

Introduction

Man is nothing but a mythical animal. He becomes human—he acquires a human being’s sexuality and heart and imagination—only by virtue of the murmur of stories and the kaleidoscope of images that surround him in the cradle and accompany him all the way to the grave.

Michel Tournier, *The Wind Spirit*

This is a book about stories, about the public impact of tales of private life. The stories in question are those of the parties to a series of highly publicized court cases, or causes célèbres, which gripped the attention of the French—and especially the Parisian—reading public in the two decades preceding the Revolution of 1789. Gossip and scandal have always been with us and have always sold well; but the literature of judicial scandal was consumed in unusual quantities and with unusual avidity in prerevolutionary France. This work explores the meaning of a body of sensational courtroom literature and seeks to explain the nature of its impact on social and political life in France at the end of the old regime.

The causes célèbres of the 1770s and 1780s first caught my attention as I was perusing the chronicles, gazettes, and underground newsletters of the period. Like all other students of Old Regime France, I knew of the impact of a few great trials on the prerevolutionary public: starting in the 1760s, Voltaire had campaigned against religious bigotry by pub-

licizing such miscarriages of justice as the Calas case; the playwright Beaumarchais had made a name for himself at about the same time in well-publicized judicial duels against powerful enemies; four years before the Revolution, Queen Marie-Antoinette's reputation had been sullied when a sordid scandal known as the Diamond Necklace Affair was brought to light in court. Little did I expect, however, the sheer number of sensational trials I encountered in contemporary sources, or the excitement with which they were reported to the public. At times, hardly a week—sometimes hardly a day—went by without a contemporary chronicler informing his readers that this or that *affaire* had broken, or that another was about to be judged.

Thus I became acquainted with the great, but now mostly forgotten, court cases of late-eighteenth-century France: the dispute between the unsavory count of Morangiès and a family of crooked commoners; the charges of forgery levied against Mme de Saint-Vincent, a highborn lady of questionable morals; the penniless serving-girls and laborers rescued from torture and execution, with much fanfare, by zealous young barristers. I learned more about these cases in exactly the same way as eighteenth-century French men and women did, by reading the briefs known as *factums* or *mémoires judiciaires* penned by the parties' lawyers. Indeed, the publication of a *mémoire* relating to a highly publicized case was considered an event in itself; newsletters and gazettes usually reported on the appearance of a major cause célèbre brief, evaluated its qualities and shortcomings, and described the reading public's reaction to it. Combing through the pages of an eighteenth-century bookseller's journal, I discovered that these published trial briefs were issued in quantities that outstripped those of most other kinds of printed matter at the time—press runs of six to ten thousand in the 1770s, up to twenty thousand in the 1780s. I stumbled across anecdotal evidence indicating that any given copy of a hot *mémoire* in a sensational case was read by several people; and, most strikingly, I ran across several texts describing mob scenes around bookseller's shops and lawyers' houses when an eagerly awaited trial brief was finally made available to the public.

For reasons having to do with their peculiar legal status, their literary and polemical qualities, and especially their extraordinary popularity, the *mémoires judiciaires* became the central source and object of this study. This is less a book about the court cases themselves—what happened and who did it—than about the publicity surrounding them. The central argument of this work concerns the ways in which the writing and

reading of sensational courtroom literature contributed to the birth of public opinion and of a new public sphere in the decades just before the French Revolution. I hope that the analyses and arguments in the following chapters will say something significant both about the history of this period and, more generally, about ways of writing history; or, to use the jargon of the academic historian's trade, that they will have significant historiographical and methodological implications.

The broader issue that frames this study is the vexed and ever-intriguing question of the ideological and cultural origins of the French Revolution. For nearly two centuries after the Revolution, it was widely believed that the single most important ideological cause of the French Revolution was the movement of ideas known as the French Enlightenment, which included both the "mainstream" Enlightenment symbolized by Diderot's massive *Encyclopédie*, and the intellectually iconoclastic, but hugely influential, works of Jean-Jacques Rousseau.¹ It was probably the rise of the "new social history" in the 1960s that led an American scholar, Robert Darnton, to challenge the assumption of a direct link between the ideas of the canonical philosophes and the radical ideologies of the revolutionary years.²

In one of his earliest and most famous articles on the subject, Darnton argued that both the problem and its solution could be found in the dynamics of the literary world.³ Since the nineteenth century, historians, and most conspicuously Marxist historians, had argued that the Enlightenment was an ideology that reflected the class interests, and hence the aspirations, of a rising but frustrated bourgeoisie, and that *les lumières* were therefore revolutionary. But many well-known facts, Darnton pointed out, contradicted such assumptions. Quite a few of the philosophes were blue-blooded noblemen, and those who were not, like Voltaire, aspired mightily to noble status; most of these writers, including the misanthropic and egalitarian Rousseau, were entertained,

1. The most notable and comprehensive recent statement of this position in English is Peter Gay, *The Enlightenment: An Interpretation*, 2 vols. (New York: Vintage, 1966 and 1969; new ed. New York: Norton, 1977).

2. See Robert Darnton's critique of Peter Gay and his call for a new approach to the subject, "In Search of Enlightenment: Recent Attempts to Create a Social History of Ideas," *Journal of Modern History* 43 (March 1971): 113–132.

3. Robert Darnton, "The High Enlightenment and the Low-Life of Literature in Pre-revolutionary France," *Past and Present* 51 (May, 1971): 81–115; reprinted in Robert Darnton, *The Literary Underground of the Old Regime* (Cambridge, Mass.: Harvard University Press, 1982), pp. 1–40.

patronized, fussed over, and read by the cream of high society; none of them, ever, explicitly called for social or political revolution. Given these facts, how “revolutionary,” as opposed to simply innovative, could their ideas really have been?

Darnton suggested that we go looking elsewhere for the polemical sparks that ignited the flames of revolution. He himself argued that the more extreme ideologies of the Revolution reflected the experiences of frustrated young writers, the embittered denizens of Grub Street. After mid-century, ambitious young men, lured to Paris by the example of the philosophes but excluded from the staid and overpopulated literary establishment, found both catharsis and a source of income in the writing of violent or pornographic pamphlets attacking the social and political elites.⁴

In the twenty years since Darnton first articulated his “Grub Street” thesis, it has not, of course, gone unchallenged.⁵ Its enduring merit, however, has been to direct the attention of scholars away from the canonical Enlightenment and toward the sorts of texts and writers that had never before found their way into the standard literary histories of the period. Nobody would deny, of course, that the well-known writers and works of the “High Enlightenment” contributed greatly to the undermining of established certainties and to the development in the reading public of a taste for critical thinking. But many different moles, it turns out, were burrowing away under the manicured gardens of the Old Regime. Thanks to the recent work of specialists in the history of

4. *Ibid.*, pp. 17–40.

5. It is a tribute to the power of Darnton’s thesis that scholars dealing with the social history of the French Enlightenment routinely use it as a framework against which to articulate their own arguments. Dena Goodman, for instance, in “Governing the Republic of Letters: The Politics of Culture in the French Enlightenment” (*History of European Ideas* 13, no. 3 (1991): 183–199), sees in the radical writings of the prerevolutionary period a sign of generalized anarchy in the Republic of Letters, following the decline of the great female-governed salons (see esp. pp. 195–196); Roger Chartier, in an important recent synthesis, suggests that “Grub Street” pamphleteering and pornography was probably not taken as seriously, and did not have as deep and lasting an impact, as Darnton believed: *The Cultural Origins of the French Revolution*, trans. Lydia Cochrane (Durham, N.C.: Duke University Press, 1991), pp. 81–83. To my knowledge, the most comprehensive challenge to the “Darnton thesis” is that advanced by Jeremy Popkin, who argues on the basis of substantial evidence that, even on the eve of the Revolution, muckraking pamphleteers of the sort studied by Darnton either were themselves fairly prosperous and established or were in the pay of wealthy patrons: Jeremy Popkin, “Pamphlet Journalism at the End of the Old Regime,” *Eighteenth-Century Studies* 22 (Spring 1989): 351–367.

publishing we now know a great deal about the censored pamphlets and books, handwritten newsheets, and foreign-based newspapers from which French readers also learned to criticize established institutions and to scoff at the high and mighty.⁶

It would be a mistake, however, to assume that all of the literature that challenged the status quo of the Old Regime was illicit—or, for that matter, that all clandestine material was genuinely subversive. There was nothing illegal, for instance, about the provincial academies where local elites gathered to cultivate their minds and assign prizes to essays on controversial topics; Rousseau was only one of the many progressive thinkers who wrote important works as entries in such contests.⁷ To take another example, the “remonstrances” of the *parlements* (courts of high justice) were also a perfectly legal part of the judicial process whereby the courts could express reservations with respect to a royal decree; but by the eighteenth century the *parlements*’ magistrates had taken to publishing remonstrances, which were in theory a private communication from the courts to the monarch.⁸ To be sure, the increasingly incendiary *remontrances* of the eighteenth-century courts were often banned and published illegally. But, as Dale Van Kley has convincingly demonstrated, the rhetoric emanating from this central institution of the French royal administration did as much as any amount of muck-raking underground literature to challenge the institutional and ideological status quo.⁹

6. Robert Darnton remains the leading specialist in the English-speaking world on the prerevolutionary book and pamphlet trade; besides *The Literary Underground*, see *The Business of Enlightenment: A Publishing History of the Encyclopédie* (Cambridge, Mass.: Harvard University Press, 1979), and *Edition et sédition: L’univers de la littérature clandestine au XVIIIe siècle* (Paris: Gallimard, 1991). On the periodical press, especially of the illicit variety, see the works listed in the bibliography by Jack Censer, Nina Gelbart, and Jeremy Popkin. The literature on these subjects produced by French scholars is even more abundant; for a convenient compilation of pieces by many of the leading French specialists, see Roger Chartier and Henri-Jean Martin, eds., *Histoire de l’édition française*, vol. 2, *Le Livre triomphant, 1660–1830* (Paris: Promodis, 1984; new ed. Paris: Fayard, 1991).

7. On the history, membership, and activities of the provincial academies in the eighteenth century, see Daniel Roche, *Le Siècle des lumières en province: Académies et académiciens provinciaux, 1680–1789*, 2 vols. (Paris: Mouton, 1978).

8. The voluminous historical literature on the eighteenth-century French *parlements* is surveyed in William Doyle, “The Parlements,” in Keith Baker, ed., *The Political Culture of the Old Regime* (Oxford, Pergamon Press, 1987), pp. 157–167.

9. See Dale Van Kley, *The Jansenists and the Expulsion of the Jesuits, 1757–1765* (New Haven: Yale University Press, 1975) and *The Damiens Affair and the Unraveling of the*

Finally, recent work in the field increasingly reveals the extent to which the social and political “establishment” of late-eighteenth-century France was directly responsible—albeit usually under a veil of secrecy—for the production and dissemination of subversive political propaganda. Starting at least as far back as the so-called Maupeou crisis of 1771–1774, when Louis XV’s chief minister forcibly disbanded the parlements, and continuing until the very eve of the Revolution, factions of courtiers and ministers hired their own pamphleteers to rebut the arguments of their adversaries.¹⁰ By the mid-1780s, writes Jeremy Popkin, “a broad spectrum of France’s traditional elites had come to accept the desirability of permitting the publication of specific comments on ongoing issues.”¹¹ As the following chapters will also show, new forms and increasing amounts of printed propaganda gave ever-widening resonance not only to conflicts between the monarchy and its critics in the country at large, but also to traditional internecine disputes among the governing elites.

In sum, recent work in the field suggests, first, that the ideological turmoil that prepared the way for the Revolution had many more sources than just “the Enlightenment” as traditionally defined, and second, that the pattern of attacks upon the sociopolitical status quo was a great deal more complex than can be suggested by any simple dichotomy between “insiders” and “outsiders.” In a recent synthesis on the subject, Roger Chartier makes the point that, *pace* Tocqueville, it is impossible to reduce the ideological tensions of the end of the Old Regime to an opposition between utopian abstractions, on the one hand, and pragmatic politics, on the other, to a clash between *pensée philosophique*

Ancien Régime, 1750–1770 (Princeton: Princeton University Press, 1984); “The Jansenist Constitutional Legacy in the French Prerevolution,” in Baker, ed., *Political Culture*, pp. 169–201. Among older works concerning *parlementaire* opposition to the monarchy, see especially Jules Flammermont, *Le Chancelier Maupeou et les parlements* (Paris: Picard, 1883); Elie Carcassonne, *Montesquieu et le problème de la Constitution française au XVIIIe siècle* (Paris, 1927; reprint, Geneva: Slatkine, 1970); Franklin Ford, *Robe and Sword: The Regrouping of the French Aristocracy after Louis XIV* (Cambridge: Harvard University Press, 1953); and Jean Egret, *Louis XV et l’opposition parlementaire, 1715–1774* (Paris: Armand Colin, 1970).

10. David Hudson, “In Defense of Reform: French Government Propaganda during the Maupeou Crisis,” *French Historical Studies* 8 (1973): 51–76; Durand Echeverria, *The Maupeou Revolution: A Study in the History of Libertarianism, France, 1770–1774* (Baton Rouge: Louisiana State University Press, 1985), esp. chaps. 2–4; Vivian Gruder, “The Bourbon Monarchy: Reforms and Propaganda at the End of the Old Regime,” in Baker, ed., *Political Culture*, pp. 347–374.

11. Popkin, “Pamphlet Journalism,” p. 356.

and *autorité d'Etat*, given the demonstrable overlap between these two “fields of discourse.”¹² Chartier argues against attempting to establish patterns of linear causality (a text is published and read, causing a person or group to think, write, or act in a certain way); instead, he suggests that we adopt a structural approach to the question by way of replacing the concept of “ideology” with that of “culture”: “In this sense, attributing ‘cultural origins’ to the French Revolution does not by any means establish the Revolution’s causes; rather, it pinpoints certain of the conditions that made it possible because it was conceivable.”¹³

The recent work of Keith Baker on the ideological origins of the Revolution is the most successful and currently influential example of the type of approach advocated by Chartier.¹⁴ Baker’s work represents a reaction against the “sociology of literature” or “social history of ideas” practiced in the 1930s by Daniel Mornet and more recently in *Annales*-inspired, often quantified, studies by French and American scholars of the diffusion of books and other printed matter.¹⁵ Books are more than commodities to be counted, Baker has argued, and ideas cannot be apprehended in isolation: “Texts, if read, are understood and hence reinterpreted by their readers in *con-texts* that may transform their significance; ideas, if received, take on meaning only in relation to others in the set of ideas into which they are incorporated.”¹⁶ The work of Baker and others in the same vein might seem to return to the classic methods of textual analysis practiced by traditional intellectual historians. But its purpose is in fact to *resist* the teleological biases of a more conventional history of ideas by choosing either to concentrate on non-traditional texts or to reread canonical texts by replacing them within the “discursive context” of their times.¹⁷

12. Chartier, *Cultural Origins*, pp. 15–16.

13. *Ibid.*, p. 2.

14. Baker’s important essays on the subject, published in the last decade, have been gathered as *Inventing the French Revolution* (Cambridge: Cambridge University Press, 1990).

15. The most venerable model for a quantified approach to the history of ideas in this field is Daniel Mornet’s classic *Les Origines intellectuelles de la Révolution Française* (Paris: Armand Colin, 1933; reprint, 1967), although Mornet also used a wide range of non-quantitative approaches. The heyday of quantified approaches to Old Regime literary culture took place in the 1960s and 1970s and is best represented by Furet and Bollème’s *Livre et société* volumes. The works of Robert Darnton cited in note 6 follow in Mornet’s tradition of making significant, but far from exclusive, use of quantification.

16. Baker, *Inventing*, p. 19.

17. Baker’s methodology is drawn from what he tags the “Cambridge” school of the history of political discourse, an approach that is simultaneously linguistic and contextu-

One of the implications of Baker's approach is that we need not dispense with the reading of Montesquieu, Diderot, and Rousseau, providing we relate their writings to other, often less celebrated, contemporary texts; we need not necessarily throw out the baby of Great Works along with the bathwater of teleological distortion. But only if we trace the connections between canonical texts and lesser-known works will we be able to reconstitute the linguistic, and broader cultural, contexts within which the Revolution became "thinkable." It is to this end that Baker and other practitioners of this "linguistic" approach are now highlighting the works of authors outside of the traditional literary canon but whose insights or demonstrable impact on contemporaries, or both, can help us to understand the manifold ideological currents at work at the end of the Old Regime. The authors recently resurrected to this end include radical political theorists associated with the Parlement of Paris, such as Adrien le Paige, Claude Mey, and Nicolas Maulrot; highly popular writers of fiction and social criticism like Louis-Sébastien Mercier; skillful propagandists for the monarchy like Jacob-Nicolas Moreau; forgotten but influential followers of Rousseau, such as Guillaume-Joseph Saige; and rabble-rousing journalists and pamphleteers like Charles Thévenau de Morande and Simon-Nicolas Linguet.¹⁸

The trial briefs and other courtroom literature examined in this book also belong in the category of works that, though now forgotten, were immensely popular and influential in their time—published in the tens of thousands, eagerly awaited, devoured by readers, and dissected by critics. The argument I make in this book about their appeal to, and influence on, readers relies heavily on internal textual analyses of the most successful *mémoires judiciaires* of the prerevolutionary period. I will stress, for instance, the heavily fictionalized quality of the most pop-

alist in that it seeks to anchor the terms and categories used by salient political thinkers firmly within their historical contexts (Baker, *Inventing*, pp. 4–6, 307–308). Prominent examples of such an approach include J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975) and *Virtue, Commerce and History* (Cambridge: Cambridge University Press, 1985); Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge: Cambridge University Press, 1985). There are important similarities between this approach and Michel Foucault's focus on the discourse rather than the text as the basic unit of intellectual history.

18. See Baker, *Inventing*, passim but esp. chaps. 3–6; Van Kley, "The Jansenist Constitutional Legacy"; Jeremy Popkin, "The Prerevolutionary Origins of Political Journalism," in Baker, ed., *Political Culture*, pp. 203–224; Darline Gay Levy, *The Ideas and Careers of Simon-Nicolas-Henri Linguet: A Study in Eighteenth-Century French Politics* (Urbana: University of Illinois Press, 1980).

ular mémoires, whose barrister-authors borrowed from contemporary literature such genres as the Rousseauian sentimental autobiography or the theatrical melodrama. The texts of the mémoires also have much to tell us about the relationship between author and readers—about how the former appealed with increasing openness to the latter to serve as judges and witnesses to the truth and righteousness of a given case, a textual strategy that had significant and even concrete implications in the context of Old Regime judicial practice.

Nonetheless, what follows is not only a textual, or linguistic, analysis of the courtroom literature of the end of the Old Regime. It also seeks to explore and explain the social and political dynamics behind the publication and resonance of these texts. The extraordinary success of these publications was symptomatic, I argue, of the growing ambitions and visibility of the legal profession at the end of the Old Regime; the ultimate relevance of this trend has to do, of course, with the fact that legal practitioners, and especially *avocats*, made up the single largest occupational group in all of the governing assemblies of the Revolution.¹⁹ The extent to which these lawyers operated on their own in any given case, driven by some combination of conviction and ambition, and the extent to which they were acting on behalf of groups or individuals with an interest in publicizing this or that *affaire*, are matters that will receive careful consideration in the chapters that follow. My textual analyses of the mémoires, my retelling of the stories that so fascinated contemporary readers, are framed by arguments that concern the broader social and political trends of the 1770s and 1780s.

My aim here is not only, however, to add another item to the checklist of writers and texts that left their imprint on the culture of prerevolutionary France and whose influence helps to explain the dramatic events of the 1790s. My broader purpose in this book is to say something significant about what texts are read and how they are read, when we seek to analyze a political ideology in the making. The arguments in this

19. The local committees that drew up *cahiers de doléances* in 1789 were made up of 70 to 90 percent lawyers; about half of the deputies to the Third Estate were barristers, while many others were other sorts of “men of law”; 444 of the 648 members of the Constituent Assembly came out of legal careers: Edmond Seligman, *La Justice en France pendant la Révolution*, 2 vols. (Paris: Plon, 1901–1913), vol. 1, chap. 3; Alfred Cobban, *Aspects of the French Revolution* (New York: George Braziller, 1968), chap. 5; André Damien, *Les Avocats du temps passé* (Paris: Henri Lefebvre, 1973), p. 163; Michael Fitzsimmons, *The Parisian Order of Barristers and the French Revolution* (Cambridge, Mass.: Harvard University Press, 1987), pp. 35–40; David Bell, “Lawyers and Politics in Eighteenth-Century Paris, 1700–1790” (Ph.D. diss., Princeton University, 1991), p. 5.

book are designed to raise the sorts of questions that are only beginning to receive attention in contemporary historiography. These questions have to do with the interrelation of public and private issues in the genesis of political ideologies; with the relationship between narrative and ideology; and, more broadly, with the status of fiction in historical analysis.

What drew me to the *mémoires* in the first place was exactly what had led other historians to neglect them: the fact that these texts, although a precious source of information on any given judicial case, seemed to have little relevance to the “big issues” faced by the French nation in the decades before the Revolution. (Even when they had an obvious connection to political developments, as in the case of the Diamond Necklace Affair, their import was considered to be purely anecdotal.) Perhaps previous historians had not read these texts closely enough to realize that the “big issues” *did* often make an appearance in the trial briefs—albeit sometimes implicitly and usually in their final pages—in texts that seemed to concern only private, particular, or trivial issues; that a dispute over a rural festival could become an allegory of political regeneration; that the defense of a falsely accused female servant in a provincial town could be a vehicle for indicting the whole judicial system of the realm; that adultery cases could be made to stand, metaphorically, for the breaking of the social contract. These texts are rich precisely because of their hybrid nature, because of their unexpected coupling of private and public matters.

As with much of the current work in the area of French prerevolutionary culture, this study makes use of insights drawn from Jürgen Habermas’s influential *The Structural Transformation of the Public Sphere*;²⁰ it focuses, however, on an element in Habermas’s theory that is usually overlooked, namely, the role of intimate experience in the construction of the bourgeois, or modern, public sphere. To summarize briefly, Habermas’s project is the discovery of the origins of attitudes and institutions that were eventually to develop, in opposition to monarchical absolutism, into the foundations of a modern, democratic “public sphere.” Although this evolution was a plurisecular one, Habermas locates a crucial turning point at the end of the seventeenth century, in the tensions

20. Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger and Frederick Lawrence (Cambridge, Mass.: MIT Press, 1989); the original German text was first published in 1962.

and frictions between the developing commercial classes, on the one hand, and the fiscal and regulatory needs of the absolutist state, on the other. Thus, he writes, “that zone of continuous administrative contact became ‘critical’ also in the sense that it provoked the critical judgment of a public making use of its reason.”²¹ (For better or worse, most recent studies derived from Habermas’s work choose simply to ignore his staunchly Marxian approach to what he often terms the *bourgeois* public sphere.)

By the eighteenth century, this nascent public sphere made up of private individuals using their critical faculties had acquired institutional form, most concretely in salons, coffeehouses, literary academies, and the like, and more diffusely in networks of correspondents and of readers of newspapers and other printed matter; the Enlightenment’s “Republic of Letters,” in sum, developed as a blueprint for a democratic public sphere, challenging and competing with the absolutist state. “The public sphere in the political realm,” writes Habermas, “evolved from the public sphere in the realm of letters.”²² The characteristics of this burgeoning public sphere derived from its origins in the commercial classes and from its identity as a site of criticism of the sociopolitical status quo. Its members adhered to formal principles of equality and inclusiveness (although in practice they were all members of the wealthy and educated elite), and its defining occupation was the critical appraisal of the increasingly commodified products of culture—works of art, literature, and philosophy.²³ A crucial segment of civil society, in short, moved away from its assigned role as an *audience* for the displays of power and exhibitions of art staged by the monarchy; it became a judging, debating, criticizing entity—a *public*.

Habermas’s theses have already significantly affected our understanding of the intellectual and cultural history of late-eighteenth-century France, by validating structural approaches to “the Enlightenment” both as a set of protodemocratic institutions (academies, Masonic lodges, and the like) and as a set of concepts that challenged or negated absolutist “discourse.” Both Keith Baker and Mona Ozouf, for instance, have written important articles exploring the appearance, at about mid-century, of the concept of “public opinion,” not only in the writings of

21. *Ibid.*, p. 24.

22. *Ibid.*, pp. 30–31.

23. *Ibid.*, pp. 36–37.

critics of the monarchy, but even within official administrative language.²⁴ In different ways, they argue that political commentators and administrators increasingly claimed to enjoy the sanction of “public opinion,” although no actual social group, of course, had been consulted. “Public opinion,” writes Baker, was “an abstract category of authority, invoked by actors in a new kind of politics to secure the legitimacy of claims that could no longer be made binding in the terms . . . of an absolutist political order.”²⁵ Usually equated with a transcendent concept of Reason, it served increasingly as a substitute for the desacralized, morally and politically bankrupt monarchy, although, ironically, it often took on the unitary and infallible characteristics of monarchical absolutism.

As the following chapters will show, the concept of “public opinion,” and indeed that of a “public,” were central to the language of *mémoires judiciaires*, reflecting the ambiguous status and purpose of these pamphlets. (Indeed, even in texts other than the *mémoires* the “public” was frequently portrayed as a court of law, in such phrases as *le tribunal de la nation*.) The *mémoires* as documents belonged to a closed judicial system in which members of “the public” played no role, either in selecting judges or in judging cases themselves. Officially, these trial briefs were destined solely for the magistrates judging cases, but there really was a public of thousands of readers ready to get into street brawls to acquire a sensational and highly publicized *mémoire*. Was the public addressed in trial briefs a mere rhetorical category invoked by self-aggrandizing lawyers? Or did these documents help bring into being, through debates around the cases they presented, a *real* public, Habermas’s “public sphere” of flesh-and-blood “bourgeois”?

Whatever its status, the “public” of trial briefs was both seduced and instructed by stories revolving around private scandals—bankruptcy, financial fraud, swindling, forgery, abuse of authority, and all manner of sexual misconduct. Why should the lofty authority of “the public” be brought to bear upon such seemingly trivial, or at least particular, matters? To put it another way: how is it possible to argue for the “political” importance of matters that seem to amount to mere gossip? The answer,

24. Baker, *Inventing*, chap. 8 (originally published in Jack Censer and Jeremy Popkin, eds., *Press and Politics in Pre-Revolutionary France* (Berkeley: University of California Press, 1987), pp. 204–246; Mona Ozouf, “L’Opinion publique,” in Baker, ed., *Political Culture*, pp. 419–434, and “Public Opinion at the End of the Old Regime,” *Journal of Modern History* 60 (Supplement, September 1988):S1–S21.

25. Baker, *Inventing*, p. 172.

if we follow Habermas's argument, lies in the identity of the new "public" and the very style and themes of the trial briefs themselves.

In Habermas's scheme the "private realm"—that is, the domain of social life outside of the state and the court—is made up of two concentric circles: the realm that he calls "civil society," which is that of "commodity exchange and social labor," and embedded within it, but increasingly separate from it, the "intimate sphere" of conjugal and familial life.²⁶ It was not the former but the latter, Habermas argues, that provided the "bourgeois public sphere" with the first elements of its identity. Because the bourgeoisie was slow to acquire an understanding of its identity as commodity trader and property owner and to articulate these interests into a critique of existing public institutions, it derived its first identity from the common experiences of human beings within the intimate sphere of marriage and the family: "Even before the control over the public sphere by public authority was contested and finally wrested away by the critical reasoning of private persons on political issues, there evolved under its cover a public sphere in apolitical form—the literary precursor of the public sphere operative in the political domain."²⁷

It therefore follows that the first expressions of this prepolitical, literary public sphere pertained more often to individual psychology and intimate relations than to political economy. As Benjamin Nathans puts it, the central activity of this "literary" public sphere "is not criticism of the state but self-enlightenment; its principal subject is itself."²⁸ A central feature of this "public sphere" was then, paradoxically, a preoccupation with matters common to the scattered "subjectivities" of its inhabitants and which we would call "private"—communication, criticism, and debate about intimate matters such as love, marriage, child-rearing, and family life. This was precisely the subject matter that drew readers to the causes célèbres and to the seemingly apolitical mémoires.

The appeal of Habermas's thesis is that it allows one to explain the popularity, and the ideological import, of certain works of fiction in the eighteenth century without resorting to the sort of reductionist Marxism that makes fictional characters such as Robinson Crusoe, Clarissa

26. My reading of this element of Habermas's thesis has been much helped by Dena Goodman, "Public Sphere and Private Life: Toward a Synthesis of Current Historiographical Approaches to the Old Regime," *History and Theory* 31 (1992): 1–20.

27. Habermas, *Public Sphere*, p. 29.

28. Benjamin Nathans, "Habermas's 'Public Sphere' in the Era of the French Revolution," *French Historical Studies* 16 (Spring 1990): 623.

Harlowe, or Figaro into simple literary transpositions of *homo economicus* or of the struggling bourgeoisie.²⁹ The argument that a modern “public sphere” first took shape in a “literary,” “prepolitical” form, through the common concern of “private” persons with matters of intimate experience, helps us to understand, for instance, why the prerevolutionary reading public responded so passionately to Rousseau’s *Emile* and *La Nouvelle Héloïse* (both of which concern love, marriage, and child-rearing) and to his intimate *Confessions*, while neglecting his more abstract, more obviously “political,” works on government.

In the following chapters, I argue along these very lines, that the “intimate” or “particular” stories recounted in the causes célèbres briefs brought French readers together in a common concern with issues pertaining to private life. In the 1770s, the broader public implications of the private crises dealt with in the *mémoires* were usually left implicit; by the 1780s, they were often spelled out.

Forensic rhetoric leans by nature toward the Manichaean, since its purpose is most often to contrast the innocence of one party with the guilt of another. What the *mémoires judiciaires* offered their readers were melodramatic narratives and heavily typed characters. Their stories were “fictionalized” in the etymological sense of the term, as used recently by Natalie Zemon Davis—not so much invented as formed, shaped, molded.³⁰ Their characters were closer to social archetypes than to complex literary creations: the debauched grandee, the virginal heroine, the man of feeling hounded by his enemies. These were the characters that peopled the collective imagination of French men and women at the end of the Old Regime, the stock characters of what French scholars call *l’imaginaire social*.³¹ Most of the social stereotyping that goes on in the *mémoires* could have been easily pressed, a generation ago, into the service of the dominant interpretation of the Revolution as the outcome of a class struggle between rising bourgeoisie and decaying nobility. But the current revisionist trend away from social explanations of eighteenth-century French history, and toward matters of “political culture” as broadly defined, makes the meaning of such archetypes in

29. The classic statement of this thesis is Ian Watt, *The Rise of the Novel* (Berkeley: University of California Press, 1957).

30. Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987), p. 3.

31. See Bronislaw Baczko, *Les Imaginaires sociaux: Mémoires et espoirs collectifs* (Paris: Payot, 1984). For a successful use of this concept, see Georges Duby, *Les Trois Ordres ou l’imaginaire du féodalisme* (Paris: Gallimard, 1978).

these and other “fictions” both more problematic and potentially more interesting. Where, we will ask, did these images come from? Why did they prove so popular? What role did this social imagery play in public life at the end of the Old Regime? Seeking answers to these questions is important if we are to understand why and how the demonization of certain groups—nobles, clerics, prominent women—came to prove such a potent theme in different strands of revolutionary ideology.³²

It is difficult to draw a hard and fast line between character and plot in examining the content of the *mémoires*, so closely did the latter follow from the former in the heavily stereotyped stories they told: a wealthy nobleman will always be in debt, always lie, always act with arrogance; a royal mistress will always have a lurid past and always be prone to intrigue. But the meaning and importance of the *mémoires* lie precisely in the stereotyping of plot and character, in the *lack* of nuance and shading in these stories that gives them the starkly predictable quality of myth.

The contemporary meaning of these stories must be teased out, not only of the texts themselves, but also of the ways in which they echo other leitmotifs in contemporary fiction, drama, and pamphlet literature. (For this reason the protean figure of Beaumarchais, prominent dramatist and publicist but also celebrated author of *mémoires*, inevitably weaves its way in and out of several of the chapters.) Noticeable changes in the themes of the *causes célèbres* are interpreted here as symptomatic of shifts in the major objects of public concern. In the 1770s, for instance, several cases revolving around conflicts between powerful or titled men, on the one hand, and downtrodden commoners, on the other, served as parables for the central political issue of those years, the tyrannical misuse of authority; in the 1780s, familial and matrimonial cases served as the means for addressing the nature of the social contract by pointing to analogies with the marriage contract; throughout the period, cases that involved prominent women raised the volatile and increasingly problematic issue of the role of femininity within the public sphere.

32. On antinoble sentiment, see Patrice Higonnet, *Class, Ideology, and the Rights of Nobles during the French Revolution* (Oxford: Oxford University Press, 1981). On revolutionary hostility to prominent women, especially Marie-Antoinette, see Lynn Hunt, “The Many Bodies of Marie-Antoinette,” in Lynn Hunt, ed., *Eroticism and the Body Politic* (Baltimore: Johns Hopkins University Press, 1991), pp. 108–130; and Jacques Revel, “Marie-Antoinette and Her Fictions: The Staging of Hatred,” in Bernadette Fort, ed.,