

Justice for the Workshop: The Advocacy Journalism of *L'Echo de la fabrique*

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L'Echo de la fabrique, the pioneering newspaper published by and for the silk weavers of Lyon, was wide-ranging in its journalistic scope, as recent studies, notably Ludovic Frobert's award-winning *Les Canuts ou la Démocratie turbulente* (Editions Tallandier, 2009), have amply demonstrated. Besides reporting on events and issues of special interest to silk weavers, including items specific to the industrial and technical aspects of silk manufacture, the paper provided readings of largely entertainment or educational value, such as "Proletarian Readings [*Lectures prolétaires*]," "Shuttle Throws [*Coups de navette*]," and more generally "Literature." Reviews of books, theatrical productions, and paintings, along with poetry and feature stories, were a regular part of its journalistic fare. Three topics commanded special attention on the part of the paper: the weavers' social-industrial movement of *mutuellisme* and the issues of the silk fabrique that had given rise to *mutuellisme*; activities and doctrines of social reformers such as the Saint-Simonians, and Fourierists, for whom Lyon's weavers provided a welcoming audience; and one official institution most affected, favorably so for the weavers, by the events associated with their November 1831 insurrection; namely, the Conseil des prud'hommes. Reform of this institution in the wake of the insurrection gave weavers greater representation on that body in comparison with the past, although still not parity with the *marchands fabricants*.¹ This paper addresses the reporting on the activities of this Conseil by *L'Echo de la fabrique*, primarily by *L'Echo de la fabrique de 1841*, the newspaper that inherited the mantle of the original *L'Echo* after 1840.

The Conseil des prud'hommes belonged to a particular category of French jurisprudence called "exceptional" or specialized (*juridictions d'exception*). In the French legal system established after the Revolution of 1789, it shared this status with the Tribunal de Commerce – one of the few institutions of the *ancien régime* to have survived the revolutionary reforms. The essential concept of both the Conseil des prud'hommes and the Tribunal de Commerce was that of jurisprudence exercised by the very people engaged in the business and the trades that gave rise to the cases brought before each court – professionals of the *métier*, in short, rather than experts in the law. Claire Lemercier calls this a "French model of judgment of peers." This concept contrasted with that of regular French jurisprudence where legal professionals trained and certified in the law occupied position of both judges adjudicating the case and lawyers for the parties in conflict. For both courts the judges were elected by their peers from the ranks of practitioners of business or the trades. Their qualification for office was the knowledge gained by experience and practice in their profession, rather than that of interpreting legal

¹ The *marchands fabricants* put out silk orders to the *chefs d'ateliers*, who executed the orders on their own looms in their own workshops (*ateliers*) which doubled as households. Besides the fabric order, the *marchand fabricant* provided the silk thread for the order. Once the fabric was woven, the weaver received an agreed upon rate for work on it, called the piece-rate or *tarif de façon*. In *L'Echo de la fabrique*, the *chef d'atelier* was most often referred to as the "*fabricant*" (to emphasize the fact that it was he, not the *marchand fabricant*, who manufactured the end product), while the *marchand fabricant* was indicated as the "*négociant*" (which conveyed the sense of intermediary rather than producer).

codes and mastering legal procedure. For both *juridictions d'exception*, the preferred approach to resolving conflicts was conciliation of the parties involved through an appeal to their shared understanding of the ways of the business or trade; that is, to its customs and practices, or *usages*, in the context of the French commercial code and contract law, rather than to the strict legal interpretation of those codes as conveyed through professional training in the law. The specific advantage of this approach was that the substance of the case at hand, and the *usages* relevant to it, were familiar, at least broadly so, to the judges called upon to resolve the dispute – a familiarity they shared with the parties to the dispute.²

Reporting on the cases presented to the Lyon Conseil des prud'hommes was a regular feature of *L'Echo de la fabrique* from its very inception. The paper chose those cases that were “of greatest interest,” and it provided the details of the case, which would have been in most instances comprehensible only to *gens de métier*, followed by decision of the Conseil. These were the cases adjudicated by the Conseil, representing only a very small proportion of the cases brought to the *prud'hommes*, most of which were resolved by conciliation. Presumably, the cases reported in the paper were of particular interest to the readers precisely because they were controversial and not amenable to a friendly settlement. Sometimes the paper added commentary of its own, but initially, for the most part, confined itself to re-iterating the points of controversy and the positions given by each side. After the reform of the Conseil in late January 1832, increasing the number of *prud'hommes* for the silk industry to seventeen, eight of whom were *prud'hommes tisseurs*, the interest of the paper in the affairs of the Conseil went beyond reporting its proceedings. On the one hand, the paper took an active interest in the nature of the jurisprudence provided by the Conseil, including its procedure and the manner in which it arrived at its decisions. The paper also concerned itself with the structure (or, to use the contemporary expression, the “organization”) of the Conseil itself.

On the other hand, the paper became party to the functioning of the Conseil, particularly with respect to the one right weavers enjoyed there and nowhere else in the *regime censitaire*; namely, the right to elect their own representatives. Although participation in the election of weaver *prud'hommes* was limited to master weavers (*chefs d'atelier*) possessing at least four looms, elections were open and free, and candidates were held accountable, having to justify their candidacies through appeals to broader interests and concerns of the weaver electorate. *L'Echo de la fabrique* provided a forum for the vetting of candidates, giving its own views on candidates, and it used the occasion of elections to address what it considered to be the role of the *prud'hommes* and reforms that needed to be undertaken. Through this kind of involvement *L'Echo de la fabrique* articulated the two proposals for reform of the Conseil and its procedures that constituted its major platform the 1840's as well as in 1831-35; namely, the “liberty of defense,” that is, permitting weavers to call upon experts (including lawyers) to take up their case

² The most important analytical work on the history of the Conseil des prud'hommes in France, including its origins and functioning throughout the nineteenth century, is that of Alain Cottureau. For the Tribunal de Commerce, Claire Lemerancier's forthcoming study will be the definitive historical work. Both Cottureau and Lemerancier have made important contributions to our understanding of *corps intermediaires* in postrevolutionary France, of which these two courts are exemplary instances.

before the Conseil, and “fixed jurisprudence.” The latter meant the constitution of a body of judgments on previous cases as a basis for future decisions, or the constitution of an industrial “code” for the silk fabrique based on precedent.

This extension of *L’Echo de la fabrique*’s preoccupation with the Conseil des prud’hommes from reporting to participation was particularly marked under the editorship of Marius Chastaing, who succeeded the paper’s first editor Antoine Vidal following the latter’s death in August 1832. Chastaing was trained in the law and provided legal advice and assistance to artisans and others of the popular classes. Along with his political commitment to liberal democratic ideals and his identification with the cause of the common people in the social movements following the 1830 Revolution, his legal background positioned him for advocacy in the specific cases taken up by the *prud’hommes* and with respect to the nature and functioning of the institution itself. The asset he brought to such advocacy was his ability to translate the often highly technical and detailed intricacies of *usages* in the silk fabrique into matters of jurisprudence, and in turn to infuse the reporting of arguments and rulings on cases with an apologetics appealing to social justice, of the kind that became prominent with the emergence of *mutuellisme* and popular republicanism in the early 1830s. In this sense Chastaing, through *L’Echo de la fabrique*, served as intermediary between the world of justice and jurisprudence grounded in the Civil Code and the courts, and the world of the silk fabrique centered on the weavers’ household-shops and the relations in silk manufacture among those gathering in and around such shops: master-weavers, *négociants*, *compagnons*, apprentices, and others involved in silk manufacture (*dévideuses*, loom mechanics, etc). Chastaing’s advocacy as editor of *L’Echo de la fabrique* continued through mid-August 1833, when for unknown reasons he was removed from his position and assumed the editorship of the rival *L’Echo des travailleurs* in October of that year. Following the closing of both papers after the insurrection of April 1834, Chastaing resumed his editorial role for *Tribune proletaire*, one of the two papers that succeeded *L’Echo de la fabrique* from September 1834 through July 1835. Once again Chastaing would play the lead role in journalism for weavers with the founding of *L’Echo de la fabrique de 1841*, the first number of which appeared 15 September 1841. His editorship of that paper, the “prolongation” (successor) of *L’Echo de la fabrique* of 1831-1834, continued through February 1845, at which time he launched his own paper, *Tribune lyonnaise*, which lasted well into the Second Republic. Here we will draw largely on *L’Echo de la fabrique de 1841* to illustrate what I call the “advocacy journalism” centered on a justice for the workshop of silk weavers.³ I will highlight three major themes of that advocacy, all of them pertaining to the Conseil des prud’hommes: the approach to individual cases, the nature of the institution itself, and elections of *prud’hommes*, particularly of *prud’hommes tisseurs*.

In announcing the intentions of the newly-founded *L’Echo de la fabrique de 1841*, the first issue placed emphasis, among other topics, on reporting the activities of the Conseil des prud’hommes. “We will report on the conseil des Prud’hommes... but only in what it

³ For an overview of the journalistic career of Marius Chastaing, see Jeremy Popkin, “Marius Chastaing et la presse ouvrière à Lyon,” in *L’Echo de la fabrique: Naissance de la presse ouvrière à Lyon*, ed. Ludovic Frobert (Lyon, 2010), pp. 29-52.

might have of usefulness for the *fabrique*, either by noting a point of doctrine, or by revealing some abuse.”⁴ The choice of cases to review reflected not only the paper’s sense of what its readers, silk weavers for the most part, would find pertinent and engaging, but also cases giving the paper the opportunity to articulate its own views on practices and interpretations of such practices by the Conseil. Often, therefore, the reporting went beyond summaries of cases and decisions. In reporting on the session of April 20, 1841, *L’Echo de la fabrique de 1841* not only described the circumstances of cases involving masters taking on workers with a debt contracted to their former masters, but also agreed with the Council’s decision to hold the current masters responsible for repaying the debt. “We completely approve the jurisprudence of the Council in this regard.” The paper singled out another case for reporting, in the session of April 27 where there were otherwise few of importance, involving “an affair of pirating [of designs] complicated by *piquage d’once* [theft of thread],” because this case “merits the attention of the entire *fabrique* victim of these odious speculations.” As it reported the details, the paper took note of the fact that the explanations of one of the accused aroused “a long and sharp [*vive*] murmuring among those in attendance.”⁵ The paper clearly took a strong editorial interest in these cases, and did not hesitate to interweave commentary with statement of facts.

Certain cases involving especially frequent (and thorny) issues of what commonly became known as “abuses” commanded exceptional attention on the part of the paper. This was evident in making such cases the topic of lead articles which appeared throughout the hearings and judgments on the case. One such case was that of the *chef d’atelier* (“*fabricant*”) Franquet in contestation with the *négociants* Michard-Bonneau in early 1842. The case involved the “abuse” surrounding *déchets* (silk thread that, in the course of weaving, was discarded as “waste” or “scrap”⁶) and *tirelles* (the silk thread forming two narrow bands of fabric plus non-woven warp between the two bands which the weaver adds on completion of the fabric and which serve to re-start the weaving of a new piece). *Déchets* and *tirelles* were so commonly a source of contestation because of the manner in which the weaver was compensated for his work. To call the compensation earnings based on a “piece-rate,” or payment of so much per unit of fabric woven, oversimplifies what was, in fact, a complex process of paying the weaver for his work. That process involved, on the one hand, accounting for the difference in the quantity of the silk thread conveyed to the weaver *chef d’atelier* for the fabric order and the quantity returned to the *marchand fabricant* upon completion of the order, and, on the other hand, deducting from the difference an allowance for a percentage quantity of thread “lost” (that is, not woven into the completed fabric, but used or discarded as

⁴ “Ce que nous nous proposons,” *L’Echo de la fabrique de 1841*, No. 1 Première année 15 septembre 1841, p. 1.

⁵ “Conseil des prud’hommes,” *L’Echo de la fabrique de 1841*, No. 16 Première année 1 mai 1842, p. 3.

⁶ **Déchets** : Nom général qu’on donne aux quantités de soie qui ne sont pas utilisables comme matière première par l’effet d’être défectueuses ou « perdue » lors de la filature, du moulinage, ou du tissage, donc soie de qualité inférieure. On se servait néanmoins des déchets de soie pour faire des fils appelés *schappe*, *bourrette*, ou *bourre de soie* et avec lesquels on fabriquait certains genres de tissus utilisant ces fils comme matière première. (‘Lexique ‘ in Ludovic Frobert and George J. Sheridan, Jr., « Le Solitaire du ravin : Pierre Charnier (1795-1857), canut lyonnais et prud’homme tisseur », forthcoming ENS Editions.)

“waste”) in the process of weaving through *déchets* and *tirelles*. Quantity here means “weight” of the silk; allowance means a recognized percentage “lost” as an unavoidable consequence of the weaving. The issue was controversial and thorny for two reasons. One reason was technical: the great variability of quality of thread and specifications and difficulties of weaving for each fabric order, which implied variability in the quantity of silk consumed by *déchets*. The second reason had to do with the high value of silk thread (also variable according to the genre, twist, etc of the thread), which from the point of view of the *marchand fabricant* (who bore the expense of the thread) represented a non-negligible portion of his costs, and from the point of view of the *chef d’atelier*, involved an even greater non-negligible share of his net earnings for the work of weaving. Two concerns attendant upon quotidian interactions between the *chef d’atelier* and the *marchand fabricant* came to the fore in this issue of *déchets* and *tirelles*. One was the nature of that relationship associated with the distinctive organization of the silk fabrique of Lyon, characterized by Ludovic Frobert as a “*bricolage* mixing the individual and the collective, the intentional and the unintentional,” in an economy of “transactions and institutions.”⁷ In other words, constant negotiation and re-negotiation of each of the elements of exchange of materials, obligations, compensation, and accounting were embedded in that relationship, and these were all individual and particularized, case by case, in short, though ostensibly within a shared understanding of what was appropriate and normative. Second was the enormous opening (opportunity and temptation) for fraud provided by the transactions relating weaver’s compensation to allowance for *déchets* and *tirelles*. The most frequently mentioned fraud was that of *piquage d’once* – small-scale theft and illicit traffic in silk thread undertaken by all those, including weavers, who handled thread in the course of various operations of manufacture– and *piquage de ballots*, when the fraud involved large-scale traffic in silk thread. In cases such as that of Franquet vs Michard-Bonneau, the contestation centered on a percentage allowance for *déchets* and *tirelles* that (according to the version offered by the *marchands fabricants* in the case) had been negotiated with the weaver Franquet, the quantity of which was less than that which (according to the version presented by the weaver) had been sanctioned by custom (*usage*) and served as the standard in previous judgments by the Conseil des prud’hommes. In this particular case, the Conseil des prud’hommes had decided against the weaver Franquet on technical grounds rather than addressing the substance of the case. Since the sum involved exceeded the 100 franc maximum for which the decision of the Conseil was final, Franquet appealed the decision to the Tribunal de commerce. It was the reporting on the case before the latter court that was the subject of the series of lead articles by *L’Echo de la fabrique de 1841* from late December 1841 through March 1842.

At the heart of the case was the issue of the *tirelle*, that part of thread (particularly warp thread) used to attach the end of one piece (of completed fabric) to the subsequent piece. In this case the number of pieces involved was twenty-seven, and therefore including the *tirelle* in the allowance of discarded thread not subject to deduction against the weaver in the “materials account” had substantial implications for the weaver’s earnings for this job. Not counting the *compte de matières* dealing with this allowance, Franquet was

⁷ Ludovic Frobert, *Les Canuts ou la démocratie turbulente, Lyon, 1831-1834* (Paris : Tallandier, 2009), pp. 17-18.

owed 189 fr 50 c for his work on the basis of the piece-rate agreed upon for the fabric order. The *marchands fabricants* Michard-Bonneau did not contest this *compte des façons*. They did claim, however, that the 3120 grammes of silk of *tirelles* and *déchets*, valued at 156 fr, should be deducted from the *compte des façons*, leaving the weaver a mere 33 fr 50 c for his work, for the following reasons. First, the *marchands fabricants* noted that they had indicated on the weaver's account book "*sans tirelle*," as was their right (so they claimed). Second, they appealed to the Conseil des prud'hommes rulings on allowable *déchets* for the percentage (3%) they used to calculate Franquet's *compte de matières*. Their arguments thus centered primarily on the "*droit de tirelle*," which Lyon's weavers claimed had been sanctioned by custom (*usage*) and which these *marchands fabricants* presumed to override by an appeal to the liberty of contracts guaranteed by the French Civil Code. In making their argument, Michard-Bonneau claimed that Franquet had tacitly consented to these terms by continuing to work on all twenty-seven pieces, not challenging the terms until the final rendering of accounts on completion of the entire fabric order.

The case for the weaver Franquet had been prepared by a series of arguments addressing all of the major issues involved, elaborated and published by none other than Marius Chastaing, while serving as a journalist for *L'Echo des ouvriers*, one of the relatively short-lived papers published since 1840 claiming succession from the original *L'Echo de la fabrique*. In the *Memoire Franquet*, Chastaing presented seven specific questions raised by the case, for each of which he offered arguments in defense of the claims of the weaver Franquet. The arguments addressed both matters of fact and legal interpretation, but they also brought to the fore considerations of social justice informed by the silk weavers' industrial movement of the 1830's, summarized in the famous expression: *Vivre en travaillant* (displayed prominently on the masthead of *L'Echo de la fabrique de 1841*). As editor of *L'Echo de la fabrique de 1841*, which began publication shortly before the Tribunal de Commerce began hearing the case, Chastaing devoted close attention to all aspects of the affair, including what today we would call the "visuals" (courtroom appearance and the lawyer's performative style), making reference to the *Memoire Franquet* for detailed commentary. Once the judgment was rendered (against Franquet), a series of articles in the paper addressed point by point the Tribunal's findings in the case and its justification for its decision. Overall, the paper's reporting of the courtroom proceedings, its commentary referencing the *Memoire Franquet*, and the series of articles on the judgment itself constituted more than a passionate moral defense of a cause derived from what weavers had long considered one of the main abuses in their dealings with *marchands fabricants* in the "economy of transactions" of the Lyon fabrique. It was also an exhibition of the ways of the law, and a demonstration of the manner in which the rhetoric and logic of legal reasoning could be applied to the specific circumstances of weavers' everyday practice of their trade. The enterprise was, in short, one of education in jurisprudence specific to weavers' experience of manufacture in their industry as well as advocacy in the name of social justice broadly conceived.

Among the several points made by Chastaing in defense of the claims of Franquet, two stand out as representative of this assimilation of legal reasoning with the distinctive particularities of the silk fabrique as manifest in actual practice. One concerned

contractual freedom, on the basis of which the lawyer for the *marchands fabricants* defended their right to deny their weavers allowance for *tirelle*, and which the judgment the court upheld. Chastaing's rejoinder had two parts. One invoked custom (*usage*) as having the force of law, in the absence of any written positive law prescribing otherwise. As long as the latter remained silent, *usage* prevailed and must therefore be recognized as a right inviolate not subject to modification by a contractual agreement, however freely negotiated. Such was the *usage* of including the *tirelle* in the allowance for discarded thread as an anticipated consequence of weaving the fabric. The other part of Chastaing's rejoinder was more interesting, for it relied on a discursive turn of argument which today would find welcoming ears. This was the appeal to the substantive elements of the case, as distinct from the legal formalities involved, and to the context of the matter at hand, enabling Chastaing to argue from weavers' real-life experience and in this way to bring into play matters that went beyond legal reasoning. The substantive matter was the *salaire* of the weaver of which the *tirelle* constituted a non-negligible portion. The implication of court's ruling was a reduction of that part of the *salaire* to which the weaver was entitled by custom. This topic had a particular resonance among the silk weavers of Lyon, recalling their constant struggles with *marchands fabricants*, both individually in cases brought by weavers before the Conseil des prud'hommes and collectively in movements such as *mutuellisme* as conceived by its founder, Pierre Charnier, for a "reform of abuse." Removing the *tirelle* from the allowance granted the weaver in the *compte de matières* not only reduced the earnings for his work but did so drastically. Regardless of legal rights and formalities enshrined in the *code civil*, the substance of the case did not authorize the *marchands fabricants* to extract from their weavers such a share of their earnings that their livelihood was put at risk, or, to use the language of November 1831, their capacity to *vivre en travaillant*. Here Chastaing, granting the good faith of the judges of the Tribunal de commerce, pointed out that their ignorance of the ways of the fabrique had misled them to a false application of the freedom of contract recognized in civil law:

Dans la cause spéciale qui nous occupe nous sommes convaincus que le tribunal a cherché à rendre bonne justice, mais nous pensons qu'il s'est trop préoccupé des principes du droit commun et en a fait une fausse application. Nous dirons plus, cela était naturel, parce que la matière est peu connue et que pour résoudre les question majeures qui se sont présentées, il fallait s'imprégner des usages de la fabrique, et les considérer au point de vue de l'ordre social, puisqu'il est vraie de dire que ces usages doivent faire force de loi, à défaut du code écrit de l'industrie, comme il en existe un pour le commerce, et que le maintien de ces usages se lie à la question des salaires, la plus grave de celles que l'économie politique agite chaque jour ; d'où la conséquence que l'ordre social est lui-même intéressé à ce qu'il n'y soit pas dérogé au préjudice des travailleurs.⁸

Thus whatever justice resided in the mode of payment to weavers for their work necessarily had to take into account the *usages* of the fabrique, for these *usages* formed part of the delicate balance of interests without which the fabrique as manufacture could not be sustained. For this reason, what was at issue was, as the above quotation states, the distinctive political economy of the fabrique.

⁸ *L'Echo de la fabrique de 1841*, no. 12, le 28 fevrier 1842, p. 2.

Equally significant was the context of the situation for which liberty of contract was invoked by the *marchands fabricants* in this case. Ignoring this context made such liberty hollow and therefore, in a certain sense, a delusion or a sham. Justice required more than an appeal to formal and technical interpretation of contractual freedom -- the kind of appeal one would expect from experts trained in the law -- for the exercise of such freedom required contextualization for the specific case at hand. Here Chastaing interwove legal argument, including appeal to formal qualities of the law, with an argument for social justice that was as much informed, or moreso, by his ideological stance and that of his paper in favor of the social agenda of the Lyon silk weavers voiced since the movement of the early 1830s. The following excerpt eloquently demonstrates this interweaving of perspectives as applicable to contractual liberty *in this instance*:

...Oui, les conventions sont libres, mais entre personnes également éclairées et indépendantes. Elles ne le sont entre la faim stipulant avec l'argent, parce que, voyez vous, vous êtes heureux de l'ignorer, lorsque le métier bat, le boulanger fait crédit, propriétaire suspend le congé qu'il avait donné ordre à l'huissier de signifier. Boulanger et propriétaire ne s'inquiètent pas de savoir à quel prix le métier bat, il leur suffit que l'ouvrier ait de l'ouvrage ; et si, pour compenser l'insuffisance du salaire, l'ouvrier passe une partie des nuits, c'est un ouvrier laborieux et ils ont confiance, et cet ouvrier s'épuise et il meurt de faim, non pas à un jour donné, mais lentement ; il meurt chaque jour, et cependant il espère, il prend patience ; il s'endette et la vieillesse arrivera : avec elle, les maladies, les infirmités et la perspective de l'hôpital encore trop tardif. Voilà pourquoi nous avons dit que le contrat onéreux à l'ouvrier devait être, par la loi, taxé d'usuraire et déclaré nul. Voilà pourquoi nous avons dit que les conventions entre négociants et ouvriers n'avaient pas le caractère de liberté que demande la loi civile. Tant pis pour vous et pour ceux qui ne nous auraient pas compris ; tant pis pour ceux dont les fibres du cerveau ne correspondent pas à celles du cœur.

Qu'importent vos savantes doctrines sur la liberté des conventions à l'ouvrier qui a besoin de travailler pour vivre.⁹

Prior to the hearing of the case before the Tribunal de commerce, the Conseil des prud'hommes had turned down Franquet's claim for restitution of the amount allowed by usage for *tirelles* and *déchets* on the grounds that the weaver had failed to make the claim (that is, to invoke the intervention of the *prud'hommes*) within the required month following completion of the fabric order. The lawyer for the *marchands fabricants* Michard-Bonneau used the same fact to argue for the weaver's implicit consent to the terms of the order that eliminated allowance for the *tirelle*. At issue here was not *usage* as such, but rather the interpretation of a particular *usage*, that of what was called *prescription mensuelle*. Interpreting and indeed challenging the notion of the *prescription mensuelle* had elicited intense debate *among the prud'hommes* in the 1830s, and continued to do so well into the early 1840s.¹⁰ Here Chastaing inserted himself (and *L'Echo de la fabrique*) into this debate by invoking another practice in the fabrique, that of settling accounts, both those of the *compte de façons* and those of the *compte de matières*, at the end of the entire run of fabric orders using the same warp mounting, rather than piece by piece. He therefore could at once characterize the decision of the Conseil des prud'hommes in the Franquet case as "*insolite*," and also respond to the

⁹ *L'Echo de la fabrique de 1841*, no. 9, p. 1.

¹⁰ For this debate, see chapter 4 of « Le Solitaire du ravin: Pierre Charnier (1795-1857), canut lyonnais et prud'homme tisseur », by Ludovic Frobert and George J. Sheridan, Jr. (forthcoming, ENS Editions).

claim of tacit consent on the part of the weaver Franquet invoked by the *marchands fabricants* (and upheld by the ruling of the Tribunal de Commerce) as being invalid.

Chastaing's insertion of opinion with regard to the internal proceedings of the Conseil des prud'hommes was motivated by more than argument over a particular case. For him and for his paper, *L'Echo de la fabrique de 1841*, preoccupation with the institution of the Conseil itself, including its organization, its procedures, and its interpretation of both *usages* and the Civil Code, were a major feature of paper's advocacy of justice for Lyon's silk weavers. The immediate predecessor of the paper, *L'Echo des ouvriers*, for which Chastaing had served as a journalist, had taken on the cause of reform of the Conseil des prud'hommes with a focus on its organization by chambers or "categories" of judges (whether or not Chastaing himself was either the author of the articles on reform, or was influential in shaping the proposition offered in these articles, is unclear).¹¹ *L'Echo de la fabrique de 1841* took up the mission of reform as a central agenda item, emphasizing not only organization of the Conseil but also its procedures. In a major two-part series of articles reflecting upon the mission of the paper towards the silk weavers, it directed its attention to two of the most common charges leveled against the paper by its enemies: exciting "the hatred of one class against another" and drawing "animadversion on a constituted body, the Conseil des prud'hommes."¹² The part dealing with the latter charge addressed "two contested topics" [*deux points en litige*] of the paper's concern with the institution: "1st The organization of the Conseil des prud'hommes. 2nd Appreciation of its doctrines or of its jurisprudence." This article occupied the entire front page and more than a column of the second page, indicating the importance of the issue to the author, who was most surely Chastaing himself. The matter was at once theoretical and practical, structural and procedural. Specific points of contention and critique included the absence of a written law as a basis for judgments, the lack of a right to "free defense" for parties in contest, decision-making by parties inevitably biased as a result of their respective social class, creating a tribunal that "judges in its own cause," and the technical incompetence of certain *prud'hommes* for judging cases outside the domain of their industrial specialty, a circumstance that was especially unfavorable in cases involving silk weavers.¹³ The points of contention and the arguments made replicated those emphasized in the mid-1830s by *Tribune prolétaire*, for which Chastaing had served as the unnamed editor, in its campaign to reform the Conseil. Announcing at the outset its intent to give "its principal attention" to this institution, the latter paper had promised "to gather together decisions in order to form a *body of law*," that is, to advance the cause of "establishing a fixed jurisprudence."¹⁴

The matter of "fixed jurisprudence" had been taken up by the original *L'Echo de la fabrique* of 1831-1834 while Chastaing had been editor, through a series titled "Notices

¹¹ "De la Réorganisation du Conseil des Prud'hommes," *L'Echo des ouvriers*, Deuxième année, No. 21, mai 1841, p. 1 ; D. "De la Réorganisation du Conseil des Prud'hommes (fin)," *L'Echo des ouvriers*, Deuxième année, No. 22, juin 1841, p. 1.

¹² « De l'Echo de la fabrique, » *L'Echo de la fabrique de 1841*, Troisième année, No. 48, le 31 août 1843, p. 1.

¹³ « De l'Echo de la fabrique », *L'Echo de la fabrique de 1841*, Troisième année, No. 49, le 15 septembre 1843, pp. 1-2.

¹⁴ "Ce que nous nous proposons de faire," *Tribune prolétaire*, Specimen No. 1, le 21 septembre 1834, p. 2.

de jurisprudence.” Together these constituted a collection of rulings by the Conseil des prud’hommes on a whole variety of cases, grouped together, by the paper, into four categories according to their treatment of relations between *chefs d’ateliers* and *négociants*, between *chefs d’ateliers* and *compagnons* and *ouvriers*, between *chefs d’ateliers* and apprentices, and between *chefs d’ateliers* and “*diverses personnes*.” The intent was the elaboration of a “*code des prud’hommes*” as a means of establishing standards for future decisions and, eventually, of translating *usages* into law.¹⁵ In 1843 Joachim Falconnet, a master silk weaver and weaver *prud’homme* who had been one of the founders of the original *L’Echo de la fabrique*, embodied these “*Notices de jurisprudence*” in his *Indicateur annuel de la fabrique d’étoffes de soie de Lyon, Pour l’année 1843*, a guide and directory of the Lyon silk fabrique that gave pride of place to the Conseil des prud’hommes. Reprinted with the agreement of Chastaing, these *Notices* were intended, remarked Falconnet, to serve as “un premier jalon pour arriver à doter l’industrie d’une jurisprudence fixe, comme il en existe pour les matières civiles et commerciales.” The *Notices* were followed by “une instruction sur la procédure à suivre devant le conseil des Prud’hommes, pour l’exécution de ses jugements.” The exactitude and knowledge of legal technicality evident in the latter suggests that Falconnet relied on the hand of Chastaing in drafting the instruction. Another attempt at fashioning such a code for the fabrique was undertaken by *L’Echo de la fabrique de 1845*, which continued the press run of *L’Echo de la fabrique de 1841* following the departure of Chastaing as editor. By producing a record of the “*Jurisprudence usuelle*” of the Conseil, the paper aspired “to the creation of the Code du Travail” that would be “no less useful than the Code de Commerce.”¹⁶

L’Echo de la fabrique de 1841 inserted itself into *prud’hommes* affairs in another manner as well, that of elections of *prud’hommes* delegates to the Conseil. While manifesting broad interest in the Conseil as an institution, the focus was on the elections of *prud’hommes* for the *section de soieries* (there were three other “sections,” each having representation on the *prud’hommes*: chapellerie; bas, bonneterie, tulles; and rubannerie, guimperie, passementerie, triage d’or). *L’Echo* conscientiously announced each electoral cycle to its readers, provided names of candidates and, for weaver candidates, reflections on the qualities of individual candidates where the paper thought these were significant, and reported on the results of elections, sometimes with commentary on the results. *L’Echo* did not refrain from voicing its opinion on specific electoral matters, such as re-election, which it opposed in principle, nor did it abstain from critique of electoral procedure, particularly when, in its opinion, the authorities failed to follow proper form. The paper was especially critical of low turnout for electoral assemblies, notably that of *négociants*, and it used its position as prominent communicator with the silk weaver community to arouse those among their readership who were eligible to vote for *prud’hommes* to exercise that right. Facing some criticism, or rather ridicule, for the meticulous attention it gave to elections of *prud’hommes*, the paper had only to reply that the opportunity and right to vote in these elections ought to be particularly cherished in the *monarchie censitaire* of the *régime de juillet*. Conceding that elections of

¹⁵ L. Frobert, *Les Canuts*, p. 111.

¹⁶ « Commentaire sur le Jurisprudence usuelle du Conseil de prud’hommes », *L’Echo de la fabrique de 1845*, le 16 août 1845.

la ligne insultante que beaucoup trop de fonctionnaires populaires essaient de créer aussitôt qu'ils sont arrivés au but où tendait leur amour propre.²⁰

Another weaver *prud'homme* standing for re-election for the “seventh section,” M. Milleron, was not so fortunate, losing to a M. Barbier. This outcome *L'Echo* did not find surprising, yet did not hold such defeat as a reflection on the worthiness of the unsuccessful incumbent. « Quoique non réélu M. Milleron n'en conserve pas moins l'estime de ses collègues, seulement on le trouvait de trop facile composition au Conseil et dans les arbitrages ; voilà le seul motif qui lui a fait préférer M. Barbier. »²¹

Commentary on elections also gave the paper an opportunity to engage in advocacy for weavers by addressing the *prud'hommes négociants* and their electors, the *marchands fabricants*. In doing so *L'Echo* articulated the qualities of the ideal *prud'homme négociant*. Without any illusions of having much effect on their choice of *prud'hommes* – “nous n'avons pas la pensée de croire que notre voix puisse avoir quelque influence sur eux” – *L'Echo* nonetheless used the occasion of partial elections to elaborate the particular responsibility of the *prud'hommes négociants*, as distinct from that of the *prud'hommes tisseurs*.

Votre position sociale, votre éducation, votre fortune nous garantissent suffisamment. Si la classe ouvrière a besoin de défenseurs ardents, de tribuns mêmes (nous l'avons dit) il n'en est pas ainsi de vous. Ce sont des hommes sages et conciliants que vous devez envoyer au Conseil des Prud'hommes, et vous ferez plus dans votre intérêt même que si vous vous en rapportez à la violence pour combattre ce que vous pensez, de bonne foi sans doute, être de la violence et qui n'est que l'expression acerbe peut-être, mais vraie, d'une position fâcheuse. Vous le savez, l'esprit de conciliation amène la conciliation : membres d'une même famille, la concorde doit régner entre nous. Dites à ceux que vous choisissez et qui seront vos mandataires, dites-leur que sous aucun prétexte on ne doit disputer son salaire à l'ouvrier, parce que l'ouvrier n'envie pas les bénéfices du marchand. A vous, négociants, la spéculation et la fortune qui la suit : l'ouvrier loin d'en être jaloux la verra avec joie, mais aussi faites que cet ouvrier puisse vivre honorablement en travaillant. Sans doute la spéculation a des chances et vous pouvez reprocher à la fortune vos veilles nombreuses, vos soucis de chaque jour ; et cependant, croyez-le une certaine auréole de gloire environne vos labeurs, elle peut en payer le prix. Mais la veille de l'ouvrier est bien pénible, son travail bien dur et bien prolonge, ses soucis bien cuisants, et nulle espérance ne vient en adoucir l'amertume, nulle gloire ne vient le bercer d'une douce illusion.²²

In addressing the qualities and background of individual candidates to represent the class of *négociants*, it did not refrain from expressing favor or disfavor in unambiguous terms. For the elections of 18-19 December 1842, it expressed the hope that one *prud'homme négociant*, M. Cinier, would find enough favor with his colleagues to be re-elected along with two other incumbents. Cinier especially had demonstrated by his previous behavior on the Conseil that he “a su de concilier l'estime et l'affection des chefs d'ateliers, condition importante, à notre avis, pour que MM. Les prud'hommes négociants puissent remplir convenablement leur rôle qui tout de *conciliation*, tandis que celui des

²⁰ « Election du Conseil des prud'hommes », *L'Echo de la fabrique de 1841*, No. 31, 15 décembre 1842.

²¹ « Sur les dernières élections du Conseil des prud'hommes », *L'Echo de la fabrique de 1841*, No. 32, 31 décembre 1842.

²² « De l'élection des prud'hommes, a propos du renouvellement partiel », *L'Echo de la fabrique de 1841*, No. 7, 15 décembre 1841, p. 1.

prud'hommes chefs d'ateliers est un rôle de *défense*. »²³ When Cinier was not re-elected, and this by an unusually large number of electors *négociants* who had participated in the elections in comparison with the past, *L'Echo* did not mince words in expressing its chagrin. The only candidate to have had “la sympathie des ouvriers,” his rejection by his colleagues, only 12 of whom among the 151 *négociants* present having cast their votes in his favor, was a sign, according to the paper, of their making “un crime de cette sympathie.” Even worse, neither of the other two *prud'hommes négociants* standing for re-election was chosen. While not commanding the same esteem among the weavers as M. Cinier, whose “conduite dans l'affaire Franquet, dans les différentes conciliations dont il a été chargé, lui avait mérité les suffrages de tous », they did not at least arouse the concerns elicited by two of the newly-elected *prud'hommes négociants*. One of these, M. Bertrand, was an adversary of *L'Echo de la fabrique*, responsible for “le seul procès qu'il ait eu sous la gérance de M Berger. » The other, M. Firmin Gentelet, had not only been implicated « aux événements de novembre” but had also been party to a case covered by the original *L'Echo de la fabrique* in 1833 concerning a matter of *laçage des cartons*, “question non moins vitale que celle des tirelles.” Should such an issue emerge while this *prud'homme négociant* was sitting on the Conseil, “ainsi qu'on nous le fait craindre, nous aurions encore une lutte à soutenir dans l'intérêt de la fabrique ; nous n'y manquerions pas. »²⁴

Thus *L'Echo de la fabrique* used its distinctive place in the world of what has been called the *petite presse* in Lyon of the 1840s to position itself as a player in the world of justice and jurisprudence for silk weavers.²⁵ It did so through the means that I have outlined here – by its regular and meticulous coverage of individual cases, replete with commentary, presented before the *prud'hommes*, and also occasionally, as we saw in the Franquet case, before the Tribunal de commerce; by its preoccupation with the institution itself and its rules and procedures, in the interest of advocating reform; and by its coverage and commentary on elections of *prud'hommes* representing silk manufacture, both weavers and *marchands fabricants*. In doing so systematically and repeatedly throughout the period of its publication, the paper was asserting more than a general role of the press in the civic life of the city, as a kind of “fourth estate” – to use today's US terminology. It was rather making a much more specific claim. That claim it articulated in an article it published in the midst of its coverage of the Franquet case, titled revealingly “the Ninth Prud'homme.” In the absence of equal representation of weavers and *marchands fabricants* on the Conseil des prud'hommes, *L'Echo de la fabrique* claimed that ninth position for itself. « Il ne s'assied pas, il est vrai, à la table du Conseil, mais il enregistre ses discussions, il fait plus, il les discute et les vote ; et, quoique tout seul, son vote n'est pas sans importance, parce qu'il arrive souvent, par la discussion, à le faire adopter par l'opinion publique... »²⁶ In doing so it announced its sense of its particular identity in the world of journalism and its self-proclaimed mission or vocation

²³ « Elections du Conseil des Prud'hommes », *L'Echo de la fabrique de 1841*, No 31 15 December 1842.

²⁴ « Sur les dernières élections du Conseil des prud'hommes », *L'Echo de la fabrique de 1841*, No. 32, 31 décembre 1842.

²⁵ For the *petite presse* of the Lyon silk fabrique, see George J. Sheridan, Jr., “Les échos de *L'Echo*: L'héritage du journal des canuts (1834-1870),” in *L'Echo de la fabrique: Naissance de la presse ouvrière à Lyon*, ed. Ludovic Frobert (Lyon, 2010), pp. 213-245.

²⁶ « Le Neuvième Prud'homme », *L'Echo de la fabrique de 1841*, No. 11, le 15 février 1842.

to speak in the name of the silk weaver community as the latter's advocate for special causes, such as the elimination or reform of "abuses" in the silk *fabrique*. It invited its readers to bring such abuses to the attention of the paper, promising to make these public either through publication of their letters or through use reader testimony "as text for our core articles."²⁷ *L'Echo* conveyed its sense of this role by referring to it alternatively as that of a "priesthood [*sacerdoce*]," evoking the true vocation of journalism,²⁸ and as that of "lawyer" for the *canuts*, having the issues of the paper serve as "des plaidoyers devant le tribunal de l'opinion publique ».²⁹ Priest and lawyer, in short, defined the persona of *L'Echo de la fabrique* as it advocated for justice, alongside the Conseil des prud'hommes, for the silk weavers of Lyon.

²⁷ « Ce que nous nous proposons », *L'Echo de la fabrique de 1841*, No. 1, 15 septembre 1841.

²⁸ Ibid.

²⁹ *L'Echo de la fabrique de 1841*, No. 48, le 31 août 1843.