

## THE JUDGE AND THE LAWYER IN THE *PATHELIN* \*

What Court of law is represented in the trial scene in the *Farce de Maistre Pierre Pathelin* ? What is the professional status of the lawyer, and of the judge, who appear in it ? What is the attitude of the author towards them ?

These are questions that must be settled before any valuable estimate can be made of the significance of the play as a picture of the administration of justice in France in the fifteenth century, before any but the most superficial statement can be made about the intentions of the author concerning the members of the legal profession who appear in it. If the trial scene represents a superior court of justice, particularly if it represents a royal court of justice, even a royal court of the lowest order, but controlled by officers of the King and ministered to by royal judges and by licensed advocates, members of a chartered law society, then satire of the advocate and the judge in the play may be an important satire of the administration of justice. But if the court is a seigniorial or ecclesiastical tribunal of the lowest order, a court staffed by the humble deputies of the seignior or of the bishop, a court in which unlicensed practitioners appear as advocates, then satire of such a court, or of its officers or professional frequenters, is satire of a very restricted area of the administration of justice, unless the author clearly indicates that he intends the court to represent courts of law in general. The attitude of the author towards his characters, his intentions and his point of view, are important as revealing the weight and bearing of his satire.

I believe that the author of the *Farce de Maistre Pierre Pathelin* was at some pains to make ail this quite clear to his fifteenth-century audience. But what was clear to that audience is by no means clear to present-day specialists in fifteenth-century theatre. A searching study of contemporary customs in respect to litigation, a study of the requirements of professional organizations and of the intricate involvements of court jurisdictions, is a necessary prelude to a critical analysis of some of the social aspects of the play. It seems that

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none of the many commentators on the play have made such a study. For the most part, they content themselves with stating that « the lawyers » or « les gens de justice » are satirized in it. Even Richard Holbrook and Louis Cons, who have contributed so much to the study of *Pathelin*, do not appear to have investigated this aspect of the play.

It is true that the creator of *Pathelin* was a great artist, that the trial scene in this play, unlike some trial scenes in the theatre of the time, is not just an amateurish copy of actual court room procedure. Such court room scenes can usually be identified without difficulty, with less difficulty than the one in which *Pathelin* appears. Nevertheless, the trial scene in the *Farce de Maître Pierre Pathelin* is just as realistic as that in, say, Coquillart's *Plaidoyé de la simple et de la rusée*. It merely happens to be a différent kind of court of law that is represented.

The identification of this court of law is bound up with the investigation of the status of its law officers. It would be impossible, or at least inconvenient, to discuss these questions separately. The whole problem revolves around the question of jurisdiction, the question of professional customs, and, to a lesser degree, the question of the locus.

Everything in the circumstances of the suit, and in the description of the judge, of the lawyer, of the trial itself, indicates that the court of justice we see is a tribunal of the lowest order. Our first impression is that it is a village court, and that *Pathelin* is a village lawyer. The whole tone of the opening conversation between the lawyer and his wife supports this impression. *Pathelin* cannot understand why he is losing his clients. Is he not the most learned man in the district, with the exception of the mayor ?

PATHELIN

Encor ne le di je pas pour me  
15. Vanter, mais n'a au territoire,  
Où nous tenons nostre auditoire,  
Homme plus saige, fors le maire.

GUILLEMETTE

Aussi a il leu le grimaire  
Et aprins à clerc longue piece.

PATHELIN

20. A qui veez vous que ne despeche  
Sa cause, se je m'y vueil mettre,  
Et si. n'apris oncques a lettre  
Que ung peu, mais je m'ose vanter  
Que je say aussi bien chanter  
25. Ou livre avecques nostre prestre  
Que se j'eusse esté a maistre  
Autant que Charles en Espagne<sup>3</sup>.

A few lines farther on, Guillemette remarks :

50. Quant, a vray dire, sans clergise  
Et de sens naturel, vous estes  
Tenu l'une des saiges testes  
Qui soit en toute la parroisse !

The references to the « territoire ou nous tenons nostre auditoire », to « le maire », to « nostre prestre » and to « la parroisse » suggest that the setting is a village, or a very small town. But what is far more significant is that Pathelin's lack of education raises the strongest presumption that he is nothing more than an unlicensed village practitioner.

The members of the French law societies early gained a most favorable reputation for their learning and integrity, a reputation which has been remarkably well maintained in every period of French history down to our day. As early as the year 1274, *the Confrérie des Avocats au Parlement de Paris* required its members to subscribe to a stringent ethical code, sworn to yearly in a solemn ceremony. Soon, a university degree was generally required for inscription on the roll<sup>4</sup>. In the course of the fifteenth century, high academie

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<sup>3</sup> Dans la version originelle de l'article, l'auteur renvoie à l'édition de Richard T. Holbrook de 1924. Cependant par soucis de cohérence éditoriale, nous avons fait le choix de substituer toutes les citations extraites de la *Farce de Maître Pathelin* par celles de l'édition que nous avons reproduite dans ce numéro. Cette substitution est effective dans tous les articles reproduits dans ce numéro.

<sup>4</sup> The yearly oath is first mentioned in an Ordonnance of the year 1274. Capacity for inscription on the roll was attested by production of a license in canon or civil law. This rule is first found stated in formal terms in an Ordonnance published in 1533, but the wording of the Ordonnance indicates that this formal declaration was intended merely as a consecration of what had been the immemorial custom of the order. Pasquier, Loisel, Dufour de Pibrac and many other distinguished scholars of the sixteenth century unite in praising the learning and integrity of the advocates of Paris, many of whom contributed to the humanistic studies of the day.

standards and an ever-lengthening period of apprenticeship further increased their reputation for learning and skill<sup>5</sup>. As the provincial *Parlements* were formed, similar companies of advocates arose about them, and the lawyers connected with the bailiffs' courts followed suit. In the time of Pathelin, the licensed advocates lived in the principal towns, those connected with a bailiwick following the bailiff in his round of assizes, which were held in the smaller towns. Only licensed advocates could plead in such courts, or in any high court of justice<sup>6</sup>. But unlicensed practitioners, barred from the law societies by their lack of qualifications, flourished in the corrupt village courts, where they substituted guile and quickness of wit for the law school training and ethical code of the bona fide barrister. These village pettifoggers had no right to call themselves *avocats* ; properly speaking, they were merely *praticiens*. But they often usurped the nobler title.

Pathelin and his wife know perfectly well that he has not the qualifications necessary for obtaining a license. This, indeed, is a sore point with Pathelin. He is full of excuses for his lack of learning, while trying to make it seem as great as possible. When he says that, next to the mayor, he is the most learned man in the district, one has only to remember the conceit and ignorance of Thevot (in the farce called *Thevot le Maire*) to measure the learning of lawyer Pathelin. And can the « territoire » he speaks of be any more than a village district if Pathelin is more learned than any of his *confrères* ? In fact, the more Pathelin tries to cover up his weak point, the more obvious it becomes (which was the author's intention, of course), and the more obvious that he is just a village lawyer. He can read Latin as well as the parish priest, he says. Again we are reminded of Thevot. Village priests were often ignorant, and Pathelin is bragging. It is noteworthy that while he is casting about for something with which to bolster up his ego, he never mentions that he went to law school, or that he had been apprenticed to an advocate<sup>7</sup>.

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<sup>5</sup> Preparation for admission to the Bar in the fifteenth century regularly included an elementary education in the schools and colleges of Paris (or some other large city), followed by two years in a law school (at Orléans, Bourges or Poitiers, if the degree in civil law was desired), and a period of apprenticeship (le stage) as clerk to a licensed advocate. It was at this stage that the future advocate was connected with the Basoche. The length of the stage was not fixed definitely until the seventeenth century. In 1519, it was for four years ; later, for ten years. Even after being admitted, the junior advocate could not immediately plead in court, but must spend some time on the bench of the *audientes*.

<sup>6</sup> This was the rule as early as the year 1340.

<sup>7</sup> Pathelin's account of his education would have elicited many a laugh from an audience such as the Basochois played to in the Palais de Justice. When his wife says proudly (but with a certain

Pathelin is on surer ground when he begins to boast of his skill in pleading. Here he feels that he is the equal of anyone, and a good deal more effective than those who wear the robes of silk and wool, and call themselves advocates...than those « qui dient qu'i sont advocas ». At this point, his conversation with his wife reveals clearly the author's intention to distinguish between Pathelin and the regular members of the Bar :

Car s'il convient que je m'aplicque  
A bouter avant ma praticque,  
On ne sçaura trouver mon per.

GUILLEMETTE

Par Saint Jaques, non, de tromper !  
**45.** Vous en estes ung fin droit maistre.

PATHELIN

Par celluy Dieu qui me fist naistre,  
Mais de droitte advocasserie.

GUILLEMETTE

Par ma foy, mais de tromperie !  
Combien vrayement je m'en advise,  
**50.** Quant, a vray dire, sans clergise  
Et de sens naturel, vous estes  
Tenu l'une des saiges testes  
Qui soit en toute la parroisse !

PATHELIN

Il n'y a nul qui se congnoisse  
**55.** Si hault en advocacion.

GUILLEMETTE

M'aist Dieu, mais en trompacion.

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amount of awe) that he has read « le grimaire », a city audience would understand (a) that Pathelin and his wife are ignorant, and (b) that she thinks that his ability to change black into white has been developed by the study of magic.

Au mains en avez vous le los.

PATHELIN

Si ont ceulx qui de camelos  
Sont vestus et de camocas,  
**60.** Qui dient qu'ilz sont advocas,  
Mais pourtant ne le sont ilz mye<sup>8</sup>.

The dispute between the two turns on the question of the proper application of the ternis *advocasserie* and *advocacion*. In the fifteenth century, both ternis meant the exercise of the profession of advocate. Come now, says Guillemette, you know you haven't the learning to be an advocate. What you call pleading is nothing but trickery! You don't know how to plead like an advocate. Pathelin, loath to admit that he has not the right to apply the nobler title to his pratique, lashes out peevishly against the legitimate wearers of the robe. His jealousy of « those who call themselves advocates » shows clearly that he does not think of himself as one of them, and that he resents their pretensions. The elaborately robed barristers who follow the bailli in his round, dignified and learned members of the Bar who look down their noses at such as he, may call themselves advocates, says Pathelin, but when it comes to bringing tears to the eyes of a stony-hearted judge I am their superior, and my reputation for honesty is as good as theirs, anyway.

Pathelin is painfully aware of the social gap between the licensed advocates and himself. In the play, he is usually addressed and referred to as *maistre*, a vague term. When the word *avocat* is applied to him, it is always accompanied by some qualifying word. The draper calls him « cest advocat d'eaue douce », that is, a freshwater lawyer, one not trained and not licensed to sail the vast océan of jurisprudence. The draper also calls him an « avocat potatif », a curious expression which most likely means that he does not think of Pathelin as a real advocate<sup>9</sup>.

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<sup>8</sup> The rich dress of the members of the Law Societies excited the envy and indignation of a good many satirical moralists in the fifteenth century. In the *Moralité de Charité*, we find a scathing reference to « avocats qui sont fourrez comme prelatz ». The preachers Menot and Maillard were especially virulent in their abuse of judges and lawyers for their love of rich dress. « Vous dites que vostre estat porte cela ? A tous les diables et vostre estat et vous aussi ! » roars Maillard. Apparently the fine wool cloth called camelos was a favorite for lawyer's robes, for Rabelais calls a certain lawyer « seigneur de Camelotière » (Book v., Prologue).

<sup>9</sup> See R. Holbrook, *Etude sur Pathelin*, Baltimore, 1917, p. 61-62. The word *potatif* is not given in glossaries of fifteenth and sixteenth-century French. Holbrook says that he was unable to find

I think that it is safe to assume that Pathelin represents nothing but a village practitioner. Is the court in which he appears a village court ? Before answering that question, I must first ask another : what is draper Joceaulme's cause of action, and what court was likely to accept jurisdiction over it ? The draper's shepherd, Aignelet, has killed several of his masters sheep and converted them to his own use. Joceaulme could have laid a criminal charge, and had the shepherd arrested, but he probably thinks that he will gain more by suing for damages<sup>10</sup>. At any rate, that is what he does. He has a writ issued and notice to appear before the judge is served on Aignelet. To what court did Joceaulme apply for the writ ?

Naturally, he would have to go to a court that would accept a petty claim for damages, and would hear the case as court of first instance. In France today, he could go to a justice of the peace if the amount involved were very small ; otherwise, to the local district court. But in France in the fifteenth century a bewildering variety of tribunals competed with one another for the profitable business of litigation. This was particularly so in the lowest order of jurisdictions. Seigniorial courts *de basse justice* existed in every village, municipal courts in most towns. The church sent its *officiales* into every corner of every bishopric, while the royal provosts and bailiffs disputed jurisdiction with church and seignior. Each of these judicial organizations claimed territorial jurisdiction, and, in addition, the church courts claimed exclusive authority, on moral and spiritual grounds, over a wide variety of matters, particularly those in which promises made under oath were involved, or where one of the parties was a clerk or a poor or weak member of society, while the royal courts claimed the right to hear appeals from all other courts, and, during the fifteenth century, were actively maintaining the right to hear in first instance many kinds of lawsuits formerly heard in the church courts, notably criminal

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another example of it. Apparently it was coined by the author. F. Génin, in his edition of the play (1854), reads *potatif* as *portatif*, pointing to the numerous examples of the fall of the consonant *r* in the texts of the time. He comments : « *avocat portatif*, comme l'on disait *évêque portatif*, c'est ce que nous disons aujourd'hui évêque in *partibus*... c'est-à-dire, évêque sans évêché. Ainsi, par analogie, l'avocat portatif était avocat sans cause, avocat in *partibus*. »

But, if *évêque portatif* meant a bishop without a bishopric, would not *avocat portatif* mean, by an even closer analogy, an advocate without a court, *i.e.* one whose name was not inscribed on the role of the advocates attached to the local law society, not a licensed advocate ?

Holbrook would like to retain the original reading (that found in the earliest texts), and have *potatif* come from *potare*, with the meaning *ivrogne*. But he admits that the term may have suggested *putatif*, too. *Avocat putatif* is an expression that fits Pathelin exactly.

<sup>10</sup> Aignelet seems to have enough money to make suing him worth while.

cases, or those involving disputed rights in respect to real property.

Now, it is quite certain that our draper did not go to a royal court. The humble itinerant judge in the play, who sits on Saturday at six o'clock<sup>11</sup>, and has a later sitting that day, who hears *viva voce* a petty claim for damages, who proceeds without formality, without advocates, without *prud'hommes* or *assesseurs*, who has only one case on the docket and (apparently) only one lawyer present, is no royal provost or bailiff, any more than Pathelin is royal advocate. And it is not likely that the ill-clad constable, who proudly carries, as the symbol of his office, a whip from which the lash has been removed, represents a royal *sergent à verge*<sup>12</sup>. If the draper had laid a criminal charge, the royal provost might have been expected to appear. But civil suits like the draper's were seldom or never heard in first instance by royal provosts.

The court of law represented in the play is probably a village tribunal. At any rate, it is beneath the lowest level of royal justice in the fifteenth century, and corresponds in rank to that of a present-day justice of the peace. Is it a seigniorial court or an ecclesiastical court? This is tantamount to asking whether the judge derives his authority from the seignior of the place, and is either the mayor of the town, or, as would be the case in a larger seignior, an itinerant magistrate who makes the rounds of the chief places in the territory; or whether the judge is an *official forain*, a traveling deputy of the bishop, charged with dispensing ecclesiastical justice in the various parishes of the

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<sup>11</sup> Apparently, at six o'clock in the afternoon... the shepherd speaks of his *journée a de relevee*. This was an unusual hour for a court sitting, especially since the judge says that he has another sitting later that day. In the fifteenth century, the law courts of Paris sat at six o'clock in the morning in summer, at seven o'clock in winter. About the time this play was written, the Parlement began sitting on Tuesday and Friday afternoons from four to six. At six o'clock in the evening, the hour when our shepherd says he is to appear before the judge, the law clerks (Basochiens) took possession of the Grande Salle of the Palais de Justice in Paris, and it was at that hour that they held their entertainments, except on special occasions.

Does the author intend to make a connection between the trial scene in his farce, and the mock trials of the Basoche? The time...six o'clock on Saturday night...may have a special comic meaning for the spectators. Later in the play, he has the judge call the trial *une droicte cornardie*, i.e. an entertainment by Cornards (Basochiens of Rouen). Does the judge mean this to be taken figuratively or literally?

<sup>12</sup> The *sergents à verge* were first established at the Châtelet in Paris, but their costume, including the wand, was soon imitated by rural constables. The word *deroié*, applied to the costume of this constable, may indicate that he was wearing a second-hand costume which did not fit. This remark by Aignelet would have a special comic value for a Basoche audience as satire of a rural constable, especially if the constable appeared on the stage later, in the trial scene, as the author may have intended.

bishopric<sup>13</sup>.

The question of jurisdiction is especially interesting at this point. In the fifteenth century, a court of law might claim (accept) jurisdiction on a territorial basis, or it might claim authority over the particular matter of the suit, without regard for the ownership of the land where the cause of action arose. Finally, it might claim jurisdiction over one or both of the parties to the suit. In the case of Joceaulme *versus* Aignelet we are not given definite information on which to base a claim for territorial jurisdiction. From this point of view, the possibility that the court is seigniorial is exactly equal to the possibility that it is ecclesiastical. But when the question of jurisdiction is examined with reference to the matter of the suit, and in connection with the parties to it, it becomes evident that only a church court could find special grounds for accepting the case. The basis of the suit is a breach of trust. The draper entrusted his sheep to the shepherd, either, as was the usual custom, under a hiring agreement, or, less formally, on a basis of mutual understanding<sup>14</sup>. Now this was precisely the sort of agreement that the church courts had always claimed jurisdiction over, and, at the end of the fifteenth century, in spite of inroads made by the royal courts upon the ecclesiastical jurisdiction over trusts involving real property, the church still exercised full jurisdiction over breaches of trust in respect to personalty. The draper's sheep are personalty. In any case, the church has yielded no ground to the seigniorial courts in such matters. Litigants liked to bring such actions into the church courts for a variety of reasons, some good and some abusive<sup>15</sup>.

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<sup>13</sup> From the thirteenth century on, many *officiaux forains* were created by the bishops and archdeacons. They were often ambulatory, going from parish to parish, judging minor daims. Such judges were often simple *clerics*, removable *ad nutum*. They were especially numerous in the region of Paris, and to the north and west of Paris.

The fact that the judge in the play is not called an *official* means nothing. In the farce *L'a Mère, la fille, le témoin, l'amoureux et l'official* (in *Recueil de farces, moralités et sermons joyeux*, éd. by Le Roux de Lincy and Francisque Michel, Paris, 1837, vol. 1, n°22), the judge is referred to as an *official* only in the title ; in the play, he is called simply *le juge*. Ecclesiastical judges are probably represented in the *Farce du pect* (*Ancien Théâtre Français*, vol. 1) and in *Jehan de Lagny, badin* (*Recueil de farces, moralités et sermons joyeux*, éd. cit., vol. 2, n, n° 31), although not so designated.

<sup>14</sup> Shepherds were usually hired on a yearly basis, and the hiring contracts were often sworn to before a notary, sometimes in the presence of the seigniorial *bailli*, at the time of the yearly fair. This custom was still in vogue in the eighteenth century, as represented in Planquette's *Les Cloches de Corneville*.

<sup>15</sup> Late in the sixteenth century, the church courts retained an extensive jurisdiction in some places. In Cambrai, by immemorial possession, the official claimed and exercised jurisdiction over all personal actions between bourgeois. Members of the laity in many parts of France, especially merchants (who ran the risk of numerous lawsuits), had the habit of making their

The question of jurisdiction was naturally uppermost in the minds of the judge, the draper and Pathelin at the beginning of the trial. When the draper begins, not by producing a hiring agreement, but by telling the court how he had received Aignelet as a poor orphan and brought him up as his own son, the judge immediately interrupts him to ask : « Or escoutons : estoit il point vostre aloué ? » Pathelin, quick to take advantage of a technicality, breaks in with : « Voire, car, s'il estoit joué a le tenir sans alouer... ». If there was no hiring agreement, if Aignelet was not the draper's hired man, the judge may refuse jurisdiction, and, since this judge is in a hurry to get on to his next hearing, he may be persuaded easily to refuse the case on a technicality. This is what Pathelin hopes for, but the point is lost and never raised again because the draper immediately recognizes Pathelin, and the confusion of the cloth and the sheep begins. But it seems likely that the judge, if he is an ecclesiastical judge, would accept jurisdiction irrespective of the matter of the suit, since Aignelet appears to be one of those *miserabiles personae* to whom the church always extended its protection<sup>16</sup>. It is even possible that this is why the draper began as he did, stressing the social status of Aignelet. He evidently cannot produce a formal hiring agreement (it would be quite in his character to have refused one to his foster son), and he intends to establish jurisdiction over the person of the defendant<sup>17</sup>.

An *official forain* would have jurisdiction over the person and over the matter of this suit. There is even at least an excellent probability that he has territorial jurisdiction as well. When the draper first speaks of his suit against Aignelet, he says :

Mesmement les bergiers des champs  
Me cabusent ; ores le mien,  
A qui j'ay tousjours fait du bien,  
Il ne m'a pas pour rien gabbé !  
**1015.** Il en viendra au pié l'abbé,  
Par la benoïste couronnée !

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contracts before an *official*, with a clause providing for all daims to be settled in the ecclesiastical court. This grew into a serious abuse, but the bishops were reluctant to give up their profitable légal business, and persisted in it in spite of papal injunctions.

<sup>16</sup> The judge in the play does in fact assume full and exclusive jurisdiction over the person of the shepherd.

<sup>17</sup> The draper seems quite familiar with court room procedure. Aside from his confusion of sheep and cloth, he conducts his argument much as an advocate might have done.

The expression *au pié l'abbé* is an unusual one, and many have a special significance here<sup>18</sup>. I suppose it could mean, in a general sense, simply to bring to confession, but there is no reason to suppose that it did not have a more specific meaning. Throughout this scene, the draper has in mind bringing Aignelet before the judge. *Au pié l'abbé* could quite literally mean *to the feet of the judge*, an ecclesiastical judge. Let us suppose (and what is more likely ?) that the draper rented grazing rights from some land-poor abbot. He naturally brings his suit into the court of the *official*, since the action he complains of took place on church land. The seignior would then be the church itself, and the *official* has territorial jurisdiction as well as jurisdiction over the matter and over the person. In fact, the abbot himself may be the bishop's deputy, the *official*, although this seems unlikely<sup>19</sup>.

Entirely aside from the jurisdictional aspect of the case, which points directly towards an ecclesiastical tribunal, there is much in what we see of the customs of the court, and in various expressions used by the lawyer and judge, or applied to them, to support the idea that the court is a church court, and that both lawyer and judge represent clerics. The fact that the judge hears and questions the parties directly, without advocates (at first), is in line with the procedure in the *officialités*, and when he accepts Pathelin as advocate for the poor orphan Aignelet, Pathelin who is not a licensed advocate but only a *praticien*, again we are led to think of the church courts where ordinary solicitors (*procureurs*) often took the place of advocates<sup>20</sup>. The fact that the draper addresses the judge as *monseigneur* is worth mentioning in view of the

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<sup>18</sup> In the glossary appended to his edition, under *abbé*, Holbrook says (without further explanation) : « en venir au pié l'abbé 1015 (fig.) faire sa coulpe aux genoux de l'abbé, se repentir. » Neither Godefroi nor Huguet give the expression, and it is not given in modern French dictionaries.

<sup>19</sup> If Professor Cons is right, and the farce is connected with the abbey of Lyre (see L. Cons, *L'Auteur de la farce de Pathelin*, Princeton, 1926, *passim*), the judge would be a deputy of the bishop of Evreux. If, on the other hand, the place is Ivernaux, as Holbrook suggests (*Etude sur Pathelin*, *op. cit.*, p. 92), the bishop of Paris had jurisdiction. The *sots* connected with the Basoche of Rouen were known as *cornards*. The repeated use of the words *cornard* and *cornardie* may point to a connection between the author and the Basoche at Rouen. There are several indications that the author wishes his audience to think of the trial scene as a *cornardie*, *i.e.* as a mock trial such as the Basochiens often put on, both for pleasure and for practice.

<sup>20</sup> As in the *Farce du pect*, and in *Jehan de Lagny, badin*. In the latter play, the defendant, Jehan de Lagny, objects to Messire Jehan acting as advocate... » Comment, il est sergent & prestre, Et procureur & aduocat ? » The fact that an ordinary solicitor could act as barrister in the church courts was galling to the Basochiens, and they did not fail to comment on it in their farces.

possibility that the draper's seignior may be the church. *Monseigneur* suggests a bishop's deputy. *Monsieur le juge*, or *sire*, were the ordinary salutations given the judge in village courts, when it was not *monsieur le maire*.

In the characterization of Pathelin there are a number of bits of evidence that seem to identify him with what was called *un avocat à simple tonsure*. He has the remarkable peculiarity, unique amongst lawyer characters in the medieval comic theatre, of being unable to say ten words without calling on God and a great variety of Saints, particularly *Nostre Dame*, to witness the truth of his words<sup>21</sup>. Is it too far-fetched to see in this a satirical reference to a certain kind of clerical lawyer who, like Our Lady in the *Advocacie Nostre Dame*, and in the various *Procès de Paradis*, relies on tears and eloquent pleading rather than on reason and the law?<sup>22</sup> Pathelin is called a fresh-water lawyer. Perhaps the emphasis placed on his lack of learning may be intended to give the impression that he practices in church courts<sup>23</sup>. Pathelin is described as an « *avocat à trois leçons et à trois psëaulmes* ». We are told that he sings from the book as well as the priest. Does this not sound as if he were in the habit of doing so? Is he a *lecteur* by profession, and only an amateur advocate? He is twice called an *avocat potatif*. Granting that *potatif* is a word coined by the author to suggest both *portatif* and *putatif* (as may well be the case), then, if *évêque portatif* meant a bishop without a see, *avocat potatif* would mean a clerical lawyer without a court, *i.e.* unlicensed<sup>24</sup>. The word *portatif* was essentially an

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<sup>21</sup> He invokes Saint Mary twelve times, various other saints fifteen times, God (or Our Lord) scores of times. The draper's record, however, is nearly as good...nine Virgins and ten Saints. Guillemette invokes the Virgin six times, the Saints twice, while the shepherd swears *par Sainte Marie* only twice, by the Saints three times. The judge contains himself very well, exploding only once, with a resounding *par le sang Nostre Dame!*

<sup>22</sup> Professor Cons says that the *Advocacie Nostre-Dame* was the « *livre de chevet* » of Guillaume Alecis, supposed author of the play (cf. L. Cons, *L'Auteur de la farce de Patbelin*, *op. cit.*, p. 70, and p. 148-154). There were at least twenty different versions of the *Procès de Paradis* in the fifteenth century, some in the form of poems, some as prologues to *Mystères*. The work called *Mystère du procès de miséricorde et justice* is an elaboration of the trial scene in Greban's *Mystère de la Passion*. These works were popular and read particularly in clerical circles. Some of them were probably written by *docteurs en droit canon*.

<sup>23</sup> The church lawyers studied only canon law, and many of them were regarded as ignorant. « *A peine ont-ils entendu le commentaire d'un livre de droit, les avocats s'arrogent la mission de plaider dans les causes ecclésiastiques. Et parce qu'ils ignorent la substance du droit, ils se livrent à de détestables fraudes qui embarrassent la procédure* »; cf. P. Fournier, *Les Officialités au moyen âge*, Paris, 1880, p. 33. In 1581, the Council of Lambeth ruled that three years of study of canon and civil (but of course not of Roman) law be made a prerequisite for the baccalaureate in canon law.

<sup>24</sup> See note 9 *supra*.

ecclesiastical term in the fifteen century<sup>25</sup>. Finally, when Pathelin, after the trial, is trying to convince the draper that the latter has mistaken him for someone else, and says :

Je vous diray, sans plus attendre,  
Pour qui vous me cuidez prendre.  
**1510.** Est ce point pour Esservellé ?  
Voy ! nennin, il n'est point pelé,  
Comme je suis, dessus la teste.

is it not more than probable that he is displaying a tonsure<sup>26</sup>.

All in all, I am strongly inclined to believe that Pathelin represents a cleric of the lowest class, a *lecteur* who ekes out a meager stipend by offering his services as an « advocate » to litigants attracted to the local sittings of the *official*<sup>27</sup>. Pathelin is the very archetype of the *avocat à simple tonsure*, a self-styled,

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<sup>25</sup> Both times the expression is used in the play it is coupled with a clerical reference, (a) *avocat potatif à trois leçons et trois psëaultnes*, and (b) *il n'a pas le visage ainsi potatif, ne si fade*. Does not the word *fade* suggest the clerical pallor, rather than the raddled, red-veined face of the drunkard, as Holbrook thinks (*Etude sur Pathelin, op. cit.*, p. 61-62). There is no other reference in the play to Pathelin's drinking.

<sup>26</sup> Professor Cons also considers this likely (*cf. L. Cons, L'Auteur de la farce de Pathelin, op. cit.*, p. 40). It would be like the author of this farce not to miss a chance for a vaudeville trick. Undoubtedly, both Pathelin's action, and the mention of Esservellé, had a special comical meaning for the spectators, as did the reference immediately after to Jehan de Noyon. These persons were evidently well known to the audience. May they not have been lawyers or Basochiens of Paris (or Rouen) ? Or former Basochiens now sunk to the level of *praticiens* ? Assumption of the tonsure, even without the consent of the ecclesiastical authorities, was very common at the time. Celibacy was not required in the minor orders (porter, reader, exorcist, acolyte), and the principal requirement for entrance into one of these orders was just the amount of learning that Pathelin has. The trouble the author takes at the outset to define the state of Pathelin's education is a most important factor in determining his status.

It is interesting to note that the merchant himself may claim to be a cleric. Philip the Fair complained of the protection the church was giving to merchants who took the tonsure to escape pursuit for debts. In his time, 20,000 merchants were said to be using this stratagem, but the abuse had been much reduced by the time of Pathelin.

<sup>27</sup> The costume worn by Pathelin, both in and out of the court room, may be observed in the woodcuts made for the Pierre Levet edition in 1489 (reproduced by R. Holbrook in his English version of the play, W. H. Baker and Co., Boston, 1914). It is a simple clerical costume, without special distinguishing details. In the illustration of the court room scene, he is not wearing or carrying a *chaperon*, the chief distinguishing mark of the advocate, unless it is hanging down his back. In the first illustration, he is seen wearing an *écritoire*, which would seem to indicate that the illustrator thought of him as a solicitor (*procureur*).

more or less self-taught practitioner, a would-be advocate who is a graduate of no college, a member of no law society...in short, an ignorant but clever rogue. He is a scapegrace even among the free-lance *practiciens* who hang about village courts, combining the functions of solicitor and advocate, matching their wits against the malice and cunning of peasant and villager. Lawyers, even such as they, seldom underwent the degradation of the pillory as Pathelin did<sup>28</sup>. Satire of such a person is not satire of the lawyers, of « ceulx...qui dient qu'i sont advocas. » Indeed, Pathelin represents only in part a satire of an unlicensed village legal practitioner. He is a highly individualized character ; there is much in him that is of himself alone, and not characteristic of the ordinary village lawyer. After all, Pathelin is a sort of hero, one for whom the author intends us to feel a more or less reluctant admiration<sup>29</sup>.

But granting for the moment that the characterization of Pathelin represents a satire of his kind of lawyer, let us examine the author's treatment of the judge. Is the judge satirized ? Some commentators have said so ; they think that he is in too much of a hurry, and they do not like his inviting Pathelin to sup with him. No one has said that the judge is not satirized. Most simply ignore him, or include him in some general statement to the effect that ail the characters in the play are rogues. Now it must be admitted that down to the court room scene they are, indeed, a pack of rogues. The greedy draper tries to cheat his customer, only to have Pathelin and his wife cheat him. Aignelet has made away with his master's sheep, and Pathelin, knowing him to be guilty, advises him to cheat the law, only to be himself cheated in the end. As Ernest Renan says : « C'est la friponnerie en action, un monde de voleurs, où le plus honnête homme (encore ne l'est-il pas tout à fait), le drapier, est le plus sacrifié. »<sup>30</sup> But at this point a new character is introduced, the judge. Is

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<sup>28</sup> Guillemette reminds Pathelin of the Saturday he spent in the pillory. Is it any wonder that he is losing his clients, that everyone is calling him an *avocat dessous l'orme*. Yet Holbrook is loath to admit that Pathelin represents an *avocaillon sans valeur* (cf. *Maistre Pierre Pathelin*, (éd.) R. Holbrook, Paris, Champion, 1986, p. 126).

Advocates, even unlicensed ones, seldom fell as low as this. The profession was jealous of its honor, and when a lawyer was dishonest he was sometimes severely punished. In the year 1518, a lawyer was hanged for changing the wording of a deed so as to favor his client, a certain abbot, in a real property action (See *Journal d'un bourgeois de Paris*, (éd.) L. Lalanne, Paris, Jules Renouard, 1854, p. 67). But this was evidently a nine-days' wonder.

<sup>29</sup> It is perhaps worth noting that in the farce called *Le Nouveau Pathelin*, inspired by the original Pathelin, it is a priest who is chiefly ridiculed, and there is a shocking disrespect for the confessional. Ridicule of clerics is much more common in the comic theatre of the Middle Ages than satire of lawyers.

<sup>30</sup> E. Renan, *Pages choisies*, Paris, 1896, p. 196. This is typical of all general commentaries on the

he, too, dishonest, as Renan implies ?

I do not think so, and I do not think that the author intended us to feel that the judge is derelict, or even unsympathetic, in the performance of his duties.

The treatment of the judge is very interesting as revealing the author's viewpoint and intentions. Yet it has received very little notice. The way in which Gustave Cohen dismisses him, saying : « il n'est qu'un comparse »<sup>31</sup> is typical of the attitude the critics have taken. It is true that the role of the judge is a comparatively minor one, that he is introduced perhaps chiefly as a necessary functionary in the court room scene, but he is far from being merely a non-speaking, figurant character as Professor Cohen says. During the trial scene, which extends through about one-sixth of the play, the judge has much to say. He is the central figure on the stage, and he directs the trial with spirit and close attention. His characterization is perhaps somewhat sketchy, but it is sufficient to indicate his essential qualities as a judge, and as a person. An examination of the trial scene will show, I think, that the judge is honest, fair, reasonably intelligent, painstaking and sympathetic.

Let me say at the outset that I cannot accept the observation sometimes made that the trial scene has only a sort of classical, generalized realism, and that the author's intention was to make his lawyer and judge represent the generality of their professions. If the judge is an itinerant *official*, as I maintain, then the trial is almost photographic in its realism<sup>32</sup>. The procedure in such

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farce.

<sup>31</sup> G. Cohen, *Le Théâtre en France au moyen âge*, t. 2, *Le Théâtre profane*, Paris, 1931, p. 95.

<sup>32</sup> Professor Cons, in his brilliant and, on the whole, convincing exposition of his reasons for ascribing the authorship of the play to Guillaume Alecis, raises, as an argument against possible Basoche authorship, the point that the trial scene is free from an exaggerated use of technical terms of procedure (*cf.* L. Cons, *L'Auteur de la farce de Pathelin*, *op. cit.*, p. 35-36). The use of such terms in court room scenes in the farce comedies of the fifteenth and sixteenth centuries usually corresponds to actual procedure in the sort of law court represented. There is all the difference in the world between the procedure used in the court of an ambulatory *official*, and that required in the court of a royal *bailli*. In Coquillart's *Plaidoyé de la simple et de la rusée*, an action for alienation of affection, properly a matter for an ecclesiastical judge, is treated as a disturbance of a possession of real property, so that the case comes under the jurisdiction of a royal *bailli*, and is tried with all the pomp and formalities necessary in his court, a most amusing proceeding for an audience composed of fifteenth century lawyers, but dull for the present-day layman to read. But in any case, mock heroic use of the procedure of high courts of justice was not the only comic device used by the farce writers of the Basoche. Basoche farces are distinguishable by their expression of the Basoche point of view.

courts was quite as informal as this. Some insignificant details are omitted in the interest of unity and tempo, but actually there was little difficulty in reconciling nature and art in this scene. The details given are authentic, and the manner in which the judge conducts the trial, the order in which it proceeds, the questions asked by lawyer and judge, even the confusion of plaintiff-witness-advocate, all this is excellent realism<sup>33</sup>.

When Pathelin enters the court, he doffs his hat, greets the judge and is bidden to cover himself<sup>34</sup>. The judge then addresses those present :

LE JUGE

S'il y a riens, qu'on se delivre  
Tantost, affin que je me lieve.

LE DRAPPIER

Men advocat vient qui achieve  
Ung peu de chose qu'il faisait,  
**1225.** Monseigneur, et, si vous plaisoit,  
Vous ferjez bien de l'atendre.

LE JUGE

He ! dea, j'ay ailleurs a entendre.  
Se vostre partie est presente.  
Delivrez vous, sans plus d'atente.  
Et n'estes vous pas demandeur ?

LE DRAPPIER

Si suis.

LE JUGE

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<sup>33</sup> Holbrook, in his English acting version, provides for an outdoor setting, but the woodcut illustration of the trial scene (printed in the 1489 Levet edition) indicates an interior, and probably an ecclesiastical interior, with its carved fleur-de-lys. The *official* was usually more fortunate in this respect than the seigniorial judge, for the seignior often failed to provide a shelter, even in the eighteenth century.

<sup>34</sup> This was a regular piece of business at the beginning of farce court room scenes, and was founded on actual practice.

Où est le deffendeur ?  
Est il cy present en personne ?

LE DRAPPIER

Oüy, veez le là qui ne sonne  
Mot. Mais Dieu scet ce qu'il en pense !  
LE JUGE

**1235.** Puis que vous estes en presence  
Vous deux, faictes votre demande.

How easy it would have been to have introduced, at the beginning of the court room scene, a conversation between the judge and his clerk, or between the judge and the draper, in which the honesty of the judge might have been impugned ! Instead, the judge proceeds in a brisk, impartial manner, asking the necessary questions, losing as little time as possible. It is especially significant that he does not favor the draper, the (comparatively) rich man. He refuses to wait for the draper's lawyer. Nor is he to be blamed for this refusal : judges were not (and are not) in the habit of waiting for tardy advocates. To do so would be to expose the court to ail sorts of possible abuses. And this judge has another hearing later that day. He must dispose of the business of the court without unnecessary delay<sup>35</sup>.

The draper begins to state his case with all the air of an old hand at the game. The judge interrupts him only to ask a vital question : is the defendant the legally hired man of the plaintiff ? At this point Pathelin, who has been keeping out of sight, comments that if the draper has dared to keep a man in his service without a proper hiring contract... ! The draper, seeking the source of this interruption, recognizes the man who tricked him out of his cloth. Avarice is the draper's ruling passion, and it is not surprising that he becomes immediately confused and incapable of keeping his mind on the matter in hand. From this point on the judge is unable to obtain any lucid statement of daim from the agitated and soon incoherent draper, who mingles cloth and sheep in his argument in what seems to the judge to be an utterly

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<sup>35</sup> One of the advantages the church courts offered to litigants was the summary procedure adopted in accordance with the decretals of Clement v, the first Avignon pope. Ecclesiastical judges often dispensed with advocates and questioned the parties themselves, thus disposing of the case more quickly, less expensively and often more justly.

incomprehensible fashion<sup>36</sup>.

However, the judge does not at first ignore the remarks that the draper addresses to Pathelin about the cloth. He asks the latter to explain, and Pathelin does so in a way calculated to deceive a reasonably intelligent judge. The draper, he suggests, has been taken off his guard by the judge's refusal to wait for his advocate, and has forgotten the *détails* of the story he and the missing advocate had concocted. The confusion of the draper, coming immediately upon the judge's question about the legal relationship between him and his shepherd, must have added strength to Pathelin's suggestion in the mind of the judge. Pathelin further explains the talk about cloth in a clever and logical fashion. The draper, on the other hand, makes no comprehensible charge or statement at all, and the judge, puzzled, but seeing that the cloth does not enter into the suit he is supposed to be hearing, devotes himself henceforth to an attempt to bring the draper back to the question of the sheep : « Sus ! revenons a ces moutons : qu'en fust il ? »

The draper makes a final, desperate effort to collect his wits, to state his complaint. But the ever-present sight of the knave who tricked him out of his cloth exerts a magnetism so powerful that he cannot force his reason to follow a straight and logical course. Time after time, his tongue involuntarily betrays his confusion of mind. He speaks only in unintelligible (and apparently unrelated) fragments. The patience of the judge is here truly remarkable. He gives the draper every chance to tell his story, but when, after several attempts, Joceaulme concludes just where he had begun, the judge is finally led to say : « Il n'y a ne rime ne rayson en tout quanc vous rafardez. Qu'esse cy ? » Pathelin is ready with the suggestion that the draper has kept back the salary of the poor, imbecile shepherd, and is afraid the truth will come out. The draper, infuriated, can only scream : « Par la teste Dieu, vous l'avez ! » which the judge finds unintelligible. And when the judge asks him : « Qu'esse qu'il a ? » the draper, remembering that he should be sticking to the matter of the sheep, replies : « Rien, mon seigneur. »

This is the second time that the judge has directly questioned the draper about the cloth, although it is not apparently pertinent to the matter before the court. The first time, the draper missed his chance to explain because of the adroit interpolations of Pathelin. This time, it is principally because of his own confusion, which arises from his cupidity. He tells the judge that the cloth means nothing at all. Can the judge be expected to show any further

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<sup>36</sup> The confusion of the draper has been led up to cleverly by his confusion of cloth and sheep in his conversation with Aignelet before the trial.

interest in it ? I think not.

Pathelin now asks permission to act for the defendant, and he speedily demonstrates that Aignelet is entitled to the protection that the church gave to the weak of mind. He asks for dismissal of the suit :

PATHELIN

Envoyez le garder ses bestes,  
**1400.** Sans jour, que jamais ne retourne.  
Que maudit soit il qui ajourne  
Telz folz ne ne fait ajourner.

LE DRAPPIER

Et l'en fera l'en retourner,  
Avant que je puisse estre ouy ?

After the patient hearing the judge has already given the draper, all to no purpose, the draper's complaint is as comical as it is ridiculous<sup>37</sup>.

The judge, however, is still patient. He threatens to adjourn the hearing, since the defendant appears to be *non compos mentis*, and the plaintiff not much better. But he does not do so immediately. For another seventy-five lines of dialogue, he listens to the arguments of the draper, who is now more incoherent than ever, with Pathelin crossexamining him. Such patience on the part of a busy judge who must hold court in another place that day exceeds the requirements of justice, and passes the bounds of verisimilitude. The author of the play, having established a splendid comedy situation, is loath to bring it to an end, wants to use it for all it is worth, to extract the last possible details of comic business from it. Towards the end, the scene becomes a little tedious for the spectator. What, indeed, must it have been for the judge ?

The judge is the only person in the play who is not dishonest, who does not show the exaggeration of some vice<sup>38</sup>. His final words express the viewpoint of a reasonable man who finds himself among fools and rogues. His kindness to the shepherd, whom he believes to be a poor, witless wretch,

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<sup>37</sup> A Basoche audience, grouped about the Table de Marbre in the Palais de Justice, would have been convulsed by it.

<sup>38</sup> In this judge there is none of that dishonesty that Rabelais complains of in ambulant magistrates of the sort, none of that : « énorme concussion que voions hui entre ces juges pédanés sous l'orme. »

is especially notable :

LE JUGE

C'est une droicte cornardie  
Que de vous deux ; ce n'est que noise.  
M'aist Dieu, je loe que m'en voise.  
**1490.** Va t'en, mon amy, ne retourne  
Jamais pour sergent qui t'ajourne.  
La court t'assoult, entens tu bien ?

Of the many critics who have said, or implied, that the *Farve de Maistre Pierre Pathelin* contains a biting satire of the administration of justice, Professor Cohen makes the most direct charges against the judge : « il représente le magistrat plus pressé d'aller à ses plaisirs et à ses affaires que de chercher la vérité et de rendre bonne et claire justice. »<sup>39</sup> But there is nothing in the text to indicate that the judge was anxious to go « à ses plaisirs. »<sup>40</sup> It is true that the judge wishes to dispose of the case as expeditiously as possible, but his haste is expressed only in the word and not at ail in the deed. What prevents the draper from presenting his case is not the judge's haste but the derangement that results from his own avarice<sup>41</sup>. As to the judge inviting the recently pilloried Pathelin to sup with him, it is absurd to see in this a satire of the judge. A traveling judge, trying civil cases, might well not have known anything about what the local criminal judge had done with Pathelin since he last saw the lawyer. And, after all, with whom would the judge sup ? Pathelin seems to be the only other member of the profession present.

The judge is the only person in the play who is not satirized, who is not a caricature, who is not farcical at all. The audience laughs with him, and if they laugh at him at ail, it is because he is an honest and dignified man put into a

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<sup>39</sup> G. Cohen, *Le Théâtre en France au moyen âge*, t. 2, : *Le Théâtre profane*, *op. cit.*, p. 95.

<sup>40</sup> The judge has another sitting... « j'ay ailleurs a entendre ! » He is, in fact, *pressé*.

<sup>41</sup> The fact that the judge urges haste is in his favor, for it is in the interests of justice. As Paul Fournier says, speaking of ecclesiastical judges : « Le juge veille seulement à réprimer les longueurs des avocats et des procureurs, et à arrêter les dépositions des témoins trop nombreux et inutiles à la cause » (*cf.* P. Fournier, *Les Officialités au moyen âge*, *op. cit.*, p. 231-232). That the lengthy arguments of lawyers had become an abuse is evident from the Ordonnances of 1364, 1446 and 1453, curbing the prolixity of the advocates. One Thomas Basin had, in 1445, the idea of suppressing all oral pleadings (*Ceuvres de Thomas Basin*, éd. J. Quicherat, Paris, 18-, p. 31-65).

ridiculous position<sup>42</sup>. He represents law and order ; his artistic function in the play is to set off the gibberish of the draper, the idiocy of the shepherd and the abnormality of Pathelin. The judge is just the sort of person we might expect an *official forain* to be, a man of ordinary intelligence and ordinary sentiments, moderately well educated, harassed by the endless round of petty court sittings, impatient (but not too impatient) with litigants like Joceaulme, sympathetic towards the poor and afflicted, eager enough to do justice but defeated at every turn by the subtleties of small-town intrigue and the stupidity and malice of village litigants, by peasant craft, by merchant hypocrisy, and by the sinuous tactics of the shyster<sup>43</sup>.

We may feel that the whole situation illustrates the futility of the attempts of the church to provide ecclesiastical justice for classes of persons like Joceaulme and Aignelet, but I doubt that any such idea was uppermost in the author's mind. Obviously, his principal intention was to excite the hearty laughter of his audience, not cynical smiles or indignant protests. There has been a tendency to take the play too seriously as a social document<sup>44</sup>. In essence, it is merely a brilliant variation on the popular old theme of *trompeur trompé*, put in a rural setting and told by a sophisticate for sophisticates, The viewpoint of the author is substantially like that of the judge in the play ... « c'est une droicte cornardie ! » It is the viewpoint of the professional man, of the well-educated and worldly man, whether clerk or layman, bishop or bailiff<sup>45</sup>. In the trial scene, it is substantially the viewpoint of the Basochiens

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<sup>42</sup> Professor Cons says : « ... car le juge prend sa part, sa belle part, de toute cette satire » (*cf. L. Cons, L'Auteur de la farce de Pathelin, op. cit., p. 54*), but he does not enlarge on this simple statement.

<sup>43</sup> Estienne Pasquier has the jurist's viewpoint in the matter when he remarks : « Monsieur le juge se trouve bien empesché, mesmement qu'il n'étoit question que de moutons en la cause, néanmoins que le drapier y entremesloit son drap. » (*Recherches de la France, Amsterdam, 1723,1, 701*).

<sup>44</sup> It seems that even so penetrating a critic as Ernest Renan could say : « L'impression que laisse Pathelin est, pour nous, des plus tristes : on ne s'empêche de plaindre le temps où un avilissement de la nature humaine que rien ne compense a provoqué autre chose que le dégoût » (*cf. E. Renan, Pages choisies, op. cit., p. 198*). Surely the fact that a Basoche audience was probably amused by the absurdities and clever turns of a situation in which a number of rogues take turns in outwitting each other should not lead us to form gloomy conclusions as to the moral state of that audience, or of the Society of the time. Renan saw in the play a degeneration of the courts of justice, but surely it is possible merely to say, with the judge : « C'est une droicte cornardie ! »

<sup>45</sup> It is impossible, I feel, to make the sharp distinction between the clerical viewpoint and the lay viewpoint that Professor Cons does, at least in respect to this play. He says : « Pathelin vient

who, in their plays, directed the weight of their satire against the litigants and witnesses whose malice and stupidity they saw in action every day at the Palais, or, occasionally, against village lawyers and judges whose pretensions seemed ridiculous when compared with the authentic pomp and glory of the Parlement<sup>46</sup>. An audience composed of persons connected with the Palais de Justice or the colleges at Paris or Rouen would have appreciated the full humor of the opening scene, and of the trial scene. In fact, the play has an especial appeal for similar classes of persons today<sup>47</sup>.

On whom does the burden of the satire fall in the *Farce de Maistre Pierre Pathelin*? Never on the judge, always on the litigant. It is the greedy draper, the stupid plaintiff who cannot even make a clear statement of his claim, that is ridiculed, not the court<sup>48</sup>. On Pathelin, the freshwater lawyer, the satire falls

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non du Palais, mais de l'Eglise, sent non le robin, mais le prêtre » (*cf.* L. Cons, *L'Auteur de la farce de Pathelin*, *op. cit.*, p. 175). At the beginning of the sixteenth century, about one-half the advocates of Paris were clerics. G. Coquillart, author of the *Plaidoyé de la simple et de la rusée*, was a *docteur en droit canon*, and ecclesiastical judge of the metropolitan church of Rheims. To my mind, the *Farce de Maistre Pathelin* smacks of both cleric and lawyer.

In his eagerness to advance every possible argument for an exclusively clerical authorship of the play, Professor Cons even suggests that the author made the shepherd the winner of the game of *trompeur trompé* because shepherds, even sly, brutal fellows like Aignelet, have had a special daim to the grace of God...and of clerics...ever since they were privileged to discover the Star of Bethlehem (*ibidem*, p. 52-54).

<sup>46</sup> Even in Eustache Deschamps' *Farce de Mestre Trubert et d'Antrognart* (not really a farce at all, and yet the only work usually cited, along with the *Farce de Pathelin*, to support the allegation that advocates and judges are satirized wherever they appear in the comic theatre of the Middle Ages), it is the litigant that is treated with searing contempt, not the lawyer. No one seems to have noticed that this play offers the strange spectacle of a village shyster rebuking a would-be client for his inhumanity in having a man imprisoned for stealing a piece of fruit from his garden. Pathelin and Trubert are not representative of the treatment of the advocate in the medieval farce, any more than Thevot represents the usual treatment of the judge. And all three are villagers.

<sup>47</sup> In all the apparent rapport between the play and the Basoche, there is nothing that is really opposed to the theory that the play was written by Guillaume Alecis. There is no reason why a cleric, even a monk, should not have written it. Alecis, from what Professor Cons has revealed of his character, would have made an excellent jurist. He had the legal temperament; a shrewd observer and caustic critic, he was no sentimentalist. Little is known about his early life. Is it possible that he studied law at Paris or Rouen? Can he have been at any time associated with the Basoche? He was probably familiar with their plays. Is it likely that the *Farce de Maistre Pathelin* was his first play?

<sup>48</sup> There may have been some special reason, aside from the exigencies of the plot, for a draper being made the chief butt of the author's ridicule. Professor Cons remarks that the abbey of Lyre, where Alecis lived, had trouble with drapers (*cf.* L. Cons, *L'Auteur de la farce de Pathelin*, *op. cit.*, *op. cit.*, p. 81). The Basochiens of Paris had a long-standing feud with the drapers. The

*The judge and the lawyer in the Pathelin*

very lightly, for Pathelin is really the hero of the play. There was probably some intention to make fun of the class of lawyers he represents, but Pathelin grows into a remarkable personality, the only personality in the comic theatre of the time to emerge triumphant from the sixteenth-century discard of things medieval. His *patelinage* has continued to evoke amused tolerance in France, and over the whole face of the earth. That he is a lawyer in the play, was largely an accidental matter of plot. He is, above all, the first great, French incarnation of the *picaro*.



Howard G. HARVEY

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Basoché had a law court of its own, one of whose chief functions seems to have been the judging of lawsuits brought by the drapers of Paris against the clerks.