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Institutions and Economic Growth in Historical Perspective: Part 1

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Abstract

This is Part 1 of a two-part paper which surveys the historical evidence on the role of institutions in economic growth. The paper provides a critical scrutiny of a number of stylized facts widely accepted in the growth literature. It shows that private-order institutions have not historically substituted for public-order ones in enabling markets to function; that parliaments representing wealth holders have not invariably been favourable for growth; and that the Glorious Revolution of 1688 did not mark the sudden emergence of either secure property rights or economic growth. Economic history has been used to support both the centrality and the irrelevance of secure property rights to growth, but the reason for this is conceptual vagueness. Secure property rights require much more careful analysis, distinguishing between rights of ownership, use and transfer, and between generalized and particularized variants. Similar careful analysis would, we argue, clarify the growth effects of other institutions, including contract-enforcement mechanisms, guilds, communities, serfdom, and the family. Greater precision concerning institutional effects on growth can be achieved by developing sharper criteria of application for conventional institutional labels, endowing institutions with a scale of intensity or degree, and recognizing that the effects of each institution depend on its relationship with other components of the wider institutional system. Part 1 of the paper discusses public-order institutions, parliaments, the distinction between generalized and particularized institutions, and property rights.

JEL-Code: N010, N300, N400, N500, N700, O170, P000.

Keywords: institutions, economic growth, economic history, private-order institutions, public-order institutions, parliaments, property rights, contract enforcement, guilds, serfdom, the family, Maghribi traders, Champagne fairs, European Marriage Pattern.

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Institutions and Economic Growth in Historical Perspective: Part 1

This is Part 1 of a two-part paper. Part 2 can be found in Sheilagh Ogilvie & A. W. Carus, "Institutions and Economic Growth in Historical Perspective: Part 2", CESifo Working Paper No. 4862.

Introduction

The literature on economic growth, old and new, rests on wide-ranging and often unexamined historical assumptions, which therefore raise many fundamental questions. Where and when did economies develop the threshold levels of property rights and market functioning which neoclassical growth models implicitly assume to be met [Aron (2000)]? What are the institutional origins of the asymmetries between sectors which underlie dualistic growth models [Lewis (1954, 1958); Fei and Ranis (1961)]? What institutional arrangements have fostered growth-favouring incentives for human capital investment and innovation in some societies and growth-inhibiting ones in others, as emphasized by endogenous growth models [Romer (1987, 1990); Aghion and Howitt (1992); Grossman and Helpman (1991)]? Why have institutional rules favoured collective action to resist technological innovations in some societies, but not in others [Parente and Prescott (2000, 2005)]? What are the institutional arrangements that influence demographic behaviour and the trade-off between quality and quantity of children in unified growth theory [Galor (2005a, 2005b)]? How has socio-political conflict in past centuries engendered the institutions that foster or stifle economic growth [Acemoglu, Johnson and Robinson (2005)]?

Recognizing the importance of such questions, the growth literature has increasingly filled in these blanks and made explicit claims about economic history and institutions. Yet some of these claims are not, on closer examination, supported by historical evidence. Others are controversial, and must be revised in the light of what is known. Still other claims are probably right, but not for the reasons given by those who make them. In many ways, then, research in economic history has still hardly been brought to bear on the institutional sources of long-run economic growth.

No single essay could discuss all the implications of economic history regarding the effects of institutions on growth, and this one does not seek to do so. Instead, we single out eight of the most important lessons historical research can offer economists trying to understand the relationship between institutions and growth.

One common view in the growth literature is that history shows that private-order institutions can substitute for public-order ones in enabling markets to function [North and Thomas (1970, 1971, 1973); North (1981); Milgrom, North and Weingast (1990); Greif (1989, 2006c); Greif, Milgrom and Weingast (1994)]. Past societies are supposed to have lacked public authorities able and willing to enforce the institutional rules for economic activity, and some of the literature has come to accept the view that private-order substitutes – coalitions, networks, guilds, communities, collective reprisal systems, private judges, serfdom – successfully replaced them. Economic history does not support this view, as emerges repeatedly from the empirical research surveyed in this paper: on the Maghribi traders and the Champagne fairs in Lesson 1,

on merchant guilds in Lesson 3, on peasant communities in Lesson 4, and on serfdom in Lesson 8. Historical evidence suggests strongly that although markets are required for economies to grow, public-order institutions are necessary for markets to function.

This central role of public-order institutions in economic growth has been recognized in parts of the literature [Acemoglu, Johnson and Robinson (2005)]. Parliaments manned by "wealth holders" are widely viewed as a major component of beneficial public-order institutions, and particular attention has been devoted to the idea that parliamentary powers increased significantly in Britain after 1688, creating the institutional preconditions for the Industrial Revolution three quarters of a century later [North and Weingast (1989); Acemoglu, Johnson and Robinson (2005); Acemoglu and Robinson (2012)]. Lesson 2 surveys the historical evidence on eighteenth-century European parliaments in general and the Glorious Revolution in particular and finds that parliaments manned by wealth holders historically have a very mixed record of supporting economic growth. Whether a strong parliament manned by wealth holders supported growth in practice depended on underlying institutional mechanisms at lower levels of politics and the economy, which influenced how wealth holders obtained wealth, how they got parliamentary representation, and how parliament could be used to further policies and institutions that fostered rather than stifling growth.

A different way in which the literature has pursued the role of public-order institutions in economic growth is by seeking to classify political as well as economic institutions according to whether they have, historically, proved favourable to growth. One part of the literature has distinguished between open-access "social orders" which have facilitated economic growth, and closed-access orders which have hampered it [e.g. North, Wallis and Weingast (2006, 2009)]. Another approach has been to distinguish between political and economic institutions that have favoured growth by being inclusive, and those that have impeded it by being extractive [e.g., Acemoglu and Robinson (2012)]. Lesson 3 surveys these classification systems and suggests that greater precision can be achieved by drawing a more constrained distinction, between generalized institutions (whose rules apply uniformly to all economic agents, regardless of their identity or membership in particular groups), and particularized institutions (which apply only to a subset of agents in the economy). The explanatory potential of this distinction is explored in Lesson 3 in the context of the institutional bases for the growth in long-distance trade during the medieval and early modern Commercial Revolution, and in Lesson 5 in the context of property rights in Britain before and during the Industrial Revolution.

Property rights play a overwhelmingly important role in the entire literature on institutions and economic growth, and history has been employed in this literature in numerous ways. Historical evidence is widely used to support the view that property rights have been the single most important institutional influence on economic growth at least since medieval times [North and Thomas (1970, 1971, 1973); North (1981, 1989, 1991); North and Weingast (1989); Greif, Milgrom and Weingast (1994); Acemoglu and Johnson (2005); Acemoglu, Johnson and Robinson (2005); Acemoglu (2009)]. Other parts of the literature, by contrast, have questioned the very idea that property rights played any role at all in economic growth [Clark (2007); McCloskey (2010)]. Despite the fact that economic history has been mobilized to support both sides of this debate, historical research findings have still not been fully brought to

bear on the emergence of property rights, the multiple ways in which they can affect economic growth, and their importance relative to other institutions. Lessons 4-6 address the various challenges this has created. Lesson 4 considers the view that property rights institutions are both separable from, and more important than, contracting institutions [Acemoglu and Johnson (2005)]. Historical evidence casts doubt on this idea: both types of institution involved relationships between ordinary people and rulers, and both had to improve jointly before growth could occur. Lesson 5 asks why property rights are supposed to be good for growth and what precise characteristics they must have in order to provide these benefits. Surveying the evidence for Britain before and during the Industrial Revolution, it finds that in order for property rights to support growth, they not only had to be well-defined, private, and secure, but also had to be *generalized* in the sense of applying to all agents in the economy, not just to a privileged subset. Security, however, is the feature of property rights most strongly emphasized as a key to economic growth, both historical and modern. Lesson 6 subjects security of property rights to closer analysis. Surveying the evidence for Europe since the medieval period, it finds that the security of property rights cannot be analyzed without breaking down the concept into three types – security of ownership, security of use, and security of transfer. Security on all three dimensions, the historical evidence reveals, was a matter of gradation rather than outright presence or absence. This explains why it has been possible for the economic history of medieval and early modern Europe to be used to argue both that property rights were irrelevant to economic growth and that they played a central role in causing it to take place.

Although the literature on economic growth has tended to focus on one type of institution at a time, its attempts to classify institutional regimes as favourable or harmful to growth tacitly recognize that institutions are embedded in wider institutional systems. The historical evidence surveyed in this paper highlights the importance of analyzing not just each institution in isolation but also how it interacts with other components of the surrounding institutional system. This emerges clearly in Lesson 4 where we see how contracting and property institutions were jointly necessary to encourage economic growth during the agricultural revolution. The same importance of the institutional system as a whole emerges from the survey in Lesson 7 of historical demography, which has come to play an increasingly important role in recent literature on economic growth [Galor (2005a, 2005b); Acemoglu (2009); Guinnane (2011)]. Historically, it turns out, both contributory factors such as demographic responsiveness to economic signals, women's position, and human capital investment, and the over-arching relationship between demographic behaviour and economic growth, resulted not from any specific type of family institution in isolation, but rather from the interaction of multiple components of the wider institutional system.

The literature on economic growth has been riven for decades by the debate about whether institutions are merely epiphenomena of more fundamental natural and geographical factors [e.g., Sachs (2003)], are efficient solutions to economic problems [e.g., North and Thomas (1970, 1973); Greif (2006c)], or result from socio-political conflicts over distribution [e.g., Acemoglu, Johnson and Robinson (2005); Ogilvie (2007b)]. The historical institutions examined in Lesson 8 provide plentiful evidence that distributional conflicts are central, both to the development of institutions and to their impact on growth. The explanatory power of the conflict approach to institutions

is illustrated particularly clearly by the institution of serfdom, which has attracted repeated attention from economists because of its impact on agricultural performance and thus on overall economic growth in the centuries before and during industrialization [Domar (1970); North and Thomas (1970, 1973); Acemoglu and Wolitzsky (2011); Acemoglu, Cantoni, Johnson and Robinson (2011)]. The historical evidence on serfdom confirms the centrality of distributional conflicts to the rise, survival and disappearance of key institutions, and provides a particularly vivid example of how the problem of the lack of a "political Coase theorem" must be solved in order for institutions to change. But it also shows the importance of analyzing any given institution as one component of a wider institutional system – an analytical point that reappear many times throughout the lessons that follow.

Lesson 1: Public-Order Institutions Are Necessary for Markets to Function

Markets are necessary for economic growth, and this raises the question of what institutions are necessary for markets to function. Economic history is widely supposed to support the claim that the functioning of the market does not necessarily require public-order institutions: private-order institutions can substitute for them. This is taken to imply that modern poor economies can achieve sustained economic growth without good governments or well-functioning legal systems, since private-order substitutes have a successful historical record of sustaining growth [Helpman (2004); Dixit (2004, 2009); Dasgupta (2000); World Bank (2002)]. This claim is factually mistaken, as a closer look at the evidence shows.

Private-order institutions are those formed through voluntary collective action by private agents without any involvement of public authorities. Public-order institutions, by contrast, are those associated with the formal public authorities of a society – states, local governments, bureaucracies, legal systems, rulers, courts, parliaments [Katz (1996, 2000)]. A few examples apparently supporting the view that private-order institutions have a successful track record in underpinning markets have attained the status of stylized facts within the economics profession more widely, and are repeatedly cited [Aoki (2001); Bardhan (1996); Ba (2001); Bernstein (2001); Clay (1997); Dasgupta (2000); Dixit (2004, 2009); Faille (2007); McMillan and Woodruff (2000); Miguel, Gertler and Levine (2005); Helpman (2004); O'Driscoll and Hoskins (2006); World Bank (2002)]. But these examples turn out to be false or misleading. When the evidence is examined more closely, the well-known stylized facts disappear, and there is no indication that private-order institutions could by themselves provide, or ever have provided, an institutional framework for markets.

The only way to show this is to look at the evidence in detail. Since we cannot do this for every such stylized example, we delve more deeply into the two cases that are most widely cited in the literature on economic growth. The first is the case of the Jewish Maghribi traders, who are supposed to have sustained successful commercial growth over long distances between the late tenth and the early twelfth century using a private-order institution called a "coalition" [Greif (1989, 1993, 2012)]. The second is the example of the Champagne Fairs in what is now northern France, which grew to be the most important European trading centre from the late twelfth to the late thirteenth century, and are supposed to have achieved this growth by ensuring contract enforcement through private judges [Milgrom, North and Weingast (1990)] and community-based reprisals [Greif (2002, 2006b, 2006c)]. This section looks at

these cases in some detail to demonstrate why these claims are false and cannot be used to support either theory or policy. Later lessons discuss various other institutional arrangements – serfdom, village communities, merchant guilds – which are also widely portrayed as examples of efficient private-order institutions with a track record of supporting growth, and indicate where subsequent research has cast doubt upon their empirical basis.

1.1. The Maghribi Traders

A first widely cited historical example of the supposed irrelevance of public-order institutions and the efficacy of private-order substitutes is the Maghribi traders' coalition. The Maghribi traders were a group of Jewish merchants who traded across the Muslim Mediterranean between the tenth and the twelfth centuries. Everything we know about them comes from the Geniza (synagogue storeroom) in Old Cairo, the city where most of these merchants lived, so they are often called the Geniza merchants. There is a debate between those who claims that most of the Geniza merchants came from the Maghreb (essentially the region now occupied by Tunisia and Libya) and rarely established commercial relationships with non-Maghribi Jewish traders [Greif (1989, 1993, 2012)], and others who point out that these merchants neither exclusively came from nor solely traded in the Maghreb [see Goldberg (2005, 2012a, 2012b, 2012c); Toch (2010); Edwards and Ogilvie (2012a)]. Without prejudging this debate, here we use "Maghribi traders" since the term is established in the economics literature, although the term "Geniza merchants" is more widespread among historians.

Two influential articles have argued that these merchants formed a well-defined and cohesive coalition based on Jewish religion and family origins in the Maghreb [Greif (1989, 1993)]. According to this account, these medieval Jewish merchants lacked access to effective legal institutions for monitoring and enforcing contracts. Instead, they relied on informal sanctions based on collective relationships inside an exclusive coalition. Members of the Maghribi coalition, according to this view, only used other members as commercial agents. Within this closed ethnic and religious coalition, members conveyed information about each other's misbehaviour efficiently to other members, and collectively ostracized members who cheated other members. The Maghribis are supposed to have chosen this type of contracting institution both because there was no effective legal system and because they held "collectivist" Judaeo-Muslim cultural beliefs which contrasted with the "individualistic" Christian values held by the medieval Genoese merchants, who consequently chose to enforce their contracts using legal mechanisms [Greif (1994)]. The Maghribis' multilateral reputation mechanism, it is claimed, provided an effective institutional basis for the growth of long-distance trade across the Muslim Mediterranean from the late tenth to the early twelfth century, and substituted for the absence of an effective legal system.

This portrayal of the medieval Maghribi traders has been widely deployed to draw lessons for modern economic growth. Some use this characterization of Judaeo-Muslim collectivism versus European individualism to argue that it is cultural differences that are central to both institutions and growth [Aoki (2001); Mokyr (2009)]. Others claim that the Maghribi traders show that economic growth does not require public legal mechanisms but can be based on private-order institutions [Clay

(1997); Faille (2007); Greif (1989, 2006b, 2006c); McMillan and Woodruff (2000); O'Driscoll and Hoskins (2006)], or that the social capital of closely knit networks can effectively support market-based economic growth [World Bank (2002); Miguel, Gertler, and Levine (2005)]. Still others incorporate this model of the Maghribi traders into their accounts of how informal, reputation-based institutions contributed to long-run productivity growth [Helpman (2004); Dixit (2004, 2009); Dasgupta (2000)]. According to Helpman, for instance, "If we had data that allowed us to calculate TFP growth during the medieval period, we probably would have found that the institutional innovations of the Maghribi traders ... led to TFP growth" (2004, pp. 118-9).

However, the empirical portrayal of the Maghribi traders' coalition [Greif (1989, 1993, 2006c)] was based on a limited number of documents, which other scholars, both earlier and later, have interpreted very differently [Goitein (1966, 1967/1993); Stillman (1970, 1973); Udovitch (1977a, 1977b); Gil (2003, 2004a, 2004b); Friedman (2006); Ackerman-Lieberman (2007); Margariti (2007); Goldberg (2005, 2012a, 2012b, 2012c); Trivellato (2009); Toch (2010); Edwards and Ogilvie (2012a)]. The coalition model requires the Maghribi traders to have formed agency relations only with other members of their closed ethnic-religious coalition, yet a number of scholars have pointed out that the Maghribi traders transacted in open and pluralistic constellations rather than a closed or monolithic coalition [Udovitch (1977a, 1977b); Goldberg (2005, 2012a, 2012b, 2012c); Toch (2010)]. Others have noted that the surviving documents show the Maghribi traders establishing agency relations with non-Maghribi Jews and even with Muslims [Goitein (1967/1993); Stillman (1970, 1973); Goldberg (2005, 2012a, 2012b, 2012c)]. The existence of business relationships with non-Maghribis shows that the Maghribi traders must have had other mechanisms for contract enforcement that did not rely on collective ostracism inside a closed coalition.

Five cases from the Geniza letters were adduced as providing evidence of the existence of a Maghribi coalition [Greif (1989, 1993, 2012)]. Edwards and Ogilvie (2012a) re-analyzed these cases and found that none of them substantiated the existence of a coalition, with no case in which multilateral sanctions were imposed on any opportunistic contracting party by the collectivity of the Maghribi traders. Goldberg (2012b, 2012c) carried out a quantitative and qualitative analysis of hundreds of commercial documents in the Geniza and did not find "any case of an individual being ostracised even after an accusation of serious misconduct spread through the business circle" [Goldberg (2012b, p. 151)]. Although there was some evidence that Maghribi traders made use of reputational sanctions, these involved limited transmission of information, primarily to locations and persons directly associated with the conflicting parties. Research studies of businessmen in many economies, including modern ones, find similar reputational sanctions to those observed among the Maghribi traders being used as a complement to legal sanctions [Byrne (1930); De Roover (1948); Macaulay (1963); Goldthwaite (1987); McLean and Padgett (1997); Dahl (1998); Gelderblom (2003); Court (2004); Selzer and Ewert (2005, 2010)]. The use of reputation mechanisms does not imply that an economy lacks an effective legal framework for contract enforcement.

Other scholars have pointed out that the Geniza documents provide evidence of a wide array of public-order contract-enforcement mechanisms that supported

contracts both among Maghribi traders and between them and other Jews and Muslims [Goitein (1967/1993); Udovitch (1977a, 1977b); Gil (2003); Goldberg (2005, 2012a, 2012b, 2012c); Goitein (1967/1993); Harbord (2006); Goitein and Friedman (2007); Margariti (2007); Ackerman-Lieberman (2007); Trivellato (2009); Toch (2010); Cohen (2013)]. Counter to the claim that the Maghribi traders only used informal reciprocity as a basis for their business associations, with no legal forms of enterprise, the documents reveal these merchants using formal legal partnerships alongside informal business cooperation; even the latter, moreover, involved responsibilities that were recognized in courts of law [Udovitch (1977a, 1977b); Gil (2003); Goldberg (2005, 2012a, 2012b, 2012c); Harbord (2006); Ackerman-Lieberman (2007); Trivellato (2009); Toch (2010); Cohen (2013)]. In a number of cases, Maghribi merchants enforced agency agreements using legal mechanisms; they avoided using the legal system to resolve disputes if possible, but they saw the advantages of a court judgment as a last resort [Goitein (1967/1993); Gil (2003); Goldberg (2005, 2012a, 2012b, 2012c); Goitein and Friedman (2007); Margariti (2007); Ackerman-Lieberman (2007); Trivellato (2009); Cohen (2013)]. This finding resembles those for many groups of merchants and businessmen in commercial societies between the Middle Ages and the modern day, who typically preferred to avoid litigation if at all possible, but used it as a last resort [Gelderblom (2003); Edwards and Ogilvie (2008, 2012a)].

Commercial divergence between Maghribi and Italian traders can be explained by the broader institutional framework the two groups faced, in which public-order institutions played an important role [Goitein (1967/1993); Stillman (1970); Epstein (1996); Gil (2004a, 2004b); Goldberg (2005, 2012a, 2012b, 2012c); Van Doosselaere (2009); Edwards and Ogilvie (2012a)]. The Maghribi traders were a Jewish minority in a Muslim-ruled polity, while Genoese merchants enjoyed full political rights as citizens in their own autonomous city-state. The two groups' contrasting socio-political status had inevitable repercussions for their respective economic privileges, legal entitlements, political influence, and relations with the majority population [Goitein (1967/1993); Epstein (1996); Goldberg (2005, 2012a, 2012b, 2012c)]. Political and military instability increased commercial insecurity in the central Mediterranean from the mid-eleventh century on, which caused the Maghribi traders to reduce the geographical scope of their trade and intensify their involvement in intraregional commerce and local industry [Stillman (1970); Gil (2004a, 2004b); Goldberg (2005, 2012)]. Genoese merchants, by contrast, were protected from commercial insecurity by the Genoese navy, precisely because merchants were important in the Genoese polity [Epstein (1996); Van Doosselaere (2009)]. Finally, at the beginning of the thirteenth century, a powerful association of Muslim merchants, the Kārīmis, secured privileges from the political authorities granting it an extensive legal monopoly and excluding outsiders, including Jewish traders, from many aspects of long-distance trade [Goitein (1967/1993)].

The current state of research therefore does not empirically confirm the idea that the Maghribi traders enforced contracts through a private-order coalition. The Maghribis used reputation mechanisms indistinguishable from those used by businessmen in most economies, both historical and modern, buttressed by public-order institutions including legal partnership contracts, powers of attorney, litigation in state courts, and appeals to the local and central political authorities. The broader framework of public-order institutions also played a role in the Maghribis' ability to

sustain commercial growth. The Maghribi traders therefore do not support the idea that private-order institutions substituted for missing public-order ones.

1.2. The Champagne Fairs

A second historical example which is widely used in support of the idea that public-order institutions are irrelevant for growth because of the effectiveness of private-order substitutes is that of the Champagne Fairs. These were a cycle of trade fairs held annually in the county of Champagne, a polity governed almost autonomously by the Counts of Champagne until it was annexed by the Kingdom of France in 1285. The Champagne fairs operated as the undisputed fulcrum of international exchange in Europe from c. 1180 to c. 1300, and were central to the substantial acceleration of European trade known as the medieval Commercial Revolution [Bautier (1953, 1970); Verlinden (1965); Edwards and Ogilvie (2012b)].

Two well-known papers by economists have argued that the Champagne fairs achieved their success with a private-order institution substituting for public-order ones. Milgrom, North and Weingast (1990) claimed that commercial growth at this most important medieval European trading location was fostered by private law-courts intermediated by "law merchants" who enforced contracts and guaranteed property rights in trade goods and capital. An alternative account was provided by Greif (2002, 2006b, 2006c), who claimed that the Champagne fairs were sustained by a "community responsibility system", consisting of collective reprisals between corporative groups of businessmen. Both theories are based on the assumption that there were no public-order institutions able or willing to guarantee property rights or enforce contracts in thirteenth-century Europe, and that this compelled businessmen to devise their own private-order institutional arrangements. These ideas are widely referred to in the economics literature, but closer scrutiny casts doubt upon their empirical basis.

1.2.1. Private Judges

Milgrom, North and Weingast (1990) argued that the medieval expansion of international trade in centres such as the Champagne fairs was made possible by private-order courts in which private judges kept records of traders' behaviour. Before agreeing on any deal, a merchant would ask a private judge about the reputation of his potential trading partner. By communicating reputational status of traders on demand, the private judges enabled merchants to boycott those who had previously defaulted on contracts. The private judges are also supposed to have levied fines for misconduct, which merchants voluntarily paid because non-payment meant losing all future opportunities to trade at the Champagne fairs. Institutional arrangements combining private judges and individual merchants' reputations created incentives for all merchants to fulfil contractual obligations, even though state enforcement was absent and repeated interactions between trading partners were rare. From this portrayal of the Champagne fairs, it was concluded that international trade expanded in medieval Europe through merchants' developing "their own private code of laws", employing private judges to apply these laws, and deploying private-order sanctions against offenders – all "without the benefit of state enforcement of contracts" [Milgrom, North and Weingast (1990, p. 2)].

This view of the Champagne fairs is widely accepted by economists and policy-makers, and is used to underpin far-reaching conclusions about the institutional basis for exchange in modern economies. Dixit (2004, pp. 12-13, 47-8, 98-9), for instance, adduces private judges providing enforcement to merchant "customers" at the Champagne fairs as an example of a well-functioning "private government". Davidson and Weersink (1998) use the Champagne fairs to specify the conditions necessary for markets to function in developing economies without adequate state enforcement. Swedberg (2003, pp. 12-13) places this portrayal of private courts in medieval Champagne at the centre of his view of medieval merchant law as "laying the legal foundations for modern capitalism". Richman (2004, p. 2334-5) argues that private judges at the Champagne fairs show how "coordination among a merchant community can support multilateral exchange without relying on state-sponsored courts".

Economic historians, by contrast, have pointed out for some decades that there were no private judges at the Champagne fairs. On the contrary, the Champagne fairs were supported by a rich array of public-order legal institutions, which were voluntarily utilized by international merchants [Bautier (1953, 1970); Terrasse (2005); Edwards and Ogilvie (2012b)]. One component of these public-order legal institutions consisted of a dedicated fair court which operated throughout the duration of each fair. The fair wardens who decided the cases in this court were princely officials, not private judges. But there were also several other levels of the princely justice-system which foreign merchants used to enforce their commercial contracts – the high tribunal of the count as the prince, the courts of the count's bailiffs, and the courts of the district provosts [Arbois de Jubainville and Pigeotte (1859-66); Arbois de Jubainville (1859); Bourquelot (1839-40); Benton (1969); Edwards and Ogilvie (2012b)]. In addition, the towns in which the fairs were held operated their own municipal courts, also attracting commercial business from international merchants. Local abbeys also had the right to operate courts at the fairs, and foreign merchants made intensive use of these abbey courts [Bautier (1953); Terrasse (2005)]. The jurisdiction of the various legal tribunals which guaranteed property rights and contract enforcement at the Champagne fairs emanated not from the merchants using the fairs, but from the public authorities, since even the municipal and abbey courts operated under devolved jurisdiction granted by the rulers of Champagne. Furthermore, there is no evidence in any surviving documents relating to the Champagne fairs that any of these tribunals applied a private, merchant-generated law-code [Edwards and Ogilvie (2012b)]. The Champagne fairs therefore provide no support for theories of economic growth arguing that private-order institutions can substitute for missing public-order institutions in enabling markets to function. Markets are necessary for growth, and the Champagne fairs support the view that public-order institutions are necessary for markets.

1.2.2. Community-Based Reprisals

A second set of claims concerning private-order institutions at the Champagne fairs postulated that commercial growth both at these fairs and elsewhere in medieval Europe was underpinned by collective reprisals between corporative communities of businessmen [Greif (2002, 2006b, 2006c)]. In this portrayal, public law-courts did exist in medieval Europe, but could not support economic growth because they were controlled by local interests which refused to protect foreign merchants' property

rights or enforce their contracts impartially. Instead, it is claimed, a private-order institution called the community responsibility system stepped into the breach by providing incentives for local courts to supply impartial justice. According to this account, all long-distance traders were organized into communities or guilds. If a member of one community defaulted on a contract with a member of another, and the defaulter's local court did not provide compensation, the injured party's local court would impose collective reprisals on all members of the defaulter's community, incarcerating them and seizing their property to secure compensation. The defaulter's community could only avoid such sanctions by ceasing to trade with the injured party's community. If this prospect was too costly, the defaulter's community had an incentive to provide impartial justice. It is claimed that this combination of corporative justice and collective reprisals provided the institutional basis for economic growth in the early centuries of the Commercial Revolution, and that the Champagne fairs were a prime example of this private-order institution in operation. This interpretation of medieval history is used to draw wider implications for economic growth, including the claim that state involvement in contract enforcement is not a precondition for impersonal exchange [Greif (2002, pp. 201-2; Greif (2006b, pp. 232-4)].

Two main arguments were advanced in support of the view that private-order institutions effectively substituted for missing public-order institutions in supporting economic growth at the Champagne fairs [Greif (2002, 2006b)]. First, it was claimed that the Champagne fairs did not have a legal system with jurisdiction over visiting merchants. The fair authorities "relinquished legal rights over the merchants once they were there. An individual was subject to the laws of his community – represented by a consul – not the laws of the locality in which a fair was held" [Greif (2006b, p. 227)] The second claim was that enforcement of merchant contracts relied on the exclusion of defaulting debtors and all their compatriots from the fairs. This threat of collective reprisals, it was argued, made merchants' communal courts compel defaulters to fulfil their contracts [Greif (2002, p. 185)].

However, there are also serious difficulties with this second private-order theory. The rulers of Champagne did not relinquish legal rights over visiting merchants and did not ever permit them to be subject solely to the laws of their own communities. For the first 65 years during which the fairs were international trading centres (c. 1180 – 1245), all visiting merchants were subject to the public legal system prevailing at the fairs which consisted of courts operated by the ruler's officials or by municipal governments and abbeys under devolved jurisdiction from the ruler [Bourquelot (1839-40, 1865); Tardif (1855); Arbois de Jubainville (1859); Arbois de Jubainville and Pigeotte (1859-66); Goldschmidt (1891); Davidsohn (1896-1901); Bassermann (1911); Alengry (1915); Chapin (1937); Bautier (1953, 1970); Terrasse (2005); Edwards and Ogilvie (2012b)]. In 1245 the count of Champagne issued a charter exempting a subset of visiting foreign merchants (Roman, Tuscan, Lombard and Provençal traders visiting one of the six annual fairs) from judgement by his officials, but only by bringing them under his direct jurisdiction as ruler [Bourquelot (1865, p. 174)]. The ruler of Champagne neither relinquished legal rights over visiting merchants nor left them to the jurisdiction of their own communities.

The evidence indicates that the role of merchant communities at the Champagne fairs was minimal [Bautier (1953, 1970); Edwards and Ogilvie (2012b)].

No merchants had community consuls (judges) at the fairs for the first 60 years of the fairs' international importance, from c. 1180 to c. 1240. Many important groups of merchants at the fairs never had consuls or communities at all. And even the few groups of merchants that did have community consuls in later phases of the fairs' existence (after c. 1240) could only use them for internal contract enforcement and relied on the public legal system to enforce contracts between merchants of different communities [Edwards and Ogilvie (2012b)]. The Champagne fairs flourished as the most important centre of international trade in Europe for 80 years with no recorded collective reprisals, which were only used, in a limited way, in the final phase of the Champagne fairs' ascendancy, after c. 1260 [Bautier (1953, 1970)].

The evidence casts doubt on the claim that collective reprisals were a private-order substitute for missing public-order institutions to enforce contracts. The reprisal system was fully integrated into the public legal system; the right of reprisal required a series of formal legal steps in public law-courts; and the enforcement of reprisals relied on state coercion [Tai (1996, 2003a, 2003b); Boerner and Ritschl (2002); Ogilvie (2011)]. The few merchant communities at the Champagne fairs played no observable role in implementing reprisals. Rather, reprisals were imposed and enforced by the public authorities, via the public legal system [Edwards and Ogilvie (2012b)]. The economic history of the Champagne fairs does not support the idea that private-order collective reprisals underpinned economic growth in the absence of public-order institutions.

1.2.3. Public-Order Institutions and the Champagne Fairs

On the contrary, the Champagne fairs show that the policies and actions undertaken by the public authorities were crucial for the medieval Commercial Revolution [Ogilvie (2011); Edwards and Ogilvie (2012b)]. Between the mid-eleventh and the late twelfth century, the rulers of Champagne guaranteed the property rights of all merchants at the fairs, regardless of their community affiliation [Bautier (1953, 1970); Bourquelot (1865)]. From as early as 1148, the counts of Champagne undertook deliberate and comprehensive action to ensure property rights and personal security for merchants travelling to and from the fairs, and were unusual among medieval fair-authorities in devoting considerable political and military resources to extending such guarantees beyond their territorial boundaries [Bautier (1953); Laurent (1935)]. The counts of Champagne also ensured that the persons and property of visiting merchants were secure at the fairs themselves, enforcing property rights through their own law-courts, employing their own officials to police the streets, and cooperating with municipal and ecclesiastical officials to guarantee security in the fair towns [Bourquelot (1839-40); Bourquelot (1865); Laurent (1935); Terrasse (2005)].

As already mentioned, the public authorities also provided legal contract enforcement at the fairs. The counts of Champagne operated a multi-tiered system of public law-courts which judged lawsuits and officially witnessed contracts with a view to subsequent enforcement. Cases involving foreign merchants were adjudicated at most levels of this public legal system [Arbois de Jubainville and Pigeotte (1859-66); Arbois de Jubainville (1859); Bourquelot (1839-40); Benton (1969)]. By the 1170s, the counts had supplemented ordinary public legal provision at the fairs by appointing the fair-wardens mentioned earlier, who were public officials [Goldschmidt (1891)]. Public alternatives to the princely court system also existed,

strengthening contract enforcement, since jurisdictional competition created incentives for courts to provide impartial judgments. Three of the Champagne fair towns operated municipal courts which had the right to judge commercial conflicts, derived most of their revenues from doing so, and successfully attracted litigation from international merchants [Bourquelot (1865); Bautier (1953); Arbois de Jubainville (1859); Tardif (1855); Terrasse (2005)]. The church provided an additional set of public law-courts offering contract enforcement to merchants at the fairs, and successfully competed with princely and municipal law-courts in doing so [Bautier (1953)].

The state, in the shape of the counts of Champagne and their administrators, also contributed to the fairs' success institutionally by providing infrastructure and loan guarantees [Bautier (1953); Bourquelot (1865); Edwards and Ogilvie (2012b)]. The counts built fortifications around the fair towns, roads connecting them, canals from the Seine into the fair town of Troyes, and large buildings to expand accommodation for visiting merchants. They granted tax breaks to other organizations, especially ecclesiastical ones, as incentives for them to provide infrastructure for merchants in the form of accommodation, warehousing, and selling space. The counts encouraged investment in fair infrastructure by granting burghers in the fair towns secure private property rights and free rights to transact in real property [Terrasse (2005)]. The counts of Champagne further facilitated the development of the fairs as money markets by guaranteeing loans which merchants made at the fairs to creditors from whom obtaining payment might otherwise be difficult because of high status or privileged legal position – i.e., as rulers they insured lenders against elite confiscation [Bassermann (1911); Schönfelder (1988)].

Finally, the counts of Champagne created a good institutional environment for commercial growth in their territory by what they did *not* do: they refrained from granting legal privileges to local merchants or other elites that discriminated against foreign merchants [Chapin (1937); Edwards and Ogilvie (2012b)]. Initially, this may have been because the four Champagne fair towns were not great centres of international trade before the fairs arose, and thus did not have powerful, institutionally entrenched guilds of indigenous merchants lobbying for privileges. Then the fairs made the counts wealthy, freeing them from the need to sell privileges to the fair towns and their elites in order to finance princely spending. But the counts also resisted the temptation to sell privileges to special interests, even though these would have brought them short-term gains at the expense of long-term growth. Under the counts, therefore, the Champagne fairs offered the combination of a continuous international trading forum with no institutional discrimination for or against any group of merchants, a combination nearly unique in thirteenth-century Europe [Alengry (1915); Chapin (1937)].

The counts of Champagne provide clear evidence of the importance of the political authorities in providing the minimal requirements for market-based economic activity to flourish. They guaranteed personal safety, secure private property rights and contract enforcement, they built infrastructure, they regulated weights and measures, they supported foreign merchant lenders against politically powerful debtors, and they ensured equal treatment of foreign merchants and locals. The distinguishing characteristic of all these institutional rules was that the counts established them not as particularized privileges granted to specific merchant guilds

or communities, but rather as generalized institutional guarantees issued "to all merchants, merchandise, and all manner of persons coming to the fair" [Alengry (1915, p. 38)]. These institutional rules were then maintained and extended by each count in the interests of protecting "his fairs" as a piece of property that delivered a valuable stream of revenues. During this period, from c. 1180 to c. 1300, the Champagne fairs became the fulcrum of European trade, and public-order institutions played a major role in the economic growth that ensued.

But the centrality of public-order institutions to economic growth is a two-edged sword: good public-order institutions can contribute to growth, but bad public-order institutions can harm it. The Champagne fairs provide a clear case of this proposition in action. In 1285 Champagne was annexed by the French crown [Alengry (1915); Bautier (1953)]. The French regime that took over the Champagne fairs gradually ceased to provide the generalized institutional mechanisms that had attracted and sustained international trade since c. 1180 [Laurent (1935); Bautier (1953); Strayer (1980); Boutaric (1867); Schulte (1900); Edwards and Ogilvie (2012b)]. Security of private property rights, contract enforcement, and access to commercial infrastructure were no longer guaranteed as generalized rules applicable to everyone, but rather became particularized privileges offered (and denied) to specific merchant groups in order to serve the short-term interests of French royal policy. The new public authorities in charge of the fairs no longer guaranteed a level playing-field to all merchants – domestic or foreign, allied or non-allied – but rather granted privileges that favoured some groups and discriminated against others [Alengry (1915); Bourquelot (1865); Strayer (1969); Laurent (1935)]. The French crown began to tax and coerce particular groups of merchants to serve its fiscal, military and political ends. By the later 1290s, long-distance trade was deserting Champagne and moving to centres such as Bruges in the southern Netherlands where property rights and contract enforcement were more impartially provided [Schulte (1900); Bautier (1953); Munro (2001); Edwards and Ogilvie (2012b)]. The Champagne fairs succeeded as long as the public authorities provided generalized institutional mechanisms applicable to all traders; they declined when the regime switched to particularized institutional privileges which discriminated in favour of (and against) specific groups of merchants [Munro (1999, 2001); Ogilvie (2011); Edwards and Ogilvie (2012b)]. The Champagne fairs show clearly that by the time of the medieval Commercial Revolution, the policies and actions undertaken by the public authorities were already crucial to economic growth – for good or ill.

What do these findings imply for economic growth more widely? Private-order institutions do not, as is sometimes assumed, have a historical track record of supporting growth by substituting for public-order institutions in guaranteeing property rights or enforcing contracts. This does not exclude a role for private-order institutions in growth, but this role appears to consist in complementing public-order institutions, not substituting for them. For centuries, the public authorities have played a central role in defining the institutional rules of the game for economic activity, for good or ill. There is no historical evidence that private-order institutions have been able to guarantee property rights or enforce contracts independently. This does not mean, however, that public-order institutions always exercise a beneficial impact on economic growth. Public-order institutions that are impartial and generalized are necessary for markets to function. But public-order institutions that are partial and particularized not only fail to support growth but may actively stifle it.

Lesson 2: Strong Parliaments Do Not Guarantee Economic Success

This places the spotlight squarely on public-order institutions. As the Champagne fairs show, the public authorities matter for growth, for good or ill. But what characteristics of public-order institutions are good for growth? An idea that has gained considerable traction in the growth literature is that economic growth requires strong parliamentary institutions representing the interests of wealth holders [North and Weingast (1989); Acemoglu, Johnson and Robinson (2005); Acemoglu and Robinson (2012)]. For modern poor countries, this implies that strengthening parliaments will ensure the institutional basis for economic success. These are attractive arguments, since there are reasons for believing that representative government is a good thing for its own sake. But does economic history support the idea that strong parliaments are invariably beneficial for economic growth?

This idea was first proposed by North and Weingast (1989), who argued that the Glorious Revolution of 1688 strengthened the English parliament in ways that produced institutions favourable to economic growth. The case of England after 1688, they claimed, provided strong historical support for two theoretical arguments concerning why parliaments are good for growth. First, they argued, a parliament possesses an inherently greater diversity of views than a monarchical government, increasing the costs for special-interest groups of engaging in rent-seeking to secure state regulations favourable to their interests but harmful to wider economic growth [for the initial elaboration of this view, see Ekelund and Tollison (1981, p. 149)]. Second, a parliament that represents wealth holders will be one that enforces their interests, which are assumed to include secure private property rights and resistance to rent-seeking by special-interest groups [North and Weingast (1989, p. 804)]. Although North and Weingast did not precisely define "wealth holders", their account of eighteenth-century England portrayed this group as including large landowners, merchants, industrialists, and state creditors [North and Weingast (1989, pp. 810-12, 815, 817-18]. The enhanced influence of these wealth holders via greater parliamentary control over the executive after 1688 is supposed to have caused secure private property rights to emerge for the first time in any society in history and ensured that the economy grew faster and industrialized earlier in England than in comparable western European societies such as France [North and Weingast (1989, pp. 830-1)]. These arguments have influenced the growth literature by apparently providing historical support for the idea that politically inclusive bodies such as parliaments create institutions favourable to growth. In one recent formulation, "the reason that Britain is richer than Egypt is because in 1688, Britain (or England to be exact) had a revolution that transformed the politics and thus the economics of the nation" [Acemoglu and Robinson (2012, p. 4)].

Attractive though these ideas seem, there are both theoretical and empirical problems with them. The theoretical problem is that there is no reason to believe that wealth holders such as large landowners, merchants, or industrialists will necessarily seek policies and institutions that are beneficial for the growth of the whole economy. They may instead seek to establish policies and institutions that benefit themselves, regardless of whether those harm growth. The empirical problem is that historical evidence drawn from a wider sample of economies provides at best mixed support for the idea that control over rulers by parliaments, even when those parliaments

represented wealth holders, ensured creation of favourable property rights, suppressed rent-seeking, or brought about successful economic growth.

2.1. Did Strong Parliaments Always Create Good Institutions for Growth?

There were a number of early modern European economies which, like England, had powerful parliaments that were manned by wealth holders, exercised considerable control over the executive, and strongly influenced economic policy, but created institutions and policies that did not favour economic growth.

One example is Poland, a territory well known for the strength of its parliament (the *Sejm*), which was so strong that no ruler of Poland was able to promulgate any legislation or implement any policy without parliamentary consent [Czapliński (1985); Mączak (1997); Czaja (2009)]. The Polish parliament represented wealth holders, who were made up of the large noble landowners, a group also strongly represented in the English parliament. But the wealth holders represented in the Polish parliament did not manifest a natural diversity of views [Maczak (1997); McLean (2004)]. Rather, they manifested a very homogeneous view, namely that the power of the state should be deployed wherever possible to enforce their own legal privileges over factor and product markets under the second serfdom [Kaminski (1975); Kula (1976); Maczak (1997); Frost (2006)]. This gave rise to economic policies that were harmful for economic growth, in two ways. First, the Polish parliament prevented the implementation of many economic policies that were feasible in an early modern European economy and that would have created good incentives for economic agents in the country at large to allocate resources efficiently and undertake productive investments [Topolski (1974); Kula (1976); Guzowski (2014)]. Second, the Polish parliament successfully promoted economic policies that benefited particular groups in society, specifically the large noble landowners (*szlachta*) who were disproportionately represented in parliament [Kaminski (1975); Kula (1976); Maczak (1997); Frost (2006)].

From the sixteenth through to the nineteenth century, Poland was subject to the second serfdom. As we shall see in greater detail in Lesson 8, serfdom was an institutional system that endowed landlords with coercive legal privileges over the economic choices of the vast mass of the rural population and over the operation of factor and product markets in agriculture [Topolski (1974); Kaminski (1975); Kula (1976)]. Agriculture was the largest sector in all pre-industrial economies, and serfdom constrained agricultural growth. One result of the second serfdom was that per capita GDP was much lower, and grew much more slowly, in eastern than in western Europe between c. 1000 and the abolition of serfdom in the later eighteenth or the early nineteenth century [Brenner (1976); Ogilvie (2014)]. The intensity of the second serfdom and its deleterious effects on economic growth varied considerably across eastern-central and eastern Europe, and the balance of power between rulers and parliamentary bodies played a major role in this variation [Brenner (1976); Harnisch (1986, 1994); Cerman (2012); Ogilvie (2014)]. The second serfdom was typically less restrictive in those societies in which the ruler had more power relative to the parliament, since this enabled the ruler to resist extremes of rent-seeking by the noble landowners who were primarily represented in parliaments in those countries [Ogilvie (2014); Harnisch (1986, 1989b)]. Those eastern European societies, such as Poland or Mecklenburg, which had very strong parliamentary organs representing the

interests of wealth holders, were also those in which the second serfdom was most oppressive and economic growth most stifled, although the existence and direction of a causal connection between strong parliaments and strong second serfdom has not been definitively established [Harnisch (1986, 1989b); Maczak (1997); Cerman (2008, 2012); Ogilvie (2014)].

The lesson for economic growth is clear. In societies in which the wider institutional system endowed wealth holders with coercive privileges giving them large economic rents, these wealth holders used those rents to obtain representation in parliament. They then used their control over parliament to intensify their own privileges in such a way as to redistribute more wealth towards themselves, even at the expense of the rest of the economy. Under such circumstances, parliamentary control over the executive choked off growth rather than encouraging it.

It might be argued that the problem with the early modern Polish parliament was that the wealth holders it represented were landowners alone, rather than also including the merchants and industrialists emphasized by North and Weingast, and hence that Poland is not a fair test of their theory. But a second example of a European polity with strong parliamentary control over the executive, the German state of Württemberg, is not subject to this objection. Württemberg was a highly democratic German state with strong parliamentary influence over the sovereign from the late fifteenth century through to the nineteenth century [Grube (1954, 1957, 1974); Carsten (1959); Vann (1984); Ogilvie (1999)]. So widely recognized was the influence of the Württemberg parliament over the crown and the executive arm of government that Charles James Fox famously remarked that there were only two constitutions in Europe, that of Britain and that of Württemberg [Anon. (1818, p. 340)]. Württemberg also lacked an indigenous landholding nobility, so its parliament was manned almost completely by bourgeois representatives, consisting of substantial businessmen – those active in commerce and industry – selected by the communities of the c. 60 administrative districts from among their own citizenry [Vann (1984); Ogilvie (1997, 1999)]. Thus Württemberg was a polity with a strong parliament representing bourgeois wealth holders drawn primarily from industrial and commercial occupations, and these parliamentary representatives exercised unusually strong influence over state economic policies [Vann (1984)]. But the policies favoured by the Württemberg parliament consisted of granting legal monopolies and other exclusive privileges to special-interest groups such as craft guilds, retailers' guilds, and cartellistic companies of merchants and industrial producers [Troeltsch (1897); Gysin (1989); Flik (1990); Dormois (1994); Medick (1996); Ogilvie (1997, 1999, 2004a)]. So ubiquitous were such privileges, even in the most highly commercialized sectors of the economy, that the Göttingen professor Christoph Meiners (1794, p. 292) described how in Württemberg external trade "is constantly made more difficult by the form which it has taken for a long time. The greatest share of trade and manufactures are in the hands of closed and for the most part privileged companies". The entrenched institutional privileges of these traditional interest-groups represented in a strong parliament contributed to the stagnation of the Württemberg economy throughout the entire early modern period and its late industrialization compared even to other German territories [Boelcke (1973, 1984); Schomerus (1977); Gysin (1989); Hippel (1992); Twarog (1997); Fliegauf (2007); Burkhardt (2012); Kollmer-von Oheimb-Loup (2012)].

Again, the lesson for economic growth is clear. The underlying institutions of a society influence whether a strong parliament will foster or stifle growth, since it is they that influence the mechanisms both for becoming wealthy and for getting into parliament, as well as the policies deemed desirable by parliamentary representatives. Strong control over the executive by a parliament manned by wealth holders, even ones recruited from industry and commerce, will only encourage growth if the wealth holders in question regard it as in their interest to promote generalized institutional arrangements that benefit the growth of the entire economy rather than particularized institutions that redistribute wealth to themselves. The historical evidence shows there is no guarantee that they will do so.

More autocratic German states provide a striking contrast to parliamentary Württemberg and cast further doubt on the general validity of the idea that influence over the executive by strong parliaments manned by business interests will inevitably give rise to economic policies that encourage growth. In German states such as Prussia, the sovereign was much stronger relative to the parliament than in Württemberg [Carsten (1950, 1959); Feuchtwanger (1970); Koch (1990); Clark (2006); Wheeler (2011)]. As a result, by the early nineteenth century the executive arm of government in Prussia became strong enough to withstand much more of the rent-seeking pressure exerted by parliaments manned by representatives of wealth holders. Instead, the Prussian rulers were able to ram through institutional reforms which weakened the privileges of guilds, municipal corporations, and village communities [Rosenberg (1958); Tipton (1976); Brophy (1995); Wheeler (2011)]. Prussia abolished its guilds after c. 1808, while Württemberg retained them until 1864. The Prussian state even became strong enough after c. 1808 to abolish serfdom and gradually to restrict many other market-distorting institutional privileges enjoyed by both noble landlords and peasant communes [Schmoller (1888); Henderson (1961a, 1961b, 1961c); Tipton (1976); Sperber (1985)]. These state infringements on traditional institutional privileges were not possible in more democratic German territories such as Württemberg, where although serfdom never existed in the east-Elbian form, the powers of communities over agriculture, guilds over industry, and cartellistic merchant companies over commerce were maintained, with parliamentary support, to a much later date [Tipton (1976); Schomerus (1977); Medick (1996); Ogilvie (1992, 1999)]. The economic policies pushed through forcibly against parliamentary protest by the autocratic Prussian state abolished the regime of privileges and rents for special-interest groups, creating better (if not perfect) incentives for the economy at large [Tipton (1976); Hohorst (1977)]. The level of economic development as measured by the best available proxy – the urbanization rate – was much higher in Prussia than in Württemberg over the entire period from 1750 to 1900, and the rate of economic growth was faster in Prussia [Edwards and Ogilvie (2013)].

The Dutch Republic provides a final example of a European society in which a strong parliament manned by wealth holders failed to create the institutional basis for sustained economic growth. From its foundation in 1581 to its dissolution in 1795, the United Provinces of the Netherlands was a republic governed by the States-General, a parliamentary government manned by representatives from each of the seven provinces; each province in turn was governed by the Provincial States, a provincial parliament [Blockmans (1988); Israel (1989); Koenigsberger (2001)]. The Dutch Republic thus lacked a sovereign altogether and enjoyed parliamentary control over the executive at

both the central and the provincial level. So democratic was its government that it strongly influenced the framing of the US Constitution in 1776 [Pocock (2010)]. Dutch parliamentary institutions were manned not just by relatively small-scale businessmen such as those in Württemberg, but by large-scale long-distance traders and industrialists. For the first century of its existence, the Dutch Republic was the miracle economy of early modern Europe, with high agricultural productivity, innovative industries at the forefront of technology, highly competitive global merchants, sophisticated financial markets, high living-standards, and rapid economic growth [De Vries (1974); Israel (1989); Bieleman (1993, 2006, 2010); De Vries and Van der Woude (1997)]. But after c. 1670, although the Dutch Republic retained its strong parliamentary institutions, its economy stagnated [De Vries and Van der Woude (1997); Van Zanden and Van Riel (2004)].[1] This stagnation was caused at least partly by the power of entrenched business elites, whose parliamentary representation was one factor that enabled them to implement institutional arrangements that secured rents for themselves at the expense of the wider economy [Mokyr (1974, 1980); Buyst and Mokyr (1990); De Vries and Van der Woude (1997); Van Zanden and Van Riel (2004)]. Occupation by French Revolutionary armies enforced institutional reform in the Netherlands after c. 1795, which returned the economy to gradual economic growth, but even then the economy did not industrialize until the later nineteenth century, very tardily by European standards [Mokyr (1974, 1976, 1980); Buyst and Mokyr (1990); De Vries and Van der Woude (1997); Van Zanden and Van Riel (2004); Van den Heuvel and Ogilvie (2013)]. The Dutch Republic thus had all the ingredients emphasized by North and Weingast (1989): executive controlled by strong parliament, parliament manned by wealth holders, wealth holders recruited from big business. But this did not prevent institutional petrefaction and stagnant economic growth after c. 1670.

The forces preventing strong representative institutions manned by wealth holders from giving rise to beneficial economic policies can be seen at work even in eighteenth-century England. North and Weingast (1989, p. 817) ask what prevented the English parliament from acting as abusively as the crown in passing bad economic regulations that benefited rent-seeking groups. Their answer is "the natural diversity of views in a legislature". Yet the example of other early modern European polities shows that legislatures do not always have a natural diversity of views. And the example of England itself shows that even an English style of parliament does not always pass beneficial economic policies.

Eighteenth-century British policies enforcing the ownership of and trade in slaves are one example of economic policies maintained by a parliament in order to sustain the property rights of the wealth holders whose interests it represented. This was recognized by Adam Smith, who argued (1776, Bk IV, Ch. 7) that although slavery is both economically inefficient and morally repugnant, it is more difficult to restrict under a parliamentary form of government because slave-owners are represented in the parliamentary assembly and put pressure on magistrates to protect their property rights

[1] Van Zanden and Van Leeuwen (2012) present new macroeconomic estimates suggesting that the province of Holland experienced economic stagnation rather than actual decline between c. 1670 and c. 1800, but their figures refer solely to Holland, by far the most economically successful province of the Netherlands. Even for Holland, they find that industry had a near-zero growth rate between 1665 and 1800 and trade contracted at a rate of 0.13% p.a. between 1720 and 1800 (Tab. 4).

over their slaves.[2] Slavery, indeed, is an example of how there are types of security of private property rights which can be bad for economic growth, an argument we explore more fully in Lesson 5.

English parliamentary support for the mercantilistic regulations and military activities that defended the English colonies is another example. As early as 1817, the economist Jean-Baptiste Say argued that the costs of maintaining overseas colonies far outweighed the benefits. Colonialism, he argued, was sustained by means of a subsidy, mandated by the government and supported by parliament, which transferred resources from home consumers to the planter and merchant classes.[3] Some modern economic historians have also argued that the colonies cost the British economy more than they benefited it [e.g., Thomas and McCloskey (1981)], although this is contested by others who claim that colonial trade ensured the gainful use of underemployed resources [e.g., O'Brien and Engerman (1991)]. O'Rourke, Prados de la Escosura and Daudin (2010) come to the conclusion that the rapid growth of world trade when mercantilist restrictions were removed in the nineteenth century demonstrates that in the eighteenth century "a regime of multilateral free trade would have been preferable to mercantilism", although they acknowledge that in a world in which other European powers were also behaving in a mercantilistic way, it may have been essential for each individual country to participate in (and win) mercantilistic conflicts. As this debate illustrates, however, eighteenth-century English parliamentary support for mercantilism and colonialism was a policy whose effects on the growth of the wider economy were ambiguous, while its benefits in creating rents for plantation-owners and merchants were indisputable.

Another example of an economic policy supported by the English parliament, even though it harmed the economy at large, is provided by the Corn Laws. These were a set of trade laws introduced in 1815 which imposed heavy duties on imported grain [Gash (1961, 1972); Prest (1977); Hilton (1977, 2006); Ward (2004); Schonhardt-Bailey (2006)]. If it had been possible to import cheap grain, agricultural labourers,

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[2] Smith (1776), Book IV, Chapter 7 ("Of Colonies"), paras. 76-77: "The law, so far as it gives some weak protection to the slave against the violence of his master, is likely to be better executed in a colony where the government is in a great measure arbitrary than in one where it is altogether free. In every country where the unfortunate law of slavery is established, the magistrate, when he protects the slave, intermeddles in some measure in the management of the private property of the master; and, in a free country, where the master is perhaps either a member of the colony assembly, or an elector of such a member, he dare not do this but with the greatest caution and circumspection. The respect which he is obliged to pay to the master renders it more difficult for him to protect the slave. ... That the condition of a slave is better under an arbitrary than under a free government is, I believe, supported by the history of all ages and nations."

[3] Say (1817), Bk.I, Ch.XIX, para. 25: "All these losses fall chiefly upon the class of home-consumers, a class of all others the most important in point of number, and deserving of attention on account of the wide diffusion of the evils of any vicious system affecting it, as well as the functions it performs in every part of the social machine, and the taxes it contributes to the public purse, wherein consists the power of the government. They may be divided into two parts; whereof the one is absorbed in the superfluous charges of raising the colonial produce, which might be got cheaper elsewhere; *17 this is a dead loss to the consumer, without gain to any body. The other part, which is also paid by the consumer, goes to make the fortunes of West-Indian planters and merchants. The wealth thus acquired is the produce of a real tax upon the people, although, being centred in few hands, it is apt to dazzle the eyes, and be mistaken for wealth of colonial and commercial acquisition. And it is for the protection of this imaginary advantage, that almost all the wars of the eighteenth century have been undertaken, and that the European states have thought themselves obliged to keep up, at a vast expense, civil and judicial, as well as marine and military, establishments, at the opposite extremities of the globe."

industrial workers, and manufacturers would have benefited, but landowners, whose interests were strongly represented in the British parliament, would have suffered [Fairlie (1965, 1969); Vamplew (1980)]. The Corn Laws, which increased the profits of landed wealth holders whose interests were represented in Parliament, were only abolished in 1846 under the extraordinary external pressure of harvest failure and famine in Ireland [Gash (1961); Hilton (1977, 2006)]. Even then, the abolition of the Corn Laws was widely opposed in Parliament on the grounds that repeal would weaken landed wealth holders and empower commercial interests [McCord (1958); Hilton (1977, 2006)]. Abolition required a heroic act of statesmanship by an individual political leader, Robert Peel, which ended his own political career and split his party for a generation [Gash (1961, 1972)], although it had the beneficial effect of reducing grain prices in Britain, increasing market integration across Europe, and favouring economic growth [Semmel (1970); Peet (1972); Williamson (1990); Ward (2004); Sharp and Weisdorf (2013)]. The representation of wealth holders in the English parliament, therefore, did not inevitably result in the passage of economic policies that benefited the growth of the entire economy rather than enhancing the profits of powerful special-interest groups.

It may be true that the English state did not implement as many harmful economic policies favouring special-interest groups as did many continental European states. But this was already the case before 1688 [see, e.g., Archer (1988); Ogilvie (1999); Brewer (1989)], and was not necessarily because of the strength of the English parliament. An alternative explanation for the relative paucity of growth-stifling economic policies in early modern England is not so much parliamentary limits on the crown, but rather the absence of a paid local bureaucracy, which made it very difficult to enforce harmful economic policies even when they *were* promulgated by Parliament or executed by the Crown [Brewer (1989)]. Most continental European economies experienced an earlier and more extensive growth of state regulation in the hothouse of early modern land-based warfare [Ogilvie (1992)]. In these societies, the state appointed paid local personnel, enabling it to grant monopolies and other economic privileges to rent-seeking groups and to offer effective enforcement of these growth-stifling policies [Brewer and Hellmuth (1999); Ogilvie (1992, 1999)]. In England, by contrast, insofar as the Stuart monarchs had managed to put in place the innovation of a centralized administrative apparatus in the early decades of the seventeenth century, it was destroyed in the 1640s during the Civil War [North and Weingast (1989, p. 818)]. Britain did not create a paid local bureaucracy in the eighteenth century and effective bureaucratic enforcement of regulations in the domestic economy did not begin until after c. 1800 [Brewer (1989)].

These historical findings do not imply that it is unimportant what economic policies a country's parliament is willing to support. Nor do they imply that it is undesirable for a parliament to represent a diversity of views, among which should be those of businessmen and property owners. But the sheer presence of a parliament that represents wealth holders and can influence the executive does not guarantee that a diversity of views will be represented or that growth-favouring economic policies will be implemented. A number of pre-modern European economies had strong parliaments that influenced the executive and were manned by wealth holders, including representatives recruited from commerce and industry. Yet these strong parliaments did not always represent a diversity of views or ensure good economic policies. On the contrary, if the wealth holders that were represented in parliament

were themselves agreed that good economic policies were ones that were beneficial to themselves, parliamentary strength could entrench policies that were obstacles to wider economic growth. This is reflected in the fact that a number of European economies with strong parliaments manned by wealth holders remained extremely poor (Poland), experienced long-term stagnation (Württemberg), or moved from growth to stagnation (the Dutch Republic). This was the case whether that economy was located in eastern Europe under the second serfdom, in central Europe with strong corporative institutions, or in the comparatively commercialized northwest corner of the continent. The reason was that wealth holders, even ones recruited from big business, did not always know (or care) what economic policies would be best for generalized economic growth rather than their own particularized profits. As a consequence, parliaments manned by business representatives were capable of supporting policies that generated rents for special-interest groups rather ones that created good incentives for the whole economy. North and Weingast (1989, p. 804) address this crucial issue for England by stating that “the institutional structure that evolved after 1688 did not provide incentives for Parliament to replace the Crown and itself engage in similar ‘irresponsible’ behavior”. But this assertion does not explain what it was about the post-1688 institutional structure in England that prevented this from happening. The historical evidence shows that what matters for growth is not whether a country had a strong parliament (or a weak executive), but what that parliament (or executive) did. Even more important for growth was the underlying institutional framework of the society, which determined how people came to become wealth holders and hence which policies they sought through political action.

2.2. Was There a Discontinuity in Institutions and Growth in England after 1688?

A second test of the claim that an increase in parliamentary power in England after 1688 unleashed economic growth is provided by England alone. A more circumscribed version of the theory, after all, might argue that *something* about the style of parliament that emerged in England after 1688 was crucial for growth, even if all the other types of parliament observed in European history were not. Even for England, however, the empirical findings do not support the idea that the Glorious Revolution of 1688 marked an institutional or economic discontinuity.

Extensive parliamentary control over the crown prevailed in England long before 1688 [Goldsworthy (1999)]. Since the medieval period, English monarchs had been obliged to get parliamentary consent before levying taxes [Harriss (1975); Hartley (1992); Hoyle (1994)]. Between 1603 and c. 1642, the early Stuart monarchs (James I and Charles I) sought to restrict this longstanding parliamentary power, and this was one of the major issues underlying the English Civil War [Lambert (1990); Braddick (1994)]. This Civil War, which ended in 1651, established the precedent that the monarch could not govern without the consent of Parliament [Braddick (1994)]. The monarchy was restored in 1660, and both Charles II (r. 1660-1685) and James II (r. 1685-1688) attempted to use royal prerogative to pass legislation without parliamentary consent. The Bill of Rights of 1689 explicitly declared passing a bill using royal prerogative to be illegal; but this was simply a reassertion of the English parliament’s centuries-old right to veto legislation, although it did extend parliamentary authority to monitor crown spending [Goldsworthy (1999); Harris (2004)]. Although, therefore, the events of 1688 indubitably contributed to enhancing parliamentary authority over the executive, this was in large part a restatement of

parliamentary controls over rulers which dated back to at least 1651, which in turn had been a reassertion of the longstanding parliamentary powers that had existed in England between the medieval period and the accession of the Stuarts in 1603 [Harrison (1990); Goldsworthy (1999)]. Only a very few of the parliamentary powers asserted in 1689 were new; most had existed for a long time; and thus the 1689 Bill of Rights must be seen as an incremental component of a longstanding evolutionary development rather than any sort of revolution in the relationship between Parliament and the executive. This casts doubt on the view that the Glorious Revolution of 1688 made a major contribution to early-eighteenth-century economic growth, let alone to the Industrial Revolution, which only began after c. 1760 and involved relatively slow economic growth until c. 1820 [Crafts (1987); Mokyr (1987); Williamson (1987); Broadberry, Campbell and Van Leeuwen (2013)]

Nor did the Glorious Revolution of 1688 mark any *economic* discontinuity. If the style of parliament that emerged in England after 1688 (whatever its features) was crucial for growth, then one should observe a discontinuity in economic growth rates in England before and after 1688. But none of the estimates for the growth rate of the English economy between 1500 and 1820 show any discontinuity around 1688. Maddison (http://www.ggdc.net/MADDISON/ oriindex.htm) shows an almost stable growth rate between 1500 and 1820: if anything, growth was slightly faster during the sixteenth century than it was during the seventeenth or eighteenth centuries; his series shows no discontinuity around 1688. Van Zanden (2001) finds rapid growth in England in the second half of the seventeenth century, but slower growth in the 1700-1820 period; his series also shows no discontinuity around 1700. Broadberry, Campbell, Klein, Overton and Van Leeuwen (2011, esp. Table 10) find high per capita GDP growth from the 1650s to the 1690s (0.69 per cent p.a.) but much lower growth from the 1690s to the 1760s (0.27 per cent p.a.). Murrell (2009) examines more than fifty separate data series spanning the period 1688-1701 and estimates the dates of structural breaks: he finds that the entire second half of the seventeenth century was a period of economic change in England, but that there was no structural break in the years following 1688. Clark (2010) proposes a different data series, which shows real GDP per capita in England hardly changing at all in the seventeenth century, before increasing modestly in the eighteenth century and growing strongly in the period 1800-1820. Clark's estimates have been questioned on several grounds, as Broadberry, Campbell, Klein, Overton and Van Leeuwen (2011) point out, so it does not seem unreasonable to place most weight on the three broadly similar estimates of Maddison, Van Zanden, and Broadberry, Campbell, Klein, Overton and Van Leeuwen. If one does so, evidence that there was a noticeable increase in growth after 1688 is conspicuous only by its absence.

Even for England, therefore, it is not possible to assign an important role to increased parliamentary power after 1688 in any explanation of economic growth or industrialization. There was no discontinuity in the growth of the English economy around 1688. This is not to deny that there may have been institutional causes of the good performance of the English economy in the early modern period. But these must have been institutional arrangements that were already causing the English economy to function well by 1500. Insofar as long-term growth had institutional sources, these resided not in sudden discontinuities but rather in the gradual development of institutional arrangements over the longer term.

What do these historical findings imply for economic growth more widely? Public-order institutions are important for markets to function, but parliaments representing business interests are not their distinguishing feature. Some economies with strong parliaments experience successful historical growth, but others stagnate or even decline, and do so partly because of institutions and policies implemented by their strong parliaments to redistribute resources towards the interests they represent. Other economies with spectacularly weak parliaments achieve successful economic growth over long historical time-spans, partly because of the weakness of those parliaments and their resulting inability to defend entrenched business interests against disruptive innovations. Historical evidence suggests the need to analyze the underlying institutions of each society which influence how wealth holders become wealthy, how they obtain parliamentary representation, and how parliamentary policy concretely affects the economic framework that fosters or stifles growth.

Lesson 3: The Key Distinction Is Between Generalized and Particularized Institutions

Where does that leave us? Lesson 1 taught us that public-order institutions are indispensable for markets. But what exactly about public-order institutions determines growth? In Lesson 2 we reviewed one of the popular answers – parliaments are what makes the difference – and rejected it. So the question remains: what features of public-order institutions influence growth? Economic history does suggest an answer to this question, but it requires that we look at institutions in a somewhat different way than is customary. Rather than looking at the high-profile aspects of government examined by political scientists and political historians, such as parliaments, rulers, power struggles, or revolutions, we focus on how institutions apply to the populations subject to them, and whether that application is uniform or varies systematically by group. When viewed in that perspective, it turns out that generalized institutions – those of more uniform application, i.e. more closely resembling a level playing field among the members of a society – are conducive to growth. Particularized institutions, on the other hand – those whose application varies sharply by group membership, and tilt the playing field in favour of some groups – hinder growth.

The literature has proposed various ways of classifying institutions according to their effects on growth. Some influential recent classification systems have made significant advances by recognizing the importance of political institutions for economic growth and incorporating historical evidence. Thus North, Wallis and Weingast (2006, 2009) distinguish open-access social orders, which have benefited growth, and limited-access ones, which have harmed it. Along similar lines, Acemoglu and Robinson (2012) distinguish between inclusive and extractive institutions, where the inclusive systems encourage economic participation by large proportions of people, encourage people to make best use of their skills and choose their own jobs, allow people to make free choices, ensure secure private property, provide unbiased legal judgements, maintain impartial public contracting institutions, and permit entry of new businesses [Acemoglu and Robinson (2012, pp. 74-75)]. The existence of inclusive economic institutions, in turn, depends on inclusive political institutions, which are defined more generally as those that are "sufficiently centralized and pluralistic", where centralization means that the state has a monopoly on legal violence and pluralism means that power is broadly distributed in society [Acemoglu and Robinson (2012, p. 81)]. Extractive institutions, whether economic or political, are defined as being those that are not inclusive.

These proposed distinctions are useful: they focus on the historical influence of institutions on long-term growth, and they incorporate political and distributional aspects of such institutions. Their usefulness is limited, however, by their vagueness. Both distinctions are extremely broad and leave unclear exactly which aspects of a society's institutional system are critical from the authors' points of view. We believe that the historical research available to date permits the more precise distinction between what we call *generalized* and *particularized* institutions.

Generalized institutions are ones whose rules apply uniformly to everyone in a society, regardless of their identity or their membership in particular groups, e.g. a state in which a rule of law is established to some degree, or a competitive market with free entry [Ogilvie (2005d, 2011); Puttevils (2009); Hillmann (2013)]. The institutional rules of such states and markets apply to any economic agent impartially, without regard to any personal characteristic appertaining to the individual or the group he or she belongs to, rather than the transaction in question [Ogilvie (2005d, 2011)]. The rules of particularized institutions, in contrast, apply differentially to different subsets of agents in the economy [Ogilvie (2005d, 2011); Puttevils (2009); Hillmann (2013)]. Typically, these subsets consist of persons defined according to characteristics that have little or no *prima facie* bearing on the transaction classes in question. These characteristics may be anything, but in practice often include gender, religion, race, parentage, social stratum, group membership, or possession of specific socio-political privileges explicitly entitling their holders to distort markets in their own interest. Particularized institutions include those that favour particular castes, communities, or guilds, as well as systems of serfdom and slavery. Thus, for instance, the rules and entitlements of a medieval guild applied only to its own members, based on their possession of the specific legal privilege of membership, which in turn depended on non-economic criteria such as gender, parentage, religion, and other personal characteristics; non-members of the guild were treated completely differently [Ogilvie (2005d, 2011)]. Likewise, as we shall see in Lesson 8, the rules and entitlements of serfdom applied differentially to serf overlords (who were endowed with privileged rights of property and transaction in land, labour, capital, and output), compared to serfs (whose property rights and transactions were institutionally limited). The rules of a guild or the rules of serfdom might guarantee your property rights or enforce your contracts, but only because of your particular identity, rights and entitlements as a member of a particular subset of economic agents, defined according to transaction-unrelated criteria such as guild membership or serf status [Ogilvie (2005d, 2011)].

In real life there are, of course, no perfectly generalized institutions; even the historical states that best approximated a rule of law often permitted obvious lapses and inconsistencies. It is best to think of the distinction between generalized and particularized institutions as a continuum along which historical institutions are distributed. In addition, the mixture of generalized and particularized institutions is different in each society: this will be discussed in more detail when we consider comprehensive institutional systems in Lesson 7. Generalized and particularized institutions co-exist in all economies, in other words, but historically, those societies in which generalized institutions gradually came to predominate were those where sustained economic growth became possible.

The distinction between the two emerges as central in a number of historical examples of institutional frameworks that fostered – or stifled – long-term growth. To illuminate the precise institutional features and causal mechanisms involved, this section will analyze in detail one historical example widely referred to by economists, that of the institutional framework that fostered growth in long-distance commerce between the medieval period and the industrial revolution. Later sections of this paper then develop the usefulness of this classification system in the context of property rights (Lesson 5) and serfdom (Lesson 8).

Let us begin, however, by exploring the distinction between generalized and particularized institutions in the growth of international trade. Between c. 1000 and c. 1800, there was a substantial and sustained growth of long-distance trade, first between Europe and its near abroad and after c. 1500 between Europe and other continents. A widely held view in the recent economics literature is that this Commercial Revolution was facilitated by particularized institutions called merchant guilds, corporative associations of wholesale traders [Greif, Milgrom and Weingast (1994); Greif (2006c); Ostrom (1998); Maggi (1999); Taylor (2002); Anderson (2008); Dixit (2009)]. Merchant guilds had existed since Greek and Roman antiquity, but became a salient institution in much of Europe between c. 1000 and c. 1500 [Ogilvie (2011)]. Although they declined in some societies, particularly the Netherlands and England, from the sixteenth century on, they survived in many parts of southern, central, Scandinavian, and eastern Europe into the eighteenth or early nineteenth centuries. New merchant guilds (and privileged merchant companies that often resembled guilds) formed in emerging sectors such as proto-industrial exporting and the intercontinental trade until around 1800. Merchant guilds also spread to European colonies, especially to Spanish America, where they were only abolished with independence in the nineteenth century [Woodward (2005, 2007)].

These particularized institutions thus indisputably *accompanied* the growth of trade in medieval and early modern Europe. But it has recently been urged that they *facilitated* it, by guaranteeing property rights and contract enforcement for long-distance merchants [Greif, Milgrom, and Weingast (1994); Greif (2006c); Gelderblom and Grafe (2004); Ewert and Selzer (2009, 2010); Volckart and Mangels (1999)]. Unconvinced, other scholars remark that merchant guilds and associations had been formed by rent-seeking traders for millennia to tilt the playing field in their favour, and that it was, rather, the gradual emergence of more generalized institutional mechanisms that facilitated the growth of trade during the medieval and early modern Commercial Revolution [Boldorf (1999, 2006, 2009); Dessi and Ogilvie (2003, 2004); Lindberg (2008, 2009, 2010); Ogilvie (2011)].

Private property rights are the first sphere in which the distinction between particularized and generalized institutions proves to be central in understanding the basis for commercial growth. In an influential article, Greif, Milgrom and Weingast (1994) proposed a theoretical model according to which, if merchants belonged to a merchant guild that could make credible collective threats against rulers, this guild could pressure rulers into committing themselves to refrain from attacking the property of guild members and to provide these guilded merchants with adequate levels of security against outside aggressors. This article went on to argue that this was actually why the merchant guild arose and existed in medieval Europe: it was an

efficient solution to the problem of guaranteeing security of private property rights for long-distance merchants.

Closer empirical scrutiny, however, casts doubt on the idea that these particularized institutions played a positive role in guaranteeing private property rights during the Commercial Revolution. The enhancements to commercial property rights that merchant guilds might have generated in theory turn out to have been minor in practice; insofar as they existed, they accrued only to guild members, not the economy, or even a local economy, as a whole [Dessi and Ogilvie (2003, 2004); Ogilvie (2011, ch. 6); Lambert and Stabel (2005); Henn (1999); Briys and De ter Beerst (2006); Blondé, Gelderblom and Stabel (2007); Harreld (2004a, 2004b)]. Furthermore, merchant guilds also engaged in activities which *reduced* the security of commercial property rights for others, by attacking the trade of rival merchants or lobbying their own governments to do so in order to defend their cartellistic privileges over particular wares, transaction types, and trade routes. These attacks created insecurity of private property rights which not only damaged competitors but spilled over (harmfully) to uninvolved third parties [Barbour (1911); Katele (1986); Pérotin-Dumon (1991); Tai (1996, 2003a, 2003b); Reyerson (2003); Ogilvie (2011)].

Historical research shows that it was generalized institutions that improved the security of private property rights during the Commercial Revolution [Lindberg (2008, 2009, 2010); Ogilvie (2011, ch. 6)]. Princely states and urban governments provided generalized security to all merchants in those times and places at which long-distance trade expanded, as at the Champagne fairs (discussed in Lesson 1). Urban governments and rulers also organized infrastructure such as convoys, fortifications, military defence, and law and order, in order to attract merchants, including those who were not members of guilds [Byrne (1916); Williams (1931); Laurent (1935); Bautier (1953); Lane (1963); Lopez (1987); Doumerc (1987); Nelson (1996); Tai (1996); Dotson (1999); Stabel (1999); Laiou (2001); Middleton (2005); Ogilvie (2011); Edwards and Ogilvie (2012b)]. Different European societies differed in the precise balance between particularized guarantees of property rights to privileged merchant guilds in return for favours, and generalized guarantees of property rights to all traders in the expectation of being able to tax an expanding trade. But those European polities which followed a more generalized path were those to which long-distance merchants migrated and in which they most vigorously generated gains from trade – Champagne under the counts in the thirteenth century, Bruges in the fourteenth, Antwerp in the fifteenth, Amsterdam in the sixteenth and early seventeenth, London in the seventeenth and eighteenth [Ogilvie (2011); Gelderblom (2005a, 2013)]. Long-distance trade expanded more successfully in those periods and locations in which the public authorities guaranteed property rights in a generalized way to all economic agents rather than in a particularized way to members of privileged guilds.

The distinction between particularized and generalized institutions also emerges as central to commercial growth in the evolution of contract enforcement. It has recently been maintained that merchant guilds were also an efficient solution to problems of consistent contract enforcement in international trade. Guild jurisdictions, it is claimed, offered better contract enforcement to merchants than public courts because they had greater commercial expertise, superior information, shared business values, and a special form of law [Milgrom, North and Weingast (1990); North

(1991); Benson (1989)]. In one variant, merchant guilds are thought to have solved contract enforcement problems by using internal social capital to put pressure on members not to break contracts: if one guild member reneged on a business agreement, information would pass rapidly through the guild and other members would impose social sanctions on him for harming their collective reputation [North (1991); Benson (1998, 2002); Grafe and Gelderblom (2010); Ewert and Selzer (2009, 2010); Selzer and Ewert (2005, 2010)]. In another variant of this claim, merchant guilds are held to have offered an efficient solution to contract enforcement via the kind of reprisals system discussed in Lesson 1: if a member of one guild defaulted on a contract with a member of another, the injured party's guild would impose collective reprisals on all members of the defaulter's guild, giving the latter an incentive to use internal peer pressure or guild courts to penalize the defaulter [Greif (1997, 2002, 2004, 2006b, 2006c); Boerner and Ritschl (2005)].

Closer empirical scrutiny, however, casts doubt on all variants of the idea that particularized provision of contract-enforcement via merchant guilds played an important role in contract enforcement during the growth of long-distance trade. Guild jurisdictions were not universal, those that existed operated under devolved authority from the public legal system, guild tribunals were not capable of resolving complicated business conflicts, many guilded merchants preferred public jurisdictions, and there is no evidence that guild courts applied an autonomous merchant law [Woodward (2005, 2007); Gelderblom (2005b); Sachs (2006); Ogilvie (2011); Harreld (2004a, 2004b); Jacoby (2003); Paravicini (1992); Lambert and Stabel (2005); Baker (1979, 1986); Edwards and Ogilvie (2012b); Kadens (2012)]. Peer pressure left even less empirical trace, with almost no evidence that merchant guilds used it to enforce commercial contracts and several striking cases in which even the most powerful merchant guilds failed to sanction members for defaulting on contracts and had to petition the public authorities for enforcement [Ogilvie (2011); Sachs (2006); Gelderblom (2005b); Ashtor (1983)].

Collective inter-guild reprisals existed, but progressively lost out to superior alternatives, the generalized institutions for commercial contract enforcement which we shall examine shortly. Inter-guild reprisals were widely disliked by medieval merchants themselves, since they harmed entire communities of long-distance merchants and increased the risks of trade for innocent third parties [Wach (1868); Planitz (1919); De Roover (1963); Lloyd (1977); Lopez (1987); Tai (1996); Sachs (2006)]. These serious disadvantages were widely recognized by contemporaries, who sought to limit or abolish the reprisals system as soon as trade began to expand after c. 1050 [Mas-Latrie (1866); Wach (1868); Goldschmidt (1891); Del Vecchio and Casanova (1894); Planitz (1919); Tai (1996, 2003a, 2003b); Volckart and Mangels (1999); Laiou (2001); Boerner and Ritschl (2002); Ogilvie (2011)]. When collective reprisals were invoked, they were fully embedded into the public legal system as a final stage in a series of formal steps based on consulting written records, mobilizing sureties, invoking arbitration panels, and litigating in public law-courts [Boerner and Ritschl (2002); Ogilvie (2011); Edwards and Ogilvie (2012b)]. Collective reprisals against the communities of offenders were an ancient practice reaching back into antiquity [Dewey and Kleimola (1970, 1984); Dewey (1988)]. What was new in the medieval Commercial Revolution was the gradual and uneven attempt to circumscribe collective reprisals within formal, public legal proceedings [Mas-Latrie (1866); Wach (1868); Goldschmidt (1891); Planitz (1919); Cheyette (1970); Lloyd (1977); Tai

(1996, 2003a, 2003b); O'Brien (2002); Boerner and Ritschl (2002); Fortunati (2005); Sachs (2006); Ogilvie (2011); Edwards and Ogilvie (2012b)].

Peer pressure, reprisals, and rent-seeking corporate groups characterized all ancient and medieval trade, as far as we know, up to the beginning of the Commercial Revolution [Ogilvie (2011)]. The new component in many European institutional systems, during that period, was the emergence of generalized institutions whose rules and entitlements applied to all economic agents, not just members of particular groups. A first set of these generalized mechanisms consisted of contractual instruments such as pledges, guarantorships, and cessions of credit (whereby a merchant sold or transferred his rights as creditor to a third party who was better able to enforce them). All three mechanisms were formal, generalized institutional innovations devised by business and legal professionals in the great medieval European trading centres [Szabó (1983); Reyerson (1985); Greve (2001, 2007); Gonzalez de Lara (2005); Gelderblom (2005b); Sachs (2006)]. The notarial system of registering contracts in writing, depositing and storing them, and ultimately certifying them before arbitration panels or in courts of law was another institutional innovation devised in Mediterranean trading centres at the beginning of the Commercial Revolution. Princes and churches had operated notarial systems before, but lay notaries providing services to private individuals emerged in the eleventh century and supported the early Commercial Revolution in southern Europe [Doehaerd (1941); Lopez and Raymond (1955); Reyerson (1985); Greve (2000); Gelderblom (2005b); Ogilvie (2011)]. A little later, the development of municipal offices offering analogous registration, depository and certification services for long-distance trading contracts in northwest Europe was another institutional innovation which had not been present in the early medieval period [Wach (1868); Dollinger (1970); Gelderblom (2005b); Dijkman (2007); Ogilvie (2011)]. Arbitration panels manned by arbiters appointed from a broad circle of experienced lay judges and neutral merchants, whose decisions were recognized and enforced by public law-courts, constituted a further institutional innovation observable from the early years of the Commercial Revolution [Price (1991); Epstein (1996); Basile, Bestor, Cocquillette and Donahue (1998); Volckart and Mangels (1999); Gelderblom (2003, 2005b); Lambert and Stable (2005); Sachs (2006); Aslanian (2006); Ogilvie (2011)]. Finally, if all these mechanisms failed, public law-courts operated by princes, feudal lords, religious institutions, and local municipalities competed to provide justice to international merchants in every locality and time-period in which long-distance trade expanded after c. 1050 [Baker (1979); Reyerson (1985); Basile, Bestor, Cocquillette and Donahue (1998); (1998); Boerner and Ritschl (2002); Gelderblom (2005b); Munzinger (2006); Sachs (2006); Dijkman (2007); Harreld (2004a, 2004b); Ogilvie (2011); Edwards and Ogilvie (2012b)]. These generalized alternatives to the traditional patterns, many of them dating from the earliest years of the medieval Commercial Revolution, were consistently successful in promoting growth. Long-distance commerce grew in those places and time-periods in which generalized contracting institutions, provided by the market, the public legal system, the city government, and various other levels of the public authorities, began to offer acceptable contract-enforcement which was open to all traders, not just members of particular privileged guilds.

The key feature of these new institutions for guaranteeing property rights and enforcing contracts was not that they were embedded in an open-access social order

or that they occurred in polities with "sufficient centralization" and pluralism: those characteristics were sometimes present, but not always [Ogilvie (2011, esp. ch. 5)]. Rather, it was that these institutions created incentives consistent with economic growth: their rules and entitlements applied impartially to all economic agents rather than only to members of particular groups. Political variables undoubtedly influenced the balance between generalized and particularized institutions in different European societies. But strong representative institutions were neither a necessary nor a sufficient component of such socio-political factors since, as we saw in Lesson 2, representative political institutions could actually help entrench particularized economic institutions such as privileged, cartellistic groups of merchants.

In practice, a range of socio-political factors, in addition to the presence of representative institutions such as parliaments, helped shift the balance towards more generalized institutions in the economy more widely. One strand of research emphasizes the emergence of fiscal systems and financial markets freeing states from financial dependence on granting privileges to special-interest groups [Schofield (1963, 2004); Elton (1975); 't Hart (1989, 1993); 't Hart (1993); Hoyle (1994); Fritschy (2003); Davids (2006)]. A second strand focuses on the importance of a highly diversified urban system in which towns did not act in concert but rather competed and limited each other's ability to secure privileges from the political authorities [Rabb (1964); Ashton (1967); Croft (1973); Archer (1988); 't Hart (1989); Britnell (1991); Lis and Soly (1996); De Vries and Van der Woude (1997); Harreld (2004a, 2004b); Van Bavel and Van Zanden (2004); Gelderblom (2005a, 2005b); Van Zanden and Prak (2006); Nachbar (2005); Price (2006); Murrell (2009)]. A third strand of research emphasizes the importance of having a variegated social structure which included prosperous, articulate and politically influential individuals who wished to engage in entrepreneurial activities but were not members of privileged interest-groups and hence were inclined to object to particularized institutions that imposed barriers to entry [Rabb (1964); Ashton (1967); Croft (1973); De Vries (1976); De Vries and Van der Woude (1997)]. Some subset of these socio-political factors shifting the balance from particularized to generalized economic institutions prevailed in all those medieval and early modern European societies which experienced successful commercial growth. But after c. 1500 these factors coincided in two European polities, the Netherlands and England, where generalized institutions gained ground and where economic growth greatly accelerated [De Vries and Van der Woude (1997); Ogilvie (2000, 2011)]. Generalized and particularized institutions continued to co-exist in all early modern societies, but those where generalized institutions came to dominate enjoyed faster economic growth, not just in trade but also in agriculture and industry, as we shall see in the coming sections.

These historical findings have wider implications for economic growth, not least because of the many potential links between particularized institutions and social capital. Social capital, as is well known, typically involves building institutions whose rules and entitlements are characterized by "closure", i.e. a clear definition of who is a member of a group and who is not [see Coleman (1988, pp. 104-10); Sobel (2002, p. 151); Ogilvie (2005d, 2011); Hillmann (2013)]. To generate social capital, institutions need to have closure, information advantages, collective penalties, and commitment devices: that is, they need to be particularized. Once such institutions are formed, though, it is hard to prevent them from being abused to resist changes that threaten existing benefits enjoyed by members of the closed groups enjoying the benefits of

closure. Economic history illuminates a darker side of social capital, in so far as it is generated by building particularized institutions whose rules apply exclusively to entrenched groups, rather than generalized institutions whose rules apply to everyone.

Lesson 4: Property Rights Institutions and Contracting Institutions Both Matter, and Are Not Separable

Two types of institution that appear to be important for economic growth, as we have seen, are those guaranteeing private property rights and those enforcing contracts. But how precisely do they affect economic growth, and is one more important than the other? Acemoglu and Johnson (2005) have argued that these two types of institution should be strictly distinguished from one another: property rights institutions protect ordinary people against expropriation by the powerful, while contracting institutions enable private contracts between ordinary people. For these reasons, the argument continues, property rights institutions have a first-order effect on long-run economic growth, whereas contracting institutions matter much less. People can find ways of altering the terms of contracts in such a way as to avoid the adverse effects of poor contracting institutions, it is claimed, but cannot do the same against the risk of expropriation by rulers and elites [Acemoglu and Johnson (2005)].

Economic history, however, provides only mixed support for this argument. Historically, there is considerable overlap between contracting institutions and property rights institutions. Indeed, as Lessons 5 and 6 will argue, we need to pay much more analytical attention to the precise characteristics of property rights that matter for growth. But even before embarking on that analysis, the historical evidence suggests strongly that one key characteristic is the degree to which property rights can be freely transferred by contracts from one person to another. When people trade, they simultaneously transfer property rights to another person and make a contract. The enforceability of the contract depends on how securely the property rights are defined, and the security of the property rights depends on whether a person is allowed to enter into contracts involving his or her property. Furthermore, rulers and elites intervene not just in property rights (e.g. by expropriating people's property) but also in contracts (e.g. by invalidating agreements, in the interest either of themselves directly or of their clients). In medieval Europe, for instance, property rights governing *ownership* of many assets (not just land, but also financial assets and moveable goods) were often securely guaranteed in law [Pollock and Maitland (1895); Campbell (2005); Clark (2007); McCloskey (2010)]. However, contracts governing *transfers* of these property rights were sometimes guaranteed very insecurely, particularly if they involved powerful people such as rulers, members of the elite, or people to whom rulers or elites had sold privileges (legal rights to distort markets in the purchasers' interest) [Ogilvie (2011, 2014)]. Historical evidence thus poses difficulties for the idea that one can draw a useful analytical distinction between institutions enforcing contracts and those guaranteeing property rights.

Economic history also casts doubt on the idea that poor contracting institutions do not matter because ordinary people can devise informal substitutes. As Lesson 1 discussed, the two best-known historical cases which are supposed to have demonstrated the success of informal substitutes for poor contracting institutions turn out to be factually wrong. There is no evidence that the eleventh-century Maghribi traders operated an informal, private-order coalition to circumvent poor public

contract enforcement. Nor is there any evidence that the twelfth- and thirteenth-century Champagne fairs relied on private judges or community-implemented reprisals to circumvent lack of public contract enforcement. It was extremely difficult to circumvent poor contracting institutions with private-order substitutes. Instead, medieval and early modern merchants voted with their feet by moving their business from locations where public-order contract enforcement was inferior to those where it was superior [Ogilvie (2011); Gelderblom (2005a, 2013)]. Economic history does not support the view that it was easy to devise informal substitutes for poor public-order contracting institutions.

The third thing we can learn from economic history is that there are important junctures in long-term economic growth at which property institutions and contracting institutions are jointly essential, in the sense that the growth benefits of one cannot emerge until the other is present. One of the most critical of these is the European agricultural revolution. Agriculture was by far the most important sector of the pre-modern economy, and most economic historians regard a sustained increase in agricultural productivity as an important contributory factor to the European Industrial Revolution. Just such an agricultural revolution began in the Netherlands in the late fifteenth century, England in the late sixteenth, parts of France in the eighteenth, and various territories of German-speaking Europe at different points in the nineteenth [Mingay (1963); Chorley (1981); Bairoch (1989); Brakensiek (1991, 1994); Allen (1992); Overton (1996a, 1996b); Campbell and Overton (1998); Kopsidis (2006); Olsson and Svensson (2010)]. For such an increase in agricultural growth to take place, a number of institutional changes were needed – some in property institutions, others in contracting institutions. Until both sets of institutional changes took place, agriculture typically failed to grow.

Secure private property rights in land were almost certainly needed for agricultural growth, although it is important to recognize that there is debate about this issue among economic historians [Allen (1992, 2004); Neeson (1993); Overton (1996a, 1996b); Shaw-Taylor (2001a, 2001b)]. Secure private property rights in land existed in most societies in medieval and early modern Europe, as we shall see in Lesson 6. But these private property rights co-existed with and were constrained by other types of property right. The village community often collectively owned a share of the pasture, woods, and waste land in the village, and constrained the ways in which individuals could use their privately owned arable (crop-growing) fields [Allen (1992); Neeson (1993); Brakensiek (1991); Kopsidis (2006)]. The importance of such communal property rights and the constraints they placed on private property rights varied considerably across pre-modern European societies, across regions within the same society, and even from one village to the next [Whittle (1998, 2000); Campbell (2005)]. They also changed over time, with communal property rights gradually being replaced by private property rights in most European societies between c. 1500 and c. 1900 [Overton (1996a, 1996b); Brakensiek (1991, 1994); Olsson and Svensson (2010)].

One component of this process (which in England was called the enclosure movement) was the shift from communal to private property rights in pasture. This benefited growth not so much because it solved the tragedy of the commons [Hardin (1968)], since the whole point of community management of collective pasture was to prevent over-use [see Neeson (1993)]. In England, in any case, common rights were

often owned and traded privately by individuals, typically the largest farmers in the village [Shaw-Taylor (2001a, 2001b)]. Instead, the main mechanism by which privatization of common pasture encouraged agricultural growth was by reducing the transaction costs involved in flexibly shifting pasture to alternative uses, which was essential for a number of the new, higher-productivity agricultural techniques that emerged during this period [Slicher van Bath (1963, 1977); Overton (1996a, 1996b)].

The second component of the enclosure movement affected arable (crop-bearing) land. Typically each European village divided up all arable land into three large tracts, which were cultivated in three-year rotation to replenish soil nutrients [Slicher van Bath (1963, 1977); De Vries (1976)]. Within each tract, each villager owned and farmed scattered strips, but the village as a whole decided on crops, rotations, and other techniques, and the whole village had collective gleaning and grazing rights on individual arable land after the harvest [Overton (1996a, 1996b); Brakensiek (1991, 1994)]. In different European societies and regions at different dates between c. 1500 and c. 1900, these scattered, open arable strips were reorganized and consolidated to form contiguous holdings over which individuals had exclusive private property rights. This increased scale economies by reducing the time costs involved for each villager in moving from one strip to another, reduced the transaction costs of adopting new arable techniques, and increased individual incentives to invest in productivity improvements [Overton (1996a, 1996b)].

There is considerable debate about the precise growth effects of these changes in property rights. For England, although Allen (1992) contended that such changes in property rights did not increase agricultural productivity, Overton (1996a, 1996b) contested those arguments on grounds of inaccurate periodization, misinterpretation of evidence, and sample selection bias, concluding that improvement in private property rights decreased equity but increased productivity and contributed to faster growth of agriculture. Many German territories experienced similar improvements in agricultural property rights between c. 1770 and c. 1870, often influenced by English and Dutch models, and this German enclosure movement has evoked similar debate [Brakensiek (1991, 1994); Kopsidis (2006)]. The current consensus is that in German societies, as well, replacing communal with private property rights facilitated introducing agricultural innovations, bringing new land under cultivation, shifting lands to new uses, and increasing agricultural growth [Brakensiek (1991, 1994); Kopsidis (2006); Fertig (2007)]. Improvements in private property rights thus almost certainly did play a role in accelerating agricultural growth.

However, improving private property rights typically did not increase agricultural productivity and growth immediately. Rather, the growth benefits only emerged in the longer term. This was because property rights institutions were not enough in themselves. To have the incentive to increase productivity, the owners of land with better property rights also had to have a reasonable expectation of getting a return for the high investments entailed in introducing innovations. This required *contracting* institutions enabling farmers to obtain the labour and capital they needed, to sell agricultural surpluses, and to purchase other goods which the newly specialized farms no longer produced themselves.

First, the agricultural revolution required contracting institutions enabling the flexible mobilization of the appropriate quantity and quality of labour into the

production process [De Vries (1974, 1976); Overton (1996a, 1996b); Ogilvie (2000)]. The new crops and crop-rotation systems that could be introduced once property rights improved required more intense digging, ploughing, fertilizing and weeding. Higher grain and milk yields created more work in harvesting, threshing, butter-churning and cheese-making [Chambers (1953); Caunce (1997)]. Farmers needed to use their own family's labour more intensively and to employ plentiful and flexible supplies of non-familial labour. But contracting in labour markets was often blocked by forced labour extorted from serfs, communal barriers to labour migration, wage ceilings favouring employers, limits on women's work, and other restrictive labour practices reflecting the interests of powerful individuals and groups concerned to distribute larger shares of resources to themselves [De Vries (1976); Harnisch (1989a, 1989b); Klein (2014); Ogilvie (2004a, 2004b, 2013a, 2014)]. Such restrictions on contracting in labour were imposed via particularized institutions such as serfdom, village communities, urban corporations, and craft guilds, whose rules did not treat all economic agents impartially, allowing them to offer and hire labour voluntarily in competitive markets with free entry, but rather differentiated between them according to non-economic criteria such as serf status, gender, religion, ethnicity, community citizenship, and guild membership [Sharpe (1999); Ogilvie (1997, 2000, 2004a, 2004b); Ulbrich (2004); Wiesner (1989, 1996, 2000)]. Even in comparatively progressive Hanover, as late as 1820 landlords used forced labour from serfs because it was costless to them, although, as the English traveller Hodgskin (1820, p. 85) remarked, "If the landlord had to hire labourers, he might have his work tolerably well performed, but it is now shamefully performed, because the people who have it to do have no interest whatever in doing it well and no other wish but to perform as little as possible within the prescribed time". By contrast, in those places in which the agricultural revolution began early (Flanders, the Netherlands, and England), there were good contracting institutions in the labour market, both for farm servants and for migrant agricultural workers. This ensured that the appropriate quantity of skilled and highly-motivated labour could be applied at the right intensity at the appropriate point in the agricultural year [De Vries (1974, 1976); Van Lottum (2011a, 2011b); Kaal and Van Lottum (2009); Kussmaul (1981, 1994)].

Contracting institutions governing credit – not high finance in the form of loans to elites and the state, but small investment loans to ordinary people – were also essential for agricultural growth. Changing farming practice always requires at least small investments, as shown by the focus on agricultural micro-credit in modern developing economies [World Bank (1982)] as well as studies of historical European rural economies [De Vries (1976); Holderness (1976)]. Even though the early modern agricultural revolution did not involve machines, it did require capital [Habakkuk (1994); Holderness (1976); Lambrecht (2009); Thoen and Soens (2009); Van Cruyningen (2009); Ogilvie, Küpker and Maegraith (2012)]. Enclosure of pastures and open fields required fences, hedges and ditches. New crops required seed purchases. Soil improvement required extra fertilizer, sand, lime and marl. Heavier harvests required buying more and better draught animals. Farmers and workers had to be supported during the transition to new techniques. Good contracting institutions in the Low Countries and England made it possible for Dutch and English farmers to tap the few sources of capital available in early modern Europe [De Vries and Van der Woude (1997); Schofield and Lambrecht (2009)]. In the Netherlands, capital-rich townsmen invested directly in land and loaned funds to farmers through the country's advanced credit markets [De Vries (1974, 1976); Van Cruyningen (2009)]. In

England, landlords had to make their estates pay since they enjoyed few of the privileges to intervene in contracting enjoyed by their central or eastern European counterparts. This gave them strong incentives to lend their tenants capital for farm improvements, or even borrow themselves for this purpose in England's financial markets, which were catching up with those of the Netherlands during the sixteenth and seventeenth centuries [Holderness (1976); Muldrew (1993, 1998, 2003); Spufford (2000)]. Good contracting institutions meant that English grain merchants were able and willing to extend credit to farmers, and incidentally to smooth price fluctuations, by speculating on the outcome of the harvest, as described by Daniel Defoe (1727, vol. 2, p. 36): "These Corn-Factors in the Country ride about among the Farmers, and buy the Corn, even in the Barn before it is thresh'd, nay, sometimes they buy it in the Field standing, not only before it is reap'd but before it is ripe".

Elsewhere in Europe, the contracting institutions that might have ensured the supply of credit to agriculture developed more slowly. Much of the available capital in the economy was accumulated by rulers through taxes, state loans, and sales of monopolies and offices, then squandered on war or court display [Brewer (1989); Brewer and Hellmuth (1999)]. Another substantial portion of available capital was levied as rents by noble landlords, and then spent on royal offices, monopolies, or conspicuous consumption [Ogilvie (2000)]. In many economies – France, Spain, Italy, and many German territories – even commercial and industrial profits tended to flow into landed estates, noble status (conferring tax freedom), bureaucratic office, or legal monopolies over certain lines of business [De Vries (1976)]. In societies where the greatest returns and least risk lay in purchasing land or royal favour, poor contracting institutions meant that risky economic projects such as improvement of the land were starved of capital. In many European economies, special-interest groups enjoyed privileged access to contracting institutions governing credit, from which ordinary people, including most peasants in the countryside, were excluded; although peasants were sometimes partly able to circumvent these restrictions by using undocumented and informal lending contracts, these had higher transaction costs [Ogilvie, Küpker, Maegraith (2012)]. Part of the delay in introducing the new agricultural techniques outside the Netherlands and England before 1750 resulted from the difficulty of saving or borrowing the requisite capital, especially for ordinary rural people who were making the main agricultural decisions. These restrictive practices in credit markets were often imposed via particularized institutions such as serfdom, village communities, and urban corporations. To give just one example, community institutions in seventeenth- and eighteenth-century Germany disallowed loans agreed between willing lenders and willing borrowers on grounds of community membership, wealth, gender, marital status, or whether the borrower was regarded favourably by the headman or village councillors [Sabean (1990); Ogilvie (1997); Ogilvie, Küpker and Maegraith (2012)]. Restrictive practices in credit markets reflected the interests of powerful individuals and groups who were concerned to redistribute resources to themselves and who made use of favourable institutional arrangements to achieve this end.

Farmers not only needed good contracting institutions to secure the inputs of labour and capital required by new agricultural techniques. They also needed good contracting institutions in output markets so they could sell their farm surpluses profitably, and buy goods they no longer produced themselves [Britnell (1996); Grantham and Sarget (1997); Bolton (2012)]. But many of the same institutions that

hindered contracting in labour and capital also impeded exchanges of food, raw materials and industrial goods. Rulers and town governments in Spain, France, and the Italian and German states often enforced particularized institutional arrangements called "staples", legal rights of prior purchase which they used to force farmers in the surrounding countryside to sell their output in towns at lower-than-market prices [De Vries (1976); Ogilvie (2011)]. This was one of the reasons the highly urbanized regions of northern Italy and southern Germany failed to stimulate an agricultural revolution in the sixteenth century, in contrast to the Dutch and Flemish cities, where urban consumers had to pay farmers market prices. In Spain, grain price ceilings and other institutional restrictions on contracting in output markets drove peasants off the land, and by 1797 there were almost 1,000 deserted villages in rural Castile; grain had to be imported to alleviate famine [De Vries (1976)].

The particularized privileges of towns were not the only barrier to good contracting institutions that would have enabled farmers to profit from investing in the new agricultural techniques. Seigneurial tolls (internal customs barriers) blocked the development of good contracting institutions such as a national grain market in France until 1789, discouraging farmers and worsening famines [Ó Gráda and Chevet (2002)]. In Bohemia, Poland, and many eastern German territories, the great landlords forced peasants to sell them grain at fixed (below-market) prices. The landlords exported the grain to Western Europe or used it to brew their own beer in demesne breweries, which they then forced the peasants to buy back from them at fixed (above-market) prices [Cerman (1996); Ogilvie (2001, 2005c); Dennison and Ogilvie (2007)]. Blocked by poor contracting institutions, peasants could not gain enough profit from grain surpluses for it to be worthwhile investing in new techniques, even where they enjoyed secure private property rights in their land. These restrictive practices in output markets were again often imposed by landlords, village communities, or urban corporations. In early modern Bohemia, for instance, landlords used their institutional powers under serfdom to compel peasants to sell them foodstuffs at below-market prices, penalizing them when they sold grain or livestock outside the estate without first offering it to the manor [Ogilvie (2001, 2005c)]. Again, these restrictive practices in output markets reflected the distributional interests of powerful individuals and groups who were concerned to distribute resources to themselves and who made use of institutional privileges to do so.

These differences in contracting institutions thus played a major role, alongside differences in property rights institutions, in deciding whether, when and where agricultural growth could take place in Europe between the sixteenth and the nineteenth century. Agricultural growth did not need just secure private property rights. Farmers had to be able to employ labourers readily, borrow money easily, sell profitably to customers, and find cheap supplies of goods they no longer made at home. The Low Countries and England were lucky: they emerged from the medieval period with serfdom weakened or non-existent (as we shall see in Lesson 8), landlords who therefore had economic weight but few legal powers, village communities that were only loosely organized, and town privileges that were poorly enforced and constrained by competition from rival towns within a highly variegated urban system (as we saw in Lesson 3). Some particularized institutions still survived in the Low Countries and England, as we shall see in Lessons 6 and 7. But in the interstices between them, new and more generalized contracting institutions sprang up and grew vigorously in the sixteenth and seventeenth centuries, before any interest-group could

organize to stop them. In most other parts of Europe, however, landlords, privileged towns, and village communities retained much more extensive rights to intervene in private contracts well into the eighteenth century, and in some regions long past 1800. Even the abolition of seigneurial privileges in France during the Revolution, and in Prussia and many other German territories after 1808, left many restrictive contracting institutions intact. Not until traditional contracting institutions were broken down, by popular revolution, military defeat, or long and grinding social conflict, could farmers break out of the agricultural productivity trap which had long blocked growth in the largest sector of the economy [Slicher van Bath (1963, 1977); De Vries (1976)].

Studies of the institutional preconditions for the agricultural revolution in many parts of Europe, even outside England and the Netherlands, explicitly emphasize that improvements in property rights did not in themselves lead to growth. They only did so when they were accompanied by improvements in contracting institutions in the labour market, the credit market, and the output market. Theiller (2009) shows that the emergence of better property rights in land (as evidenced by a rental market) in late medieval Normandy was triggered by the emergence of local market centres enabling and permitting peasants to sell their agricultural surpluses. Serrão (2009) shows how the emergence of urban market demand in Portugal between the seventeenth and nineteenth century created incentives for farmers to adopt new technologies and invest in their farms, *before* the liberal reforms to property rights toward the end of that period. Olsson and Svensson (2009)'s analysis of eighteenth- and nineteenth-century Sweden shows that the volume of marketable surplus was significantly affected *both* by privatization of property rights during the radical Swedish enclosures of the early nineteenth century *and* by the incentives created by good contracting institutions in markets for agricultural output. For eighteenth- and nineteenth-century Germany, special emphasis is placed on the development of market structures and the removal of impediments to trade, enabling the selling of agricultural output at attractive prices and with low transaction costs [Brakensiek (1991, 1994)]. Even more substantial German farmers often resisted privatization of commons for an initial period because of the high risks involved and the absence of the well-functioning markets required to secure a return on the non-trivial investments involved. As a result, the reforms to German agricultural property rights proceeded very gradually over more than a century, from c. 1770 until c. 1890, and their pace and degree varied considerably among territories, regions, and even villages, according to the availability of good contracting institutions as well as the distributional implications of institutional change and the balance of power among state officials, landlords, peasants, and rural labourers [Brakensiek (1994, p. 139)]. These findings suggest a strong degree of interlinkage not only between property rights institutions and contracting institutions, but also between both sets of institutions and distributional considerations, a point to which we return in Lessons 7 and 8.

These findings have a number of wider implications for economic growth. First, property rights institutions are not separable from contracting institutions. One measure of security of private property rights is the extent to which those property rights can be securely transferred from one person to another, as we shall see in Lesson 6. This is not a trivial or incidental feature of property rights, but rather central to one of the mechanisms by which secure private property rights can benefit growth, namely by ensuring that resources are allocated to their highest-value uses. If

contracting institutions are insecure, an important aspect of how private property rights benefit growth will also be insecure.

Second, property institutions and contracting institutions are jointly essential for economic growth. To unleash the growth benefits of secure private property rights, contracting institutions also have to function well, so as to enable property-owners to save and borrow capital to invest in improving the productivity of their property, employ labour to work on that property, and profitably sell output produced using that property.

Third, it is simplistic to define property rights institutions as those protecting ordinary people against expropriation by rulers and elites and contracting institutions merely as those enabling private contracts between ordinary people. Rulers and elites intervene not just in property rights but also in contracts, refusing to enforce them in their own interests or those of favoured groups to whom they have sold privileges. Both property rights institutions and contracting institutions thus involve an economic relationship between ordinary people on the one hand and rulers on the other. Economic history suggests that distributional conflicts and the coercive powers of elites and rulers have always played an important role in contracting institutions, just as they have in the security of private property rights. Poor economies could not improve contracting institutions without dealing with power and distributional conflicts.

Fourth, informal alternatives cannot substitute for poor public contract-enforcement. Historically, economic growth occurred when the political authorities improved generalized contract enforcement and ceased supporting particularized interventions by special-interest groups that diminished the security of contracts. Poor economies could not achieve growth by means of informal contracting institutions; they needed to address weaknesses in public-order contract enforcement.

Lesson 5: Property Rights Are More Likely to Be Beneficial for Growth if They Are Generalized Rather Than Particularized

Property rights may not be more important than any other type of institution, but there is little doubt that they have major effects on economic growth. It is therefore tempting to regard them as unconditionally beneficial. But the term "property rights" covers a wide variety of arrangements, and historical evidence suggests that only some of these are good for economic growth.

The historical findings, in fact, require us to remind ourselves *why* property rights are supposed to be good for economic growth. Three answers can be given to this question [De Soto (1989); Milgrom and Roberts (1992); Besley and Ghatak (2010)]. First, property rights can provide good incentives for assets to be allocated to their most productive uses because property rights motivate the transfer of assets to the people who value them most. Second, property rights can give owners good incentives to devise productive uses for an asset, in order to maintain or increase its value. And third, property rights can make it possible for owners to use an asset as collateral for borrowing funds, which they can use for investments [see esp. De Soto (2000)].

What characteristics do property rights have to have in order to benefit growth via these three mechanisms? One characteristic is that property rights should be *well defined*, in the sense that it is clear to everyone in the economy who owns an asset, including how he or she may use it, how and to whom it may be transferred, and what kind of contracts may be concluded concerning it. Well-defined property rights are needed to induce those who value an asset greatly to be willing to pay for its transfer to them, to create good incentives for an asset's current owners to invest in it, and to ensure that an owner can use it as collateral.

A second widely emphasized characteristic is that property rights must be *private*, in the sense that an asset is held by an individual entity that can exclude others from using it. Private property rights, it is argued, give the individual owner good incentives to use the asset productively, invest to maintain or increase its value, and trade or lease it to other users [Besley and Ghatak (2010)].

A third characteristic is the *security* of property rights so widely emphasized in the literature [see North and Thomas (1973); North (1989, 1991)]. However, as we shall see in Lesson 6, security of property rights must be broken down into at least three components: security of ownership rights; security of use rights; and security of transfer rights. All three of these are important for ensuring that that assets are transferred to the users who value them most, are invested in and used productively, and are available as collateral.

But it is not enough that property rights should be well-defined, private, and secure (in all senses of that term). To support growth, property rights must also be *generalized*, as we defined that concept in Lesson 3. That is, ownership, use, and transfer rights in an asset must be available to all agents in the economy, not just to a subset of them. In order for property rights to ensure that an asset passes into the hands of the person who has the highest possible value for it because he or she will use it most productively, the ownership, use, and transfer of that asset must be open to anyone, regardless of their personal characteristics or group affiliation, and transactions involving that asset must be governed by impersonal, voluntary exchange in open and competitive markets rather than by personal characteristics or coercive action. Similarly, to provide incentives to invest in the productive use of the asset, property rights will be more effective if they are generalized, since one incentive for productive use is to maintain the value of the asset with a view to transferring it or renting it to someone else in future. If property rights in that asset are particularized, and are thus restricted to being transferred or rented to a limited circle, this will reduce the incentive for the current owner to maintain its value through productive use. Likewise, the capacity for property rights to support the use of an asset as collateral for investment loans will be limited to the extent that they do not apply to all economic agents and cannot be freely transferred to all economic agents. To the extent that property rights are particularized, therefore, that characteristic will limit all three of the ways in which these rights could in principle support economic growth. Indeed, particularized property rights may positively damage growth by *denying* ownership, use, and transfer of assets to everyone outside the particular subset of privileged persons, which may comprise large proportions of all agents in the economy (e.g., all women, non-whites, slaves, serfs, non-nobles, non-guild-members, etc.).

The possibility that well-defined, private, and secure property rights might not always support growth is occasionally mentioned in some of the literature on institutions and growth in historical perspective. North, for instance, refers to the existence of historical property rights that did not benefit growth because they "redistributed rather than increased income" (1991, p. 110). However, there has been little further analysis of the specific characteristics of property rights that might cause them to redistribute rather than increase income. The full implications of this distinction have not received sufficient emphasis in the literature, which continues to operate on the assumption that the only characteristic of property rights that matters is their security, a concept whose precise characteristics are left quite vague.

Evidence on historical property rights and historical economic growth provides numerous examples of property rights that were clearly defined, were enjoyed privately by individuals, and were perfectly secure against confiscation, but did not benefit growth because they were particularized. That is, the rules establishing and maintaining those property rights circumscribed use of a particular asset to a particular circle of people who were defined according to non-economic criteria or group membership, and limited transfers or contracts involving that asset to that restricted circle. In historical developing economies, such particularized property rights were widespread and various, so much so that they are best analysed by scrutinizing concrete examples. An excellent context in which to do so is provided by the debate about whether property rights in Britain got more or less favourable for growth in the century before and during the Industrial Revolution.

This issue is no mere historical quibble. Rather, it is central to assessing the historical role of property rights in economic growth, since a number of economic historians have argued that, contrary to the claims of North and Weingast (1989), restrictions on private property rights in England actually *increased* after 1688, contributing to England's sustained eighteenth-century growth and to its Industrial Revolution after c. 1780 [Harris (2004); Hoppit (2011); Allen (2011)]. As summarized by Hoppit (1996, p. 126), "despotic power was only available intermittently before 1688, but it was always available thereafter". Proponents of this view argue that the fact that state restrictions on property rights increased before and during the first Industrial Revolution implies that economic growth does not require secure, well-defined, private property rights, but rather a powerful, interventionist state that is willing and able to take away private individuals' property against their will.

What kind of property rights were the ones that the British state started limiting in the post-1688 period? Hoppit (2011) identifies a whole array of property rights that were restricted or abolished in Britain in the eighteenth century. After c. 1690, the British government increasingly granted turnpike (toll road) privileges, which empowered their holders to compel land sales, and canal-building permits, which empowered compulsory dissolution of water rights. In 1748, the British government abolished Scottish hereditary jurisdictions – that is, the ownership of particular judicial offices by private individuals who had inherited them from their noble forebears. Between 1787 and 1833, the government first restricted and then abolished property rights in slaves. Between 1825 and 1850, the British government granted charters that empowered railway companies to compel the sale of tens of thousands of acres of private landed property. Between 1750 and 1830, Parliament

passed more than 5,200 acts of enclosure of open fields, commons and wastes, redefining and redistributing property rights over some 21 per cent of the land area of England, in many cases against the will of the existing owners.

How is it possible for eighteenth- and nineteenth-century Britain to be used to support such diametrically opposed conclusions about whether private property rights are good for growth? The contradiction arises largely from conflating generalized with particularized property rights. The type of property right that is good for growth is a generalized right which allocates clear disposition over an asset to a particular entity, enabling that entity to trade the asset freely and voluntarily in a market. The incentives created by this type of property right ensure that in a market economy, as long as transaction costs are not too high, the asset will be allocated to the user who values it the most, that he or she will then have the incentive to invest in its productive use, and that he or she can use it as collateral to borrow funds for investment purposes. These are the reasons that security of this type of private property right is regarded as being beneficial for economic growth. The property rights that were restricted in eighteenth-century England, by contrast, were largely particularized ones, which restricted use, transfers, and contracts involving assets to a limited subset of economic agents, who were defined at least partly according to non-economic criteria.

A first set of these particularized private property rights were what might be termed feudal ownership rights, which had been put in place by rulers and elites centuries earlier to generate rents for themselves. Some of these feudal ownership rights limited the freedom of disposition over land so as to maintain concentrated estates that would be large enough to support feudal armies; this applied specifically to noble or gentry land. Other feudal ownership rights assigned use and transfer rights in particular types of land to a subset of economic agents defined according to community membership or social stratum, e.g. membership in the group of substantial farmers in a village [Shaw-Taylor (2001a, 2001b)]. Feudal ownership rights also endowed members of particular social strata (e.g., the nobility) with special prerogatives over land owned, held, or used by other social strata. These feudal property rights were attached to personal or group characteristics of their holders and were typically not bought and sold impersonally in markets. As a result, they made it difficult for land to pass into the hands of people who had more productive uses for it.

Many of the salient changes in property rights in eighteenth- and early nineteenth-century Britain should not be seen as an attack on security of private property rights, therefore, but rather a reorganization of property rights from particularized to generalized ones. Bogart and Richardson (2011) argue that between 1688 and 1830 the British state did not restrict the security of private property rights, but rather responded to requests from the public to reorganize rights to land and resources in such a way as to enable individuals, families and communities to exploit new technologies and other opportunities that the inflexible regime of particularized ownership rights inherited from the medieval past could not accommodate. For one thing, much land was held under a legal arrangement called “equitable estate” which limited its mortgage, lease, and sale. For another, many types of land tenure limited the transfer of the affected land to a small subset of persons defined according to their personal identity or membership of the local community. Third, in particular types of village (“common-field villages”) property rights required owners of land to maintain it in specific traditional uses, made any change in use or ownership subject to

agreements with other parties, and subjected such agreements to extensive legal challenges which made them difficult to enforce [Bogart and Richardson (2011, p. 242)] The British state's granting of charters for enclosures, turnpikes, canals and railways thus did not constitute an incursion against the type of generalized private property right which is supposed to encourage growth. Rather, it enhanced the ability to break down particularized ownership rights which meant that assets could only be used by or transferred to a subset of economic agents. These property rights, because of their particularized nature, could not readily be transferred to higher-productivity users and were thus ill suited to allocating assets to their highest value uses or responding to opportunities offered by technological innovations.

The argument advanced by Bogart and Richardson (2009, 2011) probably overstates the extent to which the reorganization of particularized into generalized property rights was caused by the Glorious Revolution of 1688. The sixteenth and seventeenth centuries had already seen extensive reorganizations of particularized ownership rights in England, including the first two waves of enclosures and a number of changes in leases and land tenures [Overton (1996a, 1996b); Allen (1999)]. Although some types of reorganization of particularized ownership rights certainly intensified in the eighteenth century, many key steps had already taken place long before 1688. Bogart and Richardson (2009, 2011) tacitly acknowledge this fact by arguing that what changed after 1688 was not so much that feudal property rights began for the first time to be reorganized, but rather that the transaction costs of bringing about such reorganization were reduced by a change in the way Parliament and the crown interacted.

A second type of particularized property right which the British state began to restrict during the eighteenth century was the ownership of public offices. For instance, Scottish hereditary jurisdictions, which the British state abolished in 1748, granted powers of jurisdiction in civil and criminal cases, and could only be used by or transferred to a very small subset of economic agents; in fact, a hereditary jurisdiction was restricted to being owned by the heir of a clan head who had in turn inherited it from his forebears [Chambers (1869)]. As Brewer (1989) emphasizes, hereditary ownership of official positions (those of judges, tax-collectors, etc.) remained widespread in many European societies in the eighteenth century. It contributed to the relative inefficiency of government in those societies compared to Britain, since it ensured a copious stream of rents to owners of the hereditary offices, who had incentives to exploit the coercive powers associated with such offices to obtain profits for themselves. Owners of the office of tax-gatherer skimmed off a share of the taxes collected, while owners of the office of judge demanded fees and bribes from litigants [Brewer (1989)]. By abolishing property rights in public offices, the eighteenth-century British state was not constricting a generalized right which enabled an asset to be allocated to its highest-value use, but rather abolishing a particularized entitlement which enabled entrenched interests to exercise coercion and redistribute resources towards themselves.

The gradual abolition of slavery between 1787 and 1833 must be regarded in a similar light. The ownership of slaves was a coercive right to extort labour and other services from their original owners, the individuals who had been enslaved. Property rights in slaves were not generalized, since they did not apply equally to all economic agents: they could be enjoyed by slave-owners but not by slaves, and the conditions

under which they could be transferred from slave-owners to slaves were extremely restrictive. By abolishing property rights in slaves, the state was not limiting a right enabling the asset to be allocated to its highest-value use, but rather abolishing a coercive entitlement maintained as part of a particularized institutional regime whose rules treated slaves and slave-owners completely differently from one another.

The final type of reorganization of property rights that took place in eighteenth-century Britain relates to the issue of eminent domain, the legal power enjoyed by the state to take private property for public use.[4] Eminent domain represents a conflict between private property rights and the public good which has still not been satisfactorily resolved in modern economies [Fischel (1995); Benson (2005, 2008)]. Sometimes a project which would benefit economic growth (e.g. an infrastructure project) can be blocked by the existence of secure private property rights which cannot be purchased at a competitive price through voluntary exchange because of market failure. Private acquisition of multiple contiguous parcels of land for a road, canal or railway may be impossible, either because of the transaction costs of negotiating with multiple owners (a coordination problem) or because of the thinness of the market which gives owners a monopoly position encouraging them to demand very high prices (a holdout problem). The coordination problem may reinforce the holdout problem. These market failures may create a case for constraining private property rights. This is the only instance of state restrictions on private property rights in eighteenth-century England which involved an actual conflict between generalized private property rights and economic growth [Bogart and Richardson (2011)]. But this type of conflict arises because of market failure, is present in all economies, and is one that modern societies have not yet resolved. It cannot therefore be taken as demonstrating that state restrictions on private property rights are generally beneficial for growth, in the absence of market failures. On the other hand, eminent domain does represent a restriction on generalized property rights which has the potential to benefit economic growth in the presence of market imperfections. This raises an important qualification to the principle that secure and generalized private property rights are invariably good for growth, and it must therefore be taken seriously in thinking about the institutional foundations of economic growth.

What do these findings imply for economic growth more widely? Not all forms of property rights – even if they are well-defined, private, secure and transferable – are good for growth. Generalized property rights that can be held by, used by, and transferred to any economic agent, regardless of his or her personal identity or group affiliation, will, if markets are competitive, allocate assets to their most productive uses, give their owners the incentive to use them productively, and enable their owners to employ them as collateral. But particularized property rights that can only be held by, used by, and transferred to by a small subset of economic agents, often defined according to non-economic criteria, will limit these growth

[4] The term was first used in by the Dutch jurist Hugo Grotius (1625), in the following context: "The property of subjects is under the eminent domain [*dominium eminens*] of the state, so that the state or he who acts for it may use and even alienate and destroy such property, not only in the case of extreme necessity, in which even private persons have a right over the property of others, but for ends of public utility, to which ends those who founded civil society must be supposed to have intended that private ends should give way. But it is to be added that when this is done the state is bound to make good the loss to those who lose their property." As quoted in Nowak and Rotunda (2004, p. 263).

benefits. People with productive uses for an asset who do not belong to the limited circle of those to whom particularized property rights in that asset apply will not be able to own, use, rent, borrow or buy that asset. These limits on who may hold or use the asset will reduce incentives for investing in it and reduce its capacity to operate as collateral. Particularized property rights may not only fail to support growth in the ways that generalized ones do, but may positively damage growth by denying use, transfer, or rental of property to everyone outside the particular subset of privileged persons, which may include large proportions of all agents in an economy. Growth will therefore benefit from improvements in the security of *generalized* property rights, but from restrictions on the security of *particularized* property rights.

Lesson 6: Security of Private Property Rights Is a Matter of Degree (and Needs Careful Analysis)

The concept of "secure private property rights", as we saw in Lesson 5, is not straightforward. Secure private property rights will affect growth differently, depending on whether they are generalized or particularized. But as the present section will suggest, even the concept of "security" of property rights needs further analysis before it can be useful. The economics literature on the historical role of institutions in growth emphasizes the importance of property rights that are secure. But as indicated in Lesson 5 above, the understanding of security in this literature appears to involve at least three very different components: security of ownership, security of use, and security of transfer.

Security of ownership means that no-one can take an asset away from you arbitrarily: you have a well-defined ownership right that you can reasonably expect to enforce via the legal system or some other institutional mechanism. Security of use means that no-one can prevent you from exercising that ownership right by investing in improving the productivity of the asset or altering the way it is used in order to increase its yield. Security of rights of transfer means that no-one can intervene to prevent you from transferring that asset temporarily or permanently to someone else by selling, mortgaging, lending, leasing, bequeathing, or otherwise alienating it.

These three components of the security of private property rights, though conflated in the literature, are both analytically and empirically distinct. Analytically, they are distinct because the three types of security are likely to affect growth in different ways and to differing degrees. Empirically, they are distinct because they can occur in different combinations: thus one may have completely secure rights of ownership in one's land but there may (or may not) be limitations on the security of one's right to decide how to use or transfer those ownership rights; likewise, one may have relatively insecure rights of ownership (in the sense that one may have it confiscated by the crown or one's feudal overlord) but be completely secure in how one can use those rights while one has them and in one's right to choose whom to sell, lease or bequeath them to. From the point of view of the economic effects of property rights, we have already seen that limitations on ownership, use, and transfer of property are important: Lesson 5 showed that particularized property rights imposed one set of limitations; but as we shall see in the present section there are others. For the purposes of the present section, we therefore distinguish between "security of ownership", "security of use", and "security of transfer", while recognizing that any

simple classification scheme is subject to the drawback that in practice there is likely to be a continuous range of security, at least within some bounds.

Partly as a result of conflating these three different components of security of private property rights, the economics literature contains two diametrically opposed views of the historical role of secure private property rights in growth. The first assumes that secure private property rights did not exist in Europe in the medieval and early modern period [e.g. North and Weingast (1989); Olson (1993); Acemoglu, Johnson and Robinson (2005); Acemoglu and Robinson (2012)]. Rather, secure private property suddenly came into being in one particular economy, England, at a specific point in time, after the Glorious Revolution of 1688 [North and Weingast (1989)]. This sudden and dramatic shift from insecure to secure private property rights is supposed to have enabled England to surpass other European economies and, three quarters of a century later, to become the first country to industrialize [see e.g. North and Weingast (1989); Olson (1993); Acemoglu, Johnson and Robinson (2005); Acemoglu and Robinson (2012)].

Other economists, however, adopt a diametrically opposed view, arguing that private property rights were completely secure in economies such as England long before 1688, indeed as far back as the records go. Clark (2007), for instance, argues that in twelfth-century England security of private property was already good and land markets were already free, so much so that medieval England already satisfied the checklist of good institutions applied to modern developing economies by the World Bank and the IMF. McCloskey (2010), too, points out that England had secure private property rights from at least the eleventh century, "that there was little new in British property rights around 1700", and that many other medieval and early modern societies, both inside and outside Europe, also had secure private property rights in the medieval and early modern period [McCloskey (2010, p. 25)].

These divergent accounts of pre-modern English property rights are not just a quibble within a specialized literature. They have much wider implications for the relationship between institutions and economic growth. The view that England moved from insecure to secure private property rights in 1688 is used to argue that property rights play a fundamental role in causing economic growth. Conversely, the view that England already had secure private property rights in the medieval period (or long before) is taken to imply that property rights (and institutions in general) must be irrelevant for economic growth [Clark (2007, pp. 148ff); McCloskey (2010, pp. 318ff)].

How is it possible for the economic history of medieval and early modern England to be used to support two such contradictory views of the role of property rights in economic growth? To answer this question, it is essential to distinguish between the different components of security (of ownership, of use, and of transfer), and to understand what is known about the historical development of property rights in England. North and Weingast (1989) argued that in 1688 private property rights became secure for three key groups: for owners of land, giving them good incentives to invest; for lenders to the state, encouraging the rise of capital markets; and for taxpayers, protecting them from state rapacity. We begin with land, since agriculture was the most important sector and hence property rights in its major input had the greatest potential to affect growth.

6.1. Secure Property Rights in Land

In conjunction with their argument regarding the importance of the English parliament after 1688, discussed above (Lesson 2), North and Weingast (1989) also argue that before 1688 landed property in England was deeply insecure even when a stable political regime was in place, because the sovereign was able to redefine property rights at will in his own favour. The Glorious Revolution of 1688, North and Weingast argue, created for the first time in any economy in history institutional limits on a ruler's ability to confiscate private land and capital; this in turn fostered "the ability to engage in secure contracting across time and space" [North and Weingast (1989, p. 831)]. Olson (1993, p. 574) echoes this view, asserting that "individual rights to property and contract enforcement" became more secure in England after 1688 than in any other country, and arguing that this was why England industrialized first. Many contributions to the growth literature now accept the view that medieval and early modern Europe failed to experience economic growth because of "lack of property rights for landowners, merchants and proto-industrialists" [Acemoglu, Johnson and Robinson (2005, p. 393)]. This involved insecurity not just of ownership but also of transfer and of use (at least in the sense of investment): "Most land was caught in archaic forms of property rights that made it impossible to sell and risky to invest in. This changed after the Glorious Revolution. ... Historically unprecedented was the application of English law to all citizens." [Acemoglu and Robinson (2012, p. 102)] The Glorious Revolution of 1688, therefore, is supposed to have created security of private property rights in all three senses: security of ownership, certainly, but also security of use and transfer.

The empirical findings, however, do not support these claims. Secure private property rights in land existed in England from the eleventh century onwards [Smith (1974); Macfarlane (1978); Harris (2004); Campbell (2005); Clark (2007); McCloskey (2010); Bekar and Reed (2012)]. Contemporaries, ranging from small farmers to gentry landowners to great nobles to jurists, to the monarch himself, universally regarded property rights as fundamentally secure and not subject to confiscation [Pollock and Maitland (1895); McCloskey (2010)]. Thus individuals had security of ownership, in the sense of protection against arbitrary confiscation by the government or other powerful parties. However, they also had security of transfer, in the sense of having the right to sell, lease, mortgage, bequeath, and otherwise alienate their land. Royal, ecclesiastical, abbatial and manorial law-courts competed with one another to guarantee and enforce individual ownership and transfer rights even for humble people [Smith (1974); Macfarlane (1978); Britnell (1996); Whittle (1998, 2000); Campbell (2005); Clark (2007); McCloskey (2010); Briggs (2014)]. Security of use rights was somewhat more constrained, for the reasons discussed in Lesson 4: in some regions and localities, village communities had some rights to regulate the ways in which private owners could use their land, specifically via communal regulation of agricultural technology, although in other regions and localities such constraints were very minor.

So overwhelming is the evidence that ownership and transfer rights in private property rights were secure in England from the Middle Ages onwards, that even North and Weingast (1989, p. 831) acknowledge "the fundamental strength of English property rights and the common law that had evolved from the Magna Carta". The Bill of Rights promulgated in 1689 after the Glorious Revolution did not in fact

impose any limitation on the English government's ability to confiscate private property and did not require any compensation to be paid when the government did confiscate private property [Harris (2004, p. 226)]. Fortunately, however, the English common law had ensured extensive security of ownership and transfer of property in England since the eleventh century and, as Harris (2004, p. 228) points out, the judiciary showed far-reaching independence in England long before 1688.

Major political changes took place in England during the seventeenth century, and these led to some one-off changes in landed property rights. The Stuart monarchs made a series of abortive attempts to introduce absolutist government on the Continental European model in England between 1603 and 1641, and these initiatives involved some insecurity of ownership of landed property for opponents of the Crown. The Civil War of 1642-51 increased insecurity of ownership, as any civil war will, and the Restoration of the monarchy in 1660 resulted in further one-off changes in ownership rights. But, as McCloskey (2010) points out, for investors to have been deterred by such major political changes, they would have had to anticipate their occurrence. In actuality, none of these events were a predictable component of the early modern English property rights regime, so they cannot be viewed as a source of the kind of *ex ante* uncertainty that would have deterred investment. Moreover, the eighteenth century saw similar insecurity, since the regime in Britain continued to be uncertain: in 1690, serious conflicts between Parliament and Crown caused the king, William of Orange, to go back to the Netherlands; and between then and 1745, a series of Jacobite rebellions aiming to restore the Stuart dynasty operated as an organizing node for opposition to the regime. Insecurity of government always causes some insecurity of private ownership rights, but this operates mainly through expectations. It is unlikely that the regime changes of seventeenth-century England were expected by investors, and it is unlikely that investors attached no weight to the possibility of a Jacobite overthrow of the monarchy in the first half of the eighteenth century.

Quantitative analyses also cast doubt on the idea that security of any aspect of landed property rights – ownership, use, or transfer – experienced a discontinuity in England around 1688. Clark (1996) compiled a data series of land rents and land values in England between 1540 and 1750. His analysis finds that neither 1688 nor any of the other political upheavals of the 1540-1750 period marked any discontinuity. From this, he concludes that individuals must have been secure in their property rights over their land from as early as 1540.

This does not, however, mean that property rights were completely static between the medieval period and the industrial revolution, as argued by Clark (2007) or McCloskey (2010). Between c. 1350 and c. 1500, England saw significant changes in the manorial powers of landlords, communal regulation of arable fields and pastures, the costs and impartiality of legal enforcement, and the complexity of tenures and leases [Wrightson (1982); Wrightson and Levine (1995); Campbell (2000, 2005, 2009); Harris (2004); Briggs (2009, 2013)]. As Lesson 4 discussed, additional changes to property rights took place during the agricultural revolution between c. 1550 and c. 1800, during which many communal property rights were restricted or abolished, tenurial forms were simplified, restrictions on alienation imposed by the inheritance system were removed, and legal enforcement of property conflicts was improved [Overton (1996a, 1996b); Allen (1999)]. These changes influenced all

components of security of property rights. Ownership and transfer rights were particularly strongly affected via changes in the detailed functioning of the legal system, which was a major defence against confiscation or incursion, while use rights were particularly strongly affected via changes in the communal and manorial regulation of agricultural practice, particularly enclosure and changes in leases. Such changes in security of ownership, use and transfer of land in medieval and early modern England were incremental, did not show any discontinuity around 1688, and continued throughout the eighteenth century [Neeson (1984, 1993, 2000); Allen (1992); Overton (1996a, 1996b); Shaw-Taylor (2001a, 2001b)]. By the 1760s, when the Industrial Revolution was beginning, the complexity of rights governing the ownership, use and transfer of property in England, and the transaction costs involved in enforcing such rights, had been reduced compared to medieval times. Secure rights of ownership and transfer of property existed in England from at least the eleventh century onwards, and even rights of use were fairly secure in many regions. But the way these various rights operated and the economic incentives they created in practice changed over the ensuing centuries, in a gradual and incremental process.

The discussion so far has focussed on England, about which the growth literature makes the strongest claims. But similar findings exist for other countries. Secure private rights of ownership, use and transfer of landed property can be observed in a large number of European economies from the medieval period onwards. Italian economies show secure private ownership rights from the ninth century at latest, and hint strongly at secure rights of transfer in that property as well [Feller (2004); Van Bavel (2010, 2011); McCloskey (2010)]. The Netherlands had secure private rights of ownership and transfer from the medieval period onwards, which some have argued were more extensive than in England; secure rights of use also became widespread at latest by the beginning of the Dutch agricultural revolution in the late fifteenth century [Van Bavel (2010, 2011); De Vries (1974); Bieleman (2006, 2010)]. The German territory of Württemberg had secure private ownership and transfer rights in land from at latest the fifteenth century onwards, which applied to all members of society down to the poorest, included females as well as males, were unrestricted by noble privilege (since Württemberg had no landholding nobility), and included unusually generalized transfer rights such as the right to subdivide all land at will and for women to inherit equally with men; use rights were somewhat less secure because of the strong powers of Württemberg communities, but certain categories of freehold land involved secure use rights in the sense that the owner could redeploy the land to more productive uses such as textile crops [Hippel (1977); Sabean (1990); Röhm (1957)]. In many societies in central and eastern-central Europe, too, from the medieval period onwards peasants had secure private ownership rights in their land, and also secure transfer rights permitting inheritance, sale, rental, and mortgaging; use rights were more restricted, but were nonetheless secure for certain categories of land [Cerman (2008, 2012); McCloskey (2010)]. Again, however, this cannot be taken to imply that property rights in these societies did not change in any way that could affect economic growth between the medieval period and the nineteenth century. As we saw in Lesson 4, most European societies underwent changes in ownership, use and transfer rights in land which, together with changes in contracting institutions, contributed to an increase in agricultural productivity and an acceleration in agricultural growth between the late medieval period and the nineteenth century.

6.2. Secure Property Rights for State Creditors

The same is true of the second set of property rights whose security is emphasized as a basis for economic growth in eighteenth-century England. North and Weingast (1989) also argue that the Glorious Revolution of 1688, by establishing parliamentary supremacy over public finances, created an environment in which lenders could rely upon the state to meet its financial promises. This, they contend, resulted in investors' placing their trust and capital in the British state instead of its foreign rivals, created the conditions for a financial revolution which greatly improved the sophistication of credit markets, and fuelled the accelerating growth of the British economy between 1688 and 1815. These scholars conclude that the introduction of secure private property rights for state creditors in England after 1688 shows "how institutions played a necessary role in making possible economic growth and political freedom" [North and Weingast (1989), p. 831)]. The security of private property for state creditors which this literature regards as being created suddenly in 1688 consists primarily of ownership rights (in the sense that the state could not confiscate creditors' assets by failing to repay), but also extends to transfer rights, since North and Weingast emphasize that security of private property for state creditors also involved "the creation of impersonal capital markets" and "the ability to engage in secure contracting across time and space" (1989, e.g. p. 831). Cameron (1989, p. 155) argues that the Glorious Revolution, by creating security for state creditors, "reacted favourably on private capital markets, making funds available for investment in agriculture, commerce, and industry" – that is, 1688 saw an increase in security of both ownership and transfer.

Again, however, the empirical findings indicate that the development of property rights for state creditors was not characterized by a sudden switch from insecurity to security, whether in terms of ownership or transfer. Rather, security of ownership and transfer of assets by state creditors in England fluctuated substantially with political events, while improving incrementally over long periods of time. Analysis of the institutional rules and practices governing taxation and public borrowing in England between c. 1600 and c. 1850 shows that the Civil War (1642-51), although not a sharp break-point, marked a bigger change than 1688 [O'Brien (2001); Harris (2004)]. Overall, however, the development of property rights for state creditors was characterized by very significant elements of continuity between the early seventeenth and the early nineteenth century. O'Brien (2001) provides detailed evidence indicating that property rights for lenders to the state were secure in England in the early seventeenth century, and that in all important ways the institutions necessary for good governance of the public finances were in place prior to the Glorious Revolution. Harris (2004) argues that there were fundamental institutional continuities *after* 1688 and that the degree of insecurity, at least of ownership rights, remained quite high, since many institutional tools for effective oversight of the public finances were unavailable to public creditors in England until the nineteenth century.

This does not mean that security of ownership or transfer rights for creditors of the English state underwent no change over time, and hence can have made no contribution to economic growth. Analysis of interest rates on English government borrowing suggests that property rights for owners of capital developed continuously across the early modern period rather than shifting from insecurity to security

suddenly at any particular date. In conjunction with their previously discussed claims, North and Weingast (1989) further assert that 1688 saw a sharp discontinuity, with a sudden shift from insecure to secure property rights for government creditors causing a sharp decline in the interest rate which the British government had to pay to borrow funds. But Stasavage (2002) tracked interest rates on English government debt in the second half of the seventeenth century and the first half of the eighteenth, and concluded that security of private property rights for state creditors was not irrevocably established in 1688 but instead fluctuated between then and 1740. It was particularly violently affected by which political party controlled ministerial posts and the two chambers of parliament. Political events rather than institutional changes most strongly influenced investors' willingness to commit capital to the British state [Stasavage (2002)]. Sussman and Yafeh (2006), too, found that interest rates on British government debt did not show any discontinuity after the Glorious Revolution, instead remaining high and volatile for another forty years. The evidence shows neither a sudden switch from insecurity to security around 1688 nor complete stasis between the medieval period and the nineteenth century.

6.3. Secure Property Rights for Taxpayers

Similar issues arise with the third type of property rights which are supposed to have become more secure in England in 1688 and to have contributed to that country's subsequent economic success. Before 1688, it is said, the English Crown frequently engaged in confiscating its subjects' wealth via taxation; through these unconstrained fiscal powers, it is claimed, the sovereign controlled a large fraction of the resources in the English economy and reduced the security with which his subjects could use the remainder [North and Weingast (1989); Acemoglu, Johnson and Robinson (2005, p. 393)]. The Glorious Revolution of 1688, according to this view, limited the right of the state to demand property from individuals for the first time in any society in history.

These claims sit uneasily, however, with the evidence that after 1688 the British state *increased* its capacity to raise revenue from individuals through taxation [Harris (2004)]. The Bill of Rights promulgated in 1689 made the taxing power of the British state conditional on parliamentary approval, but did not limit Parliament's powers of taxation and did not require any representation or consent from the vast majority of taxpayers who were not represented in Parliament. The landed, financial and commercial groups in society were over-represented in the British Parliament, while the vast mass of ordinary taxpayers were either under-represented or had no vote at all.

State revenues from taxation and borrowing in England greatly increased between 1689 and 1815, both in absolute terms and as a share of national income [Mathias and O'Brien (1976, 1978); O'Brien (1988)]. Fortunately, state extraction only began to increase in England at the point at which per capita incomes and economic growth had already risen to quite high levels [O'Brien (1988, pp. 23-4); Brewer (1989)]. However, between 1689 and 1815, real gross national product increased by a factor of 3 while real peacetime taxation rose by a factor of 15 [O'Brien (2001, pp. 8, 10)]. This huge increase in government control over national resources after 1688 casts serious doubt on the view that 1688 marked an improvement in the security of ownership rights of British taxpayers. Even between

1603 and 1641, when the early Stuart monarchs were trying to introduce continental-style absolutism to England, total government expenditure was a maximum of 1.2-2.4 per cent of national income; after 1688 the state rapidly increased its share of national income to 8-10 per cent [McCloskey (2010, pp. 318-19)]. The percentage of English national income over which individuals as opposed to the state enjoyed secure private property rights – whether in terms of ownership or in terms of use – *declined* after 1688.

In principle, this enhanced state capacity might have supported activities, such as provision of public goods, that indirectly enhanced private property rights or benefited economic growth in other ways. The British state's increased ability to raise funds after 1688 certainly enabled it to undertake a number of new activities. However, these probably did not benefit economic growth. One of the first things the new English king did after public finances were placed on a stable footing in 1688 was to use them to launch a major war against France. This was not a mere blip but the beginning of a long-term trend. The vast majority of English state expenditures after 1688 were not spent on civil government, in the sense of infrastructure, education, or other public goods that might have benefited long-term economic growth. Rather, state expenditures were predominantly allocated to military purposes or to servicing the state debt, which was itself incurred primarily for military purposes [O'Brien (1988, 2001)].

This military spending was not beneficial for the economy. As Williamson (1984, p. 689) shows, British economic growth was modest between 1760 and 1820, both relative to its subsequent performance and relative to modern developing economies, because "Britain tried to do two things at once – industrialize and fight expensive wars, and she simply did not have the resources to do both". Although the precise size of the impact of war on the British economy in the eighteenth century is debated, most agree that it was negative and non-negligible [Williamson (1987); Crafts (1987); Mokyr (1987)]. The increased ability of the English state to borrow and tax during the eighteenth century thus probably did not favour economic growth: the English economy grew in spite of rising state spending, not because of it. Again, however, the evidence shows neither a sudden switch from insecurity to security of taxpayers' ownership, use or transfer rights at any specific date, nor complete stasis between the medieval period and the nineteenth century.

6.4. Security of Property Rights: Analytical Challenges and Open Questions

What do these findings imply for economic growth? The historical findings support neither of the two views prevalent in the growth literature about the relationship between economic growth and security of private property rights, whether these are defined in terms of ownership, use, or transfer. Economic history shows that secure rights of ownership, use and transfer for landholders, lenders, and taxpayers did not emerge suddenly, recently, or in a single precociously advanced economy from which they subsequently diffused to other backward ones. Secure rights to own, use and transfer land, capital, and other assets emerged gradually in a large number of European societies over half a millennium or more. None of these societies guaranteed individuals perfectly secure rights of ownership, use or transfer over property, but none of them lacked such security altogether. Rights of ownership, use and transfer of private property in most societies in medieval and early modern

Europe were neither perfectly insecure nor perfectly secure, but rather changed incrementally over very long periods of time. Economic growth cannot be ascribed to a sudden switch from insecure to secure rights of ownership, use, and transfer; but nor, as we saw in Lesson 4, was growth left wholly unaffected by the incremental changes that did take place in the property rights regime.

These empirical findings from history pose an analytical problem for economics. If rights of ownership, use and transfer over private property were reasonably secure in England in 1200, but also changed between then and 1800, what do we actually mean by property rights being "secure" enough to lead to economic growth? All economists and historians would probably agree that a necessary condition for economic growth is some degree of security of ownership, in the sense of protection from seizure or taxation of the entirety of what private individuals own or can gain through exchange, investment, and innovation. Most would probably also agree that economic growth also requires some degree of security in the rights to use one's property, whether by investing in improving it or by devising more productive uses for it. And most would agree that economic growth requires some degree of security in the right to transfer assets to other people, whether by selling them, renting them out, or using them as collateral for loans. But which component of security of property matters most for growth? How much security? And how do we measure it?

Without more refined analytical categories than mere "security", we are unlikely to achieve a better understanding of the contribution of property rights to growth. Even distinguishing between security of ownership, security of use, and security of unrestricted transfer only takes us so far. The empirical findings from history suggest two directions in which economics must develop its analytical tools for thinking about security of private property rights.

First, constraints on security of private property rights are multi-faceted. Constraints on security of ownership rights include such variegated incursions as state confiscation, eminent domain, manorial ejection, rapacious taxation, failure to repay loans, inability to defend one's property title using the legal system, and many more. Constraints on security of use rights are even more varied, and include interlinkage with labour and product markets (e.g. under serfdom), collective usufruct rights, communal regulation of crop rotations, manorial prerogatives, and many more. Constraints on security of unrestricted transfer rights include conditionality of sales, bans on hypothecation, village citizenship requirements, noble entailment, familial redemption rights, limits on female inheritance and marital property, inheritance customs, and many more. These constraints on security of ownership, use, and transfer rights in private property do not necessarily all change at the same time or in the same direction. Furthermore, the intensity of these various constraints on security of private property are not necessarily perfectly correlated across societies. The historical evidence, for instance, suggests that early modern England had, by European standards, strong security of private use rights protecting owners against communal or manorial intervention, but weak security of private ownership and transfer rights for married women; the former type of security of private property right changed significantly during the eighteenth century, while the latter did not. Similar examples of complex combinations of security and insecurity of different components of property rights can be provided for every pre-modern European economy. Economics needs analytical tools for deciding which of the numerous

observed constraints on how people could own, use and transfer property should be employed as criteria for defining "security" of property rights, and also tools for establishing which of these aspects of security were likely to be more or less important for economic growth.

The second need for analytical attention is created by the fact that property rights are only one component of the wider system of institutions in a society. Security of rights of ownership, use and transfer can be enhanced by other components of the system – for instance, by contracting institutions, as we saw in Lesson 4. But security of rights of ownership, use and transfer can also be *constrained* by yet other components of the system – for instance, by village communities or the manorial system. As we saw in Lesson 5, the historical evidence suggests that in all pre-industrial European economies, even the most advanced, generalized property rights were constrained by other, more particularized components of the institutional system. Economics therefore needs analytical tools for understanding the interaction between security of private property rights and other components of the broader institutional system.

This concludes Part 1. The paper is continued in Sheilagh Ogilvie & A. W. Carus, "Institutions and Economic Growth in Historical Perspective: Part 2", CESifo Working Paper No. 4862.