FREAKS OF FORTUNE

THE EMERGING WORLD OF CAPITALISM AND RISK IN AMERICA

JONATHAN LEVY

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For my parents, Joanne and Martin Levy

Contents

… this savage's sword, thought I, which thus finally shapes and fashions both warp and woof; this easy, indifferent sword must be chance—aye, chance, free will, and necessity—no wise incompatible—all interweavingly working together. The straight warp of necessity, not to be swerved from its ultimate course—its every alternating vibration, indeed, only tending to that; free will still free to ply her shuttle between given threads; and chance, though restrained in its play within the right lines of necessity, and sideways in its motions directed by free will, though thus prescribed to by both, chance by turns rules either, and has the last featuring blow at events.

—Herman Melville, *Moby-Dick*

Prologue

Voyage

> Sail forth! Steer for the deep waters only!
> Reckless, O soul, exploring, I with thee, and thou with me;
> For we are bound where mariner has not yet dared to go,
> And we will risk the ship, ourselves and all.
>
> —Walt Whitman, “Passage to India” (1871)

IN THE NINETEENTH-CENTURY UNITED STATES, voyage was an image that Americans invoked time an again to capture what it was like to live on the stormy seas of capitalism. In 1871 Walt Whitma offered a maritime allegory of the experience of individual freedom. To do so he evoked risk. Long technical concept in the financial arena of marine insurance, at the end of the eighteenth centu “risk” still simply referred to the commodity bought and sold in an insurance contract. Outside th world of long-distance maritime trade risk had very little meaning or use.

Sometime during the nineteenth century it became all but impossible to imagine the mode condition without the word “risk.” By 1871 Whitman was able to invest risk with great lyrical powe Capitalism—an economic system that thrives off radical uncertainty—was asserting contro Meanwhile, men had begun to insure their own lives, brokers had begun to sell mortgage-backe securities, and farmers were beginning to buy commodities futures contracts. Uncertainties an anxieties—some old, some new—had to be managed and coped with, perhaps even capitalized upo Risk management was born.

The spread of capitalism had brought the insecurity of the sea to the land. Human beings had lon associated the power of chance with the capricious tides of the high seas. Now the image of the sh on stormy waters became a powerful metaphor for the perils and possibilities of life under capitalis Nineteenth-century Americans spoke of howling winds, thunder claps, unknown breakers, an tempests and storms and cyclones that swept over the deep—for which they were not responsible. B they had to learn to cope with them, and even to profit from them. As daunting as the task managing risk could be, there was also the existential thrill of taking a risk. That tension was at th very operational and moral heart of both capitalism and a rising liberal order.

In the nineteenth-century Americans had their own term for this tension, for all of the sudde economic twists and turns, booms and busts, and ups and downs that were newly and inexplicably their midst. They called them “freaks of fortune.”

Within the context created by the freaks—by the economic chance-world of capitalism—the history risk comes into view. The notion that risk has a history might come as a surprise. Or, it may seem th an obsession with risk is recent, dating to some time after the 1970s and the onset of crisis f industrial capitalism in the West. An era of pervasive insecurity ensued, one in which risk had to b "embraced."[2] Newly emboldened entrepreneurs began to take "risks." Sociologists began to speak "risk society." Engineers began to practice "risk assessment." Financiers began to promise "ris management." As the contemporary sociologist François Ewald explains, risk was now "in huma beings, in their conduct, in their liberty, in the relations between them, in the fact of their associatio in society."[3] Since risk is now so ubiquitous, it might seem impossible to write its history.

Yet, risk does have a history. As a human invention, as a historical protagonist, risk has biography. In the United States, the most decisive chapters in risk's history were written in th nineteenth century. For by the end of that century, much like throughout the world today, risk was i fact everywhere. Before that century of capitalist transformation, however, it was not. But risk did n appear out of nowhere. It was born on the deep, in the act of maritime voyaging.

Risk was first synonymous with marine insurance—a financial instrument for coping with th uncertainty of transporting commercial goods across maritime space. Buying and selling "risks long-distance trading merchants purchased from each other financial compensation in the continge event that a "peril of the seas" or an "act of God" struck their long-distance voyages and destroy their property. Risk did not then mean extreme peril, hazard, or danger.[4] It did not refer to th immaterial fear of an undesirable event. Rather, it originally referred to something material: financial instrument for coping with the mere *possibility* of peril, hazard, or danger.

The etymology of the word reflects this historical origin. It can be traced back to the sixteent century French *risqué,* and even further to the thirteenth-century Italian *rischio.* Beyond that, a possible roots, including the likely Arabic candidate, appear in maritime "commercial contexts." It possible that mariners invented the term to refer to uncharted waters upon which they would n voyage. The *Oxford English Dictionary* emphasizes that risk connoted the possibility of "damage merchandise when transported by sea."[5] Risk made its appearance in the English language in th sixteenth century, but in the United States even as late as the 1820s it had yet to be fully anglicize from "risque"—the commodity exchanged in a marine insurance contract. Then, rather suddenly, ris exploded in everyday language. So would financial risk management.

Risk management was one way to cope with an uncertain future. But at the opening of the nineteen century there were other ways to do the same. Commerce was ever-present, but America was still ve much a rural and hierarchical society. The large majority of persons were legal dependents: wive children, servants, and slaves. Households and communities achieved social security by coping wi the burden of peril together. For men who were masters of households, the ownership of physic forms of capital and wealth—slaves and above all land—anchored economic security. Ris management was for offshore hazards, inapplicable to dangers onshore, where men might tremb before "acts of God" instead of commodifying them. Many onshore dangers—fire, disease, a ba harvest, a premature death—were after all still biblical in nature. Religious authorities counseled th in the end divine providence ruled over the future. And if the future was certain because Go determined it, then risk management might be unnecessary, if not all together wrong. After migratin inland risk management competed with other ways to cope—socially, economically, culturally—wi the perils of an uncertain future. It would always remain in competition.

Nevertheless, across the nineteenth century Americans began to react to the insecurities capitalism and its "perennial gale of creative destruction" in a new way.[6] As slavery was abolished an the United States became more urban and industrial, increasingly men began to hedge the perils of li under capitalism by using financial instruments born of capitalism itself. Finance transformed peril hazards, and dangers—some perennial, some new because of capitalism—into risks. An insuran policy offset the risk of losing the ability to earn income in a market economy; a derivatives contra hedged against the risk of future market price volatility. Nonfinancial collective strategies did n completely die off. Families still shouldered burdens together. Many individuals still believed in a otherworldly fate. But this transformation was ultimately momentous, marking the emergence of ris as we know it today.

The world of capitalism and risk thus formed as nineteenth-century Americans became ever-mo dependent upon new financial institutions, markets, and forms of wealth for their security. Thes included insurance policies, savings accounts, government debt markets, mortgage-backed securiti markets, bond markets, futures markets, and stock markets. With this, the corporation became ris management's institutional home ground. Corporate risk communities offered a new form of soci security. To provide economic security, corporate actors accumulated financial forms of capital an wealth. Doing so corporations also brought about a cultural transformation. They became the reserv of new probabilistic, statistical explanations of future change that secularized old providential belief In sum, by the opening of the twentieth century the modern American corporate financial system ha come to life.

Risk thus recasts the history of American capitalism from the standpoint of powerful new financi corporations. Finance is an expansive terrain. But analyzing the nitty-gritty details of new financi practices demonstrates how risk burrowed into popular consciousness. Moreover, following ris across many registers of thought, action, and experience captures much of the human drama capitalist transformation. The spread of commerce; the rise and fall of American slavery; th Industrial Revolution; the economic development of the West; the ascendance of the corporation—a were at stake in the rise of corporate risk management. But so was how Americans thought about th future, felt about the future, acted upon it, managed it, and sometimes simply resigned themselves it.

The thread that runs most consistently through risk's history is a moral one. For risk triumphed in th nineteenth-century United States in the context of the nation's moral struggle over freedom an slavery. A generation—financiers, abolitionists, actuaries, jurists, preachers, legislators, corpora executives, philosophers, social scientists—developed a vision of freedom that linked the liberal ide of self-ownership to the personal assumption of "risk." In a democratic society, according to the ne gospel, free and equal men must take, run, own, assume, bear, carry, and manage personal risks. Th involved actively attempting to become the master of one's own personal destiny, adopting a mor duty to attend to the future. Which meant taking risks. But it also meant offloading one's risk on new financial corporations—like when a wage worker insured his productive labor against workpla accident, an ex-slave opened a savings account, or a Wall Street financier hatched a corporate profi sharing and employee benefit plan. A new vision of what it meant to be a free and secure actor thu took shape in the new material and psychological reality created by the modern American corpora financial system.

Liberal notions of selfhood had long emphasized the need for self-mastery, even in the face o uncertainty. But only in the nineteenth century did self-ownership come to mean mastery over personal financial "risk." The moral conundrum that posed, and still poses, is that individual freedo required a new form of dependence. A dependence, that is, upon a new corporate financial system, th central nervous system of a rising capitalism that fed off radical uncertainty and ceaseless change.

Therefore corporate risk management time and again manufactured new forms of uncertainty an insecurity.[7] That was the essential truth taught by the freaks—economic events that eluded the gras of corporate risk management. As free men began to assume their own personal risks, old forms o security and dependence perished. Not assuming risk, that is, no longer became an option. Whitma was right. Once at risk the only thing certain on life's voyage would be uncertainty itself. Within th economic chance-world of capitalism, desire for risk management and longing for the freaks fortune constitute one and the same history.

CHAPTER 1

The Assumption of Risk

Safety from an evil which may lurk in the future is as real as any other commodity.
—Elizur Wright, “Life Insurance for the Poor” (1876)

IN 1836, NICHOLAS FARWELL WAS AN ENGINE-MAN on the one-year-old Boston and Worcester Railroa when a train ran off the tracks because a fellow employee mislaid a switch. Farwell and his car we thrown from the rail, and the railcar crushed and permanently destroyed his right hand. His career an engine-man over, Farwell asked the Railroad for compensation but it refused. Farwell hired lawyer and took his case eventually all the way to the Massachusetts Supreme Court. He valued h right hand at $10,000.

Chief Justice Lemuel Shaw’s 1842 decision in *Farwell v. Boston and Worcester R.R. Corp.* rul that Farwell himself was responsible for the “peril” that had destroyed his right hand.[1] Farwe therefore also personally assumed a “risk.” By invoking risk Shaw’s decision rested upon preceden in the international law of marine insurance.[2] In 1842 railroad wage work was new. Maritim commerce was old. Shaw granted “that the maritime law has its own rules and analogies” not alway applicable to other “branches of law.” Applying the moral logic of risk to a dispute concerning a industrial workplace accident followed no direct legal precedent. But Shaw still held it a “goo authority” for the case at hand. To grapple with a novel aspect of American economic life, Sha invited risk inland.

In ruling Farwell personally responsible for the “risk,” Shaw also led the wage worker, almost b the nose, to a fledgling corporate financial system. There the wage worker might offloa commercially, that same personal “risk”—just like merchants offloaded the risks of long-distanc trade. *Farwell* was thus an early and emblematic agent of the larger dynamic that launched risk national history in the United States, which eventually drew almost all Americans within its orbi Shaw attached “risk” to the very meaning and substance of Farwell’s personal freedom, empowerin both his individual autonomy and what would become, by the end of the nineteenth century, moder American corporate risk management. Therefore *Farwell* provides the opportunity to concrete establish the historical problem of risk.

The Massachusetts Court ruled against the crippled workingman. According to Shaw, Farwell, i contracting out his productive labor, had taken “upon himself the risks and perils incident to h situation” as an engine-man. The two words “risk” and “peril” did not then have the same meanin and Shaw was not being loose with language. The peril of the accident, Shaw reasoned, was alread priced into Farwell’s wage, which was higher than the wages paid to workers who were engaged less hazardous tasks. Within his two-dollar-per-day wage was a “premium for the risk which he thu assumes.” Therefore, the railroad corporation was responsible to Farwell for no further compensatio

Farwell stated that as a free man the plaintiff was a proprietor of a personal “risk.” The risk assumed was an element of his self-ownership—the same as the productive labor embodied in his no mangled and disabled right hand. No different than his own body, Farwell’s “risk” was part of h selfhood. Like his productive labor, it was his private property, a thing over which he held absolu dominion. The peril was not conceived along propertied terms.

Shaw arrived to this ruling in a series of related moves. For one, Farwell became the owner of wh might be termed a downside risk. He became responsible for the possibility of an abnormal futu peril, hazard, or danger. The cost of this industrial accident was his own, and the Boston an Worcester Railroad owed him no compensation for his injury. It was a “pure accident,” Sha declared, as the freak event was neither the fault of Farwell nor of the railroad corporation.[4] B Farwell was ruled responsible for its consequences.

Yet, as a free man, Farwell also owned an upside risk—an equally abnormal and correspondin future pecuniary reward. In this case, it was represented monetarily in his higher wage. Both Farwe and the Boston and Worcester Railroad were ruled free and equal contracting parties in like pursuit commercial gain. In contracting out his productive labor for the new, hazardous employment railroad work, Farwell—Shaw held—had bargained for extra money compensation for “the risk whic he thus assumes.” This was a moral idea, the notion that more “risk” assumed justified more rewar As a free man, Farwell was entitled to an upside. But, for the same reason, he assumed a downsid Linking together freedom, self-ownership, and the personal assumption of risk, it was as if Shaw ha enclosed a new “risk” within the sphere of Farwell’s individual autonomy.

“Enclosure” is a term than can only be historically associated with one specific kind of commodit land. In England, from the fifteenth to the nineteenth centuries, parliamentary magistrates, lawyer landowners, mortgage lenders, and enterprising farmers conducted the slow process of “enclosing” common-fields system that dated back to early medieval times. Land previously held in commo became the exclusive property of private individuals. The word “enclosure” referred to the techniqu of demarcating newly private property—the building of hedges, fences, and drainage canals, or t filings and petitions of lawyers and magistrates—along the way to the creation of early mode English agrarian capitalism. By the nineteenth century, the crazy quilt of mutualist obligations th was early modern landed property was all but gone. An old set of hedges that had allocated some la to individual households and some to broader collectivities was replaced by a new set demarcati absolute, and therefore alienable, individual property rights.[5]

In the seventeenth century, when English colonists arrived on American shores, one of the fi things they did was to begin to enclose the land, and to claim it as their own. Some New Engla villages had a full-blown common-field system, and all colonies to some degree maintained collecti use-rights in land. They did so through a blend of customary practices that treated the land as a soci good as much as an individual commodity. But in America as well, by the nineteenth century a not t dissimilar set of actors had enclosed the land.[6]

Farwell provided a legal technique for an analogous, later enclosure. “Risk,” the commodity lo exchanged in a marine insurance contract, was something that a person could in fact “assume” a own, alienate, or contract out to another to "carry." And yet, in the early modern period, outside th world of long-distance trade the notion that the cost of a contingent event could be priced ar enclosed into a commodity that could then be offloaded through a financial instrument calle "insurance" would have baffled most people. At least a fence, a hedge, or a drainage canal cou demarcate an enclosed piece of land for the naked eye to see. But a future peril was much mo abstract and ephemeral.

A legal precedent, however, could do something like the boundary work of a physical hedg Enclosed "marine risks" had existed for centuries. In 1842, Shaw enclosed the new personal "accide risk" of the modern industrial workplace. Just as Farwell could sell his productive labor to a boss, s could he sell his accident risk to an insurance corporation. Farwell's employment implicated tw commodities which existed in tandem—his productive labor and now the "risk" attendant to its hir *Farwell* perfectly captured the capitalist approach to peril: commodify it.

To do so Shaw first had to dispense with a legal principle in which the burden of hazard was held common, much like the land had once been. If the early modern enclosure of land had commodifie the commons, then Shaw's enclosure of an "accident risk" commodified a contingency. The commor fields system was after all a form of safety-first agriculture, a communal hedge against the danger of bad harvest or a bad market.[7] Farwell had sued under the English common law rule *responde superior*, which rendered "masters" responsible for accidents caused by their "servants." Th paternalist legal rule was premised upon a status-based hierarchy, and was typical of the many high personal, if asymmetrical, social bonds that persisted into nineteenth-century America. Such bonc achieved social security but were not predicated upon the demand for individual autonomy—ar certainly not the individualist moral logic of risk. To understand just how remarkable a decisio *Farwell* was, consider that according to the international law of marine insurance—at the time Sha handed *Farwell* down—a seaman's wages were not legally insurable. As Shaw's contemporar Theophilus Parsons wrote in 1859, masters were legally responsible to directly care for ar compensate a seaman who became "sick, or wounded, or maimed in the discharge of his duty provided it was "not by his own fault."[8]

Shaw departed with *respondeat superior*. Speaking of the "pure accident" that had befallen Farwe he snapped one chord in the dependent bond between "masters" and "servants," enshrining th Nicholas Farwells of the world as masters and proprietors of their own personal risks. Havir personally assumed a risk, Farwell appeared to have no social recourse whatsoever.

For this reason, through the years *Farwell* has struck many as a callous decision—an early blow the incipient American working class, an implicit subsidy for nascent railroad corporations. That was, although for what it is worth in the end the Boston and Worcester Railroad, seemingly fror charitable impulses, provided Farwell some compensation, even if it was far less than the $10,000 l thought he was owed. And, over time, American courts would begin to recognize employer negligenc and liability for some categories of workplace accident. Further down the road, railroad brotherhood a new collective strategy, would cope with the individual cost of workplace accident. In time, in th early twentieth century, states would pass workmen's compensation laws.[9]

All of these paths run through *Farwell* and have been illuminated by historians with great care. Th reason to linger over *Farwell*—besides, at the outset, to emphasize the crucial role of the law setting the working rules of risk—is to pin down the maritime source of its individualist logic. But is also to underscore the practical endpoint it implied: the potential offloading of Farwell's fresh minted personal risk onto a financial corporation.

An "assumption of risk" occurred because Farwell was a free man. But that very same freedo suggested a financial solution for the peril at hand. Departing with the domestic law of master–serva relations, Shaw sure enough turned to the international law of marine insurance. Marine insurance ha for centuries offered long-distance trading merchants financial compensation in the contingent eve their cargoes were lost to the "perils of the seas." One merchant assumed another merchant's ris Shaw cited an 1841 decision of his own, *Copeland v. New England Marine Ins. Co,* in which he he that a marine insurance corporation was responsible for a cargo lost due to the "insanity" of the ship captain. The owner of the ship was bound "*in the first instance,* to provide the ship with a compete crew; but he does not undertake for the conduct of the crew in the subsequent part of the voyage." Likewise, the fellow servant responsible for mislaying the switch that destroyed Farwell's hand wa by all accounts "a careful and trustworthy servant."[11] The loss thus fell with Farwell; unless he ha insured it. Notably, Shaw equated Farwell not with a waged seaman, but with a ship's owner—th railroading wage not with the seafaring wage (which was not then legally insurable) but with th ship's cargo (which was). Farwell's productive labor was lost, Shaw analogized, to the "peri incident" to his industrial employment.

Shaw had further ruled that Farwell's wage had a "premium" in it—monetarily representing a slig but ideologically significant upside—representing the risk he had assumed. If Farwell had absolu dominion over the assumed risk, why could he not alienate a portion of his upside—just lil merchants insured their cargoes? Shaw did not say so, but presumably Farwell could have taken th "premium" paid to him in the labor market and through an insurance contract financially offset th potential loss of his productive labor. There was only one problem: there were no accident insuranc corporations in the United States when Shaw issued his opinion in 1842.

By 1846 there would be such corporations, present on both ends of Farwell's old line in Boston ar Worcester. The legal precedent of *Farwell* helped drag railroad workers to the front doors of the ne accident insurance corporations that first sprung up in the United States during the 1840s. In 1850 th *American Railway Times* reported that one "Mr. W. Richardson, a conductor on the Worcester an Norwich Railroad, received Two Hundred Dollars from the Franklin Health Assurance Company fo injury received at Fisherville, by the cars falling through the bridge." He had been "insured at th office against railroad accidents, and paid but fifteen cents for his policy."[12]

Wage workers could now insure their newly coined personal risks against workplace acciden *Farwell* thus hedged a risk, as in to enclose and bound a future contingency within the inviolate sphe of self-ownership. But it also suggested the second historical meaning of the word "hedge." For th outcome of the decision was that the same personal "risk" could be offloaded onto an insuranc corporation and thus hedged financially. An accident insurance policy could not bring back Farwell right hand. The peril inextricably rested with him. But the risk did not have to.[13]

Shaw found a solution to a pressing new legal problem—fashioning a new legal doctrine, th personal "assumption of risk." He articulated a new model of liberal economic personhood in whic the moral logic of risk was central. That logic cannot be uncritically assumed to have applied to th particular case at hand. Shaw had to work to insinuate risk into the wage relation. *Farwell* thus looke backward to risk's maritime origins, but also forward to the end of the nineteenth century. By th time modern American corporate risk management would be in place—there to serve the imperative of a triumphant liberal creed. As *Farwell* well illustrates, from the start the identification of runnin one's own risk with personhood and freedom went hand in glove with new efforts to financial manage that very same risk.[14]

The task now is to explore in greater depth and detail, across many levels of thought, action, a experience, this double arc: the emergence, in tandem, of a new individualism and a new corpora financial system in nineteenth-century America. To do so will require enlisting a wider cast characters in addition to the jurist and the wage worker—the rebellious slave, the abolitionist actuar the proslavery ideologue, the financial speculator, the farm housewife, the fraternal brother, th corporate executive, and even, as risk became increasingly politicized, the occasional president.

That double arc spawned a double freedom. A liberal freedom, that is, *from* traditional, ofte authoritarian, patterns of social life that achieved security as security moved into the new corpora financial system of risk management. The freedom *from,* as it were, that was declared in *Farwell* whe Shaw rejected the legal principle of *respondeat superior.* But the other side of the same coin was th freedom *to* call one's upside risks—however freakish—one's own. Therefore what must now b considered is the ideological significance and economic function of the upside.[15]

The economic phenomenon we call "risk-taking" is as old as commerce itself. For-prof commercial transactions very often involve contingent outcomes.[16] Commercial profit-making fee off and breeds uncertainty—like the uncertain fate of a long-distance sea voyage.[17] In this sense some degree every commercial exchange is a speculation.

Seemingly every theorist of capitalism—from Marx to Hayek, Weber to Sombart, Schumpeter Keynes, Knight to Braudel—has taken the next step and argued that capitalism thrives off unceasin and unpredictable historical change. Noting this fundamental indeterminacy, Keynes most memorab referred to a "radical uncertainty." By this he meant future uncertainties that are qualitative in kind- future possibilities that cannot be assigned a "calculable probability" by any forward-looking agent. future, that is, whose content "We simply do not know." It is this quality of the future that capitalism is constantly seeking to generate, manage, and exploit.[18]

Nineteenth-century Americans created for themselves a radically uncertain future, although n from whole cloth. From the earliest of colonial times America was a commercial society. Many of i members—willingly or not—had left an old world behind for a new. Yet, when *Farwell* came down 1842 commerce newly flourished in Jacksonian America. A remarkable surge of commercializatio was responsible, but so was the speculative itch of a democratizing culture. The continued rise American democracy made the social order more liquid, tempting individuals to chase the possibili of a better future state of affairs through commercial gain.[19]

In antebellum America, more and more men were reaching for the main chance via commerc Southern slave masters feverishly raised cotton for sale on world markets. Free farm househol produced great marketable surpluses of grain. Americans flocked to cities and their commerci emporiums, which spread the dominion of the emerging national market economy westward. Linki that economy together was an ongoing transportation revolution—new roads, turnpikes, canals, a even railroads, like Farwell's employer, the Boston and Worcester. In the Northeast, there were th beginnings of industrialization.[20]

In this era, one of staggering wealth creation, most Americans believed that wealth and value we the products of human labor.[21] Part of the upside vision however was that commercial risk-taking speculation—could be "productive labor."[22] When Anglo-Americans and European immigran conquered, settled, and economically developed an entire continent, at the cutting edge was la speculation. When southerners built one of the richest plantation societies the world had ever know at the cutting edge was a speculative market in human chattels. When railroad directors constructed transcontinental railroad network, at the cutting edge was financial speculation. For every confiden game that was never more than a figment of the imagination, a future projection became real— Pacific venture, a railroad, a city of Chicago. Later, looking back at a century of capitali transformation, Charles Hamill, president of the Chicago Board of Trade, explained before Congre in 1892:

> It is too late, in view of what has been accomplished, to deprecate speculation in its proper sense as an element in mercantile life. It has uncovered resources … it has created values; it has quickened industry … awakened ambition, augmented the comfort of life; it has introduced delicacies and luxuries, it has brought refinement and development to human character, built churches, constructed railroads, discovered continents, and brought together in bonds of fellowship the nations of the world; it is aggressive, courageous, intelligent, and belongs to the strongest and ablest of the race; it grapples undismayed with possibilities; it founded Chicago; it rebuilt a great city upon smoldering ruins, and impels it in the march of progress. Whenever this kind of speculation is denounced it is misunderstood, and it is often decried by those who unconsciously share its benefactions.[23]

Perhaps there were better ways to have economically developed the American continent.[24] But t nineteenth-century American economy was a textbook case of private, speculative-driven "creativ destruction," to invoke Schumpeter, producing hitherto unimaginable levels of economic growth a material wealth. Higher money incomes made it possible for many individuals to newly purcha economic security from financial corporations.[25]

Nevertheless, moral, productive risk-taking could pass an elusive threshold and become immora unproductive gambling. Indeed, the gambler and the confidence man were the nagging evil alter eg of the productive risk-taker.[26] In particular, many Americans, especially those who worked with the hands, were always suspicious that financiers—who often did nothing but take risks—we unproductive "parasites" on the "real" economy. And yet, pure muscle-and-brawn producerism—t kind that demonized all commercial risk-taking—while present, was never dominant. It was mo critical of the "money power" than opposed to the economic activity of risk-taking per se. The rean upon reams of religious and political jeremiads against gambling and "overspeculation" in t nineteenth century were evidence of acute anxiety about the proper scope of commercial risk-takin but hardly a demand for its wholesale eradication. If anything, such anxiety and unease was eviden of its proliferation.

By the mid-nineteenth century, with commerce expanding and intensifying in a democratic societ in the United States an old commercial truism was becoming an essential ingredient of a new liber creed. Productive risk-taking was the rightful activity of a free man. "A man has a right," wrote Edw Freedley, as if stating the obvious in his popular 1856 *A Practical Treatise on Business*, to "risk h own capital." Commercial "gain" was the product of "risk." An individual who took a risk wa responsible for a moral/pecuniary reward. He had earned it, no differently than if by the sweat of h own brow. The risk taken was an element of self-ownership. To run commercial risks was part of wh it meant to be, as nineteenth-century Americans put it, "independent."[27]

Given a radically uncertain future, from where exactly this moral/pecuniary reward for risk-takin came was, and still is, a contentious subject.[28] For individual risk-taking to be productive, some of th reward—some of the profit—had to be attributable to human faculties: prudence, effort, intelligenc foresight. The market economy was, after all, a field of competition between men, a test of ski Blind, reckless overspeculation or gambling could only lead to something for nothing, or nothin itself.

Providentialist explanations of future change persisted within nineteenth-century America economic culture. The upside might be evidence of God's inscrutable grace. "God," once said John Rockefeller, "gave me my money." Meanwhile, some began to naturalize, in a newly scientific ton the competitive market economy. Religious and scientific appeals could mix together but free me took risks within an increasingly naturalized abstraction—what would later be known as "the marke or "the economy."[29]

Perhaps it was, in the end, all a game of chance. Fortuna, a "fickle goddess," as a New Orlean newspaper explained in an 1861 article entitled "A Lucky Freak of Fortune," possessed a capricio mood. For no reason, "she snatches some unfortunate mortal, and drags him down to obscurity, an then she raises some humble child of poverty and insignificance to affluence and social distinction The amorality is striking. Providence too posited a mysteriously working cosmic order, but it wa ultimately a just one. If the future was ruled by pure chance, reward for risk-taking was simply serving of moral luck. Or perhaps the psychological labor of assuming a risk in a market econom governed by brute luck alone warranted an economic desert? The novelist William Dean Howells, his *A Hazard of New Fortunes* (1890)—in which the waning of providence and the impotency human will were both great themes—spoke of the power of an "economic chance-world." Perhap going toe to toe with it alone merited a moral/pecuniary reward.[30]

Still, to many nineteenth-century Americans, the original antebellum mix between chance, competitive marketplace, and democracy was a potent ideological brew. Chance struck a blow at th kind of aristocratic, hierarchical social order detested by so many antebellum Americans busily on th make. In the nineteenth century freaks of fortune were in fact a common literary plot device—th democratic *deus ex machina*.[31] Freaks were a more preferable source of power and authority compare not only to a king, but also a father, a husband, a town elder, or a slave master. Better to let the freak who could in fact energize the democratic will, have at one's fate. Tocqueville already wrote in 183 that Americans enthused at "all undertakings in which chance plays a part." Americans were "all le to engage in commerce, not only for the sake of the profit it holds out to them, but for the love of th constant excitement occasioned by that pursuit." Life became a "vast lottery," a "game of chance." Many nineteenth-century Americans continued to invoke a "providential hand" guiding the centrifug forces of their republic. But they also invoked the wheel of fortune—a long-enduring, original

maritime image—to describe the secular voyage of a commercial, democratic social order, buzzin
with so many uprooted and masterless people.

Nevertheless, in 1839 when the newspaperman John O'Sullivan announced the "Manifest Destiny of the American republic to conquer the West, guided by God's beneficent hand, the title of the articl was "The Great Nation of Futurity." The United States was said to have plenty of room for upside ris —in every possible sense of the term—for many, if by no means all, of its members. To assume a ris to take it, make it your own, to master it, or even just to enjoy the existential thrill of it, was birthright of the democratic soul, a soul born in commerce.[33]

What follows however is the history of the nineteenth-century American countermovement against th generative insecurity and radical uncertainty of capitalism, as corporate risk management—through proliferating series of profit-seeking and offsetting financial transactions, calculations and counte calculations—increasingly insinuated itself into the equation.

The term "countermovement" invokes Karl Polanyi's celebrated notion of a "double movement Polanyi argued that what propelled nineteenth-century liberal capitalism forward was th simultaneous expansion of markets on the one hand and a countermovement that checked th expansion on the other. Through this dynamic, "Society protected itself against the perils inherent in self-regulating market system." Polanyi focused on the commodification of land, labor, and mone But nineteenth-century liberal capitalism proved equally insistent upon commodifying Polanyi "perils" into financial "risks." That effort—to depart from Polanyi's dichotomist and moralist framework, with the "great and permanent evils" of "the market" in pitched battle with the "sel protection of society"—must be taken up on its own terms. For in the end capitalism itself assum risk. It assumes, in other words, that financial instruments of its own making can adequately stabili its own unpredictable rhythms. Projecting its own vision of security, stability, and control, corpora risk management was a candidate in the broader countermovement against the perils of capitalism.[34]

Ultimately, in tandem with a new liberal creed corporate risk management came to life. But th outcome was not foreordained, and to address it on its own terms is not to assume its succes Polanyi's skepticism of what he called the utopian elements of the "self-regulating market" is wor keeping in mind. For the upside had widespread allure to many nineteenth-century Americans. Th was especially true if the downside could be offloaded to others, ideally the state, without cost.[35] B risk-taking came with dangers, perils, and hazards, which—everyone agreed—had to be coped wit And, as much as the freaks of fortune were welcomed, trailing after them was a long admonito tradition abounding with storm-tossed marine imagery, with one clear message: do not look markets, which are perilous, for protection from the perils of markets. It was one thing to be involve in the commercial game but it was quite another to take the game too far, and become fully depende upon its vicissitudes. That was a life of economic and also existential risk.[36]

Risk's history was thus marked by tension and oftentimes conflict. In this history financial pani and their aftermath—1837, 1873, 1893, and 1907 being the great ones—loom large. Corporate ris management actually spread its wings in the aftermath of the panic of 1837. But so too did oth collective strategies. The countermovement of landed independence, premised upon land ownershi not self-ownership, asserted itself. So did the countermovement of slave mastery, premised upon slav ownership, until it met its fate in the Civil War. Later, following the panic of 1873 there was a outgrowth of new fraternal societies. After the panic of 1893, with the Populist Revolt, lande independence made its last political stand. But then the trust question—whether or not an industri economy of corporate ownership could adequately stabilize capitalism—took center stage. By th opening of the twentieth century, and following the panic of 1907, with the increasing politicization risk the state began to make its presence felt in the business of risk management.

Nevertheless, by the end of the nineteenth century the American corporate financial system was place. But in the end risk management—as much as it could offer its own brand of security—work to obscure the clean moral accounting of risks and rewards, costs and benefits, that the attachment "risk" to individual freedom had promised. For in the very act of *under*writing liberal self-ownersh the financial system also had the capacity to *over*write it.

The evolving corporate financial system opened up new pathways for the accumulation of financi capital. That meant opportunities for speculative profit-making by powerful finance capitalists Freedley's *A Practical Treatise on Business* stated that a man had a moral "right to risk his ov capital."[38] But he had "no right to risk the property of others." There would have to be new legal an political regulations of this kind of financial behavior—while not denying the financial system i lifeblood of circulating capital. If not, Americans would learn the hard way that financi dispossession and plunder would accompany the assumption of risk. Risk management, that is, p financiers in possession of other people's money.

At the same time, the new financial system of corporate risk management constructed abstrac highly mediated, and seemingly unreachable financial circuits. Another crazy quilt, this one financial obligations, was stitched together. In a turbulent and panic-ridden century, new financi instruments—government debt, railroad bonds, commodities futures, mortgage-backed securitie corporate stocks—multiplied and circulated at an astonishing frequency and speed. The intricate we ultimately made risk systemic, enveloping everyone—including that system's very architects. Ris management constantly manufactured new forms of uncertainty and insecurity—freaks of fortune.

But this flashes ahead to the end of risk's nineteenth-century drama. To enter that history, what first needed is an excursion back to the maritime world that Shaw drew upon in *Farwell* to enunciate new vision of personal freedom. That excursion, curiously enough, leads directly to the history of Ne World slavery.

CHAPTER 2

The Perils of the Seas

It may, in general, be said that everything happening to a ship, in the course of her voyage, by the intermediate act of God, without the intervention of human agency, is a peril of the sea.

—*American Ship-Masters Assistant* (1807)

RISK'S HISTORY BEGAN with the extension of commerce over space, with the daring and audacity long-distance seaborne trade. Risk was the fruit of merchant capital—of the early modern networks mercantile commerce and credit that mobilized and knitted together different geographical arenas economic production.[1] The specific branch of merchant capital that invented risk management w marine insurance.

In North America, the great colonial merchants were the first men to commodify perils in financial "risks"—or "risques," as they were known in the seventeenth and eighteenth centurie Through marine insurance they purchased from one another financial compensation in the event th their property was lost to a "peril of the seas," or an "act of God." A storm destroyed a vessel, a shi was seized by pirates—the merchant-insurer provided the merchant-owner compensation for the lo value of his cargo. To cope with the perils of seaborne trade, the insurance principle was born.

From the ports of Boston, New York, Philadelphia, Baltimore, and Charleston colonial merchan exported the great American staples—fish, timber, rum, tobacco, indigo, rice, and later cotton. The brought to the New World the European indentured servants and the African slaves whose labor wa required to produce them. Insuring the passage of their cargoes, merchants sold their "risks" to eac other: risks on timber bound from New England to the West Indies; on rice bound from the Carolin to London; on slaves bound from West Africa to the Chesapeake. Much like there was a commerci trade in rice, so was there a commercial trade in risk.

Merchants thus turned the for-profit engine of a financial market into a collective strategy f economic security. Running the risks of long-distance trade, they strained to foresee, control, an manipulate the contingent link between present and future. They also sought to profit from it.

Merchants formed what might be termed "risk communities"—collectivities that socializ personal financial "risks." When used in conjunction with security the term "community" ofte connotes traditional, noncommercial values rooted in specific places. But community in that sense the word was after all an invented tradition of the nineteenth century. The term "risk community" therefore meant to invoke risk management's countermovement against capitalism's generativ insecurities and radical uncertainties—in particular the abstract social interdependencies created b the commodification of peril and the financial circulation of risk.[2]

By the time of the American Revolution, the North American British colonies had becom strikingly commercial in their character.[3] Yet, the insurance principle was still a rather uniqu response to hazard. It was “Merchants only that make Insurances,” as one English merchant explain in 1720. The same could be said, more or less, in the America of 1800.[4] In subsequent chapters the will be the occasion to examine in depth the late antebellum collision of a number of collectiv strategies with the evolving corporate financial system of risk management, so dependent upon th insurance principle. But first the origins of the insurance principle must be explored in long-distan seaborne trade.

Within this maritime history are also the roots of the nineteenth-century marriage of risk wi liberal notions of self-ownership and freedom.[5] Those roots intertwined, it turns out, with mercha capital’s inhuman embrace of New World slavery. For before men became the proprietors of “risks on their own free selves, they first owned the “risks” on the bodies of their slaves. Before risk was a element of self-ownership, that is, it was an element of slave ownership.[6]

One episode draws together all of these currents, charting risk’s winding maritime origins up to th final antebellum decades—when the idea of the personal assumption of risk began to express a ne vision of freedom. In October of 1841 the brig *Creole* set sail from Norfolk, Virginia, bound for Ne Orleans with a cargo of 135 slaves. The lives of the slaves, for the duration of their transit, had bee insured by their masters. None of this was unusual and the voyage of the *Creole* is a fitting entry poi into both the transnational maritime origins of risk and its subsequent nineteenth-century career in th United States.

Out on the Atlantic, nineteen male members of the cargo of 135 mounted a successful insurrectio Taking control of the brig, the rebels sailed to freedom in the Bahamas, a British possession whe slavery had been abolished by act of Parliament in 1833. Back in New Orleans, the owners of th *Creole* slaves sued their marine underwriters for financial compensation for the lost value of the slave property. The case ended in the Louisiana Supreme Court in 1845. With lawyers quotin English, French, Dutch, Spanish, Portuguese, and Italian treatises, cases, and ordinances stretchin back centuries, the transcript of *Thomas McCargo v. The New Orleans Insurance Company* alone is a adequate history of risk’s centuries-long maritime origins. Yet the decision itself took shape in roundabout way, when the Louisiana Supreme Court faced the vexing question of whether or not slave revolt was one of the “perils of the seas.” Was a slave revolt an act of God?

The brig *Creole* sat moored near Norfolk, Virginia, on October 31, 1841, with a cargo of tobacco addition to 135 slaves. Its captain was Robert Ensor. Zephaniah C. Gifford was first mate. Onboar were five white mariners, a free black cook, and a slave overseer named William Henry Merritt. The were also a number of free white passengers, including Captain Ensor’s family and Theophil McCargo, the son of Thomas McCargo, who owned twenty-six of the slaves. In the United State thriving domestic slave trade—a forced migration of somewhere between 750,000 and 1.2 million the large majority of slaves traveled overland. Yet, there was a riverine trade on the Mississip linking the Upper and Lower South, and a larger coastwise trade connecting the Eastern seaboard wi the Gulf of Mexico. Norfolk to New Orleans was a common route among others. No less than 38,00 slaves passed through U.S. waterways from 1817 to 1852.[7]

Having set sail for New Orleans on November 6, 1841, the *Creole* experienced nothing out of th ordinary until the night of November 7.[8] The crew secured the slave women in the afterhold and th men in the forehold. Only the men were occasionally permitted on deck, although the house slaves the McCargo family slept in the main cabin. The night of November 7 was First Mate Gifford's watc At nine o'clock, the slave Elijah Morris informed him that a male slave was in the afterhold with th women, which was strictly forbidden. Gifford roused the slave overseer William Merritt from h sleep. Merritt descended into the hold, lit a match, and found Madison Washington.

Washington was a Virginia slave who had once escaped to Canada. He returned to Virginia i search of his wife but had been recaptured and sold to Thomas McCargo. "Madison," Merritt shoute "is it possible that you are down here! You are the last man on board of the brig I expected to fin here." Washington responded, "I am going up, I cannot stay here," and leapt on deck. Gifford chase him, but then a pistol fired, the ball grazing the back of Gifford's head. Most likely, Morris fired th shot. Stunned, Gifford retreated back to the main cabin and sounded the alarm. Washington proceede to the forehold shouting, "We have commenced, and must go through. Rush, boys, rush aft. We hav got them now!"[9]

Nineteen slaves, all male, gathered on the deck. The women remained in their hold—the whit would later recall hearing them crying and praying during the fateful moments of the mutiny. Th slave overseer Merritt somehow had escaped from the women's hold and slipped into the main cabi Gifford, after sounding the alarm, climbed up the rigging to the main-topsail, where he hid. Now, wi Merritt in the main cabin were the young Theophilis McCargo and his house slaves, a free black coo and the white passengers. The group of nineteen closed on them. A white passenger, John R. Hewel an owner of slaves onboard, grabbed a musket, opened the cabin door and fired. He drew a knife an plunged forward and the nineteen men seized upon him with their bare hands. Hewell staggered bac into the cabin and later bled to death. Everyone in the main cabin now surrendered, except for Merri who hid under a blanket. Washington ordered them all into the forehold.

Captain Ensor, asleep in his private quarters with his family, had heard the alarm. Now he appeare on deck calling his crew to fight. Only two sailors showed (one stayed at the wheel, all the others h in the riggings). These two were knocked down to the deck but not further harmed. Ensor was stabbe numerous times before he too escaped to hide in the main-topsail. Washington, Morris, and two othe slaves, Ben Blacksmith and Doctor Cuffin, searched for Merritt and finally found him in the ma cabin hiding underneath the blanket.

When Merritt was discovered, he assumed he would be killed. But instead Washington directed hi into the main cabin with the slaves Blacksmith, Cuffin, and a few others—to "have a conversation Washington demanded that Merritt navigate the *Creole* to Liberia. Merritt said there was not enoug water or provisions. Blacksmith and Cuffin and the others then demanded to go to a Britis possession. They insisted, according to Merritt, that, "they did not want to go anywhere else but whe Mr. Lumpkin's negroes went last year," referring to the 1840 shipwreck of the *Hermosa*, also boun from Virginia to New Orleans with a slave cargo.[10] British wreckers carried the *Hermosa* slaves to th port of Nassau in New Providence, where British authorities pronounced them free. Ninety of the 13 slaves onboard the *Creole* came from Robert Lumpkin's infamous Richmond, Virginia, slave pe

Obviously, they knew of the *Hermosa*. Merritt grabbed a chart and illustrated the route to Nassau.

The group of nineteen put their former overseer in charge of the *Creole*'s navigation. Shoutin upward into the sails, they persuaded the remaining white crewmembers to descend from the riggin and to assist Merritt. The sailors later said they feared for their lives. But Morris, when asked once b a sailor if the whites would be killed, reportedly responded, “No, I expect we shall rise again amo ourselves, but the white people will not be hurt.” The whites, including the captain, were allowed dress their wounds and they dined and drank in the main cabin with the group of nineteen, who to them “all they had done was for their freedom.” The slaves who did not participate in the mutiny we not allowed out of the hold and supposedly “behaved precisely as they had done before the mutiny.”[1

At ten o’clock at night on November 8, the *Creole* arrived at the port of Nassau in New Providen and a ship with a free black pilot and crew greeted the brig. A quarantine boat, with a white office also came alongside. In a daring move, First Mate Gifford jumped from the *Creole* and into the boa He was ferreted off to the American consul and the two proceeded to the governor of the Bahama demanding a guard placed over the vessel and its “cargo.” The governor sent a guard of twenty-fo black, uniformed soldiers with a white commanding officer who all openly fraternized with t insurrectionists. In the next few days, British magistrates boarded the *Creole* and deposed the whi crew and passengers.[12]

While the *Creole* then sat, the American consul hatched a secret plan. The captain and crew of t American bark *Louisa* would surprise and forcibly retake the *Creole*, which would then sail to India Key where a U.S. vessel of war awaited. On November 12, the *Louisa* crew rowed out to the *Creol* But they were too late. That morning a crowd, mostly black, gathered on shore in sight of the brig. number of boats, all manned by blacks armed with clubs, had encircled the *Creole*, and were shoutin instructions to those onboard. The Americans were turned back without a fight.

The British had not been caught by surprise by the arrival of the *Creole*. Only two years before, 1839, the Colonial Office dispatched from London instructions on how to proceed in such an even Before British emancipation, two slave-laden American vessels—the *Comet* and the *Encomium*—ha wrecked in the British Bahamas and a number of American slaves had gone free (146 from the *Come* thirteen from the *Encomium*). After British emancipation, a third vessel, the *Enterprise*, was driven b “stress of weather” to the Bahamas and all of its slaves were pronounced free. The U.S.governme had requested compensation from the British for the American owners of slaves on all three lo vessels. Parliament agreed to compensate the owners of the *Comet* and the *Encomium* slaves at the insured value but not those of the *Enterprise*, which landed in the Bahamas after British emancipatio The Colonial Office then issued instructions that when American slave vessels entered British port for whatever reason, at “that moment” the slaves “were Free, as Slavery had been abolish throughout the British Empire, and they had acquired Rights which the Courts there were bound recognize and protect.” That was why the *Hermosa* slaves subsequently found freedom on British so The Colonial Office added only one caveat. With respect to fugitive slaves, officials might n “shield” a “Criminal from Justice” and must return slaves guilty of “Murder,” “Rape,” or “Arson Thus British officials held the *Creole* four days, deposing white crewmembers. They we investigating the possible murder of the white passenger John R. Hewell.[13]

Likely perturbed at American duplicity, at two o’clock on November 12 British magistrates arrive