it begged the question of how such alleged traitors could have been appointed to their high positions in the first place; rather than improving the standing of the tsarist regime, both trials further eroded public confidence in the government. The book shows once again how the rule of law in Imperial Russia always remained a contested organizational principle. Whereas major judicial reforms during the 1860s had modernized Russia’s legal system, the government wielded a variety of options that violated the operation of an independent judiciary, not in the least the sustained state of emergency (in force almost uninterruptedly between 1881 and 1917) in most parts of the empire and the principle that the autocrat (and therefore the government) stood above the law. Miasoedov and Sukhomlinov were tried in new-fangled ad-hoc courts that had been beforehand instructed by political authorities to render a guilty verdict.

This reviewer found little in the book upon which Fuller could have further improved. Perhaps some of the detail of his forays into the actual military developments could have been summarized, while the question of who should bear most blame for the outbreak of war is only tangentially related to the book’s topic (116–19), and occasionally statements appear in the text that appear added for rhetorical effect and are not substantiated by evidence (for instance on drinking habits, 38, 42). Also, the spelling is Hindenburg, Nietzsche, Buchanan, and Lavr Kornilov, rather than what the book provides. Finally, although this may result from the contamination of this reviewer’s mind with conspiracy theories, given the disappearance of most Wilhelmine documents relevant to the German intelligence network in Russia and the general secretive nature of intelligence work (Miasoedov’s stint as a sort of personal counter-intelligence agent for Sukhomlinov in the War Ministry before 1914, who strictly orally reported to the minister, thus left no trace), the tiniest of possibilities remains that Fuller’s tragic heroes were engaging in supplying Russia’s enemies with classified information, even if any concrete documentary evidence is lacking (which possibility the author, who is utterly precise in wielding the evidence, admits throughout). But those are trifles. The Foe Within is a remarkable work, written with verve and capturing the reader’s attention throughout. It may be read with profit by all with an interest in Russian history, military history, and the history of World War One.

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We live in interesting times. As the U.S. Supreme Court prepares to hear appeals in Boumediene v. Bush (06–1195) and Al Odah v. U.S. (06–1196), it is difficult not to read contemporary events into Howard Brown’s historical analysis of 1790s France, during which he reports: “In 1793–94, almost sixty military commissions carried out over eight thousand executions. . . . The legislation establishing the
jurisprudence of military commissions proved little more than a fig leaf for the operation of [these] instruments of extermination...” (393 n. 60).

Others have certainly exposed what they view as the Revolution’s self-defeating character, whether from an institutionalist perspective (Burke famously condemned the project of destroying order in the name of liberty), or an ideological one (J. L. Talmon, publishing in the same year as Arendt’s The Origins of Totalitarianism, found the seeds of despotism in the Rousseauean idea of a general will). Brown focuses on the “economy of violence” during the relatively neglected years between the Terror and the Empire. He presents a meticulously researched and methodologically eclectic examination of the local and regional cycles of violence that destabilized France during this period, from the “near-anarchy” of 1795 to the August 1802 plebiscite that established the lifetime rule of Napoleon Bonaparte. This is not a story about Paris, but about the countryside, where the Revolution “not only destroyed the institutional constraints on popular violence, it eroded many of the cultural ones as well” (50). The resulting proliferation of criminal banditry and “counterterror”—politically motivated violence by royalists against republicans—“challenged the regime’s ability to ensure public order within the framework of its new liberal institutions” (64). In Brown’s estimation, this dynamic was largely responsible for the French public’s ultimate acceptance of dictatorship over democracy.

This book encompasses an unusual breadth of approaches to the subject of violence, justice, and repression, from detailed case studies of selected episodes to statistical analyses of indictments, verdicts, and sentences. Brown uses these different camera angles to capture what he calls the movement from “community policing” to “policing communities,” that is, the transition from the ancien régime society of self-regulating communities to an overarching “security state.” The details of this transition, which Brown recounts with color and lucidity, are likely to be of greatest interest to those who study this period. But the book’s themes resonate broadly across disciplines, reminding us that we cannot study and build political and legal institutions that aim to promote liberty without taking account of the basic need for security.

In Brown’s account of the rise of Napoleon Bonaparte, “liberty was sacrificed not to glory but to security” (325). The political legitimacy that the Consulate gained by using the army as the principal tool of counter-insurgency amounted, in Brown’s assessment, to “apply[ing] enough repressive force to make local inhabitants more afraid of the security forces than they were of those who resisted them” (318). In Brown’s words, Hobbes triumphed over Rousseau. But the outcome remained suboptimal: “While delivering the security that many had good reason to want, the Consulate produced a state that few would have chosen” (344).

“Hobbes” (a state in which citizens accept state authority as legitimate because it provides security, even at the expense of personal liberty) was the consolation prize for citizens who belatedly cooperated with government troops and military commissions to quell the local violence that had spun out of control. In Brown’s view, “Rousseau” (here, a state in which constitutional limits constrain the exercise of governmental power) was never given a fighting chance. The revolutionary
deputies, an “overwhelming number” of whom were lawyers, erred by making “a fetish of the law” and by creating “the liberal fallacy that the law, by starting with a constitution and filling in the gaps, could create a set of institutional arrangements that would liberate individuals to satisfy all of their needs” (67). Lawyers and policy-makers then, as now, underestimated the distance between prescribing liberal legal and political institutions, and the social, cultural, and material circumstances that constrain their implementation.

Describing France in 1795, Brown indicates that “[a] free society does not experience fear as a salient feature of public life” (25). The observation is timely. The good news is that liberal democracy can emerge from the ruins of a society plagued by seemingly uncontrollable violence, which Brown’s valuable research reminds us was the condition of much of France in the late 1790s. The bad news is that it can take many decades and might entail repressive measures fundamentally at odds with democratic ideals. How to convince those who have consolidated their hold on political power through such “exceptional measures” that they should then embrace constitutionalism is another story.

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“Property and Law,” Jeremy Bentham wrote, “are born and must die together. Before the laws, there was no property: take away the laws, all property ceases.” While property and law are always linked, the nature of each—and therefore the character of their relationship—varies widely across time and space. Jonathan Sperber’s remarkable book examines property and law in the nineteenth-century Palatinate, a non-contiguous province of the kingdom of Bavaria on the left bank of the Rhine, north of Alsace, east of the Prussian Rhineland, west of Baden, and south of Hesse-Darmstadt.

The empirical foundation of Sperber’s work is provided by the records of civil court proceedings, which are preserved in the Landesarchiv Speyer. From this treasure trove of depositions, testimonies, and decisions, he was able to reconstruct over sixteen hundred cases. After a brilliant description of the court’s structure and procedures—I know of no better account anywhere of how a legal system works—Sperber analyses a carefully selected sample of these cases in four concise but meaty chapters: on acquisition and transmission (especially within families), transactions (especially credit), boundaries (especially land), and a concluding account of changes across the long nineteenth century.

The “civil society” that emerges from these pages is not Habermas’s public sphere, that realm of parties and parliaments, newspapers and journals, coffee house conversations and political discourse, where ideas are articulated and exchanged.