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**James R. Farr**, *A Tale of Two Murders: Passion and Power in Seventeenth-Century France*. Durham, NC and London: Duke University Press, 2005. xiv + 225 pp. Figures, notes, note on sources, and index. \$74.95 (hb); \$21.95 (pb). ISBN 0-8223-3459-3 (cl); ISBN 0-8223-3471-2 (pb).

Review Essay by Sarah Hanley, University of Iowa.

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### **The Giroux Case 1639-1643: A Judicial Backdrop**

In this compelling narrative, James R. Farr situates readers in France, the city of Dijon, Burgundy, as witnesses to a criminal case examined from 1639 to 1643: a murder charge against Philippe Giroux, a *président à mortier* in the Parlement of Dijon, who was accused of killing his cousin, Pierre Baillet, a president in the Chambre des Comptes, and the cousin's valet, Philibert Neugot, last seen entering Giroux's house in September 1638. The powerful Giroux family, nobles of the robe and clients of Henry II de Bourbon, prince of Condé (first cousin of the king, Louis XIII), figured in the investigation taken up six months later in March 1639. First, the Lantin inquiry (1639-1640), scrupulously conducted, "turned up no concrete evidence of guilt—no confessions, no murder weapons and...no bodies..., and...no eyewitnesses;" so there was "little tangible proof that could dispel lingering doubt about whether Baillet was murdered or had simply disappeared"(p. 38). Still, Lantin was dismissed in February 1640. Next, the Millière-Jacquot inquiry, zealously pursued, led to Giroux's arrest in July 1640, imprisonment (1640-1643), and denial of his request for release based on lack of evidence (1641). Yet this dossier (1643) fell short on the same fronts: motive and opportunity; circumstantial evidence, concrete evidence, and forensic proofs.

What was the evidence in hand? *Motive*: the rumors about Giroux's passionate love for Marie Fyot (Baillet's wife), an affair some thought was linked with the death of Giroux's wife, Marie Le Goux de La Berchere (1636), was sworn by some, denied by others. The affair alleged was not proven. The same may be said for reports that Giroux was angry at Baillet for compromising his relationship with Condé. *Opportunity*: the troublesome Baillet, who was jealous of his cousin, ran up debts, and abused his wife, Marie Fyot, was seen entering Giroux's house. Still, he might have left later that night. The servants did not hear violent movements in the house; and some townspeople heard Baillet say he planned to meet creditors and take a trip to Italy. *Circumstantial evidence*: the commissioners gathered a large body of circumstantial evidence. But this type of hearsay evidence required speculation to implicate Giroux, so it was not sufficient to obtain a murder conviction (by procedural rules). This evidence was marred also by conflicting accounts, outright reversals, and the disappearance of an eyewitness. *Concrete evidence*: the absence of direct proofs—two eyewitnesses, or a confession from the accused (as rules required)—left a hole in the evidentiary apparatus widened by the gap in forensic findings. *Forensic proofs*: after nearly four years of work (1639-1643) compiling a large dossier, the prosecution did not have the forensic evidence necessary (by the rules) to convict Giroux: a dead body. At this critical juncture, the prosecution stymied (1643), a tip from Pierre Saumaise de Chasans (*conseiller* in the Parlement), archenemy of Giroux, led to the odd discovery of two sacks of bones. Benoît Giroux, father of the accused, admitted hiding the sacks after someone threw them over his garden wall three months earlier. Forensic evidence gleaned from inspections of the bones and bits of clothing, while suggestive, did not identify the men, or connect the bones with murder, or tie Giroux to the bones or the murders. Besides the problem of insufficient evidence, departures from procedure were troubling.

*Procedural rules*: in the 1640s legal procedures were not well formulated as they would be after Louis XIV's reform ordinances of 1667 and 1670. Still, the rules currently in place under Louis XIII—

followed, bent, or broken—were central to the direction of the entire case. On external procedures—deciding jurisdiction—the actions declined seem reasonable. The Giroux case was not transferred from the Parlement of Dijon to another Parlement, a move possible when the number of office-holding relatives sitting in a court created a conflict of interest.[1] This was not quite Giroux’s situation in the Parlement, although squabbling camps there give pause. The king did not evoke the Giroux case out of Parlement into his Conseil Privé for a decision. But kings knew that Parlements opposed royal evocations, and this case did not provoke a crisis in government.[2] On internal procedures, however, rules were bent and broken. The unusual amount of time given to the investigation, almost four years (1639-1643), reaped serious consequences, some intended, others not. First, the time factor allowed commissioners to issue a second church call for witnesses (the first 1639), the *monitoire* (1640), that actually fuelled more gossip; to revisit witnesses (high born and low) and torture some of them; and to take up cases on the side, Moreau v. Saumaise (for rape, 1640) and Rhodot (for infanticide, 1641). Confusion resulted: servants changed stories twice or thrice; townspeople passed on hearsay now second-hand and third-hand; persons took bribes; others left town or died; and dirty deeds intruded. The length of time led to a case packaged in rumor and gossip—“Common rumor had it....,” “The word about town was....,” “So and so told so and so who told me....” (p. 7)—that interfered with efforts to reach truth or attain closure. Second, the time factor contributed to the growth of a major scandal that surely weighed into the decision of the prince of Condé, powerful patron of the Giroux family and governor of Burgundy, to drop his clients and protect his own reputation. Third, the time factor gave the obsessive Saumaise de Chasans opportunities to mount venomous public attacks against the accused. Advocating a grave departure from accepted procedure, Saumaise argued that the circumstantial evidence was sufficient (without a dead body identified) to convict Giroux for murder (March 1643). He also launched a life-threatening attack against Marie Fyot later (1646). To be sure, this was a “maelstrom of intrigue where guilt and innocence could be captive to power and influence.”[3] But readers wonder, in addition, what the outcome might have been if the case was concluded in a timely manner; if the judges did not readily bend, or breach, rules of legal procedure; and if the Parlement of Dijon stuck to evidence in the dossier? The Giroux case, framed in a judicial backdrop, is also part of a historical panorama covering early modern France.

### The Micro-history 1600s: A Historical Panorama

While presenting this criminal case, James Farr gives a micro-history of life in Dijon during the 1600s: a social panorama of “upstairs” and “downstairs.” Studies of family and marriage policies among officeholding elites show distinct patterns. Officeholders attained nobility and their children intermarried; families paid for dispensations to allow under-age sons into offices; the presence of too many family-related men in a court might send a case, to avoid undue influence, into another Parlement.[4] In this book, the women and men whose actions contributed to those patterns appear full face. Philippe Giroux and his father Benoît: swiftly and successfully building family networks, the office in Parlement passed from father to underage son (by dispensation), and marriage inside this judicial elite. Yet, as seen here, the spectacular success also sparked anger, jealousy, and revenge. Pierre Baillet: creditors at his heels, mistreating his wife, consorting with other women, and slowly undermining family repute. Jeanne Burgat (Baillet’s mother): she advanced Baillet the money to buy an office (it is important to note). And that instance signals the power wielded by women (grandmothers, mothers, aunts, wives) in the vital socio-economic arena of venal office ownership attached to inheritance (a system peculiar to France).[5] Marie Fyot: wife of Baillet, the epitomy of a suffering wife caught in an unhappy marriage; also, the union of Philippe Giroux and Marie Le Goux de la Berchere, indifferent at best, show how “the material and political interests of the families dwarfed considerations of sentiment” (p. 14). Witnessing marriage formation in Dijon demonstrates how the “Marital Law Compact” (a series of French laws issued from the 1550s through the 1630s) assured parental control of family formation, helped families expand networks, and aided state building.[6] The window opened into these rocky marriages; the lack of privacy for persons attracted but watched around the clock by relatives, servants, and townspeople; and the terrifying life and death potential of severe marital distress are displayed. And

the display sheds some light on the reason why some wives driven to desperation brought “marital separation” suits to courts (alleging mistreatment, dissipation of funds, etc.) despite the risk of being served with “adultery” charges from some husbands (to prevent separation and remain in charge of assets).<sup>[7]</sup> The same window is open below stairs.

The author provides a fine sense of the numerous perils faced by working people—townspeople, servants, doctors, priests—attached to a noble family, or not, once embroiled in a criminal investigation. The way church *monitoires* ordered by judges to flush out witnesses is traced, along information gleaned. The willingness of judges to order torture for the low born not only legally but also illegally, raises qualms. They “brushed illegality aside” when they tortured Eleanore Cordier (servant of Giroux) a second time; yet even in agony “as the bones in her foot and shin were crushed,” she gave no confession, and so “the judges were no nearer the truth” (p. 171-173). The vagaries of justice loom large for women found pregnant by a lover, a rake, or a priest, as they sought to abort or commit infanticide. For infanticide: Hélène Gillet, almost hacked to death by an inexperienced executioner in Dijon, saved by the angry crowd, and entering a convent for life. The same vagaries for a doctor, Lazare Rhodot, who was accused of infanticide and acquitted (1634), but illegally retried for the same crime and sentenced him to the galleys (1643). Since judicial discretion overwhelmed procedural rules in critical instances, it is not surprising that cunning retorts abounded: lying, disinformation, hiding, maneuvering, disappearing, and above all, negotiating, to survive.

In this formidable historical panorama, I would argue, Michel Foucault’s inflexible and miscast notion that the “meaning of order” was set in a “hierarchical mold” during the 1600s (p. 201-202) does not fit the facts that James Farr lays out so well. Perhaps interesting for a philosopher like Foucault, that misleading *top-down* notion of authority is detrimental to the work of historians, who no longer wish to conceptualize power, or knowledge, or discipline raining down from those above upon those below presumably too ignorant to put up an umbrella. Rather, the work of Pierre Bourdieu offers a way out of this conceptual dilemma by insisting on a flexible and uncast “theory of action,” a *side-to-side* notion rooted in the constant “negotiations” among parties along a time trajectory. Bourdieu’s double-sided “theory of action” (moving from side to side), as opposed to Foucault’s one-way “hierarchical mold” (moving top-down) is dynamic and changing, not “ordered” and static; and it pushes historians to find out how human agency (often hidden under hierarchy) works in a society and trace its pitfalls, contingencies, and consequences (intended, or not).<sup>[8]</sup> Finally, besides contributing to historical knowledge, this book serves the important task of teaching.

### **A Teaching Tool: Scholarship and Narrative**

Told by James Farr, the *Tale of Two Murders* welds careful scholarship based on documents difficult to decipher to a historical narrative wrapped in taut suspense. He keeps the reader enveloped in shocking events, “law and order,” in Dijon. The reader leaps (chapter to chapter) from one side, to the other: guilty, not guilty; could be, maybe not. The first outcome? Readers are gripped by indecision, just as investigators were in the 1640s. The second? Readers may not be willing to forgive the departures from legal procedure allowed by the Parlement of Dijon. The third? Readers struggle to come to an informed decision on guilt, or innocence, just as the judges did in 1643. From my experience assigning this book in a History Colloquium for majors, it is a fine teaching tool. In a smart decision at the end of the book, James Farr does not take a stand of his own—guilty or not guilty—on the verdict pronounced in the Giroux case (1643). Consequently, students may be asked to write a sort of legal brief where they summarize the evidence—reason about it—and offer a verdict of their own (which may, or may not, complement the verdict given by the court). This student project may be expanded. On the first front—criminal law—the Giroux case (1643), murder in Dijon, may be compared with another, the Gérard case (1781), murder in Paris. On a second front—civil law—marital cases litigated may be examined for France and then compared with such cases in England.<sup>[9]</sup> When the project ends, students have studied the lives actually lived by men and women, nobility and workers, in early modern France;

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assessed the uneven legal risks run in society by women and men; contrasted French legal procedure in the 1600s with that reformed in the 1700s; and compared French and English marital law as well. Thanks to James R. Farr for his masterful *Tale of Two Murders*!

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## NOTES

[1] See Albert N. Hamscher, *The Parlement of Paris After the Fronde, 1653-1673* (University of Pittsburgh Press, 1974), chap. 6, on family backgrounds and numerous marriages among these families.

[2] Hamscher, *The Conseil Privé and the Parlements in the Age of Louis XIV: A Study in French Absolutism* (American Philosophical Society, 1987), studies all the Parlements and their relationship with the king's Conseil Privé (treating judicial affairs) in the later 1600s. While Parlements most often resisted "evocations," he also notes "the spirit of accommodation that guided the conduct of Louis XIV's Conseil Privé..." by pointing out that évocations...were few in number and awarded with a high degree of discretion" (p. 147-148).

[3] James R. Farr, *A Tale of Two Murders: Passion and Power in Seventeenth-Century France* (Duke University Press, 2005), 181.

[4] On judicial offices: Hamscher, *The Parlement of Paris* (University of Pittsburgh Press, 1976), chap. 6, on intermarriage among relatives of officeholders and on under-age candidates; Jonathan Dewald, *The Formation of a Provincial Nobility: The Magistrates of the Parlement of Rouen, 1499-1610* (Princeton University Press, 1980), on marriage formation; David Parker, "Sovereignty, Absolutism and the Function of the Law in Seventeenth-Century France," *Past and Present* (1989), on problems of relatives in courts; and Sharon Kettering, "Patronage and Kinship in Early Modern France," *French Historical Studies* (1989), on patrons and clients. On city councilors: Barbara Diefendorf, *Paris City Councillors in the Sixteenth Century: The Politics of Patrimony* (Princeton University Press, 1983). On financial offices: Daniel Dessert, *Argent, pouvoir et société au Grand Siècle* (Paris, 1984), for intermarriage among families holding financial offices.

[5] In officeholding ventures, women were major players. They did not exercise offices, but they inherited and owned them; they brought offices (as assets) in their dowries, tapped male candidates to fill a vacancy, and passed charges on after death. Paul Louis-Lucas, *Etude sur la venalité des charges et fonctions publiques...* 2 vols. (Paris, 1883), I, chap. 2, shows that jurists, such as the famed Charles Loyseau [the expert on venal offices from 1610 through the 1700s], first defined title to office in male terms, then recognized offices as inalienable family property (*propres*) in inheritance (transmitted to women and men). Sharon B. Kettering, "The Power of Early Modern French Noblewomen," *Historical Journal* 32 (1989):817-841, gives telling examples; and Hamscher, *Parlement of Paris*, chaps. 1-2, notes a widow who inherited a judicial office named the male candidate. Carolyn C. Lougee, *Le Paradis des Femmes: Women, Salons, and Social Stratification in Seventeenth-Century France* (Princeton University Press, 1976), traces the way female hypergamy aided the rise of an officeholding elite; and Dessert, *Argent, pouvoir et société*, using financial offices to study patronage networks during the 1600s, stresses the importance of women's assets to sustain family units, women's tax-farming ventures (364-365), the need for their dowry assets to support officeholding (477-488), and networking through grandmothers, mothers, and aunts who provided offices, capital, and patronage to facilitate officeholding enterprises (517-703).

[6] See Sarah Hanley, "The Jurisprudence of the Arrêts: Marital Union, Civil Society, and State Formation in France, 1550-1650," *Law and History Review* (2003): 1-40, on the "Marital Law Compact," French civil laws (displacing church courts and canons), a theory of binding precedents that emerged, and French jurisprudence called "the jurisprudence of the arrêts [case law decisions]; also

“Engendering the State: Family Formation and State Building in Early Modern France,” *French Historical Studies* 16:1 (1989): 4–27, on the way family-state negotiations upheld family formation and aided state building and cases litigated (French version in *Politix: Revue des Sciences Sociales du Politique*, Sorbonne 32 (1995): 45–65); and consult Pierre Bourdieu, *Practical Reason: On the Theory of Action* (Stanford University Press, 1998), chap. 3, for the way those reasoned French negotiations satisfying family and state interests contribute to his “theory of action.” Also, see Gayle Brunelle, “Dangerous Liaisons: Mésalliances and Early Modern French Noblewomen,” *French Historical Studies* (2000): 1–32, on suits by widows to regain noble status lost when their families married them to *routuriers* (saving assets for their brothers).

[7] See Sarah Hanley, “Social Sites of Political Practice in France,” on separation, a wife’s charge; and adultery, a husband’s charge; and Sara Maza, on the Kornmann affair (n. 9 below).

[8] See Bourdieu (n. 6 above) outlining “negotiation” as opposed to domination for a practical and reasoned “theory of action” tied to specific goals. The 1600s was the age, for example, when French jurists steadily negotiated, decade after decade, with church officials (in France and Rome) over whether or not the French state would control marital matters, hence family formation, and managed to keep the edge (“the pope is a foreigner in France”); and the French Marital Law Compact devised covered French subjects, Catholic and Protestant (leaving Jews to their own courts for another century).

[9] The History Colloquium: **Part One: Treating Criminal Law (Murder Cases) in Early Modern France**, where students read Farr’s *Tale of Two Murders*, then contrast the Giroux case (1643) with the Gérard case (1781) found in Richard Mowery Andrews, *Law, Magistracy, and Crime in Old Regime Paris, 1735-1789*, Vol. 1. *The System of Criminal Justice* (Cambridge University Press, 1994), 548–589, treating a murder involving working people in Paris at a later time period when judicial procedure had changed (explained by Mowery) to give judges more discretion in reasoning about a weighty body of circumstantial evidence and to reveal the votes of judges on verdicts. For **Part Two: Comparing Civil Law (Marital Cases) in France and England**: Hanley, “Engendering the State” (n. 6 above), for marital cases litigated; and Hanley, “Social Sites of Political Practice in France: Lawsuits, Civil Rights and the Separation of Powers in Domestic and State Government, 1500-1800,” *American Historical Review* (1997): 27–52 (on marital separation and adultery charges); Nadine Bérenguier, “Victorious Victims: Women and Publicity in Mèmoires Judiciaires, 62–78 (separation and adultery), in *Going Public: Women and Publishing in Early Modern France*, ed. Elizabeth C. Goldsmith and Dena Goodman (Cornell University Press, 1995); Elizabeth Goldsmith, “Publishing the Lives of Hortense and Marie Mancini,” 31–45 (wife’s separation contested), in *ibid.*; and Sarah Maza, “Domestic Drama and the Social Contract,” 263–311 (separation and the Kornmann affair), in her *Private Lives and Public Affairs: The Causes Célèbres of Prerevolutionary France* (University of California Press, 1993). To contrast with England: Lawrence Stone, *Broken Lives: Separation and Divorce in England 1660-1857* (Oxford University Press, 1993): Introduction (3–29), and Case studies: Boteler v. Boteler (33–37), Calvert v. Calvert (49–78), Beaufort v. Beaufort (117–138).

Sarah Hanley  
University of Iowa  
sarah-hanley@uiowa.edu

See also the Review Essays on this book by Mack P. Holt, Stuart Carroll, and Benoît Garnot, as well as James R. Farr's response to all four Review Essays.

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