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DEFENCE IN WRITING. THE END OF THE PRINTED LEGAL BRIEF (FRANCE, 1788-1792)?

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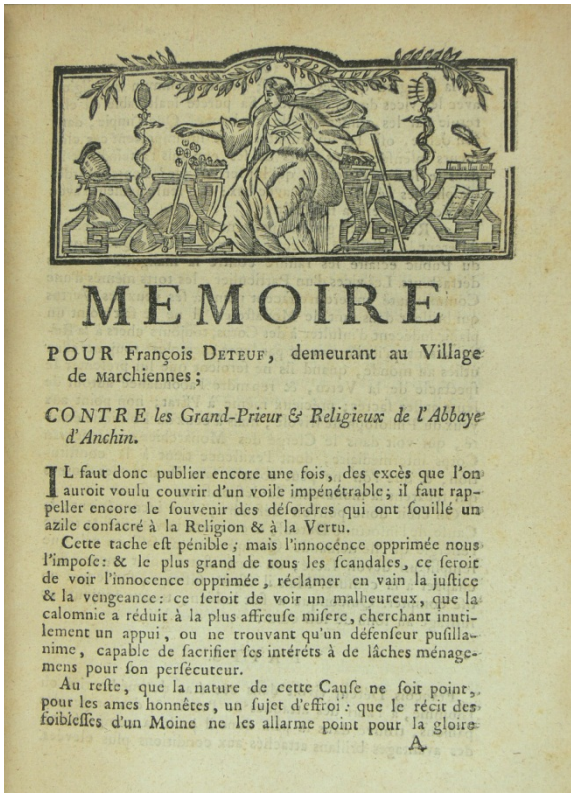
Abstract

In the political and cultural history of France during the Age of Enlightenment, the interest aroused by printed factums appears to have come to a sudden end in 1789. While eighteenth century historians highlight the importance of the legal brief in criminal or civil trials in transforming public opinion and in the development of criticism of society or the State, this source has barely been made use of during the decade of the French Revolution, only arousing interest once again in studies of the 19th century. We certainly recognise its existence, but its importance appears to have disappeared in favour of the spoken word in the courtroom and the press, pamphlets and the national assembly debates or clubs in the public arena. Far from being a question of chance, this silence makes sense; it reveals the extent of changes to the legal brief and its place in defence strategies in the early days of the French Revolution and even in 1788. Through the approach of three corpora of sources (library collections, the experiences of lawyer and court cases), this article takes stock and offers some initial reflections about the scale of the decline of the printed factum, its chronology and the reasons why it happened, as well as changes in the use and form of this medium.

In the France of 1789, the Revolution also took place in the courts; the King's justice became that of the nation. From the first revolutionary assembly, the Constituent Assembly (1789-1791), both civil and criminal law and proceedings were completely turned upside down, while the court jurisdictions were redefined and their distribution over the territory was organised in a rational manner. The legal profession was also transformed by the event. To request justice and carry out proceedings, plaintiffs no longer had to rely upon officers, who were holders of office, known as "*procureurs*" (attorneys), but on "*avoués*" (solicitors) (January-March 1791); they were no longer advised and defended by "*avocats*" (lawyers), whose orders and even their very title had been suppressed (September 1790), but by "*hommes de loi*" (men of law) or even "*avoués*" or mere citizens; their cases were no longer examined by *juges-officiers* (officer judges) in the service of the king or the nobles but by the judges

elected by the nation who, in the criminal courts, passed sentence on the declarations of a trial jury[1].

For French lawyers, the revolution overturned professional practices. Of course, many of them continued to practise under the name of "man of law" or "*défenseurs officieux*", alongside the new arrivals who had not yet received university training. However, because the judiciary was undergoing change, they were obliged modify their professional customs, particularly how they defended their clients[2]. Their activity was now no longer the same. In a completely transformed legal landscape, these men thus implemented new defence practices, the best known of which were the pleadings that were now being introduced into criminal trials. One aspect of their action, however, has remained overshadowed due to lack of study; this concerns the use of the printed document in civil or criminal legal defence. Before 1789, such usage was common; in a printed document the lawyer could present the case he was responsible for, develop the outlines of his case and explain his client's expectations; the printed brief, also known as a factum, was intended for judges, but also for the public, whose support was sought by the plaintiff and the lawyer (**Illustration No. 1**)[3].



MEMOIRE

POUR François Deteuf, demeurant au Village de Marchiennes;

CONTRE les Grand-Prieur & Religieux de l'Abbaye d'Anchin.

IL faut donc publier encore une fois, des excès que l'on auroit voulu couvrir d'un voile impénétrable; il faut rappeller encore le souvenir des désordres qui ont souillé un azile consacré à la Religion & à la Vertu.

Cette tache est pénible; mais l'innocence opprimée nous l'impose: & le plus grand de tous les scandales, ce seroit de voir l'innocence opprimée, réclamer en vain la justice & la vengeance: ce seroit de voir un malheureux, que la calomnie a réduit à la plus affreuse misere, cherchant inutilement un appui, ou ne trouvant qu'un défenseur pusillanime, capable de sacrifier ses intérêts à de lâches ménagemens pour son persécuteur.

Au reste, que la nature de cette Cause ne soit point, pour les ames honnêtes, un sujet d'effroi: que le récit des foiblesses d'un Moine ne les allarme point pour la gloire

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What became of this printed legal brief in the early years of the French Revolution when the Constituent Assembly undertook to change the law, proceedings, the courts and the role of the defence lawyer? What place did printed defence now have in trials? As far as we are aware, it is indeed difficult to state this precisely, particularly in civil cases[4]… This gap in the historiography is all the more astonishing

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[1]. J.-P. Royer *et alii*, *Histoire de la justice en France*, Paris PUF, 2010, pp. 251-317 ; H. Leuwers, *La justice dans la France moderne. Du roi de justice à la justice de la nation (1498-1792),* Paris 2010, pp. 209-31.

[2]. H. Leuwers, *L'invention du barreau français, 1660-1830. La construction nationale d'un groupe professionnel*, Paris 2006, pp. 231-63 ; N. Derasse, *La défense dans le procès criminel sous la Révolution et le Premier Empire (1789-1810) : les mutations d'une fonction et d'une procédure*, phd Université Lille II 1998.

[3]. Illustration n° 1. A printed factum : *Mémoire pour François Deteuf…* [M[e] de Robespierre], Arras 1784, 21 pp. *in-4° ;* Archives départementales du Pas-de-Calais (below AD Pas-de-Calais), Barbier C 1695.

[4]. About criminal justice, see Derasse, *La défense dans le procès criminel*, pp. 141-2.

when, as certain authors have highlighted since the late 19th century[5], the factum had been a major mode of expression in France during the Age of Enlightenment. Because they were published without prior censorship in most of the provinces[6], these texts, which had various names ("factum", "brief", "summary", "observations", "notes", etc.) appear as a weapon whose use goes far beyond the legal issues and draws the attention of historians of Jansenism, parliamentary squabbles or criticism of the State and society; because on some occasions they had caused a public debate to be launched or maintained, historians thus recognised their essential role in the political life of the kingdom[7]. Was this role to cease with the Revolution, at the very moment when politics was invading the entire public arena? And what was to become of this medium in legal cases, at a time when the rights of the defence lawyer had been considerably extended by the law? The question deserves all the more so to be asked when, beyond the famous cases, the increasing use of factums in the context of mundane and often technical cases made it possible to highlight the fact that these printed documents had become an essential part of defence strategies on the eve of 1789[8]; in civil matters, of course, where they were most frequently used, but also in criminal matters, and particularly in major criminal cases, where they allowed the boundaries of the right of defence formulated by the ordinance of 1670 to be bypassed[9].

Despite the importance of these questions, we can only be surprised by the absence of a study of factums during the French Revolution! In fact, far from being a matter of chance, this bibliographical silence reveals a major transformation of their place and their use in defence strategies between 1789-1792. Paradoxically, the factum, which was present as a free form of expression in the France of the *Ancien Régime*, took a sudden step backwards at the start of the Revolution! Can we fully explain this decline by the development of orality in the courtroom, particularly in criminal trials, by the development of the press, of short satirical pieces (*libelles*) and the debates of the National Assembly or clubs in the public arena? These explanations are undoubtedly not enough. Even though the complexity of the phenomenon can only be isolated after subsequent analyses, taking into account the geographical

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[5]. For exemple : A. CRETINON, *Barreau de Lyon. Ouverture de la conférence. Le barreau et la Révolution. Discours de rentrée prononcé à la séance du 10 décembre 1883*, Lyon 1883, p. 17.

[6]. LEUWERS, *L'invention du barreau français*, pp. 214-6.

[7]. See D. A. BELL, *Lawyers & Citizens. The Making of a Political Elite in Old Regime France*, New York & Oxford Oxford 1994, pp. 148-55; M. COTTRET, *Jansénismes et Lumières. Pour un autre XVIIIe siècle*, Paris 1998, pp. 282-90 ; P. R. CAMPBELL, *Power and Politics in Old Regime France, 1720-1745*, London & New York 1996, pp. 210-13; S. MAZA, *Vies privées, affaires publiques. Les causes célèbres de la France prérévolutionnaire*, Paris Fayard, 1997.

[8]. H. LEUWERS, *Les avocats défenseurs des Lumières et de la liberté ? Problèmes d'analyse autour des factums*, in O. CHALINE (ed.), *Les parlements et les Lumières*, Pessac 2012, pp. 211-22.

[9]. A. ASTAING, *Droits et garanties de l'accusé dans le procès criminel d'Ancien Régime (XVIe-XVIIIe siècle). Audace et pusillanimité de la doctrine pénale française*, Aix-en-Provence 1999, pp. 226-40.

diversity of the practices of the *Ancien Régime*, local contexts and individual careers, this article would like to take stock and, by looking at various corpora, to offer some initial thoughts about the changes in the printed factum during the revolutionary period, the chronology of its relative disappearance and the possible reasons for this.

Measuring and explaining the decline of the printed factum

Although the French library records or certain printed catalogues provide some data on the number of factums published[10], the quantitative trail has rarely been followed for a study of them[11]. It is true that, more than the development of their production, it is their use in famous cases, their public hearing and their potential political and cultural effects that have drawn attention; when they read and interpret printed factums, historians are not looking at them from the point of view of the work of the lawyer but rather that of the impact of this medium on public opinion, or they may even be searching for a reflection of a society in them[12]. Moreover, does the inclusion of factums in a short period of legal activity, their short-term nature, their often local dissemination, make them objects that are frequently transient, whose preservation depends on their insertion in a case file or their collection by a lawyer or a magistrate attentive to the affairs of his time, or even on chance? Furthermore, would a quantitative approach be made even more delicate by the extreme way in which they are scattered among archives and libraries? While some difficulties do exist, they should not, however, lead us to give up, particularly when digital development is one of the factors that allows us to bring about a major transformation of the factum.

Although we are unable to accurately measure this development in the 1780s and the early years of the Revolution, we can get an idea of its scale by studying library catalogues. The creation of a corpus, obviously, cannot be based on the search for certain key words, such as "factum", whose use differs from one catalogue to another, even in the same collection. To be able to compare the data compiled, I thus decided to work through sampling, by searching eleven library catalogues with three sets of key words concerning the titles of works: “brief for against” ("*mémoire pour contre*"), “summary for against” ("*précis pour contre*"), “plea for against” ("*plaidoyer pour contre*"). After eliminating duplications and documents not produced as part of legal proceedings, the results allowed me to draw up a summary table which, while it does not reveal the exact size of the collections conserved, allows a comparison of their relative scale in the 1770s, 1780s and the early years of the Revolution.

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[10]. A. CORDA, *Catalogue des factums antérieurs à 1790 (conservés à la Bibliothèque nationale)*, Paris 1890-1936, 10 v. About Geneva, see : J. DROIN, *Factums judiciaires genevois. Catalogue*, Genève 1988.

[11]. Michel Porret expresses the same regrets about Geneva. M. PORRET, *L'éloge du factum, autour des mémoires judiciaires genevois*, in « Revue suisse d'histoire », 1992, p. 97.

[12]. L. LAVOIR, *Factums et mémoires d’avocats aux XVIIe et XVIIIe siècles. Un regard sur une société (environ 1620-1760),* in « Histoire, économie & société », 2 (1988), pp. 221-42.

Table No. 1
An estimate of the printed factums
conserved in the French National Library and in ten municipal libraries[13]

	1770		1780		1786	1787	1788	1789	1790	1791	1792	1793
Besançon	8		64		41	30	12	5	3	2	0	1
Bordeaux	15		13		20	19	3	15	11	5	13	12
Bourges	2		5		0	4	6	2	0	1	0	0
Grenoble	46		15		37	48	10	7	9	1	3	1
Lille	29		14		10	6	1	1	0	1	2	0
Metz	12		20		8	13	2	2	4	0	0	0
BHV Paris	2		6		22	14	8	6	9	3	2	0
Rennes	16		10		12	11	3	0	3	0	0	0
Rouen	9		8		10	8	5	5	4	2	1	0
Toulouse	3		5		16	14	3	1	0	0	1	3
BNF	96		122		184	89	58	60	49	34	17	6
TOTAL	**238**		**282**		**360**	**256**	**111**	**104**	**92**	**49**	**39**	**23**

It is obviously not advisable to grant any significance to each of the changes that can be seen in a table of samples, particularly over such a short time, because the figures compiled depend on the vagaries of conservation and cataloguing. However, when the same trends are reflected simultaneously in a dozen collections, can we suspect a real change, even though its scale may be overestimated on reading the conserved sources? We can therefore highlight, as early as 1788, a general decline in the number of printed factums conserved, in a trend that then continued year after year. In the revolutionary collections, so rich in printed documents, such a phenomenon cannot merely be due to chance or a possible reduction in their conservation rate; confirmed by a net decline in the presence of printed factums in the records of proceedings of the legal collections, it then makes sense, all the more so because it took place at a key moment in the reorganisation of the judiciary.

In the analysis report, no testimony from contemporaries confirming, rejoicing or regretting this probable decline has been found, obliging historians to initially formulate some simple hypotheses, three of which I will discuss here. The first one refers to the effects of the changes to court jurisdictions and proceedings that gradually took place between 1789 and 1791. In civil matters, the creation of judges of the peace elected by the cantons and, more generally, the encouragement of arbitration and conciliation, may have discouraged some plaintiffs from going as far as the district courts, now the main civil jurisdictions under the new organisation of the judiciary; despite the provisional preservation of the ordinance of 1667, ad hoc changes to practices may have also caused a decline in the use of written documents in

[13]. The figures were collected in April 2011 by a keyword search (« mémoire pour contre », « précis pour contre », « plaidoyer pour contre »). They are not intended to present an inventory of the collections of selected libraries.

civil proceedings[14]. Furthermore, it should be emphasised that, until 1789, many cases leading to the publication of a factum were held before the jurisdiction of the parliament, which was sometimes located in the plaintiff's home town and whose prestige contributed to the repute of the case. In the new order of the judiciary, the willingness to avoid the reconstitution of courts that could have been the successors of the parliaments led to the adoption of the circular appeal procedure, which forwarded appeals from one district court to a neighbouring district court. This change now made it necessary to apply to jurisdictions that were considered of little importance and which, in addition, were almost always located outside the town where the plaintiffs lived. As the purpose of writing the factum was often to defend a local public image, during trials whose importance was emphasised by the authority of the parliamentary court, the printing of a legal brief would now appear to be less necessary in appeal cases. Now, in criminal cases, the expansion of the right of defence and the modifications to proceedings gave priority to the spoken word; before the judges and the public, the words of the lawyer could easily take the place of the factum although, as we shall see, it is possible that some defence lawyers paradoxically made too much use of it in certain cases.

The second hypothesis concerns the scope of the changes made to the personnel responsible for legal assistance. Of course, even if they were by far the leading producers of legal briefs, the lawyers of the *Ancien Régime* never had a monopoly on defence; in court, was an attorney ("*procureur*") not fit to plead in summary cases? In writing, could not a man of letters become the defender of an innocent man unjustly brought to trial? However, between the penal reform of 8 October-3 November 1789, which amended the criminal ordinance of 1670, and the introduction of the *avoués* (29 January-20 March 1791), the old order was shattered. From now on, while the former *avocats* had lost their title, their distinctive form of dress, their status and their professional orders (2-11 September 1791) in exchange for the modest title of "*homme de loi*", the law recognised each individual's right to defend himself without their support: acting on his own, through an *avoué*, or even through a *défenseur officieux*[15]; this latter title, intended to honour a citizen acting occasionally or regularly in civil or criminal defence, was awarded without any requirement concerning competence or any oath of office[16]. The culture of these *avoués* and *défenseurs officieux*, not in any way experienced in the use of the factum – unlike many "former *avocats*" who were now withdrawing from the courtrooms -, undoubtedly facilitated the decline of the legal brief.

A third element can be put forward as an explanation, which concerns the place of legal debate in the public arena. Of course, until 1788, the debates that were established around famous cases widely publicised by the press, and legal briefs or the documents published in reaction to the authoritarian reform of justice imposed by

[14]. J.-L. HALPERIN, *Le juge et le jugement en France à l'époque révolutionnaire*, in R. JACOB (ed.), *Le juge et le jugement dans les traditions juridiques européennes*, Paris 1996, pp. 240-2.

[15]. LEUWERS, *L'invention du barreau français*, pp. 243-6.

[16]. N. DERASSE, *Les défenseurs officieux : une défense sans barreaux*, in « Annales historiques de la Révolution française » 4 (2007), pp. 49-67.

Lamoignon, the Keeper of the Seals (May 1788) continued to form the structure of public exchanges, at the same time as discussions on tax or administrative reform. In Autumn 1788, however, the political situation, the transformation of expectations and the unprecedented emergence of pamphlets and lampoons urgently moved forward the debate on the question of national and provincial representation, tax matters and privileges; even before the complete failure of the Lamoignon reform, eyes were turned towards Grenoble and Vizille, and soon towards Rennes, where the first movements could be observed in favour of a profound transformation of the country[17]. An unprecedented development of the press accompanied this partial redirecting of concerns, which no longer gave prime importance to the judiciary and responded to the new expectations of the electorate; in 1789, there was more immediate interest in the debates and decisions of the National Assembly, in the rumours that were circulating and causing concern and in the incidents that were disrupting life in Paris and the provinces in the area of wheat production and social and political matters. Legal debate, of course, remained central and, as under the *Ancien Régime*, continued to count on a specialist press[18], but it certainly lacked the same weight, or, in other words, its nature was being transformed by the force of the revolutionary dynamic. Even though they only formed a relatively limited dimension of the concerns of the press and public debate, the great treason cases of 1790 fascinated, mobilised the mob and gave rise to numerous publications[19]; in a period of high tension and uncertainty about the future, the public went wild about the alleged conspiracies of Favras or Besenval, but was it as attentive as it had been several years earlier to a case of adultery, theft by a servant or slander? The situation had changed the expectations of readers who, undoubtedly, now found more answers in a press that was now interested in information on parliamentary debates and the political life of the country.

The disappearance of the printed brief can thus be explained by the transformation of legal proceedings and institutions, the removal of the "former *avocats*" and the arrival of defence lawyers without experience of the legal brief, or the changes in the form and content of public debate. To explain this, it is undoubtedly advisable to indicate other, more specific reasons that reflect the diversity of the careers of lawyers at the start of the French Revolution.

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[17]. See : S. BAUDENS, A. SLIMANI, *La Bretagne : un autre laboratoire politique de la Révolution française (1788-1789)*, in « Revue française d'histoire des idées politiques », 29 (2009), pp. 95-148 ; S. BAUDENS, *De la province à la nation. Débats sur la constitution des états provinciaux à la veille de la Révolution : le cas de l'Anjou*, in « Annales historiques de la Révolution française », 2 (2011), pp. 85-109 ; A. SLIMANI, *La pré-révolution politique et institutionnelle en Normandie (1788-1789),* in « Annales historiques de la Révolution française », 2 (2011), pp. 111-35.

[18]. At the *Gazette des tribunaux* (1775-1789) follows the *Gazette des nouveaux tribunaux* (from 1791).

[19]. B. SHAPIRO, *Revolutionary Justice in Paris, 1789-1790*, Cambridge 1993, pp. 148-74.

The decline of the printed factum:
a human approach

An individual approach to the production of printed factums is, in view of the uncertainty of their conservation, undoubtedly even more delicate than a study of samples taken from library records. By cross-referencing the records available, the experiment can, however, be attempted on the main producers of printed briefs. In the *Siècle des Lumières* by Pierre Conlon and the collections from the French National Library (BNF) and the municipal library of Lille, we will thus examine the case of the lawyers Pierre Antoine Déprès (Douai) and Théodore Henri Joseph Lefebvre (Lille), chosen for their large output of factums and the continuation of their careers as defence lawyers during the Revolution.

In 1770 and 1780, Déprès and Lefebvre appear as busy, recognised lawyers. The former (1742-1820) practised in Douai, where he had been registered on the list of lawyers at the parliament of Flanders since 1763[20]; in the same year, he began to teach classes at the University, where he was appointed Professor of French Law in 1773, and then promoted to the Chair of Civil Law in 1788[21]. Although these activities most likely limited his appearances in court, he remained a central figure in the early days of the Revolution; this was due to his political commitment, which led to him being made a "*notable*" of the municipality of Douai (January 1790), then a municipal officer (June 1790), before his integration into the general council of the department of Nord, where remained for one year (July 1790 – July 1791); he was also a central figure due to his defence activities, particularly in criminal matters where, in 1792, he appeared alongside Deberckem as the most active of the defence lawyers at the Nord criminal court[22]. Less well known, Théodore Henri Joseph Lefebvre practised as a lawyer in the city of Lille from at least the early 1770s.

Before the Revolution, the lawyers Déprès and Lefebvre had particularly built their reputations through the publication of numerous factums; for the years from 1770 to 1786, at least 20 have been conserved for the former and 31 for the latter (table No. 2), none of which concern major criminal trials; it should come as no surprise that, at least before the Flanders courts, these documents are exceptional. Of the 641 printed factums identified by Loïc Saudemont in the collections of the municipal library of Lille and the departmental archives of Nord for 1760-1790, only two concerned criminal proceedings![23] Behind a common recourse to defence through

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[20]. N. DERASSE, *Pierre-Antoine Déprès : partisan de l'ordre et juriste éclairé (1742-1820),* in « Revue de la Société internationale d'histoire de la profession d'avocat », 10 (1998), pp. 137-61.

[21]. H. LEUWERS, *La faculté de droit de Douai et la formation juridique et citoyenne des avocats et magistrats à la veille de la Révolution*, in « Cahiers du Centre de recherche en histoire du droit et des institutions » [Bruxelles], 9 (1998), p. 108.

[22]. DERASSE, *La défense dans le procès criminel,* p. 190.

[23]. L. SAUDEMONT, *Les mémoires judiciaires devant le parlement de Flandre, 1760-1790*, master 1, Université Lille 3, 2009, p. 44. See also : V. DEMARS-SION, *Un procès en infanticide à Lille en 1789 : l'affaire Marie-Christine Vermont*, in S. DAUCHY, V. DEMARS-SION (ed.), *Juges et criminel. Etudes en hommage à Renée Martinage*, Hellemmes 2001, pp. 65-97.

printed documents two separate practices can be distinguished, which reflect the differences in status and professional choice of these men. Active in Douai, in trials mainly brought before the sovereign court of the province, Déprès produced briefs in the cases he was defending but also, in the 1770s, numerous consultations signed by several prominent local lawyers; his status as a university professor reinforced his legal authority and led him to speak in many complex cases. Lefebvre, for his part, was involved in cases brought before the courts of Lille and Douai; he excelled in the production of briefs but appears to have barely published any consultations.

Table No. 2
Printed factums from the lawyers A. Déprès and T.H.J. Lefebvre
(1770 – 1786)[24]

70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86
Pierre Antoine Déprès:																
1	**1**	**4**	**5**	**3**				**1**		**2**	**2**	**1**				
Théodore Henri Joseph Lefebvre:																
				2	**3**	**1**	**3**	**2**			**3**	**6**	**7**	**3**	**1**	

From 1787, the legal publications of Déprès and Lefebvre practically disappeared from libraries, since no brief or consultation has been conserved for the latter and only two for the former. However, both men continued with their duties of defence. Admittedly, it is likely that Déprès was less active for some time due to his political commitments; however, in 1792 and 1793, his presence was strong before the new criminal court of Nord, presided over during this time by his former colleague Merlin de Douai[25]. As for Lefebvre, a brief produced in a case of debt in 1790, shows that he continued with his work, at least during the early years of the Revolution[26]. However, the differences in the paths of both men do not make it possible to analyse their renunciation of the printed factum in the same way.

[24]. Established from P. CONLON, *Siècle des Lumières* and catalogs of BNF and Municipal library of Lille.

[25]. DERASSE, *La défense dans le procès criminel,* p. 190.

[26]. *Réponse du Sr Joseph-Martin-Bernard Delepouve, négociant en cette ville ; au mémoire du Sr Jean-Pierre-André Moisnet de Maupertuis, détenu pour dettes, ès prisons royales de cette même ville* [T.H.J. Lefebvre, avocat], [Lille] imprimerie de H. Lemmens, n.d. [1790], 11 pp. *in-4°* (Bibliothèque municipale de Lille – below, BM Lille -, L8-1831).

Table No. 3
Printed factums and political pamphlets from the lawyers A. Déprès and T.H.J. Lefebvre
(1787-1793)[27]

Printed factums

1787	1788	1789	1790	1791	1792	1793
Pierre Antoine Déprès:						
Théodore Henri Joseph Lefebvre:						
1			**1**			

Political pamphlets

1787	1788	1789	1790	1791	1792	1793
Pierre Antoine Déprès:						
Théodore Henri Joseph Lefebvre:						
4	**1**	**3**				

From 1787 to 1792, an examination of the professional practices of Déprès and Lefebvre reveals two clearly separate scenarios. The experience of Déprès before the criminal court of Nord from 1792 allows us to link him to one of the hypotheses formulated above; by becoming involved in criminal defence transformed by the Constituent Assembly, he chose orality over the written word. In front of the new type of court, the fate of the accused was played out at the hearing, before a jury who, at the end of the trial, would decide on the matters raised by the president of the court. In a public trial and a confrontation intended to shatter the truth, the word of the lawyer was the defendant's main support[28]; although written proof was used intensively in some highly publicised trials, such as those of Favras and Besenval in Paris[29], it was no longer necessary in criminal trials lacking political issues. As for the possible continuation of the work of Déprès in civil matters, this has not left behind any factum that could question the idea of renunciation of the printed brief by defence lawyers and their clients.

The ways in which the use of written documents disappeared seem more original in the case of Lefebvre, particularly if we examine all of his printed output from 1787 to 1790. In 1787, while his publications had so far appeared in the context of legal cases, the lawyer was now engaged in a political battle related to the administrative reform planned by the king and the Assembly of Notables in 1787. Could this lawyer, like others, have abandoned the courtroom for the political arena? Matters were not so simple, however. In 1787 and 1788, the lawyer's publications were of an ambiguous nature due to their format, the status claimed by the author and the issues they discussed. While most of the pamphlets that ended up in the public sphere were printed *in-8°*, the lawyer remained faithful to a larger format, which was that of the factums: *in-4°*; even better, he assigned the printing of his texts to Léonard Danel[30], one of the printers to whom he had regularly assigned his legal briefs in the 1780s. On

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[27]. Established from the same catalogs and books as the table n° 2.

[28]. R. ALLEN, *Les tribunaux criminels sous la Révolution et l'Empire, 1792-1811*, Rennes 2005, pp. 108-13.

[29]. See below.

[30]. Bookseller in 1780 and printer, with his father, since 1782. F. BARBIER, with collaboration of S. JURATIC and M. VANGHELUWE, *Lumières du Nord. Imprimeurs, libraires et gens du livre dans le Nord au XVIIIe siècle (1701-1789),* Genève 2002, pp. 254-55.

writing, unlike many lawyers, he did not present himself as a lawyer and citizen but as a "lawyer, advisor-pensioner-assistant to the orders of the clergy and the nobility of Flanders-Wallonia"[31]. This last title, which makes him into a spokesman for the "members of the clergy and the nobility" of the province, shows that his commitment was not in any way personal; it was not so much as a citizen concerned about the public interest that he wrote – although this dimension was central to his texts -, but as a lawyer to the two privileged classes. Furthermore, in 1778, he also became the defender of their financial privileges in a trial before the parliament which, as in 1787, opposed the nobility and the clergy against certain leaders of the provincial administration, in this case, "the great bailiffs of the four Lord Chief Justices"[32].

To some extent, the debate about the "provincial assemblies" allowed the clergy and nobility of Flanders-Wallonia to rekindle old disputes about the nature, legitimacy and effectiveness of the administration of the province, which was carried out by the great bailiffs of the Lord Chief Justices of Phalempin, Cysoing, Wavrin and Comines and the municipal officers of the cities of Lille, Douai and Orchies[33]. In this administration whose qualification as "provincial states" ("*Etats provinciaux*") was then the subject of debate, the issue at stake was the representation of the orders of nobility and clergy, which had so far been excluded, as confirmed by a ruling from the king's council in 1767[34]. Without referring to the trials of 1778, as the question of protection of privileges was no longer on the agenda, the lawyer and his clients intended to make the most of the spirit of reform in order to finally obtain representation in the administrative authorities of the province. Cleverly, Lefebvre stated that the king's council ruling of 17 January 1767, which was ratified on several occasions (1778, 1780, 1783), had finally settled a dispute that had been going on for over a century by stating that the orders of the clergy and the nobility could not take part in "the internal administration of Flanders-Wallonia". Taking as a basis the written documents produced by the opponents of the privileged classes, he concluded that the province was not a "*pays d'Etat*" (a territory with "*Etats provinciaux*") and therefore claimed for it… a "provincial administration", in which nobles and clergy would be represented! The possible contribution of the nobility and clergy to public expenditure gave him a further argument, once again justified by the king's council ruling of 1767, which specified that the privileged classes could be taxed with their consent, as long as their

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[31]. « Avocat, conseiller-pensionnaire-adjoint des ordres du clergé et de la noblesse de la Flandre-Wallone ».

[32]. *Mémoire pour les députés & commissaires des ordres du clergé & de la noblesse de la Flandre wallone, représentans lesdits ordres, & agissans au nom d'iceux, demandeurs par requête du 16 janvier 1778. Contre les grands baillis des quatre seigneurs hauts-justiciers de Phalempin, Cysoing, Wavrin & Comines, représentans l'état des châtellenies de Lille, Douay & Orchies, défendeurs. Par devant nosseigneurs de la cour de Parlement* [Warenghien de Flory, conseiller-rapporteur ; THJ Le Febvre, avocat ; Vincent, procureur], n.p., n.d., 56 pp. *in-4°* (BM Lille, 31042).

[33]. M.-L. LEGAY, *Les Etats provinciaux dans la construction de l'Etat moderne aux XVIIe et XVIIIe siècles*, Genève 2001, pp. 31-32.

[34]. *Précis pour la Flandre-Wallone, qui demande une administration provinciale* [signé, T.H.J. Lefebvre], Lille, Léonard Danel, n.d. [1787], pp. 1-2.

representatives attended the submission of the accounts![35] Supplemented with a denunciation of the "abuses", "arbitrariness" and inefficiency of the provincial administration, the document finally called, by a circuitous route, for a return to the lost provincial traditions. Where, several years earlier, the dispute with the provincial administration would have led to a trial, the situation now allowed the lawyer to try to achieve right by a battle in the public arena.

An examination of the later publications of the lawyer Lefebvre, in autumn 1789, barely changes the analysis that we can make of them. In the provinces of Nord, the national dimension of the Constituent Assembly Revolution gave rise, for several months, to a veritable provincialist offensive, notably brought about by an anonymous *Mémoire sur quelques articles décrétés par l'Assemblée nationale, et sur les inconvéniens de leur exécution relativement aux provinces belgiques* (Report on some articles decreed by the National Assembly and on the disadvantages of their implementation in relation to the Belgian provinces)[36]. The debate that ensued led its author, who was none other than Lefebvre, to reveal and explain himself in an *Adresse à messieurs les officiers civils et militaires de la garde nationale de la ville de Lille* (Address to the civil and military officers of the national guard of the city of Lille)[37]. While the former text clearly has the register of a political pamphlet, due to its format, its anonymity and its themes, the latter appears in a more ambiguous form. Of course, unlike his publications in 1787 and 1788, the author no longer signed with his title of lawyer; but his justification, published in *in-4°* (like a factum), by the printer Danel, implemented a legal demonstration to prove that he had in no way infringed the law or disturbed the public order; rather he had called for the conservation of the provinces and the protection of church property, based on the arguments of the Baron of Noyelles, a member of the Constituent Assembly, who was able to express his views freely.

Although different, the careers of Déprès and Lefebvre thus reflect at the same time the temporary and practically general renunciation of the printed brief by the lawyers of Lille and Douai and the diversity of its forms, stages and motivations; the examination of other careers could also pick out new scenarios, such as those of the Constituent Assembly members Merlin (from Douai) and Robespierre, or the Mayor of Douai, Bonnaire, who ceased their production at the same time as they ceased their work as counsel or defence lawyers, following their political commitment. Over and above this decline of the printed factum and the diversity of its possible analyses, an expansion of the corpora allows us to observe a modification of its use in defence strategies, both in famous cases and in more mundane ones.

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[35]. See : *Résumé des motifs qui déterminent les députés du clergé & de la noblesse de la Flandre-Wallone à supplier sa majesté d'établir, dans cette province, une administration provinciale* [signé, T.H.J. Lefebvre], Lille, Imprimerie Léonard Danel, imprimeur des ordres du clergé et de la noblesse, n.d. [1787], 59 pp. *in-4°* (BM Lille, 31043).

[36]. N.p., n.d., 38 pp. *in-8°* (BM Lille, 14254).

[37]. Lille, Léonard Danel, n.d. [1789], 4 pp. *in-4°* (BM Lille, 15787).

Ever-changing forms and uses

Although in decline, the printed factum did not disappear from the legal world in the early years of the Revolution. An analysis of the briefs conserved, particularly in Paris, also shows a surprisingly mixed situation, to which we have to return to try to narrow down the analyses. In fact, while the expansion of the rights of defence seemed paradoxically to preserve the use of the printed brief in criminal matters, its frequency of use in civil trials collapsed. In both types of case, moreover, we observe changes in the nature of the documents, how they are used and the arguments put forward in them.

None of the famous cases from the early days of the Revolution aroused as much interest and excitement as the trial of the Marquis de Favras, accused of having "attempted to implement a planned counter-revolution" which, with various supporters around the country and help from foreign armies, would have led to the removal of the King and the royal family, the dissolution of the National Assembly and the assassination of the Minister, Necker, the Mayor of Paris, Bailly, and the Chief of the National Guard, La Fayette[38]. In barely a few weeks, this first judgement of a "crime of high treason against the nation" ("*lèse nation*") by the *Châtelet de Paris* court (January-February 1790), to which the National Assembly had assigned the case[39], led to an extraordinary plethora of publications. Taking place after the modification of criminal proceedings, the trial offered the lawyer Thilorier a wide range of means of defence. The most emblematic was obviously the submission of pleadings, which opened up a new era in the history of criminal defence[40]; but the spoken word is not everything and, in a new manner of making use of the written document, the lawyer continued to count on the factum to demonstrate his client's innocence and obtain support from at least a minority of public opinion.

In the lawyer's practice, the link with the past thus remained particularly visible in the *Mémoire* (brief) published for the defence of the Marquis de Favras[41]. Written by Thilorier in a hurry, in less than four days[42], the brief was signed by the accused,

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[38]. *Dernier plaidoyer prononcé par M. Thilorier, dans la cause de l'infortuné marquis de Favras. Le 18 février 1790*, slnd, pp. 89-94 (Bibliothèque historique de la ville de Paris – below, BHVP -, 956751).

[39]. J. L. LAFON, *La Révolution française face au système judiciaire d'Ancien Régime*, Genève 2001, pp. 32-35.

[40]. J.-P. ROYER, *Parole d'avocat… Remarques sur la plaidoirie pénale, de la fin de l'Ancien Régime à la Révolution*, in « Droits », 17 (1993), pp. 99-112.

[41]. *Mémoire pour Thomas de Mahy, marquis de Favras, chevalier de l'ordre royal & militaire de Saint-Louis, ci-devant premier lieutenant des suisses de Monsieur, ayant rang de colonel ; accusé d'avoir conspiré contre la nation, l'assemblée nationale & le roi, & d'avoir prémédité l'assassinat du premier ministre du roi, du maire de Paris & du commandant général des troupes nationales, contre M. le procureur du roi, accusateur. Et encore contre M. le procureur-syndic de la commune provisoire de Paris, partie civile*, Paris, Briand, 1790, 35 + 47 pp. in-4° (BHVP, 136451).

[42]. According to his own testimony : *Fragments des deux plaidoyers prononcés par M. Thilorier, le samedi 30 janvier 1790, devant le Châtelet, toutes les chambres assemblées, pour Thomas de Mahi, marquis de Favras, accusé de lèse-nation ; contre le procureur du roi,*

according to a procedure that was common in the 18th century. To discredit the investigation and the accusers, the arguments denounced the lack of time allowed for preparation of the defence, the refusal to admit certain witnesses and the contradictions in the testimony used against the Marquis. The two interrogations suffered by the defendant, published after the brief, were intended to reinforce the impression that was being sought, at the same time as they highlighted the scale of the procedural upheavals that had taken place since the previous autumn. In the following days, a *Supplément au mémoire* (addendum to the brief), also written in the first person and undoubtedly the first one to be produced with the direct cooperation of the defendant, discussed in more detail the various statements included in the case filed; the Marquis summed up, approved or refuted the various testimonies produced, while rejoicing about the end of secret proceedings and changes to the rights of defence[43].

During the hearings held on 30 January and 18 February 1790, in a context of fear of conspiracy and popular discontent, the lawyer Thilorier made three pleas before the court of Le Châtelet. The first two (30 January) attempted to remove from the trial the statements of the first two informants, considered as "necessary witnesses" and thus unjustly admitted to give evidence, then to persuade the judges of the defendant's innocence; the same objective was taken up again in the session held on 18 February. These three texts were published immediately in the form of extracts or *in extenso*[44]; did this constitute the appearance of a new genre: the printed criminal pleading? Undoubtedly, in view of the fact that these pleadings were banned under the *Ancien Régime*. In this case, however, the nature and purpose of these printed documents were ambiguous. As a prelude to his *Fragments des deux plaidoyers prononcés […] pour Thomas de Mahi, marquis de Favras* (Extracts from the two pleadings made […] for Thomas de Mahi, Marquis de Favras), Thilorier asserted that he wished to clear himself of some slanderous insinuations about his own patriotism, published in the *Moniteur universel* on 3 February; at the start and end of the document[45], he thus reminded us of his adhesion to the new constitution, explained his anger against the King's prosecutor's indictment and regretted the "censorship" that he had suffered at the hands of the judges due to the intensity of his pleadings. However, even though the declared purpose of the publication was to restore the wounded honour of the lawyer, the pleadings delivered to the public first of all evoked

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accusateur ; précédé d'un avis au lecteur, et suivis du récit de ce qui s'est passé le même jour entre M. Thilorier, & M. de Brunville, [Paris], Impr. de Lottin l'aîné et Lottin de S. Germain, 1790, p. 3 (BHVP, 957357).

[43]. *Supplément au mémoire du marquis de Favras, accusé ; contre M. le procureur du roi, accusateur ; et encore contre le procureur-syndic de la commune provisoire de Paris, partie civile*, [Paris] Imprimerie J. Carol et Guilhemat, 1790, 72 pp. (BNF, Lb39 2881).

[44]. *Fragments des deux plaidoyers prononcés par M. Thilorier, le samedi 30 janvier 1790…,* 36 pp. in-8°. *Dernier plaidoyer prononcé par M. Thilorier, dans la cause de l'infortuné marquis de Favras. Le 18 février 1790* [followed by the « Jugement de mort », pp. 89-94], n.p., n.d., 94 pp. in-8° (BHVP, 956751).

[45]. *Fragments des deux plaidoyers prononcés par M. Thilorier,* pp. 1-6 and 32-36.

the fate of Favras, that "innocent", victim of a "fable invented, at their leisure, by two mercenary informers". As for the *Dernier plaidoyer prononcé par M. Thilorier, dans la cause de l'infortuné marquis de Favras* (Final pleading made by Mr Thilorier in the case of the ill-fated Marquis de Favras), this was most certainly delivered to the printer after the death sentence had been passed and the public execution of Favras had taken place and could not, unlike the previous documents, have formed part of the lawyer's defence strategy; at best he was able to justify the choices made by the defence lawyer or try to restore the image of the convicted man.

Taking place during the short time of a trial without appeal, the Favras case was unable to give way to a long succession of factums. In the history of the legal brief, it therefore amazes us with its public echo, which marked a new stage in the media attention paid to high profile cases[46]. The case led to debate in the press while, at the same time as the briefs and pleadings of Thilorier, pamphlets appeared that described the convicted man's alleged crimes, his execution and his arrival in Hell[47], and also a great many engravings depicting the Marquis or certain stages of his execution. The event was such that *amende honorable* session (whereby the convicted man apologised in public for his crimes prior to his execution) in front of Notre Dame was included in the collection of "Paintings of the French Revolution", which began to appear in 1791, and was intended to immortalise the high points of the Revolution in progress **(Illustration No. 2)**[48]. In front of a cathedral whose height appears to be exaggerated, we can just about distinguish the condemned man making his *amende honorable* at the foot of the open cart that was to carry him to his execution; the main thing that draws the eye in the picture is the large hostile crowd[49]. The political dimension of the case, which echoed the investigations being carried out

[46]. G. MAZEAU, *Le procès révolutionnaire : naissance d'une justice médiatique (Paris, 1789-1799),* in « Le temps des médias », 2 (2010), pp. 112-4.

[47]. *Paroles et réclamations pathétiques du marquis de Favras, au Châtelet, à l'Hôtel de ville, et au pied de la potence*, n.p. [Paris], impr. Caillot et Chevée, rue St-André-des-Arts, n.d., 4 pp. *in-8°* (BHVP, 957336).

[48]. Illustration n° 2 : n° 36 of the « Tableaux historiques » ; Prieur's drawing. Claudette HOULD *et alii*, *La Révolution par la gravure, les tableaux historiques de la Révolution française*, Vizille 2002, pp. 166-7.

[49]. P. DE CARBONNIERES, *Prieur. Les Tableaux historiques de la Révolution française*, Paris 2006, pp. 128, 130.

at the time by the research committees of the National Assembly and the city of Paris, like the role of the press in the dissemination of information, could partly explain why the presence of Favras was so important in the engravings of 1790.

Although exceptional, the Favras case highlighted some of the changes in the way in which the factum was used, which can be compared to three other cases from the early years of the Revolution. The first two, judged in Paris and Bordeaux, were political in nature. In Paris, in the context of the Favras case, Sanson, the official executioner, called several journalists before the police court of the town hall for slander; he had been accused, in several newspapers, of hosting "nocturnal meetings presided over by aristocrats" and offering clandestine presses for their use.[50] Practically at the same time, seven Bordeaux men who had been convicted appealed to the parliament of Bordeaux against a decree of personal deferment declared against them by the police lieutenant of Bazas for breach of the public order; by placing the incident in the context of the tensions that, in December 1789, brought the jurats of Langon into conflict with the "general committee", their patriotic rival, they denounced an eminently political case that was of interest to "all citizens" (Brethon)[51]. A third case, which took place in Paris in early 1791, this time concerned a case of adultery (Boullenois)[52]. Compared with these cases, the evidence found in the Favras case has made it possible to highlight four types of use of the printed factum in the early years of the Revolution, which do not all constitute a clean break with practices before 1789.

The first point refers to the conditions in which the lawyer and his client decided to make use of the printed brief. Here, as under the *Ancien Régime*, the choice to defend his case before the "court of public opinion" ("*tribunal de l'opinion*") could have arisen from various situations: a call for public support (Brethon), the intention of counteracting a hostile opinion (Favras, Sanson) or a reply to a brief that revealed a

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[50]. *Plaidoyer prononcé au tribunal de police de l'hotel-de-ville de Paris, le mercredi 27 janvier 1790. Pour Charles Henri Sanson, exécuteur des jugemens criminels de la ville, prévôté & vicomté de Paris, contre le Sieur Prudhomme, marchand papetier, se disant éditeur & propriétaire du journal intitulé : Révolutions de Paris, dédiées à la Nation & au district des Petits-Augustins ; le sieur Gorsas, auteur du Courrier de Paris dans les provinces…,* Paris, Rozé, 1790, 28 pp. in 4° (BNF, 4- FM- 34906).

[51]. *Plaidoyer prononcé en la Chambre des vacations du Parlement de Bordeaux pour les sieurs Brethon, Boissoneau, Pierret, Lafargue, Ricaud, Judes & Thibaud ; accusés & appelants du décret d'ajournement personnel décerné contre eux par le lieutenant-criminel de Bazas, ensemble de tout ce qui l'a précédé & suivi. Contre le sieur Poucante, accusateur et intimé*, Bordeaux, Michel Racle, 1790, 73 pp. (BNF, FN 8396).

[52]. *Mémoire et consultation, pour le sieur Louis-Jean-Charles Boullenois, correcteur des comptes ; contre dame Anne-Elizabeth Rouillard, son épouse ; et le nommé Etienne Marchais, son complice, lors domestique dudit sieur Boullenois* [consultation, 1er février 1791], Paris, Imprimerie du journal gratuit, n.d., 35 pp., and *Pièces justificatives*, Paris, imp. Du journal gratuit, n.d., 56 pp. (BNF, 4-FM-3923). *Mémoire signifié, pour M. Boullenois, plaignant en adultère, contre Madame Boulenois et le sieur Marchais, son domestique, accusés*, [Paris] imp. Vve Delaguette, n.d., 77 pp. (BNF, 4-FM-3925). *Extrait du plaidoyer prononcé pour M. Boullenois*, n.p., n.d., 14 pp. (BNF, 4-FM-3924).

case that should really have been kept within the precincts of the courts (Boullenois) - to justify his *Mémoire et consultation* (brief and consultation), the examiner of accounts Boullenois wrote thus: "As Mrs Boullenois, through a very indiscreet printed document has referred my case to the court of public opinion, I owe it, and my judges, a narrative of my misfortunes"[53]. In any case, it is the innocence of the defendant in a criminal case or his honour and good faith in a civil case that are defended. In a period of public debate and reduction of the number of printed briefs, the amount of criminal cases with clear political issues should be highlighted, however, all the more so because these printed words facilitated their coverage in the media.

Within the printed factums the category of pleadings, both criminal and civil, stands out and many of them can be found in certain libraries, such as that of Bordeaux; could their uneven distribution in the collections consulted be a reflection of regionally differentiated practices? In this case, it is impossible to tell. What does appear clearly is the special place that these writings have in the strategies of lawyers. Spoken on the day of the hearing, pleadings were not usually delivered to the public until after the judgement was declared; in this case, it often happens that the reader discovers the pleadings and the legal decision in the same opuscule, as in the Favras or Sanson cases. Unlike the printed brief, which aimed to achieve a favourable decision, the printed pleading aimed to make public an essential stage of a secret trial, or to disseminate the lawyer's argument (Favras), or to establish in the eyes of the public the legitimacy of the request made by a client who wants to achieve right (Sanson). It is an instrument for legitimating a procedure and one of the means by which the reputation of the party being defended can be restored.

A third point relates to the articulation of orality and writing in defence strategies; both methods, of course, could be juxtaposed and implemented successively, but they also closely overlapped. Indeed, orality and writing had been combined since the time of the *Ancien Régime*, when the legal brief completely or sporadically allowed the defendant to have his say or the lawyer delivered his pleadings to the public. However, this time we may wonder whether the changes in proceedings encouraged the use of this mixed system of writing. In his pleadings in favour of Sanson, made public at the same time as the judgement that recognised the slander of which his client had been a victim, the lawyer Maton de la Varenne was not alone in speaking; before concluding, through a rhetorical process, he also allowed his client to have his say:

> "If the man I am defending were allowed to reiterate here the feelings that he has expressed to us when he asked for our aid […], he would say to you, Gentlemen, as he said to us: What have I done to those who offend me, without pity and without justice, in the writings that I am obliged to deny? […] What can they hope to gain by slandering for no reason cause an irreproachable citizen,

[53]. *Mémoire et consultation, pour le sieur Louis-Jean-Charles Boullenois,* p. 4.

> already unfortunate enough to hold a position that daily delivers the most divisive conflicts to his sensitivity"[54].

One last point, finally, takes us to the changes that the arguments were obliged to undergo, it being impossible to ignore the changes in the political situation or in public sensitivity. By denouncing the attacks against his client in the Boullenois case (March 1791), the lawyer Tronson Ducoudray thus considered that the Revolution would make it necessary to modify the defence of a woman accused of adultery. Evoking the trials of the *Ancien Régime*, he explained that moral laxity had led judges, like any "good company", to excuse adultery; to obtain the court's favour, the lawyer did not have to set out to prove his client's innocence but "above all to show the husband in a bad light". Such an approach which, in the Boullenois case, was also that of his opponent, appeared absurd to him at the time:

> " [...]. It is no longer a question today of frivolity and good taste, it is a question of decency and morals. Let us have them, let us hasten to have them, otherwise we should take up our chains again. There you have it, Gentlemen, your doctrine, look upon it as citizens, look upon it as constitutional judges; because in this respect you are the guardian of morals, as you are of the law and liberty"[55].

Usually coming from the bar of the *Ancien Régime*, the lawyers – and soon the "men of law", "former *avocats*" ("*ci-devant avocats*") or "*défenseurs officieux*"-, thus adapted their practices to the new political and legal situation.

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To highlight the lack of historiography on the use of printed legal briefs during the early years of the French Revolution is to reveal an essential change in their effects in trials and in the public life of the country. Obviously, the Revolution did not make the printed factum disappear; in 1788, however, the frequency with which it was used changed, as did its nature and its place in defence strategies; it was erased for a time. Contrary to what could seem logical, its decline was observed more in the civil than the criminal court, which makes us think that this change may have other explanations than the introduction of criminal pleadings; the phenomenon is also explained by the institutional and procedural changes, by the arrival of new defence lawyers little used to legal writing, the removal of the "former *avocats*" or the change in the nature of public debate. In France, the Revolution thus led to a break in the history of this medium, which certainly had consequences on the form it took in the early 19th century.

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[54]. *Plaidoyer prononcé au tribunal de police de l'hotel-de-ville de Paris, le mercredi 27 janvier 1790. Pour Charles Henri Sanson…,* pp. 16-17.

[55]. *Extrait du plaidoyer prononcé pour M. Boullenois*, pp. 2-5.

However, in this case, the picture we can paint contains even more shadowy areas. By the end of the 18th century, first of all; beyond possible narrowing down of the chronology of the disappearance of the printed brief and the changes to its forms, an understanding of the phenomenon would benefit from an observation of the possible geographical variations hinted at by the library catalogues. At the end of the decade of revolution, this time, the stages, conditions and forms in which the printed factum was reborn, in its links with the legal reforms of the Consulate and the Empire, the administration of justice and the history of the press, would also be worth some close attention. Together, this research would reinforce the bases of a study on the exceptional renewal of the use of printed factums in the 19th century[56].

[56]. G. FLEURIAUD, *Le factum et la recherche historique contemporaine. La fin d'un malentendu ?,* in « Revue de la BNF », 1 (2011), pp. 49-53. N. COISEL, *Le catalogue des factums 1790-1959 de la Bibliothèque nationale*, in *«* Bulletin des bibliothèques de France *»,* 9-10 (1974), pp. 429-51. See also the forthcoming acts of the symposium : Le factum, mémoire judiciaire. Un regard nouveau sur la France contemporaine, Paris, BNF, 26 novembre 2010.