

**Troublesome Trials in New France:  
The Itinerary of an Ancien Régime Legal Practitioner,  
1740-1743**

Alexandra Havrylyshyn

Department of History  
Faculty of Arts  
McGill University, Montréal

March 2011

A thesis submitted to McGill University in partial fulfillment of the requirements of the  
degree of Master of Arts

© Alexandra Havrylyshyn, 2011

## ACKNOWLEDGEMENTS

I would like to express sincere thanks to my supervisor, Professor Catherine Desbarats. She has been a constant source of support in the past two years. I admire her academic rigour and integrity, and thank her for introducing me to the world of primary source research. This thesis would not have been the same without her mentorship, guidance and invaluable feedback.

Several others also aided me throughout my research and writing process. Guillaume Aubert provided several key links and helped me expand my pool of primary sources. Denyse Beaugrand-Champagne of the *Centre d'archives de Montréal* generously helped me fine-tune my transcription of the inventory of Jacques Nouette's papers. Rénaud Lessard and his team at the *Centre d'archives de Québec* showed eagerness in helping me navigate the archives there. I would also like to thank the French Atlantic History Group for making my research trip to Québec City possible. In the very beginning of my research, when deciphering manuscript sources seemed a daunting task indeed, Brett Rushforth kindly shared with me a transcription of Marie-Marguerite's trial.

Finally, the writing of this thesis would not have been possible without the support of my parents, family, and friends. To them I express my deep gratitude.

## ABSTRACT

This microhistory on one legal practitioner seeks to begin to fill the lacunae in the understanding of legal practice in New France by relying on the richness of Québec's archives. Jacques Nouette de la Poufellerie originated in France but practiced in the colony of Canada between the years 1740-1743. In this short time span, over 100 parties hired him as their legal proxy. A collective biography of Nouette's professional network of practitioners, as well as his clientèle, is first performed. The more socially controversial among Nouette's cases, including the only freedom suit to take place in the Ancien Régime period in early Canada, are then examined in detail. Finally, Nouette's precarious social standing and his eventual expulsion from the colony are investigated. By focusing on the itinerary of one of the agents who shuttled between people and the courts of New France, this thesis also contributes to a re-conceptualization of black-letter legal history as "legality" contingent on its socio-historical context.

## RÉSUMÉ

Cette étude microhistorique, centrée autour de la figure du praticien légal, vise à combler certaines lacunes entourant la manière dont la pratique légale en Nouvelle-France a été comprise jusqu'à maintenant. À partir des ressources offertes par les Archives nationales du Québec, ce mémoire retrace le parcours de Jacques Nouette de la Poufellerie, né en France, mais qui a pratiqué le droit en Nouvelle-France entre les années 1740-1743. Pendant ce court laps de temps, environ une centaine de clients a fait appel à ses services. Dans un premier temps, ce travail établit une prosopographie du réseau professionnel de Nouette, ainsi que de sa clientèle. Nous nous pencherons ensuite sur les causes les plus controversées défendues par Nouette, parmi lesquelles le seul procès visant l'affranchissement d'une esclave en Nouvelle-France. Enfin, les causes et circonstances de l'expulsion de Nouette de la colonie seront analysées en détail. En mettant en lumière les aléas d'un agent ayant servi d'intermédiaire entre le peuple et les cours de la Nouvelle-France, ce mémoire vise à reconceptualiser l'histoire du droit telle que conçue traditionnellement, afin de montrer que la « légalité » est tributaire d'un contexte socio-historique précis.

## TABLE OF CONTENTS

Acknowledgements.....	<i>i</i>
Abstract.....	<i>ii</i>
Résumé.....	<i>iii</i>
Introduction.....	1
I.1 Absolutist Justice, in Theory and in Practice.....	3
I.2 French Law, or French Laws?.....	4
I.3 Early Canada as a Legal Space in the French Atlantic World.....	6
I.4 An Exercise in the Law and Society Method.....	9
Chapter 1: Literature Review and Networks.....	12
1.1 Literature Review on the Practice of Ancien Régime Law in Early Canada.....	12
1.2 <i>La Profession de Praticien</i> : A Clarification of Terms.....	16
1.3 Nouette's Network of Practitioners in Québec.....	21
1.4 A Collective Biography of the Parties Nouette Represented in Court.....	26
1.5 Conclusion.....	32
Chapter 2: "Mauvais Procez".....	34
2.1 Case Study #1: The 1740 Freedom Suit of Marie-Marguerite.....	34
2.2 A Note on the Professional Relationship of Nouette and Dormicourt.....	43
2.3 Case Study #2: The Havy and Lefebvre Records (1741-1742).....	45
2.4 Case Study #3: A Contested Marriage.....	57
2.5 Case Study #4: Widows and Separated Women in Court.....	65
2.6 Conclusion.....	74
Chapter 3: Nouette the Interloper?.....	76
3.1 Introduction.....	76
3.2 Nouette's Relationship with Elisabeth Duprat.....	77
3.3 An Accusation against Nouette by Charles Ruette d'Auteuil.....	81
3.4 Nouette's Attempt at Recrimination.....	87
3.5 The Court's Reaction to Nouette's Recrimination.....	90
3.6 Imprisonment: The Nadir of Nouette's Efforts to Implant Himself in the Colony.....	92
3.7 Intendant Gilles Hocquart's Antipathy for the Legal Practitioner.....	94
3.8 Those who Remained Faithful to Nouette.....	96
3.9 Conclusion.....	99
Conclusion.....	101
Appendix 1: <i>Praticiens</i> from <i>Parchemin</i> , 1670-1760.....	105

Appendix 2: Parties Nouette Represented in Court, 1740-1743.....	106
Appendix 3: Nouette's Recrimination against Charles Ruette d'Auteuil.....	110
Bibliography.....	112
Key to Abbreviations and Short-Hand Case Names Used in Footnotes.....	129

## INTRODUCTION

On November 3, 1743, Intendant Gilles Hocquart proudly announced to the Ministry of the Marine in Versailles the departure of a certain controversial character from the colony of Québec. This person was Jacques Nouette de la Pouffellerie, who during his brief but action-packed stay in the colony appeared in court as proxy for over 100 legal parties. One may have expected a sympathetic view of the person who facilitated access to the courts, in a system where the King's justice (at least in theory) permeated all corners of his kingdom. Yet Hocquart's complaint was caustic, vividly expressing his downright contempt for Nouette:

*Le nommé Nouette dit la Pouffellerie, de la conduite duquel Mr. L'Evesque vous a rendu compte est un mauvais sujet qui m'a donné plus d'une fois occasion de le corriger severement; après plusieurs avertissements inutiles j'ay esté obligé a mon retour de Montréal de le tenir a quebec pres de deux mois en prison; il n'y a point de chicanne dont il ne soit capable dans l'exercice de sa profession de praticien, infidele dans les dépôts, solliciteur de mauvais procez indiscret dans ses discours et ses Ecrits, de mauvaises moeurs avec de l'Esprit voila le précis de son caractere; je luy ay fait dire qu'il eut a s'en retourner en france, ou que je l'y servis passer d'autorité. A quebec le 3 novembre 1743 il s'est embarqué sur le navire Le Mars destiné pour La Rochelle.<sup>1</sup>*

What did Hocquart mean when he referred to the “profession de praticien?” Did his vilification of this particular person represent commonly held notions about legal professionals? What were the courtroom processes in which Nouette was involved, and why did Hocquart describe them as “mauvais procez?”

This study on the Atlantic itinerary of an Ancien Régime legal practitioner situates itself in a wider corpus of “new” legal history, which has been heavily influenced by the law and society movement of the 1960s.<sup>2</sup> Laws such as the *Coutume de Paris* and the *Code Noir* are approached here not as hermetically sealed documents. This paper

---

<sup>1</sup> “Lettre de Hocquart au ministre,” 3 novembre 1743, National Archives of Canada C11A, vol. 62, fol. 274-275.

<sup>2</sup> *The Law and Society Review*, for instance, had its inaugural issue in 1966 after a group of about 100 sociologists agreed (over a breakfast meeting in Montréal in 1964) on the need for more interdisciplinary work between law and the social sciences. See Robert B. Yegge, “The Law and Society Association to Date,” *Law and Society Review* 1:1 (1966) : 3-4. The involvement of historians in this intellectual shift will be discussed below. Following Sue Peabody's format, I do not italicize “Ancien Régime” in this paper. See Peabody, *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime* (New York: 1996).

examines the application of written documents and customary oral traditions in colonial courtrooms. The historian of early America, Christopher Tomlins, has called for a re-conceptualization of “law” not as a monolithic, timeless entity, but rather as a historically contingent, often shifting, “legality.” While historians have until recently tended towards a black-letter approach of the law, Tomlins urges a more holistic method, which conceives of legality as produced both within and outside of formal legal settings.<sup>3</sup> Crucial to this paradigm shift are studies like these, which focus on the agents who shuttled between people and the courts, or society and legal institutions.

In secondary literature, Nouette (and other legal practitioners like him) have been largely overlooked. One and a half pages were devoted to him in *Le Bulletin des recherches historiques* (1915).<sup>4</sup> More recent studies have remembered him, if at all, for his mediating role in the only freedom suit on record in pre-British Conquest Québec. While Nouette does not have his own heading in the *Dictionary of Canadian Biography*, he does appear in the entry on enslaved Aboriginal woman Marie-Marguerite Duplessis Radisson.<sup>5</sup> He shows up in a similarly marginal fashion under the description of Marie-Marguerite in the *Dictionnaire des esclaves et de leurs propriétaires au Canada français*. “De ce praticien, Jacques Nouette, on ne sait pas grande chose,” writes Marcel Trudel.<sup>6</sup>

This microhistory on one legal practitioner seeks to begin to fill the lacuna in the understanding of legal practice in New France by relying on the richness of Québec’s archives. Over 100 primary sources have been examined. Using the research tool

---

<sup>3</sup> “First, my intention is to counter what has always seemed to me law’s enviable capacity to evade the historian’s grasp by trumping critique with timeless and self-legitimizing values—universality of application, singularity of meaning, rightness. Law tends always to slip through historicist clutches. Legality, in contrast, is a condition with social and cultural existence; it has specificity, its effects can be measured, its incarnations investigated....But legalities are not produced in formal legal settings alone. They are social products, generated in the course of virtually any repetitive practice of wide acceptance within a specific locale, call the result rule, custom, tradition, folkway or pastime, popular belief or protest,” writes Christopher Tomlins in “The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History,” in *The Many Legalities of Early America*, eds. Bruce Mann and Christopher Tomlins (Durham: 2001), 2-3.

<sup>4</sup> Édouard-Zotique Massicotte, “Nouette dit la Souffleterie [sic].” *Le Bulletin des recherches historiques* 21:1 (1915) : 23-25.

<sup>5</sup> Michel Paquin, “Duplessis, Marguerite,” *Dictionary of Canadian Biography*, vol. IV.

<sup>6</sup> Marcel Trudel, *Dictionnaire des esclaves et de leurs propriétaires au Canada français* (LaSalle: 1990), 147.



*Parchemin*, notarial records have been scoured in search of Jacques Nouette de la Poufellerie. The same has been done in Québec's digitized archive collection through the database *Pistard*. While mentions of Nouette appear in a variety of files, these are predominantly the judicial subdivisions TL (*Tribunaux judiciaires dont la juridiction est limitée à une localité*) and TP (*Tribunaux judiciaires ayant juridiction sur l'ensemble du Québec*).

## **I.1 Absolutist Justice, in Theory and in Practice**

During the Ancien Régime, the French monarch claimed the right to administer justice, finance, and public order in his realm. As a sovereign, his decisions could be appealed in no higher court. Because of the clout they wielded, monarchs were anxious not to be compared to tyrants, but rather to be seen as benevolent rulers who reigned over free subjects. Purportedly, the monarch always performed his wide-ranging judicial powers with the interest of royal subjects in mind.<sup>7</sup> After his coronation, the King even wore a ring to symbolize his “wedding” to the kingdom. In theory, the King was to fuse with his kingdom and constantly work towards providing prosperity and stability for his subjects.<sup>8</sup>

In practice, the King's hold on judicial power, whether law-making or law-enforcement, was much more tenuous. By highlighting the complex set of clientage clusters and family networks upon which the monarchy relied, William Beik has questioned just how absolute the King's power actually was.<sup>9</sup> Roach examines the Sun King's “body politic,” or the notion that all legal power was metaphysically concentrated

---

<sup>7</sup> Roland Mousnier, *The Institutions of France under the Absolute Monarchy, 1598-1789* (Chicago: 1979), 663-665.

<sup>8</sup> Ibid., 645-670.

<sup>9</sup> William Beik, *Absolutism and Society in Seventeenth-Century France: State Power and Provincial Aristocracy in Languedoc* (New York: 1985); Beik, “Review Article: The Absolutism of Louis XIV as Social Collaboration,” *Past and Present* 188 (2005):195-224.

in the person of the King, and emanated from him. Roach finds an uneven application of certain bodies of law across the French Atlantic.<sup>10</sup>

## I.2 French Law, or French Laws?

What then, was the legal corpus which the King sought to enforce throughout his realm? In the 18<sup>th</sup>-century, French laws remained profoundly heterogeneous and complex, still bearing traces of their medieval past. Heavily based on customary laws, (*droit coutumier*), the French legal system of the medieval period has been described by some as a *bricolage*, and by others as a patchwork system.<sup>11</sup> The phrase French law (*droit français*), in its singular form, is believed to have been employed no earlier than 1570.<sup>12</sup> In contrast to written law (*droit écrit*), customary laws were retained through oral tradition. They drew their legitimacy from the relevant local population, which could modify or abolish traditions as they saw fit. As such, customary law has been regarded as having a democratic element.<sup>13</sup>

Probably in an effort to consolidate his hold on power, Charles VII issued the Ordinance of Montils-lès-Tours in 1454. The transcription of oral customs which ensued was the first of many steps that would be taken to calibrate local laws to one central

---

<sup>10</sup> Joseph Roach, "Body of Law: The Sun King and the Code Noir," in *From the Royal to the Republican Body: Incorporating the Political in Seventeenth- and Eighteenth-Century France*, eds. S. Melzer and K. Norberg, (Berkeley: 1998), 113-130.

<sup>11</sup> Julie Hardwick writes, "The patchwork and sometimes contradictory nature of the early modern French legal system, with its overlapping jurisdictions, regional customary laws, national royal decrees and many layers of officials, is well known. To speak about 'the law' therefore is to utilize a form of shorthand that, in suggesting a capacity for order and social control, masks the complexity of and the many actors in the legal process," in "Women 'Working' the Law: Gender, Authority, and Legal Process in Early Modern France," *Journal of Women's History* 9:3 (1997): 28. Although useful to understand the broad contours of the Ancien Régime legal system, the terms patchwork and bricolage run the risk of trivializing the sometimes severe effects the law could have on peoples' lives.

<sup>12</sup> Jean-Louis Thireau, *Introduction historique au droit* (Paris: 2001), 240. The emergence of the idea of a unified *droit français* was preceded by "a genuine spirit of legal reform in the second half of the sixteenth-century," writes Marie Seong-Hak Kim in "Civil Law and Civil War: Michel de l'Hôpital and the Ideals of Legal Unification in Sixteenth-Century France," *Law and History Review* 28:3 (2010): 796. Sarah Hanley places the beginning of the search for "our French law" even earlier, in the first half of the sixteenth-century, but she does not explicitly address the question of the first appearance of the term (Hanley, "What is in a Name?: 'Our French Law,'" *Law and History Review* 28:3 (2010): 827-836.

<sup>13</sup> Thireau, *Introduction historique au droit*, 245-6.

standard. That local practitioners were hand-picked by royal officials to carry out this task further demonstrates the King's pragmatic interest in the project of legal unification.<sup>14</sup> The process was often met with resistance, however. In the 18<sup>th</sup>-century, mainland France could still count as many as 300 geographic areas governed by differing local customs.<sup>15</sup>

King Louis XIV contributed to this process of legal unification by establishing the General Council for Judicial Reformation (*Conseil général de reformation de la justice*). His key advisor, Jean-Baptiste Colbert, wrote that his aim was to reduce into one single body of ordinances all that would be necessary to establish a fixed and stable jurisprudence. Under Colbert's direction, the General Council for Judicial Reform ushered in six separate ordinances (*ordonnances*). In form, they differed vastly from customary oral laws, by their delineation into neat (and often heavily procedural) sections and sub-sections.

The customary laws of the region of Paris had first been codified in 1510 and then modified in 1579. Because the Custom of Paris had long governed France's capital, there was official agreement that French civil law should be reformed in conformity with it. The Civil Ordinance of April 1667 thus grew out of the Custom of Paris. The Criminal Ordinance of August 1670 was issued not long after the Civil Ordinance, and meant to complement it. The ordinances that followed (the Ordinance of Water and Forests of August 1669, the Ordinance of Land Commerce of March 1673, and the Ordinance of the Maritime Law of August 1681) were also guided by the absolutist vision of establishing a sovereign and unified French legal system.<sup>16</sup>

The only ordinance not initially intended to be operational in the French metropole, the Colonial Ordinance of 1685 (or the *Code Noir*) was meant to entrench the institution of slavery by claiming to humanize the conditions under which Africans in the colonies were enslaved. While the *Code Noir* granted slaves certain legal protections,

---

<sup>14</sup> Ibid.

<sup>15</sup> Ibid., 244. In "Esquisse de la Coutume de Paris," *RHAF* 25:3 (1971), Yves F. Zoltvany confirms that in the 15<sup>th</sup>-century, as many as 360 bodies of law governed mainland France (366).

<sup>16</sup> For an overview of King Louis XIV's reforms, see Thireau, *Introduction historique au droit*, 259-262.

such as a minimum amount of food and Sundays off, no evidence has been found to show that slaves were ever informed of these safeguards.<sup>17</sup> Eventually, the *Code Noir* became relevant in the French metropole, adding to the complexity of the French Atlantic legal system. Sue Peabody has shown this through her examination of manumission suits initiated by black slaves who travelled from the sugar islands to the metropole with their plantation owners.<sup>18</sup>

### **I.3 Early Canada as a Legal Space in the French Atlantic World**

If mainland France was a legally heterogeneous place in the 18<sup>th</sup>-century, how then should early Canada be characterized? Earlier works on Canadian legal history by scholars such as John Dickinson and André Vachon have concentrated on the colony's institutional similarities to France.<sup>19</sup> While such studies form a solid foundation, more recent works reveal the specificity of colonial justice. Miranda Frances Spieler has concluded that "under the monarchy the colonies were extensions of France in a legal sense but governed by protocols distinct from those that applied to domestic territory."<sup>20</sup> While colonial legal institutions simulated those in France, how the law actually played out depended on the particular colonial circumstances. Jan Grabowski, for instance, has found that Aboriginals residing in Montréal were rarely drawn into the French system of

---

<sup>17</sup> There is no evidence that the *Code Noir* was ever published or otherwise made known to slaves, for instance by reading it to them after church, writes Thomas Ingersoll. "In every case in which the court interfered in the master-slave relation, it was to protect the property rights of the master or another white person, not to protect the slave," he further clarifies in "Slave Codes and Judicial Practices in New Orleans, 1718-1807," *Law and History Review* 13, no. 1 (Spring 1995): 32.

<sup>18</sup> Sue Peabody, *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime*.

<sup>19</sup> John Dickinson, *Justice et justiciables: la procédure civile à la Prévôté de Québec, 1667-1759* (Québec: 1982); André Vachon, *L'Administration de la Nouvelle-France*.

<sup>20</sup> Miranda Frances Spieler, "The Legal Structure of Colonial Rule during the French Revolution," *The William and Mary Quarterly*, Third Series, 66:2 (2009): 370.

crime and punishment, even if they were deemed under colonial law to have had committed petty crimes such as drunkenness.<sup>21</sup>

The further away from the populated centres of the colony, the greater occurrence there was of *métissage* between French legal traditions and local customs. While neither Natives nor newcomers in the *pays d'en haut* fully understood each other, writes Richard White in *The Middle Ground*, both adopted elements the others' methods of rendering justice, thereby creating new meaning.<sup>22</sup> Studies such as his can be situated within a wider literature on early colonial legal culture. (This is related to, but slightly different from, the law and society approach adopted in this thesis).<sup>23</sup> Scholars generally agree on the pluralistic nature of legal culture in various colonial settings. Richard Ross, for instance, has concluded that the power-holders of New England "tolerated a hodgepodge of local customs," whether inherited from England, Ireland, Holland, Germany, or the Native population.<sup>24</sup>

Closer to populated centres, colonial legal institutions were nominally and procedurally quite similar to their metropolitan counterparts. A basic overview of early Canada's legal institutions is needed. To enforce the French laws on the American continent, King Louis XIV and Jean-Baptiste Colbert overhauled the system that had been in place under the Company of the Hundred Associates since 1627. From 1663 until the British Conquest, the general framework remained unchanged. The ecclesiastical tribunal served as the court of first instance for religious questions. Social and economic disputes between private individuals or criminal charges could be brought to local courts (*justices seigneuriales*), where they existed. Each of these was composed of one or several judges (*justice seigneurial*, *juge prévôt*, or *juge bailli*), a fiscal prosecutor

---

<sup>21</sup> Jan Grabowski, "The Common Ground: Settled Natives and French in Montréal, 1667-1760," (Ph.D. diss., Université de Montréal, 1994) and Grabowski, "French Criminal Justice and Indians in Montreal, 1670-1760," *Ethnohistory* 43:3 (Summer 1996): 405-410.

<sup>22</sup> Richard White, 76-81; 343-51.

<sup>23</sup> See also Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (New York: 2002) and Gilles Havard, *Empire et métissages: Indiens et Français dans le Pays d'en Haut, 1660-1715* (Sillery: 2003).

<sup>24</sup> Richard Ross, "The Legal Past of Early New England: Notes for the Study of Law, Legal Culture, and Intellectual History," *The William and Mary Quarterly*, Third Series, 50:1 (1993): 36.

(*procureur fiscal*), court clerks (*greffier* or *notaire*), and process-server (*huissiers*). Disputed rulings could be brought to one of the three royal jurisdictions (*juridictions royales*) in the urban centres of Québec, Montréal, and Trois Rivières. In addition to being courts of appeal for outlying rural regions, these royal jurisdictions heard first instance criminal and civil cases that had taken place within their geographic proximities. The Provost Court of Québec (*Prévôté de Québec*), as the royal jurisdiction of the town of Québec was called, heard maritime disputes until the Admiralty Court was created in 1717 (and began functioning in 1719). A royal jurisdiction was comprised of a royal judge (often called the *lieutenant général civil et criminel*), his assistant (*lieutenant particulier*), the King's Prosecutor (*procureur du roi*), court clerks (*notaires* or *greffiers*), and process-servers (*huissiers*).<sup>25</sup>

Disputed rulings at the royal jurisdiction level could be brought to the highest appeal court in the colony, the Superior Council (*Conseil Supérieur*). Nominally, this court served all of French-speaking North America, except for the Île Royale which had its own Superior Council. In reality, however, Louisiana and Acadia (before 1713) relied on their own local and royal courts to adjudicate appeal cases. Geographic distance made appeal in the town of Québec a cumbersome endeavour. The actual sphere of influence of the Superior Council was thus limited to Québec, Montréal, Trois-Rivières and surrounding rural regions. The King, of course, reserved his position as the ultimate arbiter of justice, and an appeal on a Superior Council ruling could in theory be brought to him.

Commissioned with the royal duties of administering justice, finance, and public order, the colony's intendant sat at the head of the Superior Council.<sup>26</sup> In the "body politic" conception of colonial rule discussed above, the colonial intendant was seen as an appendage or extension of royal power. Under the intendant sat the bishop of the city of

---

<sup>25</sup> These translations, which will be used throughout the thesis, are used by André Vachon, *L'Administration de la Nouvelle-France* (Québec: 1970). Because there is some discrepancy in the literature as to how to translate *Prévôté de Québec*, I will simply refer to it as the *Prévôté* of Québec.

<sup>26</sup> The Governor General of the colony, who had wide-ranging powers in military and diplomatic affairs, had little more than symbolic power on the Superior Council (Vachon, *L'Administration de la Nouvelle-France*).

Québec, the Commissary of the Marine (after 1733), and a group of councillors (which grew in number from five in 1663 to 12 in 1703). His primary role was not to interpret or change the law, but to ensure stability and prosperity in the colony by enforcing the King's ordinances, edicts (*édits*) and decrees (*arrêts*).<sup>27</sup> In practice, he made summary judgements that seldom provided the legal reasoning behind decisions rendered. The ministers of the Marine to whom colonial intendants were directly responsible knew that a strict enforcement of the King's laws was not always possible on the other side of the Atlantic. One letter to Intendant Antoine-Denis Raudot read: "Je sais bien que les intendants ne doivent pas être scrupuleusement attachés à la formalité des procédures, mais enfin il convient de s'assujettir *autant qu'il est possible* [emphasis added] aux ordonnances et à la coutume."<sup>28</sup> Early Canada thus contributed to the overlapping multiplicity of legal spaces in the French Atlantic World.

#### **I.4 An Exercise in the Law and Society Method**

Influenced by the new wave in legal studies which shares a "commitment to explain[ing] legal phenomena in terms of their social setting,"<sup>29</sup> this historical inquiry will examine Jacques Nouette de la Poufellerie, one of the agents behind the practice of law in New France between the years 1740 and 1743. In 1969, Lawrence Friedman lamented that if historians did examine legal documents, they did so in a vacuum, without reference to secondary literature on the society and culture of a given time and place.<sup>30</sup> More recently, the editors of *Canada's Legal Inheritances* have stated that all good legal history should and must intersect with social history, women's history, and intellectual history, and that many good historians engage in legal history without ever realizing it.<sup>31</sup>

---

<sup>27</sup> Vachon, *L'Administration de la Nouvelle-France*.

<sup>28</sup> Arch. Col. F3, vol 9, "Extrait de la lettre du ministre à M. Raudot père," 6 juin 1708, p. 140, cited in Gustave Lanctôt, "Les fonctions de l'Intendant," *Report of the Annual Meeting of the Canadian Historical Association* 8:1 (1929): 82.

<sup>29</sup> Lawrence Friedman, "The Law and Society Movement," *Stanford Law Review* 38:3 (1986): 763.

<sup>30</sup> Lawrence Friedman, "Legal Culture and Social Development," *Law and Society Review* 4:1 (1969): 29-44.

<sup>31</sup> DeLloyd Guth and Wesley Pue, *Canada's Legal Inheritances* (Winnipeg, 2001), xxii.

Markus Dubber, likewise, has argued that “modern legal history *is* [emphasis added] social history.”<sup>32</sup>

In the period in question (1740-1743), legal practice was taken to mean,

*PRATIQUE. En termes de Palais...la science d'instruire un procès selon les formes prescrites par l'Ordonnance, les Coutumes du pays, et le Réglemens faits sur ce sujet. En ce cas il est opposé au Droit. Un Procureur doit bien savoir la pratique, et un Avocat le Droit. Il y a différens styles et pratiques, suivant les diverses Jurisdictions.*

This definition is taken from the *Dictionnaire Universel François et Latin, Vulgairement Appellé Dictionnaire de Trévoux* (1743).<sup>33</sup> With the diversity of jurisdictions and the plurality of French Atlantic legal spaces in mind, Chapter 1 will delve into the details of this definition, seeking to uncover what Intendant Hocquart understood when he referred to the “profession de praticien.” The Dictionary of Trévoux and contemporaneous reference works will be scrutinized for relevant background knowledge. Chapter 1 will also review the existing secondary literature on the practice of law in New France. It will conclude with a collective biography of the people who hired Nouette to represent them in legal settings.

Courts have been conceived of as “lieux de contacts et d'échanges entre factions sociales,” because they have historically served as one of the more rare spaces where people of differing walks of life could encounter one other.<sup>34</sup> Indeed, as Chapter 2 will demonstrate, Nouette's clients ran the gamut from rich to poor; marginalized to élite. The reconstruction of Nouette's practice and networks can serve as an entry point into a clearer understanding of social relations in New France. This idea will inform the several microhistories (reconstructed on the basis of trial records) in Chapter 2.

---

<sup>32</sup> Markus Dubber, “Historical Analysis of Law,” *Law and History Review* 16:1 (Spring 1998): 159.

<sup>33</sup> This was the only French dictionary to bear the name of its place of publication, rather than its editor. It was directed by Jesuits and bolstered by the King as a counter-weight to Protestantism. Notable among Protestants who had edited dictionaries up to that point was Antoine Furetière. The 1743 edition of the Dictionary of Trévoux was the first to be published in Paris. For a background on the dictionary of Trévoux, see Isabelle Leroy-Turcan, Louis André et al., *Quand le dictionnaire de Trévoux rayonne sur l'Europe des lumières* (Paris: 2009) and Chantal Wionet, “L'Esprit des langues dans le dictionnaire universel de Trévoux (1704-1771),” *Dix-huitième siècle* 38 (2006) : 283-302.

<sup>34</sup> Vincent Bernaudeau, *Les praticiens du droit du Moyen Âge à l'époque contemporaine: approches prosopographiques, Belgique, Canada, France, Italie*, eds. Vincent Bernaudeau, Jean-Pierre Nandrin, Bénédicte Rochet, Xavier Rousseaux and Axel Tixhon (Rennes: 2008), 13-22.



Chapter 3 will wrap up the investigation of Nouette by taking a closer look at his personal life. Why did Hocquart keep him in prison, and express such antagonism towards him? Rumours about and even criminal accusations against Nouette will be examined in the final chapter.

This microhistory can serve to shed light on both society and legal institutions in the colony. Attention will be paid throughout to relevant trends elsewhere in the French Atlantic. By thoroughly investigating one of the agents who facilitated connections between the courts and people of early Canada, this thesis thus contributes to the re-conceptualization of law and legal practice as embedded in the particular circumstances posed by colonial life; in short, law as legality.<sup>35</sup>

---

<sup>35</sup> The inspiration for the reconceptualization of law as legality comes from Tomlins, “The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History.”

## CHAPTER 1

### Literature Review and Networks

#### 1.1 Literature Review on the Practice of Ancien Régime Law in Early Canada

There exists a limited literature on the practice of law in pre-British Conquest Québec. Some time ago, André Vachon provided a handy descriptive reference source, printed in conjunction with the *Dictionary of Canadian Biography*, on Ancien Régime legal institutions in the colony of New France.<sup>36</sup> John Dickinson's *Justice et justiciables: la procédure civile à la Prévôté de Québec, 1667-1759* covers vast amounts of archival sources in an effort to lay the groundwork for more detailed studies on civil law practice,<sup>37</sup> while his "Réflexions sur la police en Nouvelle-France," asks how laws worked in conjunction with the enforcement of public order.<sup>38</sup> These works, along with Luc Huppé's *Histoire des institutions judiciaires du Canada*<sup>39</sup> and Yves François Zoltvany's "Esquisse de la Coutume de Paris"<sup>40</sup> sketch the contours of legal practice in the period. Geneviève Postolec delves into the intersection between the norms and practice of marital laws,<sup>41</sup> while Sylvie Dépatie questions the possible inequalities that resulted from land inheritance practices.<sup>42</sup> Using three seigneuries as entry points, Dépatie, Christian Dessureault, and Mario Lalancette investigate the application of land tenure rights.<sup>43</sup> Despite these valuable contributions, much work remains to be done before a

---

<sup>36</sup> Vachon, *L'Administration de la Nouvelle-France* (1970).

<sup>37</sup> John Dickinson, *Justice et justiciables: la procédure civile à la Prévôté de Québec, 1667-1759* (Québec: 1982).

<sup>38</sup> John Dickinson, "New France: Law, Courts, and the *Coutume de Paris*, 1608-1760" in *Canada's Legal Inheritances*, eds. Guth and Pue, (Winnipeg: 2001), 32-54.

<sup>39</sup> Luc Huppé, *Histoire des institutions judiciaires du Canada* (Montréal: 2007).

<sup>40</sup> Y.F. Zoltvany, "Esquisse de la Coutume de Paris," *RHAF* 25:3 (1971): 365-384.

<sup>41</sup> Geneviève Postolec, "Le mariage dans la Coutume de Paris : normes et pratiques à Neuville aux XVIIe et XVIIIe siècles," in *Habitants et marchands, Twenty Years Later: Reading the History of Seventeenth and Eighteenth-Century Canada*, eds. Sylvie Dépatie, Catherine Desbarats, Danielle Gauvreau, Mario Lalancette, and Thomas Wien (Montréal: 1998), 208-225.

<sup>42</sup> Sylvie Dépatie, "La transmission du patrimoine au Canada (xvii-xviii siècle) : qui sont les défavorisés?" *RHAF* 4 (2001): 558-570.

<sup>43</sup> Sylvie Dépatie, Mario Lalancette, and Christian Dessureault, *Contributions à l'étude du régime seigneurial canadien* (LaSalle: 1987).

sharper understanding of the workings of civil law in this part of the French Atlantic can be gained.

Ancien Régime criminal law has received relatively more attention by historians of New France. Building on works such as André Lachance's *La justice criminelle du roi au XIII<sup>e</sup> siècle*,<sup>44</sup> Denyse Beaugrand-Champagne has performed some rigorous research on the fascinating criminal trial of Marie-Josèphe-Angélique, a black slave accused of starting the Great Fire of Montréal in 1734.<sup>45</sup> Until recently, historians had not questioned the veracity of the decision to convict and publicly hang Marie-Josèphe-Angélique. Beaugrand-Champagne, who should be commended as the first to undertake such a detailed reading of the trial, shows that Angélique's conviction rested on the witness testimony of a five-year-old boy, forty days after the ravaging fire.<sup>46</sup> The interactive website Beaugrand-Champagne has prepared in collaboration with Léon Robichaud recreates the trial of Angélique in a way that makes the practice of criminal law in early modern Québec interesting not only for historians, but also for non-scholars.<sup>47</sup>

The period following the British Conquest in 1759 is an enthralling one and has understandably stimulated many research questions.<sup>48</sup> Jean-Philippe Garneau and David Gilles emerge as the preeminent legal experts on this period. Gilles has performed a microhistory on one legally inclined family in Québec to reveal some of the changes

---

<sup>44</sup> André Lachance, *La justice criminelle du roi au Canada au XVIII<sup>e</sup> siècle : tribunaux et officiers* (Québec: 1978).

<sup>45</sup> Denyse Beaugrand-Champagne, *Le procès de Marie-Josèphe-Angélique* (Outremont: 2004).

<sup>46</sup> In her review, Evelyn Kolish criticizes Afua Cooper, author of *The Hanging of Angélique : The Untold Story of Canadian Slavery and the Burning of Old Montreal* (Toronto: 2006) for a cursory reading of the primary sources and a scant, erroneous reading of recent historiography on the society and practice of criminal law in New France. This undermines, Kolish writes, Cooper's conclusion that Marie-Josèphe did start the fire as a means to seek revenge on her cruel mistress. See Kolish, "L'incendie de Montréal en 1734 et le procès de Marie-Josèphe-Angélique : trois oeuvres, deux interprétations" *RHAF* 61:1 (Summer 2007): 85-92.

<sup>47</sup> Denyse Beaugrand-Champagne and Léon Robichaud, "La torture et la vérité: Angélique et l'incendie de Montréal," or "Torture and Truth: Angélique and the Burning of Montréal," *Great Unsolved Mysteries in Canadian History* <<http://www.canadianmysteries.ca/sites/angelique/accueil/indexen.html>>

<sup>48</sup> See for instance Christine Veilleux, "Les gens de justice à Québec, 1760-1867," Ph.D. diss., Université Laval, 1990.

ushered in after the British Conquest. From 1759 to 1763, all Ancien Régime courts were forcibly transformed into British military tribunals. In 1763, French Roman Catholics were banned from practicing law in the colony. This left many skilled workers unemployed, and the colony in dire need of legal practitioners. This ironic and senseless situation, Gilles opines, may explain the subsequent change in tack on the part of British officials. Under the Quebec Act (1774), they re-instated French law in civil (but not criminal) cases and eased entry into the legal profession for French Roman Catholics by banning the oath to the British crown and the Anglican Church.<sup>49</sup>

The ensuing years, until 1785, have been interpreted by both Gilles and Garneau as a period of compromise and amalgamation between two European traditions. Drawing inspiration from the law and society movement, Garneau has shed much light on both cultural and legal interactions between French and British legal professionals.<sup>50</sup> Research on this period can build on knowledge of European-Amerindian legal *métissage*.<sup>51</sup>

Canada's French legal inheritances cannot fully be understood, however, if one starts at 1774. A deeper understanding of the history of Ancien Régime law in Canada is needed. A brief scan of key journals shows that this topic is under-studied. A search for *praticien* in the *Revue d'histoire de l'Amérique française (RHAF)* yields no results directly relevant to the practice of law. A directed study on the people who represented others in court would contribute to topics already treated in the journal, such as the

---

<sup>49</sup> David Gilles, "Le notariat canadien face à la Conquête anglaise de 1760 : l'exemple des notaires Panet," in *Les praticiens du droit du Moyen Âge à l'époque contemporaine*, eds. Vincent Bernaudeau et al. (Rennes: 2008), 189-207.

<sup>50</sup> Garneau in particular points to subsequent legislation in 1775 and 1777 to demonstrate how the British were increasingly open to allowing for French influence on the legal system. "Une culture de l'amalgame au prétoire," *CHR* 88:1 (2007): 119.

<sup>51</sup> DeLloyd Guth and Wesley Pue, eds., *Canada's Legal Inheritances* (Winnipeg: 2001).

Custom of Paris,<sup>52</sup> imprisonment,<sup>53</sup> notarial record-keeping,<sup>54</sup> and sketches of “great men” such as the councillor Louis-Guillaume Verrier.<sup>55</sup> Louis Lavallée’s study of the life of a notary could serve as an inspiration for similar works on legal proxies.<sup>56</sup>

In legal circles, the study of Ancien Régime civil law is similarly scant. An Osgoode Hall publication on lawyers in Canadian history reflects much interest in the post-British Conquest period,<sup>57</sup> but includes no articles on earlier roots of Québec’s civil law tradition. The *McGill Law Journal* has published virtually no articles on the period; a review on Québec legal historiography in this journal only begins with studies on the year 1760.<sup>58</sup> The *Law and History Review* has a slightly better record and has published four articles on Ancien Régime law in recent years. In a 2010 issue, it hosted a forum on the “Idea of French Law,”<sup>59</sup> driven by the question of when one can begin to speak of a coherent French legal system. This paper intends to begin to fill the void of historiography on Ancien Régime law, particularly as it was practiced in Québec.

---

<sup>52</sup> Pauline Desjardins, “La Coutume de Paris et la transmission des terres : le rang de la Beauce à Calixa-Lavallée de 1730 à 1975,” *RHAF* 34:3 (1980): 331-339; Sylvie Dépatie, “La transmission du patrimoine au Canada (xvii<sup>e</sup>-xviii<sup>e</sup> siècle),” Y.F. Zoltvany, “Esquisse de la Coutume de Paris” (1971).

<sup>53</sup> André Lachance, “Les prisons au Canada sous le Régime français,” *RHAF* 19:4 (1966): 561-565.

<sup>54</sup> André Vachon, “Inventaire critique des notaires royaux des gouvernements de Québec, Montréal et Trois-Rivières (1663-1764) (suite),” *RHAF* 10:2 (1956): 257-262; Lavallée, Louis, “Les archives notariales et l’histoire sociale de la Nouvelle-France,” 28:3 *RHAF* 28:3 (1976): 385-403.

<sup>55</sup> Edouard Fabre-Surveyer, “Louis-Guillaume Verrier (1690-1758),” *RHAF* 6:2 (1952): 159-176.

<sup>56</sup> Louis Lavallée, “La vie et la pratique d’un notaire rural sous le régime français : le cas de Guillaume Barette, notaire à La Prairie entre 1709-1744,” *RHAF* 47:4 (1994), 499-519.

<sup>57</sup> Jean-Philippe Garneau, “Civil law, legal practitioners, and everyday justice in the decades following the Quebec Act of 1774,” in *The Promise and Perils of Law: Lawyers in Canadian History*, eds. C. Backhouse and W. Pue (Toronto: 2009).

<sup>58</sup> Vince Masciotra, “Quebec Legal Historiography, 1760-1900,” *McGill Law Journal* 32 (1986-1987): 712-732.

<sup>59</sup> Kim, “Civil Law and Civil War,” *Law and History Review* 28:3 (2010): 791-826; S. Hanley, “What Is in a Name?” *Law and History Review* 28:3 (2010): 827-836. See also older articles by Amalia D. Kessler, “Enforcing Virtue: Social Norms and Self-Interest in an Eighteenth-Century Merchant Court,” *Law and History Review* 22:1 (Spring 2004): 71-118 and Sarah Hanley, “The Jurisprudence of the Arrêts: Marital Union, Civil Society, and State Formation in France, 1550-1650” *Law and History Review* 21:1 (2003): 1-40.

## 1.2 *La Profession de Praticien: A Clarification of Terms*

In autumn 1743, Intendant Gilles Hocquart complained to the Ministry of the Marine of legal practitioner Jacques Nouette de la Poufellerie, “il n’y a point de chicanne dont il ne soit capable d’exercice dans sa profession de praticien.”<sup>60</sup> To unpack this statement, it will first be necessary to understand what was meant by the profession of the legal practitioner in the 18<sup>th</sup>-century. In the metropole, one could distinguish several different kinds of professionals who represented individuals in court: lawyers (*avocats*), legal proxies (*procureurs*),<sup>61</sup> and legal practitioners (*praticiens*).<sup>62</sup> Today, all three would fall under the term, “lawyer.” In the Ancien Régime conception, a lawyer had by definition attended university, where Roman and canonic law were major parts of the curriculum, but customary law was not. Marie Seong-Hak Kim calls this a “disturbing gap between legal education and practice,” because lawyers were nevertheless expected to practice customary law once they left the university.<sup>63</sup> King Louis XIV had attempted to remedy this unwieldy situation by issuing the Edict of Saint-Germain-en-Laye in April 1679. The edict required the appointment of professors specializing in French ordinances and customs. It prescribed that students complete five hours of training in French law each week during the third year of legal studies. These classes, furthermore, were to be taught in the vernacular rather than Latin as was the norm.<sup>64</sup>

Although often non-noble, students of law were regarded with much social prestige. Legal dictionaries (which were themselves tools in the process of French legal unification) reflect the high esteem reserved for legal practitioners who had been educated at the university. In 1781, senior magistrate (*ancien magistrat*) Guyot adulated lawyers in the following way in his legal dictionary, “Pour se rendre digne d’un titre si

---

<sup>60</sup> “Lettre de Hocquart au ministre,” 3 novembre 1743, National Archives of Canada C11A, vol. 62, fol. 274-275.

<sup>61</sup> This translation is my own.

<sup>62</sup> The translation of *praticien* as practitioner, to be used throughout this paper, is employed by John Dickinson, “Court Costs in France and New France in the Eighteenth-Century,” *Historical Papers/Communications historiques* 12:1 (1977): 62.

<sup>63</sup> Kim, “Civil Law and Civil War” (2010): 792.

<sup>64</sup> Thireau, *Introduction historique au droit*, 251-2.

distingué, il faut des talens & qualités qui n'appartiennent point au commun des hommes.”<sup>65</sup>

Lawyers were occasionally sent to the colony of Canada, not to practice as such but rather to assume senior positions in the judicial apparatus. Louis-Guillaume Verrier, who sat on the Superior Council during all of Nouette's years in the colony, is one example. Having studied law in Paris and worked as a lawyer in the Parlement there from 1712, he left for New France in 1728.<sup>66</sup>

The King of France, however, forbade licensed lawyers from arguing in the colonial courtrooms of Canada. While this is often taken as a starting point in the literature, the reasons for it seem not have been sufficiently explored and should be the object of further study. No particular decree, edict, or ordinance is cited as the basis of this ban of lawyers from the colony. In *Justice et justiciables*, Dickinson writes, “même si les avocats ne pouvaient exercer ouvertement leur profession dans la colonie, les praticiens remplissaient cette fonction et leur réclamations pour des honoraires étaient reconnues par la cour.”<sup>67</sup> Vachon similarly states,

*In the absence of lawyers in the colony--where they were never permitted to practise their profession--notaries, clerks of court, process-servers, even ordinary private persons, were authorized to appear as practitioners before all the courts in New France and to represent parties and set out facts, but not to plead.*<sup>68</sup>

Through a detailed reconstruction of Marie-Josèphe-Angélique's trial, Beaugrand-Champagne reveals the absence of a legal defense or proxy for the accused, without delving into the reasons for this.<sup>69</sup>

---

<sup>65</sup> For a complete discussion of the term *avocat*, see Guyot, ed., *Répertoire universel et raisonné de jurisprudence civile, criminelle, canonique et bénéficiale* (Paris: 1781), vol. 4, 73-112. An excerpt from the subsection, “Origine & excellence de la profession d’Avocat,” reads, “L’origine de cette profession est aussi ancienne que le monde même : par-tout où les hommes ont vécu en société, il y a eu nécessairement des Avocats,” 73-74.

<sup>66</sup> Vachon, Claude, “Verrier, Louis-Guillaume,” *Dictionary of Canadian Biography*, vol. IV.

<sup>67</sup> Dickinson, *Justice et justiciables*, 85.

<sup>68</sup> Vachon, “The Administration of New France,” in the *Dictionary of Canadian Biography*, vol. II, xxiv.

<sup>69</sup> See for instance, “Lundi 12 avril : premier interrogatoire de l’accusée,” 57-66. In the corresponding website, “Torture and Truth,” Beaugrand-Champagne and Robichaud state only that, “The king forbade the presence of lawyers in Nouvelle-France; Angélique had to defend herself, without help, against the public rumour.” <<http://www.canadianmysteries.ca/sites/angelique/proces/accuseesedefend/indexen.html>>

The royal ban did not, however, obviate the demand for legal representation in Canada's colonial courtrooms. Various sorts of legal practitioners therefore filled a liminal space, serving alternatively to record trial minutes, deliver writs, and represent legal parties in court. Québec's judicial archives are full of references to practitioners and legal proxies.<sup>70</sup> A legal proxy, according to the Dictionary of Trévoux, was a very good practitioner.<sup>71</sup> Both the dictionaries of Trévoux and Guyot underscore the point that a practitioner differed from a lawyer because he had gleaned legal skills through practice, not at the university.<sup>72</sup> (It should not however be assumed that a university education equipped students with critical thinking skills, as it does today. Further exploration may show a preference for rote learning).<sup>73</sup>

Guyot defines legal proxy (*procureur*) in a condescending and abrasive manner:

*...l'avocat, qui a nécessairement l'honneur et l'estime publique en vue dans son travail, n'useroit presque jamais de ces chicanes et subtilités qui composent toute la science de la plupart des Procureurs, et par le moyen desquelles ils savent si bien, pour leur profit et à la ruine de leurs parties, multiplier les actes et éterniser les procès...*<sup>74</sup>

---

<sup>70</sup> A search for word *praticien* through the database of the Québec Archives' digitized sources, *Pistard*, up to the year 1759, yields nine pages of results. A search for the same word in the *Parchemin* database of un-digitized notarial records between 1670 and 1760 reveals reference to 40 individuals. In contrast, the word *avocat* yields only three pages of results in *Pistard*. Perplexingly, the word *avocat* appears with a much larger frequency of 848. An analysis of the first 145 appearances (amounting to 40 different individuals) provides some clues as to the word's frequency, despite previous findings which show that there was no such profession as "lawyer" in Québec. Fourteen of these 43 individuals are referenced in contracts as deceased husbands or fathers. Of the remaining 19, all those appearing before the year 1760 had been *avocats* in one of France's courts (*parlements*), but were subsequently deployed by the King to the colony. Once there, they fulfilled various functions, such as naval captain, Superior Councillor, or Lieutenant General for Civil and Criminal Affairs in the Jurisdictions of Montréal or Québec. The high frequency of the word *procureur* in both search engines (100 pages in *Pistard* and 7,184 hits on *Parchemin*) can be explained when one considers that *procureur* had meaning outside of the courtroom. For instance, a person leaving the colony could give someone else a "power of attorney" to make financial transactions and sign business contracts.

<sup>71</sup> The definition of *praticien* in the 1743 edition of the Dictionary of Trévoux reads, "celui qui sait bien le style, l'usage du Barreau, les formes, les procédures et les reglemens de la Justice ; qui sait bien dresser un contrat, instruire un procès. La principale qualité d'un Procureur, c'est d'être un bon Praticien," vol. 5, 449.

<sup>72</sup> In Guyot, ed., *Répertoire universel et raisonné de jurisprudence civile, criminelle, canonique et bénéficiale*, the definition of *procureur* explains that "...par état, (il) n'est point obligé à l'étude du droit," vol. 4, 428-438.

<sup>73</sup> It was common, for instance to republish classic legal handbooks such as Jean Papon's *Recueil d'arrests notables des cours souveraines de France*, (Paris: Chez Robert Foüet, 1621). A first glance at the marginalia juxtaposed to the original 1554 text suggests a pedagogical preference for learning by repetition.

<sup>74</sup> Guyot, *Répertoire universel et raisonné de jurisprudence civile, criminelle, canonique et bénéficiale*, vol. 48, 428-38.



This definition portrays the legal proxy as a pseudo-lawyer, or even an alchemist. Intendant Hocquart's complaint of Nouette's "chicanery" to the Ministry of the Marine, thus, was reflective of commonly held views about legal practitioners. Was it also grounded in his specific experience with Nouette? Perhaps. It cannot be denied that one of his strategies as his proxy for Marie-Marguerite was to drag out the trial even when it was quite clear that he was on the losing side. That said, a trial (as opposed to a summary hearing, which was decided in one day), was likely to last about 2-3 weeks, according to Dickinson's research.<sup>75</sup> Historians have noted a higher level of sophistication among metropolitan legal professionals, than among their colonial counter-parts.<sup>76</sup> Further research may uncover direct testimonies expressing this view.

Implicitly drawing a comparison to the naval administration of which he had been a part, Hocquart expressed dismay at the poor quality of the colony's bureaucracy in general, and its judicial officials in particular.<sup>77</sup> As late as 1732, there were complaints that the scarcity of legal textbooks impeded the training of legal practitioners in New France.<sup>78</sup> There were, nevertheless, efforts made to formalize legal education in the colony. Louis-Guillaume Verrier, mentioned above as one of the few men in the colony who had studied law at the university, has been described as the first legal lecturer in North America. Until 1753, he offered free lectures on the basics of the King's jurisprudence.<sup>79</sup>

---

<sup>75</sup> In his survey of cases decided at the *Prévôté* of Québec between the years of 1750-53, Dickinson finds an average duration of 40 days. See "Court Costs in France and New France in the Eighteenth-Century," 56.

<sup>76</sup> Drawing on the British Atlantic research of David Lemmings, Jean-Philippe Garneau writes, "Les 'avocats' coloniaux ne semblent pas avoir tout le lustre ni posséder tout le savoir de leurs collègues d'outre-mer," in "Une culture de l'amalgame au prétoire," 120.

<sup>77</sup> Writes Donald J. Horton, "He found many of the judicial officers, including the King's attorney at Montréal, François Foucher, and several councillors of the *Conseil Supérieur*, to be incompetent, and he saw no possibility of finding suitable replacements in the colony," in "Hocquart, Gilles," *Dictionary of Canadian Biography*, vol IV.

<sup>78</sup> Huppé, *Histoire des institutions judiciaires du Canada*, 67.

<sup>79</sup> Claude Vachon, "Verrier, Louis-Guillaume," *Dictionary of Canadian Biography*, vol. IV.

While there were no formally educated lawyers who practiced as such in the colony, there were different gradations of practitioners. These included: practitioner (*praticien*), master practitioner (*maître praticien*), and senior practitioner (*ancien praticien*).<sup>80</sup> In the absence of a judge, the entry on *praticien* in the dictionary of Trévoux explains, a senior practitioner could be called upon: “En l’absence du Juge ou du Lieutenant, c’est le plus ancien Praticien qui doit tenir le Sièg[e].”<sup>81</sup> Because this prerogative was explicitly reserved for more senior practitioners, it can be assumed that they held authority over their less senior counter-parts.

Of 40 practitioners found in Québec’s notarial records between the years 1670 and 1760, 33 are only listed as practitioners, the most general subset. At least eight earned the prestigious title of senior practitioner over the course of their careers. This includes the notary of Montréal, Jean-Baptiste Adhémar.<sup>82</sup> As will be seen in Chapter 3, Adhémar was called upon to act as substitute King’s Prosecutor in a 1743 dispute.<sup>83</sup> Only one of the 42 practitioners was referenced in *Parchemin* archival titles as a master practitioner.<sup>84</sup> (See Appendix 1). This lower frequency should not be interpreted to mean that master practitioners were higher in rank than senior practitioners. To the contrary, Nouette was referred to as, “M.<sup>e</sup> Noüette Leur procureur porteur des pieces” in a 1741 trial which will

---

<sup>80</sup> These translations are my own.

<sup>81</sup> *Dictionnaire Universel François et Latin de Trévoux* (1743), vol. 5, 449.

<sup>82</sup> “Compromis entre Pierre-Joseph Celoron de Bienville, Joseph Hertel, Pierre Biron, et Charles Nolan dit Lamarque, négociant, de la ville de Montréal, rue St Paul, au nom et comme fondé de la procuration de Jean-Marie Blondeau; et ? Adhemar, notaire royal et ancien praticien, de la ville et juridiction de Montreal,” 5 septembre 1746, BAnQ (*Parchemin*, notaire F. Simonnet). While the archivist has left a question mark in front of Adhémar’s last name, this could not be the then-deceased Antoine Adhémar, and is most probably the royal notary of Montréal, Jean-Baptiste Adhémar. The other seven senior practitioners were Jean-Baptiste Amiot, Pierre Cabazie (Cabazié), Christophe-Hilarion Dulaurent, Jean-Baptiste Descoste (de Letancour), Antoine Girouard (Giroire), Jean-Baptiste Guyard (Guyart) de Fleury, Nicolas-August Guillet (dit Chaumont), and Charles Turpin.

<sup>83</sup> “Procès entre Charles Ruette d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflierie, accusé de voies de fait,” 7 mars-22 avril 1743, BAnQ TL4,S1,D4933. For another example of a senior practitioner fulfilling the role of a judge, see “Jugement rendu par Christophe-Hilarion Dulaurent, ancien praticien et notaire royal de la Prévôté de Québec, en faveur de Germain Chalifou, habitant de Notre-Dame-des-Anges,” 3 décembre 1750, BAnQ TL5,D3012-32.

<sup>84</sup> “Contrat de mariage entre Jacques Parant...,” 19 janvier 1748 BAnQ (*Parchemin*, notaire N. Duprac).

be discussed in greater detail below.<sup>85</sup> Up to this point, there is no reason to believe that Nouette (although called a master practitioner in at least one case) ever adjudicated a dispute, as a senior practitioner may have been called upon to do. *Maître praticien*, as opposed to *praticien*, seems therefore to have been a title sporadically conferred upon practitioners like Nouette, without necessarily implying any difference in authority.

### 1.3 Nouette's Network of Practitioners in Québec

This study is primarily a microhistory of one legal practitioner who resided in the colony of New France between the years 1740 and 1743. In order to better understand the story of this one man, however, he must be put into the context of his socio-professional network. Although not chiefly a collective biography, therefore, this study borrows from the prosopographic approach, wherein names and specific data about certain individuals belonging to the same group are collected and used to draw conclusions about the group.<sup>86</sup> Using spreadsheets, I have gathered data both about Nouette's socio-professional network of legal practitioners in early modern Québec, and about the parties he represented in court.<sup>87</sup> (See Appendixes 1 and 2). In this section, practitioners will be discussed in order to enhance the scholarly understanding of this under-studied profession.

---

<sup>85</sup> "Arrêt dans la cause entre Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel de Rouville, chevalier de Saint-Louis et capitaine dans les troupes de la Marine à l'île Royale, mère et tutrice de René-Ovide Hertel de Rouville, mineur, portant plainte et appelante comme d'abus du mariage contracté entre le dit de Rouville et la demoiselle André, fille majeure du sieur André de Leigne, comparante par le sieur Poirier, praticien, son procureur, contre le sieur de Rouville, mineur, la demoiselle André et le sieur André de Leigne, comparants par le sieur Nouette, leur procureur," 12 juin 1741, BAnQ TP1,S28,P19111, page 2.

<sup>86</sup> Lawrence Stone explains that the prosopographic approach arose out of a post-WWI cynicism in governmental institutions, and led to an intellectual shift away from the institutional approach to history. Instead of taking a macro-view of the institution, historians began more frequently to zoom in to the people who operated the institution (for instance to answer questions about how individuals had led institutions such as the nation-state to wage a world war). The growing belief that people had agency, postulates Stone, could also be tied to the rise of Freudian thought. *The Past and the Present* (Boston: 1981), 51-53.

<sup>87</sup> Bernaudeau et al. celebrate the advances that have been made by the introduction of new technology. Whereas older historians laboriously collected information into dictionaries, newer historians can amass vast amounts of information quickly, thus allowing them to spend more time on analysis, *Les praticiens du droit du Moyen Âge à l'époque contemporaine*, 9-11. Indeed, with a single click I have been able to order a list chronologically, alphabetically, or by subset within the profession (*étudiant praticien*; *praticien*; *ancien praticien*; *maître praticien*, for example).

Stone concludes that collective biography “works best when applied to easily defined and fairly small groups over a limited period of not much more than 100 years.”<sup>88</sup> In combing through *Parchemin* records, I have conformed to this guideline.<sup>89</sup> In the archival titles, there are a total of 168 results including the word, *praticien*. In total, 40 different men are referred to between the years 1670 to 1760 (See Appendix 1). Similarly, Vachon’s research shows that in 1659, there were as few as seven notaries for a population of 2,000.<sup>90</sup> By 1759, the number of notaries had only grown to 40 for a population of 60,000.<sup>91</sup> This means the proportion of notaries to people in Québec had fallen from 3.5 to 1,000 in 1659, to 0.66 per 1,000 one century later.

Perhaps due to the scarcity of legal professionals in the colony, it was acceptable that Nouette (and the 40 other legal practitioners who appear on record before the British Conquest) act as legal proxies both for and against certain clients at various points in time. A detailed look Nouette’s cases also demonstrates that he encountered in court on a regular basis two other legal practitioners who were acting as proxies for the opposing party. On at least five occasions, between 1741 and 1742, this person was Pierre Poirier. On at least sixteen occasions in the same period, this person was Jean-Claude Panet.<sup>92</sup>

Arriving in the colony from France in 1740 (the same year as Nouette), Jean-Claude Panet can be seen as Nouette’s foil. Whereas Panet has been described by historians as a founding member of Québec’s judicial milieu, there is very little mention of Nouette in secondary literature.<sup>93</sup> In the first three years after their respective arrivals,

---

<sup>88</sup> Stone, *The Past and the Present*, 69.

<sup>89</sup> An in-depth analysis of *Pistard* records remains to be done. The word *praticien* yields nine pages of results, with each page containing varying numbers of results.

<sup>90</sup> André Vachon, *Histoire du Notariat Canadien, 1621-1960* (Québec: 1962).

<sup>91</sup> Gilles, “Le notariat canadien face à la Conquête anglaise, 1760,” 193.

<sup>92</sup> This number comes from an analysis of records on Nouette from both *Pistard* and *Parchemin* databases. In six of these appearances, Jean-Claude, Jean, or Claude Panet are referenced directly. In the remaining eleven, the primary documents omit a first name, reading only, “*sieur Panet*.” Although Pierre Panet arrived in the colony in 1746, Jean-Claude was the only Panet in the colony before this time. Thus it can be assumed that the “*sieur Panet*” was Jean-Claude and not his brother Pierre.

<sup>93</sup> “Les auxiliaires de justice du Châtelet de Paris : aperçus sur l’économie du monde des offices ministériels (XVIe - XVIIIe siècle),” in *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XXe siècle*, ed. Claire Dolan (Québec, 2005), 305-310.

it seemed that the two men were on equal professional footing. It may have even seemed that Nouette was the more successful practitioner. Between 1741 and 1742, Panet was engaged in a dispute with one of his clients for having lost the case and for having obscured this from his client.<sup>94</sup> Although this accusation would likely have jeopardized Panet's probity as a legal practitioner, he managed to overcome it,<sup>95</sup> and even serve as the substitute King's Prosecutor from 1755 to 1759.<sup>96</sup>

The Panets have been regarded as a founding family of Québec. David Gilles has noted, "l'importance que prirent les Panet dans la société juridique et politique, formant un embryon familial d'une élite juridique qui participa activement à la naissance politique et juridique du Canada et du Québec."<sup>97</sup> On both sides of the French Atlantic, men of certain families tended to stay within the legal profession. King Louis XIV relied not only on Jean-Baptiste Colbert for advice on the process of legal unification, but also on Colbert's uncle, Henri Pussort, who presided over the General Council on the Reform of Justice in 1665.<sup>98</sup> Robert Descimon's research on the office of prosecutor in the *Châtelet de Paris* shows that unless a man was very rich or unless he inherited the office and clientèle from his father, he was unlikely to practice this profession.<sup>99</sup> In the Panet family, two brothers worked in the legal milieu in the colony, while a third worked as a court clerk (*greffier*) in the Parlement of Paris.

---

<sup>94</sup> Gilles, "Le notariat canadien face à la Conquête anglaise de 1760," 192-3.

<sup>95</sup> As Peter Moogk demonstrates, questioning a man's honesty was the most acute insult in 18<sup>th</sup>-century Québec. "Just as in France, women were charged with sexual misconduct and men were accused of dishonesty in their dealings with others," he writes in *The Making of French Canada: A Cultural History* (East Lansing: 2000), 140. See also De Ferrière, Claude-Joseph, *Dictionnaire de droit et de pratique* (Paris: 1758). Ferrière's definition of notary emphasizes that, "la plupart de ceux qui font à Paris cette Profession s'en acquittent très-dignement, & on ne peut pas leur rien reprocher par rapport à la probité," vol. 2, 253. Judges, according to Ferrière, were not supposed to accept a man for the office of notary until they had performed an investigation into their life and morals.

<sup>96</sup> Gilles, "Le notariat canadien face à la Conquête anglaise, 1760," 192-193.

<sup>97</sup> Ibid.

<sup>98</sup> Thireau, *Introduction historique au droit*.

<sup>99</sup> Robert Descimon, "Les auxiliaires de justice du Châtelet de Paris : aperçus sur l'économie du monde des offices ministériels (XVI<sup>e</sup> - XVIII<sup>e</sup> siècle)," in *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XX<sup>e</sup> siècle*, ed. Claire Dolan (Québec, 2005), 305-310.

In this paper, I will examine a different trajectory: that of a man who arrived in the same year as Jean-Claude Panet, and perhaps even on the same ship, but was ousted by 1743. Colonial records bear virtually no trace of his pre-1740 past. By extension, it will be shown that the early modern population of Quebec was perhaps more transient, mobile and fluid than previous studies of legal families have indicated. Delving into the stories and networks of early Canada's more transient legal practitioners would help create a clearer impression of legal spaces in the period. This paper contributes to that goal by examining the itinerary of Jacques Nouette.

As literate people, practitioners were typically of middling social standing.<sup>100</sup> Practitioner Jean-Baptiste Decoste (de Letancour), for example, is referred to as an *écuyer*.<sup>101</sup> Below the social rank of *chevalier*, an *écuyer* was nevertheless considered a gentleman. Jacques Bourdon was the son of a bourgeois gentleman and the daughter of a woman from Rouen. Although he seems to have married into the peasantry, he was (in contrast to Nouette) able to establish himself in the colony. One year after marrying Marie Menard, daughter of an habitant from Boucherville, Bourdon bought a piece of land from his father-in-law.<sup>102</sup> In 1754, practitioner Pierre Panet married the daughter of the bourgeois family, Trefflet dit Rautot.<sup>103</sup>

---

<sup>100</sup> Similarly, writes Lavallée, "Malgré sa piètre fortune, [le notaire] Guillaume Barette était l'un des notables de la seigneurie," in "La vie et la pratique d'un notaire rural sous le régime français," 13.

<sup>101</sup> "Contrat de mariage entre Charles Decoste de Letencour (22 ans), écuyer, fils de Jean-Baptiste Decoste de Letancour, écuyer et ancien praticien de la juridiction de Montréal et de Renée Marchand," 7 janvier 1759, BAnQ (*Parchemin*, notaire F. Simonnet).

<sup>102</sup> "Contrat de mariage entre Jacques Bourdon, praticien, fils de feu Jean Bourdon, bourgeois et de Marguerite Legris, de Rouen, paroisse St Godart; et Marie Menard, fille de Jacques Menard, habitant et de Catherine Forestier, de Boucherville," 3 janvier 1672, BAnQ (*Parchemin*, notaire T. Frérot de Lechesnaye); "Vente d'une terre située en la seigneurie de Boucherville; par Jacques Menard, de Boucherville, à Jacques Bourdon, praticien," 19 mars 1673, BAnQ (*Parchemin*, notaire T. Frérot de Lechesnaye).

<sup>103</sup> "Contrat de mariage entre Pierre Parret [sic], praticien, de la ville de Québec et natif de la ville de Paris, fils de feu Jean-Nicolas Panet, caissier de la Marine et de Françoise Foucher; et Marie-Anne Trefflet dit Rautot, fille mineure de Pierre Trefflet dit Rautot, bourgeois et de Elisabeth Gaultier, de la ville de Québec, rue de la Fabrique," 29 septembre 1754, BAnQ (*Parchemin*, notaire C. Barolet).

The permeability of the early modern legal profession, evident in France, is even more apparent in the outlying colony of Québec.<sup>104</sup> In Québec notarial records, many men show up not only as legal practitioners, but also as process-servers, court clerks, notaries, and fiscal prosecutors. No clear hierarchy between these legal roles emerges. Some men began their careers as process-servers, only later to act as legal proxies. Jacques Bourdon, for instance, began his career in 1666 as a process-server, but over the years also served as a legal practitioner, court clerk and notary.<sup>105</sup> Jean-Baptiste Decoste (de Letancour) worked as a process-server in the Royal Jurisdiction of Montréal in 1742,<sup>106</sup> and had become a senior legal practitioner in 1759.<sup>107</sup>

Others practiced legal defense first, and only later assumed positions as notaries. François Rageot de Beaurivage and Christophe-Hilarion Dulaurent, whose names are most familiar as notaries, served first as legal practitioners from 1704-1711 and 1725-1734, respectively.<sup>108</sup> François Simonnet (Simonet), who worked as a notary between 1737 and 1759, interrupted this period by serving as a legal proxy in 1739.<sup>109</sup> Yet others are referred to in documents dating from the same year, as fulfilling two different kinds of legal roles. Joseph Saulquin, for his part, worked in 1749 as both royal

---

<sup>104</sup> “J.-B. Guyard est tour à tour qualifié dans les fonds notariés de praticien, de notaire royal ou d’huissier. Le peu de personnel judiciaire compétent et la modicité des rémunérations expliquent l’importance de ce phénomène, qui n’est pas ignoré en métropole, mais qui y prend moins d’ampleur,” writes Gilles in “Le notariat canadien face à la Conquête anglaise,” 198. Gilles concentrates his study on colonial examples, but in a footnote he quotes Claude Ferrière’s *La science parfaite des notaires*, “Dans les juridictions subalternes, il est toléré que la même personne soit notaire et en même temps greffier, huissier et procureur par le défaut de sujets,” 191.

<sup>105</sup> André Vachon, “Jacques Bourdon,” *Dictionary of Canadian Biography*, vol. IV.

<sup>106</sup> “Procès entre Jean-Baptiste Guyard (Guyart), huissier, plaignant, et Jacques Nouette, sieur de la Poufflerie, accusé de calomnie,” 22 août-1 septembre 1742, BAnQ TL4,S1,D4874.

<sup>107</sup> “Contrat de mariage entre Charles Decoste de Letencour...,” 7 janvier 1759, BAnQ (*Parchemin*, notaire F. Simonnet).

<sup>108</sup> “Procuration de Damien Quatresols, habitant, de Batiscan, au nom et comme exécuteur testamentaire de défunt Pierre Lemoine, de Batiscan, à François Rageot, praticien, de la ville de Québec,” 2 juillet 1704, BAnQ (*Parchemin*, notaire L. Chambalon); “Instance de François Rageot, praticien à Québec, afin que ses commissions des offices de notaire et d’huissier soient entérinées,” 9 novembre 1711, BAnQ TL1,S11, SS2,D290; “Commission de notaire royal en la Prévôté de Québec accordée à Christophe-Hilarion Dulaurent, par l’Intendant Hocquart,” 11 août 1734, BAnQ CR301,P1667.

<sup>109</sup> “Concession d’une terre située en la censive de la seigneurie de St Ours; par François Simonet, praticien, de la ville de Montreal, procureur de Pierre de St-Ours-Deschaillon,” 28 juillet 1739, BAnQ (*Parchemin*, notaire A. Loiseau dit Châlons).

process-server and legal practitioner in the jurisdiction of Montréal.<sup>110</sup> In 1748, Jean Laurent worked not only as master practitioner but also as fiscal prosecutor in the Provost Court of Notre-Dame-des-Anges.<sup>111</sup> In conclusion, there does not seem to have been an obvious progression from notary to practitioner, or vice-versa.

Clear demarcations between notaries, legal practitioners, and lawyers would only arise as a result of the British influence on French civil law in the period beginning in 1774, writes Gilles. Among other things, the British would introduce the bar, or lawyers' certification board in 1785. This year has been interpreted as an opening point for many French-speaking notaries, practitioners, and legal proxies, who had not been able to officially label themselves as lawyers. Their reinsertion into powerful positions after the passage of the Quebec Act ensured them agency and can help explain the persistence of the French civil law tradition in Canada up to this day.<sup>112</sup> In the period being studied, however, the boundaries between various legal roles were still profoundly permeable.

#### **1.4 A Collective Biography of the Parties Nouette Represented in Court**

Jacques Nouette de la Poufellerie's stint as a legal practitioner in the colony of Québec spanned the dates of August 15, 1740 and November 3, 1743. In a little more than three years, he handled legal documents for over 100 parties. The term parties is here used in the place of "individuals" because often several individuals with the same grievances would hire Nouette to work as their legal proxy. His involvement in the cases examined ranged from marginal, simply transporting papers to court, to significant, appearing in the forum of the court and speaking at length in their names.

The estimate of 100 is based on the inventory of Nouette's papers that was taken in his presence in the summer of 1743. Nouette had been imprisoned and was informed

---

<sup>110</sup> "Procuration de Marie-Pierre Gours, à Joseph Saulquin, huissier royal et praticien de la juridiction royale de Montréal, son époux, demeurant sur la rue Saint Pierre en la ville de Montreal," 11 août 1749, BAnQ (*Parchemin*, notaire G. Hodiesne).

<sup>111</sup> "Contrat de mariage entre Jacques Parant..." 19 janvier 1748 BAnQ (*Parchemin*, notaire N. Duprac).

<sup>112</sup> Gilles, "Le notariat face à la Conquête anglaise, 1760," 190.



that he would only be released once he had given up documents crucial to the dispute over the François LeVasseur inheritance. Two merchants of the town Québec, Pierre Jehanne and Louis Gugnière, had both claimed a right to this inheritance. At question was an amount of between 8,000 and 10,000, depending on which party was asked. Gugnière had hired Nouette as his legal proxy in the dispute, which began in 1740. Jehanne lost the case in 1742, but one year later insisted that Nouette disclose certain important papers pertaining to the concluded case.

The inventory indicates that in the summer of 1743, Nouette was in the possession of legal documents belonging to 94 different parties. This is not insignificant. In a study on colonial Peru, Kathryn Burns reveals the power wielded by notaries, without whom binding agreements could not be made. As lettered men who had not studied at the university, they served as intermediaries between lawyers (*abogados*) and people.<sup>113</sup> In much the same way, it seems, Nouette served as an interlocutor between colonial courts and colonial people. His familiarity with legal processes, moreover, seems to have earned him the trust of many individuals and elevated him to a position of power over them. The papers in his possession were crucial documents helping judges decide trial outcomes.

While Nouette was already in prison, process-servers had entered his domicile on Rue St-Joachim and collected all the papers in sight. They bound these up in a big chest, which they then transported to the prison at the Palace of the Intendant. Over the course of several days, court clerks leafed through every one of Nouette's papers in search of the documents sought by Jehanne. What was left behind for historians was a long list of people who had confided in Nouette by letting him take care of their legal documents.

Of the 94 parties whose names appear in the margin of the inventory, I have been able to find the corresponding trial records for 23. It is not entirely clear that the remaining 71 named parties would have corresponding trial records on file in public archives today. The papers in question were recorded as belonging to the parties, for instance:

---

<sup>113</sup> Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham: 2010), 1-3. She calls *procuradores* "legal paper-pushers," 3.

*Une liasse contenant quatre vingt huit pieces d'Ecritures dans un en parchemin et les autres en papier qui sont titres et pieces concernant la succession de Jean de Vin appartenant a Samson, Dubois et descarreaux, a la Remise des quelles led. S. Nouette s'oppose attendu qu'il luy est deub par led. Sr. Dubois et consort la ditte liasse Inventorié sous la Cotte Neufieme.*<sup>114</sup>

Beginning on July 31, 1743, process-servers delivered these pieces to their rightful owners, or their legal proxies:

*Je soussigné reconnois que M. Boisseau ma remis les pieces inventoriés sous la cotte neuf, appartenant a Dubois et Consort, desquelles j'ay besoin pour l'instance du delibert qui est entre lesd. du bois et consort et la Veuve parent, de la quelle remise je decharge led. S. Boisseau, et promet les luy remettre s'il est besoin, a Quebec le 16 aoust 1743.*

*Perthius*<sup>115</sup>

It confounds matters that sometimes the party Nouette *opposed* in court is listed as the party to whom the papers belong. In other instances the legal party had passed away, and the right to the papers had been inherited by a friend or relative who may not have the same last name. Other parties had several appearances in court, none of which mention Nouette in the archival summary. Determining which case he was involved in would require scanning each of these many cases for his name. With diligent research and more time, the inventory presents a valuable avenue for further research. Additionally, I have uncovered 21 parties who hired Nouette but whose names do not appear in the 1743 inventory. It is therefore safe to say that Nouette served as an intermediary between the court and over 100 individuals.

The collective biography that follows is necessarily limited by the challenges of early modern history. At present, I am able to reconstruct a broad range of information for 44 of the close to 100 legal parties for whom Nouette worked. A spreadsheet detailing various data on these 44 parties is appended at the end of this paper. (See Appendix 2).<sup>116</sup> The peak of Nouette's work load, it appears from the limited information

---

<sup>114</sup> "Apposition des scellés, saisie et inventaire des papiers du sieur Jacques Nouette de la Souffleterie [sic], comme ayant fait fonction de procureur pour diverses personnes, par le greffier en chef de la Prévôté de Québec, en vertu d'une ordonnance de l'intendant rendue sur la requête de Pierre Jehanne comme syndic des créanciers de la succession Levasseur," 22-27 juillet 1743, BAnQ TL5,D1329 (hereafter "Saisie et inventaire"), 7.

<sup>115</sup> Ibid., 33.

<sup>116</sup> If a legal party was composed of both men and women, or if one individual was born in France and another in Québec, then the party is classified according to the individual who took the most active role in the case.

available, came in 1741. In this year, he handled at least 20 cases. In 1740, he handled at least six cases; in 1742, at least 11; and in 1743, at least seven.

Of these 44 parties, 27 initiated their cases in the *Prévôté* of Québec; seven, in the Royal Jurisdiction of Montréal; five, in the Admiralty Court of Québec; four, in the Superior Council (which could be a court of first instance for surrounding rural areas and other exceptional cases); and one, in the Royal Jurisdiction of Trois-Rivières. This geographic distribution leads to the conclusion that while Nouette was based in the town of Québec, but occasionally itinerated to Montréal. There, he resided in a house on Rue des Jardins from October 1, 1740 to June 1741.<sup>117</sup> Sometime between June and December 1741, he moved to Rue St-Joachim.<sup>118</sup> While Nouette handled some of these cases from the first instance, he often only got involved once the original ruling was appealed in the Superior Council. Of these 44 parties, more than half (23) appealed the lower court's decision.

Most of Nouette's clients lived in urban centres. Of the sample available, 26 resided in the town of Québec, seven resided in Montréal, and one in Trois-Rivières. Nine, or 20%, lived permanently in surrounding rural areas and came to the urban centres of Montréal or Québec to plead their cases. Two clients, Marc-Antoine Dormicourt and

---

<sup>117</sup> "Procès opposant Marc-Antoine Huard de Dormicourt, à Marguerite Duplessis Radisson, se disant la fille naturelle de feu sieur Duplessis Faber (Lefebvre), frère du sieur Duplessis Faber, résidant à Montréal, capitaine d'une compagnie dans les troupes de la Marine, qui conteste le fait qu'elle soit une esclave, et plus particulièrement celle du sieur Dormicourt," 1-28 octobre 1740, BAnQ TL5,D1230 (hereafter "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt"). For Nouette's address, see also "Requête adressée au Conseil supérieur de Québec par Thierry Hazeur, grand pénitencier (prêtre commis par l'évêque pour absoudre des cas réservés) et vicaire général du diocèse de Québec, ayant élu domicile chez le sieur Nouette, rue des jardins, intimé, en forme de réponses aux moyens d'abus proposés par Joachim Fournel (Fornel), prêtre, chanoine de l'église cathédrale de Québec et official dudit diocèse, demeurant Place du marché, appelant comme d'abus d'un rescrit du 2 juin 1741 pris par l'intimé," 2 juin 1741, BAnQ TP1,S777,D101.

<sup>118</sup> "L'an mil sept cent quarante deux le cinq Janvier a la requeste des Sieurs havy et lefevre negociants aud cette ville domicile continüé en la maison du Sr. Nouette Scize rue St. Joachim," from "Mémoire des dépens à payer par le sieur Rhéaume, négociant demeurant à l'île Jésus, à la requête des sieurs Havy et Lefebvre, négociants en la ville de Québec, à la suite de l'arrêt du Conseil supérieur de Québec du 23 octobre 1741," 12 décembre-13 janvier 1742, BAnQ TP1,S30,D231.

François Lamothe, had homes in the French Antilles, adding to the French Atlantic character of Nouette's clientèle.<sup>119</sup> At least 11 were born in France.<sup>120</sup>

The 44 clients have also been classified according to their social standing in the colony. Those categorized as colonial élite were either members of French noble families, members of the Superior Council, judges in royal jurisdictions, military commanders, principal merchants, gentlemen (*chevalliers*, *écuyers*, or *gentilhommes*), or land-owners (*seigneurs*). Those falling into the middling category were either merchants (*négociants*, *marchands*, or *marchands bourgeois*), military officers, parish priests and brothers, or ship captains. If they were women, they were the wives or widows of men who would have fallen into this category. Those classified as labourers or independent workers were craftsmen, *habitants*, and *voyageurs*. In total, seven members of the colonial élite and eight independent workers hired Nouette. The remaining 66% of the available sample belonged to the middling social group.

Eight women appear among these 44 clients, therefore representing nearly 20%. This is a considerable percentage given that married women (unless widowed) were not allowed to appear in court without the permission of their husbands. The details of women's roles in court will be revealed through case studies in Chapter 2. Where women appeared as members of a legal party, but did not play the leading role, they have not been included in the female category of Nouette's clients.

The trial records (including notes permitting Nouette to act in a legal setting the name of a party, trial minutes, ordinances and decrees rendered by Intendant Hocquart) associated with these 44 clients represent a wide array of topics within civil and maritime law. Sixteen disputes arose from financial transactions, usually with one party claiming that the other owed a debt. Eleven cases followed disagreements over a familial

---

<sup>119</sup> Brett Rushforth has determined through archival searches in Martinique that Dormicourt owned a sugar plantation there ("The Trials of Marie-Marguerite: A Journey through the Indian Slave Trade," presented in Princeton, 2004). See also "Arrêt qui continue l'audience à lundi prochain, auquel jour sera fait droit aux parties, dans la cause entre le sieur François Lamothe, négociant au Cap-Français des îles de Saint-Domingue, veuf de défunte Marie Nolais (Nolet), appelant de la sentence rendue en la Prévôté de Québec, le 3 octobre 1741, comparant par le sieur Nouette, contre Nicolas Caron, comparant par le sieur Panet," 13 novembre 1741, BAnQ TP1,S28,P19184.

<sup>120</sup> This number is based on searches on the website of the *Programme de recherche en démographie historique* (hereafter *PRDH*).

inheritance. Five cases evoked issues related to land, whether access to or ownership of it. Another five fell under the category of maritime law. Three disputes arose over legal administration and procedure, including the punishment of one party for using “des termes injurieux” during a trial.<sup>121</sup> Another three cases originated as marital controversies, whether between spouses or about the validity of the marriage contract in the first place. Finally, Nouette worked on one freedom suit. Clearly, he dabbled in a variety of legal areas.

Cameron Nish estimates the yearly earnings of government functionaries to be approximately 300 to 400 *livres* per year.<sup>122</sup> John Dickinson has found that one legal practitioner made 75 *livres* in one case, and estimates that criminal judges could count on an annual salary of 300-400 *livres* per year.<sup>123</sup> The five-month *Havy et Lefebvre c. Araby* case (1742-1743), to be discussed in Chapter 2, cost the losing party a total of 100 *livres*, but this was to be split among all legal professionals involved.<sup>124</sup> Nouette’s salary ranged from 3 *livres* for approximately one day’s work, to 400 *livres* for his involvement in the much longer *De Couagne c. Monière* case which dragged on over 15 years (beginning one year before his arrival and dragging on well beyond his stay in the colony. However, the latter was an amount that Nouette claimed, not an amount that had actually been paid

---

<sup>121</sup> “Appel mis à néant de l’ordonnance rendue par le lieutenant général en la Prévôté de Québec, le 13 juin 1741, dans la cause entre Pierre Raymond, maître cordier à Québec, comparant par Nouette, son procureur, contre Olivier Abel, capitaine de navire, comparant par Panet, porteur de pièces.” 26 juin 1741, BAnQ TP1,S28,P19114.

<sup>122</sup> Cameron Nish, *Les Bourgeois-Gentilshommes de la Nouvelle-France, 1729-1748* (Montréal: 1975), 40.

<sup>123</sup> Dickinson cites André Lachance’s doctoral thesis, which puts the average income for a criminal judge at 446 *livres*, 17 *sols*, 6 *deniers* (*Justice et justiciables*, 85).

<sup>124</sup> “Arrêt dans la cause entre les nommés François Delisle, capitaine en second, Pierre Deschamps et al., maître et matelots sur le bateau L’Expérience, appelants de la sentence rendue en l’Amirauté de Québec, le 17 novembre 1742, contre les sieurs François Havy et Jean Lefebvre, négociants à Québec, faisant tant pour eux que pour les autres intéressés dans l’exploitation du poste de la Baie-des-Châteaux, et encore entre Augustin Araby, capitaine du dit bateau L’Expérience, partie intervenante, et les dits sieurs Havy et Lefebvre et compagnie, défendeurs, sur la dite intervention, et encore d’autre part Jacques Lecourt, aussi partie intervenante,” 8 février 1743, BAnQ TP1,S28,P19384.

out to him.<sup>125</sup> Was he, then, able to make a living for acting intermediary between society and court in the colony of Québec? Something of Nouette's material circumstance can be discerned when one considers that he owned a watch,<sup>126</sup> a hat with a border in gold, and sword forged of silver.<sup>127</sup>

## 1.5 Conclusion

The introduction to this paper framed a discussion of legal practice in colonial spaces. Concepts used by scholars of law in early America and early Canada (such as legality and legal *métissage*) were introduced. This chapter has also reviewed literature directly pertaining to the practice of law in the colony of New France. Despite several notable studies, the relative dearth of this literature has been revealed. While the contours of legal institutions in early Canada have been sketched, there are few studies on civil law in the pre-British Conquest period, and even fewer detailed analyses of how law was applied in everyday situations. This literature review has laid the groundwork for this thesis, which aims to provide one such detailed analysis by reconstructing the practice and networks of the legal practitioner Jacques Nouette de la Poufellerie.

It has first been necessary to clarify the meaning of *praticien*, the term used by contemporaries to connote the agent at the centre of this study. Turning to 18<sup>th</sup>-century dictionaries has shown that practitioners were regarded in a condescending manner by highly educated legal scholars. They can be contrasted to lawyers, or *avocats*, who

---

<sup>125</sup> "Procès de Charles-René de Couagne contre Alexis LeMoine Monière, marchand de Montréal, et aussi Procès de Louis de LaCorne, écuyer, sieur de Chapt, officier d'une compagnie des troupes de la Marine en Nouvelle-France, défendeur, contre Pierre Fortin, demandeur," 24 octobre 1739-31 décembre 1754, BAnQ TL5,D1742. "Nouette s'oppose pour ce qui luy est dû, tant par le travail desd. pieces, que pour celles qui sont entre les mains de M. Guillaume Rapporteur, pour son voyage de Montreal l'année dernière fait pour son compte, et pour une somme d'environ 400 livres, a luy deub par led. S. de Couagne, pour avoir levé au greffe de Montréal, des instances partage et transaction d'un grand prix," in "Saisie et inventaire," 17.

<sup>126</sup> "Procès entre Jean-Baptiste Guyard (Guyart), huissier, plaignant, et Jacques Nouette, sieur de la Poufellerie [sic], accusé de calomnie," 22 août-1 septembre 1742, BAnQ TL4,S1,D4874. In this case, Guyard accused Nouette of calumny for accusing Guyard of having stolen his watch.

<sup>127</sup> "Procès entre F.M de Couagne, négociant, demandeur, et Jacques Nouette de la Poufellerie [sic], défendeur, pour saisie," 8-9 mai 1743, BAnQ TL4,S1,D4958. Claiming that Nouette had defaulted on the debt of 140 livres he owed Couagne, Couagne demanded that the court seize Nouette's hat and sword.

studied at the university and were held in high esteem. In the colony, it was acceptable for professionals with legal skills to act alternatively as court clerks, process-servers, and legal proxies. Legal practitioners, therefore, occupied the liminal spaces between court room roles that in metropolitan theory were clearly demarcated.

Even within these liminal spaces, however, hierarchies did exist between regular practitioners and senior practitioners in the colony, as the overview of Nouette's professional network shows. Forty legal practitioners were found on notarial record in the pre-British Conquest period. Of these, eight earned the title of senior practitioner and could be called upon to act as judges in urgent or unusual situations. Nouette was not one of these. Neither did Nouette, like some of his cohort, successfully plant roots in the colony. He did not marry, and in contrast to the Panet brothers, he is not remembered as part of the embryo of the nascent judicial milieu in Québec.

The collective biography of Nouette's clients, in contrast, shows that for the three years he resided in the colony, Nouette was an active member of the legal milieu. An educated estimate at the total number of his clients between the years 1740 and 1743 lies at 100. Of these, a broad range of details have been found for 44 parties. Based on this sample, it seems that most of Nouette's cases took place at the *Prévôté* of Québec, and approximately half were appealed to the Superior Council. Most of his clients lived in the colony's more-populated centres of Québec, Montréal, and Trois-Rivières (in that order of frequency). While most of Nouette's clients belonged to the middling socio-professional group, at least eight members of the colony's judicial élite did hire him. Finally, at least eight women invoked his legal aid.

Because the courtroom was embedded in the society of which it was a part, these broad outlines of the socio-economic nature of Nouette's clientèle need to be kept in mind while examining a select few of the cases he took on. The microhistories that follow will serve to vivify the colonial courtroom space that has been largely ignored by scholars.

## CHAPTER 2

### “Mauvais Procez”

Among the rich pool of historical sources adumbrated thus far, a limited number of the parties for whom Jacques Nouette de la Poufellerie acted in court have been chosen for further study to help answer the question of why Intendant Hocquart portrayed Nouette as such a controversial figure, an instigator of “mauvais procez.”<sup>128</sup> The intent of this microhistorical approach is to vivify the scene of the early Canadian courtroom, which has seldom been analyzed in detail. This can also serve as a window into the society of New France. It appears that at least some of the parties who hired Nouette as their legal representative hoped to use the courtroom as a forum within which to pose social, moral, economic, and political questions. What does the process of pleading one’s grievances in court demonstrate about legality in the French Atlantic?

#### 2.1 Case Study #1: The 1740 Freedom Suit of Marie-Marguerite

*Marie-Marguerite Duplessis Radisson (Ratisson) c. Marc-Antoine Huard Dormicourt (D’Ormicourt-D’Ormicour)* (1740). In October 1740, the *Prévôté* sat to hear the only manumission suit that would take place during the Ancien Régime period in Québec.<sup>129</sup> Marie-Marguerite Duplessis Radisson, an enslaved Aboriginal approximately 22 years-old was the supplicant, and Jacques Nouette served as her legal proxy. While Marcel Trudel has sketched the contours of Marie-Marguerite’s trial,<sup>130</sup> and Brett Rushforth has traced her itinerary from Wisconsin to Martinique, enriching the French

---

<sup>128</sup> “Lettre de Hocquart au Ministre,” 3 novembre 1743, National Archives of Canada C11A vol. 62, fol. 274-275.

<sup>129</sup> A slave by the name of Étienne sued for and successfully won her freedom in 1761, in a British military tribunal. See Marcel Trudel, *Deux siècles d’esclavage au Québec* (Montréal: 2004), 236-239.

<sup>130</sup> Trudel, *Dictionnaire des esclaves et de leurs propriétaires au Canada français* (LaSalle: 1990), 141-7.



Atlantic literature on the Aboriginal slave system,<sup>131</sup> the legal aspect of her trial has been under-studied. This paper intends to fill that void.

That Marie-Marguerite only had one eye is an important clue as to her origins, writes Rushforth. Most of the 4,200 slaves found in Québec's colonial archives between 1670 and 1760 were Aboriginal.<sup>132</sup> The enslavement of Aboriginals in early Canada differed from plantation slavery in Louisiana and the French Antilles. Usually, Aboriginal slaves were first enslaved through kidnapping by other Aboriginal communities during blood wars intended to make up for lost tribal members. Those Aboriginal communities would give their slaves to French allies as signs of friendship and peace.<sup>133</sup> Marie-Marguerite, Rushforth suspects, originated in Iowa and had been enslaved by the Winnebago nation.

Aboriginals who were kidnapped were often forced to "run the gauntlet." A throng of Aboriginals from the victorious community would hurl not only invectives, but also scratches, cuts, and near-fatal blows at their victims. These were meant to humiliate and scar members of the enemy nation before subsuming them into the new community as replacements for their lost members. In the worst of cases, a hot ember coal would be used to burn out the victim's eye. Marie-Marguerite, thus, may well have borne the harshest mark of Aboriginal slavery. After the Winnebagos captured and tortured Marie-Marguerite, they offered her as a gift (symbolic of alliance) to the French trader René Bourassa in 1726. Accepting Marie-Marguerite, Bourassa gave the Winnebagos his word to remain at peace with them. For a brief time, Marie-Marguerite worked as a field hand on Bourassa's property in Michilimackinac.<sup>134</sup> In 1727, Bourassa offered her to Madeleine Coulon de Villiers, the widow of another Montréal merchant, François

---

<sup>131</sup> Brett Rushforth, "The Trials of Marie-Marguerite: A Journey through the Indian Slave Trade," (Princeton: 2004).

<sup>132</sup> Trudel, *Dictionnaire des esclaves et de leurs propriétaires au Canada français*.

<sup>133</sup> For more on the gift-giving of Aboriginal slaves as a tool of diplomacy, see Rushforth, "'A Little Flesh We Offer You': The Origins of Slavery in New France," *The William and Mary Quarterly* 60:4 (October 2003): 777-808, as well as Rushforth, "Savage Bonds: Indian Slavery and Alliance in New France," (Ph.D. diss., University of California, Davis, 2003).

<sup>134</sup> This reconstruction of Marie-Marguerite's origins relies on Rushforth's "The Trials of Marie-Marguerite."

Duplessis-Fabert. Madeleine Coulon de Villiers resided at the house of Montréal merchant Étienne Volant de Radisson, which is why Marie-Marguerite assumed the last name Duplessis-Radisson.<sup>135</sup> After Madeleine's death, in 1740, Marie-Marguerite was handed over to Marc-Antoine Huard Dormicourt, a Martinique sugar plantation owner engaged in commercial transactions in the town of Québec.<sup>136</sup>

Slavery in New France, Rushforth concludes, was implicated in a complex politics of French-Aboriginal alliances.<sup>137</sup> Only enslavement of those individuals believed to belong to the *Panis* or other distant nations was regarded as legal. However, the use of the label *Panis* in court records should not be taken at face value. It was rather a blanket term for all Aboriginal groups, “dont la nation est très éloignée de ce pays.”<sup>138</sup> The legality of slavery in New France was thus connected to geography. However, the enslavement of Aboriginals firmly accepted in New France. On April 13, 1709, Intendant Raudot issued an ordinance officially approving such slavery, and claiming that it was as essential to the inhabitants of New France, as was plantation slavery to the inhabitants of Louisiana and the French Antilles. That Hocquart re-issued this ordinance in 1733 suggests that murkiness remained around the legality of Aboriginal slavery in New France.<sup>139</sup> Such lack of clarity persisted into (and perhaps beyond) 1740, when the *Prévôté* of Québec agreed to hear Marie-Marguerite's case.

The *Code Noir* was specifically aimed at governing the treatment of African slaves in the French colonies, especially the West Indies, and not directly relevant to the legal questions posed by the enslavement of Aboriginals. It was meant to serve as a guiding principle, but this was not always the case in reality. Had the *Code Noir* been

---

<sup>135</sup> Beaugrand-Champagne, *Le procès de Marie-Josèphe-Angélique*, 37-8.

<sup>136</sup> While it is clear that Marc-Antoine Huard Dormicourt believed himself to be the master of Marie-Marguerite in early autumn 1740, it is unclear whether he paid for, inherited, or otherwise received “possession” of her. “Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt,” 1.

<sup>137</sup> Rushforth, ““A Little Flesh We Offer You,” and “Savage Bonds: Indian Slavery and Alliance in New France.”

<sup>138</sup> Quoted in Trudel, *Deux siècles d'esclavage au Québec*, 52-55.

<sup>139</sup> Rushforth, “The Trials of Marie-Marguerite.”

strictly followed, the court would have ignored Marie-Marguerite's claim to freedom and plainte against her master. Articles 30 and 31 read:

30. *Slaves are not allowed...to be named as...witnesses, in either civil or criminal matters; and in cases where they are heard as witnesses, their dispositions will only serve as memoranda to aid the judges in the investigation, without being the source of any presumption, conjecture or proof.*

31. *Nor can slaves be party, either in judgement or in civil suits, as plaintiff or defendant, neither in civil or criminal suits, except to act for or defend their masters in civil proceedings and to pursue in criminal matters the reparation of insults or excesses that are committed against their slaves.*<sup>140</sup>

The *Code Noir*, thus, divested slaves of any legal personality. What then, spurred to Marie-Marguerite to pursue legal mechanisms to gain her freedom? Appeal to the courts for manumission was a last resort, undertaken usually when other paths had been exhausted.<sup>141</sup> Shortly before her trial, Marie-Marguerite had attempted to arrange for sale to [Nicolas] Bailly de Messein, who was presumably in her opinion a more merciful master than Dormicourt.<sup>142</sup> For unclear reasons, Dormicourt imprisoned Marie-Marguerite, and it was during her time in prison that her freedom suit was launched.

Canon Charles Plante was the intermediary who connected Marie-Marguerite to her legal practitioner, Jacques Nouette.<sup>143</sup> Perhaps on a weekly charity visit to the prison at the Palace of the Intendant, Canon Plante took pity on her. For twenty-seven years, he had run a house with the goal of taking in prostitutes, lifting them up out of poverty, and

---

<sup>140</sup> "The Code Noir (1685)," reproduced in Peabody and Grinberg, *Slavery, Freedom and the Law*, Document 1.

<sup>141</sup> This is Sue Peabody's conclusion from her analysis of over 150 freedom suits that took place in the French metropole starting in 1738. See Peabody, *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime* (New York: 1996). See also Brana-Shute, Rosemary, and Randy J. Sparks, eds, *Paths to Freedom: Manumission in the Atlantic World* (Columbia: 2009).

<sup>142</sup> In one of his appearances in court, Dormicourt makes reference to this S<sup>r</sup> Bailly de Messein. See "Marie-Marguerite Duplessis Radison c. Marc-Antoine Huard Dormicourt," 6. A search for this last name between the years 1735 to 1745 in the *Pistard* database shows that Nicolas Bailly de Messein, an écuyer and officer in the Marine, resided in Québec City in 1742. See, "Contrat de mariage passé pardevant maître Pinguet, notaire royal en la Prévôté de Québec, entre Jean-Baptiste Hivert (Hiver dit Juin), capitaine commandant les vaisseaux marchands, fils de feu Robert Hivert et d'Anne Lamarre, ses père et mère, de la paroisse Saint-Laurent, sur le bord de la mer, évêché de Bailleux, présentement en la ville de Québec; et Marie-Josèphe Bailly, de la paroisse Notre-Dame-de-Québec, fille de Nicolas Bailly de Messein, écuyer, lieutenant réformé des troupes du détachement de la Marine en ce pays, demeurant en la ville de Québec, et de défunte Anne Bonhomme, ses père et mère," 13 août 1740, BAnQ CR301,P2233.

<sup>143</sup> In the inventory of Nouette's papers taken in 1743, some papers pertaining to the trial of Marie-Marguerite appear in file number 46, "Un item contenant seize pieces de procedure appartenante a Margueritte Duplessis, que le Sieur dormicourt prétendoit etre sa panisse de la quelle affaire ledit Sieur Noüette a été chargé par M. Plante curé de la paroisse de Quebec, a qui luy doit Ses frais, Inventorié sous la Cotte quarante six," in "Saisie et inventaire," 17.

teaching them the ways of Catholicism.<sup>144</sup> A plan was devised to seek Marie-Marguerite's manumission in court. Canon Plante's hope may have been to bring her closer to Catholicism, as he had many women. Canon Degannes de Falaise was made the "garant En son propre Et privé nom des pertes depens dommages Et Interest de la Requerante," and thus obliged to cover her legal costs.<sup>145</sup>

Prior to her trial, the Catholic Church had been present at crucial turning points in Marie-Marguerite's life. At the age of 13, she bore a child who was baptised and died shortly thereafter.<sup>146</sup> As a slave in Montréal, Marie-Marguerite would also have attended weekly Sunday Mass at the Cathedral of Notre-Dame on Rue St-Paul, although she would not have taken communion.<sup>147</sup> In other studies, it has been noted that some religious denominations (such as Quakers, Baptists, and Methodists), took definitive anti-slavery stances,<sup>148</sup> and it appears that there was some semblance of this in Marie-Marguerite's case.

It has also been shown that manumission rates were higher among literate slaves and in urban centres.<sup>149</sup> Having grown up on Rue St-Paul, or what has been considered the "heart of the Aboriginal slave community," in Montréal, Marie-Marguerite may well have encountered Marie-Josèphe-Angélique, the black slave accused of starting the Great Fire of Montreal in 1734.<sup>150</sup> Beaugrand-Champagne's study has shown that Marie-

---

<sup>144</sup> Armand Gagné, "Plante, Charles," *Dictionary of Canadian Biography*, vol. IV.

<sup>145</sup> "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 26.

<sup>146</sup> A record from 1728, referring to "Marguerite, Sauvagesse Panis appartenant à Madame Duplessis," shows that Marguerite bore a child in approximately November 1727, thus less than a year after her arrival in Montreal. See, "L'Inhumation de Marie-Françoise, fille d'une Sauvagesse de Québec," 25 janvier 1728 (*Family Search*: Paroisse de Notre-Dame-de-l'Annonciation, L'Ancienne-Lorette).

<sup>147</sup> Trudel, *Deux siècles d'esclavage au Québec*.

<sup>148</sup> Robin Blackburn, "Introduction," in *Paths to Freedom: Manumission in the Atlantic World*, Brana-Shute and Sparks, eds., (Columbia: 2009), 10.

<sup>149</sup> "Slaves situated closer to the centres of colonial administration and to the culture and ways of the dominant group used the Spanish judicial and legal system to claim similar rights," writes Alejandro de la Fuente, "Slave Law and Claims-Making in Cuba: The Tannenbaum Debate Revisited," *Law and History Review* 22:2 (Summer 2004): paragraph 23.

<sup>150</sup> Fifty-percent of those who owned a property title on Rue St-Paul also owned a slave, writes Rushforth in "The Trials of Marie-Marguerite," 4.

Marguerite resided in the household of Étienne Volant de Radisson on the day of the Great Fire.<sup>151</sup> Marie-Marguerite may have been aware of the trial against her friend, which eventually came to its tragic end when Marie-Josèphe-Angélique was convicted and hanged.

On September 11, 1740, Marie-Marguerite signed a *procuration*, or a document vesting Nouette with the power to handle her legal affairs.<sup>152</sup> That she signed this document indicates alphabetism, or the ability to sign her name, although not necessarily literacy, or the ability to use the written word to communicate ideas.<sup>153</sup> Marie-Marguerite, thus, must have benefitted from the uncommon practice of educating slaves along with the children of the household.<sup>154</sup> There were six children in the Radisson household, excluding Marie-Marguerite.<sup>155</sup> Perhaps whatever level of education she had is what spurred her to think about her legal rights. Her *procuration* reads:

*Margeruite Duplessy...a Créé son procureur general et Special la personne de Jacques Nouette Sieur de la Poufellerie auquel Elle donne pouvoir de pour elle et en son nom suivre l'Instance d'Entre la Constituante et le sieur Dormicourt pour raison de Son estat de liberté pendante et indecise au Conseil Superieur de cette ville, d'intenter pour raison de ce toutes Instances en Toutes Juridictions, de poursuivre par les voyes ordinaires et extraordinaires Toutes personnes pour raison de toutes Injures, former en consequences Telle demandes quil avisera et les poursuivre Jusqu'à Jugements definitifs, elire domiciles, Constitutuer procureurs, les revocquer, en substituer d'autres promettant l'avouee.*<sup>156</sup>

This is the most complete and comprehensive *procuration* to Nouette I have come across, which speaks to the impotence of slaves in legal settings. Many of Nouette's free clients appeared in court "assisté du Sieur Nouette," perhaps so they could keep an eye on him and make sure he really did act in their interest. Other *procurations* allowed Nouette to appear in court for the party, sign documents on their behalf, and elect their official address. This *procuration* not only empowered Nouette to appear in court in the stead of Marie-Marguerite and elect her official address, but also to act on her behalf for an

---

<sup>151</sup> Beaugrand-Champagne, *Le Procès de Marie-Josèphe-Angélique*, 37-8.

<sup>152</sup> "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 16-17.

<sup>153</sup> Michel Verrette, "L'alphabetisation de la population de la ville de Québec de 1750 à 1849," *RHAF* 39:1 (1985), 60-68.

<sup>154</sup> Trudel, *Deux siècles d'esclavage au Québec*, 149-150.

<sup>155</sup> Beaugrand-Champagne, *Le Procès de Marie-Josèphe-Angélique*, 37-8.

<sup>156</sup> "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 16-17.

undetermined period of time, in any jurisdiction; to pursue in court any persons who may have wronged Marie-Marguerite on account of her liberty; to initiate any further complaints he deems necessary; and to sign further *procurations* on her behalf. It was likely drafted by an individual familiar with the restrictions on the legal standing of slaves, as outlined in the *Code Noir*. The strategy seems to have been to persuade the court to hear Marie-Marguerite's case through Nouette, an individual whose legal standing was uncontested.

On October 4, Nouette submitted in writing to the *Prévôté* of Québec the crux of his legal argumentation. It read:

*Il est cependant certain, que quoique la suppliante n'ait pas l'avantage d'être né d'un mariage légitime, elle n'est pas né d'une Esclave, et que par conséquent, Elle est née libre. Cependant on lui conteste son état, dans le têmes même qu'estant sur les terres de l'obeissance de sa majesté, qui sont un pays de liberté pour tous ceux qui, Comme la Supliante, font profession de la religion Catholique apostolique et Romaine, Son esclavage cesseroit par la raison qu'elle Seroit par ce devenue Sujette du Roy.*<sup>157</sup>

With these words, Nouette based his argument on two legal justifications. First, he claimed, Marie-Marguerite's enslavement was illegitimate because she was a practicing Roman Catholic. The territory of the King, he declared, was a land of freedom for all those who professed the Roman Catholic faith. While this demonstrates that Nouette believed himself to be operating under French law, even when he found himself across the Atlantic, it also demonstrates his lack of familiarity with colonial law and slavery. In 1733, the Superior Council, with Hocquart at its head, had approved the sale of a baptised slave as repayment for a debt.<sup>158</sup> Perhaps because this question had already been settled, this element of Nouette's legal argument was largely ignored by Dormicourt and the court.

Second, Nouette tried to base his argument on the idea that as the illegitimate daughter of a free man, Marie-Marguerite had inherited a free status. Dormicourt, in response, fulminated. He insulted Marie-Marguerite (although she was probably in prison at the time of the trial) by calling her a libertine, thief, drunkard, and rogue.<sup>159</sup> Beneath his emotionally-charged defense, however, lay some points valid under the laws

---

<sup>157</sup> Ibid., 1.

<sup>158</sup> Trudel, *Deux siècles d'esclavage au Québec*, 56.

<sup>159</sup> "C'est une gueuse et une libertine, une voleuse, une ivrognesse, qui joint à cela bien d'autres défauts," Dormicourt declared in "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 6.

on colonial slavery. Responding to Nouette's claim, Dormicourt asserted that filial lines must be proven either by witness testimony, or baptismal certificate. The court declared that in 15 days, Nouette must produce the baptismal record.<sup>160</sup> The latter existed, would likely have been available to Nouette, and clearly stated that Marie-Marguerite was a *Panis* slave.<sup>161</sup> Because it would not have worked in his client's favour, Nouette evaded the court's order to produce this baptismal certificate.

Dormicourt, furthermore, alluded to the Ordinance of April 13, 1709. "A legar des panis ils Sont Reconnus Esclaves Parmy nous," he asserted.<sup>162</sup> Additionally, he hinted at Article 13 of the *Code Noir* when he insisted that even if Marie-Marguerite was the daughter of a free man, she would have inherited her status from her mother (who, Nouette purported, was an enslaved Aboriginal woman).<sup>163</sup> Finally, Dormicourt expressed a view on slavery and the law that was quite typical of his provenance in Martinique, where the *Code Noir* was strictly adhered to by plantation owners like himself. He declared,

*Le dit Sieur Nouette de la pouffellerie ne peut être Pr[ocureu]r d'une Esclave qui ne peut ny Estre En Justice ny Contracter Validement Sans le Consentem[en]t de Son m[aîtr]e Estant Lad. Esclave morte Civillem[en]t et Inabille pour tous droits et Effets Civils.*<sup>164</sup>

In Dormicourt's worldview, and under the *Code Noir*, a slave like Marie-Marguerite was civilly dead, barred from pursuing legal avenues of retribution.

Nouette, thus, lacked familiarity with colonial laws and legal practices on slavery. What he did demonstrate was an awareness of slaves in metropolitan France. In

---

<sup>160</sup> "On ne peut prouver telle filiation que par l'aveu du père ou par l'extrait du baptême, or la dite esclave a été baptisée à Montréal comme originaire de la nation de Panis sans faire mention du père ou de la mère," Dormicourt asserted in *Ibid.*, 5.

<sup>161</sup> "Baptême de Marie-Marguerite Duplessis-Radisson," 8 July 1730 (*Family Search*: Paroisse de Notre-Dame-de-Montréal).

<sup>162</sup> "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 6.

<sup>163</sup> "Quand un père français reconnaît une esclave pour sa fille, cela ne lui donne pas sa liberté futur," in *Ibid.*, 5. Article 13 of the *Code Noir* reads, "We desire that if a male slave has married a free woman, their children, either male or female, shall be free as is their mother, regardless of their father's condition of slavery. And if the father is free and the mother a slave, the children shall also be slaves" (Peabody and Grinberg, Document 1).

<sup>164</sup> "Marie-Margueite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 42.

one his arguments, he referred to the legal rights of slaves brought from the French sugar islands, to Paris. These slaves, he insisted, could not be held in prison for more than 24 hours without the issuance of a reason for their imprisonment (*écrou*).<sup>165</sup> This reference provides a strong basis upon which to assume that Nouette had encountered slaves in metropolitan legal settings before arriving in the colony. Perhaps a court clerk, process-server, or even an unlicensed legal proxy, Nouette had witnessed the unfolding of a manumission suit in France. Indeed, the successful manumission suit of the black slave Jean Boucaux at the Admiralty Court in Paris between June and September 1738 had caused an uproar in all of France. Boucaux's lawyer had printed and distributed pamphlets outlining the legal argumentation for this slave's manumission.<sup>166</sup> Perhaps Nouette had read this document, or even observed the case in person.

At 8 am on October 20, the Superior Council summoned Nouette, Dormicourt, and interested members of the public to hear the issuance of the final decision in Marie-Marguerite's freedom suit. It must be remembered that Hocquart himself owned five Aboriginal slaves. It has elsewhere been suggested that Hocquart hoped to expand the Aboriginal slave system to the French Antilles, in a wider effort to boost the colony's economy. Perhaps this context can help explain why Hocquart ceremoniously stated, "il nous plaise de prononcer définitivement...la ditte Marguerite esclave Panis."<sup>167</sup> He declared Dormicourt her rightful owner, and allowed him to do with her whatever he pleased. Missing in his ordinance was any direct discussion of the legal, social, or moral questions the trial had raised, such as the reference to slaves as civilly dead and legally

---

<sup>165</sup> "Mêmes les esclaves amenés des Isles a Paris, qui ne sont ni libres ni en possession de liberté, lors qu'ils sont traduits dans les prisons, ne peuvent y être tenus plus de vingt quatre heures sans ecrou," in "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 39.

<sup>166</sup> Sue Peabody cites a letter written by the King's minister to the King's Prosecutor at the Admiralty Court, that "It has appeared proper to terminate this affair, which, as you know, has already made too much uproar." See April 25 1739, "Maurepas to M. Le Clerc du Brillet, April 25, 1739," *Archives nationales Paris*, Colonies F3 79, Collection Moreau de Saint-Méry, fol. 27 in Peabody, *There Are No Slaves in France*, 156. The Boucaux c. Verdelin case was also included in the 1747 edition of *Causes célèbres et intéressantes*, Peabody writes.

<sup>167</sup> "Ordonnance de l'intendant Hocquart qui déclare Marguerite Radisson dite Duplessis esclave de Marc-Antoine Huart (Huard), chevalier Dormicourt, lieutenant dans les troupes du détachement de la Marine," 20 octobre 1740, BANQ E1,S1,P3281.



impotent. That only a brief reasoning accompanied the decree must have been infuriating for both Marie-Marguerite and Nouette.

We lose track of Marguerite after this. Most likely, however, she was placed on one of the last ships sailing from Quebec to the French sugar islands in October 1740--a far cry from her birthplace in the continental plains. Did she survive the journey? Having tried the Superior Council Québec as her last resort path to freedom, did she take her own life? If she did reach Dormicourt's plantation on Martinique, what kind of work did Dormicourt assign her--arduous field work as punishment for her incorrigibility, or the lesser evil, enslaved domestic servitude? Little of this can be known for certain.

In addition to telling an Atlantic story, her itinerary through the colonial court system contributes to a wider literature on slavery and the law. Although Nouette may have failed to win Marie-Marguerite her freedom, he did help her bring her grievance to the courtroom, thereby implicitly bringing into question the legal impotence of slaves in the French Atlantic World. This case study affirms the viewpoint that courts, more than other social venues, served as fora for the gradual erosion of commonly held notions on slavery and personal liberty.<sup>168</sup>

## **2.2 A Note on the Professional Relationship of Nouette and Dormicourt**

A second source recently uncovered raises more questions than it does provide answers about the relationship between Marie-Marguerite and Nouette. Coterminously with Marie-Marguerite's trial, Nouette was working on a case for Marc-Antoine Huard

---

<sup>168</sup> "One of the most important sites where people thrashed out the meanings of slavery and freedom was in the judicial courts....Kings and politicians might pronounce laws, but when disputes arose, it was the judges and juries who ruled on them, creating immediate, tangible results in people's lives. Slaves and free people of colour could in certain circumstances claim rights in court, framing their interests in a new, emerging language of citizenship, natural law, and humanity," in Peabody and Grinberg, *Slavery, Freedom and the Law*, 2.

Dormicourt in a financial dispute he had with Jean-Baptiste L'Archevêque.<sup>169</sup> On September 11, 1740, “entre les guichets des prisons comme lieu de liberte en presence du geollier et Nottaires Soussignés,” Marie-Marguerite signed the *procuration* to Nouette, discussed above.<sup>170</sup> On September 12, a controversy between Dormicourt and L'Archevêque had been settled at the first instance. On September 19, the Superior Council issued a decree (*arrêt*) indicating that L'Archevêque was indeed indebted to Dormicourt. On or before the first of October, Nouette drew up and signed, on behalf of Dormicourt, a request that a commissary be named to enforce L'Archevêque to pay his debts to Dormicourt.<sup>171</sup> This was the same day that process-servers had been deployed to order Dormicourt to appear in court to defend himself against Nouette, the legal proxy of his slave.<sup>172</sup>

Why then did Nouette agree to the proposition by Canons Plante and De Falaise that he offer legal aid to a slave, when that slave belonged to one of his clients? Was Nouette trying to sabotage Dormicourt? Had the two had a personal altercation? One might have expected Dormicourt to fire Nouette in response. After all, he had railed before members of the court that the accusation had sacrificed, “Sans preuve la Reputation dun honneste.” He had then declared, “Cest une Calomnie, Je demande Retraction.”<sup>173</sup> Perhaps it was during Nouette's early appearances in the colony that Hocquart's unfavourable impression of him was cemented.

---

<sup>169</sup> “... a la requête de Marc Antoine Huart chevalier d'Ormicourt lieutenant d'une compagnie des troupes du détachement de la marine Entretienüe dans ce pays par le Roy pour lequel domicile est Elu En la maison de Jacques Nouette Sieur de la Poufellerie Scize rue des Jardins” in “Mémoire des dépens à payer par Jean-Baptiste Larchevêque, à la requête de Marc-Antoine Huart Dormicourt (d'Ormicourt, d'Ormicour), lieutenant dans les troupes de la Marine, à la suite de l'arrêt du Conseil supérieur de Québec du 19 septembre 1740,” 1 octobre 1740-21 novembre 1740, BAnQ TP1,S30,D224, page 15.

<sup>170</sup> “Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt,” 16-17.

<sup>171</sup> “Mémoire des dépens à payer par Jean-Baptiste Larchevêque...,” 1 octobre 1740-21 novembre 1740, BAnQ TP1,S30,D224.

<sup>172</sup> “Vû le Renvoy Cy dessus Nous ordonnons que le sieur dormicourt soit assigné a Comparoir au premier jour d'audiance pour repondre aux fins de la présente Requête, Mandons fait à Québec le premier octobre 1740. André de Leigne,” in “Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt,” 3.

<sup>173</sup> “Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt,” 5.

The ongoing trial between Dormicourt and L'Archevêque indicates beyond a doubt that Nouette continued working for Dormicourt as his legal proxy, even after the freedom suit. On November 10, the record references, "Marc Antoine huart chevalier d'Ormicourt lieutenant....pour lequel domicile est Elu En la maison de Jacques Nouette Sieur de la Poufellerie Scize rue des Jardins."<sup>174</sup> These sources further complicate the image of Nouette because they show that even if he did agree to take on trials which raised progressive social questions, he was not entirely altruistic. They also suggest that there were very few legal practitioners between the years 1740 and 1743 in the colony of New France. Indeed, records consulted up to this point suggest that Pierre Poirier, Jean-Claude Panet, and Charles Turpin were the only ones Nouette encountered in court (See Appendix 1).

### **2.3 Case Study #2: The Havy and Lefebvre Records (1741-1742)**

*General Overview.* The people for whom Jacques Nouette appeared in court were not limited to the most disadvantaged and marginalized in society. However, the courtroom role he played differed vastly according to the social status of the legal parties in question. I now turn to his two-year involvement with the leading merchants François Havy and Jean Lefebvre as a counterpoint to his participation in Marie-Marguerite's freedom suit. I have chosen them to represent the most prominent among Nouette's clientèle. Havy and Lefebvre were not the only élite members of society in New France who elicited Nouette's legal services. Antoine Juchereau-Duchesnay hired Nouette in a May to November 1741 inheritance dispute with his sister that took place in the *Prévôté*

---

<sup>174</sup> "Mémoire des dépens à payer par Jean-Baptiste Larchevêque..." 1 octobre 1740-21 novembre 1740, BAnQ TP1,S30,D224, page 15. This should not be interpreted to mean that Dormicourt actually lived with Nouette. A scan of trial records shows that it was common practice for legal parties elect their domicile, or official address. The process-servers would deliver orders to appear in court there, and then it would be the responsibility of the legal proxy to relate these orders to their clients.

of Québec.<sup>175</sup> The King's Prosecutor and judge at the Royal Jurisdiction of Montréal, François Foucher, hired Nouette in his October 1741 dispute with the wealthy widow Geneviève de Ramezay.<sup>176</sup> Naval officer, ship owner, knight of the order of St. Louis, and member of the noble Irumberry family, Michel Sallaberry hired Nouette in two disputes which took place in the Admiralty Court of Québec in December 1741.<sup>177</sup>

In taking a detailed look at the records of cases concerning Nouette, Havy and Lefebvre, and reconstructing Nouette's exact role in the trial process, I seek to shed light on social relations as they played out in colonial courts. When this legal practitioner worked for members of the élite, was he simply a "porteur des pièces" who helped his clients navigate the judicial system? Or did he strategize and articulate persuasive speeches? Did his élite clientèle appear with him in court, or entrust him to successfully argue for them?

Factors of the Rouen-based trading company, *Dugard et cie*, the two young Huguenot men Havy and Lefebvre ran an import-export trade from their warehouse on Rue St-Pierre in the Lower Town of Québec. Over the thirty years the two men spent in the colony, they supervised the transaction of approximately 6 million *livres*. At its peak,

---

<sup>175</sup> "Un acte de pouvoir d'Antoine Juchereau à Nouette de la Souffleterie [sic], en tant que procureur général, dans son instance l'opposant à la veuve Pachot (Brassard, notaire royal en la Prévôté de Québec, 30 mai 1741)," 30 mai 1741, BAnQ TL5,D1260; "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 7 novembre 1741, dans la cause entre Jean-Etienne Dubreuil, huissier en ce Conseil, au nom et comme curateur à la succession vacante de Françoise Juchereau, veuve en premières nocces et commune en biens avec François Pachot, et en secondes nocces du sieur de Laforest, contre Antoine Juchereau Duchesnay, seigneur de Beauport, tant en son nom que faisant pour ses co-héritiers en la succession des feu sieur et dame Duchesnay, son père et sa mère, comparant par le sieur Nouette," 27 novembre 1741, BAnQ TP1,S28,P19189.

<sup>176</sup> "Appel mis à néant de la sentence d'adjudication rendue en la Juridiction de Montréal, le 23 juin 1741, dans la cause entre Geneviève de Ramezay, veuve de Louis-Henri Deschamps, écuyer et sieur de Boishébert, capitaine dans les troupes, Paul Becard, écuyer et sieur de Fonville, capitaine dans les troupes de la Marine et Geneviève Becard, sa soeur, aux noms qu'ils agissent, comparants par Jean Latour, notaire, contre François Foucher, conseiller du Roi et son procureur en la Juridiction de Montréal, comparant par le sieur Nouette, praticien," 23 octobre 1741, BAnQ TP1,S28,P19177.

<sup>177</sup> "Cause entre Jean Tessier, Jean Pierre, Guillaume Simon et Laurent Béchard, tous matelots sur le navire «le Fidel» (Fidèle), demandeurs, assistés du sieur Dorceval, leur procureur, contre le sieur Michel Sallaberry (Salaberry), capitaine dudit navire, défendeur, comparant par le sieur Nouette, à ce que le défendeur soit condamné à nourrir et payer les gages desdits demandeurs, ledit défendeur demande un délai de trois jours afin de fournir une défense à la requête contre lui formée, le délai est accordé audit défendeur," 20 décembre 1741, BAnQ TP2,S11,SS1,P39; "Cause entre le sieur Charles Caillot (Caillieu, Caillaud), capitaine en second sur le navire «le Fidel» (Fidèle), demandeur, assisté du sieur Dorceval, son procureur, contre le sieur Michel Sallaberry (Salaberry), défendeur, comparant par le sieur Nouette," 20 décembre 1741, BAnQ TP2,S11,SS1,P38.

their import trade accounted for one-tenth to one-eighth of all French imports sold in the colony.<sup>178</sup> Intendant Hocquart extolled them for their lasting contribution to Québec's economy by constructing six ships, whose value added up to 300,000 *livres*.<sup>179</sup> From the years 1732 to 1743, annual sales of French imports from their warehouse totaled about 200,000 *livres*, except for the excellent years of 1740-41 when sales soared to 300,000 *livres* annually.<sup>180</sup>

It was during this extremely prosperous period that Havy and Lefebvre hired Nouette to work as their legal proxy in two cases involving the sale of sea biscuits. When their economic prosperity began to dip in 1742, Havy and Lefebvre found themselves embroiled in a conflict with ship captain Augustin Araby, who in turn hired Jacques Nouette to argue against the merchants in court. Nouette, it will be seen below, argued both for and against Havy and Lefebvre, on separate occasions.

*Marie-Louise Corbin (Veuve Laroche) c. François Havy* (1741). The widow of a Québec-based baker named Laroche, Marie-Louise Corbin had filed a complaint in the *Prévôté*, against François Havy.<sup>181</sup> She claimed that he owed her 372 *livres*, presumably for sea biscuits he had purchased from her in order to stock one of his ships. In April, the *Prévôté* of Québec had ruled in her favour. Havy responded by filing an appeal in the Superior Council in July. While Widow Laroche hired Pierre Poirier to act as her legal proxy, François Havy hired Nouette. The suppliant and defendant apparently did not meet in court; rather they communicated through their intermediaries, the legal practitioners.<sup>182</sup>

---

<sup>178</sup> Dale Miquelon, "Havy, François," *Dictionary of Canadian Biography*, vol. IV.

<sup>179</sup> Dale Miquelon, *Dugard of Rouen: French Trade to Canada and the West Indies, 1729-1770* (1978).

<sup>180</sup> Miquelon, "Havy, François."

<sup>181</sup> The widowhood aspect of this case will be examined below.

<sup>182</sup> Because the record of the trial at the *Prévôté* of Québec is evidently not digitized, it is currently impossible to tell whether Nouette was involved in the dispute from the first instance. Thanks to legislation by Louis XIV, however, the appeal case record reviews the history of the dispute before it reached the Superior Council. "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 25 avril 1741, dans la cause entre François Havy, négociant à Québec, comparant par le sieur Nouette, contre Marie-Louise Corbin, veuve d'Augustin Laroche, boulanger à Québec, comparant par le sieur Poirier, praticien. Il est ordonné que ce qui est en appel sortira effet. L'appelant est également condamné à l'amende de son « fol appel » et aux dépens de la cause d'appel," 24 juillet 1741, BANQ TP1,S28,P19135.

How François Havy encountered Nouette is still a mystery, but the fact that he did suggests that one and half years after his arrival in the colony, Nouette had become a known legal practitioner. In contrast to the legal services Nouette provided for the enslaved and disenfranchised Marie-Marguerite, Nouette's role in Havy's dispute with Widow Laroche was minimal. Both he and Poirier are referred to in the trial record simply as "porteurs des pièces." This underscores the difference between lawyers (*avocats*) and legal practitioners (*praticiens*). Legal practitioners like Poirier and Nouette it can be seen, sometimes took a back-seat role in the trial process. While it is not impossible that Nouette gave Havy legal advice, there is also no record of this. In the end, Havy lost his appeal, was charged a fine for a *fol appel*,<sup>183</sup> and condemned to pay Widow Laroche 372 *livres*.

Perhaps because Nouette's role had not been crucial in determining the outcome of this trial, Havy (along with his business partner Jean Lefebvre this time) re-hired Nouette as his legal proxy in another dispute involving the purchase of sea biscuits just five months later. Their decision may also reflect a serious dearth of legal practitioners in the colony, leaving Havy with little choice but to re-hire Nouette. It is also not impossible that Havy and Lefebvre found common ground upon which to personally relate to Nouette. What all three men shared was an ambiguity in their socio-economic standings. As a legal practitioner, Nouette may not have earned a copious salary, but he would have gained respect on account of his literacy and legal knowledge.<sup>184</sup> Havy and Lefebvre were no doubt among Québec's most important traders. However, all three faced barriers to full entry into the society of New France. As Huguenots, Havy and

---

<sup>183</sup> The *Dictionnaire Universel François et Latin, Vulgairement Appellé Dictionnaire de Trévoux* (Paris: 1771) defines *fol appel*, "un appel mal fondé. Quand la sentence est confirmée, on paie l'amende du fol appel, qui est de 12 livres." Such a fine, although minimal, reflects an overloaded court system that did not want to waste its time on unfounded appeal cases. Not all losers of the appeal case were condemned to such a fine.

<sup>184</sup> This statement is based on Louis Lavallée's assessment of the social status of notary Guillaume Barrette, in "La vie et la pratique d'un notaire rural sous le régime français." Additionally, the results of Verrette's inquiry into literacy in Quebec City imply that Nouette would have been in the minority. Not only was he alphabetic, but also literate. Between the years 1750 and 1759, 43.1% of the population of the city of Québec, based on marriage contracts, could sign their names. Presumably an even smaller number would have been considered literate. See Verrette, "L'alphabétisation de la population de la ville de Québec de 1750 à 1849," 60-68.

Lefebvre were forbidden from marrying or permanently settling in the colony. Nouette, for his part, was ousted from the colony by personal enemies by November 1743. None of the men would leave descendants in the colony, which means that even today, their entry into mainstream literature (which relies heavily on genealogical records) is limited.

*Havy et Lefebvre c. Rhéaume* (1741-1742). Because at the time the case was nick-named *L’Affaire des biscuits*, it is worth pausing to ask what exactly is meant by biscuits, and why they may have been important in a merchant economy. The 1771 Dictionary of Trévoux defines biscuit as a “terme de Marine,” connoting a twice-cooked, long-lasting bun that can be stored on overseas voyages to provide sustenance for sailors. The word springs from the Latin root, “bi,” meaning twice, and the French root, “cuit.”<sup>185</sup> In mid-October 1741, a merchant by the last name of Rhéaume argued with Havy and Lefebvre about the price of biscuits. At the price of 8 *livres* (per some unrecorded quantity of biscuits), Havy and Lefebvre contested, the quality of the biscuits should be much better. They brought their case to the *Prévôté* of Québec, where they lost. On October 23, they appealed the case to the Superior Council. Hocquart ruled that “il sera procédé à une nouvelle visite des biscuits en question, par deux Experts qui seront convenus par les parties ou nommés d’office par le Juge.”<sup>186</sup> Nouette appeared in this stage of the trial only minimally, as “Nouet [sic], porteur des pieces.” The familiar legal practitioner Jean-Claude Panet, “aussi porteur des pieces,” was hired by Rhéaume.<sup>187</sup>

Two months later, an assessment of the biscuits had been undertaken, and Rhéaume had lost. Nouette next appeared on record as the legal proxy who settles minor financial affairs for Havy and Lefebvre. On December 12, in the presence of Superior Councillor Nicolas Lanoullier de Boisclerc, Nouette presented a detailed break-down of how much Rhéaume should pay for the costs of the appeal case that had taken place on October 23. The total sum, in his estimation, would be 47 *livres*. The court accepted

---

<sup>185</sup> *Dictionnaire Universel François et Latin, Vulgairement Appellé Dictionnaire de Trévoux* (Paris: 1771).

<sup>186</sup> “Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 18 octobre 1741, dans la cause entre les sieurs Havy et Lefebvre, négociants en la ville de Québec, comparants par le sieur Nouette, contre le sieur Rhéaume, négociant demeurant à l’île Jésus, anticipant, comparant par le sieur Panet,” 23 juillet 1741, BAnQ TP1,S28,P19179.

<sup>187</sup> Ibid.

most but not all of these claims, lowering the total to 40 *livres*, 15 *sols*. Nouette appeared in court to ascertain that the correct sums were laid upon Rhéaume on January 13.<sup>188</sup> While Havy and Lefebvre were presumably busy managing one-tenth of the colony's economy, they entrusted Nouette to preside over all of the technical aspects of their dispute with merchant Rhéaume.

These first two of Nouette's cases with Havy and Lefebvre bear a striking contrast to the trial record of Marie-Marguerite. Having come through with a resounding voice in the freedom suit of Marie-Marguerite, Nouette slips into the background of the financial disputes of the powerful merchants. When working for prominent men, it appears, Nouette regressed to performing the robotic functions more commonly associated with legal practitioners in France. He received court orders at his house, delivered documents to court, and ascertained that legal procedure was carried out in favour of his clients. If he exhibited any power, it was in familiarity with court procedure, not legal content. One year later, however, when Nouette came to the aid of a captain who had grievances against Havy and Lefebvre, he once again seized the opportunity to champion the rights of the underdog. As he did in Marie-Marguerite's freedom suit, Nouette tried his hand at roles usually filled by a lawyer, not a "mere" legal practitioner.

*Havy et Lefebvre c. Capitaine Augustin Araby* (1742). Secondary literature seems not have picked up on this case, although the trial involved two of Québec's most important colonial merchants, and though it dragged on from October 9, 1742 until its final resolution on February 8, 1743, leaving 189 pages of archival documentation.<sup>189</sup> There is no entry on Captain Augustin Araby in Miquelon's *Dugard of Rouen*, nor in the

---

<sup>188</sup> "Mémoire des dépens à payer par le sieur Rhéaume, négociant demeurant à à l'île Jésus, à la requête des sieurs Havy et Lefebvre, négociants en la ville de Québec, à la suite de l'arrêt du Conseil supérieur de Québec du 23 octobre 1741," 12 décembre 1741-13 janvier 1742, BAnQ TP1,S30,D231.

<sup>189</sup> Three documents pertain to the trial, together numbering 189 pages. "Procès opposant François Havy et Jean Lefebvre, négociant de Québec, propriétaires du navire «l'Expérience», à Augustin Araby, capitaine du navire, François Delisle, capitaine en second, Roger Deschamps, officier marinier et autres membres de l'équipage, concernant une pêche au poste de la Baie des Châteaux," 9 octobre 1742-2 janvier 1743, BAnQ TL5,D1296 (hereafter "Havy et Lefebvre c. Araby"); "Appel mis à néant de la sentence rendue en l'Amirauté de Québec, le 21 novembre 1742, dans la cause entre Augustin Araby, navigateur de Québec, contre François Havy, comparant par le sieur Poirier," 4 décembre 1742, BAnQ TP1,S28,P19351; "Arrêt dans la cause entre Havy et Lefebvre et Araby," 8 février 1743, BAnQ TP1,S28,P19384.



*Dictionary of Canadian Biography*, nor in Boshier's *Men and Ships*.<sup>190</sup> In order to fill this void on the legal aspect of the history of Havy and Lefebvre, it is worth reviewing how the case evolved before Nouette became involved at the Superior Council level.

"I wish it was never autumn in Québec, and I would be in better health," wrote an exhausted François Havy.<sup>191</sup> Amidst the hustle and bustle of outfitting ships for transatlantic voyage, one ship sat in harbour, neglected, in early autumn 1742. Belonging to Havy and Lefebvre and manned by Captain Araby and his crew, *L'Expérience* was intended to sail for Havy and Lefebvre's newly-acquired trading post at the Chateau Bay.<sup>192</sup> Described by Captain Araby as one of the most distant trading posts from the colony,<sup>193</sup> it was alluring to the merchants for its excellent cod and catfish stocks. This area is found along the Strait of Belle Isle, or the narrow channel where the Gulf of St. Lawrence meets the Atlantic Ocean along the Northern tip of Newfoundland. To this day, it is known as a spot where ice freezes over at certain times of year, making the Strait un-navigable and the bay unreachable.

In early October, the fate of the ship ignited a conflict between Havy, Lefebvre, and Captain Araby. Havy and Lefebvre, supplicants, filed their complaints against Captain Araby, defendant, in the Admiralty Court. Led by Lieutenant Nicolas Gaspard Boucault, the members of the Admiralty Court agreed to hold an emergency session on Saturday, October 11. With the merchants urging swift departure, and the captain obstinately refusing, the court would decide the fate of the ship. Would it sail to a dangerous region, or would it stay put in harbour for the winter? The Court sent out its process-servers to both parties, making clear that if either party failed to appear in court or to send someone in their stead, they would face a hefty fine of 500 *livres*. This can be

---

<sup>190</sup> John Boshier, *Men and Ships in the Canada trade, 1660-1760: A Biographical Dictionary* (Ottawa: 1992).

<sup>191</sup> Cited in Miquelon, "Havy, François." Each year, he writes, Havy and Lefebvre prepared 13 to 14 outbound ships.

<sup>192</sup> While Havy and Lefebvre were chiefly factors of Dugard and Company, they were allowed to pursue smaller enterprises on their own accord. Their salaries of 1000 and 600 *livres* respectively, can help explain an incentive they may have had to explore their own enterprises. Dale Miquelon, "Havy and Lefebvre of Quebec: A Case Study of Metropolitan Participation in Canadian Trade, 1730-1760," *CHR* 56:1 (1975): 3.

<sup>193</sup> "Havy et Lefebvre c. Araby," image e002458579.

compared to the paltry 3 *livres* a party incurred for a *fol appel*, or an appeal that the court determined to be superfluous and unnecessary.

At this stage in the trial, Captain Araby appeared on his own, without the help of a legal practitioner. Asserting the “le zeile qu’il a pour le service des demandeurs,” and lamenting “la perte de son temps et du profit qu’il auroit pu faire audit Poste,” he insisted that by no means was the delayed departure any fault of his.<sup>194</sup> It was Havy and Lefebvre who had failed to ready the sails and longboat in time for planned departure date. As experienced merchants, he claimed, they should have known that the preparation of a ship for the said destination takes much longer than the time they had budgeted for it. In the preceding days, he told the court, he had reiterated to Havy and Lefebvre his repugnance at the idea of sailing “dans une saison aussy avancée que la presente.”<sup>195</sup> He had concluded by insisting that if they did force him to sail, they must compensate him and his crew in case of a forced retreat. It was at this point that Havy and Lefebvre took the matter to court, because they refused to sign such an agreement.

Having listened to both parties, Lieutenant Gaspard Boucaule and the other members of the Admiralty Court convened. Araby and his crew would sail next Saturday, or next Sunday latest, they decided. If Araby refused to sail, he would have to pay the supplicants all the losses, damages, interest, and half the cost of the present hearing. This decision contravened the Ordinance of the Marine of 1681. Book III, (*Des Contrats Maritimes*), Title IV, (*De l’Engagement et des loyers des matelots*), Articles III and VII directly address what should be done if a ship were delayed or forced to retreat:

*Article III. Si le voyage est rompu par le fait des Propriétaires, Maîtres ou Marchands avant le départ du Vaisseau, les Matelots loüez au Voyage, seront payez des journées par eux employées a équiper le Navire, & d’un quart de leur loyer ; & ceux engagez au mois , seront payez à proportion, eû égard à la durée ordinaire du Voyage : mais si la rupture arrive après le Voyage commencé , les Matelots loüez au Voyage seront payez de leurs loyers en entier ; & ceux loüez au mois , des loyers dûs pour le temps qu’ils auront servi , & pour celui qui leur sera nécessaire à s’en retourner au lieu du départ du Vaisseau ; & les uns & les autres seront en outre payez de leur nourriture jusqu’au même lieu.*

*Article VII. Et quant aux Matelots & autres gens de l’Equipage allant au profit ou au Fret, ils ne pourront pretendre journés ni dédommagement en case que le Voyage soit rompu, retardé, ou prolongé par force majeure , soit avant ou depuis le départ du Vaisseau; mais si la rupture , le retardement, ou la prolongation arrive par le fait des Marchands Chargeurs , ils auront part aux dommages & interests qui seront adjugez*

---

<sup>194</sup> Ibid., image e002458577.

<sup>195</sup> Ibid., Image e022458579.

*au Maître ; lequel aussi bien que les Propriétaires seront tenus de ceux des Matelots , si l'empêchement arrive par leur fait.*<sup>196</sup>

The court apparently skirted the ordinance that should have trumped an inter-personal agreement between the captain and the merchants. For the sake of the colony's economy, it could have been disastrous to rule that Havy and Lefebvre owed Araby and his crew a large sum of money, especially at a time when their fortunes had begun to dip.

Havy and Lefebvre probably exited the hearing room with a cold, business-like sense of relief. Certainly, as merchants, they must have been aware of the trials and tribulations faced by sailors venturing into bad weather. But the merchants' own dwindling fortunes probably incentivized them to take such a risk, especially as the profitable summer season drew to a close and winter began.<sup>197</sup> Unlike ships destined for France (a share of whose profit had to be reserved for Dugard and Company), ships sailing to closer destinations such as the Château Bay represented profit they could keep for themselves and their sailors.<sup>198</sup> Pre-departure instructions to Captain Araby indicate that they actually envisioned at least two fishing trips before the onset of winter, or more if the crew had not met the quota of 150-200 barrels of fish oil.<sup>199</sup> For Havy and Lefebvre, a final advantage to deploying the crew would have been simply to gain information on this faraway business venture. That they explicitly said so in the trial record may be of interest to historians of communication.

Captain Araby must have left the court room with a very different feeling as he apprehended how exactly to break the bad news to a grumbling crew of sailors. Having

---

<sup>196</sup> Osmont, Charles, ed. *Ordonnance de la Marine du mois d'Aoust 1681: Commenté & Conferée sur les anciennes Ordonnances , le Droit Romain , & les nouveaux Reglemens* (Paris: 1714).

<sup>197</sup> Their overall returns in 1742 had been negative 20% (Dale Miquelon, "Havy and Lefebvre of Quebec," 13).

<sup>198</sup> While they may be seen as somewhat modern in this sense, there is a limit to this interpretation. In the position of superiority, they forbade their own factors--that is, the captain and his crew--to personally profit from trade with Aborigines they may encounter once on land at the trading post. A letter from Havy and Lefebvre to Araby, presented at the trial, reads, "S'il vient des Sauvages au Poste ledit Araby sera de son Mieux comme l'année précédente pour les attirer par la douceur et traiter avec eux. Il ne permettra point aux Engages de faire aucune traite particuliere," in "Havy et Lefebvre c. Araby," image e022458588.

<sup>199</sup> "Led. Sr. Araby prendra les arrangements necessaires pour faire deux voyages sur la quantité d'huile qui seroit faite de la pesche d'hiver Cy par Exemple il y avoit 150 a 200 Barriques d'huile provenant de ladite pesche d'hiver," in *ibid.*

no choice, he and his crew spent the next three to four days stocking the ship with provisions. Captain Araby may have looked up nervously at the sails, which he had claimed were of shoddy quality. Perhaps Havy and Lefebvre watched *L'Experience* disappear into the horizon on October 16th, with the smug pride that the court's decision had been made in their favour.

A surprise awaited them, however. Far too early to have made it to the Chateau Bay and back, a drenched and tattered *L'Experience* reappeared on the horizon. Infuriated, Havy ran down to the harbour. In public, he began to hurl invectives at Captain Araby, calling him a coward and even insulting his wife. The dispute between Havy and Araby thus escalated, throwing it back into the realm of the Admiralty Court on November 6, 1742.

In court and still without a legal proxy, Araby gave his account of the voyage, and the forced retreat. On the second day, he reported, he and his crew were doused in rain. The bad quality of the sails, and not trepidation on their part, forced them to stop for three days. “Malgré les murmures de plusieurs de son Equipage,” and indeed against his own preference, the ship continued. Between the 22<sup>nd</sup> and 23<sup>rd</sup>, he reported, the crew faced many challenges: adverse winds, snow, and a loose sail that had to be replaced and tightened--“ce qui se fit avec une grande peine,” Araby added, helping the listener imagine the grueling efforts undertaken by many men. Between the 26<sup>th</sup> and 28<sup>th</sup> they were again forced to pause along the sandy coast. It was during this respite that his crew took the opportunity to negotiate with him, presenting to him in writing, “l'impossibilité de se rendre au Lieu de leur destination, mauvais voiles, et les vents contraires neigeant toujours.”<sup>200</sup>

In response, Captain Araby consulted with his second-in-command, Roger Delisle. Probably whispering in low, hushed tones, or behind closed doors, Delisle advised his captain that if the ship did make it to the bay at all, it would be by November 6<sup>th</sup>, much too late for good fishing. “Pour Eviter a plus grand dommage meme la perte dudit Batiment,” Delisle concluded, the ship should retreat. Araby rendered the final

---

<sup>200</sup> “Havy et Lefebvre c. Araby,” image e022458594-e022458595.

decision and set the crew in motion to head back to the city of Québec. The fault, Araby underscored upon concluding his testimony, lay with Havy and Lefebvre, who had failed to follow through on their promise to ready the ship by the end of September. Ten days later, naval officer Roger Deschamps certified the veracity of Araby's testimony, and then reiterated the account in his own words.<sup>201</sup>

Having listened to both parties, the Admiralty Court issued a ruling on November 17, 1742. In keeping with the pre-departure ruling, they ordered Captain Araby to reimburse the merchants the cost of the undertaking. They valued this at the astounding figure of 30,000 *livres*. The sailors, the members of the court ruled, must give back lesser amounts between 40 and 130 *livres* each.

In response, the captain and his crew sought legal help, and found it in the person of Jacques Nouette. Much as he does in Marie-Marguerite's trial, Nouette comes across as a man who backed the rights of the disadvantaged. Of the 12 sailors who signed *procurations* vesting Nouette with power of legal proxy on their behalf, six signed with a cross rather than their names.<sup>202</sup> This dovetails with the results of Verrette's study, which show that 37.7% of labourers in the city of Québec between 1750 and 1759 were able to sign their names.<sup>203</sup>

It was on November 21, 1742 and not before, that Nouette stepped onto the scene of this trial. This creates reason to believe that two years after Marie-Marguerite's case, Nouette had carved out for himself a professional niche in civil law appeal cases. Araby, like his crew, hired Nouette only at the advanced stages of the dispute. In the first instance, Araby had chosen to represent himself in court (and perhaps had come to regret his decision). Indeed, Nouette later admitted to the Superior Council that Araby should have appealed the original decision to let the ship sail, much earlier.

---

<sup>201</sup> "En voyant que nous entreprendrions inutilement de nous rendre au poste et peut-estre en risque de perdre la vie ou de perdre le bâtiment, dans des passages aussy dangereux, que sont ceux de la coste du nord," in "Havy et Lefebvre c. Araby," image e022458608.

<sup>202</sup> "Des actes de pouvoir donnés par Pierre Roger Deschamps, Denis Larche, Nicolas Roussel, Michel Auboïs, Joseph Lionnois (Lyonnois) et Jacques Ménard (Mesnard) au sieur Nouette pour les représenter dans l'appel interjeté de la sentence de l'Amirauté du 17 novembre 1742" in "Havy et Lefebvre c. Araby," e022458617-e-22458618.

<sup>203</sup> Verrette, "L'alphabetisation de la population de la ville de Québec de 1750 à 1849," 73.

As in Marie-Marguerite's trial, Nouette displayed passion for his clients' claims. In a written defense on behalf of his clients Araby and crew, he immediately grabbed the attention of his readers with the opening phrase, "il faut avouer, Messieurs, qu'il s'est présenté aujourd'huy a votre tribunal une cause d'une espece Bien singuliere," and directly addressing the judge, "Monsieur le lieutenant general qui pese les droits des parties dans la balance." The question mark, rare in legal documents, is used effectively here, "Quel est le titre d'accusation? Que fait le sujet du proces criminel que le Sieur Havy a voulu intenter au Sieur Araby?"<sup>204</sup> Alluding to the Maritime Ordinance of 1681 without referencing it directly, Nouette pleaded that Havy and Lefebvre were indebted to Araby and his crew, not vice-versa. As quoted above, the ordinance specifically spelled out that if the delayed departure or retreat were the fault of the merchants, they were to compensate the captain and his crew for lost time.

Nouette demonstrated a more effective use of hard evidence, than he had in Marie-Marguerite's trial--perhaps because the documents available to him bolstered rather than undermined his clients' claims. Before the Superior Council, he presented a document dated October 14, 1743. Even before the ship's departure, the letter proved, Havy and Lefebvre admitted that "la saison estant avancée...nous Recommandons Egallement aud. Sr. [Araby] de prendre les precautions convenables."<sup>205</sup>

It may be true that Araby "a rendu plus de service qu'il n'en a recu" and that Havy and Lefebvre's accusations (delivered by Nouette's competitor, legal practitioner Pierre Poirier),<sup>206</sup> were based not on fixed or certain titles, but rather on personal grievances, as Nouette pleaded. But unfortunately, under the decision rendered by the

---

<sup>204</sup> "Havy et Lefebvre c. Araby," image e022458621. From the context, it is clear that Havy wanted to sue Araby for calumny. Nouette further states, "Il l'a dit ou ynsulté yn [sic] public, il a dit quil avoit deub mettre le Batiment du Sieur havy a la coste," images e022458621-2. The court, apparently, did not accept Havy's request for a criminal trial. Where and when this defense took place is a bit murky. There seems to have been some sort of a preliminary information-gathering session, with defenses submitted in writing, at the Admiralty Court on November 23. Nouette then orally presented a defense before the Superior Council on Dec. 1-3.

<sup>205</sup> "Les instructions de Havy et Lefebvre à leur capitaine" in "Havy et Lefebvre c. Araby," image e022458589.

<sup>206</sup> "Appel mis à néant de la sentence rendue en l'Amirauté de Québec, le 21 novembre 1742, dans la cause entre Augustin Araby, navigateur de Québec, contre François Havy, comparant par le sieur Poirier...," 4 décembre 1742, BAnQ TP1,S28,P19351.

Admiralty Court in October, Araby owed Havy and Lefebvre the cost of outfitting the ship, and more. Nouette completely side-stepped the issue, perhaps because he knew that if he confronted it, he would lose the case.

Despite the best of Nouette's efforts, Hocquart decided to uphold the original decision of the Admiralty Court. The Superior Council either disbelieved Araby's testimony against the merchants, or gave in to the "bigger battalions" determining history, such as the economic mis-step of condemning Havy and Lefebvre to pay out a large sum of money. Instead, the court decided that in addition to the 30,000 *livres* fine for having failed to reach the Château Bay, Araby was to pay 500 *livres* from the payment he had already received from Havy and Lefebvre.<sup>207</sup> To Araby, this must have been devastating news and would have ruined him financially. That Nouette advocated indefatigably in Araby's interest, however, must not be ignored. Highlighting Nouette's role in this process demonstrates that before giving in to an ominous destiny, Araby had the chance to contest it through court.

## 2.4 Case Study #3: A Contested Marriage

*Marie-Anne Baudoin c. Pierre André de Leigne, Louise-Catherine de Leigne, et René-Ovide Hertel de Rouville* (1741). Against the wishes of his mother, 21-year old soldier René-Ovide married in 1741 a woman eleven years his senior. To make matters worse, this woman had somewhat of a reputation as the town wanton. As punishment for her promiscuity, her father had attempted to send her to a convent in France in 1734. Proving incorrigible, Louise-Catherine managed to dress up as a sailor and escape the ship before it left the harbour.<sup>208</sup> Six years later, at the age of 32, she became involved

---

<sup>207</sup> "Araby est condamné meme par corps a payer ausd. Havy, le fevre et compagnie, la somme de trente milles livres pour les dommages et interets resultant de la Relache du Bateau nommé l'Experience tant pour les gages et nouritures...que pour les frais d'armement et desarmement et deffaut de pesche, chasse, et traite aud. poste pendant une année, comme aussi condamné a restituer et payer ausd. havy Lefevre et Compagnie la somme de cinq livres," in "Arrêt dans la cause entre Havy et Lefebvre et Araby..." 8 février 1743, BAnQ TP1,S28,P19384, page 12.

<sup>208</sup> Michel Paquin, "André de Leigne, Louise-Catherine (Hertel de Rouville)," *Dictionary of Canadian Biography*, vol. IV.

with René-Ovide. On May 20, the Vicar of the Diocese of Québec married the couple in a quiet ceremony, with the blessing of Louise-Catherine's father.

One of Québec's racier conflicts, the contested marriage between Louise-Catherine André de Leigne and René-Ovide Hertel de Rouville has made its way into secondary literature such as the *Dictionary of Canadian Biography* and the *Revue d'Histoire de l'Amérique française*.<sup>209</sup> Few have remarked, however, that the same lawyer involved in New France's only freedom suit, also acted as a legal proxy in this renowned familial dispute. What exactly was the role of Nouette in such a case? We have seen Nouette exemplify rhetorical skills in the previous two case studies. Did he practice them in his capacity as legal proxy for this party?

It must be remembered that the father of Louise-Catherine was Pierre André de Leigne, Lieutenant General for Civil and Criminal Affairs in the *Prévôté* of Québec. If he could, as many did, appear in court without a legal proxy, why did he bother to hire Nouette? What does this signal about Nouette's social trajectory, less than one year after his arrival in the colony? What can the outcome of the trial indicate about social relations in New France? In reviewing the sensational story of this unwanted marriage, I will particularly concentrate on trial records to fill in some of the unanswered questions on the legal aspect of this history.

As briefly as eight days after the wedding had taken place, René-Ovide's mother, Marie-Anne Baudoin, filed an appeal against the marriage. Because the marriage itself, which had taken place in the presence of notaries and legal witnesses, can be considered the first instance case, her appeal went directly to the Superior Council. Although Baudoin's complaint was couched in melodramatic language ("il s'agit icy particulièrement d'un fait de mineur séduit, suborné et enlevé du Sein de sa mere") it had legal merit.<sup>210</sup> At the age of 21, René-Ovide was a minor who was allowed to marry, but

---

<sup>209</sup> Cameron Nish, "La bourgeoisie et les mariages, 1729-1748" *RHAF* 19:4 (1966) : 585- 605.

<sup>210</sup> "Arrêt dans la cause entre Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel de Rouville, chevalier de Saint-Louis et capitaine dans les troupes de la Marine à l'île Royale, mère et tutrice de René-Ovide Hertel de Rouville, mineur, portant plainte et appelante comme d'abus du mariage contracté entre le dit de Rouville et la demoiselle André, fille majeure du sieur André de Leigne, comparante par le sieur Poirier, praticien, son procureur, contre le sieur de Rouville, mineur, la demoiselle André et le sieur André de Leigne, comparants par le sieur Nouette, leur procureur," 12 juin 1741, BAnQ TP1,S28,P19111.



only with the permission of his surviving parents or guardian.<sup>211</sup> His father (the celebrated military officer Jean-Baptiste Hertel de Rouville) had died in 1721, only one year after his son's birth. This left him and his siblings in the care of his mother, who was appointed guardian of the children. As *tutrice*, she was charged with the children's upbringing, and as *curatelle*, she was responsible for their material well-being. Without her consent, should the marriage contract between her son and Louise-Catherine André de Leigne be considered valid? This was the question the members of the Superior Council agreed to settle in a hearing on June 7, 1741. All three of the defendants (Louise Catherine, René-Ovide, and Pierre André de Leigne) were ordered to appear in court one week later to give their testimonies.

It must have been in the interim that Pierre André de Leigne contacted Nouette, hiring him to act as his legal proxy.<sup>212</sup> As Lieutenant General for Civil and Criminal Affairs in the *Prévôté* of Québec, Pierre André de Leigne could presumably have had his choice of legal proxies. At this time, Nouette had established residency in the town of Québec.<sup>213</sup> André de Leigne, as shown above, had encountered Nouette in the freedom suit of Marie-Marguerite. De Leigne's choice to hire Nouette rather than Poirier or Panet suggests that de Leigne thought highly of Nouette. However, the first trial record reveals that when it came to exercising rhetorical skills, André de Leigne took centre-stage.

---

<sup>211</sup> The age of majority under the *Coutume de Paris* was 25. A minor came legally to be treated as an adult before the age of 25 only if he married (with the permission of his parents or guardians), or successfully applied for emancipation (for instance, in the case of the death of the parents). Zoltvany, "Esquisse de la Coutume de Paris," 368.

<sup>212</sup> "Led. Sieur de Rouville, Lad. Demoiselle André de Leigne, et led. Sieur André de Leigne, présents en personne, assistés du Sieur Nouette leur procureur," in "Arrêt qui, dans l'instance entre Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel, capitaine dans les troupes de la Marine à l'île Royale, mère et tutrice de René-Ovide Hertel de Rouville, mineur, appelante comme d'abus du mariage contracté entre le dit de Rouville, mineur, et Louise André, fille majeure du sieur André de Leigne, d'une part, et le sieur de Rouville mineur, la dite demoiselle André, et le sieur André de Leigne, présents en personne, assistés du sieur Nouette, leur procureur, d'autre part. Faisant droit sur le réquisitoire du Procureur général du Roi, défend au dit Nouette, sous les peines de droit, de faire aucunes demandes qu'elles ne soient signées des parties ou qu'il n'en ait d'elles un pouvoir spécial par écrit," 7 juin 1741, BAnQ TP1,S28,P19110.

<sup>213</sup> Both the Marie-Marguerite record and in the disputed marriage record note that Nouette is located on Rue des Jardins, in the town of Québec.

On June 6, André de Leigne asked the members of the Superior Council their permission to submit in writing his account of the couple's budding romance. While it is not impossible that André de Leigne first consulted with Nouette before writing this eloquent testimony, there is also no positive proof. Nowhere on the document did Nouette sign his name. André de Leigne began with an anecdote about the early days of René-Ovide's courtship of Louise-Catherine. Like many suitors, André de Leigne explained, René-Ovide appeared often to call on Louise-Catherine. Having long been accustomed to his daughter's penchant to attract men, André de Leigne thought little of this young man. He was therefore surprised when one day the young man came into his office, asking him for his daughter's hand in marriage. Flabbergasted, André de Leigne told the man that quite seriously, he did not think this would be a good idea. How would a young man, not even having reached adulthood, and without steady employment, care for his daughter? He told the young René-Ovide to go away, and forbade him from calling again.

For several months, André de Leigne saw nothing more of the young man. Suddenly, he reappeared. It was out of old age and fatigue, de Leigne claimed, that he gave in to this young man's persistence. By no means was this a story of "rapide séduction," André de Leigne asserted. Assuming that this term was a euphemism for unwanted pregnancy, is it possible that André de Leigne was trying to save face? This is unlikely, because Louise-Catherine bore her first child on February 24, 1742, almost two years after the couple's contested marriage in May 1740. The young man expressed seriousness about marriage, André de Leigne thought. He consulted with Vicar Hazeur of the Diocese of Québec, who advised him that indeed the best way to put an end to this affair would be to let the couple marry. On May 20, the couple married, with the blessing of the bride's father. According to André de Leigne, protocol was followed, "suivant la Coutume de Paris, sans y déroger à rien." In the presence of two witnesses, court clerk Nicolas Boisseau drafted a contract, while Vicar Hazeur presided over the small

ceremony. “En ce cas, ou est la Séduction et en quoy peut-elle consister,” André de Leigne prodded his readers.<sup>214</sup>

He then commenced a personal attack on Marie-Anne de Rouville, which is strikingly modern in its conception of parenthood. Bringing attention to the fact that René-Ovide had patiently attempted to gain his mother’s permission to marry Louise-Catherine, André de Leigne derided the “mauvais traitement et reproches continuelles,” with which Marie-Anne had tortured her son,

*le laissant manquer de tout, et même de l’absolu nécessaire, parcequ’elle vouloit faire son ynclination et l’obliger a se faire prêtre, contre sa vocation. Voici la triste scituation, ou il étoit réduit dans la maison de sa mère.*

Using the term “dur esclavage,” André de Leigne portrayed Marie-Anne as a despotic mother.<sup>215</sup> André de Leigne implied that he, in contrast, was in tune with his daughter’s individual personhood. By bringing attention to Marie-Anne’s efforts to force her son into a profession he did not desire, he denounced a conception of parenthood wherein children exist to bring honour to their families by following their parents’ inclinations. André de Leigne stopped short of professing that marriage should be based on romantic love alone. But he did imply that children were the forgers of their own destinies, whether the professions they undertook or the life partners they chose.

André de Leigne brought his articulate testimony to an end with a discussion of the Custom of Paris and precedent set in the colony. In order to advance his arguments, he characterized the King’s law as adaptable to the surrounding environment. In his experience as Lieutenant General at the *Prévôté*, he reminded the members of the Superior Council, he had dealt with several cases of contested marriage where parental permission had been lacking. In all of these cases, the Intendant had advised him to condone the marriage. Even though it contravened the Custom of Paris, it could help boost the colony’s growth rate. Colonial politics, in this case, trumped the letter of the law. André de Leigne concluded:

---

<sup>214</sup> “Procès concernant le mariage contracté le 20 mai 1741 entre René-Ovide Hertel, sieur de Rouville, et Louise-Catherine André de Leigne, fille dudit sieur de Leigne, conseiller du Roi et lieutenant général de la Prévôté de Québec, tous les deux mineurs de 25 ans,” 6-7 juin 1741, BAnQ TP1,S777,D102.

<sup>215</sup> Ibid.

*On peut inférer dela que le Roy n'a pas voulu jusqu'a présent qu'on déclarât nul aucun mariage en ce pays pour quelque raison et prétexte que ce puisse être, par raport au bien et a l'augmentation de cette colonie, qui commence a se bien fortifiée, ainsy j'ay tout lieu d'esperer que l'Intendant président du Conseil, sera favorable aux Conjoints et a moy en particulier, et que tous messieurs les conseillers suivront son avis.<sup>216</sup>*

This reasoning is fascinating when one considers that it is one judge speaking to another. It thus offers a window onto decision-making processes that were usually made behind closed doors in colonial settings. One would have expected de Leigne to build a legal argument, or justify his viewpoint using laws. Instead, de Leigne invoked practical reasons why the law in this case should be broken. The quote therefore bolsters the argument that pragmatic issues were of concern when the Superior Council ruled on Marie-Marguerite and Captain Araby's cases.

The opportunity to work on a case with such a highly-placed judicial official was a professional advance for Nouette. After this case in May, the number of clients wishing to hire him accelerated. His rise to recognition, however, was accompanied by the creation of enemies. On June 7, the Superior Council, with Hocquart at its head, issued two decrees showing disapproval of Nouette. The first fined him in the amount of 10 *livres* for having used "les termes injurieux contre les prêtres de cette colonie" in a note in the Marie-Anne Baudoin affair. In the case of recidivism, Nouette would be subject to corporal punishment.<sup>217</sup> Further research in the archives of Québec may reveal exactly what Nouette had written to elicit such a harsh threat. The second decree, issued the same day, forbade Nouette to make any further requests in the trial unless given specific permission from the defending party. This may have been a reaction to Nouette's strategy

---

<sup>216</sup> Ibid. In the preceding pages (8-10), Pierre André de Leigne recalled two examples of contested marriage that had been condoned during his tenure as Lieutenant General. In 1718, a "femme de chambre" of the German nation (*nation allemande*) had married the son of one of the richest jewelry merchants of Paris, by the last name of Lagneau. Intendant Bégon had recommended de Leigne to condone the marriage for the sake of the colony's growth. In the second, more recent example occurring 15 months prior to May 1740, the King's attorney had approved the marriage of 20-year-old Estienne Rencourt to the daughter of Jacques Baussan (despite Baussan's disapproval). De Leigne vaguely referenced a King's declaration which permitted the marriage of males 20 years and older, and females 15 years and older in the colony, even if their parents contested.

<sup>217</sup> "Arrêt qui, faisant droit sur le réquisitoire du Procureur général, condamne le sieur Nouette en 10 livres d'amende applicables aux pauvres de l'Hôpital général de Québec pour avoir intercalé des termes injurieux dans un mémoire signifié dans l'affaire de Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel de Rouville, appelante comme d'abus de la célébration du mariage contracté entre René-Ovide Hertel de Rouville et la demoiselle Louise André. Il est ordonné que les dits termes injurieux seront rayés et biffés. Défense au dit Nouette de récidiver sous peine de punition corporelle," 7 juin 1741, BAnQ TP1,S28,P19109.

(seen in Marie-Marguerite's case only eight months earlier) to delay trials in order to win his clients more time, while simultaneously vexing the Superior Council.<sup>218</sup>

In the final stage of this trial, Nouette appeared as a mere "porteur des pieces."<sup>219</sup> On June 12, in the Superior Council, Marie-Anne Baudoin presented her accusations once again. Using angry, violent language, she accused both Louise-Catherine and her father Pierre of kidnapping her son. Not only should they ask forgiveness before God and the court, but they should also donate 6,000 *livres* to the poor, she declared self-righteously. Perhaps because they wanted to avert direct contact with this irksome person, the defendants sent Nouette to appear in court on their behalf. The defendants' response to Marie-Anne's accusation of kidnapping was a request that the court fine Marie-Anne for calumny. This written request was delivered by Nouette.

In its final decision, the court ignored the accusation of kidnapping and counter-accusation of calumny. To colonial officials, the familial dispute was irrelevant. What it had revealed, however, were holes in the colonial control system. In the King's political body that was supposed to stretch across the Atlantic, there was a missing appendage.<sup>220</sup> The Council used the opportunity of this family squabble to remind its officials of common protocol. Without naming particular culprits, the court reminded all notaries that four, not two, witnesses were required to validate a marriage.<sup>221</sup> It also referenced Articles VIII and IX of the ordinance of April 9, 1736, which strictly forbade the register of any contracts on loose sheets, and required a double record of every marriage, baptism

---

<sup>218</sup> Ibid. and "Arrêt qui...défend au dit Nouette, sous les peines de droit, de faire aucunes demandes qu'elles ne soient signées des parties ou qu'il n'en ait d'elles un pouvoir spécial par écrit," 7 juin 1741, BAnQ TP1,S28,P19110.

<sup>219</sup> All three defendants are represented by "M<sup>e</sup> Nouette, leur procureur, porteur des pieces," in "Arrêt dans la cause entre Marie-Anne Baudoin...contre le sieur de Rouville, mineur, la demoiselle André et le sieur André de Leigne, comparants par le sieur Nouette, leur procureur," 12 juin 1741, BAnQ TP1,S28,P19111.

<sup>220</sup> For more on the conception of the enforcement of French law in the colonies, see Joseph Roach, "Body of Law: The Sun King and the Code Noir," in *From the Royal to the Republican Body*, Melzer and Norberg, eds., 113-130.

<sup>221</sup> Ibid.

and death.<sup>222</sup> Finally, the court confirmed the legal merit of Marie-Anne's argument by forbidding vicars to marry minors without the permission of their parents, and requiring priests to record in every marriage contract the status of each party as minor or adult.<sup>223</sup>

Despite this reprimand, it appears that the careers of none of the faulted officials were seriously threatened. None of them were singled out by name in the judgement. Pierre André de Leigne continued to hold his position as Lieutenant General for Civil and Criminal Affairs at the *Prévôté* of Québec until 1744.<sup>224</sup> More than ten years later, court clerk Nicolas Boisseau would be promoted to chief court clerk in at the Superior Council.<sup>225</sup> The professional trajectory of Vicar Hazeur after this embarrassment will not become clear until after it can be determined which of the two (if any) of the three Hazeurs referenced in Louis Pelletier's demographic study, are the Hazeur in this case.<sup>226</sup>

---

<sup>222</sup> Prepared in France by legal magnates Guillaume-François Joly de Fleury and Henri François d'Aguesseau for Louis XV, this ordinance spelled out the specifics of record-keeping. Article VIII simply stated that the contract must be held in the parish where the wedding took place ("Lesdits Actes de celebration seront inscrits sur les registres de l'Eglise Paroissiale du lieu ou le mariage sera celebré ; & en cas que pour des causes justes & legitimes, il ait été permis de le célébrer dans une autre Eglise ou chapelle, les registres de la Paroisse, dans l'étenduë de laquelle ladite Eglise ou chapelle seront situées, seront apportez lors de la celebration du mariage, pour y estre l'Acte de ladite celebration inscrit"), while Article IX forbade (at the threat of a fine) marriage contracts to be recorded on "feuilles volants" or loose leaf paper ("Voulons qu'en aucun cas lesdits Actes de celebration ne puissent estre écrits & signez sur des feuilles volantes, ce qui sera executé, à peine d'estre procedé extraordinairement contre le Curé ou autre Prestre qui auroit fait lesdits Actes ; lesquels seront condamnez en telle amende, ou autre plus grande peine qu'il appartiendra, suivant l'exigence des cas, & à peine contre les Contractans, de déchéance de tous les avantages & conventions portées par le Contrat de mariage ou autres Actes, même de privation d'effets civils, s'il y echet").

<sup>223</sup> "Arrêt dans la cause entre Marie-Anne Baudoin...contre le sieur de Rouville, mineur, la demoiselle André et le sieur André de Leigne, comparants par le sieur Nouette, leur procureur," 12 juin 1741, BAnQ TP1,S28,P19111.

<sup>224</sup> Jean-Claude Dubé, "André de Leigne, Pierre," *Dictionary of Canadian Biography*, vol. IV.

<sup>225</sup> "Bail à loyer d'une maison située en la ville de Québec, rue Saint Pierre; par Nicolas Boisseau, conseiller secrétaire du Roi et greffier en chef du Conseil supérieur, de la ville de Québec, rue Saint Pierre, à Louis Dubreuil, négociant, de la ville de Québec," 26 mars 1756, BAnQ (*Parchemin*, notaire J.-B. Decharmay).

<sup>226</sup> Louis Pelletier, *Le clergé en Nouvelle-France : étude démographique et répertoire biographique* (Montréal: 1993). While three clergy by the name of Hazeur (Pierre Hazeur Delorme, Pierre-Joseph-Thierry Hazeur-Delorme, and Charles Hazeur Dessonneaux-but the latter died in 1715), appear in Louis Pelletier's demographical study, none are recorded as ever having been vicars. More research may show which of the three were the Hazeur referenced in this case.

Furthermore, when René-Ovide was of age, he could marry according to his wishes. The couple married on October 22, 1741, in the presence of both families.<sup>227</sup>

## **2.5 Case Study #4: Widows and Separated Women in Court**

*General Overview.* The final possible area from which Hocquart's accusation of Nouette may have stemmed, was Nouette's involvement in trials with women as legal parties. According to the Custom of Paris, which governed civil law in the colony of Québec from 1664, married women were not allowed to appear in court without the permission of their husbands.<sup>228</sup> Upon marriage, women entered into a community of goods with their husbands. The most common way for a community of goods to be dissolved was the death of one partner.

Of eight women Nouette aided in court, thus, five were widows. That most of these widows were also successful in their cases lends support to Josette Brun's thesis that widowhood represented for women an opportunity for socio-professional mobility.<sup>229</sup> While widows could of course exercise their legal capacity without the permission of their (deceased) husbands, it would have been looked down upon for them to appear in the public sphere alone, writes John Dickinson.<sup>230</sup> In Jacques Nouette, several widows found a legal proxy willing to represent their claims.<sup>231</sup>

Was the Ancien Régime courtroom a space within which women could assert and expand their rights, as Tracey Rizzo postulates based on her study of women in

---

<sup>227</sup> Paquin, "André de Leigne, Louise-Catherine (Hertel de Rouville)."

<sup>228</sup> Zoltvany, "Elle ne pouvait non plus estre en justice ni se lancer en affaire sans l'autorisation de son mari," in "Esquisse de la Coutume de Paris," 369.

<sup>229</sup> Josette Brun, "Le Veuvage en Nouvelle-France: Genre, dynamique familiale et stratégies de survie dans deux villes coloniales du XVIII<sup>e</sup> siècle, Québec et Louisbourg," (M.A. thesis, Université de Montréal, 2001). Women over the age of 40 were especially unlikely to remarry.

<sup>230</sup> Dickinson, *Justice et justiciables*, 83.

<sup>231</sup> It should be noted that Nouette was not alone among practitioners who defended women in court. Pierre Poirier, for instance, defended Marie-Anne Baudoin (Widow Hertel de Rouville) in the disputed marriage case, and Widow Laroche in her dispute with Havy, both discussed above.

metropolitan France?<sup>232</sup> If so, could the root of Hocquart's dislike for Nouette be that he challenged commonly accepted notions of gender and power? Looking to what these women achieved through legal mechanisms may provide some clues.

*Widows and Inheritance Disputes.* The following cases show that women, once widowed, rose to the challenge of managing large amounts of money, but usually elicited legal help from male professionals.<sup>233</sup> Twenty-eight year-old Marie-Anne Chasle, the widow of merchant Guillaume Gouze invoked the help of Jacques Nouette when trying to settle an inheritance dispute with her mother. On January 23, 1741, the *Prévôté* of Québec had ruled that Marie-Marguerite Duroy and her new husband, Jean-Eustache Lanoullier de Boisclerc should pay Marie-Marguerite's daughter 9,859 *livres*, 12 *sols*, and 11 *deniers* out of the deceased Claude Chasle's inheritance. Apparently by May of that year, the couple had not yet paid the young widow. Calling for "paix et union entre les parties," Marie-Anne urged both parties to hire a legal proxy who knew how to handle appeal cases ("qui savait à rendre les appels"). This shows that the young widow both knew of her powers (to initiate a legal case) and her limits (to do so successfully without the help of a male legal professional). In the end, the Superior Council ruled that the couple hand over to Marie-Anne the amount of 8,642 *livres*, 13 *sols*, 1 *denier*. Nouette, it appears, helped this young widow achieve relative success.<sup>234</sup>

---

<sup>232</sup> Tracey Rizzo, *A Certain Emancipation of Women: Gender, Citizenship, and the "Causes célèbres" of Eighteenth-Century France* (Selinsgrove: 2004).

<sup>233</sup> As Lilianne Plamondon's study on Marie-Anne Barbel shows, many were married women probably already were managing their husbands' financial affairs, just less visibly than they did once they became widows. The widow of Louis Fornel (who had been the associate of Havy and Lefebvre), Marie-Anne Barbel took over and managed the sealing stations her husband had initiated along the coast of Labrador. Under the name of Veuve Fornel et Cie, Havy and Lefebvre received six-year leases on various stations east of Québec and north of the St-Lawrence River. Due to Widow Fornel's foresight, the stations were sold relinquished to the King, and the heavy losses incurred by Havy and Lefebvre in other parts of Québec were avoided. For more on Marie Anne Barbel, see Lilianne Plamondon, "Une femme d'affaires en Nouvelle-France: Marie-Anne Barbel, veuve Fornel," *RHAF* 31 (1977): 165-85 and " 'Une femme d'affaire culottée' en Nouvelle-France: Marie-Anne Barbel, veuve Fornel," *Cap-aux-Diamants*, No. 21 (1990): 55-57.

<sup>234</sup> "Transaction entre Jean-Eustache Lanoullier de Boisclair (Boisclerc) conseiller du Roi et son grand voyer et Marie-Marguerite Duroy, son épouse, de la ville de Québec, épouse antérieure de Claude Chasle, assistés de Pierre Poirier, leur procureur, et Marie-Anne Chasle, veuve de Guillaume Gouze, sa fille, assistée de Jacques Nouette, son procureur," BANQ (*Parchemin*, notaire J.N. Pinguet de Vaucour).



In March 1742, Marie-Madeleine Landeron (Widow Quenet) had hired Nouette to aid her in a dispute she had with a Mr. Goguet over the ownership of a house in the Lower Town of Québec. Once widowed, women were vested with power over property, and used their legal rights to fortify their access to those goods.<sup>235</sup> The Widow Quenet case can be compared to the earliest instance of Nouette providing legal aid for a widow, in November 1741. In it, Widow Turgeon used Nouette as an intermediary to arbitrate a land-sharing agreement between herself and her son.<sup>236</sup> In both these cases, widowhood had apparently opened up access to material resources for single women. While the records are vague as to the outcomes of the trials, what can be seen is that these women were able to stake out their claims to material and financial resources using legal venues, with Jacques Nouette acting in their names.

*Widows and their Businesses.* While Widows Gouze, Quenet, and Turgeon appealed to legal mechanisms in order to stake out their claims to property or money they had inherited, Widows Landeron and Laroche had become businesspeople in their own right. Especially if they were older and already had children, Brun writes, women were likely to take over their husbands' businesses.<sup>237</sup> The names Veuve Clicquot Ponsardin as well as Veuve Fornel certainly come to mind, although detailed studies of how these women used the court to stake out and expand their rights remain to be done. The following examines how two widows (one Nouette's client, and the other an opposing party), appealed to the court to iron out disputes that came with such ventures.

The widow of a bourgeois merchant of the town of Québec, Elizabeth Dechauvigny had become a landlady after her husband's death. In October 1743 (shortly

---

<sup>235</sup> "Procuration de Marie-Madeleine Landron, veuve de Jean Quenet, demeurant à l'hôpital général près Québec, à Jacques Nouette, de la ville de Québec, rue St. Joachim," 3 mars 1742, BAnQ (*Parchemin*, notaire C.-H. Dulaurent); "Requête de Marie-Madeleine Landron (Landeron), veuve de Jean Guenet (Guenet), à l'effet que le sieur Gourdeaux se serait avisé de vendre au sieur Goguet, négociant à Québec, une maison, située en la place de la Basse-Ville, dont il n'est que fermier judiciaire et dont il est seulement propriétaire d'un tiers dans un septième; ladite Landron étant propriétaire d'un septième de cette maison, s'oppose au décret volontaire fait par le sieur Goguet," 3 mars 1742, BAnQ TL5,D3846.

<sup>236</sup> "Partage de terres situées en la seigneurie de Beaumont entre Jacques Nouette, de la ville de Québec, stipulant pour Marie Jean, veuve de Jacques Turgeon, de la seigneurie de Beaumont, et Jacques Turgeon, son fils," 14 novembre 1741, BAnQ (*Parchemin*, notaire C.-H. Dulaurent).

<sup>237</sup> Brun, "Le Veuveage en Nouvelle-France."

before Nouette's departure from the colony), Widow Landeron claimed that Jean-Baptiste L'Archevêque and his wife owed her 300 *livres* for one year's rent. Because they had defaulted on this payment, hay had been seized from the rural property of the L'Archevêques. At the *Prévôté* of Québec, the manager of L'Archevêque's rural property appeared with the wife of L'Archevêque, claiming that the hay had been seized wrongfully and should be returned. They hired no legal proxy. Widow Landeron, in contrast, hired Nouette, who appeared in court in her stead.<sup>238</sup> In the end, the court ordered that the seizure of the goods had been good and valid, that the goods may be sold to pay the 300 *livres* owed to Widow Landeron, and that in addition, the L'Archevêques must pay 54 *livres*, 18 *sols* for court costs.<sup>239</sup> In these cases, thus, it could be said that Nouette helped women assert their rights through law. The courtroom as workshop metaphor may hold still.

*Marguerite LeCocq c. Toussaint D'Albert de Saint-Agnan* (1743). More rare but also more controversial were Nouette's cases involving marital separation. While ultimately an unsuccessful attempt at separation, this case exemplifies the Custom of Paris in action. The Custom allowed a woman to file for financial separation (*séparation quant aux biens*) from her husband if she could present evidence of his profligacy. If successfully granted, a financial separation would exonerate the wife from debts incurred by her husband, but would not release the couple from the expectation to procreate. Because marital union was based on the biblical commandment to go out and procreate,

---

<sup>238</sup> "Procuration de Marie-Madeleine Landron (Landeron), veuve de Jean Quenet, demeurant à l'hôpital général près Québec, à Jacques Nouette, de la ville de Québec, rue St. Joachim." 3 mars 1742. BAnQ (*Parchemin*, notaire C.-H. Dulaurent); "Requête de Marie-Madeleine Landron (Landeron), veuve de Jean Guenet (Guenet), à l'effet que le sieur Gourdeaux se serait avisé de vendre au sieur Goguet, négociant à Québec, une maison, située en la place de la Basse-Ville, dont il n'est que fermier judiciaire et dont il est seulement propriétaire d'un tiers dans un septième; ladite Landron étant propriétaire d'un septième de cette maison, s'oppose au décret volontaire fait par le sieur Goguet," 3 mars 1742, BAnQ TL5,D3846.

<sup>239</sup> "Cause entre la demoiselle Elizabeth Chauvigny (Chavigny - Dechavigny), veuve du feu Étienne Landron (Landeron), bourgeois de Québec, créancier de Jean-Baptiste Larchevesque (Larchevêque) de GrandPré et de Marie Cartier, son épouse, de 300 livres pour une année de rente, ladite demanderesse comparante par Jacques Nouette, praticien, son procureur, et ledit sieur Paquet, défendeur ; mention d'une saisie entre les mains de Jean-Baptiste Paquet, en date du 14 septembre 1743, mention du serment dudit Paquet sur la saisie dont il est question, mention d'un contrat de constitution en date du 21 janvier 1691, mention d'une terre nommée la Briqueterie, et ordonnance à l'effet que pour satisfaire le paiement des sommes dues à la demanderesse, les foins saisis dont il est question sur ledit Paquet seront vendus, ladite saisie est déclarée bonne et valable, ledit Larchevesque (Larchevêque) et son épouse sont condamnés aux dépens liquidés à 54 livres et 18 sols," 3 octobre 1743, BAnQ TL1,S11,SS1.

(aside from being a convenient policy for a King trying to populate an overseas empire), a complete marital separation (*séparation de corps*) could only be granted by an ecclesiastical tribunal. In September 1743, Marguerite LeCocq filed for a financial separation from her husband.

LeCocq was still a minor when she married Toussaint D'Albert de Saint-Agnan less than one year prior on November 18, 1742. Her marriage contract, drafted by the same notary who had drafted the controversial De Rouville-de Leigne discussed above, clearly states that she was a minor who had parental consent to marry. Toussaint D'Albert de Saint-Agnan was a merchant who had settled in the town of Québec, but was originally from Normandy in France. The contract stipulated that the couple's moveable goods (*biens meubles*) and some of their immovable or intangible goods (*conquêts immeubles*), shall be regulated and governed by the Custom of Paris, which endowed each of the partners with certain rights in the case of debt.<sup>240</sup> To the marriage, Marguerite LeCocq brought 3,000 *livres*. If she ever financially separated from her husband, he would have to reimburse her this amount.<sup>241</sup> Under the Custom of Paris, Marguerite LeCocq's inherited goods (*biens propres naissant*) would not be fully included in the community of goods. For instance, if she had inherited a house, her husband could profit from its rent but not sell it without her permission. Furthermore, he was expected to use this profit for the benefit of his wife and children.<sup>242</sup>

Less than one year after their marriage, Toussaint D'Albert de Saint-Agnan had evidently incurred debts serious enough to evoke the consternation of the doting family

---

<sup>240</sup> Goods were classified either as *meubles*, or *immeubles*. All *meubles* (or things that could be moved, such as furniture, kitchen utensils, and linens) were included in the community of goods. *Immeubles* were much more difficult to define, and were in fact the source of much inter-marital dispute that played out not only in the private sphere but also in the court room. Only certain types of *immeubles* were included in the community of goods. *Conquêts immeubles*, or goods that had been purchased "à titre onéreux," such as a professional office that had been bought or inherited, entered the community. *Biens propres*, on the other hand, did not enter the community. See Zoltvany, "Esquisse de la Coutume de Paris," 369.

<sup>241</sup> "Contrat de mariage passé pardevant maître Pinguet, notaire royal en la Prévôté de Québec, entre Toussaint D'Albert de Saint-Agnan, négociant demeurant en la ville de Québec, natif de la paroisse Courtomer, diocèse de Séez, en Normandie, fils de feu Toussaint D'Albert et de Marie Duthers (Dulher - Duter), ses père et mère; et Marguerite Lecocq (Lecoq), fille de Jean-Baptiste Lecocq dit Saintonge, sergent des troupes du détachement de la Marine, demeurant en la ville de Québec, et d'Élisabeth Duchesne, ses père et mère," 18 novembre 1742, BAnQ CR301,P2300.

<sup>242</sup> Zoltvany, "Esquisse de la Coutume de Paris," 369.

members of the young Marguerite LeCocq, who was still a minor. LeCocq appeared before Pierre André de Leigne at the *Prévôté* of Québec, flanked by a sizable troop of male relatives and closest friends. Among those present were several members of the legal family Pinguet de Vaucour, including a judge, a fiscal prosecutor, and a notary.<sup>243</sup> LeCocq was seven months pregnant with her first child.<sup>244</sup> Before the court, Marguerite LeCocq announced that “le desordre des affaires de son mary mettant dans un peril évident les reprises et conventions matrimoniales ... elle est dans la nécessité de se pourvoir en Séparation de biens contre luy.”<sup>245</sup> By ten o’clock, André de Leigne had given his written consent that he would listen to the testimony of the seven men. The men ascertained the disorder of D’Albert de Saint-Agnan’s financial affairs. However, the trial could not proceed without the appointment of one single man as caretaker of Marguerite’s goods.<sup>246</sup> Jacques Pinguet de Vaucour, a judge in the local court of Notre-Dame-des-Anges, agreed to assume the position.

Their next step was to hire Nouette as Marguerite’s legal proxy. Throughout her trial, Marguerite’s legal privileges were limited. Rizzo cleverly chose as the title of her study on women in court in Ancien Régime metropolitan France, *A Certain Emancipation of Women*. “Certain” has the double entendre of “sure, certain to occur,”

---

<sup>243</sup> “Elle a fait assembler a Deffaut de parens des amis Maître Jacques Pinguet de Vaucour Juge de la juridiction de notre dame des anges parain de lad. comparante, Sieurs Charles et Nicolas Pinguet de Vaucour Bourgeois de cette ville, M. François et Jean Baptiste LeVasseur, Sieur Jean Laurent Corty procureur fiscal de la juridiction de notre dame des anges, et françois moreau maçon,” 2 in “Curatelle à Marguerite Lecocq (Lecoq), femme de Toussaint Dalbert Saint-Agnan,” 19 septembre 1743, BAnQ CC301,S1,D1668. While the document reads, “a deffaut de parens,” this actually means, “a défaut du père,” because Marguerite’s mother Elisabeth Duchêne was still alive in 1755. See “Cause entre le sieur Louis Parent, négociant de Québec, tuteur de Jean-Baptiste Buron, demandeur, comparant par le sieur Decharnay; et Élisabeth Duchêne, veuve du nommé Lecocq (Lecoq) et le nommé Saint-Agnan, époux de Marguerite Lecocq (Lecoq), défendeurs et encore défaillants, mention d'un contrat passé devant maître Panet, notaire, le 7 septembre 1747, lesdits défendeurs sont condamnés à payer au demandeur la somme de 27 livres pour trois années d'arrérage de rente, lesdits défendeurs sont également condamnés aux dépens liquidés à 5 livres et 15 sols,” 9 septembre 1755, BAnQ TL1,S11,SS1,D104,P144.

<sup>244</sup> *PRDH* shows that Marguerite Françoise was baptised in Batiscan, near Trois-Rivières, on November 27, 1743.

<sup>245</sup> “Curatelle à Marguerite LeCocq...,” 19 septembre 1743, BAnQ CC301,S1,D1668, page 1.

<sup>246</sup> The definition of *curateur* in the Dictionary of Trévoux (1771) reads, “celui qui est élu ou nommé pour avoir soin des biens et des affaires d’une personne émancipée, ou interdite,” while *curatelle* reads, “charge de curateur, commission donnée à qqn. d’administrer les biens d’un autre, qui ne peut pas y veiller par soi-même, soit par la faiblesse de son âge, soit pour qq. autre empêchement.”

and “certain, or limited.” The case study on Marguerite LeCocq would fall into the latter category: certain, as in limited. Finding herself in financial ruin, did this young woman maneuver her well-placed legal contacts to act on her behalf? The trial record, which refers to the men, “qu’elle a fait assembler”<sup>247</sup> and which shows that she did appear in court in person, leads one to believe that she did indeed take the initiative to begin the separation process. Even if Marguerite did take this initiative, however, the trial record makes quite clear that without the support of these seven men, and in particular, “l’autorité du Maître Jacques Pinguet de Vaucour,”<sup>248</sup> she would have been impotent. Like her legal rights, so too was Marguerite LeCocq’s education restricted. Her signature appears on one of the documents in a steady hand, but with shoddy spelling that does not align with the spelling used throughout the rest of the document, “Lecoq fame de Sainagan,”<sup>249</sup> as opposed to “LeCocq, femme de Saint Agnan.”<sup>250</sup>

That afternoon, Nouette appeared before the *Prévôté* of Québec as LeCocq’s proxy. The process-server Rageot had informed D’Albert St-Agnan that he must appear in court or send someone in his stead. He sent François Dumergue, a Superior Council court clerk who had encountered Nouette at the Superior Council during Marie-Marguerite’s freedom suit. From a brief trial record, it can be discerned that the two legal proxies debated. Nouette, on the one hand, professed that there were grounds for separation. Dumergue goaded Nouette to present proof. Pierre André de Leigne, after listening to both parties, ordered that they produce evidence and counter-evidence

---

<sup>247</sup> “Curatelle à Marguerite LeCocq...,” 19 septembre 1743, BAnQ CC301,S1,D1668, page 2.

<sup>248</sup> “Cause entre Marguerite LeCocq (Lecoq), épouse de Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), sous l'autorité de maître Jacques Pinguet de Vaucour, notaire royal en la Prévôté de Québec, son curateur, demanderesse, comparante par le sieur Jacques Nouette, praticien, son procureur, et Toussaint D'Albert (Albert - Dalbert) de Saint-Aignan (Agnan), défendeur, comparant par le sieur Dumergue, huissier chargé de son pouvoir,” 19 septembre 1743, BAnQ TL1,S11,SS1,D84,P32.

<sup>249</sup> “Cause entre Marguerite LeCocq (Lecoq), épouse de Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), sous l'autorité de maître Jacques Pinguet de Vaucour, notaire royal en la Prévôté de Québec, son curateur, demanderesse, comparante par le sieur Jacques Nouette, praticien, son procureur, et Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), défendeur, comparant par le sieur Dumergue, huissier chargé de son pouvoir ; il est ordonné que la demanderesse sera et demeurera séparée quant aux biens dudit Saint-Agnan, son mari, et il est ordonné que les pièces déposées demeureront sur le bureau pour être communiquées au procureur du roi,” 20 septembre 1743, BAnQ TL1,S11,D84,P33, page 1.

<sup>250</sup> Ibid.

respectively.<sup>251</sup> The fact that at this point, neither spouse appeared in court furthers the hypothesis that women's emancipation through court in the 18<sup>th</sup>-century was an existent but limited phenomenon. Any argument the couple had engaged in appears to have taken place in the private sphere, and not in the public courtroom space.

Unlike criminal trials which were held *in camera*, civil trials were in theory open to all members of the public. More research remains to be done on how "public," in reality, civil trials actually were. While all of the primary sources examined for this thesis refer by name to the legal officials (such as court clerks, notaries, and process-servers) present at trial hearings, the sources are less clear on which members of the public were in attendance. For instance, it would be reasonable to assume that Canons Plante and Degannes de Falaise were present at the hearing of Marie-Marguerite's freedom suit. Perhaps Marie-Marguerite was even brought in from prison. The case would most certainly have been of interest to them, and Dormicourt even insulted them in several of his oral defenses. However, the court clerk did not keep an inventory of the members of the audience, so there is no positive proof.

The next day, Nouette and Dumergue re-appeared in the *Prévôté*, apparently with the evidence that had been requested of them. The documents they brought to court have unfortunately not been recorded, but they may have included the marriage contract, business receipts, and complaints against D'Albert St-Agnan by his creditors. While the archival record summarizes the case saying that the court ordered the separation of the couple, I do not read the document this way. Rather, it seems that both parties presented (through their legal proxies) the decision that they *wanted* the court to adjudicate:

*par la demanderesse a été Conclud aux fins Sa Requête a ce qu'il nous plaise En Egard aux preuves Resultantes de l'Information, par nous faite ce dit Jour ordonner que la ditte demanderesse sera et demoura separée dudit St.Agnan Son Mary, quant aux biens, Par le déffendeur comparant comme a été dit par Son dit pouvoir qu'attendu que la ditte Information ne peut constater le Désordre de ses affaires elle doit Etre Renvoyée de sa demande avec dépens.*

But then André de Leigne ordered both men to leave the written documents for review by the King's Prosecutor, after which he would make a decision on the first day of the next hearing.

---

<sup>251</sup> "Cause entre Marguerite LeCocq (Lecoq)...et Toussaint D'Albert (Albert - Dalbert) de Saint-Aignan (Agnan), défendeur..." 19 septembre 1743, BAnQ TL1,S11,SS1,D84,P32.

*Parties ouïes Ensemble le Procureur du Roy Nous ordonnons que les pieces des parties resteront sur le Bureau pour Etre communiqués audit Procureur du Roy, de Conclusions Etre Ensuite par nous fait droit a qu'il appartiendra au premier Jour d'audience.*<sup>252</sup>

While Nouette does appear in the next hearing on record (further underscoring his industriousness and the colony's high demand for legal representation) he does not do so on behalf of Marguerite LeCoq.<sup>253</sup>

It is possible that André de Leigne was referring not to the King's Prosecutor on the *Prévôté*, but rather to the King's Prosecutor on the Superior Council. If this is the case, a trip to Québec City to comb through the un-digitized archives there may prove fruitful. What is clear is that in 1755, the couple was jointly sued for defaulting on a debt they had on a house. Had they been materially separated, a suit against both members of the marriage would not have made sense. Moreover, the record refers to D'Albert de Saint-Agnan, as the "époux," rather than the "époux séparé quant aux biens" of Marguerite LeCocq.<sup>254</sup> This strongly undermines the previous reading that the couple had dissolved their community in 1743. The couple would have four girls between the years of 1743 and 1747.<sup>255</sup>

---

<sup>252</sup> "Cause entre Marguerite LeCocq (Lecoq), épouse de Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), sous l'autorité de maître Jacques Pinguet de Vaucour..." 20 septembre 1743, BAnQ TL1,S11,D84,P33.

<sup>253</sup> "Cause entre le sieur Louis Levrard, maître canonnier du Roi et Geneviève Testu (Têtu) son épouse, autorisée de son mari, ladite Testu soeur de feu Richard Testu (Têtu) de La Richardière, de son vivant capitaine de flûte des vaisseaux de Sa Majesté, demandeur, comparant par le sieur Jacques Nouette, praticien, leur procureur, et dame Marie-Anne Tarieu de la Pérade (LaPérade), veuve du feu sieur de la Richardière, défenderesse, comparant par le sieur Poirier, praticien, son procureur," 3 octobre 1743, BAnQ TL1,S11,SS1,D84,P33.

<sup>254</sup> "Cause entre le sieur Louis Parent, négociant de Québec....," 9 septembre 1755, BAnQ TL1,S11,SS1,D104,P144; "Cause entre Jeanne Cartier, Marie Cartier, Pierre Sichot (Sichotte), au nom qu'ils agissent, demandeurs, stipulant par maître Jean-Baptiste Decharnay, leur procureur, et la veuve du feu Lecocq (Lecoq) dit Saint-Onge et Albert Saint-Agnan, époux de Marguerite Lecocq (Lecoq), défendeurs et encore défaillants, à propos d'un emplacement et d'une maison sis rue Saint-Louis, saisis le 6 mars 1755, faute de paiement par lesdits défendeurs," 21 mai 1755, BAnQ TL1,S11,SS1,D103,P767, and "Cause entre Joseph Beaudouin (Beaudoin - Baudouin), habitant de Champlain, au nom et comme tuteur des enfants mineurs issus du mariage entre Toussaint Albert dit Saint-Agnan et feue Marguerite Lecocq (Lecoq), lesdits mineurs comme ayant renoncé à la communauté qui a été entre lesdits Saint-Agnan et Lecocq pour s'en tenir aux biens et aux droits leur appartenant, demandeur, comparant par Decharnay, notaire, d'une part; et les Dames Religieuses Ursulines de Québec," 6 septembre 1757, BAnQ TL1,S11,SS1,D107,P1163.

<sup>255</sup> A search on *PRDH* shows that in addition to Marguerite Françoise, mentioned above, Marie Joseph Charlotte was baptized on June 30, 1745; Marie-Thérèse Veronique on August 14, 1746; and Marie-Elisabeth on August 6, 1747.

*Elisabeth Duprat c. Joseph Mercier* (1741). On January 24, 1741, Nouette appeared as the legal proxy for Elisabeth Duprat in a trial at the *Prévôté* of Québec before Pierre André de Leigne. The trial record is scant, but it pitted Duprat against the husband from whom she was separated, Joseph Mercier. Record-keepers in this case were very careful to use the term, “épouse séparée quant aux biens” in referring to Duprat, which confirms that she was financially separated from her husband at the time of the trial.<sup>256</sup> (Furthermore, this erodes the interpretation that LeCocq and D’Albert de Saint-Agnan separated). One year after their marriage, almost to the date, Joseph Mercier was hired as a fur trade *engagé* to the West of the colony. This was one month before the birth of the couple’s only son, Nicolas.<sup>257</sup> Duprat was 32 years-old when she filed another lawsuit against Mercier. He failed to appear in court or send someone in his stead. This may be because he was absent from the colony, as he was in June 1743.<sup>258</sup> Through Nouette as her legal proxy, Duprat requested and was granted the payment of a fine from Mercier. By default, she also won her case against him. In and of itself, the case reveals little about the relationship between Nouette and Duprat, but it does confirm that she was a separated woman whose husband was often absent from the colony. Rumours about illicit relations between Nouette and Duprat will be discussed in Chapter 3.

## 2.6 Conclusion

This chapter has slowed down the legal processes in which practitioner Jacques Nouette de la Poufellerie was involved. Nouette’s role in court was variegated. Sometimes he spoke at length on behalf of his clients; other times he receded into the

---

<sup>256</sup> “Défaut accordé à Élisabeth Duprat (Prat), épouse séparée quant aux biens de Joseph Mercier, comparant par le sieur Nouette, contre ledit Joseph Mercier, assigné, défaillant et condamné aux dépens dudit défaut, et signification du défaut et assignation audit Mercier, à la requête d’Élisabeth Duprat, afin d’obtenir le profit dudit défaut,” 24-26 janvier 1741, BAnQ TL1,S11,SS2,D1193.

<sup>257</sup> René Jetté’s *Dictionnaire généalogique des familles du Québec* (Montréal: 1983) indicates that Joseph Mercier was hired as an indentured labourer on September 22, 1730, and that his son, Nicolas Mercier was born on October 13, 1730.

<sup>258</sup> “Deux pieces de procedure appartenant a la ditte prat Epouse du nommé Mercier absent, a la Remise desquelles led. S. Nouette consent, Inventorié sous la cote quatre-vingt-un,” reads page 25 of the “Saisie et inventaire.”



background, acting as the carrier of pieces. The socio-economic statuses of the clients chosen for further study in this chapter also varied, running the gamut from the most marginalized (such as enslaved Marie-Marguerite), to the most prominent (such as merchants François Havy and Jean Lefebvre).

What his clients shared was a common belief that laws and legal rulings, far from being taken for granted, could be contested before they were cemented. This is the perception Nouette's clients conveyed by choosing to hire him. Neither Marie-Marguerite's status as a slave, Havy's payment of a debt to Widow Laroche, Captain Araby's financial ruin, the marriage between René-Ovide Hertel de Rouville and Louise-Catherine André de Leigne, nor the financial union between Marguerite LeCocq and Toussaint d'Albert de Saint-Agnan, were taken as inevitable outcomes before they were ruled upon.

Nouette was the intermediary between these people and the colony's legal institutions. Perhaps it was precisely because Nouette facilitated such disputes, often drawing into question the legitimacy of colonial rulings, that Intendant Hocquart vilified him as the instigator of "mauvais procez." As expounded upon in the introduction to this paper, highlighting the role of the legal proxy is crucial to a re-conceptualization of the law not as an ahistorical entity, but as historically embedded legality.

## **CHAPTER 3**

### **Nouette the Interloper?**

#### **3.1 Introduction**

This thesis has examined the ways in which Jacques Nouette de la Poufellerie fulfilled various roles in his professional life, straddling the boundaries between the tasks of carrying pieces to court and speaking on behalf of his clients in legal settings. The literature review and collective biographies in Chapter 1 have shown that Nouette was not unique in this sense. Adaptability to an array of legal roles marked the profession of legal practitioners, in metropolitan France and especially in early Canada. Chapter 2 has taken a closer look at a select few of Nouette's cases. In addition to fulfilling a wide range of tasks, Nouette covered a variety of topics in the cases he took on. As a proxy for the Lieutenant General for Civil and Criminal Affairs, Nouette shuffled papers in the background and was reprimanded when he tried to take on responsibilities of more gravity. In contrast, the Marie-Marguerite and Captain Araby case studies have shown that Nouette could also take centre-stage of the courtroom, pleading in front of judges on behalf of his clients.

Through the power of paper, Nouette gained a certain level of social and professional esteem. The inventory of his papers, taken in the summer of 1743 and discussed in Chapter 1, shows that 94 individuals entrusted him with their legal documents--some brief, and others much longer. The volume of papers he amassed in three years speaks to his industriousness, and presumably also to his eagerness to enter colonial society as a fully-fledged and active member of the judicial community. Nouette's knowledge of law, legal processes, and legal writing was in high demand, especially in the colonial space of early Canada.

Nouette's efforts to implant himself firmly into the colony were not always met with success, however. By examining rumours about and personal accusations against him, this final chapter will examine some of the ways in which this newcomer tried but ultimately failed to settle in colonial Canada. In conceiving of Nouette as neither a fully-

integrated member of colonial society, nor an absolute outsider, the ambiguity of his journey will be highlighted. Nouette was antagonized by some highly-placed individuals as an interloper, or intruder into a place they did not consider him to belong. Nevertheless, he retained a loyal group of friends and clients even in his darkest hours.

### **3.2 Nouette's Relationship with Elisabeth Duprat**

Perhaps the first question that arises when making inquiries into Nouette's personal life, is if he ever married. Marriage was a powerful tool newcomers could use to successfully integrate into life in New France. Not only the partnership itself, but also the children born of it could propagate roots into a new society. In her study on the Ruelle d'Auteuil family, Micheline D'Allaire uses a short discussion of "les beaux mariages des filles de Ruelle d'Auteuil," to demonstrate how marriage helped the Ruelle d'Auteuil family create stronger links to the colony.<sup>259</sup>

Nothing is known of Jacques Nouette's personal life before he arrived in the colony of Canada: for instance, whether he had left a wife and children in France, or even how old he was. The curious omission of such details from colonial records suggests that he was not firmly attached to the metropole. On the basis of the number of clients he took on, it can be assumed that through his professional life at least, he was actively trying to anchor himself in the colony. While he never married there, he was rumoured to be cohabiting with Elisabeth Duprat, a separated woman whose story was the last discussed in Chapter 2.

Of course, these rumours should not be taken at face value. Insults in New France should not merely be seen as "personal attacks, but also attacks on the rank that [the victim] personified."<sup>260</sup> Assuming the paradigm Colin Coates suggests, the following sources should be interpreted not only as records of gossip spoken about Nouette, but

---

<sup>259</sup> Micheline D'Allaire, *Montée et déclin d'une famille noble: les Ruelle d'Auteuil, 1617-1737* (LaSalle: 1980), 271-2.

<sup>260</sup> Colin Coates, "Authority and Illegitimacy in New France: the Burial of Bishop Saint-Vallier and Madeleine de Verchères vs. the Priest of Batiscan," *Histoire sociale-Social History*, 22:43 (1989): 66.

also as records of the élite's efforts to undermine Nouette's authority as a legal practitioner. Coates sees the colony as a place where even intendants struggled to assert a strong hold on power. Their sometimes precarious position made them feel threatened by those who built up "clientage clusters."<sup>261</sup> The study of Nouette's networks in Chapter 1 has demonstrated the breadth of his professional connections. A look at the timing shows that it was before 1742 that Nouette had already been hired by several members of the colonial élite, including a member of the established Juchereau family (Antoine), the Lieutenant general for civil and criminal affairs in the *Prévôté* of Québec (Pierre André de Leigne), the wealthy merchant François Havy, and the King's Prosecutor in Montréal, François Foucher.<sup>262</sup> The inventory of Nouette's papers shows that he possessed papers in the names of at least 94 legal parties. Perhaps to some members of the colonial élite, Nouette's growing influence was threatening. Gossip was the tool with which they could de-legitimize his authority and prevent him from full acceptance into colonial society. Arlette Farge, for instance, has taken the opinion that in an absolutist system without a free press, gossip was the only way the public could express its opinion.<sup>263</sup>

At what can be considered the height of Nouette's colonial career (when he took on the greatest number of cases in 1742), Bishop Pontbriand penned a letter to Minister

---

<sup>261</sup> In "Authority and Illegitimacy in New France," Coates writes, "One of the most damning criticisms to make of an authority figure was that he or she was building up an illegitimate clientage cluster....But because a well-supported individual might utilize his or her allies to defy higher powers, in certain situations such clientage clusters might prove to be a liability," 67.

<sup>262</sup> "Un acte de pouvoir d'Antoine Juchereau à Nouette de la Souffleterie [sic]...", 30 mai 1741, BAnQ TL5,D1260; "Arrêt dans la cause entre Marie-Anne Baudoin...contre le sieur de Rouville, mineur, la demoiselle André et le sieur André de Leigne, comparants par le sieur Nouette, leur procureur," 12 juin 1741, BAnQ TP1,S28,P19111; "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 25 avril 1741, dans la cause entre François Havy...contre Marie-Louise Corbin..." 24 juillet 1741, BAnQ TP1,S28,P19135; "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 18 octobre 1741, dans la cause entre les sieurs Havy et Lefebvre, négociants en la ville de Québec, comparants par le sieur Nouette, contre le sieur Rhéaume..." 23 juillet 1741, BAnQ TP1,S28,P19179; "Appel mis à néant de la sentence d'adjudication rendue en la Juridiction de Montréal, le 23 juin 1741, dans la cause entre Geneviève de Ramezay...contre François Foucher, conseiller du Roi et son procureur en la Juridiction de Montréal, comparant par le sieur Nouette, praticien," 23 octobre 1741, BAnQ TP1,S28,P19177.

<sup>263</sup> Arlette Farge, *Subversive Words: Public Opinion in Eighteenth-Century France* (University Park: 1994).

Pontchartrain of the Marine.<sup>264</sup> He complained fervently about Nouette's "scandalous" decision to cohabit with a woman whose husband was absent from the colony. An old *habitant* by the name of Antoine L'Arche, Father Jean-Baptiste Maurice, and Father Jean-Baptiste Saint-Pé had already brought this matter to his attention, he wrote (bolstering his complaint through strength of numbers). He had tried on several occasions to convince Nouette to leave the house of this separated woman. Bishop Pontbriand begged the Minister of the Marine to arrange Nouette's departure from the colony:

*Un nommé nouette de la Pouffellerie qui fait les fonctions de procureur et qui nest icy que depuis quelques années demeure chez une femme dont le mari est absent, qui à fait beaucoup parlé [sic] d'elle par ci-devant les deux personnes causent du scandale. On s'en plaint hautement.... je vous supplie, monsieur, de le faire repasser en france. la colonie n'y perdra rien. Je crois que c'est le seul moyen de remédier à cet abus au reste pourvu que le mal soit arreté.*<sup>265</sup>

That Pontbriand insisted it would be for the good of the colony to have Nouette leave, strengthens the possibility that gossip about Nouette's intimate life was also intended to subvert Nouette's professional authority.

Despite aggressive language about Nouette in the letter, Bishop Pontbriand makes the curious decision to leave the woman unnamed. This apparent effort to protect Elisabeth Duprat's female honour raises an interesting contrast to Colin Coates' study on the trial between Madeleine de Verchères and the priest of Batiscan. Madeleine, the wife of the seigneur of Sainte-Anne de la Pérade, sued a local priest for calumny. She claimed that he had huddled in a canoe while voicing lewd comments at her. Coates interprets the priest's intentions as actually targeting Madeleine's husband, and concludes that "much of the invective directed at male figures of authority in the 18<sup>th</sup>-century actually focussed on the wife."<sup>266</sup> The same could be seen in the Captain Araby case study in Chapter 2.

---

<sup>264</sup> Once it was received in the house on Rue des Bons Enfants in Versailles, it cannot be certain that Pontbriand's letter was ever actually read by Minister Pontchartrain. Rather, it is likely that an under-secretary, or *premier commis*, read and responded to the letter. Only if there was a very pressing matter would the *premier commis* bring it to the attention of the minister, who would either deal with it, or in extreme cases, bring it to the attention of the King in weekly meetings. Because the *premiers commis* dealt most directly with colonial officials in Québec, they have been seen as the real makers of Versailles' decisions on Canadian affairs. See R. la Roque Roquebrune, "La direction de la Nouvelle-France par le ministère de la Marine," *RHAF* 6:4 (1953) : 477-481.

<sup>265</sup> "Lettre de Mgr Pontbriand au ministre," 30 octobre 1742, National Archives of Canada, C11A, vol. 78, fol. 429-430.

<sup>266</sup> Coates, "Authority and Illegitimacy in New France," 76.

François Havy, angered to see his ship return to harbour without having reached the Château Bay, apparently angered Araby not by aspersions aimed directly at him, but by insulting his wife.

While Bishop Pontbriand was careful not to disclose the identity of this “separated woman” in the letter he sent to the Marine, the inventory of Nouette’s papers leaves no doubt that Elisabeth Duprat was the woman in whose house Nouette was rumoured to be living.<sup>267</sup> Approximately one year after Duprat hired Nouette to act as her legal proxy in a lawsuit against the husband from whom she was separated, the engagé Joseph Mercier,<sup>268</sup> Nouette moved to Rue St-Joachim. The earliest record found with Nouette using this street as his address dates from January 5, 1742--the beginning of Nouette’s most productive year as a colonial legal practitioner.<sup>269</sup> It has yet to be determined whether Duprat also resided on Rue St-Joachim. Even if the two inhabited the same house, however, Nouette may simply have been renting a room from Duprat. The research of Daniel Massicotte indicates that 20% of inn-keepers were women. While he concentrates on the ways in which inn-keeping became an important source of supplementary income, it is not impossible that a woman whose husband was absent from the colony would undertake the same strategy.<sup>270</sup>

Nouette was, at least in the eyes of Bishop Pontbriand, an interloper. He dared to create intimate connections, Pontbriand complained, without conforming to the Catholic institution of marriage. If Coates’ analysis is to be applied here, then perhaps the purpose of Pontbriand’s sexual slander was less to undermine Nouette personally, than it was to call into question his professional rank--one also marked by ambiguity. If Pontbriand did

---

<sup>267</sup> “En la demeure de la ditte prat femme du S. Mercier absent en cette colonie, ou le S. Jacques Nouette de la poufellerie praticien fait sa demeure” in “Saisie et inventaire,” 36.

<sup>268</sup> “Défaut accordé à Élisabeth Duprat (Prat), épouse séparée quant aux biens de Joseph Mercier...,” 24-26 janvier 1741, BAnQ TL1,S11,SS2,D1193.

<sup>269</sup> “L’an mil sept cent quarante deux le cinq Janvier a la requeste des Sieurs havy et lefevre negociants aud cette ville pour les quils domicile continué en la maison du Sr. Nouette Scize rue St. Joachim,” in “Mémoire des dépens à payer par le sieur Rhéaume, négociant demeurant à l’île Jésus, à la requête des sieurs Havy et Lefebvre, négociants en la ville de Québec, à la suite de l’arrêt du Conseil supérieur de Québec du 23 octobre 1741,” 12 décembre 1741-13 janvier 1742, BAnQ TP1,S30,D231.

<sup>270</sup> Daniel Massicotte, “Le marché du logement locatif à Montréal,” (M.A. thesis, Université de Montréal, 1987).

disseminate gossip within the colony (in addition to sending an acerbic letter across the ocean), it seems to have had staying power. At the tail end of 1742, through late summer 1743, Nouette experienced a lull in the number of clients who hired him (See Appendix 2 and Bibliography).

### **3.3 An Accusation against Nouette by Charles Ruette d'Auteuil**

Five months into what was presumably a dip in prosperity for Nouette, a member of a prominent colonial family, the Ruette d'Auteuils, accused Nouette of violence. In the late hours of the night on Thursday March 7, 1743, claimed Charles Ruette d'Auteuil de Monceaux, Jacques Nouette had attempted to attack him with his sword. The scene of the alleged crime was the inn (*auberge*) on Rue St-Paul in Montréal where Nouette was lodging. Charles de Monceaux has been remembered as one of the deviant brothers of the prominent legal family, Ruette d'Auteuil. Of noble French origin, Charles Ruette d'Auteuil de Monceaux's grandfather Denis-Joseph had been appointed to the Superior Council in 1663, and subsequently served as Prosecutor General in 1674. His son, François, followed in his father's footsteps and was also appointed Prosecutor General of the Superior Council in 1683. François helped implant the Ruette d'Auteuils into colonial society by marrying into the established (albeit non-noble) Juchereau family.

Two of François' sons, in contrast, proved to be a complete disgrace to the family. "Un esprit pernicieux dans cette colonie," railed one colonist against Charles de Monceaux.<sup>271</sup> Besides for his involvement in illicit fur trade, Charles de Monceaux tainted his family's reputation by living "en adultère public" with the wife of a Montréal merchant.<sup>272</sup> Perhaps the most iniquitous episode, however, occurred when he and his brother harassed soldiers guarding the fortifications of the town of Québec in 1706. The affair turned especially grave when one of the soldiers, who had sustained injuries that

---

<sup>271</sup> "Ramezay au Conseil de la Marine," 15 octobre 1722, National Archives of Canada, C11A 44:218-222, quoted in D'Allaire, *Montée et déclin d'une famille noble: les Ruette d'Auteuil, 1617-1737*, 275.

<sup>272</sup> "Bégon à Maurepas," 2 novembre 1724, National Archives of Canada, AC, C11A, 46:161-4, quoted in D'Allaire, 273.

night, died three weeks later. Helping his son evade punishment during his pending trial at the *Prévôté* of Québec, François Ruette d'Auteuil promptly escorted him to France. In La Rochelle, Charles de Monceaux was condemned in another trial to a fine of 1,500 *livres* and two years in prison for hitting an officer of the infantry. Although he absconded to Canada, an incarceration order for him was issued. The time of his voyage, plus his hide-out in Louisbourg, gave his father François enough time to intervene with the Marine and cancel the order for his son's arrest.<sup>273</sup>

Be that as it may, Charles Ruette d'Auteuil's request for a criminal trial against Jacques Nouette was immediately granted. On March 9, 1743, the members of the Royal Jurisdiction of Montréal convened to hold *in camera* hearings of four witness testimonies. The first witness was François Foucher, the King's Prosecutor in Montréal. Probably because of this conflict of interest, senior practitioner (*ancien praticien*) Jean-Baptiste Adhémar had taken Foucher's place at the head of the court for this trial. The second and third witnesses were the two lodgers in the inn where Nouette was staying. Their names were Madeleine Guyon dit Després, or Dame Damours de Clignancourt, and Jean-Baptiste Boucher De Niverville, an officer. The inn-keeper and final witness was Nicolas Morand, a carpenter who was renting out three rooms in his house for supplementary income.<sup>274</sup>

The duty to appear in court as a witness was not one taken lightly in the Ancien Régime system. If the witnesses failed to appear after the first order, they were charged a fine. After the second failure to appear, they would be put in prison. Witnesses would appear twice in court; first, to give their testimony orally. This would occur privately, apart from the accused and other witnesses, and behind closed doors. A court clerk would take notes on this testimony and later draft a written document. In what was called a *récolement*, the court would re-summon the witness, read the document, and ask if

---

<sup>273</sup> D'Allaire, 273-4.

<sup>274</sup> "Procès entre Charles Ruette d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflerie [sic], accusé de voies de fait," 7 mars-22 avril 1743, BAnQ TL4,S1,D4933.



anything should be added or subtracted.<sup>275</sup> François Foucher was the only witness to add information. As far as his memory served him, he stated, Officer De Niverville showed up on the scene armed with his sword.<sup>276</sup> If the witness knew how to sign his name, he would sign each page of the written testimony. The resulting record, which bears the signatures of all these respective witnesses on the appropriate pages, indicates that Ancien Régime procedure was meticulously followed in this legal space.

It was also customary for witnesses to state whether they were relatives, servants, or allies with either party. Three of the witnesses had no conflict of interest; only Dame Clignancourt was related to Ruelle d'Auteuil through her husband.<sup>277</sup> Despite this relation, even her testimony was in favour of Nouette, the accused. This is not surprising when one considers the abominable reputation Charles Ruelle d'Auteuil had in the colony.

The unified story that can be reconstructed using secondary literature in conjunction with all four testimonies goes like this: At 6 pm on March 8, Dame Clignancourt (as she is referred to in writing throughout the trial, indicating her relatively high social standing), had gone out to dine with her friend, the wife of the King's Prosecutor, François Foucher. The latter had hired Nouette to aid him in a business dispute with Widow de Ramezay, which ended badly for him. However, it appears that much as in cases for especially influential men like Havy and Lefebvre, Nouette's role was minimal. Foucher seems to have been the legal mastermind behind the case.<sup>278</sup> That said, Foucher was greatly disliked by Intendant Gilles Hocquart and had often been

---

<sup>275</sup> See section on "Des récolements" in Jacques-Antoine Sallé, ed. *L'Esprit des ordonnances de Louis XIV: Ouvrage où l'on a réuni la théorie et la pratique des ordonnances : Tome Second, Contenant l'Ordonnance Criminelle de 1670, l'Ordonnance du Commerce de 1673, & l'Edit sur la Jurisdiction Ecclésiastique* (Paris: 1758), 179-192.

<sup>276</sup> "Procès entre Charles Ruelle d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflierie [sic], accusé de voies de fait," 7 mars-22 avril 1743, BAnQ TL4,S1,D4933, page 10.

<sup>277</sup> "Elle nous a dit que led. Sr. Son Mary etoit parens Issus de Germain dud Sr. Dauteuil," in *ibid.*, 11.

<sup>278</sup> "Appel mis à néant de la sentence d'adjudication rendue en la Jurisdiction de Montréal, le 23 juin 1741, dans la cause entre Geneviève de Ramezay...contre François Foucher, conseiller du Roi et son procureur en la Jurisdiction de Montréal, comparant par le sieur Nouette, praticien," 23 octobre 1741, BAnQ TP1,S28,P19177.

accused in the 1730s for overstepping his judicial authority.<sup>279</sup> He was later assessed by historians as a “hard-working, but poorly trained and overly aggressive crown official.”<sup>280</sup>

As respectable women Dame Clignancourt and Dame Foucher would not have met in a public space, but they would have dined in private. Alcohol being an integral part of life in New France (as Catherine Ferland’s research shows), the three most likely would have had a glass of wine or two with dinner.<sup>281</sup> At about 11 pm, François Foucher offered to escort Dame Clignancourt to the inn of Nicolas Morand, where she was renting a room. Massicotte’s research on *auberges* in Montréal between 1731 and 1741 shows that it would not have been uncommon for an élite person to rent a room. He has concluded that about one-third of Montréal’s 3,000 to 3,575 residents in this period rented instead of owned their domiciles. Members of the privileged class, he finds, made up 37.8% of all renters. Nor can it be said that property was concentrated in the hands of the upper-class, as it would become one century later. A room in Nicolas Morand’s house on 5 rue St-Paul would have cost between 150-180 *livres* per year, and a fraction of this amount for shorter-term stays.<sup>282</sup> This would have been prohibitively expensive for some members of the working-class, who may have earned as little as 120 *livres* per year.<sup>283</sup>

Nouette had gone into town to dine. It can also be assumed that he would have consumed alcohol with his dinner. Away from his home in the town of Québec, he would have been one of the many transient male customers, such as officers, sailors, and voyageurs who kept Montréal *cabarets* in business.<sup>284</sup> Nouette may have even made business contacts by socializing in a *cabaret*; it was common practice for work colleagues to have a pint of beer with dinner after work, or even during their lunch and mid-

---

<sup>279</sup> Donald J. Horton, “Hocquart, Gilles,” *Dictionary of Canadian Biography*, vol. IV.

<sup>280</sup> Donald J. Horton, “Foucher, François,” *Dictionary of Canadian Biography*, vol. IV.

<sup>281</sup> Catherine Ferland, *Bacchus en Canada : boissons, buveurs, et ivresses en Nouvelle-France* (Québec: 2010).

<sup>282</sup> Massicotte, “Le marché du logement locatif à Montréal, 1731-1741,” 33.

<sup>283</sup> Catherine Ferland, *Bacchus en Canada*, 147.

<sup>284</sup> “Le cabaret est un lieu où on l’on peut se procurer des boissons alcooliques, mais aussi un endroit inextricablement lié à la sociabilité...Les gens de passage, par exemple les soldats ou les marins, apportent une présence bruyante et colorée dans ces établissements,” writes Ferland in *Bacchus en Canada*, 147.

afternoon breaks. Especially for a newcomer like Nouette, showing up in such spaces of socialization was an important way to integrate himself into this new society.<sup>285</sup>

Nouette must have been on amicable terms with his co-renter, Dame Clignancourt, because when she and François Foucher ran into him on their way home, she invited the two men inside. She hosted them in her room for about half an hour, when she heard a knock on her door. Charles Ruette d'Auteuil de Monceaux (or simply, d'Auteuil, as he is referred to in the trial record) appeared, and Nouette greeted him with a jolly, "Bon Soir!" This was reciprocated by a tirade of insults from Ruette D'Auteuil, who retorted that he would not accept any such salutation from Nouette, the "fripon," "insolant," and a "B... de J... F..." as it is recorded by court clerks. To this, Nouette retaliated that he did not merit such epithets; he was an honest man. Ruette d'Auteuil then shouted "Coquin!" and accused Nouette of wanting to "saisir et faire ses Negres les mains liées derriere le dos." That Ruette d'Auteuil voiced this phrase is backed up by the two witnesses of the scene. During his involvement in illicit trade to the West of the colony, Charles Ruette d'Auteuil de Monceaux must have also traded in slaves. Over the course of his life, he acquired (either through sale or gift) at least four Aboriginal slaves and at least two black slaves.<sup>286</sup> Perhaps he thought of Nouette as impudent because of his involvement in the freedom suit of Marie-Marguerite, which put into question the slavery of Aboriginals, but also the ideological underpinnings of slavery in general.

Then the violence began. Continuing his obloquies, d'Auteuil raised his hand to slap Nouette. He clumsily failed (reported Dame Clignancourt). He reached for sword instead, and again faltered (reported François Foucher). That two different witnesses reported d'Auteuil's poor motor skills provides reason to suspect that he may have been inebriated. This would also dovetail with previous manifestations of d'Auteuil's belligerence. He finally grabbed his cane successfully and lifted it towards Nouette. In

---

<sup>285</sup> In *Bacchus en Canada* Ferland further writes, "Boire selon les rituels, d'une façon codifiée, permet l'inclusion d'un nouveau venu dans la sphère des hommes," 148. She explains that professional groups tended to congregate regularly in the same *cabarets*, located close to their places of work. A group of leather workers, for instance, had a habit of meeting up in Laurent Normandin's *cabaret* on Rue du Cul-de-sac (150).

<sup>286</sup> Trudel, *Dictionnaire des esclaves et de leurs propriétaires au Canada français*, 412.

order to protect himself from d'Auteuil's oncoming cane, Nouette reached for his sword. The testimonies agree that Nouette unsheathed his sword, but stopped short of drawing blood.

Arisen by the commotion in his house, innkeeper Nicolas Morand appeared on the scene. According to his testimony, the two men were on opposite sides of the room, both with their unsheathed swords in their hands. A third tenant, the officer Jean-Baptiste Boucher de Niverville then appeared on the scene, also armed with his sword. Because three of the five men appeared on this alleged crime scene with a sword, it seems not have been unusual to walk around the city armed. While de Niverville also owned seven slaves (five black and two Aboriginal),<sup>287</sup> he seems to have taken no sympathy with d'Auteuil nor felt any affinity towards him. De Niverville forcibly took the intruder out of Dame Clignancourt's room, and brought him into the main room of the inn. How dare he come here, especially at this hour, to start a quarrel with one of his tenants and treat his inn like a battlefield. D'Auteuil rejoined that all Nouette had to do was give back the 450 *livres* he had taken from Monsieur Damour. Not paying much attention to this statement, Morand warned Ruette d'Auteuil that unless he left immediately, he would file a complaint with the governor. Once Ruette d'Auteuil had exited, Dame Clignancourt muttered, "je ne scais qu'elle est cette attention de Mr. Dauteuil de Venir me rendre visite a cette heure, luy qui ne M'en a jamais fait aucune."<sup>288</sup> This may have been a veiled reference to what would have been considered d'Auteuil's adulterous past.

In summary, the witness testimonies against Nouette, the accused, actually all turned out to be in his favour. That the testimonies risked further smearing the highly-regarded Ruette d'Auteuil family name, however, may not have sat well with certain colonial officials. Although his altercation with a Ruette d'Auteuil exacerbated Nouette's already precarious position, it did not dissuade him from insisting that the colonial judicial system act in his favour.

---

<sup>287</sup> Ibid., 286.

<sup>288</sup> "Procès entre Charles Ruette d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflierie [sic], accusé de voies de fait," 7 mars-22 avril 1743, BAnQ TL4,S1,D4933, page 9.

### 3.4 Nouette's Attempt at Recrimination

In his classic style, Nouette diverted focus from one accusation by drawing attention to another, more heinous crime: assassination. Given what is known about Charles Ruette d'Auteuil, Nouette's claim may have seemed more plausible to his contemporaries than might otherwise have been the case.<sup>289</sup> The court clerk thus recorded Nouette's verbal request for a trial, which he submitted several days after he had first been accused by d'Auteuil:

*Supplie humblement Jacques Nouette disant que le S. Dauteuil ayant sans doute concû avec le Sr. Joseph Reaume le dessein d'assassiner le Suppliant chez luy, parcequ'il a, comme procureur de différents particuliers des creances considerables a répéter Contre lui, dont les titres sont en sa possession, est venu nuitamment et a l'heure de minuit ou Environ le sept de ce mois dans la maison ou il demeure, espérant le trouver dans sa chambre et exécuter son projet....la manière dont il recût le salut et le compliment du Suppliant lorsque le Suppliant luy Souhaitta le bonjour; prouve que son dessein n'étoit autre que de l'assassiner...*

"N'es ce pas un crime plus énorme, commis en sa personne?" Nouette inquired of the judicial audience in the Royal Jurisdiction of Montréal. He then proceeded to root his argument firmly in accepted works of Ancien Régime jurisprudence.

Here, for the first time, we see Nouette referencing exact books and titles, thus, building his first real legal argument. During Marie-Marguerite's trial, he had made only tangential reference to the legal treatment of slaves in Paris, but failed to directly name the Edict of 1738, whereby slaves had to be registered and were sometimes detained upon

---

<sup>289</sup> This was not the first time Nouette had accused a colleague. In a nine-day trial that had taken place in late August 1742, Nouette had accused a friend of his, the process-server (*huissier*) Jean-Baptiste Guyard, of stealing his watch. With the invention of the balance spring in 1657, pocket watches had become more commonplace, but it could still be expected that Nouette's watch may have been engraved and held personal value to him. Presumably after a night of drinking, the two men had entered the *auberge* where Nouette was staying. This was the house of Antoine Poudret, the baker, on Rue St-Paul in Montréal. Nouette and Guyard roused guests by the commotion they stirred. According to witnesses, Nouette, "comme un furieux" started shouting at his friend, accusing him of having stolen his watch. Witness testimonies more or less converged that Nouette had falsely accused Guyard. The latter accused Nouette of calumny in court, and demanded a public retraction and restitution of honour. "Procès entre Jean-Baptiste Guyard (Guyart), huissier, plaignant, et Jacques Nouette, sieur de la Pouflerie [sic], accusé de calomnie," 22 août-1 septembre 1742, BAnQ TL4,S1,D4874.

arrival.<sup>290</sup> On behalf of Captain Araby, he alluded to but did not cite by name the relevant titles of the Maritime Ordinance (1681).

To furnish his definition of recrimination, Nouette relied on legal scholars Jean Imbert,<sup>291</sup> Jean Papon,<sup>292</sup> Julius Clarus (Giulio Claro),<sup>293</sup> and Andreas von Gail.<sup>294</sup> (See Appendix 7 for a fuller excerpt):

*La recrimination, selon Imbert en sa pratique livre 3 chapitre 10, et selon Papon livre 24 titre 2. n. 6, est la plainte que l'accusé fait contre un premier plaignant : la véritable recrimination [sic] est lors que l'accusé oppose un autre crime a celui qui l'accuse et se rend denoncateur contre lui. Elle n'est point reçue en France....au dernier cas, Il peut accuser sa partie d'un crime plus atroce et non d'un crime pareil ou moindre.*<sup>295</sup>

This definition concords almost verbatim with the definition of recrimination found in the legal dictionary of Claude-Joseph de Ferrière (the first edition of which appeared in 1729):

*RECRIMINATION, est l'accusation postérieure que fait un accusé contre son accusateur....On appelle aussi L'accusation que forme un accusé en se rendant dénonciateur d'un autre crime contre celui qui l'accuse. Imbert en sa Pratique, liv. 3 chap. 10., Papon, liv. 24. tit. 2, nomb. 6. Cette récrimination n'est point reçue en France, quand il s'agit de pareil délit ou moindre.*<sup>296</sup>

Both definitions cite exactly the same texts, bring up the idea of denunciation in a public forum, and specify that recrimination is not accepted in French courts unless the second incrimination points to a graver crime. In a colonial courtroom in Québec in 1742, thus, Nouette echoed a metropolitan definition of recrimination.

---

<sup>290</sup> “Mêmes les esclaves amenés des Isles à Paris, qui ne sont ni libres ni en possession de liberté, lors qu’ils sont traduits dans les prisons, ne peuvent y être tenus plus de vingt quatre heures sans écrou,” in “Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt.”

<sup>291</sup> Jean Imbert, *La pratique judiciaire civile et criminelle* (Paris: 1627).

<sup>292</sup> Jean Papon, *Recueil d'arrests notables des cours souveraines de France* (Paris: 1621).

<sup>293</sup> Giulio Claro and Hieronymus Giacharius, ... *Liber quintvs receptarvm sententiarvm integer: in qvo omnivm criminvm materia svb receptis sententiis copiosissime tractatur ....* (Frankfurt: 1604).

<sup>294</sup> Andreas von Gail, *Practicarum observationum, tam ad processum judicarium*. Apud Guilielmum Lesteenium & Engelbertum Gymnicum, 1653.

<sup>295</sup> “Procès entre Charles Ruette d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflerie [sic], accusé de voies de fait,” 7 mars-22 avril 1743, BAnQ TL4,S1,D4933, page 25.

<sup>296</sup> Ferrière, *Dictionnaire de droit et de pratique (Tome Second)*, 487. The first edition of Ferrière's legal dictionary appeared in 1729, and this can help explain from where Nouette

What then, were these foundational references on recrimination, found in the works of French legal scholars? Jean Imbert, Lieutenant for Criminal Affairs in the Royal Seat of Fontenay, had first written *La Pratique judiciaire civile et criminelle* in Latin. Its first French edition had appeared in 1545.<sup>297</sup> The book was published and re-published several times, often with the notes of subsequent scholars printed in the margins. Shorthand, it was simply referred to as *La Pratique d'Imbert*. Book 3 dealt with interrogations of the accused, “Des interrogatoires faicts aux accusez, ensembles des fins de non recevoir, qui se doivent proposer avant l’interrogatoire,” while Title 10 outlined the specifics of recrimination, “Fin de non recevoir de retorquution ou recrimination.” Under normal circumstances, Imbert wrote, courts should not receive recriminations, and should decide upon criminal complaints in the order in which they were filed. If the accused did, before the settlement of his trial, bring to court an accusation against the accuser, then the original incrimination would have to be settled first.<sup>298</sup>

Jean Papon, for his part, had contributed to the longer-term project of French legal unification by editing the *Recueil d’arrêts notables des cours souveraines de France* in 1556.<sup>299</sup> Book 24, dealt generally with accusations, instigations, and denunciations. Title 2, Number 7 asserted the regulation that both Nouette and Ferrière had reiterated, “recrimination non receu en France.” This section, however, pointed to an exception, “...mais c’est quand l’Accusé propose contre l’Accusateur crime plus grave : car lors il est premier ouy & depesché.”<sup>300</sup>

That these exact references appear on trial record in the archives of Québec shows that the study of French legal history must encompass much more than the black-and-white documents left behind by metropolitan legal scholars such as Imbert and Papon. Indeed, concentrating on the movement of ideas across the Atlantic is one way of

---

<sup>297</sup> Jean Imbert had also written *Enchiridion*, a study of Roman law and its vestigial uses in 1564 (Thireau, *Introduction historique au droit*, 231).

<sup>298</sup> “La second accusation seroit sursoyee jusques à ce qu’il fust decis de la premiere...il faut preallablement terminer l’accusation premierement intentee,” in Jean Imbert, *La pratique judiciaire civile et criminelle*, 633.

<sup>299</sup> Thireau, *Introduction historique au droit*, 268.

<sup>300</sup> Papon, *Recueil d’arrests notables des cours souveraines de France*, 1307.

highlighting the law as embedded in particular social settings, rather than the law in a hermetic, timeless sense. In other words, an examination of Imbert and Papon, in conjunction with the 1743 criminal trial against Nouette in Québec shifts the study from pure law, to legality.<sup>301</sup>

Jacques Nouette formulated his argument in the apparent hope that the colonial judges listening to his case would regard him with esteem if he could show a detailed knowledge of scholars like Imbert, Papon, Clarus, and von Gail. Nouette's strategy, thus, was to rely on metropolitan authorities to legitimize his arguments. As has been seen in Chapters 1 and 2, Nouette's familiarity with legal processes had won him influence in society. The power of paper had allowed him to create a widespread network of clients. When he found himself criminally accused by a member of the Ruette d'Auteuil family, would colonial judges side with him once he exhibited an intricate knowledge of metropolitan law?

### **3.5 The Court's Reaction to Nouette's Recrimination**

Perplexed by the dispute after having heard the four witnesses, Adhémar ordered that the case be sent, "devant un plus ancien praticien," which is curious because Adhémar was himself considered a senior practitioner.<sup>302</sup> The senior legal practitioner, François Simonnet, decided one day later, that the best course of action would be to turn a blind eye to Nouette's request for a criminal trial. Presumably this was because Simonnet calculated that it would lead to a criminal conviction of the son of the former General Prosecutor of the Superior Council. He stated, "nous ne voulons connoître de l'affaire dont il sagit."<sup>303</sup> Malhiot, another senior legal practitioner, contradicted this three days later by allowing Nouette to summon witnesses to court to back up his

---

<sup>301</sup> Tomlins and Mann, eds., *The Many Legalities of Early America*, 2-3.

<sup>302</sup> "Renvoyer les parties...pardevant le plus ancien praticien," in "Procès entre Charles Ruette d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflerie [sic], accusé de voies de fait," 7 mars-22 avril 1743, BAnQ TL4,S1,D4933, page 20.

<sup>303</sup> Ibid.



counter-accusation of an assassination attempt by Ruette d'Auteuil. The court's reaction can be summed up as exasperated and ambivalent.

After hearing the witnesses again, the Royal Jurisdiction of Montréal declared that it did not see grounds for a criminal accusation stemming from the event on March 7. Under the Criminal Ordinance of 1670, the court converted the case to a civil trial.<sup>304</sup> Probably anxious to be rid of the sticky situation posed by this case, the members of the Royal Jurisdiction of Montréal sent it along to the Superior Council as a civil question. That a whole month lapsed before the Superior Council finally sat to hear the case suggests hesitation on its part. Finally, on June 25, the members of the Council sat to hear the trial. Perhaps tired of the dispute, Nouette had hired François Dumergue to appear on his behalf. Ruette d'Auteuil failed to appear at the hearing, or send anyone in his stead. By default, Nouette won the case, and Ruette d'Auteuil was condemned to court costs.

Nouette was probably irked by this outcome, because Charles Ruette d'Auteuil never ended up standing criminal trial for his alleged assassination attempt. Ultimately, the authorities did not even recognize Nouette's request for a criminal trial as legitimate. Perhaps even more frustrating to Nouette was the court's failure to render a detailed reasoning as to why it had converted the trial to a civil one. This underscores Christopher Tomlins' observation that sometimes in early modern legal history, it must be concluded that the law functioned to obfuscate rather than clarify outcomes.<sup>305</sup> As an outsider who was trying to implant roots in the colony, Nouette ultimately failed in the face of someone whose family had already secured social prestige.

---

<sup>304</sup> Court procedure for the confrontation of witnesses is outlined in Articles XIII-XXII of Title V of the Criminal Ordinance. "S'il paroît avant la confontation [sic] des Témoins que l'affaire ne doit pas être poursuivie criminellement, les Juges recevront les Parties en procès ordinaire, & pour cet effet, ordonneront que les informations seront converties en enquêtes, & permis à l'Accusé d'en faire de sa part dans les formes prescrites pour les enquêtes," reads Article III of Title XX ("de la conversion des Procès verbaux") of the Criminal Ordinance of 1670 in Sallé, *L'Esprit des ordonnances... Tome Second*, 283. *Enquêtes*, by definition, are investigations that take place within the framework of a civil trial.

<sup>305</sup> Tomlins, *The Many Legalities of Early America*, 215.

### 3.6 Imprisonment: The Nadir of Nouette's Efforts to Implant Himself in the Colony

Allegedly, in the summer of 1743, Nouette had in his possession certain legal documents concerning the disputed inheritance of François LeVasseur. Two merchants of the town of Québec, Pierre Jehanne and Louis Gugnière, both had claims to the inheritance. The amount of money in question was valued somewhere between 8,000 and 10,000 *livres*, depending on which party was asked.<sup>306</sup> As per usual, Nouette does not appear to have been involved in the dispute from the first instance, which began at the *Prévôté* of Québec on August 17, 1740.<sup>307</sup> However, when Pierre Jehanne appealed the ruling that had been issued on March 2, 1742, Nouette appeared as the carrier of pieces and legal proxy for the defending party, Louis Gugnière.<sup>308</sup> Eighteen days later, Jehanne lost this appeal at the Superior Council and was condemned to the three-*livres* fine for his *fol appel*.<sup>309</sup>

Sometime before July 16, 1743, Jehanne sued Nouette in the *Prévôté* of Québec, demanding that he hand over certain crucial documents concerning the LeVasseur inheritance dispute. On July 29, the Superior Council upheld the *Prévôté*'s ruling that Nouette, "est condamné es par corps a rendre aud. Intimé les billets et procedures

---

<sup>306</sup> "Appel mis à néant des sentences rendues en la Prévôté de Québec, le 17 août 1740 et le 20 avril 1742, dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession vacante de feu François Levasseur, contre Louis Gendron le jeune, marchand à Paris, d'une part, et encore Louis Gugnière, négociant à Québec, curateur à la dite succession, d'autre part," 11 juin 1742, BAnQ TP1,S28,P19264.

<sup>307</sup> Ibid. and "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 17 janvier 1741, dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession de défunt François Levasseur, marchand à Québec, contre Louis Guignière, bourgeois de Québec, au nom et comme exécuteur testamentaire du dit François Levasseur et curateur élu à sa succession, intimé, comparant par Jean Latour, notaire. Pierre Jehanne est condamné à l'amende de 3 livres pour son « fol appel » et aux dépens de la cause d'appel," 20 février 1741, BAnQ TP1,P19068.

<sup>308</sup> "Arrêt qui continue l'audience au premier jour de Conseil dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession du feu sieur Levasseur, et appelant de la sentence rendue en la Prévôté de Québec, le 2 mars 1742, contre Louis Gugnière, bourgeois de Québec, au nom et comme curateur élu à la dite succession," 12 mars 1742, BAnQ TP1,S28,P19232.

<sup>309</sup> "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 2 mars 1742, dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession du feu sieur Levasseur, contre Louis Gugnière, négociant à Québec, au nom et comme curateur élu à la dite succession. Il est ordonné que la sentence en appel sortira effet," 20 mars 1742, BAnQ TP1,S28,P19241.

mentionnés.”<sup>310</sup> In this way, it approved the confiscation and inventory of Nouette’s papers that had already begun on July 27.<sup>311</sup> Unfortunately, court clerks were vague about the exact content of the important papers sought, which raises doubts as to the real reason of Nouette’s imprisonment. Furthermore, that Nouette was held in prison until he hand over documents concerning a case which had already been settled one year prior, suggests that there were ulterior motives at play.

A first glance at the documents demonstrates that legal ritual was carried out according to protocol. Following the orders of Intendant Hocquart, court clerks appeared in prison with a large chest, containing the papers that process-servers had confiscated from Nouette’s domicile. What ensued was a ceremonious inventory of Nouette’s papers that took several days to complete. Each set of papers, numbering 94 in total, was shown to Nouette. Nouette answered that he either consented to or opposed the confiscation of these papers. If he contested the confiscation (usually because that legal party had not yet paid him for his work), this was recorded. Being able to express dissent was the limit of Nouette’s power. Even when he opposed confiscation, court clerks seized the papers. As he watched court clerks seize and file the papers, he must have had a sinking feeling. Up to this point, his possession of these papers had been a reflection of his rising success as a legal practitioner. Now, these papers--the source of his power--were used against him.<sup>312</sup>

---

<sup>310</sup> “Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 16 juillet 1743, dans la cause de Jacques Nouette, praticien, contre Pierre Jehanne, marchand de Québec, au nom et comme syndic des créanciers de la succession de François Levasseur. Il est ordonné que la sentence en appel sortira son plein et entier effet. Nouette est condamné à l’amende de son «fol appel» et aux dépens de la cause d’appel,” 29 juillet 1743, BAnQ TP1,S28,P19468.

<sup>311</sup> The “Saisie et inventaire,” cited above, spells out this timing very clearly: “L’an mil sept cent quarante trois, le vingt-septieme jour de juillet Sur les Deux heures de Relevé le greffier en chef de la prévôté de cette ville, en Consequence des ordres de m. l’Intendant qui nous l’Effet de faire en la présence du S. Jacques Noüette de la Poufellerie L’Inventaire de tous les papiers dont il était chargé par divers particuliers, et pour lesquels particuliers il occupait En qualité de leur procureur et sur les quels papeiers Les scellez auraient été opposé suivant le procès-verbal qui en a été dressé en datte du vingt deux de ce mois,” 1.

<sup>312</sup> For instance, Nouette opposed the confiscation of papers concerning Elizabeth Chauvigny (Widow Landeron-Landron), under File 30, but the papers were returned to the Landron family on October 14, 1743. “une Liasse contenant cent une pieces d’Ecritures dont une en parchemin et le reste En papier, appartenant a la Dame Elizabeth Chavigny Veuve du S. Etienne Landron, concernant divers particuliers, a la Remise desquelles pieces led. S.-J. Noüette s’oppose par Raison de ce qui peut luy etre deub par lad. Demoiselle Landron, Inventorié sous la Cotte Trentieme,” reads the record of Nouette’s opposition to the confiscation, in “Saisie et inventaire,” 12.

### 3.7 Intendant Gilles Hocquart's Antipathy towards the Legal Practitioner

Taken in the context of Bishop Pontbriand's letter in 1742, one year before Nouette's imprisonment, it seems likely that colonial authorities had been waiting for a pretext under which to rid themselves of Nouette. Giving Nouette a taste of prison, officials may have calculated, would be warning enough to let him know they were serious about ensuring his rapid departure from the colony. Indeed, in the letter quoted in greater detail at the introduction of this thesis, Intendant Gilles Hocquart reassured the minister that after Nouette had been released from prison, "je luy ay fait dire qu'il eut a s'en retourner en france, ou que je servis passer d'autorité."<sup>313</sup> Judging by this and by the acerbic description of Nouette by which it was preceded, it seems that Hocquart had a sharp dislike for the legal practitioner at the centre of this study. Considering that Hocquart sat at the head of the Superior Council, what does his antipathy for Nouette say about the role of law in a colony run by naval administrators, or *officiers de plume*?

It will first be useful to review the responsibilities with which the intendants of Québec were vested. In name, they were called the "Intendants de justice, police et finances." The order in which these responsibilities were listed should not be mistaken for an order of priority, however. To be sure, the judicial obligations were large in number. The intendant was charged with hearing the duties to determine the number of judges necessary and assist in their appointment, hear the disputes of subjects, administer criminal justice, preside over the Superior Council, and pass sovereign judgements in civil law cases.<sup>314</sup>

Appeal to the King being cumbersome for geographic reasons, some have concluded that the intendant's judicial authority was practically absolute.<sup>315</sup> However, like many intendants, Hocquart lacked a profound knowledge of the law and legal

---

<sup>313</sup> "Lettre de Hocquart au ministre," 3 novembre 1743, National Archives of Canada, C11A, vol. 62, fol. 274-275.

<sup>314</sup> Gustave Lanctôt, "Les fonctions de l'Intendant." *Report of the Annual Meeting of the Canadian Historical Association* 8:1 (1929): 73.

<sup>315</sup> In "Les fonctions de l'intendant," Lanctôt writes, "dans les domaines de justice et de la finance, [l'intendant] possédait une autorité pratiquement absolue," 75.

concepts. A record of the books in his library, taken after his death, shows that only 15% dealt with law and jurisprudence. Rather, Hocquart's expertise lay in the areas of Marine administration and finance. Six of the fourteen fathers of Québec's intendants in the 17<sup>th</sup>-century were treasurers.<sup>316</sup> Only five of the fourteen intendants had formal legal educations: Claude de Bouteroue d'Aubigny, Jacques Raudot, Michel Bégon, Edme-Nicolas Robert and Claude-Thomas Dupuy.<sup>317</sup> Although appointed intendant, Robert never made it to the colony, while Bouteroue only stayed between 1668 and 1670. This further erodes any argument of a strong legal tradition among the intendants of New France.

Dupuy, Hocquart's predecessor as Intendant, had been recalled for his mismanagement of the colony's funds. To the Ministry of the Marine, the "unimaginative" and fiscally responsible Hocquart probably seemed like the perfect alternative. From a petty noble family whose male members held various positions in finance and the navy, Hocquart had started his lifelong career as an *officier de plume* in the Marine as a scrivener at the age of eight. From 1721 to 1727, he moved to the port of Rochefort, which was somewhat of a training ground for officers of the Marine. There, Hocquart gained practical experience in all aspects of Marine administration--from financing and budgeting to ship building, outfitting and repairs. His royal commission had stressed his economic duties, and it was indeed on these that Hocquart concentrated once in Canada. Under him, the colony experienced economic growth.<sup>318</sup>

Just as, "parler de l'intendant, officier de la Marine, comme fonctionnaire 'civil' est un des non-sens qui se trouve dans trop des histoires du Canada,"<sup>319</sup> it would also be nonsensical to speak of Québec's colonial Intendants as men steeped in the law. As shown above, Hocquart's priority was the colony's prosperity, less than it was the

---

<sup>316</sup> John Boshier, "Ouvrage recensé : Jean-Claude Dubé, *Les Intendants de la Nouvelle-France*," *Recherches sociographiques* 26:1-2 (1985): 288-290.

<sup>317</sup> Jean-Claude Dubé, "Les intendants de la Nouvelle-France et la République des Lettres," *RHAF* 29:1 (1975): 37-8.

<sup>318</sup> Horton, "Hocquart, Gilles."

<sup>319</sup> Boshier, "Ouvrage recensé."

administration of justice. The kingpin of the Superior Council, it seems, regarded Nouette as an interloper, who thrust himself uninvited into the administration of colonial justice.

### **3.8 Those who Remained Faithful to Nouette**

Nouette would eventually depart from the colony, as officials like Bishop Pontbriand and Intendant Hocquart desired. Ultimately, their demarcation between “insider” and “outsider,” would prevail, and Nouette would fall on the outside. The story is complicated, however, by other documents which suggest that Nouette had a loyal group of supporters, even in the nadir of his colonial itinerary. Pierre André de Leigne, it seems, was largely unvexed by Nouette’s decision to live with a separated woman. Bishop Pontbriand’s letter suggests that André de Leigne’s decision to address Nouette on the issue was nothing more than perfunctory, “m. andre lieutenant de police m’assure lui en avoir parlé.”<sup>320</sup> André de Leigne’s relationship with Nouette, (including his decision to hire him as a legal proxy in the messy familial affair discussed in Chapter 2) suggests a sense of collegiality among the gamut of men in the colony’s legal milieu. Did they perhaps feel alienated in a colony where most power-holders were men of the Marine, whose area of expertise typically lay not in jurisprudence?

In the eyes of many, Nouette’s imprisonment was unjust. On June 21 1743, “entre les guichets de prison comme lieu de liberté,” Nouette signed a *procuration* allowing court clerk in the Superior Council, François Dumergue, to act as his legal proxy. The document does not specify whether Nouette was paying Dumergue, or whether Dumergue was simply helping out his friend.<sup>321</sup> It is not impossible, however, that Dumergue developed an admiration for Nouette when he encountered him in the courtroom during Marie-Marguerite’s freedom suit.<sup>322</sup> On August 12, within the walls of

---

<sup>320</sup> “Lettre de Mgr Pontbriand au ministre,” 30 octobre 1742, National Archives of Canada, C11A, vol. 78, fol. 429-430.

<sup>321</sup> “Procuration de Jacques Nouette, à François Dumergue, huissier au Conseil supérieur de Québec,” 21 juin 1743, BAnQ (*Parchemin*, notaire C. Louet).

<sup>322</sup> While the two men encountered each other as defendants for opposing parties in Marie-Marguerite LeCocq’s separation suit, discussed in Chapter 2, this was not until September 1743.

the prison and with François Dumergue as one of his witnesses, Nouette protested his imprisonment, “fait sans decret ni jugement le dix neuf Juillet dernier, et l’enlevement de ses papiers.”<sup>323</sup> The ardour with which Nouette drafted this short document can be compared with legal scholar Jacques-Antoine Sallé’s *L’Esprit des ordonnances de Louis XIV*. The section on imprisonment in this 1755 re-interpretation of the Criminal Ordinance reads, “Mais l’expérience fit connoître les abus sans nombre qui résultoient des contraintes par corps, & combien il étoit inhumain & dangereux, pour l’Etat même d’ôter à un Citoyen ce que la nature lui a donné de plus cher, la liberté.”<sup>324</sup> The use of the words “liberté” and “citoyen” (rather than “sujet”) became increasingly common in the second half of the 18<sup>th</sup>-century.<sup>325</sup>

For the brief window of time between his release from prison and his departure from the colony, Jacques Nouette de la Poufellerie was in high demand for his legal practice. Among those who asked him to represent them in court were firmly implanted members of the colony’s legal practitioners. Nouette was still in prison as late as August 15, 1743, but as early as August 27, 1743 the brothers Jacques-Charles and Jacques-François Barbel hired Nouette to aid them in a dispute they had with notary Jean-Claude Louet. On September 17, Nouette appeared in the *Prévôté* of Québec as their legal proxy. The sons of the man who had been a royal notary at Québec from 1700, thus, entrusted Nouette to carry to court an inventory of documents that would serve in their court dispute.<sup>326</sup> This suggests a fissure between Hocquart, the naval official, and the colony’s

---

<sup>323</sup> “Protestation de Jacques Nouette,” 12 août 1743, BANQ (*Parchemin*, notaire Rageot de Beaurivage).

<sup>324</sup> Jacques-Antoine Sallé, ed. *L’Esprit des ordonnances de Louis XIV: Ouvrage où l’on a réuni la théorie et la pratique des ordonnances. Tome Premier; Contenant l’Ordonnance de 1667, celle de 1669 ; & l’Edit de 1669 , servant de Reglement pour les Epices & Vacations* (Paris: 1755).

<sup>325</sup> Peter Sahlins finds that after 1750, the frequency of the word *citoyen* per 100,000 words tripled from 3.8 to 14.8. The decade with the greatest increase was in fact 1750-59. See *Unnaturally French: Foreign Citizens in the Old Regime and After* (Ithaca: 2004), 346, Note 35.

<sup>326</sup> “Déposition au greffe de la Prévôté de Québec par Jacques Nouette (Lanouette), procureur des sieurs Jacques, Charles et François Barbel, des pièces et de leur inventaire (pièces cotées de A à E inclusivement) qui serviront dans l’instance desdits sieurs contre Jean-Claude Louet, et pour satisfaire à la sentence d’apointement du 27 août 1753 [sic].” 17 septembre 1753, BANQ TL1,S11,SS2,D1847. While this document has been classified under the date of September 17, 1753, a quick look at it reads, “Aujourd’huy dix septieme septembre, mil Sept cent quarante trois...suivant et pour satisfaire a la Sentence d’apointement rendüe entre les parties le vingt sept aoust dernier.”

legal community. Perhaps the Barbel brothers had thought Nouette's imprisonment unjust, and did not let it sway their confidence in him. A similar conclusion can be drawn of the Pinguet de Vaucour family. In Marguerite LeCocq's separation suit, discussed in Chapter 2, a judge, a fiscal prosecutor, and a notary of this family all hired Nouette to act as a legal proxy on behalf of their niece.<sup>327</sup>

Just two days after the Barbel brothers had hired Nouette, Claire Cadrin, the widow of Jean-Baptiste LeRoy, elicited his legal aid on August 29. In a rare occurrence, this woman chose to appear in court with Nouette, rather than simply sending him on her behalf. Her husband had recently died, and she was suing the notary Claude Barolet, who did not seem to be able to find the document of the community of goods between Claire Cadrin and her late husband.<sup>328</sup> In Claire Cadrin's presence and acting in her name, Nouette demanded that Barolet hand over this piece of paper. He added, perhaps emphatically, that the court should detain him if he failed to furnish the document. Voicing this cynical comment, he may have even winked at his friend the process-server (*huissier*) François Dumergue, who had delivered Barolet's order to appear in court. Nouette, after all, had just been released from prison for allegedly withholding crucial legal documents from Québec merchant Pierre Jehanne. While André Deleigne, who sat at the head of the *Prévôté*, ignored the sardonic demand, he did oblige the notary to find and hand over the document in question by the following Tuesday.<sup>329</sup>

According to Hocquart's letter to the Marine, Nouette left the colony on November 3. This would have been approximately two and a half months after his release from prison in mid- to late-August. There is no clear indication of what this would have meant for Elisabeth Duprat, with whom Nouette had been rumoured to be living. Had they really been intimately involved, this would have been a tragic day for

---

<sup>327</sup> "Curatelle à Marguerite LeCocq...", 19 septembre 1743, BAnQ CC301,S1,D1668.

<sup>328</sup> That he could not find this rather important document may help explain why, in 1741, the Superior Council had taken the opportunity of the disputed Hertel de Rouville-Deleigne marriage to remind all notaries that no marriage contracts were to be written on loose-leaf paper. Rather, they had to be bound within the religious act of marriage in the parish registers.

<sup>329</sup> "Cause entre Claire Cadrin, veuve du feu Jean-Baptiste LeRoy, demanderesse, assistée du sieur Jacques Nouette, praticien, son procureur, et maître Claude Barolet, notaire royal en la Prévôté de Québec, défendeur," 29 août 1743, BAnQ TL1,S11,SS1,D84,P29.



her. Nouette never returned to the colony. He may have stayed in La Rochelle, made his way to inland France, or perhaps even tried his luck in another French colony such as Louisiana or Martinique. One year later, in October 1744, there was still talk of Nouette. Pierre Jehanne and his fellow merchant, Jean Mathieu Monier, sued François Barbel to take over responsibility for debts they claimed that Nouette owed them. In a protest to this, Barbel protested the unjust nature of Nouette's imprisonment:

*Le S. Noüette, cy devant procureur du deffendeur [Barbel], fut conduit en prisons de cette ville par ordre superieur, les Sieurs moniers Jehanne se disant creanciers dud Noüette se miseront de le faire Ecroüer, quoyque contre L'ordre n'ayant aucun par corps contre luy, Ecroüe qui tombait de luy même et qui netoit d'aucune consideration suivant l'ordonnance, mais etant encore detenu dans les d. prisons, le quinze aoust mil sept cent quarante trois et les affaires de familles dud. deffendeur demeurant toujours en suspens par cette detention.*<sup>330</sup>

This excerpt furthermore changes the story of the reasons for Nouette's imprisonment in the first place. It shows that both Jehanne and Monier claimed that Nouette owed them money, and not just paper. This clashes with records from the summer of 1743, which only mention Jehanne's insistence that Nouette owed him certain documents. Without further evidence that reconciles these documents with each other, it can only be concluded that the reasons for Nouette's imprisonment are murky. They may have been kept so intentionally by colonial authorities because the whole imprisonment was a pretext to scare Nouette into leaving the colony, as had been desired.

### 3.9 Conclusion

This chapter has examined the trajectory of a newcomer who asserted his legal skills in early Canadian society. With the idea of the "power of paper" in the background, it has been suggested that personal rumours about Jacques Nouette and Elisabeth Duprat should actually be interpreted as an attack on his authority as a legal practitioner.

---

<sup>330</sup> "Réponses de François Barbel, écrivain de la Marine, sur la requête de Jean-Mathieu Monier (Monnier) et Pierre Jehanne, négociants, concernant l'intervention de Barbel dans le conflit opposant le sieur Nouette à ses créanciers, Monier et Jehanne, en se portant entre autre, cautionnaire des enfants du sieur Nouette," 23 octobre 1744, BAnQ TL5,D1394. While this archival title makes mention of children of Nouette, my interpretation of the document reveals no mention of children. It seems that Barbel was made a *cautionnaire*, or responsible party, not for children of Nouette but for Nouette's (alleged) debt of 400 livres to Monier and Jehanne. Furthermore, my archival research has led to no mention of anyone with the last name of Nouette other than Jacques Nouette de la Poufellerie.

Presumably, Bishop Pontbriand had also been spreading rumours orally. Indeed, Nouette experienced a lull in the number of clients who hired him after Pontbriand wrote his letter to the Marine at the end of 1742. The criminal accusation against Nouette, occurring five months after such sexual slander was penned, has been seen as a further attempt to discredit Nouette. In response to Charles Ruette d'Auteuil de Monceaux's accusation, Nouette displayed familiarity with metropolitan law, hoping to win the favour of the court. The outcome of the trial suggests that family links had more staying power than knowledge of French jurisprudence alone.

Next, this chapter has examined the lowest point of Nouette's efforts to be accepted into the colony. By order of the intendant, Nouette was confined to prison for almost two months in the summer of 1743. Documents suggest that the reasons for this imprisonment were specious. Hocquart's distaste for this legal practitioner must be seen in the context of the intendant's lack of deep legal knowledge.

If Nouette was regarded as an interloper by some, however, this opinion was not universal. The witness testimonies in the criminal trial all sided with him. After his imprisonment, many continued to hire him--even members of the colony's legal apparatus. Much as he occupied liminal spaces in his legal practice (alternatively carrying documents to court and pleading centre-stage), so too was Jacques Nouette de la Poufellerie's social status ambiguous.

## CONCLUSION

This microhistory of one early Canadian legal practitioner, Jacques Nouette de la Poufellerie, began with the framing idea that legal history must examine the intersections between legal institutions and society. Legal history, some have written, should today be equated to social history.<sup>331</sup> Christopher Tomlins' "Manifesto of Destiny for Early American Legal History" was one of the main inspirations for the approach to "law" as a historically embedded "legality."<sup>332</sup> By zooming in to closely examine the practice and networks of one agent between people and the courts between 1740 and 1743, this thesis has contributed to a sharper understanding of the practice of law in New France, and by extension in the French Atlantic World.

The literature review in Chapter 1 has revealed that while some basic studies and other more penetrative works on the practice of law in early Canada exist, much remains to be done. The primary source research performed in this chapter has helped fill this void, as well set the backdrop for a clearer understanding of Nouette's work as a legal practitioner. The term "la profession de praticien" has been clarified by looking to the dictionaries of Trévoux and Guyot. *Praticiens*, or legal practitioners, acquired legal skills by showing up in court and performing procedural roles. Lawyers, on the other hand, learned the ins and outs of legal theory at French universities. Roman and ecclesiastical law were the focus, while French laws were added to curricula only gradually throughout the Ancien Régime period. While licensed lawyers were held in high esteem, practitioners were often derided for their duplicitousness and "chicanery." Intendant Gilles Hocquart even used this exact word to describe Nouette.<sup>333</sup> In the colony, licensed lawyers were banned from practicing, and practitioners were relatively scarce. Reference to 40 legal practitioners between the years 1670 and 1760, and only three between the

---

<sup>331</sup> Dubber, "Historical Analysis of Law."

<sup>332</sup> Tomlins, "The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History," 2-3.

<sup>333</sup> "Lettre de Hocquart au ministre," 3 novembre 1743, National Archives of Canada C11A, vol. 62, fol. 274-275.

years 1740 and 1743, has been found in notarial records. In early Canada, thus, the practice of law was somewhat makeshift. Practitioners floated between functions as legal proxies, notaries, and (in extreme situations) the adjudicators of dispute. Because they were literate, however, they carried a significant amount of social clout.

Finally, in Chapter 1, the collective biography has suggested that most of Nouette's clientèle lived in urban centres, initiated their suits in the *Prévôté* of Québec, about half appealed the first instance outcomes, at least eight belonged to the colonial élite, and at least eight were women acting independently of their husbands (if they had husbands). While Nouette touched upon various topics in the cases he took on, many of them dealt with the settlement of financial dispute. Nouette took on no criminal law cases.

Building on this background of Nouette's professional group, as well as the collective biography of his clients, Chapter 2 has reconstructed some of Nouette's more socially controversial cases. These may have been the "mauvais procez" to which Intendant Gilles Hocquart referred. The viewpoint has been adopted that courts were social microcosms, or "lieux de contacts et d'échanges entre factions sociales."<sup>334</sup> The cases were deliberately chosen in part to help reveal the wide range of socio-economic groups who had access to colonial justice. Contextualizing itself in a wider Atlantic trend of asserting the legal personhood of slaves, the case study on the manumission suit of Marie-Marguerite (1740) has demonstrated some of the specificities of Aboriginal slavery and the practice of law in early Canada. While Nouette was able to serve as legal proxy for a slave--something he most certainly would not have been able to do for a black slave in the French sugar colonies, where the *Code Noir* was firmly entrenched and directly applicable--he was ultimately unable to help her win her freedom. Had the setting been the Admiralty Court of Paris, this essay has shown, Nouette may have been successful.<sup>335</sup> That Marie-Marguerite was able to contest her status, however, should not be ignored. In all the trial records lies the key to a deeper understanding of the practice of law in

---

<sup>334</sup> Bernaudeau, "Introduction," in *Les Praticiens du droit du Moyen Âge à l'époque contemporaine*, 13-22.

<sup>335</sup> This comparison relies on Peabody, *There are No Slaves in France*.

colonial settings. The case study on Captain Augustin Araby's dispute with merchants François Havy and Jean Lefebvre, similarly, has slowed down the process through which individuals could contest first-instance decisions issued by the colony's judicial apparatus.

Nouette's legal action on behalf of the principal merchants François Havy and Jean Lefebvre has been chosen as a counter-point to Marie-Marguerite's case. These records, along with the contested marriage dispute involving the Lieutenant General for Civil and Criminal Affairs, Pierre André de Leigne, demonstrate that when Nouette served as a legal proxy for members of the colonial élite, he was often preoccupied with collecting papers and carrying them to court rather than advocating for his clients centre-stage. He receded into the background of the legal contest. Finally, Chapter 2 has examined Nouette's role in facilitating the access of women to courts. This study has confirmed previous findings that widowhood was more of an opportunity than a calamity for many women.<sup>336</sup> Nouette was able to secure beneficial financial transactions for several of his female clients. He ran into more difficulties when trying to help one woman gain financial separation from her husband. This suggests that although the *Coutume de Paris* technically granted women this right, colonial Canadian society was less than amenable to helping women realize it.

Chapter 3 has turned to a related, but separate topic: Nouette's personal life. The discussion has been framed using the image of Nouette as an interloper, actively trying to assert himself into his new society, but meeting resistance from some corners. It has been assumed that as a legal paper-pusher, Nouette wielded a considerable amount of power in colonial society.<sup>337</sup> This position of authority, however, made him vulnerable to gossip. Rumours circulated that Nouette had illicit relations with a separated woman who had hired him to act for her in court. These rumours are here interpreted as attempts to undermine his professional probity.<sup>338</sup> A criminal accusation against Nouette by a

---

<sup>336</sup> Such was the conclusion of Brun in "Le Veuvage en Nouvelle-France."

<sup>337</sup> This assumption was borrowed from Burns' study on notaries in the Latin American colonial context, *Into the Archive*.

<sup>338</sup> This paradigm is the one put forward by Coates, "Authority and Illegitimacy in New France."

member of the prominent Ruette d'Auteuil family (albeit somewhat of a rogue member) can be seen as the second installment in an attempt to denigrate Nouette. The court's decision to reject Nouette's legally-sound argument for a criminal recrimination (reproduced in Appendix 3) implies the court's deference to filial ties over legal argumentation. Without a family in the colony to prop him up in times of trouble, Nouette foundered. Finally, an examination of Intendant Gilles Hocquart's order for the seizure of Nouette's papers and his two-month imprisonment provides evidence that Nouette was indeed regarded by colonial power-holders as an intruder, or a man who had "ni feu ni lieu."<sup>339</sup> That others remained loyal to Nouette through to the end, however, points to the ambiguous, fluid nature of legal practitioners in both their professional and personal lives.

In sum, Jacques Nouette de la Poufellerie's itinerary--his networks, his socially outstanding cases, and his socio-professional standing--has been reconstructed. It is hoped that the vivid portrayal of this metropolitan legal practitioner's stay in the colony of New France has helped advance a more holistic approach to colonial legal history, which reveals the specificity of early Canada, while paying attention to Atlantic trends.

---

<sup>339</sup> Dormicourt derided Nouette as such in "Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt," 42.

# APPENDIX 1: *Praticiens* from *Parchemin*, 1670-1759

Name	Year	Title (praticien, maître praticien, ancien praticien)	Other Title
Gosset, Jean-Baptiste	1670	praticien	
Bourdon, Jacques	1672	praticien	
Petit, Jean	1683	praticien	
Dupuis, Guillaume	1688	praticien	
Prieur (dit Cusson), Joseph	1688	praticien	
Quesnevillé, Jean	1693	praticien	
Pruneau, Georges	1694	praticien	
Galipau, Antoine	1697	praticien	
Barette, Guillaume	1699	praticien	
Rivét, Pierre	1699	praticien	
L'aperche, Jean	1703	praticien	
Rageot (de Beurivage), François	1704	praticien	protonotaire
Cabzie (Cabazié), Pierre	1706	ancien praticien in 1717	
Lefebvre, Edmond	1706	praticien	
Lambert, Gabriel	1707	praticien	
Bega, Jacques	1708	praticien	
Adhémar, Jean-Baptiste	1711	ancien praticien in 1740	
David, Jacques	1718	praticien	
Dulaurent, Christophe-Hilarion	1725	praticien	protonotaire
Jacquet, Pierre	1728	praticien	
Girouard (Giroire), Antoine	1739	ancien praticien in 1746	
Simonet (Simonnet), François	1739	praticien	protonotaire
Poirier, Pierre	1741	praticien	
Nouette, Jacques	1743	praticien	
Panet, (Jean)-Claude	1743	praticien	
Esnard, Jean	1745	praticien	
Guillet (dit Chaumont), Nicolas-Auguste	1745	ancien praticien	
Guyard (Guyart), Jean-Baptiste	1745	ancien praticien in 1765	
Laurent, Jacques	1748	maître praticien	procureur fiscal
Turpin, Charles	1748	ancien praticien in 1748	
Amiot, Jean-Baptiste	1749	ancien praticien in 1749	
Saulquin, Joseph	1749	praticien	huissier royale
Decharnay, Jean-Baptiste	1750	praticien	
Masson, François	1752	praticien	
Merle, Jean	1753	praticien	
Panet, Pierre	1754	praticien	
Ginnee, François	1758	praticien	
Decoste (de Letancour), Jean-Baptiste	1759	ancien praticien in 1759	huissier audiancier
L'hoste, Laurent-Vicent	1759	praticien	
Leproust	1759	praticien	
Source: <i>Parchemin Database</i> .			

## APPENDIX 2: Parties Nouette Represented in Court, 1740-1743

Party	Year	Short-Hand Name Attributed to the Case	Occupation and Inferred Socio- Economic Status: E (Elite); M (Middle); W (Worker)	Gender	Place of Residence at Time of Case	Type of Case	First Instance Court	Appeal at Superior Council?
Alavoine, Charles (père)	1743	Charles Alavoine c. Paul Guillet	Merchant ( <i>marchand</i> )-M	M	Montréal	Financial	JM *	no
Allaire (Alaire), Joseph	1742	Pierre Roy c. Joseph Allaire	<i>Habitant</i> -W	M	St-Vallier	Land	CS **	yes
André de Leigne, Louise-Catherine de Leigne et René-Ovide Hertel de Rouville	1741	Marie-Anne Baudoin c. René-Ovide Hertel de Rouville, Louise- Catherine de Leigne, et André de Leigne	<i>Lieutenant général au Prévôté de Québec</i> -E	M	Town of Québec	Marital	CS	yes
Araby, Augustin	1742	Havy et Lefebvre c. Araby	Ship captain-M	M	Town of Québec	Maritime	AQ ***	yes
Asselin, Michel	1740	Michel Asselin c. Clément Fortier	<i>Habitant</i> -W	M	Île St-Laurent	Land	PQ ****	yes
Baby, Pierre et consort	1742	Marguerite Veron de Grandmesnil (veuve de Pierre Petit-seigneur de Yamaska) c. Pierre Baby et consort	<i>Seigneur</i> -E	M	Seigneurie St- François	Land	JM	yes
Barbel, Jacques, Charles, et François	1743	Sieurs Barbel c. Claude Louet	Legal Practitioners-M	M	Town of Québec	Administrative	PQ	no
Busquet, Antoine	1741	Antoine Busquet c. Madeleine Amiot (Veuve de JAques Barbel)	Merchant ( <i>négociant</i> )-M	M	Montréal	Financial	PQ	yes
Cadrin, Claire	1743	Claire Cadrin c. Claude Barolet	Widow-M	F	Town of Québec	Administrative	PQ	no
Chasle, Marie-Anne (Veuve Gouze)	1742	Marie-Marguerite Duroy et Lanoullier de BoiCSiere c. Marie-Anne Chasle (Veuve Gouze)	Widow-M	F	Town of Québec	Inheritance	PQ	yes
Chauvigny (Dechavigny), Élisabeth (Veuve Landron-Landeron)	1743	Elisabeth de Chauvigny c. L'Archevêque-Grandpré	Widow and landlady-M	F	Town of Québec	Financial	PQ	no
De Couagne, Charles- René	1742	De Couagne c. Alexis LeMoine Monière	Merchant-M	M	Town of Québec	Financial	JM; PQ	no



Party	Year	Short-Hand Name Attributed to the Case	Occupation and Inferred Socio- Economic Status: E (Elite); M (Middleling); W (Worker)	Gender	Place of Residence at Time of Case	Type of Case	First Instance Case	Appeal at Superior Council?
<b>De Fleury de la Gorgendière, Louis</b>	1743	Gorgendière c. Pierre Payes et compagnie	Merchant (négociant)-M	M	Town of Québec	Financial	PQ	no
	1741	De Montplaisir et Marie- Madeleine Baudoin (Veuve François Lucas Dontigny) c. Michel Lucas Dontigny et al.	Military commandant-E	M	Seigneurie Champlain	Inheritance	CS	yes
<b>Degré, Raymond</b>	1742	Procuration de Raymond Degré à Jacques Nouette	Sergeant-M	M	Town of Québec	Financial	PQ	no
<b>Desroches, François Tinon</b>	1741	François Tinon-Desroches c. Marie-Madeleine Turpin (Veuve LeVasseur)	X	M	Town of Québec	Inheritance	PQ	yes
<b>Dormicourt, Marc- Antoine</b>	1740	Dormicourt c. L'Archevêque-Grandpré	Officer-E	M	Town of Québec	Financial	PQ	yes
<b>Duplessis-Radisson, Marie-Marguerite</b>	1740	Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt	Slave-W	F	Town of Québec (in prison)	Freedom Suit	PQ	yes
<b>Duprat (Prat), Élisabeth</b>	1741	Élisabeth Duprat c. Joseph Mercier	Separated woman-M	F	Town of Québec	Marital	PQ	no
<b>Dusautoy, A.-Henry</b>	1740	Dusautoy c. Gervais Beaudoin	X	M	Town of Québec	Inheritance	PQ	no
<b>Foucher, François</b>	1741	Geneviève de Ramezay et al c. Foucher	<i>Conseiller royal dans la Juridiction de Montréal- E</i>	M	Montréal	Financial	JM	yes
<b>Fourneau, Jacques</b>	1742	Jacques Fourneau c. Pierre Masse et al.	Ship captain-M	M	Town of Québec	Maritime	AQ	no
<b>Frères Hospitaliers</b>	1743	François DeCSaries c. Pierre Martel et les Frères Hospitaliers	Ecclesiastical official-E	M	Montréal	Land	JM	no
<b>Girard, Pierre</b>	1742	Pierre Girard c. René Letartre	<i>Habitant -M</i>	M	St-Augustin	Financial	CS	yes

Party	Year	Short-Hand Name Attributed to the Case	Occupation and Inferred Socio- Economic Status: E (Elite); M (Middling); W (Worker)	Gender	Place of Residence at Time of Case	Type of Case	First Instance Court	Appeal at Superior Council?
<b>Guyon (Despres), Joseph</b>	1741	Succession Jean-Petit Boismorel	X	M	Montréal	Inheritance	JM	no
<b>Havy, François and Jean Lefebvre</b>	1741	Havy et Lefebvre c. Rhéaume	Principal merchant-E	M	Town of Québec	Financial	PQ	yes
<b>Havy, François</b>	1741	Havy c. Marie-Louise Corbin (Veuve Laroche)	Principal merchant-E	M	Town of Québec	Financial	PQ	yes
<b>Jean, Marie (Veuve Turgeon)</b>	1741	Partage de terres entre les Turgeons	Widow-W	F	Beaumont	Land	PQ	no
<b>Jehanne, Pierre et al. (Pierre Payes, Jean- Etienne Jayat, Jean- Mathieu Mounier, and Jean Bedout)</b>	1741	Négociants de Québec c. la succession LeVasseur	Merchants ( <i>négociants</i> )-M-M		Town of Québec	Inheritance	PQ	yes
<b>Juchereau Duchesnay, Antoine et al.</b>	1741	Antoine Juchereau Duchesnay c. Françoise Juchereau (Veuve Pachot)	<i>Seigneur</i> -E	M	Beauport	Inheritance	PQ	yes
<b>Lamothe, François</b>	1741	Lamothe c. Nicolas Caron	Merchant ( <i>négociant</i> )-M	M	Town of Québec	Financial	PQ	yes
<b>Landron, Marie- Madeleine (Veuve Quenet)</b>	1742	Procuration de la Veuve Quenet	Widow-M	F	Town of Québec	Inheritance	PQ	no
<b>Larchevesque (Larchevêque) Grandpré, Jean Baptiste</b>	1741	L'Archevêque c. D'Ormicourt	Land owner (?) -M	M	Town of Québec	Maritime	AQ	yes
<b>LeCoq (LeCocq), Marguerite</b>	1743	Marguerite LeCocq c. Toussaint d'Albert de Saint Agnan (Aignan)	Wife of a merchant-M	F	Town of Québec	Marital	PQ	no

Party	Year	Short-Hand Name Attributed to the Case	Occupation and Inferred Socio- Economic Status: E (Elite); M (Middle); W (Worker)	Gender	Place of Residence at Time of Case	Type of Case	First Instance Court	Appeal at Superior Council?
Martel de Belleville, Jean-Urbain et Jean Dumont	1741	Various (11)	Merchant; administrative director of St-Maurice ironworks from 1742; later, Commis de Conseil Supérieur de St- Domingue-M	M	Trois-Rivières	Maritime	AQ	yes
Milot, Jacques	1741	Accord entre Jacques- François Poisset et Jacques Milot	Merchant ( <i>négociant</i> )-M	M	Pointe Claire	Financial	PQ	no
Mounier, Jean- Mathieu	1742	Jean-Mathieu Mounier c. Pierre Mauffils	Merchant ( <i>négociant</i> )-M	M	Town of Québec	Financial	PQ	no
Philibert, Nicolas	1741	Jacques Pagé c. Nicolas Philibert; Michel Lacombe c. Nicolas Philibert	Merchant ( <i>négociant</i> )-M	M	Town of Québec	Financial	PQ	yes
Prieur, Charles	1740	Administration de la succession Marbonne	Master wigmaker-W	M	Town of Québec	Inheritance	PQ	no
Raymond, Pierre	1741	Pierre Raymond c. Olivier Abel	Master leather maker-W	M	Town of Québec	Administrative	PQ	yes
Salaberry (Sallaberry) Michel	1741	Tessier, Pierre, Simon et Bécharde c. Salaberry (Sallaberry)	Officer and ship owner-E	M	Town of Québec	Maritime	AQ	no
Soumande, François- Marie et al.	1742	La succession de Jean Soumande c. Charles Fleury DeCShambault	Merchant ( <i>marchand</i> )-M	M	Montréal	Inheritance	JM	no
Trépagny, Augustin	1741	Procuration à Nouette sur les mineurs des parents defunts	<i>Habitant</i> -W	M	Seigneurie Pointe aux Écureils	Inheritance	PQ	no
Volant, Nicolas	1740	Dominique Godet c. Nicolas Volant	<i>Voyageur</i> -W	M	Montréal	Financial	JM	yes
Source: <i>BAnQ; Parchemin and Pistard</i>		*JM = <i>Jurisdiction de Montréal</i>	**CS = <i>Counsel Supérieur</i>		***AQ = <i>Amirauté de Québec</i>	****PQ = <i>Prévôté de Québec</i>		

### **APPENDIX 3: Nouette's Recrimination against Charles Ruette d'Auteuil**

*(Excerpt from "Procès entre Charles Ruette d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflierie [sic], accusé de voies de fait," 7 mars-22 avril 1743, BAnQ TL4,S1,D4933, 24-27).*

A Monsieur le lieutenant  
particulier de la juridiction royale  
de Montréal tenant le Siège de la  
Chambre criminelle en l'absence  
de Monsieur le lieutenant général  
civil et criminel de lad Juridiction

Suplie humblement Jacques Nouette disant  
que le S. Dauteuil ayant sans doute concû avec le Sr.  
Joseph Reaume le dessein d'assassiner le Suppliant chez  
luy, parcequ'il a, comme procureur de différents  
particuliers des creances considerables a répéter Contre  
lui, dont les titres sous en sa possession, est venu nuitamment et a l'heure de minuit ou  
Environ  
le sept de ce mois dans la maison ou il demeure,  
espérant le trouver dans sa chambre et exécuter  
son projet. mais il fait? bien surpris de le trouver  
dans celle de la dame de Clignancourt avec M. le  
procureur du Roy. Et la manière dont il recût le  
salut et le compliment du Suppliant lorsque le  
Suppliant luy Souhaitta le bonjour, prouve que son  
dessein n'étoit autre que de l'assassiner, complot qui  
ne paroîtra pas Surprenant quand on fera attention a  
la conduite du Sieur  
Dauteuil, et aux différentes affaires qu'il s'est faitte  
tant en france que dans cette colonie.

....

La recrimination, selon Imbert en sa pratique  
livre 3 chapitre 10, et selon Papon livre 24 titre  
2. n. 6, est la plainte que l'accusé fait contre  
un premier plaignant : la véritable recrimination [sic]  
est lors que l'accusé oppose un autre crime  
a celui qui l'accuse et se rend denonciateur  
contre lui. Elle n'est point recüe en france  
parcequ'il n'y auroit point de coupable qui  
ne pût s'assurer l'Impunité, et qui par une  
accusation fausse ou vraye ne se mit a couvert  
de celle formée contre luy. Surquoy Julius  
Clarus lib. 5. in praf. crim. quast. 14. n. 12.

distingue si l'accusé est prévenu de réel ou non : au dernier cas, Il peut accuser sa partie d'un crime plus atroce et non d'un crime pareil ou moindre, a moins qu'il ne poursuive l'injure a lui faite ou aux Sieurs; et au premier cas, c'est a dire dans celui du décret, quil ne peut récriminer même pour crime plus énorme, a moins qu'il ne soit commis en sa personne. Gail. Liv. 1. de pas plucicâ, ch. 12. n.1. assure que par le droit commun l'accusé peut user de recrimination avant que l'on ait décrété contre lui, lors qu'il poursuit l'Injure faite a lui ou aux Sieur.

Or dans l'espèce le Suppliant poursuivi pour prétendues Insultes, accuse son accusateur d'un assassinat premedité. N'es ce pas un crime plus énorme, commis en sa personne? n'es ce pas cas ou la recrimination est permise, surtout dans l'espece ou le Suppliant est persuadé qu'il n'est prevenu d'aucun décret et s'il est dans le cas ou la recrimination soit permise, nul doute qu'on ne doive avoir egard a sa plainte et lui permettre de faire Informer

Ce Considéré, Monsieur, Il vous plaise donner acte au Suppliant de sa plainte qu'il faut? fait? des Insultes, injures, et voyes de fait commises contre luy nuitement et chez lui par Monsieur Dauteuil mentionnée en la presente requête, lui permettre de faire Informer des faits contenues en Icelle circonstances et dépendances, pour l'Information faite, communiqué a la partie publique dont le Suppliant requiert la jonction et a vous rapportée, être ordonné ce qu'il apartiendra, se reservant le Suppliant de prendre telles autres conclusions qu'il avisera et vous ferez justice. quinze mots rayés sont nuls et le mot surchargé est bon

Nouette

## BIBLIOGRAPHY

### Manuscript Sources

- “Appel mis à néant de l'exécutoire de dépens décernés contre lui, le 8 mai 1743, dans la cause entre Jacques Nouette, praticien de Québec, contre Pierre LeVieux, négociant à Rouen; Jacques Nouette est condamné à l'amende de son «fol appel» et aux dépens.” 12 août 1743. BAnQ TP1,S28,P19474.
- “Appel mis à néant de l'ordonnance rendue par le lieutenant général en la Prévôté de Québec, le 13 juin 1741, dans la cause entre Pierre Raymond, maître cordier à Québec, comparant par Nouette, son procureur, contre Olivier Abel, capitaine de navire, comparant par Panet, porteur de pièces.” 26 juin 1741. BAnQ TP1,S28,P19114.
- “Appel mis à néant de la sentence d'adjudication rendue en la Juridiction de Montréal, le 23 juin 1741, dans la cause entre Geneviève de Ramezay, veuve de Louis-Henri Deschamps, écuyer et sieur de Boishébert, capitaine dans les troupes, Paul Becard, écuyer et sieur de Fonville, capitaine dans les troupes de la Marine et Geneviève Becard, sa soeur, aux noms qu'ils agissent, comparants par Jean Latour, notaire, contre François Foucher, conseiller du Roi et son procureur en la Juridiction de Montréal, comparant par le sieur Nouette, praticien.” 23 octobre 1741. BAnQ TP1,S28,P19177.
- “Appel mis à néant de la sentence rendue en l'Amirauté de Québec, le 21 novembre 1742, dans la cause entre Augustin Araby, navigateur de Québec, contre François Havy, comparant par le sieur Poirier.” 4 décembre 1742. BAnQ TP1,S28,P19351.
- “Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 11 avril 1741, dans la cause entre Elisabeth Duprat, femme séparée quant aux biens de Joseph Mercier, contre Nicolas Aubin de l'Isle Delisle, greffier de la Maréchaussée de ce pays.” 31 juillet 1741. BAnQ TP1,S28,P19140.
- “Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 16 juillet 1743, dans la cause de Jacques Nouette, praticien, contre Pierre Jehanne, marchand de Québec, au nom et comme syndic des créanciers de la succession de François Levasseur. Il est ordonné que la sentence en appel sortira son plein et entier effet. Nouette est condamné à l'amende de son «fol appel» et aux dépens de la cause d'appel.” 29 juillet 1743. BAnQ TP1,S28,P19468.
- “Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 17 janvier 1741, dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession de défunt François Levasseur, marchand à Québec, contre Louis Guignière, bourgeois de Québec, au nom et comme exécuteur testamentaire du dit François Levasseur et curateur élu à sa succession, intimé, comparant par Jean Latour, notaire. Pierre Jehanne est condamné à l'amende de 3 livres pour son « fol appel » et aux dépens de la cause d'appel.” 20 février 1741. BAnQ TP1,P19068.
- “Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 18 octobre 1741, dans la cause entre les sieurs Havy et Lefebvre, négociants en la ville de Québec,

- comparants par le sieur Nouette, contre le sieur Rhéaume, négociant demeurant à l'île Jésus, anticipant, comparant par le sieur Panet." 23 juillet 1741. BAnQ TP1,S28,P19179.
- "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 2 mars 1742, dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession du feu sieur Levasseur, contre Louis Gugnère, négociant à Québec, au nom et comme curateur élu à la dite succession." 20 mars 1742. BAnQ TP1,S28,P19241.
- "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 25 avril 1741, dans la cause entre François Havy, négociant à Québec, comparant par le sieur Nouette, contre Marie-Louise Corbin, veuve d'Augustin Laroche, boulanger à Québec, comparant par le sieur Poirier, praticien. Il est ordonné que ce qui est en appel sortira effet. L'appelant est également condamné à l'amende de son « fol appel » et aux dépens de la cause d'appel." 24 juillet 1741. BAnQ TP1,S28,P19135.
- "Appel mis à néant de la sentence rendue en la Prévôté de Québec, le 7 novembre 1741, dans la cause entre Jean-Etienne Dubreuil, huissier en ce Conseil, au nom et comme curateur à la succession vacante de Françoise Juchereau, veuve en premières noces et commune en biens avec François Pachot, et en secondes noces du sieur de Laforest, contre Antoine Juchereau Duchesnay, seigneur de Beauport, tant en son nom que faisant pour ses co-héritiers en la succession des feu sieur et dame Duchesnay, son père et sa mère, comparant par le sieur Nouette." 27 novembre 1741. BAnQ TP1,S28,P19189.
- "Appel mis à néant des sentences rendues en la Prévôté de Québec, le 17 août 1740 et le 20 avril 1742, dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession vacante de feu François Levasseur, contre Louis Gendron le jeune, marchand à Paris, d'une part, et encore Louis Gugnère, négociant à Québec, curateur à la dite succession, d'autre part." 11 juin 1742. BAnQ TP1,S28,P19264.
- "Apposition des scellés, saisie et inventaire des papiers du sieur Jacques Nouette de la Souffleterie [sic], comme ayant fait fonction de procureur pour diverses personnes, par le greffier en chef de la Prévôté de Québec, en vertu d'une ordonnance de l'intendant rendue sur la requête de Pierre Jehanne comme syndic des créanciers de la succession Levasseur." 22-27 juillet 1743. BAnQ TL5,D1329.
- "Arrêt dans la cause entre les nommés François Delisle, capitaine en second, Pierre Deschamps et al., maître et matelots sur le bateau L'Expérience, appelants de la sentence rendue en l'Amirauté de Québec, le 17 novembre 1742, contre les sieurs François Havy et Jean Lefebvre, négociants à Québec, faisant tant pour eux que pour les autres intéressés dans l'exploitation du poste de la Baie-des-Châteaux, et encore entre Augustin Araby, capitaine du dit bateau L'Expérience, partie intervenante." 8 février 1743. BAnQ TP1,S28,P19384.
- "Arrêt dans la cause entre Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel de Rouville, chevalier de Saint-Louis et capitaine dans les troupes de la Marine à l'île

- Royale, mère et tutrice de René-Ovide Hertel de Rouville, mineur, portant plainte et appelante comme d'abus du mariage contracté entre le dit de Rouville et la demoiselle André, fille majeure du sieur André de Leigne, comparante par le sieur Poirier, praticien, son procureur, contre le sieur de Rouville, mineur, la demoiselle André et le sieur André de Leigne, comparants par le sieur Nouette, leur procureur.” 12 juin 1741. BAnQ TP1,S28,P19111
- “Arrêt qui accorde défaut-congé à Jacques Nouette, appelant de la sentence rendue en la Juridiction de Montréal, le 22 avril 1743, contre le sieur Ruette d'Auteuil.” 25 juin 1743. BAnQ TP1,S28.
- “Arrêt qui continue l'audience à lundi prochain, auquel jour sera fait droit aux parties, dans la cause entre le sieur François Lamothe, négociant au Cap-Français des îles de Saint-Domingue, veuf de défunte Marie Nolais (Nolet), appelant de la sentence rendue en la Prévôté de Québec, le 3 octobre 1741, comparant par le sieur Nouette, contre Nicolas Caron, comparant par le sieur Panet.” 13 novembre 1741. BAnQ TP1,S28,P19184.
- “Arrêt qui continue l'audience au premier jour de Conseil dans la cause entre Pierre Jehanne, négociant à Québec, au nom et comme syndic des créanciers de la succession du feu sieur Levasseur, et appelant de la sentence rendue en la Prévôté de Québec, le 2 mars 1742, contre Louis Gugnère, bourgeois de Québec, au nom et comme curateur élu à la dite succession.” 12 mars 1742. BAnQ TP1,S28,P19232.
- “Arrêt qui, dans l'instance entre Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel, capitaine dans les troupes de la Marine à l'île Royale, mère et tutrice de René-Ovide Hertel de Rouville, mineur, appelante comme d'abus du mariage contracté entre le dit de Rouville, mineur, et Louise André, fille majeure du sieur André de Leigne, d'une part, et le sieur de Rouville mineur, la dite demoiselle André, et le sieur André de Leigne, présents en personne, assistés du sieur Nouette, leur procureur, d'autre part. Faisant droit sur le réquisitoire du Procureur général du Roi, défend au dit Nouette, sous les peines de droit, de faire aucunes demandes qu'elles ne soient signées des parties ou qu'il n'en ait d'elles un pouvoir spécial par écrit.” 7 juin 1741. BAnQ TP1,S28,P19110.
- “Arrêt qui, faisant droit sur le réquisitoire du Procureur général, condamne le sieur Nouette en 10 livres d'amende applicables aux pauvres de l'Hôpital général de Québec pour avoir intercalé des termes injurieux dans un mémoire signifié dans l'affaire de Marie-Anne Baudoin, veuve de Jean-Baptiste Hertel de Rouville, appelante comme d'abus de la célébration du mariage contracté entre René-Ovide Hertel de Rouville et la demoiselle Louise André. Il est ordonné que les dits termes injurieux seront rayés et biffés. Défense au dit Nouette de récidiver sous peine de punition corporelle.” 7 juin 1741. BAnQ TP1,S28,P19109.
- “Autorisation pour sortie de documents à M. Pierre Jehanne.” [Vers 1745]. BAnQ P1000,S3.
- “Bail à loyer d'une maison située en la ville de Québec, rue Saint Pierre; par Nicolas Boisseau, conseiller secrétaire du Roi et greffier en chef du Conseil supérieur, de



- la ville de Québec, rue Saint Pierre, à Louis Dubreuil, négociant, de la ville de Québec.” 26 mars 1756. BAnQ (*Parchemin*, notaire J.-B. Decharnay).
- “Baptême de Marie-Marguerite Duplessis-Radisson.” 8 juillet 1730. *Family Search*: Paroisse de Notre-Dame-de-Montréal.
- “Brevet d’apprentissage en qualité de clerc notaire de Pierre Gris ,  tudiant praticien, de Saint Charles, rivi re Chambly, par Jean-Baptiste Gris ,  cuyer et notaire public, de St Joseph de Chambly, son fr re.” 10 d cembre 1789. BAnQ (*Parchemin*, notaire I.G. Bourrassa).
- “Cause entre Claire Cadrin, veuve du feu Jean-Baptiste LeRoy, demanderesse, assist e du sieur Jacques Nouette, praticien, son procureur, et ma tre Claude Barolet, notaire royal en la Pr v t  de Qu bec, d fendeur.” 29 ao t 1743. BAnQ TL1,S11,SS1,D84,P29.
- “Cause entre Jeanne Cartier, Marie Cartier, Pierre Sichot (Sichotte), au nom qu'ils agissent, demandeurs, stipulant par ma tre Jean-Baptiste Decharnay, leur procureur, et la veuve du feu Lecocq (Lecoq) dit Saint-Onge et Albert Saint- Agnan,  poux de Marguerite Lecocq (Lecoq), d fendeurs et encore d faillants,   propos d'un emplacement et d'une maison sis rue Saint-Louis, saisis le 6 mars 1755, faute de paiement par lesdits d fendeurs.” 21 mai 1755. BAnQ TL1,S11,SS1,D103,P767.
- “Cause entre Jean Tessier, Jean Pierre, Guillaume Simon et Laurent B chard, tous matelots sur le navire «le Fidel» (Fid le), demandeurs, assist s du sieur Dorceval, leur procureur, contre le sieur Michel Sallaberry (Salaberry), capitaine dudit navire, d fendeur, comparant par le sieur Nouette.” 20 d cembre 1741. BAnQ TP2,S11,SS1,P39.
- “Cause entre Joseph Beaudouin (Beaudoin - Baudouin), habitant de Champlain, au nom et comme tuteur des enfants mineurs issus du mariage entre Toussaint Albert dit Saint-Agnan et feu Marguerite Lecocq (Lecoq), lesdits mineurs comme ayant renonc    la communaut  qui a  t  entre lesdits Saint-Agnan et Lecocq pour s'en tenir aux biens et aux droits leur appartenant, demandeur, comparant par Decharnay, notaire, d'une part; et les Dames Religieuses Ursulines de Qu bec.” 6 septembre 1757. BAnQ TL1,S11,SS1,D107,P1163.
- “Cause entre le sieur Charles Caillot (Cailleau, Caillaud), capitaine en second sur le navire «le Fidel» (Fid le), demandeur, assist  du sieur Dorceval, son procureur, contre le sieur Michel Sallaberry (Salaberry), d fendeur, comparant par le sieur Nouette,   propos d'un billet consenti par ledit d fendeur en date du 5 octobre 1741 concernant le d sarmement dudit navire, le d fendeur est condamn    payer au demandeur la somme de 200 livres.” 20 d cembre 1741. BAnQ TP2,S11,SS1,P38.
- “Cause entre le sieur Louis Levrard, ma tre canonnier du Roi et Genevi ve Testu (T tu) son  pouse, autoris e de son mari, ladite Testu soeur de feu Richard Testu (T tu) de La Richardi re, de son vivant capitaine de fl te des vaisseaux de Sa Majest , demandeur, comparant par le sieur Jacques Nouette, praticien, leur procureur, et dame Marie-Anne Tarieu de la P rade (LaP rade), veuve du feu sieur de la

- Richardière, défenderesse, comparant par le sieur Poirier, praticien, son procureur.” 3 octobre 1743. BAnQ TL1,S11,SS1,D84,P32.
- “Cause entre le sieur Louis Parent, négociant de Québec, tuteur de Jean-Baptiste Buron, demandeur, comparant par le sieur Decharnay; et Élisabeth Duchêne, veuve du nommé Lecocq (Lecoq) et le nommé Saint-Agnan, époux de Marguerite Lecocq (Lecoq), défendeurs et encore défailants, mention d'un contrat passé devant maître Panet, notaire, le 7 septembre 1747, lesdits défendeurs sont condamnés à payer au demandeur la somme de 27 livres pour trois années d'arrérage de rente, lesdits défendeurs sont également condamnés aux dépens liquidés à 5 livres et 15 sols.” 9 septembre 1755. BAnQ TL1,S11,SS1,D104,P144.
- “Cause entre Marguerite LeCocq (Lecoq), épouse de Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), sous l'autorité de maître Jacques Pinguet de Vaucour, notaire royal en la Prévôté de Québec, son curateur, demanderesse, comparante par le sieur Jacques Nouette, praticien, son procureur, et Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), défendeur, comparant par le sieur Dumergue, huissier chargé de son pouvoir ; il est ordonné que la demanderesse sera et demeurera séparée quant aux biens dudit Saint-Agnan, son mari, et il est ordonné que les pièces déposées demeureront sur le bureau pour être communiquées au procureur du roi.” 20 septembre 1743. BAnQ TL1,S11,D84,P33.
- “Cause entre Marguerite LeCocq (Lecoq), épouse de Toussaint D'albert (Albert - Dalbert) de Saint-Aignan (Agnan), sous l'autorité de maître Jacques Pinguet de Vaucour, notaire royal en la Prévôté de Québec, son curateur, demanderesse, comparante par le sieur Jacques Nouette, praticien, son procureur, et Toussaint D'Albert (Albert - Dalbert) de Saint-Aignan (Agnan), défendeur, comparant par le sieur Dumergue, huissier chargé de son pouvoir.” 19 septembre 1743. BAnQ TL1,S11,SS1,D84,P32.
- “Commission de notaire royal en la Prévôté de Québec accordée à Christophe-Hilarion Dulaurent, par l'Intendant Hocquart.” 11 août 1734. BAnQ CR301,P1667.
- “Compromis entre Pierre-Joseph Celoron de Bienville, Joseph Hertel, Pierre Biron, et Charles Nolan dit Lamarque, négociant, de la ville de Montréal, rue St Paul, au nom et comme fondé de la procuration de Jean-Marie Blondeau; et ? Adhemar, notaire royal et ancien praticien, de la ville et juridiction de Montreal.” 5 septembre 1746. BAnQ (*Parchemin*, notaire F. Simonnet).
- “Concession d'une terre située en la censive de la seigneurie de St Ours; par François Simonet, praticien, de la ville de Montreal, procureur de Pierre de St-Ours-Deschaillon.” 28 juillet 1739. BAnQ (*Parchemin*, notaire A. Loiseau dit Châlons).
- “Contrat de mariage entre Charles Decoste de Letencour (22 ans), écuyer, fils de Jean-Baptiste Decoste de Letancour, écuyer et ancien praticien de la juridiction de Montréal et de Renée Marchand.” 7 janvier 1759. BAnQ (*Parchemin*, notaire F. Simonnet).
- “Contrat de mariage entre Jacques Bourdon, praticien, fils de feu Jean Bourdon, bourgeois et de Marguerite Legris, de Rouen, paroisse St Godart; et Marie

- Menard, fille de Jacques Menard, habitant et de Catherine Forestier, de Boucherville.” 3 janvier 1672. BAnQ (*Parchemin*, notaire T. Frérot de Lechesnaye).
- “Contrat de mariage entre Jacques Parant, fils de feu Jacques Parant et de Marianne Chalifour; et Marie-Angélique Laurent, fille de Jean Laurent, maître praticien et procureur fiscal de la Prévôté de Notre-Dame-des-Anges et de Louise Choret.” 19 janvier 1748. BAnQ (*Parchemin*, notaire N. Duprac).
- “Contrat de mariage entre Pierre Parret [sic], praticien, de la ville de Québec et natif de la ville de Paris, fils de feu Jean-Nicolas Panet, caissier de la Marine et de Françoise Foucher; et Marie-Anne Trefflet dit Rautot, fille mineure de Pierre Trefflet dit Rautot, bourgeois et de Elisabeth Gaultier, de la ville de Québec, rue de la Fabrique.” 29 septembre 1754. BAnQ (*Parchemin*, notaire C. Barolet).
- “Contrat de mariage passé pardevant maître Pinguet, notaire royal en la Prévôté de Québec, entre Toussaint D'Albert de Saint-Agnant, négociant demeurant en la ville de Québec, natif de la paroisse Courtomer, diocèse de Séez, en Normandie, fils de feu Toussaint D'Albert et de Marie Duthers (Dulher - Duter), ses père et des troupes du détachement de la Marine, demeurant en la ville de Québec, et d'Élisabeth Duchesne, ses père et mère.” 18 novembre 1742. BAnQ CR301,P2300.
- “Curatelle à Marguerite Lecocq (Lecoq), femme de Toussaint Dalbert Saint-Agnan.” 19 septembre 1743. BAnQ CC301,S1,D1668.
- “Défaut accordé à Élisabeth Duprat (Prat), épouse séparée quant aux biens de Joseph Mercier, comparant par le sieur Nouette, contre ledit Joseph Mercier, assigné, défaillant et condamné aux dépens dudit défaut, et signification du défaut et assignation audit Mercier, à la requête d'Élisabeth Duprat, afin d'obtenir le profit dudit défaut.” 24-26 janvier 1741. BAnQ TL1,S11,SS2,D1193.
- “Déposition au greffe de la Prévôté de Québec par Jacques Nouette (Lanouette), procureur des sieurs Jacques, Charles et François Barbel, des pièces et de leur inventaire (pièces cotées de A à E inclusivement) qui serviront dans l'instance desdits sieurs contre Jean-Claude Louet, et pour satisfaire à la sentence d'appointement du 27 août 1753 [sic].” 17 septembre 1753 [sic]. BAnQ TL1,S11,SS2,D1847.
- “Dépôt d'une déclaration de Nouette.” 11 août 1743. BAnQ (*Parchemin*, notaire Rageot de Beaurivage).
- “Instance de François Rageot, praticien à Québec, afin que ses commissions des offices de notaire et d'huissier soient entérinées.” 9 novembre 1711. BAnQ TL1,S11,SS2,D290.
- “Jugement rendu par Christophe-Hilarion Dulaurent, ancien praticien et notaire royal de la Prévôté de Québec, en faveur de Germain Chalifou, habitant de Notre-Dame des-Anges.” 3 décembre 1750. BAnQ TL5,D3012-32.
- “L'Inhumation de Marie-Françoise, fille d'une Sauvagesse de Québec.” 25 janvier 1728. *Family Search*: Paroisse de Notre-Dame-de-l'Annonciation, L'Ancienne-Lorette.

- “Lettre de Hocquart au ministre.” 3 novembre 1743. National Archives of Canada C11A, vol. 62, fol. 274-275.
- “Lettre de Mgr Pontbriand au ministre.” 30 octobre 1742. National Archives of Canada C11A, vol. 78, fol. 429-430.
- “Mémoire des dépens à payer par Jean-Baptiste Larchevêque, à la requête de Marc-Antoine Huart Dormicourt (d’Ormicourt, d’Ormicour), lieutenant dans les troupes de la Marine, à la suite de l’arrêt du Conseil supérieur de Québec du 19 septembre 1740.” 1 octobre 1740-21 novembre 1740. BAnQ TP1,S30,D224.
- “Mémoire des dépens à payer par le sieur Rhéaume, négociant demeurant à à l’île Jésus, à la requête des sieurs Havy et Lefebvre, négociants en la ville de Québec, à la suite de l’arrêt du Conseil supérieur de Québec du 23 octobre 1741.” 12 décembre 1741-13 janvier 1742. BAnQ TP1,S30,D231.
- “Ordonnance de l’intendant Hocquart préparatoire entre Marguerite Radisson dite Duplessis, esclave panis (amérindiens), et Marc-Antoine Huart (Huard), chevalier Dormicourt, lieutenant des troupes du détachement de la Marine.” 17 octobre 1740. BAnQ E1,S1,P3280.
- “Ordonnance de l’intendant Hocquart qui déclare Marguerite Radisson dite Duplessis esclave de Marc-Antoine Huart (Huard), chevalier Dormicourt, lieutenant dans les troupes du détachement de la Marine.” 20 octobre 1740. BAnQ E1,S1,P3281.
- “Partage de terres situées en la seigneurie de Beaumont entre Jacques Nouette, de la ville de Québec, stipulant pour Marie Jean, veuve de Jacques Turgeon, de la seigneurie de Beaumont, et Jacques Turgeon, son fils.” 14 novembre 1741. BAnQ (*Parchemin*, notaire C.-H. Dulaurent).
- “Poursuites intentées contre François-Etienne Cugnet, conseiller du Roi au Conseil supérieur de Québec et receveur du Domaine du Roi, par ses créanciers pour une somme totale et principale de 33 516 livres.” 17 octobre 1741-24 janvier 1743. BAnQ TL5,D1247.
- “Procès concernant le mariage contracté le 20 mai 1741 entre René-Ovide Hertel, sieur de Rouville, et Louise-Catherine André de Leigne, fille dudit sieur de Leigne, conseiller du Roi et lieutenant général de la Prévôté de Québec, tous les deux mineurs de 25 ans.” 6-7 juin 1741. BAnQ TP1,S777,D102.
- “Procès de Charles-René de Couagne contre Alexis LeMoine Monière, marchand de Montréal, et aussi Procès de Louis de LaCorne, écuyer, sieur de Chapt, officier d’une compagnie des troupes de la Marine en Nouvelle-France, défendeur, contre Pierre Fortin, demandeur.” 24 octobre 1739-31 décembre 1754. BAnQ TL5,D1742.
- “Procès de Louis-Hector Piot de Langloiserie contre Charles Ruette, écuyer, sieur d’Auteuil, créancier de Piot, à propos d’une action intentée par d’Auteuil contre la mère de Piot, Marie-Thérèse Dugué, veuve de Charles Gaspard Piot de Langloiserie.” 18 août-5 décembre 1742. BAnQ TL5,D1310.
- “Procès de Martial Vallet (Valet-Vallée), huissier de la Prévôté de Québec contre Jacques Nouette de la Souffleterie [sic] (Lanouette-Rivard) praticien, pour une somme de 31 livres.” 10 juillet-6 mai 1741. BAnQ TL5,D1742.

- “Procès entre Charles Ruelle d'Auteuil de Monceaux, plaignant, et Jacques Nouette de la Pouflerie [sic], accusé de voies de fait.” 7 mars-22 avril 1743. BAnQ TL4,S1,D4933.
- “Procès entre F.M. de Couagne, négociant, demandeur, et Jacques Nouette de la Pouflerie [sic], défendeur, pour saisie.” 8-9 mai 1743. BAnQ TL4,S1,D4958.
- “Procès entre Jean-Baptiste Guyard (Guyart), huissier, plaignant, et Jacques Nouette, sieur de la Pouflerie [sic], accusé de calomnie.” 22 août-1 septembre 1742. BAnQ TL4,S1,D4874.
- “Procès opposant François Havy et Jean Lefebvre, négociant de Québec, propriétaires du navire «l'Expérience», à Augustin Araby, capitaine du navire, François Delisle, capitaine en second, Roger Deschamps, officier marinier et autres membres de l'équipage, concernant une pêche au poste de la Baie des Châteaux.” 9 octobre 1742-2 janvier 1743. BAnQ TL5,D1296.
- “Procès opposant Marc-Antoine Huard de Dormicourt, à Marguerite Duplessis Radisson, se disant la fille naturelle de feu sieur Duplessis Faber (Lefebvre), frère du sieur Duplessis Faber, résidant à Montréal, capitaine d'une compagnie dans les troupes de la Marine, qui conteste le fait qu'elle soit une esclave, et plus particulièrement celle du sieur Dormicourt.” 1-28 octobre 1740. BAnQ TL5,D1230.
- “Procès opposant Victor Varin, conseiller au Conseil supérieur, contrôleur de la Marine, demandeur, à de Pierre Payet (Payer - Pagé), Jean-Étienne Jayat, Jean-Mathieu Monnier (Monier), Jean-Antoine Bedout et Pierre Jehanne, négociants de Québec, tous créanciers de François-Etienne Cugnet, défendeurs, ainsi que Jean-Isaac Thouron, David Turpin (Toupin) et Denis Goguet, négociants et créanciers de Cugnet, parties intervenantes.” 8 février-9 décembre 1742. BAnQ TL5,D1285.
- “Procuration de Charles Prieur, maître perruquier, de la ville de Québec, rue du Sault au Matelot, à Jacques Nouette de Lapoufellerie [sic].” 23 août 1740. BAnQ (*Parchemin*, notaire C. Barolet).
- “Procuration de Damien Quatresols, habitant, de Batiscan, au nom et comme exécuteur testamentaire de défunt Pierre Lemoine, de Batiscan, à François Rageot, praticien, de la ville de Québec.” 2 juillet 1704. BAnQ (*Parchemin*, notaire L. Chambalon).
- “Procuration de Jacques Nouette, à François Dumergue, huissier au Conseil supérieur de Québec.” 21 juin 1743. BAnQ (*Parchemin*, notaire C. Louet).
- “Procuration de Marie-Madeleine Landron (Landeron), veuve de Jean Quenet, demeurant à l'hôpital général près Québec, à Jacques Nouette, de la ville de Québec, rue St. Joachim.” 3 mars 1742. BAnQ (*Parchemin*, notaire C.-H. Dulaurent).
- “Procuration de Marie-Pierre Gours, à Joseph Saulquin, huissier royal et praticien de la juridiction royale de Montréal, son époux, demeurant sur la rue Saint Pierre en la ville de Montreal.” 11 août 1749. BAnQ (*Parchemin*, notaire G. Hodiesne).
- “Procuration de Michel Asselin, de l'île et comté de Saint Laurent, paroisse de la Sainte Famille, à Jacques Nouette de Lapousellerie [sic].” 15 août 1740. BAnQ (*Parchemin*, notaire C. Barolet).
- “Procuration de Pierre Payes, négociant, de la ville de Québec, et compagnie Jean-

- Etienne Jayat, de la ville de Québec, Pierre Jehanne, négociant, de la ville de Québec, Jean-Mathieu Mounier, négociant, de la ville de Québec, Jean Bedout, négociant, de la ville de Québec, à Jacques Nouette, de la ville de Québec.” 6 juin 1741. BAnQ (*Parchemin*, notaire C.-H. Dulaurent).
- “Protestation de Jacques Nouette.” 12 août 1743. BAnQ (*Parchemin*, notaire Rageot de Beaurivage).
- “Réponses de François Barbel, écrivain de la Marine, sur la requête de Jean-Mathieu Monier (Monnier) et Pierre Jehanne, négociants, concernant l'intervention de Barbel dans le conflit opposant le sieur Nouette à ses créanciers, Monier et Jehanne, en se portant entre autre, cautionnaire des enfants du sieur Nouette.” 23 octobre 1744. BAnQ TL5,D1394.
- “Requête adressée au Conseil supérieur de Québec par Thierry Hazeur, grand pénitencier (prêtre commis par l'évêque pour absoudre des cas réservés) et vicaire général du diocèse de Québec, ayant élu domicile chez le sieur Nouette, rue des jardins, intimé, en forme de réponses aux moyens d'abus proposés par Joachim Fournel (Fornel), prêtre, chanoine de l'église cathédrale de Québec et official dudit diocèse, demeurant Place du marché, appelant comme d'abus d'un rescrit du 2 juin 1741 pris par l'intimé.” 2 juin 1741. BAnQ TP1,S777,D101.
- “Requête de Marie-Madeleine Landron (Landeron), veuve de Jean Guénet (Guenet), à l'effet que le sieur Gourdeaux se serait avisé de vendre au sieur Goguet, négociant à Québec, une maison, située en la place de la Basse-Ville, dont il n'est que fermier judiciaire et dont il est seulement propriétaire d'un tiers dans un septième; ladite Landron étant propriétaire d'un septième de cette maison, s'oppose au décret volontaire fait par le sieur Goguet.” 3 mars 1742. BAnQ TL5,D3846.
- “Transaction entre Jean-Eustache Lanoullier de Boisclair (Boisclerc) conseiller du Roi et son grand voyer et Marie-Marguerite Duroy, son épouse, de la ville de Québec, épouse antérieure de Claude Chasle, assistés de Pierre Poirier, leur procureur, et Marie-Anne Chasle, veuve de Guillaume Gouze, sa fille, assistée de Jacques Nouette, son procureur.” BAnQ (*Parchemin*, notaire J.N. Pinguet de Vaucour).
- “Un acte de pouvoir d'Antoine Juchereau à Nouette de la Souffleterie [sic], en tant que procureur général, dans son instance l'opposant à la veuve Pachot (Brassard, notaire royal en la Prévôté de Québec, 30 mai 1741).” 30 mai 1741. BAnQ TL5,D1260.
- “Vente d'une terre située en la seigneurie de Boucherville; par Jacques Menard, de Boucherville, à Jacques Bourdon, praticien.” 19 mars 1673. BAnQ (*Parchemin*, notaire T. Frérot de Lechesnaye).

### **Published Primary Sources**

- Claro, Giulio, and Hieronymus Giacharius, ... *Liber qvintvs receptarvm sententiarvm integer: in qvo omnivm criminvm materia svb receptis sententiis copiosissime tractatur* .... Frankfurt: Richter, 1604.
- De Ferrière, Claude-Joseph. *Dictionnaire de droit et de pratique*. Paris: Chez la Veuve Brunet, 1758.

*Dictionnaire Universel François et Latin, Vulgairement Appellé Dictionnaire de Trévoux.* Paris: Chez la Veuve Delaune, La Veuve Ganeau (rue S. Jacques) Chez Gandouin, Legras, Cavalier, Vincen, Coignard, Mariette, Giffart, Guerin, Rollin, Le Mercier & Boudet, 1743 and 1771.

“*Enquête et procès : Marie-Marguerite Duplessis Fabert vs Marc-Antoine Huard sieur d’Ormicourt afin d’établir le statut de Marie-Marguerite.*” Paleographic transcription by Asselin, Fleurette and Jean-Marie Tanguay, in collaboration with the *Groupe de travail paléographique* and the *Club de Généalogie de Longueuil* (Lina Chopin, Diana Duquette, Gilles Lamontagne, and Louise Trottier): December 11 2002.

Imbert, Jean. *La pratique judiciaire civile et criminelle.* Paris: Chez Louys Feugé, 1627. *Le Code Noir : Recueil d’édits, déclarations et arrêts concernant les esclaves nègres de l’Amérique* (1685), reproduced by the Université Laval (<http://www.tlfq.ulaval.ca/axl/amsudant/guyanefr1685.htm>).

Guyot, M., ed. *Répertoire universel et raisonné de jurisprudence civile, criminelle, canonique et bénéficiale. Ouvrage de plusieurs jurisconsultes: Mis en ordre par M. Guyot, écuyer, ancien magistrat.* Paris: Chez Panckoucke, Chez Dupuis, 1781.

Osmont, Charles, ed. *Ordonnance de la Marine du mois d’Aoust 1681: Commenté & Conferée sur les anciennes Ordonnances , le Droit Romain , & les nouveaux Reglemens.* Paris: 1714.

Papon, Jean. *Recueil d’arrests notables des cours souveraines de France.* Paris: Chez Robert Foüet, 1621.

Sallé, Jacques-Antoine, ed. *L’Esprit des ordonnances de Louis XIV: Ouvrage où l’on a réuni la théorie et la pratique des ordonnances. Tome Premier, Contenant l’Ordonnance de 1667, celle de 1669 ; & l’Edit de 1669 , servant de Reglement pour les Epices & Vacations.* Paris: Samson, 1755.

Sallé, Jacques-Antoine, ed. *L’Esprit des ordonnances de Louis XIV: Ouvrage où l’on a réuni la théorie et la pratique des ordonnances. Tome Second, Contenant l’Ordonnance Criminelle de 1670, l’Ordonnance du Commerce de 1673, & l’Edit sur la Juridiction Ecclésiastique. Ensemble les Formules des Actes de Procédures , relatifs à chaque Titre desdites Ordonnances.* Paris: Samson, 1758.

Von Gail, Andreas. *Practicarum observationum, tam ad processum judicarium.* Apud Guilielmum Lesteenium & Engelbertum Gymnicum, 1653.

### **Secondary Sources**

Backhouse, Constance and W. Wesley Pue, eds. *The Promise and Perils of Law: Lawyers in Canadian History.* Toronto: Irwin Law, 2009.

Beaugrand-Champagne, Denyse et Léon Robichaud, “La torture et la vérité: Angélique et l’incendie de Montréal,” or “Torture and Truth: Angélique and the Burning of Montréal.” *Great Unsolved Mysteries in Canadian History Website.* Canadian Heritage and University of Victoria. <<http://www.canadianmysteries.ca/sites/angelique/accueil/indexen.html>>

- Beaugrand-Champagne, Denyse. *Le procès de Marie-Josèphe-Angélique*. Outremont: Libre expression, 2004.
- Beik, William. *Absolutism and Society in Seventeenth-Century France: State Power and Provincial Aristocracy in Languedoc*. New York: Cambridge University Press, 1985.
- \_\_\_\_\_. "Review Article: The Absolutism of Louis XIV as Social Collaboration." *Past and Present* 188 (2005) : 195-224.
- Benton, Lauren. *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*. New York: Cambridge University Press, 2002.
- Bernaudeau, Vincent, "Introduction." In *Les praticiens du droit du Moyen Âge à l'époque contemporaine*. Bernaudeau et al., eds., 13-22. Rennes: Presses universitaires de Rennes, 2008.
- Bernaudeau, Vincent, Jean-Pierre Nandrin, Bénédicte Rochet, Xavier Rousseaux and Axel Tixhon, eds. *Les praticiens du droit du Moyen Âge à l'époque contemporaine : approches prosopographiques, Belgique, Canada, France, Italie, Prusse : actes du colloque de Namur, 14, 15 et 16 décembre 2006*. Rennes: Presses universitaires de Rennes, 2008.
- Bosher, John. "French Protestant Families in Canadian Trade, 1740-1760." *Histoire sociale/Social History* 7 (1974) : 179-201.
- \_\_\_\_\_. "Ouvrage recensé : Jean-Claude Dubé, Les Intendants de la Nouvelle-France." *Recherches sociographiques* 26:1-2 (1985) : 288-290.
- \_\_\_\_\_. *Men and Ships in the Canada trade, 1660-1760: A Biographical Dictionary*. Ottawa: National Historic Sites, Parks Service, Environment Canada, 1992.
- Botein, Stephen. *Early American Law and Society*. New York: Alfred A. Knopf, 1983.
- Brana-Shute, Rosemary, and Randy J. Sparks, eds. *Paths to Freedom: Manumission in the Atlantic World*. Columbia: University of South Carolina Press, 2009.
- Breen, Michael P. "Representing the City: Avocats and the Negotiation of Municipal Authority in Seventeenth-Century France." In *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XXe siècle*. Claire Dolan, ed., 347-364. Québec: Presses de l'Université Laval, 2005.
- Briand, Yves. "Auberges et cabarets de Montréal (1680-1759): lieux de sociabilité." M.A. thesis, Université Laval, 1999.
- Brun, Josette. "Le Veuvage en Nouvelle-France: Genre, dynamique familiale et strategies de survie dans deux villes coloniales du XVIIIe siècle, Québec et Louisbourg." Ph.D. diss., Université de Montréal, 2001.
- Burns, Kathryn. *Into the Archive: Writing and Power in Colonial Peru*. Durham: Duke University Press, 2010.
- Coates, Colin. "Authority and Illegitimacy in New France: the Burial of Bishop Saint-Vallier and Madeleine de Verchères vs. the Priest of Batiscan." *Histoire sociale-Social History*, 22:43 (1989) : 65-90.
- Cooper, Afua. *The Hanging of Angélique : The Untold Story of Canadian Slavery and the Burning of Old Montreal*. Toronto: Harper Collins, 2006.



- D'Allaire, Micheline. *Montée et déclin d'une famille noble: les Ruettes d'Auteuil (1617-1737)*. LaSalle: Hurtubise HMH, 1980.
- Dayton, Cornelia Hughes. "Turning Points and Relevance of Colonial Legal History." *The William and Mary Quarterly* Third Series, 50:1 (January 1993) : 7-17.
- \_\_\_\_\_. *Women Before the Bar: Gender, Law, and Society in Connecticut, 1639-1789*. Chapel Hill: The University of North Carolina Press, 1995.
- De la Fuente, Alejandro. "Slave Law and Claims-Making in Cuba: The Tannenbaum Debate Revisited." *Law and History Review* 22:2 (Summer 2004).
- Dechêne, Louise. *Habitants and Merchants in Seventeenth-Century Montreal*. Translated by Liana Vardi. Montréal: McGill-Queen's University Press, 1992.
- Dépatie, Sylvie, Catherine Desbarats, Danielle Gauvreau, Mario Lalancette, and Thomas Wien, eds. *Habitants et marchands: Twenty Years Later: Reading the History of Seventeenth and Eighteenth-Century Canada*. Montréal: McGill-Queen's University Press, 1998.
- Dépatie, Sylvie, Mario Lalancette, and Christian Dessureault. *Contributions à l'étude du régime seigneurial canadien*. LaSalle: Hurtubise HMH, 1987.
- Dépatie, Sylvie. "La transmission du patrimoine au Canada (XVII<sup>e</sup>-XVIII<sup>e</sup> siècle) : qui sont les défavorisés?" *RHAF* 4 (2001) : 558-570.
- Descimon, Robert. "Les auxiliaires de justice du Châtelet de Paris : aperçus sur l'économie du monde des offices ministériels (XVI<sup>e</sup> - XVIII<sup>e</sup> siècle)." In *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XX<sup>e</sup> siècle*. Claire Dolan, ed., 301-326. Québec: Presses de l'Université Laval, 2005.
- Dickinson, John. "Court Costs in France and New France in the Eighteenth-Century." *Historical Papers/Communications historiques* 12:1 (1977) : 48-64.
- \_\_\_\_\_. "New France: Law, Courts, and the Coutume de Paris." In *Canada's Legal Inheritances*. D. Guth and W. Pue, eds., 32-54. Winnipeg: University of Manitoba, 2001.
- \_\_\_\_\_. "Réflexions sur la police en Nouvelle-France." *McGill Law Journal* 32 (1986-7) : 496-522.
- \_\_\_\_\_. *Justice et justiciables: la procédure civile à la Prévôté de Québec, 1667-1759*. Québec: Presses de l'Université Laval, 1982.
- Dolan, Claire, ed. *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XX<sup>e</sup> siècle*. Québec: Presses de l'Université Laval, 2005.
- Dubber, Markus D. "Historical Analysis of Law." *Law and History Review* 16:1 (Spring 1998): 159-162.
- Dubé, Jean-Claude. "André de Leigne, Pierre." *Dictionary of Canadian Biography*, vol. IV.
- \_\_\_\_\_. "Les intendants de la Nouvelle-France et la République des Lettres." *RHAF* 29:1 (1975) : 31-48.
- Farge, Arlette. *Subversive Words: Public Opinion in Eighteenth-Century France*. Translated by Rosemary Morris. University Park: Pennsylvania State University Press, 1994.

- Ferland, Catherine. *Bacchus en Canada : boissons, buveurs, et ivresses en Nouvelle-France*. Québec: Septentrion, 2010.
- Friedman, Lawrence. "Legal Culture and Social Development." *Law and Society Review* 4:1 (1969) : 29-44.
- \_\_\_\_\_. "The Law and Society Movement." *Stanford Law Review* 38:3 (1986) : 763-780.
- Fyson, Donald. "Judicial Auxiliaries Across Legal Regimes: From New France to Lower Canada." In *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XXe siècle*. Claire Dolan, ed., 383-404. Québec: Presses de l'Université Laval, 2005.
- Gagné, Armand, "Plante, Charles." *Dictionary of Canadian Biography*, vol. IV.
- Garneau, Jean-Philippe. "Une culture de l'amalgame au prétoire : les avocats de Québec et l'élaboration d'un langage juridique commun (tournant des XVIIIe et XIXe siècles)," *CHR* 88:1 (2007) : 113-148.
- Garnot, Benoît, ed. *Normes juridiques et pratiques judiciaires du Moyen Âge à l'époque contemporaine*. Dijon: Éditions universitaires de Dijon, 2007.
- Geertz, Clifford. "Fact and Law in Comparative Perspective." *Local Knowledge: Further Essays in Interpretive Anthropology* (1983), reprinted with a new preface. New York: Basic Books, 2000.
- Gilles, David. "Le notariat canadien face à la Conquête anglaise de 1760 : l'exemple des notaires Panet." In *Les praticiens du droit du Moyen Âge à l'époque Contemporaine*. V. Bernaudeau et al., eds., 189-207 (Rennes: 2008).
- Gordon, R.W. "Critical Legal Histories." *Stanford Law Review* 36:1-2 (1984) : 57-125.
- Grabowski, Jan. "The Common Ground: Settled Natives and French in Montréal, 1667-1760." Ph.D. diss., Université de Montréal, 1994.
- Grabowski, Jan. "French Criminal Justice and Indians in Montreal, 1670-1760." *Ethnohistory* 43:3 (Summer 1996) : 405-410.
- Gray, Colleen. "Captives in Canada, 1744-1763." M.A. thesis, McGill University, 1993.
- Guth, DeLloyd and Wesley Pue, eds. *Canada's Legal Inheritances*. Winnipeg: The University of Manitoba, 2001.
- Hanley, Sarah. "The Jurisprudence of the 'Arrêts': Marital Union, Civil Society, and State Formation in France, 1550-1650." *Law and History Review* 21:1 (Spring 2003) 1-40.
- \_\_\_\_\_. "What Is in a Name?: 'Our French Law.'" *Law and History Review* 28:3 (2010) : 827-836.
- Hardwick, Julie. "Women 'Working' the Law: Gender, Authority, and Legal Process in Early Modern France." *Journal of Women's History* 9:3 (1997) : 28-49.
- Havard, Gilles. *Empire et métissages: Indiens et Français dans le Pays d'en Haut, 1660-1715*. Sillery: Septentrion, 2003.
- Horton, Donald J. "Foucher, François." *Dictionary of Canadian Biography*, vol IV.
- \_\_\_\_\_. "Hocquart, Gilles." *Dictionary of Canadian Biography*, vol IV.
- Huppé, Luc. *Histoire des institutions judiciaires du Canada*. Montréal: Wilson et Lafleur Ltée, 2007.

- Ingersoll, Thomas N. "Slave Codes and Judicial Practices in New Orleans, 1718-1807." *Law and History Review* 13:1 (Spring 1995) : 23-62.
- Jetté, René. *Dictionnaire généalogique des familles du Québec*. Montréal: Presses de l'Université de Montréal, 1983.
- Katz, Stanley. "Introduction." *The William and Mary Quarterly* Third Series, 50:1 (1993) : 3-6.
- Kessler, Amalia D. "Enforcing Virtue: Social Norms and Self-Interest in an Eighteenth-Century Merchant Court." *Law and History Review* 22:1 (Spring 2004) : 71-118.
- Kim, Marie Seong-Hak. "Civil Law and Civil War: Michel de l'Hôpital and the Ideals of Legal Unification in Sixteenth-Century France." *Law and History Review* 28:3 (2010) : 791-826.
- Kolish, Evelyn. "Imprisonment for Debt in Lower Canada, 1791-1840." *McGill Law Journal* 32 (1986-1987) : 602-635.
- \_\_\_\_\_. "L'incendie de Montréal en 1734 et le procès de Marie-Josèphe-Angélique : trois oeuvres, deux interprétations." *RHAF* 61:1 (2007) : 85-92.
- Konig, David Thomas. *Law and Society in Puritan Massachusetts: Essex County, 1629-1692*. Chapel Hill: University of North Carolina Press, 1979.
- Lachance, André. *La justice criminelle du roi au Canada au XVIIIe siècle : tribunaux et officiers*. Québec: Presses de l'Université Laval, 1978.
- Lamonde, Robert. "Les boulangers de Montréal, de la fondation à 1750. Étude d'histoire socio-économique." M.A. thesis, Université de Montréal, 1997.
- Lancôt, Gustave. "Les fonctions de l'Intendant." *Report of the Annual Meeting of the Canadian Historical Association*. 8:1 (1929) : 73-90.
- Lavallée, Louis. "La vie et la pratique d'un notaire rural sous le régime français : le cas de Guillaume Barette, notaire à La Prairie entre 1709-1744." *RHAF* 47:4 (1994) : 499-519.
- \_\_\_\_\_. "Les archives notariales et l'histoire sociale de la Nouvelle-France." *RHAF* 28:3 (1976) : 385-403.
- LeClerc, Paul-André. "Le mariage sous le régime français." *RHAF* 13:3 (1959) : 374-401.
- Leroy-Turcan, Isabelle and Louis André et al. *Quand le dictionnaire de Trévoux rayonne sur l'Europe des lumières*. Paris: Harmattan, 2009.
- Lessard, Rénald. "Parchemin : un nouvel outil de recherche." *Cap-aux-Diamants : la revue d'histoire du Québec* 38 (1994): 66.
- Lévi, Giovanni. "On Microhistory." In *New Perspectives on Historical Writing*. Peter Burke, ed., 93-113. University Park: Pennsylvania State University Press, 1992.
- Masciotra, Vince. "Quebec Legal Historiography, 1760-1900." *McGill Law Journal* 32 (1986-1987) : 712-732.
- Massicotte, Daniel. "Le marché du logement locatif à Montréal." M.A. thesis, Université de Montréal, 1987.
- Massicotte, Édouard-Zotique. "Nouette dit la Souffleterie [sic]." *Le Bulletin des recherches historiques* 21:1 (1915) : 23-25.

- Miquelon, Dale. "The Merchant in the History of the 'First Canada.'" In *Habitants et marchands: Twenty Years Later*. Dépatie et al., eds., 52-68.
- \_\_\_\_\_. "Havy and Lefebvre of Quebec: A Case Study of Metropolitan Participation in Canadian Trade, 1730-1760." *CHR* 56:1 (1975) : 1-24.
- \_\_\_\_\_. *Dugard of Rouen: French Trade to Canada and the West Indies, 1729-1770*. Montréal: McGill-Queen's University Press, 1978.
- Moogk, Peter. *The Making of French Canada: A Cultural History*. East Lansing: Michigan State University Press, 2000.
- Mousnier, Roland. *The Institutions of France under the Absolute Monarchy, 1598-1789*. Translated by Brian Pearce. Chicago: The University of Chicago Press, 1979.
- Nish, Cameron. "Cugnet, François-Etienne." *Dictionary of Canadian Biography*, vol. IV.
- \_\_\_\_\_. "La bourgeoisie et les mariages, 1729-1748." *RHAF* 19:4 (1966) : 585-605.
- \_\_\_\_\_. *Les Bourgeois-Gentilshommes de la Nouvelle-France, 1729-1748*. Montréal: Fides, 1975.
- Paquin, Michel. "André de Leigne, Louise-Catherine (Hertel de Rouville)." *Dictionary of Canadian Biography*, vol. IV.
- \_\_\_\_\_. "Duplessis, Marguerite." *Dictionary of Canadian Biography*, vol. IV.
- Peabody, Sue and Keila Grinberg, eds. *Slavery, Freedom, and the Law in the Atlantic World: A Brief History with Documents*. Boston: Palgrave Macmillan, 2007.
- Peabody, Sue. *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime*. New York: Oxford University Press, 1996.
- Pelletier, Louis. *Le clergé en Nouvelle-France : étude démographique et répertoire biographique*. Montréal: Presses de l'Université de Montréal, 1993.
- Pilarczyk, Ian C. "The Law of Servants and the Servants of Law: Enforcing Masters' Rights in Montreal, 1830-1845." *McGill Law Journal* 46:3 (2000-2001) : 779-838.
- Pilon, Nathalie. "Le destin de veuves et de veufs de la région de Montréal au milieu du XVIIIe siècle." M.A. thesis, Université de Montréal, 2001.
- Plamondon, Lilianne. "'Une femme d'affaire culottée' en Nouvelle-France: Marie-Anne Barbel, veuve Fornel." *Cap-aux-Diamants*, No. 21 (1990) : 55-57.
- \_\_\_\_\_. "Une femme d'affaires en Nouvelle-France: Marie-Anne Barbel, veuve Fornel." *RHAF* 31 (1977) : 165-85.
- Rizzo, Tracey. *A Certain Emancipation of Women: Gender, Citizenship, and the "Causes célèbres" of Eighteenth-Century France*. Selinsgrove: Susquehanna University Press, 2004.
- Roach, Joseph. "Body of Law: The Sun King and the Code Noir." In *From the Royal to the Republican Body: Incorporating the Political in Seventeenth- and Eighteenth-Century France*. Melzer, Sara and Kathryn Norberg, eds., 113-130. Berkeley: University of California Press, 1998.
- Roquebrune, R. La Roque, "La direction de la Nouvelle-France par le ministère de la Marine." *RHAF* 6:4 (1953) : 470-488.

- Ross, Richard J. "The Legal Past of Early New England: Notes for the Study of Law, Legal Culture, and Intellectual History." *The William and Mary Quarterly* Third Series, 50:1 (1993) : 28-41.
- Rushforth, Brett. "The Trials of Marie-Marguerite: A Journey through the Indian Slave Trade." In Princeton University Colonial and Imperial Histories Colloquium, edited by Omohundro Institute of Early American History and Culture, December 2004.
- \_\_\_\_\_. "Savage Bonds: Indian Slavery and Alliance in New France." Ph.D. diss., University of California Davis, 2003.
- \_\_\_\_\_. "'A Little Flesh We Offer You': The Origins of Slavery in New France." *The William and Mary Quarterly* 60:4 (2003): 777-808.
- Sahlins, Peter. *Unnaturally French: Foreign Citizens in the Old Regime and After*. Ithaca: Cornell University Press, 2004.
- Saul, John Ralston. "The Roots of Canadian Law in Canada." *McGill Law Journal* 54 (2009) : 671-696.
- Shannon, Timothy. *Indians and Colonists at the Crossroads of Empire: The Albany Congress of 1754*. Ithaca: Cornell University Press, 2000.
- Snyder, Terri L. "Legal History of the Colonial South: Assessment and Suggestions." *The William and Mary Quarterly*, Third Series, Vol. 50:1 (1993) : 18-27.
- Spieler, Miranda Frances. "The Legal Structure of Colonial Rule during the French Revolution." *The William and Mary Quarterly*, Third Series, 66:2 (2009) : 365-408.
- Stolleis, Michael. *The Eye of the Law: Two Essays on Legal History*. New York: Birbeck Law, 2009.
- Stone, Lawrence. *The Past and the Present*. Boston: Routledge & Kegan Paul, 1981.
- Strange, Carolyn. "A Case for Legal Records in Women's and Gender History." *Journal of Women's History* 22:2 (2010) : 144-148.
- Thireau, Jean-Louis. *Introduction historique au droit*. Paris: Flammarion, 2001.
- Tomlins, Christopher L., and Bruce Mann, eds. *The Many Legalities of Early America*. Chapel Hill: University of North Carolina Press, 2001.
- Toussignant, Pierre and Madeleine Dionne-Toussignant. "Hertel de Rouville, René-Ovide." *Dictionary of Canadian Biography*, vol. IV.
- Trudel, Marcel. *Deux siècles d'esclavage au Québec*. (1960). Montréal: Éditions Hurtubise HMH ltée, 2004.
- Trudel, Marcel. *Dictionnaire des esclaves et de leurs propriétaires au Canada français*. LaSalle: Éditions Hurtubise HMH ltée, 1990.
- Vachon, André. "Inventaire critique des notaires royaux des gouvernements de Québec, Montréal et Trois-Rivières (1663-1764) (suite)." *RHAF* 10:2 (1956) : 257-262.
- \_\_\_\_\_. *Histoire du notariat canadien, 1621-1960*. Québec: Presses de l'Université Laval, 1962.
- \_\_\_\_\_. *L'Administration de la Nouvelle-France*. Québec: Presses de l'Université Laval, 1970.
- Vachon, Claude. "Verrier, Louis-Guillaume." *Dictionary of Canadian Biography*, vol. IV.

- Veilleux, Christine. "Les gens de justice à Québec, 1760-1867," Ph.D. diss., Université Laval, 1990.
- Verrette, Michel. "L'alphabétisation de la population de la ville de Québec de 1750 à 1849." *RHAF* 39:1 (1985) : 51-76.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region: 1650-1815*. Cambridge: Cambridge University Press, 1991.
- Wionet, Chantal. "L'Esprit des langues dans le dictionnaire universel de Trévoux (1704-1771)." *Dix-huitième siècle* 38 (2006) : 283-302.
- Yegge, Robert B. "The Law and Society Association to Date." *Law and Society Review* 1:1 (1966) : 3-4.
- Zoltvany, Y.F. "Esquisse de la Coutume de Paris." *RHAF* 25:3 (1971) : 365-384.

## KEY TO ABBREVIATIONS

BAnQ	Bibliothèque et Archives nationales du Québec
CHR	<i>Canadian Historical Review</i>
PRDH	<i>Programme de recherche en démographie historique</i>
RHAF	<i>Revue d'histoire de l'Amérique française</i>

## SHORT-HAND CASE NAMES USED IN FOOTNOTES

“Havy et Lefebvre c. Araby”

“Procès opposant François Havy et Jean Lefebvre, négociant de Québec, propriétaires du navire «l'Expérience», à Augustin Araby, capitaine du navire, François Delisle, capitaine en second, Roger Deschamps, officier marinier et autres membres de l'équipage, concernant une pêche au poste de la Baie des Châteaux.” 9 octobre 1742-2 janvier 1743. BAnQ TL5,D1296.

“Marie-Marguerite Duplessis Radisson c. Marc-Antoine Huard Dormicourt”

“Procès opposant Marc-Antoine Huard de Dormicourt, à Marguerite Duplessis Radisson, se disant la fille naturelle de feu sieur Duplessis Faber (Lefebvre), frère du sieur Duplessis Faber, résidant à Montréal, capitaine d'une compagnie dans les troupes de la Marine, qui conteste le fait qu'elle soit une esclave, et plus particulièrement celle du sieur Dormicourt.” 1-28 octobre 1740. BAnQ TL5,D1230.

“Saisie et inventaire” “Apposition des scellés, saisie et inventaire des papiers du sieur Jacques Nouette de la Souffleterie [sic], comme ayant fait fonction de procureur pour diverses personnes, par le greffier en chef de la Prévôté de Québec, en vertu d'une ordonnance de l'intendant rendue sur la requête de Pierre Jehanne comme syndic des créanciers de la succession Levasseur.” 22-27 juillet 1743. BAnQ TL5,D1329.







