

## CHAPTER 10



### A SHAREHOLDER LAWSUIT IN FOURTEENTH-CENTURY TOULOUSE

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The milling companies of medieval Toulouse provide an opportunity to examine how one early manifestation of the corporate form grew out of feudal precedent. The historical roots of business companies are typically traced back to business partnerships and the Roman trading *societas*. This lineage has posed problems for legal scholars because it does not account for one distinctive characteristic of the modern corporation: the tradability of shares. Henry Hansmann, Reinier Kraakman, and Richard Squire (2006) argue that a precondition to share tradability is the characteristic of entity-shielding—the protection of the firm from claims against one of the shareholders. In their view, entity-shielding eliminated the need to assess the liabilities of potential shareholders. This, in turn, enabled companies to raise capital from a large pool of anonymous investors and to allow transfer of shares without approval.<sup>1</sup>

The historically documented trade in shares of the medieval Toulouse mill companies by 1350 suggests that the problem of entity-shielding was effectively resolved earlier there than in other European polities. While the Toulouse mill companies date from the eleventh century, they do not predate business partnerships such as Italian ventures set up for maritime trade. In addition they are contemporaneous with international Italian banking companies. The features that distinguish the Toulouse firms from these other early European examples

are share transferability and a governance structure oriented toward shareholder rights.

In this chapter we discuss the feudal foundations of the Toulouse companies and the potential institutional basis for entity-shielding. We next trace the development of the governance structure of the Toulouse companies during an important period of institutional transition, focusing on a major legal proceeding in the fourteenth century that highlighted limitations in the governance structure and may have triggered important changes that, to the modern eye, look like the institution of a board of directors. Finally we discuss the political implications of the Toulouse companies. They emerged in the context of a strong urban tradition of governance by council, not unlike contemporaneous Italian city-states. We suggest that the Toulouse companies not only borrowed from earlier feudal precedents, but also were governed by a council-like structure of committee, as opposed to a single executive model. Given that one of the Toulouse mill companies survived as a public company into modern times and continues to survive as an enterprise, we consider the potential influence that the institution may have had on the development of the modern corporation.

Although the mill companies of Toulouse have long been known to scholarship, they have had relatively little influence on the history of the corporation. The important exception is Germain Sicard's definitive 1953 study, *Les Moulins de Toulouse*. His book is based on a complete analysis of the archives of the mills, and examines the mills from a number of different perspectives: as technological innovations, legal entities, investments, and potential historical precedents to the modern corporation. Sicard's study is the primary source of information for this chapter, and interested readers are referred to his work. (The original in French is available from the publisher, and an English translation is forthcoming from Yale University Press.) Although not specifically concerned with shareholder rights and activism, Sicard's work provides an extraordinary opportunity to study how external legal institutions such as courts as well as internal agency contracts supported shareholder rights in the late Middle Ages.

## BACKGROUND

Situated on the Garonne river in the French Midi, Toulouse was a major regional center for grain milling and distribution from the eleventh century to the eighteenth century thanks to the construction of a large-scale hydraulic infrastructure: a wooden dam to regulate the

flow of the Garonne, floating mills anchored in the stream, and ultimately large-scale, stationary water mills along the riverbank. These major investments were not undertaken as public works but instead were financed by private enterprise. The mills were owned through the medieval shareholding institution called *pariage* or *paréage*, which allowed for the pooling of private investment capital and governance on the basis of proportional ownership.

### PARIAGE

*Pariage* was a feudal institution that allowed for mutual ownership of a fief. Sicard proposes that it grew out of an egalitarian tradition of inheritance and a corresponding weakness in primogenitor. Rather than passing along seigniorial rights to the eldest child or dividing actual properties among heirs, *pariage* divided the rights and responsibilities of the feudal fief among heirs. A property held in *pariage* conferred the economic benefits to the *pariers* collectively and divided them according to their respective shares (Sicard 1953, 157). Verzijl (1970) emphasizes the political nature of *pariage*. The oldest extant *acte de pariage* in the *Ordonnances de France* is an 1155 agreement between Louis VII and the abbot of St. -Jean of Sens for the protection of three villages and the sharing of feudal rights to benefit from them (Jean Joseph Raepsaet 1838, 375). According to Verzijl, many early *pariage* agreements were effectively exchanges of benefits for military protection. The shares of the more powerful party were hence not alienable, but typically the shares of the less powerful party could be sold (Verzijl 1970, 325). The most famous surviving example of a political *pariage* is the state of Andorra, the co-ownership of which was established in an act of 1278 between the bishop of Urgel and the count of Foix, whose right has descended to the president of the French Republic (Verzijl 1970, 325).

### ESTABLISHMENT OF MILLING RIGHTS IN TOULOUSE

The *pariage* framework governing the mills of Toulouse was neither so grand nor so strategic as the preceding examples. The rights held in *pariage* in Toulouse do not concern the governance of a city or a region, but rather concern the perpetual lease of the river. The institutional structure and presumably the legal definition of corresponding rights and responsibilities and legal standing were adapted from feudal governance to the creation of a shared entity to pursue mutual business interests.

This adaptation was likely a natural one. The property rights to use the river and its banks for mills and related activities, particularly fishing, derived from feudal law, and by the fourteenth century rights to the use of the banks of the Garonne had been conferred by political and ecclesiastical authorities to three different groups of mills referred to by their locations: the Château Nabonnais—the castle at the south end of the city, the Dorade—the oldest church in town whose name refers to its lavish gilt interior, and the Bazacle—once a shallow ford situated just downstream from the ancient city walls. Of these three, the Bazacle still survives as a physical and corporate entity, albeit now state owned. It is a functional electricity generating plant on the foundations of the medieval gristmill. Sicard identifies specific acts of feudal enfeoffment legally conferring mill rights in two locations in Toulouse: the first in 1177 for the Dorade, and the second in 1183 for the Château Nabonnais; the latter explicitly mentioned shareholders as *pariers* (Sicard 1953, 70–71). The count gave shareholders the property rights to the river banks in perpetuity in exchange for an annual payment from future proceeds of the mills.

Companies owning groups of mills were eventually formed through the consolidation of individual *pariage* partnerships operating mills in and along the river at their respective locations. At the Bazacle, *pariers* from various mills decided on June 23, 1369, to divide the profits from the mills according to a fixed sharing rule. Their expenses, however, were excluded from the agreement: common expenses such as dam repairs were still shared by the *pariers* of all the Bazacle mills but expenses related to a particular mill were incurred by the *pariers* of that mill only. This cooperative arrangement continued for three years until the consolidation of the Bazacle company—including both debt and equity—which occurred in 1372. This *de facto* incorporation occurred almost concurrently or immediately following the shareholder lawsuit that we study in this chapter and is arguably related to the uncertainties of governance and management revealed in the lawsuit proceedings.

### SHAREHOLDERS

The *pariers* in the mills were entitled to a share of the yield of the mills according to their proportional ownership. Presumably the mill companies actually sold the annual output and distributed the monetary profits to shareholders. *Pariers* were also liable for periodic capital calls when additional investment was required. If they were unable to contribute their portion of new capital their shares were reclaimed by the company and sold to investors who could make the necessary

payments. This occasionally happened in extreme circumstances—when milldams burst and major rebuilding was needed, for example. Shareholders thus enjoyed annual dividends and had to make occasional contributions, although it is not clear how profitable their investment actually turned out to be. Lacking good grain prices, Sicard was unable to calculate the returns to share ownership. One additional right of shareholders was the ability to sell their shares. A record of share prices for the mill companies in gold and in *livres tournois* is available for the period 1370–1571, and during that interval prices ranged from 100 to 500 g of gold. It is doubtless the earliest pricing information for a publicly traded company in financial history.

The social and political position of *pariers* is an important issue. How, for example, were the companies related to the political power structure of Toulouse? Shareholders typically belonged to the well-to-do bourgeois class of the city, which included lawyers, merchants, and occasionally financiers. While women had full shareholder rights—including the right to vote at annual meetings—they did not serve in administrative roles. Sicard reviewed the names of shareholders of the mills mentioned in the enfeodation documents of the late twelfth century and noted that these matched many of the names of the members of the Toulouse city council. He found little evidence that the mill shares were owned, for example, by millers. Rather, from the outset, the *pariers* were primarily suppliers of capital.

Shareholder lists from the fourteenth to fifteenth centuries document a broad range of *parier* professions: judges, merchants, carpenters, drapers, weavers, apothecaries, doctors, bakers, grocers, bankers, money-changers, silversmiths, priests, and nobility. Sicard estimated that the average *parier* had a net worth of 250–500 *livres tournois* at a time when the average price of a share ranged between 20 and 150 *livres tournois*. Thus a single share represented a significant portion of shareholder wealth and, in turn, the companies were run by well-to-do urban professionals.

### GOVERNANCE

By the late fourteenth century the three mill companies were holding regular annual shareholder meetings at which a set of two to four managers called *bailies* (related to the term “bailiff” in English) were elected from among the 60–90 or so shareholders to serve for a year. The aforementioned list of professions of *pariers* would suggest that even the elected *bailies* delegated day-to-day management of the milling operations, serving as overseers and managers rather than as operators.

The use of the term *bailie* is consistent with the institutional derivation of the company structure from feudal precedent. John William Donaldson (1852) traces the root of the term to the Latin *bajulus* or bearer. In the romance languages of southern France and Catalonia it came to imply a second in command—in effect the agent of the lord (Donaldson 1852). Interestingly, the first infeudation of the Dorade mills was actually granted by the *bailie* of the count of Toulouse to the shareholders. The count's *bailie* in the twelfth century thus clearly held a political office, and the use of the same term to denote the managers of the mill company implies that their role as servants of the owners of the fief—the shareholders—was similar to that of a *bailie* serving a feudal lord.

Interestingly, the selection of *bailies* from among shareholders addressed the classic agency problem. When managers are salaried, their interests may differ significantly from shareholders. In the modern era, this divergence in interests is addressed by conferring some equity ownership on management. Thus, when the fortunes of the company wane, the manager shares the pain of shareholders. Restricting management to the class of shareholders effectively aligned the interest of shareholder and manager in the same way as modern executive stock options—perhaps even better. It ignored, however, the potential need for managerial specialization and expertise. This problem may have been partly mitigated by the fact that *bailies* could be reelected for several years in a row. Thus a subset of shareholders who were good at managing the mills (about half) appeared to take turns fulfilling this role.

*Bailies* were responsible for the business operations of the company, including commercial and financial transactions. They could enter into bilateral contracts, approve real estate transactions, hire external contractors, and buy property as needed. They also sometimes served as the legal representatives of the firm in court proceedings; however, the mill companies also enlisted specialized representatives as needed. Sicard notes that occasionally shareholders appointed attorneys as their representatives in particular, but not only, to deal with cases at the Paris Parliament.

### EVOLUTION OF THE GOVERNANCE OF THE MILLS

The administrative organization of the mill companies was in a state of flux during the late fourteenth century. In particular, the companies were in the process of consolidating semi-independent mills into larger associations. These changes were coincident with changes in governance practice. After 1374 the Bazacle company annually elected

a set of *conseillers* or *conselhans* from among their ranks in addition to the *bailies* (Sicard 1953, 209). Sicard observes that the *conseillers* may have originally served an advisory function but by 1379 they had assumed oversight of the *bailies*—no important decisions could be taken by the *bailies* without the approval of at least four of eight *conseillers* (Sicard 1953, 210).<sup>2</sup>

The role of the *conseillers* further evolved in the early fifteenth century. It became customary for them to serve nonrenewable, one-year terms and for the *bailies* to serve as salaried employees of the firm for renewable one-year terms. The emergence of the *conseillers* might be related to the fact that it was probably very time demanding to manage the mills on a day-to-day basis. Up to the fifteenth century, *bailies* were *pariers* and did not receive extra compensation for the services they were offering to the mills. From the fifteenth century onward, *bailies* gradually became employees of the mills (and were no longer *pariers*) under the supervision of the *conseillers*, who were the representatives of the *pariers*. With this new structure, the mills had professional managers and representatives of *pariers* to check on them and oversee the main decisions. Evolution away from the use of *pariers* as *bailies*, however, introduced problems of agency.

Also by the fifteenth century, *conseillers* selected their successors and asked only for a vote of approval for their proposed slate at the annual shareholder meeting. The Bazacle company even had a particular arrangement for the staggering of the terms of the *conseillers*. Each year, two of the eight were selected by their peers to serve an extra year without being subject to shareholder approval (Sicard 1953, 213). The emergence of a staggered board may have reflected a need for some institutional continuity from one year to the next, rather than being a power play by the board to exert further control. Nevertheless, the modern experience with staggered board suggests that it is a means to entrench board support of management by reducing the ease with which an entire set of board members can be replaced at once.

Another important administrative role that emerged in the late fourteenth century was the corporate treasurer, who was charged in general with the financial operations of the firm and particularly with cash transactions. The role is referred to as *receptor pecuniarum* (money receiver) in legal documents, as opposed to the designation *receptores bladorum* (grain receiver)—a role for which the term *baile* was then reserved (Sicard 1953, 210). The treasurer served an important auditing function. Sicard speculates that the distinct role of the treasurer of the medieval firm is preserved in the modern

French public administration practice of requiring treasurer approval of management expenditures.

In addition to dealing with the firm's cash income and expenditures, the corporate treasurer also evidently provided working capital to finance the mills' operations. Potential amounts of money lent to (or sometimes borrowed from) the companies by the treasurer were reimbursed to him on a yearly basis. In effect, corporate treasurers played an important financial role in providing liquidity in the absence of a formal and effective banking system. There also seems to have been a shareholder auditing function of the treasurer accounts—in 1381 two *pariers* oversaw the submission of the final accounts (Sicard 1953, 229).

### THE LAWSUIT

A legal dispute occurred in 1368–1369 between the Bazacle mills and a Toulousian merchant. The records of the trial are in a volume, the *Liber Instrumentorum*, that was probably compiled in the eighteenth century from the original fourteenth-century documents. The volume includes, among other things, the transcript for the 1369 appeal trial in 88 folios. This transcript includes a copy of the 1356 debt contract as well as a copy of the transcript of the 1368 ordinary trial. We were fortunate to be able to consult this volume in writing this chapter.

The dispute centered on a debt of 25 *livres* incurred on May 24, 1356, on behalf of the Bazacle mill organization by Jean de Fulhenchis, Guillaume Salomonis, and Jean de Caussidières, three *pariers* of the mills (see figure 10.1). The loan was granted by a merchant from the “rue de la Tour” located close to the Bazacle mills.<sup>3</sup> The debt was incurred under the “mortgage and obligation” of the Bazacle mills in order to fulfill the necessities of the mills. For a number of years the loan went unpaid, finally precipitating legal action in the form of two lawsuits. These lawsuits allow us to understand the nature of these early firms as juridical personalities, and the legal framework by which the managers of the firms could enter into contracts that obligated the firm and pledged its assets.

Of immediate interest to legal historians is whether the dispute suggests that the Bazacle company was effectively recognized as a legal entity that could borrow in its own name. The fact that the defendants in the case were shareholders, and more precisely former *bailies*, and not the enterprise itself leaves open the question of whether the company by this time was a “juridical personality.” This issue is complicated by the gradual development of the Bazacle mills into a unified entity following the period of the trial. Nevertheless there was no



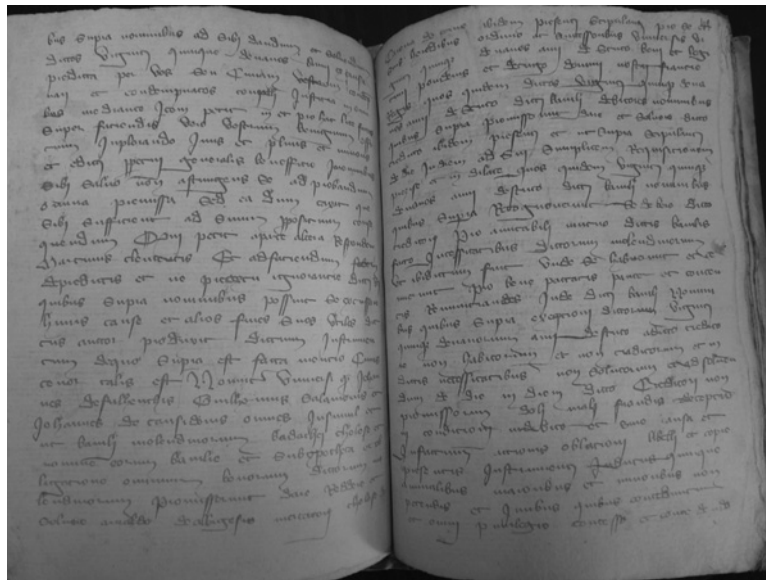


Figure 10.1 Transcript of the debt contract of 1356 incurred in the name of the Bazacle company

ambiguity about the fact that the debt was incurred for the purposes of the company and not for personal use by the defendants.<sup>4</sup>

It is possible but unlikely that the debt was disputed because it preceded the formal consolidation of individual mill debts as a result of incorporation. The 1356 debt contract indicates that the debt was made in the interest of the Bazacle mills—more precisely for the necessities of the mills. This suggests that the *bailies* of the mills in 1356 were explicitly acting in the name of all the *pariers* and not only for the mills in which they possessed shares.

The amount in dispute was not trivial. The claim by the merchant Arnaud Albiges appears significant in comparison with the size of the company. The nominal value of the debt, namely, 25 *livres*, can be compared to the transaction prices of one *uchaux* (i.e., one share of the Bazacle mills that comprised around 90 *uchaux* at the time of the trial), namely, 20 *livres* in 1352 and 50 *livres* in 1363. The debt thus represents between 1.4 and 0.5 percent of the value of the Bazacle mill company.

The first court proceeding occurred in November 1368. At that time Albiges brought a charge against the 1368 *bailies* of the Bazacle mills before a local judge. To defend themselves, the 1368 *bailies* claimed that the 1356 *pariers* who contracted the debt were not *bailies*

and thus could not commit in the name of the other *pariers*. This evidently was not true, as one of them, Jean de Caussidières, served as a *bailie* of the company when he incurred the debt in 1356.

The Bazacle mill company lost the case and appealed in May 1369 before the judge of the *Sénéchaussée* of Toulouse and Albi. This suggested that the law recognized that the firm managers had the right to obligate the firm and also that the debt was genuine. This time, two of the mills' *bailies*, Guillaume Helie and Bernard Proensal, acting as attorneys for the entire group of *pariers*, claimed that the *bailies* could not commit for the other *pariers* on specific issues without their explicit consent. This line of argument presented logistical problems, since shareholders only met in an annual meeting and no mechanism existed to provide for interim consultation. Sicard indicates that ten *pariers* appeared as witnesses in front of the court (Sicard 1953, 205). Six explained that they did not know if *bailies* could actually commit to a particular obligation for the entire group of *pariers* without their explicit consent. Three witnesses answered that *bailies* could not commit for the others without explicit consent but did not provide any evidence.

On the basis of other legal proceedings from before the case, Sicard argues that by the fourteenth century, *bailies* typically exercised broad powers of management, limited only to the extent that they could not alienate the capital of the firm or revise the company statutes (Sicard 1953, 204). The question posed by the second trial is thus whether the law would continue to recognize these powers. Unfortunately, the final ruling of the second proceeding is not recorded, but Sicard suggests that the case was lost by the Bazacle mills.

The witnesses' testimony in this second case presents problems for Sicard's argument. Indeed, it is clear that *bailies* derived the right to commit for all the *pariers* from the consent expressed yearly at the occasion of a general assembly. This presumably was necessary and sufficient to give *bailies* enough power to manage day-to-day operations and would imply that shareholder consent was not required for specific business decisions. If the court struck down that right it left a fundamental problem for future management of the company.

#### AFTERMATH AND INTERPRETATION

The trial is significant for several reasons. Although it was not brought by shareholders against management, but rather by a creditor against shareholders, it raised the important issue of whether shareholder interests were properly protected by the governance structure of the quasi corporations in the 1350s. The trial addressed the fundamental

question of who could obligate a company to pay a debt and under what circumstances they could do so.

It is important to recognize that the loan and the subsequent lawsuit occurred prior to the institutionalization of the *conseillers* as overseers of management. The first court's decision about the loan was unsatisfying from a governance point of view because it did not settle on this issue of who has the right to indebt the firm. This is important because, if any shareholder could indebt the firm, this would have limited the viability of dispersed share ownership and made the financing of mill operations difficult. Ambiguity about whether a loan was actually an obligation is an obvious disincentive to a lender and would impair the ability to fund operations.

The adoption in 1374 of what amounted to a board of directors charged with oversight of management and the right to approve major decisions may have occurred in order to resolve this ambiguity. Although we have no record explaining the rationale for these institutional changes, it is tempting to interpret the *conseiller* system as a fix to the problem of direct shareholder oversight of management and an organizing principal for a chain of command for the operation of the company. The original *pariage* system, derived from the feudal relationship, implied that the *bailie* served as the direct agent of the feudal lord. A basic problem of the *pariage* structure is that its *bailie* serves multiple masters. As the lord's role was replaced in the *pariage* structure by a group of shareholders, a mechanism was required to express the interest of the principal. With a large shareholder base, such expression was infeasible. Thus a board came to serve an intermediate role as representative of the principal.

### ENTITY-SHIELDING AND THE TOULOUSE COMPANIES

The sustained existence and operation of the Toulouse mill companies over centuries in a legal environment in which creditor rights were actively supported by the courts clearly suggests that the *pariage* system shielded the corporate entity from liabilities incurred by individual investors. The lawsuit does not challenge this interpretation as it established that the shareholders borrowed money for corporate purposes, not for their own benefit.

One of the greatest risks of enterprises that lack entity-shielding—such as partnerships—is the potential for a creditor of one partner to interrupt the business operation of the entity via a claim on the debtor's share of the partnership's assets. In the *pariage* system, it appears that the share—the *uchaux*—was recognized as atomistic: a

piece of property that carried the right of sale and even hypothecation, but not the right to attach underlying entity assets. Perhaps this boundary is a function of the original intent of the *pariage* contract as a means to avoid division of assets by interested parties and instead to substitute a sharing of benefits. The entity-shielding nature of *pariage* may also derive from the intent to limit the relationship of the *pariers* solely to mutual enjoyment of an asset and not to any implied sharing of potential debts and obligations. That fact that the king and other major feudal lords were involved in the early *parier* contracts may have set a precedent that shielded the crown from obligations of a co-owner.

### TOULOUSE MILLS AND POLITICAL POWER

The governance of medieval Toulouse was distinguished from the early twelfth century onward by a powerful city council that managed most urban affairs. The town council was referred to initially as “The Good Men,” drawn from the class of knights and well-to-do burghers of the city. It initially advised the feudal lord, the count of Toulouse, on matters ranging from the courts to commercial practice to policing and civil defense. The council later negotiated with the count to limit his powers of taxation and conscription. The Good Men of Toulouse in the twelfth century were drawn from a relatively small group of powerful families within the town—like Venice, the city was effectively run by a lineage-based oligopoly. Their political position was formalized in 1152 as “The Common Council of the City and the Bourg” (John Mundy 1954, 32), after which time they had control of the administration of justice and more importantly the power to initiate and debate legislation, activities that ultimately led to effective self-rule.

Meanwhile the counts of Toulouse retained an advisory council of 12, six of whom were lawyers and judges and six of whom were called “chaptermen,” who served as advisors to the count on town affairs and appeared in legislative proceedings as witnesses. Mundy argues that these chaptermen were actually chosen by the Common Council, perhaps by informal election or under the influence of powerful family clans, to serve a year’s term from among the members of the Common Council themselves (Mundy 1954, 40).

This strand of self-governance suffered in the Albigensian Crusade of 1209–1229, during which the king of France and allies led a military campaign against the people of the Midi to stamp out the Cathar heresy. For a period after the Crusade, the Common Council exercised relatively little power. Sicard notes that members of the council

were leaders of the resistance during the Albigensian Crusade and that members of the council were also among the mill shareholders. It was not until the mid-thirteenth century—following years of the Inquisition—that the council regained its independence and influence.

It is difficult not to construe the development of the Toulouse corporations as a natural outgrowth of self-government and rule by committee in the Midi. Evidence of this is clear in the governance structure of the companies themselves. Shareholders chose *bailies* from among their group, much as town chaptermen were chosen from among Common Council members in the twelfth century.

Perhaps more significantly, both *bailes* and *conseillers* were chosen in groups and ruled or advised by committee. Mills did not have singular CEOs, just as medieval Toulouse was not governed by a mayor—with the exception of Simon de Montfort's domination of the city following the Albigensian Crusade.

In the light of the development of political institutions in Toulouse, the mill companies might thus not be thought of as entrepreneurial ventures but rather as an organizational means to create valuable municipal infrastructure. In their organization and operation, mill companies resembled miniature versions of municipal government itself. As such, these early firms may also be taken as evidence of a shift in urban power into the hands of a business group that, after all, controlled much of the rights of the city's major asset, the Garonne.

The governance structure of the Bazacle company existed into the nineteenth century. Eventually *uchaux* were replaced by shares in a *société anonyme*—a modern corporation. The stability of the organization attests to the fact that it must have achieved an equilibrium that solved basic problems of agency and equitable treatment of shareholders.

## CONCLUSION

The Dutch East India Company is traditionally regarded as the first modern corporation; however, the study of earlier organizations like the mill companies of Toulouse suggests the occasional emergence throughout European history of a corporate-like form to address the needs of capital-intensive enterprise. With dispersed investor ownership comes a set of governance challenges. Who will make decisions in the name of the company, how will their interests be aligned with shareholder interests, and how will they be monitored and the operations of the company audited? We think we have some idea about how to do this today. It is interesting to see that the people of Toulouse

developed frameworks that look like separation of ownership and control, expert management incentivized by equity and oversight by a board of directors.

The experience of the Toulouse milling companies of the late Middle Ages provides evidence on how these governance challenges were addressed through the organic process of firm consolidations, shareholder lawsuits, and the development of increasingly specific managerial and oversight roles. Whether or not these institutions were adopted by later European companies is an open question, but equally interesting is the possibility that solutions to problems of agency in large firms may have been discovered independently as natural paths toward organizational equilibrium.

#### ACKNOWLEDGMENTS

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#### NOTES

1. For evidence of entity-shielding and share transferability in Republican Rome, see also Ulrike Malmendier (2009).
2. Bernard Proensal, who was a *bailie* at the time of the 1369 appeal trial discussed in this chapter, appears to be a *conseiller* in 1376–1377 (see Sicard 1953, 235). This can be interpreted as an evidence for the fact that power migrates from the “managers” (the *bailies*) to the “board of directors” (the *conseillers*).
3. The merchant Albiges was living or working close to the Bazacle. It seems normal that a neighbor of the mills, who belonged to the same social class and probably knew the *bailies* or some *pariers*, provided these *pariers* with financing. What is more surprising is that the *bailies* and their successors sought to escape their obligation. In fact, they tried so hard that they were willing to go to court. This type of strategic default provides evidence of the difficulty of setting up a well-functioning financial market even in a pretty small business world in which social sanctions could potentially play a role.
4. As an aside, there is no claim or evidence that Jean de Caussidières, or the other 1356 *bailies* who indebted the mills, personally profited from the financial transaction, so the case was not about managerial misconduct. Nor does it appear that the shareholders of the company regarded his action as mismanagement. They reappointed him as a *bailie* in 1369 and 1370. This suggests that there was no real conflict between the *bailies* who indebted the mills and their successors or the other *pariers*.

Indeed, if the 1356 *bailies* had breached a disposition of their mandate, thereby penalizing the other *pariers*, it seems unlikely that these *pariers* or their successors would reelect them.

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