The Double Life of Property: Mobilizing Land and Making Capitalism in Modern France

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Readers of nineteenth century French economic writings will quickly be struck by their preoccupation with the relationship between landed property – with its seemingly natural productivity and durable materiality – and the abstract wealth of the commercialized and financialized economy. This relationship permeates discussions and crosses genres, appearing as both topic and analogy in works of formal political economy, public administration, legal disquisition, and entrepreneurial endeavour. It is at work when a state official during the French Revolution assures readers that his plan for a new currency is based on the ineffaceable security of land, and so “can never suffer a decline in value;” when a prominent banker in 1820 explains that his securities “are a means of fixing property’s real value in a representative and circulating sign, granting them all the characteristics and guarantees of its realness;” in a petition to the legislators of the new Second Republic in 1848 that calls for a ‘National Real Estate Bank of France’ whose notes will be issued on the basis of the nation’s “truest value”: real property; and when a legislator designing the property code for a French protectorate in 1885 recognizes land as “the true wealth” of the territory and proposes to “turn it into a sort of registered security, circulating as easily as any other.”

Widening the lens still further, we find the same terms and
ambitions occurring earlier – as when financier John Law pitched a land bank in 1705, on the
premise that land is more durable than precious metals and will always increase in value – and
continuing later – in, for instance, land governance and development initiatives of the World
Bank today. 2

The age of modern state formation, imperial expansion, and capitalist acceleration, the
nineteenth century was defined by global ideologies of property. 3 In France, the above
formulations formed part of a longstanding and vigorous debate on something known as the
“mobilization of land”: methods for rendering the circulation of real property (land and
buildings) and the values it represented easier and more productive, largely on the basis of
improving the security and transparency of property records. 4 At first glance, complex and
arcane matters like mortgage debentures, property registration, and land transfer practices are
unlikely candidates for ardent public engagement. Yet, aside from the fundamental economic
significance of real property in a country where, for most of the century, half the workforce made
its living from agriculture and where land ownership was dispersed amongst millions of
smallholders, participants in these discussions recognized that, in the words of legal scholar
Robert Ellickson, “the seemingly technical question of whether [we might add “how”] land can
be bought or sold lies at the core of social organization.” 5 As a particular strain of property

propriété foncière en Tunisie,” Revue algérienne, tunisienne et marocaine de législation et de jurisprudence, vol. 1
(1885): 121-145, 124-5.
3 Paolo Grossi, An Alternative to Private Property. Collective Property in the Juridical Consciousness of the
Maier, Once Within Borders: Territories of Power, Wealth, and Belonging since 1500 (Cambridge: Harvard
University Press, 2016).
4 Authors employed a range of terms to refine and situate their arguments: mobilization of territory, mobilization of
land, mobilization of property, mobilization of mortgages… Frequently, they slipped between their own
appellations, confusing land and rights upon it, soil and the credit it could support. This article uses mobilization as
shorthand and distinguishes the nature of projects as necessary.
century an estimated eight million – out of approximately forty million – French citizens owned real property. See
discourse, mobilization isolated and intensified the contentious relations between landed and ‘movable’ fortunes (industrial, commercial, and financial capital), the great categories of wealth in political economic thought and fiscal administration. Real property gained additional significance from the era’s “economic nationalism” and the perception that it was national – bounded and territorial – in a way that commercial capital was not. For some contemporaries, the development of wealth from real property even offered a uniquely French path to victory over economic rival Great Britain. Contests among financial interests were staked on the grounds of mobilization. Saint-Simonian thinkers – members of a school of political economy who believed in development by the reciprocal multiplication of credit and productive infrastructure – sought to ‘unlock’ the wealth of real property as part of a banking revolution that would undermine the traditionalists of the haute banque and the Banque de France, democratizing credit and transforming social relations. These debates traversed emotional terrain that implicated questions of national character and divergent visions of economic futures.


as much as it turned on technical questions of surveying, counting, and authenticating; the mortgage code, as one pamphleteer in 1841 suggested, “grants each of us comfort and joy in life, even as it forms the foundation for the wealth and strength of the nation.” Mobilization was simultaneously a means of constituting property in order to achieve a redistribution of social and material resources among different segments of society, and a genre of writing and debate that worked to divine and fix sources of value in a changing economy. In short, it exemplified contestation over capital’s capacity to reorder society.

This article analyzes the articulation of the mobilization question by jurists, politicians, pamphleteers, and political economists in early nineteenth-century France and argues for its importance to understanding the imaginative and institutional construction of capitalism in this period. In reconstructing the debate on mobilization, it contends that real property relations should be central to our account of transformations (and continuities) in capitalist modes of production. The crisis of 2008 and the ensuing Great Recession have generated new awareness of the role of real estate capital in the financialization of the global economy. Scholars in urban studies and the sociology of finance have focused attention on the role of real estate as a ‘secondary circuit’ for capital accumulation. Drawing on the insights of Marxist geographers Henri Lefebvre and David Harvey, their analyses place the tension between the movable and the immovable – between circulating capital and fixed space, between abstraction and

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materialization – at the core of the production of space and of capital itself. New historians of capitalism, in contrast, have been comparatively silent on real property’s place in the economy; studies of finance, insurance, and the corporation dominate over land and inheritance, circulation and flow over accumulation and fixity. In a comparative survey of the regulatory framework of modern capitalism, for instance, historian Alessandro Stanziani declines to discuss markets for real property, contending that they can tell us little about changes in how states approach the organization of exchange because their regulation is so thorough and historically consistent. Such evasions are particularly striking when compared to the importance granted to land and ‘primitive accumulation’ in studies of the advent of capitalism. Recent work is nevertheless beginning to correct this imbalance. Legal scholars working on the economic institutions of the early United States have lately offered significant refinements of our understanding of how land became real estate in that country, transformed into an asset core not only to the economic growth of the colonies but to the imperial project of dispossession. Their insights have been

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In comparison with this historiography, this article pursues an important shift in emphasis, driven by the curiously consistent way that relations between real property and more abstract forms of capital feature in modern economic discourse and practice. Rather than a terminal story of real property commoditization – from land to chattel, from stock to flow – this article uses a particular debate surrounding the relationship of real property and the market to offer a new interpretation of real property’s abstraction that accounts for the difficulty,
incompleteness, and even undecidability of this process.\textsuperscript{19} Focusing on contentious interventions in the financial functioning of real property of the 1789 and 1848 revolutions, I draw out the repetitious character of mobilization programs and argue that this mimetic quality stemmed from two chief sources: first, the construction of property in the legal imaginary of the nineteenth century and the modes of argumentation in which significant portions of the debate subsequently transpired; second, a persistent misapprehension regarding nature and the material as sources of economic value.

The question of the material is receiving renewed attention from historians of economic life, and was central to mobilization.\textsuperscript{20} In arguing over legal forms and trying out new modes of handling real property as an asset, mobilizers and their opponents attempted to alternately finesse and stymie a perceived shift toward the dematerialization of securities: a shift from a credit regime based on existing, material stocks of wealth toward one based on intangibles and anticipated returns. \textsuperscript{21} A typical anxious analyst of the changing situation in 1829 declared it an “upheaval in the natural order of things” for “credit on land to be considered inferior to personal credit.” Land had a real value, the author explained, “founded on solid and productive source of wealth,” whereas the personal credit of the commercial realm was merely “abstract, based only on opinion.” \textsuperscript{22} Yet this worship of the material failed to acknowledge its own invented elements.

\textsuperscript{22} Louis Gastaldi, \textit{Recherches sur le crédit foncier, ce qu’il est, et ce qu’il devrait être} (Paris: Delaunay, 1829), 5. On land’s standing in political economy, see Keith Tribe, \textit{Land, Labour, and Economic Discourse} (London: Routledge & Kegan Paul, 1978), particularly chapter 5. France’s Physiocrats, the first individuals to be called
Those with experience of land and property could not help but be aware of its inconsistent qualities, of the fact that a flood could wipe out a field, a fire destroy a building, a cool season decimate a harvest. Indeed, many projects for the mobilization of land included plans to circumvent or surmount these difficulties. Still, the vulnerability and fungibility that inhered in land as physical matter did not prevent it from figuring in these discussions as the ultimate, enduring, concrete source of value. This dynamic is similar to that described by Rebecca Spang in her work on debates on money in the French Revolution. As she points out, theorists committed to metals as a permanent and fixed source of value for paper notes were well aware of gold and silver’s physical mutability, of their capacity to assume heterogeneous and unreliable forms. Nevertheless, for ideological ends their works constructed metals as immutable.23 Like these monetary theorists, nineteenth-century mobilizers’ obsession with the material and the natural as a source of value generated a persistent gap between the ‘stuff’ and the experience of economic life that partially explains the recurring and repetitive character of their projects.

Despite not engaging forthrightly with their work of invention, mobilizers’ projects teach us important things about the imbrication of physical, durable goods and social institutions of the economy. They show us the action of working the ‘matter’ of real property – land and buildings as concrete, localized, and bounded physical objects, as well as the material practices of inscription constituting legal rights – into shape and salience, and reveal how that matter matters to the nature and persistence of mobilization efforts in the modern era.24 Their questions and practices demonstrate that economic entanglements between people and things (in this case, the economists, enshrined agriculture as the source of all economic value. See, among recent work, Liana Vardi, *The Physiocrats and the World of the Enlightenment* (Cambridge: Cambridge University Press, 2012); Manuela Albertone, *National Identity and the Agrarian Republic: The Transatlantic Commerce of Ideas between America and France* (1750-1830) (Ashgate: Burlington, VT, 2014).


obdurate stuff of land) persist well beyond a purported transition to intangible securities and a relative decline in the economic significance of investment in real property. focusing on repeated efforts to validate and manipulate what can be called the double life of real property – its capacity to exist as a material, productive entity at the same time as it can support circulating signs representing its value – this article examines a historically specific process of abstraction that takes abstraction’s other, materiality, seriously, and argues that consistencies in the material nature of real property help explain the reinstatements that mark its treatment in modern capitalism. While thus rooted in a close study of a particular time and place, the article analyzes processes that are reproduced and ongoing in numerous contexts, with consequential local variation.

The Double Life of Property and Revolution

Real property is always located somewhere, and while mobilization is not a uniquely French story, there are crucial insights to be gained from the French perspective. Property in France was born anew in the nineteenth century, enshrined as a natural and imprescriptible right by the Revolution and solidified in rigorously individualist and absolute terms in the country’s Civil Code. Shorn of the layers of privileges that had defined possession in the ancien régime, it became instead “a private matter, free from feudal rights, free from the community”

intervention, and from collective use-rights.”

New inheritance law mandated equitable inheritance of land amongst children, while the sale of nationalized properties and the steady privatization of common lands reinforced both the marketization of real estate and the political and economic significance of smallholding. The Civil and Commercial Codes of the Napoleonic legal regime followed eighteenth-century juridical and political economic convention by treating immovable goods as fundamentally different, in their physical features and productive capacities, from moveables. Real estate, the quintessential immovable (immobilier in French), remained in the civil realm, while moveables (mobilier) and their transactions – like stocks, bonds, jewelry, paintings, furnishings, ships, and businesses – were assigned to commercial jurisdiction. One of the architects of the code observed in 1801, “the distinction between real estate and movable wealth captures the essence of things purely civil and purely commercial.”

The divided jurisdictions of the code meant that mobilization questions, such as what formalities ought to accompany the circulation of mortgage debt instruments, were articulated explicitly in terms of the degree of commerciality that could (and

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30 For an excellent treatment of moveables and immovables, see Spang, Stuff and Money, Chapter 1.

should) legitimately adhere to the act in question. Legal reasoning, then, gave particular attention to moments and means by which real property and commerce could align and provided a powerful framework and vocabulary for the mobilization debate.

The Revolution was also important for influential innovations with the financial life of real property. Most famously, the assignat was introduced in 1790 as a government issued, interest-bearing note intended for the purchase of national lands. Anchored by the material reality (and presumed value) of national territory, these notes combined the mobility of currency with the immobility – and stability – of land. The union of fixed and circulating was intended to counter the fears of financial chaos that both lay and educated economic thought associated with a paper currency, fears directly influenced by the experience of financier John Law’s “system” in the early eighteenth century. As is well known, the production of assignats soon became unmoored from the fixed quantity of national land, and the inflation their overproduction engendered reoccurs in the literature of the nineteenth century – and modern-day economic histories – as a traumatic experience shaping French engagement with modern monetary theory and practice.

Assignats in fact sprang from a period overflowing with schemes, projects, and fantasies of mobilizing land values. From at least the eighteenth century, visions of translating the security and productivity of land into the basis for national banking, credit, and currency systems had

Gabriel-Victor-Jules Demontzey, Études sur le développement parallèle de la propriété mobilière et de la propriété immobilière en droit français, Thèse pour le doctorat, Faculté de Droit, Université de Strasbourg (Strasbourg: Imprimerie Huder, 1854).
animated both sophisticated and vernacular development schemes.\textsuperscript{35} The double life of real property provided fecund ground for financial experimentation. For instance, revolutionary legislators also considered plans such as those from merchant Jacques-Annibal Ferrières, who had been promoting land banks since the 1770s.\textsuperscript{36} He called for the creation of notes backed on land values, a “signe territoriale” that “represents the wealth of land rather than of persons, and it does so both tangibly and virtually. It places in your hand a field, a farm, a building, which cannot slip away, rather than the products of opinion, which can be exaggerated or false.”\textsuperscript{37} His project did not come to fruition during the revolution itself, but it was an important inspiration for the Directory’s Banque Territoriale, an institution granting loans in the form of ‘territorial certificates’ on real property, shepherded by economic luminaries such as André-Daniel Laffon de Ladébat, a merchant and financier from Bordeaux, and physiocrat Dupont de Nemours.\textsuperscript{38}

The Banque Territoriale was short-lived (1799-1803), and one explanation for its failure – a paucity of information that would have allowed it to effectively compete with existing networks of credit operators – opens up the core area of debate on which mobilizers would engage in the nineteenth century.\textsuperscript{39} Mortgage codes introduced in 1795 and 1798 made the registration of sales and other real property transactions mandatory in order for them to be legal between parties. Similar requirements, deemed necessary for a transparent and reliable property


\textsuperscript{37} Anon., \textit{M. B… (Député à l’Assemblée Nationale)}, \textit{Démonstration géométrique de la base sur laquelle reposent les principes de la Banque Territoriale de M. Ferrières, négociant de Lyon} [1789], p. 13.


\textsuperscript{39} On the paucity of information networks, see Postel-Vinay, \textit{La Terre et l’argent}, 163-165. The bank was also accused of malfeasance: Jean-Claude Simonne, \textit{Coup d’œil sur le crédit en général et sur la Banque Territoriale} (Paris: Bailleul et Rondonneau, Germinal an XII [1804]).
regime, were included in draft forms of the Civil Code. Yet for reasons that eluded contemporaries, they were omitted from the final version. Article 1583 of the Napoleonic Code recognized sales as legal and complete once consenting individuals agreed to the item to be exchanged and its price. Based entirely on the sanctity of private contract, this system required official recording only for certain acts relating to real property (substitutions, donations, and mortgages) and then only in order for the transaction to be legal vis-à-vis third party claims. The general and automatic legal claims that married women and minors retained on the real property of their husbands and guardians did not have to be recorded, nor, if they were, did their amounts have to be specified. A creditor whose loan was secured on a piece of property could thus be surprised by any number of earlier privileges over “their” collateral.

The Code’s provisions reflected Napoleon’s approach to property as patrimony to be protected from the market rather than an exchangeable asset whose circulation should be encouraged. He personally rejected earlier mortgage provisions because he deemed them “a system of mobilizing land,” whereas the state found its advantage “in the stability of property within the same families.” The same priorities governed the controversial inclusion of the doctrine of *rescission pour lésion d’outre moitié* in the Code. This provision allows a seller of real property to seek damages or an invalidation of a sale if they suffer a prejudice in excess of half its value. It assumes that real property has an objective value independent of the price attributed to it by contracting parties, and that consequently a deviation of price from value


sufficient to violate principles of equity can occur. The doctrine applies in the French case only to real property, whose value it construes as both intrinsic and knowable.\textsuperscript{43} While increasingly condemned in the eighteenth century as a violation of the freedom of contract, and banned during portions of the revolutionary period as a disruption of commercial relations, Napoleon reasserted the importance of such laws for protecting both individual and national patrimony. Rescission, he explained, “is a moral law that concerns territory. The way an individual disposes of some diamonds, some paintings, is of little importance; but how he disposes of his landed property is not without importance to society, and society must set the rules and limits of that right of disposal.”\textsuperscript{44}

The legal and administrative regime that emerged at the turn of the nineteenth century for the transmission and exchange of real property was thus complex and sometimes contradictory. As one pro-mobilization treatise opined in 1841, “the code of real property is an incongruous work pulled between two opposing principles, the ancien régime and the modern […] Our law of successions is liberal and democratic, our law on mortgages restrictive and aristocratic…”\textsuperscript{45} The abolition of feudalism and the declaration of private property as a natural and universal right may have transformed real estate into a more transparent object of exchange, but its circulation was governed by intricate regulations and could, in principle, encounter significant obstacles.

\textit{Revising Property}


\textsuperscript{44} Cited in Anglès, \textit{De la lésion}, 96-7.

It is important to note that conceptual and practical difficulties were not always of the same order. Complaints from jurists and economists about the insecurity of land title in nineteenth-century France did not impede individuals from buying, selling, donating, exchanging, bequeathing, inheriting, mortgaging, and enjoying their properties with relative ease and a sense of credible commitment to the enforcement of property rights on the part of the state. Studies of lending on real property in the early parts of the nineteenth century, for example, reveal a fairly comprehensive system of credit operating at the local level in both urban and rural settings. Moreover, the putatively limited reach of the Code’s registration requirements was nevertheless sufficient to significantly enhance the availability of information on real property. While registration did not reach all property transactions, many people did opt to fulfill these formalities, making public the information on ownership, borrowing, and lending that had formerly been guarded by notaries, the public officials charged with authentication of various legal acts. Nationally, the visibility of property at a distance was legislated (and slowly realized) with the establishment of the cadastre, decreed by Napoleon in 1807. The public availability of this information changed the credit market, particularly in Paris, where the lien registry developed furthest; new parties had access to information on a previously unmatched scale, and competition between lenders expanded. These new parties, such as the Caisse Hypothécaire, a bank founded by Saint-Simonians Olinde Rodrigues and Prosper Enfantin in 1818 with the goal of “granting engagements on real property the same advantages in credit as...

commercial notes,” introduced new terms to mortgage contracts themselves. In place of the hypothèques of the ancien régime, normally repaid in lump sums at the end of the agreement, these lenders introduced annual repayment schemes. This transformed the stock of capital represented by a given immovable into a flow, making it capable of generating annual income for investors. The innovation of annual payments combining capital and interest on mortgage loans was sufficiently novel that the company’s 1820 statutes directed readers to the Dictionnaire de l’Académie Française for a definition of the term ‘annuity.’

The difficulties experienced by the prominent players behind these new institutions generated the first substantial wave of public debate on the state of the country’s real property regime. In 1826, prominent banker and deputy Casimir Perier, prompted by a speculative real estate boom (and bust) that shook the Caisse Hypothécaire and other financial institutions, offered a 3000-franc prize for diagnoses and solutions to the regime’s current ills. The call generated a number of works on the question, from lesser known volumes such as Louis Gastaldi’s Recherches sur le crédit foncier (1829) – which Honoré de Balzac reviewed with disappointment, noting that “The failings of the mortgage system have become so obvious that a work becomes vulgar and trivial in restricting itself to simply pointing them out” – to works that would become touchstones in the mobilization debate down to the end of the century, such as Du danger de prêter sur hypothèque (1829) by Saint-Simonian lawyer Alphonse Decourdemanche.

The debate stimulated government interest when a petition from two jurists named Merger and

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49 Caisse hypothécaire, Statuts, 1. See also O. Rodrigues et M. Maas, Théorie de la Caisse hypothécaire (Paris: Delaunay, 1820).
50 Caisse Hypothécaire, Statuts, 4. For earlier mortgage agreements with lump sum repayments, the formula books for notaries provide abundant examples: e.g. Jean-Baptiste-Hippolyte Cardon, Formulaire général ou modèles d’actes rédigés sur chaque article du Code de procédure civile (Paris: Leloir, 1817). The Caisse Hypothécaire entered liquidation in 1846, its difficulties – like those of the Banque Territoriale before it – attributed in no small part to the country’s mortgage regime. Alphonse Courtois, Histoire de la Banque de France et des principales institutions françaises de crédit depuis 1716 (Paris: Guillaumin et Cie., 1875), 164-165.
Mongalvy reached the Chamber in April 1836 and was reported on by deputy Charles Dupin; responses from prominent legal experts such as Raymond-Théodore Troplong contributed to the Minister of Justice, Comte Martin du Nord, convening a national consultation of courts and law schools on the system of registration and credit on real property in 1841.52

Synthesizing the wide range of issues and positions that featured in the pamphlets and press dedicated to mobilization questions in the 1830s and 1840s is challenging. While much of the commentary on offer was expert and erudite, circling a common set of treatises, laws, and problematics, many participants in the discussion were initiates, unknown or anonymous, whose broader political perspectives, experiences, and ambitions are impossible to determine. This is particularly true of the later 1840s, when writing on the subject expanded dramatically. Authors did not always make their understanding of key terms clear, nor apply them consistently. When mobilizers proposed instruments based on the value of land, in particular, they drew on a battery of terms, referring variously to mandats, signes, effets, obligations, billets, bons, monnaie, titres, etc. Projects frequently blurred approaching the value of land as an opportunity for investment and credit expansion with deploying that value as a basis for money creation; plans might call for banks that mixed both, for example, or booster hyperbole could conjoin the two, as when self-described ‘honorary’ stock broker Pierre Petit proposed reforms that would make mortgage debt “superior to all circulating instruments, superior to real currency itself.”53 Confusion was accentuated by critics ready to dismiss all mobilizing projects, however varied, as dangerous schemes for paper money. Yet clear distinctions did exist. Mobilization proposals might be

usefully placed into two general camps: those which adhered to a moderate agenda of legal and administrative reform of the mortgage code, with an eye to improving the security of property rights for owners and creditors, and a smaller group advocating a more radical and transformative agenda, proposing measures that would significantly alter the place of real property in the country’s economy.

Decourdemanche and other Saint-Simonians were firmly in the latter camp, though his memorable and widely reprinted assertion, that in France, “strictly speaking, there is not a single property owner who can be certain of not being ousted from a property he owns, nor any lender who can be sure of not losing his claim,” resonated with even the most moderate contributors to the mobilization question. Most participants who reflected on the country’s property regime, including the majority of the courts and law faculties contributing to the 1841 consultation, agreed that some revisions were necessary to improve the security of real property as a guaranty. In the existing system, sales often went unrecorded, and when a record did exist, ascertaining its validity meant weeks of tedious research following the traces of successive owners – because information was organized by owner, not by land parcel – through tax offices, mortgage bureaus, civil registry offices, and other administrative locales. Without adjustments to the paper life of property – namely, more comprehensive and rational modes of recording, organizing, and making public information on property transactions – fewer individuals than might otherwise do so would invest their capital in real property. (Though for cautious reformers, like the Royal Court of Paris, the trick was to design a mortgage system that secured owners and creditors without simultaneously making it easier and faster to borrow.) Possible solutions ranged from major administrative overhauls, such as combining the multiple government bureaus involved in

55 *Documents relatifs au régime hypothécaire*, vol.1, p.lvi
the recording of property acts into one “central public archive,” to relatively minor adjustments to routine, such as a reorganization of the columns formatting data on the sheets of existing registries. Even such seemingly mundane modifications could have transformative effects on the standing of real property, as some more far-reaching authors well knew. A plan by one J.-L. Loreau, published in 1841, proposed to combine the offices responsible for real property tax and registration in order to achieve a new way of valuing real property, cleanly drawing up a “balance sheet” for each parcel and making it a transparent asset on par with commercial enterprises. Similarly, a plan by J.-L. Langlois, a deputy from the Eure, that appeared in 1848 sought to combine the civil registry, cadastre, and mortgage registry in a bid to more closely link personal credit to real property. By assembling different ways of knowing about borrowers and their security, and ensuring that “the person of the borrower would weigh significantly in the decision of the creditor,” the scheme would in fact create an entirely new asset.

More ambitious programs of reform moved beyond provisions for improving security of title to plans for the circulation of these newly-cemented claims; this was the true remit of mobilization, and here matters grew considerably more complex. Paper avatars of property ownership, mortgages stood in for a transfer of proprietorship, allowing a debtor to remain in possession of the good that formed the security of the debt (the land) while granting the creditor rights to payments and, in the final eventuality, powers of expropriation over the property. Some mobilizers believed it should be possible for such agreements to change hands by means of simple endorsement, from one creditor to another, after the fashion of bills of exchange. This

56 On a central archive, see Louis Gastaldi, Recherches sur le crédit foncier, ce qu’il est, et ce qu’il devrait être (Paris: Delaunay, 1829), 76-83. The Ministry of Finance addressed the question of administrative reform – namely, the possibility of combining, in various permutations, the offices of Direct Taxation, Registrar, Mortgage Administration, and the Cadastre – extensively in the 1841 legal consultation. See Documents relatifs au régime hypothécaire, vol.3, 532-551.

57 Loreau, Du Crédit foncier, 20.

move from fixing land as a secure and transparent asset to mobilizing its credit – the wedding of *immobilier* and *mobilier* – represented a significant leap in both legal and moral terms. It required legal revisions that would permit mortgages, which were real and civil (as opposed to personal and commercial) legal claims, to be transferred and exchanged according to the simplified rules of commercial trade.\(^5^9\) While not strictly prohibited by law, legal opinion as it was voiced in the 1841 consultation maintained the incommensurability of mortgages and other commercial instruments. The Royal Court of Paris, for instance, concluded that “the consequences of a mortgage contract, the rights it grants over property and the reciprocal obligations it imposes on creditor and borrower” made it both illogical and dangerous to encourage the ability of the creditor “to change from one moment to the next, thanks to a simple endorsement.”\(^6^0\) This was not a simple matter of doctrinaire interpretations of the Civil Code. In statements like that of the Royal Court of Limoges, which saw in mobilization “family farms spread out on the gaming table, mixed in with bearer bonds in the corridors of the Stock Exchange,” or that of Lyons, which pleaded that, “in a nation and in a century in which everything is changing, everything moving, it is worthwhile to support the only social element whose endurance and stability combats this general mobility,” a deeper concern with the political and cultural qualities of real property and its fixity are evident.\(^6^1\) The slippage between transferable paper and transferable patrimonies appeared automatic and calamitous.

Revolutionary precedents haunted this debate. References to assignats cropped up throughout the portions of the 1841 consultation concerned with mortgage transferability; so, too, did debate over a little-known mortgage instrument from the Directory called the *cédule*. (Figure 1) The ambitions for this instrument, introduced in the mortgage code of 1795, and the

\(^{59}\) *Documents relatifs au régime hypothécaire*, vol.1, 551.

\(^{60}\) *Documents relatifs au régime hypothécaire*, vol.1, 567

\(^{61}\) *Documents relatifs au régime hypothécaire*, vol.1, 553.
criticisms that led to its suppression after only three years reappeared consistently throughout the mobilization debate in the nineteenth century. The cédule was a negotiable certificate that a property-owner could seek from state mortgage registries on the basis of an official valuation of their property.\textsuperscript{62} They could be deployed like bills of exchange, thus adding “the capacities of the merchant to those of the property owner.”\textsuperscript{63} Described as a “mortgage on oneself” (\textit{hypothèque sur soi-même}), the cédule forged new legal precedents by essentially establishing a mortgage without a designated creditor. Yet it remained intimately linked to particular properties, a feature its creator, a mortgage registry official named Martin-Philippe Mengin, insisted on as a measure of security. With a privilege over a specific parcel of real estate, rather than an undesignated pool of territory, the cédule was meant to be land itself in circulation. Yet this was precisely what its opponents attacked. Contesting the cédule in 1797, conservative deputy André Joseph Jourdan insisted that mortgages and mobilization were fundamentally antithetical: “the first is a system that reinforces obligations, the second one that destroys them; in the first, claims take on the solidity of property, whereas in the second, they take on the quality of movable goods, monetary goods, even of assignats.”\textsuperscript{64} In the face of such criticisms, the cédule was eliminated when the mortgage code was replaced by the law of 11 brumaire an VII (1 November 1798).\textsuperscript{65}

\textsuperscript{62} The Code Hypothécaire of 9 messidor An III is available in \textit{Bulletin des lois de la République française}, 1795 no.164, loi no.963.

\textsuperscript{63} Martin-Philippe Mengin, \textit{Ce qu’est réellement et politiquement une cédule} (Paris: Imprimerie de Du Pont, n.d.), 2. See also Mengin, \textit{Plan de finance pour suffire aux dépenses de l’an 4; casser la planche aux assignats et rembourser à volonté ceux actuellement en circulation} (Paris: Imprimerie de Dupont, n.d.)

\textsuperscript{64} \textit{Le Moniteur Universel}, no.104, 14 nivôse an V (3 janvier 1797), 415

\textsuperscript{65} \textit{Code hypothécaire} (Paris: Rondonneau, An VII)
Decourdemanche revived interest in the cédule as a model for mobilized real property. He included a model of the 1795 bill in his 1829 work, though he updated the original instrument by proposing a set of intermediary institutions – corporations or business associations – that would enhance the security and appeal of these certificates by guaranteeing the value of the land and ensuring easy repayment to creditors in the event of default. While creditors remained linked to particular properties and able to initiate expropriation proceedings, such direct engagement could be avoided if they preferred. The new cédule could thus be even more liquid than the old, with the result, Decourdemanche wrote, that “the major part of the value of territorial domains will be perpetually circulating.”

Thanks in part to his authoritative articulation of the project of mobilization, versions of the cédule remained central to the debate until the end of the century, along with the spectre of revolutionary disorder and reform they conjured.

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66 Decourdemanche, Du danger de prêter, 43.
The Double Life of Property and Revolution, Again

The Revolutions of 1848 provided both the political opportunity and the economic incentive to give more thorough consideration to all tenor of mobilizing schemes. 1848 was, amongst other things, a commercial calamity, linked closely to an agricultural crisis. Diagnoses of the country’s financial difficulties in 1848 and 1849 returned often to a lack of cash and the rarity of credit, with some accounts laying the blame on the restrictive policies of the Bank of France. Circumstances led to the imposition of cours forcé and cours légal for the Bank’s notes in 1848, meaning that the Bank was not obliged to convert its bills to specie and that they had to be accepted as payment in all transactions. Its issuances were also limited, and its territorial monopoly expanded to encompass the entire country. These changes placed France under the regime of paper money and, for the first time, under one unified monetary system. Some republicans trumpeted the creation of a homogenous economic space that coincided more closely with national territory. Léon Faucher, a publicist, free-trade economist, and deputy in 1848, considered “a multiplicity of monetary signs as an affliction and a danger for the country,” turning it into “something resembling the state of Europe,” where each department acts as a sovereign with its own gold and silver currencies. Still, the new money system aggravated criticisms of the Bank’s privileged, monopolistic position, adding accusations that it was hoarding desperately needed specie.

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70 See, as examples, J.-C. Lambert, Catéchisme du crédit foncier (Paris: Comon, 1849), 30; Pétition à l’Assemblée Nationale pour l’établissement immédiat en France des institutions de crédit foncier (Autun: Imprimeries de
Complaints of hidden capital, available but prevented from circulating, echoed powerfully in projects for real estate banks and land credit that bombarded the country’s representatives in the first months of the Second Republic. The Provisional Government and Constituent Assembly received at least 115 petitions and proposals on the matter in 1848 and 1849. Projects championed land as a uniquely productive asset whose riches were nevertheless trapped in dirt and buildings, or locked as mortgages in portfolios, “dead values” unable to circulate and grow. Possible methods of achieving that movement were wide-ranging. Some insisted on a state-supervised banking institution, on the model of the Bank of France, which would support real property with loans; others preached free competition and demanded that the private sector – either large corporations or small mutual associations – take charge of evaluating and lending on property. Many projects called for the transformation of land into bills, bonds, or coupons, though whether these should garner interest or not, whether they should circulate by endorsement or remain in deposit, whether they should be convertible into specie or whether they should be established as mandatory legal tender were questions on which participants were deeply divided. (Figure 2)

Dejussieu et Villedey, n.d. [1850]). This was a key vein of criticism among Saint-Simonian polemicists; in 1848, the movement’s journal, Le Crédit, founded by Charles Duveyrier, published extensively on parliamentary discussions on mortgage reform and land credit.

71 Petitions and proposals gathered in Archives Nationales [hereafter AN] C/919/A, while AN F12 6826 contains requests for authorization for mortgage financing institutions from across the country (1849-1850). Dozens more projects were published as studies and treatises during the Second Republic; the Bibliographie de la France lists forty-six substantial publications on the topic for 1848 (Bibliographie de la France (Paris: Pillet aîné, 1848), 277-8). For a summary of the most prominent proposals, see Robert Le Bret, Des procédés de mobilisation de la propriété foncière expérimentés ou proposés en France et dans les principaux états étrangers, Thèse pour le doctorat, Faculté de droit de Paris (Paris: Imprimerie des Ecoles, 1888), 158-212.

72 On land values as ‘valeur morte,’ see (e.g.) Gastaldi, Recherches sur le crédit foncier, 28; J. Rambaud, Projet de banque hypothécaire (Lyon: Imprimerie de Boursy, 1848), 2; Jh Denar, Projet d’une banque hypothécaire dont les valeurs circulables ne seraient pas du papier-monnaie mais bien de bons et très bons titres (Lyon: Louis Perrin, 1848), 4.
Reconsideration of real property’s financial life was thoroughly imbricated in the debates and upheavals of the Second Republic. Legislators struck three separate committees in 1848 to consider the problem of improving the circulation of capital to and from real property.73 Petitions and reports were presented, studied, and debated in quick succession, interrupted and rebooted by revolutionary violence; the June Days postponed the discussion of an important early proposal on mortgage reform, for instance, while one to make debts on real property transmissible by simple endorsement was sidelined by the coup d’état of December 1851. Debate was impassioned, particularly over the question of whether monetary instruments based on the value of the nation’s territory could provide a solution to the country’s economic woes. Many early proposals explored this option, including that of the Assembly’s agricultural committee, which called in October 1848 for the creation of two billion francs of currency guaranteed on

73 For a summary of these committees and resulting proposals, see Jean-Baptiste Josseau, *Traité du crédit foncier* (Paris: Cosse, 1872), 2 vols., esp. vol 1, ‘Historique.’
real property. The committee invoked (somewhat erroneously) the authority of Jean-Baptiste Say and David Ricardo, as well as sitting Deputy Adolphe Thiers, to produce a defense of paper money, and suggested that “monetized” (monnayée) land need be no more complicated or threatening than any other instrument representing credit, whether the state’s or a bank’s, particularly given that land was an “acknowledged value, productive in its essence and eminently social.” 210 of the 788 sitting deputies cast their votes in agreement.

Given the unsettling, even infamous precedents of revolutionary monetary experimentation, it is astonishing that this debate transpired at all, let alone drew support from as much as a quarter of legislators. (Figure 3) Key opponents of the proposal were evidently bewildered as well, and drew liberally on memories of assignats and the paper money of financier John Law’s eighteenth-century banking scheme in order to deflate any enthusiasm for tinkering with the gap between land’s security and its securitization. These included Louis Wolowski, a jurist, economist, and important contributor on the question of mobilization since the 1830s; Léon Faucher, Wolowski’s brother-in-law and fellow member of the Association for Free Trade; and Adolphe Thiers, historian, politician, and future president of the republic. As members of the finance committee studying credit on real property (amongst other matters), they presented a united front against the prospect of turning land into money. Thiers, for instance, was so dismayed by the proposal that he wandered into florid prognostications, reminding legislators

74 For records of the agricultural committee’s work, see AN C/927: Registres du Comité de l’Agriculture et du Crédit Foncier (mai 1848 à avril 1849).
of “those two terrible memories of the Revolution: the scaffold and paper money,” leaving no uncertainty about the dire ends awaiting such modes of mobilization.77

Figure 3: ‘Without assignats! Without paper money!!’: Cover of a proposal for a Real Estate Bank by Hyppolite Bachelet, 1848. Source: Archives Nationales de France, C/919/A

Yet intervening years of debate had expanded mobilization’s range and salience; accordingly, a robust response meant tackling the central contention of mobilization enthusiasts, namely that land and real property were ideal securities. So Faucher contended that in contrast to precious metals, whose value was “definite and universal,” the value of property in land was

“uncertain, variable, local, and arbitrary.” Because it was both unpredictable and ungeneralizable, it was a totally inadequate basis for a monetary instrument. Mobilizers, he scoffed, fetishized land and real property, fretting about the best methods of evaluating and communicating its value, all the while forgetting that “land is [only] worth as much as the man who works it is worth.” Decrying the agricultural committee’s project, Faucher declared to the Assembly that “no matter what you do, credit is always personal; each attempt to make it ‘real,’ to materialize it, to attach it to a security, is an illusion and a wasted effort.” It was impossible to value land in the abstract, separate from the legal institutions, business practices, and local uses by which it was constituted.

The local nature of property markets made certain kinds of arguments about the “illegibility” and thus unreliability of real estate obvious. Mengin, creator of the cédule in the 1790s, formulated a national system of recording and publicizing information on real property specifically to overcome the problem of knowledge at a distance, arguing that “the local knowledge that an owner’s neighbours might have on the value and availability of his property is useless to him,” given that capital was concentrated in Paris, and of course an owner “cannot bring it to Paris to present it to an investor inclined to grant him a loan.” Léon Michel, a lawyer and frequent writer on property matters, stated the problem simply later in the nineteenth century: “How can you establish a single rate across mortgages, for example, for a field in the Beauce and for a house in Paris?” Here were commonsense understandings of the problems posed by the inability of property parcels to substitute for one another. Real property’s

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78 Rapport fait au nom du Comité des finances, sur la proposition du citoyen Pougeard, tendant à remplacer l’impôt extraordinaire de 45 centimes […] par un emprunt forcé de deux cents millions, payable soit en argent, soit en effets ayant cours de monnaie, par le citoyen Faucher (Léon), représentant du Peuple (n.p., n.d.), 12, 11.
79 Discours prononcé par M. Léon Faucher, 7-8. On the transition from real to personal credit, see Levratto and Stanziani, eds., Le Capitalisme au futur antérieur.
81 Cited in M. J. Chérest, De la mobilisation du crédit hypothécaire au moyen de titres négociables (Cédule et lettre de rente), Thèse pour le doctorat, Université de Paris Faculté de Droit (Paris: Arthur Rousseau, 1912), 45.
immobility operated in several modes, however. Dismissing “this grand idea, mobilization” in 1848, Thiers pointed out that “it is impossible to make it so that a mortgage lien has the mobility of a 45-day commercial note in a bank’s portfolio.” As he understood it, the inability of mortgage debt to act like commercial debt had less to do with land’s fixity in space and more to do with its fixity – its slowness – in time. Property’s timeline was different from that of other assets. Its capital requirements were long-term requirements, its returns were long-term returns; these conditions resulted from both its nature and its location within an ecology of investment. The great virtue of property was its durability, a feature that arose “from the nature of things” and which ensured that increased mobility, in the unlikely event that it was possible, would add little to its value as an investment.

Proponents of mobilization grappled mightily with this issue of real property’s differential relationship to market time. It was potentially a benefit to be exploited. In his 1843 project for the establishment of a state program for mortgage lending, jurist and future deputy Firmin Pougeard reminded his audience that the long-term nature of property investment supplied his program with stability: “It will be remembered, of course, that as we are dealing with mortgage investments, any variation and movement in operations will of necessity be extremely slow, and will thus avoid any unforeseeable or unpredictable developments.” Similarly, Decourdemanche pushed land’s entry into finance as a way of bringing stability to an economy that otherwise risked constant crisis because of the dominance of fluctuating and unreliable commercial sectors. Yet the gap between speed of capital circulation in the realms of immobilier and mobilier also posed problems. For instance, property values were liable to

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82 Discours sur le crédit foncier par M. Thiers, 15
84 F. Pougeard, Du régime hypothécaire considéré comme institution politique et sociale (Bordeaux: Imprimerie de Lavigne, 1843), 20.
85 Decourdemanche, Déclaration aux notaires, 14.
change over the lifespan of the paper instruments based upon them. When an individual named Nigay presented his proposals to “not simply mobilize, but monetize property” in 1848, he attempted to compensate for risks of devaluation by developing a scheme that classified “buildings subject to degradation” separately and requiring fire insurance for built properties.\(^{86}\) A project by R.F. Fresnel in the same year observed that “as long as mobilization is in place, the mobilized properties cannot be allowed to suffer any reduction in their value that would endanger the security of the mobilization:” wood-cutting could not advance abnormally, alterations to built properties would require the authorization of lending authorities, and local mayors would be empowered to monitor all properties, “mobilized or otherwise,” for potentially detrimental transformations.\(^{87}\) Mobilization projects also frequently recognized and accommodated distinctions between the durable nature of land and the more vulnerable, variable status of constructions by allowing for the former to borrow or generate notes based on a higher proportion of its value. Representative Antoine Galy-Cazalat’s 1848 proposal to create two billion francs in mortgage certificates would have allowed owners of rural land to obtain exchangeable notes representing as much as a third of their property’s value, compared to only a fifth for built properties; a project signed by the ‘Widow Chapet’ in the same year would have placed no expiry or final repayment date on notes based on land, while those springing from built properties, “subject to significant depreciation, as well as increases in value,” ought to circulate for only five or ten years.\(^{88}\)

\(^{88}\) AN C/919/A: Proposition de M. Galy-Cazalat, Etablissement du crédit foncier sans cours forcé, 1848 ; Lettre de Veuve Chapet à Citoyen Garnier-Pagès, 17 avril 1848.
The question of aligning value on paper and value in buildings and soil makes particularly clear the imperatives that capitalism exerts over time as well as space. Creating the conditions necessary to direct capital towards land – turning it into a secure investment in which capital could enter and exit at will – required managing and transforming the timeframes in which real property operated. Louis Wolowski spoke directly to this imperative in the proposal he submitted to the Assembly in early 1848. The Polish expatriate had made forays into the mobilization debate soon after arriving in France in 1831, notably working to popularize Polish and Prussian land credit models. Like Thiers, Wolowski saw land as something that slowed down and extended the time between investment and return. Capital invested in land was sunk, embedded, and recoverable only over long periods of time – indeed, he wrote, “capital expended on improving or acquiring a piece of land ceases to exist as capital and will not return in that form to those who spent it.” But does it have to follow, he asked, that “land credit is doomed to be denied speedy transactions and easy collections? Does it have to remain, like the land itself, a heavy and unwieldy machine?” If the problems of land credit came from the nature of land, as so many contemporaries argued, so, too, could their solution. What was required was “an ingenious combination” to “change the form and nature of the investment.” In place of the “dead idea” of “mortgage money” Wolowski pursued the “living idea” of “territorial credit.” New financial instruments should be created, yes, but these should mirror the nature of land itself: print bonds rather than currency. As he explained in 1848, “if we are to mobilize property,

90 Ibid.
91 Ibid.
92 Wolowski, De l’organisation du crédit foncier, 6
its essence must be captured in its representative sign; the paper that it generates must produce interest, just as land produces revenue.”

This was precisely the option pursued by the government with the law of 28 February 1852, which authorized the formation of companies charged with the issuance of mortgage loans funded on the basis of bonds. Among the first was Wolowski’s Banque Foncière de Paris, which evolved into the Crédit Foncier de France (1854) and achieved, for a time, a monopoly on long-term amortizable mortgage loans underwritten by bonds. The company represented a particular innovation in the abstraction of land. In the process of channeling capital from lenders in search of an investment to borrowers in search of a loan, it created a new type of instrument, commonly referred to at its outset as a “lettre de gage,” or mortgage bond. The total value of these bonds could not exceed the total value of loans issued by the company, and the capital of one was guaranteed on the security of the other. Yet the particularization inherent to the mortgage, and so critical to opponents of mobilization, was gone. Bondholders had no claim on a specific parcel of land; rather, their claims were lodged on the mass of mortgage debt consolidated by the company. Jean-Baptiste Josseau, a lawyer and future deputy assigned to several commissions on land credit by the state, explained: “this mortgage instrument detaches the security from the claim. It makes the security a distinct and movable value, which becomes itself the guarantee of the bond issued by the company and taken up by capitalists.”

Land parcels and personal claims were flattened; Wolowski had explained the necessity of this transition:

For mortgage instruments to circulate like state bonds, for them to have a public rate, their guarantees have to be standardized, they have to be made identical,

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93 Wolowski, De l’organisation du crédit foncier, 22
each equal in value to the other […] Their intrinsic, particular character has to be modified, which will allow them to circulate, not only through endorsement like bills of exchange, but even as bearer certificates.\textsuperscript{96}

The great work of mobilizing land values depended not, as Mengin and proponents of the \textit{cédale} had had it half a century previously, on the particularization of land, but on its homogenization.

\textit{Conclusion}

The creation of the Crédit Foncier and the legislative reforms that accompanied its expansion effected a substantial reworking of the nation’s system of real property registration and circulation. Its centralized system of mortgage lending and financialization was a milestone in the capitalist constitution of real property relations, reliant on the decades of debate chronicled above. A law of 23 March 1855, put in place largely to facilitate the bank’s activities, answered some of reformers’ complaints regarding the invisibility of particular kinds of property transactions. Sales, for instance, would henceforth have to be recorded if they were to be binding on third parties. Yet the hidden mortgages of wives and minors remained exempt. Official record-keeping continued to operate merely as the record of a right rather than the legal force constituting that right, and no changes were introduced regarding the negotiability of mortgage titles. For opponents of more extensive mobilization, this was a relief. When Troplong surveyed the plethora of projects for the mobilization of land that had been debated in the revolutionary moment, he eagerly dismissed the period’s wild ambitions, which despite “having exploded in the assembly, in books, and in newspapers” amounted to nothing but “vain and chimerical utopias,” now happily buried under “ridicule and disdain from which they can never recover while common sense governs in France.”\textsuperscript{97}

\textsuperscript{96} Wolowski, \textit{De l’organisation du crédit foncier}, 78
\textsuperscript{97} Troplong, \textit{Privilèges et hypothèques, Commentaire de la loi du 23 mars 1855}, 11.
Yet adherents of more radical reform of the real property regime did not go away, raising mobilization schemes persistently. They featured as possible solutions to budget shortfalls, as for example when in 1883 the Chamber of Deputies debated proposals for the creation of ‘billets hypothécaires’ or mortgage notes that would be issued to property owners on up to a quarter the value of their property, guaranteed by the state and, for the service, return to the country’s coffers 2.5% interest.\textsuperscript{98} They were returned – if not pursued – by experts convened in the country’s cadastral commission, which sat for fifteen years from 1891, charged with revising the legal, fiscal, and political standing of the country’s cadastre in light of a collapse in rural land values and a perceived crisis of morcellement, or subdivision, of agricultural land.\textsuperscript{99} This commission embraced proposals from jurist and student of land questions, Jules Challamel, for the creation of bons hypothécaires (mortgage coupons) modeled directly on Mengin’s cédule, with some additional inspiration from Prussian property law, mobilization practices from other German territories, and reforms to the circulation of real property instituted in Algeria.\textsuperscript{100}

As with other areas of national life, for mobilization France’s expanding imperial jurisdictions provided fecund spaces of mental and practical experimentation.\textsuperscript{101} In North Africa,  

Southeast Asia, and the Pacific, France confronted territories and polities whose patterns of land ownership were interpreted as ideological and economic obstacles to imperial ambitions. In Algeria, where colonizers sought to defend the principle of (European) property even as (indigenous) property rights were being violated, the problem of making property where none was deemed to exist and of regulating its circulation occupied state authorities from the beginning of French occupancy. As the century advanced, French financial interests also became increasingly attracted to the profits to be gained from mortgage lending abroad, seeking to align local conditions with those in Europe. The Crédit Foncier expanded to Algeria in 1880, Tunisia in 1909, and Morocco in 1913, while France was directly involved in the 1876 reform of Egypt’s judicial system which clarified the treatment of real property and mortgages, smoothing the way for the introduction of the Crédit Foncier Egyptien (under French direction) in 1880.

These developments were part of an international intensification of imperial projects in the second half of the nineteenth century, a crucial component of which was the refinement and application of systems regularizing the creation, transmission, and marketization of property titles. The most prominent became known as the Torrens System, the common name for the

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registration regime eventually consolidated in Australia’s Real Property Act (1886) and applied to varying degrees throughout Britain’s and France’s empires. The possible utility of the Torrens System for improving _metropolitan_ as well as colonial property relations proved a rich field of discussion and agitation among French mobilizers. Numerous politicians and technical experts, including those sitting on the longstanding cadastral commission convened in 1891, recommended the importation into France of a _livre foncier_: a register of real property endowed with legal authority to effect, not merely record, ownership. Authorities tended, however, to agree with a speaker at an 1889 Congress on Land Transfers who concluded that in the realm of property, measures that were “necessary for new countries” would thoroughly disturb the venerable traditions of “a perfectly civilized country.”

It is no surprise that significant interest and innovation in mobilization came from reforms designed for and implemented in France’s empire. Mobilization had long been associated with the blind extraction of imperialism, wherein real property figured as nothing but a financial asset, shorn of moral and political attributes. In the context of the 1841 national consultation, for example, the Ministry of Justice affirmed that mobilizing land would turn the

106 On the international genesis of the system, see Greg Taylor, “Is the Torrens System German?” _Journal of Legal History_ 29 no.2 (August 2008): 253-285. For French imperial applications, see Alfred Dain, _Le Système Torrens. De son application en Tunisie et en Algérie_ (Alger: Adolphe Jourdan, 1885); Paul Lescure, _Du double régime foncier de la Tunisie_ (Tunis: Borrel, 1900). Studies for Tunisia’s new property regime of 1885 can be found in AN 20020495/18: Tunisie, régime foncier.


109 Ministère du commerce, de l’industrie, et des colonies, _Congrès international pour l’étude de la transmission de la propriété foncière_, (Paris: Imprimerie Nationale, 1889), 11. The speaker was Jules Lefebvre, head of the Chamber of Notaries of Lille.
French farmer into “a simple colonist on his field, either idly cultivating it or working it to death at the expense of public wealth.” It was in the colonies that the process of making real property into a reliable security in part by ensuring that it could be easily identified and repossessed by creditors was most transparent. This paradox of possession and dispossession was inherent to mobilization. Mengin dedicated large portions of his writings on the cédule to formulas for property seizure, and Charles Dupin’s argument for reconsidering the regime of real property circulation in the Chamber of Deputies in 1836 lionized commerce, where “everything is quick – seizing goods, seizing individuals,” regretting that similar dispositions did not exist for real property. Similarly, it is no coincidence that the national consultation of 1841 overlapped with comprehensive revisions to procedures on the seizure of real estate (Law of 2 June 1841), or that the committees of the National Assembly that so thoroughly reconsidered laws on the mobilization of property under the Second Republic likewise tackled property seizure formalities. The dynamics of abstraction and materialization with which participants in the mobilization debate were grappling did not simply amount to a diachronic process by which modern forms of credit (the commercial, the personal) seemed to gain precedence over traditional forms (the real) as ‘civilization’ advances – though this was certainly how many polemicists understood the situation. The fixing of real property more securely in juridical space and movable instruments; its fluid mobility via commerçiable paper forms; the tension between security of title and insecurity of tenure (for unwary debtors) – these collisions of mobilier and immobilier were repeatedly re-instantiated, not resolved or surpassed. The enduring nature of

110 Documents relatifs au régime hypothécaire, vol.1, xcv
111 See Mengin, Nouveau plan d’hypothèque; Chambre des députés, séance du 16 avril 1836, in Archives parlementaires, 166-167.
112 Eugène Garsonnet, Traité de la saisie immobilière et de la procédure d’ordre (Paris: Larose et Forcel, 1891); AN F70 62: Rapport fait au nom de la Commission de la réforme hypothécaire et du crédit foncier, sur l’expropriation forcée, la procédure de saisie immobilière, et la procédure relative aux autres ventes judiciaires, par M. de Vatimesnil, 25 novembre 1850.
these debates in the nineteenth century is explained by the profound institutional and imaginative hold that real property exercised as a source of value and stability in understandings of the economy. Even Paul Leroy-Beaulieu, France’s premiere liberal economist at the end of the nineteenth century, described “la richesse mobilière” or movable wealth as stemming fundamentally from real property: “The term movable wealth generates numerous observations; it conjures notions of circulating, disposable capital, such as money, renewable bills of exchange, merchandise, ‘fungible goods.’ But that’s not it at all; the largest part of so-called movable wealth is nothing more than real wealth transformed into securities that can be relatively easily bought and sold.”¹¹³

For this reason, the debate on mobilization continues, due to productive dynamics at the heart of capitalism and certain durable qualities in land itself and the standing of property relations within that system. Based on the foregoing discussion, it is difficult to identify whether an endorsement of the benefits of centralized property registration for smallholders that proclaims that “without these representations, their assets are dead capital” was written in the 1780s, 1880s, or the 2000s.¹¹⁴ Rather than congealing into a teleological narrative of the financialization of everything, the debates presented in this article instead reveal the persistent difficulties and repeated failures of shifting groups of mobilizers, and the contingent political contexts that shape conditions of both action and discourse. Looking closely at the instantiation of land’s abstraction in a particular time and place reveals numerous insights. Least surprising amongst them, perhaps, but necessary to underline, is the fact that markets are made; exchangeable goods and calculative economic agents are created and assembled by a range of

¹¹³ Paul Leroy-Beaulieu, Essai sur la répartition des richesses et sur la tendance à une moindre inégalité des conditions (Paris: Guillaumin et Cie., 1897 [1881]), 230.
technologies, from the cédule to the lettre de gage, technologies that are themselves shaped by the goods and agents upon which they act. Importantly, for the case of a market in land and its derivatives, the physical characteristics of land, reinforced by law, strong political commitment to private property, and land’s standing as a powerfully national, territorial resource, play important roles in shaping that market. In nineteenth-century France, the state had not identified a clear interest in the circulation rather than the fixity of land. More precisely, it had yet to find efficient ways to distinguish between the classes and interests for whom fixity was to be fostered and those for whom mobility was desired. The importance of the nation-state and, by extension, of the national case study, shows through implacably in the process of territorial abstraction. The many ways that real property remains physically, socially, and nationally embedded makes the processes of abstraction to which it is subject of crucial importance for the study of both modern economies and modern states.