

“Taking disputes to the altar of concord”. Debt litigation before local judges from seigneurial courts to the revolutionary Justices of the Peace in Dauphiné, France (1782-1793)

by Quentin Duquesne

On the 14th of December 1792, Didier Roux, a day-labourer living in Le Cheylas, a parish of the department of Isère, appeared before the *Bureau de paix et conciliation* of Goncelin with another peasant from the same parish, Hugues Rencat. Roux had issued a writ against Rencat in order to be paid a 117-*livres* obligation contracted on the 25th of November of 1786. At the audience, his debtor recognized the debt and paid it immediately in the presence of the JP. The two parties then departed on good terms¹. This example of conciliation before a judge could be seen as emblematic of the success of the institution of the Justices of the Peace in France at the beginning of the Revolution. These new jurisdictions of proximity created in 1790 had been designed for the countryside. Thus, in a speech delivered in February of 1791 before his fellow citizens who had elected him, the first Justice of the Peace of a rural *canton* complimented the will of the Constituent Assembly to encourage peasants “to take their disputes to the altar of concord”², making use of an institution that would be quicker, cheaper and more efficient than the former tribunals.

If we could confirm the hypothesis that JPs fulfilled this mission, this would necessarily mean that informal means of settling disputes were less frequently used by the French peasants during the Revolution than before 1789. Anthony Crubaugh is one of the few historians who have tested this hypothesis. In his thesis about the transition from seigneurial courts to justices of the peace in Aunis and Saintonge, he questions Tocqueville’s argument concerning the continuity of the growth of the Central State during the Revolution, wondering « how revolutionary changes in the system of dispute resolution affected rural French society »³. According to him, the abuses and faults of the seigneurial courts “left rural inhabitants, especially the poor, wary of submitting their disputes to official channels of justice”⁴. Conversely, Justices of the Peace proposed an easier way for country-dwellers to settle their disputes, which incited them to go before the judge, which in turn provided the State with a sort of legitimacy in regulating social relationships in the countryside.

The analysis of debt litigation in local courts during the Old Regime and the French Revolution may allow us to see this question in a new light. Indeed, debt is a very common reason to go to court in past rural societies, and civil courts registers are full of lawsuits opposing creditors and debtors. Medievalists are ahead of Early Modernists in the investigation of these sources⁵. Thus, it is now admitted that medieval seigneurial Justices played an important role in the regulation of relationships between creditors and debtors serving to record the existence of small debts through what is called their voluntary jurisdiction⁶, and functioning also to arbitrate disputes when a difficulty to recover a debt arose⁷. But was this the case in the pre-revolutionary France ? If we read the pre-revolutionary

¹ Arch. Dep. Isère, L 2160

² Barrin de Chamron, JP of the *canton* of Beaurepaire (Isère), 22 February 1791 [Arch. Dep. Isère, L 1811]

³ Crubaugh (Anthony-James), *Balancing the scales of Justice. Local courts and rural society in Southwest France (1750-1800)*, Philadelphia, The Pennsylvania State University Press, 2001, p. XV

⁴ *Ibidem*, p. 52

⁵ Claustre (Julie), dir., *La dette et le juge. Juridiction gracieuse et juridiction contentieuse du XIII^e au XV^e siècle (France, Italie, Espagne, Angleterre, Empire)*, Paris, Publications de la Sorbonne, 2006, 197 p.

⁶ Furió (Antoni): « Crédit, endettement et justice: prêteurs et débiteurs devant le juge dans le royaume de Valence (XIII^e-XV^e siècle) », in Claustre (Julie), dir., *La dette et le juge... op. cit.*, p. 19-53

⁷ Schoffield (Philipp R.): « Peasant debt in English manorial courts: form and nature », in Claustre (Julie), dir., *La dette et le juge... op. cit.*, p. 55-68

literature and the speeches of deputies in the Constituent Assembly, we are left with the impression that the whole French judicial system had to be destroyed and that neither seigneurial, neither royal justices deserved any commiseration from legislators. Therefore, after the seigneurial regime was abolished, the members of the Constituent Assembly worked to create a new public judicial organisation that would provide country-dwellers with courts that were efficient, cheap and located close to the villages, supposedly a marked improvement over the scorned justices of lords.

Because of the frequency of such criticisms, it is worth pausing to consider whether seigneurial justices were able to regulate and pacify creditor-debtor relationships at the end of the Old Regime, and whether revolutionary Justices of the Peace actually managed to play a more efficient role than seigneurial justices in the settlement of debt litigation.

To answer this question, I will first briefly explain the nature of the jurisdiction of seigneurial justices and Justices of the Peace, especially in matters of credit (I). I will then present a case study of three rural parishes of the Dauphiné based on a sample of civil litigation affairs extracted from the registers of the seigneurial justice and of the Justice of the Peace of this area (II).

1/ From seigneurial courts to Justices of the Peace: the changes of venue and competences

- The new geography of local courts

At the end of the Old Regime, thousands of seigneurial courts were covering the French countryside. Those tribunals were more or less active from region to region. In the Dauphiné, they were very numerous and often tiny, but the archives of these courts show that these jurisdictions maintained a high level of activity until their suppression in 1790, especially in civil litigation. This can be explained by the fact that judicial administrations were not located in the countryside, but in the cities where royal justice was also administered. By this means, lords could hire urban lawyers as judicial officers. In addition, these lawyers could hold several offices concurrently so that a few dozen lawyers were enough to run hundreds of justices. For instance, in 1789, almost 200 seigneurial justices sat in Grenoble, capital of the province, but only 25 lawyers were officiating as seigneurial judges in this city⁸. Consequently, rural dwellers had to go to town to meet their judge or to hire an attorney.

The urban nature of rural justice in the Old regime explains why the French Revolution operated a huge change for rural inhabitants by creating the justices of the peace. These were less numerous than the seigneurial courts but were located in the countryside, at the rate of one Justice for each rural *canton*.

- Credit litigation in the jurisdiction of both justices

Comparing the caseloads of two different jurisdictions may be considered a perilous enterprise. Indeed, seigneurial judges and Justices of the Peace did not have exactly the same competences. Seigneurial courts with the right of high, middle and low justice extended to any civil cause, whereas the JP's competences were restricted to a few categories of disputes that any honest man, even without legal formation, could settle. This restriction had actually been adopted by the members of the Constituent Assembly in order to make the election of wealthy peasants possible and to push practitioners and lawyers aside the administration of local justice.

⁸ Duquesne (Quentin), « Du juge seigneurial au juge de paix. Les détenteurs des fonctions judiciaires de proximité de la fin de l'Ancien Régime au Consulat: le cas de l'Isère », *Histoire, Économie & Société*, 2, 2010, p. 49

Therefore, the law limited the JP's competences to a few categories of cases which were:

- **Damages done by humans or animals to fields, harvests or produce**
- **Property cases:** boundary disputes, usurpation of land, trees, etc.
- **Disputes between tenants and landlords**
- **Work cases:** payments of wages or obligations between masters and employees
- **Cases of verbal threats, libel, slander and physical assault**

and the last category that pertains directly to credit matters :

- **Personal and real affairs, of a value of up to 100 livres** which includes small debt affairs such as obligations, promissory bills, verbal loans, rent arrears or outstanding balances on commercial deals...

All other civil disputes fell within the jurisdiction of the *district* civil courts. Finally, only small debts up to 100 *livres* were in the competences of the Justice of the peace.

But, when a debt was higher than 100 *livres* any creditor who indicated his intention to file suit had to appear with his debtor before the *Bureau de paix* in order to attempt a conciliation that would avoid a useless lawsuit before the *district* civil court. Still, this procedure was optional when the claim was based on a legal title such as an obligation or a promissory bill legally registered.

For those reasons, almost all debt disputes could be pursued before a Justice of the Peace acting either as a judge (*tribunal de paix*) or as a conciliator (*Bureau de Paix*).

II/ Did revolutionary Justices of the Peace settle more debt disputes than seigneurial justices ? A case study of three parishes in the Dauphiné

- Presentation of the case study

Just a few words about the three parishes analysed in this study : they are located in a large alpine valley called the Gresivaudan valley, between the massif of Chartreuse and the massif of Belledonne, near the frontier with Savoie.

By the eve of the Revolution, these three villages formed one *seigneurie* also called a *mandement* in the region, and in 1790, they were combined with two other parishes to form a *canton*. This area was then a poor region dominated by tiny exploitations, mixed farming (cereals, vineyards, hamp), extensive livestock farming and rural craft industry. Our three villages are located about 30 kms from Grenoble, which is where seigneurial justice was administered. There were about 2260 inhabitants in the three villages in 1790, a majority of them living in Goncelin (1469 inhabitants)⁹.

I have been studying about 400 lawsuits extracted from the civil registers of the seigneurial Justice of Goncelin and comparing these to a sample of about 240 suits for debt selected from the Justice of the Peace of Goncelin that only concern debtors living in Goncelin, Le Cheylas and Moretel¹⁰. The sample covers a 6-year period: 3 years at the beginning of the 1780's (1782-1784) and 3 years following the creation of the Justices of the Peace (1791-1793). Of course the choice of this period and of this area have been dictated by the existence and survival of the sources.

⁹ Bonnin (Bernard), Favier (René), Meyniac (Jean-Pierre) et Todesco (Brigitte), *Paroisses et communes de France. Dictionnaire d'histoire administrative et démographique. Tome 38: Isère*, Paris, CNRS, 1983

¹⁰ Arch. Dép. Isère, 14B 84 (seigneurial court of Goncelin, civil registers), Arch. Dép. Isère, L 2109 – 2102 (Justice of the Peace of Goncelin, civil sentences) and Arch. Dép. Isère, L 2159 – 2162 (*Bureau de paix et conciliation* of Goncelin, registers)

- **A few significant changes...**

The comparison doesn't suggest a breakdown in the administration of local justice after 1790.

First, if we look at the volume of civil disputes attended to by both tribunals (fig. 1), there is no major difference between the early 1780's and the early 1790s. As we can see, the number of affairs settled by the seigneurial judge each year is very similar to the number judged by the JP, which is around 65 affairs per year with few variations from a year to another. This observation differs clearly from what Anthony Crubaugh observed in the department of the Charente Inférieure where civil litigation in the JP appeared to be really higher than in the former seigneurial courts. Given the apparent lack of change in the size of caseloads, we can hardly assert that the reformation of the judicial system had a strong impact on rural dwellers in the department of Isère at the beginning of the Revolution.

Now, if we pay attention to the composition of civil litigation in each jurisdiction, we can see some differences (fig. 2). Between 1782 and 1784, 3 suits out of 4 concerned the payment of a debt, whereas this was true of only 44% of cases before the *tribunal de paix* and the *bureau de paix* ten years later. In absolute values, debt disputes declined by nearly 30% between the two periods. This can be explained by the fact that creditors who decided to sue their debtor for the payment of an obligation greater than 100 *livres* were not obligated to appear before the *bureau de paix*. In addition, I observed an important drop of the numbers of disputes over an obligation or a promissory bill that was legally registered, falling from at least 28% of the debt-cases settled before the seigneurial judge to 14% of those settled by the *tribunal de paix* or the *bureau de paix* (tab. 1). Nevertheless, we can observe that rural dwellers went to see their JP for new types of disputes such as boundary disputes, damages or difficulties between tenants and proprietors, which can be interpreted as a sign of decline in the frequency of recourse to extra-judicial means of settling disputes in the countryside.

The values of the debts involved in civil disputes may be another indicator of continuity or breakdown. In our sample of lawsuits, the value of the debts claimed by plaintiffs is not always specified, especially in the registers of seigneurial justices.. But for the cases that do indicate the value, there were few changes between the two periods (tab. 2). Even if the numbers of cases are not high, which means that we should not attach too much weight to the results, one can be struck by the similarities between the two institutions, especially for the debts below 50 *livres* that are the most frequent cases. Even with the lack of information for 41 cases settled by the seigneurial court, we can assert that before the Revolution, there were at least as many plaintiffs suing a debtor for a small debt than after 1790, perhaps even more.

Finally, if we examine the socio-economic profile of litigants who went before local justices for a debt, we do not observe many significant changes either. Unsurprisingly, creditors are more often recruited within the wealthy layer of the rural society, and merchants, notables, and notaries are more often listed as plaintiffs than are day-labourers. The only significant change we could observe is the drop in the number of urban creditors suing a rural debtor. Between 1782 and 1784, there were about 10 cases a year where the plaintiff was a merchant or *bourgeois* from Grenoble, while there are only four such cases between 1791 and 1793. But this can easily be explained by the fact that urban creditors systematically contracted obligations with their debtors, and generally advanced high sums of money, so that their actions in justice escaped the jurisdiction of the Justice of the Peace.

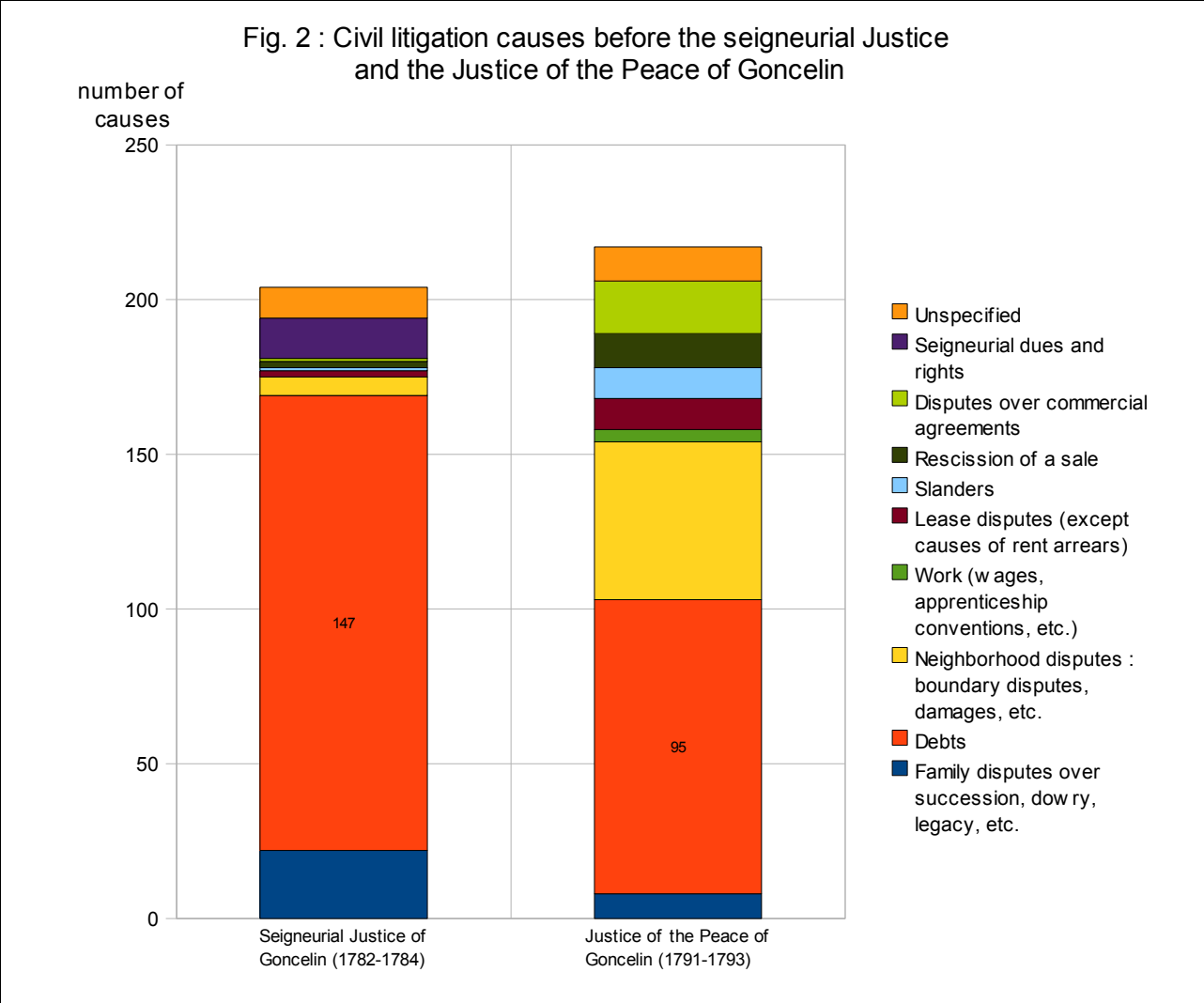
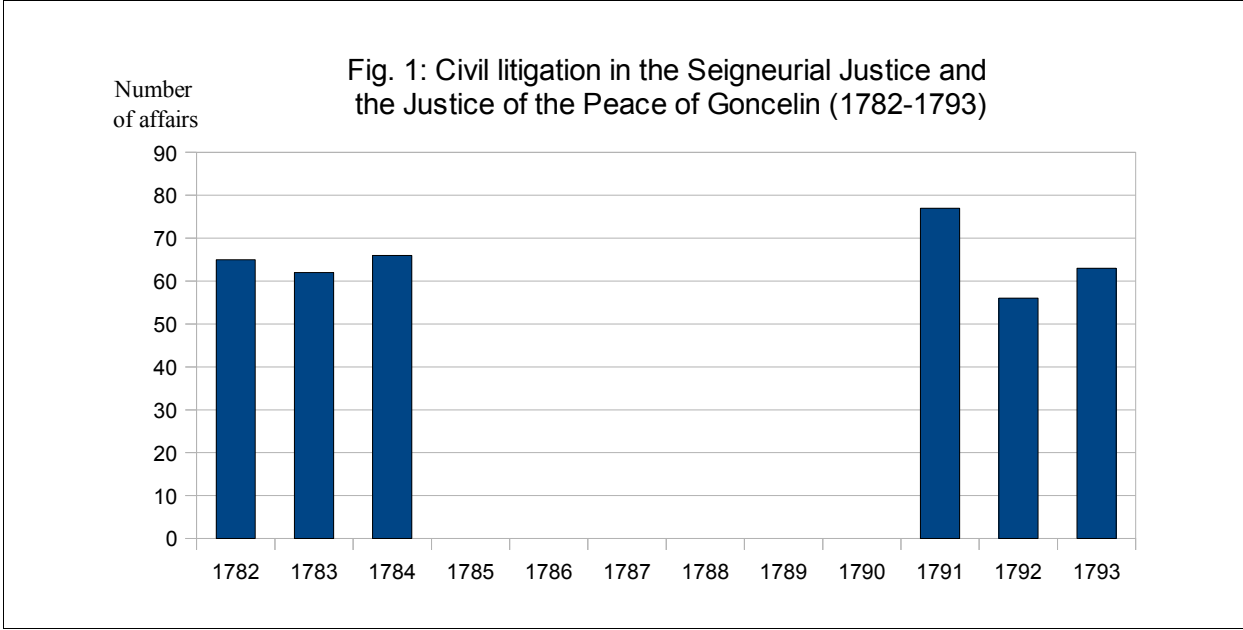
Conclusion :

The results of this case study indicate that, despite the simplification of the proceedings, and the installation of a nearby institution where peasants could easily appear and obtain swiftly a settlement to their disputes, rural dwellers did not more frequently make use of the revolutionary Justices of the Peace to be paid a debt than they had used seigneurial law courts before 1790. Of course, this observation rests on a short sample from a single location, and therefore needs to be confirmed by other studies over a larger period and in other places. Nevertheless, it allows us to raise some questions about the role played by indebtedness and local justice in rural societies of the late 18th century.

First, we have to wonder about the effective role of seigneurial justices in France on the eve of the Revolution. As we have seen for debt litigation, they were probably useful and efficient in civil matters. Therefore, they were certainly not moribund, nor were they only useful in the defense of seigneurial rights and the exploitation of peasants by the lords, despite what a reading of literary or political sources of the time might suggest. This supports the recent rehabilitation of seigneurial justice by different historical studies based on civil litigation sources¹¹, but further work is necessary in many other regions of France, where seigneurial courts were still very active at the end of the Old Regime.

Another question raised by the study of debt litigation in local justices is whether we have to consider all debt disputes as litigation or not. Legally speaking, these cases were pursued before jurisdictions, but the huge mass of debt disputes does not give the impression that debt could be a subject of contentiousness or discord in the village. When a creditor goes to court to claim for the payment of a debt and when he obtains a sentence against his debtor, do we have to interpret that as a sign of conflict or social tension in the village ? Does it really mean that he is on bad terms with his debtor and that he does not want to seek any conciliation ? Certainly not, given that indebtedness was inescapable and necessary in past rural societies. Therefore, judicial institutions most often played a simple role of providing protection for creditors that debtors probably accepted, considering sentences against themselves as legitimate. What's more, we know that often a judgment to pay one's debt was not followed by its execution simply because creditors were satisfied by a judicial confirmation of the fact that their debtor would have to pay one day. Of course, real disputes linked to debt happened sometimes when a defendant contested the claim. But those disputes make up a minority of debt cases, and they are more often hidden in other categories of litigation such as succession, payment of legacies or rescission of a sale. We may therefore consider that debt was rarely a subject of tension and that rural dwellers did not often need a judge to bring peace within the credit relationships of the countryside.

¹¹ On this matter, see Garnot (Benoît), "Une réhabilitation ? Les justices seigneuriales au XVIII^e siècle", *Histoire, Economie et Société*, 2005, 2, p. 221-232, Hayhoe (Jeremy), *Enlightened feudalism : seigneurial justice and village society in eighteenth-century northern Burgundy (1750-1790)*, Rochester (NY), University of Rochester Press, 2008, 309 p. and Mauclair (Fabrice), *La justice au village : justice seigneuriale et société rurale dans le duché-pairie de La Vallière (1667-1790)*, Rennes, PUR, 2008, 369 p.



Tab. 1: Disputes over the payment of a debt classified by categories of debts

| | Seigneurial Justice of Goncelin (1782-1784) | | Justice of the Peace of Goncelin (1791-1793) | |
|---|--|--------|---|--------|
| | Number of cases | % | Number of cases | % |
| obligations (bonds or promissory bills legally registered) | 45 | 28,2 % | 16 | 14,5 % |
| advance | 2 | 1,2 % | 11 | 10 % |
| Payments of goods or work done | 21 | 13,1 % | 49 | 44,5% |
| Rent arrears | 10 | 6,2 % | 21 | 19,2 % |
| Seigneurial dues | 4 | 2,5 % | 0 | 0 % |
| others | 5 | 3,2 % | 4 | 3,6 % |
| unspecified | 73 | 45,6 % | 9 | 8,2 % |
| Total | 160 | 100 % | 110 | 100 % |

Tab. 2:

| | Seigneurial Justice of Goncelin (1782-1784) | | Justice of the Peace of Goncelin (1791-1793) | |
|------------------------------------|--|--|---|--|
| | Number of cases | Average of the debts (in <i>livres</i>) | Number of cases | Average of the debts (in <i>livres</i>) |
| amount unspecified | 41 | ? | 10 | ? |
| below 50 <i>livres</i> | 44 | 27 | 50 | 23 |
| 50 - 99 <i>livres</i> | 30 | 70 | 22 | 69 |
| 100 - 199 <i>livres</i> | 14 | 131 | 5 | 133 |
| more than 200 <i>livres</i> | 18 | 400 | 8 | 1063 |
| whole | 147 | 116 | 95 | 141 |