

3. Picturing Criminal Law in Old Regime France: *Brunel, known as Bétancourt, being led to the scaffold (1670)*

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The wash drawing *Brunel, known as Bétancourt, being led to the scaffold* (figs 8–10) depicts the final steps of a condemned man as he walks towards his execution. An usher bearing a halberd and an executioner armed with a sword conduct Bétancourt down a staircase, while the executioner carries a torch that lights up the declaration strapped to the prisoner's chest: 'Brunel, known as Bétancourt, an execrable blasphemer of God's holy name'. A priest presses a crucifix up to Bétancourt's face, exhorting him to confess his sins. Bétancourt steps forward in silence, naked but for the shirtsleeves that reveal his muscular legs and sturdy feet, signs of a potentially violent man. His wild hair falls over his stooped head and shoulders, as his gaze looks beyond the crucifix. The framing of the scene makes it difficult to discern the position of the observer or the placement of the stairs. They most likely lead out of the gates of the gaol from which the condemned emerged and faced the crowds for the first time on the way to the scaffold. Yet in this image the crowd is absent, and the viewer focuses on the interaction between the expressive faces of Bétancourt and the entourage around him, as they process towards the site of his execution.

<<Figures 8–10 near here>>

This depiction of Bétancourt being led to the scaffold is remarkable not only for the visual detail it conveys about execution proceedings in France under the Old Regime, but also as a rare example of a document that combines a drawing of an execution scene with the text of a verdict (*arrêt*) issued by the magistrates of the supreme court of the Parlement of

Paris.¹ The accompanying text begins on the second folio of this folded sheet and seems to have been copied out around the same time as the drawing was composed.² It transcribes precisely the verdict announced by the magistrates of the Parlement, who confirmed on appeal the death sentence issued in the first instance by the judges of the Châtelet, a court whose jurisdiction extended throughout the capital. The verdict explains that on 18 December 1670 the magistrates condemned Bétancourt to be hanged at the place de Grève, a public square in the centre of Paris, but first he was to undergo the ritual punishment known as the fine of honour (*amende honorable*). This meant that ‘naked but for his shirtsleeves, with a rope around his neck, holding in his hands a burning candle weighing two pounds, and with nothing on his head, he shall kneel down and declare in a clear and loud voice that, wickedly and impiously he had proclaimed these horrible and execrable blasphemies against God’s holy name, and that he repents and asks pardon from God and from justice’. The text of the verdict reveals that it was Catherine de Gricourt who instigated the prosecution before the judges at the Châtelet, and that in addition to blasphemy Bétancourt was found guilty of

¹ I am not aware of any comparable representation in the principal collections of premodern criminal justice imagery in the Archives Nationales de France, Paris (hereafter AN) in the collection AD III, and the Bibliothèque nationale de France (hereafter BnF) in the Cabinet des Estampes, especially the images derived from the collection assembled by Michel Hennin in the nineteenth century. Some registers of proceedings in the Parlement’s criminal chamber contain scribes’ doodles of the magistrates and monstrous figures, but these are incidental drawings not intended for wider circulation: AN X2A 960, 1598–9 (undated voting slip); AN X2A 1035, 1669–70 (list of magistrates serving in the criminal chamber); AN X2A 1054, 1689–90 (undated voting slip). For an analysis of images of criminal justice in this period, focusing on execution scenes, see Friedland, *Seeing Justice Done*, 119–91; Bastien, *L’exécution publique à Paris*, 47–56.

² It is difficult to date the drawing and the accompanying text of the verdict with precision, but the handwriting belongs to the later seventeenth century, and the case was not otherwise well known, so it is likely that the document circulated not long after the execution.

‘committing assault and battery against the widow Du Perche’. According to the verdict, Gricourt would receive 400 *livres* in damages from Bétancourt’s estate, and the magistrates would claim an additional 100 *livres* in order to cover the cost of the proceedings. While the drawing illustrates the drama of Bétancourt’s procession to the site of execution, the text of the verdict makes clear how the magistrates defined the severity of his crimes, the appeal procedure they followed in his trial, and the substance of the punishment that awaited him.

The unusual hybrid genre of this document raises a crucial question about the interaction of word and image as it relates to the visual depiction of criminal law. How do images construct legal authority, when the law is typically understood as a domain of the written word? This is a question that historians of art and architecture have explored extensively in different periods and places.³ Often their studies focus on emblematic representations of justice or the setting of the courtroom.⁴ This can be a fruitful approach for understanding the image that the law projected in its official settings under the Old Regime. Depictions of blind justice triumphing over feckless criminals were a common means of representing the authority of magistrates and the courts they served in this period.⁵ And the setting of the court, or the depiction of magistrates themselves, can give a sense of dignity and hierarchy to trial proceedings.⁶ Yet this approach to the visual image of justice in its abstract or institutional forms privileges official perspectives on how justice should operate rather than how it works in practice. By focusing on official depictions of an idealised view

³ For a critical synthesis of approaches to law and visual culture that informs this approach, see Behrmann, ‘Law, Visual Studies, and Image History’, 39–64.

⁴ *Ibid.*, 43–56.

⁵ For an example close to the period of Bétancourt’s execution, see Blanchard, *Les présidents au mortier du parlement de Paris*, frontispiece.

⁶ An example from sixteenth-century France demonstrates this point well: Milles de Souvigny, *Praxis criminis persequendi*, esp. fos 8r, 56r, 61r–62r, 83r.

of the law it is possible to mistake its reach for its grasp.⁷ The representation of Bétancourt being led to the scaffold gives a different kind of representation, one that focuses on a precise example of a verdict and its execution. What concept of criminal law does this drawing depict when it represents a condemned man being led to the scaffold whose identity is confirmed by documentary evidence?

This representation of Bétancourt being led to the scaffold assembles an unusual combination of word and image, since textual and visual traditions were typically kept separate in the legal culture of the Old Regime in France. The texts of judicial verdicts had a special authority in establishing the customary practice of the courts. Lawyers collected manuscripts or published copies of verdicts in famous cases (*arrêts notables*) in order to validate and perpetuate these judgements.⁸ Preserving the text of a verdict helped to establish it as a case precedent for lawyers' future reference. Trainee lawyers often purchased editions of notable verdicts in order to learn how to proceed in their own practice.⁹ Some inventive magistrates took advantage of the popularity of this genre in order to experiment with new literary forms, such as Jean de Coras, councillor in the Parlement of Toulouse, who annotated the 1561 verdict against the imposter Arnaud du Tilh with legal and philosophical discussions which took details of the case as a starting point for learned reflections.¹⁰ Collectors further shaped the meaning of the texts of notable verdicts by circulating and discussing them among networks of colleagues and scholars, particularly in the vicinity of the law courts, where this

⁷ This is a criticism that many historians have made of the well-known interpretation of criminal justice in France under the Old Regime presented by Foucault, *Discipline and Punish*.

⁸ Cazals and Geonget (eds), *Des 'arrests parlans'*; Hanley, 'Jurisprudence of the Arrêts', 1–40.

⁹ Houlemare, *Politiques de la parole*, 171, 345–9.

¹⁰ Coras, *Arrest memorable*, discussed in Davis, *Return of Martin Guerre*, 94–113.

copy of Bétancourt's verdict might also have circulated.¹¹ By the eighteenth century the magistrates of the Parlement of Paris started regularly to publish the text of notable verdicts in order to distribute them more widely among the crowd who attended executions.¹² This record of Bétancourt being led to the scaffold followed upon countless notable verdicts in the centuries that preceded his execution, although none of them could match the innovative visual form that accompanied the text of his verdict.

If the culture of collecting notable verdicts in France under the Old Regime privileged their textual forms, then visual depictions of the enactment of criminal justice mostly consigned textual elements to the margins. When such depictions did include text, then this text tended to prefigure a moral interpretation of the image rather than combine it with the official proceedings of the court. Jan Ziarnko's engraving of the execution of the regicide François Ravailac in 1610 draws the viewer's attention to the escalation of his punishment, divided into four coterminous stages separated by the horses who are driven apart by officials in order to rip Ravailac's body into quarters. At the centre of the image, Ravailac's silent cries of pain distort his facial features so that he is barely recognisable. The text accompanying the image condemns Ravailac in heinous terms – 'a horrible monster of nature' – without relating any detail of the formal proceedings in the Parlement whose magistrates condemned Ravailac to death.¹³ News of the verdict nevertheless circulated

¹¹ Fernandez-Lacôte, *Les procès du cardinal de Richelieu*, 17–64.

¹² Bastien, *L'exécution publique à Paris*, 26–32.

¹³ Jan Ziarnko, *Figure représentant le supplice et exécution de l'arrêt de mort donné contre le très meschant, très abominable et très détestable parricide Ravailac le 27 mai 1610* (Figure representing the execution of the most wicked, abominable, and detestable parricide Ravailac, 27 May 1610) (Paris, 1610), 45.5 × 32.4 cm (18 × 12 3/4 in.) for the engraving, BnF RÉSERVE FOL-QB-201 (17), [ark:/12148/btv1b8401557w/](https://nbn-resolving.org/urn:nbn:fr:bnf-fol-qb-201-17).

widely, and so Ziarnko might have presumed familiarity with its terms among the engraving's viewers.

Charles Le Brun's chalk drawing of Marie-Madeleine d'Aubray, marquise de Brinvilliers, being led to the scaffold in 1676 had no need of textual description to convey its significance.¹⁴ The drawing contrasts Brinvilliers' wide-eyed gaze towards heaven with the attentiveness of the confessor leaning into the casket on the right, as he holds her hand and allows her to grasp the crucifix tightly. The viewer might struggle to meet Brinvilliers' wayward gaze and so empathise with her suffering. The only text that appears in the drawing is the artist's signature at the top right, which directs attention to Le Brun's skill in making a subject so base as criminal justice a site for artistic ingenuity. Le Brun's attention to Brinvilliers' features develops his interest in expressing visual meaning through facial expressions, which he first presented to the Royal Academy of Painting and Sculpture in 1668 and published twenty years later as the *Méthode pour apprendre à dessiner les passions* (Method for learning how to paint the passions). Le Brun is supposed to have captured Brinvilliers' portrait during the final moments of her life.¹⁵ Perhaps he was drawn to the scene of an execution not only for Brinvilliers' fame but also for the potential of a public execution to reveal an extreme movement of the passions. In a manual for confessors, the theologian Pierre de Besse counselled that the condemned being led to the scaffold would experience 'a strong and violent affliction, because at that moment they face the loss of their property, honour, and life all at the same time; and they are in a moment of very great

¹⁴ Charles Le Brun, *Portrait de la marquise de Brinvilliers* (Portrait of the marquise de Brinvilliers) (1676), black chalk, highlighted with red and white chalk, 30.8 × 24.6 cm (12 1/8 × 9 3/4 in.), Musée du Louvre, département des Arts graphiques, Réunion des musées nationaux, <http://arts-graphiques.louvre.fr/detail/oeuvres/1/213507-Portrait-de-la-marquise-de-Brinvilliers>.

¹⁵ Montagu, *Expression of the Passions*, 45–6, 141–2.

necessity, for these events concern the disposition of their conscience, the salvation of their soul, and the difference between Heaven and Hell, which represents a moment of solace or an eternity of torment'.¹⁶

The drawing of Bétancourt led to the scaffold shows how Le Brun was not alone in taking an execution scene as a site for experimentation in rendering the emotions of the condemned, or what seventeenth-century writers referred to as their experience of the 'passions'.¹⁷ There are plausible resemblances between, on the one hand, the facial expressions of Bétancourt and the men leading him to the scaffold and, on the other, Le Brun's archetypal representations of the physiognomy of the passions in the labelled sketches published in his *Méthode*. Bétancourt's furrowed brow and lined cheeks bear some resemblance to Le Brun's depiction of sadness and contrition; the executioner's determined glance over his shoulder, eyebrows arched, has a similar glare of distrust to Le Brun's illustration; while the confessor attempts to show an intensely focused compassion, even if his appeal does not meet its desired response in Bétancourt's comportment.¹⁸

If visual artists who depicted elements of criminal justice under the Old Regime often allowed their images to speak for themselves without substantial textual commentary, they also made firm decisions about the representation of justice by underscoring or omitting certain details from their work. The artist who drew Bétancourt being led to the scaffold depicts a silent scene that emphasises the expressions of the members of the execution

¹⁶ Besse, *La pratique chrestienne*, 385.

¹⁷ On the theme of the passions in seventeenth-century literature and thought, see James, *Passion and Action*.

¹⁸ For digital reproductions of the complete set of engravings, see Charles Le Brun, *Expressions des passions de l'ame* (Augsburg, 1732), Metropolitan Museum of Art, 53.600.3163, <https://www.metmuseum.org/art/collection/search/376816>, here plates 11, 14, 15.

cortege rather than the din of the city that would have surrounded them. Yet public executions under the Old Regime were a remarkably noisy affair, and so depicting the procession in this way conveys a seamliness that images of executions among the scaffold crowd lack. A substantial crowd typically served to reinforce the authority of the execution spectacle. On the way to the execution in 1595 of the attempted regicide Jean Chastel, the crowd cried ‘long live the king!’ (‘Vive le roy’) in support of the recently crowned Henri IV, the king who converted to Catholicism and brought an end to the religious wars of the previous decades.¹⁹ Crowds jostled for position to catch a glimpse of the condemned. Madame de Sévigné stood on the pont Notre-Dame in order to watch the marquise de Brinvilliers being led to the scaffold at the place de Grève in 1679 but wrote to her daughter afterwards, ‘it is no use asking me what I saw, for I only caught a glimpse of a trumpeter’.²⁰ The crowds who thronged to execution scenes also risked causing disorder. Ballad singers played a key role in setting the tone at executions as they sang of the misdeeds of the condemned, and sometimes the malpractice of those who judged them. A song about the execution of Jacques Chausson for sodomy in 1661, set to the tune of a funeral lament, criticised the double standards that ensured sodomites the royal court were rewarded with favour and patronage while Chausson was hanged and burned at the place de Grève: ‘Great Gods! Where is your justice? / Chausson is about to die in the fire; / And Guitaut for the same vice / Has deserved the Cordon bleu.’²¹ Sometimes the crowds became so large they risked

¹⁹ This phrase is picked out in capital letters by the scribe in the criminal chamber as part of his account of the execution proceedings: AN X2A 958, 1595-12-29.

²⁰ Madame de Sévigné, *Lettres*, 205. For Madame de Sévigné’s view on the affair in the context of contemporary debates, see Wood Mollenauer, *Strange Revelations*, 62–4.

²¹ On this song, see Hammond, *Powers of Sound and Song*, 95–124.

breaking out into a riot.²² Yet, despite the importance of the crowd in shaping the significance of a public execution as an exemplary moment in the practice of criminal justice, the drawing of Bétancourt being led to the scaffold depicts him in an enclosed and relatively secluded space. In doing so it poses no risk of upsetting the solemnity of the occasion.

Textual as well as visual omissions informed the way in which the representation of Bétancourt being led to the scaffold shaped its depiction of criminal law. The document also obscures the ways in which magistrates conducted trial proceedings in the Parlement under the Old Regime. If the genre of notable verdicts that circulated among a professional audience helped novice lawyers to understand the practice of justice, then neither the visual nor the textual examples in this tradition explained to them the activity behind the scenes that kept the wheels of justice turning. Only a small number of men are depicted in the funeral cortege or named in the verdict, yet archival documents relating to the Bétancourt affair reveal the names of further officials involved in his case. According to the register of incarceration, it was Louis d'Ailly, gaoler (*guichetier*) in the Châtelet, who led Bétancourt across the pont au Change to the gaol of the Conciergerie in the Palais de Justice so that his case could be heard on appeal by the magistrates of the Parlement.²³ One week later, after the magistrates had confirmed the verdict, a group of officials in the Châtelet arrived to collect Bétancourt and lead him back to their gaol in order to await execution. The most senior sergeant in the Châtelet (*doyen des sergents*), Louis Marion, is named first on the list, accompanied by three assistants (*commissaires*) serving beneath him. All four men signed the register of incarceration so as to attest that they had taken charge of the prisoner. Perhaps one

²² For examples, see Hamilton, 'Contesting Public Executions', 192–6; Bastien, *L'exécution publique à Paris*, 128.

²³ Archives de la Préfecture de Police de Paris, Le Pré Saint-Gervais, AB 56, fol. 48r, 1670-12-11.

or more of these men took part in the cortege that led Bétancourt to the scaffold. None of them is identified in the drawing or text of the verdict, which presents the case as an exemplary verdict of the Parlement and not its rival civic jurisdiction across the river.

If Bétancourt appears to be led in silence towards his execution in the drawing, he played a more active role in the interrogations that took place during his trial proceedings in the criminal chamber of the Parlement. Compared with the neat handwriting of the verdict, the record of his final interrogation is a rather untidy document that was not intended for public circulation (fig. 11).²⁴ Repeating a typical formula of the court, the verdict ordered that the case files should be burned, but that did not prevent the scribes' preserving a copy of the final interrogation in the registers known as the 'plumitifs' of the criminal chamber, and copies of the original case files were likely sent back to the Châtelet, although it is impossible to verify the point since its archives are not complete for this period.²⁵ During the final interrogation, the magistrates of the Parlement asked the accused a series of questions based on the case files gathered in the trial, which had been read carefully by the reporter, in this instance the distinguished councillor in the Parlement Noël Le Boulz, who was portrayed by Robert Nanteuil in an engraving published the following year as an exemplary representative of the institution.²⁶ Only three other magistrates were present in the criminal chamber during Bétancourt's final interrogation – Jacques Le Coigneux, Jacques de Taillant and Louis de

²⁴ On access to archives in the Palais de Justice, see Houlemare, *Politiques de la parole*, 145–54.

²⁵ On the survival of documents in the Parlement's criminal archives despite this injunction, see Bercé and Soman, 'Les archives du Parlement', 255–6; Soman, 'Sorcellerie, justice criminelle et société', 197–201.

²⁶ Robert Nanteuil, *Noël Le Boulz* (Paris, 1671), engraving, 38.2 × 31.5 cm (15 1/8 × 12 3/8 in.), Metropolitan Museum of Art, 2001.647.28, <https://www.metmuseum.org/art/collection/search/352080>.

Nesmond – which is a remarkably small number when eleven magistrates were present for the previous session two days earlier, a more typical level of attendance for that term of the Parlement’s proceedings in the criminal chamber. The relative absence of magistrates during Bétancourt’s interrogation suggests they did not expect the affair to require much attention.

<<Figure 11 near here>>

During his final interrogation, Bétancourt denied all the charges against him in an attempt to save his life by convincing the magistrates to revise down his sentence in their verdict on appeal. Details recorded in this interrogation confirm aspects of the drawing, but they also add further context that helps make sense of the artist’s overall approach.²⁷ The scribe in the criminal chamber noted that Bétancourt was aged twenty-six, which fits the artist’s depiction, although the interrogation record gives no further physical description that might justify the manner in which the drawing renders Bétancourt with such wild and muscular features. In his replies in the criminal chamber, Bétancourt seems to have been somewhat measured in the way he presented his defence, although this impression might rather be created by way in which the scribe summarised rapidly the proceedings of this *viva voce* interrogation. When asked about his blasphemy, Bétancourt ‘said that he never uttered those words and pleaded with us to condemn him if he ever did, but has been accused by people who are disgraced’. The record of the interrogation mentions that Bétancourt was accused not only of blasphemy but also of assault against someone named Du Tertre, named as ‘Du Perche’ in the copy of the final verdict.

Crucially, while the drawing depicts Bétancourt being led to the scaffold in silence, and summarises his crime as simply ‘execrable blasphemies’, the record of his interrogation contains language that the magistrates sought to keep away from the ears of the scaffold crowd. When he prepared questions for Bétancourt, the magistrate Le Boulz selected

²⁷ This paragraph is based on AN X2A 1036, 1670-12-18.

blasphemies that showed him to be impious – ‘by God, Easter week can fuck off’ – and violent – ‘if God descended to earth he would fight him’.²⁸ When the magistrates translated this language into the basic summary read out to the assembled crowd as ‘execrable blasphemies’, they kept Bétancourt’s unruly tongue within the walls of the criminal chamber and instead maintained the pious spectacle of him being led to the scaffold via his penitent declaration before the cathedral of Notre-Dame. In this way, the magistrates maintained a clear distinction between their public displays of serene authority and the often messy and conflictual proceedings of the court behind closed doors.

Law might have been associated with the written word in this period, as officials transcribed interrogations and verdicts in the formal records of the courts, which remained the ultimate source of evidence and case precedents. But the authority of the law was also conveyed in spectacular and complex forms through the ritual of public executions and in the visual depictions of them that circulated afterwards. The representation of Bétancourt being led to the scaffold transformed a violent dispute and a formal appeal procedure into an exemplary depiction of the proceedings of criminal justice, one which depended on a visual strategy that highlighted the individual experiences of the condemned and his entourage, and clarified them with the simple text of the verdict of the court. Depictions of execution proceedings made a strong claim to represent the full reach of the authority of criminal law. Yet the larger significance of these proceedings can only be grasped alongside the textual records produced by the courts, as magistrates worked to gather and assess evidence, administer stages of proceedings, and validate their judgements. This analysis of representations of criminal justice in France under the Old Regime demonstrates that law belonged not only to the written domain, but also to the visual; the image of Bétancourt being

²⁸ The original French reads ‘foutre de Dieu de la semaine de pasques’ and ‘que sy Dieu descendoit il se batteroit contre lui’.

led to the scaffold endured beyond the spectacular ritual of his public execution, and circulated alongside the notable verdicts that passed among Parisian lawyers as part of the culture of collecting and legal education that trained them for service in the courts.



Citation on deposit: Hamilton, T. (in press).
Picturing Criminal Law in Old Regime France:
Brunel, Known as Bétancourt, Being Led to the
Scaffold (1670). In F. Grant, & L. Jordanova (Eds.),
Where Words and Images Meet (57–67). London:
Bloomsbury Visual Arts

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