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NOBILITY V. NATION: CONFLICTING JUSTICES IN THE EARLY FRENCH REVOLUTION
TRIALS OF LAMBESC, BESEVAL, AND FAVRAS (1789-1790)

By

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Submitted in Partial Fulfillment
of the Requirements for
Graduation with Honors from the
South Carolina Honors College

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Dedicated to professors for kindling curiosity and helping students pursue their interests.

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Note: Documents from the National Archives shall be abbreviated as AN

SUMMARY

Rife with political intrigue, bloody revolt, and impassioned debates over the role of different members of society, the French Revolution continues to baffle and bemuse despite the ever-accumulating wealth of scholarship. From the Great Terror of 1793, historians initially derived the term revolutionary justice and people have since indiscriminately applied the phrase to the entirety of the French Revolution and other revolutions without pausing to question the validity of the saying. In response, this study serves to nuance the meaning of the expression by proposing a theory of multiple justices and exploring its strength through three cases of lèse-nation taking place from 1789 to 1790: Lambesc, Besenval, and Favras.

These three people were members of the dominant ruling class known as the nobility. Their status as members of this particular estate subjected them to three types of justice: social, political, and judicial. This increased sensitivity to multiple pressures stems from their historical roles as noblemen. History created an ideal standard of what a noble should be and non-nobles held the aristocracy to these higher standards.

Lambesc, Besenval, and Favras were tried at the Châtelet court in Paris, France. This thousand-year-old building, originally a fortress protecting the city of Paris turned royal courtroom in the late 12th century, gained new jurisdiction from the National Assembly to hear, try, and judge criminals accused of lèse-nation, and protect rights given in laws and the Declaration of the Rights of Man and Citizen, including the right to counsel, right to have access to incriminating evidence, and the right to a public trial. In applying the law to the cases before the bench, the Châtelet had to weigh the popular and political pressures against judicial justice, individual rights, and state safety.

The first case revolves around the prince de Lambesc, a noble from a very well known French family—House of Guise and Lorraine—who, as a military man, led a regiment of cavalymen and other soldiers. In July of 1789, King Louis XVI called for several troops to come to Paris, including Lambesc. He was then charged with the protection of trade outposts (*barrières*) and general peace in the city. On the night of July 12th, his commander, the baron de Besenval, ordered Lambesc to disperse a group of protestors from the place Louis XV (now place de la Concorde) and then from the Tuileries gardens. People saw his charge into the Tuileries as an affront to the sanctity of Paris and exaggerated rumors spread across the city claiming that Lambesc assassinated an old man, Chauvel. While Lambesc fled the country to Austria, the Châtelet investigated the criminal behavior and eventually acquitted Lambesc despite public disdain.

As for the second case, the baron de Besenval is best known for his crime of failing to defend the Bastille prison from public looting and eventual dismantlement on July 14th, 1789. When he was accused of leading a counter-revolution against Paris, he, too, attempted to flee to Switzerland, his homeland, but was stopped by regional militia. Detained outside of Paris, the National Assembly debated over the fate of the first captured criminal of lèse-nation. Political officials such as Necker pled for amnesty while newspapers led by revolutionaries such as Brissot called for swift and punitive justice for an enemy of the people. Through a series of political maneuvers, Besenval escaped the wrath of the Parisian masses on his way to be tried by the Châtelet where he was subject to the lenient opinion of the judges.

His trial would become wrapped up in a second claim of aristocratic conspiracy against the marquis de Favras who suffered from immediate public scorn and contempt. Favras was charged for a plan to abduct the king, spur treasonous behavior among the National Guard, and

siege the city of Paris. Implicated in this plan was the comte de Provence, the future Louis XVIII. In a political cover-up, a judicial transaction occurred where Besenval was released while the people celebrated over the soon-to-occur hanging of Favras. These cases show just how revolutionary justice balanced multiple political, social, and judicial aims to determine the most just outcome.

ABSTRACT

Despite the wealth of information on the French Revolution, the courts of law remain an understudied subject matter, in particular the inconsistent application of criminal law in pursuit of suspects of lèse-nation by the Comité des recherches and Châtelet. This study bridges this gap using archival research of court documents and a holistic approach to historians of the time, of the crime, and of the cases in question. Considering the totality of the circumstances, the trials of the prince de Lambesc, baron de Besenval, and marquis de Favras paint a battleground of a multitude of conflicting justices—social, political, and judicial—resulting from the status of the individuals as noblemen. The aristocracy came under extreme scrutiny due to the infamous aristocratic conspiracy, which thus subjected those nobles to public excoriation, political manipulation, and premature judicial constraint. In defense, they turned to social appeals through the press or written word, political pleas for amnesty or acquittal, and judicial privileges and exemptions—tools of an educated, connected, noble upbringing. The analysis of these case studies nuances the understanding of revolutionary justice and opens the door for greater discussion of the role of the courts in the transfer of power and accountability of elites.

INTRODUCTION

You are not thinking hard enough if you are sleeping well. And you would have to be unhinged to take on a subject like the French Revolution, or Rembrandt, and not feel some trepidation. There is always a possibility that you will crash and burn, and the whole thing will be a horrible, vulgar, self-indulgent mess. – Simon Schama

In 1789, ten percent (10%) of the infamous Cahiers de doléances bemoaned the costly, prejudiced, and physically removed judicial system of the Old Regime. While the civil court system certainly contributed to the notoriety, it was the perceptively unjust and inconsistent application of criminal law that garnered hatred by the common people and warranted the description of archaic and obsolete. Considered incomprehensibly complex, the law seemed arbitrary and severe. Scandals such as the cases of Calas, Chevalier de la Barre, and Montbailli, pocked the justice system and flamed the passions of the masses. Socio-economic development during the time only aggravated the feelings of deprivation as the philosophy of the Enlightenment bolstered aspirations while capabilities of the average man left these expectations unfulfilled. Thus, on the eve of the Revolution, the newly defined nation sought to eradicate the source of the frustration and misfortune and use the courts to legitimize the new regime. With rumors of an aristocratic conspiracy of counter-revolution, the nobility found itself in the crosshairs of the purge and the events of July 12th, 13th, and 14th, 1789 only solidified this movement. The initial victims of this lashing out were the prince de Lambesc and baron de Besenval, but the hunt would continue through December of that year and catch the marquis de Favras under the same net.

The prince de Lambesc and baron de Besenval were not only members of the nobility, but also directly responsible for the violence experienced on these momentous days. Lambesc, with his team of dragoons, were charged with the protection of the trade posts (which were prone

to violent looting due to a grain shortage) and with the dispersion of discontents assembled at the place Louis XV on the July 12th, 1789. His commander, the baron de Besenval, ordered troops across the city of Paris and had a central role in the inadequate protection of the Bastille prison on July 14th. The final case study concerns the marquis de Favras who, although absent from the initial revolutionary days of July, would become the face of the aristocratic conspiracy upon his arrest in late December. The three trials would become inexorably linked in early 1790 as the Parisian masses exerted continued pressure to punish agents of the Old Regime and those trying to reinstate its existence.

Historians covering the trials or the surrounding circumstances are divided into three categories: time, crime, and case. Historians of the time are the most well known and include those such as Thiers, Tocqueville, Michelet, Sorel of the 19th century and Aulard, Mathiez, Lefebvre, Cobban, Soboul, Furet, and Hunt of the 20th century.¹ When one speaks of the immense oversaturation of literature about the French Revolution, one is undoubtedly talking about this group of historians who have seemingly covered every niche imaginable. From the role of the people (e.g. Soboul and Lefebvre) to the role of politics (e.g. Cobban), Marxists and Revisionists combined seem to have left no stone unturned. But, since the 1980s and the rejection of the classic interpretation of the French Revolution as class conflict between nobility and bourgeois, there is no one unified vision. Now, historians of the French Revolution follow the trend of specialization and elaborate on specific issues such as criminology or particular trials.

Historians of crime address the neglect in the study of the courts and concern themselves with the system of incrimination and penal code in the Old Regime and its subsequent

¹ This is by far only a fraction of the historians concerned with the French Revolution.

transformation into the Napoleonic Code. Particular to this study are the authors studying *lèse-nation*—the crime for which the previously mentioned noblemen would be charged—and the provisional powers of the Châtelet—the court where the nobles would be tried. In this category are Edmond Seligman (1901), G.A. Kelly (1981), Jacqueline Lafon (2001), and Jean-Christophe Gaven (2016) who have conducted brilliant archival work.² Their conversation revolves around *lèse-nation* as a precursor to the Terror or as a simple defense mechanism. These two viewpoints agree that the new regime used the ambiguous criminality of *lèse-nation* to ensure state safety, but disagree as to the extent of the abuse of this power. Others, such as Barry Shapiro (1993), reject this pessimistic view of *lèse-nation* and argue that, despite the all-encompassing nature of the crime, practice proved to be incredibly lenient, at least in the first years of 1789 and 1790. Historians of crime talk about Lambesc, Besenval, and Favras in the greater context of the crime rather than focus down on the cases.

The final group of historians have looked at the criminal pursuit and processing of Lambesc, Besenval, and Favras in particular. As to the first, only Paul Spagnoli attacks the Châtelet's investigation into "Lambesc's Charge" and he only does so to untangle the historical retelling of July 12th by generalists such as Schama and Sutherland. In his conclusion, he states that Lambesc's actions "struck psychological cords that continued to resonate for years," far beyond the objective significance.³ As for Besenval, I must rely on Shapiro (1993), and, to a lesser extent, Seligman (1901) as foundation. Together they paint a picture of political manipulation, procedural frustration, and an acquittal based on furtive conversations rather than

² In regard to the use of the word *lèse-nation*, the technical translation would be *treason against the people*, or simply *treason*. Many authors discussed herein translate it willingly using either term. But, given the complex nature of the crime, its inconsistency in application, and the possibility of confounding it with *lèse-majesté*—*treason against the king*—I will leave the word unmodified throughout. Translating the crime loses meaning.

³ See Spagnoli "Lambesc's Charge" p. 493.

legal adjudication of the facts. Finally, the historians covering Favras include his brother, Guillaume-François, Baron de Corméré (1790), Alexis de Valon (1851), Edmond Cleray (1932), and Shapiro (1993). All emphasize the cover up by the Châtelet and Comité des recherches to exclude the comte de Provence (future Louis XVIII) from the allegations of conspiracy. Shapiro, in particular, points to a judicial transaction between Besenval and Favras completely outside of judicial transparency, where the death of the latter permitted the release of the former.

All of the aforementioned historians of crime speak of political manipulation, judicial leniency, and popular force, but have not considered these three pressures as distinct justices at odds with each other. The justice spoke of in their works is unique, one-dimensional, static, and pertains only to the application of the law. This definition of justice is consistent with most criminology studies. But, other historians focus on political and social influences, though do not address the goals of these influences. I hope to show that these pressures, forces, and influences are in fact results of the political court and social court whose ideas of justice directly clashed with what would be judicial justice. The goal of political justice is to maintain stability within the regime and its institutions; meanwhile social justice safeguards the people against perceived unfairness and reacts often viscerally to external threats to societal security. Meanwhile, judicial justice upholds the man-made laws of society in face of change. Revolutionary justice occurs when these three justices enter into conflict because of the forcible overthrow of government or social order. Understanding the interplay among these multiple justices would bring coherence to the multiple theories of revolutionary justice ranging from punitive to permissive and bring light to the reasons for the internally inconsistent application of criminal procedure during the French Revolution. It is my hypothesis that at the crux of this understanding is the status of the criminal. Because the accused in these cases were nobles—as defined by legality and, perhaps

more importantly, public perception—they were subject to higher standards of care—the degree of prudence, caution, and responsibility associated with acts that could possibly harm others, such as developing economic policy or leading the people morally. On the background of an aristocratic conspiracy at the turn of the Revolution, any indication of a breach of this duty was thoroughly investigated because it was seen as particularly offensive—even criminal. Belonging to the nobility became an aggravating circumstance worthy of public excoriation. But, political ties to powerful elites within the old and new regimes militated against public persecution. Thus the Châtelet became a battleground between what is thought to be traditionally ruthless revolutionary justice and the merciful mission for stability.

Thus, this analysis seeks to answer to what extent the status of the criminal affected the trials of nobles during the French Revolution. To undertake this monumental task, I have conducted personal research at the Archives Nationales at Pierrefitte-sur-Seine looking at files BB/30/82, BB/3/221, and AB/XIX/5299.⁴ Additionally, the digitized repository of the Bibliothèque nationale de France, Gallica, houses an incredible quantity of newspapers, texts, and historical prints. From this cornucopia of sources come four chapters and two interludes. The first chapter will show that the social status of the nobility rested firmly on its historical role as model for emulation thereby creating a high standard of care in regard to personal actions and governance; that the public saw the military as the heart of the nobility in 1789; and that “revolutionary justice” consisted of holding the agents of the old regime accountable under a

⁴ For archival materials outside of the aforementioned collections, I rely on secondary sources. In particular, the documents concerning Besenval are scattered among multiple boxes at the National Archives at Pierrefitte-sur-Seine. At the time of my trip to Paris, I was unaware of BB/30/161, D/XXIX/bis 1/1, 1/3, and 1/8, which contain a good many texts. While I would prefer to have a first-hand textual analysis of these documents, I rely on Barry Shapiro and Jean-Christophe Gaven who have analyzed the contents of these documents. My particular discussion derives from the documents contained in BB/30/82, which contained documents on Favras, Besenval, Lambesc, and Danton (the last being omitted from my discussion).

guise of equal application of the law. The second chapter looks at Lambesc who, although having escaped actual imprisonment, faced criminal charges both at the Châtelet and in the eyes of Parisians who declared him “an enemy of the people.” The first interlude shows how the outcome of Lambesc relied on the outcome of his direct commander, the baron de Besenval, whose procedural nightmare is the subject of the third chapter. The second interlude analyzes Barry Shapiro’s judicial transaction theory that aligns with the theory of multiple justices enounced in this work. The final chapter looks at Favras, the most famous of the cases of lèse-nation, and demonstrates that his death was inherently based on financial and political severance from nobility despite a clear public label of “counter-revolutionary aristocrat” (Valon 1097).

Having explained the scope and methodology of this work, it should be clear that this analysis of Lambesc, Besenval, and Favras would contribute to the growing literature on lèse-nation and provide a more nuanced understanding of revolutionary justice. Taking a holistic approach to the multiple justices that disproportionately affected nobles during the French Revolution and their court cases, I plan to show how revolutionary justice is in fact a proverbial battleground between the old and new regimes, social orders, and laws resulting in aristocratic backlash, power struggles, and courtroom commotion surrounding prince de Lambesc, baron de Besenval, and marquis de Favras.

CHAPTER 1—NOBILITY, CHÂTELET, AND LÈSE-NATION

Before delving into the case studies regarding the trials of the nobility for the crime of lèse-nation it is essential to understand the historical context in which the nobility found themselves and the theoretical underpinnings of criminology during the late 1700s. Who was considered among the nobility? What functions did they serve? How did the French Revolution alter the concept of nobility? And, in analogous reasoning, who was considered among the criminal? What function did the Châtelet serve in criminal proceedings? How did the French Revolution alter the processing of criminals and perception of suspects? Naturally the practice strays far from the theory, but understanding the major trends of leniency and punishment surrounding the trials will provide insight into the minds of those in charge of prosecuting the enemies of the people: Lambesc, Besenval, and Favras. Exploration of the nobility, the Châtelet (its composition and its procedure both pre- and post-revolution), and the crime of lèse-nation will explain the vicissitudes of the Revolution affecting the trials and firmly establish the existence of heightened pressures and justices during this time period.

EVOLUTION OF THE NOBILITY

Historically, the nobility derives from the feudal system during which powerful men (and their families) pledged loyalty, i.e. fealty, to a stronger lord or King. In France, this dates back to the ninth century with records of *nobilis* and titles of *dux and comes* among the elites Nobles had wealth, power, and noble blood (Bouchard 501-502). During this time, the aristocracy remained a relatively closed system with only exceptional families able to rise in the rankings through marriage or conquest. But, the picture of noble lineage and royal families solidified during the eleventh and twelfth century during which nobles began the practice of heritage; nobility became

a continuity to preserve (Idem. 504). Nevertheless, use of circular reasoning by historians studying genealogy (arguing nobles only marry nobles or people of the same name are from the same family) cloud the concept of nobility to be certainly more uniform than in practice (Idem. 504). During the 11th century, non-nobles married into noble families and people concentrated power around the erection of castles thereby regionalizing nobility (Idem. 504).

After the 12th and 13th century and the establishment of the monarchy during which the king could nobilify or knight those he deemed worthy of a title, the nobility never stopped expanding and complicating. Daughters of aristocratic families married lowly knights in order to add power to resources of wealth and noble birth (Idem. 524). Or, waning noble families married off younger sons to daughters of rich merchants or extra daughters to rich lower-class nobles, known as “redorer son blason.”¹ More importantly, these new nobles entered into the socio-political web of alliances connecting across noble families, their branches, and political supporters. Underlying this web was a power struggle among the competing families; the Old Regime was essentially a civil war among the nobility. Only in 1789 and after did the non-noble population threaten to shake the stranglehold of noble domination. As military power gave way to economic power, people began casting doubt on the archaic system of society. As Guy Chaussinand-Nogaret aptly summarized, “Money mingled ranks and spread confusion” (Chaussinand-Nogaret 1985, 4).

By the 18th century, the nobility proves to be an elusive and amorphous concept with more exceptions to the traditional model of the medieval period and more divisions creating a hierarchy, even among this extreme minority. New royal nobility, who acquired title through

¹ There was a strong drive to keep noble blood pure, which often led to incestuous relationships by the 12th century. That is to say, marrying outside of nobility was generally frowned upon. See Bouchard “The Origins of the French Nobility: a Reassessment.”

office² (parlement members, magistracy, chanceries, etc.), used their financial means to siphon power away from the feudal nobility whose titles derived from land ownership, e.g. marquise, barony, duchy. These two groups form what is commonly accepted as the major division of the French nobility: nobility of the robe and nobility of the sword (Idem. 8, 49). Members of both classes propagated the culture of service (army, courts, and counsel), which means even military men could be considered nobility of the robe if their title³ came from service rather than descent. But, origins of nobility determined rank.

The nobles in question in this work were complicated people. The prince de Lambesc came from an assuredly old and established French family (House of Lorraine) and was considered a foreign prince and later peer of France. His lineage, title, and ties to the court (as cousin of Marie-Antoinette) solidify his classification as a noble of the sword. Comparatively, the baron de Besenval was a high-ranking courtier despite his low position in the aristocratic hierarchy.⁴ Given that Besenval was a member of the Order of Saint-Louis, which showed the favor of the king, he should be considered a high-ranking noble of the robe.⁵ Finally, the marquis de Favras was actually a baron whose name (Thomas de Mahy de Favras) was mispronounced and he never bothered to correct anyone. His family claimed to trace its heritage from the 14th century but his assets floundered; despite his new economic situation, he would be

² Interestingly enough, office at the Châtelet granted ennoblement but only after forty years of service. No one benefited from this office as the program began in 1768 and the Châtelet would be destroyed by 1791.

³ Many nobles did not hold title. Lambesc, Besenval and Favras held one if not several different titles.

⁴ Besenval was foreign born (Switzerland) and, despite his family's service to the king of France since 1707, his status as a nobleman was fairly new.

⁵ Interestingly enough, Besenval's nobility came into question *post mortem* when the vicomte de Ségur claimed to be the son of the Swiss general (see his *Mémoires*). The House of Ségur is one of the oldest families of Normandy. But his classification does not change as Besenval simply had an affair with the wife of one of his close friends, Philippe Henri, marquis de Ségur.

considered a noble of the robe. All three men served in the military, had personal connections to someone in the court, and were deemed aristocrats by the people. While money certainly mattered the most within the nobility, this last characteristic of recognition held more value in the greater picture. Nobles of all kinds distinguished themselves from the non-noble population (approximately 99.5% of the French) through the exercise of social, economic, military, and judicial functions and privileges (Chaussinand-Nogaret 1975, 265-278).

FUNCTIONS AND PRIVILEGES OF THE NOBILITY: SOCIAL, ECONOMIC, MILITARY, AND JUDICIAL

The nobility played a particular role in the Old Regime of France, because they were acting as the people responsible for the well being of the country. Of course, at this time in history, the well being of the country meant the well being of the crown and the king's family; thus, as Chaussinand-Nogaret resumes, the nobility's true purpose was personal service to the king (Idem. 266). Aristocrats were wealthy, well equipped, and educated; these traits allowed for great flexibility and a possibility of spending time not working in the fields unlike the common Frenchman at the time. It is no wonder that the nobility soon came to be the governing forces under the king, acting as administrators of the king's will and serving as the royal army in combat in pursuit of the crown's interests. The aristocracy served the king as role models for the common man intellectually and socially, as advisors in financial and administrative matters, as men of arms in times of war, and as judges in the courts. In return, they received great social prerogatives such as dress, economic benefits such as tax breaks, power and command over commoners in the military, and special judicial privileges. But, this unspoken contract of function and favors had perverse effects upon the backdrop of the aristocratic conspiracy and French Revolution: higher standards of care and accountability, not only before the king, but also

before the people.⁶ The Revolution criminalized the nobility's failure to execute these functions in a satisfactory manner and people howled for retribution.

Firstly, the nobility served as a social and later intellectual elite. Since time immemorial, noble families served as role model to subjects of France (Reinhard 21-23). Stemming from the stories of courtly literature, the knight and noble became the class to imitate. At the time of the Enlightenment, this same group became men of talent as culture changed to value the philosopher and the scientist on the same level as the warrior. The king, as an enlightened ruler—or despot to some—used literary savants, masterful artists, and curious scientists to enhance the image of French power and increase cultural and scientific domination. By centralizing culture in the hands of the king and embodying this civility in the nobility who claimed monopoly over genius and morality, the people were left to acculturation (Lebrun 225). As leaders, the nobility had an obligation not to lead the people astray as culture blurred with morality and philosophy. In return, the noble class benefited from social prerogatives such as the freedom to wear certain fabrics (sumptuary laws) and attend the court of the king in Versailles (Carré 8). Of course, this image of the nobility derives from public perception rather than fact. As Chaussinand-Nogaret pointed out, only “perhaps 10% [of the nobility] was in touch with the higher cultural levels, whereas the elite of the order made up an important proportion of the creators and consumers of the Enlightenment” (Chaussinand-Nogaret 1985, 76-77). But the people invested in the ideal of living nobly and public perception created public expectations tied to noble status. Thus, on the eve of the Revolution, people questioned the noble's authority over culture and society because of a failure to meet those expectations. This was particularly

⁶ The king, by the divine graces, was above public accountability. He was above fault and could only falter because of bad advice given by his advisors. This transforms into a pursuit of ministerial responsibility at the turn of the Revolution and later, in 1793, the fall from grace of the king.

poignant during the libertine movement, which sparked communal outcry against the moral decadence of the nobility who authored these books; such blatant and public hedonism was contrary to popular expectations of how noblemen should act. These breaches came under strict scrutiny and during the Revolution, further criminal violations resulted in nobility being seen as an aggravating circumstance (Lafon 88).

This higher level of expectation and breach of confidence also existed at the financial level. The nobility, as previously mentioned, originated as the wealthy elite of the medieval period who were capable of equipping an army and defending claims to land. Land was the source of the power but also source of the income. By the 1700s, this claim of richness surely came into question as titles of nobility or just noble blood meant very little economically as aristocrats held positions in the top and bottom one-percent of the population (Chaussinand-Nogaret 1985, 88-89). Financially, though the king surrounded himself with his greatest servants and filled the ranks of the elites with the nobility. Baron de l'Aulne (Turgot), Joseph Omer Joly de Fleury (of the 15th century Joly de Fleur family), vicomte de Calonne, Lomenie de Brienne (of the 15th century Limousin family), and the infamous minister of 100-hours, the baron de Breteuil all served as ministers or advisors of finance. However, the great minister of the people, Necker was not noble and this perhaps explains his escape from public censure at the turn of the Revolution. For their service, nobles were exempt from taxes such as the *taille*—a tax, ironically, on land. But, France, through a series of expensive wars and failed economic reform, began to decline financially (Soboul 117-119). Who else was to blame but the ministers and elite nobles responsible for the past one hundred years of mismanagement?

Further complicating this obligation to serve was the traditional occupation of the nobility in the army, which carried its own standards and duties. The nobility thought the military to be

the perfect aristocratic occupation because it presented a possibility to rise in the ranks through service to the king, and they held an unjustified belief that noble blood gave one natural talent to command and conquer attracted most noble houses, from the poorest to the richest (Reinhard 6). Once again playing on the idealized past of knights and feudalism, the nobility sought to return to its roots in the army.⁷ In fact, only the nobility could be admitted to certain military offices (Chaussinand-Nogaret 1975, 267). In 1750, the king proclaimed the creation of a noblesse militaire or noble military. The edict ennobled all generals (and their male heirs) and the third generation of military men who completed a certain time of service in the army (Reinhard 9-10). But some (i.e. nobles of the sword) protested the inclusion of commoners into the nobility and access to the Ecole Militaire; all attempts to reverse the inclusion failed due to immediate war-time conditions until 1781 with the passage of the Ségur Ordinance, which required proof of four generations of nobility to serve as a sous-lieutenant or higher in the infantry (as in the cases of Besenval and Favras), dragoons (as in the case of Lambesc), or cavalry in the French army (Idem, 10-11).⁸ High military positions were restricted again in 1788 and reserved for the old, well-recognized noble families. Of the military orders such as the Order of the Holy Spirit, Order of Saint Louis, and Order of Saint Michael, the first and third were entirely reserved to the nobility (of at least three generations) (Idem. 26-28). High-ranking officers in the French army, such as Lambesc, Besenval, and Favras, could therefore easily be presumed to be noble by the general public. Therefore, the reasonable standards associated with military conduct were stacked upon the already stringent standards set by the expectations of the nobility discussed *supra*.

⁷ Service in the marine did not afford the same privileges. See Reinhard *Elite et noblesse dans la seconde moitié du XVIIIème siècle*

⁸ Or one could be the son of a recipient of the Order of Saint Louis.

The final function of the nobility was judicial office, which carried prerogatives, responsibilities, and contempt like other service-oriented positions in society filled by the nobility. The king was considered the fountain of justice, but, incapable of hearing every complaint and ruling on every matter, he chose his representatives to act in his stead in courts across the country.⁹ Offices in sovereign courts also gave nobility to its occupants (Carré 6-7). Magistrates of the Parlement of Paris, Courts of Accounts, and Courts of Aids of Paris gained access to titles of nobility after a period of service. Conversely, much like the army, these offices eventually required four degrees of paternal nobility (Ibid). In short, the highest judicial offices were reserved for members of older nobility. In return for the management of the judicial system across the French country, magistrates received several benefits including *committimus*—the right to be tried by one’s peers, meaning other nobles in Parlement—, varying “lighter” punishments such as death by decapitation rather than hanging, etc. (Idem. 316-317). These judicial privileges and seigniorial rights were at the heart of the official redress of grievances inaugurated by the French government in 1789 known as the Cahiers de doléances. Concerns in the Cahiers de doléances included:¹⁰

a) **Modifications to Justice:** abolition of exceptional courts and prerogative courts, destruction of state prisons (i.e. Bastille), no imprisonment without court appearance for more than twenty-four hours, abolition of Waters and Forests courts, privileged access to appeals courts (*committimus*) to be abolished, defending counsel to be created, simpler and swifter procedures, magistrates to be irremovable, courts to be brought closer to

⁹ This is, of course, ignoring the seigneurial courts, which, by their name, indicate the ruling presence of land-owning nobles.

¹⁰ Concerns listed here are present in at least 10% of the grievances counted by Guy Chaussinand-Nogaret in his book, *The French nobility in the eighteenth century*. There were, of course, other grievances besides the ones listed here and some grievances came into direct conflict with one another (such as the revocation or protection of the Ségur Ordinance of 1781, vote by head or vote by order, protection of noble privileges or equal protection before the law). Just barely missing the threshold of 10% were the demands of criminal prosecution to be in public and restriction of death penalty.

those under them, more parlements, civil and criminal codes to be reformed, and legal costs to be cut.

b) **Protections of Individual Rights:** individual freedom to be inviolable and sacred, none to be tried except by natural judges, release on bail, no interference with private mails, freedom of thought and press, rights for minorities, and property to be inviolable.

c) **Preservation of the Nobility:** honorific prerogatives to be preserved, non-nobles not to carry arms, Ordinance of 1781¹¹ to be revoked and possession of transmissible nobility to suffice for entry, seigneurial courts to be retained and improved, seigneurial rights to be retained, vote by order, nobles to be allowed to engage in trade and other non-servile professions, abolition of heredity in office, venality to be abolished and nobility to be the reward for service, and thought to be given to the poor nobility (Chaussinand-Nogaret 1985, 150-156, 159-160).

As will be explained later, the judicial problems resulted in an exaggerated slowness and inefficiency lamentable to all parties, even the nobles running the courts. Contrary to the National Assembly's decree of August 4th-6th, 1789 abolishing the privileges of the nobility, some members attempted to maintain their exceptional rights in the courts in face of the problems they caused. Popular opinion judged this aristocratic reaction as counter-revolutionary, once again placing the elite nobility upon a bed of prejudice.

REVOLUTIONARY RIGHTS AND REFORM

Given the gravity of the judicial problems exposed through the Cahiers de Doléances, the National Assembly had to address the call for rights and reform. Several laws severely altered how criminal suspects proceeded through the judicial system, which traditionally followed the Ordinance of 1670 and its edits. The first great text to modify these procedures was the Declaration on the Rights of Man and Citizen on August 26th, 1789, which promulgated the rule of law (Article 5), equal protection of the law (Article 6), freedom from unlawful arrest and

¹¹ The Ségur Ordinance of 1781 required officers in the French army to produce proof of four generations of nobility in order to serve.

imprisonment (Article 7), protection from unduly harsh or barbaric punishments (Article 8), and the presumption of innocence (Article 9).

On September 10, 1789, the National Assembly created the Comité pour la réforme de la jurisprudence criminelle (Committee for the reform of Criminal Jurisprudence) to reinforce these principles by law. The result was an immense expansion of rights in the decree of October 9th: right to public trial (through the usage of notables) (Articles 1-2, 21), right to know one's accuser (Articles 4 and 12), freedom from unlawful arrest save for crimes punished by corporal punishment (Article 9), right to counsel (Articles 10, 12, 18-20), right to public adversarial process (Article 11), right to incriminating evidence and procedural dossier (Articles 14-15), and right to cross-examine witnesses (Article 16). These modifications to criminal procedure followed the general trend towards protection of individual rights and abolition of barbaric practices such as torture (Lafon 73). A second wave of judicial reform occurred on January 21, 1790 when Joseph-Ignace Guillotin proposed that the same offences had to be punished by the same sentences, that punishment of a criminal could not taint the family in honor, that property of criminals could not be confiscated, and that the body of a criminal condemned to death had to be delivered to the family without mention of means of death on official documents.

Some of these rights were more nuanced than others. For instance, the right to counsel was not absolute. Counsel attended the investigation but had no right to speak or suggest responses to witnesses. On the day of the final audience before the court, counsel is present throughout the hearing unlike the accused that entered only after the report of the judge and left shortly thereafter. In absence of the accused, counsel then presents his client's defense (Lafon 76; Articles 18-21 of the Decree of October 9th, 1789). Cases of lèse-nation before the Châtelet would test the limits of these rights and principles of individualism, particularly in the case of the

absconder Lambesc whose absence endangered all of these novel protections. Denial of rights was grounds for nullification and attorneys such as de Sèze, Thilorier, and Cormeré fought valiantly for their clients before the Châtelet.

BRIEF HISTORY OF THE CHÂTELET

One of those archaic buildings most clearly representing the Old Regime, the Châtelet was a courthouse that heard all criminal and civil cases within its jurisdiction, save for royal cases such as, ironically, lèse-majesté (“Le Châtelet de Paris”). There once were two fortresses that defended the city of Paris, the Grand Châtelet on the right bank and the Petit Châtelet on the left bank. The Grand Châtelet would become part of the royal jurisdiction in 1190 under Philippe-Auguste. The Paris jurisdiction was one of the most vast and covered one-third of the total French territory. Initially, the Châtelet held subject matter jurisdiction over crimes against the public security, sedition, fraud, and breaches of corporation regulations (Ibid). From 1190 to 1300, there was not a right to appeal. It was only in the 14th century that those found guilty of a crime could be heard before the newly created Parlement de Paris.¹²

Before being brought before the court, suspects were kept in the prison cells on site. There were several different types of prison cells, much like the better-known Conciergerie, but none of the options provided any ease and some actively put the prisoner in serious discomfort (Ibid.).¹³ One could consider Paris a microcosm, separate from judicial practice in the rest of the country given the existence of two courts of royal jurisdiction; nevertheless, Jacqueline Lucienne

¹² The Châtelet became notorious for very harsh punishment, including death by boiling for counterfeiting money or to have the right ear cut off for a first time theft. See “Le Châtelet de Paris” for further information.

¹³ For instance, the small cell called the *Chausse d’Hypocras* always contained enough water to cover the prisoner’s feet so that the prisoner could not comfortably stand nor sit nor lay down (“Le Châtelet de Paris”).

Lafon, author of *La Révolution face au système judiciaire d'Ancien Régime*, concludes that the Châtelet and Parlement are “generally reflective of other jurisdictions in France during this time period (15). The Petit Châtelet would be destroyed in 1782. The cases in question took place in the Grand Châtelet, which heard its last cases in 1792 and was subsequently destroyed between 1802 and 1810 because of its natural reminder of the Old Regime (“Le Châtelet de Paris”). However, before its destruction, members of the new regime filled the Châtelet and found new investigatory and judicial powers thereby transforming into a court of revolutionary justice.

COMPOSITION OF THE CHÂTELET AND THE COMITÉ DE RECHERCHES

Agents of the new and old regimes composed the Châtelet and the corresponding investigative body, the Comité de recherches, leading to a complex and inconsistent application of the law. Presiding over the Châtelet was the lieutenant-civil who, at this time, was Antoine Omer Talon.¹⁴ Talon exercised high judicial functions and progressively consolidated power in the office as administrator of justice and the city (Lafon 30; “Le Châtelet de Paris”). He was a member of the parliamentary families, a noble, and acted as a political agent under the commander-in-chief of the National Guard, the marquis de LaFayette. Together with his friend Sémonville, who was also a judge, Talon controlled the court (Shapiro 1993, 30-31). Appointed on September 30, 1789, Talon managed the 1,200 employees of the court: individual lieutenants, councilors, crown prosecutors, examiners, lawyers, and hundreds of judges (Shapiro 1992).¹⁵

¹⁴ The provost of the Châtelet traditionally held power over the court but the office ceded control over to the lieutenant-civil in 1630 (Mousnier 316).

¹⁵ The Ministère de justice lists 1200 people working at the Châtelet under Louis XIV. I have not found evidence to suggest an increase or decrease in employees, but given the extra responsibility, I would wager on a higher number by 1789. Additionally, to differentiate between the various forms of legal counsel, it is important to know that *procureurs* helped defendants navigate the criminal procedure while *avocats* actually aided in the defense. Take for

Among these officials was judge and lieutenant-particulier André-Jean Boucher d'Argis, a French revolutionary philosopher-politician (Seligman 1901).¹⁶

D'Argis was quite typical of Châtelet judges coming from bourgeois or recently ennobled origins. He was well known for his role in the Association de Bienfaisance Judiciaire that provided counsel for indigent defendants and argued that in “tumultuous tribunals where reason does not always preside...a man who might be unjustly accused would be exposed to public scorn” (Shapiro 1993, 32-32). Many men in the Châtelet shared d'Argis' propensity for criminal law reform and leniency. Most importantly, this judge who saw the accused in the light most favorable would be the presiding judge in the infamous case of Besenval.

The municipal Comité des recherches, empowered¹⁷ by police and prosecutorial measures to “arrest, if necessary, persons who are denounced, to interrogate them, and to acquire and assemble the evidence necessary to make a case against them,” consisted of six people: Brissot de Warville, Agier, Lucretelle, Perron, Oudart, and Garran de Coulon (Shapiro 1992, 662; Jean Sylvain et al.). All but Lucretelle would be associated with the revolutionary Girondin movement in some capacity. Brissot and Garran de Coulon took charge of the committee and wrote most of the denunciations and conclusions of investigations. Brissot even pursued extra-judicial justice by commenting on the cases of lèse-nation in his paper *Patriote français* and provoking the passion of the masses (Shapiro 1992, 660).

example the counsel of Besenval: Romain de Sèze (avocat) and de Bruges (procureur). As for the judges, the 1789 *Almanach Royal* digitized by the Bibliothèque nationale de France contains a full list.

¹⁶ Boucher d'Argis also contributed heavily to the encyclopedia of the time. See Seligman *La justice en France pendant la Révolution*.

¹⁷ The *Comité des recherches* took form after a decree from the National Assembly on the 23rd of October 1789.

On one hand, the Châtelet consisted of officials under the control of LaFayette and of the opinion that suspects deserved doubt and full rights; on the other hand, the Comité des recherches filled with revolutionaries given ample tools to punish those they deemed threats to the movement. The question therefore is the following: which hand would dominate the cases of lèse-nation?

LÈSE-NATION: DEFENSE MECHANISM OR POLITICAL ASSASSINATION?

Through three laws, the Châtelet acquired an entirely new subject matter jurisdiction that nevertheless seemed like a logical extension of its duty to protect the public's safety and try cases of sedition. Less than a week after the start of the Revolution, the National Assembly targeted the "beholders of power who would have caused or could have caused the misfortune of the people," including nobles, military, and those in power or those who counseled the king, and decreed that the crime of lèse-nation was to be tried by the "representatives of the nation" and that the Assembly would appoint the tribunal responsible for these cases in the Constitution to be produced (Gaven 15-16, 118). The proclamation left little ambiguity around the goal of the new crime: punish enemies of the new regime (Idem. 119). Pre-Revolutionary French "criminal law was always looking for a victim to sacrifice to public tranquility" (Shapiro 1993, 23). These enemies and victims, Gaven counts, included four ministers, fifteen military officials, three princes or dukes, eight people of the church (one of which was a bishop), sixteen persons tied to the Court, three deputies of the Constituent Assembly and five members of municipal assemblies implicated in crimes against the nation between 1789 and 1790 (Gaven 296-297). In short, lèse-nation was a crime against the high nobility and the lowly soldier (Idem. 462).

The suspects of lèse-nation were to be “accused, convicted, and punished...by the law...and all suspects accused of these sort of crimes... judged according to the law after a public investigation (Idem. 118). This new crime drew natural parallels to the old crime of lèse-majesté, which included any actions against the king. The transition from king to nation was one of the clearest signs of a greater transition of sovereignty (Lafon 132). Less clear was the actual substance of the crime. No exact definition ever existed for lèse-nation. In the records remaining of cases of lèse-nation, the clerk rarely even inscribed the official charge (Idem. 33). Lafon, in her archival research, arrives at a four-class division of crimes charged as lèse-nation:

1. Publication (most numerous) (e.g. Séguier)
2. Inflammatory Remarks against the Decrees of the National Assembly (e.g. Guillard, Roussel)
3. Disturbance of the Peace (e.g. Danton, Marat, Noël, Deschamps), usually for seditious or incendiary words
4. Political plots (e.g. Astorg, Bonnaventure Antoine-Jacques Delcros, Barmont) (Idem. 33-34).

Despite this division, there remained a serious question of how the suspects accused of lèse-nation could be judged by the law alone given there were no legal definitions for the crime, no punishment suggested, and no court to try the cases.

The final problem in this list would prove to be incredibly pertinent as militiamen outside of Paris arrested the first suspect of lèse-nation, Besenval, just five days after the designation of lèse-nation. Fears of an aristocratic conspiracy disturbed the public tranquility and the provisional government of Paris risked increased rioting and violence. Thus, the National Assembly would then not be able to wait until the completion of the Constitution (completed two years later) and they instead passed a second decree on the October 14th, 1789 giving extraordinary and provisional investigatory powers to the Châtelet (Gaven 119; Lafon 32).

Historians such as Lafon, Shapiro, and Gaven have found this assignment particularly differently. Lafon shows that the Assembly at that time was incredibly concerned over the political nature of the Parlement de Paris and did not give much heed to the Châtelet. For her, the new nature of the Châtelet was fairly unexpected (Lafon 21). Shapiro, on the other hand, saw the assignment of lèse-nation cases to the Châtelet as the natural choice to enact LaFayette's policy of reconciliation. For him, placing the prosecutory powers against the Old Regime in the last vestige of the Old Regime guaranteed a lack of punishment of criminals (Shapiro 1993). Finally Gaven looks at the implications of the provisional assignment of power to the Châtelet. For him, it was a question of whether or not this form of revolutionary justice was to be temporary or a permanent¹⁸ feature of the next regime (Gaven 131).

The Decree of October 21st, 1789 neither confirmed nor denied the nature of the crime but did finally give subject matter jurisdiction and full power to try the cases of lèse-nation to the Châtelet (Lafon 32). The earlier declaration permitted a provisional incrimination allowing the fledgling government to respond to complaints of ministerial dereliction and popular violence. As a defense mechanism, lèse-nation assured a premature juridicity and allowed a more effective and efficient response to ongoing threats to public security. Although many historians have argued about the harshness of the Châtelet being a precursor to the better known Terror, others, such as Shapiro (1992; 1993), Lafon (2001), and Gaven (2016) rush to the defense of the institution. Arguing for the necessity of the crime and the generally indulgent application of the law, the Châtelet is now seen as a precarious balancing act where incredible opportunity for abuse was circumvented by political pressure for reconciliation.

¹⁸ Lafon believed that the Châtelet revealed a new revolutionary spirit: the willingness to have a *permanent* jurisdiction to judge political crimes (35).

CRIMINAL PROCEDURE

At the heart of the debate over lèse-nation and the role of the Châtelet is the application of criminal procedure. It is therefore important to understand what *should* occur before and during a trial before the court. Edmond Seligman's outlined the procedure based on the Ordinance of 1670: audition of witnesses before the lieutenant-criminal, decree (of arrest, of personal adjournment, or of summons¹⁹), interrogation of the accused (without counsel save for specific crimes), règlement à l'extraordinaire which subpoenas the witnesses to be cross examined, written legal conclusions by the procureur du roi, and the submission of the reporter's exposé to the full council who renders the final disposition (Seligman 26-28). But, this procedure would change during the Revolution. Altered by the laws previously discussed, the Comité des recherches collects all evidence of the crime and follows the procedure outlined by Lafon: submission of denunciation (varied, but often by the Comité des recherches), decree of arrest and of adversary procedure, nomination of council in charge of investigation, and interrogation of the accused (before which the accused has the right to counsel, all pieces of the procedure, minutes, and evidence against him), cross-examination of witnesses, and final disposition (Lafon 75-76). The most notable difference concerns the enhanced presence of the defense throughout the trial.

During the investigation, cases followed the procedure set forth in the Ordinance of 1670 and the modifications of October 8th-9th, 1789 (see *supra*) (Idem. 34). The lieutenant-criminal, Bachois de Villefort, and fifteen advisors judged the grand criminal²⁰ cases (Idem 24). To ensure the new right to a public trial, notables-adjoints were appointed for each case and the public

¹⁹ Décret de prise de corps, décret d'ajournement personnel et décret d'assigné pour être ouï.

²⁰ The petit criminel dealt with more minor crimes while the grand criminel heard cases that called for peine afflictive, including death, deportation, reclusion, and other harsh punishments.

could theoretically witness the investigation.²¹ Notables-adjoints were not consistent throughout the case and often intervened during the initial phase of the trial (Idem. 80-81). These notables came from different social origins and the supermajority did not have a legal background (Idem. 78). Assembled together, council and notables, for four to six audiences each month, the Châtelet only heard a maximum of five cases each time and sometimes only one (Idem. 21). Dossiers became incredibly long and the process was slow, usually resulting in inhumane wait times in less-than-ideal prisons (Idem. 34, 79). By the end of the investigation, judges deliberate in the chambre du conseil and render a judgment. Two-thirds votes were needed to inflict corporal punishment or exile and four-fifths for the death penalty (Lafon 85; Article 25 of the Decree of October 9th, 1789). This procedure continued from October 23rd, 1789 until the final hearing before the criminal chamber on January 20th, 1791 (Lafon 27).²²

In summary, the Revolution represents a direct challenge to the tradition of the Old Regime and new laws in response to this challenge fundamentally altered the Châtelet, which would in turn have an immense impact on the trials in question. Prior to the Revolution, the nobility floundered to meet societal expectations that historically justified the superior position in the socio-economic hierarchy. Now aware of the inherent unfairness and inequality, social justice sought to upend the traditional model of society. At the same time, the political ramifications of this new social understanding threatened the institutions of the Old Regime and the authority of the political elites. In response, political justice attempted to reinstate the authority of the Old

²¹ Courtroom size often limited this right to publicity.

²² At the closing of the Châtelet, cases were often given to the inferior courts in each arrondissement or to the Tribunal de Dix or the Parlement. Crimes of lèse-nation were transferred to the Haute Cour Provisoire at Orléans in application of the Decree of March 5th-13th, 1791. For more information, cf. Lafon *La Révolution Française face au système judiciaire d'Ancien Régime*.

Regime. Even the normally unified judicial justice split because of the new laws and courts such as the Châtelet needed to choose between the system of privileges and the equal rights proposed by the Revolution. The opportunity to determine which justice would prevail would turn out to be the trials of lèse-nation of Lambesc, Besenval, and Favras whose status as noblemen brought them front and center to this battleground of ideas.

CHAPTER 2—PRINCE DE LAMBESC: FALSE START TO THE REVOLUTION

Today, the French populace and any professor giving a broad overview of the French Revolution promulgate the idea that the Revolution had two major starting points: the convocation of the Estates General (May 5th, 1789) and the storming of the Bastille prison (July 14th, 1789). While these certainly were significant events in French history, there happened to be a false start to the Revolution: the breach of the Tuileries (July 12th, 1789). One professor in 1794 went so far as to say that the Revolution commenced on

...the forever memorable day when the criminal Lambesc, entering into the Tuileries, saber in hand, with a detachment of his Royal-Almand [sic] regiment, massacred with his own hand a respectable old man who had committed no crime except to appear in Lambesc's path (Journées mémorables de la Révolution française, quoted in Spagnoli 466),

The *Chronique de Paris* (Issue no. 156, June 7th, 1790), among other newspapers, commented on how the public waited with anticipation Lambesc's judgment at the Châtelet. Why is it that this event of seemingly momentous consequence is left from the retelling of the Revolution? Paul Spagnoli remarked the "scant attention from historians" and set out to settle the discrepancies among the "formulaic accounts of this and other events of 12 July" (Spagnoli 468). While Paul Spagnoli analyzes the historiography of Lambesc's charge, others, such as Jean-Christophe Gaven and Denis Salas have looked at the judicial proceedings that followed. Finding the story yet incomplete, this section seeks to complete the record by providing more information on Lambesc himself, his vilification in the social court through pamphlets and pictures, his escape from the political court by fleeing to Austria, and the resulting experiment in the judicial court regarding criminal procedure.

WHO IS THE PRINCE DE LAMBESC?

Born on the September 28th, 1751, Charles-Eugène de Lorraine, comte de Brionne, duc d'Elbeuf, prince de Lambesc, and future marshal and colonel of his own troupes of the Royal-Allemand was the relative to Emperor Leopold II, of Germany, cousin to Marie-Antoinette of Austria, and brother to the prince de Vaudémont (with whom he would serve) (Fleury 11-18). His parents Louis de Lorraine, comte de Brionne and Louise-Julie Constance de Rohan could trace their history back to the dukes of Guise whose lineage stemmed from the great king Charlemagne (Idem iii, 2). In addition to their historical ties to royalty, Charles-Eugène's father also held the position of Grand Squire of France and would often accompany Louis XV on hunting trips (Idem. 10). This position and intimate connection to the crown would be thrust upon Charles-Eugène at the age of ten because of his father's sudden death. Initially under the regency of his mother, he would assume full control as Grand Squire at the age of twenty (Idem. 26-27). Until then, his mother, for the betterment of his education, placed him under the charge of the marquis of Castries where he acquired a taste for military matters before traveling around Europe and continuing his instruction in Austria (Idem. 115-126).

After coming of age and the passing of Louis XV, the prince de Lambesc continued to serve as Grand Squire and become ever more familiar with members of the royal families of Europe. Living in a private abode near the Grand Stable in Versailles (at least until duty forced him to leave that building in May of 1789 in anticipation of the Revolution), Lambesc maintained close proximity to the king and the nobility that surround him (Idem. 70-73). With a particular affinity for military manners, he eventually entered the king's service, purchased his first regiment in 1771, and became colonel and chief of the Royal Allemand Dragoons—one of the most well-equipped cavalries of the old monarchy—in 1785 (Idem. 200-221). It is in

command of this regiment that Lambesc would become one of the principal military chiefs under the command of the baron de Besenval in charge of maintaining order in Paris during July 1789 (Gaven 171).

For the purposes of this study, it is sufficient to say that no person was more intimately involved with the monarchy than the prince de Lambesc; he was the nobility incarnate. He profited from the economic and political situation of the Old Regime and had much to lose if power were to change hands. His vast land owning permitted him an easy life and many (feudal) privileges (Fleury 184-186). Most importantly, he actively served as an officer of the crown as Grand Squire and as commander of a military regiment.

TRESPASS IN THE TUILERIES

But, this connection to the king and crown soon led to his downfall on the eve of the Revolution. In May of 1789, Jacques Godechot paints a picture of Paris familiar to demonstrations that occurred earlier that year in Nantes (January 26th-27th), Marseilles (March 23rd), Besançon (March 30th to April 3rd), Montlhéry (April 15th), and even in Paris itself (April 27-28th, July 5th-9th) (Godechot xvii-1). Paris was fraught with worry as economic despair due to costly wars only worsened the bread crisis. To make matters worse, the king began to call soldiers to arms in the city itself without first justifying his action (Idem. 179). The only foreign regiment called to arms to defend Paris was the Royal-Allemand. Four hundred men left Landrecies on the July 29th and were to set up a provisional camp in a western suburb of Paris, La Muette on July 7th (Archives de la Guerre, cited in Godechot 179-180). The some 30,000 men already in Paris by July 4th were placed under direct orders of the Marshal de Broglie and the General Besenval (Idem. 180). Certain deputies of the National Assembly echoed the worries of

the common Parisian about the “warlike preparations of the Court” and drafted a plea for the immediate withdrawal of troops (Godechot 181, quoting Mirabeau).

Louis XVI justified the troops in a letter sent on July 10th, stating, “they were only intended to repress, or rather to prevent fresh disturbances, to maintain law and order.” But the troops were not all under the control of the crown. Some regiments, most notably the French Guards, proclaimed that they would rather dismantle their guns and be hung than fire upon the citizens of Paris (Godechot 184; Fleury 225). This may explain the reliance on foreign troops, who had no conflicts of interest, from the 8th to the 12th of July when Lambesc and the Royal-Allemand cavalry were sent to the customs posts near Montmartre to protect officers from the Parisian masses (Godechot 182; Fleury 230). While this letter appeared to offer comfort to some, the next day the citizens would have new worries. On the evening of July 11th, Necker, the great representative of the people, received a letter from Louis XVI announcing his dismissal and requesting his immediate absence from France. He left (Godechot 184-185).

The morning next, Parisians learned of the dismissal and felt personally attacked. This day being Sunday, people had the free time around to go to the Palais Royal and inquire about the dismissal. Certain were so bold so as to mount the soapbox and incite insurrection, the most famous being Camille Desmoulins (Fleury 233). Although the actual role of Desmoulins is doubtful, he exemplified the misinformation that formed the basis of information for the average person. When public opinion becomes the arbiter of justice, facts matter much less than public perception. Moved by seditious speeches, some 3,000 peoples went to close the theatres in mourning. Travelling down the Boulevard du Temple, the mob passed a wax museum owned by Curtius who exhibited the busts of Necker and the duc d’Orléans (Godechot 186-188). The mob took the busts and moved towards the place de Vendôme. From this point on in the story of July

12th, it is necessary to understand that multiple versions exist and from varying points of view. The prince de Lambesc weaves a charming tale of visiting his mother at this time (Lambesc 4). Meanwhile Spagnoli, based on his reconstruction of witness testimony and other first-hand accounts, tells of the growing masses, now nearly six thousand, who enrolled the help of the Guards of Paris for protection against the Royal-Allemand regiment (Spagnoli 476, quoting Bailly *Mémoires*). Witness statements from the actual investigation that will be discussed *infra* include multiple tall tales of pillaging amongst the more reasonable stories of a parade across Paris (*Procès du prince de Lambesc*). Nevertheless, even after a complete reconstruction of events, the Vendôme period remains elusive. Either a squadron of dragoons fought and killed at least one member of the Guard of Paris protecting the demonstrators (Schama, Buchez, Michelet, Flammeront), the dragoons were overrun (Godechot), or nothing happened (Spagnoli 472).

From the place de Vendôme, the masses then move to the place Louis XV (current place de la Concorde) at approximately 7:00 PM. Their actual destination was unclear but some testimony points to a march on Versailles, such as the one that occurred on the 4th and 6th of October later that year (Idem. 475). It is also unknown whether or not another scuffle occurred at the place Louis XV. What is clear is that the baron de Besenval requested assistance from Lambesc's regiment; that Lambesc himself led the group of soldiers in corralling the masses into the Tuileries gardens; that Besenval—present at the place Louis XV—then ordered Lambesc to disperse the crowd from the Tuileries; that Lambesc ordered his troops to approach the crowd across the Pont Tournant (a rope bridge over the moat surrounding the Tuileries at this time); that the troops were pelted with various rocks and other items; that feeling unable to complete the task at hand, Lambesc ordered a retreat and ordered pistols to be shot in the air; and that Lambesc did strike one man, Jean-Louis Chauvel, who threatened to close the gate of the

Tuileries and trap the soldiers (Spagnoli; Lambesc; BB/30/82; BB/3/221). This is what is now known as “Lambesc’s Charge.”

RUINING THE REPUTATION OF THE ASSASSIN OF OLD MEN

The Parisian masses felt betrayed that a soldier of the royal army would dare enter the Tuileries—the heart of Paris and a garden of peace—, on horseback and armed, scaring away defenseless citizens out for a stroll on a Sunday evening. Rumors began to circulate around Paris about the assassin Lambesc, killer of old men, presumably in reference to Chauvel who was falsely presumed to be dead after Lambesc’s blow to the head. Parisian society castigated Lambesc and desired take away what Garran de Coulon—member of the Comité de recherches—called “a good a thousand more times more precious than life: an honorable memory” (Gaven 174, quoting Garran de Coulon). Shapiro argues that Coulon’s next victim would be the baron de Besenval, but the people and the press certainly fixated on ruining this honorable memory of Lambesc (Shapiro 1993, 58).

People spreading the rumor of the massacre at the Tuileries used the growing paranoia of an aristocratic counterrevolution led by the troops stationed in Paris to lend credence to the tale, which transformed the charge into a violent attack aimed at the citizens of the city.¹ Artists immediately began work on depicting the heartless actions of the prince de Lambesc and chronicles such as *Revolutions de Paris* printed the engravings for all to see. Given the rate of literacy at the period (around half of men and a quarter of women) pictorial depictions of Lambesc’s acts would be far more effective in promulgating the “massacre” myth than lengthy pamphlets and newspapers and would effectively serve as the public’s first impression of the

¹ Anti-royalists used similar tactics and propaganda nine years earlier in describing the March 5th Boston “Massacre” in the United States.

July 12th event (Melton 82). Seven of these images survive (printed from 1789 to 1799) today and each tells a slightly different story. Both the representations of Lambesc's actions and the captions that accompanied the pictures paint the prince in a dastardly light and flamed the passion of whoever happened upon the image despite multiple discrepancies among the prints.

Many of the images overemphasize Lambesc's role in the charge and show him exhibiting personal violence far beyond what first-hand accounts have relayed. Two pictures of anonymous origin show Lambesc chasing after a man, saber raised high above his head ready to strike (*Action Barbare; Assassinat Commit par le Prince de Lambesc*). The authors likely confused Lambesc with the captain de Reinach who served Lambesc and testified that, at the time of the charge, he chased off a man who had assaulted him with rocks (AN BB/3/221, Deuxième Information). Three engravings picture the prince at the head of a large group of men firing upon the crowd as Lambesc tramples or sabers the people in his way, suggesting that Lambesc ordered the merciless attack on the Tuileries passerbys (*Evènement du 12 juillet 1789; Janinet; Thévenin*). While shots were indeed fired at the end of the charge, soldiers shot into the air only to scare back the crowd away from the Pont Tournant. Furthermore, the illustrations do not accurately portray who Lambesc actually sabered; while he admitted to attacking Chauvel, a man, some show him striking a woman or even multiple people at once. Even the most accurate image, drawn by Jean-François Janinet, shows a cowering old man defenseless against the powerful Lambesc. In Chauvel was personified Paris and in Lambesc, the nobility, the military, and the aristocratic conspiracy. Even in Charles Thévenin's illustration where the crowd throws chairs and rocks in defense, the power discrepancy between the soldiers and the masses is overtly emphasized.

Capitalizing on the already unsympathetic light cast upon Lambesc through the imagery, certain illustrators titled the event in a way that certainly inflamed the passions of the reader. While Jean-François Janinet and Charles Thévenin remain relatively neutral in their descriptions (*Event of July 12th, 1789: the prince de Lambesc at the head of a detachment of the Royal-Allemand enters the Tuileries by the Pont Tournant and sabers an old man and Lambesc's Charge* respectively), others deem the breach of the Tuileries a “barbarous action,” and decry the “assassination committed by the prince de Lambesc;” Laurent Guyot went so far as to say, “the Tuileries are sullied by the odious presence of the prince de Lambesc whom, blinded by fury, dares to strike a respectable and debilitated old woman with his scimitar: this low deed² was the first sign of the dire conspiracies against the nation” (*Action Barbare; Assassinat Commit par le Prince Lambesc*; Guyot). Clearly, the authors depicting the events of July 12th, 1789 were on the side of the defenseless people rather than the prince. The message of a violent emissary of the crown striking down an old man mattered more than factual accuracy and each illustration further tarnished the social image and reputation of Lambesc while painting the average Parisian as the victim of such a difference in power between the noble military and the masses.

The only image nuancing this power disparity comes from Antoine Louis François Sergent who actually illustrated the violence at the customs posts that took place after Lambesc's Charge. In that image, the French Guards defend against the Royal-Allemand's assault on the people. This confrontation between the military orders occurred after a civilian by the name of André Riel died from shots fired by the Royal-Allemand in defense of the Blanche customs post (Sergent). While the courts would consider this episode outside the scope of the investigation

² It is of note that Guyot used the term *lacheté*, which also means cowardice, for which Lambesc became known.

(*infra*),³ Sergent's illustration and the rumors that likely accompanied it certainly contributed to the public vilification of Lambesc and the Royal-Allemand regiment.

All in all, the pictures blacken Lambesc's reputation by depicting him as a heinous individual and assassin of defenseless Parisians. The subtitles embellish, exaggerate, or completely err in their narration of the event to better provoke the anger of the readers. Circulating from 1789 to 1799, the engravings continued to spur hostility and deprive the prince of an honorable memory. Lambesc, for his part, would not stay to see his reputation tarnished; shortly after the storming of the Bastille, he sought sanctuary in the more politically stable Austria and traveled there under the protection of his regiment (Shapiro 51).

COWARD, DESERTER, AND TRAITOR

While Lambesc was seeking a better political situation and general safe haven from the masses looking to lynch the people responsible for the turmoil of July 1789, his flight only aggravated the social court's campaign against him. The engravings mainly focused on the supposed murder of Chauvel and Lambesc's charge into the Tuileries gardens; during the investigation by the Comité de recherches, anger festered and transformed into multiple pamphlets denouncing, above all, the prince's cowardice in fleeing from Paris.

At the outset of the campaign against the military officials protecting Paris in the summer of 1789, Lambesc, Besenval, Broglie, and others were accused of being conjurés—conspirators or traitors—and formal lists circulated throughout the city of Paris. People were stopped, detained, arrested, molested, and even killed. The Constituent Assembly received endless tips about these conspirators but it was more often the municipal militias that participated in what

³ This confrontation will be discussed in more detail under Witness Statements: Judicial Evidence.

Shapiro named the *chasse aux bêtes*—hunting season (55-58). In fact, the Constituent Assembly received just as many complaints about the municipal militias or the general public taking justice into its own hands (Gaven 109). Fear and paranoia led many people to hide from the bloodthirsty Parisian masses. This was but a refrain from early June of 1789 when lists of anti-patriotic peoples spread throughout Paris. It should be understood that the hunting of conspirators by the general people conflated the social and political courts into one body. Conspiracy is a crime inherently against the stability of the political order, yet the executors of this justice had to be the people because of the nature of the regime and the redefinition of nation at the turn of the Revolution. For perceived political threats came social castigation, and desertion was seen as an admission of guilt thereby justifying the chastisement.

For example, in the pamphlet *Chasse aux bêtes puantes et féroces*, the author contends that particular animals have escaped the forests and entered the capital. Two-hundred livres were promised to the person that could find, dead or alive, the “very savage hedgehog, who, after having long exhausted the troops of the Champ de Mars, appeared in the capital, especially at the Pont Tournant, then at the Tuileries, then once at Versailles before disappearing entirely.” If the wording was not clear, the anonymous pamphleteer makes a point to include a footnote saying that the hedgehog—most likely because of the prince’s cowardice in retreating from the Tuileries and then from Paris—refers to Lambesc and his carnage (*La Chasse aux bêtes* 8). The pamphlet goes on propose killing the venomous and disease-ridden beasts that might be found at Versailles, Bagatelle, la Muette, Hôtel Condé, etc., in reference to the soldiers (Idem. 11, Article XVIII). Of course, the author would also like more than to call to arms against Lambesc. The same text goes on to say that the punishment for the savagery of the prince is: “to be shot by the soldiers of the French Guard and his body brought in triumph to the Tuileries, place Louis XV,

and the streets of Paris before being dropped at the morgue where one ordinarily puts thieves⁴ and assassins after their torture” (Idem. 14).⁵ His brother, prince de Vaudémont, was “sentenced” to twenty years in the cells of Bicêtre (Idem. 29).⁶ The wording alone shows the hatred expressed towards Lambesc and is worth note as violent imagery and emphasis on savagery, barbarity, and cowardice are repeated again and again. Of course, the hunters were not successful in capturing Lambesc who had the protection of his regiment to flee the country (Shapiro 1993, 57). In fact, nearly the entire Artois faction to which Lambesc belonged eluded the hunters and became the first émigrés.⁷

Perhaps in response to an unfruitful hunting season, even more pamphlets and short stories were published, all chastising the prince de Lambesc for his failure to take responsibility for his actions and remain in Paris. Certain use Lambesc’s flight as the premise for a moral fable. In *Lambesc’s Descent to Hell*, the prince supposedly escapes to Turin, Italy before going to visit Mt. Etna (*Descente du Prince Lambesc aux enfers* 3-4). The author depicts Lambesc as courageous enough to arrive at the summit of the mountain but cowardly enough to nearly turn back (Idem. 3-4). At the summit, an old man asks why he is about to flee from the mountain and says that he should not be afraid, unless he has taken arms against his fellow men. Together, descends into the mountain which is a gateway to Hell only to be greeted by Louis XII, Henri IV,

⁴ It is unclear what the author meant in calling Lambesc a thief as none of the allegations against him mentioned such crime. Though, it is not rare to see such multiplication of derogatory names in pamphlets mentioning Lambesc or other land-owning nobles.

⁵ The word used for torture is *supplice* which has a particular connotation absent from the English translation. It could also mean ordeal.

⁶ For those curious, the author of the pamphlet rejected the clemency of the National Assembly towards Besenval and instead favored the will of the people, which was to have Besenval’s head cut off as punishment for his zeal when writing to the Governor of the Bastille (whose head was cut off on the July 14th).

⁷ Among the list, Shapiro includes the comte d’Artois, Broglie, Breteuil, Lambesc, and Polignac, as well as the comte de Vaudreuil, prince de Hénin, prince de Condé, marquis d’Autichamp, prince de Conti, Barentin, Villedeuil, and abbé Vermont.

the Cardinal Georges d'Amboise, Maximilien de Béthune, and Turenne⁸ in the Elysian fields who gasp in astonishment at the arrival of a "traitor to the homeland" so close to the land reserved for "the just and virtuous, the good kings, and those who have served humanity" (Idem. 6). Walking past, Lambesc then stands before Pluto who denounces the prince's temerity and shows the torture he is to receive once dead. Ushered by servants, Lambesc is led to the lands destined for traitors where he find Flesselles, Launay, Foulon, and Berthier⁹ suffering unimaginable torture with furies clawing at their feet and a serpent coiled around each person's head (Idem. 11). Using a story people were likely to be familiar with in 1789, the author warns what awaits those who dare to commit treason.

In a similar fashion, the author of *Nero-Like Lambesc Still Living?: Still Alive or the Response of a Savoyard to Sir Calais* uses Lambesc to advocate for press reform. In this second text, Lambesc is likened to Nero, the last of the Julio-Claudian emperors known for his tyranny and insanity (*Néron Lambesc vit-il toujours?* 1). The Savoyard—the only name attached to the pamphlet—responds to Sir Calais—a person unknown—who claimed sometime after the Revolution that Lambesc was found dead. In his response, he claims that the declaration of death was false and that Lambesc resides in the German state of Treves (now Trier, Germany) (which was true) (Idem. 5). Using this discovery, the Savoyard argues for press reform to protect the people from a possible return of the traitor Lambesc and other criminals now abroad.

⁸ While Louis XII and Henri IV need no explanation, Georges d'Amboise (1460-1510) was a French Roman Catholic cardinal that served Charles VII and Louis XI, Maximilien de Béthune or the duc de Sully (1560-1641) was the right-hand-man to Henri IV in terms of administration, and Turenne (1611-1675) was former Marshal General of France who fought in many important wars.

⁹ All of these men were accused of lèse-nation or royalist sympathies by the masses. For instance, Flesselles was the last provost of the merchants of Paris. When the Revolution broke out, he was accused of siding against the people. A crowd surrounded Flesselles, shot him dead, decapitated him, and paraded around Paris with his head on a pike, along with the head of Launay, defender of the Bastille.

Published in 1790, this text is exemplary in showing how the people and press used Lambesc's mythology to advance particular platforms in the name of the nation.

While the first two texts caution against treason and the return of the traitor, *The Hanover Pavilion and the Hotel of Richelieu, or the General Quarter of Monsters and Executioners of France* seeks to posit an alternative to the myth by blaming the church for the misgivings of Lambesc. The author claims to “complement the conspiracy [and]...the heinous crimes of Maréchal Broglie...and all claims against the prince de Lambesc and the barons Basteuil and Besenval” (*Le Pavillon d’Hanovre* 2). Arguing that the clergy were behind many of the conspiracies during the French Revolution, the author attempts to absolve the king, the princes, and nobles of blood of their crime. Traitors (within the clergy) seduced the aristocracy against the people. As to the “hot-headed Lambesc,” the author says that women, who naturally listened to the priests of the court, seduced him and, like Thersites, convinced him to cowardly join a conspiracy that was not his (Idem. 7).¹⁰ After shifting blame to both the church and women, the author goes on to further defend Lambesc in regard to his so-called accomplices, Broglie, Besenval, Vaudreuil, Châtelet, and Choiseuil. These men, argues the anonymous author, blame Lambesc's reckless behavior for the chaos; but the author retorts that the “French owe their happiness and their salvation” to the prince's recklessness (Ibid). None of the other sources—graphic or literary—dare to forgive Lambesc for his actions, much less assert that Lambesc acted in accordance with the will of the French people.

¹⁰ In the *Iliad*, Thersites is one of the Greek soldiers under the command of Agamemnon. He is known to be deformed and ugly. He recklessly attacks Agamemnon's behavior and boldly tells the soldiers to leave with the ships and fight no more in such a vain conflict. Given the richness of the texts and the multiple references to Greek mythology, these four texts mentioned would be better addressed for their own literary worth by someone with expertise in that area.

It is difficult to reconcile this final text with other depictions of the prince de Lambesc. While the text does follow the pattern of emphasizing the prince's paradoxical cowardice and temerity, the message of an anti-clerical conspiracy takes precedence over Lambesc's alleged aristocratic conspiracy. Nevertheless, all of the texts and images discussed show a robust conversation around the events of July 12th, 1789 and the subsequent flight of the prince de Lambesc. Insulting, derogatory, and defamatory, the pamphlets and short stories contribute to the prince's social degradation instigated by the initial engravings. Lambesc became a common enough tale to be appropriated for other uses such as in *The Hanover Pavilion and the Hotel of Richelieu, or the General Quarter of Monsters and Executioners of France*. It is clear that immense social pressure existed to find and punish Lambesc. But, the general populace would have to rely on the Comité de recherches and Châtelet to find him judicially guilty to legitimize the revenge.

INVESTIGATION *IN ABSENTIA*

During the month of July 1789, the courts were too preoccupied with the ongoing disorder that Lambesc went more or less unnoticed—at least judicially.¹¹ It was not until October that blame shifted from the people to the royalty and its ministers who were technically responsible for maintaining order and safety of Parisian citizens (Gaven 169). The crime of Lèse-nation can be seen as a transitional crime that would become ministerial responsibility under the soon-to-be Penal Code of Napoleon (Gaven 179). Gaven argues that denouncing the crimes of

¹¹ It should be noted that the alleged crimes committed by Lambesc preceded the creation of “lèse-nation.” As explained in Chapter 1, lèse-majesté was converted to lèse-nation on July 14th, 1789. A general principle of non-retroactivity governed French law at the time, but it appears this was an exception. For a more in depth analysis of the use of lèse-nation, see Jean-Christophe Gaven's *Le crime de lèse-nation: histoire d'une invention juridique et politique*.

the ministers, the public appeared generally favorable toward the king who is the victim of such unfaithfulness (174). It may seem hypocritical to mark the French Revolution judicially in the trial of Lambesc at the same time favoring Louis XVI, but one must remember that the initial movement had no intention of deposing the king and abolishing the monarchy. Certainly, new nobility rose to power between 1789 and 1790 and deposed the land-owning nobles of blood (like Lambesc!) from their throne, but the king remained above all.

The Commune of Paris denounced Lambesc two weeks after the Châtelet was given provisional jurisdiction over claims of lèse-nation: October 30th, 1789 (Decree of October 14th, 1789; AN BB/30/82; Gaven 477). But, as Montesquieu once put it: “For a government to degenerate into despotism, it is enough that the crime of lèse-majesté be vaguely defined” (Shapiro 1993, 5, quoting *De l’esprit des lois Book XII*). The preliminary denunciation filed by the General Assembly of Representatives of the Commune and signed by the procureur-syndic showed early signs of national despotism (Gaven 386). Directed to the procureur du roi, the denunciation asked for an investigation into the violence of Lambesc’s troops and his regiments during the month of July 1789 and specifically what has been previously detailed as Lambesc’s charge on July 12th (AN BB/30/82; Gaven 169-170, 386). Although one may claim that the investigation represented a defense of the reborn nation, that would be to ignore the often-personal element in the case of Lambesc (and as will be seen, Besenval) whose denunciation was “no more than injurious rhetoric” (Gaven 179).

The preliminary denunciation began the more secretive part of the investigation. The information led to the questioning of over fifty witnesses. Judicial proceedings were done in accordance to the 1670 penal code and the revisions of October, which required adjoint magistrates for maintaining an air of publicity (Idem. 409). On October 21st, the National

Assembly gave full adjudicatory powers and jurisdiction over crimes of lèse-nation to the Châtelet. But, the criminal chamber of this court was had not been in session since the 8th and would only return to session on the October 23rd (in preparation for the judicial reforms of October 8th and 9th) (Lafon 25). This is but one explanation for the general slowness exhibited by the Châtelet throughout this case. The newspapers and public lamented the snail-paced proceedings of the criminal chamber in particular (Lafon 27). Additionally, the denunciation against Besenval was formally submitted and even included the charge of “the violence committed by the prince de Lambesc against the Parisian citizens” (Gaven 173; AN BB/30/161). This cause of action intimately linked the fate of the two cases, causing further delay with further investigation. Even the Report Committee of the National Assembly critiqued the work of the Châtelet and the slow nature of the investigation into Lambesc in early 1790 (Gaven 334).

Lambesc was finally formally charged by the procureur du roi on November 24th, 1789 (Gaven 443; AN BB/3/221). According to the law of the November 3rd, 1789, this charge inaugurated a public phase and requests the formal presence of the accused (Gaven 439). Confusion of interpretation of this law led to varying levels of application in each case. In particular, Lambesc’s case was special: the accused had fled the country! So confused were the magistrates of the French tribunals that the National Assembly voted a new law on the April 25th, 1790 that contained provisions clarifying the procedure in criminal cases (Idem. 440). Article 11 states:

As soon as the accused is housed as prisoner, or responds to the summons to be heard or of personal adjournment, all of the investigatory acts must be done in his presence, publicly, with the doors of the court open and the presence of the *adjoints* will cease.¹²

¹² Aussitôt que l’accusé sera constitué prisonnier, ou se sera présenté sur les décrets d’assigné pour être ouï, ou d’ajournement personnel, tous les actes de l’instruction seront faits contradictoirement avec lui, publiquement, et les portes de la chambre d’instruction étant ouvertes: dès ce moment la présence des adjoints cessera.

The article was to be read so that the public phase of the trial begins when the accused appears before the court instead of when a judge gives the *decret de prise de corps*—the formal accusation and arrest for investigation (Ibid). But this clarification was nevertheless still silent on those absent and in contempt of court (Idem. 442). A plain reading suggests that even representation of an accused in contempt was insufficient to begin the public phase; there had to be the accused him or herself in court during the proceedings. Tribunals bombarded Tronchet, the current *Garde des Sceaux*, with questions to on what to do about absent criminals during the public phase of the trial. The judges of the *Châtelet*, in accordance with the will of the *Garde des Sceaux*, ruled that the absence of the accused is as if the accused waived the rights he was guaranteed, including the mandatory presence of the accused himself (Idem. 443). Thus, the two hearings of thirty-six witnesses between the December 2nd, 1789 and June 28th, 1790 went on under the semi-secret conditions and not full publicity as required by the November 3rd text (Ibid.). While the *Châtelet* generally had high respect for the law, the second hearing and investigation run under secret circumstances and even without adjoint magistrates in June 1790 is a rare exception (Gaven 433; AN BB/3/221).

Using the same logic in regard to contempt of court, Lambesc was denied any representation in court. The *Garde des Sceaux* disapproved of awarding contempt of court with representation:

To give counsel to an accused in contempt of court would be to give a clear advantage over he who obeys the law! Those in contempt, from the depths that hide him, would take advantage of the prerogatives reserved to accuseds present by the presence of his counsel and without running the same risks...therefore only the accused in attendance is accorded the right to counsel by the law (Gaven 459, quoting a report by Tronchet).

Proposed on the 24th of December 1789, this decree became a reality in the law of April 25th, 1790: “No counsel shall be afforded to those absent or in contempt of court” (Quoted in Gaven 459). Granted, the Châtelet did not wait for this declaration and already agreed to try Lambesc *in absentia* and without counsel. It is speculation as to whether or not his absence of counsel mattered. The presence of defense attorneys was already irregular in most cases before the Châtelet. As one will see in the case of Besenval, his attorney, de Sèze, was not mentioned in nearly any of the minutes; instead, de Bruges, prosecutor of the Châtelet, helped him (Gaven 459-460). But, despite a general trend in judicial reform for leniency and by-the-book procedure, Lambesc’s case already stands out. He was not present at the public hearings against him; he did not have counsel to represent his defense; and the court continued to investigate in semi-secret conditions despite recent amendments to criminal procedure. In the end, the point was to mark the social Revolution and address the social pressures in the judicial branch, even with many of the people tried already dead or fled. “The trials of Besenval and Lambesc are the trials of the Old Regime, or at least of its last efforts at existence,” argued Gaven (175). The Comité de recherches and the Châtelet needed to mark the turn of an era but, as the evidence would show, Lambesc’s case was not fit for declare the Old Regime guilty of the violence of May and July 1789.

WITNESS STATEMENTS: JUDICIAL EVIDENCE

Gaven emphasizes the incredible variety of witnesses in both the Lambesc and Besenval cases: “deputies, magistrates, chiefs and officers of royal troupes and national guards, supply officers (commissaires des guerres), civil servants of the executive body, members of the Parisian municipality or Provost General of the Maréchaussée of Travel and Hunting as well as

innkeepers, hairdressers, manual laborers, café owners and other domestic servants publicly testified to the events of May, June, and July 1789 (Idem 171). Spagnoli shared this sentiment is his incredible recollection of Lambesc's charge but qualified that the supermajority of witnesses were upper bourgeois citizens, namely lawyers and nobles of the robe (491).

These eighty-five people saw what happened on the evening of the July 12th, 1789 and constitute a key insight into the investigation of the case. Spagnoli found the depositions in the *Archives Nationales* BB/3/221 and from the piecemeal recreated a comprehensive understanding. In summary of his work, one gathers that Lambesc was told by Besenval and the Maréchal de Broglie to avoid bloodshed. When the baron de Besenval, who was present at the place Louis XV during the upheaval around 6:00 PM, realized the necessity of additional troops, he sent for Lambesc and his Royal Allemand (or Lambesc arrived without call) (Idem. 476-478). Around 8:00 PM, Besenval ordered Lambesc to clear the square and push the crowd into the Tuileries. Lambesc ordered his men to push the crowd slowly into the gardens or cause them to disperse. (Most civilian witnesses called the "slow push" a "charge," (Idem. 479).) Once inside the Tuileries, the civilians bombarded the Royal-Allemand with stones and other objects. Unable to maintain his position in the Tuileries and disperse the crowd, Lambesc ordered a retreat and for pistols to be fired in the air in intimidation. An old man, Jean-Louis Chauvel, attempted to close the Pont Tournant and blocked Lambesc's path; Lambesc promptly struck Chauvel on the head with the flat of his blade to remove him from the path yet Chauvel lived (Spagnoli 480-481; Lambesc 4-5; AN BB/3/221).

Several other witnesses were present at the barrière Blanche where other members of the Royal Allemand kept order. Around 8:00 PM on the same day, an angry crowd began throwing stones and other objects at the Royal-Allemand. The troops fired and killed a man by the name

of André Riel. The Châtelet dismissed this testimony as irrelevant to Lambesc's Charge and there was no further investigation into the matter (Spagnoli 489). Naturally this was very fortunate for Lambesc and showed great leniency from the judges of the Châtelet. Had the court wished to convict Lambesc for his crimes, they certainly had the evidence to do so. Instead, the prince published his own version of the July 12th, 1789 from his residence in Treves (now Trier, Germany) on May 1st, 1790. He alleged no misconduct on his part or on the part of his troops, save for the non-fatal sabering of Jean-Louis Chauvel (Lambesc 7). On June 28th, 1790, the court began a second round of depositions and witness statements including the deposition of Captain de Reinach who corroborated Lambesc's extra-judicial testimony (AN BB/3/221). Two days later and nearly one year after the crime took place, the Châtelet acquitted Lambesc of all charges.

Why he was let go remains more or less a mystery. As will be more thoroughly explored in Interlude 1, Lambesc's case was intimately tied to that of his superior, the baron de Besenval, and some historians argue that Besenval's acquittal resulted in Lambesc's case being dropped. Resources currently do not allow a definitive answer to this theory. But, considering the existence of the political and social courts, the decision to not pursue makes sense. As to the first, Lambesc represented no threat to the stability of the provisional government led by LaFayette, hiding as he was in Austria. While he did constitute a major danger in 1792 as commander of an Austrian regiment intent on restoring the king, the Châtelet could not foresee this additional act of treason. As for the social court, there still existed a serious call from society to punish the wrongdoers of July 1789. By this court, Lambesc was not only deprived of an honorable memory, but also effectively exiled from his home in Versailles. Even if the

Comité de recherches and Châtelet failed to exert punitive justice, Lambesc did not go unpunished.

POST-REVOLUTION LAMBESC

Lambesc was reviled in France. He became the enemy of the People. To make matters worse, Lambesc, under his German name of Karl Eugen Prinz von Lothringen-Lambesc, entered the service of the Austrians in 1791 and waged war against the French periodically between 1792 and 1814 (Smith). Ebert (n.d) claims that Lambesc, during the War of the Second Coalition, did not fight France but in fact was fighting the Revolution.¹³ During this time, the prince had continued success commanding different squadrons against French forces between 1791 and 1808. When Napoleon finally fell in 1814 and Louis XVIII gained the throne, Lambesc regained his title of duc d'Elbeuf. Additionally, Louis XVIII declared Lambesc a Peer of France (for the restoration of the king) and Marshal.

Despite these new titles, the popular myth exaggerated and distorted over three decades barred any hopes of entering France. The hatred first provoked by his trip to the Tuileries magnified and festered over time. The greatest testament to the hatred was a satirical last testament of Lambesc written by an anonymous author in 1790. The so-called *Preliminary Testament to the Planned Execution of the Traitor and Assassin, the prince de Lambesc: Credo of Traitors, or the Profession of Faith of this Criminal and Other Aristocrats, and their Mea Culpa*¹⁴ calls the hero of Pont Tournant a traitor, assassin, and “monster abhorred by the nation”

¹³ I would like to thank my colleague Grant Silverman for helping with the German translation.

¹⁴ It should be immediately noted that there is no possibility that Lambesc wrote this text, despite the allegations contained in the text. Besides the incredulous negative rhetoric of Lambesc throughout the text, e.g. traitor and assassin, the booklet was allegedly printed “in one of the

who exceeded the atrocities of “Caligula, Nero, Vitellius, Zenon, and Mezentius” in the misgovernment of Anjou, and in committing theft, pillaging, corruption, and other heinous acts unnoticed (*Testament préalable* 1, 4, 5). Among those crimes were the following: joining the aristocratic conspiracy, serving a barbarous queen in the hope of compensation, soaking in French blood and “lighting, through his perfidy, the fire that was bound to devour the most beautiful of cities,” poisoning the already soiled soul of the comte d’Artois through messages of fratricide and regicide, and seducing his men to commit treason against the country (Idem. 17-19). According to the author, crime filled Lambesc’s life and would lead to his downfall. As a result, his French life died on July 12th, 1789. Lambesc was forced to remain in Austria for the remainder of his life and died as the last of the Elbeuf branch of the Lorraine family in Vienna on November 21st, 1825 (Smith).

But, Lambesc’s mythology continued to be of interest to historians through the modern and contemporary age. Yet, as Spagnoli noted, “despite its ostensible importance, Lambesc’s charge has received scant attention from historians” (467). Dwarfed by the taking of the Bastille (Besenval) and more infamous cases of lèse-nation (Favras), Lambesc’s charge becomes a cursory event, unimportant and relatively unexplored. Furthermore, the circumstances surrounding the investigation into Lambesc, including the court investigation and admonishment by the people, does not provide a strong, coherent, and cohesive narrative. Historians, as Spagnoli points out, still disagree on key events of July 12th, 1789 (Idem. 470-471). For instance, while historians acknowledge the existence of Camille Desmoulins and countless other provocative speakers during the month of July, people cannot agree to the extent of the effect of

holding cells of the Hotel de la Force,” in 1789. Knowing that Lambesc was far from Paris as early as July 17th, 1789, one must reject all claims of verisimilitude and credibility. Unable to tell the motives behind the author, one cannot rule out the possibility of the text being complete satire given the fantastical elements contained throughout.

those speeches (Ibid). Other discrepancies within the story, such as the Vendôme period, became evident in the discussion of the witness statements that, when looked in their totality, provide serious problems to developing a cohesive narrative that does not derail the traditional discussion of the French Revolution to dwell in the details. This, in part, explains why the accepted story at the time of the incident, that Lambesc charged defenseless men, women, and children peacefully strolling in the Tuileries, assassinated a poor old man by the name of Jean-Louis Chauvel (despite the man living and offering a deposition at the time of the investigation), and ordered his troops to kill an anonymous French guard, survived for so long without much discussion (Idem. 483-485).

Across the story of the prince de Lambesc, the social and judicial courts appear intertwined. While the judicial courts, in the application of new laws and protection of new rights advanced leniency and forgiveness, the Châtelet and Comité de recherches were nevertheless spurred on by serious social vilification of Lambesc. Even if the Châtelet did not find him guilty, society decided unanimously to punish the man who dared to carry out legitimate military orders under the Old Regime. His status as a nobleman and his ties to Marie-Antoinette ensured that charges were brought against the prince de Lambesc but the social pressure resulting from his status was not sufficient to convict the absconder in face of overwhelming evidence and testimony of restraint (Idem. 488, quoting *Relevé d'erreurs graves, consignés dans différents journaux, comme faits réels* No. 3.). Truly, Lambesc represented the monarchy as a member of the military who should never have penetrated the Tuileries Gardens that belonged to the civilian population. Because of this error, social justice effectively exiled the prince to Austria, even after the collapse of the regime while judicial justice acquitted him on the charge of lèse-nation. Or, was

it because of furtive political conversations within the Comité de recherches and Châtelet that concluded with the release of Lambesc because of the acquittal of Besenval?

INTERLUDE 1—LINKING LAMBESC AND BESEVAL: COMMAND RESPONSIBILITY

It is difficult to determine exactly how connected the investigation into the baron de Besenval was to the investigation of the prince de Lambesc. After all, Lambesc was tried both individually for the “confrontations of the Spring of 1789,” and as a sub-cause of action in Besenval’s formal denunciation as, “the violence committed by the Prince of Lambesc against the Parisian citizens” (Gaven 173; AN BB/30/82; AN BB/30/161). The witnesses for both investigations overlapped and historians have treated the two trials as one and the same.¹ Gaven considers that the cases of Lambesc and Besenval represented one trial of the Old Regime “or at least its last efforts of existence,” marking the Revolution judicially (170).

Current understanding of the event suggests a primitive application of the legal theory of command responsibility. The theory, a variation on the common law doctrine of *respondeat superior* meaning “let the master answer,” insinuates that the Châtelet investigated the baron de Besenval, in part, as a person potentially responsible for the criminal conduct of his subordinate. In essence, the court wished to remove Lambesc’s opportunity to plea a defense of superior orders—what would become known in 1945 as the Nuremburg defense. Lawful orders were, after all, binding on an officer and Lambesc adhered to them with great care (consider the care in avoiding bloodshed when dispersing the crowd at the Tuileries). Gaven in advocating for this interpretation points to Besenval’s interrogation during which he had to respond to accusations of mismanagement of Lambesc and his troops and his subsequent December 2nd deposition in the matter of Lambesc’s trial saying that “he could only repeat what he had already said in his personal interrogation” (*Procès du Prince Lambesc* 94). His theory certainly seems to hold for the beginning of the trial.

¹ Gaven, *Le crime de lèse-nation*, 170

Upon closer inspection of the two trials, the timeline of investigation brings this interpretation into question. The figure below contains a side-by-side comparison of the major dates for the investigation.

	Prince de Lambesc	Baron de Besenval
Crime	July 12 th , 1789	May to July 15 th , 1789
Official Denunciation	October 30 th , 1789	November 18 th , 1789
Arrest Warrant	November 10 th , 1789	July 28 th , 1789 ²
Interrogation	N/A	November 21 st , 1789
Witness Statements	November 3 rd , 1789 to June 28 th , 1790	November 21 st , 1789 to January 28, 1790
Final Judgment	June 30 th , 1790	March 1 st , 1790 ³

If the baron de Besenval was found not guilty of all crimes, including the violence committed by the prince de Lambesc, why did the magistrates continue to question fifteen additional witnesses in Lambesc’s investigation? Gaven tries to justify this discrepancy by arguing that the exile of the prince de Lambesc caused the delay between Besenval’s acquittal on March 1st and the Prince’s acquittal in June (Gaven 177). Because of the elusive nature of intent, the eventual acquittal, and the infuriating lack of transparency in the judgment process, this theory cannot be confirmed or denied. It is my personal theory that the court, in continuing the investigation beyond Besenval’s acquittal still had doubts about Lambesc’s conduct. After hearing several depositions in Besenval’s hearings about the prince de Lambesc, including both incriminating and exculpatory evidence, the magistrates questioned if the accused did not exceed the scope of

² See Chapter 3 and Interlude 2 for a complete explanation that nuances this date. This date represents his actual arrest

³ See Chapter 3 and Interlude 2 for a complete explanation that nuances this date. This date represents the final judgment rather than the findings that there was insufficient cause for a formal arrest warrant to be decreed on January 29th, 1790.

the orders given by his commander. Although the theory of command responsibility links the two cases, it does not permit the current accepted simplification that Besenval's acquittal guaranteed Lambesc's acquittal. More research should occur to answer this question, as current resources do not permit a final saying in the matter.

CHAPTER 3—BARON DE BESENVAL: POLITICAL SCAPEGOAT OF THE REVOLUTION

The next case stems from the unequivocally most important event in French history: the storming of the Bastille prison on July 14th, 1789. As tensions rose and food shortages led to riots in the streets of Paris and deaths of bakers and government officials, the baron de Besenval tried to maintain the peace. Had it not been for a particular letter to the marquis de Launay, governor of the Bastille prison, perhaps Besenval would have been forgotten by the people and by historians. However, when the provisional government read Besenval's order to "hold on until the last extremity" to the French people and the people demanded his head. With so much attention given to the actual storming of the Bastille, historians often neglect the court case that followed (though certainly not to the extent of Lambesc's trial). Others, such as Gaven (2016) and Shapiro (1993), have rectified this error and provided ample study of Besenval's trial, stressing the unbelievable nature of the verdict: the man responsible for what is considered the true start to the French Revolution was found completely innocent. This section serves to explore how a high-ranking courtier and friend to Marie-Antoinette managed to escape the clutches of the bloodthirsty Parisian masses with a little help from two attorneys, several politicians, and the Châtelet itself. Furthermore, it will be shown that while the political court served as Besenval's ticket to acquittal, competent pleas to society by his judicial defense ensured that the Swiss general could live the remainder of his life unmolested, unlike Lambesc. Besenval did not suffer the same injury to his memory as Lambesc and much can be attributed to the trial.

WHO IS THE BARON DE BESENVAL?

Pierre-Victor, baron de Besenval de Brünstatt,¹ was born in 1721 in Solothurn, Switzerland to Jean-Victor de Besenval, colonel of the Swiss guards in service of the French king. At the age of ten, he entered the military company led by his father and began his long ascent of military ranks (Besenval 1821, xiv-xv). His mother, conversely, was relative to Marie Leszczynska, the wife to Louis XV. This relationship granted the young Besenval access to the court of Louis XV and his service under the duc d'Orléans in the Seven Years War and the comte d'Artois in 1775 gained him audience with king Louis XVI. He quickly became a companion to none other than Marie Antoinette and was considered a “high-ranking courtier” in the last days of the Old Regime (Besenval 1821, iv-ix; Shapiro 1993, 138).

Besenval's memoirs recount a long and illustrious military career as “lieutenant-general of the armies of the king under Louis XV and Louis XVI, Grand Cross of the Order of Saint Louis, governor of Haguenau, commander-in-chief of the provinces of the interior, and lieutenant-colonel of the regiment of Swiss Guards” (Besenval 1805, i). Louis XVI granted Besenval command over the forces of the interior—all those stationed in Ile de France (except the city of Paris), Soissonnais, Berry, Bourbonnais, Orléanais, Touraine and Maine—in 1782 (Idem. 381-382). The number of troops in these regions swelled as scarcity of grain led to increased violence, especially in the city of Paris, which provoked the provisional use of the French Guard (led by the duc du Châtelet) and Swiss Guard (led by the comte d'Affry) to secure transport of grain in and out of the city (Idem. 384). Due to the sickness of the comte d'Affry and

¹ Brünstatt is located in the disputed Alsace-Lorraine territory near the border between Switzerland, Germany, and France.

incompetence of the duc du Châtelet², Besenval was effectively the commander of unified troops in Paris from May to July of 1789 (Gaven 171).

As the French Revolution began with storming of the Bastille on July 14th, 1789, new elites within the revolutionary government searched for the perpetrators of the violence. While several people were in charge of the troops who should have guaranteed the peace within Paris, Besenval was the first man captured by the courts. His trial was long and his detainment longer. The nearly seventy-year-old general's health began to fail at the conclusion of his trial and a charlatan doctor prescribed him "truffles, ham, and meat pies" for his ailment (Besenval 1821, xxviii). He would die on June 2nd, 1791, but he would die innocent of any wrongdoing according to both the court and the people (Ibid).³

BESEINVAL'S FOLLIES: JULY 1789

Having already recounted the paranoia and palpable tension experienced by the city of Paris in July of 1789, the atmosphere did not improve after Lambesc's charge and the scuffles at the customs posts on the twelfth of the month. Suspicion arose as more and more troops entered Paris, especially foreign troops, nearing 30,000 strong towards the end of June (Gaven 101). Besenval was in charge of this small army because he was a friend to the comte d'Artois and Marie Antoinette and because of his years of service to the French crown (Shapiro 1993, 36). Rumors of disloyalty and defection among the French Guards reached the ears of the king and

² While the Châtelet held Besenval responsible for the violence of July 1789, it was the duc du Châtelet and his mismanagement of the French Guards that more likely led to the revolutionary state of Paris. He only recently acquired control over the regiment and immediately inaugurated a period of harsh training, thereby alienating the troops against the higher military order.

³ There is some confusion as to the actual date of death of the baron de Besenval. A bibliography printed prior to the baron's official *Mémoires* listed his date of death as June 27th, 1794 at the age of 72. I find no reason to doubt the supposed son of Besenval, the comte de Ségur, who printed the Besenval's *Mémoires* around 1805 and listed his death as June 2nd, 1791.

the duc de Broglie was put in command of troops in Ile de France, directly over the baron de Besenval and duc du Châtelet (Besenval 1805, 395-398). Besenval was told to avoid bloodshed at all costs, effectively stymying his ability to perform his duty adequately. To make matters worse, the deputies interpreted the military presence as preparation for a coup against the National Assembly⁴ and paranoia spread amongst the 600,000⁵ citizens of Paris (Gaven 101; Besenval 1805, 398). Besenval was at an impasse. If he were to engage the troops stationed across the city, a civil war would break out; if he were to let the riots continue, Paris would fall to pillagers and brigands.

On the 13th, Besenval received a demand from two revolutionaries for the 32,000 rifles and other arms kept at the Invalides, supposedly for self-defense. Understanding that the weapons would certainly be used against his troops, he refused. Later that evening he wrote to the duc de Broglie for orders in regard to the arms; there was no response (Besenval 1805, 410-414). He ordered the dismantling of the weapons but sympathetic guards made slow work and only managed to render twenty guns unusable in six hours (Godechot 215). On the morning of the 14th, pillagers ransacked the Invalides, and the guards stood by or even helped relieve the building of its weapons. Asking for orders, Besenval wrote to de Broglie, but revolutionaries intercepted his courier. Gathering generals in the immediate area, Besenval learned of mass military defections across Paris and the loss of the Bastille (Godechot 214-237; Besenval 1805, 417).

⁴ Remember that the National Assembly sat at Versailles and not in Paris at this time. Had the troops remained in Paris, perhaps the deputies would not be so worried. Besenval attributed the movement of troops from Paris to Versailles to the duc de Broglie and disapproved of this decision.

⁵ Besenval estimated the population of Paris at 800,000.

Historians of the French Revolution see the storming of the Bastille as emblematic for the fall of the Old Regime. This fortress-turned-prison housed those unfortunate enough to receive a *lettre de cachet* from the king, including conspirators, heretics, prisoners of war, forgers, writers, and those charged with offenses investigated by the Châtelet (Godechot 91-94). The average French civilian detested the decrepit building because of the rumored torture and indefinite imprisonment that occurred there. As symbol of all the abuses under the Old Regime, they longed to see it decommissioned and torn down (Idem. 96-98). For the purposes of this study, Barry Shapiro eloquently summarized the importance of this event:

And for the student of political justice, July 14, whatever other significance it may or may not have had, marks the day on which the identity of those who feared being punished and those responsible for doing the punishing abruptly switched, the day on which the leaders of the National Assembly were converted from potential victims of royal justice into the final arbiters of what would be thought of as ‘Revolutionary Justice’ (Shapiro 1993, 44).

The tides turned in favor of the Revolutionaries and Besenval retreated to Versailles to tell king Louis XVI⁶ of the fate of Paris. Within a week, the only people standing by the king’s side at Versailles were the minister of foreign affairs, comte de Montmorin, and Besenval (Besenval 1805, 420).

It is not known why Besenval stayed at Versailles for such a long time. Some officials, such as de Broglie and Lambesc, left as early as the 16th, meanwhile Besenval stayed, or was left, at Versailles. According to the memoirs of Besenval, threats of the commander’s imminent arrest reached the king’s ears, and he ordered Besenval to leave the country (Idem. 419-421). Shapiro argues the events of July 12th, 13th, and 14th so discredited Besenval that the king and

⁶ Besenval’s claim of telling Louis XVI about the fall of the Bastille and Invalides is likely exaggerated. Godechot reports that the National Assembly sent a representative to inform the king of the Parisian insurrection. He interprets Besenval’s *Mémoires* to mean that the baron told the king about the defections in the army, a serious detail likely omitted from the Assembly’s report for lack of knowledge (Godechot 250-251).

other military officials left him to the will of the people. Royalist writers deemed his military failures as criminal negligence (Shapiro 1993, 59). In one story, revolutionaries hold Besenval personally responsible for opposition to the Revolution; in the other, royalists see Besenval as the enemy who lost Paris to Parisians. While both could be true, Besenval's memoirs attest to friends who also remained in Versailles and in Paris. The commander likely wished to remain among his associates instead of traveling the 300 miles to the Swiss border on horseback at the age of sixty-eight. Even the two-day, seventy-five to ninety-mile journey from Versailles to Villegruis (or Villenauxe, depending on which document one trusts) proved to be taxing for Besenval, two cavalymen, and his hunting whip (Besenval 1805, 420-423). Whatever his motivations for a late departure, Besenval took flight to escape threats of his arrest and assassination, setting on the road for Switzerland.

BESENVAL THE ROADRUNNER AND PROCEDURAL CHAOS

As early as July 15th, the National Assembly declared, “the ministers and civil and military agents of the government are responsible for all actions contrary to the rights of the Nation and to the decrees of this Assembly” (Shapiro 1993, 44). In July and August of 1789, the people and the press combined in their efforts to identify enemies to be neutralized (Gaven 108). The civilians and militiamen involved in this hunting season missed Lambesc⁷ but continued to search for other military dignitaries and members of the court (Shapiro 1993, 55-58). During the so-called hunt for aristocrats and evidence of the July Conspiracy, the provisional government began a short-lived program reading intercepted letters from Versailles to Paris. As mentioned earlier, one such letter signed by the baron de Besenval asked the governor of the Bastille, de

⁷ See “Myth and Lasting Influence” under Chapter 3 for more in-depth discussion of this phenomenon.

Launay, to continue defending “until the last extremity.” Besenval’s letter to the governor of the Bastille fed the people’s worry of a counter-revolutionary movement from the likes of the soldiers still stationed around Paris and channeled their concentrated anger towards Besenval. This letter only provided mere suspicions of a July conspiracy and did not warrant a formal judicial accusation of lèse-nation based on the decree of June 23rd, 1789, but outside of the courts (and outside of Paris), people relished at the opportunity to serve justice upon a man who so steadfastly opposed the revolution (Gaven 103).

Sometime on or before July 28th, 1789,⁸ Besenval reached Villegruis. During his visit, the company stayed at a hostel where Besenval worked on mapping the remaining journey. It was then that Besenval made two errors. First, he spread out an immense map of France and conspicuously looked between his location and the Swiss border; secondly, Besenval carelessly asked, “if it were possible to travel without passing through the city of Villenauxe,” where militia were likely to recognize him (Besenval 1805, 422). His inquiry ensured his immediate detainment in that very hostel under suspicion of being “a fugitive aristocrat” (Idem. 423).

Upon learning of Besenval’s capture, the Comité Provisoire de Police sent a small contingent to escort Besenval to Paris, who arrived in Villegruis on July 30th. It is important to note that the administrative agency kept no record of this act in fear that word would get out and Besenval would become another victim of the Parisian masses (Shapiro 1993, 61). Therefore, rather than dying to an all but assured lynching, Besenval “became the property of society...the object of a continual process of inspection, observation, training and correction (Shapiro 1993, xxi, quoting Foucault). Since the end of July, Besenval was considered a “prisoner of the nation”

⁸ It is unclear when Besenval actually left Paris. His *Mémoires* confirm that he spent two days on the road before arriving in Villegruis and notice of his arrest did not reach Paris until the 28th. Therefore, he either left later than the 19th—the last dated entry in his *Mémoires*—or spent days in Villegruis unnoticed, or both.

(Gaven 170). In complete secrecy and under the cover of night, Besenval and his guards left Villegruis at 9:00 PM in route to Paris and into the hands of the very people that threatened Besenval's life just days before (Besenval 1805, 423-424).

FIRST INTERVENTION: NECKER

Necker, who returned from Switzerland, learned of Besenval's arrest and petitioned the people of Villenauxe to release the old general. His request refused, Necker arrived in Paris on July 30th and pled for Besenval's amnesty directly to the representatives present at the Hôtel de Ville. He argued that Besenval had not yet been charged with any crime, nor was there any decree to suggest an investigation into his actions, and therefore, he was illegally detained and should be set free (Shapiro 1993, 63; Gaven 446). Necker also offered a second and alternative argument in favor of interrogating Besenval outside of Paris. Necker's plea for amnesty was temporarily granted. His heartfelt emotional appeal for reconciliation and peace moved the representatives to send five men (including two representatives themselves) to release Besenval and escort him to the Swiss border (Shapiro 1993, 67). The general amnesty that followed the pardon for Besenval defined the enemies of the nation as "only those who would disturb the public tranquility without need" (Gaven 271, quoting AN C 28, dossier 225).

But, on the same day, public outcry led to a revocation of all amnesty. A misunderstanding of the decree led to the interpretation that the National Assembly actually pardoned the revolutionaries (the entire city of Paris), who could not believe that the Assembly would dare think that they committed any crime for which they needed a pardon. Thus, in the wake of renewed anger, two more commissioners raced to stop the two originally sent to release and escort Besenval. That night, the Assembly decreed the confinement of Besenval "in the

closest town to the place where he will have been arrested”—Brie-Comte-Robert—and that he “is under the safeguard of the Law” (Shapiro 1993, 70, 81; Besenval 1805, 425). The arrest of the Baron of Besenval ensured that the crimes of July would not go unpunished and gave ample reason to fulfill the promise of a lèse-nation tribunal and a committee to investigate the denunciations (Gaven 119).

The baron would spend the next three months in Brie-Comte-Robert, about twenty-five miles outside of Paris proper. Lodged in the remnants of an old fortress that once protected the city, Besenval became prisoner of this inhospitable castle (Prieur, Bertault, and Duplessi-Bertaux 1802; Besenval 1805, 425). Save the presence of a revolutionary fanatic by the name of Bourdon who constantly pestered the old general for a confession of a conspiracy, Besenval’s stay in Brie-Comte-Robert was not all too disagreeable (Besenval 1805, 426-430). He read; he played backgammon; and he enjoyed the company of his guards, corresponding with people such as the duc de Luynes, duc de Liancourt, and even the marquis de LaFayette via letters (Ibid).

On September 3rd, Besenval was once again ordered to return to Paris to be tried by the newly composed Châtelet, but this order was ignored. On October 24th, LaFayette ordered the immediate transfer of Besenval to the Châtelet prison. On November 6th, Besenval arrived in Paris. On November 18th, he was formally denounced by the Paris Comité des Recherches. While Besenval became formally acquainted with his new home at the Châtelet prison, trial began on November 21st (Shapiro 1993, 79-83). Besenval and his counsel were immediately swept into the public investigation by the Châtelet and Comité des recherches (Gaven 446).

CHARGE AND EVIDENCE AGAINST BESENVAL

Besenvall was tried together with the old Garde des Sceaux Barentin (fired July 15th, 1789 and replaced by Cicé), comte de Puységur, the War Minister until the July 11th, 1789, the duc de Broglie (prince du Saint Empire and maréchal de France), and the marquis d'Autichamp (Idem. 171). Besenvall was the only person taken prisoner. Their formal criminal charge reunited all of the novel revolutionary institutions and political actors: "National Assembly, bourgeois militias, representatives and electors of Paris, Comité de recherches of the Assembly and that of the Parisian municipality, and procureur-syndic of Paris" (Idem. 172). Each person and institution played a role in forming the case against the military officials. Together, they formally denounced a

conspiracy formed against the National Assembly and the city of Paris during the month of May until the 15th of July...the gathering of a frightening number of primarily foreign troops, considerable artillery, bombs, mortars, and machines to heat cannonballs⁹, and the position of these war paraphernalia between Versailles and Paris...the attack on the freedom of the National Assembly on the 20th of July and the days following, the interception of correspondence between Versailles and Paris,¹⁰ the hoarding of foodstuffs and grain for the benefit of the troops, *the violence against the Parisian citizens committed by the prince de Lambesc*, the threat of use of the Bastille's cannons against the people for defense of this fortress *until the last extremity*, the unfaithful promises to arm the citizens and the guilty and willing inaction of Besenvall in face of the multiple scenes of disorder multiplied by brigands and fire-starting rioters in the suburbs (AN BB/30/161, quoted by Gaven, 173, emphasis added; AN BB/30/82).

More succinctly put, Besenvall was accused of lèse-nation. A plain reading of the complaint showed that Besenvall represents a judicial confirmation of the French Revolution as the breadth of the complaint included any and all violence committed during the initial riots (Gaven 170).

⁹ Grils à chauffer les boulets

¹⁰ Not only was Besenvall not responsible for any missing letters, he actually fell victim to the very practice.

The trial of Besenval (and Favras for that matter) demonstrated the turn from mere “revolutionary suspicion and mistrust,” as Jean-Christophe Gaven said, “into judicial experience” (15).

The official articles of accusation against Besenval charge him primarily with “the assembling of troops, coups de force, and military intimidation” (Idem. 201). The charge of conspiracy held little water compared to the quite evident mismanagement of military matters, evidenced by was the burning city of Paris. However, was the baron de Besenval so extremely negligent in his duties that the damages caused by his troops could have been caused by his ineptitude and general inability to maintain order and control? And, did Besenval’s inaction amount to treason against the people?

The Châtelet certainly intended to find the answer to these questions in the coming months. De Sèze and de Bruges¹¹, attorneys for Besenval, lamented and complained of the slow and meticulous process that involved “seven months of detention, three months of judicial proceedings, twenty one audiences before the Châtelet, and one-hundred and twenty-five witnesses, the most of which unhelpful” (Idem. 412).¹² The composition of the witnesses was similar to Lambesc ranging from artisans to lawyers and nobles of the robe (Idem. 170). In his personal interrogation on November 21st, 1789, he denied any knowledge of a July Conspiracy and answered questions about the chain of command of troops in Paris consistent with what has heretofore been described. His longest answer pertained to orders given to prince de Lambesc, which only confirms the intimate connection between the two trials. Finally, he offered letters

¹¹ De Sèze, already a renowned attorney, focused on Besenval’s defense while de Bruges navigated the complex criminal procedure surrounding the trial. De Sèze would go on to defend Louis XVI in 1791, albeit unsuccessfully.

¹² Out of the numerous witnesses already interrogated by December 12th, 1789, Loustalot, in *Révolutions de Paris*, (issue no. 23, page 54) remarked that only four people had essential information.

between himself and his co-defendants to corroborate his testimony (AN BB/30/82, *Interrogatoire M. Besenval*).

SECOND INTERVENTION: BRISSOT, GARRAN DE COULON, AND JOURNALISTS

During this long and laborious investigation into the crimes allegedly committed by Besenval and his co-defendants, the people did not relinquish their anger towards Besenval. The renewed vigor to convict the man who stood for the Old Regime came primarily from the press, which represents the written expression of the people at this time. The leading journalist in this endeavor was none other than Jacques Pierre Brissot, member of the Comité de Recherches and writer of the *Patriote Français*. As it has already been mentioned, between July 13th and July 15th, several of Besenval's intercepted letters were read publicly, including letters assuring reinforcements for the bastille (Shapiro 1993, 49). Besenval sent to de Launay, Governor of the Bastille, the following order: "M. de Launay will defend himself until the last extremity; I have provided him with sufficient forces" (Idem. 41). Brissot intercepted this message and published it in his paper, the *Patriote français*. Furthermore, Brissot recognized supposed evidence of a July Conspiracy in the August 1st, 1789 edition of his newspaper but argued that judgment is necessary by a lèse-nation court. Judgment, he argued, brings closure while movements for amnesty result in rash reactions from the public (Shapiro 1993, 75, quoting Brissot). Brissot set forth two conditions for the soon-to-be lèse-nation court:

- (1) It must be constructed in such a way as to obtain the confidence of the People, who demand vengeance; and (2) it must be constructed in such a way that accuser and accused will each have an equal chance (Idem. 76).

This inclination for justice naturally stemmed from his role as member of the Comité des recherches, but justice to the staunch revolutionary appeared to mean exhausting every possible

means to convict Besenval. By August 5th, Brissot declared Besenval a monster responsible for anti-revolutionary conspiracies and thought (Ibid). And Besenval, for his part, made sure to single out Brissot¹³ in his memoirs and thank the lawyers for their zeal:

The persecution of the Comité des recherches proved to be consistent; and if I was not to be hanged, I owe justice to say that the four to five magistrates that made up the committee certainly saw to this result with ardor (Besenval 1805, 432-434).

Besenval's tongue-in-cheek commentary on the committee's rigorous investigation portrays feelings of annoyance and unfairness. To the Swiss general, the Comité de recherches did all in their might to find him guilty; he only barely escaped their clutches. More importantly, this quote exemplifies the discrepancy between the lenient judges of the Châtelet and the fanatical Comité de recherches.

Other journalists also began to cover the proceedings of the Châtelet in regard to Besenval and his co-defendants. Take for example the newspaper *Révolutions de Paris* written by Elysée Loustalot and later Antoine Tournon. Their first edition covered the storming of the Bastille, which already set the scene and tone of the revolutionary paper. The fourth edition covered his arrest in Brie-Comte-Robert and asserted, "there existed a great crime of lèse-nation" (2). Then, in issues after November 21st, Loustalot covered the interrogation, depositions, hearings, and several writings (Issues No. 21-23, 25-30, 33, and 34). It should be noted that the amount of text written about Besenval multiplied after the capture of Favras and quickly died down after the execution of Favras.¹⁴ For example, the 26th edition of *Révolutions de Paris*

¹³ In addition to Brissot whose name was not censured in any way, Besenval also alludes to Pierre Louis Agier, Garran de Coulon, and Nicolas Oudart.

¹⁴ Besenval's trial profited from a generally relaxed atmosphere whose tranquility was shattered by the arrest of the marquis de Favras. Gorsas, author of periodical *Courrier de Versailles à Paris et de Paris à Versailles*, began writing daily coverage on Besenval's trial from that day forward. When the masses stormed the court to see the traitor Favras, other cases such as the one

featured a page by page critique of de Sèze's *Observations pour le baron de Besenval* in which Loustalot became so enraged by the audacious claims and denials of de Sèze that he daringly suggested deposing King Louis XVI on the matter (Issue No. 25, 1-18). This arm of the public sphere continued to exert pressure on the Châtelet during the French Revolution and more often than not urged for punitive justice.¹⁵ Members of the press—among others—sought vengeance for the violence of July and wished to use the Châtelet as veritable means of committing assassinations of character and literally. One such person was in the power to do so.

Another member of the Comité des recherches, Garran de Coulon, showed particular interest in the fate of Besenval. Having already been tied to the lynching of Flesselles on July 14th, 1789, Gustave Bord argues that Garran de Coulon's next assignment would be the judicial assassination of Besenval:

At each event, [Coulon] launches the word or phrase which compromises the man in the hot seat...Garran de Coulon was certainly partly responsible for the assassinations of the Prévôt des Marchands and the intendant of Paris, and now he is given the task of rendering a legal opinion on the question of whether those in authority in July were guilty (Shapiro 1993, 46, quoting Gustave Bord).

One need only to read his report on behalf of the committee in which he claims to establish evidence of a conspiracy against the people, that this conspiracy constituted lèse-nation or lèse-majesté, that those responsible included Besenval and his co-defendants, and that nothing could exonerate the criminals (Garran de Coulon 1789, 1-2). According to Garran de Coulon, “not a single act of the new administration nor any movement of the [troops stationed in Paris] had the goal of tranquility in Paris.” Instead, the accumulation of military persons and munitions could

against Besenval suffered. De Sèze, concerned for the safety of the old general, pleaded for a change in venue for the public investigation into Besenval, but was unsuccessful.

¹⁵ It should be mentioned that some newspapers such as the *Journal de Paris* written by de Bruges gave favorable coverage to Besenval's trial. For a more in-depth exploration into the role of the press during this time, consult *Revolutionary Justice in Paris 1789-1790* by Barry M. Shapiro (1993).

only be used for enacting this conspiracy against the people and for intimidation of the National Assembly (Idem. 31). Attacking Besenval predominately, Garran de Coulon is unable to do anything more than reiterate the charges of the November 18th denunciation. Nevertheless, he steadfastly asserted that it would be impossible to convince anyone that such inherently criminal actions could ever be done in the king's interest or with his permission (Idem. 53-55). Yet, de Sèze set out to do just that: justify the legality of Besenval's actions.

DEFENSE AND ACQUITTAL

In defense of the Swiss general, de Sèze touched on many problems. First, he highlighted the great anomaly of the newly established crime of lèse-nation: Besenval is on trial for crimes outside of the law because the crime of lèse-nation has no common law or statutory definition. The National Assembly created a new word and new crime, but that does not equate the crime to the term, nor it mean the crime is formally established. Such neologism is vague, ambiguous, and leaves the defendant on unequal footing before the law (Gaven 148). The crown prosecutor, Flandre de Brunville, representing the nation against Besenval even confessed his desire for a more specific definition of lèse-nation in April 1791:

I endlessly wished that a decree by the National Assembly clearly and precisely determined all of the offenses that could have been considered lèse-nation. I expressed this desire a number of times to several members of the National Assembly and you will be easily convinced, Sir, that if the National Assembly had handled my request, the Châtelet would have found itself in less difficult and less embarrassing circumstances (Gaven 152, quoting AN BB/3/19, dossier 1, lettre de Flandre de Brunville).¹⁶

¹⁶ J'aurais infiniment souhaité qu'un décret de l'Assemblée nationale déterminât d'une manière claire et précise tous les délits qui pouvaient être considérés comme crime de lèse-nation. J'ai témoigné nombre de fois ce voeu à plusieurs membres de l'Assemblée nationale et vous serez facilement convaincu, Monsieur, que si l'Assemblée nationale eût pu s'occuper de cet objet, le Châtelet se fût trouvé dans des circonstances moins difficiles et moins embarrassantes.

Boucher d'Argis, presiding judge in Besenval's trial and publicist for criminal law reform, was known for his favorable disposition towards criminal defendants and naturally subscribed to similar beliefs (Gaven 149).

The second argument used by de Sèze revolved around the creation of the crime of lèse-nation. Because the crime of lèse-nation did not exist as of July 14th, 1789 and because the laws can only be applied prospectively (as opposed to retroactively), Besenval could not be found guilty of lèse-nation. Therefore, the court would have to find Besenval guilty of crimes that were contrary to law of the Old Regime (Idem. 150). Framing the court case in old law assured an easy defense of legality. Instead of showing that Besenval's actions were not contrary to the undefined will of the nation and its security, de Sèze opted to prove that at the time of the actions taken by Besenval, those actions were sanctioned and legal.

Thirdly, de Sèze objected to the personal jurisdiction over the baron de Besenval. He asked the judges of the Châtelet: "Gentlemen, are you truly the judges of the baron de Besenval?" Treaties between France and Switzerland guaranteed that Swiss guards in the service of the French king under criminal suspicions would be tried by a Swiss court (Idem. 295). Furthermore, Besenval and his codefendants were certainly entitled to a change in personal jurisdiction¹⁷ as old French law would have all military members and high dignitaries tried by the Parlement of Paris (Idem. 296). Although Besenval could raise a proper defense on the ambiguity of the law and on his Swiss nationality, it was not necessary to maintain this battle

¹⁷ Interestingly enough, in giving the Châtelet subject matter jurisdiction over the crime of lèse-nation, the National Assembly bypassed old traditions of regional jurisdiction and personal jurisdiction. For example, people accused of lèse-nation in Lyon would have to be tried in Paris. Furthermore, if that person was a noble normally entitled to be tried by the Parlement of Paris, that person was nevertheless tried by the Châtelet. Though, having personal jurisdiction over a Swiss citizen may have exceeded the powers of the Châtelet.

of legality because all people involved showed to be favorable to the defendant. Asking for a change of jurisdiction to military or Swiss courts would jeopardize a likely acquittal (Idem. 149).

The issue for people wishing Besenval's condemnation and execution was that little evidence of a July Conspiracy could be found. Witness testimony contradicted other witness testimony, and no letters or other writings corroborated the Comité de recherches' claim that Besenval planned to siege Paris and disrupt the National Assembly (*Révolutions de Paris* Issues No. 25-30). To make matters worse for those seeking vengeance, Besenval maintained his tranquility and courtier-like nature while at the Châtelet; surrounded by friends that visited him in prison and at the court, his character represented that of an old general amicably conversing with Parisians, rather than a counter-revolutionary bent on the downfall of liberty (Shapiro 1993, 157; Besenval 1805, 433). The end question to answer for both Besenval and Lambesc is whether or not one can punish the commanders for following legitimate orders from and approved by ministers of the king (Gaven 177).

Shapiro views Besenval's order to de Launay as sufficient for conviction but argues that the judges were not inclined to punish the Old Regime (158). But this would ignore, as Shapiro himself puts it, that all testimony was in Besenval's favor and none of those deposed gave any evidence of the rumored July conspiracy. "Besenval's defenders were even able to persuade a part of the public, not that the conspiracy did not exist, but that there was no legal proof of it" (Shapiro 1993, 160, quoting Garran de Coulon 1790). Just as it was in the case of Lambesc, the Châtelet had to consider the people's desire to prosecute and punish. While these people, as previously shown, certainly clamored for Besenval's head (as shown through the press statements), the execution of Favras on the day of Besenval's acquittal satisfied the masses'

appetite for revenge. Shapiro argues, succinctly, “Favras’ execution served, in effect, as Besenval’s ticket to freedom” (124).¹⁸

In fact, rather than suffer the noose, Gaven finds that the publicity of the Besenval trial allowed for his redemption in the eyes of the public. De Sèze and de Bruges worked tirelessly to prove that the Baron’s actions were legal prior to the “Revolution of July 14th” (Gaven 463). The public hearing and lengthy statement by de Sèze guaranteed that those in attendance left with respect for the old general who just followed legitimate, albeit careless, orders. Besenval did not suffer the same injury to memory as Lambesc and Favras, even if just for the short time he lived thereafter. The Châtelet formally acquitted Besenval and his co-conspirators of all charges on March 1st, 1790.

TRIAL BY PROXY: THE OLD REGIME

The Besenval affair led to the creation of a particular tribunal for those accused of lèse-nation. His detention was entirely illegal and unjustifiable without proper proceedings in a court of competent jurisdiction. Hence the rushed decision on October 14th, 1789 to place Besenval—and all others accused of lèse-nation—under the investigatory supervision of the Châtelet. The National Assembly gave adjudicatory powers to the Châtelet one week later on October 21st, 1789 (Idem. 282-283, 295). It should be noted that the judges were not changed nor appointed by the provisional government. The Old Regime judges remained in charge of the cases against the Old Regime, “or at least its last efforts of existence” (Idem. 175, 290). Bestowing an institution of the Old Regime with powers to judge the administration and military members prior to the Revolution guaranteed the acquittal of its representatives.

¹⁸ Shapiro’s theory of the Besenval-Favras Judicial Transaction will be analyzed in-depth in the proceeding section.

In the case of Besenval, the three courts—social, political, and judicial—intermingled from the very outset. In reaction to the public's sacking of the Bastille prison, the legislative body created a new law to punish the military that allowed the violence of July 1789. Within days of its creation, militiamen in a nearby town apprehended the fugitive aristocrat and procedural chaos ensued due to conflicting interventions of the different courts. On one hand, political officials pled for amnesty; on the other, journalists pressed for punishment. The result was a complicated legal processing of Besenval by the Comité de recherches and the Châtelet. In the end, Besenval's counsel eventually secured his acquittal by showing that Besenval represented no threat to the provisional government (since he was merely following orders legitimate at the time of execution). The political officials then negotiated behind closed doors and enacted the Favras-Besenval transaction, which appeased society's quest for revenge on the defenders of the Old Regime. All justices satisfied, Besenval left the Châtelet without injury to his reputation, threat of political persecution, or danger of potential punishment.

INTERLUDE 2—ANALYZING THE FAVRAS-BESENVAL JUDICIAL TRANSACTION

In the first interlude, the assumption that Lambesc was acquitted based on Besenval's acquittal came into question. This section takes the argument one step further and looks at Shapiro's theory that "Favras's execution served, in effect, as Besenval's ticket to freedom" (1993, 124). Besenval was the face of the aristocratic conspiracy of July just as Favras became the figurehead for a general aristocratic conspiracy of December (Idem. 148-149). Upon the arrest of Favras on December 24th, 1789, he became the new head conspirator and enemy number one of the nation. In early January as both trials occurred concurrently, the Châtelet judges came under heavy criticism for showing apparent leniency towards Besenval, including smiling at the defendant. Public interrogation of Favras began on January 9th and reportedly 10,000 people showed up on January 11th to demonstrate against both Favras and Besenval (Idem. 150). People began to confuse the two conspiracies and decried the unfair treatment of Besenval effectively causing cessation of all partiality from the magistrates of the Châtelet in recognition of the popular disgruntlement. While the newspapers blamed the public turmoil on the aristocratic conspiracy, it was more likely, as Shapiro suggests, that the people clamored for justice—quick, swift, and punitive. Newspapers also reported that the evidence was enough to hang Favras and appease the people all the while maintaining Besenval's innocence (Idem. 136-165). Almost following a script written by these newspapers, the judges released Besenval finding no cause for a formal decree of arrest on the evening of January 29th and the next day Flandre de Brunville recommended the death penalty for Favras. The people, satisfied with inevitable punishment of one conspiracy, allowed the great counter-revolutionary general of July to go free and without much coverage.

When looking at the Lambesc-Besenal theory discussed in Interlude 1, the two interpretations are at odds with each other in regard to agency of the accused. Given that Besenal was guilty of the crimes of which he was accused, but was acquitted because of political manipulation, how can one argue that Lambesc is not guilty? Gaven, the author of the Lambesc-Besenal connection, rightly avoids this paradox by denying any attempt to define a ‘judicial transaction’ between Favras and the military men. There was a fundamental difference in the two cases: Favras was tried for acts rumored to be currently going on while people such as Lambesc and Besenal were tried for acts committed under the old government. In fact, the actions of the latter individuals should have been viewed outside the statute of limitations for any criminalization not only because the actions were approved by the government (thereby legitimizing the use of violence), but also because the crime for which they were charged, *lèse-nation*, did not exist at the time the actions were taken (Gaven 247). The hypothesis of judicial transaction nevertheless, Gaven argues, holds water for those wishing to explore the fragility of the Châtelet in exercising this novel judicial justice.

Furthermore, Shapiro’s theory of a judicial transaction falls within the theory of multiple justices enounced herein. Both trials were subject to the same social, political, and judicial pressures. Social justice demanded punishment; political justice demanded stability; and judicial justice was subject to both. In regard to the last, both Favras and Besenal could have been found guilty of *lèse-nation*, but judges were inclined to listen to the public clamor and political appeals. Besenal, the nearly seventy-year-old general, was no threat to political stability and his social standing, having recovered from the initial onslaught of bad press in July and August, was only called into question by the appearance of Favras and renewed interest in the proceedings before the Châtelet. Favras, as will be seen, represented a very real threat to the

precarious political relationship between the crown and the people and the public viewed his version of the aristocratic conspiracy as legitimate. The judicial transaction allowed the Châtelet to expertly navigate the multiple justices and find a solution that pleased the people, political officials, and the law.

CHAPTER 4—MARQUIS DE FAVRAS: SACRIFICE TO SOCIO-POLITICAL JUSTICE

Favras's punishment will satisfy the Nation's need for a great example. It can be said that all the aristocrats have been hung through him. —Camille Desmoulins (Shapiro 1992, 667)

The most memorable of the lèse-nation cases stems from yet another counter revolutionary conspiracy aimed at the citizens of Paris. The marquis de Favras, victim of the expedited trial, would be the only person executed for his alleged crimes (until the trial of king Louis XVI and proceeding Terror) (Shapiro 1993, 124). As a member of the (minor) aristocracy and military, his case is exemplary of the complex interplay between social, political, and judicial justices. While he most certainly suffered from the “absence of investigatory rigor [and] tendency towards pragmatic and secret judicial arrangements,” he lost his case as a result of extra-judicial pressure and would go down as a martyr to appease the Parisian public's thirst for revenge against supposed conspirators (Idem. 123). Primed by rumors propagated by the National Assembly and revolutionary forces, his case and ultimately iniquitous judgment would become the patsy for the aristocracy and servants of the Old Regime.

WHO IS THE MARQUIS DE FAVRAS?

Thomas de Mahy, marquis de Favras was born in Blois on March 26th, 1744.¹ His family claimed nobility since the 14th century but had since fallen into impoverishment only owning the

¹ There are several interesting facts that make the marquis de Favras an enigmatic character. His name was written Thomas de Mahi and mispronunciation of the noble particle may have contributed to his designation as marquis, since, as Cleray (1932) notes, there never existed a marquissate of Favras. The family resided in Blois and had many homes in the surrounding regions, but all were baronies or nothing at all. Additionally, much of what historians know about Favras comes from his brother, Guillaume-François, baron de Corméré who acted as his counsel during the trial and wrote a justification of Favras' actions after his death. His 1791

barony of Cormeré (Valon 123). Frankly, Favras had more titles than assets (Shapiro 1993, 123). As was common for the poor nobility, Favras joined a group of musketeers in 1755 and served six years as a military man. In 1761, he obtained his own company of dragoons and was named capitaine-aide-major of the régiment de Chapt a.k.a Belzunce. Then, in 1773, he became the First Lieutenant of the Swiss Guards under the comte de Provence² but resigned in 1776 (Cormeré 3-6).³ Around this time he sought to regain prestige and married the German noblewoman Victoria Edwige Caroline, princess d'Anhalt-Bernburg-Schaumburg. His new connection to royalty (and appearance at the court) renewed his friendship with the comte de Provence who offered his protection (Valon 1095). In 1785, Favras approached a recruitment officer, Tourcaty, to rekindle his military career in 1785 in reaction to the riots in Holland (Cormeré 8). Instead, he undertook a project to liquidate the French debt, moved to Versailles, and worked occasionally with Tourcaty whom he considered “an honest military man” (Idem. 9). His great finance plan would nevertheless run into political opposition who classified Favras by “his origins, his services, his relations, and even recognition as belonging to the aristocracy and the court” (Valon 1097).⁴ He

Justification will be used throughout to provide the point of view most favorable to Favras. The claims contained therein should nevertheless be taken with a grain of salt. For greater discussion, see the final section of this chapter. Finally, Cleray (1932) marks the year of birth as 1741. He goes on to disagree with every major date in Favras’s military career.

² The comte de Provence is also known as Monsieur or as the future Louis XVIII.

³ Cormeré claims that Thomas left the regiment to attend to pressing matters at his residence in Vienna, namely restoring his wife’s paternal connection to prince Charles-Louis d’Anhalt-Bernburg-Schaumburg-Hoym. Alexis de Valon claimed over 150 years later that the marquis actually ran out of funds to continue his office. These two stories are not incompatible as marrying a princess of a German state would certainly benefit Favras economically, but only if her lineage could be confirmed.

⁴ If interested, his economic proposition can be found in the Bibliothèque nationale de France’s digitized collection, *Gallica*, under the title of *Le déficit des finances de la France vaincu par un mode de reconstitutions annuitaires, qui opérera aussi, en trente ans, la libération de la dette nationale*.

replied, warning against the novations of the revolution and the risk they posed to the king (Favras 1789c, 1; Valon 1097). Thus began his unfortunate label as counter revolutionary.

FAVRAS CONSPIRACY

At the outbreak of the revolution on July 14th, Favras's worries became justified as the masses began assembling and attacking vestiges of the Old Regime. To complicate matters, on September 21st, 1789, Jean Philippe Morel informed LaFayette of a new aristocratic conspiracy similar to the plot associated with Augeard earlier in the year: loyalist troops would take over Paris and Versailles, LaFayette and Bailly would be killed,⁵ the National assembly dissolved, and the king seized and brought to Metz or Peronne (Shapiro 1993, 125). LaFayette gave Morel an official commission with orders to find out more about the plot (*Révolutions de Paris*, Issues No. 34-35; Cormeré 20). Morel immediately targeted the marquis de Favras who had expressed resistance to “innovations,” meaning the Revolution (Favras 1789c, 7). According to this informant, Favras went so far as to ask the Minister of War, Saint-Priest, for a large number of men to form the loyalist forces necessary to transport the king to safety as early as July 17th, but, Saint-Priest could not furnish the required horses for the expedition (Shapiro 1993, 125-126). Saint-Priest, for his part, denied this conversation and all conversations prior to October (AN BB/3/221). Instead, he corrected the date to the October 5th, 1789 when Favras, forever loyal to the king and present at Versailles castle during the memorable October Days march,⁶ plead for a

⁵ Shapiro discredits all allegations about the assassination plans and speculates that such a plan originated as an embellishment in the mind of the accuser Morel. In the writings of Louis XVIII, the future-king denied all claims of an assassination. It could be that Morel saw his evidence as insufficient for conviction and decided to embellish the risk Favras posed to the people in power.

⁶ For those unfamiliar with the October Days of 1789, this event refers to the march on Versailles by Parisian citizens (mainly women) in order to bring the king back to Paris proper in order to

regiment of horses in order to drive back the masses and save the king, a foolhardy request that Saint-Priest promptly denied (Shapiro 1993, 126; Valon 1099). After this refusal, Favras contented to escort the king on his return to Paris (Valon).⁷

Favras, per Morel, began assembling a counter revolutionary army, exceeding the plans of October 5th, which included only defensive measures to protect the person of the king. In addition to Morel, the Comité des recherches hired a spy, Geoffrey, to follow Favras and discover this revolutionary group (Valon 1103). Investigation revealed that Favras's accomplice⁸ in this conspiracy was the comte de Luxembourg who had previously argued that the "authority of the monarchy could only be recovered by 'establishing a Supreme General and by naming a new commander of the Paris militia'" (Shapiro 1993, 127, 142).⁹ In addition to Luxembourg, Favras contacted Tourcaty and inquired about raising a regiment. According to Tourcaty,¹⁰

ensure a continuing supply of food. It began as a redress of grievances (price of bread) and ended with Louis XVI captive in Paris.

⁷ According to Alexis de Valon, whose evident support for royalty raises doubts about his neutrality, Favras met Pierre Marquié during this march. The member of the National Guard supposedly cried at the sight of the captive king and queen, which led Favras to believe he had a potential ally. As will be seen, this assumption would cost him.

⁸ Favras's potential accomplices are numerous. Cleray and Valon point to Jean-Baptiste, comte de LaMarck, Maillebois, Augeard, and even Mirabeau. While these people may have had plans to help the king or queen, evidence never implicated any of the aforementioned people. Augeard, in his memoirs, claims to have been told by the marquise de Favras that her husband was in league with the comte de La Châtre, comte de Luxembourg, marquis de Lévis, and even the banker Chomel.

⁹ The comte de Luxembourg was member of the Royal Bodyguards. During the October March, Marie-Antoinette actually gave permission to Luxembourg for use of two hundred horses in the case that the king should be in danger. He never used them. LaFayette, who knew of the plot, may have dissuaded Luxembourg from proceeding with the conspiracy.

¹⁰ The timeline of events according to the testimony of Morel and Tourcaty do not line up. According to Morel, he learned of the conspiracy from Tourcaty who learned it from Favras himself. Tourcaty allegedly met with Favras sometime around the July 17th, 1789, but Favras and Corneré deny this meeting time and suggest a meeting in October or November (Corneré claims the date as November 15th), which is well after Morel informed LaFayette on September 15th. It is likely that Morel spoke of a general aristocratic conspiracy to LaFayette, gained his

1,200 horses were stationed in Versailles and Favras relied on him to supply the men. This small force would be used to take the king to the provinces, under the protection of an additional escort of 22,000 men, and afterwards, Favras would recruit 150,000 to reassert the king's authority (Shapiro 1993, 144-145; AN BB/3/221, deposition of Tourcaty). The man to supply the 22,000 men was Jean-Philippe Marquié, an officer in the National Guard. Wishing to foment discontent within the national guards, Favras tried to convince Marquié that LaFayette showed favoritism towards other regiments (Shapiro 1993, 141). On the fourth meeting, Favras brought a copy of *Ouvrez donc les yeux*, a counter-revolutionary pamphlet berating the destructive nature of the so-called nation:

You [the people] were always the Nation the most polite, the most generous, and the most kind of all the Civilized Nations. Now, you are the most savage... Today, you want to bathe in the blood of one another (1).¹¹

Marquié refused to meet with Favras afterwards (Shapiro 1993, 142). These actions constitute the primary cause of action against the marquis de Favras. Tourcaty and Morel worked for LaFayette in the name of the nation and collected evidence to support an open-and-shut trial using Favras' own words against him (particularly those of a meeting on November 15th during which Favras expressed concern over "rumors of assassinating the king"). The spy tracked Favras and was ready to apprehend the suspected criminal at any time. Why did they wait?

commission to investigate, and later attributed those elements to Favras. Shapiro comes to a similar conclusion.

¹¹ Historians contest the authorship of the pamphlet, though some, such as Shapiro and Valon, attribute it in part to the marquis de Favras. He cannot be the sole author if one believes the pamphlet, since he is not a member of the National Assembly.

A TRIAL BY PROXY: COMTE DE PROVENCE?

Sometime in November, the comte de Provence contracted Favras to secure a sizeable loan (two million French pounds) for reasons disputed during the trial and thereafter. In the personal papers of the late Louis XVIII, published in *Le Correspondant* in January of 1910, he lamented having ever listened to the marquis de Favras, suggesting that Favras convinced him of plans to escape with the king. The comte de Provence admitted that Favras worked to acquire a loan on his behalf, which contradicts his initial testimony to the Hôtel de Ville that stated the purpose of the loan as renovation of his home (Gaven 250; Shapiro 1993, 136). Whatever the true reason may have been, Favras worked on acquiring funds from several Dutch bankers. Morel, whom Tourcaty introduced to Favras in November, suggested contacting Mr. Pomaret (Corméré 15). Instead, Favras contacted a different banker by the name of Chomel. This choice would prove fatal. Believing the negotiations to be fruitful, Favras acquired the paperwork from the comte de Provence identifying him as the guarantor of the loan and Chomel was ready to give the first installment as of December 24th, 1789. Instead of meeting Favras at the home of the comte's treasurer, Papillon de la Ferté, Chomel went to LaFayette with the crucial evidence of active execution of a conspiracy and Geoffrey arrested Favras that night bringing him directly to the Comité des recherches (Shapiro 1993, 131-132).¹²

On the morning after Favras's arrest, a placard was posted all over Paris by a person named Barauzz alleging that the comte de Provence was behind the plot (Shapiro 1993, 136, quoting *Moniteur* of December 28th, 1789). Two days after the arrest of Favras, Jouve and Potel

¹² Interestingly, and perhaps inexplicably, the marquise de Favras was also arrested on this night despite a lack of charges against her.

printed a pamphlet confirming the role of the comte de Provence in the conspiracy; for their exposé, they would be tried for seditious writings (Gaven 224). Général Thiébault, in his memoirs, accused the comte de Provence of having charged Favras with an escape plot and the execution of LaFayette and Necker. Boullié claimed that Favras “acted under the prompting of the comte de Provence, and with the funds provided him by the comte de Provence” (Shapiro 1993, 131, quoting *Souvenirs et fragments* of Bouillé). In essence, the role of the comte de Provence is uncontested; his public appearance before the Hôtel de ville and his notes published posthumously only confirm this truth.

Even though the comte de Provence acknowledged his master-servant relationship with Favras, he denied all ties to the abduction conspiracy. While this certainly was hard to believe, the Comité des recherches was not in a position to press the matter. Implicating a member of the royal family would bring scandal and destabilize the precarious policy of reconciliation with the aristocracy that LaFayette promoted (Shapiro 1993, 136). The ample evidence connecting the comte de Provence to Favras could not be used as political leverage and LaFayette begrudgingly admitted that while there were certainly more people involved in Favras’s escape plan, Favras was the scapegoat (Idem. 133).¹³ The marquis de Favras was just noble enough fit the general description of an aristocratic conspiracy, but not so noble to rupture the tenuous constitutional monarchy and relative stability. Without the aid of the comte de Provence,¹⁴ who would not risk

¹³ Parallels are easily drawn between the baron de Besenval and marquis de Favras. While multiple defendants were or should have been listed by the Comité des recherches, only one person was held responsible for greater plots or actions.

¹⁴ In a letter from Tirésias (pseudonym) to Favras, without a date, the comte de Provence seems to claim to have not been in contact nor seen Favras since 1775 and that he was unaware of the dealings of his treasurer, LaFerté This letter seems to contradict his initial speech to the Hôtel de Ville but supports some testimony that Favras sought the loan and planned on contacting the comte de Provence for approval. Either way, it shows that the future Louis XVIII would not get involved in the political trial.

his political power for a mere acquaintance,¹⁵ no political faction had any real interest in saving Favras; his conviction seemed a foregone conclusion (Idem. 135).

COMPARATIVE CONSPIRACY: BESENVAL, AUGEARD, AND TROUARD DE RIOLLE

Rumors of a conspiracy to abduct¹⁶ the king spread across France as early as the months of May. As time passed, more concrete allegations and plans began to form, namely propagated by the National Assembly. The rumored Metz conspiracy and hunt for conspirators led to the arrest of multiple individuals such as Augeard and Favras. So-called hunters discovered multiple plots but the conspirators, including comte de Toulouse-Lautrec, Nîmes Catholic militia, comte de Bussy, Camp de Jalès and three agents of the comte d'Artois, were let go (Idem. 146-147). Others such as Mirabeau were only accused of plotting without action (Cleray 33). Paranoia searched for a face to put to the conspiracy and that face became the aristocracy, the clergy, and other personnel of the Old Regime (Gaven 250-252). By the time of Favras' capture, the people were already primed for a conviction, and Favras fit the profile of the dangerous noble willing to steal the king from his throne. There were fourteen other counter-revolutionary conspiracies tried as lèse-nation. Three of these cases ended in judgment: Favras (condemned to death on February 18th, 1790), Augeard (acquitted on March 29th, 1790), and Trouard de Riollès (freed of

¹⁵ Use of the word acquaintance may belittle the relationship between the comte de Provence and Favras. Favras had served the comte for years and the comte, in return, assured the education of Favras's children. Historians have speculated on the comte's feelings of guilt for the execution of Favras as the future Louis XVIII would continue to support the Favras lineage and give an allowance to Charles de Favras, his son.

¹⁶ During the early French Revolution, the people still clung to the person of the king. The National Assembly started in an effort to form a *constitutional monarchy*. It is only natural that the conspiracy would not implicate the king himself but instead allege an abduction. Close study of the time period shows that this was merely a socio-political fiction. The king was free—so long as he did not leave Paris and acted in the interest of the National Assembly—and his efforts to flee in 1791 only confirmed his willingness to participate in the escape plans.

all charges as of August 13th, 1791) (Idem. 239-240). To this list one can partially add Besenval whose ties to the aristocratic plot were slim to none as previously discussed. Comparatively, the prosecutory brief against Favras pales in comparison to the briefs against Besenval and Augeard (Shapiro 1993, 134). Yet, among this long list of conspirators whose names would become commonplace by the inkwells of historians, only the marquis de Favras died for his conspiracy. In order to answer this incredible phenomenon, I will distinguish the cases that ended in judgment and show that the heart of these cases was the question of whether or not the accused executed or attempted to execute the conspiracy or simply held criminal thoughts of counter-revolution (Gaven 239).

The first of the conspiracies, enacted by Augeard, preceded Favras by some months. After the denunciation by his personal secretary, law enforcement arrested Augeard under suspicion of preparing an escape plan for Louis XVI and Marie-Antoinette. Accused of planning, with the help of the bishop-comte de Châlons, to take the royal couple from Paris to Buzancy in Champagne (where he held land), Augeard was officially recommended to the Châtelet on October 29th, 1789 upon finding corroborating evidence of counter-revolutionary thought at the defendant's home (Idem. 241). De Châlons and Augeard immediately denied any involvement in such a conspiracy. Only two paragraphs in Augeard's personal notes provided any basis for the accusation of the so-called Metz Conspiracy; as his counsel Alexandre de Bonnières aptly explained, "simple thought never translated to action can never give rise to punishment." Expanding upon this idea, Augeard said: "I could have written the most absurd ideas...and I would never be held accountable if these writings never left my cabinets. My thoughts are my own" (Idem. 242-243, quoting *Mémoires* by Mathieu Augeard). Switching from the defensive to the offensive, additional counsel for Augeard, André Blonde, argued that his

client was only being pursued because he was “an aristocrat,” much like the Royal-Allemand claimed that Lambesc was charged for being related to Marie-Antoinette and how Besenval was initially arrested for being an aristocratic fugitive (Idem. 464). The judges of the Châtelet, in their most conciliatory ways, acquitted Augeard on March 29th, 1790 because of a lack of proper physical evidence of any counter-revolutionary *act*. Loustalot pointed out similarities to Favras in his newspaper *Révolution de Paris*:

The marquis de Favras planned to take the king to Péronne, while Augeard planned to make him go to Metz. Favras wanted to have 1,200 cavalry and 20,000 malcontents ready to follow the king, while Augeard wanted to assemble the nobility to form an army of 40,000 men. Favras was accused of wanting to dissolve the National Assembly by setting off a civil war. Augeard favored the same plan (Shapiro 1993, 141, quoting *Révolutions de Paris*).

Of course, Loustalot conveniently ignores that Favras did not only plan to form an army, but he actively recruited. The conspiracies are nearly identical in every aspect, but the attempt of execution transmutes the criminal thought into undisputable treason.

As for Trouard de Riolles, he was arrested on July 8th, 1790 at Bourgoin under suspicion of developing abduction plans. Search and seizure of his effects led to the discovery of potentially incriminating evidence suggesting, a general insurrection of the provinces. Without further investigation into the documents, the National Assembly decreed Trouard de Riolle as the linchpin of a conspiracy to relocate the king to Turin on September 11th, 1790. Further investigation revealed absolutely no basis for this accusation and revealed the documents to be polls of public opinion in favor of the king (Gaven 244-245). The Châtelet would nevertheless linger before transferring the case to the Haute Cour Provisoire who, on August 13th, 1791, declared “the non-existence of proof or clues of a project or plan of conspiracy against the State” and subsequent exoneration of Trouard de Riolles (Idem. 246). Once again, those accused of

lèse-nation could not be held responsible for criminal thought. The liberty of opinion protected by the Declaration of the Rights of Man and Citizen remained intact.

As opposed to both Augeard and Trouard de Riolles, the judges in charge of Favras believed that the case went beyond mere thoughts (Ibid). Different from the cases of Besenval or Lambesc, whose actions were temporally outside of the scope of the revolutionary justice, Favras had to answer for an *ongoing* conspiracy amidst widespread paranoia of such a plot (Idem. 247). During his interrogation and investigation, Favras had to justify several recent actions: distributing written materials against the National Assembly including *Ouvrez donc les yeux*, recommending counter-revolutionary action, and reacting harshly to the “horror” of the return of the king to Paris (Ibid). The investigation did not probe into his counter-revolutionary *thoughts*; instead Favras needed to justify his counter-revolutionary *actions*.

AN EXPEDITED PROCEDURE: INVESTIGATION AND EVIDENCE

Morel, Tourcaty, and Chomel initially denounced Favras to the Comité municipal de recherches on the December 24th, 1789 after his arrest at the home of Papillon de La Ferté (Idem. 248). Two days later, the Comité des recherches published the formal indictment of lèse-nation, using the information provided by the first two men. This was not unexpected as, to all three men, Favras previously admitted to be the author of the escape plan for which he faced persecution and attempted to enlist their aid in the criminal activity (Ibid). Interestingly enough, Favras’ counsel—attorneys LaFerrière, Thilorier, and his brother Cormeré—only discovered the source of the denunciations a month after the formal indictment and once the criminal investigation concluded, despite the law of November 3rd, 1789, which guaranteed that the accused had the right to know his accuser within twenty-four hours of his arrest and

imprisonment (Gaven 454; AN BB/3/221). From the very beginning of the investigation, procedural irregularity became the norm. There were no public briefs and no public appearances. The only documents released were police documents and the formal denunciation (Shapiro 1993, 134). Investigating magistrates and members of the Comité des recherches, “oriented the interrogations and reduced the scope of the investigation to hasten the end of the trial” (Gaven 250).¹⁷ The only case that would result in the death penalty ended in under two months—record time for that period.

From December 24th, 1789 to February 8th, 1790, the Châtelet heard testimony from several bankers (Abbema, Pomaret, and Chomel), military men (Morel, Tourcaty, Marquié, and Geoffrey), and a total of twenty-five witnesses, paling in comparison to the several dozen witnesses called to investigate Lambesc and Besenval.¹⁸ The bankers spoke of everything from Favras’s seemingly irrelevant plans of raising a regiment to go to Brabant to the loan to be used in the Peronne Plan to abduct the king. In fact, testimony by Chomel transformed the Brabant plan to quell the Holland insurrection in the name of the French into a Brabant counterrevolution to amass an army, storm into Paris, and take the king by force. Chomel provided a brief statement and opinion that the abduction plan was “fully formed” and supposed to take place outside of Paris (Cleray 45; Corméré 77-78). Among the fifteen exhibits before the court, nine letters to and from the banker Chomel constituted the substance of the case; none showed any

¹⁷ Gaven originally attributes the rapidity of the trial to Omer Talon, lieutenant civil and investigating magistrate in the case. But, Corméré specifically mentions Talon as one of the judges who “insisted on the necessity of admitting substantiating facts” presented by Favras and his counsel.

¹⁸ Eleven witnesses testified on behalf of the prosecution and fourteen testified on behalf of Favras according to Corméré.

connection between the loan and the Brabant plan (Cleray 19-24; AN BB/3/221).¹⁹ His letters provided, however, clear and convincing evidence of the loan for two million pounds. In the *Justification de Thomas Mahy de Favras*, Cormeré came to the conclusion that Chomel worked for the Comité des recherches and that he had intentions of trapping Favras when negotiations with Morel's accomplice, Pomaret, broke down (Cleray 63-64). Regardless of the intentions of Chomel, the evidence showed that Favras had hoped to execute some plan that would have cost an exorbitant amount of money for that time. With the comte de Provence denying any connection to the two million pounds, the loan's purpose was left to speculation by the judges of the Châtelet.

Meanwhile the military men testified to Favras's attempt to foment discontent among the National Guard and overthrow LaFayette. Only Morel spoke of the assassination plans against Bailly, LaFayette, and Necker. Morel, in fact, produced an eight-page deposition—four times longer than the official indictment—and recounted Favras's alleged crimes in detail (AN BB/3/221, deposition of Morel). Several times he reported to LaFayette who insisted on continued surveillance. Morel became the equivalent of a modern undercover cop. Tourcaty, for his part, only corroborated the facts presented by Morel. As Cormeré would later quip, Morel and Tourcaty were one (Cormeré 53). Favras's attorneys attempted to exclude the testimony of Morel and Tourcaty for reasons of prejudice, probable entrapment, and because they were the informants, but the judges refused this request because counsels' objections were "non-pertinent and inadmissible" (Gaven 248-249; Cormeré 4). Practice said that political cases did not follow the common law of excluding the testimony of the informant (Shapiro 1993, 143). Furthermore,

¹⁹ Should any reader wish to consult the correspondence between Favras and Chomel, Cleray (1932) reproduced, in part, the archival materials in his book *L'affaire Favras (d'après les document inédits)*. I am unaware of any English translations of these texts.

the Châtelet ruled that it was the commune's Procureur Syndic responsible for legally denouncing Favras, despite Morel and Tourcaty being the source of the information. As for Marquié, his deposition only confirmed that Favras was in communication with members of the National Guard and that both he and Favras wanted to ensure that the king was safe, however, Favras believed that the king was not safe in Paris (AN BB/3/221, deposition of Marquié).

Favras, for his part, initially denied everything save for the negotiation with Chomel for a loan of "up to two million pounds" but wrote to the president of the Comité des recherches on December 26th asking for publication and communication of "*his ideas*" to the National Assembly in order to bring light to the "bizarre denunciations against him that result in his captivity." Confident of his ability to provide a satisfactory explanation, Favras even requested his release (AN AB/XIX/5299, emphasis in letter by Favras). This request was not granted and the investigation proceeded amid growing interest from the public.

DEFENSE AGAINST THE PUBLIC SPHERE OUTRAGED

As the hearings took place, the public became poignantly invested in the outcome of Favras's case. Parisians, who already stalked the grounds of the Châtelet in anticipation of Besenval's case, took immediately to reporting the aristocratic conspiracy attributed to Favras through the press. On the January 30th, 1790, the Châtelet acquitted Besenval of all charges and only Favras remained as target of the onlookers' disdain (Cleray 84). His counsel, Thilorier, LaFerrière, and Corméré had to fight an uphill battle against public perception and outrage (Gaven 460).

The judges kept the doors to the court open to civilians from the moment of the indictment of Favras (Idem. 441). Much to Favras' chagrin, his trial became theatre for as many

people as the Châtelet could house and emotionally charged due to constant interruptions by this crowd. While other defendants of lèse-nation, such as Besenval, benefited from the public audience, Favras did not. Thilorier, in a pleading before the court on January 30th, 1790, displayed, according to some papers, “anti-patriotic” sentiment when he accused the prosecution of “submitting to the cruel opinion and unjust anathema of the people” (Idem 463, quoting *Moniteur universel* February 3rd, 1790). The people came to hate Thilorier as much as they hated Favras.²⁰ Thilorier, save for his appearance before the court on January 30th, and pleading on February 18th, did not attend the other investigatory meetings before the Châtelet; or, at least there is no indication of his presence (Idem. 460). At this time Gaillard de La Ferrière sent the *Révolutions de Paris* two letters in an attempt to win public opinion, or at least counter the negative press against Thilorier and his client (*Révolutions de Paris*, March 4th, 1790).

In defense of Favras, Cormeré and Thilorier pursued multiple legal theories, stressed the positive support of the monarchy exhibited by Favras, and decried the unjust investigation and law. Already mentioned was their attempt at excluding the testimony of Morel and Tourcaty. When this plan failed, they gave multiple reasons for impeachment: Morel received compensation for her information;²¹ he provided the information for the official indictment; the accuser has the burden to supply corroborating evidence of his testimony; the information in his deposition is suspect for its omniscience; part of his testimony, if proven false, gives reason to reject the entire testimony; and, since Morel had a personal interest in the outcome of the case, his testimony is questionable (Cormeré 58-67). As for the testimony of Tourcaty, Favras claimed

²⁰ Thilorier would go on to respond to the *Moniteur universel* by saying that he almost refused to take the defense because of his patriotism, but relented to the pleas of a desperate family.

²¹ LaFayette gave Morel an official position in the Garde Nationale for his service.

to have witnesses that were present at the incriminating discussion of July 17th,²² during which Favras allegedly revealed his abduction and assassination plans: the sirs de Véginy, de Léval, and de Saint-Maurice (Idem. 48-58). The judges of the Châtelet refused to hear them. So, Thilorier proceeded to go through the same impeachment process for the same reasons as Morel and emphasized the “sensible formality” of an accused’s right to confront his accuser. Thilorier and Corméré effectively cross-examined²³ nearly every witness provided by the Comité des recherches, even those they deemed insignificant. Throughout the trial, Thilorier and Corméré pointed out the great discrepancy between the theory of a “vast conspiracy” and the sole conspirator Favras. How could one man buy 1,200 horses and uniforms, recruit over 800 soldiers, and then lead this group to deliver Louis XVI to Metz? (Gaven 249, quoting *Dernier plaidoyer* by Thilorier). By impeaching Morel and Tourcaty and casting reasonable doubt on the lowly marquis’ capacity to overthrow the nation, Favras’s attorneys effectively severed the ties between Favras’s seemingly too-royalist conversations with Marquié and the bank loan obtained through Chomel.

After properly attacking the facts presented by all of the witnesses, Thilorier, much like de Sèze, argued, “the novelty and indeterminate nature of the crime must defer judgment by the Châtelet definitively” (Idem. 150). His pleading started with this question:

Do you believe yourselves, sirs, capable of ruling today on a crime that the National Assembly has not yet defined, or do you wait to abuse the terrible power conferred to you when the legislative body defines its limits? (Ibid)²⁴

²² As a reminder, Favras disputes this date and claims it was much later.

²³ Favras even compared the testimony of Morel and Tourcaty side by side in order to point out the contradiction in his *Supplément au mémoire* (1790c).

²⁴ Croirez-vous, Messieurs, pouvoir prendre sur vous de prononcer, dès à présent, sur un crime que l’Assemblée nationale n’a pas encore jugé à propos de définir ou attendrez-vous, pour user du pouvoir terrible qui vous est confié, qu’il ait plu au corps législatif d’en fixer les bornes?”

The ambiguity of lèse-nation posed risks to the fragile Châtelet; the legislator, not the courts, should have declared the proper definition. Furthermore, he argued that the judges must not pronounce the punishment for the crime, but instead by the law, which, at this point, was completely silent. Thilorier rejected the comparison with lèse-majesté as the crime of lèse-nation contained nuances yet to be defined. For example, Favras's concern over the king's safety would not seem to infringe upon the king, but it may be considered injurious to the nation (Idem. 151).

But, for the judges of the Châtelet, "obtaining an unjustified loan, negotiations with bankers, attempts of corrupting an officer of the National Guard, and association with Tourcaty and Morel in efforts to constitute a new royal guard" sufficed as clear evidence of the conspiracy against the nation (Idem. 250). "Thirty-eight judges united to decide the fate of Favras deliberated under the pressure of the passions of the street," and on the February 18th, 1790, Favras was found guilty and condemned to death (Cleray 84).²⁵ His execution was set for the next day.

SOCIO-POLITICAL SACRIFICE

Did the courts of Paris have reasonable suspicion of an aristocratic conspiracy at the hands of the marquis de Favras? Yes. Did the Comité des recherches provide enough evidence to bring the possible conspiracy to trial? Yes. Did the prosecution provide a preponderance of evidence that the conspiracy against the nation existed and that Favras attempted its execution?

²⁵ Interestingly enough, the official judgment uses the name "Thomas de Mahy, marquis de Favras" three times and three times his title was crossed out. Used throughout the trial, he became lesser upon being found guilty. Even his ribbon representing membership to the Order of Saint-Louis was stripped from his person and tacked to his final judgment. It remains in the archives with his case folder.

No. If Favras was unsuccessful in his plan to abduct the king, did the marquis' actions merit the death penalty when the judges would normally apply Revolutionary penal code leniently? The circumstances suggest not. Why then did the Châtelet, on February 18th, 1790, sentence Favras to death for having formed, communicated to military officers, bankers and others, and attempted to implement a plan for counter-revolution in France which was to have been carried out by assembling the malcontents of several different provinces and laying siege to Paris? (Cormeré 3-4; Shapiro 1993, 140). Favras had to die in order to maintain political stability and regain social control.

First, Favras presented a political threat. On or about February 16th, 1790 (that is to say, before Favras's judgment), "[he] drafted a declaration in which he insisted that it was the [comte de Provence] who had enlisted him in the plot. Moreover, the [comte de Provence] had only been able to entice him into participating, Favras stated, by convincing him that the queen was also involved" (Shapiro 1993, 130). But Talon took the document—Favras's last hope of avoiding the hangman's noose—and destroyed it after convincing the marquis that it was unnecessary to drag another man to his depths.²⁶ Favras could have spoken against the comte de Provence or his other accomplices during his four-hour speech prior to his execution, but he did not. He understood that protecting the member of the royal family would provide political unity to the city of Paris. L'abbaye Le Duc, son to Louis XV accompanied Favras up to the gallows and whispered a few last words: "You can do no more...you save the royal family...the fate of your family is assured...yours, glorious" (Cleray 109, quoting *Mémoires* of Thiébault).

²⁶ Much later Madame du Cayla, daughter of Favras, presented the then King Louis XVIII a letter. The king replied by providing du Cayla with a small fortune and the castle of Saint-Ouen. Droz and Cleray believe this letter to be a copy of the declaration implicating the comte de Provence. This theory has not yet been proven.

As for the people fueled by the national fanaticism and excited by exaggerations in multiple newspapers, they flocked around the Châtelet to see the criminal Favras face persecution. The crowd of people, remarked Pithon de Valenville, hindered many journalists from approaching the Châtelet in order to cover the case. According to Edmond Cleray, the masses cried for the death penalty and “did not stop howling from beneath the windows of the room where the judges sat” (Idem. 99-100). On the day Favras was sentenced to “be hung and strangled until death follows,” masses of people crowded the courtroom and hued at the sight of Favras. Qutremère, in a brief conversation with Favras on the morning of the 19th, understood the importance of these people:

[To Favras] Sir, your life is a great sacrifice that you owe to public security and tranquility. I have no other consolation to give you save for those offered by religion (Cleray 102).

Since the months of May, Parisian masses devolved into restlessness. The hunters of the conspirators were largely unsuccessful and their largest prey, the baron de Besenval, slipped from their grasp at the last moment. Press propagated myths of counterrevolution and fed into the masses’ paranoia. Tensions rose as anonymous pamphlets implicated the comte de Provence in crimes of high treason and people remembered the ruination of France by the king’s advisors. Favras’s death offered a release, an appeasement to the people’s thirst for revenge. The same people that crowded the Châtelet surrounded the gallows before Notre Dame on February 19th, 1790 and found a man clad in white, calm and resigned to his fate (Janinet 1790).

AN HONORABLE MEMORY REPAIRED: MYTHOLOGY AND HISTORIOGRAPHY

Favras delivered his last defense and testament before becoming the first person to die for the crime of lèse-nation (Gaven 15; Favras 1790b). At the gallows, he read his judgment before

reading his last will. He claimed his innocence in regard to the charge of lèse-nation but said he was guilty of one crime: devotion and love of the king (Favras 1790d, 9). Favras hanged for his support of the royalty as a young boy screamed “jump Marquis, jump!” (Shapiro 1993, 169; Prieur, Berthault, and Duplessi-Bertaux 1790). His death split the public’s reaction split between designating him as a traitor against the nation and honoring him as a martyr of the monarchy.

Despite Cleray’s claim that “the case of Favras, however recent, barely left traces in the memory of Parisians,” many papers and prominent people covered the trial and execution from 1789 to 2017 (Cleray 97). Camille Desmoulins, among other revolutionaries, denounced Favras as the traitor he was found to be by the Châtelet. He lamented the pity shown towards the marquis:

When one recalls that the day-laborer Adrien, was judged and hanged in twenty-four hours for circulating a seditious flyer, although he did not know how to read, it is strange to see some people complain about the fate of Favras, who was convicted of a multitude of much more serious charges. This shows how difficult it is to uproot certain aristocratic prejudices, such as the one which assigns a day-laborer and a marquis different weights on the scales of justice (Shapiro 1993, 106, quoting *Révolutions de France et de Brabant* no. 17).

Other revolutionaries published images such as the *Réception d’un marquis aux Enfers*, which finds clear parallels in *Lambesc’s Descent to Hell*. On the other hand, royalists complained of the short judicial procedure and, in a publication of correspondence between the marquis and marquise de Favras during their captivity, his direct descendants called his trial a “judicial assassination” and a “public calamity” (Favras and Favras 1790, forward by Mahy-Savonnière, a relative).

This split interpretation of the Favras continued throughout history as historians offered evidence in favor of one side or the other.²⁷ The first major account of the trial came from the baron de Cormeré, brother to Favras. His work remained as the only historical document recounting the trial and historians naturally shied away from such a biased text. Nevertheless, it should not be completely disregarded. As counsel for the accused, the document provides ample evidence of a solid defense against all evidence used against Favras. If nothing else, Cormeré successfully created a reasonable doubt of Favras' guiltiness in the minds of his reader. Alexis de Valon took a second look at the case in 1851 but cited only piece-meal instead of the official documents. Until recently, this archival material was presumed lost and likely burned in the fire of the archives of the Préfecture de police in 1871. Valon, nevertheless, came to the conclusion that Favras should not have been found guilty because he was loyal to the king. At a time of clear support for the monarchy, this comes without surprise. Then, in 1932, Edmond Cleray found the case files and rewrote the riveting story of Favras, martyr to the monarchy and victim of judicial incompetence. In 1993, Shapiro carried on this tradition of martyrdom but opened the doors for discussion of the impact of his execution. Gaven, published in 2016, most recently discussed Favras in a bigger work on all *lèse-nation* cases and comes to the conclusion that Favras acted in the interest of the king but not in the interest of the new government, weak and needing protection through ambiguous laws.

Martyr or traitor, Favras remains the most memorable criminal of *lèse-nation* and a perfect example of failure to navigate the multiple courts. Society, through the press, declared Favras an enemy of the nation worthy of a quick lynching for his treason. Politically, Favras represented

²⁷ More work than those named have been produced on Favras. This is a simple historiography representative of general trends towards considering Favras as a martyr, traitor, or victim.

an immediate and apparent threat to political stability of the constitutional monarchy if he ever chose to reveal the treasonous behavior of the comte de Provence. Both social justice and political justice clamored for his death; the Châtelet relented despite an honest effort by Favras' counsel. But, instead of providing the socio-political unity necessary for Paris to survive the revolution, Favras's execution deepened the divide between the left and the right, the revolutionaries and the royalists. His fall guaranteed the continuation of the aristocracy and likely delayed civil war between the supporters of the royal family and revolutionaries, but his death was a stop-gap measure in the attempt to avoid complete collapse into chaos that would come to reign in 1791. Satisfying all of the proverbial courts does not guarantee a positive outcome.

CONCLUSION

In advancing this theory of conflicting justices and battle among proverbial social, political, and judicial courts, this work served as a bridge between the social and political schools of thought surrounding the French Revolution. While it is now unfavorable to hold on to a social explanation of the French Revolution, the research conducted by those historians nevertheless has a profound insight into the workings of the institutions of the time. Equally, politics and power plays studied by revisionists have better explanatory powers in cases of political turmoil. To this division, I add that not everything that goes on in a courtroom can be explained through judicial procedure and the law, and that both schools of thought show that political and social pressures play a prominent, if not deciding, role. This study in particular demonstrates the sensitivity of some groups to these extrajudicial pressures, the ways judicial objectivity can sway to these pressures, and the effects of these pressures on the cases of *lèse-nation*.

The nobility under the Old Regime were sensitive to political and social pressures because of their historical roles as models and possessors of power. Though fundamental to this discussion of criminal proceedings during the early French Revolution, this argument is likely the most vulnerable. Works by Chaussinand-Nogaret and other revisionists have shown that not all elites were nobles nor did most fit the mold of rich, powerful men committed to service of the king. But, to critics of this forced conflation between elites and the nobility, it must be said that no argument was made in defense of the typical picture of the nobility. Instead, it has been shown that people in 1789 (and for about two centuries afterwards) believed in an ideal-type of living nobly that clouded their perception of the nobility and blurred the lines between nobles and political elites. Lambesc, Besenval, and Favras, as publicly recognizable nobles were thus

subject to social and political pressure of both identities and exemplary of the treatment of this ideal by the courts of Paris in 1789.

In terms of social justice, Lambesc, Besenval, and Favras were all subject to the whims of the masses and the disdain of the people. The general aristocratic conspiracy began as a social phenomenon with judicial consequences. Condescension, disparagement, and calls for punitive “popular” justice echoed throughout the derogatory pamphlets against Lambesc, the responses of the press to Besenval’s trials and de Sèze arguments, and the demonstrators clamoring outside Favras’s cell at the Châtelet prison or at his hanging. Revolution predicated on the power of the average person personified in the fiction of a unified nation gives commanding influence to the masses. The majority gained a voice and they used it to define the values of the New Regime. Majority rule finds its only limits in the existing institutions such as the Châtelet that protected minority (criminal) rights. When these institutions fell in 1792, a derivative justice—mob rule—began its dominion.

But before, political justice under the Lafayettist coalition served to both legitimize the new regime and find a relative stability compared to the threatened anarchy of the revolution. While this can most obviously be seen in the political connections of Favras to Monsieur, the comte de Provence, Besenval had ties to elites such as Necker, and Lambesc, whose ties to politicians have not been conclusively established due to a heavy reliance on military history, nevertheless had foreign associates in Austria. When these political networks severed (Favras) or succumbed to popular outrage (Besenval), criminals were subject to more intense judicial scrutiny leading to guilty verdicts and failed attempts at complete amnesty. On the other hand, Lambesc successfully retreated to Vienna and profited from political protection from prosecution. Politics can both mitigate and exacerbate the drive to accuse, indict, and condemn.

Meanwhile, judicial justice and the law are the results of political goals, popular demands, and political concessions. During the French Revolution, a new vision of justice based on equality before the law and accountability reflected novel understandings of inter-class (both political and social) relationships. Courts held the military responsible for the damages they unjustifiably caused to property and people but recognized the legitimate need to maintain the *statu quo* of officer subordination and obedience. Instead of serving as a proto-Terror institution as some have claimed, the Châtelet served as the balancing mechanism between all of the various justices, individual rights, and societal needs. This phenomenon can be seen through decisions such as the Favras-Beserval transaction.

Together, these three justices combine to nuance the currently accepted notion of revolutionary justice. Previously seen as ruthless, terror-driven, and bloodthirsty, actual revolutionary justice depends on a combination of factors including society, politics, and institutional constraint. Any one justice could prevail and dominate; such was the case of the Terror. But then the question becomes how that particular pressure dominated over other influences. This same approach can be applied to other revolutions such as the American Revolution of 1776, Russian Revolutions of 1917, and the Arab Spring of 2010 to 2012. Historians need to address the role of the courts during periods of revolution or extreme cultural and political change. This study serves as an example of the multivariate approach to the courts needed for a holistic and complete interpretation of revolutionary justice that current academia seeks.

History never repeats itself. Man always does. – Voltaire

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