

# *Why did Chambres de Justice disappear in 18th-century France? Fiscal profit and institutional change, 1688-1788*

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# Why did chambres de justice disappear in 18th century France?

## Financial profit, morality and institutional change

Joël Félix

'I cannot lend you more than fifty Thousand Dariques of Gold, for really the Customs of the Empire have brought me in but three Hundred Thousand this Year. Babouc enquired who the Man was, that complained of getting so little'.

Voltaire, *Babouc, or the World as it goes* (1754)<sup>1</sup>

'It is a matter of fact, that we cannot exclaim with Babouc, in one of Voltaire's tales, *that there are in Persepolis, forty plebeian kings, who hold the empire of Persia under lease, and who give a trifle for the monarch*'.

J. Necker, *A treatise on the administration of the finances of France* (1784)<sup>2</sup>

Criticism of excessive financial profit, in particular of benefits gained in the management of government finances, was a leitmotiv in early modern Europe. This was especially the case in France, and the result of two main factors. First, with the accession of the Bourbons, the kingdom of France became the first fiscal power until 1789, in volume if not per capita<sup>3</sup>. Second, as *financier* Joseph Marquet de Bourgade reckoned in 1768, the very existence of the *corps de la finance*, i.e. a corporate body of financiers who managed the king's finance, was a distinctive French phenomenon and, according to him, a constitutive element

<sup>1</sup> Dublin, H. Saunders, 1754, p. 17.

<sup>2</sup> London, 1787, vol. 1, p. 98.

<sup>3</sup> For comparative data on the resources of European fiscal powers in 1789 see Joël Félix, 'Finances', in William Doyle (ed.), *The Oxford Handbook of the Old Regime*, Oxford University Press, Oxford, 2012, pp. 75-92.

of the Bourbon system of government. Indeed, by that time, leading Europe countries, like England since the Civil War, followed by Spain and the Netherlands in the 1740s, were progressively substituting a system of direct administration of fiscal revenue for the older habit of privatising tax collection<sup>4</sup>.

Paradoxically, while fiscal needs promoted structural reforms in Europe, the existence of substantial resources in France seems to have strengthened the monopoly of individual financiers or private companies to harvest the wealth of the kingdom on behalf of the king. In this respect, Marquet de Bourgade did not consider his comrades as predators. On the contrary, he regarded the *corps de la finance* as forming an intermediary body between the Crown and the king's subjects. To him, financial intermediation was essentially beneficial to the kingdom because financiers were able to inspire (or deter) confidence in the public when the government was looking for money. In other words, Bourgade saw in the financiers a fourth power, sitting next to the executive, legislative and judiciary powers, the role of which was to act as a check upon the relationship between the king, his creditors and the taxpayers<sup>5</sup>.

Attributing such moral qualities to Old Regime finance and financiers may seem like an oxymoron. After all, Marquet de Bourgade, who was very wealthy, did not hesitate to ask for the government's help to rescue the affairs of his profligate brother, Marquet de Grèves, a *fermier général* (tax farmer) who managed to ruin himself in erecting lavish buildings. In the same family, his nephew Marquet de Peyre, of whom Bourgade supervised the training in Amsterdam and for whom he bought an office of tax collector, was one of the *receveurs généraux des finances* who went bankrupt in 1788<sup>6</sup>. Others, like Antoine de Lavoisier, the famous chemist who also happened to be a tax farmer, were no less ruthless when it came to defending their financial profit. Under Louis XVI, Lavoisier was deeply critical of government policy to cut down on administrative costs tax farmers were allowed to retain on payment of their lease to the king. While an ordinary family of peasants and a well-established craftsman would earn about 500 and 5,000 *livres tournois* (lt.) per year respectively, Lavoisier found that 50,020 lt. was 'not excessive for the maintenance of his house, the payment to his secretaries and clerks, the

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<sup>4</sup> D'Maris Coffman, *Excise taxation and the origins of the public debt*, Palgrave McMillan, 2013. See the relevant chapters in this volume by Agustin Gonzales-Enciso and Toon Kerkhoff.

<sup>5</sup> Archives nationales [AN], 144AP 102, pièce 106, *Mémoire* (juin 1769).

<sup>6</sup> Archives des Affaires étrangères, Mémoires et documents France, vol. ...

education and the subsistence of his family', notwithstanding the eventual distribution of 1,200,000 lt. in benefits.<sup>7</sup>

Arguably, the needs and lifestyles of the financiers were remote from those of the ordinary king's subjects. Conspicuous display of their wealth impacted on society in many ways. In the 18th century, it generated a lively dispute among French intellectuals who argued whether luxury contributed to the progress of civilisation or its corruption, thereby paving the way to economic reflections about the formation of wealth<sup>8</sup>. In general, however, financiers' wealth raised bitter debates about wrongdoings in the social fabric. The average value of the financiers' estate at death ranged between 1.5 and 3 million in the 1750s. This was about 1 percent of the king's annual tax revenue. Even if the fortunes of the most powerful aristocrats and successful financiers and bankers were even larger, Old Regime financiers were probably, and in proportion to the 2016 budget, as affluent as today's 500 richest French tycoons<sup>9</sup>.

True, there was a qualitative difference in the wealth of these magnates. Although it is very difficult to assess the origins and evolution of their respective estates, in the main the fortune of the financiers came less from economic investment than from handling of the king's monies, or both<sup>10</sup>. When it occurred, merging of economic with fiscal activities usually ended up in the creation of financial dynasties. Such a perspective was profoundly disturbing to Joseph de Laborde, an international merchant who praised himself for arming dozens of ships full of goods which navigated the oceans. During the Seven Years' War, Laborde's credit and international network of correspondents naturally made him the ideal candidate to take over from the older Jean Paris de Montmartel, keeper of the Royal treasury, the role of *banquier de la cour*

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<sup>7</sup> Calculs des produits de différents baux de la Ferme générale avec des détails très particuliers sur les frais de régie du bail de Laurent David (1774), in J.B. Dumas, E. Grimaux, F.A. Fouquet (eds.), *Œuvres de Lavoisier*, Imprimerie nationale, Paris, 1862-1893, 6 vol., vol 6, p. 158.

<sup>8</sup> John Shovlin, *The Political Economy of Virtue. Luxury, Patriotism, and the Origins of the French Revolution*, Cornell University Press, Ithaca, NY and London, 2006.

<sup>9</sup> Thierry Clayers, *Dictionnaire biographique des financiers en France au XVIIIe siècle*, Paris, éditions SPM, 3<sup>e</sup> édition complétée, 2011, 2 vol. Julien Broch, 'La moralisation de la vie publique sous l'ancien régime. La difficile lutte contre le péculat et la concussion aux XVI<sup>e</sup>, XVII<sup>e</sup> et XVIII<sup>e</sup> siècles, *Revue historique de droit français et étranger*, Vol. 93, No.1 (janvier-mars 2015), pp. 65-101.

<sup>10</sup> On their investment in economic ventures see Guy Chaussinand-Nogaret, *Les financiers de Languedoc au XVII<sup>e</sup> siècle*, Colin, Paris, 1970, and on the associated risks of bankruptcy see Didier Ozanam, *Claude Baudard de Saint-James : trésorier général de la marine et brasseur d'affaires (1738-1787)*, Librairie Droz, Genève, 1969.

(court banker) for remitting money abroad and cutting on foreign exchange costs. Yet the merchant's arm had to be seriously twisted before he succumbed to Choiseul's later demand that he also become one of the king's tax farmers<sup>11</sup>. This unease shows the extent to which the enduring image of the financiers as parasites who fed on the very blood of the kingdom was further reinforced in an age of growth which went in tandem with the development of a new political economy, namely economic liberalism.

Up until the early 18<sup>th</sup> century, public opinion and pamphlets regularly petitioned the king to set up extraordinary courts, known as *chambres de justice*, to try the financiers and press those leeches and sponges who were accused of sucking out the blood of his subjects. Historians have showed that these jurisdictions served various purposes which were moral and financial as well as political. In wartime or as peace resumed, the call for *chambres de justice* answered public outcry for social justice; more pragmatically, they were used by governments to help balance the budget by recouping money paid to financiers during the war; finally trials against moneylenders were an opportunity for the king to assert his authority as a judge and to promote the image of a father for his people. Whether *chambres de justice* were just or not, they were tools which helped the kingdom come to terms with the impact of warfare on the body politic, both by settling accounts with the financiers and also by whitewashing their remaining profits. In this process, however, the indictment of a few financiers convicted of fraud and embezzlement, together with the restitutions demanded from almost all of them, reinforced the popular view that, one way or another, that they were public thieves<sup>12</sup>.

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<sup>11</sup> Yves Durand, 'Mémoires de Jean-Joseph de Laborde, fermier général et banquier de la cour', *Annuaire-Bulletin de la Société de l'Histoire de France, Années 1968-1969*, Paris, 1971, pp. 75-162.

<sup>12</sup> On *chambres de justice* see in particular the important discussion by Daniel Dessert, *Argent, Pouvoir et Société au Grand Siècle*, Fayard, Paris, 1984; John Francis Bosher, 'Chambres de justice in the French Monarchy', in J.F. Bosher (ed.), *French government and society 1500-1850 : essays in memory of Alfred Cobban*, Burns & Oates, 1973; Erik Henry Goldner, *Public Thieves: French Financiers, Corruption, and the Public in the Chamber of Justice of 1716*, PhD, Columbia University, 2008, and 'Corruption on Trial. Money, Power, and Punishment in France's Chambre de Justice of 1716', *Crime, Histoire & Sociétés/Crime, History & Societies*, 17.1 (2013), pp. 5-28; Françoise Bayard, 'Les Chambres de Justice de la première moitié du XVIIe siècle', *Cahiers d'Histoire*, 19.2 (1974), pp. 121-140 ; Vincent J. Pitts, *Embezzlement and High Treason in Louis XIV's France. The Trial of Nicolas Fouquet*, Johns Hopkins University Press, Baltimore, 2015.

A vexing problem, which has been identified by historians but not fully explored, is how to account for the disappearance of *chambres de justice* after 1716. Since the habit of blaming financial profit does not seem to have recessed thereafter, one is poised to evoke the impact of institutional change, in particular the development of a financial market in bonds, including the creation of the Paris Bourse in 1723, and increasing reliance on public loans subscribed by bankers rather than sale of offices (venality) by *traitants* and short-term loans managed and sold by the financiers. Such views, however, are at odds with the general interpretation of the fiscal crisis of 1787 and the collapse of the Absolute Monarchy in 1789 which are generally attributed to failure to reform royal institutions, notably to curb financial profit by effective administrative controls<sup>13</sup>. One way of resolving this apparent conundrum might be to identify qualitative and quantitative changes, which did not radically transform the fiscal system but altered the ways in which the king dealt with his financiers in response to specific pressures. In other words, the *chambres de justice* might be considered as one among the various tools monarchs used or devised, according to circumstances, to address financial and political constraints.

To test this hypothesis, this chapter proposes to examine the extent to which contractual agreements between the government and the financiers impacted on their profits under the Old Regime. Inasmuch as the term financiers was generic, i.e. applicable to all the individuals involved in the handling of the king's monies, the scope of this enquiry has to be limited. Focus will be on the *Ferme générale*, i.e. the main fiscal agency with responsibility for the collection of indirect taxes (excise duties and consumption taxes) on behalf of the French king. One reason for this choice is availability of primary sources. As is well known, the fiscal archives of the French monarchy have been almost totally destroyed, as well as the papers of individual financiers and private companies which handled the king's revenue and expenditure. By chance, accidental and systematic destructions of fiscal data have spared some copies of crucial documents which, when pieced together, help revisit the secondary literature and allow new insights into the broad question of the role of the financiers in the last century of Bourbon power. This chapter is divided into four parts. The

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<sup>13</sup> John Francis Bosher, *French finances, 1770-1795: from business to bureaucracy*, Cambridge University Press, 1970. Marie-Laure Legay, *La Banqueroute de l'Etat royal : la gestion des finances publiques de Colbert à la Révolution*, Editions de l'EHESS, Paris, 2011. Eugen Nelson White, 'Was there a solution to the Ancien Régime's financial dilemma?', *The Journal of Economic History* 49.3 (1989), pp/ 545-568.

first part will briefly introduce the reader to the French system of tax collection. The second part will examine the impact of war on the relationship between ministers and financiers under Louis XIV. The third part will focus on the profits of the tax farmers under Louis XV and the last part will survey the reforms introduced from the 1750s to maximise tax revenue and monitor fiscal profit.

## 1. The system of indirect tax collection.

Throughout the 18<sup>th</sup> century, a debate raged about the advantages and disadvantages of the two possible methods available to the government for collection of indirect taxes: namely the *ferme* or the *régie*. In the *régie* system (direct administration), the collection of taxes was handed out to *régisseurs* who received a salary for their services, and also might be incentivised via bonuses for meeting targets (*régie intéressée*). In the *ferme* system (tax farm), the king leased out the collection of taxes for a number of years (normally six) and for a set annual price. In this configuration, the tax farmers received a salary for their services to the king. But their main incentive was the clause which allowed them to retain (and distribute among themselves) the difference between the lease price to be paid to the king and the actual taxes levied on the taxpayers. In this type of contract, the perspective of profits was offset by the risk of losses, especially economic downturn. For this reason, the lease agreed between the king and the tax farmers normally included two prices, one for peacetime and another in case of war, to take into account the impact of embargoes and higher tax rates.

A few years before Montesquieu put the blame on tax farms in his famous *De L'Esprit des Lois* (1749), a sieur Malezieu had already composed a quite impressive history of the *fermes du roi* (1746), where he argued that the state, i.e. the king and the subjects, was always on the losing side when government leased taxes. For, Malezieu wrote, either the tax farmers reaped off the benefits of economic growth, or they asked for, and obtained, compensations from the king when tax yield did not match profit expectations. To resolve this problem, Malezieu proposed two solutions: increase the duration of the lease to 12 years (to hedge against risk) or suppress the *ferme* and replace it with a *régie*. The first proposition was clearly unworkable. This is not so much because the evolution of the economy could make things unbearable for any of the parties. Simply, tax farmers would not invest in a company for such a long period of time as they would not be able to finalise accounts and distribute profits for many years. Also the likelihood of deaths among them would be greater and the cause of all sorts

of legal issues with their heirs. In any case, Malezieu favoured pure and simple abolition of tax farms<sup>14</sup>.

As was usually the case with 18<sup>th</sup>-century reformers, the discussions of the fiscal dilemmas of the monarchy were often presented in a very abrupt manner. In this respect, cardinal de Fleury's public statement, made in 1726, that tax farmers were the columns of the state elevated the rather technical topic of tax collection to a question of principles, which broached the institutions of the monarchy. Since cardinal de Fleury was the effective ruler of France for almost two decades, mostly peaceful years and bereft of the series of defaults which had tarnished the end of Louis XIV's reign and the following Regency, his claim about the *fermes* carried quite some weight. In 1775, the wording was still resonating in a publication by Richard des Glanières calling for fiscal reform: his ideas about reducing financial profit were illustrated by two columns, one old and barren, representing the current system, and the other stout with ivy twirling up.<sup>15</sup>

At a time when Spain and the Netherlands were abandoning tax farming, the French system of tax collection was clearly becoming a major societal issue, although it should be noted that the French tax farmers enjoyed a reputation for fiscal efficiency and, as such, they were invited by foreign monarchs to run their tax system, as was the case of Prussia or Tuscany<sup>16</sup>. Three main reasons explain the rise of conflicts and hostile discourses about tax farming. First, indirect taxes accounted for a little over half of the king's revenue. Second, unlike taxes on agricultural revenue, which were essentially managed by local parishes, the daily collection of indirect taxes built upon an agency which, in the 18<sup>th</sup> century, employed tens of thousands of employees, and whose activities were anything but frictionless. The fight against fraud was a permanent source

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<sup>14</sup> On these points see Marquet de Bourgade's papers at the Bibliothèque nationale de France, Ms. Fr. 8,013-8,018, and Joël Félix, 'Victualling Louis XV's armies. The Munitionnaire des Vivres de Flandres et d'Allemagne and the military supply system', in Harding (R.), Solbes Ferri (S.), *The Contractor State and its Implications, 1659-1815*, Universidad de Las Palmas de Gran Canaria, 2012, pp. 103-129.

<sup>15</sup> Richard des Glanières, *Plan d'imposition économique et d'administration des finances...*, P.G. Simon, Paris, 1774, pp. 15-16.

<sup>16</sup> Florian Schui, *Rebellious Prussians: Urban Culture under Frederick the Great and his Successors*, Oxford University Press, Oxford, 2013; Jean-Claude Waquet, 'Les fermes générales dans l'Europe des Lumières : le cas toscan', *Mélanges de l'école française de Rome*, Année 1977, Vol. 89, No. 2, pp. 983-1027.

of tensions between tax agents and the population<sup>17</sup>. The policing of this workforce, often compared to an army, the costs of maintaining the necessary infrastructure (barriers and collection posts), and the profits to be made through its management were truly matters of state. For these reasons, the system of tax collection was more complex than one might surmise from the crude debates over *ferme* and *régie*, especially as a group of reformers among the financiers promoted institutional change in the 1750s<sup>18</sup>. Above all, the return of international warfare, the impact of increased taxation, which rose by 80 % between 1740 and 1774, French defeats in the Seven Years' War and a succession of defaults on the debt between 1769 and 1770 paved the way to discussions about the shortcomings of the French fiscal system and ways of reforming it, both within and outside government. Before looking at the situation under Louis XV and Louis XVI, it is essential, however, to examine the system of tax collection in operation under Louis XIV.

## 2. A fiscal oddity? A *régie* in the name of a *ferme*.

When the revolutionaries abolished the Old Regime system of tax farming they put an end to an institution which was well over a century old. Although the system of tax farming was as old as the first taxes on consumption and trade introduced in the late Middle Ages, the constitution of a powerful fiscal agency was a much later development. The rationale behind Colbert's setting up of a unique body had been a determination to increase fiscal revenue by means of economies of scale through accretion of a number of small tax farms. As a result, the so-called *Fermes générales unies* (16..) became the largest private company and financial institution in the kingdom<sup>19</sup>. To be allowed to collect taxes from the king's subjects and pay their lease to the Treasury, the tax farmers had to raise working capital (*fonds d'avance*) to operate the daily management of the infrastructure and keep cash-flows running smoothly in the Treasury. In addition

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<sup>17</sup> Jean Nicolas, *La Rébellion française. Mouvements populaires et conscience sociale (1661-1789)*, Editions du Seuil, Paris, 610pp.; Michael Kwass, *Contraband*, Harvard University Press, 2014.

<sup>18</sup> Thierry Clayes, *Les Institutions financières en France au XVIIIe siècle*, Editions SPM, Paris, 2011, 2 vols.

<sup>19</sup> A good overview in Noel D. Johnson, 'Banking on the king : The evolution of the royal revenue farms in old regime France', *The Journal of Economic History*, 66.4 (2006), pp. 963-991; Yves Durand, *Les fermiers généraux au XVIIIe siècle*, Presses Universitaires de France, Paris, 1971. Older works include Pierre Roux, *Les Fermes d'impôts sous l'Ancien Régime*, Librairie Arthur Rousseau, Paris, 1916 ; Jean-Jules Clamageran, *Histoire de l'impôt en France depuis l'époque romaine jusqu'à 1774*, Champion, Paris, 1867-1876, 3 vol.; Marcel Marion, *Histoire financière de la France depuis 1715*, Arthur Rousseau, Paris, 1914, vol. 1.

to paying the lease, the tax farm might be asked to lend money to the government, normally through the sale of promissory notes. By and large, the *Ferme générale* acted as a bank for the king. While the revenue from indirect taxes, in particular the salt tax (gabelle), was mortgaged to servicing the interests of long term public loans (rentes perpétuelles and rentes viagères), the tax farmers' profits guaranteed their cash advances to the king. This role as credit provider was extended and officialised by Colbert during the Dutch War (1672-1678) when the tax farm was given responsibility over a *Caisse des Emprunts* which took deposits and issued *promesses des gabelles* on behalf of the king. Lenders in these short-term assets, which matured after six months, had the revenue from taxes as collateral plus the king's guarantee. As it turned out, this model of circulating credit instruments and helping liquidity at the Treasury was adjusted to circumstances. After Colbert's death the *Caisse des Emprunts* was suppressed (1683), then reinstated (1702) and finally abolished (1715)<sup>20</sup>. Yet supply of short-term cash advances to the government remained a permanent feature of tax-farming throughout the period.

As a matter of fact, contractual arrangements with tax farmers were modified according to needs and circumstances under Louis XIV. In 1687, for instance, the collection of indirect taxes, which Colbert had united into a single tax farm, was split again between two companies (Domergue and Charrière). In 1691, two years before their leases expired, the two companies were merged into a new one operated under the name (lease) Pointeau. At first glance, such changes might seem purely cosmetic. In fact, this move was the response to a crisis of the system of tax farming in the Nine Years' War and a cover-up for its transformation into a *régie*. The reason for this is simple. Negotiations of the terms of the two leases had started in 1687, in peacetime, under finance minister Claude Le Peletier (1683-1689). According to Malezieu, the two lease prices had been inflated on purpose, with the view to exaggerating France's fiscal power in the eyes of its potential enemies. When the war broke out, however, the tax farmers quickly found themselves in a dire situation. From the second year of its lease (1689), which coincided with the beginning of the Nine Years' War (1688-1697), the Domergue company saw profits suddenly plummet. The tax farmers recorded a collapse in the revenue from taxes levied on internal trade. Tax hikes on the sale of salt and tobacco did not compensate rising costs to fight fraud. In 1689, the lease to be paid to the king was superior to the fiscal

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<sup>20</sup> Joël Félix, "The most difficult financial matter that has ever presented itself": paper money and the financing of warfare under Louis XIV', *Financial History Review*, 25 (1), pp.43-70.

revenue actually collected. As shown in table 1, things got worse. At the end of 1691, the combined losses since the start of the lease Domergue were 12.5 million, or about a third of the annual lease price.

Table 1. The bail Domergue, 1688-91<sup>21\*</sup>

Bail Domergue	1688	1689	1690	1691
Lease price	36,000,000	36,500,000	38,000,000	38,000,000
Expenditure	47,015,896	48,084,705	51,162,748	54,266,743
Revenue	48,278,130	45,312,252	45,953,223	48,435,513
Difference	1,262,234	-2,772,452	-5,209,521	-5,831,230
Combined losses	<b>1,262,234</b>	<b>- 1,510,218</b>	<b>-6,719,739</b>	<b>-12,550,970</b>

This situation was unsustainable and the tax farmers started borrowing on the market to honour payment of the lease. After much discussion, newly appointed finance minister Pontchartrain (1689-1699) decided to suppress the two ongoing tax leases and negotiated a single lease with both companies under the name of Pointeau, and for the same annual price of 61 million. Once again the lease was a fake: as a memorandum explained, Pontchartrain enforced a lease for the price ‘which he judged suitable to the needs of the service’. Although ‘the cautions [i.e. tax farmers] did all they could to prevent this’, the minister ‘told them that this was for the service of the state, that all the risks would be for the king, and that their work would be rewarded’. In other words, the *tax farm* was converted into a *régie*<sup>22</sup>. Meanwhile, as shown in table 2, the revenue from indirect taxes continued to fall, although losses varied from year to year. Unsurprisingly, a nadir was attained in 1694 and 1695, years which saw France experience one of its worst famine in history and lose 2 million people, ca. 10% of its population. Yet the worst results came in 1697, in the final year of the war, when tax yield fell 28% short of the expected lease of 61 million.

Table 2. The results of bail Pointeau, 1692-97<sup>23</sup>

Bail Pointeau	Annual losses
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<sup>21</sup> Bibliothèque Nationale de France [BNF], manuscrit français 7725, Grandes opérations de Monsieur le Chancelier de Pontchartrain, Pièce 1, Table générale des produits et dépenses des fermes unies du Roy pendant les quatre années de jouissance du bail de Domergue fini au dernier décembre 1691.

<sup>22</sup> *Id.*, fos. 1-2.

<sup>23</sup> *Id.*

<b>61 million pa</b>	
1692	
1693	7.642.674
1694	
1695	18.515.894
1696	7.266.787
1697	17.258.141
	<b>50.683.496</b>
Non valeurs (non-recoverable)	1.040.205
<b>Total</b>	<b>51.723.701</b>
<b>Diminutions on the lease</b>	
Passports	8.146.515
Interests	10.550.950
	<b>18.697.465</b>
Real losses	<b>33.026.238</b>
Annual average losses	5.804.372

To compensate for these losses and still pay the lease, the tax farmers were invited to issue short-term bonds, the so-called *promesses des gabelles*, via their cashier in Paris. Table 3 lists the volume of the tax farmers's loans, probably between 1692 (1<sup>st</sup> account) and 1699 (8<sup>th</sup> account). The figures are hard to interpret because each account is for the total of bonds sold in a fiscal year. We do not know how many of the existing bills were refunded, renewed or added in each fiscal year and, consequently, how much of these sums were destined to either redeem capital and/or pay interests. It would certainly be wrong to infer from the figures that the rate of interest paid to the purchasers of *promesses* was about 5 % (interests/total). Other archival evidence indicates that the tax farmers offered 10 % interest per year to their notes, of which it seems reasonable to believe that they retained 2% for the price of their intermediation.

Table 3. Loans of the bail Pointeau<sup>24</sup>

<b>Loans</b>	
1 <sup>st</sup> account	10.530.000
2 <sup>nd</sup> account	16.066.000
3 <sup>rd</sup> account	23.111.972

<sup>24</sup> *Id.*, fos. 2-3.

4 <sup>th</sup> account	29.611.001
5 <sup>th</sup> account	18.809.405
6 <sup>th</sup> account	19.591.119
7 <sup>th</sup> account	26.169.226
8 <sup>th</sup> account	31.448.530
<b>Total</b>	<b>175.337.253</b>
Refunded	156.129.446
Interests paid	9.590.562
Outstanding	19.207.807

If one posits that the loans in *year n* were used to refund all of the bills issued in *year n-1* when they reached maturity, and to raise additional cash, then the actual value of new loans issued between 1692 and 1697 would total 65 million, a result broadly in line with the total losses incurred for the duration of the *bail* (lease) Pointeau. The same method applied to the net volume of bills sold during the years 1692-1699, to include loans also issued by Pointeau during the two years of peace, would come to 97 million, which, at 10 % interest, would bring the costs for their service to 9.6 million in interest, and leave 18 million of outstanding bills in 1699. These results largely tally with the loans in 1699, the very moment when Pontchartrain handed over the finance portfolio to Michel Chamillart (1699-1708).

These accounts make it clear that the main purposes for secretly operating the tax farm as a *régie* were twofold. First, intermediation by the tax farmers was essential because they were able to attract lenders and supply the Treasury with cash. In his discussions with Pontchartrain, Domergue initially proposed to agree on a new increased lease that was to leave annually 2 million profit to the tax farmers because, as he argued, '2 million worth of profit between them will provide 20 million credit'. The proposal did not satisfy Pontchartrain who simply agreed on the principle of a compensation for their services by the king. The tax farmers involved in lease Pointeau were bitterly disappointed when they learnt that their reward would be 500,000 livres to be distributed among the 40 of them. They complained, arguing that the cautions of Domergue and Charrière had received 500,000 livres in compensation for their lack of profit during the 4 years of their leases. A text from Lavoisier suggests that Pontchartrain took the

remonstrance on board and finalised the deal with a bonus worth 800,000 livres, or 3,333 lt. per tax farmer per year.<sup>25</sup>

The tax farmers' harsh diet was softened by the perspective of rosier days. By chance, the expiry of the lease Pointeau coincided with the peace of Ryswick (1697). Pontchartrain agreed a new lease under the name of Templier and with cautions who were the same as in Pointeau's. The prorogation of the same company to exploit the new lease was probably regarded as an additional form of compensation. It was also a convenient method to avoid the complications and costs associated with the setting up of a new company, in particular the operations for raising new capital and refunding the previous tax farmers for their investments and cash advances. A system of shares would have certainly eased such transitions. But then shares would have had to be valued, an impossible task given the total lack of transparency on tax farmers' returns, a situation which reflected the legal basis of their partnership, which will be discussed later.

Now that peacetime had resumed, the tax farmers were probably planning to recoup for the time lost. Unfortunately, the first year of the new lease Templier (1697-1703) suffered from the impact of frost on wine production, and, in general, a sluggish post-war recovery hampered by poor harvests and new international trade tariffs. Moreover, in 1700, the death of childless Charles II of Spain renewed hostilities between France and the Allies over the Spanish succession. Under these conditions, the tax farmers became very nervous about their expected profits. They tried to obtain some favours which the tough Chamillart resisted until their recriminations were interpreted as the main cause behind a credit crunch in December 1701. In the end, however, worries proved far-fetched. The gloomy forecast had been based on partial accounts transmitted by the various local receivers employed by the *Ferme générale*. When the accounts were finalised, the net profit for the six years of lease Templier amounted to 11,607,000 lt., or a distribution of 290,175 lt. per tax farmer per year. In real terms, taking into account the monetary adjustment of 1726, this result would have been higher than the largest benefits made by the tax farmers under Louis XV and Louis XVI (see below)<sup>26</sup>. The overall net profit on lease Templier was quite substantial, equivalent to almost 10% of the annual

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<sup>25</sup> Lavoisier, *op. cit.*, p. 131.

<sup>26</sup> Following 25 years of alterations of its value, the French currency was stabilized in 1726 and, as a result, the *livre tournois* was ca. 40% lower than during the period 1689-1715.

gross tax revenue for the year 1703. Struggling to find money and fund the new war, there was no way Chamillart would agree to such distribution to the tax farmers. In 1700, while he was trying to balance the peacetime budget, the new minister had levied a 50 % windfall tax, worth 19 million, on the net profits earned by the *traitants* on the sale of offices during the Nine Years' War<sup>27</sup>. After much thought, the finance minister decided to fix the distribution of profit to 2 million, so recouping more than 9 million from lease Templier.

Under Pontchartrain and Chamillart the system of tax farms was nothing but a name. Ministers revised contractual arrangements as they saw fit, either in the course of the lease or retrospectively, and according to the needs of the Treasury. Apart from budgetary problems linked to funding the war and refinancing the war debts, one main reason for this was the difficulty of forecasting tax revenue and, therefore, agreeing on a reasonable share between the king and the financiers. In this respect, the model of 'debt as contingent claim' used by N. Johnson and M. Koyama to describe the relation between the Crown and the tax farmers in the mid-18<sup>th</sup> century seems to have worked only in lease Pointeau and Templier<sup>28</sup>. When war resumed, lessons from the recent past were factored into the preparatory discussions of the next lease. At the expiry of lease Templier, in the second year of the War of the Spanish Succession (1702/1713), the tax farmers refused to include revenue from customs in their lease. They still lent the king their administrative know-how and infrastructure to collect these very same taxes but procured their reward under a system of direct administration. Coinciding with a major fiscal crisis (1708) and the Great Winter (1709), renewal of the lease could not find any takers at all, and the collection of all indirect taxes had to be placed under administration until Louis XIV's death in 1715.

### 3. Financial profit and the moralisation of royal finance.

The primary sources we have used so far suggest that the profits made by tax farmers on the collection of indirect taxes were severely revised under Louis XIV, at least between 1688 and 1715. Yet the few remaining declarations of revenue

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<sup>27</sup> Joël Félix, 'Profits, malversations, restitutions. Les bénéfices des financiers durant la guerre de la Ligue d'Augsbourg et la taxe de Chamillart', *Revue historique*, 676 (4), pp. 831-874.

<sup>28</sup> Johnson, Noel D., and Mark Koyama, 'Tax farming and the origins of state capacity in England and France', *Explorations in Economic History* 51 (2014), pp. 1-20. They rightly argue that the tax farmers and their lenders were able to distinguish between defaults by the borrower due to unavoidable shocks from nature and true defaults due to lack of credibility. In the War of the Spanish Succession, however, these two aspects seem to have compounded.

demanded by the last *chambre de justice*, established in 1716, show that the tax farmers were the richest financiers in the kingdom<sup>29</sup>. This is essentially because they were cherry-picked among experienced and well-established individuals who had their fingers in many pies. For instance, half of the 40 cautions interested in lease Pointeau were fined by Chamillart for the profits they made as *traitants* in the business of selling royal offices, of which 8 had to pay a tax of 200,000 lt. and above. Since the rate of Chamillart's windfall tax on *traitants* was 50% of their net profits, Luillier's fine of 403,301 lt. indicates he had earned as much from his investment in the sale of royal offices as the compensation paid by Pontchartrain to the cautions of Pointeau's lease, or 4,000 times the average annual revenue of a peasant family.

Although dealing in offices could be risky and a troublesome venture at times, the potential benefits were quite substantial as we will see later. Under Louis XIII and Louis XIV, much of the anger against the financiers was specifically directed at the *traitants*. Rapid growth of their wealth was not the only reason for public hatred. In general, royal taxes spared privileged groups while the sale of offices and forced loans on office-holders also targeted the nobles and the well-off. If some bargaining with potential buyers did occur, pressure and bullying was exercised by the *traitants* and, above all, by their clerks who, on many occasions, behaved more like debt-collectors than salesmen offering opportunities to invest in financial products and tax evasion. As the government stopped selling offices in the 18<sup>th</sup> century and the economic trend was upwards, the financiers sought to dissociate themselves from the *traitants* who became a figure of the past and the symbol of the excesses of the end flaws of Louis XIV's reign.

Yet for all the duc d'Orléans' efforts at reforming the fiscal system during the Regency (1715-1723), the volume of debts, the failure of John Law's system and the ensuing chaos left the government in want of regular revenue and a line of credit to smooth out cash-flows. Some started to consider that Louis XIV's financiers had not done such a bad job after all, and in many dire circumstances. In 1726, the system of *régie*, which had been introduced by John Law as part of his reforms, and maintained by the famous financiers the Paris brothers, was abolished and the *Ferme générale* was restored, in its purest form ever. This decision by cardinal de Fleury and newly appointed finance minister Le Peletier

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<sup>29</sup> BNF, manuscrit français 7584, Déclarations des personnes sujettes à la Chambre de justice (1716). Accessible on-line on Gallica.

des Forts (1726-30) was the real driving force behind the denunciations of the profits of the tax farmers from the late 1720s, which led to their eventual beheading during the Terror in 1794.<sup>30</sup> Almost immediately, rival groups lobbied the government and gathered data to prove that the new arrangements allowed the tax farmers to pocket about 100 million in the space of six years while France's gross annual tax revenue was 200 million.

As it turned out, the claims against the financiers' excessive profit fell onto deaf ears. Cardinal de Fleury's stubbornness was motivated by a willingness to restore some form of stability to the fiscal system which had been seriously shaken for about a decade. Evidence shows that, on occasion, Louis XV's Mentor relied on external criticisms to pressurise the tax farmers and claw some extra advantages in the course of their lease. But he did not succumb to the pressure of those, like Malezieu, who claimed that all the Bourbon monarchs, since Henri IV, and even Louis XV during his minority, had terminated the leases as they saw fit:

'If someone', Malezieu argued, 'was obstinate in the face of the strength of examples, at least he should surrender to that of reason, which dictates to anyone who is willing to hear that the interest of the state, which is the interest of the ruler united with that of his subjects, is the supreme law under which all particular interests, whichever they may be, must bend and vanish'<sup>31</sup>.

Writing in the wake of Fleury's death (1743) and just after the sacking of finance minister Orry, whose 16 years of tenure was regarded as a replay of Colbert's mercantile policy, Malezieu pleaded for a revolution based on what he considered an accurate interpretation of French fiscal policy: to him, the many examples of past cancellations of tax farms' leases were 'the just application which has been made at all times of a true and universal principle in all the states'<sup>32</sup>. This quote suggests that the issue with the moralisation of finance had moved from a mere question of profit under Louis XIV to a broader discussion about the king's right to renegotiate agreements with the financiers. As we will

<sup>30</sup> Joel Félix, 'Modèles, traditions, innovations. Le Peletier des Forts et la renaissance de la finance sous le règne de Louis XV', in Anne Dubet, Jean-Philippe Luis (eds.), *Les financiers et la construction de l'Etat. France, Espagne (XVIIe-XIXe siècle)*, Presses Universitaires de Rennes, Rennes, 2011, p. 125-154.

<sup>31</sup> BNF, Nouv. Acq. Fr. 2565, Addition à l'histoire des Fermes du Roi depuis l'année 987..., 1746, f. 1.

<sup>32</sup> *Id.*

see, with the return of international warfare in the second half of the 18<sup>th</sup> century and the problem of refunding war debts, subsequent ministers were keen again to revisit the contracts with the financiers. But even the toughest or most resolute remained rather cautious. Under Louis XVI, only the newly appointed and rather inexperienced d'Ormesson (1783) felt sufficiently principled - and pressed for money – not to foresee the commotion to be caused by the king's agreement that the on-going lease Salzard (1780-86) be terminated before its expiry date. Issued on 24 October 1783, the decision was repealed on 9 November with a statement from 'His Majesty' to manifest 'on all occasion that any commitment agreed or recognised by him and which had become the pledge of public faith, will always be inviolable in his eyes'. As we know, the French Revolution was partly a rebellion of the elites against ministerial despotism and asking that property, alongside liberty and equality, be the cornerstone of the new regime and its constitution.

Of course, one may ask whether expectations by financiers that the government stick to its agreements with them were realistic. It is now time to examine the profits tax farmers made from 1726 onwards. This is possible thanks to a manuscript summary of the tax farmers' accounts – or *Comptes de société* - for each of the five successive leases for the period 1726 to 1756<sup>33</sup>. Calculations indicate that, on average, the benefits per lease were 61 million. As shown in table 3, this sum was quite considerable, equal to 8% of the taxes collected. Moreover, as the sums managed were considerable (132 million per year) and since there were only 40 tax farmers at this time, each of them made 1.5 million worth of profit per lease or 250,000 lt. per year. This was more than the revenue of the highest paid ministers at the time and close to that of the richest bishops and abbots in the kingdom. Data reveal that the profit of tax farming, together with the administrative costs to run the *Ferme générale*, made the whole tax collection system very expensive: between 1726 and 1756, when the king's subjects paid 100 lt., the government received on average 75 lt. (23%), 15 lt. going to administrative costs and 8 lt. to the tax farmers. If one takes into consideration the sums included in the administrative costs which funded the profits also paid to the 215 *sous-fermiers* (sub tax farmers), the system of tax

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<sup>33</sup> Archives nationales, 144 AP 113, *Résultat des Comptes de société des Fermes générales depuis le 1er octobre 1726*, 245 ff.. The information was probably assembled for the attention of the finance minister in preparation for a new lease in 1767.

farming allowed the financiers to pocket up to ca. 9.3% of the sums they collected in the lease Bocquillon (1750-56)<sup>34</sup>.

Still, this figure seems to be miles away from what the public reckoned about financial profit. In 1768, for instance, a reformer devoted many pages to justifying a lengthy proposal for a radical institutional shake-up based on the assumption that the financiers, as a whole, collected annually 530 million in taxes (both direct and indirect), out of which the king received only 280 million, therefore establishing the costs of the fiscal system at 250 million (47%)<sup>35</sup>. This looks a lot like the figures proposed by marquis de Mirabeau in his *Théorie de l'Impôt* (1760), although they still looked very optimistic when compared to other pamphlets, in particular Darigrand's *Anti-Financier* (1763) which evaluated the total costs of tax farming to four times the revenue paid to the Treasury. In his more accurate *Administration des finances de France* (1784), Necker concluded that, on the whole, the cost of collecting taxes was 10.66% but rose to ca. 14% for the *Ferme générale*, so broadly in line with our data. Yet Necker did not include the benefits of the tax farmers, which, we reckon, would probably raise the whole figure to 20%, more or less, by that time.

Contemporary estimates about financial profit were clearly exaggerated, especially as the collection of direct taxes was much cheaper than farmed revenue. These numbers are nonetheless helpful: they suggest that denunciation of profit under the Old Regime may be disentangled from broader criticism of the system of taxes. For, on the one hand, the profit the financiers made on tax collection was essentially the expression of a contractual relationship between the king and his agents, which could be altered. On the other hand, however, the administrative costs of tax farming challenged the very nature of the taxes collected - such as the salt tax which generated various burdens on society, most notably the fight against fraud but also the impact on breeding cattle and agricultural growth. In this case, the golden bullet was a reform of indirect taxes or, as the famous *physiocrats* argued from the 1760s, their replacement with a single and more efficient levy on the revenue from landownership. The question about the type of contract between government and fiscal agents still remained an issue because taxes would have to be collected nonetheless. So too was the question of identifying the most efficient tax to tap wealth, which implied a correct theory to understand the processes

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<sup>34</sup> According to Lavoisier, *op. cit.*, p. 137, at the moment of their suppression in 1756, the *sous-fermiers* numbered 215 individuals, divided into 27 companies, who were paid in excess of 3 million per year.

<sup>35</sup> BNF, manuscrit français 14102, *Mémoire sur les finances*, f. 6 vo.

behind the formation of wealth and the incidence of taxes, and to devise techniques, like a land survey, to assess taxable revenue. In practice, however, as we will see, and given the demands on the Treasury resulting from war, reducing financial profits was the easiest solution, and this for two main reasons: first, ministers knew that such policy would meet with popular support; second, they were keen to avoid the risks, to revenue and domestic order, associated with any sudden and substantial reform of the tax system.

There is no doubt whatsoever that the system of tax farming under Louis XV generated enormous benefits to those who enjoyed the privilege of collecting revenue for the king. On average, each of the 40 tax farmers made 252,725 It. per year between 1726 and 1756, with an all-time high reached in lease Prevost (1762-68) worth 332,000 It. An alternative way of assessing benefits - and their evolution over time - is to calculate a rate of profit on capital invested to run fiscal ventures. At this stage, it should be remembered that the *Ferme générale* was operated as a private company run by *cautions*, i.e. the tax farmers, who made an equal contribution to the working capital and were entitled to an equal share in the benefits of the *Ferme générale*. In his study of French financiers in the 18<sup>th</sup> century, T. Clayes also used the *Comptes de société* and calculated that the return on working capital was about 44-45% for this period<sup>36</sup>. In an earlier and important article on French tax farmers, E. White had expressed doubts about such high returns which some, in the 18<sup>th</sup> century, estimated to have been as high as 49%. We also consider such a figure far too gigantic to be credible. Incidentally, a fall to 33% on return in lease Forceville (1736-44), while benefits paid to tax farmers rose by 7%, casts doubts on Clayes' interpretation of the data.

In his article, E. White observed that tax farmers did not raise only working capital to operate their fiscal business. They also had to pay to the Treasury a *cautionnement*, or surety bond, worth 8 million per annum, for which the government allowed a 5% interest. This surety bond, however, does not appear in the *Comptes de société* which, it is true, are a much abridged summary. Although figures in this manuscript are not always easy to interpret - and the end pages are missing - the reason for absence of information about the surety bond can be deduced from one of Lavoisier's memoranda on the *Ferme générale*. According to him, the *sous-fermiers* (sub-tax farmers), to whom the tax farmers sub-contracted part of their lease until 1756, were asked to pay a cash advance to the *Caisse des Fermes* worth just under 8 million, which

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<sup>36</sup> Thierry Clayes, *Les Institutions financières en France au XVIII<sup>e</sup> siècle*, Editions SPM, Paris, 2011, 2 vol.

replaced, as it were, the 8 million surety bond or advance supplied by the tax farmers to the Treasury. In short, the *cautionnement* should not be added to the working capital invested by the tax farmers<sup>37</sup>.

This said, close analysis of the *Comptes de société* shows that various sums of money were paid by (expenditure) and refunded (revenue) to the tax farmers such as, for instance, the value of *effets*, i.e. capital assets received from the previous lease and handed over to the next one<sup>38</sup>. Accounts of the leases Forceville and La Rue also recorded *ordonnances*, i.e. orders of payment, on the tobacco farm worth 24 and 48 million respectively, which look like advances to purchase tobacco, an expenditure which was naturally passed over to the taxpayers. In the case of lease La Rue data reveal that 30 million were lent to the cautions of next lease Bocquillon. For all these details, the absence of a breakdown of revenue and expenditure of the *Caisse des Fermes* makes it impossible to identify whether the tax farmers were rewarded for paying these sums and how they mobilized the resources in the first instance.

What is for sure, however, is that on top of the working capital paid by the tax farmers to the *Caisse des Fermes*, they supplied additional *prêts* or loans to the government. Here again, the *Comptes de société* are insufficiently detailed to find out the origins of these funds. In the case of lease Desboves, however, the breakdown of benefits mentions interests of 2,057,625 lt. paid to the tax farmers for a loan of 39,815,000 lt. to the *Caisse des Fermes*. It is important to notice that the rate of interest, which can be calculated at 5.17%, was much lower than what tax farmers were paid for their working capital (*fonds d'avances*). Making sense of this difference was perplexing, until an observation by Necker helped us realize the obvious: the working capital was invested for the duration of the lease, whereas loans were short-term, probably in the form of *billets des fermes*, which replaced the earlier *promesses des gabelles* and also matured after six months. The question remains, however, as to whether the interests rewarded sums the tax farmers paid out of their own pocket or they borrowed. For historians are aware that a number of financiers, if not all of them, were *de facto* CEOs who invested their own money but also managed a venture partly financed by investors, backers or so-called *amis*, i.e. friends.

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<sup>37</sup> Eugen N. White, 'From privatized to government administered tax collection: tax farming in eighteenth-century France', *The Economic History Review*, 57.4 (2004), pp. 636-663.

<sup>38</sup> They were initially recorded as 12 million, a sum reduced to 8.9 million from lease La Rue onwards.

Whatever the origins of the funds, loans to the *Caisse* affect calculation of return on capital. Once loans are included, return on the sums actually supplied to the *Caisse* still remains high. But they are reduced to 35, 34 and 29 % in the first three leases respectively. This slight reduction (in percentage but not in volume) is more in line with the evolution of product (tax collected minus expenditure and lease) and funds invested (working capital). Unfortunately, calculating a return on the fourth lease (La Rue) seems a long shot: our document indicates that in the course of those six years the loans to the *Caisse* rose to the enormous sum of 164.2 million. Even though such a change might be explained by the fact that lease La Rue coincided with the entry of Britain and the Netherlands against France in the War of the Austrian Succession (1741-1748), this huge figure remains problematic, especially as the working capital was reduced by 8 million in the course of this lease, the product (tax collection minus payment of lease) increased by 17 million and the benefits were the highest since 1726. Also such a huge loan would have to be repaid or, at least, renewed, and this would leave traces. So, one is bound to consider that the figure for the loan might be a clerical mistake which confused the working capital with the loan to the *Caisse*, and multiplied it by the number of years of the lease<sup>39</sup>. If that were to be the case, then the return on capital would rise slightly to 38%, which is also consistent with a rise in benefits during this lease, although it coincided with wartime. Similarly, if one includes a 30 million advance made by lease Larue to lease Boquillon, then the return on this latter lease can be calculated at 35%, also in line with a 14 million drop in benefits when peace returned.

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<sup>39</sup> The purpose of the summary of the *Comptes de société* was to calculate how much money would be saved for the king if the interests the tax farmers paid themselves for their working capital were reduced to 5 per cent.

Table 4. Leases: revenue collected, collection costs and tax farmers' profits, 1726-1756.

Dates	Lease	A	B	C		D		E
		Revenue	To the king	Collection costs		To the tax farmers		Total costs
		<i>Million It.</i>	<i>Million It.</i>	<i>Million It.</i>	C/A (%)	<i>Million It.</i>	D/A (%)	E/A (%)
1726-32	Carlier	620	505	77	12	43	7	19
1732-38	Desboves	729	551	125	17	56	8	25
1738-44	Forceville	760	567	113	15	61	8	23
1744-50	La Rue	863	576	122	15	78	9	24
1750-56	Bocquillon	844	682	130	16	65	8	24
<b>1726-56</b>	<b>Average</b>	<b>763</b>	<b>576</b>	<b>113</b>	<b>15</b>	<b>61</b>	<b>8</b>	<b>23</b>

Table 5. Tax farmers' profits and return on 23capital.

	Lease	Per tax farmer per year (lt.)	A Profits (m. lt.)	Salaries	Interests	Distribution	B Advances	Return A/B	C Loans	Adjusted return A/(B+C)
1726-32	Carlier	178,422	43	3	11	25	98	45%	26	35
1732-38	Desboves	235,377	56	6	15	32	128	44%	40	34
1738-44	Forceville	253,651	61	7	16	38	184	33%	28	29
1744-50	La Rue	324,979	78	7	14	56	176	44%	[27]	38
1750-56	Bocquillon	271,197	65	8	16	41	155	42%	30	[35]
<b>1726-56</b>	<b>Average</b>	<b>252,725</b>	<b>12</b>	<b>6</b>	<b>14</b>	<b>38</b>	<b>25</b>	<b>42%</b>	<b>[30]</b>	<b>[34%]</b>
1756-62	Henriet	240,000*								?
1762-68	Prevost	332,000*								?
1774-80	David	269,667*	97	7	22	68	94			22%

\* Lavoisier, *Calculs des produits, op. cit.*, pp. 138-9.

Whether our adjustments to calculate profits are correct or not, tax farmers drew very substantial benefits from the business of collecting taxes for the king. One way of comparison is to examine the profits made by the much hated *traitants* as a result of the *traités*, i.e. contracts, they agreed with the king to sell royal offices, which was the main source of war finance under Louis XIV. The objective would be an impossible task, were it not for a few documents which have survived from Chamillart's paperwork produced to determine the windfall tax to be paid by the *traitants* in 1700. An account submitted by the *traitants* who contracted the sale of royal offices to supervise trade in cattle and poultry during the Nine Years (1688-97) shows that their company made a net profit of 437,841 lt. over a 3-year period, or 23.6% return on working capital. The comparison is quite stunning: it suggests that the profits of Louis XIV's infamous *traitants* were quite substantial but still lower than those made by the tax farmers under Louis XV, notwithstanding Chamillart's fine which recouped half of their benefits<sup>40</sup>. The *traitants*' sumptuous – and at times extravagant – lifestyles help to better understand why enemies of the financiers in the 18<sup>th</sup> century, and apologists of the direct administration system, systematically used the emotionally charged word *traitants* when they talked about the tax farmers. Yet, there were three main differences between these two types of financiers. First, in the 17<sup>th</sup> century the *traitants* were regularly subjected to *chambres de justice* – while tax farmers were usually protected – or had to pay windfall taxes. Second, the *traitants* were not merely tax collectors. They tapped the wealth of the kingdom by selling offices, i.e. they devised and sold financial products which were *de facto* long-term loans<sup>41</sup>. Third, *traités* were often contracted with financiers active in supplying the troops and used to raise cash for purchase of goods at the best rate or, simply, to refund cash advances or government debts.

The benefits of Louis XV's tax farmers can be broken down into three principal categories. First, the sums paid for their salaries, which made the smallest part of their profits: they averaged 7.2 million (12%) in the five leases, or 30,000 lt. per year and per tax farmer. It is worth noting that part of this *honorarium* was assigned to defray real administrative costs<sup>42</sup>. In the bail La Rue, for instance, the slight increase in the salaries was to cover costs towards additional

<sup>40</sup> AN, G7 1566, *Traité des veaux et volailles*. Chamillart recalculated the net profit at 550,441 lt. and imposed a 270,000 lt. fine on the *traitants*.

<sup>41</sup> On this form of borrowing see David Bien, 'Offices, corps and the system of State credit. The uses of privilege under the Ancien Régime', *Annales Economies Sociétés Civilisations*, 1988, Vol. 43, No. 2, pp. 379-404.

<sup>42</sup> For this reason, Necker increased it to 50,000 lt.

visitations (*tournées*) to those normally carried out by the tax farmers (490,350 lt.). In contrast, the interests paid on the *avances* were quite substantial: they averaged a quarter of all profits received between 1726 and 1756. Only in the lease La Rue did the interests on cash advances record a significant drop to 18% in their benefits and so too, but to a lesser extent, the salaries (10%). Yet as table 5 shows, lease La Rue stands out as the most profitable of the five leases, even though it started in the middle of the War of the Austrian Succession (1741-48). In sheer contrast to Louis XIV's difficult years, this conflict did not seem to have any impact on tax farmers' profits. Quite the contrary: the gap between revenue collected and the lease, which had been growing since 1726, reached a peak under La Rue. This may be the main cause behind the substantial fall in the interests paid for the working capital. In the leases Carlier and Desboves, cash advances were allowed 11.54 and 12.02% respectively. Thereafter, the interest fell by almost 4 points, to 8.19 (Forceville) and 8.24 (La Rue) before rising to 10%. Arguably, this evolution reflected an improvement in the cost of money in general, and the monarchy's creditworthiness in particular, which improved under Fleury and Orry.

#### 4. From *fermes* to *régies* again.

The problems associated with the funding of the War of the Austrian Succession - the first serious international conflict since the reign of Louis XIV – and the refinancing of war debts soon raised questions about the efficiency of the tax farming system which had been firmly supported by Fleury and Orry, at least as long as they had held onto power. Neither reforming minister Machault d'Arnouville (1745-54), who took over the finance portfolio from Orry, nor any of his successors, were able to substitute *régies* for *fermes*. But, all, like Machault, who may well have commissioned Malezieu's work on the king's tax farms and who obtained insider's knowledge from Bouret, one of the tax farmers, were keen to maximise the system so as to raise more revenue for the king<sup>43</sup>. From 1750, renewal of the leases was seized as an opportunity to revisit the relationship between a government under duress and the financiers. Various methods were used successively or simultaneously.

Machault's goal was essentially to increase the volume of taxes paid to the king so as to get the extra resources that would help balance the budget and reduce the cost of debt service with help of a sinking fund (*caisse d'amortissement*).

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<sup>43</sup> Pierre Clément, Alfred Lemoine, *M. de Silhouette, Bouret: Les derniers fermiers généraux ; études sur les financiers du XVIII<sup>e</sup> siècle*, Didier, 1872.

Since his policy met with staunch resistance from taxpayers, his successor, Moreau de Séchelles (1754-56), changed tack: he saw renewal of the lease in 1756 as an opportunity for the king to build upon the tax farmers' creditworthiness and increase short-term borrowing to help with the financing of the Seven Years' War. To this effect lease Henriet (1756-62) was contracted with the tax farmers on condition that they would advance 60 million lt. (ca. £2.5 million) to the Treasury, in lieu of the 8-million surety bond normally paid by the sub-tax farmers but who were now to be suppressed. The measure was facilitated by adding to the 40 tax farmers, who had broadly remained the same people since 1726, 20 new posts, making up the total of 60 cautions who had to contribute 1 million each. This decision had a profound impact on the relationship between government and the financiers, and the stability of the fiscal system. Replacement of the tax farm by a *régie* was now dependent on the Treasury's ability to refund the cash advances, which increased with each new lease. Moreover, as Lavoisier explained, there was no way the 60 *cautions* could individually supply such a large sum (equivalent to a quarter of French gross annual tax revenue) and, on top of it, finance the weekly payments assigned on the *Ferme générale*, this regardless of the actual sums paid by taxpayers. For this reason, they decided to raise the working capital, another 60 million, by calling upon the public and selling *billets des fermes*.

It was not long before the French government abused the tax farmer's creditworthiness: a clause in lease Henriet allowing the tax farmers to recoup part of their 60 million advances by retaining 6 million per year on payment of their lease did not materialise. Quite the contrary: in 1759, in the aftermath of a major military defeat and deficit of the budget, recently appointed controller general Silhouette (1758-9) decided to renegotiate the terms of lease Henriet by appropriating half the tax farmers' expected benefits to the king, the product of which was immediately capitalised by issuing a much needed royal loan worth 72 million. This *anti-financier* measure did not help remedy the crisis: in November 1759, government ordered that payment of all the bills issued by the tax collectors, including the *billets des fermes*, be suspended, a decision which amounted to a default on the part of the tax farmers, although it was imposed by the king who took *de facto* control of the fiscal system. Silhouette's decisions were not merely *ad hoc* responses to urgent needs. They participated of the reforming views put forward by the new minister who sought to raise revenue through new taxes coupled with savings on financial costs, a policy which was pursued by his successors. More importantly, Silhouette's measures set a

precedent whereby the king decided to take a share of the benefits of tax farming. As Lavoisier reckoned, this principle was institutionalised by new appointed finance minister L'Averdy (1763-68): widely expected to reform the king's finances, he introduced in 1764 a 10% tax on the salaries, interests and benefits paid to all the financiers, including the tax farmers. This *dixième d'amortissement* was destined to help fund an improved sinking fund to redeem the French debts.

These decisions were just the start of a more systematic attack on the benefits of the tax farms. Even though the government contracted the lease Prevost (1762-68) on the basis of an even higher cash advance - worth 72 million, of which 60 million were destined to repay Henriet - the financiers managed to reap the benefits of peacetime on economic activity. As it turned out, they were becoming richer while the kingdom getting deeper into financial trouble. In lease Prevost, each tax farmer was paid 332.000 lt. per year, or altogether 86 million over 6 years, a sum equal to the deficit of the Treasury in 1768<sup>44</sup>. For all their efforts, three successive finance ministers found themselves unable to put forward any workable solution to remove the likelihood of eventual default. In February 1770, abbé Terray (1770-74) crossed the Rubicon: once again, the new finance minister decided to suspend payment of financiers' short-term advances, including 9,753 *billets des fermes* worth 48.7 million due to mature over the coming twelve months. Curiously, the defaults of 1759 and 1770 did not deter the appetite of the (rich) public for these short-term credit instruments. During the American War (1778-83), for instance, the new *billets des fermes* traded at a premium. The main reason for this apparent incoherence is simple: the suspension of the bills was less a default than a rescheduling of capital repayment which was met with regularity, alongside service of interests. In short, current and future tax revenue was freed from its *anticipations* in the form of *billets des fermes* and new ones could be issued to supply the Treasury. Of course, the decision hit a number of financiers, like Laborde who held vast amounts of the financiers' bills in his portfolio. But they managed to weather the storm while those who had the right connections obtained government help. An emergency measure, Terray's default had been preceded by harsher conditions in the negotiation of the lease Alaterre (1768-74): the tax farmers now had to share with the king their benefits, the rate of which varied according

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<sup>44</sup> According to Lavoisier, they only needed to raise 45 million in working capital in this lease.

to complex calculations so as to ensure that they would reduce administrative costs<sup>45</sup>.

As Lavoisier's complaints reveal, the ministers of the king were now closely monitoring the benefits tax farmers would be earning out of the fiscal system. Salaries were frozen and the interest rate on their advances were cut down. In his memoirs, count Mollien, who started his career as a clerk in the finance ministry, estimated that the tax farmers in the lease David (1774-80) were paid 5.66% for their individual advances of 1.560.000 lt., a figure which does not seem accurate. According to Lavoisier, the government allowed tax farmers to pay 10% on the first million and 6 percent on the remainder, or in total 8.56%, a figure which is in line with the interest offered to investors in life annuities during the American War<sup>46</sup>. This rate, noticeably higher than under La Rue, indicates a worsening of the cost of money which is consistent with the recent default. If this reading is correct, then new constraints imposed by the government on cash advances were essentially meant to keep interest as low as possible. Given the importance of the sums involved, there was a link between the cost of money, in general, and the interest paid on working capital, in particular. Yet cutting the interest was not without a broader impact. As Necker and Lavoisier both observed, those among the tax farmers who had to borrow part of their advances did it at a higher cost than the interests they received each year to pay their creditors, a gap which was only compensated when the distribution of benefits was finalised at the end of the lease. In short, liquidity was a growing concern among financiers. This situation further increased discrepancies in the profitability of each post of tax farmer. The annual revenue of tax farmers was unequally burdened with pensions to the royal favourites or *croupes* (sleeping partnerships). This *ad hoc* method of targeting fiscal profit to pay debts or reward clients seem to have been counterproductive. These additional deductions, which were imposed from lease Carlier onwards on the tax farmers and increased substantially in the 1750s and 1760s, were the cause of resentment against the Court. *Croupes* generated tensions within the company: they complicated arrangements to fund advances, saw information about returns leaked-out in the public and added layers of risk which affected profitability. For instance, Lavoisier mentions that delays in raising working

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<sup>45</sup> Details in Eugen N. White, *op. cit.*

<sup>46</sup> François Nicolas comte Mollien, *Mémoires d'un ministre du Trésor public, 1780-1815*, H. Fournier, Paris, 1845, 4 vol., tome 1, p. 67.

capital in the lease David (1774-80) were penalized by a 1.8 million loss on purchase of tobacco due to a sudden rise in price<sup>47</sup>.

The results obtained by the successive actions of ministers during the 1760s and 1770s were not meaningless. Mollien estimated that in the course of lease David (1774-80), the tax farmers made each year an annual profit of 300,000 livres, or whereas Lavoisier mentioned only 270,000 lt., or a 22% return on their cash advances<sup>48</sup>. This was a ca. 7-16% improvement on the returns paid in Louis XV's five first leases; also, the total benefits were 20% below the record level reached in lease Prevost. At the same time, however, a series of tax hikes ensured that the 60 cautions made the highest benefit so far, 97 million, or twice the sums they had gained in lease Carlier. In other words, the new arrangements ensured that more money entered the Treasury. Even though the relationship with the government generated some anger, for both good and bad reasons, being a tax farmer was still a very profitable activity and a costly one to the king.

To achieve even better results, the government needed to address the system of tax collection itself. Combined work by finance ministers Terray, Turgot and, above all, Necker (1776-81), progressively limited the volume of indirect taxes leased out to tax farmers. At the death of Colbert, in 1683, the *Ferme générale* collected 66 million in taxes for the king, or just over half the fiscal revenue (120 million). A century later, in 1789, this share had dropped to 35% (165 million). With lease Salzard (1780-86), Necker dismembered 120 million in indirect taxes which were to be managed under direct administration (*régie intéressée*). On the eve of the French Revolution, the new *Régie des aides et droits réunis* and the *Régie des domaines et bois* were responsible for collecting 50 million each per year. As Necker boasted in 1784, the *Ferme générale* was just a name. If the brand had been maintained, it was because the tax agency was able to inspire confidence among lenders, in spite of the two suspensions, and offered short-term credit resources to sustain liquidity of the Treasury<sup>49</sup>. For radical reformers, like economist and administrator Dupont de Nemours, the tax farm had become a hollow fortress which seemed easy to topple. But as Louis XVI reckoned after the failure of d'Ormesson's attack against the tax farm of 1783, Necker himself had not felt strong enough to engage a battle with a powerful group of financiers

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<sup>47</sup> Lavoisier, *op. cit.*, p. 158-160.

<sup>48</sup> Mollien, *op. cit.*, p. 68. Lavoisier, *ib.*

<sup>49</sup> Jacques Necker, *Administration...*,

who supervised the largest fiscal organisation in the kingdom and offered very valuable, if costly, services to the Crown<sup>50</sup>.

### Conclusion.

To come back to our initial question about the reason(s) why *chambres de justice* disappear after 1716, one is tempted to argue that there is apparently no clear relationship between the actual rate of profit made by the financiers and the setting up of special courts to try them. On the contrary, study of the tax farmers under Louis XV indicates that profits from collecting indirect taxes on behalf of the king were higher, or at least equivalent, to those of Louis XIV's much despised *traitants*, and with almost no risk. A solution to this apparent paradox may lie in the fact that the main purpose of the *chambres de justice* was less financial than political after all. Although it may seem hard to separate finance from politics, it is worth noting that the two main *chambres* were set up in 1661 and 1716. Both were years of political challenge, following cardinal Mazarin's and then Louis XIV's deaths, combined with fiscal crises. In such contexts, a *chambre de justice* had been an ideal method, both for Louis XIV and the Regent, to assert their authority and take control of the purse. These conditions did neither occur after Louis XV's majority (1723), a king who on the contrary called back the financiers in 1726, nor at Louis XVI's accession in 1774. The new king could hardly target financiers after Terray's recent default, which many considered as a stain on the kingdom, and the measures introduced to cut down on financial profit. Arguably, the accusation, arrest and beheading of 39 tax farmers in Spring of 1794, at the height of the Terror, seem to confirm the political dimension of judicial indictment against financiers and their profits.

Maybe there are even more simple reasons for the end to *chambres de justice*. While praising Colbert's legacy, finance minister Desmaretz (1708-15) was critical of his uncle's decision to try the financiers in 1661, essentially for its impact on the king's credit and public confidence. Desmaretz warned his own successor, maréchal de Noailles (1715-17), against the temptation to set up another *chambre de justice* in 1716, which did bring some financial benefit but was broadly considered a failure. When Fleury called upon the financiers to access cheaper credit, the deal included a protective clause: all the leases contracted from 1726 onwards included an article that the tax farmers would be exempt from a *chambre de justice*. Yet the question of the financiers and their profits remained one of the most enduring subject of societal debate. As

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<sup>50</sup> Joel Félix, *Louis XVI et Marie-Antoinette. Un couple en politique*, Payot, Paris, 2006.

Marquet de Bourgade rightly commented they became a constitutive part of the Absolute Monarchy, a fourth power which had the capacity to support the king, but at a cost which was increasingly seen as unsustainable in a competitive European environment.

There was ever so much that a minister could do to adapt a fiscal system which had evolved and revolved around the tax farm. Whether the reforms carried from the mid-1750s could eventually have tipped the balance once and for all towards direct administration is hard to tell. Pressed for cash, Calonne restablished the *Ferme des postes* in 1786, which Necker had managed to suppress six years before by refunding the small cash advances of this minor tax farm<sup>51</sup>. As Mollien explained in his memoirs, finding 93 million lt. (a sum equivalent to the quarter of the English budget at the time) to pay off the advances of the main *Ferme générale* was quite a long shot for a government faced with a growing peacetime deficit and still committed to funding its naval arm race against Britain. Altogether, fiscal pressure, criticism of fiscal profit, economic debates, administrative reforms and international relations eroded confidence in the column on which rested the tax system since 1726. In such a context, the wealth of the financiers who benefitted so much from the fiscal system was a permanent thorn in the side of the government. For all their skills at collecting taxes and raising short-term loans, the sums to be paid for the services of the tax farmers were bound to raise question about value for money and, as such, question the position of financial dynasties which 'believed to be in possession of state, as the nobility and the parlements'<sup>52</sup>.

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<sup>51</sup> Its annual lease was ca. 11.5 million lt.

<sup>52</sup> Mollien, *op. cit.*, pp. 68-69.