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Albert N. Hamscher, *The Royal Financial Administration and the Prosecution of Crime in France, 1670-1789*. Newark: University of Delaware Press, 2012. xvii + 535 pp. Map, tables, charts, notes, appendix, bibliography, index. \$105.00 U.S. (cl). ISBN 978-1-61149-374-0.

Review by Anthony Crubaugh, Illinois State University.

In his acknowledgments the author reveals that he began research for the present project in 1976 and expresses astonishment that he persevered in bringing it to fruition in 2012. Readers will share that astonishment. On the one hand, the publication of *The Royal Financial Administration and the Prosecution of Crime in France, 1670-1789* is a feat that, having undoubtedly required such highly technical knowledge, so much travel to and time spent in widely-scattered archives, such meticulous tabulation of figures, and such deep familiarity with huge swaths of secondary and primary sources, few historians could or would try to replicate it. On the other hand, in the current climate of academic publishing, it is a feat that few presses would seem willing to replicate in light of the book's protean nature and unusual size. It functions as a monograph, reference work, set of field notes, and research guide, and overall the volume is specialized, exhaustively detailed, replete with discursive endnotes, and very big. (It ships at 3.4 pounds and measures 9 x 11.5 inches—dimensions that allow for double columns, thereby reducing what would have been over 1,000 pages to a “mere” 552).

Hamscher's topic is the system for payment of the costs of criminal justice in royal courts when the king's prosecutor acted as the sole plaintiff. But the system operated at the intersection of three subjects—criminal justice, royal administration, and monarchical financial management—that broaden Hamscher's initial focus to include the history of institutional relations and bureaucratic workings of the old regime French state. Hamscher claims that “a central goal of the study is to provide factual information and interpretive insights on each of these topics and to explain the relationship of each to the others over a long period” (p. 1), specifically from the 1670 codification of criminal justice procedure up to the Revolution. Each of the aforementioned subjects has a voluminous scholarly literature, which, combined with the author's status as one of the profession's foremost experts on Ancien Regime administration and the fact that he toiled in both Paris and at least thirty-five departmental archives for this decades-long project, insures that Hamscher does indeed have prodigious amounts of information and a great many insights to convey. Thus, thematic, methodological, chronological, and geographical factors transform a highly focused research agenda into a large and expansive book that sheds light on numerous issues ranging from the monarchy's attempted fulfillment of a crucial responsibility of kingship to the management of royal finances, from the nature of institutional reform and patterns of institutional conflict and cooperation to the evolution of the state's involvement in a significant aspect of public life.

The “General Considerations” of chapter one introduce crucial aspects of the French state, the complexity of which merits highlighting at the outset. Hamscher asserts that “the monarchy's role in financing the prosecution of crime was inherently complex” (p. 5) because of its location at the crossroads of justice, finance, and administration. A general overview of France's judicial organization “...cannot possibly convey the inherent complexity of a system that almost defies any but the most basic generalizations” (p. 12). In ascertaining financial responsibility for a criminal prosecution, he writes:

“The issue of precisely who should pay and in what specific circumstances was an exceedingly complex one” (p. 16). Any attempt at tracing all the fiscal threads of the criminal justice system “would require a team of researchers working patiently over many years in numerous local and central archival collections...” (p. 14). (Still, individually, Hamscher has approximated what that team might accomplish.) The complexity first exposed in these general considerations multiplies exponentially in later chapters as he trains his microscope on such topics as methods of classifying revenues from the royal domain or the impact of appanage creations, to cite but two out of dozens of possible examples. One of Hamscher’s most admirable achievements, and thus one of the book’s greatest benefits to scholarship, is his successful unraveling of the French state’s complexity in order to describe clearly its components and practical functioning—the prose equivalent of an exploded diagram.

Hamscher begins to unpack that complexity with a description of the principles, procedures, and institutions of French criminal justice. A key point here is that the crown perceived its role in the prosecution of crime as central, albeit limited and shared. In other words, the monarchy took seriously the prosecution of major crimes and mobilized its financial apparatus as a consequence. But it paid for only some kinds of criminal prosecutions (*grand criminel*), in certain jurisdictions (i.e., royal ones such as *bailliages*, *prévôtal* courts, parlements), and under specific conditions, namely, when the king’s prosecutor was sole plaintiff in the absence of another party who could assume financial liability (such as a private plaintiff, appanage prince, seigneur, *engagiste*, *dénonciateur*, or convicted criminal).<sup>[1]</sup> After untangling the knot of France’s judicial organization, Hamscher enumerates the myriad *frais de justice* at the core of the system. Although travel required massive expenditure particularly if it involved the transfer of prisoners to appellate courts, the provisioning of bread and other upkeep of jailed persons routinely generated the highest expenses. Funding for costs of criminal justice in monarchical courts derived from the royal domain and was therefore highly regulated by the crown’s administration. If one general premise of the book is that the monarchy regarded as a responsibility of kingship the prosecution of serious criminal acts, then “the spirit of frugality” that guided royal officials constitutes another “polar star” (p. 14). In this manner, Hamscher’s introductory considerations have established the twin demands of “justice” and “finance” whose tensions, cooperation, and negotiations across time and space lie at the heart of subsequent chapters. Hamscher next explicates the system’s fundamental bureaucratic relationships. At the national level, the controller general worked with *intendants des finances* to oversee the system. A “local triangle” operated at the regional level, as royal magistrates issued orders for payment (*exécutoires*), provincial intendants approved or modified them, and revenue farmers and their agents paid bills. A methodological discussion of the resultant, extensive paperwork that makes Hamscher’s study (and future ones) possible concludes the general considerations.

Chapters two and three trace the establishment and implementation of controller general Jean-Baptiste Colbert’s (1665–83) system for the payment of criminal *frais de justice*, which emerged from his larger concerns to increase domanical revenue and enhance crown control of its resources.<sup>[2]</sup> Prior to Colbert, criminal cases without a private plaintiff in royal courts were largely funded through the collection of judicial civil and criminal fines. As a result, royal courts operated under financial constraints because the vigor of magistrates’ pursuit of crime reflected the amount of revenue generated through fines. At the base of his system, Colbert eliminated magistrates’ unrestricted control over local judicial fines—that income now flowed into the coffers of revenue farmers and was reflected in rising lease prices—and instead provided nearly 150 royal tribunals of first instance with a fixed annual appropriation from the royal domain.<sup>[3]</sup> In other important developments, Colbert initiated the kingdom’s first fee schedule (*tarif*), although only for the single issue of transferring convicts to an appeals court at a rate of fourteen *livres* per day, as well as standard audit procedures in order to control judicial expenses.

Ultimately, the success or failure of Colbert’s efforts to create a coherent and kingdom-wide system of paying for criminal justice in royal courts through fixed annual appropriations depended on the level of spending. But Hamscher also points out that the system’s smooth functioning would depend on its ability to prevent conflict between the judges who requested funds and the revenue farmers who

allocated them. Simply put, Colbert's edifice had serious and structural flaws. Funds were consistently inadequate, and in any case, a fixed appropriation ignored the realities of fluctuating expenses based on the number and different nature of criminal cases. Furthermore, no funds had been appropriated for the courts (*prévôtés*) of the *maréchaussée* despite their significant role in old regime criminal justice. Judges complained vociferously about both the insufficient amount of funding and the administration of funds by revenue farmers. On the whole, intendants corroborated the veracity of the grievances. The upshot of such complaints, according to magistrates, was that serious crime went unpunished in their jurisdictions, and Hamscher's in-depth research on the Parlement of Paris uncovers a decline in the activity of provincial royal prosecutors consistent with their complaints about inadequate funding. In concluding with a "negative assessment" (p. 111) of Colbert's system, Hamscher does not deny that the controller general took seriously the prosecution of crime as an obligation of monarchy, but he does contend that Colbert failed to resolve inherent tensions between justice and finance by subordinating the former to the greater goals of trimming expenses and augmenting domainial revenue.

Chapter four sets up elements of the new system that quickly replaced that of Colbert and endured in its basic outline throughout the old regime. But before investigating in chapters six through eight the new system's operation from the 1680s to 1789, Hamscher explains and presents the "history with numbers" that allows him to discern through quantitative evidence broad patterns of royal expenditure for criminal justice balanced by the context of regional and temporal variations. Thus, the remainder of chapter four elucidates the sources and intricate methodology for his statistical analysis. To arrive at his data, Hamscher did not have the luxury of transcribing figures for royal spending on criminal justice already totaled by the controllers general and conveniently deposited in central archives. Rather, he sifted through four core sets of auditing documents at the local level and painstakingly calculated the nominal figures for nearly 100 years in thirty-three provinces or *généralités*.<sup>[4]</sup> That herculean task might have been Sisyphean as well had Hamscher not paid careful attention to issues such as inflation that necessitated his revision of nineteen sets of nominal figures to insure their accuracy.

After explaining the genesis of his figures, Hamscher takes the reader "Inside the Numbers, Mid-1680s-1789" in chapter five. He first enumerates the "complex and at times frankly bewildering array of local circumstances" (p. 193) that impacted levels of spending in a region, such as the presence of appanage princes who relieved the crown from some financial responsibility, or the large size of a jurisdiction (the Parlement of Paris) that increased royal expenditures because of the heavy cost of transporting prisoners on appeal. Thus, in the aggregate a correlation probably exists between royal spending on criminal justice and the number of cases prosecuted by royal officials, which in turn gives a rough indication of their fulfillment of the responsibility to pursue crimes. But Hamscher's work insightfully cautions the historian against attributing a direct causal relationship at the regional level. After establishing the sources and relevance of regional variations, the author delineates the broad trends emerging from his quantitative data, including important rises in spending from the 1720s to the mid-1730s and again in the 1760s and notes that the last twenty-five years of the old regime experienced a particularly striking increase. Overall, from 1734 to 1788, royal spending on criminal *frais de justice* increased 424.2 percent in real terms, while the monarch's ordinary revenue rose just 23 percent over the same timeframe, rendering the cost of justice "a dynamic item of expenditure in the king's finances" (p. 197) that merited close supervision.<sup>[5]</sup>

Chapters six and seven return to the post-Colbert system for payment of criminal expenses forged mostly from 1683 to 1687 under Le Peletier. Hamscher pays close attention here to chronological trends, the impact of refinements under controller general Philibert Orry (1730-1745), judicial reforms under chancellor René Maupeou (1768-1774), geographical variations, and the transition to the new administrative personnel and processes. The king's domain remained the source of funds for royal courts in the new system, but now judges issued order for payments that first required an intendant's written approval (*visa*), which once granted then obligated revenue farmers to provide reimbursement without question. Another significant element of the new system was the inclusion of the *prévôtés* of the

*maréchaussée*. Hamscher contends that the abolition of fixed appropriations enhanced judges' abilities to prosecute serious crimes, since magistrates developed confidence that the requisite funding would be forthcoming. Nevertheless, that enhancement entailed greater regulation and supervision because of the prominent role played by intendants in auditing accounts and scrutinizing requests, the expansion of official fee schedules, and the crown's elimination of reimbursements for certain expenses, such as the *épices* that court personnel traditionally charged plaintiffs. So the improvement of funding that guided reforms of the 1680s coincided with laying the groundwork for administrative processes that would simultaneously control expenses.

Neither the improvement of funding nor the improved administration of those funds proceeded in linear fashion, for (war-induced) financial troubles during the reign of Louis XIV and the Regency strained the system in the 1710s and 1720s, and it took time and fine-tuning to develop the bureaucratic networks, institutional memory, employee expertise, uniformity of practice, elements of flexibility, and efficiencies in payment that were hallmarks of a growing operational stability. But over time the level of funding did rise, with the aforementioned increase at the end of the old regime stemming in large part from the salutary impact of 1771-72 acts pertaining to the role of seigneurial tribunals in the criminal justice system.<sup>[6]</sup> Just as the level of funding increased as the system matured, so too did the stability and effectiveness of the administration of funding: "Gradually but steadily the officials of the *contrôle général*, the provincial intendants, the domain revenue farmers, and the royal courts themselves implemented the rules for payment in an orderly way, made adjustments when necessary, and resolved particular problems as they arose..." (p. 268). As a result, Hamscher concludes that "the conduct of the royal financial administration during the final half of the *ancien régime* merits a favorable assessment" (p. 352).

Whereas prior chapters demonstrated the expansion of the crown's financial commitment to criminal justice, Hamscher's last chapter reveals that the monarchy never abandoned the longstanding principle of shared responsibility. To enforce the principle, the royal administration developed elaborate machinery that resulted in recovery rolls indicating the amounts for which another "public" authority (e.g., seigneurs or towns with rights of high justice) or private individual (victim or convicted criminal) was responsible as plaintiff. Here as elsewhere, the machinery operated with efficiency and professionalism in the late old regime, but it was time-consuming and quite possibly did not result in the recovery of sufficient funds to justify the bureaucratic effort to collect them. Hamscher does not weigh in on that particular issue. Rather, he sees the elaborate process surrounding recovery rolls as illustrative of larger dynamics in the old regime conflict between the demands of "justice" and "finance": "...By advancing the costs of prosecutions, and then tending to the mechanics of recovery, finance accommodated justice" (p. 426).

A quixotic stab at summarizing the broad outlines and key conclusions of *The Royal Financial Administration and the Prosecution of Crime in France, 1670-1789* risks giving an incomplete sense of its nature, for the book is not necessarily driven by the logic of a central thesis. Although Hamscher's study sheds much light on the old regime French state, he justly conceives of his work as contributing to existing scholarship in several other ways. The systematic treatment of three subjects normally studied in isolation will facilitate the work of historians in diverse fields. The chronological scope provides scholars a long term perspective, just as the geographical breadth facilitates firm kingdom-wide conclusions while remaining sensitive to regional diversity. Finally, the presentation of "basic research" on institutional functioning, along with methodological suggestions for interpreting financial documents and criminal justice statistics as well as the casting of and commentary on a wide documentary net, together serve as the basis for future research by historians. To view the book as a service aimed at advancing the agendas of other scholars captures some fundamental characteristics in the way a summary cannot: the tremendous detail (chapter seven has fifty-five pages of text and thirty-one pages of notes—all double-columned), the dogged exploration of nuances and exceptions to generalizations, the number of regional examples to illustrate points, the description of the nature and

location of documents encountered (readers will learn the function of each of the sixteen columns in the *état des exécutoires*), the sophisticated methodological considerations, and chapter endnotes of a variety that publishers rarely countenance anymore.

Overall, Hamscher illuminates the complexity of the old regime state (which is not to say its irrationality or dysfunctional nature), identifies its institutions, personnel and procedures, and explains how it functioned in practice and evolved over time. Certain structural elements of the system for payment of criminal *frais de justice* endured throughout the old regime and were emblematic of it: funds were drawn from the royal domain, whose revenues were farmed out to leaseholders; the crown considered its role in the pursuit of crime to be important, but limited and shared; and a continuous tension emanated from the twin demands to provide justice and to maximize state revenue. Yet over a long period the French state did expand its role in a significant aspect of public life—the prosecution of serious crime—as evidenced in the fact that by the 1770s and 1780s royal prosecutors almost always acted as the sole plaintiff in cases classified as *grand criminel*.<sup>[7]</sup> To make possible the royal courts' assumption of nearly exclusive responsibility for the prosecution of *grand criminel* cases, the French state did develop a relatively efficacious administrative system. When confronted with problems in the system for the payment of criminal justice, the state proved capable of reform, for example with the 1771-72 acts that reconceptualized the role of seigneurial courts. Finally, at least in the focused realm where justice, finance, and royal administration intersected to pay for criminal prosecutions, the constituent parts of the eighteenth-century French state experienced a significant degree of cooperation. Historians of old regime France are of course well-versed in the titanic struggles between the royal magistracy, the royal administration, and the royal fiscal apparatus over such issues as Jansenism and finances. Hamscher's book in no way diminishes the relevance of those struggles or their role in precipitating the crisis of the old regime, but it does give historians a fuller picture of the French state.

To conclude that *The Royal Financial Administration and the Prosecution of Crime in France, 1670-1789* is intended for specialists might be the mother of all understatements. Some intrepid specialists will read it from cover to cover, slowly to be sure but appreciative of the author's clear prose and assisted by the useful summaries at the end of dense sections and chapters. Many, however, will consult the index and mine the rich veins of "factual information and interpretive insights" relevant to their scholarly agendas.<sup>[8]</sup> A few will scour it for ideas about future projects. In a work partially executed and published for the benefit of the profession, it is fitting that Hamscher's last endnote suggests how a scholar might conduct a study of criminal *frais de justice* during the French Revolution. Even if a historian picks up on the suggestion, it will be difficult to match the erudition, archival work, and depth of Hamscher's unique and impressive book.

## NOTES

[1] Along with other historians, Hamscher organizes his analysis around the concept of *grand criminel*. As opposed to crimes falling under the category of *petit criminel* that the crown rarely prosecuted because they mostly threatened private interests, actions falling under *grand criminel* were: 1) considered grave threats to public order and security; 2) worthy of severe punishments or public vengeance (*peines afflictives et infamantes*), including hanging, breaking on the wheel, banishment, galley service, flogging, branding, the pillory, and so on; 3) prosecuted according to "extraordinary" judicial procedure, the most notorious if not most common aspect of which was torture (*question préparatoire*). The crown never developed a concrete list of crimes or circumstances of their commission that triggered extraordinary procedure and deserved severe punishment, which granted judicial officials discretion in the handling of cases. In practice, homicide, most forms of theft, *cas royaux* (crimes such as heresy, treason, sedition that could only be tried in royal courts), and *cas prévôtaux* or *présidiaux* (those so dangerous to public order—highway robbery, counterfeiting, rioting, armed assembly, etc.—as to be judged by the présidial courts

or royal mounted constabulary without appeal) were categorized as *grand criminel*. See, for example, Nicole Castan, *Justice et répression en Languedoc à l'époque des Lumières* (Paris: Flammarion, 1980).

[2] Because Colbert's successor, Claude Le Peletier (1683-89), quickly abrogated the system, Hamscher concedes that a reader might find odd his decision to include an analysis of Colbert's short-lived work. Ultimately, he justifies it not only on the grounds that Colbert's program of domain reform and the 1670 criminal procedure ordinance provide the necessary context for all subsequent developments, but also because Colbert's efforts revealed fundamental problems that challenged his successors throughout the old regime. Although certain strictly financial provisions of the 1670 ordinance sought to limit the monarchy's responsibility, the logic of other clauses presaged an increased financial responsibility. The clauses with important financial implications were the exhortation that public prosecutors pursue serious crimes even without a private plaintiff, the invitation for victims to report crimes without the obligation to assume financial risks as a private party, and the requirement that specific categories of cases proceed automatically on appeal to a parlement.

[3] In 1675 the majority of courts received between 200 and 400 *livres* based on obscure criteria and procedures.

[4] The four kinds of documents are the *état au vrai*, *compte*, *état du roi*, and *état des exécutoires*. The data for thirty-three administrative units over 100 years are laid out in the appendix, a remarkable document in its own right.

[5] Expenditures for criminal procedures never accounted for more than 1 percent of the crown's total ordinary revenue, but they did account for a sizable proportion of the King's overall spending for justice and police (p. 198).

[6] Previously, there had existed "serious and widespread shortcomings in the criminal justice exercised by seigneurial courts" (p. 328) when lords held financial responsibility for prosecution. But the reforms initiated by Maupeou gave seigneurial judges the option after conducting (and paying for) an initial investigation of transferring the case to the local royal court with the king's prosecutor acting as plaintiff. The 1771-72 acts granted lords a strong incentive, first to be vigilant in criminal investigations, then to shift the financial burden of prosecution to the crown.

[7] Tables 3.3 and 3.7 (pp. 104-05) give important figures regarding plaintiffs in the jurisdiction of the Parlement of Paris. For example: of 496 appellants in the Parlement of Paris from 1670 to 1683, 44.2 percent were royal prosecutors acting as sole plaintiff, 25 percent were non-royal (e.g. seigneurial, municipal, etc.) prosecutors, and 30.6 percent were private plaintiffs. Of 442 appellants from 1773 to 1787, 94.6 percent were royal prosecutors acting as sole plaintiff, 5 percent were non-royal prosecutors, and 0.2 percent were private plaintiffs.

[8] To cite but one example in a field familiar to me, scholars of seigneurial justice mostly undertake regional studies but will benefit immensely from Hamscher's kingdom-wide conclusions and long-term perspective concerning the role of lords' courts in old regime criminal justice.

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