

# **Gaspard de Monconys' Defence against the Charge of Imposture: Criminal Justice, Social Hierarchy, and Personal Identity in Early Seventeenth-Century France**

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## **Abstract**

This article analyses a remarkable criminal trial which took place in early seventeenth-century France. In 1617, Gaspard de Monconys, son of a prominent judge in Lyon, was accused of committing sacrilege and theft in the basilica of Saint-Denis, and then framing an innocent man who was sent to the galleys. The case attracted significant contemporary interest because of the Monconys family's status and the way the dispute became a literary event. Monconys' adversaries circulated their arguments among an informed public through extrajudicial publications known as factums, and Monconys' counsel responded in kind. This trial is fascinating in itself, since it involved a complex and notorious appeal before the Parlement of Paris, and reveals how extrajudicial print interacted with oral and manuscript pleadings. But the affair also provides new insight into the relationship between criminal justice, social hierarchy, and personal identity in the seventeenth century.

## **Keywords**

criminal justice, social hierarchy, personal identity, factums, Parlement of Paris, Lyon

## Prologue

In the summer of 1612, a student aged 19 or 20 was sleeping rough in bars and cloisters outside of Paris. He had grown up near Nevers, lived in Rodez, worked in Albi, and studied in Toulouse, but that August he arrived at Saint-Denis.<sup>1</sup> Its abbey was a memorable site, the place where French kings were crowned, and the location of shrines to Saint Denis, Saint Eleuthère, and Saint Rustique. Their cults were intertwined with the destiny of Paris and the fate of the French kingdom.<sup>2</sup> The monks of Saint-Denis presented the abbey's capture in the civil wars nearly half-a-century earlier, on 2 October 1567, as an iconoclastic cataclysm.<sup>3</sup> The reality was less dramatic. Although the abbey's library was ransacked, its manuscripts found their way to the shelves of the library of Parisian lawyers and magistrates.<sup>4</sup> Partially restored, the abbey remained open after dark with minimal security, an inviting place for a traveller carrying no more than his bag and a coat to cover himself at night.

The student, who said his name was François Louis, was sleeping in the abbey when he awoke with a start. He heard someone cry out—"Stop, thief!"—and a woman rushed up to him. A trunk of ecclesiastical silverware in the chancel had been prised open and its contents were missing. Next, a sergeant arrived to demand the student turn out his pockets, in which there was a silver altar vessel for holding wine. The student claimed that the woman had snuffled the vessel into his coat pocket before he could protest. The sergeant brought him

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<sup>1</sup> François Louis declared himself as from "Varmes" and "Vouray pres Nevers" in Archives de la Préfecture de Police de Paris [hereafter APP] AB 20, fo. 306r, 1612-08-01 and Archives Nationales, Paris [hereafter AN] X2A 974, 1612-08-20. His age is given in AN X2A 974, 1612-08-22.

<sup>2</sup> Le Gall, *Le mythe de Saint Denis*, 78–140.

<sup>3</sup> Jacques Doublet, *Histoire de l'abbaye royale de Saint-Denis* (Paris: Jean de Heuqueville, 1625), 291.

<sup>4</sup> Le Gall, *Le mythe de Saint Denis*, 156–60; Nebbai-Dalla Guarda, *La bibliothèque de l'abbaye de Saint-Denis*, 131–43.

before the local criminal judge, the magistrate (*bailli*) of Saint-Denis, Claude Hallé, to stand trial for theft and sacrilege. Under interrogation, it seems, the student confessed that he had carried out the crime with two accomplices, one not far from Lyon. He was condemned to death by hanging but appealed to the Parlement of Paris. So, on 1 August 1612 he was transferred to the Conciergerie in the Palais de Justice. On 20 August, the magistrates of the Parlement subjected him to interrogation in the criminal chamber, on the low stool known as the *sellette*. It took them until 6 September 1612 (an unusual delay) before they condemned him to nine years' in the galleys. And that should have been an end to the affair.<sup>5</sup>

Except that it was not, for a rumour spread that François Louis was not who he said he was. When Hallé brought him to the custody of the Conciergerie, the gaol's clerk himself said he doubted that it was the prisoner's real name. The rumour spread from Saint-Denis to Paris, and on to Lyon, saying that the thief was none other than Gaspard de Monconys, son of Pierre de Monconys, a well-known and respectable criminal judge (*lieutenant criminel*) in Lyon's regional court (*présidial*). Regardless of this idle talk, in 1617 Gaspard de Monconys travelled to Paris to receive the letters of nomination to succeed to his father's legal office. While there he was enticed into the jurisdiction of the abbey of Saint-Denis, where he was arrested and accused of the theft and sacrilege that took place in 1612, and of an imposture that sent an innocent man to the galleys. Monconys' accusers were his fathers' enemies—Claude Bernard, Jacques Daveyne, Nicolas Masso, and Claude Terrat—all royal office-holders in Lyon, out to ruin his career before it started.

How did Gaspard de Monconys come to be accused in 1617 of the sacrilege for which François Louis had been convicted five years earlier? And how might he prove that he was not the person suspected of the crime, but that it was a plot to bring his name into ill-repute? These issues preoccupied the Monconys family in the twenty-eight months between Gaspard

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<sup>5</sup> APP AB 20, fo. 306<sup>r</sup>, 1612-08-01; AN X2A 974, 1612-08-20; AN X2A 183, 1612-09-06.

de Monconys' arrest on 27 August 1617 and the final verdict of the Parlement on 10 December 1619, which absolved him of any crime.<sup>6</sup> The case attracted considerable interest. It was commented on by notable jurists of the time as well as by the physician Guy Patin, dean of the Faculty of Medicine in Paris, who called it a “great affair” although “very strange”.<sup>7</sup> It resonated beyond living memory too in the jurisprudence on calumny, which is why the Lyon jurist and its police lieutenant (*lieutenant de police*), Antoine-François Prost de Royer, included it in his *Dictionnaire de jurisprudence et des arrêts* (1780–1788).<sup>8</sup>

One reason the case attracted such interest is that the Monconys forged for themselves a prominent place in the social hierarchy and civic politics of seventeenth-century Lyon. Pierre de Monconys went on to become the city's merchant provost (*prévôt des marchands*) in 1623–4.<sup>9</sup> Gaspard de Monconys followed him as *prévôt des marchands* in 1652–3 and continued to hold his father's office of *lieutenant criminel* until his death in 1664.<sup>10</sup> Gaspard is known for his collection of medals and paintings, studied by historians interested in men and women of letters, their communication with one another, and their cabinets of curiosities.<sup>11</sup> Gaspard's brother Balthasar also enjoyed a reputation as a *virtuoso* thanks to the travelogue, published in 1665–6 by his son (another Gaspard); in his preface, the younger Gaspard described his uncle as a “great connoisseur in medals, coins, paintings, cameos, inscriptions, stones, insects, and other rarities”, while praising his father for his “inclination

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<sup>6</sup> For the text of the final *arrêt*, see Bouchel, *La justice criminelle*, 149–57.

<sup>7</sup> *Correspondance de Guy Patin*, à Charles Spon, le 29 avril 1644, <https://www.biusante.parisdescartes.fr/patin/?do=pg&let=0104> (accessed 22 August 2023). “C’ étoit une grande affaire”, “fort étrange”.

<sup>8</sup> Prost de Royer, *Dictionnaire*, ii, 266–7.

<sup>9</sup> Archives municipales de Lyon [hereafter AM Lyon] BB 162, fo. 29<sup>r</sup>, 1623-01-10; *Tablettes de Themis*, 276. Archives départementales du Rhône [hereafter AD Rhône] 106 J 9, the papers of the lawyer-genealogist Ferdinand Frécon, who established the genealogy and details of the family's fortunes. It was probably to celebrate his term of office that the sculptor Philibert Laliene was commissioned to design a large bronze medallion of him in effigy: Lami, *Dictionnaire des sculpteurs de l'école française*, 317. When Gabriel Naudé visited the Monconys cabinet in February 1642, he admired especially its bronze medallions ‘per la più parte grandi anzi grandissime’, and urged him to catalogue them: Lumbroso, *Nottizie*, 274–5, 1642-02-17.

<sup>10</sup> AM Lyon, BB 206, fo. 71<sup>r</sup>, 1652-01-09; *Tablettes de Themis*, 278.

<sup>11</sup> Tropato, ‘Gaspard de Monconys, Provost Marshal of the Merchants and Collector’; Tropato, ‘Nicolas Fabri de Peiresc, Cassiano dal Pozzo, e Gaspard de Monconys’; Tropato, ‘The Eloges of Gaspard de Monconys’; Schnapper, *Le géant, la licorne et la tulipe*, 262–3.

to investigate the causes and search out the natural reasons for the curiosities that his brother curated with care”.<sup>12</sup> This legal affair, however, has remained in the shadows.

### Interrogating the Monconys Affair

The Monconys affair is fascinating in itself, since it involved a complex and notorious criminal lawsuit on appeal before the Parlement of Paris, whose magistrates took pride of place in the French monarchy’s aspiration to manifest the rigour of its justice, *urbi et orbi*.<sup>13</sup> But the fact that the case garnered significant public interest makes it worthy of close attention too, as it raises significant questions about the relationship between criminal justice, social hierarchy, and personal identity in the seventeenth century. That public attention was generated through the parties’ recourse to printed texts known as factums. These were declarations of the legal arguments in favour of one party or the other, formally addressed to magistrates deliberating in the case, but also disseminated to give a reading public access to matters that otherwise would have remained enshrined in the dossier prepared for the criminal appeal.<sup>14</sup> Comparable genres of extrajudicial print existed elsewhere in Europe too by 1600, but the full extent of their production, circulation, and reception has not yet been

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<sup>12</sup> Monconys, *Journal des voyages de Monsieur de Monconys*, i, 1. “un des hommes de France qui se connoissoit le mieux, en Medailles, Monoyes, Peintures, Camayeux, Incriptions, Pierres, Insectes, & autres raretez”, “inclination à penetrer les causes, & chercher les raisons naturelles des curiositez que son Frere ramassoit avec soin”. See also Varille, *Balthazar de Monconys*. The post-mortem inventory of Balthazar’s son, Gaspard (1641–1682), the principal inheritor of the fortune and collections of the two brothers, gives us some idea of their cabinet, especially its paintings and books: AD Rhône BP 1981, ‘Inventaire des effectz de deffunct Messire Gaspard de Monconis ... du XI<sup>e</sup> aoust et autres jours suivans, 1682’, 92 fos.

<sup>13</sup> Soman, ‘La justice criminelle’. Alfred Soman’s pioneering research in the criminal archives of the Parlement of Paris, exemplified in his *Sorcellerie et justice criminelle*, provides the methodological starting-point for this investigation, in which published juridical treatises and factums are systematically considered in the light of the archival evidence. See also Soman, ‘Petit guide des recherches dans les archives criminelles du Parlement de Paris’.

<sup>14</sup> On the circulation of factums in later sixteenth-century France, see Houllémare, *Politiques de la parole*, 331–44. The definition of a “factum” in this period is nevertheless imprecise, and the published catalogue reflects a collection that includes all sorts of legal writings that circulated in print and manuscript: Corda, *Catalogue des factums*.

thoroughly investigated by historians.<sup>15</sup> It was nevertheless rare for any case before the mid-seventeenth century to generate more than one published factum, let alone four, as in the case of the Monconys affair.<sup>16</sup>

Factums are significant because they demonstrate how legal culture under the Old Regime could be contentious, reactive, and public-facing, rather than authoritarian, long-winded, and secretive, as its critics have alleged.<sup>17</sup> The Monconys affair shows how notorious legal disputes, or “causes célèbres”, informed public debate well before the decades leading to the French Revolution, and so were a long established part of Old Regime legal culture and not the cause of its decline.<sup>18</sup> Although the term “cause judiciaire célèbre” only appears in French for the first time in 1763, equivalent terms existed earlier: “cause” (meaning a *procès*) had existed since the fifteenth century, and “public”, meaning a discerning audience debating, for example, a literary dispute, emerged at the same time as the Monconys affair.<sup>19</sup> The discerning audience that read and engaged with the factums in the Monconys affair ensured it

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<sup>15</sup> Early findings of the ISAAE Project [see n.1] are presented in Gómez González ed., *Del Estado a la imprenta*; Chatelain and Gómez González eds., ‘Plaidoyers judiciaires en Europe’.

<sup>16</sup> We discuss the dating and content of these factums throughout the article. The items survive in the Bibliothèque nationale de France [hereafter BnF] and are catalogued with the following bibliographic information. *Factum pour Claude Bernard,... Nicolas de Masso, Claude Terrat,... et Jacques d’Aveyne... contre Gaspard Monconys...*, no place or publisher, dated 1617, exists in three surviving copies: 4-FM-2663; Z THOISY-383 (FOL 258); ms. français 15522, fol. 559 [hereafter F1]. *Factum du procès entre Claude Bernard,... Nicolas Demasso, Claude Terrat,... et Jacques Daveyne,... demandeurs,... et Gaspard de Montconys,... défendeur...*, no place or publisher, no date, exists in one surviving copy: BnF 4-FM-2662 [hereafter F2]. *Plaise à Nosseigneurs de parlement de remarquer au jugement du procès d’entre Claude Bernard, Nicolas de Masso, Claude Terrat et Jacques Daveyne,... d’une part, et Gaspard de Monconys,... d’autre*, no place or publisher, dated 1619, exists in one surviving copy: 4-FM-2663 (BIS) [hereafter: F3]. Sébastien Rouillard, *Dicæologie, ou défense justificative pour M<sup>e</sup> Gaspard de Monconys,... contre l’étrange, horrible et prodigieuse calomnie de M<sup>es</sup> Claude Bernard ... Nicolas de Masso, Claude Terrat, ... et Jacques d’Aveyne ...*, Paris, no publisher, 1620, exists in three surviving copies: 4-FM-22112; F-16517; Arsenal 4-J-1880 [hereafter *Dicæologie*]. None of these copies carries annotations, but the copy of *Dicæologie* catalogued as F-16517 is inscribed on the title page ‘Bibliotheca Colbertinae’, where it might perhaps have been read for *divertissement* rather than ‘the needs of politics and state administration’, which is the guiding principle for Jean-Baptiste Colbert’s book-collecting according to Soll, *The Information Master*, 94–5.

<sup>17</sup> For a survey of the recent research that has contributed to this emerging revisionist perspective, see Breen, ‘Law, Society, and the State’.

<sup>18</sup> On factums and public opinion in the later eighteenth century, see Maza, *Private Lives and Public Affairs*, 12, 16, 17, 37, 117–118, 120–121, 129, 155–6, 166, 252–3. For a widely publicised mid-seventeenth-century case in Dijon involving several factums, see Farr, *A Tale of Two Murders*.

<sup>19</sup> On the term ‘public’ and its resonances in seventeenth-century France, see Merlin-Kajman, *Public et littérature*, and for the implications of these findings for political and social debate, see Duccini, *Faire voir, faire croire*, 58–60.

echoed beyond the criminal chamber, despite the injunctions by magistrates and the monarchy that the contents of a case file should remain confidential.<sup>20</sup> Sarah Hanley evokes an “era of judicial publicity” that emerged in seventeenth-century France, “when the enterprising quest for legal knowledge provoked talk about law and lawsuits, stimulated public opinion on civil rights, and configured a civil society founded on a shared legal culture”.<sup>21</sup> This case shows in practice how judicial publicity helped to shape the course of a trial in particular, and the legal culture of the Old Regime more generally.

Factums provided the baseplate for judicial publicity. Literary scholars have emphasised how they formed an intermediary genre between juridical dossier and literary fiction. As Christian Biet explained, they constituted “the point of contact between the real and the fictional, mixing the two as a means of persuasion”.<sup>22</sup> The facts of the case became the backdrop for fictionalised scenarios in which the reputations of opponents could be demolished and their legal arguments refuted by a combination of rhetoric and legal argument, while the motives and suits of respondents could be correspondingly elevated. The generic ambiguity is analagous to the interstitial area that they occupy between the judicial (*intra coram*) and public (*coram publice*) arenas. Factums represented, as Marion Lemaignan put it, “situated writing”, contextualised by a moment in time in a particular lawsuit.<sup>23</sup> Generally addressed to the recorder (*rapporteur*) of the case, they were written by anonymous legal counsel (an *avocat* or a *procureur*) on behalf of their client, and directed towards the magistrates hearing the case, often evoked in the texts as a “justice”, humbly sought, or confidently predicted to be in their favour. Justice, like the authors, lingered off-stage, set to give judgment on the case in due course.

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<sup>20</sup> On these injunctions to secrecy and their limits in the sixteenth century, see Houlemare, *Politiques de la parole*, 122–9.

<sup>21</sup> Hanley, ‘The Pursuit of Legal Knowledge’, 71.

<sup>22</sup> Biet, ‘Du sac au cas’, 63. Cf Vibert, ‘La plume et la loi’.

<sup>23</sup> Lemaignan, ‘Les factums’.

But factums were also published texts and could be read by anyone, at any time, after that judgment had been delivered. Seventeenth-century expectation of legal counsel, as of magistrates, was that they were supposed to draw on a vast and disparate learning that their background, education and practice taught them to deploy.<sup>24</sup> Factums served as casebook exercises as well as a literature of entertainment and *divertissement*. So, the implied reader was that discerning public, invited to pass judgment on the case. That made factums a weapon in the pursuit of objectives beyond those at issue in a particular lawsuit, opening up the possibility of presenting the opposing party in the worst light to undermine their reputation, unhindered by the risk of sanction because what was published was in the legitimate pursuit of a lawsuit. The Monconys affair hinged on questions of identity and calumny, so it was particularly suited to exploiting the hybridity of a factum, juridical and literary, written with two judgments in mind: of the magistrate and of the reader.

Alongside its significance for legal culture in print and civil society, the Monconys affair also matters because it gives new insight into the intense competition for social pre-eminence among magistrates during a period when the market for their offices expanded like never before.<sup>25</sup> The political wisdom and morality of the sale of legal office, and its heritability by purchase, was a matter of recurrent debate in estates general, assemblies of notables, and pamphlet literature.<sup>26</sup> This case shows how parties might contest the inheritance of an office through creative recourse to the law, even though the office in itself was not the substantive issue. It was a complex dispute, embroiling several parties and different jurisdictions in Lyon, Paris and Saint-Denis. It involved at times blatant attempts to pursue

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<sup>24</sup> Gazzaniga, 'La formation des avocats aux XVII<sup>e</sup> et XVIII<sup>e</sup> siècles'.

<sup>25</sup> On these themes, see Cosandey, *Le rang*; Descimon, 'Colbert, la dette publique et la haute robe parisienne'; Descimon and Haddad eds., *Épreuves de noblesse*; Descimon, 'La vénalité des offices comme dette publique'.

<sup>26</sup> Nagle, *Un orgueil français*; Greengrass, *Governing Passions*, 274–86; Mousnier, *La vénalité des offices*; Bitton, 'History and Politics'.



personal and social interests through judicial corruption.<sup>27</sup> And it mobilised hundreds of witnesses, from humble artisans and merchants to elite magistrates and illustrious nobles. The factums highlighted political favour and legal chicanery as a means to inherit an office and perpetuate a family's claim to pre-eminence.

The case also had a clear human interest, as it hinged on a conflict over identification. Historians have traced changing practices of identification in early modern Europe through the emergence of official papers.<sup>28</sup> In the early seventeenth century, as this case demonstrates, Roman law jurisprudence prevailed, and witness evidence remained the dominant mode of establishing matters of fact, but in these circumstances it proved difficult to separate the truth from hearsay and supposition. The factums reveal the intimate details of the life of Gaspard de Monconys as a student in Paris, and brought before the public the way his father mobilised his influence to protect his son and the family's reputation. Its parties and witnesses scrutinised the actions and appearance of the young Gaspard de Monconys with fascination at the possibility that he might have been capable of such an audacious ruse. In this sense the case revisited Arnaud du Thil's notorious impersonation of Martin Guerre in Artigat half-a-century earlier, a parallel made explicitly in the factums concerned. One of them suggested Monconys possessed something of the "artifice and magic" that allowed Du Thil to persuade everyone that he was Martin Guerre "not only by his physical resemblance, but by the stories he told of everything that concerned Martin Guerre, even the most secret and hidden".<sup>29</sup> Nevertheless, as the Monconys' erudite advocate (*avocat*) for the defence Sébastien Rouillard pointed out, there could be no face-to-face confrontation such as resolved the case of Martin Guerre. François Louis had disappeared on his way to the galleys; he was one of three

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<sup>27</sup> On nobles' recourse to the courts to pursue vengeance by other means, see Carroll, *Blood and Violence*, 185–213.

<sup>28</sup> Denis, *Une histoire de l'identité*; Groebner, *Who Are You?*

<sup>29</sup> F1, 22; reiterated in *Dicaëologie*, 80. "cet artifice et le magie", "non tant par similitude de personne, comme par le recit qu'il faisoit de toutes choses qui concernoient Martin Guerre, mesmes les plus secretes & cachées". Cf. Davis, *The Return of Martin Guerre*.

chained criminals in the convoy down to Marseille that had died *en route*, but the chain-gang master had no death certificate to prove it, which also fed suspicions.<sup>30</sup> That the truth of the matter seemed perhaps ultimately unobtainable only added to the human interest of the Monconys affair.

The question of disputed identity in the Monconys affair demonstrates how fragile social status could become for the upwardly mobile, open to legal challenge from unpredictable quarters, to be defended with determination and even aggression. In Gaspard de Monconys' case, the question of identification became a matter of dispute in a court of law, along the gossipy corridors of justice, and around the dinner tables of office-holding society. Its eventual resolution reveals much about the relationship between criminal justice and social hierarchy in the early seventeenth century. At this time, disputes over privilege, wealth, and hierarchy divided families and created factions within the ranks of officials who overtly proclaimed their corporate unity under the king's authority.<sup>31</sup> Yet social power alone rarely determined the outcome of a trial, which also hinged on the quality of evidence and legal argument. To win a favourable verdict the Monconys needed a defence strategy, a whole "dicaeology" (in rhetorical terms, "the figure of excuse") as their *avocat* Sébastien Rouillard titled his elaborate *post-facto* factum of the case.<sup>32</sup> That a well-placed urban family such as the Monconys was pushed to the limits of its resources in these legal proceedings ultimately demonstrates the extent to which their opponents sought to pursue their social ambitions by any means at their disposal, the seriousness with which magistrates in the Parlement of Paris took their responsibilities to uphold royal justice in spite of sometimes more or less covert attempts to corrupt proceedings, as well as the extent to which the effectiveness of a legal case was constrained by a family's capacity to organise and pay for it.

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<sup>30</sup> *Dicaeologie*, 126.

<sup>31</sup> Soman, 'La justice criminelle'; Hardwick, *Family Business*, 88–127; Farr, *A Tale of Two Murders*, 195–204.

<sup>32</sup> For this definition of 'dicaeology', see Puttenham, *The Arte of English Poesie*, 192, a device required when 'we be so hardly prest with our adversaries'.

## Gaspard de Monconys, His Family, and Civic Politics in Lyon

At the heart of the Monconys affair lay a struggle for power in Lyon, played out before the Parlement of Paris. Gaspard de Monconys' legal peril in 1617 occurred at a delicate moment in the family's affairs, following their social success over the preceding generations (see the genealogy presented in the Appendix). Gaspard's great-great-grandfather Claude de Monconys had been a merchant-draper in Lyon.<sup>33</sup> A familiar figure as city consul, he survived the woes that afflicted the Lyonnais commercial world in the civil wars by investing in land. In 1564 he purchased a domain with a noble title in the walled village of Liergues to the west of Villefranche-sur-Saône.<sup>34</sup> Gaspard's grandfather Benoît, also a draper specialising in canvas, cemented the gentrification of the family with other landed acquisitions, electing to be buried next to his father in the church of Saint-Sornin, close to the Monconys town-house on the rue Saint-Esprit (now rue du Plâtre) on the presque-Île.<sup>35</sup> Benoît de Monconys had been indirectly involved in the Lyon Vespers, the Saint-Bartholomew event in 1572.<sup>36</sup> Benoît's son Pierre styled himself with a noble title as "écuyer" and moved into law. Holding a doctorate ("docteur ès droits"), he joined the *présidial* court in Lyon, a seneschalcy in its own right and important subaltern jurisdiction. In 1588, Pierre de Monconys became the court's *lieutenant criminel*, a post that pre-dated the creation of a *président* of the tribunal, and was just as influential.<sup>37</sup> In 1603, he was nominated concomitantly master of requests (*maître des requêtes*) for Henri de Bourbon, duc de Montpensier in the appellate court (*parlement*) at

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<sup>33</sup> Gascon, *Grand commerce et vie urbaine*, i, 205, 617.

<sup>34</sup> Gascon, *Grand commerce et vie*, i, 376, 411; AD Rhône 106 J 9, 'Acquisition du 17 juillet 1564 de la terre et seigneurie de Vernay, dit de Liergues, de Claude Barjot, sieur de Moussy, conseiller et avocat du roi au parlement de Bretagne'.

<sup>35</sup> AD Rhône 106 J 9.

<sup>36</sup> Roulet, 'Exercer le pouvoir réglementaire dans une société en guerre', 51.

<sup>37</sup> Pallasse, *La sénéchaussée et siège présidial de Lyon*, 50–55.

Dombes, which sat in Lyon at the Palais de Roanne.<sup>38</sup> His position protected the family in unstable times, but only so long as it stayed politically on the right side of the fence. Pierre remained a royalist catholic, playing an important part in securing Lyon's renewed allegiance to Henri IV.<sup>39</sup> He became a supporter of the governor of Lyon from 1612, Charles de Neufville, marquis d'Halincourt.<sup>40</sup> Halincourt's nomination was an aristocratic apotheosis for a clan that had secured its place as senior councillors to the Valois in the civil wars.<sup>41</sup> His father Nicolas de Neufville, sieur de Villeroy, appointed secretary of state in 1567, still held power in the minority of Marie de Médicis, the longest-serving of the *barbes grises* in her council.<sup>42</sup> As a newly-arrived grandee, Halincourt sought to reinforce his viceregal presence in the three provinces that constituted the Lyonnais.<sup>43</sup> The Monconys had chosen an influential patron.

Yet staying on the right side of the fence became ever more delicate for Pierre de Monconys during Louis XIII's minority. Halincourt negotiated with the regent Marie de Médicis that his son Nicolas V de Neufville de Villeroy should have the inheritance of his post in 1615. And his royal commission (via *lettres de pouvoir*) included, for good measure, the power of lieutenancy.<sup>44</sup> But that lieutenancy, and the viceregal *persona* that Halincourt incarnated, was contested by the individual who had been Halincourt's lieutenant in Lyon since 1612: Melchior Mitte de Chevrières, sieur de Saint-Chamond.<sup>45</sup> Saint-Chamond already had a following among the local nobility, and he surrounded himself with allies in Lyon in a conflict with Halincourt that, in 1617, became public and embittered. Saint-Chamond accused

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<sup>38</sup> AD Rhône 106 J 9. The *parlement* at Dombes was staffed by members of the Lyon *présidial*.

<sup>39</sup> Hours, *Le retour de Lyon sous l'autorité royale*, 33–4, 39, 55, 57, 65, 70, 100, 102.

<sup>40</sup> Halincourt was nominated *lieutenant général* in the Lyonnais on 17 June 1607 for César de Bourbon, duc de Vendôme. He only became titular governor on 16 February 1612: Duquesne, *Dictionnaire des gouverneurs de province*, 156.

<sup>41</sup> Fontvieille, *Le clan Bochetel*.

<sup>42</sup> Dubost, *Marie de Médicis*, 319–21.

<sup>43</sup> Lignereux, *Lyon et le roi*, 233–289.

<sup>44</sup> Duquesne, *Dictionnaire des gouverneurs de province*, 156 (*lettres de survivance* dated 29 May 1615, *lettres de pouvoir* dated 12 February 1616); Lignereux, 'La puissance des Villeroy'.

<sup>45</sup> Lignereux, *Lyon et le roi*, 322–35.

Halincourt of being a stooge of the maréchal d'Ancre, Concino Concini, the favourite of Marie de Médicis whose murder on 24 April 1617 was the most spectacular downfall of any minister of the crown in the Old Regime. The Saint-Chamondistes were on the point of submitting their grievances against Halincourt to the privy council when Gaspard de Monconys was arrested in August 1617.<sup>46</sup>

This conflict in Lyon's civic politics also implicated office-holders in the *présidial*. In his published defence of the Monconys, the advocate Sébastien Rouillard characterised the family's accusers as conspirators, but in reality the accusers' actions seem more opportunistic, as they each had their own reasons to challenge the Monconys. Claude Bernard, one of Monconys' parties, was in Paris in the summer of 1617 because of a dispute with Pierre de Monconys: Bernard was *lieutenant particulier* and *assesseur criminel* in the *présidial* at Lyon, but the attribution of lawsuits as between him and Monconys as *lieutenant criminel* was unclear. Despite a ruling by the Parlement of Paris on 4 March 1600, the affair rumbled on before the king's *conseil privé*, which is where yet another hearing of the issue was scheduled in 1617.<sup>47</sup> Two other *conseillers* in the *présidial* were also in Paris that year because of another dispute with Monconys before the *conseil privé*. They were accused by him of irregularities in the exercise of their offices.<sup>48</sup> One of them, Claude Terrat, was the descendant of a velvet merchant, also Claude, a one-time protestant who fell on hard times towards the end of the civil wars.<sup>49</sup> Claude himself married into a local noble family and, the affair concluded, he would sell up in Lyon and move to Paris to become a factotum for

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<sup>46</sup> *Requête présentée contre le sieur d'Halincourt*.

<sup>47</sup> Chenu, *Recueil de reglemens notables*, 165–6. Dumont, *Inventaire des arrêts du conseil privé*, ii, entries numbered 8331, 10342. *Dicæologie*, 47, alleges that Bernard was being pursued for fraud.

<sup>48</sup> F1, 4; *Dicæologie*, 8. The archives of the *présidial* do not survive for this period, so the details cannot be traced.

<sup>49</sup> A factum published in Paris in 1723 entitled *Avertissement servant de contredits de productions*, concerning a case before the Châtelet court in Paris in 1720 precedes with a partial genealogy of the family. Claude Terrat, a Lyon merchant, was imprisoned in Paris in February 1569 as a protestant, and released a month later under order to return to Lyon: APP AB 2, fo. 349<sup>v</sup>, 1569-01-12; X2B 55, 1569-02-11.

Gaston d'Orléans.<sup>50</sup> Rouillard, Monconys' *avocat*, calculated the fortunes of the opponents in order to propose an amount for bail in April 1618. That of Terrat was 23,000 *livres*, essentially the value of his office.<sup>51</sup> Nicolas Masso, Terrat's colleague as *conseiller* in the *présidial*, was from a well-established Lyon family who had successfully navigated the civil wars by investing in financial offices. In 1611, his marriage to the daughter of the superintendant of customs revenues in Lyon embodied the modest fortune that the family had built for itself: Rouillard estimated his fortune as 8,000 *livres*.<sup>52</sup> Masso was the instigator of yet another legal dispute, in which Pierre de Monconys stood accused of bribing witnesses and ignoring relevant evidence in order to prejudice the outcome of an appeal from the Abbey of Valbenoîte, where Masso's brother was abbot.<sup>53</sup> Under interrogation, Masso called Gaspard de Monconys "a meagre gentleman", so he perhaps bore personal animosity as well.<sup>54</sup> But Gaspard's father trusted Masso enough to ask him to secure a dispensation from the royal chancellery to cover the fact that Gaspard was under the minimum legal age to inherit his father's office. The knowledge of that impending inheritance is what propelled him to Saint-Denis in August 1617 in search of the truth behind the rumour.

The last of the conspirators was Jacques Daveyne, the king's prosecutor (*procureur général*) in the *présidial* at Lyon. He was the son of a consul of the same name, who purchased the lucrative office of treasurer in the Lyon tax-district (*généralité*) in 1581.<sup>55</sup> Jacques Daveyne acquired a landed estate at Chavannes, and invested in legal office, becoming a *substitut* to the *procureur* in the *présidial*, where he appeared in hearings with de

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<sup>50</sup> For his marriage to Catherine de Fontanès, see AD Rhône 1E 909. *Documents du minutier central des notaires*, entry numbered 1255.

<sup>51</sup> *Dicæologie*, 48.

<sup>52</sup> *Dicæologie*, 48; AD Rhône 106 J 9; AD Rhône 3E 4592B, 1611-01-19,

<sup>53</sup> F2, 9. On the Masso family's prominent role among Lyon civic elites, including several *échevins* in the mid-sixteenth century and senior office-holders in the *présidial*, see Mingous, 'Information et pouvoir à Lyon', 223, 407, 460, 946, 948, 955, 962, 1016–17, 1077; Lignereux, *Lyon et le roi*, 50, 281 n.2, 239–30 n.6; Pallasse, *La sénéchaussée et siège présidial de Lyon*, 57 n.7, 139, 143, 418.

<sup>54</sup> AN X2A 982, 1619-11-13. The original phrase is "un petit monsieur".

<sup>55</sup> See AD Rhône 106 J 9 for the genealogy of the Daveyne family.

Masso, and then *conseiller* in 1610, before being nominated *procureur général* to the Parlement of Dombes by the duchess of Montpensier.<sup>56</sup> Three months earlier, he married Lucesse de Pomey, a rich heiress of a branch of Beaujolais nobility, in a match that declared his social ambition.<sup>57</sup> Daveyne's portion for his marriage was 15,000 *livres* and additional jewels of an unspecified value, so Rouillard may well have been right to say that Daveyne's wealth was invested in his marriage, and that all he had to his own name was his office.<sup>58</sup> Rouillard was probably also correct when he said that Jacques Daveyne should have been beholden to Pierre de Monconys, since Monconys' had proposed Daveyne in 1615 to the duchess of Montpensier for his position in the Parlement of Dombes. Daveyne seems to have become involved in the case because he was beguiled by Terrat and Masso into believing that there was substance to the rumour that Gaspard de Monconys was the true culprit of 1612. In 1618, however, Daveyne instigated a lawsuit before the Parlement of Paris challenging the authority of the local Lyon militia, which Pierre de Monconys undertook to defend on behalf of the city.<sup>59</sup> Daveyne became the most zealous, and the most dangerous, of Gaspard de Monconys' accusers, on account of his wealth and connections.<sup>60</sup> In Pierre de Monconys' view, and it seems he had good reason to hold it, his opponents were all supporters of Saint-Chamond. The Saint-Chamondiste cause led to the city's agent being assaulted, almost murdered, in June 1618 at court in Saint-Germain-en-Laye. Monconys regarded the attack as comparable to the lawsuit he was fighting with his son, an affront to his family and his

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<sup>56</sup> Lignereux, *Lyon et le roi*, 241 n.5, 329–30 n.6.

<sup>57</sup> AD Rhône 3E 4592A, 1610-09-13.

<sup>58</sup> *Dicæologie*, 48.

<sup>59</sup> AM Lyon AA 36, fo. 219, Pierre de Monconys to the city of Lyon, 1617-07-09. That year Monconys also registered with the *procureur général* in Paris a complaint against Daveyne involving judicial corruption:

*Dicæologie*, 46.

<sup>60</sup> *Dicæologie*, 9–10.

honour.<sup>61</sup> Among the signatories to the petition against Halincourt, presented in the name of the nobility of the Lyonnais were relatives of Claude Terrat, and perhaps Daveyne too.<sup>62</sup>

If the fortunes of the accusers were on the line in this affair, so too were those of Gaspard de Monconys himself. When François Louis was condemned for sacrilege in 1612, Gaspard was in Paris to study law, to be introduced at court, and join the bar, for he was already being groomed to succeed. The letters of succession (*survivance*) to his father's office were crucial, and Gaspard arrived in Paris in the summer of 1617 to negotiate their purchase.<sup>63</sup> The inheritance to that office would be the collateral for Gaspard's betrothal, a marriage contracted on 23 May 1620—five months after the end of the legal affair—with Marie Pellot, the daughter of a Beaujolais nobleman.<sup>64</sup> Monconys' enemies instigated the lawsuit that jeopardised his inheritance, and its outcome would determine the fortunes of the dynasty and the balance of power among Lyon notables as well.

### **Gaspard de Monconys' Arrest and Trial**

After Vespers at the Dominican (Jacobin) convent, rue du faubourg Saint-Honoré, Sunday 27 August 1617, Jacques Daveyne invited Gaspard de Monconys to ride with him to Le Roulle in the precincts of the *bailliage* of Saint-Denis, where sergeants hustled up on horses with a warrant for his arrest. It was the climax to preparations that had begun on 15 August. A letter, signed by Masso but allegedly written by Terrat, alerted the *bailli* to the identity—as they claimed—of the true culprit of the theft and sacrilege committed at Saint-Denis in 1612. They arranged a sighting of Monconys for the *bailli* at the Palais de Justice so that he could

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<sup>61</sup> AM Lyon AA 36, fo. 221, Pierre de Monconys to the city of Lyon, 1618-06-19.

<sup>62</sup> *Requête presentee contre le Sieur d'Halincourt*, 7: the list of 67 signatories has been copied from the original, and their transcription is capricious. It includes Clusde Terrat's in-laws and 'Dauruines', possibly Daveyne.

<sup>63</sup> *Dicæologie*, 4.

<sup>64</sup> AD Rhône 3E 3980, fols. 230–2.



confirm the likeness. Daveyne, whom Monconys had no reason to suspect, acted as a decoy.<sup>65</sup>

The young Monconys was then escorted to Saint-Denis, where the *bailli* interrogated him at his own house. The next day, six witnesses (including the clerk of the court) involved in the arrest of 1612 confronted him and testified that he was the person who had answered then to the name of François Louis. On the basis of their testimonies, the *bailli* drafted his charge against Monconys, consisting of theft, sacrilege, and impersonation; he also persuaded Étienne Jacques, his newly appointed prosecutor (*procureur fiscal*), to sign it.

Fortunately for Gaspard de Monconys, his lackey had accompanied him to church on Sunday, who raised the alarm among the family's friends in Paris. They visited him in prison, while a solicitor (*procureur*) collected documents to support an appeal to the Parlement on 29 August on the grounds of a conspiracy to defame, and to arrange his release on bail. Shortly, those involved in the arrest were themselves in prison at the Conciergerie while the appeal was investigated. From that moment onwards, it is possible to evaluate the evidence of the published factums alongside the surviving legal record. For although the records of the court at Saint-Denis no longer survive, the criminal archives of the Parlement of Paris contain parts of the dossier on appeal, itemised in the verdict (*arrêt*) that closed the case on 10 December 1619. The list includes pleas and interlocutory verdicts (*requêtes* and *arrêts*), interrogations and appeals for witnesses (*enquêtes, informations, interrogatoires, procès-verbaux, monitoires*), verifications and confrontations (*récolements et confrontations*) and the evaluations of senior magistrates (*conclusions*). Some files were bulky, notably the investigations conducted in Saint-Denis, Paris, Lyon, Grenoble, and Tarascon, because a large number of witnesses were interrogated, often on several issues. Numerous gaps remain, but what survives makes it possible to present the lawsuit as a colligatory sequence of events leading to a conclusion; reading the factums, by contrast, is like trying to work out what

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<sup>65</sup> *Dicaëologie*, 10–27.

happened in a Grand National race from the accounts of observers part way round the track who have money on one particular horse.

A full reconstruction of the trial is too technical to present here in all its complexity.<sup>66</sup> Yet three interlinked phases of the lawsuit before the Parlement emerge from these proceedings. The case opened with a short, initial stage of the appeal, from 29 August through to early December 1617, in which the evidence heard at Saint-Denis was investigated. The councillor (*conseiller-clerc*) Jacques Gillot was initially assigned to the case, an experienced and erudite clerical magistrate with a vast library.<sup>67</sup> He may have relished a case of impersonation, for it was in his house on the rue de Jérusalem on the Île de la Cité that the *Menippean Satire* [*Satyre Ménippée*] (1593) had been conceived.<sup>68</sup> Menippean satire works on impersonation: in the text, different spokesmen at the Estates General of the Catholic League that year reveal their true selves, which do not correspond with how they presented themselves in public during the tumultuous final phase of the civil wars. Monconys' accusers signed their interrogations with an explicit proviso that they did not intend to calumniate him but to establish the truth of what had become a widely-circulating rumour. At this stage, there was still a chance the parties might have settled out of court. Mediation frequently occurred in criminal proceedings and typically led to charges being dropped.<sup>69</sup> But any mediated outcome would have stained Monconys' reputation, and he eschewed the opportunity, leaving Gillot to prepare his report for the senior magistrates responsible for managing a prosecution (the *gens du roi*). Gillot's cross-examination of the

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<sup>66</sup> The main archival records for the Monconys affair are AN X2B 305, 1618-04-10; AN X2B 309, 1618-11-24; AN X2A 982, 1619-11-13. The final verdict, reproduced in Bouchel, *La justice criminelle*, 149–157, lists at least thirty-five additional documents that would have formed part of the case files, but which are not conserved in the relevant boxes of series X in the AN. Bouchel took up Rouillard's rhetorical portrayal of Monconys' adversaries, referring to them as Sempronius, Titius, Mævius, and Causis, all satirists or poorly esteemed Latin poets. See also n.1 above for records concerning the initial case and the appeal of François Louis.

<sup>67</sup> *Dicæologie*, 39. On Gillot's intellectual and family life, see Hamilton, *A Widow's Vengeance*, 156–8; Hamilton, 'The Impact of Jacques Gillot's *Actes du Concile de Trente* (1607)'.

<sup>68</sup> *Satyre Ménippée*.

<sup>69</sup> See Carroll, *Blood and Violence*, 222–8, in addition to the studies collected in Cummins and Kounine eds., *Cultures of Conflict Resolution*; Garnot and Fry eds., *L'infrajudiciaire*.

witnesses had not persuaded him that the case was proved, and Monconys' accusers seemingly knew that they were about to lose the case.<sup>70</sup>

Audaciously, Monconys' accusers lodged a new plea on 13 December 1617, in which they demanded that the court should take into account further evidence substantiating the alleged impersonation, one which was answered by Monconys on 19 December with a counter-plea alleging calumny. The stage was set for a second period, lasting through 1618 and the first legal session of 1619, in which both sides were permitted to gather evidence and present their cases, a period which allowed time for tactical legal manoeuvres on both sides. On 10 April 1618, the accusers were granted leave to issue monitories (*monitoires*) in Paris and Saint-Denis to seek new testimony.<sup>71</sup> Earlier witnesses were cross-examined once more. The court instigated inquiries around a list of thirty-four questions, agreed by the court on 24 November 1618, the answers to which would help the judges determine the case.<sup>72</sup> Witnesses—their names proposed by Monconys—were assigned to answer relevant questions. His opponents offered objections to some of these, but they were overruled.<sup>73</sup> The list of witnesses was long, and it took over six months to gather their testimonies.

By the start of the Parlement's Michaelmas term hearings on 10 November 1619, the dossier was complete and a short, final phase opened with interrogations of parties, beginning on 13 November, leading to the preparation of the draft verdict on 23 November, confirmed in writing on 10 December 1619. Monconys had won his case. His opponents were condemned to pay all his costs, although for reasons which remain unexplained these were reduced to 2,000 *livres*, with 600 *livres* to be assigned to pay for the relief of poor prisoners. More seriously, the accusers were suspended from the exercise of their offices for a year and

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<sup>70</sup> F1, 9.

<sup>71</sup> AN X2B 305, 1618-04-10. A monitory was a call for witnesses to come forward, announced by clergy during a Sunday mass: Wenzel, 'Forcer les témoignages'. The *arrêt* is signed by 'Boucher', presumably the *conseiller* Charles II Boucher d'Orsay, who had taken over the case from Jacques Gillot, who died in 1619.

<sup>72</sup> AN X2B 309, 1618-11-24.

<sup>73</sup> F2, 8–9.

their penalty proclaimed in open court in Lyon.<sup>74</sup> They were humbled and humiliated. But the Monconys' victory came at a substantial price. Gaspard de Monconys was obliged to stay in Paris for over two years, his father for part of the time too. They had retained the services of a king's bailiff, a *procureur*, and an *avocat*. They had paid the incidental court fees (*épices*) for the various actions; those for the single court decision of 10 April 1618 came to 100 *écus*.<sup>75</sup> Gaspard's inheritance of his father's office was cast into doubt for, as his opponents said, "a man whose probity is a matter of controversy can never be found capable of being a magistrate".<sup>76</sup> Even with letters of *survivance* and a dispensation for being under-age, the magistrates were obliged to conduct an investigation into his personal integrity, and to hear him plead before the bar and expound a chosen passage from the Roman lawbooks.<sup>77</sup> That, presumably, could only begin after the conclusion of the trial.

### The Case Against Monconys

Because of gaps in the surviving archival sources, the substantive legal matters raised by the Monconys affair appear most prominently in the three printed factums published during the course of the trial. The factums cannot be dated with precision, but internal evidence makes it possible to situate them at plausible moments in the proceedings. The *Factum pour Claude Bernard...* [F1] follows the genre's standard formats in every respect. The instigators of the case, or "inthimez", are listed in the main header, followed by the "appellant" in italics underneath. This factum is addressed to the reporter (*rapporteur*) who by that point had taken

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<sup>74</sup> Bouchel, *La justice criminelle*, 156–7.

<sup>75</sup> *Dicæologie*, 50; X2B 305, 1618-04-10.

<sup>76</sup> F1, 18. "Ainsi un homme dont la probité peut este controuversée, ne sera jamais trouvé capable de la Magistrature".

<sup>77</sup> Mousnier, *La vénalité des offices*, 111–16.

on the case in the Parlement's criminal chamber, namely Pierre de Croisette.<sup>78</sup> From internal evidence, it seems that the factum was prepared sometime after 30 May 1618 and probably before November of that same year. The second, shorter *Factum du proces Entre Claude Bernard...* [F2] must have succeeded it, since it details the objections to witnesses proposed and agreed by the court in November 1618. The one factum published on behalf of the Monconys, *Plaise à Nosseigneurs de Parlement* [F3] takes the form of a plea ("requête") to Parlement, and was evidently prepared after 3 August 1619. These factums are relatively concise and legalistic in their rhetorical strategy, but their different arguments directly concern the issues at stake in the case.

In the first factum, the *avocats* in the employ of Daveyne and his associates stated their arguments with conviction: Monconys was widely reputed to be responsible for the 1612 theft and sacrilege, and they had witnesses to testify to that fact; in Monconys' initial interrogation, his responses had been suspiciously vague; finally, they had evidence that further potential witnesses had been suborned.<sup>79</sup> All of these claims warranted investigation, according to the standards of proof demanded by the Roman law of evidence, but they were far from secure. It required at least two valid eyewitnesses or a confession to establish a full proof (*plena probatio*); everything else amounted to no more than a half-proof (*semiplena probatio*), or an indication of potential guilt.<sup>80</sup> Hearsay, in particular, was an unreliable form of evidence, even if a large number of witnesses told the same tale.<sup>81</sup> The first factum published by Monconys' accusers presented its account as setting out the facts, but it also served to spread rumour and supposition.

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<sup>78</sup> Pierre de Croisette, sieur de Saint-Mesines, was an experienced *conseiller* who took up his office in 1583 and married into the upper echelons of the Parisian bourgeoisie: Popoff, *Prosopographie*, 469; AN Y 154, fo. 292<sup>v</sup>, 1613-11-18.

<sup>79</sup> F1, 22-3.

<sup>80</sup> Damaška, *Evaluation of Evidence*, 59-80.

<sup>81</sup> Hamilton, 'The Evidence of Hearsay', 383-8.

Nevertheless, the first factum was alert to these difficulties, and presented the accusers' case in a way that illustrates the rhetorical and fictionalising elements of this hybrid genre. It characterized the lawsuit as a battle against an arrogant, cunning, and deceitful opponent, who had enjoyed the protection of someone in high places, but whose reputation was now about to be torn to shreds such that he would be incapable of holding judicial office. Citing the example of the Spartan Brasidas in Book IV of Thucydides' *The Peloponnesian War*, it begins: "Nothing arouses more bravery in war than when a weakness emerges in an enemy held to be strong and powerful".<sup>82</sup> The "ruthlessness" in criminal souls like their opponent's had encouraged him to put false trust in his protector, and his ability to pull the wool over people's eyes. But "the miserable wretch did not reckon with this powerful witness, this spirit spread throughout nature, that first gave voice to common fame, and then inspired the respondents to have the will and means to bring truth to light amidst these shades".<sup>83</sup> Especially in an affair involving sacrilege, God will ensure that such a broken reed, a man lost in his denial, will be found out. Monconys' stumbling replies to his interrogation at Saint-Denis were strong signs of his guilt, for "an innocent man never hesitates or trembles before his accusers".<sup>84</sup> Their witnesses will now prove his guilt, for "common fame", as Homer said, is the "messenger of God".<sup>85</sup> The rhetorical force of the factum lies in the metonymy that it creates between the argument from notoriety and the association of the reader with those witnesses that will shortly testify to Monconys' duplicity. Their opponent had tried to have the case dismissed as a frivolous attack upon his good name, but an honorable man (*homme de bien*) would not seek to close down a suit on a pretended charge of

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<sup>82</sup> F1, 1. "Un Grand Capitaine de Sparte a dit autrefois, *Que rien de releve tant les courages en la guerre, que quand la foiblesse d'un enemy, estimé fort & puissant, vient à paroistre.*"

<sup>83</sup> F1, 9. "Mais le pauvre miserable ne consideroit pas que ce puissant tesmoing, cét esprit espandu par toutes les parties de la nature, qui avoit premierement fait parler la renommée, & puis inspiré aux intimez la volonté & les moyens de fair veoir la verité au milieu des tenebres, dispoit toutes choses pour la manifestation de son crime, voire mesme ses propres actions & son insolence, qui ont forcé les inthimez à soustenir l'accusation."

<sup>84</sup> F1, 15. "un homme innocent ne tremble jamais à l'abord des accusations".

<sup>85</sup> F1, 17. "Le bruit commun est appellé *le messenger des Dieux*, par Homere".

calumny. In the ancient world, men of honour returned from distant provinces in order to defend their honour. Justice must “break down the trenches of lies” that he has sheltered behind.<sup>86</sup> Their witnesses will make their case so watertight that Monconys could not possibly be regarded as worthy of holding the magistrate’s post that he had come to Paris to inherit.<sup>87</sup>

The initial witnesses, found by Masso and Terrat in their investigations at Saint-Denis, were men of standing. For example, Jean L’Hermitte, a monk at the abbey from a prominent local noble family, was prepared to attest to Monconys’ likeness.<sup>88</sup> And up to the very end of the trial Claude Hallé, the *bailli* of Saint-Denis, affirmed “on his conscience” that Monconys was the man he had convicted of theft in 1612; he had seen him at close quarters and conducted the interrogation.<sup>89</sup> A magistrate was the “eye of justice”, as the *factum* insisted, and so if his witness did not carry weight before the Parlement, who would?<sup>90</sup> Monconys’ accusers felt that they had a strong case. If Gillot had not been persuaded by it initially, that was because the additional witnesses that would support their testimony had been overwhelmed by political pressure.

Daveyne and his associates further argued that Monconys’ initial interrogation at Saint-Denis suggested that he was attempting to dupe the *bailli*, revealing his guilty conscience, or an “inner sense of having done something wrong”.<sup>91</sup> Their *factum* reproduced part of the transcript as evidence. The *avocat* for Daveyne and his associates pointed out that

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<sup>86</sup> F1, 2. “de voir la Justice par leur moyen briser les retranchemens de mensonge”.

<sup>87</sup> F1, 23.

<sup>88</sup> F1, 4. Jean L’Hermitte, sieur de Saint-Denis-sur-Huisne (d.1604) had been one of the gentlemen of the king’s bedchamber. Etienne L’Hermitte succeeded him, in due course a *grand bailli* du Perche and a deputy at the Estates General of 1614–15. Jean L’Hermitte was a younger brother. His interrogation of 23 October 1617 has not been conserved but it is mentioned in several documents among the case files: AN X2B 305, 1618-04-10; Bouchel, *La justice criminelle*, 149–50.

<sup>89</sup> AN X2A 982, 1619-11-20. “A dict en sa conscience.”

<sup>90</sup> Claude Hallé was married to Gabrielle Hureau: AN Y 3901, 1634-11-15. She may well have been related to Noël Hureau, intendant to Henri de Montmorency-Damville, who had extensive credit from the abbey. For the image of the ‘eye’ of justice, more prevalent in the Renaissance than the image of justice blindfolded, see Garcia, *The Eyes of Justice*.

<sup>91</sup> F1, 13. “l’interieur resentiment qu’il avoit de son malefice”.

Monconys' responses in Saint-Denis did not conform with his later statements on appeal to the Parlement, as at first he could not give a clear account of his location at crucial moments. When Monconys was asked by the *bailli* in Saint-Denis "where he was at the end of July 1612" he responded "that he was at Paris or at Lyon", although he went on to clarify that he spent eighteen months in Paris around that time, even if he could not recall the precise addresses of his residences.<sup>92</sup> Later, Monconys' *avocat* assembled evidence to clarify his whereabouts, but this inconsistency raised problems for his defence. As the *avocat* for Daveyne and his associates pointed out, it should have been straightforward to know whether he was in Paris or Lyon, since "the journey from Lyon to Paris is long and difficult, and the inconveniences that arise along the route suffice to recall the journey". And although these journeys took place five years previously, Monconys could give precise dates for other events during his stay.<sup>93</sup> Equally problematic was Monconys' account of his visit to Saint-Denis. When he was asked "whether at that time [1612] he came to Saint-Denis", he responded that "he did travel there, but he did not spend the night, and he was not sure if it was in that year".<sup>94</sup> The *avocat* for Daveyne and his associates suggested that Monconys' response revealed his guilt, since he voluntarily answered a question that had not been asked, that is to say whether he spent the night at Saint-Denis. "Why might he do this, if not to claim that he did not stay at Saint-Denis, and did not commit the sacrilege?"<sup>95</sup> These inconsistencies perhaps concerned minor details, but they seemed to his parties sufficient to cast doubt on his reliability as a witness, and so supported the factum's strategy to undermine Monconys' public reputation too.

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<sup>92</sup> F1, 5–6. "Enquis ou il estoit sur la fin du mois de Juillet six cens douze. Respond qu'il estoit à Paris ou à Lyon."

<sup>93</sup> F1, 13. "Le voyage de Lyon à Paris est long & penible, & l'incommodité avec es diverses rencontres qui peuvent arrive par le chemin, en sont assez remarquer le temps."

<sup>94</sup> F1, 6. "Si audit temps il est venu a S. Denis. Respond qu'il y fit un voyage, mais ny coucha, & ne sçait au vray si ce fut en ladicte année."

<sup>95</sup> F1, 14. "A quelle fin tout cela, sinon pour faire croire que n'ayant pas couché à saint Denis, ce n'étoit pas luy qui avoit commis le sacrilege?"



Daveyne and his associates further attempted to undermine Monconys' credibility by alleging that he owed his escape in 1612 to the political support of Halincourt, who acted as a patron for the Monconys, bore a special grudge against the accusing parties, and who (through his patron Villeroy) had brought improper pressure to bear upon potential witnesses at the abbey: "Monconys, supported by the authority of monsieur de Villeroy, could encounter no difficulty that would block the accomplishment" of his aims.<sup>96</sup> Daveyne and his associates felt "a hatred that was as bitter as it was unjust" from Halincourt, since his father Villeroy had "in several encounters made them feel the rude effects of his displeasure".<sup>97</sup> It was not only the parties who felt intimidated by Villeroy, but witnesses too. Halincourt made it known that "he was powerful enough to hang anyone who spoke against Monconys, and so it is easy to understand how greatly he was feared in Saint-Denis".<sup>98</sup> Villeroy was like "a whirlwind who carried them to the edge of the precipice".<sup>99</sup> The proximate cause for the decision of Monconys' parties to pursue their case at the end of 1617 was the news of Villeroy's death at Rouen on 12 December. As soon as word reached Paris, the very next day, they presented their plea in Parlement since they were no longer opposed by one of the most powerful men in the kingdom, and the father of the *lieutenant général* in Lyon.<sup>100</sup> Their suspicions were intensified in the wake of the monitories organised in May–June 1618. Fewer individuals came forward than they expected because Monconys had suborned some of them. That was part of the list of points put forward in their second factum. Had not one of the abbey monks, Dom Louis de Vion, been overheard being told by the Grand Prior that he had received a letter from Nicolas Harlay de Sancy to the effect that "the parties had been for

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<sup>96</sup> F1, 3. "Monconys, appuyée de l'auctorité de M. de Villeroy ne pouvoit rencontrer aucune difficulté capable de traverser son accomplissement."

<sup>97</sup> F1, 6. "une haine autant aspre que les causes en estoient injustes".

<sup>98</sup> F1, 7–8. "que Monconys estoit parent dudit Sieur de Villeroy, assez puissant (disorient ils) pour faire pendre tous ceux qui parleroient contre ledit Monconys. Il est aisé à croire que la terreur estoit grande dans saint Denis."

<sup>99</sup> F1, 8–9. "Villeroy, qui comme un tourbillon les emportoit dans le precipice".

<sup>100</sup> F1, 9.

Monsieur de Saint-Chamond against Monsieur d'Halincourt" and that they should be on their guard against being pawns in a quarrel that did not concern them?<sup>101</sup> Monconys successfully blocked them from conducting a monitory in Lyon, but had not the treasurer of the abbey, Pierre Assegrain, attested that he had news from Lyon to the effect that Monconys was commonly taken there to be the thief?<sup>102</sup> By revealing the political machinations that might have supported the Monconys' cause, the accusers' factums justified their publication in the public interest; at the same time they did not fail to serve the accusers' private interests either, as supporters of Saint-Chamond and not Halincourt.

Powerful though the rhetoric in the first factum published by Monconys' accusers was, their arguments showed little regard for legal standards of proof and preferred to make a public appeal to readers' common sense instead. They claimed that "one formal witness with a well proven rumour, as such, offers a perfect proof for a condemnation, and so what of an even greater number?" They maintained the significance of their case was already too self-evident, an assertion which belied the fact that their claim ignored the Roman law of proof applied by the magistrates of the Parlement.<sup>103</sup> Through the monitory in 1618, they sought to multiply the witnesses still further. Fifty or so were eventually heard, and then confronted with the suspect. These witnesses apparently attested to the fact that Gaspard de Monconys resembled François Louis "in his physiognomy, size, colouring, nose, eye, voice, action, face, skin, and warts", while "twelve witnesses said that they believe in their conscience that it is him, but they did not want to affirm it".<sup>104</sup> The *bailli* at Saint-Denis described him as "a

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<sup>101</sup> F2, 9. "Que ceux qui pourroient déposer contre Monconis ne le fissent pas, par ce que les demandeurs estoient pour Monsieur de S. Chamont contre Monsieur d'Alincourt." For Louis de Vion, see Sainte-Marthe et al. eds., *Gallia Christiana*, vii, 413. Nicolas Harlay's daughter, Jacqueline, was Halincourt's wife.

<sup>102</sup> F2, 3.

<sup>103</sup> F1, 19. "Y a-il d'autres moyens pour discerner le coupable d'avec l'innocent? Un seul tesmoing formel avec le bruit commun bien prouvé, comme il est, feroient une prevue parfait pour la condamnation, combien plus le grand nombre?"

<sup>104</sup> F2, 1. "En second lieu, la ressemblance dudit Monconis audit pretend François Louis, en la phisionomie, hauteur, couleur de visage, au nez, aux yeux, en la voix, en l'action, au visage, au poil, & au pourreau qu'il a à la joüe gauche. Et dissent lesdits tesmoins en nombre de douze, qu'ils croyent en leur conscience que c'est luy, mais ne le veulent asseurer."

young man short of stature, with dark skin, a thin face, a wart on his cheek, aged about twenty or twenty-one”.<sup>105</sup> Surely facial recognition was “a certain proof”, given the great diversity between human faces, the number of witnesses making the identification, and the distinctive wart?<sup>106</sup> But physiognomy was a conjectural science with strange bedfellows in the early modern period. It might be applied to the study of human character and bodily health but it could not substantiate a legal proof.<sup>107</sup> Monconys also had, they said, a characteristically high-pitched, reedy voice, attested to by various witnesses.<sup>108</sup> Was not the voice “an infallible witness to the truth”, asked Monconys’ opponents?<sup>109</sup> Most jurists were, however, more cautious, because the evidence relied on only one of the five senses, and indubitable proof depended on evidence from them all. Warts were notorious for coming and going, so not a stable form of identification. And an overwhelming number of witnesses was not in itself a sufficient proof, especially if the witnesses each gave unreliable testimony. Monconys’ opponents discovered, as did Jean de Coras when he investigated Arnaud du Tilh’s impersonation of Martin Guerre fifty years earlier, that spinning more and more threads of testimony might result a more tangled knot of contradictions.<sup>110</sup>

### **The Case for Monconys’ Defence**

Although the surviving records of the trial proceedings beyond the factums are partial, the main direction of the Monconys’ defence is clear. He could not provide himself with an alibi to prove that he was not at Saint-Denis at precisely the moment of the crime. But he could

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<sup>105</sup> F2, 4. “Le Bailly leur dit, Que le voleur qu’il avoit jugé estoit un jeune homme de petite stature, noirault, maigre de visage, ayant un poireau à la joüe, qui pouvoit alors ester aagé de vingt ou vingt-un an.”

<sup>106</sup> F1, 19–20.

<sup>107</sup> Maclean, ‘The Logic of Physiognomy’.

<sup>108</sup> F1, 20–1.

<sup>109</sup> F1, 20. “un tesmoignage infallible de la verité”.

<sup>110</sup> Contrast F1, 20 with Coras, *Arrest memorable*, 37–8; Davis, *The Return of Martin Guerre*, 77–8; Damaška, *Evaluation of Evidence*, 59–68.

cast doubt on the legitimacy of how the *bailli* had made his arrest and carried out the initial enquiries. He could then undermine the credibility of the ocular witnesses in Saint-Denis by exposing their internal contradictions. That was seemingly a very effective approach. It was already over five years since anyone had set eyes on the so-called François Louis. Some said he had seemed about 18 years old, others 20, or even 25. Some thought his height about the same as Monconys, others that he was taller by six inches. Some remembered his beard as resembling Monconys, but they differed as to its colour. Only two witnesses testified to a prominent, hooked nose that reminded them of Monconys' profile.<sup>111</sup> There was great discrepancy over his voice. Three witnesses said that his voice resembled that of François Louis, but one said that the latter was more softly spoken than Monconys, and four others the reverse.<sup>112</sup> It is significant that the magistrates at the Parlement did not return to questions of physiognomy in their final deliberations; the evidence was simply insecure.

Monconys had two further, more devastating lines of attack. Although he had no alibi, he could prove that he had no conceivable motive to commit the crime, and the regular remittances from his father during his stay in Paris were part of the evidence in the dossier. Further, he could provide witnesses to the effect that he was out and about in Paris in August when François Louis was in prison. His opponents anticipated this point with the somewhat improbable assertion that he had perhaps bribed someone at the Conciergerie to secure his release.<sup>113</sup> The criminal archives of the Parlement furnish the list of 153 witnesses and thirty-four articles for examination, proposed by Monconys and summarised in a document dated 24 November 1618.<sup>114</sup> Taken together, these documents provide a detailed account of Monconys' movements in 1612–13. The most frequently cited witness is Jean Courcelles, a

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<sup>111</sup> In the lithographic portrait of Monconys in profile, prepared from a contemporary drawing by Louis Perrin in 1652–3, the nose is prominent but straight: AM Lyon 16F1/416.

<sup>112</sup> Summarised in *Dicaologie*, 53–4.

<sup>113</sup> F2, 3–4.

<sup>114</sup> AN X2B 309, 1618-11-24.

master tailor from Lyon (fourteen articles). According to Monconys' testimony in the criminal chamber of the Parlement, Courcelles was a servant in the household where he lodged in Paris ("en pension").<sup>115</sup> This household was led by the renowned humanist scholar and prominent publisher, Frédéric Morel, cited variously as a "doctor in Greek" and "the lecturer Morel".<sup>116</sup> According to the second article presented, Monconys only spent eight days away from the Morel household during his entire stay in Paris, apart from the twelve days he took to travel to Orléans to collect his degree. The next most frequently cited witness (nine articles) is a monsieur Loup, an *avocat* in the Parlement resident at Pont-de-Veyle in Bresse, near Lyon. His testimony was invoked to affirm basic points about Monconys' travel between Lyon and Paris in 1612, as well as his residence in Paris.

For attestations as to Monconys' presence in Paris while François Louis was in prison, he turned to the Vanel brothers who lived on the rue des Poitevins. To document article six—that Monconys lost eighteen *livres* gambling on the rue Saint-Honoré—he adduced as evidence the reckoning book ("livre journal") of the elder Vanel. It is possible that the Vanel brothers, often cited in the articles as a pair, are the brothers invoked in article seven, which sought to establish that "on 9 August 1612 and other days thereafter Monconys visited and frequented two brothers, of whom one holds a royal office and belongs to the robe nobility while the other serves in the army".<sup>117</sup> On 13 August, Monconys was in the crowd on the rue Saint-Jacques to watch the arrival of the Spanish ambassador. Three days later he was at

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<sup>115</sup> AN X2A 982, 1619-11-13.

<sup>116</sup> AN X2B 309, 1618-11-24. "docteur en grec", "lecteur du roy en grec". On Morel, see Kecskeméti, *Fédéric Morel II*. He succeeded his father Frédéric Morel I: Dumoulin, *Vie et œuvres de Frédéric Morel*. The Morel family's prodigious published output, including a substantial run of royal proclamations, can be traced in the Universal Short Title Catalogue, [www.ustc.ac.uk](http://www.ustc.ac.uk) (accessed 22 August 2023).

<sup>117</sup> AN X2B 309, 1618-11-24. "Que le neufiesme aoust et autres jours suyans 1612 led. de Monconis visitoit et frequentoit souvent deux freres dont l'un est de robe longue ayant une charge rellevée l'autre faict profession des armes." Antoine Vanel was a *secrétaire de la chambre du roi* who had close dealings with the house of Nemours, lent money to noblemen from Lyon, and whose daughter Anne married a merchant from Lyon: AN MC ÉT VIII 571, fo. 294, 1607-11-14; AN MC ÉT CXXII 1570, fo. 48, 1609-05-11; AN MC ÉT VIII 576, fo. 195, 1610-03-30; AN MC ÉT VIII 579, fo. 168, 1611-09-16; AN MC ÉT VIII 582, fo. 304, 1612-11-10; AN MC ÉT VIII 583, fo. 355, 1613-05-29; AN Y 185, fo. 259, 1646-10-15.

court to observe the duke's audience with the king. On 26 August, he dined with the *substitut* of the *procureur général du roi* at the Parlement, Paul Scarron (known as "l'Apôtre"), and accompanied his daughter Anne to the great ball organised by Marguerite de Valois in the Spanish ambassador's honour.<sup>118</sup> Magistrates would have remembered that evening at the queen of Navarre's residence, its main hall decked out as an amphitheatre, Margot herself dripping with pearls and diamonds, and dazzling dancing displays by Monsieur d'Antibon, a gentleman from Provence renowned for his acrobatics.<sup>119</sup> In the choice of witnesses, Monconys' counsel struck a careful balance between those who had a close acquaintance with Monconys and those reputed for their social eminence: Frédéric Canaye, sieur du Fresne Canaye, son of the former ambassador to Venice (one article), for example, or Jean Chapelain, later founding secretary of the Académie française (five articles). The range and detail of this testimony seemed impressive enough to the magistrates that the list of witnesses and articles for them to answer constitutes the largest surviving documents relating to the Monconys affair conserved in the Parlement's criminal archives.

Monconys also supported his defence with a *factum* (F3), a four-page document that can be dated to sometime after 3 August 1619. Headed "Plaise à nosseigneurs de Parlement...", it adopted a different legal persona from that of the *factums* of his opponents. Monconys had been received at the bar of the Parlement of Paris in 1612, so he could present his case as a plea (*requête*) before the court. In it, he invited the magistrates to see the case not as about impersonation but a deliberate and premeditated calumny, inspired by personal hatred and desire for vengeance.<sup>120</sup> His arrest had been contrived by deceit, and his

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<sup>118</sup> Paul Scarron seigneur de Beauvais was the son of Pierre Scarron, seigneur de Saint-Try, a *trésorier* from Lyon, a former *prévôt des marchands* there, doubtless a friend of the family. Several members of the Scarron family appear among the witnesses cited in AN X2B 309, 1618-11-24, including his brother 'le sieur Scarron Cintry', his elder daughter, 'le sieur Scarron St Georges' (two articles), and Jean-Baptiste Scarron, 'advocat en la cour' (two articles).

<sup>119</sup> As described in *Le grand bal de la royne Marguerite*. Cf. McGowan, 'Marguerite de Valois', 191–2.

<sup>120</sup> F3, 1.

opponents now create a bogus sense of common fame, evoking a rumour that has no author or foundation beyond their conspiracy. His plea is a humble request, hoping and expecting that the justice of the court will declare him innocent and clear his name.<sup>121</sup> The crime of calumny was presented by Claude Le Brun de La Rochette in his compendium of criminal and civil procedures, published in 1605.<sup>122</sup> Le Brun was tax receiver (*contrôleur des domaines*) for the duc de Montpensier in the Beaujolais and Dombes, and an *avocat* at the *présidial* in Lyon. He lived in Villefranche-sur-Saône, so he was a close neighbour of the Monconys. His treatise was dedicated to Pierre de Sève, sieur de Montely, a *conseiller* in the *présidial*, to whom Pierre de Monconys, Gaspard's father, was closely related by marriage, since his second marriage (in 1589) was to Marguerite Sève.<sup>123</sup> As Le Brun explained, calumny came under the criminal category of “damages”, or “injures”: these came in various degrees, but calumny was the most serious among them, punishable potentially by death or exile. A vexatious accusation would be liable for damages and costs, while an accusation founded on justifiable error was excusable. If it could be proved that there was malicious intent, then the jeopardy was greater.<sup>124</sup>

Accordingly, the factum for Monconys set about proving malice. It attacked the evidence that there was ever a rumour François Louis was Gaspard de Monconys. The monitory evidence proved the contrary, that it was something they had “invented as a calumny”.<sup>125</sup> Monconys was set up to be arrested.<sup>126</sup> There were other possibilities for the identity of the so-called François Louis. Monconys' inquiries had led them to identify a certain Jacques Franchon, the son of a carpenter from Saint-Sauveur in the Forez, who elderly

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<sup>121</sup> F3, 4.

<sup>122</sup> Le Brun de la Rochette, *Le proces civil et criminel*, 89–97.

<sup>123</sup> Pierre de Sève became Pierre de Monconys' predecessor as *prévôt des marchands* in Lyon in 1621–3.

<sup>124</sup> Le Brun, *Le procès civil et criminel*, 100–112. Cf. Butterworth, *Poisoned Words*, ch. 2.

<sup>125</sup> F3, 2. “calomnieusement ils l'ont inventé”.

<sup>126</sup> F3, 4.

mother had testified that her son had been convicted of the crime.<sup>127</sup> Monconys' parties were motivated by envy and revenge. As a notable of standing, he called on the court to protect his honour, and so they did in the final verdict. Yet the magistrates did not uphold Monconys' case because of his honour in itself, but rather—as the preceding sections have demonstrated—because his counsel was able to demonstrate sufficiently that Monconys' accusers had not proven their allegations of imposture to the required standard of proof, and compounded their mistake by publishing factums that disseminated their false charges before a discerning public audience.

### **Conclusion: Dicaeology**

This article has examined a criminal lawsuit that began as a charge of imposture and ended as a proof of calumny. The manner in which the case rose to the top of the social hierarchy in Lyon and at the royal court helps to explain how it generated an unprecedented number of published factums for the early seventeenth century. Yet factums are, by their nature, hermetic, auto-referential, and partial. They present the facts in a case from one point of view, with an advocate's rhetoric, at one moment in the course of a trial, its outcome still undetermined. The four factums concerning the Monconys affair are so disparate they prove the point that, at any rate before the later seventeenth century, there was no model to which they had to conform, and fewer recognisable signposts for the reader. From a methodological perspective, this article demonstrates how, in order to render factums more fully intelligible, a literary analysis of factums might be effectively undertaken in relation to a reconstruction of the legal records of the case to which they relate.

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<sup>127</sup> F3, 3. Cf. F2, 9 for the response of the parties to this identification. X2B 309, 1618-11-24, article numbered thirty-four. The place in question is presumably Saint-Sauveur-en-Rue in the Velay, overlooked by the woodland at Taillard.



That reconstruction reinforces a point that is emerging from other recent studies of criminal justice in Old Regime France.<sup>128</sup> Trials used to be seen as dominated by the investigating magistrate according to the norms set out in manuals for inquisitorial justice, leaving little initiative to plaintiffs and even less to defendants. And this is how they are still presented in legal histories, which are typically more concerned with how the law should have functioned in the past than how it actually did.<sup>129</sup> Yet during the Monconys affair both sides intervened continually to shape proceedings. Monconys' opponents seized the opportunity of a widely-circulated rumour to attack a Lyon city notable at a particularly sensitive moment in his family's fortunes. They used the criminal courts as an instrument to advance their social and political ambitions, in what seems at times like a blatant attempt at judicial corruption. For his part, Monconys responded by mobilising his friends, contacts, and resources to assemble his erudite counsel and an impeccable range of witnesses. He equally found ways to cast doubt on the credibility of the case against him and to turn it into one of calumny. In so doing, the case entered the lawbooks as an example of how the courts could be used to defend the social standing and noble status in the face of criminal calumny. The magistrates in the Parlement of Paris handled the collection and evaluation of evidence in accordance with well-established and understood rules of engagement. By the moderate damages they awarded Monconys, the magistrates privileged reconciliation over punishment, aware of the dangers of opening the door in a very litigious society to an avalanche of claims of slander.<sup>130</sup> When examined in the broader context of the individuals and the lawsuit in question, the factums provide a window through which to observe, as contemporaries did, the social actuation of the law.

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<sup>128</sup> Breen, 'Law, Society, and the State'; Farr, *A Tale of Two Murders*, 195–204.

<sup>129</sup> For more sophisticated presentations in this tradition, which nevertheless reconstruct procedure from the perspective of the magistrates and jurists, see Carbasse, *Histoire du droit pénal et de la justice criminelle*; Bongert, *Histoire du droit pénal*.

<sup>130</sup> Cf. Carroll, *Enmity and Violence*, 288–9.

In this particular case, a “post-factum” afforded its readers a courtside view. Sébastien Rouillard’s *Dicæologie ou defense justificative* (1620) gives chapter and verse on the casefile, glossing his defence of the Monconys with a blend of baroque erudition, mainly Greek and Latin, that turned the lawsuit into a moral tale. The work announced its author and date on the title-page, but no publisher or privilege, thereby taking advantage of the fact that extrajudicial publications escaped printing regulations. It remains an open question whether the Monconys family sponsored or paid for the publication, although the suggestion is that they did.<sup>131</sup> The works’ title reveals Rouillard’s objective, which was not to set out the facts of the case but to demonstrate that Monconys’ reputation, having been dragged through the mud by his enemies, now required the rhetoric of defence for its rehabilitation. It resembles a case for the defence, a *plaidoyer* that had become a thing of the past in criminal proceedings before the Parlement of Paris, but which still survived in civil proceedings, and would be published in legal collections in the seventeenth century.<sup>132</sup>

Sébastien Rouillard is a fascinating figure whose career and writings merit a detailed study in its own right. An advocate at the Parlement of Paris, he was also a poet and a dedicated antiquarian.<sup>133</sup> He was related to the Estienne, the Paris printing family, and one of his works was published by Frédéric Morel, the father of Gaspard de Monconys’ tutor.<sup>134</sup> Rouillard had an eye for diverting lawsuits. He sent Justus Lipsius a copy of his published pleadings in a marriage dispute, in which he defended a man born without testicles who needed to prove he was nevertheless virile and had consummated his marriage.<sup>135</sup> Rouillard’s

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<sup>131</sup> On the wider issue of patronage and publication in this period, see Jouhaud and Viala eds., *De la publication*; Jouhaud, *Les pouvoirs de la littérature*.

<sup>132</sup> For an analysis of the *plaidoyers* relating to a later case of disputed identity that acquired notoriety, that of the ‘Beggars of Vernon’ (1659), see Karam, ‘Poetry in the Praetorium’.

<sup>133</sup> His most notable publication was the history of Melun, the town of his birthplace: *Histoire de Melun*. But he also contributed to the histories of La Fère-en-Tardenois, Lions-en-Sauterre, Poissy, and Chartres: Bernstein, *Historical Communities*, 211–2, 217–8, 336–7.

<sup>134</sup> Rouillard, *Élégie sur la mort de Monseigneur le duc de Joyeuse*.

<sup>135</sup> Rouillard, *Capitulaires*; Lipsius, *Justi Lipsii Epistolarum selectarum chilias*, 406; Bayle, *Dictionnaire historique et critique*, xii, 386–90.

lengthy *Reliefs forenses* (“Judicial remains”) was a collection of his factums that ran through several editions. An example of a later edition at the Bibliothèque de l’Arsenal in Paris has the *Dicæologie* as its first piece, with manuscript annotations relating to the proceedings of several of the cases. Since Rouillard himself signed many of the pieces, the annotations are probably his own.<sup>136</sup>

Rouillard’s *Dicæologie* presented a compendious defence of Monconys which the garrulous physician and collector Guy Patin found “entirely admirable” and composed by “a very learned advocate”.<sup>137</sup> Rouillard cited a panoply of Latin and Greek writers of Antiquity, providing a cornucopia of commonplaces for a budding lawyer as well as points of reflection for the discerning reader. Monconys had been the victim of slander, and his opponents “had no other aim than to calumniate him, as they aspired to the magistrature, and to break his father’s heart and bring dishonour onto their family”.<sup>138</sup> His opponents had depicted themselves as Brasidas. They needed to look in the mirror and see their own boasting for what it was.<sup>139</sup> The hand of justice had intervened to protect Monconys. Rouillard’s closing disquisition examines the Hebrew verb for “legislate” which he explained also means “terror”: justice protects the innocent and reserves its terrors for the guilty.<sup>140</sup> Rouillard’s *Dicæologie* gave the Monconys the last word in the affair, and its stylistic merits minimised the risk of the substantive matters addressed in the trial becoming a sensation for

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<sup>136</sup> BnF Arsenal 4-J-1880. These signatures clarify a bibliographical point on which the standard reference work, Corda, *Catalogue des factums*, is misleading. Corda typically mentions the name of the magistrate who ‘signed’ a factum. In reality, the name at the end is actually the addressee and *rapporteur*, the magistrate assigned with handling the case files, and not the author. Rouillard as *avocat* and author of the factums signs his name next to that of the *rapporteur*.

<sup>137</sup> *Correspondance*, à Charles Spon, le 29 avril 1644, <https://www.biusante.parisdescartes.fr/patin/?do=pg&let=0104> (accessed 22 August 2023). “tout à fait admirable”, “un avocat très savant”.

<sup>138</sup> Rouillard, *Dicæologie*, 27. “La forme donc de ceste exorbitante procedure, auroit donné clairement à cognoistre, que l’intention de d’Aveyne, Terrat, & leurs complices, n’auroit esté autre: que de honnir & vilipender ledit M<sup>e</sup> Gaspar de Monconys, aspirant à une magistrature, donner du creve-cœur à son pere, & faire du des-honneur à toute leur parenté.”

<sup>139</sup> Rouillard, *Dicæologie*, 105.

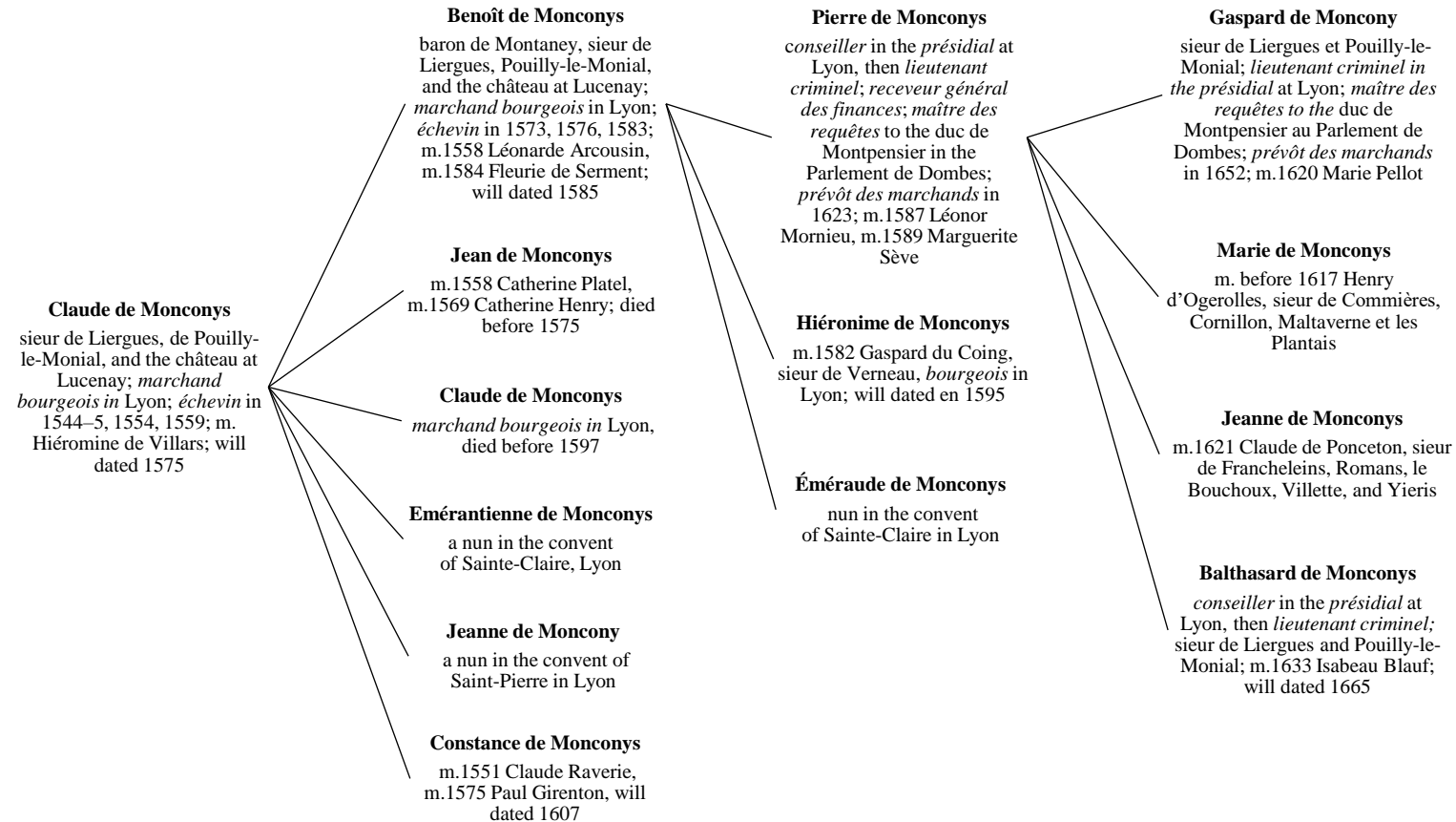
<sup>140</sup> The work ends with a Latin dactylic hexameter couplet and a complementary French rhyming quatrain of the author’s composition: ‘Faulsse et horrible calmonie, / Je t’ay fait icy avorter: / Affin de pouvoir conforter / L’innocent te voyant punie.’

later readers. By turning the trial into a literary event, through a collectible piece that soon became a rarity, Rouillard's *Dicæologie* perhaps played its part in Gaspard de Monconys' later attempt to make a dignified retreat from political controversy and fashion himself as a *virtuoso*.<sup>141</sup>

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<sup>141</sup> On this theme in seventeenth-century French culture, see Schneider, *Dignified Retreat*, 2.

## Appendix: A Genealogy of the Monconys Family



## Acknowledgements

The authors would like to acknowledge financial support for research towards this article from the Centre Roland Mousnier (UMR8596). The research has been conducted in the context of the IAE CNRS Project “Justice, Action, Écriture, États (XVI<sup>e</sup>–XIX<sup>e</sup> siècles)” (JAEE), directed by Claire Châtelain and Inès Gómez González.

## Disclosure Statement

The authors report there are no competing interests to declare.

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**Citation on deposit:** Greengrass, M., & Hamilton, T. (in press). Gaspard de Monconys' Defence against the Charge of Imposture: Criminal Justice, Social Hierarchy, and Personal Identity in Early Seventeenth-Century France. *The Seventeenth Century*

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