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Abstract

The theme of literary hermeneutics and style is explored in relation to the press trials of 1818. The purpose is to show that contemporary press legislation and the nature and rhetoric of the arguments presented by the prosecution combined to make literary style a significant issue both in the trials themselves and in their subsequent discussion in the press. This connection between literary quality and the freedom of the press amounted to a struggle for control of language and meaning. Whereas the prosecution was forced to demonstrate that texts meant something other than their surface meaning, the defence resorted to literal interpretation and its supporters in the press to denunciations of the literary credentials of the prosecution.

Keywords

Restoration / Constant / Marchangy / d'Arlincourt / press / literature / rhetoric / law / style

Bio-bibliographical note

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Style on Trial, or 'Veut-on charger MM. les avocats du roi de composer le Dictionnaire de l'Académie?'

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Marie-Eve Thérenty and others have shown the reciprocal relationship between literary and journalistic writing in the nineteenth century. As Thérenty puts it, 'le journal au XIX^{e} siècle est essentiellement composé de "littérature"' and there is in the period 'une "poétique du quotidien" qui diffère profondément des protocoles efficaces d'écriture du journal' that have since become the norm. The favoured literary style, however, was evolving away from the rhetorical models of the eighteenth century towards more 'modern' forms, such as fiction, conversation and autobiography (Thérenty, 2007: 11‑13). This is not to say that an attention to the literary qualities of rhetoric disappeared from journalism. Corinne Saminadayar-Perrin has shown its pervasive influence throughout the century, and explored the complex links between journalists and various kinds of orator, including lawyers, who could be turned into celebrities through newspaper reports of their speeches in court (Saminadayar-Perrin, 2007).

The present study picks up some of the themes explored by Thérenty and Saminadayar-Perrin, but its focus – the press trials of 1818 – is narrower and slightly earlier than theirs. Its purpose is to show that contemporary press legislation and the nature of the arguments presented by the prosecution combined to make literary style a significant issue both in the trials themselves and in their subsequent discussion in the press. This connection between

literary quality and the freedom the press amounted to a struggle for control of language and meaning, forcing the participants into sometimes paradoxical positions.

It is perhaps worth recalling in a collection on 'literature and the press' that 'la littérature' was in contemporary usage a sub-category of 'la presse'. The former term was still widely applied in the period to serious writing in general – and might even be applied to serious journalism. As the dominant meaning of 'la littérature' narrowed to refer most immediately to imaginative and aesthetically-motivated writing, and 'la presse' came increasingly to designate primarily periodical publications, the relationship shifted, facilitating the qualitative distinctions so common later in the century. At this stage, however, 'la presse' could still encompass 'la littérature'.[1]

Furthermore, while current general usage of 'la presse' designates newspapers, magazines and the industry surrounding them, and much of the polemic to be discussed concerned such publications, in legal usage, the term refers to all products of the printing press. Where specific legislation existed for newspapers, it applied to 'les journaux' specifically, not 'la presse' in general. In essence, 'la presse' was typically free from censorship but subject to trial at the 'tribunal de police correctionnelle' for any infringements of the legislation; 'les journaux' on the other hand were subject to preventative measures, such as prior censorship. During periods of newspaper censorship, this meant that only those publications that managed to avoid classification as newspapers would be likely to end up in court; censorship prevented daily newspapers from infringing the legislation. Discussions of 'la liberté de la presse' were therefore primarily about freedom of printed expression in general, and not necessarily or primarily about the freedom of newspapers in particular.

In the debates on a proposed press law in the Chambre des Députés in December 1817, the counter-revolutionary philosopher and long-term advocate of censorship (rather than punishment after publication) Louis de Bonald mused that the terms might mean that 'l'Académie en corps, pour un article mal sonnant de son Dictionnaire, pourront être traduits à la police correctionnelle!' There, seated between fraudsters and prostitutes, their guilt or innocence would be determined by judges rather than their peers. For Bonald, this would be intolerable. Writers – even if not members of the Académie française – formed 'une profession à qui la France doit ses plus beaux titres de gloire' and their 'délits' should be given a dignified trial, by jury, at the 'cour d'assises', normally reserved for the more serious category of 'crimes'. Moreover, there should be a 'jury spécial pour la presse'. The exact composition Bonald had in mind for such a jury is not reported, but he lists the different courts in which Frenchmen were tried by their professional peers, implying that this 'jury spécial' would be made up of writers (Journal des débats, 20 December 1817: 2-3).

Bonald's intervention touched on one of the key issues in the debate. The principle expressed in article eight of the Constitutional Charter of 1814, that abuses of the freedom of the press should be punished, was not controversial. However, there was no clear consensus on what constituted such an abuse, beyond openly-expressed incitements to breach the peace or attack the established order. These were known as 'provocation directe', and could be identified through a literal reading of the words on the page. Words meant what they said and conveyed the intentions of the author without ambiguity. The problem – and the controversy – surrounded the concept of 'provocation indirecte', introduced to French law by emergency legislation of 9 November 1815 against seditious speech and writing. Indirect provocation occurred when criticism of the established order was oblique, relying on the sophisticated

interpretative skills of readers to find hidden subversive meanings in the text. As in imaginative literature, words no longer necessarily or only meant what they said.

This posed an obvious legislative problem. In the 1817 debates, the ministerial argument for trial by judge, set out by Joseph-Jérôme Siméon on 13 December, was predicated on the notion that interpretation of texts was a difficult task, requiring specialist skills that were beyond those to be expected of juries; judges were needed. Camille Jordan retorted that in matters of opinion, no meaning that was so well hidden that it was not obvious to a juror should be deemed criminal (Journal des débats, 14 December 1817: 4). The liberal Louis Bignon worried on 15 December that judges would get carried away in their interpretations, rather like 'ces habiles commentateurs, qui trouvent dans chaque expression de leur auteur favori, une foule de beautés secrètes auxquelles l'auteur n'a jamais pensé' (Journal des débats, 16 December 1817: 3); but rather than seeking out unintended beauties, judges would identify unintended crimes. Jordan's fellow doctrinaire Pierre-Paul Royer-Collard argued on 16 December that it was impossible to define indirect provocation in clear and consistent ways, so any attempt to identify it in specific cases would be arbitrary (Journal des débats, 17 December 1817: 3).

The champions of trial by jury eventually lost the vote in the lower house. However, the bill stalled in the upper house and thus did not become law; press cases continued to be tried by judges.

The concept of indirect provocation was nevertheless central to the press trials of 1818. As suggested above, prosecutors relying on this concept had to persuade judges that the text meant something it didn't say, whereas the defence could argue that the literal meaning of the text was the true meaning. The defence relied on common sense; the prosecution on literary

hermeneutics. The literary credentials of prosecutors were therefore of prime importance. Being acknowledged beyond the courtroom as a writer would, therefore, represent an important boost to the credibility of the prosecutor's attempts to establish figurative as well as literal meaning.

In 1818, the most prominent prosecutor of press 'délits' at the Tribunal de police correctionnelle in Paris enjoyed a similar prominence as a literary historian. Louis-Antoine-François de Marchangy (1782-1826) had just published the last of the eight volumes of La Gaule Poétique, *histoire de France considérée dans ses rapports avec la poésie, l'éloquence* et les beaux arts (1813-1817). Marchangy's work was a considerable public success, running to several editions. Marchangy underlined the close connection between the literary and legal minds in the preface to the second edition of his work, published in 1819, where he argued that a powerful imagination was essential to a wide range of professions. Although he does distinguish between the kinds of imagination needed in his own twin careers, writers and lawyers are, significantly, juxtaposed:

> dans l'écrivain, [l'imagination] est ce goût judicieux qui revêt chaque sujet du style qui lui est propre, et qui du vaste clavier de notre idiome, sait tirer des sons harmonieux et pittoresques; dans le magistrat, elle aide puissamment l'instinct de la conscience, en l'armant d'une sagacité pénétrante, qui se fraye une route lumineuse à travers le dédale épineux des sophismes et des paradoxes. (Marchangy 1819, 1: vi-vii)

So whereas for the writer imagination is primarily related to taste, style and aesthetics, the wisdom of the lawyer is grounded on a combination of imagination, conscience, and instinct. The power of imagination is for him an essential adjunct to reason. It is clear that such a notion would be attractive to someone charged with pursuing indirect provocation, in persuading others to make the leap of imagination necessary to see in a text something other than its superficial meaning. It is equally clear that Marchangy's literary style, with its 'vaste

clavier', its 'sagacité permanente', its 'route lumineuse' and above all its 'dédale épineux des sophismes et des paradoxes' bore the hallmarks of a thoroughly conventional classical education, and that he was prone to pomposity and cliché.

His speeches in court echoed the style of his prose, in an attempt to convey the gravitas of the authorities and the law.[2] Although generally successful in securing convictions in actual press trials, his style would eventually become a *pièce d'accusation* to be turned against him in press debates, with a verdict of stylistic culpability and a sentence of ridicule returned by a tribunal of literary judges over the century.

Two cases brought by Marchangy in 1818 illustrate his approach to the prosecution of press crimes and give a sense of his legal rhetoric. Neither, of course, was of a newspaper, though both were of authors writing about politics and current affairs, and the second was one of those publications which used their irregular periodicity to evade definition as 'un journal' and thus preventative controls.

The first was that of a 21-year-old Dutch-born writer, Charles-Arnold Scheffer, accused of sedition in his book *De l'*État de la liberté en France (1818). Marchangy deployed orthodox rhetorical tricks and images as he began his speech for the prosecution by acknowledging that it was difficult to identify 'provocation indirecte': 'comment saisir, dans la mobilité de leurs formes variées, ces prothées insidieux?'. Addressing the panel of judges, he argued that those accused of press crimes were protected against arbitrary judgement by the judges' wisdom, their reason, their adherence to 'le sacerdoce de la justice'; it was their custom to 'prendre pour boussole' the text and the spirit of the law, as it was to 'pénétrer l'intention […] des écrits qui vous sont soumis, afin de les interpréter moins d'après quelques expressions que sur le sens général'. He went on to spend much of his time reading 'provocations indirectes'

into isolated phrases and passages of Scheffer's work, insisting that their meaning was clear when read within the book as a whole. To identify this general meaning of the text, Marchangy relied in part on a characterisation of the tone and style of Scheffer's work in his argument for its overall culpability, denouncing the 'frénésie' into which Scheffer seemed to be thrown by the prospect of royal legitimacy: 'Censeur amer, contempteur ironique de tout ce qui mérite notre respect et nos hommages, le sieur Scheffer s'extasie devant les événements les plus funestes et les causes les moins cachées de nos longues infortunes' (Journal Des débats, 11 January 1818: 2). In his concluding remarks, he returned to the question of Scheffer's style from a different angle, calling only for the minimum sentence, partly because of Scheffer's allegedly poor command of French, 'le peu d'usage qu'il semble avoir de notre langue'. This ultimately controversial comment was not reported by the conservative Débats, but was by the more liberal Journal du commerce (11 January 1818: 3). The reasons underpinning this omission in the Débats and inclusion in the Commerce cannot be established with certainty; but it was perhaps because Marchangy had overstepped the mark, and opened his prosecution up to criticism by Scheffer's legal – and eventually literary – defenders.

Marchangy's remark was double edged. It was ostensibly offered in mitigation, suggesting that Scheffer might somehow have been less responsible for the seditious meaning of the text than a native French speaker, with better control over the meaning of his words, would have been. On the other hand, as Marchangy had used Scheffer's foreign origins as circumstantial evidence of his guilt in his case, there was a xenophobic undertone to his remarks. Dutch birth was mitigation, but it was also somehow culpable in a writer of the French language.

For the defence, Scheffer's lawyer Mérilhou insisted that it was the literal meaning of the text that counted. His approach was to ignore all questions of style and to insist that whereas the

prosecution had relied throughout on a deformation of the original, the defence had only to point to the face-value interpretation of a clearly-articulated message:

> Dans tous les passages que le ministère public avait présentés comme séditieux, nous avons rétabli le véritable sens, non pas en changeant les expressions, en tourmentant les phrases, ni par la pénible substitution de pensées à d'autres pensées, de mots à d'autres mots; mais, au contraire, en circonscrivant les pensées par le langage même qui en est le signe, et le langage par la valeur rigoureuse des termes dont il se compose. (Mérilhou 1818, 63)

Clearly, though, Marchangy's comments on Scheffer's style had hit home. Adding some remarks of his own to those of his lawyer, the defendant felt the need to excuse himself for his style in court:

> En prenant la plume [...] je ne croyais point avoir besoin de talens auxquels je ne pouvais prétendre. J'avais la conviction que l'impartialité, la bonne-foi et un amour ardent pour le bien public, joints à la force de la cause à laquelle je me fais gloire d'appartenir, pouvaient remplacer ce qui me manquait, et rendre utile la manifestation de mes idées, quoique dépouillée de la magie du style et de l'éclat de l'expression. [C]'est sur la bonté de ma cause que je fonde ma confiance, et d'avance je réclame votre indulgence, si mon accent, si mes expressions ne sont point aussi français que mon opinion et mon cœur. (Mérilhou 1818: 67‑68)

Marchangy's tactic seemed to bring literary quality into jurisprudence. He was adopting the posture and techniques of literary criticism, and using his own literary values as part of his legal cases. Attacking Scheffer's style went beyond the already questionable pursuit of hidden meaning. Were writers now to be condemned not just for being seditious, but for their style, or their alleged lack of literary merit? Was 'Frenchness', as measured against conventional style, now an indicator of legality?

Having secured Scheffer's conviction, Marchangy's next prominent case was that of Joseph Fiévée, prosecuted in April 1818 for having presented to French readers, in the eleventh livraison of his Correspondance politique et administrative, a speech in the House of Lords by the Earl of Stanhope, denigrating the French government.[3] Although Fiévée was a well-known royalist, and denounced Stanhope's views in the article, the main point of the

prosecution case was that by communicating them to French readers he was himself engaged in indirect provocation to sedition. Marchangy presented Fiévée's article almost as though it were a framed narrative, with the real message, in the quoted Stanhope speech, surrounded by phoney objections designed only to protect Fiévée.

Marchangy went further than that, however, and attempted to demonstrate Fiévée's alleged disrespect for the king on essentially stylistic grounds, as though the 'style noble' were somehow legally compulsory when referring to royalty, rather than a literary convention. Fiévée had written that '[Les Rois] se croient aimés quand on leur dit qu'ils le sont, et quelquefois même ils le répètent avec une bonhomie qui inspire de la pitié' ([Premier discours de Marchangy et brèves répliques de Fiévée et Hennequin] 11 April 1818, 2011: 850). Aware that this sentence, which seemed to refer to a recent statement by Louis XVIII, would be used against him in court, Fiévée attempted to pre-empt the prosecution case in the twelfth livraison of the Correspondance. Thinking that the objection was to the use of 'pitié' in regard to the king, he asserted the noble connotations of a term which had been used by illustrious writers and orators such as Fléchier, Delille, and Racine, and applied by famous preachers to Christ on the cross (Fiévée 1818b: 36‑39). This did not deter Marchangy, who not only rejected the noble connotations of 'pitié' but focused on its proximity to 'bonhomie'. He characterised both words as disdainful, and denounced their application to kings as insulting: 'les mots de pitié et de bonhomie, se dégradant mutuellement dans leur abjecte alliance, ne formeront toujours qu'une expression insultante' ([Premier Discours de Marchangy et Brèves Répliques de Fiévée et Hennequin] 11 April 1818, 2011: 851). Fiévée argued the point in court and responded in print, with the focus this time on 'bonhomie'. He called to his defence French and bilingual French/Latin dictionaries, before appealing to the ultimate court of the French language: 'S'il le faut, nous nous appuyerons d'un de nos

écrivains les plus purs, Gresset, qui, en recevant M. Suard académicien, disoit en parlant de la bonhomie: “Puisse ce nom sensible et cher, resté dans notre langue, revenir dans nos mœurs”’ (Fiévée 1818a: 22‑23).

The legal dispute had moved beyond dictionary definitions to become one of collocation, of literary register, connotation, style. Marchangy’s case was in part about an offence against a particular set of literary and stylistic sensibilities. It was an ‘explication de texte’, to be refuted in Fiévée’s defence by an appeal to linguistic and literary – rather than legal – authority. Indeed, the appeal invoked the highest linguistic authority in the land, the Académie française. Moreover, while Jean-Bapiste-Louis Gresset (1709-1777) had been dead for forty years, Jean-Bapiste-Antoine Suard (1732-1817) had been upholding the immortality of the French language until the previous year.

Marchangy’s prosecutions were successful, but his tactic of denouncing the style of the accused would be turned against him in the broader polemic about press freedom by Benjamin Constant. Constant had long been wary of allowing the authorities to interpret the meaning of texts. In the Principes de politique of 1806, he identified the legislative problem facing those who wanted to punish abuses of press freedom: ‘Rien de plus facile à une opinion, que de se présenter sous des formes tellement variées, qu’une loi précise ne la puisse atteindre’. Thinking in this instance primarily of prior censorship, rather than the later doctrine of indirect provocation, but in terms that were equally applicable to repressive measures based on it, he went on to warn of potential abuses of textual hermeneutics by the authorities:

> en autorisant le gouvernement à sévir contre les opinions quelles qu’elles soient, vous l’investissez du droit d’interpréter la pensée, de tirer des inductions, de raisonner en un mot, et de mettre ses raisonnemens à la place des faits contre lesquels seuls doit agir l’autorité. C’est établir l’arbitraire dans toute sa latitude. Quelle est l’opinion qui

> ne puisse attirer une peine à son tour? Vous donnez au gouvernement toute faculté de mal faire, pourvû qu'il ait soin de mal raisonner. Vous ne sortirez jamais de ce cercle. (Constant, 2010a: 239‑40)

Individual voices must be heard freely, and press freedom was the key to this. The press, for Constant, was 'la parole multipliée par l'impression' (Starobinski, 1989: 188). Eloquence was rightly used to give expression to individual opinion and to facilitate social relations, not to oppress the individual (Starobinski, 1982). Constant was particularly suspicious of the style of prosecutorial language. His own simple style – whether in Adolphe or in his political writing and speeches (Delbouille, 1982: 307, 315) – was in part a reflection of his rejection of the excesses of revolutionary rhetoric, and the potential abuse of such inflammatory speech by those in positions of authority. As Starobinski notes,

> Constant a l'oreille particulièrement fine pour les abus de mots, pour les détournements de la parole. Dans un article de 1807, il écrira 'Il y a longtemps que nous savons que les agitations révolutionnaires ont dénaturé ma langue'. […] Dès son premier ouvrage politique, Constant a su mettre en évidence l'autonomie de la parole excessive: les mêmes termes sont devenus disponibles pour les passions les plus contradictoires. Le langage accusateur, d'où qu'il vienne, se retrouve captif des schématismes et des stéréotypes. (1989: 189‑90)

The press, in all its manifestations, represented the best defence of individual freedom against this authoritarian control of language. If eloquence was to be used, it must be put at the service of opposition to the abuses of authority.

The press trials of 1818 illustrated Constant's points well. Marchangy was using abusive reasoning, derogatory literary criticism and a degraded, formulaic rhetoric to limit the freedom of the press. Constant took up the struggle in a series of brochures and articles in the semi-periodical press. One of his tactics was to undermine the credibility of the avocat du roi by targeting him in a particularly pertinent and sensitive place: his literary reputation, and especially his style.

In his 1817 brochure ‘Questions sur la législation actuelle de la presse en France’, Constant had warned that the temptation for prosecutors to build their reputations by ever more audacious and abusive interpretations was great:

> en accordant aux avocats du Roi la faculté d’interprétation […] on leur offre une occasion de briller qui les tentera. Chaque livre sera pour eux une énigme dont ils voudront révéler le mot; et plus ce mot sera éloigné du sens naturel du livre, plus ils auront fait preuve de perspicacité. (Constant, 2010b: 685)

In ‘Des égards que les écrivains se doivent les uns aux autres’, published in La Minerve française in early April 1818, Constant presented the judgement on Scheffer and the case against Fiévée as signs of a hardening of attitudes. He called for writers to forget their differences and turn their ire on a common foe: ‘ceux qui se sont fait de l’outrage un monopole, et de l’invective un privilège, et qui fondent sur cet abus de leur pouvoir leur renommée oratoire et leurs prétentions aux dignités littéraires’ (Constant, 2011b: 271). Using the concept of indirect provocation, lawyers were acting as judge, jury and dictionary, not only constraining press freedom, but attempting to establish themselves as authorities within the literary domain, policing style, determining the meaning of words and rivalling writers themselves for prestige in the field.

Constant named the main target of his criticism later in April, in Du Discours de M. de Marchangy, avocat du Roi, devant le tribunal de police correctionnelle, dans la cause de M. Fiévée. He proceeded to a comprehensive assault on his foe’s tactics and, perhaps most bitingly, his oratory and literary pretensions. Noting that the Moniteur had reproduced Marchangy’s speech at the Fiévée trial in full – often, in the days before stenography, a sign that the speaker had prepared a written version in anticipation of publication – Constant inferred that the prosecutor had tried to make it worthy of the occasion. Constant noted that Marchangy had begun by praising Fiévée’s literary talents. But it was not the role of lawyers

to evaluate literary merit. He reminded readers of Marchangy's criticism of Scheffer earlier in the year: 'Il a relevé sévèrement ses défauts comme écrivain; il a été jusqu'à lui reprocher de ne pas savoir sa langue'. But literary merit should not be on trial: 'Le mérite littéraire d'un écrit est parfaitement étranger […] aux questions qui doivent occuper les magistrats'. In a further jibe at the lawyer's literary pretensions Constant argued that 'il ne faut pas plus cumuler les prétentions que les places, et pendant qu'on exerce les fonctions d'avocat du Roi, il faut oublier qu'on aspire à devenir Académicien' (Constant, 2011c: 194–95).[4]

Constant then proceeded to an 'explication de texte' of his own, unpicking Marchangy's abuse of one rhetorical trick after another to show the internal contradictions of his arguments, the vacuity of his oratory, and the failings of his style. He asserted that a long line of distinguished authors would have fallen foul of Marchangy's principles, drily adding Marchangy's own Gaule poétique to the list, and pointing out that, were he to try to elucidate in print Marchangy's transparent 1813 allusion to an 'astre réparateur' who had saved France after the Revolution, 'Monsieur l'avocat du Roi me poursuivrait peut-être, comme ayant donné de la publicité à un passage répréhensible de M. de Marchangy' (Constant, 2011c: 206). He twisted the knife by accusing Marchangy's speech of attempting to emulate Chateaubriand's style. Attempting to emulate the style of René was 'une calamité' in itself, but to subject someone to such an ordeal in a court of law was 'une peine ultra-légale, que la loi ne devrait pas tolérer' (Constant, 2011c: 208).

Having eviscerated the form and content of Marchangy's speech, Constant asked a rhetorical question of his own. He gave a satirical spin to the longstanding concern that the freedom of the press would be curtailed by endless abusive and arbitrary interpretations of the meaning of words by asking whether one should 'charger MM. les avocats du roi de composer le Dictionnaire de l'Académie'? (Constant, 2011c: 213) Constant's question went straight to the

heart of the hermeneutic problem confronting both prosecutors and defendants in the press trials of the Restoration. Having so devastatingly revealed the literary and logical shortcomings of the star prosecutor in the preceding pages, Constant's insinuation was clear to anyone with the most limited ability to read between the lines: no, lawyers should not be allowed to denature language and arbitrarily fix the meaning of words. The argument for press trial by judge was predicated on the expert legal mind's ability to find meaning beneath the surface of the text. By attempting to undermine Marchangy's rhetorical and literary credentials, Constant was simultaneously showing that the experts should not be relied upon to get it right, and implying that the simple good sense of a jury would be a better way of determining criminal intent.

Constant stuck to his critique of Marchangy's style in the superficially odd context of a compte-rendu of Victor d'Arlincourt's attempt to write an epic poem for the French nation, for which the poet and his brother had run a vigorous promotional campaign in the press, extending even to standing for election to the Académie française (Marquiset, 1909: 73‑74). It is curious that Constant did not join the chorus of derision for d'Arlincourt's style, although he skilfully avoided actually praising the poet, advising readers to form their own opinions of a couple of extracts. The real aim of his review became clearer when he leapt upon the poet's admission in his preface that he had been inspired by La Gaule poétique. A marked similarity between one of d'Arlincourt's verses and one in Marchangy's 1804 poem Le Bonheur allowed Constant to conclude his review with a series of stylistically egregious lines from Marchangy's 'œuvre du mauvais goût le plus ridicule', but which did nevertheless contain some verses "d'une parfaite simplicité" – albeit ones in praise of Napoleon, clearly highlighted by Constant to underline Marchangy's willingness to serve successive oppressive regimes (Constant, 2011a: 463‑64).[5]

Constant's case for the prosecution of Marchangy was a powerful one. Using the periodical press and eloquence in what he considered their most important function, the defence of freedom against oppression, he deployed his ironic style to humiliating effect, heaping ridicule on the pretentions of the authorities in literary matters, and recycling long-ignored literary texts to undermine the reputation of the chief prosecutor of press trials by revealing his changing allegiances.

He was not immediately successful: Marchangy generally won his cases, and retained his position. He might even, with the benefit of his position, have secured votes towards his ultimate ambition to become an immortel, had he not died while campaigning for election to the Académie in January 1826 (D-a-a, n. d.: 485). In the longer term, however, the judgement of Marchangy's style was to be delivered by a distinguished literary panel, and in terms that echoed Constant's arguments. Stendhal and Victor Hugo saw Marchangy the writer as a degraded Chateaubriand whose closest thing to a saving literary grace was that he wasn't quite as bad a stylist as d'Arlincourt, who had gone on to have considerable commercial success as a novelist.

In 1825, reviewing yet another edition of La Gaule poétique for the English press, Stendhal asserted that Marchangy's work was '[u]n des ouvrages les plus emphatiques et à la fois les plus plats qui aient contribué à la décadence de la pauvre littérature française'. He owed his reputation to the fear inspired by his position; his style was an exaggerated version of Chateaubriand's, and if he wrote novels he would be almost as absurd as d'Arlincourt (Stendhal, 1983: 130).

In part one , book three of Les Misérables, the narrator surveys 'ce qui surnage confusément de l'année 1817' to provide a sense of the historical context for the tale of Fantine. Among

the litany of ‘détails, qu’on appelle à tort petits’ because it is ‘de la physionomie des années que se compose la figure des siècles’, Hugo’s narrator mentions that ‘[i]l y avait un faux Chateaubriand nommé Marchangy, en attendant qu’il y eût un faux Marchangy appelé d’Arlincourt’ (Hugo, 1963, 2 : 143). Marchangy is but a forged, degraded copy of Chateaubriand. His literary style is at issue here, rather than his legal career, and the ultimate target of Hugo’s comment is d’Arlincourt, but the criticism of Marchangy remains: he lacked the originality essential to true literary creativity.

Gustave Flaubert’s reaction to reading Marchangy is recorded in a letter to George Sand of 28 February 1874. Flaubert evokes another of Marchangy’s prosecutions, that of Pierre-Jean de Béranger in December 1821, before delivering the most damning literary verdict of them all, the one that Constant was seeking to produce in his articles: ‘Je viens de finir La Gaule poétique du sieur Marchangy (l’ennemi de Béranger!). Ce bouquin m’a donné des accès de rire’ (1998: 773‑74).

This analysis of the issues at stake in the press trials of 1818 has shown that, in the particular legislative context, literary style was not just about aesthetics, and the interpretation for legal purposes of ‘la littérature’ in the broad sense brought into play approaches which deployed both prescriptive notions of literary standards and engaged with issues of textual hermeneutics familiar to modern literary criticism. Logically enough, the prosecution combined denigration of the literary merits of the accused texts with an assertion of their fundamentally literary nature: in order for the prosecution to succeed, poor quality could be advanced as circumstantial evidence of guilt, but this was always secondary to a primary case that had to rest on the assertion that the text meant something other than its surface meaning. In both cases, literary credentials were an essential adjunct to the knowledge of the legislation and rhetorical skills always required by lawyers. However, venturing onto the favoured

terrain of writers, and challenging their vested interests, made lawyers vulnerable to a literary defence of the press. On trial, style was not simply a matter of literary aesthetics: it was an ideological battleground.

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Notes

[1] On the evolution of the terms, see the Dictionnaire historique de la langue française (Rey, 1992: 1: 1137‑1138 and 2: 1622‑1623)

[2] In his grandstanding rhetorical performances in court, he anticipated the 'spectacles de la parole' of the later part of the century, studied by Millot, Saminadayar-Perrin et al (2003).

[3] On the background to this trial, see Cabanis (2011).

[4] It is unclear whether Constant knew in 1818 that Marchangy did, in fact, have aspirations to membership of the Académie française. The lawyer was a candidate in January 1826, but aggravated a chest infection while canvassing for support, and died before the vote (D-a-a, s. d., 485).

[5] Balzac makes no mention of Marchangy in Illusions perdues, but there is a repeated, ambiguous, connection between Constant, d'Arlincourt and Lucien's journalistic career. Although not subject to overt criticism, Constant is guilty by association with the venal world of journalism. His portrait hangs on the office wall of the newspaper, looking down on Lucien as he leafs through a pile of satirical drawings based on d'Arlincourt's notorious taste for stylistic inversion; on a nearby table lies a copy of the ninth edition of d'Arlincourt's novel Le Solitaire, which was 'toujours la grande plaisanterie du moment' (Balzac, 1977: 330‑332). Adolphe is one of the fictional characters mentioned by Lousteau as he explains the ways of the literary and journalistic world to Lucien (347). Immediately after Dauriat – who is in conversation with another famous liberal orator – mentions Le Solitaire, he imagines an article by Constant on Lucien as the key to signing a publishing contract with the young poet, and Lucien sees a successful future opening before him at this mention of Constant's name. As Lucien leaves, he passes Constant himself, who has just published his Mémoires sur les Cent-Jours, giving rise to a quick pen-portrait of 'le Potemkin de madame de Staël' (369‑370). Finally, as Lousteau outlines the formulaic compte-rendu that Lucien can use to exact revenge against Dauriat, who will not after all publish Lucien's work, Constant is one of the 'coryphées du parti libéral napoléonien' who Lucien must praise, in order to win over his bourgeois readers (444). Although not subject to overt criticism, Constant's name is thus always used in close proximity to one form of corruption or other.