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When economists wrote constitutions: Joint-Stock Companies as a constitutional model in French Revolutionary Thought (1763-1791)

Historians of economic ideas have shown the importance of Physiocracy and Adam Smith's thought on the intellectual formation of many French revolutionaries like Condorcet or Sieyes (Whatmore, 2009 & 2004; Merguey, 2009), but they rarely mention their importance in the French constitutional debates of the end of the 18th Century. In 1789, Emmanuel Sieyes, France's most prestigious constitutionalist of the Revolution, developed a distinction between active and passive citizenship comparing the citizens of a nation to the shareholders of a great public company, mostly basing himself on his readings of Physiocrats' works and Adam Smith's *Wealth of Nations*. While the academic literature often set aside Sieyes's theory of the citizen-shareholder as somewhat marginal or as a mere figure of speech, a closer look at the Physiocrats' plans for provincial assemblies and Emmanuel Sieyes' economic and political writings is revealing of the intertwining of the budding political economy writings over taxation and national wealth, and the French constitutional thought at the end of the 18th century. This paper aims at showing that the first French constitution of 1791 owes numerous of its specific features to 18th-century corporate governance especially through the intellectual contributions of the Physiocrats and Emmanuel Sieyes.

The historiography largely agrees that two constitutional models influenced the action of the French revolutionaries (Aulard, 1913; Furet & Halévy, 1996). The first one was the English constitution. It is the most obvious since the initial project was to turn France into a constitutional monarchy; but it was rejected for being too aristocratic (Pasquier-Briand, 2017: 77-102). The second model is the American pre-1787 constitutions. This is far less obvious but French revolutionaries found in the Thirteen Colonies' constitutions an alternative model which promoted annual elections, secret ballot, unicameral legislatures and executive councils (Godechot, 1998). Nevertheless, numerous Physiocrats and Sieyes almost never mentioned the American republics as a model for his representative system, as well as they rejected the Constitution of

England. Yet, they referred to 18th-century corporate governance practices in their writings.

Although the idea of economic institutions as constitutional model might seem rather peculiar for contemporary readers, many elements tend to prove that it was not the case for 18th-century thinkers. Since central Middle-Age, corporations played a central role in local citizenship, and historians have shown their importance in the European political thought until and beyond the French Revolution (Kaplan, 2001; Black, 2003; Freeman, Pearson & Taylor, 2012 ; Prak, 2018). From the 16th century, a new form of corporation emerged —the joint stock company— and started to compete with *Ancien Régime* corporations (Ogilvie, 2011: 31-40). In Europe, the East and West India companies played an important role in economic and political affairs (Haudrère, 1989; Estienne, 2017).

In the 1760s, the rise in popularity of Physiocracy coincided with France's defeat in the Seven Years' War. Physiocrats believed that this stinging defeat was mostly caused by France's inefficient ways to finance the war effort (Røge, 2013). From 1757, several physiocrats sketched tax reform plans based on a land tax, suggesting that landowners of every parish and provinces should be consulted to assess and decide upon the amount of the tax due. For Dupont de Nemours and Le Trosne taxation reform had to come hand in hand with the creation of assemblies organized from parochial to national assemblies of landowners, each member of the higher assemblies being elected from the members of assemblies of the lower level. These assemblies were not legislative institutions, but councils of administration in charge of determining the amount of tax payable by everyone, of collecting taxes and of managing the provincial budget (Le Trosne, 1778: 530). Only landowners should have a say in those assemblies, because they were directly concerned by taxation and had a specific knowledge of the quality of soil and of agriculture in general. These municipal assemblies elected their administrators and representative to higher level assemblies, who in their turn elected higher public officers. In *De l'administration provinciale* (1778), Le Trosne proposed to introduce a capped plural voting system similar to those in use in 18th-century joint-stock companies (Lévy-Bruhl, 1938; Dunlavy, 2004). The Physiocrats drew their inspiration from yet another financial practice. Le Trosne stipulated that small landowners could associate, so that they might have together one vote, cumulating

their contribution to reach the propriety requirement, which is what we called a “croupe” in the financial terminology of that time (Mousnier, 1964: II, 435).

These types of provincial assemblies were tested in some French provinces from 1766 up to the Revolution in various attempts more or less faithful to the original Physiocrats’ plans (Lavergne, 1879). Although not really conclusive, those experiments were crucial attempts to reform the French absolute monarchy based on the financial world’s voting practices of that time, prefiguring constitutional works of writers like Condorcet or Sieyes.

On the eve of the French Revolution, Emmanuel Sieyes’s constitutional projects of 1789 drew a clear analogy between shareholding and citizenship in the defense of selective suffrage. Even though Sieyes went beyond the narrow Physiocratic conception of wealth, the basis of his vision was the same: political rights should be reserved for those who really contributed to the common wealth of the nation. For him, society was like a great public firm in which only active citizens, i.e. those who contributed, should have a say in its business. For him, active citizens were the “shareholders of the great social enterprise” (Sieyes, 1795: 94).

Sieyes pushed further this analogy between shareholders and active citizens, by promoting a voluntary conception of citizenship. Active citizens were shareholders of the nation in that they had the right to vote if they choose to pay a free and voluntary “civic toll” (*tribut civique*) of 3 *livres*, and they were eligible if they paid four times this amount of money (Sieyes, 1789a : 408-9). This double voting qualification was a very common feature of 18th-century corporate governance, present for instance in the East India companies (Haudrère, 1989). In Sieyes’s view, citizens paying the civic toll bought active shares in government and could be eligible to higher offices.

To his own political and economic reflections, he transposed to the political sphere Adam Smith’s concerns about Agency problems in the East India company’s management. In his *Vues sur les moyens d’exécution*, he emphasized this idea of citizenship as shareholding in order to draw attention to the importance for citizens to check on the actions of their representative and public officers (Sieyes, 1789b: 113-14). In other words, Sieyes wanted to find ways to limit what we call today the “Agency problem” (Eisenhardt, 1989 :58). We may assume that Sieyes fuelled his political reflection on that matter on Adam Smith’s criticism of joint-stock companies’ management and his formulation of the agency problem in the *Wealth of Nations*

(Dorigny, 1988 ; Smith, 1776: V, II,1). For Sieyes, Smith's division of labor was a representative system in itself, and commercial ties created groups of interests, which interests ought to be politically represented (Whatmore, 2002 :78-80). It is plausible that Sieyes also drew from the *Wealth of Nations* his concerns for the agency problem, and have found in some joint-stock practices ways to limit it.

Sieyes generalized, indeed, several measures elaborated by joint-stock companies to limit the principal-agent dilemma, in his revolutionary writings. When we put all these elements together, we see that he promoted a political system based upon many 18th-century corporate practices in his writings from 1788 to 1790. Not only did Sieyes define active citizens as shareholders, he also was in favor of procedures and institutions common in 18th-century companies such as collegial executive and administrative boards and double selective suffrage (electoral and eligibility qualifications). His proposals to deal with the agency problem reveals that his citizen-shareholder theory was the emerged tip of a vision of a Shareholder's republic. Like in a shareholder's company, active citizenship was granted to members who paid a voluntary contribution, which represented their interests in public affairs. These active citizens controlled the actions of their representative and public servants, while every level's administrative councils were accountable to their respective representative assembly. Finally, all public charges were partially renewed each year to ensure their permanent rotation, like it was frequently used to limit the agency problem in companies.

Although the Physiocrats and Sieyes were against chartered companies and corporations, they did not reject the corporative model at all. What they rejected were forms of associations resting upon economic privileges and monopolies. Sieyes was, however, more "radical" than the Physiocrats' plans for reforming France fiscal and administrative system, in that he was in favor of a global reform of the political system, in which the State could massively delegate public tasks to private companies and associations, under the condition that those companies were held publicly responsible (Fauré, 1999: 402).