

## On Racine's *The Litigants*

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### Abstract

French tragedian Jean Racine's only comedy *The Litigants* (1668) is a theatrical caricature of the people of the law and of legal procedure at the time when Louis XIV's councillor Colbert was undertaking important reforms of the judicial system. Litigious claimants, a maniac judge, a masochistic bailiff and loquacious lawyers all concur in the frantic display of a justice drowned in formalities and the pursuit of individual interests. The study of this play reminds us of the importance of constant efforts to reduce the complexity of legal procedure.

### Key words

Plaideurs; The Litigants; Jean Racine; Satire; Farce

### Resumen

*Los litigantes* (1668), la única comedia del dramaturgo francés Jean Racine, es una caricatura teatral del mundo del derecho y el procedimiento legal de la época en la que Colbert, canciller de Luis XIV, impulsó importantes reformas del sistema judicial. Demandantes litigiosos, un juez maniaco, un agente judicial masoquista y

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abogados locuaces coinciden en una exhibición frenética en la que la justicia se muestra ahogada en formalidades y la búsqueda de intereses individuales. El estudio de esta obra nos recuerda la importancia de los esfuerzos constantes para reducir la complejidad del procedimiento legal.

**Palabras clave**

Plaideurs, The Litigants, Jean Racine, Satire, Farce, Plaideurs, Los litigantes, Jean Racine, sátira, comedia

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## 1. Introduction

The research field of "Law and Literature" is gaining more and more interest among jurists<sup>1</sup>. *Les Plaideurs* or, in English, *The Litigants* is a perfect illustration of the perception of the law through the eyes of literature<sup>2</sup>. It is therefore surprising that this play has not more frequently been the object of reflections on the fertile relationship between both disciplines<sup>3</sup>. The scarce scientific interest aroused by Racine's discerning description of the judicial system and its personnel under the *Ancien Régime*<sup>4</sup> is in line with the lack of interest it encounters from theatre companies as a potential play<sup>5</sup>. Nevertheless the comedy contains many comical situations likely to amuse the audience, and the light it sheds on legal procedure has not diminished over the centuries<sup>6</sup>.

Many are surprised to learn that Racine rather than Molière created this comedy. Racine, one of the most famous French tragedians, is often mentioned in the same breath as Corneille, the other great French tragedian<sup>7</sup>. That the author of *Andromaque*, *Phèdre* and *Bérénice* should have written a comedy is beyond imagination<sup>8</sup>. At any rate, it is the only one he wrote. One might wonder why Racine tried his hand at a genre that was not his. Scholars of French literature put forward a number of reasons<sup>9</sup>. For one thing, it can be assumed that the famous author wanted to prove that he was capable, like his rival Corneille, of excelling as much in comedy as in tragedy<sup>10</sup>. Another possible explanation is that Racine wanted to pay homage to the *Dionysia* competition of ancient Greece, where tragedians had to present a tetralogy, comprising three tragedies and one satyr play<sup>11</sup>. A more mundane reason could be that comedies were more likely than tragedies to be commercially successful<sup>12</sup>. As far as the choice of the play's topic and its burlesque treatment are concerned, the personal experience of Racine in judicial matters might have had an impact. In the preface to *Les Plaideurs*, Racine confesses that the judicial language is alien to him and that he picked up the few "barbaric words" used in the play during a lawsuit that neither he nor his judges understood very well (Racine 1668, Preface). His uncle, Father Sconin, had procured for him the priory of Épinay, but he was cited before the courts by a rival who claimed the

<sup>1</sup> See for instance Malaurie (1997), Masson (2007), Ost (2004, 2008), Ost *et al.* (2001), Varaut (2004), as well as the various contributions in *Esprit* (2007).

<sup>2</sup> François Ost uses the expression "Law in the Mirror of Literature" (Ost *et al.* 2001, Ost 2008).

<sup>3</sup> For examples, see Malaurie (1997, p. 167), Masson (2007, especially p. 107, 150, 403, 423), Nadal (2006, p. 3-4), Varaut (2004).

<sup>4</sup> Scholars of the sociology of law will find it interesting to note that the play contains a passage in which a judge suspects his son to be ashamed of his robe because this filiation is incompatible with the social status of a gentleman to which his son aspires (Act I, Scene IV, 89-90).

<sup>5</sup> The last performance of the play by the Comédie française dates from 28 April 1966. It is neither performed in France nor abroad. Regrettably, no recording of the play is available. The play was performed for the first time in November 1668 at the Hôtel de Bourgogne in Paris (Jasinski 1958, p. 245, Vaubourdoille 1935, p. 5).

<sup>6</sup> Another merit of the play is to have created or consolidated a number of famous proverbs: "He who laughs on Friday will cry on Sunday" (*Tel qui rit vendredi, dimanche pleurera*) (Act I, Scene 1, 2); "If you want to ride far, go easy on your mount" (*Qui veut voyager loin ménage sa monture*) (Act I, Scene 1, 27); "But without money, honor is just a malady" (*Mais sans argent l'honneur n'est qu'une maladie*) (Act I, Scene 1, 11); "One does not chase after two hares at the same time" (*on ne court pas deux lièvres à la fois*) (Act III, Scene 3, 698).

<sup>7</sup> For a law-focused analysis of Corneille's works see Mestre (2003, p. 125).

<sup>8</sup> According to Vossler (1948, p. 70), *The Litigants* resembles some of Racine's tragedies in the way its characters are obsessed by their passions.

<sup>9</sup> See notably Jasinski (1958, p. 245-246).

<sup>10</sup> It is revealing that Racine picks a number of famous lines from the *Cid* to give them an ironical twist. Thus, the line "Come my son, come my blood, come repair my shame" (*Viens mon fils, viens mon sang, viens réparer ma honte*) becomes, in the mouth of Chicanneau (Act II, Scene 3, 368-369): "Come my blood, come my girl" followed by "Bah, I will buy you the *Praticien français*" (*Viens, mon sang, viens, ma fille - Va, je t'achèterai le Praticien français*); for other examples, see Jasinski (1958, p. 69-70).

<sup>11</sup> For a description of the festival, see Fischer-Lichte (2013, p. 77).

<sup>12</sup> See Huet (1999, p. 23) on the commercial rivalry between theatre companies.

priory for himself<sup>13</sup>. Another source of inspiration may have been Antoine Le Maistre, one of his professors at Port-Royal. Before his conversion to Jansenism and his subsequent retreat from worldly affairs, Antoine Le Maistre was one of the most famous advocates of his time. Certain inconsistencies in his teacher's spiritual confinement may have inspired Racine to draw the comical portrait of an elderly judge who refuses to retire from legal practice<sup>14</sup>.

## 2. The farcical style of *The Litigants*

Although Racine himself expresses sympathy for the "regularity of Menander and Terence" and a certain disdain for "the liberty of Plautus and Aristophanes"<sup>15</sup>, it cannot be denied that *The Litigants* contains strong elements of the comical sub-genre of the farce (Picard 1950, p. 1091). A farce, in the tradition of antique and medieval theatre<sup>16</sup>, is a short comedy featuring droll situations, cheap tricks played on simple-minded or short-witted characters, and the mockery and satirical treatment of public institutions and those in power.

*The Litigants* contains a number of amusing situations. Perrin Dandin is a judge addicted to dispensing justice. Caught by his son Léandre in the act of sneaking to the court house at night, carrying a bag full of legal files, he is locked up in his home (Act I, Scenes 3-4). The magistrate insists nevertheless on opening a hearing, and he does so underneath the rain gutter of his house (Act II, Scene 8); he persists in pursuing the trial from the basement window until he butts his head (Act II, Scene 11).

The farce-like nature of the play is also depicted in its climactic final trial of the judge's dog Citron, who is accused of having stolen a capon in the kitchen (Act III, Scene 3)<sup>17</sup>. While Citron is making his appearance before the court, his defender, in order to soften the judge, presents small puppies, which would become orphans if Citron were sentenced (Act III, Scene 3, 818-822). As the whelps forget themselves, the lawyer presents the resulting puddles as teardrops (Act III, Scene 3, 826).

The frantic pace of the play does not allow for a detailed portrait of its characters. Besides, the *homo juridicus* is, all in all, only a secondary aspect of the human character. It is therefore not surprising that, other than Molière's characters, those of *The Litigants* have not become a part of everyday vocabulary in France. When you call someone "Harpagon", "Tartuffe" or "Alceste", your French interlocutors are likely to know that you are talking about a miser, a hypocrite or a misanthropist. Likewise, the characters of the middle-class nobleman (*le bourgeois gentilhomme*), the learned woman (*la femme savante*) or the pretentious young lady (*la précieuse ridicule*) still recall the comedies of Molière. By contrast, the name of Perrin Dandin<sup>18</sup> does not bring to mind the maniac judge, and "Chicanneau", despite its

<sup>13</sup> According to Racine's son Louis, his father chose to abandon the priory in the course of this lawsuit (Racine 1774, p. 28). There is, however, proof that Racine's endeavours to obtain an ecclesiastical *benéfice* were, in the end, successful (Picard 1950, p. 1043-1044). For further reading on the implications of Racine's pursuit of a spiritual career, see Battesti and Chauvet (1999, p. 146-148), Clark (1969, p. 71, 149, 294), Knapp (1971, p. 25-26), Vaubourdolle (1935, p. 5).

<sup>14</sup> See Goldmann (1956, p. 45, 101 footnote 1), who cites Racine's objections against the publication of Le Maistre's pleadings after his retirement from the world (Goldmann 1956, p. 74-75), and Battesti and Chauvet (1999, p. 114-115), who reproduce Racine's doubts on the reasons for Le Maistre's retreat.

<sup>15</sup> *J'aimerais beaucoup mieux imiter la régularité de Ménandre et de Térence, que la liberté de Plaute et d'Aristophane* (Racine 1668, Preface).

<sup>16</sup> On the medieval farce see Strubel (2002).

<sup>17</sup> It is interesting to observe that Molières "L'Avare", which was presented to the public only two months before the "The Litigants", contains an allusion to a complaint filed by Harpagon against his neighbour's cat, which had allegedly stolen a piece of mutton (Molière 1668, p. 67, Act III Scene 1). In the 17<sup>th</sup> century, the idea of conducting a trial against an animal defendant was comical, but not unrealistic (Masson 2007, p. 403).

<sup>18</sup> As Huet (1999, p. 137) points out, Rabelais was the first to create a character named "Perrin Dandin", but rather than practising as an official judge, this early practitioner of alternative dispute resolution

popularity in fiction<sup>19</sup> has not become a proverbial name for a litigious person. The only exception is "Pimbêche", an invective dating from the 16th century that nowadays is used to characterise a pretentious woman with affected manners. But Racine used it in its original sense, "impertinent woman putting on airs" (Vaubourdolle 1935, p. 13 footnote 2, Rey 2005, p. 1729)<sup>20</sup>, which might explain why the expression is not associated with Racine's "Comtesse de Pimbêche".

But the amusing and exaggerated situations are only secondary aspects of the play. Its essential trait lies in its satirical depiction of justice. In this regard, *The Litigants* is neither the first judicial satire in the history of theatre, nor the last. The play is based on Aristophanes' *The Wasps*, as Racine reveals in the preface: "I admit that I found *The Wasps* very entertaining and that I found there a lot of amusement which I wanted to share with the public" (Racine 1668). *The Wasps* centres around an elderly jurymen addicted to trials whose son organises the parody trial of a dog.

Another famous satire, written in the 15th century by an anonymous author, is the *Farce de Maître Pierre Pathelin* (Rousse 2006). The central character is a cunning lawyer who advises his client, a shepherd, to answer "baa" to any question asked by the judge. It is Maître Pathelin's turn to be tricked when the shepherd, asked to pay his fee, goes on bleating innocently. A satirical approach to the judicial system can also be found in other literary genres. For instance, Rabelais' account of the deeds of *Pantagruel* contains an episode in which his giant hero unravels an inextricably absurd lawsuit by delivering an equally absurd, but equitable, judgement, to the great contentment of both parties (Rabelais 1532, Chapters 10-13, p. 256-269)<sup>21</sup>. Racine's contemporary Furetière derides the judicial jargon in his poem *Le jeu de boules des procureurs* (reproduced Huet 1999, p. 147-148). According to Huet (1999, p. 29), the couple of inveterate litigants who appears in Furetière's *Roman bourgeois*, Charroselles and Collantine (Furetière 1666), were Racine's source of inspiration for the duo formed by Mister Chicanneau and the Countess Pimbêche. Racine's friend Boileau (1664) ridicules the lawyers' pleadings in his *Dialogue des héros de roman*. Two centuries later, Courteline<sup>22</sup>, Labiche<sup>23</sup> and Feydeau<sup>24</sup> sketch caricatures of justice and its protagonists, just as their contemporary Daumier did in the field of visual arts.

### 3. The satirical content of *The Litigants*

The focus of Racine's satire is both on the complexity of the judicial system and on the traits of the people involved. His analysis oscillates between gentle reproach and heavy criticism.

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reconciles the litigants by inviting them to have a drink together (Rabelais 1546, Chapter 41, p. 518-519). La Fontaine (1678) uses the name of Perrin Dandin for an *ad hoc* judge who gobbles a disputed oyster himself, awards each of the two litigants one valve of the empty shell, and generously declares that the court will charge no fees for its judgment (see Masson 2007, p. 33).

<sup>19</sup> The name Chicanneau is inspired by Rabelais' "Chicanous", a strange people who earn their living by taking money for being beaten (Rabelais 1548, Chapter 12, p. 613-617, Huet 1999, p. 28, 137). Bailiffs were used to being beaten by the recipients of the legal documents they were charged and paid for to deliver (Vaubourdolle 1935, p. 27, footnote 8). *The Litigants* contains a scene in which a false *sergent* diligently writes the minutes of an aggression on his person while actually suffering the blows (Act II, Scene 4, 417-442). In Courteline's play *L'article 330* (Courteline 1904, p. 8)], the deputy prosecutor describes the accused as "a sort of Chicanneau, litigious, shrewd, scheming" (*une façon de Chicanneau, processif, astucieux, retors*). Last but not least, the Walt Disney character Sylvester Shyster is called Maître Chicanneau in the French version.

<sup>20</sup> See also Académie française (1694, p. 240): "*Pimbêche* : Terme de mespris dont on se sert en parlant d'une femme impertinente qui fait la capable".

<sup>21</sup> See also Huet (1999, p. 135).

<sup>22</sup> Courteline highlights the arbitrariness and the absurdity of the judicial system and of the law in numerous plays and monologues, see notably: *Un client sérieux* (1896); *L'article 330* (1900); *Les Balances* (1901); *Le gendarme est sans pitié* (1899); *Le commissaire est bon enfant* (1899); in: Courteline (1961).

<sup>23</sup> *L'avocat pédicure* (Labiche 1848).

<sup>24</sup> *Le Juré* (Feydeau 1898); *Un Monsieur qui est condamné à mort* (Feydeau 1899).

The least stinging darts are aimed at the litigants themselves. Mister Chicanneau and the Countess Pimbêche have dedicated their lives to litigation and are dilapidating their fortunes in lawsuits. They cannot help but litigate, like compulsive gamblers<sup>25</sup>. Thus Léandre, the judge's son, accuses Chicanneau, the father of the young girl he intends to marry:

"Three quarters of your goods are already spent

To fill bags with papers to no perceivable end."<sup>26</sup>

The sexagenarian Countess for her part has been banned from court at the initiative of her relatives and cries out in indignation:

"Sir, it makes me despair." [...]

"How could life without suits provide satisfaction?"<sup>27</sup>

Another example of satire, slightly stronger this time, is aimed at the judge Perrin Dandin. The excessive and pathological traits of this character are well in line with the farcical aspect of the play, but they soften the criticism judges in general were prone to attract at the time. Perrin Dandin is a compulsive monomaniac who wants to hold court day and night until he falls asleep during the hearing. When he suddenly wakes up with a start, he pulls his judgement out of a hat and sentences Citron, the dog, to the galleys (Act III, Scene 3, 811-815). But this madman of a judge also has sympathetic traits<sup>28</sup>. The puppies and their alleged tears touch the judge's soft spot: he realizes that, if Citron is sent to the galleys, his children will be sent to the workhouse<sup>29</sup>. But when Dandin acquits his dog in the end, he acts not so much out of compassion, but rather in the prospect of future trials: "Alright, I will set him free: / This, my daughter-in-law, is a favour to you. / We'll find relaxation in new litigation."<sup>30</sup>.

The satire grows more intense when it is aimed at the judicial proceedings. Criticism transpires mainly in the narration of the evolution of Chicanneau's lawsuit:

"Here are the facts. Fifteen or twenty years ago,

A donkey dares to trot across one of my fields,

He wallows in it and leaves it greatly damaged,

Thus I complain to the judge of the village.

I have the animal seized. The expert reports

That the damage amounts to two bales of hay.

After a year at last, the judgment by which

Our case is dismissed by the court. I appeal.

<sup>25</sup> Masson (2007, p. 150, 165) qualifies them as « professional litigants » (*plaideurs professionnels*).

<sup>26</sup> *Les trois quarts de vos biens sont déjà dépensés / À faire enfler des sacs l'un sur l'autre entassés* (Act III, Scene 1, 649-650). Instead of in files and folders, court documents were kept and carried in bags (Vaubourdolle 1935, p. 9 footnote 1).

<sup>27</sup> *Monsieur, j'en suis au désespoir. [...] Mais vivre sans plaider, est-ce contentement ?* (Act I, Scene 7, 247, 250).

<sup>28</sup> They are however tainted by lapses into cruelty. This becomes obvious, for instance, when Léandre relates how his father "had his cock beheaded in fury for having woken him later than ordinary" (*Il fit couper la tête à son coq, de colère, / pour l'avoir éveillé plus tard qu'à l'ordinaire*, Act I, Scene 1, 35-36), or when the judge advises Isabelle to attend a session of interrogation by torture (Act III, Scene 4, 848-852). When Isabelle cries out "How could I watch these unfortunates' sufferings?" (*Hé ! Monsieur, peut-on voir souffrir des malheureux ?*), Perrin Dandin replies: "Well! It's always good for spending an hour or two" (*Bon ! cela fait toujours passer une heure ou deux*). Masson (2007, p. 24) refers to this passage as an example for the literary depiction of some judges' indifference.

<sup>29</sup> *Mais s'il est condamné, l'embarras est égal: / Voilà bien des enfants réduits à l'hôpital* (Act III, Scene 3, 832).

<sup>30</sup> *Hé bien, qu'on le renvoie : / C'est en votre faveur, ma bru, ce que j'en fais. / Allons nous délasser à voir d'autres procès* (Act III, Scene 4, 882-884).

During the hearing, in pursuit of review  
 I counsel you, Madam, to take note of this,  
 My dear friend Drolichon, who is not a fool,  
 Obtains for some money an order by request,  
 And I finally win my case. What happens next?  
 My quibbler resists enforcement of the law.  
 Another incident: while we are working at the trial,  
 My opponent lets his chickens peck on my farm.  
 I request that a report be made to the court  
 On the amount of hay a chicken can eat in one day.  
 After all this is joined to the proceedings,  
 The appointment of the trial date is made  
 For the fifth or the sixth of april fifty-six.  
 I write again from scratch. I produce, I furnish  
 Plaints, requests, enquiries, discovery orders,  
 Experts' opinions and interim judgments,  
 New causes and facts, lease contracts and records,  
 Royal letters, even a plea of forgery.  
 Fourteen appointments, thirty services, six claims,  
 Ten dozen productions, twenty injunctions,  
 At last the sentence. I lose the case at my expense,  
 Estimated at roughly five to six thousand francs.  
 Is this right? Is this how justice should be done?  
 After fifteen or twenty years! I have a last resort:  
 I can still lodge an appeal for review,  
 My case is not yet lost."<sup>31</sup>

The slowness of justice, the complexity of the procedure and of the judicial and legal language and the high costs of justice are thus vilified. Not only the procedural law, but also the substantial law appears as a source of, at least linguistic, paradox in the play. For instance, Léandre proposes to his father to hold court hearings on the transgressions committed in his own house, notably by his servants. When the judge objects "And who is going to pay my fees? Nobody?" (*Et*

<sup>31</sup> *Voici le fait. Depuis quinze ou vingt ans en çà, / Au travers d'un mien pré certain ànon passa, / S'y vautra, non sans faire un notable dommage, / Dont je formai ma plainte au juge du village. / Je fais saisir l'ànon. Un expert est nommé, / À deux bottes de foin, le dégât estimé. / Enfin, au bout d'un an, sentence par laquelle / Nous sommes renvoyés hors de cour. J'en appelle. / Pendant qu'à l'audience on poursuit un arrêt / Remarquez-bien ceci, Madame, s'il vous plaît, / Notre ami Drolichon, qui n'est pas une bête, / Obtient pour quelque argent un arrêt sur requête, / Et je gagne ma cause. A cela que fait-on ? / Mon chicaneur s'oppose à l'exécution. / Autre incident : tandis qu'au procès on travaille, / Ma partie en mon pré laisse aller sa volaille. / Ordonné qu'il sera fait rapport à la cour / Du foin que peut manger une poule en un jour. / Le tout joint au procès enfin, et toute chose / Demeurant en état, on appointe la cause / Le cinquième ou sixième avril cinquante-six. / J'écris sur nouveaux frais. Je produis, je fournis / De dits, de contredits, enquêtes, compulsoires, / Rapports d'experts, transports, trois interlocutoires, / Grieffs et faits nouveaux, baux et procès-verbaux. / J'obtiens lettres royales, et je m'inscris en faux. / Quatorze appointments, trente exploits, six instances, / Six-vingt productions, vingt arrêts de défenses, / Arrêts enfin. Je perds ma cause avec dépens, / Estimé environ cinq à six mille francs. / Est-ce là faire droit ? Est-ce là comme on juge ? / Après quinze ou vingt ans ! Il me reste un refuge : / La requête civile est ouverte pour moi, / Je ne suis pas rendu (Act I, Scene 7, 201-214). For explanations of the technical terms, see Masson (2007, p. 423) and Vaubourdolle (1935, p. 21).*



*mes vacations, qui les paiera ? Personne ?*), Léandre replies: "You could withhold their wages as gages" (*Leurs gages vous tiendront lieu de nantissement*), whereupon Perrin Dandin concedes that his son's suggestions are quite pertinent (Act II, Scene 13, 616-618). The paradox of Léandre's suggestion results from the double meaning of the French expression "gage", which, depending on context, means either wage or gage (in the sense of lien). It is therefore possible to "*mettre en gage ses gages*".

In passing, Racine also denounces a certain form of minor corruption of the legal personnel. For instance, the porter of the judge does not let anyone enter "without greasing the hammer" (Act I, Scene 1, 14), an expression which can be seen as adapting the figure of speech "greasing the palm" to the judicial world, although the porter surely does not mean the judge's gavel, but, his own interest in mind, speaks about the doorknocker (Vaubourdolle 1935, p. 9 footnotes 10-12, Masson 2007, p. 173 footnote 885). The play gives us another example of bribery when Chicanneau asks his valet to bring three wild rabbits to his *procureur* (Act I, Scene 6, 168)<sup>32</sup> and to deliver a barrel of Muscat wine to the judge (Act II, Scene 11, 565-568).

The criticism becomes more incisive when the litigants try to influence the course of justice by bringing their relationships and connections to bear. When Chicanneau claims to be the cousin of one of the judge's nephews and the Countess invokes her good relations with the church, the court clerk derisively boasts of being the bastard of the judge's pharmacist (Act II, Scene 9, 538-540). Racine does not spare the witnesses, for his litigants talk about bribing them on two occasions (Act I, Scene 6, 173-176; Act III, Scene 3, 718). Racine's insistence obviously reveals a common practice<sup>33</sup>.

Racine saves his sharpest arrows for the advocates<sup>34</sup>. He specifically aims at their pleadings. In the case of the dog Citron and the stolen capon, there are no lawyers at hand to represent the parties. To fill the gap, Léandre suggests to his father that the judge's secretary should act as counsel for the defendant and that his porter should plead for the plaintiff:

"You will make excellent lawyers of them, I think,  
They are quite ignorant."<sup>35</sup>

The clerk refutes this accusation:

"But no, Mister, no.  
I can put you to sleep as well as anyone."<sup>36</sup>

The most acerbic criticism is aimed at the lawyers' speeches. At this point, the play reaches its climax. Judicial rhetoric is at the heart of the satire of Citron's trial. There was heated controversy about judicial eloquence among Racine's contemporaries. The famous counselor-at-law and ecclesiastical historian Claude Fleury denounced the frequent abuse of metaphors and of Latin and Greek quotations which were meant only to display the speaker's erudition, did not serve

<sup>32</sup> While *procureurs* were public attorneys in Racine's time (Masson 2007, p. 436, Vaubourdolle 1935, p. 15, footnote 7), nowadays this term would designate the public prosecutor, which adds a certain edge to Chicanneau's words.

<sup>33</sup> Recourse to false testimonies is a recurring theme in French literature, as Masson (2007, p. 248) points out.

<sup>34</sup> Masson (2007, p. 84) qualifies Racine's treatment of the pleading profession as a "summary execution".

<sup>35</sup> *Vous en ferez, je crois, d'excellents avocats ; / Ils sont fort ignorants* (Act II, Scene 14, 633-634). These lines bring to mind Béralde's invective against the doctors in Molière's *Le malade imaginaire*: "Listen to them talk, the most savant people of the world; see them at work, the most ignorant of all men" ("*Entendez-les parler, les plus habiles gens du monde ; voyez-les faire, les plus ignorants de tous les hommes*", Molière 1674, Act III, Scene 3, 141-143).

<sup>36</sup> *Non pas, Monsieur, non pas. / J'endormirai Monsieur tout aussi bien qu'un autre* (Act II, Scene 14, 635).

the purpose of the presentation and made it difficult for listeners to follow the thread of the speech (Fleury 1664, extract reproduced Huet 1999, p. 158-160)<sup>37</sup>.

Antoine Le Maistre, the retired lawyer, who was one of the tutors of the young Racine at Port-Royal, had personified this kind of erudite and emphatic eloquence, which contrasts starkly with the ideals of his Jansenist retreat<sup>38</sup>. He had made a famous address during a paternity suit concerning a child born seven and a half months after the return of the husband to the matrimonial home. In his speech, Antoine Le Maistre invoked Saint John Chrysostom, Saint Augustine, Hippocrates, Plato, Cicero, and even related the miracle of Saint Cunegund, who had proven her fidelity to her husband, the Holy Roman Emperor Henry II, by holding a red-hot iron bar in her hands as if it were a bouquet of flowers (Le Maistre 1660, p. 121-123)<sup>39</sup>. This speech is almost as amusing as the ones pronounced during the hearing of the dog Citron. It can be assumed that Racine based the pleadings of the Intimé (especially Act III, Scene 3, 744-753) on those of Antoine Le Maistre (Jasinski 1958, p. 257-258).

Instead, the modern ideal was a fluent and sober style of speech (Huet 1999, p. 161). Clarity and purity were also the marks of the Jansenist art of rhetoric (Knapp 1971, p. 26). Racine shows sympathy for the advocates of a contained eloquence<sup>40</sup> by ridiculing the emphatic pleadings of the litigants' lawyers. We can assume that the judge's closing remark "may the lawyers make it shorter henceforth"<sup>41</sup> voices Racine's own opinion.

The clerk's speech is most hilarious<sup>42</sup>. He starts with the words "Before the beginning of the world..."<sup>43</sup>, and is interrupted by the judge who, yawning, sighs: "Oh, lawyer, go straight to the Deluge"<sup>44</sup>. But the would-be lawyer is not so easily deterred:

"So before  
 The beginning of the world, and its creation,  
 The world, the universe, and everything  
 Was buried deep at the bottom of all matter  
 The elements, fire, air, and earth, and water,  
 All sunk in, all piled up, clustered in one huge heap,  
 A great confused mass without form,  
 A massive mess, chaos, an enormous melee:  
*Unus erat toto naturae vultus in orbe,*

<sup>37</sup> See also Huet (1999, p. 29, 157-158). In a speech before the *Académie française*, Fleury (1719) also encouraged simplicity in ecclesiastic sermons.

<sup>38</sup> However, according to Le Berquier (1863, p. 168), Antoine Le Maistre, despite the occasional borrowing from antiquity, was the first exponent of a new sober style of pleading.

<sup>39</sup> In the conventional version of the legend, Saint Cunegund walks on red-hot iron plough shares (Farmer 2012).

<sup>40</sup> However, in the *Querelle des Modernes et des Anciens*, which opposes, on one side, those who insist that artistic creation should endeavor to imitate antiquity, and, on the other side, those who claim that contemporary artistic expression should not limit itself to the imitation of the classics, Racine clearly belongs to the faction of the Ancients (Rötzer 1979, p. 92, Vadé 1988, p. 16, Battesti and Chauvet 1999, p. 136-137, "Perrault"), although his work has also been characterised as modern (Knapp 1971).

<sup>41</sup> *Mais que les avocats soient désormais plus courts* (Act III, Scene 4, 880).

<sup>42</sup> Masson (2007, p. 107) seems to prefer the porter's erratic pseudo-erudite pleadings.

<sup>43</sup> *Avant la naissance du monde...* (Act III, Scene 3, 800).

<sup>44</sup> *Avocat, ah ! passons au déluge* (Act III, Scene 3, 801). Curiously, Marguerite Yourcenar cites this dialogue in *Archives du Nord* (Yourcenar 1977, p. 14-15), not for announcing the mythical deluge, but, more modestly, the "immemorial high tides, which, in the course of the centuries, have covered up and laid bare the coast of the North Sea, from Cape Gris Nez to the isles of Zealand" (*immémoriales marées hautes qui, au cours des siècles, ont recouvert, puis laissé à nu, la côte de la mer du Nord, du cap Gris-Nez aux îles de la Zélande*).

*Quem Graeci dixere chaos, rudis indigestaque moles.*<sup>45</sup>

#### 4. Conclusion

*The Litigants* had been given a mixed reception. While the first representations in Paris had been flops, its performance in Versailles was a great success due to the applause of Louis XIV (Racine 1668, p. 41-42, Vaubourdolle 1935, p. 5). The Sun King may have found that the play corroborated the necessity for reforms in the area of judicial procedure (Huet 1999, p. 27). Such reforms were at the time being undertaken by his councillor Colbert (Huet 1999, p. 127-131) and had led to the Ordinance on Civil Procedure of 1667 (Carbasse 2009, p. 198) and would lead to the Ordinance on Criminal Law of 1670 (Carbasse 2006, p. 208).

Regardless of the light the play sheds on judicial procedure and its protagonists at the time of Louis XIV, it is not only of historical interest, but its criticism can easily be transposed to the present day. Efforts to reduce the complexity and the duration of lawsuits, and the simplification of the legal language are still on the political agenda in France, as in many other countries. In this regard, *The Litigants* remains a surprisingly modern play that deserves to receive more attention in law school lectures and textbooks.

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<sup>45</sup> *Avant donc / La naissance du monde, et sa création, / Le monde, l'univers, tout, la nature entière / Était ensevelie au fond de la matière. / Les éléments, le feu, l'air, et la terre, et l'eau, / Enfoncés, entassés, ne faisaient qu'un monceau, / Une confusion, une masse sans forme, / Un désordre, un chaos, une cohue énorme : / Unus erat toto naturae vultus in orbe, / Quem Graeci dixere chaos, rudis indigestaque moles* (Act III, Scene 3, 801-810).

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