, 66, 76, 82–83, 145.

⁵⁵³ Jean Combes, *Traicté des tailles*, 2nd ed. (Paris, 1584), p. 22.

⁵⁵⁴ ‘l’entiere destruction & ruine de la république de Rome... ait pris son commencement d’ailleurs, que de ceste marchandise & traffique d’estats & offices’, *Discours politiques sur la voye d’entrer deuëment aux estats* (Paris, 1574), p. 25.

places of judicature venal'.⁵⁵⁵ This Roman custom was a vice that had seeped into the French kingdom. Though the invocation of Roman law to banish the sale of judicial offices could appear laudable, it was also extremely problematic. It was to learn lessons about prohibiting the sale of offices from a people who had tolerated it so lightly.

Since the *mos gallicus* tradition considered law to be a social and historical product, placing Roman law in its context also meant studying France's own past.⁵⁵⁶ This exercise served to confirm the strangeness of venality. One key historical 'unearthing' of the period was a reappraisal of France's Gallic roots. Mostly through interaction with Julius Caesar's *Commentarii de bello gallico* (c.50-40 BC), authors became fascinated by the justice rendered under the Gauls, especially since they had no notion of venal appointments. The Gauls would judge disputes for free and only at certain times of the year, under the authority of druids who were 'priests of their law'. They would do so 'out in the open, sat on some lawn, or under the shelter of a thick oak'.⁵⁵⁷ A far cry, argued Jean d'Arrerac, lay councillor of the Parlement of Bordeaux, from the manners of the sixteenth century.

Researchers of France's past found historical paragons. Because he had prohibited the leasing out of offices for money, Louis IX was regarded as a champion of justice. For this, he received great praise from both Guillaume Benoît and Josse

⁵⁵⁵ 'qui fist tous estats de judicature venaux, ce qu'avoyent fait jadis Vespasian & Heliogabale Empereurs Romains', Marconville, *La manière de bien policer*, p. 16v^o.

⁵⁵⁶ Donald R. Kelley, 'The rise of legal history in the renaissance', *Theory and History* 9:2 (1970), p. 178.

⁵⁵⁷ 'prestres de leur loy', Étienne Pasquier, *Des recherches de la France* (Paris, 1560), p. 2; 'ils rendoyent bien souvent la justice en pleine campagne, assis sur quelque gazon, & à l'abri de quelque chesne touffu', Jean d'Arrerac, *La philosophie civile et d'estat* (Bordeaux, 1598), p. 560.

Clichetove (1472-1543).⁵⁵⁸ Another writer remarked dolefully that ‘where Saint Louis prohibited the selling of places of judicature... we have retained only the appearance of doing so’.⁵⁵⁹ For taking such a strong stance, Louis IX’s place in discussions of venality was iconic (See Appendix Figure 13).

In studying the past, critics also encountered the usage of ‘elections’ to royal posts. Although, as we have seen, it operated extremely unevenly in the early sixteenth century, the legal public sphere venerated what was seen as a means of accessing judicial office free of charge.⁵⁶⁰ Jean Duret, an *enquêteur* in Moulins, argued that only recent ‘wretched years’ had brought about the ‘public sale of offices’, which had extinguished the system of nominations.⁵⁶¹ The achievements of election appeared to be confined to the rubrics of large tomes of law: ‘of elections, nominations & receptions to royal offices’; ‘on the election of presidents and councillors of sovereign courts’.⁵⁶² The practice seemed so removed from current sensibilities that it appeared utterly impracticable – an ossified legal artefact with no relevance. This was the truly distressing characteristic of venality: it threatened to subvert law altogether.

Selling offices entailed not only a contravention of existing laws, but also a deluge of new, gratuitous legislative activity. From the 1560s especially, the

⁵⁵⁸ Benoît, *Repetitio*, p. xvii v^o (II.56); Josse Clichetove, *In hoc opusculo agitur de laudibus sancti Ludovici, regis Franciae* (Paris, 1516), pp. 23–26 (XIV).

⁵⁵⁹ ‘Quand à ce que le Roy S. Loys defendit de ne vendre estats de judicature... nous ne retenons seulement que l’apparence de cela’, Vincent de La Loupe, *Premier et second livre des dignitez, magistrats, & offices du royaume de France* (Paris, 1556), p. 2.

⁵⁶⁰ See Chapter 3, section i.

⁵⁶¹ ‘le temps malheureux a apporté la publique vente des offices’, Jean Duret, *Commentaires aux coutumes du duché de Bourbonnois* (Lyon, 1585), pp. 83–84, 88.

⁵⁶² ‘Des elections, nominations & receptions, aux offices Royaulx’, *Ordonnances, loix, statutz, & edictz royaulx, de tous les roys de France*, ed. Pierre Rebuffi (Lyon, 1547), p. i v^o; ‘De l’élection des presidents et conseillers des cours souveraines’, *Conference des ordonnances royaux*, ed. Pierre Guenois, 3rd ed. (Lyon, 1593), p. 30.

monarchy created new posts, made them hereditary, suppressed them, then created them anew. In his *Pourparler du prince* (1560), the *avocat* Étienne Pasquier (1529-1615) argued that the creation of new laws, ‘slicing and cutting them up from one day to the next’ was certain to lead to ruin.⁵⁶³ Laws creating new offices were enacted on unsound principles. The monarchy’s interventions were motivated by pecuniary considerations entirely, and to the benefit of a few opportunists. The result were ‘lawes no lesse venall than the offices’.⁵⁶⁴ Jean du Laurier believed that if royal *ordonnances* were actually observed, they would eliminate infinite abuses within the judiciary. The reason they were not, though, was that obeying them was ‘contrary to the gain and profit that their contempt and contravention brings’.⁵⁶⁵

For commentators, the verdict was clear. Venality signified the impulsive creation of new laws to raise cash and the neglect of good, ancient ones. It was responsible for an indelible breach in the legal fabric of the realm. In 2009, Benoît Garnot observed that old legislation that is not updated can ‘give the impression of a chasm between norms and practice’.⁵⁶⁶ Rather than recall the diverse, expedient, and permissive royal languages François Ier had used to exonerate venality, the legal public sphere clinged to the great *ordonnances* of the late fifteenth century.⁵⁶⁷ In doing so, it sought ‘to preserve certain texts to the detriment of others’, which in a sense ‘disappeared’ from the juridical memory of sixteenth-century France.⁵⁶⁸

⁵⁶³ ‘d’en tailler & decouper de jour à autre à son plaisir’, Pasquier, *Des recherches de la France*, p. 89v^o.

⁵⁶⁴ *A caveat for France, upon the present evils that it now suffereth*, trans. Edward Aggas (London, 1588), p. 26.

⁵⁶⁵ ‘elles ne sont point pratiquées, pource qu’elles sont contraires au gain & profit qu’apporte leur mespris & contravention’, Jean du Laurier, *De l’estat present de ce royaume* (Paris, 1583), p. 94.

⁵⁶⁶ Benoît Garnot, *Histoire de la justice: France, XVIe-XXIe siècle* (Paris, 2009), p. 596.

⁵⁶⁷ See Chapter 1, section iii.

⁵⁶⁸ Patrick Arabeyre, ‘Le premier recueil méthodique d’ordonnances royales françaises: le *Tractatus ordinationum regiarum* d’Étienne Aufréri (fin XVe-début du XVIe siècle)’, *Tijdschrift voor Rechtsgeschiedenis* 79 (2011), p. 419.

Expensive tomes of *ordonnances* organised laws under high-minded headings, suggesting that it was prohibited to buy ‘offices of judicature’.⁵⁶⁹ Yet when they examined the behaviour of their reigning monarchs, contemporaries were struck by the duplicity of the French monarchy falling so short of the ideals it had announced. It is no wonder, then, that historians too have been convinced of the apparent hypocrisy of the French monarchy. Roland Pietre commented that the laws prohibiting office sale had left only a jumbled ‘heap’ confined to ‘beautiful and thick volumes’. ‘But’, he asked, ‘where are their observers or even their executors?’.⁵⁷⁰

ii) Moral arguments

Office sale was tackled through arguments rooted in the coherence of the law. In this second section we shall examine how, inseparably, the sale of judicial offices was an affront to moral traditions.

As the ‘cornerstone of classical moral philosophy’, the discourse of virtue is key to understanding why venality was so opprobrious.⁵⁷¹ To observers, the fact that offices had been purchased consistently undermined officers’ responsibilities. In 1527, the president of the Parlement of Paris Charles Guillart argued that the sale of offices was immoral, because ‘in filling judicial offices, one should consider virtue only’.⁵⁷² Contemporaries argued that the sale of judgeships uncoupled virtue from

⁵⁶⁹ *Les loix, ordonnances & edicts des treschrestien rois de France* (Paris, 1552), pp. xxii, xxxvi, xlviii; *Edicts et ordonnances des roys de France depuis S. Loys* (1580), vol. 1, p. 6.

⁵⁷⁰ ‘Mais où en sont les observateurs ou bien executeurs?’, Pietre, *Le premier livre*, Sig. D iii r^o.

⁵⁷¹ Mark Greengrass, *Governing passions: peace and reform in the French kingdom 1576-1585* (Oxford, 2007), p. 261.

⁵⁷² ‘en pourvoyant aux offices de justice, on doit avoir regard à la seule vertu..’, Charles Guillart, ‘The speech delivered by President Charles Guillart at the lit de justice on 24 July 1527’ in Robert J. Knecht, ‘Francis I and the ‘lit de justice’: a ‘legend’ defended’, *French History* 7:1 (1993), p. 77.

office. As one remonstrance put it in 1575, any trace of justice – that humanist ‘mistress and queen of virtues’ – had become vestigial because of ‘the all too frequent venality of judicial offices’.⁵⁷³

For the celebrated jurist Jean Bodin (1530-1596), the sale of judicial offices was to be regarded as a ‘most dangerous plague’ because it overturned the harmonious distribution of dignities, opening the door to all manner of thefts and depravities. In the Roman republic, Bodin argued in his *Six livres de la republique* (1576), one had to pass through the temple of virtue in order to enter the temple of honour.⁵⁷⁴ The problem was that virtue no longer translated to honours: money did. As Bodin’s references suggest, the attack on office sale could be highly allusive. Certain classical citations became virtual slogans, like those attributed to Alexander Severus and Seneca. Both authors were used to suggest that it was typical to ‘sell retail’ what had been bought ‘wholesale’, and that whoever purchased magistracies and then sold their justice would probably evade punishment.⁵⁷⁵ These concise formulations were a neat way of exposing the dangers of venality. This method of recruitment packed the judiciary with men who, inexorably, would attempt to recoup their money.

The sale of judgeships also caused outbursts relating to the inexperience, character, and age of incumbents. That youths could obtain high office was

⁵⁷³ ‘la venalité par trop frequente des offices de judicature’, *L’histoire de France, enrichie des plus notables occurrences survenus ez provinces de l’Europe & pays voisins* (La Rochelle, 1581), vol. 2, p. 293v^o; Cicero, *On duties*, trans. and ed. M. T. Griffin and E. M. Atkins (Cambridge, 1991), pp. 110 (III.28).

⁵⁷⁴ Jean Bodin, *Les six livres de la république* (Paris, 1577), pp. 566, 573 (V.iv).

⁵⁷⁵ *Scriptores Historiae Augustae*, ed. and trans. David Magie (London, 1924), vol. 2, pp. 276–277 (XLIX); Seneca, *Moral and political essays*, ed. and trans. John M. Cooper and J. F. Procope (Cambridge, 1995), p. 205 (I.ix). For examples of these formulations: Hotman, *Francogallia*, p. 519; *Apologie sur la venalité des estat*, pp. 4–6.

disastrous: they were imprudent, and filled with ambition and cupidity.⁵⁷⁶ Barthélemy de Chasseneuz (1480-1541), jurist and first president of the Parlement of Aix, was bewildered by the young age of those who accessed judgeships in the sovereign courts by means of money.⁵⁷⁷ One vivid diatribe described how infinite young men emerged from law faculties as though from a Trojan horse, vaulting straight into the highest judicial posts.⁵⁷⁸ The *avocat du roi* of the Parlement of Paris begged its young lawyers not to rush, ‘whatever means they might have today of satisfying their ambition through the public venality of offices’.⁵⁷⁹ Because of office sale, young magistrates had spent virtually no time at the bar. The worlds of the practitioner and of the judge seemed detached.

Many of these complaints originated far earlier in the sixteenth century. In 1519, the Estates of Languedoc complained at length about the creation of new offices of councillor-reporters in the region ‘that are said to be venal and given for a price like merchandise’.⁵⁸⁰ Their grievances attacked the youth and inexperience of the new officials, arguing that they had been attracted to the positions only by ambition, because the offices would grant them preferential treatment. These men had bought offices for great sums, selling their possessions or squandering the dowries of their new brides, and it was thought inevitable that they would tax their procedures excessively.

⁵⁷⁶ Jean de La Madeleine, *Discours de l'estat et office d'un bon roy* (Paris, 1575), pp. 44–45.

⁵⁷⁷ Barthélemy de Chasseneuz, *Catalogus gloriae mundi* (Lyon, 1529), fol. 8r^o (Part VII).

⁵⁷⁸ Pietre, *Le premier livre des considerations politiques*, Sig. H ii v^o.

⁵⁷⁹ ‘quelques moyens qu'ils ayent aujourd'huy de satisfaire à leur ambition par la publique venalité des offices’, Guy du Faur de Pibrac, *Recueil des points principaux de la remonstrance* (1570), pp. 25–26.

⁵⁸⁰ ‘que ont dit estre venalz et mis à pris comme marchandises’, ADHG 1C993, fols. 383v^o–386r^o (December 1519). See Chapter 2, section iii.

What were seen as the political consequences of judicial venality? One stance saw the sale of offices as a blemish on an otherwise strong French monarchy. An *avocat* in the Parlement of Paris, Jean de La Madeleine, argued that making dignities venal diminished the king's authority.⁵⁸¹ It created an irremovable and dangerously independent magistracy. Alternatively, many protestant writers saw great obsequiousness and complicity in those judges who shored up the monarchy. For them, selling offices served to 'resign the entire care of the state to a few sycophants and flatterers of royalty'.⁵⁸²

Italians were blamed for these innovations. It was through contact with them that, one author argued, France had received venality of office and 'learned' to remove from individuals all the cash they had.⁵⁸³ In 1526, Jean Bouchet argued that the sale of offices was of papal origin, and was not to be imitated.⁵⁸⁴ For the protestant *avocat* Innocent Gentillet, it was another Italian influence that had carried venality into France. He argued that Niccolò Machiavelli (1469-1527) was responsible, because office sale was a purely instrumental device for furnishing cash that divorced virtue from office.⁵⁸⁵ Other observers, however, were painfully aware that theirs was the only country in which the sale of judicial offices occurred on such a prolific scale. 'Never was there a commonweal in which individuals were proprietors of justice... as they are in France', wrote the lawyer Antoine Loisel (1536-1617).⁵⁸⁶ The Scottish judiciary elected men 'learned and wise' to administer justice,

⁵⁸¹ La Madeleine, *Discours de l'estat et office d'un bon roy*, p. 53v^o.

⁵⁸² Hotman, *Francogallia*, pp. 521-523; Martin Göhring, *Die Ämterkäuflichkeit im Ancien Régime* (Berlin, 1938), p. 70.

⁵⁸³ Guy Coquille, *Les œuvres* (Paris, 1665), vol. 1, p. 285.

⁵⁸⁴ Jean Bouchet, *Opusculles du traverseur des voyes perilleuses* (Poitiers, 1526), before Sig. C i r^o.

⁵⁸⁵ Innocent Gentillet, *Discours sur les moyens de bien gouverner* (1579), pp. 35, 592.

⁵⁸⁶ 'Il certain qu'il n'y eut jamais republique ou les particuliers fussent propriétaires de la justice... comme ils sont en France', Antoine Loisel, *Divers opusculles tirez des mémoires de M. Antoine Loisel*, ed. Claude Joly (Paris, 1652), p. 71.

and because they did not sell judicial offices, they had no idea what it meant to ‘spice’ a court case.⁵⁸⁷ There was shock that amongst the heathenish ‘Turk’ justice appeared less corrupted than in France: ‘offices of judicature are not thus exposed to auction, to be sold to the highest bidder’.⁵⁸⁸ Michel Marchant saw that the Venetians had once ‘experimented’ with venality: yet they had succeeded in establishing laws through which they elected the ‘able and capable’ to dignities. Marchant invited France to imitate the Venetian republic, allowing justice to flourish by destroying the ‘venality of offices of judicature’.⁵⁸⁹

One of the most frightening effects of office sale was to percolate the legal system with an entirely alien ethic. It was a mistake to sell offices, claimed François de Gravelle, because it encouraged merchants and artisans to infiltrate the judiciary, rather than stick to professions ‘in which it is permitted to profit as much as possible’.⁵⁹⁰ By opening up its benches to cash, the magistracy had welcomed deeply concerning, incongruous values.⁵⁹¹ The activity of the marketplace was confounded with the rendering of justice; what was sacred was treated like ‘merchandise’.

One theme resounded in all utterances on venality: perilously, it stimulated the capital sin of avarice.⁵⁹² Jean de La Madeleine put it simply enough: ‘the selling of places produces in the hearts of subjects an insatiable avarice’. Individuals enriched

⁵⁸⁷ *Discours sur les estats de France* (Paris, 1586), pp. 15–16; David Chambers, *La recherche des singularitez plus remarquables, concernant l’estat d’Escosse* (Paris, 1579), p. 7v^o.

⁵⁸⁸ ‘voire que les Turcs, entre lesquels les offices de judicature ne sont point ainsi exposez à l’anquan, pour estre vendus au plus offrant’, François de Gravelle, *Politiques royales* (Lyon, 1596), p. 163.

⁵⁸⁹ ‘la venalité des offices de judicature’, Michel Marchant, *La paralysie de la France* (Paris, 1590), pp. 31–32.

⁵⁹⁰ ‘où il est licite de profiter le plus que l’on peut’, Gravelle, *Politiques royales*, p. 152.

⁵⁹¹ Philippe Desan, *Les commerces de Montaigne: le discours économique des essais* (Paris, 1992), pp. 83, 105.

⁵⁹² Petris Loris, ‘L’avarice et la justice dans la littérature française du XVI^e siècle’, *Seizième Siècle* 4 (2008), p. 127; Jonathan Patterson, *Representing avarice in late Renaissance France* (Oxford, 2015).

themselves in order to ‘breach and access all honours and offices’, forgoing the cultivation of virtue.⁵⁹³ Jean de Marconville denounced the monarchy’s ‘prostitution’ of justice. Magistrates clad themselves in their robes, concealing their rapacious urges to ravish and seize the goods of others.⁵⁹⁴ Instead of being removed from acquisitiveness, judges were imbued with the passion most inimical to their professions.

Ambition and avarice – the sale of judicial offices unleashed Christian demons too. Joos de Damhouder argued that neither reason nor Christian wisdom could permit the purchase of judicial offices.⁵⁹⁵ Biblical citations underscored arguments against venality. One passage, lifted from Exodus, was used to show that Moses had appointed as his officials men who feared God, who could be trusted, and who loathed dishonest gain. Moses was seen as an ideal appointer of judges, who had not rewarded ambition and the love of cash.⁵⁹⁶

Religiosity was also perturbed by the oath of non-venality to be sworn during reception to office. If new recruits lied under oath, critics said that they attained office through a ‘disgraceful perjury’, risking eternal damnation.⁵⁹⁷ What did it say about men meant to administer justice that their very first actions included a lie before God? The perjuring officer violated divinity; his actions were more horrific than atheism,

⁵⁹³ ‘la vendition des estats apporte avec elle au cueur des subjectz une avarice insatiable... ilz font bresche & ouverture à tous honneurs & offices’, La Madeleine, *Discours de l’estat et office d’un bon roy*, p. 49.

⁵⁹⁴ Marconville, *La manière de bien policer la république chrestienne*, p. 16r^o.

⁵⁹⁵ Damhouder, *Practique judiciaire es causes criminelles* (Antwerp, 1564), pp. 166–168.

⁵⁹⁶ Exodus 18:12-24. Jacques Bretaigne, *La harangue du tiers estat de France* (1561); Marchant, *La paralysie de la France*, p. 28.

⁵⁹⁷ Pietre, *Le premier livre*, Sig. F ii r^o.

because he knowingly mocked God. Observers argued that it would be better to say nothing at all.⁵⁹⁸

Finally, venality was spoken about in an eschatological register. By putting up justice for sale, kings became ‘enemies’ of God.⁵⁹⁹ Venal judges – those ‘damned souls’ and ‘peddlers of justice’ – would have to render account at the final judgement.⁶⁰⁰ The jurist Louis Le Caron railed against the avarice and godlessness that office sale engendered. To be infected by these values was to fail to be ‘touched by the fear of God’. Le Caron said it made judges resemble lascivious women who sold their honour to anyone for money. This corruption of magistrates, he added, caused the downfall of even the most flourishing of polities.⁶⁰¹ To make men liars, unafraid of God, and capable of the most depraved injustices: these were the deleterious moral consequences of the sale of judicial offices.

This and the previous section have exposed a rich and unrelenting attempt to come to grips with the sale of judicial posts in sixteenth-century France. Commentators were exceptionally unreceptive of any case in favour of selling offices. As the century progressed, arguments against venality persisted, challenging the crown’s actions and reasoning. Selling judgeships was offensive because it undermined the law itself and inverted values, tainting a sacrosanct justice with unquenchable avarice. In this respect, it was a supreme instance of what Lawrence Rosen has termed ‘mixing categories’. As he explains, a key role of legal systems is

⁵⁹⁸ Jacques de La Guesle, *Les remonstrances* (Paris, 1611), pp. 582–587.

⁵⁹⁹ Pierre Matthieu, *Description du politique de nostre temps* (Lyon, 1591), Sig. B2 v^o.

⁶⁰⁰ Nicolas de Montand, *Le miroir des françois* (1582), p. 111.

⁶⁰¹ Loys Le Caron, *Panegyrique III du devoir des magistrats* (Paris, 1567), Sigs. D iiii v^o, G I r^o.

the ability to ‘maintain the sense of cosmological order’.⁶⁰² The intermingling of money with justice so unashamedly was repellent precisely because it engendered nothing short of a sense of cosmological disorder. The monarchy may have been responsible for running this experiment, but it did not have a monopoly in defining it. The critical, legal public sphere coined a name for this form of corruption that affected the entire legal system, one packed with associations and metaphors. In doing so, it bequeathed an important piece of terminology – venality – one almost synonymous with the *ancien régime*. More than anything, that was the legacy of this debate.

iii) Prosecuting the sale of offices

Current historiography presumes that cases involving venality were simply not heard by courts of law, that being so many ‘dead letters’, the royal laws prohibiting the sale of judicial offices were overlooked and went unapplied. It would be a mistake, however, to think that office sale was never invoked during trials. By studying cases heard by the Parlement of Toulouse or involving offices within its jurisdiction in the late fifteenth to the mid-sixteenth centuries, this section will suggest why it was so difficult to charge men with office purchase. Allegations of venality tended to arise in specific circumstances, and encountered similar obstacles. Moreover, over the course of the period subtle changes took place: far from insisting on condemnations, court rulings tended to offer implicit, legitimising support to the notion that the crown was capable of selling offices. This did not mean that everyone was innocent of venality: those who were found guilty of selling offices were often great notables close to the king, men who had fallen from favour and who were

⁶⁰² Lawrence Rosen, *Law as culture: an invitation* (Princeton NJ, 2008), p. 171.

disgraced through elaborate show trials. Consequently, when office sale was prosecuted, it served to reinforce the case that the crown had a monopoly over such practices. As this section will demonstrate, it is by exploring activity within courtrooms involving senior and minor officials that the successful arrival and character of judicial venality can be understood.

Office sale was discussed in courts more often than has been appreciated. During some cases, royal representatives agitated for the strict application of the laws. In 1499, for instance, the *avocat du roi* Antoine Duprat reminded the Parlement of Toulouse of the *ordonnances*, suggesting that the ‘quadruple’ fine ought to be applied to Pierre Faure.⁶⁰³ In the late 1530s, Claude de Bellièvre (1487-1557) addressed the Parlement of Grenoble as its *procureur du roi*. Bellièvre observed that ‘in this country, the sale of offices of judicature and of public administrations occurs openly, ending up in private purses, which is of great damage to the public’.⁶⁰⁴ He urged his court to enforce existing legislation, so that anyone found in contravention would be removed from his office. Application of the penalties, it is true, was rare. One famous example from 1501 involved the Parlement of Paris removing a councillor of the *châtelet* for participating in a venal pact.⁶⁰⁵ Although venality could be declared in court, it was punished so infrequently that I have been unable to find evidence that it resulted in sentences at all in the Parlement of Toulouse.

⁶⁰³ ADHG 1B2329, fols. 339^r–339^v (23.07.1499). See Chapter 1, section i.

⁶⁰⁴ ‘Pource que en ce pays notoyrement est faite vente d’offices de judicatures & d’administration publique pour mettre en bourse privés, qui revient à tresgrand dommaige du public’, BnF MS fr. 16871, fols. 424^r–424^v (17.07.1538).

⁶⁰⁵ AN X^{1A}1506, fol. 35^r (22.01.1501); Félix Aubert, *Histoire du parlement de Paris, de l’origine à François Ier, 1250-1515* (Paris, 1894), vol. 1, pp. 88–89; Katia Weidenfeld, *Les origines médiévales du contentieux administratif (XIV^e-XV^e siècles)* (Paris, 2001), p. 97.

Why were so few officers chastised, despite their infraction of royal *ordonnances* and the apparent zeal of royal representatives to uphold them? The episodes cited above suggest that it was certain types of venality that were targeted above others, and private exchanges in particular. A second question then, is how courts reacted once royal venality began: to what extent was it viewed as a problem?

Examining cases from the late fifteenth to the very early sixteenth century will help us to explore the first issue. One of the earliest trials relating to venality from this period involved Jehan du Mas, the royal judge of Compeyre, who was summoned before the Parlement of Toulouse in 1489 on a series of criminal charges raised by the *gens du roi*. Jehan du Mas was subjected to a gruelling questioning by Jehan Sarrat, the *avocat du roi*. Sarrat opened with a sketch of the ‘good’ judge, a learned, upright man, who did not blaspheme or accept corrupting gifts. Mas, Sarrat continued, was manifestly not this man, as he was guilty of a litany of crimes. First amongst the allegations was the contention that Mas had purchased his office from a *seigneur*. Sarrat followed this up by suggesting that the judge was ignorant of the law, and that since becoming an officer he had become rich through dubious means, citing an array of his abuses. In turn, Jehan du Mas denied each charge. He explained that he had obtained his office through the intercession of the *grand maître*, with no financial transaction, and that he had studied canon law in Avignon. As for the specific accusations, in a trope recurring constantly in defence pleadings, Mas claimed that they had all stemmed from his ‘capital enemy’, the *juge mage* of Rouergue.⁶⁰⁶

⁶⁰⁶ ADHG 1B2328, fols. 338r^o–339v^o (07.04.1489), 345v^o–346r^o (09.04.1489).

The place of venality in the charges against Jehan du Mas was ambiguous. On the one hand, it seemed to be the key to unlocking the rest of his crimes: it appeared to ‘fit’ the profile of a rapacious magistrate. On the other hand, it was unclear whether office purchase on its own incurred criminal penalties: it was not as controversial as the other charges upheld against Mas.

This case illustrates that the accusation of venality itself was loaded, a method used to defame individuals and compile a persuasive portfolio of criminal behaviour. Accusations of office purchase hid personal, local conflicts and ulterior motives about which we should clearly be wary. Impartial testimonies to the fact that men had purchased their positions were virtually non-existent – most declarations of this kind were embroiled in the intricacies of specific cases. In fact, in most instances, claims that offices had been purchased surfaced when the office itself was the object of contention.

Most striking of all are the counter-accusations of venality that arose when two men fought over the same office.⁶⁰⁷ Jehan de Chavaignac and Mathieu Bosquet disputed the office of *juge mage* in the court of the *sénéchal* of Toulouse. Each accused the other of purchasing the office, but also sparred over their past conduct as judges. Although Bosquet claimed to be acting for the Estates of Languedoc, Chavaignac suspected a personal motive. For maliciously suggesting that he was guilty of ‘*crimen ambitus*’ – that is, that he had obtained his office by purchase – Chavaignac requested damages of up to 2,000 *écus*, and a public apology.⁶⁰⁸ The

⁶⁰⁷ See Chapter 2, section i.

⁶⁰⁸ ADHG 1B10, fols. 1v^o–2v^o (13.11.1495), 2v^o–4r^o (14.11.1495), 6v^o (16.11.1495), 7v^o (18.11.1495). The notion of ‘*crimen ambitus*’ was derived from Roman law, and specifically referenced the *lex Julia de ambitu*. As one author put it, this law applied ‘quand quelcun pour avoir honneur ou offices,

Parlement gave Bosquet two months to prove his claims, but in the meantime, Chavaignac was received to office. If Bosquet had any evidence that Chavaignac had purchased his post, he did not produce it, and the case faded into obscurity.

The case between Antoine de Morllon and Antoine de Fayet over the office of *juge d'appaux des causes civiles* of the *sénéchaussée* of Toulouse also included counter-accusations. Pleading before the Grand Conseil, Fayet contended that he was the rightful *juge d'appaux* on the basis that Morllon had purchased the office and attempted to commandeer it from him. Morllon then accused Fayet of buying the office himself, and the case escalated into a defamation suit, with both sides arguing that they were being slandered and requesting financial compensation.⁶⁰⁹

Alleging venality could therefore spawn defamation lawsuits easily. This perfectly encapsulates one of the curiosities of early-modernity.⁶¹⁰ Officers participated in venality, and yet were deeply insulted if they were ever denounced. Accusing someone of buying or selling an office was an attempt to smear an opponent, but it might make one vulnerable; retaliating with the same accusation could serve to 'call out' the slur, potentially nullifying it altogether. Alleging venality could serve as an effective dilatory manoeuvre. Such claims were also fiendishly difficult to prove, and the fact that office had been acquired venally might not necessarily rank as the most pressing issue to be settled.

poursuyt par argent, ambicieusement ou autrement pour iceulx avoir', *Les institutions impériales, avecques certaines glosses et arbre civil*, ed. and trans. Nicolle de Lescut (Paris: V. Gautherot, 1543), p. 295r^o.

⁶⁰⁹ AN V⁵1043, fols. 13v^o, 17r^o, 18r^o (21.02.1510, Grand Conseil at Blois), 32r^o–33r^o (12.07.1510, Grand Conseil at Blois).

⁶¹⁰ For a later, English example of allegations of venality leading to defamation lawsuits, consider the libel case of Henry Wyde, second Earl of Clarendon against Anthony Wood in the 1690s. Wood – whose *Athenae Oxoniensis* claimed that the Earl of Clarendon's father had bestowed posts in courts of law for money – lost the case: Nicholas K. Kiessling, 'Wood's life after 1672' in Anthony à Wood, *The life of Anthony Wood in his own words*, ed. Nicolas K. Kiessling (Oxford, 2009), pp. 151–152.

For example, in the case between Fayet and Morllon, the purchase of the contentious office was only one facet of a wide range of issues debated by their lawyers. Both parties addressed questions including: whether a man could be received to office by taking an oath administered by the chancellor, rather than his superior court? What were the criteria for becoming a judge – did one need to be a licentiate, or did this only apply to lieutenants? Did the possession of other offices, or ecclesiastical positions, render one *ipso facto* incapable of holding a royal judgeship? Was the use and manipulation of certain legal procedures, the deliberate attempt to prolong and ‘ensnarl’ a case, cause for dismissal? Did lineage and service to the king render one party more apt to hold office? Both sides raised such broad points in an effort to discredit his opponent, as well as censuring each other for failing to observe due procedure or of mistakenly attributing cognizance to the wrong tribunal.⁶¹¹

Another case from the same period will confirm that the legal pursuit of office purchase could fall fairly low on the list of priorities. The judge of Lauragais, Pierre Roquette, was accused of purchasing his office and selling a lieutenancy. Nonetheless, these accusations were eclipsed by other problems mentioned during his trial. The main difficulty was that the charges emanated from the *procureur du roi* of the same jurisdiction, Guillaume Barrain, and the incriminations were far from being one-sided. Roquette claimed that Barrain received cash from those substituting him, that he colluded with criminals to profit, and that he had undermined the judge’s authority in public. Barrain argued that without counsel the judge had fined him capriciously and self-righteously, that Roquette took money from prisoners, and had

⁶¹¹ AN 1043, fols. 8v^o, 9v^o, 10r^o–11v^o, 13r^o, 17r^o (21.02.1510, Grand Conseil at Blois), 33r^o (12.07.1510, Grand Conseil at Blois).

created far too many sergeants and lieutenants who performed their duties poorly. The Parlement was deeply concerned about the smooth running of this lower stratum tribunal: far more time during these lengthy pleas was given over to discussing these infractions than venality.⁶¹² If office purchase was on the agenda, it was not unusual for it to be displaced by other, more pressing matters.

Even where venality assumed a great importance in a trial, demonstrating that it had taken place was a tricky matter. This was made clear during the reception of Guillaume de Lamamye as *clerc* councillor in the Parlement of Toulouse in 1528. When he was told of rumours that he had purchased his office, Lamamye's reply to the charge was simple and effective: it was insufficient to rely on the untrustworthy rumblings of the people, and such allegations ranked very poorly as forms of evidence. Rumours could be sown and spread. If the *gens du roi* did not have reliable proof of their statement, then it was inadmissible.⁶¹³ Only after the *procureur du roi* released a declaration to the effect that he had 'no witnesses to justify the contents of his pleas' did the court receive Lamamye to office.⁶¹⁴

In summary, the key features of these early venality trials included numerous impediments: counter-accusations, defamation suits, the difficulty of proof, and the involvement of many other polemical questions arising during different disputes. Very often, the result was that litigants and royal prosecutors were reluctant to challenge office sale. These observations concord with those offered by Katia Weidenfeld. Her research into late medieval French administration led her to remark

⁶¹² ADHG 1B2337, fols. 20r^o–70r^o (undated; before December 1514).

⁶¹³ ADHG 1B22, fols. 442r^o–443r^o (21.11.1528). See Chapter 3, section ii.

⁶¹⁴ 'n'avoir aucuns tesmoings pour justifier le contenu aud. plaidoié', ADHG 1B22, fol. 446r^o (25.11.1528).

that the condemnation of office sales often appeared to be secondary, that such pursuits could be displaced by other, more pertinent matters, and that the *gens du roi* appreciated, perhaps, that calling out venality was not always undertaken with honest intentions.⁶¹⁵ Enforcing the royal *ordonnances* against venality depended on whistleblowers, and yet there existed no truly independent means of inquiring into such transgressions. Those same denunciators were often personally invested in a disputed office; they used royal laws as leverage for their cause. But claims were difficult to sustain due to lack of evidence, both written and in those willing to step forward and testify. This made allegations difficult to prove, and worse, taken as slanderous they could cause potential damage to the *fama*, the reputation, of the accused, who might seek compensation. Early venality trials were stormy, fraught, and mostly unfruitful for these reasons.

The examples above appeared to concern private venality, but by the second quarter of the century, the Parlement of Toulouse heard cases in which royal venality was mentioned. In these trials, the tone was often completely different: pleaders were open about their transactions with the crown, and the sovereign court fell entirely behind the royal project, tending to protect the notion that offices were purchasable from the monarchy.

To take one example: in 1524 a case was heard involving Pierre Fabri. Since his promotion to the office of *juge ordinaire* of Toulouse, Fabri became incapable of holding the office he was exercising at the time of councillor-reporter in the court of the *sénéchal*. According to the terms of the May 1522 contract between the Estates of

⁶¹⁵ Weidenfeld, *Les origines médiévales du contentieux administratif*, pp. 98–99.

Languedoc and the king, after Fabri left this post it was to be extinguished. However, Fabri maintained that the Estates should reimburse him the 1,000 *livres* he had given to the king to obtain this office.⁶¹⁶ The change in attitude towards venality was obvious: far from being exposed or dissimulating it, it was the office purchaser himself who was revealing his venality. Fabri did so in an attempt to secure his satisfactory reimbursement, and the argument sustained in court was not one felt to be damaging to his standing. Another trial heard in the Parlement in 1543 concerned a councillorship for which Jehan de Costa had loaned, but had subsequently been barred from taking up. The court's main concern was that Costa was indemnified by his replacement.⁶¹⁷ What is striking here is that a system of venality based on loans was not at all contentious: there was no objection to the funds transferred to the crown. To this extent, the Parlement of Toulouse provided a legal defence for loans made to the king to obtain offices.

This was also the case throughout a trial raging from around 1543 between Jehan Bermond, who had obtained the office of *enquêteur* in the judicature of Albigeois for 200 *écus*, and the syndic of the Estates of Languedoc. During pleas, Bermond had openly stated that he had paid the king for his office, and that he possessed an *acquit* for it produced by Jehan Laguette of the *parties casuelles* that he could submit as evidence. In accordance with the latest contract with the Estates of 1544, this particular post of *enquêteur* was once more abolished. Representatives of the Estates had attempted to remove Bermond from office, but no attempts had been made to reimburse him, and the agreement had specified that all those who had obtained the offices to be suppressed were to be paid by the Estates of Languedoc.

⁶¹⁶ ADHG 1B2340, fols. 302r^o–320v^o (06.05.1524). See Chapter 2, section iii and Appendix Figure 10.

⁶¹⁷ ADHG 1B2366 (22.11.1543); 1B37, fol. 25v^o (28.11.1543). See Appendix Table 3a, n.30.

When it ruled on the matter, the Parlement of Toulouse sided with Bermond. The Estates would pay him 200 *écus* within a month; failing this, Bermond would have to be received and enjoy his office of *enquêteur*.⁶¹⁸ Here, the court almost appeared to defend the right to purchase offices: as long as he had paid for it, the office belonged to Bermond categorically.

Throughout its rulings, the Parlement of Toulouse tended to side, subtly, with the crown. In royal venality, the magistrates found no contravention of *ordonnances*. The court instead concentrated its efforts on enforcing contracts, on viewing the sale of offices by the crown along legalistic lines and adopting a practicable approach. Bermond's case is the most conspicuous of all: by suggesting that an officer could not be dispossessed without being reimbursed, the Parlement protected officers' claims to positions that they had bought. This ruling was a moment of tacit legal support for the venal officeholding regime.

It is not entirely true, though, to suggest that no one had any misgivings about the practices involved. Through the *avocat du roi* Bertrand Deygua, the *gens du roi* criticised the creation of *procureurs* at the court of the *sénéchal* of Beaucaire, based in Nîmes. Each *procureur* had paid 150 *livres* for his office, but the invention of these new venal posts meant that instead of 'relieving the region, they saddle it with more costs and expenses through the excessive sums that they receive from parties'.⁶¹⁹ Echoing the critique of venality we saw above in the first and second sections, the *gens du roi* sensed a certain inevitability to venality: it would result in rising fees.

⁶¹⁸ ADHG 1B2374 (12.08.1546); 1B40, fol. 31r^o; 1B2008, fol. 107r^o (03.12.1546).

⁶¹⁹ 'soulaiger le pays redoublent la charge & sont la cause de grandz frays et despens par les excessives sommes qu'ils prennent des parties', ADHG 1B2369 (08.01.1545).

Whilst royal venality appeared to gain tacit acceptance through rulings by the Parlement of Toulouse, one domain in which the subject recurred negatively was in the political trials of important figures close to the king. Significantly, this exercise was about tarring individuals with the brush of private venality, of profiting from office sale illicitly. It served to reinforce the notion that such behaviour was an encroachment on activity legitimately undertaken by the crown. By prosecuting these men, the crown reinforced its claim to be the only entity in the kingdom capable of selling offices.

The first case we shall study concerned Philippe Chabot, seigneur de Brion (c.1492-1543).⁶²⁰ In 1538, suspicions flared regarding Chabot's potential abuse of office. This development came set against a background of intense rivalry with Anne de Montmorency, then at the height of his favour with the king. In 1540, an investigation headed by chancellor Guillaume Poyet, Montmorency's ally, began to look into the claims against Chabot. Amongst the twenty-four judges participating in this trial as commissioners were five members of the Parlement of Toulouse: Jehan de Mansencal, first president, and the councillors Jehan Robert, François de Nupces, Jehan de Teula, and Odet d'Aries.⁶²¹ This commission met at Melun and, finally, delivered its verdict against Chabot on 8 February 1541.⁶²² Chabot's administration as admiral, governor of Burgundy, and member of the royal council came under attack, and the sentence held him to be accountable for a range of crimes. He had abused his

⁶²⁰ For more on Chabot, his fall, and rehabilitation, see Robert J. Knecht, *Renaissance warrior and patron: the reign of Francis I* (Cambridge, 1994), pp. 392–393, 484; Robert J. Knecht, 'Philippe Chabot de Brion' in *Les conseillers de François I^{er}*, ed. Cédric Michon (Rennes, 2011), pp. 463–480.

⁶²¹ The names of the commissioners who judged Chabot are to be found in BnF MS fr. 3050, fol. 51r^o. Mansencal, Robert, and Nupces are easy to identify: two names are more elusive, 'de Thulle' and 'Dame' or 'Darie'. These may be references to Jehan de Teula and Odet d'Aries who, like the other three magistrates, were absent for the first few months of the Parlement sessions beginning in November 1540 (ADHG 1B34), which is consistent with the timeline of the Chabot trial.

⁶²² For a sixteenth-century copy of this *arrêt*: BnF MS fr. 3050, fols. 44v^o–51r^o. It is reproduced in *Isambert*, vol. 12, pp. 721–743.

posts, profiting from them uncontrollably and illegally, accepting colossal bribes, and embezzling money raised by the provincial estates to use for his own personal ends. Chabot was condemned to a ruinous fine, deprived of his positions, and imprisoned. Many aspects of the crimes Chabot committed are well known, but often omitted from studies is the fact that the former admiral was also convicted for profiting from making recommendations to offices.

The *arrêt* against Chabot contended that he had accepted money from individuals for his influence, so that they could be named to office by the king. As the ruling against him put it, Chabot had ‘badly, unduly, unjustly, and wickedly received from the persons named hereafter several sums of cash for having been the mediator of the provisions delivered by us to their offices’.⁶²³ It was as intercessor between named individuals and the royal court and council that Chabot had profited. The sentence described how Anthoine de Salins had given Chabot 800 *écus* for a councillorship in the Parlement of Dijon; how Pierre de Saint-Martin had given him 500 *écus* for a councillorship in the Parlement of Toulouse; how one ‘Rachel’ had given him 3,000 *livres* for the position of *avocat du roi* in the Parlement of Bordeaux; how Bernard de La Berte had given him 1,000 *écus* for the office of *juge mage* of the *sénéchaussée* of Quercy; and a certain ‘Baronnat’ paid 500 *écus* for a councillorship in the Parlement of Grenoble. For these specific ‘malversations’ (peculations), Chabot was subjected to a 20,000 *livres* fine to the crown. Because Anthoine de Salins had apparently confessed to the transaction, he was removed from his office in the Parlement of Dijon, forever barred from holding royal office, and fined.⁶²⁴ The others

⁶²³ ‘Nous declarons encores icelluy Chabot avoir mal, indeuement, injustement, et iniquement prins des personnes cy apres nommées plusieurs sommes de deniers pour avoir esté médiateur de les avoir fait pourvoir par nous des offices qui s’ensuivent’, BnF MS 3050, fol. 44v^o.

⁶²⁴ Pierre Palliot, *Le parlement de Bourgogne* (Dijon, 1649), p. 181.

who had paid for Chabot's favours, including Saint-Martin, were to be summoned for further questioning. Indeed, Saint-Martin requested and obtained leave from the Parlement of Toulouse shortly after the *arrêt*, presumably to attend his hearing.⁶²⁵ Finally, these precise charges against Chabot concluded with a more general declaration by the king forbidding everybody, no matter what their station or status, 'from taking, giving, or receiving anything for the provision of offices of judicature or of our *avocats* or *procureurs*, directly or indirectly, or in whatever fashion or manner it may be'.⁶²⁶ Anyone contravening this proviso would incur the penalties mentioned by Roman law and the royal *ordonnances*. Chabot's ruling made it clear: selling nominations to offices, or profiting from what was in the king's gift, amounted to serious corruption, even treachery. From another perspective, Chabot's trial offers a window into what were plausibly widespread practices that accompanied royal venality. The verdict, however, served to delegitimize such private venal practices. *Grandeess* could be found 'guilty' of venality, even if the king could not.

That the practices of venal recommendations to the king might be tolerated was borne out by what occurred next. Thanks to the assistance of his supporters, Chabot slowly returned to favour. Almost a year after the verdict, the royal council abolished the ruling against Chabot, declaring him innocent and restoring him to his offices.⁶²⁷ Just as Chabot was not the sole victim of his verdict, so was he not alone in benefitting from exoneration. Anthoine de Salins, who had forfeited his office in the Parlement of Dijon, was restored to his post. The rehabilitation of Chabot, however, spelled disaster for another senior political figure.

⁶²⁵ ADHG 1B34, fol. 163r^o (05.03.1541).

⁶²⁶ 'de rien prandre bailler ou recepvoir pour la permission des offices de judicature noz advocatz et procureurs directement ou indirectement ne en quelque faczon ou maniere que ce soit', BnF MS fr. 3050, fols. 44v^o–44r^o.

⁶²⁷ *Isambert*, vol. 12, pp. 773–778.

The admiral's return came during Montmorency's disgrace, for his policy of peace had failed dismally and François Ier distanced him from court. Attention turned to one of Montmorency's former allies, the man held responsible for Chabot's ordeal: chancellor Guillaume Poyet.⁶²⁸ Suspended from office in 1542, Poyet's trial opened in April 1544. To judge him, the king formed a composite panel of thirty-four magistrates drawn from the sovereign courts of the kingdom. Amongst their number were two councillors from the Parlement of Toulouse, Pierre de Lagarde and Jehan de Ausono.⁶²⁹

For the best part of a year, the commission sat, processed, and discussed extensive, troubling accusations upheld against the chancellor. Poyet had exploited his office brazenly for personal financial gain. He had abused the so-called privilege of the chancellor to sequester the goods of those found guilty of falsifying the king's seal, a right detached from the office definitively in August 1542.⁶³⁰ Poyet showed disregard for due judicial procedure, deciding cases alone but under the umbrella of a court authority, pocketing fines, and establishing royal commissions without the king's knowledge, deploying his creatures to staff them. The chancellor rode roughshod over the judgements of sovereign courts, taking bribes to annul rulings. For instance, on presentation of 10,000 *écus*, he overturned an *arrêt* of the Parlement

⁶²⁸ For more on Guillaume Poyet and his trial: *Histoire du procès du chancelier Poyet, pour servir à celle du regne de François I* (London; Paris, 1776); Armand Parrot, *Messire Guillaume Poyet, chancelier de France* (Paris, 1867); Charles Porée, *Un parlementaire sous François Ier. Guillaume Poyet, 1473-1548* (Angers, 1898); Maurice Deubel, *Guillaume Poyet, avocat et chancelier* (Versailles, 1900); Knecht, *Renaissance warrior and patron*, pp. 500–501; Marie Houllémaré, 'Guillaume Poyet' in *Les conseillers de François I^{er}*, pp. 365–379. For one of several of the seventeenth-century copies of the proceedings against Poyet, BnF MS fr. 4772. The *arrêt* issued against Poyet is reproduced in *Isambert*, vol. 12, pp. 888–892.

⁶²⁹ BnF MS fr. 4772, fol. 1v^o (07.04.1544). For the payment of these councillors for their work on this commission, see Chapter 2, section ii.

⁶³⁰ *Isambert*, vol. 12, p. 787.

of Toulouse that had condemned a merchant called Nollet to a substantial fine.⁶³¹ Poyet's role in Chabot's hearing also came under fire. The chancellor had intimidated judges, suppressed evidence, and secretly tampered with the drafts of the final verdict. Jehan Robert, the lay councillor from the Parlement of Toulouse who had worked with the chancellor during Chabot's trial, had been summoned to Paris previously to give evidence against Poyet.⁶³² It became evident to the commission that Poyet had manipulated the justice that was placed in his command, falsifying acts and behaving utterly rapaciously. This comportment also extended to the provision of offices.

A great proportion of the procedure against Poyet dealt with claims that he had sold offices for his own profit. Poyet's servants were accused of selling royal posts on behalf of the chancellor, and with his express instructions.⁶³³ Poyet had betrayed his master's trust. The commission found evidence that for the dispatch of letters of provision to a councillorship in the Parlement of Toulouse, one supplicant had paid 500 *écus*.⁶³⁴ Another incident involved a similar office in the Parlement of Bordeaux.⁶³⁵ Poyet had sold other royal offices too, giving them to his servants instead of their salaries. Moreover, he was responsible for the 'erection of new offices', even though this faculty belonged to the king alone, bragging that he would profit by selling them.⁶³⁶ Poyet denied the charges, claiming that he had reported all these office sales in the *conseil privé*, that any money received for them had been taxed there, attributed to the king, and was destined for the *parties casuelles*. The veracity of the claims is not at all clear. Although the testimony produced during his

⁶³¹ Porée, *Un parlementaire sous François Ier*, pp. 113–114.

⁶³² Robert's trip to Paris was subsidised by the *parties casuelles*, see Chapter 2, section ii.

⁶³³ BnF MS fr. 4772, fol. 63v^o (07.06.1544).

⁶³⁴ BnF MS fr. 4772, fol. 82r^o (16.06.1544).

⁶³⁵ Porée, *Un parlementaire sous François Ier*, pp. 115–116.

⁶³⁶ 'et qu'il avoit faict de nouvelles erections d'offices', BnF MS fr. 4772, fols. 84r^o–84v^o (16.06.1544).

trial was sometimes dubious, Poyet was certainly not the only individual implicated, and the evidence teemed with cash transactions taking place between private parties as they tried to solicit offices.

On 13 April 1545, Poyet was sentenced: he was stripped of the chancellorship and his titles, fined 100,000 *livres parisis*, barred from royal office, and imprisoned for five years. In popular culture, he gathered a reputation for being a French ‘Tribonian’. We should not forget that the trial itself had been triggered by a complicated set of concerns.⁶³⁷ Yet Poyet’s fall had profound political implications relating to venality. Even if the charges were merely a convenient pretext, the ruling signalled that the transgression could be punished at a high level. It served to befoul a senior official’s reputation, shrouding private profiteering from the sale of royal offices with a treasonous air.

As Francis Bacon (1561-1626) observed, the role of favourites was to succumb to disgrace in order to thwart any political damage to the king.⁶³⁸ Chabot and Poyet were, in some senses, fall-men for the crown. Implicitly however, they provided powerful, almost inconspicuous justifications for royal venality. Their convictions rested on the assumption that the private sale of royal offices was akin to the embezzlement of crown funds; that it was criminal to siphon from the king those profits that were legitimately obtained from offices. In other words, these trials silently cemented the place of a legal, royal venality in the French kingdom.

⁶³⁷ For different interpretations of Poyet’s fall, see Houlemare, ‘Guillaume Poyet’, pp. 376–379.

⁶³⁸ See, for example, the attempt to impeach George Villiers, duke of Buckingham (1592-1628) in 1626, Linda Levy Peck, ‘Monopolizing favour: structures of power in the early seventeenth-century English court’ in *The world of the favourite*, ed. John H. Elliott and Laurence W. B. Brockliss (New Haven CT; Leiden, 1999), pp. 61–62, 66.

This chapter has demonstrated how venality was perceived, explaining how it came to be understood in such strongly, pejorative terms. Long before this strong distaste set in and was encapsulated and repeated in the word ‘venality’, courts of law had rendered innocuous many elements of office sale. In tribunals, it was difficult to prosecute venality, and courts tended to enforce the crown’s rights to profit from offices. Trials of senior officials did the same. We must now turn to consider some of the effects of office sale. Did it result in criminal magistrates, as critics so feared?

Part III

Impact

Criminality and discipline amongst the judges of the Parlement

«Je veulx (dist Pantagruel) entendre que c'est. Plus de quarante ans y a qu'il est juge de Fonsbeton [...] Que maintenant doncques soit personnellement adjourné sur ses vieulx jours, il qui par tout le passé a vescu tant saintement en son estat, ne peut estre sans quelque désastre.⁶³⁹

If a judge paid for his position, what stopped him from selling justice? The previous chapter demonstrated that critics of venality were afraid it would cause judges to behave criminally. This chapter tests this relationship by exploring cases in which magistrates of the Parlement of Toulouse were involved in or tried for misconduct.

How and why were elites punished for deviance in office? These are questions that early modern historiography has only recently started to address in a systematic fashion.⁶⁴⁰ Whilst the reign of François Ier is famous for its trials of high-profile participants in royal government and finance, the malpractice of judges remains poorly understood.⁶⁴¹

⁶³⁹ Rabelais, pp. 460–461 (*Le Tiers livres*, XXXVI).

⁶⁴⁰ *Juges, notaires et policiers délinquants, XIV^e-XX^e siècle*, ed. Benoît Garnot (Dijon, 1997); *Juger les juges: du Moyen Âge au Conseil supérieur de la magistrature* (Paris, 2000); *Contrôler les agents du pouvoir*, ed. Laurent Feller (Limoges, 2004); Romain Telliez, *Les officiers devant la justice dans le royaume de France au XIV^e siècle: per potentiam officii* (Paris, 2005); *Les procès politiques, XIV^e-XVII^e siècle*, ed. Yves-Marie Bercé (Rome, 2007); *Contrôler et punir. Les agents du Pouvoir XV^e-XVIII^e siècles*, ed. Antoine Follain (Dijon, 2015).

⁶⁴¹ Hamon and Philippe Hamon, «Messieurs des finances». *Les grands officiers de finance dans la France de la Renaissance* (Paris, 1999); Dominique Le Page, *Finances et politique en Bretagne au début des temps modernes, 1491-1547* (Paris, 1997), pp. 325–358.

Between 1490 and 1547, only three magistrates from the Parlement of Toulouse were impeached for criminal behaviour. We are therefore dealing with extremely rare, idiosyncratic phenomena. It is the timing of these prosecutions that is most conspicuous. All three criminal suits occurred only after the arrival of venality. The appearance of criminal magistrates only once the monarch began to sell offices raises an intriguing question: was criminality really one of the fatal consequences of opening up the judiciary to money?

The first two sections of this chapter consider criminal actions against judges of the Parlement of Toulouse. Section i charts the rise and fall of Jehan de Ulmo. After rising rapidly to a presidency, Ulmo was convicted and stripped of his office through a spectacular sentence. His career and comportment fit the description of an archetypal venal officer, who rose ambitiously and displayed a predatory attitude. Section ii builds upon his case by comparing it with that of two other magistrates of the Parlement who forfeited their posts. Their prosecutions demonstrate that different agencies, propelled by multifaceted motives, could try sovereign judges, and an indictment did not necessarily terminate a magistrate's career. Prosecuting judges of sovereign courts was an infrequent phenomenon, but it also occurred far more frequently in the 1530s and 1540s. At the heart of these trials lay a deep suspicion on behalf of the monarchy of its new, venal recruits.

The Parlement of Toulouse possessed more routine means of dealing with misconduct. Section iii discusses the 'mercurine' sessions, a monitoring technique employed by the Parlement to control and occasionally punish members of the company. Thanks to this internal procedure, which privileged admonitions and

sanctions over publicity, the potentially nefarious effects of venality could be counterbalanced. By considering explosive criminal trials alongside this quieter, enduring system, this chapter will better equip us to understand how venality affected the everyday work of the Parlement of Toulouse.

i) The rise and fall of a president

In his *Six livres de la république*, Jean Bodin recalled a grizzly sentence carried out in the city of Toulouse. He was arguing that the ‘common people’ might find it unfair that the law was applied unevenly, so that men of ‘honour’ were often punished much less severely than their subordinates. Such was the attitude of the people of Toulouse, Bodin wrote, when a president of the Parlement and his clerk were condemned for their offences. Although the president experienced a series of degrading punishments and was removed from office, his clerk was hanged. Allegedly even the king sensed an injustice here, grumbling that the master deserved his servant’s fate. Bodin was more sceptical, reasoning that the case had been decided fairly, and that depriving a man of honours that were dearer to him than his life was fitting. In a later edition, he added that many had found the penalty severe enough, and that if the president had not been a judge, he would not have been punished so grievously.⁶⁴²

Bodin’s example was genuine. It was around forty years previously, on 7 October 1537, that an *arrêt* was executed against the fourth president of the Parlement of Toulouse, Jehan de Ulmo. This was a scandalous episode remembered beyond its

⁶⁴² Jean Bodin, *Les six livres de la république* (Paris, 1577), pp. 780–781; *Les six livres de la république* (Lyon, 1579), p. 722 (Vi.vi). Had Bodin heard about this case during his time at the University of Toulouse? See Henri Gilles, ‘La faculté de droit de Toulouse au temps de Jean Bodin’ in *Jean Bodin: actes du colloque interdisciplinaire d’Angers* (Angers, 1985), vol. 1, pp. 313–326.

immediate context, one recounted frequently in local histories.⁶⁴³ This section charts the president's rise and fall. It is the first time that Ulmo's case has been studied with reference to archival records. One underlying objective is to determine to what extent it was intertwined with venality. It will become clear that Jehan de Ulmo's rapid elevation was indeed indebted to office sale. Ultimately, Ulmo's story reads like a cautionary tale against making posts in the judiciary accessible for cash: it is unsurprising that his comportment has been associated with what critics feared venality might produce.

Jehan de Ulmo was born around 1480 to a family from Rouergue. After pursuing a university education in law, first becoming a licentiate and later a doctor, Ulmo began work at the Parlement of Toulouse as an *avocat*. In 1515 he became substitute to the *procureur du roi*, and by 1519 Ulmo had obtained his first judicial post as *lieutenant clerk* in the court of the *sénéchal* of Toulouse.⁶⁴⁴

Jehan de Ulmo was rebuked more than once in the course of his duties. In 1516, the Parlement of Toulouse admonished him for misconduct as substitute to the *procureur du roi*, for deliberately 'soliciting' a case on behalf of François Ier's brother in law. The court forbade Ulmo from working for individuals like this in instances when the king needed to be represented legally.⁶⁴⁵ This murky affair suggested a potential conflict of interest between Ulmo's role as defender of the

⁶⁴³ *Treze livres*, pp. 647, 653; *La Faille*, vol. 2, pp. 57, 104–107; Jean Raynal, *Histoire de la ville de Toulouse* (Toulouse, 1759), p. 208; Nicolas-Toussaint des Essarts, *Procès fameux* (Paris, 1786), vol. 8, pp. 307–309; Étienne Léon de La Mothe-Langon, Jean-Théodore Laurent-Gousse, and Alexandre Du Mège, *Biographie toulousaine* (Paris, 1823) vol. 2, pp. 456–458; *HGL*, vol. 8, p. 274; Henry Amilhau, *Nos premiers présidents: revue historique, politique et judiciaire du parlement de Toulouse* (Toulouse; Paris: 1882), p. 159; *Dubédat*, vol. 1, pp. 178–182; *Vindry*, vol. 2.ii, p. 152; *Chalande*, part 2, pp. 303–313; *Navelle*, vol. 10, pp. 148–149.

⁶⁴⁴ For examples of Ulmo's work as substitute: ADHG 1B2337, fols. 696r^o–696v^o (26.01.1515), 850r^o–851v^o (13.03.1515); 1B17, fol. 17r^o (16.02.1518).

⁶⁴⁵ ADHG 1B16, fols. 344r^o–344v^o (16.02.1516).

crown and his attempt to earn a living as a practising lawyer. As a *lieutenant clerk*, the Parlement also scolded Ulmo in 1523 and 1525, because his tribunal had neglected to process prisoners. The city's jails were teeming with inmates for whose detention the *sénéchal* and his lieutenants were responsible. Ulmo and his colleagues were reprimanded for their poor conduct, for dealing only with civil litigation 'for their own, individual profit'.⁶⁴⁶

Though the reproaches were clearly of a different magnitude, both included claims that Ulmo had acted out of a desire for private gain, and that this threatened the due administration of justice. It would be a mistake, though, to read premonitions of Ulmo's later crimes into these incidents. His work was not yet called into question more seriously, or impeded. It was in the 1520s that Ulmo's career path took a turn as he pursued an office in the Parlement of Toulouse. In the end, he would have a post created for him: that of second *avocat du roi*.

This was not Ulmo's objective from the outset. Initially, several parties coordinated a series of office swaps involving the new post. Those associated with the scheme included Ulmo, an unnamed existing councillor of the Parlement, Guillaume Dampmartin (the *procureur du roi* in the court of the *sénéchal* of Toulouse), and Jehan Guillemete (a *procureur* and notary). According to the first arrangement, the councillor would accept a new post of second *avocat du roi*, resigning his councillorship to Ulmo, who would resign his lieutenancy to Dampmartin, who in turn would resign his office to Guillemete. However, when the councillor dropped out of the project at an early stage, it was decided that Ulmo would receive the new office

⁶⁴⁶ 'pour leur propre et singulier prouffit', ADHG 1B20, fols. 42r^o–42v^o (22.12.1523), 506v^o (03.05.1525).

of second *avocat du roi*, leaving the remaining chain of office transfers intact. Whether alone or collectively, Ulmo provided the king with 1,800 *écus*, as a result of which a royal act created the office of second *avocat du roi* in 1523.⁶⁴⁷

Ulmo's bid for office seemed to have worked, but he would have to wait over three years before being able to exercise his new post. The royal act creating his position spawned a complex legal battle, provoking immediate hostility from the existing *gens du roi*, who argued that the office was superfluous and detrimental. Jehan Deygua, then the sole *avocat du roi*, contended that the proposed office would harm his own status and work. He reiterated several times that 'ambitious men' were responsible for the creation of the office. Also weighing in against the new post were the syndics of the estates of Languedoc, Rouergue, and Quercy. They argued that the creation violated the contract of May 1522. When the possibility of reimbursing Ulmo and annulling the creation fell through, the office of second *avocat du roi* was created formally.⁶⁴⁸

Ulmo took possession of his new post in November 1526. His letters of provision were vetted without difficulty and his examination was successful. However, the magistrates of the Parlement prevented Ulmo unequivocally from taking the oath of non-venality, and the 'accustomed' oath of duty he did take was modified deliberately. Unusually, Ulmo had to swear that he would not plead against the king in cases in which the monarch was implicated, and that he would not accept a salary from any other lord.⁶⁴⁹ Ulmo's reception ceremony recognised the role that cash had played in the acquisition of his office. Venality unsettled the judges. It had

⁶⁴⁷ AN V⁵1045, fol. 164v^o (Grand Conseil in Angoulême, 25.06.1526). See Appendix Table 1.

⁶⁴⁸ See Chapter 2, section iii.

⁶⁴⁹ ADHG 1B21, fols. 345r^o (21.11.1526), 345v^o (22.11.1526).

granted Ulmo access through the concoction of an entirely novel and highly contentious post. What was so concerning to the magistrates was that Ulmo might abuse his position for financial gain, having paid not only to have the office created, but also in sustaining a legal action to secure it. Without an oath addressing the issue directly, they were afraid that Ulmo would behave dishonestly. By suppressing the oath against venality entirely, the court also signalled that this was an outright purchase and no loan.

At this time, Ulmo began to develop his newly acquired property, which grew into the vast *hôtel* that still stands today (see Appendix Figure 14). It was not long before an opportunity for advancement within the Parlement arose. Georges d’Olmères had served the Parlement as a lay councillor since 1505, and had been made fourth president in 1521. While seriously ill in May 1529, Olmères struck a resignation deal with Ulmo, agreeing to renounce his presidency, as long as Ulmo resigned his office of second *avocat du roi* to Olmères’s brother-in-law, Jehan d’Olive. The exchange was a success. That private venality lurked behind this transaction is certain: Olmères evaluated the office Ulmo relinquished to be worth 6,000 *livres*.⁶⁵⁰ Whether Ulmo paid the crown or the Olmères family for this resignation is not known. Shortly after the resignation was confirmed though, he decided to sell his *seigneurie* of Martiel, in Rouergue.⁶⁵¹ It could not have been coincidental that Ulmo sold an important estate just as he acquired a presidency.

Ulmo’s reception to the fourth presidency of the Parlement of Toulouse in the summer of 1529 was also unproblematic. His oath of non-venality made no disclosure

⁶⁵⁰ See Appendix Table 3b, n.4.

⁶⁵¹ ADHG 3E10124 (06.07.1529).

of the resignation arrangement with Olmières.⁶⁵² Through a shrewd deal, Jehan de Ulmo climbed to presidential rank. Just how commonplace was such a jump? Previous *avocats du roi* of the Parlement of Toulouse like Jehan Sarrat, Antoine Duprat, and Barthelemy Robin went on to become first president, *maître des requêtes*, and third president respectively. They did so after careers as *avocats du roi* that lasted 16, 8, and 16 years each.⁶⁵³ Although Ulmo might not have attained offices as important as theirs, he became a president after less than three years of service as *avocat du roi*. Such an ascent, compounded with the dubious nature of his previous office acquisition, may well have raised eyebrows.

Now fourth president of the Parlement of Toulouse, Ulmo assumed an extensive set of judicial duties. Ulmo chaired sessions, performed commissions, and acted as emissary for the court. He attended the reception of François Ier in 1533.⁶⁵⁴ The court's registers contain nothing to suggest that Ulmo did anything reprehensible as president. But this took a sudden, terrible turn. From Easter 1536, Ulmo's name disappears from the roster of those working in the Parlement.

Ulmo became the subject of a criminal investigation. It was not, in fact, the first time that he had come under such scrutiny. In early 1533, the king commissioned Jacques Grosloot, a councillor of the Grand Conseil, to examine accusations against Ulmo. Although the commission produced no sentence, its existence suggests that the

⁶⁵² ADHG 1B22, fols. 640v^o (16.07.1529); 645r^o–645v^o (19.07.1529).

⁶⁵³ *Vindry*, vol. 2.ii, pp. 139–140, 150; François Albert-Buisson, *Le chancelier Antoine Duprat* (Paris, 1935), p. 54.

⁶⁵⁴ ADHG 1B22, fols. 708r^o–709v^o (07.09.1529); 1B24, fol. 463r^o (04.09.1531); 1B26, fol. 277v^o (04.08.1533).

matter was serious.⁶⁵⁵ The crown viewed the inquiry that began in 1536 as a continuation of the first: Groslot was appointed again to oversee it, together with Martin Fumée, a *maître des requêtes*. They were to gather and organise information relating to the case. On at least two occasions they visited Toulouse and its Parlement: Groslot came alone in October 1536, and Fumée joined him in July 1537. Another group of commissioners had the job of deciding the case. It has never been established previously who were Ulmo's judges, but a surviving fragment of procedure containing signatures reveals that he came before some of the highest-ranking magistrates of the kingdom. These included the current and two future chancellors.

Table 5.i. Commissioners advising the king in the case against Jehan de Ulmo (September 1537)⁶⁵⁶

Name	Position in the judicial hierarchy
Antoine du Bourg	Chancellor
Guillaume Poyet	2nd president, Parlement of Paris
Claude Dodieu	<i>Maître des requêtes</i>
Amaury Bouchard	<i>Maître des requêtes</i>
François Olivier	<i>Maître des requêtes</i>
François Dupré	Councillor, Grand Conseil
Jehan Cotel	Councillor, Grand Conseil
André Baudry	Lay councillor, Parlement of Paris
Jehan Odoard	Lay councillor, Parlement of Rouen
Philibert Berbis	Lay councillor, Parlement of Dijon

Before these men could try Ulmo, Fumée and Groslot had to gather their evidence, a process taking over a year and a half. During the trial, the fourth president was placed under arrest and held in multiple locations. He tried to solicit the

⁶⁵⁵ This investigation has gone unnoticed: evidence for it comes from a record of Groslot's payment. He received 352 *livres* 10 *sols* for a period of work lasting from 7 February to 15 May 1533, BnF MS fr. 15629, fol. 139r^o.

⁶⁵⁶ BnF MS Dupuy 498, fol. 111v^o.

chancellor both directly and indirectly for assistance.⁶⁵⁷ Finally, the allegations were ready to be judged. But what exactly were the charges?

The crime that brought Ulmo to the attention of the crown (once more) revolved around a commission in Montauban that he had adjudicated corruptly in 1535. While on leave, Ulmo decided a local point of contention involving the town's consuls, accepting money from rival parties and promising to rule favourably. After his decision, one of the litigants, Jehan Martel, flagged Ulmo's bribery, and the crown opened the investigation.⁶⁵⁸ The investigators looked into this matter closely. When they were in Toulouse, they were most interested in the period of leave (*congé*) that the court had granted Ulmo to deal with the Montauban case. One of the court clerks told the investigators that Ulmo had approached him in the summer of 1535, claiming to have been granted a period of leave as a result of the court's deliberation, and that he had been permitted to take on multiple commissions. The clerk registered this information immediately. Days later, the court learned of what had happened. Although the judges had granted Ulmo leave, they had allowed him to take on only the one commission, concerning the consuls of Montauban. Through his deceit, Ulmo had managed to seize three or four additional cases. Ulmo was ordered to return from Montauban immediately and to drop the other commissions. Ulmo's criminality therefore most likely stemmed from a compound problem. Not only did he behave unlawfully in Montauban; he also disobeyed his own court, registering false information for his own agenda. Ulmo was guilty of falsifying 'judicial memory'

⁶⁵⁷ François de Tournon to Antoine du Bourg, Lyon (15.10.1536), AN J965 no. 7²⁹; Jehan de Ulmo to Antoine du Bourg, Paris (07.03.1537), J967 no. 129.

⁶⁵⁸ ADHG 1B29, fol. 132v^o (17.02.1536). That Martel was affected negatively by Ulmo's judgement in Montauban is certain: he was eventually compensated by being given Ulmo's former *hôtel* in Toulouse, *Chalande*, part II, p. 310.

itself, without which the court simply could not function.⁶⁵⁹ This gross violation of presidential authority explains in part why the judges of the Parlement cooperated so smoothly with the investigators. The court was just as concerned that a rogue judge was threatening its operations.

The commissioners were not just interested in the Montauban affair. When Groslot visited the Parlement alone, he was more curious about consulting a trial in which Jehan de Ulmo's brother, Guy, was the competitor for a benefice in the cathedral of Rieux. The investigator became alarmed when he noticed that some of the documents in the case were missing, and the lay councillor responsible for reporting the case, Raymond de Merlanes, was summoned. Merlanes said he had no idea who had the missing files. The judges of the Parlement asked him specifically if Ulmo had ever requested to see the case, and although Merlanes denied it, it was clear what the judges were driving at.⁶⁶⁰ Both they and Groslot were convinced that Ulmo had attempted to influence the treatment of his brother's lawsuit, and that he was accountable for the missing records. This is a further indication that the judges of the Parlement were eager to remove Ulmo. Merlanes was also drawn into the investigation. Temporarily suspended from office, he was acquitted and returned to work in 1538.⁶⁶¹

He was also not the only other officer of the Parlement of Toulouse to come under suspicion. Eventually, Ulmo's investigators also charged François Pomarede, a

⁶⁵⁹ ADHG 1B30, fols. 372r^o–373v^o; 1B1981, fols. 22r^o–24v^o, 29r^o (13-14.07.1537); *Une histoire de la mémoire judiciaire de l'antiquité à nos jours*, ed. Olivier Poncet and Isabelle Storez-Brancourt (Paris, 2009).

⁶⁶⁰ ADHG 1B29, fols. 440v^o–441v^o (02.10.1536), 450r^o–450v^o (12.10.1536).

⁶⁶¹ BnF MS Dupuy 498, fols. 105r^o (09.09.1537); 110r^o (15.09.1537), 111r^o–111v^o, 113r^o–113v^o; ADHG 1B32, fol. 1v^o (12.11.1538).

huissier of the Parlement, who had bought one of the three new offices created in 1527. It is not clear how Pomarede was implicated in Ulmo's crimes. Both Pomarede and his clerk, Guy de Claveria, were imprisoned in Lyon and sentenced in 1538. Pomarede received a fine of 500 *livres*, lost his office, and was banished.⁶⁶² Ulmo's clerk or secretary, Fonté, was also associated with his offences. His circumstances are even more obscure.

The extant sources permit us to sketch Ulmo's criminal behaviour. He abused his senior position to resolve family matters; he tampered with judicial records, producing false documents; he accepted money from litigants; he disobeyed court orders and tried to profit by doing more work than he was permitted; he also suborned several other officers and staff to do his bidding. Apparently, some of the charges against Ulmo dated back to his time as second *avocat du roi*.⁶⁶³ In the end, the fourth president was condemned for 'faulcetés, concussions, rapt, & autres crimes'.⁶⁶⁴ The first term referred to falsehoods or deceit; the second to extortion or the taking of bribes. 'Rapt' is the more surprising of the accusations: it implies illicit sexual behaviour, something that has not been hinted at by surviving sources. Years later, the Parlement referred to Ulmo's transgressions in hazy though appalled terms as 'several great crimes & offences' or 'abominable crimes and faults'.⁶⁶⁵ A chronicler in Cahors recorded that Ulmo was guilty of 'several *concussions* and iniquities', committed in the line of duty.⁶⁶⁶

⁶⁶² BnF MS Dupuy 498, fol. 106r^o (15.09.1537); AN J962¹⁵ nos. 1, 10; CAF, vol. 3, pp. 534 [9970], 561 [10092]. The crown sold Pomarede's vacant office: see Appendix Table 3b, n.11.

⁶⁶³ ADHG 1B36, fol. 418v^o (04.08.1543).

⁶⁶⁴ *Treze livres*, p. 647; *Dubédat*, vol. 1, p. 180.

⁶⁶⁵ 'plusieurs grans crimes & delictz'; 'crimes & malefices execrables', ADHG 1B36, fol. 418v^o (04.08.1543).

⁶⁶⁶ 'plusieurs concussions et meschancetés en son office', 'Livre de main des Du Pouget, 1522-1598', ed. Louis Greil, *Bulletin de la société des études littéraires, scientifiques et artistiques du Lot* 20-21 (1895-1896), p. 96.

Though their details remain vague, the crimes for which Ulmo was convicted are apparent. Other overlapping theories could be advanced to explain his downfall. Ulmo's rise was rapid. His increasingly visible and dubiously acquired wealth made him the perfect target of the ire of litigants. His trial could be seen as an attempt to restore the social equilibrium, to strike someone who climbed too high and hastily. It was not only the consumers of justice who might take issue with Ulmo's ascension: his campaigns for office had made him profound enemies within the Parlement, and so factionalism might have influenced Ulmo's departure.⁶⁶⁷ As we shall see in the next section, Ulmo's trial might also have been deliberately programmed by the monarchy.

At Fontainebleau in September 1537, Ulmo's attempt at an appeal failed, and the king's council approved the sentence decided against him. The two *huissiers* guarding Ulmo were instructed to lead him approximately 50 kilometres south to Montargis. After a delay there, they set off for Toulouse.⁶⁶⁸ When they reached the city, Ulmo spent the night detained in the *conciergerie* prisons. On 7 October 1537, in the Parlement, the *arrêt* against him was pronounced publicly. Afterwards, the second president Durand de Sarta embarked upon an address to the court, during which he conveyed the shock of such an unprecedented and severe case. Sarta held that Ulmo had become a judge undeservedly, since he lacked all the inner qualities required. The disgraced president would serve as an example to others, proving that high office did

⁶⁶⁷ Antoine Fersing, 'Une belle carrière qui finit mal: retour sur le procès fait à Claude de La Vallée, prévôt de Clermont, en Lorraine, dans la première moitié du XVI^e siècle' in *Contrôler et punir*, pp. 134–139.

⁶⁶⁸ BnF MS Dupuy 498, fols. 103r^o (11.09.1537), 104r^o (06.09.1537). It is most probable that the *arrêt* against Ulmo was delivered on 15 September 1537, *CAH*, vol. 3, p. 102 [4332]. The *huissiers* were paid 30 *écus* each from the account of the *parties casuelles* to subsidise the journey to Toulouse, AN J962¹² no. 45.

not confer immunity. Finally, Sarta argued that Ulmo's crimes did not tarnish the Parlement. Just as a natural body was saved by the amputation of a gangrenous limb, the body of the court would be preserved by Ulmo's removal.⁶⁶⁹

Sarta then ordered the sentence to be executed. First, Ulmo was stripped of his presidential dress. One *huissier* lifted the *mortier* from his head, replacing it with a grubby white hat. Two other *huissiers* removed Ulmo's red robes, replacing them with filthy, dark ones. Ulmo then performed an *amende honorable*, as did his clerk Fonté: bareheaded and barefooted, they held lit torches and apologised to God, the king, and justice for their crimes. The documents that Ulmo had produced falsely during his commission in Montauban were destroyed. In the afternoon, Ulmo was taken from the *conciergerie* on a cart with a rope around his neck, still in his dirty clothes. He was paraded around Toulouse in front of a great crowd, and brought to the place Saint-Georges. There, the former president was put in the pillory three times. A hot iron was used to brand the mark of a *fleur-de-lis* on his forehead. At the end of this ordeal, Ulmo left the city in the company of six royal *archers de la garde*, beginning his journey to the castle of Saint-Malo in Brittany. He was sentenced to remain there until death. All of Ulmo's goods were confiscated to the crown, with a portion reserved to his wife and children. This succession of punishments aimed to divest Ulmo of his office physically, before submitting him to humiliating, painful actions, and a permanent separation from society.⁶⁷⁰

⁶⁶⁹ *La Faille*, vol. 2, pp. 105–107, refers extensively to a journal (no longer extant) kept by the local merchant Jean Brusaud, which reproduced Sarta's speech.

⁶⁷⁰ *Treze livres*, p. 647; *La Faille*, vol. 2, p. 107; 'Livre de main des Du Pouget', pp. 96–97. On the significance of these punishments, *Treze livres*, p. 653 (XI.xvii); Nicole Gonthier, *Le châtimement du crime au Moyen Âge* (Rennes, 1998), pp. 120–141.

Little is known about Ulmo's time in prison. His family attempted to claim money and goods that they argued they were owed from his estate.⁶⁷¹ Most existing accounts of Ulmo close with a grim anecdote. In 1549, he forged his prison's financial records. For this, the former judge was sentenced to death by hanging.⁶⁷² Yet doubts can be raised about this outcome, since no documentary evidence has been produced to support it. In January 1549, Henri II authorised Ulmo's transfer. The former president, who was then in his seventies, was permitted to return home to Rouergue.⁶⁷³ Whether this was to find freedom or death is unknown.

This section opened with Bodin's assessment that the sentence passed against Ulmo was fair. As he remarked, this was not necessarily a universal attitude at the time. Humanist scholars sent letters at the height of the scandal, updating one another on the latest news. Jehan de Boysonné (c.1500-1558), a professor in civil law at the University of Toulouse, was appalled by the sentence and how unexpectedly the president was disgraced. Picked off by the 'dogs of Fontainebleau', Ulmo was one of several magistrates who had until recently enjoyed a comfortable existence, and on whom the crown had turned violently. The higher the positions these men occupied, Boysonné argued, the more catastrophic was their downfall. And yet, he lamented, there was no shortage of those who spent great amounts of money in obtaining judgeships, draining their whole inheritances in the pursuit. The folly of venality, and

⁶⁷¹ *CAF*, vol. 4, p. 97 [11448], vol. 6, p. 719 [22661]. In 1543, Ulmo's family argued that they were owed money from unpaid *gages* Ulmo was owed for his time as *avocat du roi* and fourth president. The Parlement of Toulouse opposed this move firmly, arguing that because of his crimes Ulmo had rendered himself ineligible to receive *gages*, let alone arrears, for offices 'que indeuement [il] tenoit et occupoit'; the king 'n'avoit jamais esté vrayement debiteur dud. de Ulmo', ADHG 1B36, fols. 418v^o–419r^o (04.08.1543). Is it conceivable that Ulmo abused his office because he was not being paid?

⁶⁷² *La Faille*, vol. 2, p. 107.

⁶⁷³ *CAH*, vol. 3, p. 102.

the brutal punishment of magistrates, led the scholar to mourn the shameful destruction of the commonweal.⁶⁷⁴

It is easy to appreciate why many, like Boysonné, have found it irresistible to associate Ulmo's story so strongly with venality. His rise and fall play conveniently into the fears expressed by critics of office sale. He leapt to positions of authority swiftly, 'ambitiously' his opponents said, through an infamous venality. Ulmo was not alone in providing money for his place in the Parlement of Toulouse – but he was one of the only men indicted. The nervous association between office purchase and criminality had been made during Ulmo's wary reception to the Parlement in 1526. His sentence demonstrated that men who bought office sometimes did abuse it, for which they were punished severely.

ii) Two criminal *clerc* councillors

Ulmo was not the only judge of the Parlement of Toulouse to face criminal prosecution. This section compares his treatment with that of the only other magistrates of the court to lose their offices for crimes in this period, Bernard de Jotglar and Pierre Galhardi. Jotglar, a doctor in law, was admitted to a *clerc* councillorship in 1524. The licentiate Galhardi obtained the same type of post in 1530.⁶⁷⁵ Jotglar and Galhardi were sentenced on 18 August 1528 and 19 January 1542 respectively. Whereas Ulmo's career could be linked closely with venal advancement, it is difficult to establish a comparable connection for either of the *clerc* councillors, who were tried in very different circumstances. Together with Ulmo's case, these

⁶⁷⁴ 'Lettres inédites de Jean de Boysonné et de ses amis', ed. Joseph Buche, *Revue des Langues Romanes* 40:10 (1897), pp. 181–2 (Letter 37), 183–185 (Letter 39).

⁶⁷⁵ ADHG 1B20, fol. 180v^o (10.06.1524); 1B23, fols. 274v^o–275r^o (21.07.1530).

trials will confirm that the late reign of François Ier was one of substantial risk for deviant magistrates.

The Parlement of Toulouse itself tried Bernard de Jotglar. The court began to investigate denunciations against him in May 1528.⁶⁷⁶ In June, Jotglar was discussed during *mercurine* sessions, and a team of senior magistrates researched the matter over the following weeks. Their report suggested that Jotglar had committed ‘concussions’. Like Ulmo, then, Jotglar was suspected of using his office for illicit gain. After questioning, he was placed under house arrest. New suspects were also found in Jotglar’s mother and his priest, who were also arrested and interviewed.⁶⁷⁷ By August, Jotglar’s position seemed even more fragile: he was now placed under arrest on the grounds of the *palais royal*, under the supervision of two *huissiers*.⁶⁷⁸ The Parlement was then ready to issue a ruling. Compared with Ulmo’s protracted investigation, the speed with which the court moved against Jotglar is striking: the action was instigated and completed in less than four months.

In contrast, like Ulmo, a special commission judged Pierre Galhardi. His story is remarkable because his sentence was overturned, permitting us to explore the notion of the mistrial of judges. Two lengthy *arrêts* – one condemning and the other acquitting Galhardi – are transcribed into the registers of royal acts of the Parlement of Toulouse. Containing detailed, rival narratives of the events, especially through the

⁶⁷⁶ ADHG 1B22, fol. 235r^o (16.05.1528).

⁶⁷⁷ ADHG 1B22, fols. 273v^o (20.06.1528), 274v^o–275r^o (22.06.1528), 284v^o–285r^o (30.06.1528).

⁶⁷⁸ ADHG 1B22, fols. 327v^o–328r^o (01.08.1528), 337v^o (08.08.1528).

‘pardon tales’ of some of the other actors involved, they offer us an unparalleled view of why judges were indicted.⁶⁷⁹

Galhardi’s prosecution emerged from a lawsuit he had over a benefice against Jacques Tellier in the 1530s. Tellier contended that Galhardi had founded his claim to the benefice on a forged document, an accusation that was dismissed by the Parlement of Bordeaux. Dissatisfied with this outcome, Tellier petitioned the king, protesting that Galhardi, having so many allies in the Parlement of Bordeaux, had triumphed all too predictably. A royal commission was established to investigate the complaints. Leading it was Jehan Morin, the *lieutenant criminel* of the *prévôté* of Paris, together with unnamed *maîtres des requêtes* and judges from the Parlement of Paris. As well as the falsified instrument for the benefice, the commission discovered another criminal allegation. Supposedly, Galhardi had counterfeited a *procuracion* to resign in 1529, attempting to claim a different councillorship in the Parlement of Toulouse the year before he was received to the post he currently held.⁶⁸⁰

It was in June 1529 that Gilbert de Cardailhac, a *clerc* councillor of the Parlement of Toulouse, fell sick with fever. He wished to resign his office to his brother Loys, also known as Rudelle, and the appropriate notarial act was drawn up. However, Rudelle was anxious. Holding only a bachelor’s degree and daunted by the examination, he feared that his family would lose the office. He came up with a plan to conserve it by entrusting it temporarily, behind his brother’s back, to a family friend: Pierre Galhardi. In the event of Gilbert de Cardailhac’s death, Galhardi would

⁶⁷⁹ Natalie Zemon Davis, *Fiction in the archives: pardon tales and their tellers in sixteenth-century France* (Cambridge, 1987). The two *arrêts* concerning Galhardi are transcribed in ADHG 1B1903, fols. 1r^o–18v^o (‘Double de l’arrest donné contre maistre Pierre Gailhardi jadiz conseiller en ceste court’, 19.01.1542), 173r^o–185v^o (08.08.1545).

⁶⁸⁰ For more on *procuracions* to resign, see Chapter 3, section i.

have to compensate the family if he wished to keep the office. Otherwise, if Gilbert recovered he would pledge to return it. Galhardi was favourable to the scheme, but instead of working with Rudelle, he directed the composition of a forged *procuration* without his knowledge. Galhardi obtained letters of provision to the office, which he refused to relinquish. Between 1529 and 1530, despite the fact that Gilbert de Cardailhac recuperated, Galhardi attempted to be received to his office in the Parlement of Toulouse. The court heard the pair's disagreement, eventually dismissing Galhardi's claim.⁶⁸¹ By that stage, Galhardi had already been accepted as a councillor of the Parlement through the resignation of his uncle. With the return of this incident into the limelight, Galhardi's crimes appeared clear to his prosecutors. He had induced a notary into falsifying a councillor's resignation with shameless acquisitiveness, and had then attempted to usurp the office. Unsuccessful in this venture, he later attempted a similar manoeuvre to obtain a benefice. Galhardi was kept under arrest in Paris for an undetermined period of time between 1539 and 1541. By the winter of 1541, his case was ready for judgement. Undertaken by specially commissioned judges over a much lengthier period, Galhardi's prosecution looks more like Ulmo's than it does Jotglar's.

Of what crimes were Jotglar and Galhardi eventually convicted? According to his sentence, Jotglar's crimes included: 'revelations of court secrets, procurements, exactions, concussions, deceit', and other abuses committed in office.⁶⁸² A letter to the governor of Languedoc reported that Jotglar had committed 'wrongdoings and

⁶⁸¹ Only procedural traces of this dispute survive: ADHG 1B23, fols. 10r^o (24.11.1529), 49v^o (19.01.1530), 86v^o (22.02.1530), 246v^o (03.07.1530), 305r^o–305v^o (13.08.1530).

⁶⁸² 'revelations des secretz de la court, procuremens, exactions, concussions, surprinses, et autres transgressions d'ordonnances, cas, crimes, et excez commis ... en l'exercice de son office', ADHG 1B22, fols. 347v^o–348r^o (18.08.1528).

extortions’.⁶⁸³ In broad terms then, he was guilty of contravening the court’s confidentiality and of profiting unlawfully from his post. In contrast, Galhardi’s sentence featured no embezzlement, but focused on the acts he had fabricated for the councillorship and the benefice, which were declared forgeries. Galhardi’s major crime was falsification (*faulx*), but the *arrêt* against him also alluded to ‘other infractions and peculation’.⁶⁸⁴

Is it possible to connect either Jotglar or Galhardi with venality in the same way that it was with Ulmo? Whereas Ulmo’s venal rise was conspicuous, nothing implicates Jotglar or Galhardi strongly to suggest that they transferred money to obtain their councillorships.⁶⁸⁵ Galhardi was charged with attempting to acquire a judgeship fraudulently, but the relationship between this crime and venality practically reversed the stereotype. Rudelle wanted Galhardi to pay his family in the event that his brother died and Galhardi retained the councillorship. At first, Galhardi attempted to promise money, benefices, and judgeships if he was secured the councillorship immediately.⁶⁸⁶ When rebuffed, Galhardi refused to offer a financial guarantee. He argued that if he were to do this ‘he would be at fault, and the office would be lost – for it is forbidden to sell or market offices’.⁶⁸⁷ After trying to barter for unmitigated possession of the office, Galhardi fell back on royal arguments that prohibited the sale of offices, appropriating them to his own ends. By failing to offer a

⁶⁸³ ‘mallefices et pilleries’, Pierre de Clermont-Lodève to Anne de Montmorency, Béziers (19.08.1528), BnF MS fr. 3074, fol. 47.

⁶⁸⁴ ‘autres delictz et malversations’, ADHG 1B1903, fol. 17r^o.

⁶⁸⁵ The court had not nominated Jotglar to the councillorship he took up. Coincidentally, the Parlement had nominated Pierre Galhardi (described as the judge of the *conservatoire* of Toulouse) to that vacant post, ADHG 1B20, fol. 44r^o (30.12.1523). It is possible that Jotglar provided the crown with a loan, but if so it has left no trace. His reception makes no mention of the oath of non-venality. Galhardi might have loaned to obtain his uncle’s office by resignation too, but again, there is no evidence of this.

⁶⁸⁶ Galhardi offered 500 *écus*, a benefice worth 100 *écus*, his office of *conservateur* of Toulouse, and the lieutenancy of the *juge d’appiaux civil* of Toulouse, which he was pursuing at the time.

⁶⁸⁷ ‘lors seroit en faulte et l’office se perdrait, comme ainsi soit prohibé ne vendre ne marchander offices’, ADHG 1B1903, fols. 8v^o–9r^o.

pledge, he merely gave his word that he accepted the terms proposed. Galhardi's criminality was rooted not in venality, but in his ultimate refusal to recognise the cash value of office. Here, deviant behaviour was marked startlingly by an unwillingness to play by the unwritten rules of office sale.

What penalties did Jotglar and Galhardi incur for their crimes? The Parlement of Toulouse sentenced Jotglar by stripping him of his councillorship, declaring him forever unfit for royal office, and imposing a fine of 300 *livres*. Additionally, he was required to compensate litigants for the sums he had received from them to decide their cases favourably. Jotglar was banished from the *viguerie* of Toulouse. His mother and priest, suspected of collusion, were also banished. Other culprits were admonished: a woman named Jehanne de Sabonieres had to surrender all the cash that she had accepted from pleaders to solicit Jotglar on their behalf, without further penalties. Finally, the *arrêt* closed with a more general ruling: litigants were not to give or promise any 'corrupting gifts' (*dons corrompables*) to judges, and lawyers were not to encourage them to do so. Those found guilty would be prevented from practice, fined, or banished. Jotglar's sentence did not only eliminate him from the magistracy: it was also an opportunity to enforce good judicial practice by attacking inappropriate gift giving. Although the *arrêt* was pronounced publicly, Jotglar was not present at the time. It was only later, in private, that he was informed of his sentence. The judges granted Jotglar's request of a delay to pay his fine. They also decided that Jotglar would be paid the *gages* of his former councillorship right up to the day that he had lost his office.⁶⁸⁸

⁶⁸⁸ ADHG 1B22, fols. 347v^o–349r^o (18.08.1528), 349v^o (19.08.1528).

Pierre Galhardi's sentence also deprived him of his councillorship and rendered him unable to hold royal office. Unlike Jotglar, Gailhardi was to have his judgement read in his presence in the Parlement of Toulouse. In May 1542, four months after the case was decided, a lay councillor of the Parlement of Paris, Claude Lefèvre, arrived in Toulouse with Galhardi in tow. Galhardi was kept in the *conciergerie* for three days. On 11 May, in a public session, Galhardi appeared in the Parlement bareheaded and on his knees, and his *arrêt* was read. He was then 'exauthorised': his judicial attire was removed and replaced, 'depriving him of all honour and dignity'.⁶⁸⁹ In an unscripted twist, the first president Jehan de Mansencal descended and removed Galhardi's *chaperon*, or the hood of his robe, himself. Galhardi then performed an *amende honorable*, recognising that he had intentionally forged the notarial documents involved in his case. These were then destroyed. Galhardi remained in jail until 14 May, when he set off for Paris in the company of eight royal *arquebusiers*. He was to remain imprisoned until he paid a fine of 1,000 *livres parisis*. Later, Galhardi described the utter humiliation he had experienced. He claimed that Lefèvre had purposely timed his arrival into the city to coincide with daylight on a feast day, and that against advice he had summoned an enormous crowd. Galhardi argued that this made his sentence all the more 'injurious'.⁶⁹⁰

The sentences against Jotglar and Galhardi differed from each other in both style and substance. Neither *arrêt* was as severe as the one pronounced against Ulmo: unlike him, the two judges did not see their patrimonies confiscated, and they were not branded or imprisoned for life. However, nor were their offices as important as Ulmo's, or their crimes as severe, and they benefited from the privilege of being

⁶⁸⁹ 'en le privant de toute honneur et dignité', ADHG 1B1903, fols. 17r^o–17v^o.

⁶⁹⁰ ADHG 1B35, fol. 286r^o (10.05.1542); 1B1903, fols. 176r^o, 178r^o; *La Faille*, vol. 2, pp. 120–122.

churchmen. The Parlement of Toulouse condemned Jotglar's crimes with a very different approach, limiting the public aspect of the sentence considerably by communicating its decision in private. In contrast, Galhardi's punishment is more reminiscent of the spectacular style that was inflicted upon Ulmo. Like him, Galhardi's was a physical removal from office in which public disgrace featured heavily. The difference in the two treatments raises interesting questions. Since it was responsible for trying him, perhaps the Parlement was deliberately lenient to one of its own when it judged Jotglar, also desiring to suppress scandal. His sentence was as focused on punishing a magistrate as it was on the internal workings of the court. For justice to function smoothly, litigants, lawyers, and judges were required to respect the rules together. In contrast, those thunderous judgements against Ulmo and Galhardi rendered through royal commissions tended to put the spotlight on the judge at fault alone.

Another issue separates the cases, though this time it differentiates Galhardi's criminal trial from those of Jotglar and Ulmo. Unlike these two, Galhardi's sentence was reversed. Three years after he was convicted, the Parlement of Paris declared Galhardi innocent on 8 August 1545. How did this occur?

In the aftermath of his case, Galhardi set about proving his innocence. François Ier gave cognizance of the matter to the Parlement of Paris, which began to investigate. The judges there made extremely troubling findings. Galhardi's trial had been fuelled by personal animosities: he was investigated only because Tellier, his rival for the benefice, had been unreasonable and refused to accept the definitive ruling produced by the Parlement of Bordeaux. Tellier attempted to get a revised

verdict by appealing directly to the chancellor Guillaume Poyet. The mention of Poyet adds a grave political dimension to Galhardi's case. Months after Galhardi's fall, the chancellor, as we have seen, was suspended from office in one of the most notorious trials of the reign of François Ier.⁶⁹¹ Galhardi's return to office was only possible because of Poyet's disgrace: repealing his verdict was part of a broader vendetta against an ex-chancellor whom the crown had argued was only too keen to bend the law his own way for an unscrupulous profit, who had quashed the judgements of sovereign courts for cash repeatedly and illegally. Galhardi was prosecuted because of abuses at the very top of the judicial hierarchy.

Without royal consent, Poyet set up the commission to investigate Galhardi. To entice Poyet, Tellier explained that the councillor was rich and had many goods, which could be confiscated. Loys Martinet, Tellier's *avocat*, also communicated with the chancellor, claiming that if Galhardi were deposed, the chancellor could gain 3,000 *livres* in *rentes*.⁶⁹² At this suggestion, Poyet appointed Martinet as the *procureur du roi* for the commission. To Galhardi, this was an utter injustice: his rival party now became his prosecutor. Poyet found a reliable creature to lead the case in Jehan Morin. Galhardi was adamant that this magistrate was not fit to judge him. If he had offended, it was for his own court, the Parlement of Toulouse, to punish him and no other agency.⁶⁹³ The investigation was botched procedurally too: Galhardi's appeal went unheard, and his judges were never formally appointed. Finally, Galhardi had endured an undeserved imprisonment and a publicly humiliating sentence.

⁶⁹¹ See Chapter 4, section iii.

⁶⁹² ADHG 1B1903, fol. 174r^o. In a missive to Poyet, Martinet claimed that there were 'deux ou trois mil livres à gagner au procès de Gaillard', Charles Porée, *Un parlementaire sous François Ier. Guillaume Poyet, 1473-1548* (Angers, 1898), p. 113.

⁶⁹³ ADHG 1B1903, fol. 175r^o.

As a result of these discoveries, the Parlement of Paris retracted Galhardi's judgement. He was absolved of his crimes, and reimbursed his fine. In a direct reversal of the degradation ceremony, Galhardi was also reinvested with his councillorship. He came to Toulouse in November 1545 accompanied by a *clerc* councillor from the Parlement of Paris, Martin Ruzé. Ruzé explained to the magistrates of the Parlement of Toulouse that he had come to see that Galhardi's honour, which had been wounded wrongly, was completely restored.⁶⁹⁴ Unusually, the registers record this news in a non-neutral tone: the *grand' chambre* declared that it was 'most joyous' at his coming. On 23 November, Galhardi's sentence was annulled publicly: he was reclothed in his red robe and *chaperon*. Then, he ascended the high seats and took his place. The next day, Pierre Galhardi was at work in the *grand' chambre*.⁶⁹⁵

Galhardi's impeachment and subsequent return to office is singular because it reveals that the criminal conviction of sovereign judges was not necessarily terminal. Crucially, it also exposes the gritty politics that lay behind such indictments. Galhardi's insistence that his own court should have judged him is striking. This was precisely the attitude of the Parlement of Paris in 1541, when a commission tried one of its *présidents des enquêtes*, René Gentils. The Parisian court argued that it had always been in charge of monitoring and penalising its own members, and that it was absurd and dangerous to grant this power to lower-ranking subjects over whom the court had jurisdiction. Such a scenario could lead to disobedience, and contempt for sovereign justice.⁶⁹⁶ For the Parlement of Toulouse, the issue of royal commissions

⁶⁹⁴ ADHG 1B1903, fol. 200r^o (20.11.1545).

⁶⁹⁵ ADHG 1B39, fols. 11v^o (23.11.1545), 12r^o (24.11.1545); 1B1903, fol. 201r^o (23.11.1545).

⁶⁹⁶ BnF MS fr. 10946, fols. 6r^o–8r^o. For the sentence produced by commission against René Gentils, BnF MS fr. 4390, fols. 67v^o–69r^o (03.05.1542). Gentils had been an important figure in the Tour

was more nuanced and context-dependent. In Jotglar's case, the court championed the ideal of autonomy: the whole matter originated within and was dealt with by the Parlement of Toulouse. When a crown-appointed commission dealt with Galhardi's investigation, there were indications that the Parlement disagreed with how their councillor was treated, and his reprieve was celebrated. However, in Ulmo's case, an external royal commission received repeated cooperation. All three criminal cases had their peculiarities. But was their occurrence in the second half of the reign of François Ier coincidental?

In the late 1520s and early 1540s, Jotglar, Ulmo, and Galhardi were not the only judges of sovereign courts to be investigated. Although such cases were indeed 'extremely rare', they were far from isolated.⁶⁹⁷ Presidents and councillors belonging to the highest tribunals across the kingdom were prosecuted. In the Parlement of Paris, these included the president Gentils, but also the *clerc* councillor Pierre Laidet. Pierre Mathei of the Parlement of Aix was also removed from office. Their judgements were contemporaneous with those of Jotglar and Galhardi.⁶⁹⁸ Such a probing attention given to parlements bears a conspicuous resemblance to the pursuits conducted by the notorious Tour Carrée commission, established to investigate royal financial personnel from the mid-1520s to the mid-1530s, and in which members of Parlement of Toulouse like Durand de Sarta had participated.⁶⁹⁹ Some of the

Carrée commission since 1527, investigating and pursuing a number of royal financial officials. This time it was Gentils who was sentenced to a fine of 30,000 *livres* and execution by hanging and strangulation at Montfaucon. Gentils's co-accused commissioners of the Tour Carrée, the councillors Jean Ravier and Charles de La Mothe, of the parlements of Dijon and Paris, both died in prison, *Maugis*, vol. 1, pp. 357–358; *Hamon*, pp. 301, 537.

⁶⁹⁷ *Pace Marie Houllémare, Politiques de la parole: le parlement de Paris au XVIe siècle* (Geneva, 2011), p. 115.

⁶⁹⁸ For Gentils, see above, n.58. For the sentence against Laidet, who like Gentils had participated though in an obscure capacity in the prosecution of financial officers, BnF MS fr. 4390, fols. 52r^o–53r^o (20.06.1528); *Maugis*, vol. 1, pp. 356–357; *Hamon*, p. 353. For Mathei, see Chapter 1, section i.

⁶⁹⁹ *Hamon*, pp. 282–333. For Sarta's participation, Chapter 1, section i.

punishments applied – like the confiscation of Ulmo’s patrimony – were actions reminiscent of the crown’s behaviour towards its financial officers. These men, who had pursued office and fattened themselves on illicit gains in the king’s name, would be ‘squeezed like sponges’ (See Appendix Figure 15). In the wake of prosecuting its financial officials, the crown became wary of the very group of magistrates that had judged them. Exemplary prosecutions were a means of signalling a deep suspicion of profiteering and the reckless exploitation of high office, of reforming sovereign courts by purging them of black sheep.⁷⁰⁰ It was as Jehan de Boysonné had observed: after years of security, now judicial officers were at risk.

Could this climate of suspicion have related to the fact that offices were provided venally? Plausibly, it could: in 1524, François Ier recognised that granting councillorships for loans had resulted in incapable men holding office, and might result in them peculating (*malverser*).⁷⁰¹ After the Poyet trial, François Ier made apoplectic statements to those who had judged him, arguing that magistrates were never punished as severely as they deserved to be. During this outburst, he also ‘spoke about Ulmo, and Laidet’.⁷⁰² The king was personally apprehensive about these senior judges, whose midemeanours he associated with one another. The crown and its courts’ actions from the late 1520s, then, resemble something of a call to order: the first generation of judges who had provided money to the crown for their offices were reminded that however they had acquired their positions, they were expected to behave correctly.

⁷⁰⁰ For more on how, in prosecutions such as these, the crown could have been broadcasting a political ‘message’, see Claude Gauvard and Philippe Hamon, ‘Les sujets du roi de France face aux procès politiques (XIV^e-XVI^e siècle)’ in *Les procès politiques*, p. 500.

⁷⁰¹ ADHG 1B1901, fol. 95r^o, see also Chapter 1, section iii.

⁷⁰² ‘parla aussi ledit sieur de Ulmo et de Ledet’, BnF MS fr. 4772, fols. 179r^o–179v^o (20.08.1545).

Mistrusted by the monarchy, these venal judicial agents were also far more vulnerable than they would later become. In the long term, the crown's legal recognition of patrimonial office could serve to protect officers who committed crimes: their penalties were milder, they could bow out quietly by resigning office to a buyer, or crimes were simply hushed up.⁷⁰³ To an extent, the magistrates of parlements became untouchable. Decades later, Étienne Pasquier told an anecdote from the reign of Henri III. The chancellor René de Birague was alleged to have expressed surprise that offices were not selling for more money, given that the pursuant 'could almost guarantee that he would never be punished for his faults'.⁷⁰⁴ In an earlier age of venality though, when it was uncertain and obscure, chastising sovereign judges could be public and severe. Paradoxically, this also allowed the crown to develop office sale further. Though cautioning that venality might result in criminal magistrates and punishing them, the monarchy exploited the opportunity to make money from impeached officers' former posts. We know that Jotglar's successor, Guillaume de Lamamyne, was accused of purchasing his office.⁷⁰⁵ Investigating and removing judicial officers allowed the crown to combine claims to repair a faulty service with an opportunity to profit, just as it had done when it prosecuted its financial officials. If, as this section has demonstrated, the crimes of judges cannot always be linked to the fact that they purchased their offices, the monarchy's doubt about its own agents can be. It helps to explain, in part, why these

⁷⁰³ For an example later in the sixteenth century, see especially the case of Jean Poisle, condemned in 1582: Élie Barnavi and Robert Descimon, *La sainte ligue: le juge et la potence: l'assassinat du président Brisson (15 novembre 1591)* (Paris, 1985), pp. 166–173. For later examples: Michel Antoine, 'Corruption et inamovibilité des juges sous Louis XIV: un exemple bordelais (1713)' in *Justice et justiciables. Mélanges Henri Vidal* (Montpellier, 1994), pp. 239–252; Hervé Piant, 'La confiance perdue: hommes de loi, délinquants et opinion publique à Vaucouleurs au XVIII^e siècle' in *Juges, notaires et policiers délinquants*, pp. 67–87.

⁷⁰⁴ 'se pouvoit presque promettre de n'estre jamais chastié de ses fautes', Estienne Pasquier, *Les œuvres* (Amsterdam, 1723), vol. 2, p. 542 (Letter no. 19).

⁷⁰⁵ See Chapter 3, section ii and Chapter 4, section iii.

men found themselves observed so closely in the second half of the reign of François Ier.

So far, this chapter has concentrated only on the criminal convictions of judges. A public prosecution was not the only means available to control the conduct of presidents and councillors of sovereign courts though. The Parlement of Toulouse possessed far more ordinary means of correcting the behaviour of its members that did not involve putting them on trial: using these techniques could result in a range of penalties, without the ignominy of an audience.

iii) Discipline in the age of venality

As *procureur du roi* of the Parlement of Grenoble, Claude de Bellièvre argued that it was imperative to hold certain disciplinary sessions as the other sovereign courts did. Once a month on a Wednesday (*mercredy*) after lunch, presidents in other sovereign courts usually summoned some councillors, and conferred with them. They did this after receiving a report from the *gens du roi*, regarding whether any judges had contravened their duty or the honour of the court. Any offenders would be reprimanded and, if the case required it, punished publicly. Because his Parlement did not hold such meetings, Bellièvre contended that many mistakes remained uncorrected. He urged his court to hold these sessions, called ‘mercurines’.⁷⁰⁶

Mercurines or *mercuriales* were special sessions organised by sovereign courts to deal internally with the faults committed by their members. In the Parlement of

⁷⁰⁶ BnF MS fr. 16871, fol. 432r^o (17.07.1538). For more on Bellièvre, who was later prosecuted but declared innocent of crimes as first president of the Parlement of Grenoble, see *Vindry*, vol. 1, p. 69; ADHG 1B38, fols. 646r^o–650r^o (28.11.1544; 16.01.1545).

Toulouse they were known almost exclusively by this first name over *mercuriales*, a term that began to prevail from the 1540s. Whilst the meetings could result in criminal trials, as Bellièvre's statements suggested and as Jotglar's case has shown, this was not their primary function. Their remit was broad, and concerned the comportment of personnel in general. Robert Jacob observed that *mercuriales* are abundant sources, packed with details about the morality of *ancien régime* judges. He and other historians have written with reference to *mercuriales* mostly as 'discourses' that were pronounced in sovereign courts from the 1550s onwards, and which were printed heavily in the seventeenth and eighteenth centuries.⁷⁰⁷ In an earlier period though, *mercurines* were more than declamations. They were corrective meetings. In this section, I will explore how *mercurines* functioned in the Parlement of Toulouse. Through this institution, the court possessed a vigorous influence over its own members: holding *mercurines* could mitigate the theoretically severe effects of venality, quelling fears relating to the assiduity, competence, and covetousness of judges.

Although disciplinary actions could occur spontaneously in parlements, because *mercurines* were deliberately scheduled events of self-examination designed to tackle faults committed by staff, they merit close attention. Sovereign courts practised *mercuriales* before the monarchy made them mandatory. The term was first used in the Parlement of Paris in the 1470s.⁷⁰⁸ Royal *ordonnances* on justice of July 1493, March 1499, October 1535, and August 1539 outlined the parameters of these sessions. These royal acts stipulated that meetings would take place on a monthly

⁷⁰⁷ Robert Jacob, 'Les fondements symboliques de la responsabilité des juges: l'héritage de la culture judiciaire médiévale' in *Juger les juges* (Paris, 2000), p. 12; *Maugis*, vol. 1, pp. 341–354; Colin Kaiser, 'Les cours souveraines au XVI^e siècle: morale et Contre-Réforme', *Annales. Économies, Sociétés, Civilisations* 37:1 (1982), pp. 15–31; Houlemare, *Politiques de la parole*, pp. 115–116.

⁷⁰⁸ *Maugis*, vol. 1, p. 344.

basis, on Wednesday afternoons. Presidents would select two councillors per chamber and identify members of the tribunal who had transgressed royal *ordonnances*. This small team would not only monitor whether laws had been broken, but would also investigate imprecisely defined ‘faults’ relating to negligence, scandal, or ‘irreverence’. It would share its findings with the entire court, and together they would decide how to deal with delinquents, employing reprimands, suspension of *gages*, prohibitions from entering the court, or removal from office. *Mercuriale* sessions were to be recorded in secret registers separately from the main court archives, and the king was to be informed regularly of their contents. Monarchs after François Ier continued to define *mercuriales* through legislation. The intervals at which the meetings were supposed to be held increased over the course of the century, from every three months in the 1560s, to every six months in the 1580s. By the seventeenth century, they were scheduled annually.⁷⁰⁹

The prescribed frequency of *mercuriale* meetings diminished over the course of the sixteenth century. Often, this fact alone is taken as an indication of their decreasing efficacy.⁷¹⁰ Royal laws might have laid down the ground rules, but what actually took place was another matter. For example, although they were supposed to occur more frequently, the Parlement of Paris only held five *mercuriales* between 1563 and 1586.⁷¹¹ How were the meetings practised at an earlier time?

In the Parlement of Toulouse, *mercurines* were held unevenly but continuously in the first half of the sixteenth century. I have found references to around sixty

⁷⁰⁹ *ORF*, vol. 20, p. 410 (110); vol. 21, pp. 183–185 (27–29, 39), pp. 229–230; *Isambert*, vol. 12, pp. 438–440 (57–59), p. 626 (130); *Treze livres*, p. 642.

⁷¹⁰ Kaiser, ‘Les cours souveraines au XVI^e siècle’, p. 19.

⁷¹¹ Houlemare, *Politiques de la parole*, p. 116.

separate sessions held between 1503 and 1547, meaning that on average the Parlement hosted 1.3 meetings a year. Since the meetings were recorded independently and are no longer found in the Parlement collections, and given that such references that exist are often patchy or summary, the number of *mercurines* that were actually held was probably higher. There are indications that the court aimed to hold the sessions on a monthly basis, but that in practice, *mercurines* actually occurred a few months apart or even longer.⁷¹² At most, perhaps, the court could expect to hold around four a year, as it did in 1528.⁷¹³ However, some registers make no reference to *mercurines* at all, so there are some years – especially later in the period – in which it appears no meetings were held.⁷¹⁴ Is this a sign that the records are deficient, or were the meetings held less frequently?

What happened during *mercurines*? Like its older sibling and following the *ordonnances*, the Parlement of Toulouse arranged *mercurines* to take place on Wednesday afternoons – the tradition that gave the sessions their distinctive name. The *mercurine* was ‘held’ (*tenue*) by a small group as fixed by the laws, presidents taking the lead and joined by a variable number of councillors. Only rarely are these members identified.⁷¹⁵ The attendance of presidents was deemed critical. Their absence, unavailability, or illness was sufficient reason to cancel or postpone a

⁷¹² For evidence that the court tried to hold *mercurines* a month apart, but was forced to reschedule, ADHG 1B18, fols. 398r^o–398v^o (14.11.1520), 428r^o (19.12.1520). An interval of around two to four months between each session is common, but far longer gaps exist too.

⁷¹³ ADHG 1B22, fols. 60v^o (08.01.1528), 222r^o–222v^o (09.05.1528), 273v^o (20.06.1528), 455r^o (05.12.1528).

⁷¹⁴ I have been unable to find *mercurines* mentioned, for instance, in 1523, 1530, 1531, 1533, 1535, 1536, 1544, and 1546. Cf. Élise Frêlon, *Le Parlement de Bordeaux et la «loi» (1451-1546)* (Paris, 2011), p. 565 n. 506, who found fewer *mercuriales* before 1530, but more after. The Parlement of Paris held at most one to two *mercuriales* a year, with more regular mentions from 1520 onwards, *Maugis*, vol. 1, p. 346.

⁷¹⁵ Anonymous entries note that presidents and six councillors attended: ADHG 1B18, fols. 144v^o (13.04.1524), 344r^o (18.01.1525). For examples of named participants: ADHG 1B18, fol. 398v^o (14.11.1520), 454v^o (16.01.1521); 1B21, fols. 293v^o–294r^o (08.08.1526), 705r^o (28.08.1527); 1B22, fol. 60v^o (08.01.1528).

mercurine.⁷¹⁶ The committee would meet in private, in a room not being used by the rest of the court at that time. That might mean convening in the criminal chamber, or that of the *enquêtes*.⁷¹⁷

Secrecy was paramount. The registers of the Parlement of Toulouse are filled with allusions to separate records documenting *mercurine* meetings. Judges made extracts of past sessions and referred back to these files continually. From the late 1530s, a coffer was installed in the *greffe* to house this paperwork, to which the first president and *greffier civil* had a key.⁷¹⁸ These files are missing from the present-day holdings of the Parlement. Their absence indicates that we are dealing with a loud archival ‘silence’.⁷¹⁹

Faults had to be denounced. This process was made systematic when, following one session, the Parlement decided that at the start of each *mercurine* the *gens du roi* would be summoned and asked if they knew of anything in need of correction or repair.⁷²⁰ Thus began a long-lasting tradition that made the *gens du roi* responsible for alerting the court to transgressions committed by its members.⁷²¹ Before every session, they provided an oral or written ‘denunciation’ of faults for discussion. Presidents and councillors could also raise issues, and during the meeting the participants debated the cases. If the meeting took too long, it might have to roll over into the next available Wednesday afternoon slot.⁷²² Additionally, what was proposed

⁷¹⁶ ADHG 1B18, fol. 428r^o (19.12.1520); 1B22, fol. 505r^o (27.01.1529).

⁷¹⁷ ADHG 1B18, fol. 454v^o (16.01.1521); 1B21, fol. 705r^o (28.08.1527); 1B36, fol. 34v^o (13.12.1542).

⁷¹⁸ ADHG 1B15, fols. 306r^o–306v^o (21.04.1513); 1B18, fol. 13r^o (23.11.1519); 1B20, fol. 344r^o (19.01.1525); 1B22, fol. 37v^o (14.12.1527); 1B31, fols. 63v^o–64r^o (31.12.1537).

⁷¹⁹ Natalie Zemon Davis, ‘Les silences des archives, le renom de l’histoire’, *Annales du Midi* 120:264 (2008), pp. 467–483.

⁷²⁰ ADHG 1B12, fol. 48r^o (13.02.1503).

⁷²¹ Houllémare, ‘Les avocats du roi au parlement de Paris’, p. 71.

⁷²² ADHG 1B21, fols. 293v^o–294r^o (08.08.1526).

might require investigation – another step that might delay action. In the end, the *mercurine* resulted in a set of articles or a report to be presented to the entire body of judges.

Once ‘held’, a *mercurine* needed to be ‘judged’ or ‘published’. Following the royal *ordonnances*, all of the judges of the Parlement gathered to read the articles produced during *mercurines* together, to determine how to deal with each transgression. Over time, the *mercurines* began to resemble veritable judicial procedures. They resulted in inquiries, and those charged with faults could lodge petitions for the colleagues they suspected of bias to abstain. These requests also had to be debated.⁷²³ The process of holding *mercurines* could become protracted. On occasion, the court was unable to keep on top of the issues that were raised. In 1511, the Parlement had to deal with a backlog of three previous meetings, and in 1517 it assembled to discuss sessions held over the last three months.⁷²⁴ A court ruling of 1528 attempted to deal with the issue: every Saturday, all the magistrates would meet, discuss, and decide the articles of the most recent *mercurine*. Any attempt to obstruct this would result in fines.⁷²⁵ Saturday became the default day on which the Parlement of Toulouse debated and settled previous *mercurines*, the day it ‘judged’ and ‘published’ them.

The fact that meetings took place at intervals and were sluggish did not mean that they were essentially ineffectual. Without the registers of the meetings, what was denounced during *mercurines* can be elusive, but some information does survive. The

⁷²³ See, for instance, the many ‘recusations’ put forward by Jehan Deymier against his colleagues: ADHG 1B21, fol. 226r^o (06.06.1526); 1B33, fols. 56r^o–56v^o (10.01.1540), 78v^o–79r^o (27.01.1540); 1B40, fol. 289r^o (19.04.1547).

⁷²⁴ ADHG 1B14, fols. 709r^o–709v^o (05.04.1511); 1B17, fol. 708v^o (03.07.1517).

⁷²⁵ ADHG 1B22, fols. 73v^o–74r^o (22.01.1528).

Bibliothèque nationale, for instance, preserves fragments of denunciations produced in the Parlement of Toulouse.⁷²⁶ In addition to sources such as this, the surviving court registers contain numerous entries describing what ensued after meetings were held. Using both denunciations and court resolutions will allow us to grasp how the Parlement used *mercurines* to instil discipline among its judicial staff.

The court viewed *mercurines* not as a mere disciplinary tool, but as a means of continually reforming judicial practice. Meetings could cover the state of justice in the region at large, or improving the services delivered by the Parlement. Judges were not alone in receiving attention: every participant in the legal process who attended the court, whether they were litigants, lawyers, spectators, clerks, or judges, could be discussed and held to account for their behaviour. Researchers have suggested correctly that concerns could be of a highly technical nature, obsessed with the observation of procedure.⁷²⁷ This cannot be denied. Yet *mercurines* were also opportunities to tackle the behaviour of problematic judges, considering the ‘faults’ they committed both as groups and individuals.

The sessions paid attention to a range of issues, from the slightest professional blunders to more serious incidents. Occasionally, the *mercurines* resulted in generic rulings addressing the judges at large, exhorting those assembled to ‘amend themselves’, or to observe the rules.⁷²⁸ More commonly, the meetings involved the discussion of very precise grievances directed against the judges.

⁷²⁶ Especially the ‘Mercuriale proposée par les gens du roy’ of the Parlement of Toulouse, dated 3 March 1540, BnF MS Dupuy 498, fols. 117r^o–118v^o.

⁷²⁷ Kaiser, ‘Les cours souveraines au XVI^e siècle’, pp. 18–19.

⁷²⁸ ADHG 1B13, fol. 113v^o (02.05.1506); 1B20, fol. 144v^o (14.04.1524).

Attendance and absenteeism were chronic topics. There were two objectives here: making sure that judges resided in Toulouse during the judicial term, and that they came to the court to begin work on time. No president or councillor was allowed to leave the city, whether for professional or personal reasons, without official leave. *Congés* could only be granted for a fixed term, with the deliberation of all the judges. This injunction was repeated many times over in *mercurines*, and was accompanied by penalties: if a judge left without express permission, he risked losing any profit he made from commissions, and could also lose his *gages*.⁷²⁹ When judges took on more commissions than the court had allocated them, disciplinary action was also in order.⁷³⁰ Magistrates came under fire when they failed to attend important events. Those who arrived late for the start of the judicial year on 12 November were suspended from reporting cases until they explained themselves, and the *greffier* withheld their *debentur* payslips.⁷³¹ In 1528, several councillors failed to attend the public pronouncement of *arrêts*, an event that was discussed during a *mercurine*. The result was a court ruling stipulating that unless they were excused, judges would be fined 10 *livres* every time they failed to attend this ceremony. Dress was also on the agenda: many councillors clearly did not own the red robes they were required to wear on such occasions. Those who did not yet own them were told to have their robes made using their next instalment of *gages*.⁷³²

The meetings also considered how to prevent judges from turning up late to work. After one session, the Parlement contracted the prior of the nearby Carmelite

⁷²⁹ ADHG 1B9, fol. 113r^o (09.05.1493); 1B13, fols. 302v^o–303r^o (07.05.1507); 1B16, fols. 399r^o–399v^o (18.04.1516).

⁷³⁰ For example, Gilbert de Cardailhac was prevented from reporting until he had explained why he had taken on more than one commission, against the court's wishes, ADHG 1B25, fols. 289v^o–299r^o (09.07.1532).

⁷³¹ ADHG 1B21, fol. 337v^o (12.11.1526); 1B22, fol. 2r^o (13.11.1527).

⁷³² ADHG 1B22, fol. 99r^o (08.02.1528).

convent to ring bells every morning to ensure that the judges entered the court on time.⁷³³ Later, a *mercurine* meeting dealing with the unpunctuality of the magistrates resulted in the decision to build a clock tower on the grounds of the Parlement itself.⁷³⁴ Late arrivals continued to pose problems. Councillors working in the *chambre des enquêtes* failed to show up on time, and following a *mercurine* they were ordered to pass by the *grand' chambre* on their way, so that the culprits could be identified.⁷³⁵ In 1540, the *gens du roi* were still complaining that on one particular morning the bulk of the judges were missing at eight o'clock, when they should have been in court.⁷³⁶

In the parlements of Paris, Rouen, and Bordeaux, scholars have shown that the *mercurines* were deployed routinely to criticise similar behaviour. But the meetings generated other complaints too. These courts exhorted their members to refrain from chatting, reading for pleasure, languid attitudes, and even sleeping when they were meant to be listening to cases and opinions. Magistrates who showed interest only in cases that gained them *épices* were lambasted. They were warned not to wander in and out of the chambers, distracting others, or exiting to have a lengthy drink at the *buvette*. Judges were slated for failing to attend the daily Mass, for their inappropriate, gaudy dress, and for irreverent speech. They were condemned for cavorting with pleading parties and lawyers both in and outside court, for inebriating themselves, playing games, and frequenting women who had cases pending.⁷³⁷ All of this had a practical impact on the running of the court, but such rulings hint at the fact that

⁷³³ ADHG 1B13, fols. 13v^o–14r^o (05.12.1505).

⁷³⁴ ADHG 1B14, fol. 369r^o (18.01.1510).

⁷³⁵ ADHG 1B15, fols. 306r^o–306v^o (21.04.1513); ADHG 1B16, fols. 399r^o–399v^o (18.04.1516).

⁷³⁶ BnF MS Dupuy 498, fol. 117r^o.

⁷³⁷ Amable Floquet, *Histoire du parlement de Normandie* (Rouen, 1840), vol. 1, pp. 505–521; Maugis, vol. 1, pp. 350–351; Frêlon, *Le Parlement de Bordeaux et la «loi»*, pp. 280, 595.

mercurines were moralising sessions too, contributing towards a notion of ‘ideal’ magistracy. Although some of these specific complaints are absent from the records of the Parlement of Toulouse, we can assume that similar reprimands occurred. Judges embroiled in squabbles who let their animosities spill over into their everyday work were slapped with fines.⁷³⁸ *Mercurines* were evidently the place where the behaviour of judges, both within and outside the court, could be flagged and controlled.

The objective of the *mercurines* was also to amend the court’s ‘style’. After meetings, the Parlement issued strict procedural rules. Judges received specific instructions on how to perform their duties, especially the distribution of cases and how to report them. Certain problems that needed to be tackled included verbose speeches made by judges as they opined, cases distributed to the wrong chambers, or the prioritising of certain cases over others against regulations.⁷³⁹ Councillors who failed to perform their duties were threatened with suspension and suppression of their *gages* for one or multiple months.⁷⁴⁰ In another complaint relating to practice, the *gens du roi* urged the court not to end hearings on the hour as it did, since this meant lawyers had to start their arguments all over again at the following *audiences*, which penalised parties financially.⁷⁴¹ Councillors suspected of bias were supposed to leave straight away when cases were discussed and not linger – they were also to make themselves useful by sitting in another chamber and helping to judge there.⁷⁴²

⁷³⁸ See, for instance, the insults slung between Jacques Roguier and Gaspard de Molinier, ADHG 1B36, fol. 371r^o (06.07.1543).

⁷³⁹ ADHG 1B12, fols. 48r^o–48v^o (13.02.1503); 1B15, fols. 306r^o–306v^o (21.04.1513); 1B21, fol. 348v^o (24.11.1526).

⁷⁴⁰ As were Nicolas Benoist and Jacques de Durfort, ADHG 1B10, fols. 97r^o (14.01.1496), 214v^o (24.12.1496); 1B11, fol. 287r^o (14.11.1500).

⁷⁴¹ BnF MS Dupuy 498, fols. 118r^o–118v^o.

⁷⁴² ADHG 1B13, fol. 83r^o (19.03.1506); 1B16, fols. 399r^o–399v^o (18.04.1516).

One of the most serious issues with which *mercurines* was preoccupied was the ‘revelation of secrets’. The leaking of classified information could originate at any level of the court, from the scribes who transcribed cases up to the judges deciding them. Secrecy was key to the success of the Parlement’s operations: it relied on the assumption that the judgements it delivered were the result of unanimous agreement. Were the opinions and motives of judges known, they would find themselves pressured by parties, and justice would be affected negatively.⁷⁴³ Maintaining the ‘court’s secrets’ was therefore a means of protecting litigants and the Parlement of Toulouse itself. *Mercurines* led to investigations into breaches of confidentiality, sometimes with extremely precise objectives, regarding how a pleader ascertained who was reporting their case, or how they discovered which way a judge was leaning.⁷⁴⁴ The meetings also resulted in attempts to secure the information the court produced physically, by restricting access to the *greffe* and introducing penalties for anyone caught entering illegally.⁷⁴⁵ When they occurred, information leaks could have serious implications. One litigant assaulted the councillor Jehan de Baulat at his home in the belief that the judge was preventing his case from being heard – the court fined him 100 *sols*.⁷⁴⁶

The judges’ profits were also discussed during *mercurines*. Fines were imposed on magistrates who took anything unduly.⁷⁴⁷ Commissions undertaken by individual

⁷⁴³ For the importance of secrecy to the workings of the Parlement of Paris, see Houlemare, *Politiques de la parole*, pp. 123–126.

⁷⁴⁴ ADHG 1B12, fols. 48r^o–48v^o (13.02.1503); 1B13, fols. 13v^o–14r^o (05.12.1505); 1B14, fols. 220r^o–220v^o (16.06.1509); 369r^o (18.01.1510); 653v^o (03.02.1511); 1B15 (unfoliated) (01.10.1512).

⁷⁴⁵ ADHG 1B13, fols. 83r^o (19.03.1506), 302v^o–303r^o (07.05.1507); 1B14, fols. 220r^o–220v^o (16.06.1509); 1B32, fols. 508v^o–509r^o (27.08.1539).

⁷⁴⁶ ADHG 1B17, fol. 411v^o (19.07.1519).

⁷⁴⁷ ADHG 1B13, fols. 302v^o–303r^o (07.05.1507); 1B16, fol. 18v^o (09.12.1514); 1B30, fols. 321r^o (16.06.1537); 419r^o (11.08.1537).

judges and the manner in which these were financed were a source of perennial anxiety. Following one *mercurine*, every judge had to declare exactly how many commissions he had taken on over the vacation, and the court ordered an investigation into the claim that some of them had taken more than the specified salary.⁷⁴⁸ In the second half of the reign of François Ier, the issue appeared especially aggravated, as the Ulmo case seemed to illustrate. The *mercurines* produced dark ruminations about how commissions had been granted far too lightly, that the *ordonnances* that permitted them in only the most urgent of circumstances had been abused. Giving so many officers leave to complete commissions had slowed down judicial procedure and caused other serious complications.⁷⁴⁹

As well as these problems, the *mercurines* were the preferred site for dealing with sensitive accusations against judges. For example, allegations that officers had accepted money from litigants in order to defer carrying out sentences were assigned for discussion during a *mercurine* session.⁷⁵⁰ The registers of the Parlement are rife with such rumours. One pleader had heard that his case would not be dealt with unless he gifted ‘a good fur’ to the judges in charge of it.⁷⁵¹ Councillors were appointed to investigate the matter and to punish those found guilty. But who was the assumed guilty party? Was it the judge accepting gifts, or the man who proffered a slanderous statement against the court? From our perspective, the role of the *mercurines* could be ambiguous: were they intended to discipline judges, or to preserve the court’s honour? The two issues were entangled, and both part of the same enterprise. The court took gossip seriously, investigating it to see if there was any

⁷⁴⁸ ADHG 1B15, fols. 306r^o–306v^o (21.04.1513); 1B16, fol. 18v^o (09.12.1514); 1B18, fols. 398v^o–399r^o (14.11.1520); 1B22, fol. 455r^o (05.12.1528).

⁷⁴⁹ ADHG 1B32, fols. 306v^o–361r^o (17.05.1539); 1B35, fols. 147r^o–148r^o (11.02.1542).

⁷⁵⁰ ADHG 1B18, fols. 398v^o–399r^o (14.11.1520).

⁷⁵¹ ADHG 1B11, fol. 366r^o (09.03.1501).

truth to it. On occasion, the guilty parties could be those attempting to bribe judges. In 1493, a litigant who tried to deliver precious fabrics to the wives of some of the court's judges, who refused them, received a fine of 100 *livres*.⁷⁵² One councillor denounced Jehan Reynier, the judge of Villelongue, for saying that members of the Parlement had taken silverware in bribes. This resulted in an investigation, but Reynier was told to keep absolutely silent about the operation, or face fines and suspension from office.⁷⁵³ Incessantly, the Parlement fretted about its image. Presidents were told to investigate, at one point, hearsay being spread at the royal court that some of the councillors had accepted silk sheets and other gifts given to them by parties.⁷⁵⁴ Another time, the councillor François de Nupces was at the centre of an allegation circulating in the king's council, that he had tried to sequester a contested benefice, and had attempted to induce his colleagues to decide a case a certain way. The *mercurines* were tasked with clarifying this matter.⁷⁵⁵

The *mercurines* also dealt with more explicit accusations that incriminated individual judges. When the *gens du roi* denounced faults, they tended to do so anonymously: it made criticising the behaviour of presidents and councillors more acceptable because it did not risk defamation. The *gens du roi* also recognised purely pragmatic reasons for anonymity: they were extremely unlikely to find witnesses willing to provide depositions against sovereign magistrates. At the same time, the corps was small enough and the context usually so precise that it was only too clear to whom denunciations referred. After 1525, the *gens du roi* agreed that if required they

⁷⁵² ADHG 1B9, fols. 33r^o–33v^o (12.01.1493).

⁷⁵³ ADHG 1B14, fol. 633v^o (11.01.1511).

⁷⁵⁴ ADHG 1B16, fol. 535r^o (27.11.1516).

⁷⁵⁵ ADHG 1B25, fols. 295r^o–295v^o (08.07.1532).

would indicate in secret to whom certain articles referred, and with whom their information could be verified.⁷⁵⁶

What kinds of individual faults were highlighted? One denunciation made by the *gens du roi* of the Parlement of Toulouse in 1540 attacked a president's impertinent speech, and the illegal procedural conduct of a councillor. The denunciation also scolded one anonymous councillor because a notarial act had been found in which he had agreed to give away the *gages* of his office. This was as part of a shady deal to obtain a professorship for someone at the University of Toulouse, in direct contradiction to the court's own rulings. The *procureur du roi* had received complaints that this councillor had in fact profited from the professorship, and received much more money for it than he gave.⁷⁵⁷ The venality of judicial agents might be discussed in *mercurines* then, although it has left little trace.

Though such issues were flagged, they were not always punished.⁷⁵⁸ The Parlement of Toulouse possessed an array of sanctions that it could deploy against its own magistrates when they were needed though. These could include the temporary loss of *gages*, or fines.⁷⁵⁹ There existed further penalties too: councillors could be degraded in status, by being moved to a different chamber or prevented from certain types of activity. Sometimes, they might be given a temporary ban on exercising their

⁷⁵⁶ ADHG 1B20, fols. 514v^o–515r^o (17.06.1525).

⁷⁵⁷ BnF MS Dupuy 498, fols. 117r^o–117v^o. Had the councillor trafficked the position of regent at the University of Toulouse? See Chapter 4. Anthoine de Paulo had resigned a professorship at the University, probably for cash, before loaning to the crown and becoming a lay councillor in the Parlement in 1537: Henri Gilles, 'La nomination des régents à la faculté de droit de Toulouse au XVI^e siècle' in *L'humanisme à Toulouse (1480-1596)*, ed. Nathalie Duvois (Paris, 2006), p. 61; Appendix Table 3a, n.15.

⁷⁵⁸ BnF MS Dupuy 498, fols. 115r^o–115v^o.

⁷⁵⁹ See the denunciation mentioned in a *mercurine* against Tristan du Soustre and Guillaume de Lamamyé, who were fined 50 and 25 *livres* each as a result of complaints over a case on which they had worked together, ADHG 1B30, fol. 321r^o (16.06.1537).

offices.⁷⁶⁰ In these cases, although the faults of judges did not result in judicial verdicts, they were nonetheless penalised. The significance of the punishment remained internal: a public sentence was avoided, and yet the consequences were entirely palpable to the judge concerned. Faults could be chastised without losing face.⁷⁶¹ *Mercurines* were not pompous, idealising discourses, but meetings designed to mete out a robust form of regulation. One final case study will serve to illustrate this point.

Jehan Deymier joined the Parlement of Toulouse in 1516 as a *clerc* councillor.⁷⁶² This caused difficulties when he contracted marriage. Although Deymier obtained royal letters of dispensation, the court contested his permission to occupy the church councillorship, especially since he had promised the court he would vacate it if he married.⁷⁶³ This was not the only reason that Deymier found himself in trouble. Repeatedly, the judge's behaviour was discussed in *mercurines*. Without ever being impeached, the Parlement ultimately distanced itself from Deymier permanently, in a calculated solution that saved the honour of both.

Deymier made many serious mistakes. In 1522, he was investigated for breaking a Parlement ruling that prohibited individuals from transporting grain outside the *sénéchaussée* of Toulouse. The court suspected that Deymier was pursuing his own profit brazenly.⁷⁶⁴ His unauthorised absence from the workplace

⁷⁶⁰ For disobeying unspecified court rulings, Panthaleon Joubert was prohibited entry to the court between June and November 1525, ADHG 1B21, fols. 50r^o–50v^o (22.12.1525).

⁷⁶¹ For a later example of a judge's 'demotion' as punishment, Maryvonne Génaux Vonach, 'L'affaire Vernouillet: politique et procès des juges corrompus au grand siècle' in *Les procès politiques (XIV^e-XVII^e siècle)*, ed. Yves-Marie Bercé (Rome, 2007), pp. 245–246, 249.

⁷⁶² ADHG 1B16, fol. 496r^o (27.08.1516).

⁷⁶³ See Chapter 3, sections ii and iii.

⁷⁶⁴ ADHG 1B19, fol. 213r^o (30.07.1522).

also raised recurring concerns. In 1525, *huissiers* were sent to summon Deymier to court at his own expense, or he would be slapped with fines. The matter ended up being discussed in *mercurines*.⁷⁶⁵ It was not the last time that the councillor's name cropped up in these meetings. In 1528, Deymier was fined 30 *livres* for a 'transgression'.⁷⁶⁶ He was subsequently in trouble for tampering with procedure by surreptitiously retracting a request submitted by his wife. For this, Deymier was fined 200 *livres*.⁷⁶⁷ In 1535, matters became even more serious. Deymier was the subject of a lawsuit in the Parlement of Paris, which included criminal allegations. When Deymier tried to enter the Parlement of Toulouse to work, the court decided to disassociate itself from him: he was told that he could only return when he was cleared of all charges.⁷⁶⁸ In September 1537 the Parlement of Paris dismissed the allegations, ruling that Deymier could continue to exercise his post.⁷⁶⁹

Deymier's difficulties were far from over though. By 1540, he was being discussed in disciplinary sessions again, as he tried to claim *gages* for time he had been away. Deymier complained that his enemies had found a way to have denunciations against him inserted into the *mercurines* – did this mean that they were open to abuse?⁷⁷⁰ Finally, it was in 1547 that Deymier faced his most severe sanction of all. Pleaders complained that a case they had against Deymier in the Parlement of Toulouse had been faulty. They claimed that the councillor had used his authority to destroy them financially in a lengthy, purposefully delayed procedure, and that he had tried to have his own court's judgement overturned by evoking the case to other

⁷⁶⁵ ADHG 1B21, fols. 9r^o (22.11.1525), 59r^o (05.01.1526), 226r^o (06.06.1526).

⁷⁶⁶ ADHG 1B22, fols. 222r^o–222v^o (09.05.1528).

⁷⁶⁷ ADHG 1B25, fol. 278v^o (27.06.1532).

⁷⁶⁸ ADHG 1B28, fol. 370v^o (04.08.1535).

⁷⁶⁹ ADHG 1B31, fols. 2v^o–3r^o (13.11.1537).

⁷⁷⁰ ADHG 1B33, fols. 56r^o–56v^o (10.01.1540), 78v^o–79r^o (27.01.1540).

tribunals. When the Parlement summoned Deymier and told him that this behaviour was dishonest, the judge suddenly snapped:

When the Jews crucified and killed our lord Jesus Christ, they did not do so great a wrong as that which is being done to [me] in this matter!⁷⁷¹

When warned that his statement was blasphemous, Deymier persisted. He went on to hurl insults at a *huissier* who came to his house later, threatening to have him put in jail. This was regarded as a serious act of ‘rebellion’. In the sensitive context of heresy trials, Deymier’s offhand, unrestrained remarks and behaviour were deemed unsuitable for a sovereign judge. In combination with a track record of disobedience and negligence, this was taken very seriously. Deymier was arrested provisionally on the palace grounds. The entire court gathered to discuss the matter, including the judges of the *chambre des requêtes*, ‘given that it concerned the correction and punishment of a councillor, which ought to be done by the whole court’.⁷⁷² What happened immediately afterwards is unknown. By the time Henri II confirmed the officers of the Parlement of Toulouse on 20 September 1548, Deymier’s circumstances were described in an extremely peculiar fashion. He was listed as a councillor, but as one who did not exercise his office, because of a certain pre-trial criminal condemnation (*prevention criminelle*).⁷⁷³

⁷⁷¹ ‘Que jamays les juifz en crucifiant & faisant mourir notre seigneur Jesus Christ ne luy avoyent faict si grand tort tel que luy avoyt esté faicte en la matiere mentionnée’, ADHG 1B40, fol. 288r^o (18.04.1547).

⁷⁷² ‘attendu qu’estoyt question de la correction et punition d’ung conseiller, ce que devoyt estre faict par toute la court...’, ADHG 1B40, fol. 289r^o (19.04.1547).

⁷⁷³ ADHG 1B40, fols. 287v^o–288r^o (18.04.1547), 288v^o–289v^o (19.04.1547). For the confirmation of officers under Henri II, ADHG 1B1904, fols. 59v^o–60r^o.

What Deymier's case illustrates is that the *mercurines* could result in genuinely sour penalties for magistrates, which might even effectively end their careers. If they did so, it was with considerably less drama than public criminal actions. *Mercurines* or *mercuriales* were a method of keeping officers in line. Many of these meetings remain unknown because of the documentary constraints on their survival. It is likely that there were far more cautions and internal punishments issued against judges than there were large, public criminal trials, as those against Jotglar, Ulmo, and Galhardi.

How effective were *mercurines* in controlling the behaviour of magistrates? Édouard Maugis was certainly not the only historian to criticise the *mercuriales*, arguing that over the course of the sixteenth century they became meaningless. Besides, their mission was ill defined, their procedures lethargic, and they resulted in few reprimands. To Maugis, *mercuriales* were a means of masking faults, rather than of combating them with any seriousness.⁷⁷⁴ This argument echoed statements made by observers in the late sixteenth century, who viewed the *mercuriales* held then as hollow, stagnant ceremonies that no longer bore any relation to the practices of old: they exhorted idealised visions of magistracy, producing admonitions, but without a sting.⁷⁷⁵

In contrast, this section has stressed that the *mercurines* held by the Parlement of Toulouse were dynamic, periodic discussions about the probity of staff that frequently dealt with specific issues, and occasionally resulted in serious penalties. Contrary to the arguments made by contemporaries and some historians since, the disciplinary function of courts endured. Although disassociated from the 'mercuriale'

⁷⁷⁴ Maugis, vol. 1, pp. 348–349, 352–353.

⁷⁷⁵ Pasquier, *Les œuvres*, vol. 2, pp. 541–542 (Letter no. 19).

name, sovereign courts throughout the *ancien régime* continued to dispose of a variety of measures that they could apply to their own magistrates.⁷⁷⁶ In recent years, historians have given the notion of internal institutional surveillance more credit, arguing that *mercuriales* were an invaluable means of preserving the reputation of sovereign courts. It was not so much the number of penalties imposed as their exemplarity that made *mercuriales* successful. As Bernard de La Roche-Flavin argued in the seventeenth century, repetition was an integral feature of *mercuriales* and not a sign of failure: self-criticism was an ongoing process.⁷⁷⁷

Of course *mercurines* concealed the misdeeds of judges, as Maugis observed. However, rather than a systematic failing, this was programmed at their very core. Disciplining judges was about keeping any faults and ensuing punishments within the court's walls. Rather than always resulting in sanctions, *mercurines* were about instilling confidence in a system that worked: they existed as much to censure judges as to carefully regulate the image the Parlement was projecting to those using its services.⁷⁷⁸ In the first half of the sixteenth century, *mercurine* meetings heard claims both general and specific against judges of the court. They were a privileged and secret site of conversation that ensured the court functioned in a regular way.

Sections i and ii explored three criminal cases involving judges of the Parlement of Toulouse. The question of whether venality caused criminality is one *mal posée*; in the prosecutions that have been identified, only one case can be connected firmly with

⁷⁷⁶ See especially Sylvain Soleil, '«Pour l'honneur de la compagnie et de la magistrature!» Le pouvoir disciplinaire interne aux institutions judiciaires (XVI^e-XVIII^e siècles)' in *Juger les juges* (Paris, 2000), pp. 53–81.

⁷⁷⁷ Houllémare, *Politiques de la parole*, pp. 115–116; Frêlon, *Le Parlement de Bordeaux et la «loi»*, p. 566; *Treize livres*, pp. 643–644.

⁷⁷⁸ Claude Gauvard, 'Les juges devant le parlement de Paris aux XIV^e et XV^e siècles' in *Juger les juges* (Paris, 2000), pp. 25–51; Génaux Vonach, 'L'affaire Vernouillet', pp. 237–250.

practices of office sale. Far more convincingly, although venality may not have made judges more criminal, it did make the crown fear that this would be the case. The monarchy's distrust of its new, venal magistrates lay behind the trial of many senior judges. The final section has shown that the comportment of the judges of the Parlement of Toulouse who had loaned for their functions was regulated by the *mercurine* sessions. These meetings chastised privately with a view to maintaining the institution's credibility. They helped present the image of a court that was functional, and not dysfunctional.

The next chapter will explore just this aspect: how was the Parlement of Toulouse able to digest venality in a way that allowed the tribunal to continue to function?

Working with venality

«... je recongnois un aultre cas... à la faveur de Bridoye : c'est que ceste unique faulte doibt estre abolie, extaincte et absorbée en la mer immense de tant d'équitables sentences qu'il a donné par le passé, et que, par quarante ans et plus, on n'a en luy trouvé acte digne de reprehension. Comme si, en la rivière de Loyre, je jectoie une goutte d'eaue de mer : pour ceste unique goutte, persone ne la sentiroit, persone ne la diroit sallée.⁷⁷⁹

Venality did not create criminal magistrates in the clear-cut way its critics may have imagined. So what was the impact of office sale upon the court more generally?

This chapter considers the ramifications of office sale on the ordinary functioning of the Parlement of Toulouse. It seeks to return to the fundamental problem at the heart of this thesis: why was venality such a successful policy? Selling offices was always a double-edged sword, carrying with it advantages as well as profound drawbacks. By emphasising the fact that the Parlement remained a functional, vibrant institution, this chapter will underscore its staying power. Although through the crown's activities the court was changed in significant ways, there is no reason to believe that the Parlement of Toulouse was 'derailed' by the experiment of venality.

The first section explores how, in part owing to venal practices, the judicial personnel of the Parlement became increasingly composed of laymen. Though interacting with office sale in complex ways, this process of 'secularisation' coincided

⁷⁷⁹ Rabelais, pp. 482–483 (*Le Tiers Livre*, XLIII).

with the crown's already escalating and increasingly open jurisdiction over ecclesiastical disputes. Paradoxically, the marginalisation of church councillors was also a precondition for the court to operate a more effective criminal jurisdiction. Once more, it seems evident that the transfer of offices for cash was an operation that benefited multiple sectors: monarchy, judges, and litigants.

Section ii considers how the court was financed, and how selling offices in the Parlement may have modified this. Considering the crucial role of the *receveur*, it argues that the failure of the crown to deliver judges their *gages* stipends at critical moments meant that reliance on alternative forms of income was routine. If observers believed that rising charges in the form of *épices* were the natural corollary of selling offices, this process was in fact already long underway. When the crown succeeded in finding a way to pay its judges reliably in the late 1530s, the officers of the Parlement of Toulouse found themselves in a unique conjuncture. They exercised financially rewarding offices, but full remuneration depended upon active participation in the court, something venality is not likely to have perturbed.

Finally, this chapter closes by discussing how the Parlement of Toulouse and its judges were able to come to terms with venality. Drawing together observations made in previous chapters, section iii explores why from diverse perspectives venal arrangements 'made sense' to the actors involved. Still little is known about the situation of these magistrates and their work for the crown through to the 1550s. This section sketches possible lines of investigation. The perks of venality were not unilateral, nor was the French magistracy duped into accepting an undesirable policy. Rather than causing the uncontrolled appointment of wayward, recalcitrant officers

that had to be worked around, the monarchical state was bolstered. Not yet an onus, venality allowed the crown to be in closer contact with the Parlement of Toulouse than previously, and to benefit from the service of administrators who had invested in the monarchy.

i) The secularisation of justice?

Several of the tales in *Les Nouvelles récréations et joyeux devis* (1558) by Bonaventure des Périers (c.1510-1544) revolve around satirising justice and the law, even subjecting it to terrible cynicism.⁷⁸⁰ Some stories were more light-hearted. In one, an old widow sought to petition a councillor of the Parlement of Paris regarding a criminal incident in which her late husband had been the victim. The first judge she bumped into was a *clerc* councillor. After listening to her request politely, the councillor explained that as a churchman he was unable to report the case: she would have to refer to a lay councillor. The ensuing joke hinges on the fact that the French words *lai* (lay) and *laid* (ugly) were pronounced the same way. Oblivious to the term as applied to councillors, the woman left the *clerc* councillor, whom she perceived to be rather handsome, and approached the ugliest judge she could find, asking him to report her case because it could only be done by a ‘truly ugly’ (*bien laid*) councillor. Understanding what she meant with benignity, the lay councillor took on and reported her case before his mirthful colleagues.⁷⁸¹

Behind this punning jest, Périers drew attention to a fundamental division – binary, and potentially obscure – that existed between the judges of sovereign courts.

⁷⁸⁰ Jean-Claude Arnould, ‘L’injustice de la justice dans les contes de Bonaventure des Périers’, *Cahiers de recherches médiévales et humanistes* 18 (2009), pp. 267–278.

⁷⁸¹ Bonaventure des Périers, *Nouvelles recreations et joyeux devis* (Lyon, 1558), p. lxi.

In parlements, wrote Chasseneuz, there were two distinct types of councillors: the *consilarii ecclesiastici* or *clerici* and the *seculares* or *laici*.⁷⁸² As we saw in Chapter 3, equilibrium within this bipartite body of church and lay judges was deemed critical to the identity of the Parlement of Toulouse. Venality was attacked primarily because it ‘deformed’ the court’s composition, since increasing the number of lay councillors at the expense of the *clerics* could harm the court’s privileges.⁷⁸³ But why were ecclesiastical judges held to be so indispensable to the court? Did the decrease in their number necessarily affect the court adversely?

In 1971, Bernard Guenée remarked that there were close connections between venality and the ‘secularisation’ of the state that had not always been appreciated. He had in mind how extensively the world of officeholding had absorbed practices employed by church benefice holders.⁷⁸⁴ In this section I will go further, and suggest that the practice of creating and bequeathing offices in courts of law for money was linked to long-lasting institutional transformations. In the Parlement of Toulouse, the monarchy forged a tribunal whose magistrates were now chiefly secular. By tipping the balance in favour of laymen so decisively, the reign of François Ier established a blueprint for sovereign courts of law that was to last the duration of the *ancien régime*. One of the main justifications for the presence of *clerc* councillors lay in the courts’ jurisdiction over ecclesiastical disputes. Inconsistently however, just as the Parlement was increasingly ‘secularised’, the same tribunal’s cognizance over legal disputes concerning the church only grew from strength to strength. If ecclesiastical judges were becoming scarcer in the Parlement, were they really essential, or did they

⁷⁸² Barthélemy de Chasseneuz, *Catalogus gloriae mundi* (Lyon, 1529), p. 7v^o (VII.ii).

⁷⁸³ See Chapter 3, sections ii and iii.

⁷⁸⁴ Bernard Guenée, *L’occident aux XIV^e et XV^e siècles: les états*, 2nd ed. (Paris, 1981), p. 281.

provide a mere fig leaf for royal intervention in church affairs? There were times at which *clerc* councillors appeared unhelpful. Since they were unable to help decide most criminal suits, perhaps the crown's vision of a predominantly secular tribunal could be defended after all. How, then, was the criminal section of the Parlement affected by the experiment of venality?

Although they were meant to be present in the Parlement of Toulouse in equal numbers, the reign of François Ier saw far more secular judgeships created there than clerical posts. By 1547, the crown had established twenty-nine new lay councillorships against eight equivalent *clerc* offices.⁷⁸⁵ Even more significantly, this period was the first in which the court saw church councillorships given to laymen, some of whom received dispensations to hold the offices despite being lay and married. Étienne Pasquier argued that this 'disorder' amplified to such an unprecedented extent at this point that a 'true jumble' was created between lay and ecclesiastical councillors.⁷⁸⁶

Appendix Table 7 depicts the number of *clerc* and lay councillors present at the start of each judicial year between 1490 and 1547. It shows that until the reign of François Ier, the proportion of church to lay councillors was on a fairly equal footing. Indeed, occasionally, there were more churchmen in attendance than there were lay judges.⁷⁸⁷ From the 1520s, a fissure opened up between the two types of councillorship: there were now more laymen than churchmen. From early in the reign too a third, anomalous category emerged: the 'consilarii laici tenentes locorum

⁷⁸⁵ See Appendix Table 1.

⁷⁸⁶ Étienne Pasquier, *Les recherches de la France* (Paris, 1621), p. 51 (II.iii).

⁷⁸⁷ Note that in the Parlement of Paris, there had been times when there were more *clerc* councillors than there were laymen, sometimes by a substantial margin: see for instance the judicial year 1442-1443, in which there were 39 *clerc* to 29 lay officers, *Maugis*, vol. 1, p. 72.

clericorum' (lay councillors holding the place of clerics). In fact, right until the end of our period, there were almost as many of these councillors as there were genuine church councillors. Most of the time, fewer than a quarter of the councillors present at the start of the judicial year were *clerics*. By the 1540s, the breach that had opened became even more pronounced: now, only a tenth of the councillors were churchmen.

This table illustrates vividly one of the most striking influences associated with venality and operating on the Parlement of Toulouse. As it has been suggested previously, it is difficult to disentangle office sale from the creation of new posts, as the two were so bound together. Although this table does not demonstrate that venality was at the root of these changes in a straightforward manner, it does suggest an important relationship. Before the crown received loans for concillorships, the court's magistrates had been balanced between churchmen and laymen equally, just as its foundational charter had anticipated. By the 1540s, clerics had become a rare breed. Including the creations that took place under François Ier, there should have been thirty-nine lay to twenty *clerc* councillors on paper. A glance at the figures in the table cited reveals that there were nowhere near as many churchmen as this. Inventing new offices – and, conjointly, filling them for cash – resulted in a greater number of secular judges on the staff than the Parlement had ever possessed.

The next logical question is to consider why, when the crown created new judgeships for loans, it favoured lay over ecclesiastical positions. There is no simple explanation for this tendency. Viewed over the longer term, of course, the retreat of the clergy from royal administration was already well underway, as the monarchy came to rely increasingly upon legally trained laymen. In our period, it has been

suggested that there was less of a demand for *clerc* councillorships, and that since they generated smaller loans than secular councillorships, this was a major incentive for the monarchy to create lay posts.⁷⁸⁸ Both reasons are plausible: schematics for a ‘Parlement of Poitiers’ suggest that there was an inherent difference in value between the two sorts of councillorship.⁷⁸⁹ Perhaps this also reflected the fact that lay officers were attributed higher *gages*. However in practice, as Appendix Table 3a shows, loans for the two varieties of magistracy could be exactly the same, and clerical posts could fetch even higher loans than lay councillorships. It was not for purely financial reasons that the monarchy created these positions. As the crown knew too well, judgeships were not pointless sinecures, but performed a significant array of functions. To understand why *clerc* councillors featured in the Parlement, we need to investigate their purpose. Often, it was their identity that was advantageous rather than any of their particular activities. In this respect, the monarchy maintained church judges for expedient reasons: in deference to the court’s traditions and privileges, and above all to facilitate its influence over church litigation. However, as we shall see, the establishment of a greater number of lay judges was the only means of securing an effective and permanent criminal jurisdiction: the tasks secular judges undertook made a substantial difference to the operations of the Parlement of Toulouse. Grasping the everyday functions of offices will give us insight into why the morphology of the court changed in the way that it did, how the provision of offices for cash contributed to such changes, and why these alterations both met with resistance and succeeded.

⁷⁸⁸ Robert Descimon, ‘Modernité et archaïsme de l’état monarchique: le parlement de Paris saisi par la vénalité (XVI^e siècle)’ in *Genèse de l’état moderne: bilans et perspectives*, ed. Jean-Philippe Genet (Paris, 1990), p. 151.

⁷⁸⁹ See Appendix Table 4.

What differentiated a *clerc* from a lay councillor? The origins of this division were distant. It had been a feature of the ancient, peripatetic parlements, in which barons and prelates had sat in equal number; it was also reminiscent of the peers of France, who were half lay and half ecclesiastical. Although all councillors underwent advanced university educations in law, what made church councillors distinct is that they were *in sacris*, in holy orders.⁷⁹⁰ This rendered them unable to marry. It also meant that their vocational horizons were broader. Men in holy orders always possessed an attractive alternative in the form of the church. Although holding office in a parlement as a *clerc* councillor did not preclude a man from holding ecclesiastical positions, it did prevent him from occupying major benefices, for which he needed to be in residence. Dispensations did exist, but some combinations were completely incompatible: one could not be a bishop and a *clerc* councillor simultaneously. When discussing true *clerc* councillors, then, we are dealing with individuals who often faced a choice between important careers.⁷⁹¹ This already suggests powerful reasons why the demand for secular posts might be higher.

Generally, the notion that churchmen should hold senior judicial positions in royal courts of law was assumed, and so formal justifications were relatively few. The royal act of November 1531 issued from Compiègne, which pledged to maintain twelve *clerc* councillors in the Parlement of Toulouse at all times, offers some explanation as to why this type of magistrate was deemed so vital. This text, together

⁷⁹⁰ Note that it was not the study of canon law in particular that made one a candidate for a *clerc* councillorship, *pace* Barbara Stephenson, *The power and patronage of Marguerite de Navarre* (Aldershot, 2004), p. 96 n. 60.

⁷⁹¹ A number of councillors of the Parlement of Toulouse departed to pursue important ecclesiastical careers. To cite just three, consider Jehan Doriole, Jehan de Pins, and Jehan de Lanjac, who became bishops of Montauban, Rieux, and Angoulême respectively: *Navelle*, vol. 4, p. 92; vol. 6, p. 156; vol. 8, pp. 230–232.

with later observations, permits us to understand what it was that ecclesiastical councillors were expected to do in parlements.

Church councillors were necessary because parlements were responsible for determining in a definitive capacity all disputes over the attribution of benefices, and over the *droit de régale* (the right of the crown to profit from and administer important benefices during the time that they were vacant). Parlements also heard special types of cases called *appels comme d'abus*, appeals to royal jurisdictions after procedures led by church tribunals were suspected of being defective. The *clerc* councillors of sovereign courts were often placed in charge of reforming religious orders too. They were assigned to report cases involving religious matters, monks, hospitals, poor widows or orphans especially. Although *clerc* councillors did not attend criminal judgements in which corporal or capital punishments were possibilities, following the adage that *ecclesia non novit sanguinem* (the church knows not blood), they were not entirely absent from criminal procedure. They had a voice in determining whether or not clerics who committed crimes could enjoy the privilege of clergy, which meant having their crime judged before a church court. In criminal law, offences committed by churchmen gave rise to a two-pronged, parallel set of lawsuits. The relevant church judges dealt with what was called the *délit* or *crime commun*, the offence itself, and it was left to the royal courts to hear the *cas privilégié*, the crime insofar as it affected public order. A royal court could then only impose fines or other non-corporal punishments: churchmen needed to be defrocked before they could be punished corporally, something only the church authorities were able to do. To short-circuit this dual form of proceeding, the parlements could tell

bishops to appoint *clerc* councillors as their vicars temporarily, allowing the secular court entry into the decision of whether or not to defrock criminal clergymen.⁷⁹²

It was for these reasons that *clerc* councillors were essential to the operations of the Parlement of Toulouse. On the surface the monarchy presented the attendance of church councillors in its sovereign courts as an eminently practical matter: they were uniquely suited to assist in specific disputes implicating the church and churchmen. However, whether the clerics were exceptional in being able to perform these functions was vague, and the association between these officers and their work seemed loose. Much more noticeable were the symbolic advantages of incorporating *clerics* into sovereign courts. What mattered here related more to the status of these judges than any innate abilities they held over their lay colleagues. It was because these churchmen belonged to and administered justice there that parlements were capable of exercising a ‘protective tutelage’ over the church. As Christopher Stocker observed of the remonstrances drawn up by the Parlement of Paris in 1525, the participation of ecclesiastical councillors was associated with the court’s claim to jurisdiction over church disputes. Were equality between the number of churchmen and laymen lost, the Parlement ‘also stood to lose its chief argument in support of its claims to ecclesiastical jurisdiction’.⁷⁹³ The Parlement of Toulouse, like the ‘most Christian king’ himself, was a ‘*persona mixta*’, a temporal authority doted with sacral qualities. It was this that granted the crown – and its sovereign courts – legal competence over church cases.⁷⁹⁴ Mere membership of churchmen conferred this

⁷⁹² ADHG 1B1902, fols. 10r^o–10v^o; *Treze livres*, pp. 74–78; Adhémar Esmein, *Cours élémentaire d’histoire du droit français*, 3rd ed. (Paris, 1898), pp. 644–649, 657–658.

⁷⁹³ Christopher W. Stocker, ‘The politics of the Parlement of Paris in 1525’, *French Historical Studies* 8:2 (1973), pp. 200–201.

⁷⁹⁴ ADHG 1B16, fol. 141r^o (07.05.1515); Tyler Lange, *The first French reformation: church reform and the origins of the old regime* (Cambridge, 2014), pp. 64–65, 209.

character. It is easy to appreciate then, why the participation of ecclesiastical councillors in the parlements was so important. Their presence facilitated the crown's cognizance of complex, lucrative church litigation, a matter of no small political importance either.

Clerc councillors had specific purposes that set them apart from lay councillors. These differences were reflected in status distinctions: precedence and pay distinguished church councillors from the secular judges. Church councillors always preceded their lay colleagues whether it was in written rosters, seating arrangements and processions, or in the order that the judges opined when they deliberated. Although accorded greater reverence in these matters, churchmen received lower *gages* than lay councillors – about 75 *livres* less per year.⁷⁹⁵ This difference appeared to be justified on the basis that lay councillors had wives and children to care for, unlike the married clerics.⁷⁹⁶ Although they were barred from most criminal procedures, church judges could access court roles unavailable to laymen. Traditionally, the first and original presidency of the *chambre des enquêtes* was always reserved for a cleric.

Church councillors were regarded as indispensable components of the Parlement of Toulouse by both the crown and the court. By the death of François Ier, however, it was all too plain to see that the court had become predominantly lay. It also continued to sustain a claim to be the final site of appeals for hearing and settling ecclesiastical disputes. Was this an inconsistency? Was the presence of church councillors always more to do with what they represented than any specific duties

⁷⁹⁵ *Clerc* councillors earned 320 *livres* 10 *sols* 3 *deniers* in *gages* per year against laymen's 395 *livres* 7 *sols* 11 *deniers*, BnF MS fr. 4523, fol. 17r^o.

⁷⁹⁶ ADHG 1B2329, fol. 284v^o (04.06.1499).

they were able to perform? It is easy to disregard the fact that the monarchy did not envision the total removal of these judges from the court, and did not regard the two types of councillorship as interchangeable.

At times, the registers of the court in Toulouse demonstrate that church judges participated in important ways, undertaking duties that related specifically to their offices. The Parlement deployed ecclesiastical councillors to shadow local church judges working on cases, in accordance with the custom that allowed the court a degree of influence in the judgement of *délits communs* committed by clerics.⁷⁹⁷ Under François Ier, *clerc* councillors continued to be involved procedurally in ecclesiastical hearings, but most notably of all, they were integrated heavily into the many heresy trials that began to erupt.⁷⁹⁸

Nonetheless, evidence suggests that the presence of church councillors related far more to a formal, projected image of the Parlement than with its everyday operation. As we have seen, the presence of churchmen was a means of substantiating the court's claim to receive and resolve church disputes. The participation of these men contributed to the reputation of the Parlement as the authoritative, regional forum in which ecclesiastical disputes could be settled. Behind this façade, though, church officers may have been far less effective than their lay counterparts. Exceptionally, in 1507 a case involving an escaped female prisoner prompted a row about the role of *clerc* councillors. Could they participate in the decision to return the prisoner to the sanctuary of the church to which she had escaped, or should this be the task of the lay magistrates who had judged her alone? The clerics argued that they should have a say

⁷⁹⁷ ADHG 1B13, fols. 25v^o–26r^o (19.12.1505).

⁷⁹⁸ William Monter, *Judging the French reformation: heresy trials by sixteenth-century parlements* (Cambridge MA; London, 1999), pp. 65–66.

‘because the court is mixed’ (‘quia curia mixta’). But the laymen denied this claim: only the laymen – who had confirmed a sentence against the prisoner of execution by decapitation – should decide. If the clerics were allowed to determine her fate, they would do so without ‘free, but restricted judgement’, for their status only permitted them to return the prisoner to sanctuary. If they decided that she should die though, they would ‘incur an irregularity’.⁷⁹⁹ The court ended up ruling in favour of the laymen. This episode hinted strongly at the fact that church councillors were in some senses ‘incomplete’ judges, men whose decisions were limited by their status.

During the judgement of churchmen for crimes as well, the Parlement of Toulouse did not always mobilise *clerc* councillors for the job as might be expected: on multiple occasions, it dispatched laymen to work with and oversee the local church judges.⁸⁰⁰ In other words, the court was able to bypass the need for *clerc* councillors by utilising its lay staff. But whereas laymen could be enrolled to do work that was supposedly the domain of churchmen, the reverse was not true.

Nowhere is this more evident than in the work of the criminal chamber of the Parlement of Toulouse. Supposedly, lay councillors were in more acute demand than church judges in the parlements because they were eligible to judge all criminal procedures. It was on this basis that the crown justified the creation of much needed secular offices over *clerc* ones. That the court also required entirely new officers is also evidenced by some of the entries in its registers. In the late fifteenth century, for instance, the Parlement occasionally noted that ‘nothing was done, on account of the

⁷⁹⁹ ‘car les conseillers clerics n’avoient jugement liberal mais coarté... autrement opinant le contraire encourreroient irregularité’, ADHG 1B13, fols. 487v^o–488r^o (17.12.1507).

⁸⁰⁰ ADHG 1B3357, fols. 8r^o (01.12.1525), 247r^o (03.12.1527).

lack of other councillors'.⁸⁰¹ In order to operate more effectively, and especially if it hoped to operate a 'third' or 'criminal' chamber, the organisation of the court needed to change, for it required new officers, and especially lay councillors. In 1519, the *procureur du roi* of the Parlement defended the creation of new councillorships that had occurred that year. François d'Olive contended that these new judgeships would help to expedite and alleviate litigation, and anything that did this was beneficial to the commonweal. Specifically, Olive pointed out that the new judgeships would help deal with the 'great ensnarling and multitude of criminal procedures' with which the court was saddled.⁸⁰² This mirrors, rather than contradicts, the crown's language analysed in Chapter 1.⁸⁰³ The fact that these offices were exchanged for cash was a concurrent perk for the monarchy: it could quite legitimately claim to be introducing measures intended to secure a competent criminal division of the court while profiting at the same time.

It is difficult to measure how exactly venality, and the creations of offices with which it was so narrowly associated, affected the criminal section of the Parlement of Toulouse. Very few studies exist on the court's early criminal jurisdiction.⁸⁰⁴ Until 1519, the court possessed no dedicated subdivision of magistrates dealing with crimes solely. Criminal litigation was dealt with ad hoc, principally by the *grand' chambre* or when all the magistrates met to deliberate together. Where the suits treated involved afflictive penalties, the court records note consistently that the church councillors

⁸⁰¹ 'n'y fut riens fait par faulte d'autres conseilliers', ADHG 1B11, fol. 29r^o (05.02.1499).

⁸⁰² 'la grant involution et multitude des proces criminelz', ADHG 1B17, fol. 397r^o (28.05.1519).

⁸⁰³ See Chapter 1, section iii.

⁸⁰⁴ André Viala dealt with it summarily, without referring to the court's criminal registers. For a study of the court's criminal jurisprudence in the late fifteenth century, Jean-Louis Gazzaniga and Nicolas Ghersi, 'Les premiers arrêts criminels du parlement de Toulouse' in *Les parlements de province: pouvoirs, justice et société du XV^e au XVIII^e siècle*, ed. Jacques Poumarède and Jack Thomas (Toulouse, 1996), pp. 271–283.

filtered out of the room before the cases were discussed and judged, and that only laymen opined.⁸⁰⁵ It was only from 1519 that a criminal chamber began to operate, after the Parlement of Toulouse had received more councillors.

The criminal records of the court are difficult to navigate and have survived poorly. Until 1518, criminal affairs were dealt with alongside civil proceedings indifferently, and both were compiled together in the registers of *conseils*. From the judicial year beginning 1518, the *greffier criminel* began to maintain a separate set of parchment registers, containing the decisions of criminal cases only. At first, these judgements took place mostly in the *grand' chambre*. From 1519 though, the majority took place in the new criminal chamber. The extant parchment criminal registers of *conseils* continue in a serial format until the judicial year ending 1530. Although this series is largely intact, its second half is severely damaged in parts. After 1530, the surviving criminal records become patchier. Rather than parchment registers of *conseils*, only thick paper *dictums d'arrêts* exist, covering disconnected months of the judicial year.

In order to evaluate similar periods, and to make the most of those registers that are still intact, I have compared the number of criminal procedures undertaken by the Parlement of Toulouse, as well as how much money was generated by them, at intervals between 1490 and 1547 within one given month (December). Such a narrow window denies us the ability to capture how many criminal 'cases' the court expedited, a notoriously difficult task in any case.⁸⁰⁶ Instead, the term 'procedure' is used with reference to every step of a criminal case for which a *dictum* was written –

⁸⁰⁵ For example, ADHG 1B13, fol. 10v^o (01.12.1505).

⁸⁰⁶ David Feutry, 'The historian's mountain of paper: the Parlement of Paris and the analysis of civil suits in the eighteenth century', *French History* 26:3 (2012), p. 286.

whether it was the processing of a report, an investigation, or an interim or final ruling. A criminal trial was composed of stages that prompted deliberations, decisions, and a statement recording these. Many of these procedures were taxed.

Appendix Table 8a depicts the total number of criminal procedures and the *épices* they generated within the sample months. It shows that the number of procedures taking place – though always fluctuating – did increase. Much more noticeably, the taxation of criminal affairs rose. The overall impression is that the establishment of a criminal chamber resulted in a jurisdiction that was not only busier than previously – producing around two to three times more procedures than the pre-1500 Parlement – but that had also become far more profitable. It is only when we analyse the nature of some of this business that the activity of the criminal chamber is illuminated even further. Earlier in the period, the court spent much of its time debating and arranging the bail and release of prisoners, confirming appealed sentences, or sending cases back down to lower courts. The Parlement of Toulouse could also impose punishments on criminals directly, but this was an activity that increased substantially over the course of the period.

Appendix Table 8b details these punitive interventions across the same sample. It records each punishment as it was applied, though often a single offender could face compound sentences involving several punishments. The types of sentences imposed are broken down into three basic groups: non-corporal, corporal, and capital. Overall, the volume of sentencing increased greatly. Across this period, the same month's activity saw a far greater number of all three types of sentences handed down by the Parlement. Most notably, the frequency of corporal and capital punishments

increased after the criminal chamber was established in 1519. Subsequently, the court became 'bloodier': the penalties it applied directly were those in which *clerc* councillors were forbidden from participating. This included the addition of new types of punishments to the court's repertoire, such as being sent to serve in the king's galleys. Adjudicating criminal cases had become a regular part of the life of the Parlement, and it was laymen who administered it exclusively.

The increase in the number of lay councillors was a prerequisite for staffing a criminal chamber of the Parlement of Toulouse. Without these councillors, this division would have remained understaffed. It is significant that laymen who held church judgeships were allowed to participate in the activity of the criminal chamber.⁸⁰⁷ Had this irregular and often objectionable category of officer not existed, we may well wonder whether the criminal court could have functioned. It is when the work of the Parlement on criminal litigation is investigated closely that lay councillors emerge as more versatile than their church counterparts. The correlation between creations of new, mostly secular judgeships and the activity of the Parlement of Toulouse in criminal justice is certain. Venality allowed the crown to profit, but it also contributed to the establishment of a permanent, appellate criminal jurisdiction that was able to handle a greater workload. Naturally, this served to increase the crown's visibility in the region.

An examination of the new criminal chamber suggests that *clerc* councillors, less adaptable than lay judges, could work effectively only in the existing departments of the Parlement. There was another reason why churchmen might prove to be far

⁸⁰⁷ See Chapter 3, section iii.

more effective as figureheads than as magistrates. Their involvement with the church might overshadow their work as *parlementaires*. Since an ecclesiastical career remained an option for many clerics, they could depart the Parlement upon the acquisition of major benefices. Some *clerc* councillors of the Parlement of Toulouse, like Jehan de Basilhac, disputed benefices fiercely, pursuing their claims to bishoprics in tribunals across France and in Rome.⁸⁰⁸ Obviously, this meant time away from the court. The duties and profits *clerc* councillors took on in their twin roles as magistrates and churchmen sometimes conflicted. In the Parlement of Rouen, a *mercurine* of 1527 complained that church councillors possessing canonships frequently hurried away from the court so that they could say and earn their obits.⁸⁰⁹ In theory, *clerc* councillors were involved in parlements to strengthen their claims to settling church disputes. In practice, these judges could find themselves redundant or disqualified from cases that their lay colleagues could judge, or amongst the least assiduous participants in the life of the court.

These findings help to resolve the complex issue of why it was that whilst the number of church councillors waned, they were still deemed crucial to the functioning of the Parlement of Toulouse. The involvement of church councillors meant that parlements – and the crown – could continue to adjudicate ecclesiastical cases credibly and regularly. In many cases, these trials allowed the court to rehearse arguments and judgements concerning benefices – already treated as revenue-yielding properties – that would become applicable to offices later in the century.⁸¹⁰ Behind

⁸⁰⁸ *Rabelais*, p. 977 ('Lettres écrites d'Italie par Rabelais à Geoffroy d'Estissac').

⁸⁰⁹ Amable Floquet, *Histoire du parlement de Normandie* (Rouen, 1840), vol. 1, p. 506.

⁸¹⁰ For example, the Parlement of Toulouse heard cases relating to the illegal preservation of the bodies of deceased benefice holders, to ensure that their resignation agreements went ahead. These were remarkably similar to cases in which officers attempted to avoid the forty-day clause in the late

the scenes, the Parlement could often do without these *clerc* judges, either because it could improvise solutions using its lay judges, or because the churchmen were strictly denied access to certain types of procedure. Studying church councillors closely helps to explain the mixed fortunes of the venal project in this period. The changes it involved were resisted because pruning back the number of church councillors was an affront to the foundational charters of sovereign courts, and it also threatened to jeopardise the crown's jurisdiction over ecclesiastical affairs. And yet, if the court hoped to deal with the mounting volume of criminal affairs, it had to accept that more laymen were required. Down to the final years of the *ancien régime*, church judges would remain scarce in royal tribunals. By the early seventeenth-century, the Parlement of Toulouse possessed only four *clerc* councillors.⁸¹¹ The feature, once so important, had become vestigial. Experimenting with venality and the types of offices with which it was compatible had resulted in the establishment of an institution with greater ascendancy over the French church, and yet which was composed almost entirely of laymen.

This section opened with Périer's story about lay and *clerc* councillors. Although the lay councillor who finally assisted the pleader was less than aesthetically pleasing than his clerical colleague, the tale leads us to conclude that he was by far the more useful judge. This might seem a pithy allegory for the arrival of venality: though it often involved the creation of types of offices deemed problematic, these were also considered to be more functional and indispensable. We must tread cautiously, however. In studying criminal cases alone, it is natural for the importance of laymen to be exaggerated, and it has to be remembered that around nine tenths of

sixteenth century: ADHG 1B37, fols. 384v^o–385v^o (09.05.1544); Roland Mousnier, *Les institutions de la France sous la monarchie absolue, 1598-1789* (Paris, 1980), vol. 2, p. 47.

⁸¹¹ *Treze livres*, p. 76.

judicial cases processed by parlements might consist in civil litigation.⁸¹² In this period, the monarchy demonstrated a preference for lay councillors over *clerics*, who were just as able to process civil lawsuits. This behaviour is suggestive of a deliberate decision: the crown was concerned to enlist men who aspired to be professional judges first and foremost, whose devotion and work would be directed towards the court that they served. A means of consolidating this class of professional magistrates was to ensure that they were remunerated reliably, for offices were not just duties, but sources of revenue.

ii) The cost of justice

In 1538, the Parlement of Toulouse was reviewing the work of the lower courts from which it heard appeals, and was dismayed to discover that cases had been taxed exorbitantly. For this reason, ‘beyond reason and honesty’, pleaders had been ‘far too vexed, burdened, and abused’ by magistrates charging immoderate fees for their services.⁸¹³ The Parlement proposed solutions: each tribunal should record diligently all the discussions and decisions that took place relating to the fees that they charged. These courts would be monitored closely, and enjoined to respect the limits set out by the royal *ordonnances*.

Infamously, in early-modern France justice almost always had a cost. Until the end of the *ancien régime*, the impecunious monarchy could only assure the uneven and delayed payment of what were frequently touted as low, frozen stipends. Judges therefore taxed litigants for the cases that they consulted. Despite these truisms,

⁸¹² Feutry, ‘The historian’s mountain of paper’, p. 277.

⁸¹³ ‘oultre raison et honesteté par trop vexés chargés et molestez...’, ADHG 1B3359 (21.02.1538).

historians have often neglected to study the financial operations of the French judiciary.⁸¹⁴ Using sources relating to the payment of officers, this section will demonstrate that in the late fifteenth century, the Parlement of Toulouse suffered from exactly the problems expected of the period, and magistrates' wages were delivered erratically. The judges did indeed complement their royal *gages* with *épices* taxes. Critics may have been convinced that venality was directly responsible for this process, but the archives fail to demonstrate this conclusion. Far from being taxed arbitrarily, *épices* were the subject of constant debate within the court, which sought to regulate how litigants were impacted. Even with the existence of *épices*, the crown was under considerable pressure to pay its agents their *gages*. By the late 1530s, the crown had formulated a fresh solution to the ongoing payment difficulties, and from that time judges received their salaries more consistently than previously. Thanks to a mixture of *épices* and *gages*, presidencies and councillorships of the Parlement could be lucrative positions. This will explain one of the major incentives to becoming a venal officer in the period: there was no requirement to behave 'illegally' in order to recoup the costs of entry. Given the value of office in this period and the prospect of a regular income, it was usually only a matter of years before judges could be fully reimbursed the money that they had spent in acquiring office. Full remuneration, however, depended upon a magistrate's proactive participation in court life. Under venality, the majority of magistrates continued to perform their duties much as they had previously. Yet as we shall see, this did not mean that office sale was without long-term, unappealing consequences.

⁸¹⁴ Jean-Luc Bonnaud, 'La bonne justice en Provence au XIV^e siècle: coûts et revenus à l'échelle locale' in *Les juristes et l'argent: le coût de la justice et l'argent des juges du XIV^e au XIX^e siècle*, ed. Benoît Garnot (Dijon, 2005), p. 15.

In the late fifteenth century, the Parlement of Toulouse suffered from chronic shortages of cash and a grave distrust of the financial agent responsible for paying out its staff's *gages*. That royal officers, especially those of justice, should receive an official pay was in most instances axiomatic. Almost all offices were understood to be revenue-yielding opportunities: one of the primary motivations for conferring and pursuing positions in the royal administration was to obtain 'maintenance', a source of income in exchange for services to the crown.⁸¹⁵ Income was also related to duty. In 1484, the Estates-General had argued that the king had to have justice administered by experts who were 'well stipended by him'. Officers without *gages* were viewed suspiciously: they might seek 'unusual' practices, much to the detriment of justice.⁸¹⁶ To prevent abuses, payment also ought to be regular. One royal act, issued in 1516, explained that the judges of the Parlement of Toulouse were to receive their *gages* monthly, since officers had to 'live off their *gages*'. Paid judges would be 'more inclined and better able to occupy themselves... with the matter of justice, and to do the duty of their offices'.⁸¹⁷ Every officeholder signed a *debentur* slip (a term indicating literally how much money he was 'owed'), also signed by the *greffier civil*. The *debentur* indicated how many days the officer had served in the court, and the *receveur* would pay out *pro rata*.⁸¹⁸ Judicial office was conceived of both in terms of the inherent profits it could generate, and in turn these wages were justified because they ensured good habits. Unfortunately, although well intended, this system of payment was initially disastrous.

⁸¹⁵ Christopher W. Stocker, 'Office as maintenance in renaissance France', *Canadian Journal of History* 6:1 (1971), pp. 21–43.

⁸¹⁶ 'de lui bien stipendiez', ADHG 1B1900, fols. 61v^o, 62v^o.

⁸¹⁷ 'et fault que finalement ilz vivent de leurs gaiges... afin qu'ilz soient plus enclins et puissent mieulx vaquer et entendre au fait de justice et faire le devoir de leurs offices', ADHG 1B1900, fols. 302r^o–302v^o.

⁸¹⁸ The physical *debentur* was an important documentary proof of remuneration: the lay councillor Jacques Rivirie, who had misplaced his *debenturs* for the months of February and March 1525, was only paid the 73 *livres* 5 *sols* 2 *deniers* he was owed once he had found them, AN J960¹ no. 6.

Odinet Le Mercier was the *receveur* of the Parlement of Toulouse between 1482 and 1500, the only royal financial officer attached to the court at that time. Le Mercier was in charge of collecting and paying out both the *gages* and the fines the court applied. Repeatedly, the judges complained about him. The *receveur* had a reputation for disbursing sums without authorisation, for failing to collect fines, and for struggling to pay his assistants. Several times, the magistrates decided not to show him the fines they imposed, for fear that he would ignore their instructions on their usage. Real trouble began for Le Mercier when he was unable to keep up with the payment of *gages*. From 1493, Le Mercier had difficulties paying them, and was scolded frequently. When the *receveur* failed to share his accounts, the magistrates grew increasingly concerned. By 1497, Le Mercier owed substantial amounts in back payments, and judges came forward to attack the *receveur*'s carelessness. More embarrassingly, the Parlement had had to borrow money from a local *pastel* merchant to subsidise its operations. Le Mercier's property was seized and auctioned in a bid to pay the officers, and he was imprisoned and released repeatedly. By 1500, the court had had enough of its negligent paymaster, and Le Mercier was ousted from office.⁸¹⁹ Later, an act of François Ier implied that the Parlement had been ill served by a financial official who had assimilated money intended to pay the court's officers into

⁸¹⁹ ADHG 1B8, fols. 210r^o–210v^o (28.04.1490), 432v^o (28.01.1491); 1B9, fols. 139v^o (04.07.1493), 219r^o (28.01.1494), 223r^o–223v^o (03.02.1494), 225r^o–225v^o (07.02.1494), 290v^o (13.05.1494), 332v^o (23.07.1494), 333r^o (24.07.1494), 353r^o (18.08.1494), 434r^o (02.03.1495); 1B10, fols. 47r^o (05.02.1496), 81r^o (09.04.1496), 212v^o (22.12.1496), 214r^o (23.12.1496), 219r^o (05.01.1496), 222r^o (13.01.1497), 242v^o (16.02.1497), 266v^o (04.04.1497), 269r^o (08.04.1497), 300r^o (02.06.1497), 330r^o (13.07.1497), 355v^o–356v^o (22.11.1497), 408v^o–409r^o (03.03.1498), 510r^o–510v^o (30.08.1498); B11, fols. 30v^o–31r^o (08.02.1499), 57v^o (11.04.1499), 59v^o (13.04.1499), 103v^o (23.07.1499), 123r^o (11.09.1499), 128v^o–129r^o (13.11.1499), 129v^o (15.11.1499), 139v^o (07.12.1499), 140r^o (09.12.1499); 1B1900, fol. 131r^o.

his own patrimony so thoroughly, forcing the *gages* into arrears.⁸²⁰ More of Le Mercier's goods were auctioned to cover the shortfall.

Pierre I Potier stepped up as Le Mercier's replacement. At first glance, it seemed as though a change of personality might also alter the court's remunerative prospects.⁸²¹ During the remainder of the reign of Louis XII, there were virtually no complaints about Potier. It was shortly before the accession of François Ier that the *receveur* began a handover to his son, Pierre II Potier, who would succeed him as the court's financial officer.⁸²² With the new reign, though, payment issues flared once more. In 1516 and 1517, both Pierre I Potier and his son were criticised for failing to pay *gages* monthly.⁸²³ Delays occurred. Henri Bohier, general of the finances of Languedoc, communicated with the Parlement, explaining that whilst he had tried to assign the officers their *gages* as best he could, the state of royal finances had necessitated some cuts. Most notably, François Ier had spent a great deal during his meeting with Henry VIII at the famous Field of Cloth of Gold, one of the most familiar diplomatic events of the age: for this reason, 'your first quarter [of *gages*] was taken to subsidise these matters'.⁸²⁴ War threw the assignation of *gages* into arrears, but the Parlement pressured the Potier family into paying them out monthly. In 1521, the pair were investigated and arrested when they refused to pay out wages. Both were suspected of hoarding the king's money and profiting from it, investing it

⁸²⁰ ADHG 1B1900, fol. 302r^o.

⁸²¹ ADHG 1B11, fols. 150r^o–150v^o (04.02.1500), 190r^o (07.03.1500).

⁸²² ADHG 1B15, fols. 19r^o–19v^o (09.01.1512), 478v^o–479r^o (21.03.1514).

⁸²³ ADHG 1B16, fols. 381r^o–381v^o (27.03.1516), 438v^o–439r^o (12.06.1516), 641r^o (01.04.1517).

⁸²⁴ 'votre premier quartier a esté prins pour subvenir ausd. affaires', ADHG 1B1901, fols. 78r^o–78v^o; Glenn Richardson, *The field of cloth of gold* (New Haven CT, 2013).

in ‘merchandise’ and using other devious means to make cash.⁸²⁵ To the judges, it seemed as though payment problems had not departed with Le Mercier.

This time, however, officers of the Parlement realised that the overarching problem related to the state of royal finances. The crown informed its court that it was with regret that it had had to employ methods like ‘retrenchment of *gages*’.⁸²⁶ Though the monarch promised to pay these wages retroactively, through to the late 1530s, a clear pattern developed. *Gages* assigned for payment in the first quarter of 1522 were cancelled to support the king’s ‘urgent affairs’. Three quarters of *gages* payments were annulled in 1527, 1529, and 1537, and a whole year’s worth of *gages* failed to be delivered in 1536.⁸²⁷ By that stage, there were more officers than ever in the Parlement of Toulouse that needed to be paid, but the monarch was struggling to accomplish this task. Denied their stipend, did judges turn to alternative forms of profit to ensure that they were adequately ‘maintained’?

If criminality was thought to be one of the very worst outcomes of venality, it also produced much more subtle forms of pilfering. Men who had purchased their posts – so the argument ran – would be more likely to increase the fees that they charged for the cases they adjudicated. Those who bought wholesale would sell retail, and *épices* offered a perfectly legal channel for royal agents to remunerate themselves. Was venality really responsible for rising case fees? On reading the polemical literature, as well as some surveys of sixteenth-century France, the received

⁸²⁵ ADHG 1B19, fols. 2v^o (15.11.1521), 3v^o (16.11.1521), 4r^o (18.11.1521), 6v^o (20.11.1521), 6v^o–7r^o (22.11.1521).

⁸²⁶ ‘retranchement de gaiges’, ADHG 1B1901, fol. 139r^o.

⁸²⁷ ADHG 1B1901, fol. 205r^o; ADHG 1B1902, fols. 158r^o–159v^o.

notion is that the whole business of *épices* was shamelessly dishonest.⁸²⁸ However, these payments were not conducted under the table, but were discussed and regulated by judges. They had to assess and agree how much reporting councillors should earn for specific amounts of work. Although the rules governing how litigants were to be charged might appear opaque now, they were not arbitrary. Of course, this did not mean that court personnel might not collude to raise fees, as the Parlement clearly suspected in the opening passage of this section. Moreover, sensitive to the needs of the pleaders they may have been, but judges were equally capable of spotting opportunities. Although one litigant protested that he was unable to pay his fees, the *clerc* councillor Arnould de Roquette countered that he was actually ‘rather wealthy’.⁸²⁹ How did the arrival of judges through the transmission of loans to the monarchy – coupled with their unpredictable payment – affect the ways in which they deployed *épices*?

André Viala performed the first extensive analysis of *épices* received by the Parlement of Toulouse between 1446 and 1525. He did so by totalling the cost of individual procedures, often indicated in the left-hand margins of the registers of *conseils*, over the course of entire judicial years. Though his method was laborious, Viala’s findings made it clear that *épices* rose dramatically, almost tenfold across the period he studied. He argued that this indicated that venality bore no causal connection to the rise in *épices*, since augmentations predated the arrival of office sale.⁸³⁰

⁸²⁸ For a rebuttal of this view, see Feutry, ‘The historian’s mountain of paper’, pp. 290–292.

⁸²⁹ ‘est bien riche’, ADHG1B10, fols. 356r^o–356v^o (22.11.1497).

⁸³⁰ Viala, vol. 1, p. 215.

But what happened after 1525? In order to measure *épices* in a less toilsome manner, Appendix Table 9a calculates their value over a limited term and at five-year intervals. Instead of providing an exhaustive tableau, its objective is to provide a swift sketch of the period up to 1545, and to compare these findings with Viala's. André Viala found that between 1490 and 1491, the Parlement of Toulouse raised a total of 1,170 *écus* through the *épices* it charged for cases. By exploring the court's registers in the 1530s, it is clear that the court could generate this amount or even double in a two and a half month window alone. Similarly, in the judicial year beginning 1490, there were 267 chargeable procedures a year.⁸³¹ By the mid-1520s, the Parlement was dealing with this volume of work every two and a half months. Appendix Table 9a demonstrates just how dramatically the number of cases and the profits attached to them increased up to the mid-century. Such a synchronised rise in *épices* and procedure, however, meant that the average cost of a single procedure did not augment nearly as dramatically. A further, unavoidable observation is the conspicuous spike in total *épices* that occurred in the 1530s. What might account for such an escalation?

Great swathes of the *épices* raised during that period in particular resulted from the use of commissions, which could be extremely lucrative.⁸³² Did the judges resort to this type of procedure because payment of *gages* was so uncertain? The issue of commissions had come to a head around the time of the Ulmo trial.⁸³³ By the 1540s, the Parlement had hardened its stance on this procedure, issuing statements to the effect that commissions had been deployed too freely, even abusively, and restraining

⁸³¹ Viala, vol. 1, pp. 212–213.

⁸³² Stocker, 'The politics of the Parlement of Paris in 1525', pp. 196–197. See Chapter 5, section iii.

⁸³³ See Chapter 5, section i.

the circumstances in which they could be assigned.⁸³⁴ Venality may not have had a ‘decisive’ influence in prompting the rapid escalation of *épices*, as Viala argued, but we might well wonder whether overzealous use of commissions and their subsequent reduction was related to the phenomenon. By the 1530s, the Parlement of Toulouse housed a far greater number of judges than previously and these, as we have seen, were struggling to receive their *gages*. The role of commissions suggests that the court possessed the ability to regulate its own income by manipulating forms of procedure, but it was also deeply unsettled by this process. Perhaps the move to curb commissions was also motivated by another factor, for the crown had succeeded in resolving difficulties related to the payment of *gages*.

Early in the reign of François Ier, the payment of the officers of the Parlement was extremely erratic, in part because it was assigned on a constantly shifting source of royal revenues. In 1519, *gages* were to be paid from the *équivalent*, *aides*, and *octroi* collected in Toulouse, Rieux, Couserans, and Comminges. In 1520, the officers’ stipend was supposed to be raised through the collection of the *aides* and *octroi* raised in Rieux, Couserans, Comminges, Lavaur, Carcassonne, Toulouse, Montauban, and Saint Papoul. Cash sources changed again in 1523: *gages* were to be paid from the royal revenues generated by taxing salt at farms across Languedoc. In 1524, the burden of paying the *parlementaires* fell entirely upon Toulouse and its surroundings.⁸³⁵ This makeshift system of delivering *gages* was cumbersome. Suspicious of its royal agents on the ground too, the crown began to experiment with the notion of a central reserve from which it would pay all its officers, a set of vaults based in the Louvre in Paris. It was this coffer that paid out the cash Pierre II Potier

⁸³⁴ ADHG 1B35, fols. 147ro–148r^o (11.02.1542).

⁸³⁵ ADHG 1B1901, fols. 43r^o–45v^o, 75r^o–78r^o, 133r^o–135v^o, 153v^o–154v^o.

needed to pay the officers of the Parlement every quarter.⁸³⁶ When this project failed, however, the king was forced to find another solution.⁸³⁷

It was in the summer of 1537 that one was found. A royal act pledged to resolve, at last, payment issues that had affected all sovereign courts of the kingdom. The act acknowledged with regret that *gages* had been in arrears for a considerable time, leaving the most senior judges of the kingdom apprehensive about their remuneration. Seeing that these ‘ministers’ of sovereign justice were paid was of utmost importance, and so the monarchy explained how the disorder would be remedied. From October of 1537, *gages* would be paid by increasing the tax on salt sold in each royal salt store of the kingdom.⁸³⁸ A further act clarified exactly where the money would be raised to provide the *gages* of the officers of the Parlement of Toulouse. It identified twelve mostly Mediterranean-based towns at which the tax raised by salt stores would be used to remunerate the officers of the Parlement.⁸³⁹ If the monarchy had experimented previously with using duties on salt sold in Languedoc to pay officers, what was different this time was that the measure was permanent and its scale vast.

It was also a signal success. That the salt stores could produce abundant revenues was evident enough. As early as the 1480s, the salt taxed at Pont-Saint-Esprit alone had been supplying the crown with around 25,000 *livres* in annual income.⁸⁴⁰ The 1537 act was successful in delivering the officers of the Parlement

⁸³⁶ ADHG 1B1902, fols. 5v^o–7r^o.

⁸³⁷ *Hamon*, pp. 272–274.

⁸³⁸ ADHG 1B1902, fols. 81v^o–87r^o.

⁸³⁹ ADHG 1B1902, fols. 103r^o–105v^o.

⁸⁴⁰ Alfred Spont, ‘La gabelle du sel en Languedoc au quinzième siècle’, *Annales du Midi* 3:12 (1891), p. 469.

their *gages*. Perhaps it was even over-effective: two years later, the same source of revenue was able, for once, to cover over 64,000 *livres* Pierre II Potier needed to cover officers' back pay.⁸⁴¹ When new councillors arrived in the mid-1540s, the revenues yielded from the salt stores were still sufficient enough to ensure that they received their *gages*. Through to 1547, the registers of the Parlement are devoid of complaints about arrears and *gages*. The monarchy had finally devised a means to pay its officers reliably.

The crown's determination to resolve problems relating to *gages* helps to explain both the impact of venality and why it worked. It was the presence of an increasing number of officers and the difficulties of assuring their proper payment that jolted the monarchy into pursuing a novel proposal. The monarchy was responding to its own venal creations when it desired to make good its guarantees that officeholders would be paid. In turn, the prospect of reliable payment made office far more enticing. Consistent payment of *gages* became feasible thanks to this new arrangement, but also because of the assiduous management of Pierre II Potier. Potier's personal responsibility was legendary: La Roche-Flavin wrote that he had

learned that [Pierre II Potier] kept his promises so well, that he did not wait for the month to be elapsed, but advanced the cash to all those who needed it. Even when officers were away on trips, he went and gave it to their wives. Since then, the payment of *gages* has been put back to every three months, and further still, to six weeks after that quarter has elapsed.⁸⁴²

⁸⁴¹ ADHG 1B1902, fols. 158r^o–158v^o.

⁸⁴² '... lequel j'ay appris qu'il s'acquitoit si bien de ses promesses, qu'il n'attendoit que le mois fut escheu ; ains l'advançoit à tous ceux qui en avoit besoing ; voire les officiers estans absens en voyages, alloit les faire offrir à leurs femmes. Le payement desquels gages a esté remis depuis de trois en trois mois, & encores à six sepmaines, apres le quartier des trois mois escheu', *Treze livres*, p. 190.

Thanks to the new circumstances of a reliable source of royal revenue and a sympathetic financial official, monthly remuneration became a reality – a fairly strange occurrence in the *longue durée*. In combination with income from *épices*, the delivery of these wages as liquid cash on a regular basis helps to explain why venality was a success. It was an incentive to join a tribunal in which payment was more regular and assured than ever. Although the value of *gages* remained static, their value early in the sixteenth century was not inconsiderable, and it was in combination with *épices* that they provided an impressive wage packet, almost double the value of *gages* in total.⁸⁴³ New councillors could see an annual return of anywhere from 8 to well over 15 per cent of the value of their offices.⁸⁴⁴ This meant that it would take only a matter of years to recover what it had cost to obtain office. By the seventeenth century, the situation was barely recognisable. *Gages* that had remained virtually unchanged provided a weak return on the value of judgeships that, in contrast, had inflated by over ten times.⁸⁴⁵ Circumstances could not have been more different in the first half of the sixteenth century. When *gages* were equal or slightly inferior to *épices*, when officers could be paid reliably and recoup their initial outlay rapidly, this was a conjuncture that made the acquisition of an office for a loan exceptionally advantageous.

Ironically, in a climate in which judges' remunerative prospects were so good, the idea of loans-based venality contained the seeds of its own failure. If office was so

⁸⁴³ Viala, vol. 1, p. 215.

⁸⁴⁴ If the *gages* of a lay councillorship were at just over 395 livres a year, and the loan for such an office was 6,000 livres, this represented a return of 6.6 per cent a year. If we added to this a low estimate of annual *épices* of 400 livres, then a return of 13.3 per cent would be expected. If the loan was smaller and at 4,500 livres, the corresponding return of only *gages* and *gages* and *épices* would be 8.8 per cent and 17.7 per cent.

⁸⁴⁵ Marie Houlemare, *Politiques de la parole: le parlement de Paris au XVIe siècle* (Geneva, 2011), p. 195.

profitable, new judges might indeed consider their transfers to the crown as loans never to be recovered, as a sum they could afford to lose. Indeed, in the 1520s, when plans were floated to reimburse the councillor-reporters in the court of the *sénéchal* of Toulouse to annul the offices, they declared unilaterally ‘that they did not intend to recover their money, but preferred to enjoy and possess the said offices for their whole lives’.⁸⁴⁶ Once more, doubts are raised about whether the monarchy presumed that judges who had made loans would pursue their reimbursements. The relatively low costs of entry and high yields in office meant that the notion of a loan would in time disappear, to be replaced by the notion of *gages* as interest on a principal, of officers as investors rather than loyal donors to an embattled, cash-strapped monarchy.⁸⁴⁷

To enjoy the full fruits of their offices though, it was clear that judges needed to be participating members of their court. Since *épices* were doled out to reporting councillors, there was an incentive to supplement *gages* by contributing to the judgements of the Parlement. In fact, as Appendix Table 9b shows, the supposition that magistrates became noticeably less assiduous in this period is a fanciful one: the proportions of councillors reporting cases remained more or less stable. There is little reason to believe that the majority of the court’s members were otiose.

It is when examining the financing of the Parlement of Toulouse, however, that the bargain of venality appears to make less sense from the monarchy’s perspective. Through the sale of offices in the Parlement, the crown might have produced as much

⁸⁴⁶ ‘qu’ilz n’entendoient recouvrer leur argent mais aymeroient mieulx jouir & posseder leur vie durant lesd. offices’, ADHG 1J438.

⁸⁴⁷ Descimon, ‘Modernité et archaïsme de l’état monarchique’, p. 155.

as 566,700 *livres*.⁸⁴⁸ When the king created new officers, the total annual value of *gages* increased greatly. By the late 1530s, the crown was committed to paying in excess of 20,000 *livres* a year to maintain the officers of the Parlement. Supposing that from 1515 to 1547 the monarchy was required to pay the officers of this court such an amount a year in *gages*, then the reign of François Ier represented a total burden of 660,000 *livres*. Venal practices had repercussions that not only annihilated the revenues that office sale was intended to fetch, but produced deficits. The critics of the later sixteenth century, from whom we heard in Chapter 4, certainly had a point when they saw in venality a patent, exponential inanity: the more offices the crown created, the more indebted it was.⁸⁴⁹ On the one hand, the king's obligation to pay his officers makes the crown's dogged pursuit of office sale perplexing. On the other, it reinforces the notion that the monarchy viewed its activities as 'quick fix' solutions for which it had no overarching plan. The fact that venality in the Parlement of Toulouse ultimately cost the monarchy helps to explain the grave commitment to retrenchment at the close of the reign of François Ier.⁸⁵⁰

iii) Accommodating the sale of offices

It would be a mistake to conclude this chapter by suggesting that the crown gained nothing at all through the sale of judicial positions in the Parlement of Toulouse. Historians have frequently posited that one of the outcomes of office sale was that the monarchy countermanded its own authority, creating problems for later generations because it would be unable to remove venal officers who resisted its

⁸⁴⁸ See Chapter 2, section i.

⁸⁴⁹ See Chapter 4, section i.

⁸⁵⁰ See Chapter 1, section iii.

orders.⁸⁵¹ What is striking when studying the Parlement of Toulouse, however, is that the reign of François Ier corresponded with a period of increased compliance of the court towards the crown. That this development overlapped with venality is significant.

In Chapter 4, we saw that in the later half of the sixteenth century, the effects of office sale on the judiciary were depicted in scandalised terms. To this discourse, however, there was a strong, fictionalising element. Critics believed that magistrates were responsible for prolonging trials deliberately in order to draw greater profits.⁸⁵² However, this truism flies in the face of recent research that has suggested that in civil litigation, it was litigants themselves who were largely responsible for advancing or delaying cases in which they invested strategically.⁸⁵³ Despite a rampant polemic, the Parlement of Toulouse remained a functional institution in the 1550s. By that stage, office sale was quite literally being accommodated. The increase in the number of officers and departments that venality had entailed led the court to decide, finally, to demolish the archaic Château Narbonnais, and construct new judicial buildings on the same site.⁸⁵⁴

Why was it that the judges of the Parlement were able to rationalise judicial venality? In their provision of loans to the crown, would-be councillors and presidents saw no necessary contradiction with royal *ordonnances*. They were able to declare

⁸⁵¹ Mousnier, pp. 83, 221; Gaston Zeller, *Les institutions de la France au XVI^e siècle*, 2nd ed. (Paris, 1987), p. 141; Robert J. Knecht, *Renaissance warrior and patron: the reign of Francis I* (Cambridge, 1994), p. 559.

⁸⁵² See Chapter 4, section i.

⁸⁵³ Houlemare, *Politiques de la parole*, pp. 53–54.

⁸⁵⁴ Maurice Prin and Jean Rocacher, *Le château Narbonnais: le parlement et le palais de justice de Toulouse* (Toulouse, 1991), p. 15.

them without fear of punishment.⁸⁵⁵ Very little is known about the backgrounds of the first venal councillors of the Parlement of Toulouse, and the remainder of this section offers a *piste de recherche* rather than resolute conclusions about why, through venality, the crown and its judges were brought into a closer relationship. Men sought office for a variety of reasons. By the late sixteenth century, judgeships of sovereign courts conferred the privilege of nobility definitively, members of parlements enjoyed a variety of fiscal exemptions, and their offices could produce ample revenues. Christopher Stocker contended that ‘men sought royal offices not because of what they could do by being officers, but because of what they could gain by being associated with the king’.⁸⁵⁶

This much is undeniable. In the first half of the sixteenth century, venality had not yet segregated the world of lawyers from that of magistrates. One officer whose name has recurred throughout this thesis is Durand de Sarta.⁸⁵⁷ Sarta’s story exemplifies perfectly what the perks of ‘association’ with the monarchy might entail, as well as the entangled nature of office sale in the period. A practising lawyer and professor of law at the University of Toulouse, Sarta was pleading in the Parlement at least seven years before he obtained an office there.⁸⁵⁸ In 1521, Sarta was elected and served as a *capitoul* of Toulouse. That same year, the Parlement nominated him to a vacant councillorship.⁸⁵⁹ Although Sarta did not succeed in receiving this office, three years later he secured a different post, one created by the crown to raise cash. Providing a loan to the monarchy enabled Sarta to leap from urban to regional, even

⁸⁵⁵ See Chapter 3, section iii.

⁸⁵⁶ Christopher W. Stocker, ‘Offices and officers in the parlement of Paris, 1483-1515’ (Unpublished Ph.D thesis, 1965), p. 331.

⁸⁵⁷ For more on Durand de Sarta, *Vindry*, vol. 2.ii, p. 150; *Navelle*, vol. 9, p. 302.

⁸⁵⁸ For an example of his pleas, ADHG 1B2338, fol. 31r^o (18.11.1517).

⁸⁵⁹ See Chapter 3, section i.

national elite. His trajectory reveals that the boundary between practitioners and judicial officers was permeable; that the practices of election and venality could have a correlative rather than antithetical relationship. For a relatively low loan, men could aspire to officeholding status and access its numerous advantages.

Yet the perks of venality were not unilateral. If the notion of advancement by loans was acceptable to Sarta, it was also acceptable to the monarchy. To paraphrase and reverse Stocker's statement, the king sought creditors through judicial offices not because of the money they could provide alone, but because of what they could do by being royal officers. In the mid-1530s, Sarta acted as a royal agent to reform justice in Provence, during which he not only investigated claims that officers had purchased their offices, but also contributed to legislation against venality.⁸⁶⁰ In 1537 – possibly as a reward for his services – Sarta obtained the second presidency of the Parlement of Toulouse.⁸⁶¹ On at least two occasions, Sarta acted as an intermediary between the court and the crown, overseeing the transfer of loans presented by new recruits to the monarchy for their offices. He wrote letters of recommendations for these agents.⁸⁶² Even more significantly, as president of the Parlement Sarta undertook a variety of missions on behalf of the monarchy that involved raising money in Languedoc. These included alienating the royal domain.⁸⁶³ The advantages were not just Sarta's, then. Through this officer who provided a loan the crown gained an important node in its national network. Here was a loyal magistrate who had not only participated in royal financial expedients himself, but who also helped further them.⁸⁶⁴

⁸⁶⁰ See Chapter 1, section i.

⁸⁶¹ See Chapter 3, section ii.

⁸⁶² See Chapter 3, section i.

⁸⁶³ *CAF*, vol. 3, pp. 362 [9181], 378 [9249]; vol. 4, p. 483 [13267].

⁸⁶⁴ See Chapter 2, section ii.

Often it is the disruptive or calamitous nature of selling judicial offices that has been emphasised. Yet Sarta's involvement with venality would suggest a different picture. The early sale of office was a collaborative enterprise, one that involved potential royal officers investing in the monarchy. Earlier in the sixteenth century, the Parlement of Toulouse had occasionally been extremely hostile to the crown, resisting evocations to the Grand Conseil and imprisoning its *huissiers*, to the extent that Louis XII had threatened the use of force to make the court comply with his wishes.⁸⁶⁵ Venality allowed the monarchy to acquire a new series of partners, administrators with a stake in governance who had risen from the regional notability. As Durand de Sarta put it himself: 'My lord, in the affairs of the king... you will find that with what little power and wisdom I have I will be most diligent'.⁸⁶⁶ Further research into the attitudes and missions of these new servants of the crown will provide insights into the collaborative, network-building venture that underlay venality.

⁸⁶⁵ *Dubédat*, vol. 1, pp. 116–121.

⁸⁶⁶ 'Monseigneur, aux affaires du roy... me trouverez de mon petit pouvoir et scavoir tresdiligent', Durand de Sarta to Antoine du Bourg, Toulouse (30.03.1537), AN J965 no. 42⁴.

Conclusion: towards ‘legal’ venality

Là recouvrerez argent à tas, car le villain en a du content; villain, disons-nous, parce que un noble prince n’a jamais un sou. Thésaurizer est faict de villain.⁸⁶⁷

In the summer of 1557, the Parlement of Paris addressed a set of remonstrances to Henri II. The king had seen fit to equip the *présidiaux* courts of his kingdom with presidents and wider powers, a manoeuvre intended to bring the crown money. The Parisian magistrates pleaded the monarch to reconsider. ‘Venality of judicial offices was completely rejected by pagans’, they wrote, ‘and even more so by the most Christian kings of France and their counsel’. Even during times of conflict kings had always resisted the urge to pursue office sale.⁸⁶⁸ The first king to draw money from judicial offices for the ‘necessity of war’ was the late François Ier, but he had done so only ‘in the form of loans, which he reimbursed, and pursued only to his extreme remorse’. The *parlementaires* recalled how, in 1524, the king had explained that his greatest regret since coming to the throne had been accepting money for judgeships.⁸⁶⁹ If, so far in his reign, Henri II had been forced to take money from incoming judges also, then the Parlement suggested that he had done so with great displeasure, and that his will was to undo this as soon as there was peace in the kingdom. He was advised firmly not to pursue the current changes, because men prepared to pay for judicial powers were filled with ambition and avarice. This would provoke the outrage not only of French subjects, but of foreigners too.

⁸⁶⁷ Rabelais, p. 98 (*Gargantua*, XXXII).

⁸⁶⁸ ‘Venalité d’offices de judicature a esté du tout rejetée par les ethniques, et plus par les roys de France treschretien et leur conseil’, BnF MS Dupuy 225, fols. 86v^o (21.07.1557).

⁸⁶⁹ ‘par forme d’emprunt qu’il remboursa le tout à son tresgrand regret’, BnF MS Dupuy 225, fol. 86v^o.

This thesis has paid particular attention to language, and we should analyse the remonstrance produced by the judges of the Parlement of Paris with the same emphasis. The magistrates sketched a history of venality, but their turn of phrase was telling. Carefully, their memory of office sale under François Ier elided the mass office creations of the 1540s, retaining instead the image of the remorseful king in 1524.⁸⁷⁰ This vision of an apologetic monarch would be deployed time and again when the sovereign court faced further office creations throughout the sixteenth century.⁸⁷¹ The remonstrance also confirmed that any cash transferred for royal offices had been loans, which were repaid successfully. Yet the use of the past tense was revealing. So was the expectation that Henri II would be unable to do anything about venality while war raged on. By the late 1550s, it is clear, perspectives on the public sale of offices in France had changed. It was now almost a predictable strategy of an impoverished crown, a set of activities recent in origin but for which there was now a definitive name, and whose effects were deemed utterly reprehensible.

The reign of Henri II has been recognised as a ‘crucial step’ in determining the shape of venality in the *ancien régime*.⁸⁷² It was from the 1550s, in particular, that the phase of venality based on loans began to break down, and the notion that the crown was only receiving advances from its judges became a ‘subterfuge’. Experimentation with office sale took on a shameless tinge. In April 1554, for example, the monarchy undertook a flagrantly cash-driven operation by doubling the membership of and then splitting the Parlement of Paris into two, with judges serving on rotation for six

⁸⁷⁰ See Chapter 1, section iii.

⁸⁷¹ For examples from 1558, 1565, and 1568, *Maugis*, vol. 1, p. 228; Sylvie Daubresse, *Le parlement de Paris ou la voix de la raison (1559-1589)* (Geneva, 2005), pp. 313–314.

⁸⁷² Robert Descimon, ‘Modernité et archaïsme de l’état monarchique: le parlement de Paris saisi par la vénalité (XVI^e siècle)’ in *Genèse de l’état moderne: bilans et perspectives*, ed. Jean-Philippe Genet (Paris, 1990), pp. 153–154.

months each. The resulting resentment and inefficacy of this semestral system meant that it was repealed in 1558, though without diminishing the number of officers.⁸⁷³

As well as continuing to charge for access to offices, the monarchy began to experiment with heredity much more systematically. In the 1560s the inflection of royal language changed substantially. For instance, through published royal acts, the monarchy depicted the right for officers to retain and transmit their posts as a ‘grace’, stemming from the desire to treat preferentially those who had assisted the king in a time of urgent necessity by buying their positions.⁸⁷⁴ Another edict pointed out that many individuals with the ‘affection’ of becoming the king’s officers had sold their possessions to buy royal posts, which exposed them to great risk. For money, they were offered the guarantee of succession.⁸⁷⁵ Whereas previously royal acts had articulated venality as being indirectly beneficial for justice, a matter of ‘urgent necessity’, or a tragic, regretful event, there was now a fourth language.⁸⁷⁶ The monarchy was beginning to address the sale of judicial offices as a bond of complicity between judges and the crown, a set of reciprocities that bound the two together and whose ligaments were conspicuously monetary.

This language of collusion finally gave an explicit voice to elements that have been glimpsed throughout this thesis. The monarchy acknowledged in pragmatic terms that office sale conferred mutual advantages. As we have seen throughout this thesis, venality was underscored by complicity. The crown benefited financially, but so too did its servants and the royal entourage, who saw in vacant offices

⁸⁷³ Roger Doucet, *Les institutions de France au XVI^e siècle* (Paris, 1948), vol. 1, p. 170.

⁸⁷⁴ *Declaration du roy, sur son edict de decembre mil cinq cens soixante sept* (Paris, 1569).

⁸⁷⁵ *Edict du roy sur le fait des offices royaux, & venaux: permettant la resignation d’iceulx à survivance* (Paris, 1574).

⁸⁷⁶ See Chapter 1, section iii.

opportunities to profit. Far from fighting off early venality, the Parlement of Toulouse invited it in, integrating a process of loans disclosure into receptions to office, and defending the purchase of judicial posts throughout the region via its jurisprudence. The arrival of venality in courts of law was not primarily a coercive event, but one mediated by discussion and interpretation.

This thesis has studied early royal office sale through the lens of legal culture. This has meant connecting rules with practices; perceptions with behaviour; and the norms of the legal system with their application. It is only by paying attention to law and language found in archival material in particular that early venality can be understood on its own terms, and not as a precursor to the more institutionalised system that operated from the early seventeenth century onwards. By studying a regional court of law, this dissertation has demonstrated that the narrow association of ‘official’ royal office sale with 1522 and the Parlement of Paris in particular is misplaced. Before 1550, office sale was a truly heterogeneous set of practices benefiting a variety of actors. The ambiguous nature of office sale in this period has been underemphasised: it was a flexible notion capable of absorbing a variety of emphases. It was this variegated nature of office sale that helps to explain its arrival: it could be defended, because it was still possible to partition different sub-species of venality. The consequences of this practice were far-reaching, though. It was the departure point of a critique that coined the term ‘venality’ to describe the monarchy’s new activities, bequeathing an important piece of terminology that survived the *ancien régime* altogether.

Appendix tables and figures

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Appendix Table 1. Royal acts creating offices in the Parlement of Toulouse.

Sources (ADHG)	Date issued	Place of issue	Date registered	Offices created
1B1900, fols. 112r ^o –113r ^o	17 December 1491	Tours	10 March 1492	8 councillorships (4 <i>clerc</i> , 4 lay); 1 <i>huissier</i> ; 1 <i>greffier criminel</i>
1B1901, fols. 39r ^o –40r ^o	May 1519	Saint-Germain-en-Laye	3 June 1519	1 president (fourth), and 8 councillorships (initially all lay; then 4 <i>clerc</i> , 4 lay upon negotiation and reception; then all lay once more by royal act: 1B1901, fols. 96v ^o –97r ^o (Blois, 09.01.1524)).
1B21, fol. 432r ^o	June 1523	Saint-Germain-en-Laye	9 February 1527	3 <i>huissiers</i>
1B1901, fols. 197v ^o –198r ^o	25 August 1523	Lyon	19 November 1526	1 second <i>avocat du roi</i>
1B1901, fols. 95v ^o –96r ^o	28 October 1523	Lyon	31 May 1524	2 councillorships (lay)
1B1902, fols. 80v ^o –81v ^o	May 1537	Corbie	6 June 1537	4 councillorships (1 <i>clerc</i> , 3 lay)
1B1902, fols. 122r ^o –122v ^o	March 1538	Fontainebleau	Unknown, by 12 August 1538 (1B31, fols. 454v ^o –455r ^o)	1 councillorship (lay)

Sources (ADHG)	Date issued	Place of issue	Date registered	Offices created
1B1903, fols. 41v ^o –42r ^o	March 1543	Fontainebleau	Not registered	20 councillorships (10 <i>clerc</i> , 10 lay)
1B1903, fols. 42r ^o –42v ^o	20 March 1543	Fontainebleau	4 June 1543	15 councillorships (7 <i>clerc</i> , 8 lay)
1B1903, fol. 54v ^o	May 1543	Saint-Germain-en-Laye	9 July 1543	1 president of the new second <i>chambre des enquêtes</i>
1B1903, fols. 55r ^o –55v ^o	June 1543	Villers-Cotterêts	23 July 1543	2 second presidents of each <i>chambre des enquêtes</i>
1B1903, fols. 92v ^o –94v ^o	February 1544	Fontainebleau	21 April 1544	1 president and 5 lay councillors; two <i>huissiers</i> ; one <i>greffier</i> ; all to help staff a new <i>chambre des requêtes</i>

Appendix Table 2. Councillorships created in parlements in the early sixteenth century.⁸⁷⁷

Year	Parlement						
	Paris 878	Toulouse 879	Grenoble 880	Bordeaux 881	Dijon 882	Rouen 883	Aix 884
1512	-	-	-	-	-	-	2
1519	-	8	-	8	-	8	-
1521	-	-	4	-	-	-	-
1522	20	-	-	-	-	-	1
1523	-	2	-	2	4	-	2
1537	-	4	-	4	6	-	-
1538	-	1	-	-	2	-	-
1543	20	15	6	20	7	21	10
1544	15	5	-	-	-	-	-

⁸⁷⁷ This table shows the number of councillorships created in the parlements of France in a given year, running from January to December. It counts the ‘creation’ of these judgeships from the date on which the royal act instituting the new posts was issued, considering additions to existing courts rather than entirely new institutions. As well as the courts listed above, others could be considered: for example, ten councillorships were created in November 1526 in the Parlement of Brittany, and two councillorships were created in the Parlement of Dombes in 1524: CAF, vol. 1, pp. 469–470 [2483]; Pierre Lenail, *Notice historique sur le parlement de Dombes, 1523-1771* (Lyon, 1900), p. 20.

⁸⁷⁸ 31 January 1522, creation of twenty councillors for a third *chambre des enquêtes*, CAF, vol. 1, pp. 270–271 [1467]; May 1543, creation of twenty new councillors for a fourth *chambres des enquêtes* or *chambre du domaine*, CAF, vol. 4, p. 451 [13120]; May 1544, creation of two councillors for the *chambre des requêtes*, CAF, vol. 4, p. 620 [13897]; June 1544, creation of twelve councillors, CAF, vol. 4, p. 639 [13989]. One further councillor of the *requêtes* was created in 1544. See also Maugis, vol. 1, p. 143; Roger Doucet, *Étude sur le gouvernement de François I^{er} dans ses rapports avec le parlement de Paris* (Paris, 1921), vol. 1, pp. 159–164.

⁸⁷⁹ See Appendix Table 1.

⁸⁸⁰ 1 September 1521, creation of four councillors, CAF, vol. 1, p. 258 [1405]; March 1543, creation of four councillors, CAF, vol. 4, pp. 413–414 [12938]; April 1543, creation of two councillors, CAF, vol. 4, p. 432 [13031].

⁸⁸¹ May 1519, creation of eight councillors to form a criminal chamber, CAF, vol. 1, p. 184 [1032]; 28 December 1523, creation of two councillors, CAF, vol. 1, p. 367 [1955]; February 1537, creation of four councillors, CAF, vol. 3, p. 285 [8831]; March 1543, creation of fifteen councillors for a second *chambre des enquêtes*, CAF, vol. 4, p. 413 [12936]; August 1543, creation of five councillors for the new *chambre des requêtes*, CAF, vol. 4, p. 490 [13299].

⁸⁸² 13 August 1527, suppression of four councillors originally created in June 1523 intended for a criminal chamber, CAF, vol. 1, pp. 516–517 [2726]; November 1537, creation of six councillors once more for a criminal chamber, CAF, vol. 3, p. 418 [9442]; 20 April 1538, creation of two councillors, CAF, vol. 3, p. 528 [9947]; March 1543, creation of four councillors, CAF, vol. 4, p. 413 [12937]; April 1543, creation of one councillor, CAF, vol. 4, p. 431 [13029]; December 1543, two councillors were created to form a *chambre des requêtes*, CAF, vol. 4, p. 539 [13521].

⁸⁸³ May 1519, creation of eight councillors, CAF, vol. 5, p. 473 [17110]; March 1543, creation of fifteen councillors for a second *chambre des enquêtes*, CAF, vol. 4, p. 414 [12939]; December 1543, creation of six councillors to hold a *chambre des requêtes*, CAF, vol. 4, p. 539 [13522], vol. 8, p. 730 [33111].

⁸⁸⁴ Two councillors created in 1512 were received on 9 June 1512 and 8 January 1513, see Vindry, vol. 1:2, pp. 10–11, 33–34; on 2 February 1523 a royal act ordered a councillor to be received to an office created in 1522, CAF, vol. 7, p. 109 [23753]; on 7 and 15 October 1523, two further provisions were issued for councillorships created that year, CAF, vol. 7, pp. 116–117 [23791, 23792]; March 1543, creation of four councillors, CAF, vol. 7, p. 341 [24949]; August 1543, creation of three councillors, CAF, vol. 8, p. 725 [33079]. Three more councillors were also created in 1543, Wolfgang Kaiser, ‘Carrières de plume. Parcours et stratégies familiales des parlementaires d’Aix au XVI^e siècle’ in *Le parlement de Provence, 1501-1790* (Aix-en-Provence, 2002), p. 33.

Total	55	35	10	34	19	29	15	=197
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Appendix Table 3. Venal officers of the Parlement of Toulouse

a) Judgeships

Name	Office	Type of vacancy	Date of reception	Loan to the crown (livres)
Claude de Taneria ⁸⁸⁵	Conseiller lai	Creation	29.07.1519	4,000
Tristan du Soustre ⁸⁸⁶	Conseiller lai	Creation	29.07.1519	4,000
Raymond de Merlanes ⁸⁸⁷	Conseiller lai	Promotion	30.07.1519	4,000
Panthaleon Joubert ⁸⁸⁸	Conseiller lai	Creation	29.08.1519	4,000
Pierre de Lagarde ⁸⁸⁹	Conseiller lai	Creation	10.09.1519	4,000
François de Nupces ⁸⁹⁰	Conseiller lai	Death	20.11.1521	4,000
Simon Reynier ⁸⁹¹	Conseiller lai	Promotion	28.11.1521	6,000
Estienne de Paulo ⁸⁹²	Conseiller lai	Creation	31.05.1524	-
Durand de Sarta ⁸⁹³	Conseiller lai	Creation	31.05.1524	-

⁸⁸⁵ Venality undisclosed during reception, ADHG 1B17, fol. 450r^o; *acquit* for reimbursement from the account of the *amendes et exploits* of the Parlement of Toulouse, AN J960⁶, fols. 157r^o–157v^o (16.10.1533).

⁸⁸⁶ Confirmation by Lambert Meigret, treasurer of the *extraordinaire des guerres*, of receipt of the loan in ready cash, ADA 20J18, pièce 3 (10.07.1519); venality undisclosed during reception, ADHG 1B17, fol. 450r^o.

⁸⁸⁷ Venality undisclosed during reception to office left vacant by the promotion of Jehan Segulier to the newly-created office of fourth president, ADHG 1B17, fol. 451v^o; *acquit* for reimbursement from the account of the *amendes et exploits* of the Parlement of Toulouse, AN J960⁶, fols. 157r^o–157v^o (16.10.1533).

⁸⁸⁸ Venality undisclosed during reception to office, ADHG 1B17, fol. 480v^o; *acquit* for reimbursement from the account of the *amendes et exploits* of the Parlement of Toulouse, AN J960⁶, fols. 157r^o–157v^o (16.10.1533); *mandement* repeating the previous order for the receiver of the *amendes* to reimburse Joubert, CAF, vol. 4, pp. 119–120 (19.06.1540).

⁸⁸⁹ Venality undisclosed during reception to office, ADHG 1B17, fol. 499r^o; after a royal act ordered Lagarde to be reimbursed from the account of the *amendes et exploits* of the Parlement in 1530, further letters were issued to see a specific fine of 3,500 *livres* applied by the court used for this purpose, ADHG 1B1901, fols. 241r^o–241v^o (20.06.1532); the Chambre des Comptes of Paris was instructed to acknowledge this reimbursement, despite its obstruction on the basis that it had not been addressed by the previous order, BnF PO 1912 (dossier 44088), pièce 26 (28.01.1535).

⁸⁹⁰ Mentioned during oath of non-venality at reception to the office left vacant by the death of Nupces's father, Pierre. Nupces clarified that he made this loan 'non pour avoir led. office, mais par maniere d'emprunt, de laquelle somme il entendoit estre remboursé'. The court received Nupces on condition that he produced a 'quittance' for the sum loaned to the king, ADHG 1B19, fol. 6r^o.

⁸⁹¹ Mentioned during oath of non-venality at reception to office left vacant by the promotion of Georges d'Olmieres to the fourth presidency. Reynier clarified that the office was gifted to him before his loan took place, and that he intended to recover it. Reynier was received on the condition that he produced an 'acquit' of the sum loaned to the king, ADHG 1B19, fol. 8v^o; *acquit* for reimbursement from the account of the *amendes et exploits* of the Parlement of Toulouse, AN J960⁶, fols. 157r^o–157v^o (16.10.1533).

⁸⁹² During his oath of non-venality at reception to office, Paulo mentioned having 'presté au roy certaine somme d'argent ainsi que avoit fait ung chacun des autres conseillers de l'autre creue naguieres faicte', ADHG 1B20, fol. 177v^o (31.05.1524).

⁸⁹³ During his oath of non-venality at reception to office, Sarta mentioned having 'presté au roy certaine somme d'argent ainsi que avoit fait ung chacun des autres conseillers de l'autre creue naguieres faicte', ADHG 1B20, fol. 177v^o (31.05.1524).

Name	Office	Type of vacancy	Date of reception	Loan to the crown (livres)
Jehan de Teula ⁸⁹⁴	Conseiller lai	Creation	09.06.1537	2,000
Odet Daries ⁸⁹⁵	Conseiller clerc	Resignation	27.06.1537	4,500
Vincent Maignan ⁸⁹⁶	Conseiller clerc	Creation	30.06.1537	6,000
Jehan de Ausono ⁸⁹⁷	Conseiller clerc	Death	12.11.1537	6,000
Anthoine de Malras ⁸⁹⁸	Conseiller lai	Creation	Before 11.1537	6,000
Anthoine de Paulo ⁸⁹⁹	Conseiller lai	Creation	18.08.1537	6,000
⁹⁰⁰	Conseiller lai	Resignation	-	6,000
Georges Gabrilhagues, dit du Gabre ⁹⁰¹	Conseiller clerc	Creation	10.07.1543	9,000
Guy de Berbiguier ⁹⁰²	Conseiller clerc	Creation	10.07.1543	4,500

⁸⁹⁴ Mentioned during oath of non-venality at reception to office. Teula explained that he had made this loan to the king 'pour subvenir à ses urgens affaires et pour icelles recouvrer luy en avoit esté baillé acquit', ADHG 1B30, fol. 313v^o (09.06.1537). An alternative source suggests Teula loaned 6,000 livres, ADHG 3E6877 (20.01.1559).

⁸⁹⁵ Daries disclosed a loan of 2,000 écus (4,500 livres) during his oath of non-venality, at reception to the office left vacant by the resignation of Arnaud de Casa, ADHG 1B30, fols. 346r^o–346v^o; *acquit* reimbursing Daries 4,500 livres he had loaned to the king, to be taken from the account of the *exploits et amendes* of the Parlement of Toulouse, AN J962¹² no. 23 (11.06.1537).

⁸⁹⁶ At his reception Maignan confirmed his loan to the king 'pour ses urgens affaires', ADHG 1B30, fol. 349v^o; *acquit* for Maignan to be reimbursed 6,000 livres from the account of the *exploits et amendes* of the Parlement of Toulouse, AN J961¹¹ no. 58 (April-May-June 1537); *mandement* for the previous *acquit* to be carried out, the cash to be taken from the *épargne*, and paid out to Vincent Maignan's nephew and heir, Guillaume Maignan, CAH, vol. 2, pp. 19–20 [2052] (17.01.1548).

⁸⁹⁷ During his oath of non-venality at reception to the office left vacant by the death of Gilbert de Cardailhac, Ausono confirmed his loan to the king 'pour subvenir à ses affaires dont en avoit acquit et entendoit les recouvrer', ADHG 1B31, fol. 2r^o.

⁸⁹⁸ Malras received a *mandement* for reimbursement of 6,000 livres from the account of the *exploits et amendes* of the Parlement of Toulouse, BnF MS fr. 25721, pièce 481 (21.07.1537); an *acquit* containing the same details, AN J961¹¹ no. 55 (August 1537).

⁸⁹⁹ During his oath of non-venality at reception to office, Paulo claimed he had 'presté quelque somme de deniers au roy et estoit apres pour en avoir acquit', ADHG 1B30, fol. 429r^o; *mandement* to reimburse Paulo 6,000 livres loaned for his office, which he had provided on 30.07.1537, from the account of the *exploits et amendes* of the Parlement of Toulouse, AN J961¹¹ no. 65 (June 1537); an order to reimburse Paulo from the *amendes* of the Parlement of Toulouse for 4,000 livres he had loaned to the crown at the time of his provision, BnF MS fr. 5127, fol. 90r^o (19.07.1549). Is the discrepancy in values a mistake, or had Paulo been reimbursed partially?

⁹⁰⁰ At a meeting of the *conseil privé* at Fontainebleau, it was decided to receive 6,000 livres 'par prest... en admettant la resignation de l'office de conseiller de Thoulouse, que tient [Michel] de Pira', AN J965 no. 11⁴ (08.06.1537). It is not clear whether this resignation took place: Pira died in office and was replaced by Louis de Lauselergie, *Vindry*, vol. 2.ii, p. 183.

⁹⁰¹ Gabre mentioned a loan of 2,000 écus to the king 'pour subvenir ses urgens affaires' during his oath of non-venality at reception to office, ADHG 1B36, fol. 378r^o. It is ambiguously implied that Berbiguier, Proti, and Jouery – who were received at the same time – made similar loans, because they were 'semblablement receuz' and gave a 'semblable serement' to Gabre; *mandement* for the treasurer of the *parties casuelles*, Jehan Laguet, to reimburse Gabre 4,000 écus (9,000 livres) he had loaned to the crown from his account, since Gabre had decided to loan an additional 2,000 écus following on from his initial loan in April 1543, BnF MS fr. 25723, pièce 814 (04.12.1543).

Anthoine Proti ⁹⁰³	Conseiller clerc	Creation	10.07.1543	4,500
Berenguier Jouery ⁹⁰⁴	Conseiller lai	Creation	10.07.1543	4,500

Name	Office	Type of vacancy	Date of reception	Loan to the crown (livres)
Anthoine de Lautrec ⁹⁰⁵	Conseiller lai	Creation	09.08.1543	4,500
Jacques Sortes ⁹⁰⁶	Conseiller lai	Creation	03.09.1543	4,500
Jehan Cormardi ⁹⁰⁷	Conseiller lai	Creation	05.09.1543	4,500
Jehan du Tornoer ⁹⁰⁸	Conseiller clerc	Creation	05.09.1543	4,500
Thomas de Forez ⁹⁰⁹	Conseiller clerc	Creation	06.09.1543	4,500
Guillaume Fabri ⁹¹⁰	Conseiller clerc	Creation	07.09.1543	4,500
Jehan Bonal ⁹¹¹	2e président des enquêtes	Creation	Not received	6,700
Pierre Papus ⁹¹²	Conseiller lai	Creation	15.11.1543	-
Jehan de Bonnefoi ⁹¹³	Conseiller lai	Creation	Not received	4,500

⁹⁰² See the entry in n.17 above, on Gabre.

⁹⁰³ See the entry in n.17 above, on Gabre.

⁹⁰⁴ See the entry in n.18 above, on Gabre.

⁹⁰⁵ Loan to the king disclosed during oath of venality at reception to office, ADHG 1B36, fol. 427v^o.

⁹⁰⁶ Loan disclosed during oath of non-venality at reception to office, as one made 'aymablement au roy'; this transaction was mentioned 'en autres lettres patentes contenant aussi dispensation quant à ce', ADHG 1B36, fol. 474r^o.

⁹⁰⁷ Loan disclosed during oath of non-venality at reception to office, ADHG 1B36, fols. 482r^o–482v^o.

⁹⁰⁸ Loan disclosed during oath of non-venality at reception to office, ADHG 1B36, fol. 482v^o. Tornoer advanced the money to Jehan Laguette, receiver of the *parties casuelles*, via Italian bankers operating in Lyon, AN MC/ET/XIX/163 (11.04.1543).

⁹⁰⁹ During oath of non-venality at reception to office, mention of his loan to the king 'pour ses urgens affaires', ADHG 1B36, fol. 486v^o.

⁹¹⁰ Loan disclosed during oath of non-venality at reception to office, ADHG 1B36, fols. 489v^o–490r^o.

⁹¹¹ The Parlement of Toulouse rejected Jehan Bonal as inadequate for this office, ADHG 1B36, fol. 498v^o; 1B1995, fol. 22r^o (11.09.1543). The crown permitted Bonal to resign the position in his son's favour, so long as it was converted to a new lay councillorship. Since Bonal had loaned for a presidency and not a councillorship, he requested and confirmed receipt of a rebate of 1,000 *écus* of an original 3,000 *écus* he had paid to Jehan Laguette of the *parties casuelles*. Bonal confirmed his satisfactory payment from the same account in October 1544, and his son Estienne was received to the new councillorship: BnF PO 405 (dossier 9070), pièce 2; (dossier 9078), pièces 4, 5, 6; ADHG 1B37, fols. 357v^o–358r^o (23.04.1544).

⁹¹² Mention during oath of non-venality at reception to office of a loan made to the crown, 'ce qu'il avoit liberalement presté au roy pour subvenir ses urgens affaires', ADHG 1B37, fols. 3v^o–4r^o. Through an *acquit*, Papus was to be reimbursed from the 'creue ordonné pour le paiement des gaiges des presidens conseillers et autres officiers des courtz de parlement de Thoulouse, generaulx des aides et chambre des comptes à Montpellier...', BnF MS fr. 3154, fol. 14r^o (22.01.1551).

⁹¹³ Jehan de Bonnefoi, a *notaire et secrétaire du roi* was originally named to a new lay councillorship for which he had loaned 2,000 *écus* to the crown. However, he was either unable or unwilling to take the post up, and resigned his claim to this position to Pierre Robert, the son of an existing lay councillor, Jehan Robert. Bonnefoi ceded the office on condition that Jehan Robert would reimburse him the 2,000 *écus* loaned for the office. In turn, the *acquit* produced by the receiver of the *parties casuelles* would be transferred to Jehan Robert's name, so that he could be reimbursed by the crown, AN MC/ET/XXXIII/19 (20.10.1543). Pierre Robert's letters of provision, issued on 25.10.1543, and his reception also refer to these arrangements, ADHG 1B1903, fols. 63v^o–65r^o; 1B37, fol. 17r^o (23.11.1543).

Jehan de Costa ⁹¹⁴	Conseiller lai	Creation	Not received	4,500
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Name	Office	Type of vacancy	Date of reception	Loan to the crown (livres)
Arnauld Galdon ⁹¹⁵	Conseiller clerc	Creation	23.02.1544	4,500
Guillaume Doujat ⁹¹⁶	Conseiller lai	Creation	21.04.1544	-
Mariet d'Angilbaud ⁹¹⁷	Conseiller lai	Promotion	22.04.1544	5,625
Jacques de Bernuy ⁹¹⁸	Conseiller lai aux requêtes	Creation	12.08.1544	-
Nicolas Benoist ⁹¹⁹	Conseiller lai	Death	20.02.1545	4,500
Pierre Sabatier ⁹²⁰	Conseiller lai	Death	20.02.1545	-
Jehan Carrière ⁹²¹	Conseiller lai aux requêtes	Creation	14.03.1545	-
Total:				146,325

⁹¹⁴ Costa had loaned 2,000 *écus* to the king and received letters of provision to this office, but the Parlement of Toulouse found him insufficient. Estienne Seguin received letters of provision instead, and was received successfully to this office, on the condition that he compensated Costa for his loan to the king, ADHG 1B2366 (22.11.1543); 1B37, fol. 25v^o (28.11.1543); Seguin was to be reimbursed in a similar manner to Papus: see n.28 above, CAH, vol. 5, p. 71 (March 1551).

⁹¹⁵ Mention of this loan during oath of non-venality at reception to office, which was also disclosed in royal letters appended to Galdon's letters of provision, ADHG 1B37, fol. 213r^o; Galdon's father, Guillaume, supplied the 2,000 *écus* needed for this loan as part of the marriage pact agreed between Galdon and Anne Daries, daughter of *parlementaire* Odet Daries, as well as 1,500 *livres* for the 'pursuit' of this office: ADHG 3E1304 (04.02.1544).

⁹¹⁶ During oath of non-venality at reception to office, mentioned 'ce qu'il avoit baillé par prest au roy', ADHG 1B37, fol. 350r^o.

⁹¹⁷ During his reception to the office left vacant by the promotion of François Barthélemy to the office of *conseiller* in the Grand Conseil, Angilbaud attested to money 'qu'il avoit amyablement presté au roy pour subvenir à ses affaires', ADHG 1B37, fols. 353r^o–353v^o. Angilbaud had sold a *métairie* in Montauban to Jehan de Martel for 1,500 *écus*. Martel assumed responsibility for sending this sum, plus a further 1,000 *écus* supplied by Angilbaud, making a total of 2,500 *écus* (5,625 *livres*) to Paris, where it was received securely by Jehan Laguet of the *parties casuelles*, as a loan to the king for Angilbaud's office, ADHG 3E1367 (28.02.1544).

⁹¹⁸ Mention during oath of non-venality at reception of the 'prest par luy faict au roy', ADHG 1B37, fol. 628v^o.

⁹¹⁹ During his oath of non-venality at reception to the office left vacant by the death of Jehan Bosquet, Benoist acknowledged a 'prest par luy faict au roy'. His letters of provision were accompanied by a 'dispense de ce que pour obtenir led. office il auroit prestée certaine somme de deniers au roy pour subvenir à ses urgens affaires, avec derogatoire aux ordonnances et aultres constitutions sur ce faictes', ADHG 1B38, fol. 212r^o; it was ordered that Benoist would be reimbursed from the account of the *exploits et amendes* of the Parlement of Toulouse 2,000 *écus* that he had loaned for his office, BnF MS fr. 5127, fol. 90r^o (19.07.1549).

⁹²⁰ During his oath of non-venality at reception to the office left vacant by the death of Tristan du Soustre, Sabatier confirmed a 'prest par luy faict au roy'. His letters of provision were accompanied by others 'contenans dispense de ce que pour obtenir led. office icellui Sabatier avoit presté aud. S^r certaine somme de deniers pour subvenir à ses urgens affaires, avec derogation aux ordonnances et constitutions sur ce faictes', ADHG 1B38, fol. 212r^o.

⁹²¹ During his oath of non-venality at reception, mention of cash 'qu'il avoit presté au roy'. Carrière's letters of provision were accompanied by a 'dispense de ce que icelluy Carrière pour avoir led. office avoit presté aud. seigneur certaine somme de deniers pour subvenir à ses urgens affaires', ADHG 1B38, fol. 258r^o.

b) Other offices

Name	Office	Type of vacancy	Date of reception	Loan / payment to the crown (livres)
Raymond Sabatier ⁹²²	Procureur du roi	Death	09.07.1523	1,500
Jehan de Ulmo ⁹²³	Avocat du roi (ii)	Creation	22.11.1526	3,600
Lucas Viguiet ⁹²⁴	Huissier	Creation	09.02.1527	800
Jehan d'Olive ⁹²⁵	Avocat du roi (ii)	Resignation	23.07.1529	-
Nicolas de La Haye ⁹²⁶	Huissier	Death	15.11.1532	400

⁹²² At his reception to this office left vacant by the death of François d'Olive, no mention of this sum or of the oath of non-venality, ADHG 1B19, fol. 522r^o. In a case pleaded much later before the Parlement, it is mentioned that Raymond Sabatier loaned 1,500 *livres* to the crown for this position, borrowing sums of cash from several people to do so, including 200 *écus* from the bishop of Mirepoix, Philippe de Lévis (1466-1537): ADHG 1B2366 (11.12.1543).

⁹²³ The then-sole *avocat du roi* of the Parlement of Toulouse, Jehan Deygua, mentioned that the creation of the office of second *avocat du roi* had cost 1,800 *écus* (3,600 *livres*) in 1523, AN V⁵1045, fol. 164v^o (25.06.1526, Grand Conseil at Angoulême). At his reception, Ulmo was forbidden from taking the oath of non-venality, and had to swear to receive no illicit profits, ADHG 1B21, fol. 345v^o.

⁹²⁴ Viguiet received letters of provision to this office, created in 1523, presenting the treasurer of the *parties casuelles* with 400 *écus* (800 *livres*) to obtain it, BnF MS fr. 5779, fol. 61v^o (14.02.1525); AN KK351, fol. 6r^o (February 1525). After a prolonged debate over the new offices of *huissiers*, Viguiet was received to office in the Parlement of Toulouse, ADHG 1B21, fols. 432r^o-432v^o.

⁹²⁵ Olive received this office as part of a series of resignation pacts. Georges d'Olmieres resigned his fourth presidency to Jehan de Ulmo, who in turn resigned his office of second *avocat du roi* to Olive, Olmieres's brother-in-law. Through an instrument retained by a notary, Olive promised to hold on to the office of second *avocat du roi* for six years, before resigning it to Georges d'Olmieres's son Gaspard when he was old enough to exercise it, ADHG 3E6109 (16.05.1529). In the meantime, Olive would also give half of his *gages* to Gaspard too. In the event that Olive was unable to resign the office to Gaspard, he would have to compensate him 6,000 *livres* – the estimated value of the office. Olive received his office successfully, *Vindry*, vol. 2.ii, p. 268. However, he failed to keep up his part of the bargain. Olive explained that because the office was 'en voye de perdicion' he had had to furnish 'grand somme de deniers' in its pursuit, which included 'l'offre faite au roy ou a monseigneur le chancelier' for it, ADHG 3E10124 (11.07.1529). Olive was unprepared to relinquish this office to Gaspard d'Olmieres, a matter that caused contention for many years, splitting members of the Parlement along family-based fault lines: AN J966 no. 42³, Durand de Sarta to Antoine du Bourg, Toulouse (29.03.1537); J967 no. 82, Saux Hebrard to Antoine du Bourg, Toulouse (22.04.1537).

⁹²⁶ An *acquit* reveals that 200 *écus* from the sale of an office of *huissier* in the Parlement of Toulouse that had become available by death would be donated jointly to two royal servants. It is highly likely that the *huissier* in question was Domengue de Bien, who was replaced by Nicolas de La Haye, ADHG 1B26, fol. 2v^o. The two beneficiaries of this *acquit* were Adam des Hayes, *barbier du roi*, and Jules de Pises, *valet de chambre ordinaire*, AN J960² no. 28.

Name	Office	Type of vacancy	Date of reception	Loan / payment to the crown (livres)
Guillaume de Bernuy ⁹²⁷	Greffier des présentations	Death	21.03.1533	3,600
Accurse de Tournier ⁹²⁸	Greffier criminel	Death	17.06.1534	13,000
Guillaume Guytard ⁹²⁹	Huissier	Death	Before 11.1534	1,000

⁹²⁷ In 1532 the post of *greffier des présentations* became available through the death of Pierre II Gilbert. One letter written at the time suggests that the offices Gilbert held as well as this (*notaire et secrétaire du roi, audienier* in the *chancellerie* of Toulouse) could fetch as much as 6,000 *écus*, BnF MS fr. 3064, fols. 139r^o–139v^o, Pierre de Clermont-Lodève to Anne de Montmorency, Béziers (05.08.1532). Whether the sale of this post raised this much is unclear. Jehan Laguerre of the *parties casuelles* was required to pay the *seigneur* de Poilly, an *écuyer d'écurie* 1,200 *écus* from the sale of the offices of *greffier des présentations* and that of *notaire et secrétaire* that Gilbert had held. This was mostly to reimburse Poilly for travelling to Frankfurt at the king's request, purchasing horses there, feeding and training them up at his home, before bringing them to François Ier at Villers-Cotterêts at his own expense, as well as for his maintenance in the king's service, AN J961⁸ no. 76. Sums from the same office were set aside to provide a certain 'Bernoy' with 1,200 *livres*, in favour of services rendered to the king and his children during their captivity in Spain. This was most likely a payment to Jehan de Bernuy, a rich pastel merchant who had settled in Toulouse from Spain by the start of the sixteenth century, and who had provided much financial support to François Ier. The nature of this allocation of cash from the office of *greffier des présentations* is confusing though, for its recipient was none other than Jehan de Bernuy's son, Guillaume. Several interpretations are plausible: either Jehan de Bernuy purchased the offices for his son, and obtained a rebate; or else, rather than accepting the money from the sale of the offices, Bernuy was offered or requested to receive the posts themselves, AN J960⁶ no. 33; ADHG 1B26, fol. 141r^o.

⁹²⁸ In 1534, the office of *greffier criminel* of the Parlement of Toulouse became available following the death of Jehan Michaelis. Pierre or Perrot de Ruthye, an *écuyer* and *gentilhomme de la chambre* was assigned 13,000 *livres* from the sale of the offices of both *notaire et secrétaire du roi* and *greffier criminel* of the Parlement, both of which had been held by Michaelis. Ruthye had previously been assigned 20,000 *livres* on the *épargne* on the occasion of his marriage, and the sale of these offices was intended as a contribution to these sums, AN J961⁸ no. 67. Money from the sale of the office of *greffier criminel* was also intended to compensate the widow of a king's *valet de chambre* called Jean de Montdoucet. She was assigned 300 *écus* on this office, or that of a *contrôleur du grenier à sel* in Selles, CAF, vol. 7, p. 777 [28986]. Accurse de Tournier was received as *greffier criminel* of the Parlement, ADHG 1B27, fol. 248r^o (17.06.1534). A family arrangement almost certainly lurks behind this appointment. Not only was Accurse the son of an ex-second president who had died in 1533; his sister, Marie, had been married to the late *greffier criminel* Jehan Michaelis, *Navelle*, vol. 7, p. 174; vol. 10, p. 139.

⁹²⁹ Between 1533 and 1534, an office of *huissier* in the Parlement of Toulouse became available through the death of Jehan Maligot, and from the sale of which the king received 500 *écus*. This sum was gifted to Marc Anthoine de Cusan, an *écuyer d'écurie* as a contribution towards 5,200 *livres* Cusan was owed, partly for his pension for the year 1533, and partly to reward him for his contribution to the king's ransom, AN J961⁸ no. 61. The *huissier* who replaced Maligot in the Parlement was most likely Guillaume Guytard. He made his first appearance at the start of the judicial year of 1534: ADHG 1B28, fol. 1r^o (12.11.1534).

Name	Office	Type of vacancy	Date of reception	Loan / payment to the crown (livres)
Jehan Tiffault ⁹³⁰	Huissier	Death	14.07.1536	1,120
Jehan Burnet ⁹³¹	Greffier civil	Death	26.08.1536	12,000
Bernard Chanson ⁹³²	Huissier	Forfeiture	15.04.1538	1,350
Total:				38,370

⁹³⁰ This office of *huissier* became available through the death of Geoffroy Stuart. In a letter written to Antoine du Bourg, François Ier explained how he intended for the incoming funds from the sale of this office to be given to his jeweller, Pompée Tarcon (or Pompeo Tarconi), who had supplied the monarch with some jewels and precious stones worth around 560 *écus*: AN J965 no. 5⁹, François Ier to Antoine du Bourg, Valence (11.08.1536). This letter is accompanied by a list of the artefacts Tarcon supplied: J965 no. 5¹⁰. For Tiffault's reception as *huissier* in Stuart's place, ADHG 1B29, fols. 337r^o–337v^o.

⁹³¹ François Ier wrote to Antoine du Bourg about this office in 1536. That year, the king had received news from his sister Marguerite's husband, Henri II de Navarre, indicating that the existing *greffier civil* of the Parlement of Toulouse, Jehan de Borrassol, was gravely ill. Henri asked François Ier for the office to be given to him in the event that Borrassol died, so that he could sell it on. Primarily, this was so that he could recover the half-year pension assigned to him by the king, which rose to 12,000 *livres*. François Ier approved his brother-in-law's proposal, and when Borrassol died, Henri was immediately in touch with the king, suggesting that Jehan Burnet be received to the vacant office. François Ier urged the chancellor to seal and dispatch Burnet's letters of provision, and he was received later that month: AN J965 no. 5⁷, François Ier to Antoine du Bourg, Valence (09.08.1536); ADHG 1B29, fol. 387r^o.

⁹³² In 1537, the *huissier* François Pomarède was removed from his office in the Parlement of Toulouse for his crimes (see Chapter 5, section i), and replaced by Bernard Chanson, ADHG 1B31, fol. 273v^o (15.04.1538). Money from the sale of this post was gifted in four separate payments to royal household staff. Firstly, 270 *livres* were to be distributed between Nicolas Boute the 'conducteur du sommier qui porte les broches de la cuisine de bouche', Antoine Chabannes, *saucier*, Mathurin Habert, *enfant de cuisine*, and Jean Menessier, *aide et garde-vaisselle*, AN J961¹¹ no. 30. 200 *écus* was to be shared between Thomas Le Pessu and Jacques d'Asnières, *clercs des offices du roi*, Odoart Gonnault, *commis du maître de la chambre aux deniers*, and Claude de Seurre, *commis du contrôleur de la maison du roi*, AN J962¹² no. 2. A further 100 *écus* was reserved for Pierre Pontijou, François Danton, François Gillier, and Michel Lemaistre, who were all *sommeliers de paneterie* who had 'servy le quartier passé', AN J962¹³ no. 3. Finally, 180 *écus* was reserved to 'jeune Michelet', an *huissier de chambre*, AN J962¹³ no. 3. With some discomfiture, three months later 200 *écus* from the sale of this same office was allotted to 'damoiselle de Baptisse, gouvernante des filles de Mesdames', but all the cash from this office sale had been distributed already. Instead, she would receive 200 *écus* from the sale of other offices, AN J962¹⁵ no. 1; J962¹⁵ no. 7.

Appendix Table 4. Estimated office prices for a proposed ‘Parlement de Poitiers’.⁹³³

Office type	Number created	Office value (écus)
Premier président	1	5,000
Second président	1	4,000
Tiers président	1	3,000
Conseiller lai	18	2,000
Conseiller clerc	8	1,000
Premier huissier	1	500
Huissier	5	250
Greffier civil	1	5,000
Greffier criminel	1	2,000
Greffier des présentations	1	1,250
Avocat du roi	1	3,000
Procureur du roi	1	3,000
Receveur des amendes	1	1,000
Receveur de la crue du quart du sel	1	1,000
Notaires et secrétaires de la court	2	1,000
Garde du scel	1	4,000
Total:		80,000

⁹³³ ‘C’est le nombre des officiers necessaires pour le parlement de Poitiers et pays y adjacens ... S’ensuit ce que pourront valoir lesd. offices’, BnF MS Dupuy 537, fols. 78r^o–79v^o. This curious, undated document written during the reign of François Ier contains a detailed plan for establishing (and selling the offices of) a new parlement in Poitiers. It might date from 1521 to 1522 when, encountering difficulty establishing new councillorships in the Parlement of Paris, François Ier ‘blackmailed’ the court by threatening to create another in Poitiers: Roger Doucet, *Étude sur le gouvernement de François I^{er} dans ses rapports avec le Parlement de Paris* (Paris, 1921), vol. 1, p. 161.

Appendix Table 5. Creations of judgeships in the jurisdictions beneath the Parlement of Toulouse.

a) *enquêteurs*

Region / Town	Court	Number of <i>enquêteurs</i> to be created by:	
		the Parlement's modifications ⁹³⁴	royal act ⁹³⁵
Toulouse	<i>Sénéchal</i>	2	4
	<i>Juge d'appaux civil and juge d'appaux criminel</i>	1	1
	<i>Viguiers</i>	-	1
	<i>Juge ordinaire</i>	-	1
	<i>Jugerie of Villelongue</i>	-	1
	<i>Jugerie of Rivière</i>	-	1
	<i>Jugerie of Verdun</i>	-	1
	<i>Jugerie of Albigeois</i>	-	1
Quercy	<i>Sénéchal</i> - based in Cahors	2	2
	<i>Sénéchal</i> - based in Montauban	-	1
	<i>Juge ordinaire</i>	-	1
	Each of the other seats of the <i>sénéchaussée</i>	-	1
Rouergue	<i>Sénéchal</i>	2	2
	Each of the other seats of the <i>sénéchaussée</i>	-	1
Montpellier	<i>Gouverneur</i>	1	1
	<i>Recteur de la part antique</i>	-	1
	<i>Viguiers and juge of Béziers</i>	-	1
	Each of the other <i>vigueries</i> of the <i>sénéchaussée</i>	-	1
Carcassonne	<i>Sénéchal</i>	2	2
	<i>Sénéchal and juge of Castres</i>	-	1
	Each of the other <i>vigueries</i> of the <i>sénéchaussée</i>	-	1
Beaucaire	<i>Sénéchal</i>	2	-
Armagnac	<i>Sénéchal</i>	2	-
Total:		14	27

⁹³⁴ ADHG 1B16, fol. 485v^o (11.08.1516).

⁹³⁵ ADHG 1B1901, fols. 66v^o–67v^o (21.02.1520, registered by the Parlement of Toulouse 12.03.1520).

b) *conseillers-rapporteurs*

Region / Town	Court	Number of <i>conseillers-rapporteurs</i> created
Toulouse ⁹³⁶	<i>Sénéchal</i>	24
	<i>Juge d'appaux civil and juge d'appaux criminel</i>	6
	<i>Viguiers</i>	4
	<i>Juge ordinaire</i>	4
Carcassonne	<i>Sénéchal</i>	12
	<i>Viguiers and juge ordinaire</i>	4
Beaucaire	<i>Sénéchal</i>	24
	<i>Viguiers and juge ordinaire</i>	6
Montpellier	<i>Gouverneur</i>	6
	<i>Recteur de la part antique</i>	4
Le Puy	<i>Bailli and juge</i>	6
Vivarais	<i>Bailli and juge</i>	6
Gevaudan	<i>Bailli and juge</i>	6
Béziers ⁹³⁷	<i>Viguiers and juge</i>	6
Rouergue ⁹³⁸	<i>Sénéchal</i>	12
Quercy	<i>Sénéchal</i> - based in Cahors ⁹³⁹	8
	<i>Sénéchal</i> - based in Montauban ⁹⁴⁰	6
Total:		144

⁹³⁶ ADHG 1B1901, fols. 40r^o–41v^o (May 1519, registered by the Parlement of Toulouse 03.06.1519). This act created *conseiller-rapporteurs* in Toulouse, Carcassonne, Beaucaire, Montpellier, Le Puy, Vivarais, and Gevaudan.

⁹³⁷ ADHG 1B1901, fols. 67v^o–69r^o (October 1519, registered by the Parlement of Toulouse 12.03.1520).

⁹³⁸ ADHG 1B1902, fols. 90v^o–92r^o (October 1527, registered by the Grand Conseil 05.11.1537; by the Parlement of Toulouse 22.11.1537).

⁹³⁹ ADHG 1B1902, fols. 126r^o–127r^o (April 1538, registered by the Parlement of Toulouse 23.07.1538).

⁹⁴⁰ Samuel Descorbiac, *Recueil général des édits, déclarations, arrests et réglemens notables* (Paris, 1638): an initial creation of four *conseillers-rapporteurs* (May 1543, registered in the *auditoire* of the *requêtes de l'hôtel du roi* in Paris 04.06.1543); then two further *conseillers-rapporteurs* (January 1544).

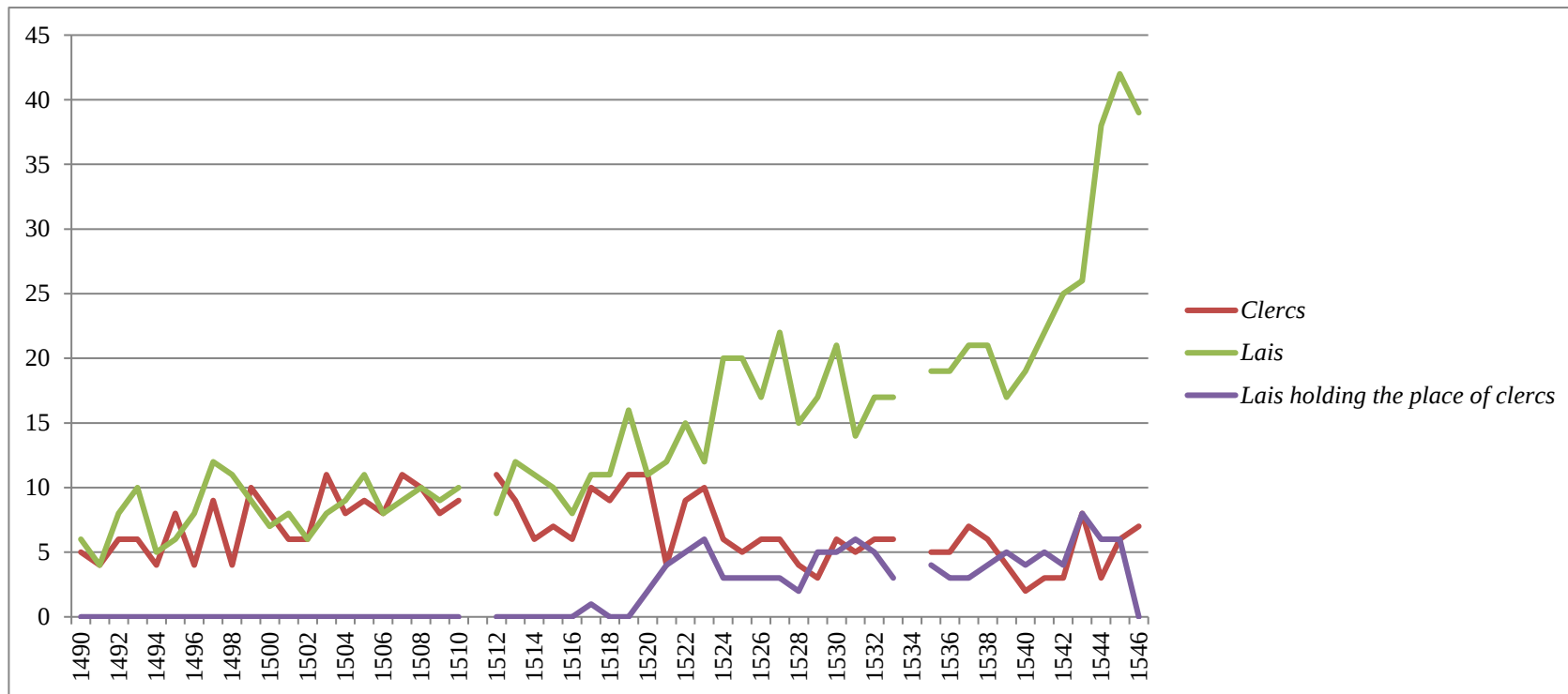
Appendix Table 6. Office vacancies in the Parlement of Toulouse.⁹⁴¹

Years	Total vacancies	Cause of vacancy		Promotion: i) internal	ii) external	Creation	Forfeiture	Unknown
		Death	Resignation					
1490-1495	17	5	2	-	1	8	-	1
1495-1500	7	6	-	-	-	-	-	1
1500-1505	11	6	1	2	2	-	-	-
1505-1510	8	5	-	1	2	-	-	-
1510-1515	6	4	2	-	-	-	-	-
1515-1520	22	8	2	3	-	9	-	-
1520-1525	17	12	2	1	-	2	-	-
1525-1530	6	-	5	-	-	-	1	-
1530-1535	8	7	1	-	-	-	-	-
1535-1540	23	6	5	4	2	5	1	-
1540-1545	36	7	1	1	2	24	1	-
Total:	161	66	21	12	9	48	3	2

⁹⁴¹ A few disclaimers must accompany this table. Each five-year span begins and ends with the judicial year, so for '1490-1495', we should read November 1490 to October 1495. As for the bulk of Chapter 3, the table concerns only the offices of *président* and *conseiller*, with only one major exception: the first and original office of *président des enquêtes* is excluded. This is because it was always an existing *clerc* councillor who held the position in our period. By 1543, however, the creation of new such presidencies suggested that it was on its way to becoming a fully-fledged office.

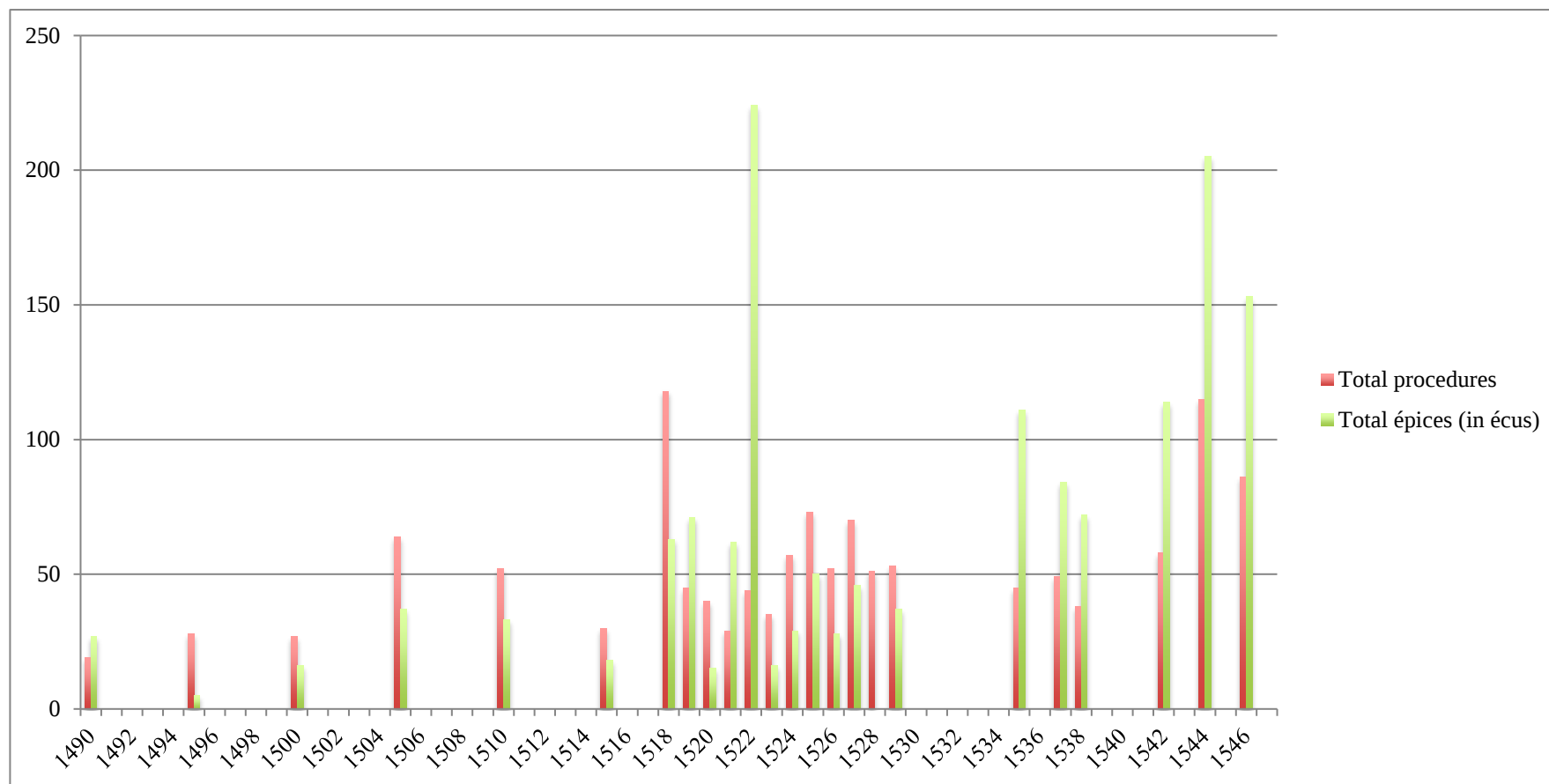
Appendix Table 7. Number of *clerc* to *lai* councillors present in the Parlement of Toulouse at the start of the judicial year.

ADHG 1B8-1B40.



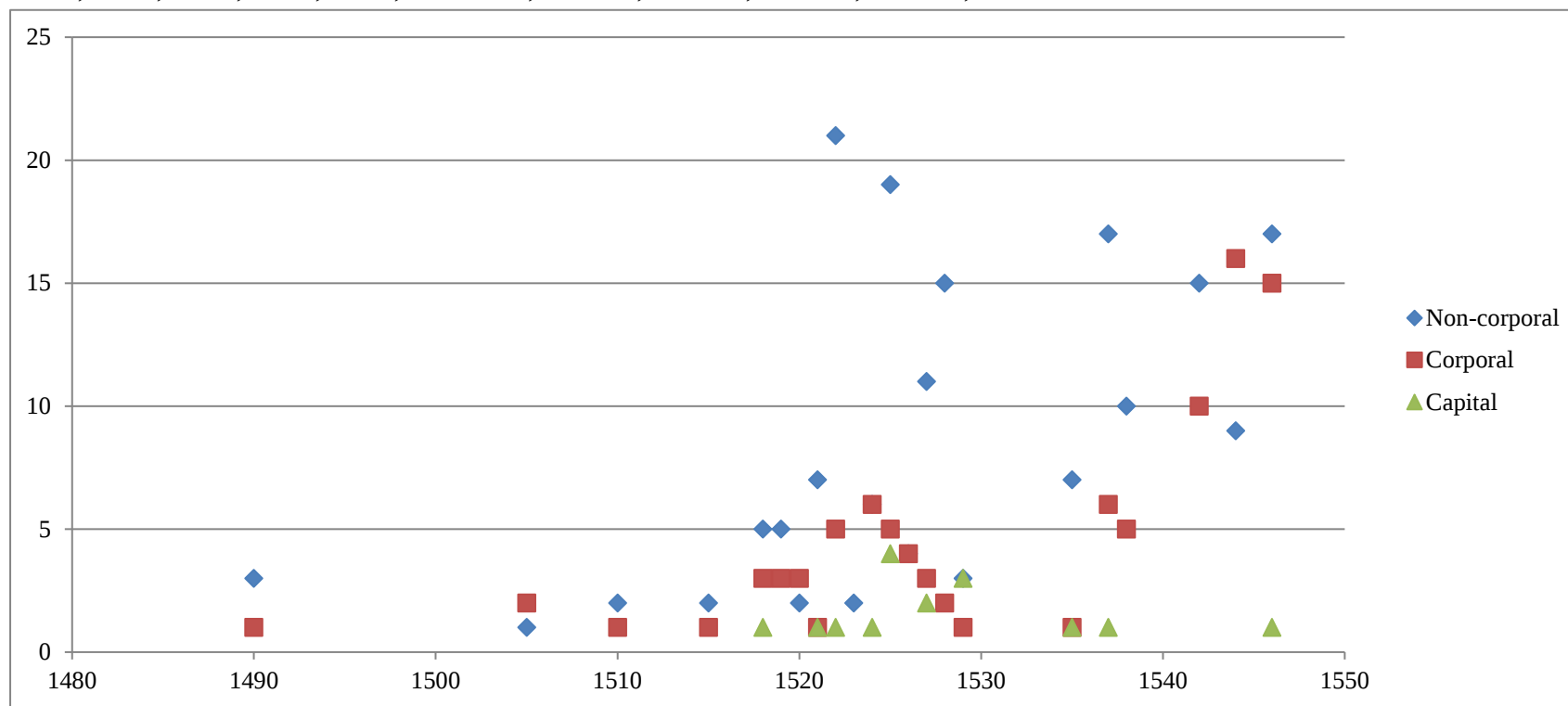
Appendix Table 8a. Number of criminal procedures and the *épices* they generated in the Parlement of Toulouse in the month of December.

ADHG 1B8, 1B10, 1B13, 1B16, 1B3356-9, 1B3361, 1B3368, 1B3370, 1B3379, MS146.



Appendix Table 8b. Sentences handed down by the Parlement of Toulouse in the month of December.⁹⁴²

ADHG 1B8, 1B10, 1B13, 1B14, 1B16, 1B3356-9, 1B3361, 1B3368, 1B3370, 1B3379, MS146.

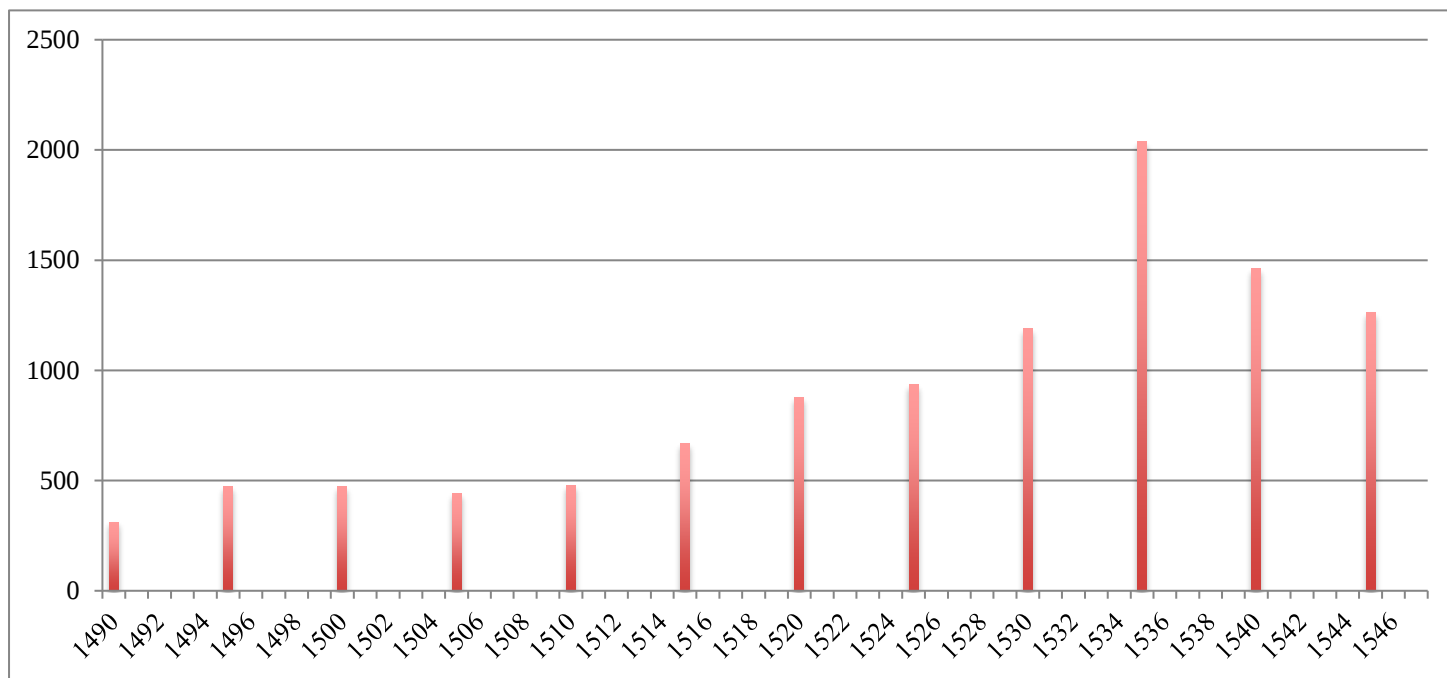


⁹⁴² Counted as non-corporal punishments were: fines, confiscations of goods, banishments, confinements to convents, *amendes honorables*, and suspensions from office. Corporal punishments included private and public beatings, the pillory, mutilation, galley sentences, and torture. Capital punishments included executions by hanging, strangulation and burning, and decapitation.

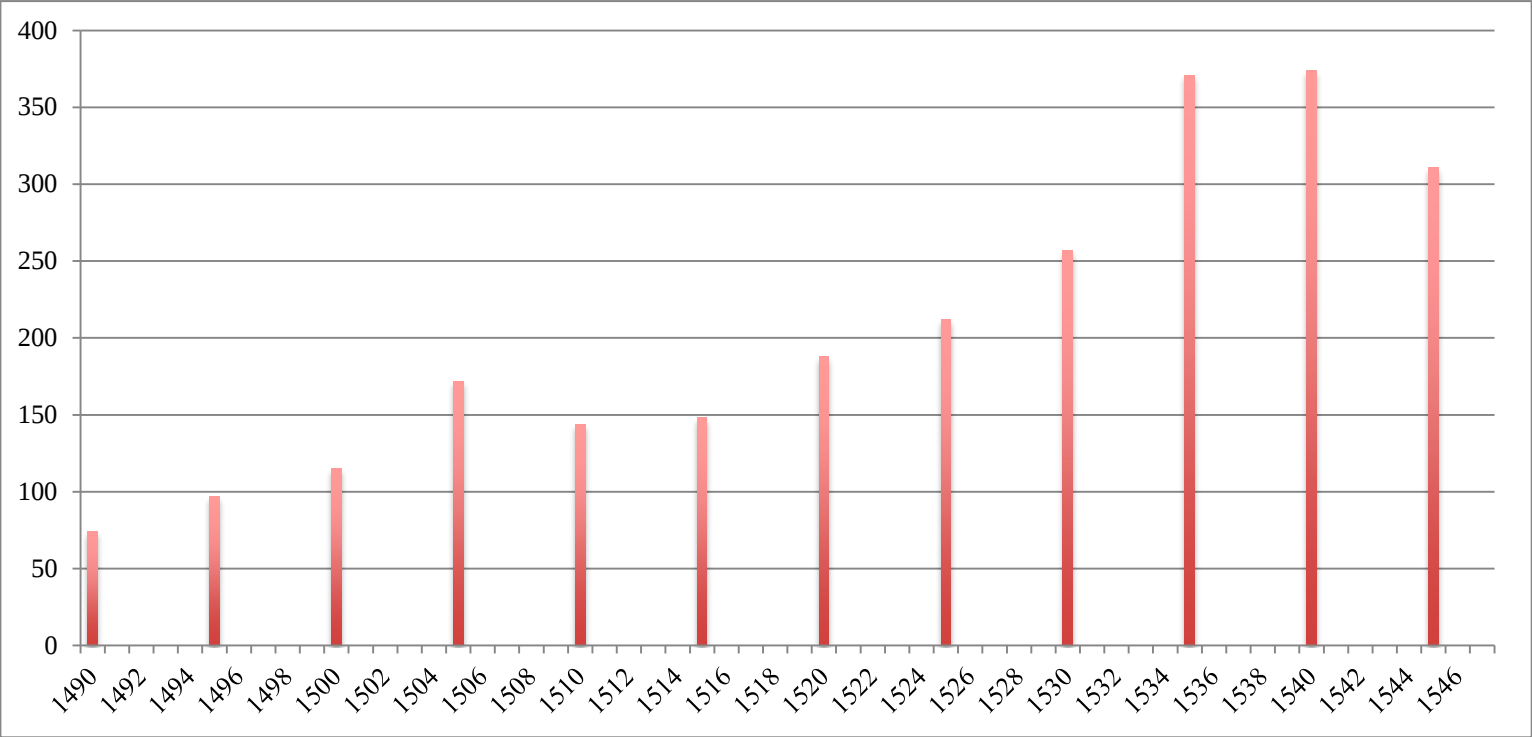
Appendix Table 9a.

i) Total *épices* in *écus* gained by the Parlement of Toulouse by taxing civil procedures between 12 November and 31 January, at five-year intervals.

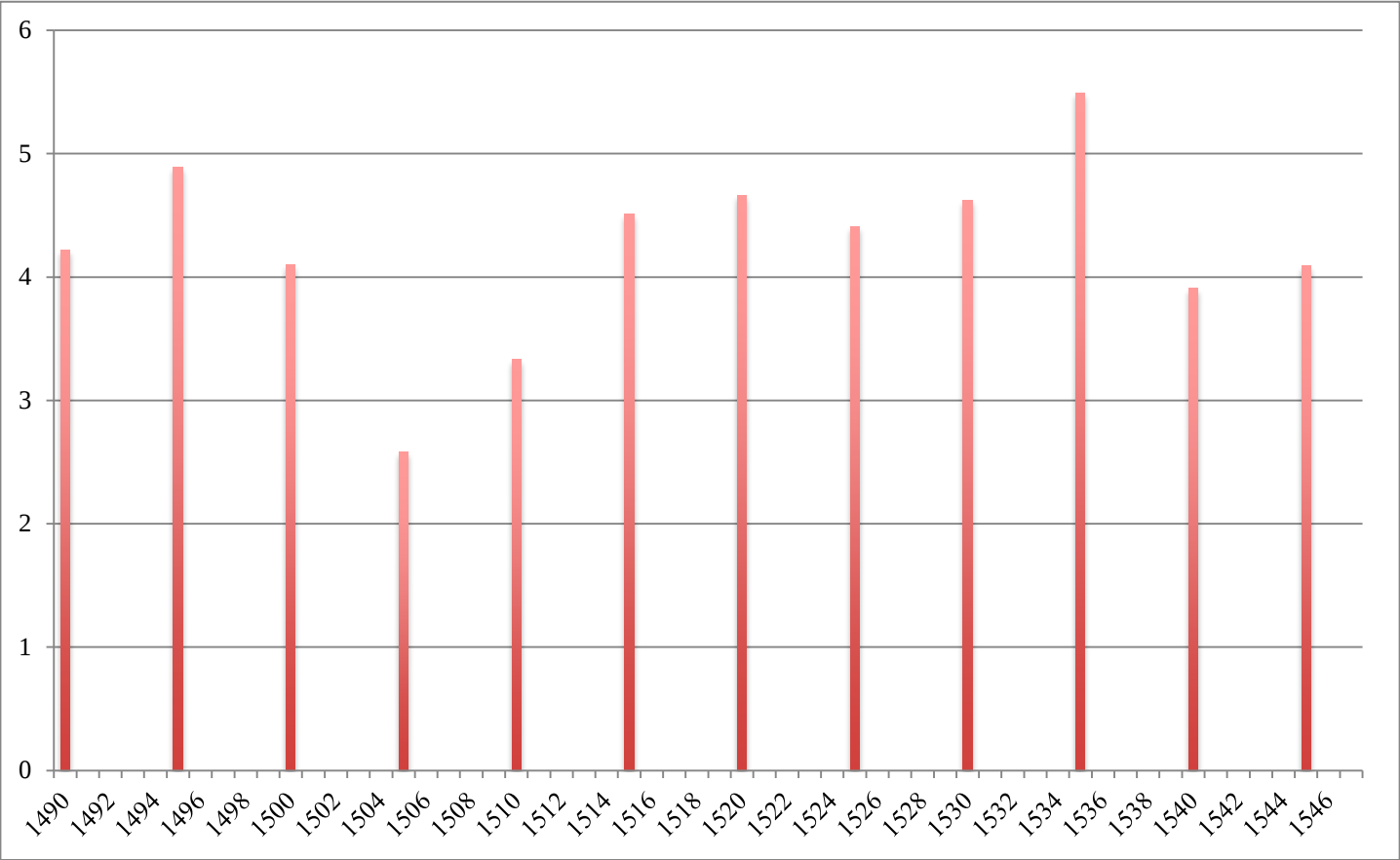
ADHG 1B8, 1B10, 1B13, 1B14, 1B16, 1B18, 1B21, 1B24, 1B29, 1B34, 1B39.



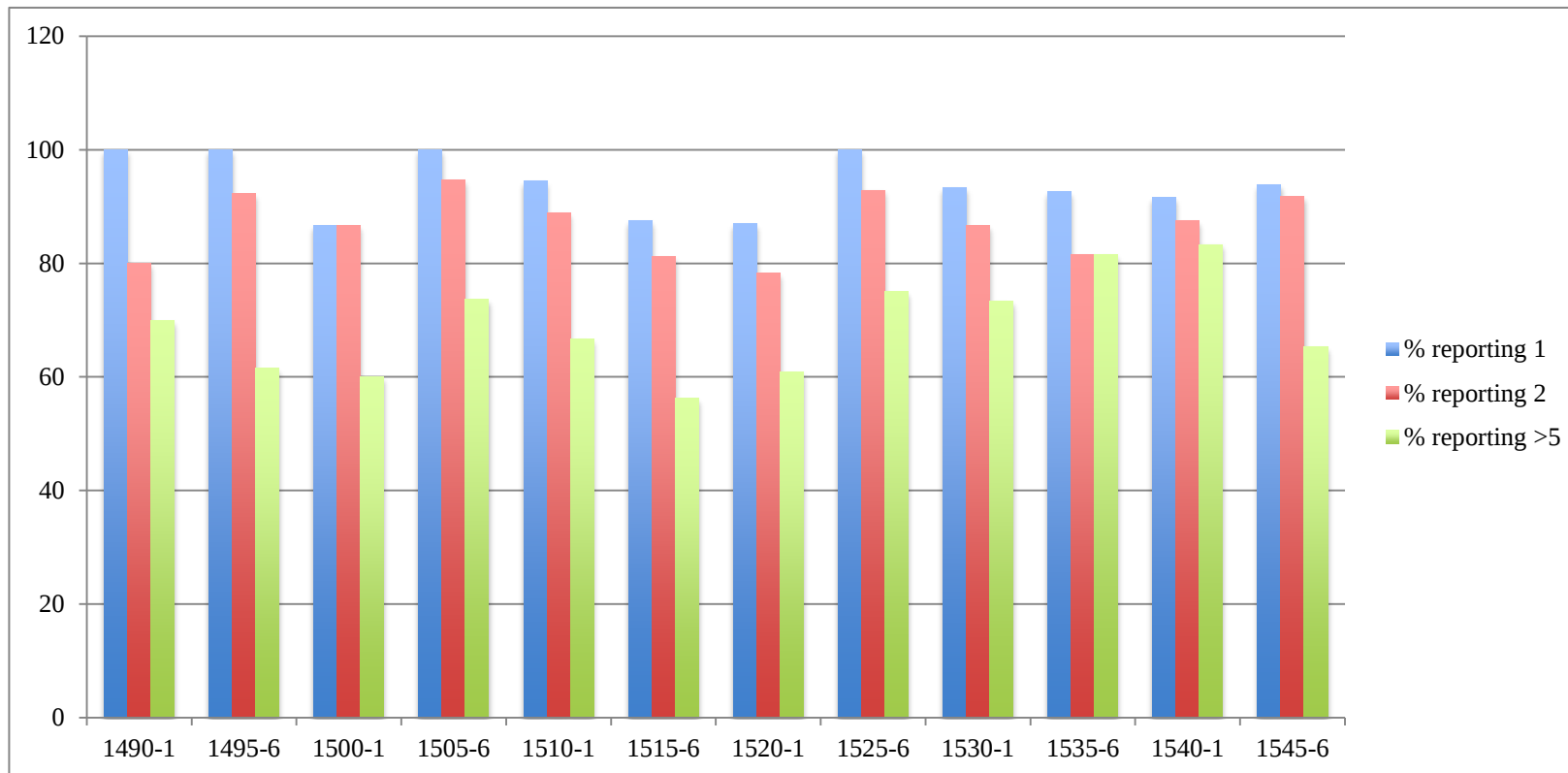
ii) Total chargeable civil procedures in the Parlement of Toulouse between 12 November and 31 January, at five-year intervals.



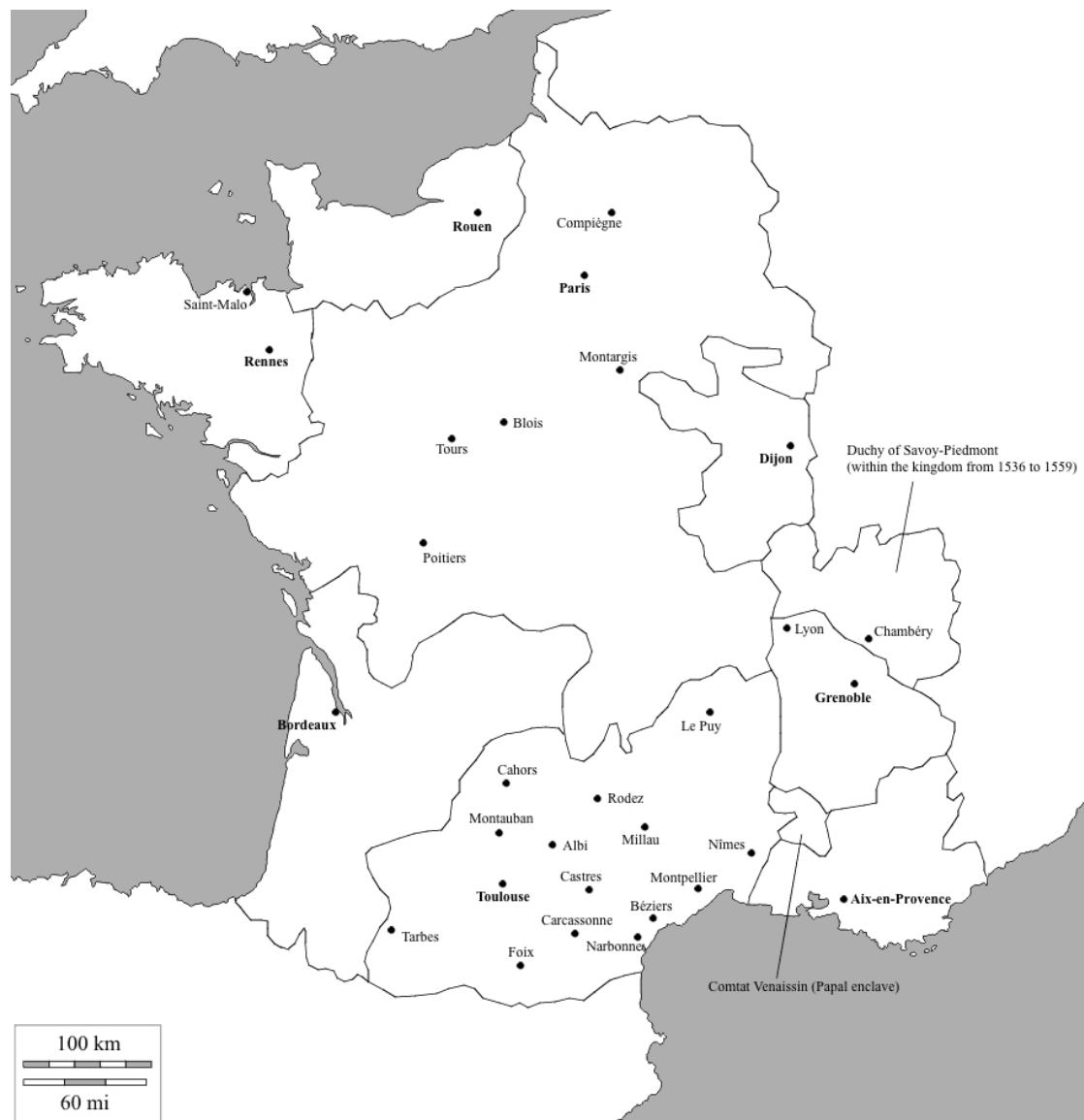
iii) Average cost in *écus* of chargeable civil procedures in the Parlement of Toulouse between 12 November and 31 January, at five-year intervals.



Appendix Table 9b. Percentage of councillors present at the start of the judicial year reporting one, two, and more than five procedures between 12 November and 31 January, at five-year intervals:

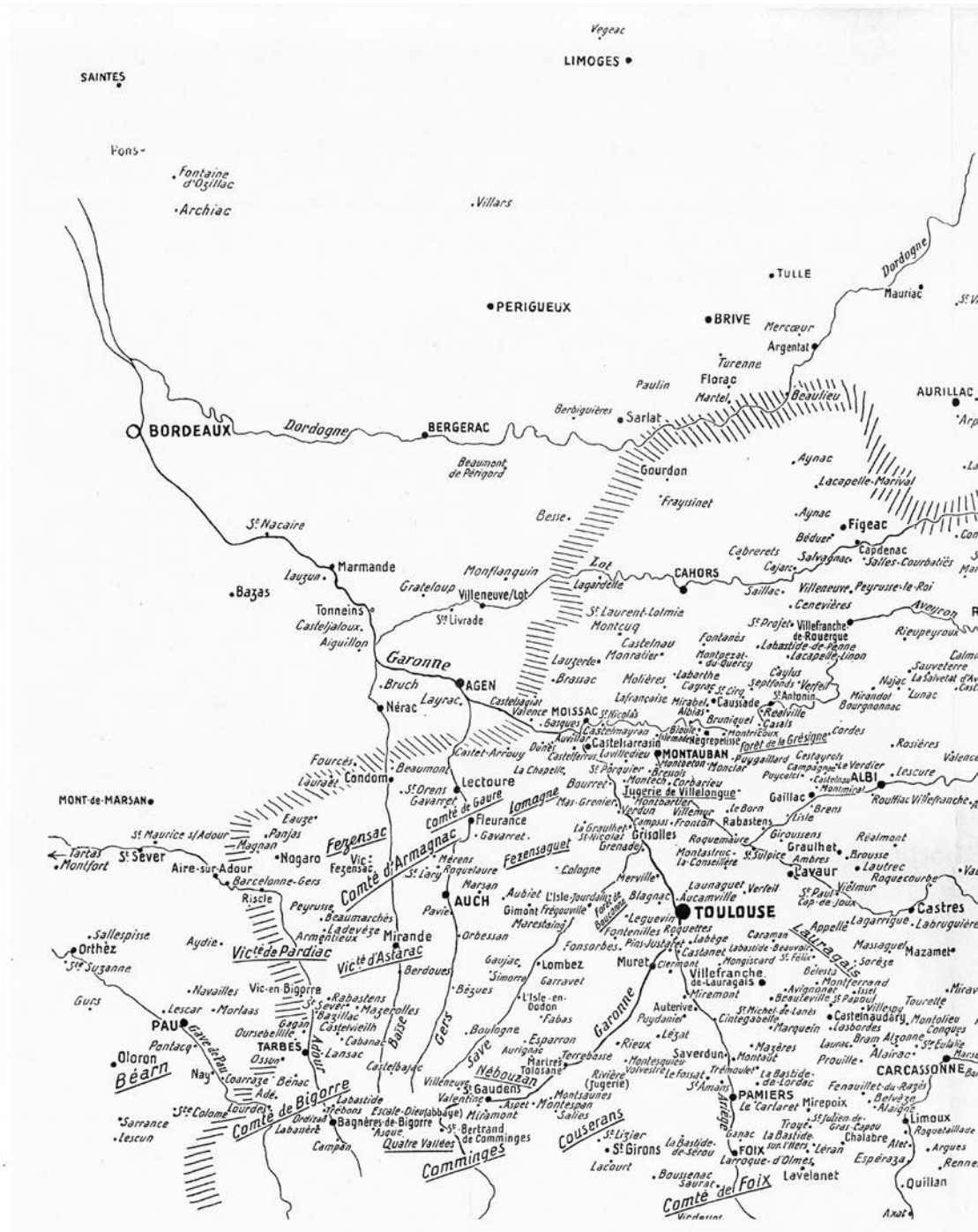


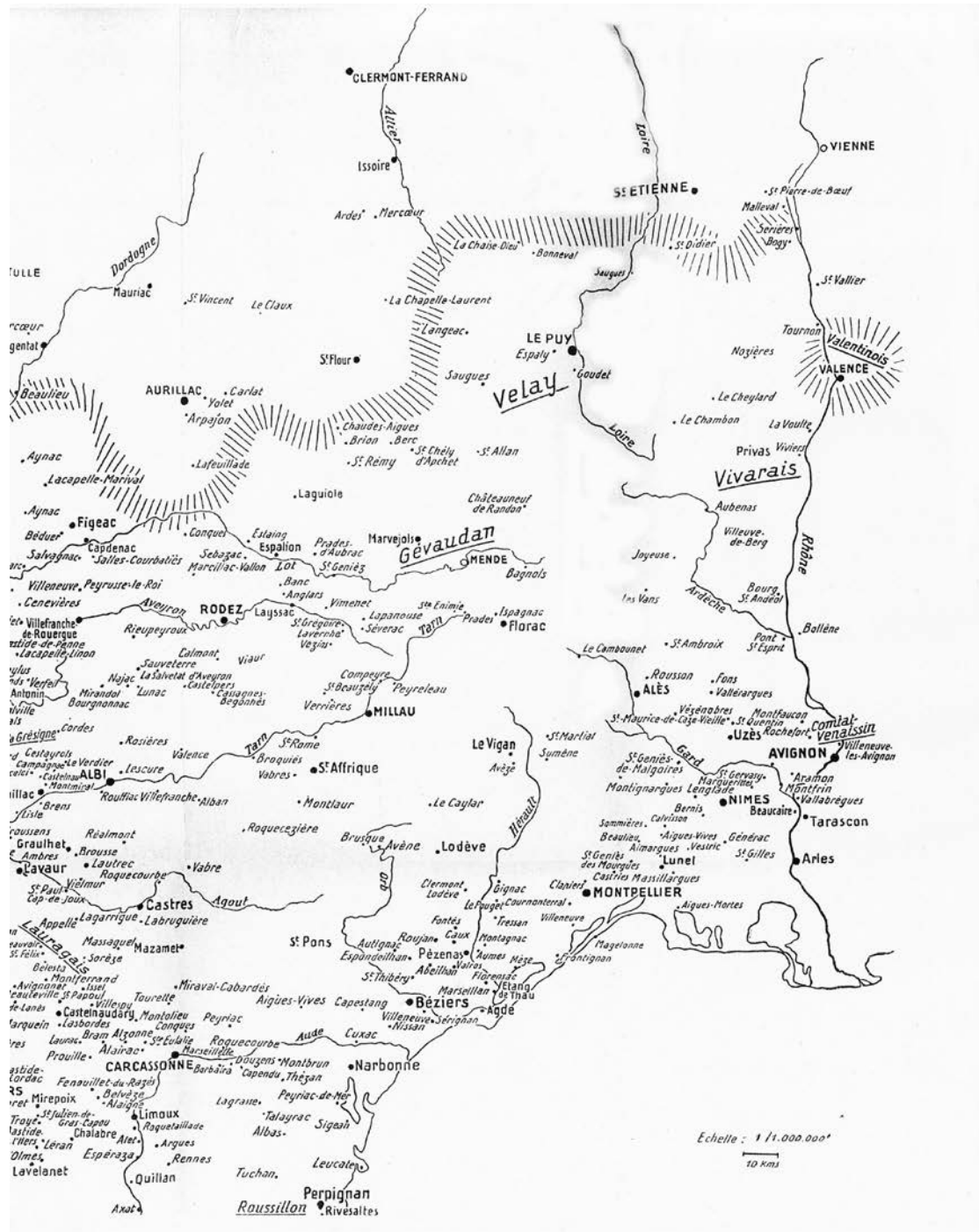
Appendix Figure 1. The kingdom of France, c.1490-1547, showing the jurisdictions of each parlement (in bold).



Appendix Figure 2. Detailed map of the jurisdiction of the Parlement of Toulouse.

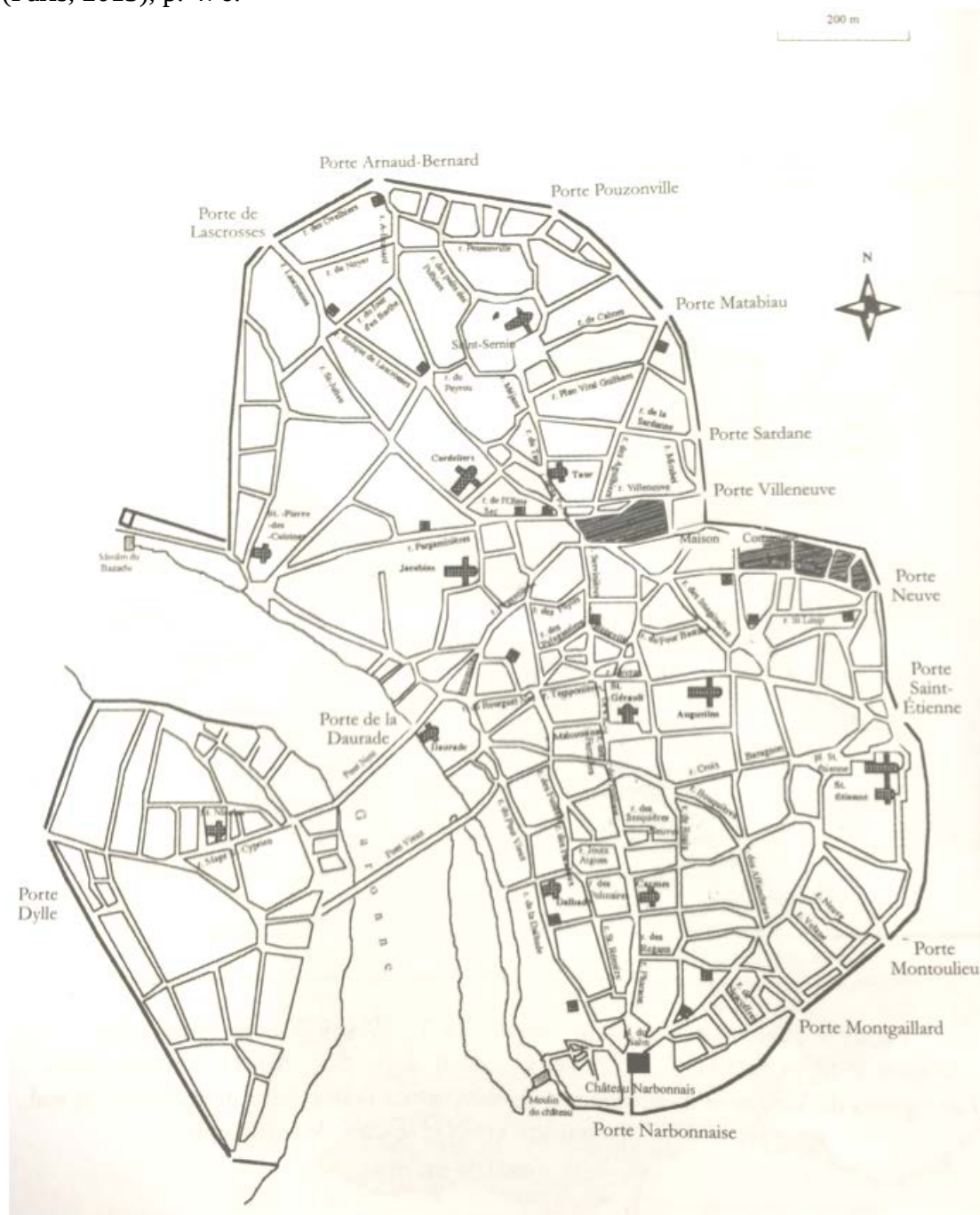
André Viala, *Le parlement de Toulouse et l'administration royale laïque: 1420-1525 environ* (Albi, 1953), vol. 1, pp. 104–105.





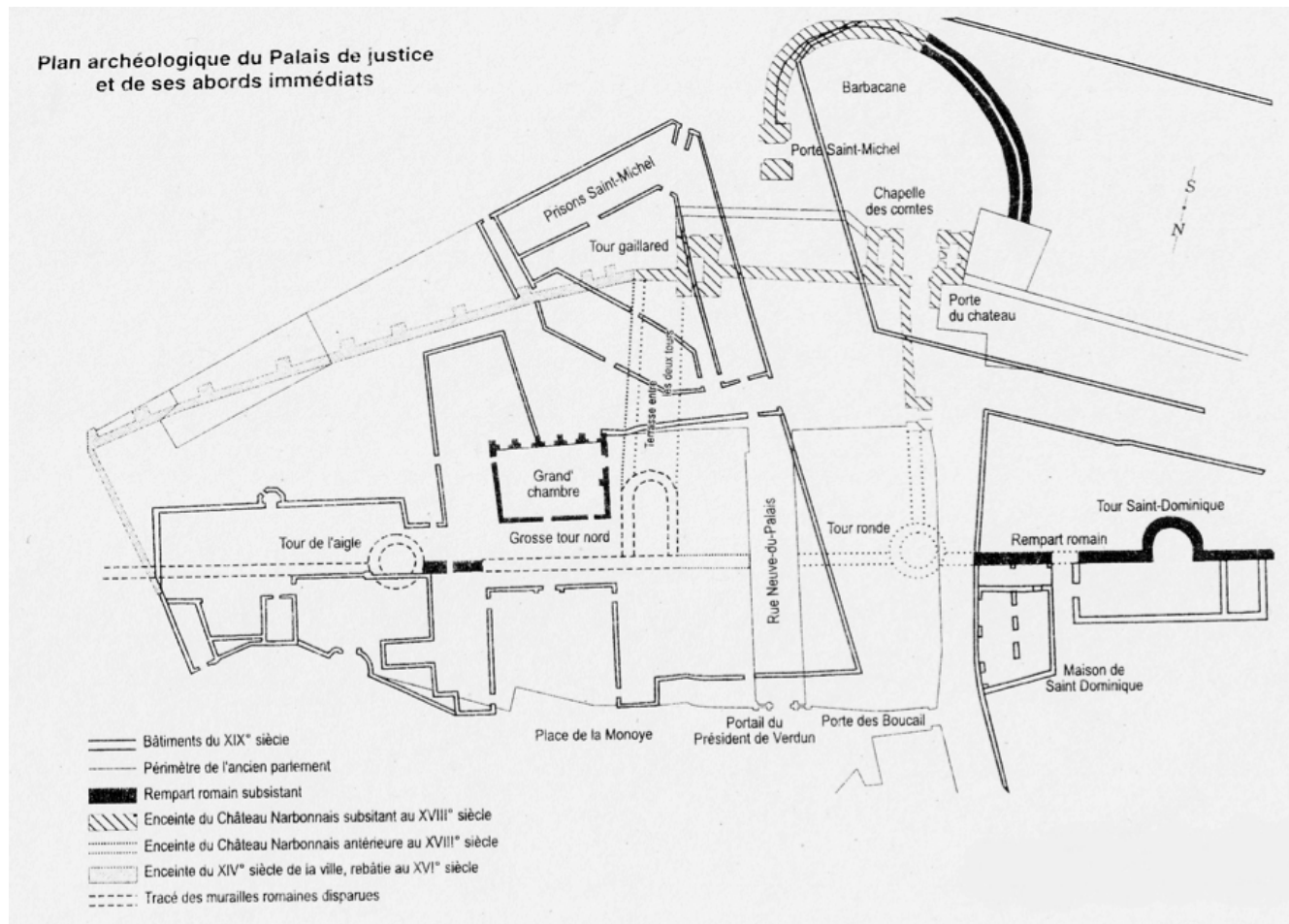
Appendix Figure 3. Map of Toulouse c.1550.

Xavier Nadrigny, *Information et opinion publique à Toulouse à la fin du moyen âge* (Paris, 2013), p. 476.



Appendix Figure 4. Archaeological map of the former Parlement of Toulouse.

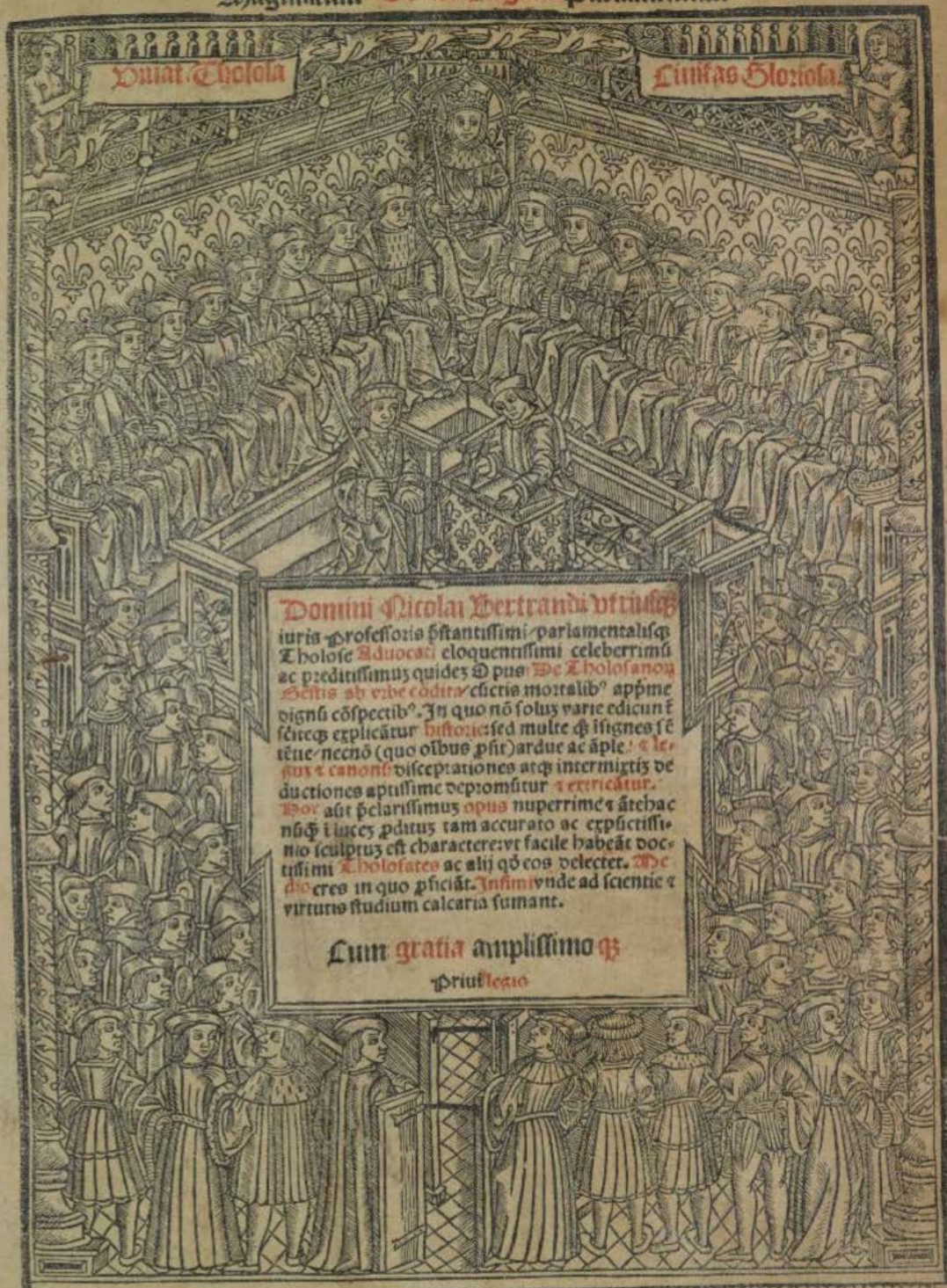
Jean Rocacher, 'Histoire des bâtiments du parlement de Toulouse' in *Les parlements de province: pouvoirs, justice et société du XV^e au XVIII^e siècle*, ed. Jacques Poumarède and Jack Thomas (Toulouse, 1996), p. 73.



Appendix Figures 5a and 5b. Illustrations of the city of Toulouse and its Parlement.

Nicolas Bertrandi, *Gesta tholosanorum* (Toulouse, 1515), p. 88v^o; title page.





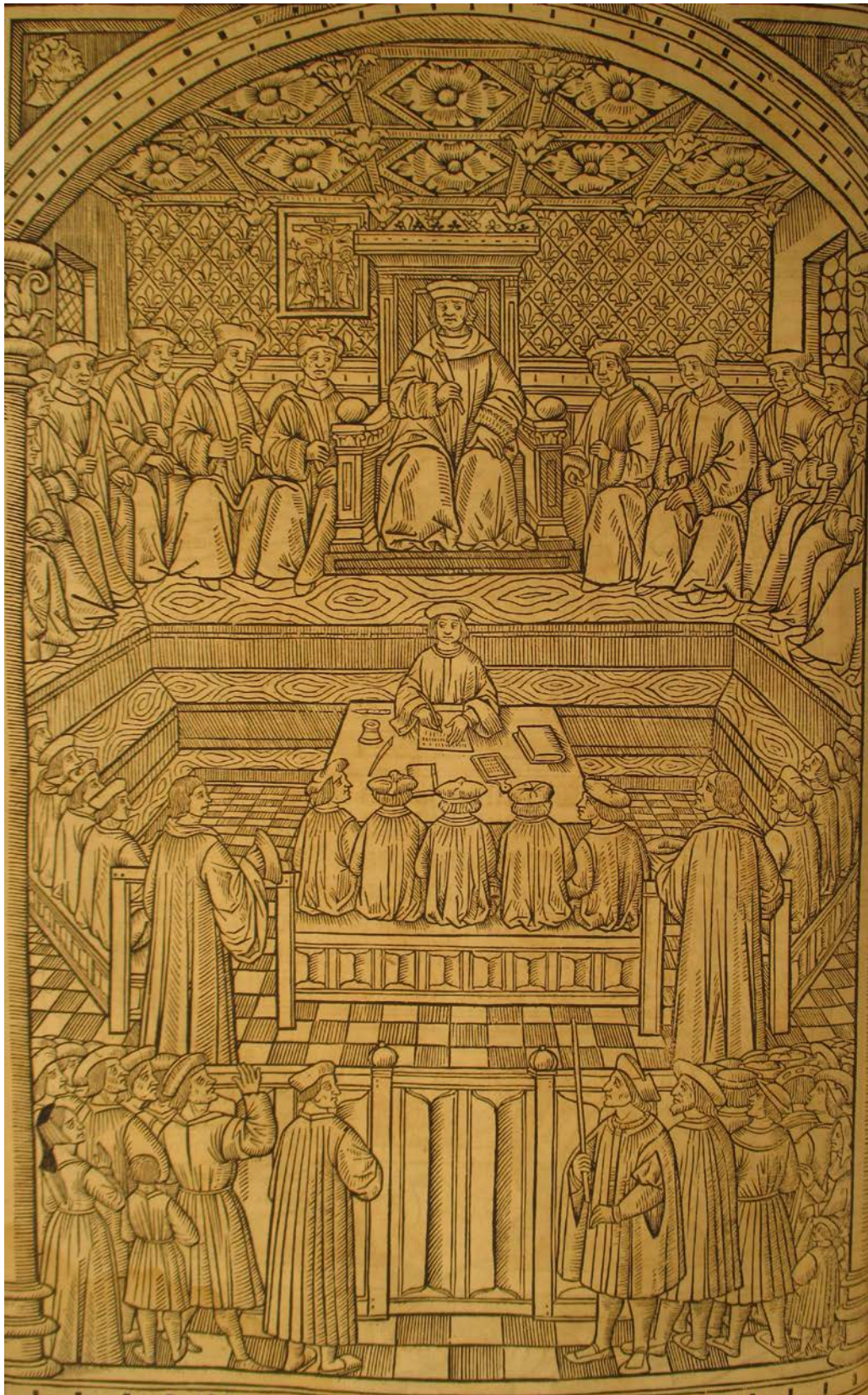
Domini Nicolai Bertrandi virtuosus
iuris professoris pstantissimi parliamentalisq;
Tholose Advocati eloquentissimi celeberrimi
ac preclatissimi quidez d. pns. **De Tholosano**
Sessis ab vrbis condita cunctis mortalib⁹ appme
dignis cōspectib⁹. In quo nō solus varie edicunt
scireq; explicatur **historia**; sed multe q; insignes sē
tēne necnō (quo oībus pfit) ardue ac āple. **le**
gum & **canonū** disceptationes atq; intermixtis de
ductiones aptissime depromūtur & extrahūtur.
Idcirco alit pclarissimus **opus** nuperrime & ātebāc
nūq; i lucez pūuz tam accurato ac exp̄ctissi
mo sculptuz est characterē: vt facile habeāt doc
tissimi **Tholosates** ac alij qd eos delectet. **De**
hoc cres in quo p̄ficiāt. Insum vnde ad scientie &
virtutis studium calcaria sumant.

Cum gratia amplissimo q;
Privilegio

Gesta Tholosanozū Edita Per Dominū Nicolaum Bertrandi.

Appendix Figure 6. Illustration of a Parlement.

Barthélemy Chasseneuz, *Catalogus gloriae mundi* (Lyon, 1529), part VII.



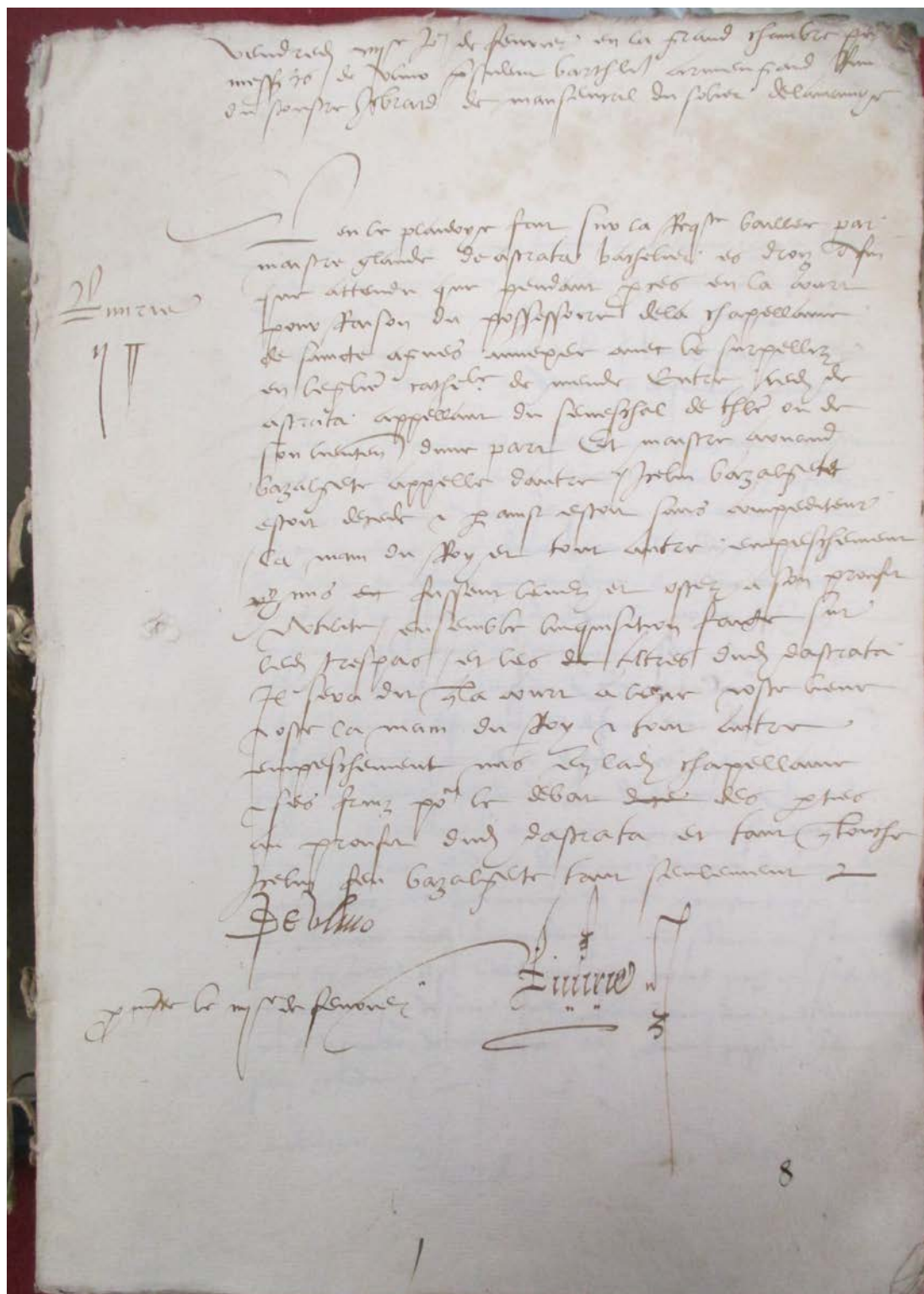
Appendix Figure 7. Illustration of a president.

François Deserps, *Recueil de la diversité des habits qui sont de présent en usage tant ès pays d'Europe, Asie, Afrique et isles sauvages* (Paris, 1567).



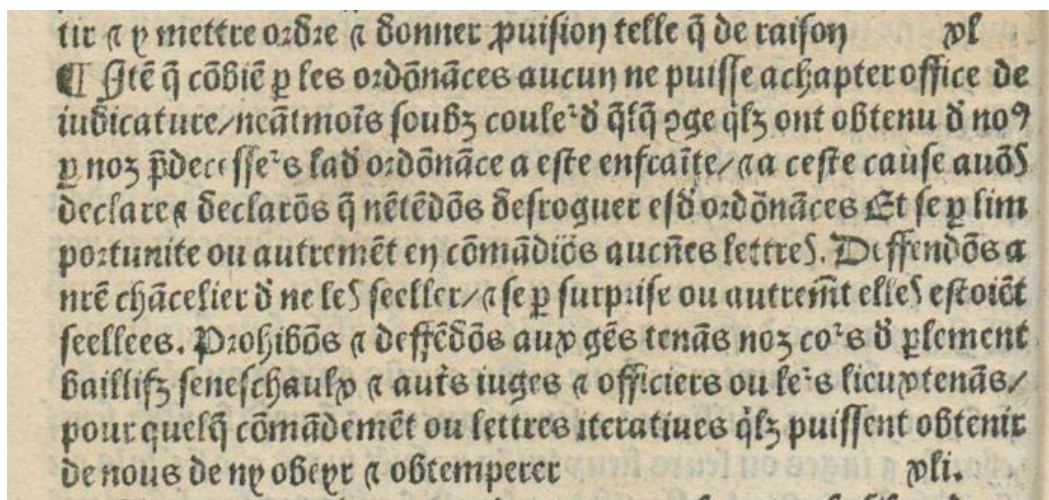
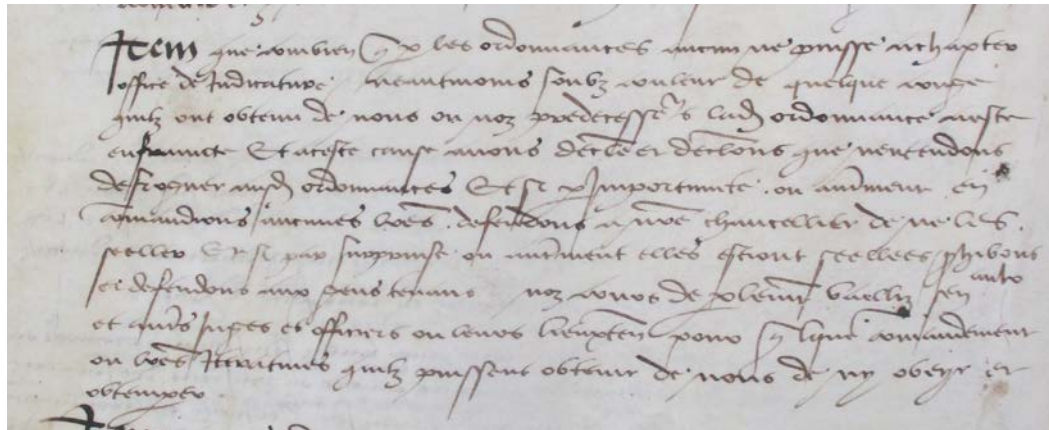
Appendix Figure 8. Original *dictum d'arrêt*.

ADHG 1B1977, fol. 8r^o (04.02.1536). Issued by the *grand' chambre* of the Parlement of Toulouse, under the presidency of Jehan de Ulmo. Councillor Jacques Rivirie reported the case, for which he was allocated 2 écus of épices (in the left-hand margin). Both the reporter and president sign the ruling.



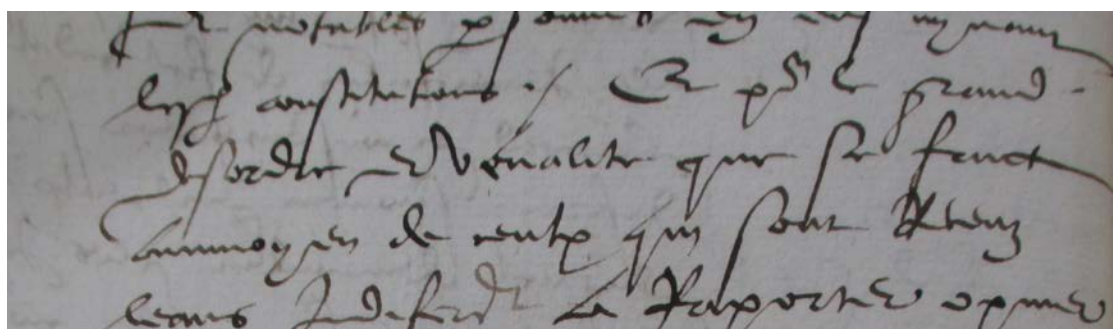
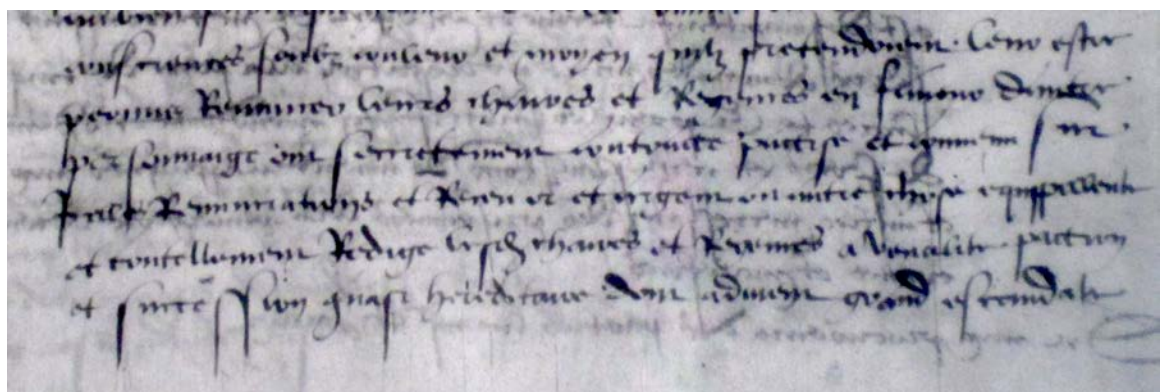
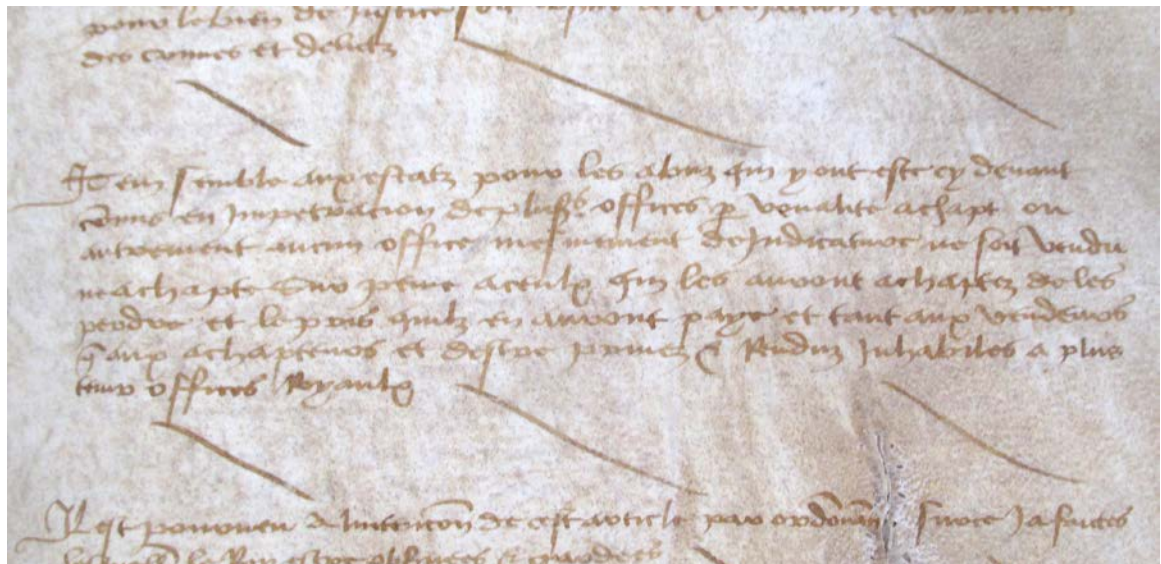
Appendix Figure 9. Article 40 against venality from the *ordonnances* of Blois (1499) in the registers of the Parlement of Toulouse and in print.

ADHG 1B1900, fol. 143v^o; *Les ordonnances royaulx* (Paris, 1501-1506), Sig. Bi v^o.

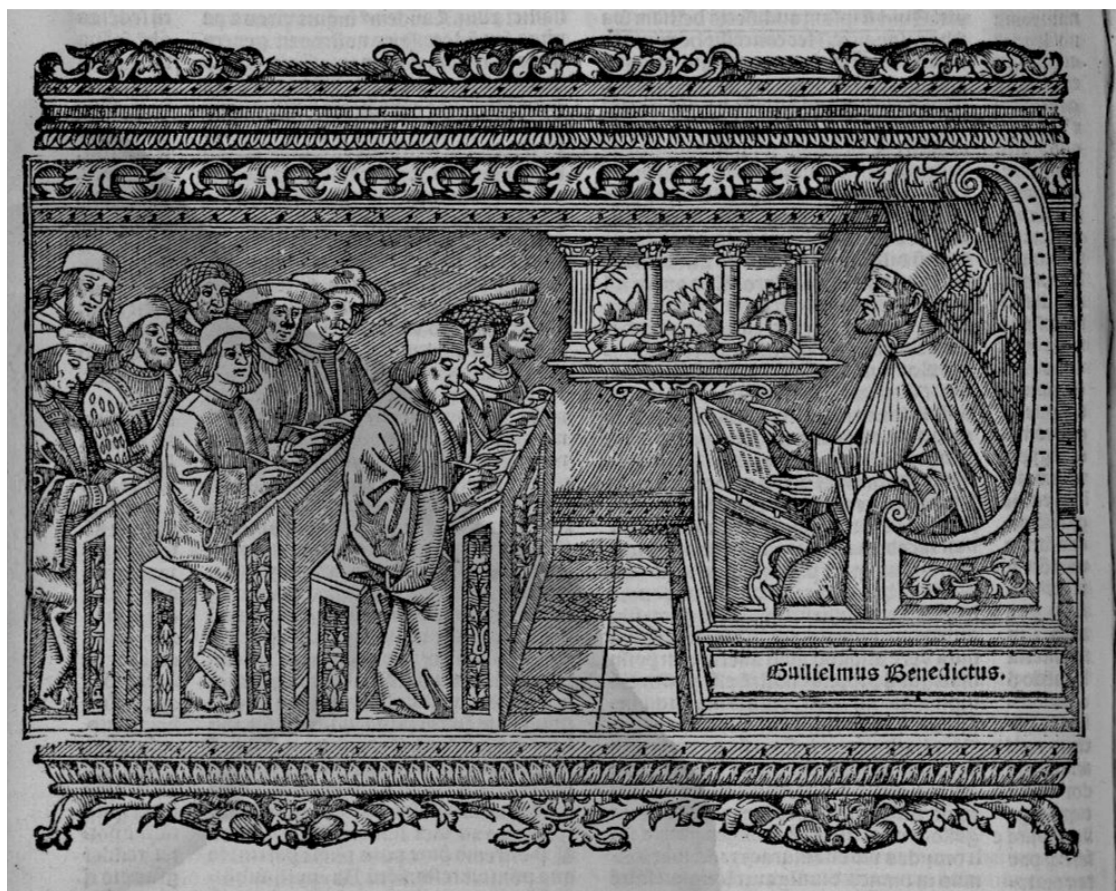


Appendix Figure 11. Examples of ‘venality’ in the records of the Parlement of Toulouse.

ADHG 1B1900, fol. 70r^o; 1B30, fols. 352v^o–353r^o (04.07.1537); 1B2379 (17.08.1547).



Appendix Figure 12. Illustration of Guillaume Benoît teaching.
Guillaume Benoît, *Repetitio admodum solennis c. Raynutius* (Lyon, 1529/30), p. 4v^o.



Appendix Figure 13. Louis IX, celebrated for prohibiting venality.

Nicole Gilles, *Les tres elegantes & copieuses annales* (Paris, 1547), p. ci r^o.



Appendix Figure 14. Disgraced president Jehan de Ulmo's *hôtel*.





Appendix Figure 15. 'Emblem' of officers' punishment.

Guillaume de La Perrière, *Le theatre des bons engins* (Lyon, 1545), Sig. D r^o.

E M E L E M E X L.

*Officiers larrons, fault mettre en
roue.*



LE grand Larron tasche d'auoir office,
A celle fin, que grandz & petis ronge:
Tandis qu'il prend soubz couleur de Iustice
De le punir, le Prince pense & songe:
Puis tout soubdain, vient à serrer l'esponge
En luy ostant le bien qu'il a pillé.
Le Larron est du païs exilé,
Decapité, ou, peult estre, pendu,
Trop peu seroit, qu'il fut essorillé:
Car sur la roue il doit estre estendu.

D.

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1B14 (1508-1511).
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1B21 (1525-1527).
1B22 (1527-1529).
1B23 (1529-1530).
1B24 (1530-1531).
1B25 (1531-1532).
1B26 (1532-1533).
1B27 (1533-1534).
1B28 (1534-1535).
1B29 (1535-1536).
1B30 (1536-1537).
1B31 (1537-1538).
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