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Marc Belissa and Yannick Bosc, *Le Consulat de Bonaparte: La fabrique de l'Etat et la société propriétaire*. Paris: La Fabrique, 2021. 304pp. €15.00. (pb.). ISBN 9782358722223.

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At first glance, *Le Consulat de Bonaparte* seems like a very good *manuel scolaire*--the kind that French professors periodically write. It features the usual suspects--the constitution-wielding Siéyès, the critic Staël, the quick-thinking Lucien, the Code-writing Portalis, a stage full of lesser-known Brumairians, and, of course, General Bonaparte himself, masterfully moving his peons toward his ultimate goal--personal power. And the decor is familiar--the well-trundled list of Brumairian "accomplishments": from the creation of prefects, lycées, Legion of Honor, and the Civil Code, to the institution of the *notabilité*, the Concordat, plebiscites, war, police surveillance, the repression of labor, and the restoration of slavery. On the face of it, this is a textbook that offers a comprehensive overview of the major policies and institutional innovations of the Consular period. It is ideal for a French-language undergraduate course on the Revolutionary and Napoleonic period.

Yet, although it depicts familiar characters doing familiar things, *Le Consulat de Bonaparte* does so with point and purpose: to advance a strong argument about the nature of state and society during the period of the Consulat (1799-1804). For the authors, the famous centralization of the Brumairian state continued the work of the previous regime, the Directory (1795-1799). But intertwining with this, there emerged another, entirely novel thread--the creation of an "authoritarian and personalized" form of rule centered on Bonaparte (p. 23). For the state, therefore, the picture the authors' draw is one of continuity marked by an important element of rupture. As for society, however, their emphasis is all on continuity--continuity with the Directory's push to create a "republic of property-owners" (p. 26). These statal and social dimensions of the Consular project came together, the book argues, in a "veritable personalized, authoritarian, and centralized State supposedly at the service of a property-owning elite, [but which was] ultimately shorn of political power in favor of a single individual." (p. 26) This multi-dimensional argument offers a sharp, substantial intervention with which to engage. Rather than summarize the book's contents, that is what this review will do.

The book's argument takes shape within the framework of a venerable question that still, for better or worse, dominates scholarship on Napoleonic France: did Napoleon perpetuate or assassinate the Revolution? The authors wisely modify the terms of that initial question by asking another: which revolution? Was it, they ask, "the one that defined property as an unlimited natural right (*droit naturel illimité*) or that which cast property as a social right subordinate to the

right to existence enjoyed by all citizens?” Was it the revolution “that considers resistance to oppression as the natural right of all men...or that which suppresses all reference to natural right?” (pp. 22-23). Acknowledging the multiplicity of revolutionary principles during the decade 1789-1799 allows the authors to offer a precise argument about the nature of the Consulate by comparing it to the several revolutionary regimes that preceded it. In their comparisons, the authors tend to emphasize difference and rupture over shared ideas and continuity. Ultimately, their argument seems to aim more at making a distinction between what they see as the two great stages of the Revolution--1789-1795 vs. 1795-1799--than about the nature of the Consulate itself.

Let's first look at the book's argument about the Consular state. It convincingly shows that the first governments of the Revolution, from the Constituent Assembly through the Convention, not only embraced democratic practices, but also had no plans for state centralization. On the contrary, the form of government they instituted was highly decentralized, a veritable anarchy of “armed municipalities” according to Burke.[1] It was only with the Directory, the authors note, that systematic efforts to centralize power got underway--and with them, a “confiscation of sovereignty” that was at antipodes from 1789's ideal of mass civic participation. The authors show how the Consulate intensified centralization and depoliticization, highlighting the regime's filiation with the Directory. What really made the Consular state something other than a Directory 2.0 was the success of Bonaparte's quest for personal power. This had never been part of the Brumairian plotters' plan and, as the authors show, Bonaparte himself only achieved his aim through shrewd opportunism and a good deal of luck. One might sum up the authors' argument this way: the Consular state was an enhanced version of the Directorial one, with the unexpected addition of Bonaparte.

This half of the argument, about the nature of the Consular state, is convincing. What about the book's social argument, that the Consulate broke with the principles of 1789-1795 by pursuing the Directory's dream of a “republic of property-owners” with the “unlimited” right of property at its core (p. 30)? There are two problems with this part of the book's argument, its interpretation of the key normative statements of property right and its overemphasis on rupture.

First, it is incorrect to describe the notion of property right that reigned during the Consulate and was eventually enshrined in article 544 of the civil code as “unlimited.”[2] Like Article 17 of the 1789 Declaration of the Rights of Man and Citizen, to which it bore a striking resemblance, article 544 explicitly envisioned the legal restriction of property rights. It is worth quoting both articles: “Article 17. La propriété étant un droit inviolable et sacré, nul ne peut en être privé, si ce n'est lorsque la nécessité publique, légalement constatée, l'exige évidemment, et sous la condition d'une juste et préalable indemnité. Article 544. La propriété est le droit de jouir et disposer des choses de la manière la plus absolue, pourvu qu'on n'en fasse pas un usage prohibé par les lois ou par les règlements.”[3] It is true that there are differences in wording and content. For example, property is “inviolable and sacred” in article 17, but “absolute” in article 544. Substantively, article 17 displays a concern about potential expropriation and indemnification that is absent in article 544.[4] But the similarities between the two articles strike me as more important than their differences. The two articles share the same fundamental structure--an initial clause declaring and defining the right of property in strong terms, followed by a second clause placing potential limits on that right. In both articles, the purpose of the law is to define those limits. The authors acknowledge these similarities, but do not recognize that this

fundamental continuity in property rights between 1789 and 1804 undermines their claims that the Directorial/Consular order represented a break in the revolutionary thread (pp. 110-111).

The distinction the book makes between the Consulat's "unlimited" property right and early revolutionary notions of property as a "droit social subordonné au droit à l'existence de tous les citoyens" does not stand up to a comparison of Article 17 and Article 544, the two most influential statements of property right in all French history. Both articles explicitly provide for the restriction of property rights—and do so in the same way, through the agency of the law. The articles are thus essentially the same. And, moreover, they make no mention of the "unlimited" property right at the heart of the book's argument about the difference between 1789-1795 and 1795-1804. Is this "unlimited" property right a fiction? Can it be found anywhere?

Something close to an "unlimited" property right can be found, but in places that undermine the book's argument about continuity between the Directory and Consulat. The two republican declarations of rights, those attached to the Convention's constitution of 1793 and the Directory's constitution of the Year III, both contained articles on property. They are nearly identical, which casts doubt on the distinction the authors make between the Convention's "social" ideal of property and the Directory's penchant for the interests of larger property-owners. And even more surprising, both articles offer a more "unlimited" statement of property right than those found in articles 17 and 544.[5] Again, it is worth quoting the articles in question: "(Declaration of 1793) Article 16. - Le droit de propriété est celui qui appartient à tout citoyen de jouir et de disposer à son gré de ses biens, de ses revenus, du fruit de son travail et de son industrie." "(Declaration of the Year III) Article 5. - La propriété est le droit de jouir et de disposer de ses biens, de ses revenus, du fruit de son travail et de son industrie." In contrast to articles 17 and 544, the Declarations of 1793 and the year III are one-clause affairs, beginning and ending with a statement of one's liberty to enjoy and dispose of one's things as one pleases. Unlike the formulations of 1789 and 1804, the republican articles impose no limits whatsoever. To judge the filiation of the various revolutionary regimes by these normative statements alone, 1789 and the Consulat would form one pair, the Convention and Directory another.

I am not trying to argue that this is the case. I merely want to point out that the similarity between the Consulat's and Constituent's official views of property reveals fundamental continuity running through the entire revolutionary decade and the Consulat—a continuity at odds with the book's emphasis on 1795 as a point of rupture.[6] This continuity—the primacy of property-ownership—remained strong across the nineteenth century and, as Thomas Piketty has argued, has intensified in recent decades.[7] The insistence on the social and political importance of property-ownership was not an innovation of the Directory and Consulate, but was already very much in evidence in the Constituent Assembly. And this concern could manifest itself in rhetoric and policies aimed at making property-ownership more accessible. For example, in May 1790, Delley d'Agier speaking for the Comité d'aliénation des biens domaniaux et ecclésiastiques, explained that financial necessity was not the sole reason to sell the *biens nationaux*. The other, equally important, was "d'appeller à la propriété, à cette espèce de dignité, la première peut-être chez une nation libre, le plus grand nombre possible de citoyens." Accordingly, he continued, the Comité had designed the sales system so that "l'habitant des campagnes ne craindra plus d'entrer en concurrence avec le capitaliste, et les richesses mobilières de ce dernier ne le rendront plus l'arbitre tyrannique des adjudications." [8] A similar concern for extending the social boundaries of property-ownership continued in the Legislative Assembly (which reserved parcels of confiscated *émigré* land for the poor, and Convention, which decreed the division and sale of the

commons). All of these measures expressed the belief that property-ownership was an essential foundation of the new order of things. The Directory and Consulat shared this belief.

This is not to say that all the revolutionary regimes of 1789-1804 had an identical approach to achieving their common goal of building a “republic of property-owners.” Whereas the Constituent, Legislative, and Convention actively sought to expand access to property, the Directory seems to have abandoned those efforts. Instead, it sought to base its power on the already-existing class of property-owners.[9] The Consulat reinforced this policy by recruiting large-scale landowners for its *notabilité*, from whose ranks the electoral colleges and public functions were selected.

Le Consulat de Bonaparte discusses this initiative in a section of its sole chapter on the role of property in the Consulat, “La hiérarchisation de la société propriétaire.” This section is the most pertinent part of this chapter, which ranges over various Consular institutions—the Legion of Honor, the Bank of France, the reimposition of labor controls via the *livret ouvrier*, and the reassertion of *puissance paternelle* through the Code—only tangentially relevant to the question of property-ownership. Admittance to the Legion was based solely on service; the Bank of France concerned only a handful of financial elites; the *livret* concerned only workers and their *patrons*, who represented only a tiny fraction of the property-owning elite; and the Code’s patriarchal strictures applied to all families, whether or not they had property.[10] The chapter on “la hiérarchisation de la société propriétaire” has a great deal to say about the reimposition of social hierarchy, but very little about property and property-ownership. It leaves the reader wondering what was substantively new in these last two regards. The Consulat certainly raised the censitary requirements for electoral and public function, but this seems like a difference in quantity rather than quality or underlying rationale. After all, the distinction between active and passive citizenship was invented by the Constituent Assembly. All French regimes from 1789 on regarded property-ownership as an essential component of the social fabric and a primary source of the independence necessary for voting and public function—whatever the specific censitary requirements they imposed.

One might respond to my claim that the proprietary continuities binding the period 1789-1804 were more significant than the ruptures by pointing out that the Montagnard Convention imposed serious limitations on private property and its privileges. After all, it did abolish censitary requirements on the right to vote. And it imposed new restrictions on property rights by imposing price controls on a range of consumer goods—the Maximum. These were important changes and were perceived as such at the time. But I do not see them as fundamental breaks with the framework of Article 17 of the Declaration which, after all, explicitly envisioned the possibility of encroaching on individual property rights in the case of “nécessité publique.” Given the war, given the financial crisis, the “nécessité” was greater than it had been before and thus demanded a commensurately stronger response.[11] But that response was different in degree, not in kind. The Convention never called into question either the existence or the desirability of private property.

The main weakness of the book is that, in attempting to draw a sharp distinction between 1789-1795 and 1795-1804, it downplays the continuities, property prominent among them, that bound these periods together. Despite real differences in degree from regime to regime, all defined property in essentially the same way, and all assigned it a central role in the socio-political order. What was really new about the Consulat, as David Bell has recently shown, was a new model of

personalized, authoritarian political power that, unfortunately, would continue to flourish down to the present day.[12]

NOTES

[1] Edmund Burke, *Reflections on the Revolution in France* (Garden City, NY: Anchor/Doubleday, 1973), p. 233.

[2] I am not aware that any truly unlimited system of property has ever existed or is even theoretically possible. As a right constituted by law and dependent on the state, property is necessarily limited. Jean-Philippe Robé put it this way. “Regulation is not something *external* to property. *It is part of the notion*, although it can be minimal or very extreme. Increased regulation of property in any form *reduces* the degree of autonomy of the owner; it does not affect property as a right to decide about the use, disposition of or regulation of the object of property *as a matter of principle*—unless the regulation becomes so extensive that it amounts to a deprivation...Similarly ‘deregulation’ does not eliminate ‘regulation’; it just takes it away from the ‘public’ regulator to put it back into the hands of the ‘private’ owner.” *Property, Power, and Politics: Why We Need to Rethink the World Power System* (Bristol: Bristol University Press, 2020), p. 15.

[3] For article 17, see *Declaration of Rights of Man and Citizen*, Legifrance, République Française, <https://www.legifrance.gouv.fr/contenu/menu/droit-national-en-vigueur/constitution/declaration-des-droits-de-l-homme-et-du-citoyen-de-1789>; for article 544, see *Code Civil*, Legifrance, République Française, https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070721/LEGISCTA00006117904/#LEGISCTA000006117904.

[4] The fact that article 17 explicitly pronounced the sacrality of property, while article 544 did not fit uneasily with the book’s argument that the Brumairians sought to “sanctuariser et sanctifier le droit de propriété illimité” (p. 30)—thus, implying that this sanctification was something new. In fact, from 1789 forward (and with monotonous regularity), the revolutionaries proclaimed the sanctity of property. The book’s chapter on property during the Consulat starts with a section entitled “La propriété sanctifiée.” In a revised edition, the authors might want to consider appending to it the word “encore.”

[5] Of course, to declare and define property right in a normative text is itself a limitation of that right. See endnote 2.

[6] Given the people involved in drafting the various canonical property texts of the period, this is not surprising at all. Merlin de Douai, the architect (with Tronchet) of the Constituent Assembly’s legislation on feudal abolition, continued to work on feudal abolition as a deputy to the Convention and continued to issue major opinions on property as procureur-général of the imperial Cour de Cassation and Conseil d’Etat. His sometimes-collaborator Cambacérès authored multiple civil codes during the 1790s, before becoming Napoleon’s arch-chancellor. Finally, the authors of the famous code itself were all revolutionary veterans – Tronchet and Bigot de Préameneu (Constituent Assembly) and Portalis and Malleville (Directory).

[7] Thomas Piketty, *Capital et Idéologie* (Paris: Seuil, 2019).

[8] *Archives parlementaires*, Series 1, vol. 15, p. 447.

[9] A class whose ranks had already grown during the period 1790-1795 thanks to the sale of *biens nationaux*.

[10] The book does not address the articles of the Code that limited property rights, notably those on inheritance. These significantly restricted parents' testamentary freedom by requiring that the majority of inherited property be shared equally among all "legitimate" children. In my opinion, a legal regime of property that allows an individual to dispose post-mortem of only two-fifths of their property should not be described as "unlimited."

[11] Since 1788, the royal government, as well as localities, had been intervening significantly in the economy—notably by fixing the price of grain through massive purchases from abroad and subsidized or free distribution to the poor.

[12] David A. Bell, *Men on Horseback: The Power of Charisma in the Age of Revolution* (New York: Farrar, Straus and Giroux: 2020).

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