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# '*La Question du Marchandage*': The Political and Legal Struggle Against Exploitative Subcontracting in Paris, 1881–1911

In the early 1880s, politicians, lawyers and workers in Paris resumed a fight, delayed since 1848, against a much despised form of subcontracting called *marchandage*. In simple terms, *marchandage* was a type of trafficking in labor, particularly prevalent in the building trades, that began with a contract between entrepreneur and subcontractor (*tâcheron*), the latter hiring and supervizing workers at a wage and under conditions determined by the 'market'. This was a situation that could lead to exploitation, and indeed *marchandage* was especially disliked because it fostered intense competition among workers and kept wages low in certain trades. Not surprisingly, the practice contributed directly to the social tensions that erupted time and again in Parisian rebellions after 1830. Politicians had acted in 1848 by passing laws against *marchandage*, as they would do again in 1911. Much of the resentment bred by *marchandage* focused on the *tâcheron*, who came to be viewed almost universally as a selfish and divisive figure. Speaking to his colleagues on the Paris city council in 1887, the militant socialist Jules Joffrin, who was familiar with *marchandage* from his days as a mechanic, settled upon the 'egoistic' *tâcheron* as representative of all that was wrong with subcontracting. Unlike the ordinary honest worker, the *tâcheron*, said Joffrin, was almost always 'less conscientious and less skilled, if indeed he worked at all, placing no stock in questions of morality'.[1] Martin Nadaud, also a member of the city council, knew about *marchandage* from his former days as a stonemason. Nadaud had even briefly been a *tâcheron* himself —

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in fact, most subcontractors were former workers — and so felt intensely the kind of moral duplicity he believed that the position represented.[2] It was Nadaud's fellow migrant stonemasons with whom the practice was so closely associated that the two — *marchandage* and stonemasons — were nearly synonymous. After 1881, politicians such as Joffrin and Nadaud, who were joined by lawyers and social scientists, would echo the workers' animus against *tâcherons*. Though *marchandage* had been abolished by a law in 1848, this had proved ineffectual. Curtailed for a second time in 1911, the issues of duplicity and egoism represented by the *tâcheron* would prove instrumental in sparking a more successful attack.

This article describes the political and legal effort against *marchandage* in the three decades before the 1911 revision of the French labor code that sought to end, once again, the exploitative aspects of the practice. The rise of *marchandage* in the first half of the nineteenth century had been a sign of the important role of laissez-faire hiring in generating the 'Social Question'.[3] The fate of this form of *marchandage* in 1848 showed that for such laws to be effective, they had to be enforced. When the issue emerged again in the early years of the Third Republic (1870–1940), a political structure was in place to act upon the need for enforcement. Instances of *marchandage* were brought before the courts after 1881 where its illegality was reasserted even as a precise definition of the practice — which was crucial to its curtailment — proved elusive. Later in the decade, enforcement of the 1848 abolition was taken up by politicians acting on behalf of working-class voters. But in the long run, it was structural changes in the French economy that proved essential to undermining *marchandage*. In the meantime, the struggle to abolish the practice demonstrated that economic change had an explicitly moral side, epitomized by the divisive figure of the *tâcheron*, which could have political and legal ramifications. In the 30 years between 1881 and 1911 it was especially this much despised intermediary, rather than the system of laissez-faire that would serve as a lightning rod for the complaints of all those parties opposed to *marchandage*.

## Definition and Background of *Marchandage*

Though historians have written little about *marchandage*, workers were well acquainted with this form of 'renting labour'.[4] For nearly 80 years, from the early 1830s until just before the start of the First World War, Parisian workers fought against this form of subcontracting which they viewed as a scourge. *Marchandage* was the practice whereby an entrepreneur subcontracted a project to a *tâcheron* (also known as *marchandeur*), who was then responsible for hiring and overseeing the labor; or as nineteenth-century Parisian jargon put it: 'the act by which one worker secures a contract, but makes other workers do the job'.[5] The entrepreneur normally supplied materials, while the *tâcheron* was liable for wages. The *tâcheron* thus had an incentive to 'require from his workers a great deal of labour for very meagre pay'.[6] A pejorative nuance to *tâcheron* remains to this day, the *Dictionnaire historique de la langue française* defining the term as 'someone who assumes a mantle of authority, but without much intelligence'.[7]

It is impossible to say just how many *tâcherons* operated at any one time in nineteenth-century French cities. One source suggests 26,000 in 1860 in Paris's construction industry alone, a setting where *marchandage* 'became the rule'.[8] *Marchandage* was also known in Nantes, Rennes, Lyons and Le Havre. At Toulouse, *marchandage* was prevalent in the building trades where among joiners, subcontractors were known as '*choutiers*'. *Tâcherons* hired and supervised labor in the Paris sewers in the 1870s. Near the end of the century, '*rodeurs*' were commissioned by Parisian entrepreneurs to recruit Breton workers and then oversee their labor in constructing the capital's subway. Among some plaster-carriers, *tâcherons* were reported to recruit gangs of workers bound by a 'debt of wine'. Most *tâcherons* were males, but there were examples of female subcontractors.[9]

The prominence of *marchandage* is not surprising in a setting such as nineteenth-century Paris, where conditions were ideal to make trafficking in labor a lucrative enterprise. Indeed, intermediaries such as *tâcherons* may be found in any modernizing society where laissez-faire practices have taken hold. At a time when the free market seemed to induce anarchy in the workplace, '*tâcheronnage*' offered an organization of work. But this could come at a cost for the subcontractor whose double nature as

worker and boss made him resented by fellows and ultimately expendable to the entrepreneur.[10] For the entrepreneur, subcontracting promised a profit while sustaining social distance from workers, though this was to be had at the cost of abdicating direct control to the subcontractor.[11] Whether subcontracting was actually more profitable or productive than other organizations of labor is debatable. Subcontracting has been described as a transitional economic stage or even a proto-scientific form of management, because it disciplined work in accord with a capitalist ethic.[12] Yet *marchandage* diverged considerably from late nineteenth- and early twentieth-century Taylorism by leaving the organization of labor in the hands of subcontractors and promoting production outside entrepreneurial control. Exploitative systems such as *marchandage* thrived in the nineteenth century's golden age of subcontracting, where tools and equipment remained rudimentary, where a residue of traditional autonomy persisted for intermediaries (as in France, where the guild master had earlier been an intermediary between *patron* and journeymen); where social relations remained more patronal than entrepreneurial; where elasticity in working conditions was necessary or desirable; where there was fluctuation in the volume of available jobs (seasonal work in the building trades, for example); and in industries or enterprises where there was no fixed infrastructure requiring a manager.[13]

Contemporary foreign parallels to *marchandage* are not hard to find.[14] The history of subcontracting in England, or piecemastering as it was known in the building trades, resembles that of *marchandage*. English construction workers considered subcontracting for building materials to be the genuine form of the practice, though by 1830 subcontracting for labor was widespread. Subcontracting was attractive to English employers for many of the same reasons as it was in France. Likewise, it perpetuated similar conditions for workers: intense competition, stagnant wages, decline of quality, a lack of apprenticeship control and animosity between worker and jobber. The resulting structural anarchy in the English building trades made this industry one in which 'laissez-faire was an accurate description of reality', a point just as apt for *marchandage*.[15] English workers fought against exploitative forms of subcontracting through strikes and trade unions, and by the end of the nineteenth century, these tactics had succeeded in blunting the more cut-throat

qualities of piece-mastering; though it was at the cost of a formalization of work that, ironically, lessened workers' control.[16]

In France, the two crucial long-term ingredients in the rise of *marchandage* had been the writing into law of liberal economic policies following the 1789 Revolution, and the enormous influx of workers to cities in the late eighteenth and nineteenth centuries. '*Liberté de travail*', a phrase that would later assume the mantle of a war cry for entrepreneurs, increasingly defined relations between workers and bosses after the abolition of the guilds. 'Almost unanimously,' writes Judith Stone of the late nineteenth century, 'employers believed that they had the right to remain *maître chez soi* (master in one's own house)'.[17] Laissez-faire theoretically promised that all parties to a labor contract were free to negotiate as they liked. But in reality this 'freedom' carried limitations and heavy burdens. Contracts between entrepreneurs and *tâcherons* typically rendered the latter liable for wages and repairs necessitated by shoddy work. For workers, the imagined free agency associated with *marchandage* usually meant unsatisfactory wages, long hours, intense competition for jobs and subservience to a legal system (the Napoleonic Code) that forbade workers to organize or strike, and required that they carry an internal passport (*livret*), all under penalty of imprisonment. Moreover, property qualifications to vote and hold office enduring to 1848, and then a sham democracy during the Second Empire (1852–70) meant that for most of the century, workers had essentially no political say through which to change this situation. And yet bosses voted, held political office and were even encouraged by the government to coordinate their actions through association. For a long time, laissez-faire in France worked directly in the interests of the minority of the population that controlled capital. In light of this background, perceptions that the abolition of *marchandage* in 1848 was nothing but a 'beau geste' are understandable.[18]

At the same time, population growth exacerbated competition for jobs and kept wages stagnant, contributing to the low standard of living for workers that mark this period of Paris's history. Finding work in this era of free agency could be difficult. The tradition of *compagnonnage*, by which journeymen in some trades migrated from job to job in cities across France, provided regular employment for a handful, its expansion in this period no doubt linked to job competition.[19] In Paris, there were also government

and private labor placement offices that located jobs for a fee, but building workers and domestic servants resisted using them because they were seen as exploitative and demeaning. In addition, many cities had daily hiring fairs ('foires des hommes') where subcontractors selected a handful of workers from an unemployed crowd. Paris hosted several hiring fairs for a variety of trades. It was especially at these fairs that a kind of symbiotic relationship with *marchandage* evolved in the nineteenth century.[20] And it was particularly in the construction industry — which drew a flood of poorly-paid seasonal workers such as Nadaud and the stonemasons from the *département* of Creuse in central France — that *marchandage* thrived and where 'the *marchandeur* [was] omnipresent'.[21] By the middle of the century, hiring fairs for building workers and *marchandage* were inextricably linked.

*Marchandage*, then, had its roots in the increasingly anarchic labor market and was common in Paris by 1830. During the July Monarchy (1830–48), the practice was a frequent issue in labor disputes, and the *tâcheron* was widely viewed as a divisive actor in the social fabric. The gap between the number of persons seeking jobs and their availability, upon which *marchandage* thrived, seemed to find expression in the chronic social tension and rebellions of the 1830s and 1840s. This was one reason why the abolition of *marchandage* was among the very first acts of the provisional government following the Revolution of February 1848. Months later, the decree was reaffirmed by the National Assembly.[22] Yet these actions proved illusory, for in fact *marchandage* did not abate but continued to be practised openly in Paris and elsewhere. A lesson of 1848 was that for laws to be more than empty promises — to have real impact on the workers' lives, in this case — they had to be vigorously enforced. Political promises and the promulgation of laws were not by themselves sufficient to curb well-established practices. When the issue of *marchandage* was broached again in the 1880s, a mechanism was put in place to ensure that the laws against it were enforced.

**The Struggle Against *Marchandage* Resumed in the Paris City Council**

As *marchandage* continued in Paris after its abolition, the hypocrisy of this condition was a factor in the issue's re-emergence in the early 1880s. Yet this could not have happened had not the right to vote been gained. A consequence was that councillors were elected, taking their mandate as an obligation to resuscitate and enforce the law on *marchandage*. After the turn of the century, politicians at the national level would follow the city council's lead by strengthening the 1848 law. The actual practice of *marchandage* had emerged unscathed in the Second Republic, but would fare less well during the Third.

The struggle against *marchandage* resumed in the early 1880s through the initiative of strikes, demonstrations and workers' petitions. Collective action and petitioning had been used in the struggles of the 1830s and 1840s, but at that time strikes were illegal and could result in punishment. Labor issues were muted under Napoleon III's dual strategy of repression and cooptation, though complaints about abusive subcontracting surfaced on those occasions when disputes did erupt.[23] The groundwork for more protest was laid with the male enfranchisement in 1870–1, so that supporters of labor reform such as Nadaud and Joffrin could be elected to public office.[24] The election of a reformist Paris city council in the 1870s proved critical to reviving the struggle against illegal subcontracting. Abolition of *marchandage* would become one of five standard demands that marked Parisian labor history between 1871 and 1914, the others being higher wages, shorter working hours, a day off each week (*jour de repos*) and limits on the employment of foreign laborers. By 1900, these municipal issues would be joined to a national campaign for old-age pensions, retirement homes and accident insurance.[25]

The Paris city council was created during the Commune of 1871, and gave Paris its first representative democratic assembly. Made up of 48 members, it was presided over by a *président* and met four times a year. The council worked, sometimes uneasily, with the *maires* of the city's 20 *arrondissements*, as well as with the prefect of police and the departément prefect, both of whom could attend and speak at sessions. More importantly, the departément prefect could annul the council's decisions. As if these administrative arrangements were not complicated enough,

the council's responsibilities sometimes overlapped with those of the departmental general council. As a relative latecomer to Paris's administrative scene, the city council often found itself treading on well-established prerogatives. It was typically viewed by municipal bureaucrats and the national government as prone to 'rocking the boat'. However, members of the council took solace in viewing themselves as representatives of the Parisian voters' democratic will. Thus councillors often had the nerve to forge ahead on controversial programs, such as the labor reforms, even if their powers were ultimately limited by the state.[26]

Working upon precedents set by various Parisian political groups after 1880, the articulation of a 'labor program' for the approximately 7000 workers employed by the city was among the council's major projects of the decade. Among the components of the proposal was a requirement that the law on *marchandage* be vigorously enforced. Over the course of four years (1885–8), council members debated the program, consigning it to further study by subcommittees on three occasions. In the course of the debate, an ideological divide in the council was exposed. Arguing fervently in favor of enforcing the abolition were three militant socialists: Edouard Vaillant, Charles Longuet (both of whom had been elected to the Commune) and Joffrin (who was also an ex-Communard, recently returned to France following the amnesty of 1880). All three had been elected earlier in the decade by working-class constituencies. They were joined in 1887 by Paul Brousse, founder of the moderate socialist Possibilist Party, a proponent of a 'municipal democratism' which meant city control of all public services through the practical alliance of several political groups.[27] Arguing the liberal-economic point of view (though appealing to much the same constituency as the socialists) were Léon Donnat and Charles Armengaud.[28]

Echoing the debates and 'language of labor' of 1848, the words exchanged in the city council in the 1880s often assumed the tone of a grand dialogue over the very meaning and utility of *liberté de travail*.[29] '*Marchandage* should be left as it is,' argued Donnat in December 1885, because it was a 'natural' phenomenon representing 'the march of progress'.[30] Opponents of the law invoked the old argument that *marchandage* offered a rare avenue of social and economic mobility for workers. Donnat asserted that if this form of subcontracting were suppressed, then society

would in effect be telling those who worked hardest that they did so in vain. 'Who benefits from *marchandage*?' Armengaud asked rhetorically: 'Those who work.'[31] Donnat, an engineer by training who later joined the Radical Socialist Party and who considered himself 'resolutely hostile to all monopolies', nonetheless inveighed against changing existing labor practices on the grounds that the status quo represented the 'natural law . . . of supply and demand'; moreover, reform would be ineffective unless it was implemented across the whole of France, since Paris drew so many migrants from the provinces.[32] To exclamations of approval and annoyance from different sides of the political aisle, Donnat argued that 'It is the primordial question of *liberté de travail* that you (the proponents of reform) threaten to limit.'[33] He added that, were the labor program to be enacted, it would have the perverse effect of benefiting not the worker but the *patron*, since the boss would be rewarded with access to a larger labor pool; this in turn would reduce wages and force the jobless to turn to public assistance.[34] Throughout, opponents of reform relied on a set of frequently repeated arguments: the original abolition was wrong-headed because it undermined a 'natural' economic function; implementation would be costly and impossible to enforce; and this reform, along with the rest of the labor program, would set a bad precedent.

Supporters of abolition countered with the obvious point that *marchandage* was, in fact, already 'formally prohibited and condemned by law'.[35] The question for the city council, then, was: did their constituents favor vigorous enforcement? Vaillant, Longuet, Joffrin and the other socialists argued that this was clearly the case, supporting their point by relating stories of the impact of *marchandage* upon individual workers, and by comparing the French experience with 'progressive' developments in England.[36] Perhaps most compelling was the argument that this type of subcontracting was a great source of discord in the city's *ateliers* (workshops) and *chantiers* (work sites). Paris's director of public works, called to testify in support of this point, claimed that the tensions induced by *marchandage* resulted from its having supplanted the solidarity of former times when contact between worker and employer had been direct (a reference, presumably, to the guilds of the Old Regime). Council member Jean-Frédéric Sauton offered corroboration, noting that in the present age '. . . the worker finds himself labouring at the side of

*tâcherons*, and not beside his *patron* . . .'; this was especially true of the building trades where (Sauton asserted) formerly there had been a 'cordiality', even a 'sympathy', between worker and entrepreneur. Now, he lamented, the 'capitalists' no longer know their employees.[37]

Beyond regretting a former (in reality, mythical) conviviality between worker and *patron*, supporters of abolition argued that the much-touted *liberté de travail* had not produced the promised 'complete equality', but rather had contributed to a world in which 'the worker lived from day to day with no credit', supporting a class of 'entrepreneurs who are paid too much by the city (and who have) total power over the worker'.[38] In England, this condition had been rectified by the emergence of powerful trade unions, but since worker organizations were only in their infancy in France, intervention by the state was justified. Recalling his own experiences, Joffrin countered the arguments of opponents (whose position he labeled the 'catechism of the economists') by insisting that subcontracting was not, in fact, the avenue by which good workers advanced. Rather, the

> *marchandeur*, or *tâcheron*, is usually not the most intelligent of the workers, but simply the most tractable [*souple*], the most colourless [*plat*], the person who goes on to become, in the language of the *atelier*, the 'old crock' [*la casserole*] of the *patron*. [For this reason], the *marchandeur* is worse than the boss himself.[39]

In any event, Joffrin argued, enforcing the law on subcontracting was less a question of undermining industry or the 'big capitalists' than of overseeing the 'misdeeds of entrepreneurs' and asserting the city's right to run its *chantiers* as it pleased.[40] Some of the discussion involved identifying different forms of subcontracting, an issue that would prove vexing in the subsequent legal struggle, since the 1848 decree had recognized that not all variations were illegal. Because the city's own funds and workforce were at issue, Sauton insisted that monies should go directly from the entrepreneur to the worker without encountering a detour via the intermediary. As for the argument that relations among workers, subcontractors and *patrons* should be left to 'natural' economic mechanisms, Sauton reminded his audience that 'regulation is nothing new'.[41]

Consideration of the council's labor program was marked not only by fractious words but by implied threats of popular

rebellion. At one point in 1886, Vaillant forecast the penalty for a failure to act:

> For fifteen years nothing has been done for the working class. They have been given promises; now they want results. If actions are not taken to help them out, it is you [referring to opponents of the labor program] on the council who will suffer the results — and these may well not come about by parliamentary means.[42]

The hint that rebellion could occur if reform did not, must have had resonance: unemployment was high because of a slump in the construction industry and because Paris had been the setting of so many uprisings during the century.[43] In any event, by 1887 a council majority supported the program, including enforcement of the 1848 law suppressing *marchandage*; it adopted the entire program in December 1887. This was followed by a contest over its implementation which saw the reforms annulled twice, first by the prefect and then by the Council of State. But citing the 'mandate given to them by the working class', Vaillant was able to spur his colleagues on to battle the administration, and the program was passed for good in May 1888.[44]

Responsibility for the crucial task of enforcing this new municipal labor program was given to Paris's public works office (*Direction Travaux de Paris*). Implementation included hiring five 'inspector-workers', drawn from lists of candidates provided by trade unions, whose job was to visit sites to verify that entrepreneurs contracted by the city were complying with the rules.[45] City councillors supported the inspectors' efforts over the next few years by personally visiting municipal *chantiers* on many occasions. In 1892, the municipal 'labor inspectorate' was made to conform with national standards enacted under the reforming Minister of Commerce Alexandre Millerand, which gradually professionalized the corps.[46] For a time, it seemed that city and state were working together to truly enforce the laws. Thus, a memo of 8 February 1900 from the director of public works reminded inspectors that

> The entrepreneur cannot cede to the subcontractor any aspects of a project without the consent of the administration. . . . If a subcontract is made without authorization, the administration can pronounce its forfeiture . . . entrepreneurs are forbidden to engage in *marchandage*, conforming to the decree of 1848.[47]

Despite the fact that the labor inspectorate 'had limited powers and [was] pitifully understaffed', it was inspired by a forward-

looking *esprit de corps*, working diligently and in imaginative ways to end abuses in the workplace.[48] But with few inspectors and many sites to oversee, the 'visite des chantiers' seems to have been conducted irregularly.

Inspectors at municipal sites recorded their observations on printed forms that included their own name and administrative section, location and nature of work at the site in question, and name of the entrepreneur being assessed. The section of the form on *marchandage* included this specific question: were workers at the site 'paid directly by the entrepreneur without any intermediary?'[49] The intermediary was, of course, the *tâcheron* or *sous-traiteur* (the latter term was printed on the form, though inspectors often employed *tâcheron* in their written descriptions).[50] If an entrepreneur was found to be in compliance, the report briefly noted so. Infractions required longer descriptions and if they were substantiated by further investigation, could be punished by fines. Workers themselves or their trade unions sometimes sent complaints about firms to the director of public works in the hope of initiating an inspection. Entrepreneurs wanting to do work for the city were apprized of labor policies through a *Notebook of Rules*.[51]

In the two decades following passage of Paris's labor program, inspectors in the front lines of the fight against *marchandage* confronted three persistent problems: the pervasiveness of the practice, the difficulty of proving its existence in particular cases, and stalling by entrepreneurs who had been ordered to comply. Some examples may serve to illustrate. A report of 27 July 1889 describes an inspection at the Entreprise Chanderrier, which had a contract to service and clean public urinals in six *arrondissements*. In this case, the inspector found the entrepreneur to be in violation of the decree against employing a *tâcheron*. Chanderrier was ordered to halt the practice, though he complied only after the report found its way into the hands of Councillor Vaillant, who brought the matter directly to the attention of the director of public works. In this instance, no fine was levied.[52] The decision not to impose fines when an entrepreneur was found to be in violation was not unusual. In 1904–5, the city levied just 84 fines against entrepreneurs for infractions of *marchandage* (the highest being 1196 francs and the lowest, 24 francs). If found in violation, the entrepreneur could plead the case before the inspector general. Otherwise, entrepreneurs avoided fines and were still

able to employ subcontractors by applying in advance for a waiver (*demande d'autorisation de sous-traiter*). In such cases, the entrepreneur had to convince the inspector general that, in the absence of a *tâcheron*'s services, there was no way to complete a project. Sometimes the request would be approved. For example, in December 1900 a waiver application for the employment of *sous-traiteurs* was submitted by an entrepreneur who supplied and maintained harnessing for livestock. It was granted because, as the inspector general wrote: 'The reality is that, for certain special needs . . . it is necessary to authorize an entrepreneur to procure help from his colleagues.'[53] However, if an entrepreneur abused the leniency of the authorities, there could be consequences. Thus in December 1901, another furnisher of harnessing (a Monsieur Trimolet employing 47 workers), who had been authorized the previous August to employ a *sous-traiteur*, was refused another waiver because his workers had complained that the previous subcontractor had not paid them.[54]

Hopes were initially high that the inspections would inculcate new, progressive habits among entrepreneurs. An inspector's report of 5 December 1890 noted that the 'interdiction of employment by *sous-entrepreneurs* or *tâcherons* is little-by-little being respected throughout the jurisdiction'.[55] But the same report also notes that investigating all of the city's *chantiers* was an enormous task, and so inevitably some infractions were bound to escape detection. In fact, over the years many firms simply began to disregard the regulations on illegal subcontracting because they knew that enforcement was so difficult. Indeed, *marchandage* was marked by the intractable problem that the act of hiring workers by *tâcherons*, which was obviously central to the deed, occurred before work actually commenced and so once a project was under way the subcontractor could simply claim to be a (perfectly legal) foreman. Inspectors could verify the status of foremen only by questioning the workers themselves, who were not always in a position to answer forthrightly.[56] Eventually inspectors learned to look for 'signs' of *marchandage;* for example, when workers did not use their own tools but those of the *tâcheron* (whose mark often could be seen on the implements).

Emblematic of the status of *marchandage* between the promulgation of the municipal labor program in 1888 and the revised national labor code in 1911 is the case of the entrepreneur Eugène Magisson, a persistent violator of all the city's labor

statutes, especially those forbidding illegal subcontracting. Like Trimolet, Magisson was a supplier and caretaker of livestock harnesses. Between 1900 and 1913, Magisson was cited for at least nine infractions; in three years (1900–2), he was cited twice. In five of the nine cases, employment of *tâcherons* was the primary charge. Between November 1900 and May 1901, Magisson was cited three times for having *tâcherons* hire a total of 33 workers.[57] There were other violations, including charges of not abiding by the standard wage rate and employing more than the permissible percentage of foreign workers. Yet the only fine levied against Magisson was for a paltry 24 francs in 1904. This *amende* was followed a few months later by a waiver request from Magisson to employ three subcontractors. The inspector handling the request suggested approval, but warned that Magisson would have to be watched carefully. Five years later there would be yet another report on the entrepreneur for employing two *marchandeurs*.[58] In March of the same year (1909), one of Magisson's *chantiers* on the Avenue Emile Zola would be the setting for a strike by workers demanding, among other things, an end to *tâcheronnage*.[59] The city's record on Magisson concludes in December 1913 with an infraction for hiring five 'unauthorized' (probably foreign) workers.

Clearly in the case of Magisson — and no doubt many other entrepreneurs — threats and enforcement were not enough to deter illegal actions. The fact that during these years entrepreneurial groups (*chambres patronales*) raised few protests would suggest that there was relatively little concern that enforcement might seriously inhibit business. Moreover, it proved far easier for inspectors to discover infractions against other provisions of the labor program — on wages, length of working day, *jour de repos* and foreign workers — than to track down and prove the presence of the illusive *marchandage*.

### The Legal Struggle and the 'Loup Affair'

Even as the Paris city council was trying to end *marchandage* at municipal sites, a battle over the practice was taking shape in the courts. Both the political and legal struggles began with the workers' actions, but where the city council's efforts sought to respond to the concerns of working-class voters, the legal

struggle occurred at the other end of *marchandage*'s social spectrum: *tâcherons* and *patrons*. Workers complained about *marchandage* because they saw it winnowing away skill, wages and independence. But the friction between subcontractors and entrepreneurs had to do mostly with financial responsibilities. By the turn of the century, the strife occurring at each end of subcontracting would be instrumental in turning it into a national political issue.

The legal battle commenced in Paris in January 1881 when, for the first time, a case involving *marchandage* was heard by a *conseil des prud'homme*. The *conseils* were commissions composed of entrepreneurs and workers originating under Napoleon Bonaparte which were designed to solve labor disputes. Like the *chambres patronales* (another Napoleonic innovation), they were also supposed to preserve free trade and promote 'industrial order'.[60] The case of January 1881, which was brought before the 'metals' section of the Paris *conseil*, involved a dispute between an entrepreneur, Chevalier, and a *tâcheron* by the name of Micand over liability for the wages of workers recently in their employ. This case, as with most of those to follow, was initiated by the aggrieved workers.[61] Specifically citing the decrees of March 1848, the *conseil* held that Chevalier was responsible for the wages. This was an important change from established practice, which made the subcontractor liable. But here the *conseil* focused on what it saw as the intent of the 1848 decree, in effect 'lessening the role of the intermediary [*tâcheron*] and leaving the entrepreneur face-to-face with workers'.[62] A month later in another case involving *marchandage* a different section of the *conseil* held that the 1848 decrees had explicitly recognized different types of *marchandage* and that only the 'exploitative' form was outlawed.[63] The distinction made in this instance between the (illegal) exploitative and (legal) non-exploitative types of *marchandage* was a hint of interpretative difficulties to come.

The *conseil des prud'hommes* decisions of 1881 had important implications. First, by finding entrepreneurs responsible for unpaid wages, this group now was faced with an unaccustomed hazard that would fuel years of future courtroom battles over the issue of financial responsibility on site. Second, the decisions illustrated the difficulty of discerning legal from illegal forms of *marchandage*. This issue derived from a provision in the 1848 decree that 'workers' associations that do not have as their object

the exploitation of workers by workers are not considered *marchandage*'. This in turn was an allusion to associative experiments — sometimes called *marchandage collectif* — that saw groups of workers in the spring of 1848 arranging contracts with entrepreneurs and carrying out the work without a subcontractor while sharing costs and profits.[64] Identifying all of the legal and illegal varieties of *marchandage* would never be satisfactorily accomplished. Third, despite the steps taken to enforce the law, the *conseils* let it be known that their decisions should not be construed as an inadvertent brake on economic growth. Fourth, while the decision of January 1881 had allowed the *tâcheron* to escape liability, the *conseil* had castigated this profession as one that exploited fellow workers. Hereafter, the *tâcheron* would be treated as a pariah by the courts, an imputation that would in the long-term benefit entrepreneurs in the struggle over *marchandage*.[65] Finally, the 1881 cases had not only legal but also political implications, since from this point on working-class candidates for seats on Paris's *conseils des'prudhommes* were obliged to declare their support for the law against *marchandage*. Over the coming years, *conseils* would consistently find entrepreneurs responsible for payment of wages in cases of illegal subcontracting — a boon to workers, since *tâcherons* were notorious for declaring insolvency. It seems to have been the financial burden produced by the *conseils*' decisions, rather than the city's hunt for *marchandage*, that eventually induced the legal counterattack by entrepreneurial organizations. But because the standing of the *conseils*' decisions in other legal venues was equivocal, it was probably only a matter of time before a dispute involving *marchandage* moved to the regular courts.[66]

The entrepreneurs' riposte began in 1896 with the 'Loup Affair', the pivotal legal case in the history of *marchandage*. Loup, an entrepreneur in finishing-plastering (*ravalement*), had hired a *tâcheron* by the name of Martin for 9500 francs paid in advance. Once the work began, Martin asked for more money. Loup consented, but only on condition that Martin agreed to return any unused funds. The *tâcheron* refused then abandoned the site before completing the project, without paying the workers. It is unclear how Loup might have responded to Martin's departure had this rather ordinary dispute not ended up in the courts. But as was common by this time, one of the workers seeking his unpaid wages brought the case before a

*conseil* where in October 1896, both entrepreneur and *tâcheron* were found equally liable and were ordered to share the cost of paying the worker. This judgment was upheld by the Tribunal of Commerce, the court of appeal for the *conseils*. In the meantime, the remaining workers brought a suit against Loup and Martin before a district civil court (*chambre correctionnelle*) to collect their wages. This court considered the case specifically in light of the decree of 1848, and in April 1897 handed down a decision reaffirming that law and the decision of the Tribunal, holding Loup to be co-author of the crime along with Martin, both were equally responsible for the unpaid wages. This decision was upheld three months later by the Cour de Paris.[67]

From this point on, a series of appeals were made on Loup's behalf with financial support from trade groups, taking the case on a tortuous and lengthy passage from the Cour de Paris through civil courts of appeal in venues across France. As the case's chronicler puts it, the Loup Affair became a 'veritable journey through the *maquis*'.[68] By the time a final decision was reached, again at the Cour de Paris eight years after it had first started, two important legal issues had been settled: first, the decree of March 1848 was reaffirmed — *marchandage* was illegal because it constituted an exploitation of labor that the government had explicitly intended to abolish; and second, in a reversal of the action of the *conseils* and the early court decisions, it was determined that only the *tâcheron* and not the entrepreneur could be punished as author of the crime (though the entrepreneur could be cited as an accomplice, and each could be penalized with fines). The concluding act of the Loup Affair in 1904 thus returned the main burden of the crime of *marchandage* to the *tâcheron* and away from the *patron*.

The process of rendering the *tâcheron* the 'heavy' in this judicial drama also saw the courts considering the thorny issues of what forms of *marchandage* were legal, what was meant by 'exploitation' and who exactly was a *tâcheron*. Clearly, not all intermediaries were *tâcherons*: for example, foremen who only supervised work, or persons whose job was simply to hire laborers but whose own pay, unlike *marchandeurs*, did not depend on profiting from other's labor. The courts were mindful of an assumed responsibility not to undermine business, and were aware that the distinction between foremen and subcontractors was often exceedingly difficult to determine in practice.

Workers themselves were sometimes unsure of what type of intermediary was 'good' or 'bad'. Some described *tâcherons* as 'detestable' because they were former workers who acted like 'petits patrons,' while 'sous-entrepreneurs' might be acceptable because their job was simply to hire.[69] While most observers agreed that *marchandeurs* were ex-workers who had taken the path of 'egoism', how was this quality to be demonstrated at a building site or workshop, and was it in any event something the state should correct? In addition, what precisely constituted the exploitation mentioned in the decree of 1848? The 1881 *conseil* decision had described exploitation in 'ordinary language' as 'excessive profit . . . made through any and all means, notably through the debasement of salaries'.[70] The civil court in 1897 defined exploitation as 'an abuse consisting notably of the unseemly action [*l'acte dolosif*] of the principal entrepreneur, whose actions produce an exaggerated reduction of wages and expose the workers to the untrustworthiness and insolvency of the *marchandeur*'.[71] On the other hand, a Cour de Cassation decision of 1901 had placed the onus for making an 'abusive profit' on the *tâcheron*, though noting that this could be determined only on a case-by-case basis. Even after the Loup Affair had reached a conclusion, the practical meanings of 'abusive' and 'exploitative' remained vexing. Still by 1904, a rough legal lexicon had been worked out: the *sous-entrepreneur* was understood to mean a legal subcontractor who hired persons and who did not oversee the work himself; a *sous-traiteur* was a legal foreman who oversaw work, but did not hire; and a *tâcheron* was an illegal subcontractor who hired workers and exploited them by paying them poorly and treating them harshly.

Taken together, the court decisions of the Loup Affair had important effects. First, unlike cases brought before the *conseils*, they had national application. Second, by affirming the decrees of 1848, the courts appeared to be pushing the government to proceed with enforcement. Third, the decisions came at a moment when working-class grievances had for almost the first time become prominent in France's national political life; along with other workers' demands, *marchandage* had achieved some public exposure. Fourth, in distinguishing between legal and illegal forms, the courts had focused not on preserving alternative types of production (such as *marchandage collectif*) but on the *tâcheron*. In choosing this approach to the problem of *marchand-*

*age*, the courts disregarded some of the original intent of the 1848 decree. Finally, a result of the legal decisions was to lessen the harm done to entrepreneurs by the *conseils* and to re-enforce laissez-faire principles. The Cour de Paris decision of 1904 was crucial in this regard because it held that the act of illicit subcontracting had to consist of two entirely separate contracts: an illegal one between *tâcheron* and workers, and another, wholly legal contract between subcontractor and entrepreneur. As Arthur Fraysse wrote:

> Without doubt this interpretation turned *marchandage* into a sort of abuse of confidence, an embezzlement commited by the *tâcheron* — now transformed into the entrepreneur's cashier — toward his [working-class] brothers. . . . The decision thus allowed the entrepreneur to distance himself from the actions of the *tâcheron*, and from the latter's financial and legal responsibilities.[72]

In 1911, as new labor laws were being implemented, Fraysse noted that '[the thrust of these legal decisions] is one of the best arguments one can invoke in favour of a [new] law fully and finally prohibiting *marchandage*'.[73]

Where the 1881 decisions of the *conseil des prud'hommes* had brought the entrepreneur face-to-face with his workers, that of the Cour de Paris more than two decades later returned the *tâcheron* to a position between the two. While many entrepreneurs no doubt were unhappy that they remained potentially liable for part of the financial burden in cases of *marchandage*, most probably agreed that under the circumstances it was a resolution with which they could live.[74] For workers, the 1904 decision proved to be an unsatisfying stage in the ongoing debate on *marchandage*, since it meant that overdue wages — the issue that usually brought a charge of illegal subcontracting — would remain difficult to collect. More importantly, the definitions of exploitation and *tâcheron* remained foggy, and thus *marchandage* itself difficult to prove.

## For and Against *Marchandage*

By the last decade of the nineteenth century, *marchandage* had attracted considerable interest: from workers as well as entrepreneurs, the Paris city council, the lawyers who argued the Loup Affair before the courts and, increasingly, politicians, civil servants and scholars who sought to understand the obscure past of

*marchandage* and its role in the economy. Large strikes in Paris after the turn of the century would raise interest in the issue, so that for the first time in its history *marchandage* would generate numerous scholarly studies. These studies reflected the legal issues raised during the Loup Affair, and would also serve as theoretical groundwork for the 1911 revision of the 1848 abolition. As befitting its contentious past and present, these studies were usually constructed as for or against propositions, viewing the fight over *marchandage* as intrinsic to the larger social question.[75]

Among those writing about *marchandage* at the turn of the century was Charles Flamand, legal counsel to the influential *chambre patronale* of the Paris masonry industry. Flamand's knowledge of *marchandage* derived from his legal counsel to Loup. In 1909, at a moment when the fight had shifted from the courts to the arena of strikes, Flamand delivered a speech on *marchandage* before the assembled masonry entrepreneurs. He began by describing himself as 'one of them', then offered a concise history of *marchandage* and a survey of its recent legal travails.[76] He emphasized the decision of the Cour de Paris defining *marchandage* as two entirely separate contracts, with one (between entrepreneur and *tâcheron*) determined by 'complete liberty' and the other (between *tâcheron* and worker) constituting a legal abuse.[77] Undoubtedly, Flamand hoped to assuage the financial concerns that the entrepreneurs may have had. Yet he also described the contractual relationship between *patron* and *marchandeur* in unvarnished language that must have surprised some of his listeners.

> The *tâcheron* is in one compartment; the entrepreneur in another. This is the theory of the liberty of contracts pushed to its extreme, sometimes to the point of cruelty. . . . It is the triumph of the formula of egoism: each on his own, to each his own [*chacun chez soi*, *chacun pour soi*].[78]

Flamand noted that while the liability of entrepreneurs had been limited by the courts, the situation was complicated by the court of appeal's decision that both legal and illegal forms of *marchandage* existed. Moreover, the tricky question remained of the precise meaning of exploitation. Still, Flamand could reassure the *chambre* that while it was true that the intermediaries employed in some industries paid workers barely enough to live on, in general the workers hired by construction subcontractors

earned higher wages than those working directly for the entrepreneur — hardly, he asserted, evidence for charges of exploitation.[79] Reminding his listeners that he was 'among the partisans of *marchandage*' and resurrecting a phrase that had had great resonance in 1848, Flamand described *marchandage* as 'constituting one of the most precious means for the organization of labour'.[80] He ended by assessing the Minister of Labor René Viviani's proposal for a strengthened law, which he felt would be passed. Flamand counseled that the wisest course to follow in the face of the industry-wide strikes and the ongoing passage of new labor laws was to 'accept the dawn of the new day'.[81] His overall message to the entrepreneurs had been that *marchandage* remained integral to the prosperity of their industry, but that changes to the practice were inevitable and were in any event preferable to the radical collectivist alternatives being put forth by syndicalists and socialists.

Another advocate for keeping *marchandage* in its current form was the lawyer Justin Allais. Like Flamand, Allais had been involved in the Loup Affair. Allais also wrote a thesis on *marchandage* at the University of Paris. For Allais, this engagement was but a small episode in a much larger 'social battle'. For opponents of *marchandage*, he wrote, it was 'today the *tâcherons*, tomorrow the *patrons*'.[82] Like his predecessors of 1848, Allais saw in *marchandage* (ironically enough) an 'answer' to the social question. He argued that *marchandage* represented the 'ineluctable law' of the 'division of labour', since intermediaries were indispensable to capitalism. And yet why was its abolition always the first thing demanded by workers? Because, he wrote, *marchandage* was personified by the *tâcheron*, a figure Allais described as 'rapacious' and a 'parasite on the working class'.[83] Like Flamand, Allais had little regard for the personality type drawn to this profession; Allais observed that because the *tâcheron* was usually a former worker, he was all the more detested. Yet in spite of such attributes, subcontractors were necessary because they served as the entrepreneur's '*homme de paille*' (strawman) (and even if, as Allais acknowledged, the *tâcheron* might on occasion have his revenge by declaring bankruptcy).[84] As for workers, Allais claimed that most of them secretly admired the subcontractor for his energy and ambition. Suppressing *marchandage* would thus amount to social suicide for workers by depriving them of a role model.[85]

Flamand spoke to his audience as lawyer to client, while Allais formulated his argument using academic principles.[86] But most of the scholarly studies were critical of illegal subcontracting. Perhaps the most in-depth of all these was written by Arthur Fraysse, whose *Marchandage in the Construction Industry* (1911) settled upon *tâcherons*, rather than entrepreneurs, as the key issue. Fraysse's work recites the litany of complaints made by workers for decades: the *tâcheron* won an outrageous profit by keeping too much of the entrepreneur's money, and instead of sharing it as wages; *tâcherons* were notorious for not meeting pay schedules or for abandoning a site before payday; and *tâcherons* tended to hire young persons because they worked at a faster pace and at lower wages, which in turn undermined traditions of craftsmanship and apprenticing and fostered a low standard of living. Beyond reiterating these longstanding complaints, Fraysse subscribed to a contemporary concern by identifying *marchandage* as a source of alcoholism in the working class, citing as example those *tâcherons* who paid workers in *jetons* (tokens) that could be cashed in only at taverns. Answering a claim made by observers such as Flamand, Fraysse noted that on those occasions when persons working for a *tâcheron* did receive decent wages it was only because they had done 'three or four times the labour'.[87]

Other studies supporting suppression of *marchandage* were by Raymond Joran and Jacques Dabernat. Joran's *The Syndicalist Organization in the Construction Industry* (1914) estimated that in the late nineteenth century about half of the building workers in Paris were hired by *tâcherons*. He wrote that *marchandage* persisted past 1848 because workers' organizations were weak and entrepreneurial organizations strong. Like Fraysse, Joran connected *marchandage* to the flow of migrants to the capital, which in turn contributed to the overcrowding and health problems plaguing the working class.[88] Dabernat, a member of Paris's Architecture Council, described *marchandage* not as a 'natural result' of the division of labor (as Allais claimed), but as an 'abusive profit' exacted through the combined actions of entrepreneur and *tâcheron*. Entrepreneurs appreciated this system because it created a social distance between themselves and the working class. But like other commentators, Dabernat reserved his strongest criticism for the subcontractor, whom he likened to a 'parasite' whose overriding ambition was to get as much labor

as he could out of workers without compensating them fairly. The *tâcheron*, wrote Dabernat, played 'wolf' to the workers' 'chickens'.[89]

The scholarly assessments addressed many of the issues raised in the court cases, but also examined the social impact of *marchandage*. Most observers found its effects upon workers and their families to be detrimental and a direct contributor to social tensions. An implication of these works was that ending *marchandage*, or at least curbing its worst aspects, would alleviate class antagonisms. Interestingly, even those such as Flamand and Allais who did not wish to see changes in the practice, positioned themselves away from the doctrinaire laissez-faire of contemporaries such as Paul-Leroy Beaulieu, who believed that 'capital is in reality the guardian and protector of the wage-earning population'.[90] All of the scholarly assessments of *marchandage* echoed the municipal inspectors and courts in noting the real difficulty of defining legal and illegal forms, and of finding ways to curb the actual practice. Likewise, the figure of the *tâcheron* had offered to all a way to attack *marchandage* without criticizing too harshly the entrepreneur and the principle of *liberté de travail*. In the strikes that began in the Paris construction industry in 1898, and the political debate leading to the legislation of 1911, the *tâcheron* would continue to serve as a lightning rod in the struggle against *marchandage*.

### Building Trades Strikes and the New Law on *Marchandage*

Separated by more than a half-century, the National Assembly in 1848 and the Cour de Paris in 1904 each had found *marchandage* to be exploitative, morally repugnant and a cause of social tension. Yet the abolition of 1848 had proven entirely illusory, while the 1904 legal decision placing the civil onus on the *tâcheron* left the entrepreneur protected, if perhaps inconvenienced, by the complicated requirement that the intermediary between himself and worker be a *sous-entrepreneur* and not a *tâcheron*. Accordingly, the actual status of *marchandage* remained unsettled. Parisian municipal workers could count upon the city to try to enforce the law, but they constituted only a small part of the city's (much less the nation's) workforce. Outside municipal *ateliers* and *chantiers*, workers continued to complain that *marchandage*

remained pervasive. It is not surprising that displeasure over the failure to enforce the existing law on *marchandage* was at the heart of the wave of strikes in the construction industry afflicting the capital after 1898.[91] The strikes would prove instrumental in prompting the government to revise the national labor code to include a more effective abolition against *marchandage*. Politicians had acted half-heartedly against exploitative subcontracting in 1848, but would do so with greater vigor in 1911. At the same time, entrepreneurs would go along with the reform partly because they had already conceded the legal battle in 1904, but also because they believed that reform was better than continued strikes or, even worse, revolution.[92]

The 1911 reform surely would not have occurred without the strikes by Parisian workers between 1898 and 1911. This period saw the emergence of a new kind of labor militancy, often under the guidance of Confédération Générale du Travail (CGT), in which trade unions and a working-class press became, for the first time, truly potent actors in public affairs. The CGT organized the largest general strike of the period in 1906, involving over 200,000 workers in several trades, including perhaps 50,000 building workers. The era also witnessed the brief advent of revolutionary syndicalism. The extent and influence of syndicalism among French workers has long been debated. If the ideology was strong among any group, it was so among Parisian building workers, 40 per cent of whom may have belonged to a syndicalist union by 1908.[93] The pervasiveness of *tâcheronnage* and the apparent moral duplicity represented by the *marchandeur* may have been factors in the disproportionate influence of revolutionary syndicalism among construction workers.

Despite the organizational advances of the period, once the strikes began building trade unions were not able to offer strikers much support. For example, the national Federation of Building Trades did not establish a strike fund until 1908. Still, the strikes had an impact.[94] The issues that dominated between 1898 and 1911 remained the same: fewer working hours, higher wages, a *jour de repos* and enforcement of the abolition of *marchandage*.[95] But even more than in the past, the *tâcheron* had become a real touchstone for unrest. As Jacques Julliard writes (employing the omnipresent epithets of the era), the subcontractor had become 'more detested than the *patron* . . . because he [the *tâcheron*] is a parasite, a '*pieuvre*' [octopus]'.[96] A sign of the centrality of the

subcontractor is the fact that the vocabulary of workers had shifted from 'suppression of *marchandage*' to 'suppression of the *tâcheronnat*'. Thus, the struggle against *marchandage* in 1898–1911 witnessed a kind of internecine warfare, with the *tâcheron*, still typically cast as a former worker, a focus of working-class rancor.

The experience of stonemasons, who probably had considered *marchandage* a scourge longer than any other trade, offers a good example of how one trade made abolition a key demand of their strikes. The first large stonemasons' strike of this period began at a subway site in December 1905. This was followed by a 'very hard' 42-day 'quasi- general strike' in spring 1906, that ended in 'total defeat', the arrest of 1200 masons and 370 jail terms.[97] Stonemasons also took part in the famous strikes of 1908 that climaxed in the killing of three workers by troops at Draveil, a suburb of Paris. There were two strikes by stonemasons in 1909: one in March and a larger affair in August–September that included a lock-out by employers acting together through their *chambre patronale*. In the strike of 1909, arbitration was employed for the first time in masonry in Paris. Unlike the earlier strikes, this one had some success, with entrepreneurs promising higher wages, better working hours and a commitment to adhere to the ban on *marchandage*.[98] Still, the labor unrest persisted as masons and other building workers struck again in October 1910 and July 1911. In all of these instances, 'suppression of *tâcherons*' was a key demand.[99]

By 1909, as strikes persisted and talk of revolution was in the air, many employers seem to have concluded that they would have to bend on the principle of *liberté de travail*. Relying upon the government to put down strikes with force had been effective in the short-term, but only promised to exacerbate tensions over time. Flamand's speech to the *chambre patronale* counseling building entrepreneurs to concede to the principle of interventionism, like the willingness to abide by collective agreements, was a sign of the new inclination. This willingness to compromise also took the form of conceding to the passage or revision of several workplace-related laws. Most bosses probably considered these actions a way in which to appease workers without too seriously undermining the principle of *liberté de travail*. This middle course was also tied to the policies of a wing of the Radical Socialist Party that favored '*solidarisme*', a doctrine

of state intervention designed to ameliorate class conflict. *Solidarisme* had already inspired the creation of a Labor Office in 1891 and then a fully-fledged Ministry of Labor in 1906, as well as a revision of the labor code beginning in 1901. As Minister of Commerce in 1899, Alexandre Millerand had pushed forward regulations to shorten working hours and improve workers' wages for companies contracted by the state, using progressive labor laws in England and Germany as models. Also spurring politicians to act were the many trade federations that came into existence after 1890 (such as the CGT, organized in 1895) as well as the *bourse du travail* movement (the first of which had appeared in Paris in 1887).[100]

The leader on labor legislation in the government of Georges Clemenceau (1906–9) during this period of strikes was the Minister of Labor, René Viviani. Born in the French colony of Algeria and just 43-years-old at the time of his appointment, Viviani was a progressive devoted to labor reform and women's suffrage. He was also a skilled orator who had gained experience in careers as journalist, lawyer and representative to the Chamber of Deputies, to which he was elected in 1893 from the fifth *arrondissement* of Paris. The fifth was home to a great many of the stonemasons from Creuse — formerly migrants, but many of them now settled permanently in the city. Viviani was close to these people, visiting their residences, speaking at their banquets and representing their interests in the legislature. Viviani seems to have learned a great deal about *marchandage* from them. Moreover, he had been one of the lawyers representing the aggrieved workers before the commercial court in 1897 at the start of the Loup Affair. After his stint as Minister of Labor, Viviani would be elected to the legislature once again, this time representing a district in Creuse itself.[101]

It was appropriate, then, that Viviani should take the lead in overseeing the work on the labor code including a revision of the abolition of *marchandage*. In 1908, Viviani's office drafted a *projet de loi* (bill) to revise the 1848 decree, eventually introducing it as article 103 of the Labor Code. The *projet* went before the Chamber of Deputies in November 1908, and remained there until March 1910. Pierre Colliard, a socialist city councillor in Lyons before being elected deputy from the departément of Rhône in 1894 (later he became Minister of Labor in Clemenceau's last government), was *rapporteur* for the bill in

1910. The *projet* included three articles, the first of which defined *marchandage* as

> a contract in which the subcontractor has arranged with the principal entrepreneur an agreement to provide labour, complete the work and pay workers, by time or by piece-rate, and with or without the garanty of the entrepreneur. However, there is no *marchandage* when this agreement is made between an entrepreneur and an association or team of workers.[102]

Articles 2 and 3, respectively, provided fines for infractions and abrogated the earlier law of 1848. The wording of article 1 retained much of the original language of 1848, while clarifying the responsibilities of the two types of subcontracting intermediaries: the *tâcheron*, described as the 'chief worker' who directed the labor, but who neither furnished material nor was liable for unpaid wages or shoddy work; and the *sous-entrepreneur*, who directed work, but also furnished material and who as '*chef d'entreprise*' was liable for everything accomplished under his direction.[103] The Chamber voted to accept the *projet* and then sent it to the Senate.

'La question du *marchandage*' came up for discussion in the Senate on 10 July 1911.[104] The ongoing strikes in the Paris building industry were clearly on the minds of senators as they discussed the merits of the bill, several mentioning this as the impetus for ending this most 'unhappy form of exploitation'.[105] The *projet's rapporteur* in 1911 was a young senator, Jacques Lauche. Originally from southern France, Lauche was raised in a working-class family and had been a *mécanicien* himself as a young man. Having moved to Paris, he became involved in labor organizations and politics, joining the Socialist Party and collaborating in the founding of the *Revue Socialiste*. Lauche was elected to the legislature in 1910 from Paris's 11th *arrondissement*. Because of his background, Lauche was considered an expert on labor issues by colleagues on the political Left.[106] And indeed Lauche argued fervently in favor of the bill on *marchandage*, reciting the legal history of the Loup Affair and focusing inevitably upon the '*tâcheronnat*', which he described as contributing directly to the 'profound misery found in the working class'.[107] Lauche observed that even entrepreneurs had now turned against *tâcherons*. He cited the example of the Paris municipal labor program as proof that *marchandage* could be suppressed. Responding to a charge of '*antimilitarisme*' leveled against the striking stonemasons, Lauche claimed that when

confrontations between workers and soldiers did occur, workers were simply exhorting soldiers not to shoot 'their brothers'. He then tied the discussion to the threat of civil unrest, asking the legislators how workers could be expected to act 'legally' if the government itself did not enforce the law against *marchandage*.[108] Moreover, he concluded, in the interests of the republic and the rule of law, legislators needed to strengthen the 1848 decree in order to prove that '*parliamentarisme*' was more than an 'illusion'. After Lauche's summation a vote was taken, with the *projet* passing easily by 384 to 76. Overall, the debate in the Senate had been brief, dominated by those who were vocal about the need to keep the 'promise' made to workers in 1848.[109]

In 1911, a political consensus about the need to enforce the abolition against *marchandage* clearly existed. The strikes then occurring in the Paris construction industry were paramount in the minds of legislators as they deliberated, though this was buttressed by longstanding concerns about exploitation. Still, it seems likely that many senators believed that a practice as pervasive and enduring as *marchandage* was unlikely to be wiped out with a stroke of the pen. And yet *marchandage* in the form it had assumed for so long was indeed coming to an end even as the Senate acted.

## Conclusion

The labor reforms passed by the French legislature between 1906 and 1911 saw workers win a guaranteed day of rest during the week, a ten-hour work day, the right to a pension, compensation for on-the-job accidents and a renewed commitment by the state to end *marchandage*. Yet the effect of these laws was less than their promise, for the statutes were constructed so that actual benefits were minimized when they conflicted too much with the financial interests of entrepreneurs or with the principle of *liberté de travail*. Thus the law on accident insurance did not require that employers purchase it, nor did the pension plan encompass all of the working class. Moreover, workers themselves were divided on the reforms, as some saw the laws as simply another tax. Still, despite the failure to implement wide-ranging social legislation, the legitimation of state intervention against *liberté de travail* was itself an important development.[110]

The 1911 Labor Code and the section on *marchandage* were the immediate product of the wave of strikes that had beset Paris, but more broadly they were the culmination of almost a century of confrontation between workers on one side, and bosses and the state on the other. Since 1881, the setting for the struggle had especially shifted to law courts and politics. *Marchandage* had an economic and social history in the nineteenth century that resembled conditions in other nations, but with a legal and political side that made the French version distinctive. Developments in France after 1900 paralleled those in England, where a moderately interventionist state was prodded by political parties siding with working-class constituencies to confront abusive labor practices with enforceable laws. English workers fought their battles against exploitative subcontracting through strikes, organizing and collective bargaining. These tactics largely succeeded, though in the process contributing to a formalization of work that lessened workers' control in the long run.[111] In both countries, exploitative subcontracting was allowed to fade away partly because the 'quasi-autonomy' of the subcontractor represented a threat to entrepreneurial control.[112]

*Marchandage* and the Paris building trades had had a shared history throughout the nineteenth century. The long struggle against *marchandage* saw two phases: the first during the July Monarchy, culminating in the failed abolition of 1848; the second beginning in the early 1880s and leading to the reform program of the city council, the drawn-out legal consideration of the Loup Affair and the second abolition of 1911. In the Third Republic, Joffrin, Nadaud, Vaillant, Brousse and Viviani's election to office, people who were familiar with the human cost of *marchandage* and who wanted to enforce the old law or write a new one, was crucial. The court cases had especially been contests between entrepreneur and *tâcheron* over financial responsibility. But the legal considerations had also attempted to define exploitation, an important concept since the decree of 1848 had explicitly distinguished between legal and illegal forms of *marchandage* attendant upon this quality. In the legal struggle, the focus upon the despised figure of the *tâcheron* had had the effect of allaying criticism of the entrepreneur and of laissez-faire. As events unfolded, bending to the prevailing wind of reform was not so difficult for entrepreneurs because the legislation adopted after 1906 created a rudimentary system of social

security that alleviated some of the financial strain. Entrepreneurs would also concede to the attack on *marchandage* partly because they feared that more strikes, or even revolution, was the alternative.

Ironically, the revised law of 1911 may have been unnecessary because *marchandage*, as it had long been practiced, was in fact dying out in Paris even as the Loup Affair was occurring, strikes being waged and a bill written to reform the custom. The main sign of this demise was the fact that hiring fairs, which had been for so long integral to and emblematic of *marchandage*, were becoming rarer by 1900. As Flamand, lawyer for the masonry entrepreneurs, was apprizing his audience in 1909 of the difficulties that lay ahead of them, he noted in passing that the migrant stonemasons from Creuse, upon whom their industry had long depended, were no longer frequenting 'les réunions publiques'.[113] Likewise, the Creusois newspaper in the capital, *Le Limousin de Paris*, reported in 1913 that although migrants and subcontractors could still occasionally be seen negotiating job contracts 'en plein air', any hiring fairs that persisted were small, happened only occasionally and were scattered in the suburbs.[114] By the early 1920s, Parisian shape-ups had 'almost totally disappeared'.[115] As hiring fairs became less important, so did the *tâcheron*.

The decline of hiring fairs reflected changing recruitment practices that had a direct impact upon *marchandage*. By the late 1880s, the Paris *bourse du travail* served as a job clearinghouse for many trades. Labor placement offices — like *marchandage*, long detested by workers — had been reformed so that they were less expensive and less demeaning to use. Some construction firms had created offices where workers could apply for jobs instead of being sifted through by *tâcherons* at the hiring fair. Other developments contributed to changing the routine of the migrants who had long been subject to *marchandage*. The growth of the rail service from central France to Paris led to masons and their families settling permanently in the capital, so that by the turn of the century some neighborhoods had become 'veritable ghettoes' of assimilating migrant families.[116] As Creusois women took jobs as domestic servants or laundresses, many men left the building trades for other fields or opened family-run restaurants, depriving the remaining *tâcherons* of the main reservoir of workers to which they were accustomed.

Political developments giving workers' representatives some

clout in government, a long legal contest confirming the law of 1848 and then a wave of strikes that convinced *patrons* to bend with the prevailing wind of reform, were the elements that came together near the turn of century to re-enforce the abolition of *marchandage*. Since 1911, the distinction between the (illegal) *tâcheron* and (legal) *sous-traiteur* seems to have become generally understood by employers and workers.[117] The 1911 law has been revised several times (it is presently article 125 of the French legal code), including a revision in the 1970s when a new wave of immigration brought young, unemployed North- and West-African workers to France, a situation not intrinsically different from that of the Creusois migrants in the nineteenth century. The description of *marchandage* as an abusive and exploitative form of trafficking in labor, different from legal *sous-entreprise*, persists. Likewise, the moral onus for abusing fellow workers remains on the figure of the *tâcheron*, a term retained in the legal code.[118]

## Notes

1. Conseil municipale de Paris, *Procès-verbaux* (Paris 1888) (hereafter *PV*), 25 avril 1887. On Joffrin, see Fabrice Laroulanderie, *Les Ouvriers de Paris au XIXème siècle* (Paris 1997), 190. See also *Revue générale de l'architecture et des travaux publics* (Paris 1840), 551–4, and Bernard Mottez, *Systèmes des salaires et politiques patronales, Essai sur l'évolution des pratiques et des idéologies patronales* (Paris 1966), 23, 26. The definition of *marchandage* is from *La Grande encyclopédie, inventaire raisoné des sciences, des lettres et des arts*, Vol. 22 (Paris n.d.). The term is regularly listed in French dictionaries after about 1860.

2. Martin Nadaud, *Léonard: Maçon de la Creuse* (Paris 1976), 142, 177–82.

3. Judith F. Stone, *The Search for Social Peace: Reform Legislation in France, 1890–1914* (Albany, NY 1985), where the theme of 'social question' runs throughout, and Donald Reid, 'Putting Social Reform into Practice: Labor Inspectors in France, 1892–1914', *Journal of Social History* Vol. 20 (1986), 67.

4. Stone, *Search for Social Peace*, offers an excellent survey of labor legislation during the Third Republic but surprisingly does not mention *marchandage*. Lenard Berlanstein refers briefly to 'internal subcontracting', though this is not precisely the same as *marchandage*; *The Working People of Paris, 1871–1914* (Baltimore, MD 1984), 84, 97. On *façonniers* (jobbers) and 'louage d'ouvrage' (renting labor) in *fin de siècle* France, an indispensable source is Paul Pic, *Législation industrielle, les lois ouvrières* (Paris 1912), 724–5. See also Abel Chatelain, 'La Main d'oeuvre dans l'industrie française du bâtiment au XIXe et XXe siècles', *Technique, Art, Science* Vol. 101 (Oct. 1956), 35–42. I have written about *marchandage* in the first half of the nineteenth century in 'An Organization of Labor: Laissez-Faire and

*Marchandage* in the Paris Building Trades through 1848', *French Historical Studies*, Vol. 20 (1997), 357–80.

5. René Journet and Guy Robert, *Mots et dictionnaires (1798–1878)* (Paris 1970), Vol. V.

6. Pierre Urien, 'Les Maçons migrants de la Creuse au 19e siècle,' *Cercle parisien de la ligue française de l'enseignement* Vol. 214 (juillet/août/septembre 1988), 123.

7. The Larousse *Dictionnaire historique de la langue française* (Paris 1992) notes the pejorative sense dating from the nineteenth century, as well as its connection to the building trades.

8. Laroulanderie, *Les Ouvriers de Paris*, 42–3.

9. The different settings are described in Julia Adams, 'Working-Class Politics in Nineteenth-Century Toulouse, France: Paths of Proletarianization Revisited', *Social Science History* Vol. 17 (Summer 1993), 211; Laroulanderie, *Les Ouvriers de Paris*, 43; Donald Reid, *Paris Sewers and Sewermen: Realities and Representations* (Cambridge, MA 1991), 137; *L'Entreprise du bâtiment et le recrutement de son personnel* (Paris 1968), 28; and Peter Stearns, *Revolutionary Syndicalism and French Labor: A Cause without Rebels* (New Brunswick, NJ 1971), 89. John Merriman mentions a female subcontractor in shoemaking at Limoges in the early 1900s; *Red City: Limoges and the French Nineteenth Century* (Oxford 1985), 224.

10. Mottez, *Systèmes des salaires*, 20, 42; Pic, *Législation industrielle*, 724–5; and Berlanstein, *Working People of Paris*, 81. See also the brief discussion on the 'conspicuous and often hated' subcontractor in William M. Reddy, *The Rise of Market Culture: The Textile Trade and French Society, 1750–1900* (Cambridge 1984),135.

11. Mottez, *Systèmes de salaire*, 9. There is a useful discussion in Harry Braverman, *Labor and Monopoly Capital: The Degradation of Work in the Twentieth Century* (New York 1974), especially 60–4.

12. Braverman, *Labor and Monopoly Capitalism*, Chs. 3, 4. For the American version, see Dan Clawson, *Bureaucracy and the Labor Process: The Transformation of US Industry, 1860–1920* (New York 1980), Ch. 3.

13. Mottez, *Systèmes des salaires*, 30–33, 37. In nineteenth-century Europe and North America, subcontractors typically drew upon populations of migrant workers, thereby contributing to the emergence of urban ethnic enclaves; Chris Tilly and Charles Tilly, *Work Under Capitalism* (Boulder, CO 1998), 27–8.

14. In the US, the parallel was 'inside contracting'. Like the *tâcheron*, the inside contractor combined the functions and responsibilities of modern-day subcontractors and foremen. Similarly, the inside contractor was not entirely independent of the entrepreneur, since the latter supplied the capital. From the entrepreneur's point of view, inside contracting was valuable because it promised a good return on investment, could accommodate spurts of growth and decline, and permitted the employer to maintain a discreet distance from the actual work, thus sustaining social gradations. The inside contractor nevertheless exercised a degree of independence that seemed to threaten the hierarchy of employer–employee relations, and from the entrepreneur's point of view no doubt posed the specter of underwriting a potential rival. Like *marchandage*, the inherent ambiguities of inside contracting helped to undermine the practice. By the turn of the century, inside contracting would decline because of competition from Taylorist forms of production, a growing reliance on internal hiring and personnel departments, and

because entrepreneurs came to view the 'quasi-autonomy' of the subcontractor as a threat to the control of labor; Clawson, *Bureaucracy and the Labor Process*, 116,119,123; Tilly and Tilly, *Work Under Capitalism*, 28.

15. Richard Price, *Masters, Unions and Men: Work Control in Building and the Rise of Labour, 1830–1914* (Cambridge 1980), 29–39. In France, *'marchandage à l'anglaise*' saw foremen hire workers, but with the latter paid directly by the *patron*; Mottez, *Systèmes des salaires*, 25, 31.

16. Price, *Masters, Unions and Men*, 97, though the point runs throughout the book.

17. Stone, *The Search for Social Peace*, 41, 158.

18. The phrase is from Charles Flamand, *Le Marchandage. Sa suppression par le Project de loi Viviani* (Paris n.d.), 5.

19. Cynthia M. Truant, *The Rites of Labor: Brotherhoods of* Compagnonnage *in Old and New Regime France* (Ithaca, NY 1994), 217–20.

20. The hiring fairs served especially the construction industry, but also operated in enterprises that relied on piece-work, such as textiles. On this form of 'embauchage en plein air' (hiring in the outdoors), a contemporary description is Louis Bandy de Nalèche, *Les Maçons de la Creuse* (Paris 1859), 68. Judith Coffin describes jobbing '*entrepreneuses*' in the garment trades; *The Politics of Women's Work: The Paris Garment Trades, 1750–1915* (Princeton 1986), 58, 60, 158, 187.

21. Justin Allais, *La Question du marchandage* (Epernay 1898), 9, 10.

22. The abolition was buttressed by a decree providing punishment for infractions; Harison, 'An Organization of Labor', 373.

23. There is a description of a strike by stonecutters directed at *tâcherons* in Paris in July 1865, in *Gazette des architects et du bâtiment* (Paris 1863), Vol. III: 51, 74; see also Laroulanderie, *Les Ouvriers de Paris*, 182 ff. Adult males could vote in Napoleon III's 'plebiscitary democracy'. Trade unions were sanctioned only in 1864.

24. Daniel Dayen, *Martin Nadaud, ouvrier maçon et député, 1815–1898* (Paris 1998), 147.

25. During strikes in August 1883 and April 1886, mason and stonecutter unions demanded higher wages and the end of *marchandage*; Archives Nationales (hereafter, AN), F12 4663, 'Grèves et coalitions'. There are numerous petitions calling for enforcement of the abolition in the *procès-verbaux* of the city council. See also Laroulanderie, *Les Ouvriers de Paris*, 196–7.

26. On 'municipal democratism' in Paris, see Gérard Noiriel, *Les Ouvriers dans la société française, XIXe-XXe siècle* (Paris 1986), 117; Pierre Bernheim, *Le Conseil municipale de Paris de 1789 à nos jours* (Paris 1937), 136–41; and Jeanne Gaillard, 'Le Conseil municipale et le municipalisme parisien, 1871–1890', *Bulletin de la Société de l'histoire de Paris* (1982), 119, 7–14.

27. Ex-Communards and members of the Guesdist party, many of them based in Montmartre, devised several 'plans' for a 'municipal socialism', which typically included a list of labor reforms. The program adopted by the regional congress of the Possibilists in 1885 offered a platform of reforms including 'application of the decree of 1848 outlawing *marchandage*'; David Stafford, *From Anarchism to Reformism: A Study of the Political Activities of Paul Brousse within the First International and the French Socialist Movement, 1870–90* (Toronto 1971), appendix 6, and 169, 189–90, 209, 248. Brousse's plan for a 'practical' socialism was published as *La Propriété collective et les services publics* (Paris 1883).

28. Longuet was elected to the city council in 1886, while Joffrin was first elected in 1882; see entries in Maitron, *Dictionnaire biographique des ouvriers français*, and M. Offerlé, 'Des Communards aux conseillers municipaux: le socialisme parsien, 1871–1890', *Bulletin de la Société de l'histoire de Paris* (1982), 119, 102–5; Bernard Moss, *The Origins of the French Labor Movements: The Socialism of Skilled Workers* (Berkeley, CA 1976), 113. A summary of Donnat's views on labor is in *La Réglementation du travail; discours prononcé au Conseil municipal de Paris le 29 juillet 1886* (Paris 1886), 3–4; and for Longuet, 'Rapport du M.Longuet sur les propositions relatives à la durée de la journée; à l'application des prix de série; à l'execution de la loi sur le marchandage dans tous les travaux de la Ville', *Bibliothèque Historique de la Ville de Paris* (hereafter, BHVP), No. 55.

29. Harison, 'An Organization of Labor', 374–9. For the exchanges on this issue in 1848, see William H. Sewell, Jr, *Work and Revolution in France: The Language of Labor from the Old Regime to 1848* (Cambridge 1980), 251 ff.

30. *PV*, 16 décembre 1885.

31. *PV*, 9 décembre 1885.

32. Donnat ran unsuccessfully in 1891 for the Senate; see entry in *Dictionnaire biographique française*.

33. *PV*, 25 avril 1887; 29 février 1888. See also Donnat, *La Réglementation du travail*, 4.

34. *PV*, 29 février 1888.

35. *PV*, 11 décembre 1885.

36. The reference here was to the growing sophistication of labor unions and various municipal experiments in English cities; ibid., 7 décembre 1885; 25 avril 1887. Socialist council members also made comparisons with reforms in Switzerland and the USA.

37. *PV*, 11 décembre 1885.

38. Ibid.

39. *PV*, 25 avril 1887.

40. *PV*, 29 février 1888.

41. *PV*, 11 décembre 1885 and 29 février 1888.

42. *PV*, 29 juillet 1886.

43. On the economic slump, see Noiriel, *Les Ouvriers*, 83–8.

44. *PV*, 29 février 1888. There were nine declared socialists on the city council by 1887; Sylvain Humbert, *Les Possibilistes* (Paris 1911), 48 ff.

45. *PV*, 30 décembre 1887. See also Adrien Weber, 'Les Conditions de travail de la ville de Paris', *Revue socialiste*, Vol. 148 (April 1897), 401–2. The inspectors' trimester reports were to be published in the *Bulletin Municipal Officiel*.

46. Noiriel, *Les Ouvriers*, 115. See also Mary Lynn McDougall, 'Implementing Reform: Factory Inspectors and Labour Reform in France, 1892–1900', *Historical Papers/Communications Historiques* (Ottawa 1983), 142–55, and L. Marini, *L'Inspection du travail en France* (Paris 1936), 22–3.

47. Archives Départementales de la Seine et de la Ville de Paris (hereafter, ADS), VO NC/127.

48. '. . . travail direct pour le compte d'entreprise sans aucun intermédiaire.' Though Paris was the only part of France 'where the system worked with any degree of success'; Reid, 'Putting Social Reform into Practice', 68, 71–4, 75–6. The reports may be found in ADS, VO NC/196 in *dossiers* labeled 'Conditions du travail; entrepreneurs et chantiers municipaux'.

49. See, for example, the report of May 1908 in ADS, VO NC/127.

50. Criticism of the intermediary in the labor process was not new in the late nineteenth century, but rather is a theme of worker–*patron* relations stretching back to at least the Revolution of 1789. In 1849 Martin Nadaud, speaking as a representative to the National Assembly, described the intermediary as 'unnecessary', situated 'between those who commission work and those who perform it'. He identified the type as generally starting their career without any money, coming from the 'ranks of the people' and being too willing to 'take advantage' of fellow workers; *Discours de Martin Nadaud à l'Assemblée legislative* (Paris 1884), 20.

51. *Cahier des charges imposées aux entrepreneurs du service municipal en ce qui concerne le mode d'exécution des travaux*, which was produced by the Prefecture of the Seine. By 1895, a construction entrepreneur's handbook noted that the *sous-entrepreneur* was entirely responsible for workers' wages and the *sous-traiteur* was responsible only under certain circumstances. The same handbook notes that employing *tâcherons* was illegal; *Dictionnaire juridique et pratique de la propriété batie* (Paris 1895).

52. ADS, VO NC/196.

53. ADS, VO NC/96, 'Procès-verbaux de visite des chantiers', 19 décembre 1900. The difficulty of enforcement was a long-standing issue with the labor inspectorate; McDougall, 'Implementing Reform', 143.

54. ADS, VO NC/96, 'Conditions du travail, 1896–1911'.

55. ADS, VO NC/196.

56. As Minister of Commerce in 1900, Millerand addressed this problem by ordering labor inspectors to make contacts with workers through trade unions and the *bourses du travail*; Reid, 'Putting Social Reform Into Practice', 79.

57. ADS, VO NC/96, 'Conditions du travail, 1896–1911'.

58. ADS, VO NC/97, 'Conditions du travail, 1896–1911'.

59. ADS, VO NC/1251, 'Grèves'. Donald Reid writes that 'some employers simply considered the fines an operating expense'; 'Putting Social Reform Into Practice', 74.

60. Alain Cottereau, 'Justice et injustice ordinaire sur les lieux de travail d'après les audiences prud'homales', *Le Mouvement social* Vol. 141 (octobre–décembre 1987), 33, 56.

61. Arthur Fraysse, *Le Marchandage dans l'industrie du bâtiment* (Paris 1911), 17–18, 58–9.

62. Ibid., 59.

63. Ibid., 17, 18, 58.

64. Harison, 'An Organization of Labor', 373. Such efforts continued in the Third Republic. Stonecutters striking in Paris in April 1886 considered forming a 'collectivité' that would negate the need for the *tâcheron*; AN, F12 4663, 'Grèves et coalitions'.

65. Fraysse, *Le Marchandage*, 58.

66. *Les Associations professionnelles ouvrière* (Paris 1895–9), Vol. IV, 240, and Fraysse, *Le Marchandage*, 59. Between 1884 and 1905, there were numerous disputes between workers and entrepreneurs over representation and jurisdiction of the *conseils*. This reflected a partial shift in orientation away from patronal and toward working-class interests; Cottereau, 'Justice et injustice ordinaire', 57–8; and William H. McPherson and Frederic Meyes, *The French Labor Courts:*

*Judgement by Peers* (Urbana, IL 1966), 19.

67. Fraysse, *Le Marchandage*, 62–3.

68. Ibid., 90. The case moved from the Cour de Cassation in February 1898, to the Cour d'Orléans (July 1899), Cour d'Appel de Bourges (June 1900), Cour de Rouen (May 1901) and back to the Cour de Paris (July 1904); ibid., 71, 76, 86, 91, 92.

69. Fernand Borie, *L'Ouvrier maçon* (Paris 1924), 254.

70. Fraysse, *Le Marchandage*, 70.

71. Ibid., 67.

72. Ibid., 100.

73. Ibid., 101–3.

74. Jules Huret, *Les Grèves* (Paris n.d.); see interview with M. Devillette, President of the Paris *Chambre patronale de la maçonnerie*.

75. On the development and 'popularization' of the social sciences, see Coffin, *The Politics of Women's Work*, Ch. 7, and Elinor Accampo, 'Gender and the Politics of Social Reform in France, 1870–1914', *Journal of Economic History* Vol. 56 (1996), 244. Other works on *marchandage* in this period are M. Goy, *Rapport sur la question du marchandage* (Paris 1898); René Descoust, *Marchandage et sweating-system* (Paris 1918); Marcel Pittié, *Du Salaire à la tâche et du marchandage* (Paris 1899); J.-F. Amadieu, *Organisations et travail: coopération, conflit et marchandage* (Paris 1993); and Charles Henri Gigot, *Du Marchandage* (Paris 1903).

76. Flamand's speech was made in January 1909, and was printed as *Le Marchandage, sa suppression par le Projet de loi Viviani*.

77. Ibid., 3.

78. Ibid.

79. Ibid., 7, 19.

80. Ibid., 24.

81. Ibid., 28.

82. *La Question du marchandage*, 4–5, 109.

83. Ibid., 11.

84. Ibid., 12.

85. Ibid., 19.

86. In the latter case, the 'secular and newly authoritative social science(s)' had emerged as the coin of the intellectual realm in *fin de siècle* France'; Coffin, *The Politics of Women's Work*, 251. France's law schools especially were a source for these studies; Stone, *The Search for Social Peace*, 47.

87. Fraysse, *Le Marchandage*, 125–7, 118.

88. Joran, *L'Organisation syndicale dans l'industrie du bâtiment* (Paris 1914), 210, 212–14.

89. Dabernat, *Le Marchandage dans les travaux d'architecture* (Paris 1903), 20, 23.

90. Leroy-Beaulieu, *Collectivism: A Study of the Leading Social Questions of the Day*, trans. Sir Arthur Clay (New York 1908), 145.

91. Laroulanderie, *Les Ouvriers de Paris*, 199; Jules Huret, *Enquête sur les grèves* (Paris 1901).

92. W. Scott Haine, *The World of the Paris Café: Sociability Among the French Working Class, 1789–1914* (Baltimore, MD 1996), 233, describes the potential for revolution in 1903–11.

93. Charles W. Pipkin, *The Idea of Social Justice: A Study of Social Legislation and Administration and the Labour Movement in England and France Between 1900 and 1926* (New York 1927), 492; and Stearns, *Revolutionary Syndicalism and French Labor: A Cause Without Rebels* (New Brunswick, NJ 1971), 19, 72, 96. Stearns connects the influence of syndicalism among Parisian construction workers to the dispersion of the industry throughout the city and the decline of small building firms between 1896 and 1906. See also Marcel Van Der Linden, 'Second Thoughts on Revolutionary Syndicalism', *Labour History Review* Vol. 63 (Summer 1998), 182–96.

94. Stearns, *Revolutionary Syndicalism*, 42; Berlanstein, *Working People of Paris*, 184; and Charles Tilly and Edward Shorter, *Strikes in France, 1830–1968* (Cambridge 1975), 206, appendix B.

95. Laroulanderie, *Les Ouvriers*, 199. Protests against the practice were also central to the strikes of other trades at this time, for instance among piano makers in 1910; ibid.

96. Jacques Julliard, *Clemenceau, briseur des grèves. L'Affaire de Draveil-Villeneuve-St.-Georges* (Paris 1965), 42. Article 3 of the statutes of the National Construction Federation called for 'a struggle for the suppression of *marchandage*'; Fraysse, *Le Marchandage*, 143. Article 14 of the statutes of '"Les Egaux", Syndicat des ouvriers maçons et similaires de la Seine', forbids working for anyone 'considered a *tâcheron*'; *Les Associations professionnelles*, 256.

97. ADS, VO NC/110, 'Grèves et Réclamations, 1905–1908'. In 1902, there were seven stonemason trade unions in the *département* of Seine. For the strike of 1906, see Julliard, *Clemenceau*, 24, 33; Jean-André Tournerie, *Le Ministère du travail, origines et premiers developpements* (Paris n.d.), 240; and Stearns, *Revolutionary Syndicalism*, appendix B.

98. ADS, VO NC/1251, 'Grèves'. See also Julliard, *Clemenceau*, 36, and Huret, *Les Grèves*, 24, 25. By 1914, collective agreements had 'become common' in the Paris construction industry; Stearns, *Revolutionary Syndicalism*, 88; Fraysse, *Le Marchandage*, 172.

99. ADS, VO NC/1251, 'Grèves'; Julliard, *Clemenceau*, 9, 12.

100. These developments aside, it is clear that many Radical Socialists adopted an ambiguous stance toward the social question. Thus, Clemenceau's government was marked by seemingly contradictory trajectories of legal initiatives to better laboring conditions and quality of life for workers, and repression to stifle their activism. For many Radical Socialists, *solidarisme*'s main virtue was probably that it was not socialism or Marxism; Stone, *The Search for Social Peace*, Ch. 2, 123–4; Pipkin, *The Idea of Social Justice*, 410–12.

101. Tournerie, *Le Ministère du travail*, 185; Allais, *La Question du marchandage*, 52. Viviani was the object of considerable acrimony: *Le Bâtiment*, a newspaper for construction entrepreneurs, described the 'Viviani laws' as like 'a guillotine cutting off the head of the bourgeoisie'; 26 mai 1907.

102. *Journal Officiel* (hereafter *JO*), 1479. On Colliard (1852–1924), see entry in the *Dictionnaire biographique française*.

103. Pic, *Législation industrielle*, 912–13, and Flamand, 'La Suppression du marchandage', *Parlement et Opinion* (25 août 1911).

104. The phrase was used by Senator Lauche to open the discussion, *JO*, 2733.

105. Ibid.

106. *Dictionnaire des parlementaires français*, t. VI (Paris 1970), 2148–9.

107. *JO*, 2734.
108. *JO*, 2735–6.
109. *JO*, 2736.
110. Stone, *Search for Social Peace*, xvi, 111, 123, 168; McDougall, 'Implementing Reform', 142, 155; and Noiriel, *Les Ouvriers*, 115.
111. Formalization was the process by which trade unions became mediators between workers and entrepreneurs in late nineteenth-century England, with collective bargaining and the 'industrial relations system' being its characteristic features. Work was 'formalized' to the extent that the 'autonomy' of worker and the workplace was lessened through the authority of the union to enforce agreements with industry; Price, *Masters*, 97.
112. Clawson, *Bureaucracy*, 116, 119, 123, makes this point specifically about the USA, though it might also be applied to France and England.
113. Flamand, *Le Marchandage*, 25.
114. *Le Limousin de Paris*, 9 mars 1913; Harison, 'The Rise and Decline of a Revolutionary Space: Paris' Place de Grève and the Stonemasons of Creuse, 1750–1900', *Journal of Social History*, Vol. 34 (Winter 2000), 420–2.
115. Borie, *L'Ouvrier maçon*, 90.
116. Paul Saillol, 'La Fin de l'émigration saisonnière des maçons de la Creuse', *Mémoirs de la Société Sciences Naturelles et Archéologiques de la Creuse* Vol. 42 (1984–6), 399–410; *L'Entreprise du bâtiment*, 28; and Stearns, *Revolutionary Syndicalism*, 19.
117. A handbook for French building contractors describes *marchandage* and the restrictions against it this way: there is a 'legal' contract (*sous-traitance*) and a 'false' one (*marchandage*), the difference between which the entrepreneur must recognize; Claude Le Bail, *Comment bâtier et négocier un contrat d'achat* (Neuilly 1992), 75, 82.
118. *Répertoire de droit du travail* (Paris, 1987), description of '*marchandage*'.

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