



**CRIMINAL LAWYERS ASSOCIATION
of the Northern Territory (CLANT)**

SEVENTEENTH BIENNIAL CONFERENCE

TRUE CRIME NT: MURDER ET AL

*The Mistrail of Marie Antoinette
Palais de Justice
Paris, France
14-16 October 1793*

A play reading presented by the CLANT players

**SATURDAY 22 JUNE – FRIDAY 28 JUNE 2019
HYATT REGENCY HOTEL
SANUR, BALI**

INTRODUCTION

THE MISTRIAL OF MARIE ANTOINETTE 1793

INTRODUCTION

This is the thirteenth in a series of play readings presented to the CLANT Bali Conference by the CLANT Players. * The first was presented at the 5th Conference at this same venue in 1995. As usual, the purpose of the play is to entertain and amuse, but also to say something about the abuses of and by the criminal law. In writing this year's piece, it occurred to me that there are certain common threads which have run through the particular plays chosen.

We can discard two of the presentations from this consideration. In 2007, we presented John Mortimer's ***Dock Brief***. It did expose, in a very quirky way, a deficiency in the English Law, while both amusing and entertaining the delegates, but the forensic advantage gained – fictionally – was to the accused; no harm done! In 2009, we presented a series of vignettes, ***Serving it up in Court***. All were said to be true stories from courts, but they were shamelessly aimed at getting some laughs from the delegates and other members of the audience.

Otherwise, the common threads all point to unfair trials of one kind or another. The accused in ***Ned Kelly*** [1997], ***Tuckiar*** [1999] and ***Bentley*** [2003] were all charged with the murder of policemen. Judges and jurors seem to act under particular constraints in these cases. An acquittal would be most unlikely. In the ***Popish Plot*** trials of 1684 [CLANT, 1995], the allegation was that an assassination attempt against the life of the King was to be made. Roman Catholic priests were involved. They were then an *unprotected class*! The prosecutor Jeffreys [later known as *the hanging judge*] behaved abominably, as did the Chief Justice and the perjured witnesses. They were all looking to preferment under the political regime at the time. In these four cases, only ***Tuckiar*** survived his sentence of death [although it was suggested that *certain steps* were taken to



ensure he never made it back to his native Arnhem Land]. Legal representation was poor, or non-existent, in all these trials.

The ***Eureka Trials*** [2001] sprang from a government determined to assert itself against the rebelling miners. This is the only one of the series of play reading cases where outright acquittals were obtained at trial. The members of the jury, representing the community, were not prepared to accept an unfair and repressive political system.

Rupert Maxwell Stuart [CLANT, 2005] was an Aboriginal man accused of raping and killing a girl. Community feeling ran high, as it did in the 1921 case of ***Colin Ross*** [CLANT, 2013] in Victoria. He was charged with a similar offence, although he did not suffer from any racial prejudice. He was executed; Stuart was not. Both, however, were prosecuted equally vigorously and their trials demonstrate injustices.

Other presentations included ***The Shearer's Tale*** [the NSW trial of ***Fred McDermott*** In 1947]. He was later acquitted posthumously of the murder, 50 years or more after the event. Fortunately, he was not executed and was released early from prison. It was only after the body of his supposed victim was found many years afterwards that his innocence was established. ***Lindy Chamberlain's*** case was represented for CLANT by the second inquest into the death of Azaria. That, to this chronicler, was a grossly unfair proceeding. Her innocence was not finally confirmed authoritatively until the fourth inquest, held in 2012.

In 2017, the CLANT Playreaders performed the Victorian 1950 trial[s] of ***John Bernard Kerr*** for murder of a young woman. He was convicted on the basis of alleged confessions made by him to one *Bluey* Adam. These were challenged at the time, but unsuccessfully. Nevertheless, Kerr only served 12 years and had a reasonably long private life thereafter, always protesting his innocence.

It was noted in that play's introduction that trials were dealt with much more expeditiously in earlier times. The victim in this matter died on 28 December 1949. By December 1950, there had been a committal, three trials [the first two



juries couldn't agree], two visits to the CCA, one to the Privy Council, and a commutation of the death sentence by Cabinet. Things moved swiftly!

[By way of footnote to **Kerr's** case, it's interesting to note that Victoria in 2019 continues to be bothered by apparently dishonest police witnesses and other dodgy practices.]

Which brings us to the case of **Marie Antoinette**!

The Trial of Marie Capet

It will be obvious to most reading these notes that by 1793 Marie Antoinette [henceforth MA] was a much-hated member of the ruling class in France. The Revolution of 1789 had not completely removed that class, and many machinations continued over ensuing years [think of **Tale of Two Cities**!] Part of the case made against MA at her trial was that she, with the King and others, had engaged, in the aftermath of the Revolution, in plotting against the people in order to maintain their authority; hardly surprising in the circumstances given what was then and later occurring to the royalty and aristocracy. The guillotine was specifically created for the bloody work it was to do in these early years of the seventeen nineties.

The catchcry of the Revolution was the words, anglicised if you will pardon me, **Liberty, equality, fraternity**. But there was little of these fine qualities on display during the trial. As you will hear, many of the protagonists in the trial failed to outlive their Queen by many years. The other remarkable thing is that by the end of the century, France was once again under despotic rule [that of Napoleon] and *loving it*, it seems!

MA was a princess of Austria. She was born in 1755. She married Louis in 1770. She was 15 and he was 16. He became King Louis XVI in 1774. He was then 20, and she was Queen of France at the age of 19. Two of their children had died by the Revolution of 1789. Their daughter Marie-Therese lived a reasonable life [1778-1851] but her younger brother lived a very unhappy short life and was used and abused by those wishing to harm his mother. He was Louis-Charles [1785-1795]. He is known in history as Louis XVII [1793-1795], but he was never



proclaimed as such. The short-lived restoration of the monarchy did not occur until 1814, when Louis XVIII was put on the throne with British support. But, of course, Napoleon returned to interrupt that reign.

MA was a princess and a queen throughout her life. She was used to living in the grand style. She was not always hated by the people in the way that emerged after 1789. For instance, she apparently did give alms to the poor and, at times, expressed herself sympathetically to their needs. Still it was hard for her, with her royal background, to see and understand the extent of that poverty and the need for food and the like. The famous expression, accorded to her, when apparently told that the peasants couldn't get bread, was ***Let them eat cake!*** It suited the authorities to promote this attribution, when in fact a much earlier French princess was the true author of these sarcastic words.

Despite the Revolution of July 1789, the King was not overthrown until August 1792. His family was then imprisoned in the tower of the Temple. In December 1792, Louis – under the family name ***Capet***, which dated back hundreds of years (but was never used)– was tried for treason. He was formally convicted on 17 January 1793 and condemned to death, and on 21 January executed by guillotine.

On 2 July 1793, MA's son, Louis-Charles, was separated from his family and effectively isolated. He was only eight. MA was taken to the Conciergerie Prison in early August. This was unusual, in that normally prisoners only remained there for a short time before being tried and sentenced in the nearby Tribunal Court. The prison was better known as *the ante chamber of the guillotine*.

The Queen's incarceration, however, would last for two and a half months in the noisy, mouldy dungeon that reeked of rat urine, pipe smoke, and poor sanitation. [For this description, and for much of the information about the trial, I am indebted to the work by Will Bashor, ***Marie Antoinette's Darkest Hours***]

On 28 August, a note was found concealed in a carnation, which dealt with a possible escape by MA.



On 2 September, the republican Jacques Rene Hebert promised *the head of Antoinette* to the French people. He was to be an unpleasant witness at her trial.

The authorities were concerned that MA could easily become the focal point of a military or popular uprising against what was proving to be an authoritarian and harsh regime. This period was known, of course, as the *Reign of Terror*. It was a time of informing and intrigue, enforced by torture, punishment and death. It was necessary to move against her quickly, and provide a convincing case of her treason and immorality – prepared for both the court proceedings and for public consumption. The Queen's own behaviour provided much, but not all, of the ammunition for the case to be made against her. For example, there were extraordinary allegations of sexual misconduct by MA with her 8 year-old son, Louis-Charles. During the young Prince's forced isolation from his mother and family, he was *persuaded* to confirm something of this to a *friendly* guardian. The President of the Tribunal was clearly unhappy that the prosecutor chose to run with this at the trial. The President failed to address the issue in his Summary to the Jury.

MA's trial commenced at 8am on 14 October 1793. It continued all that day and late into the next. Just after 4am on 16 October, she was pronounced guilty. She was executed that day at 12.15pm, before a very appreciative and enthusiastic throng.

The case against her was opened, and revealed, for the first time, at the trial. Neither she, nor the two reasonably experienced defence lawyers appointed for her by the court [the night before the trial started], had access to any of the relevant documents. She was not allowed a conference with them, until mid-way through the trial – and, then, for 15 minutes only. The lawyers asked no questions of any witnesses, not being allowed to do so.

The prosecutor was *Antoine Quintin Fourquier-Tinville*. He was described in the indictment [drawn by him] as *Accusateur Public du Tribunal Criminal extraordinaire et revolutionnaire*. He appears to have been a determined character. He no doubt had *an axe to grind* [pun intended] and a career to pursue. Unsuccessfully, as it turns out, as despite his success in this case, he was



also to lose his head amidst the carnage of those days. He and witness Jacques Rene Hebert were guillotined in May 1795.

The President of the Tribunal was *Martial Joseph Armand Herman*. There was a bench of five judges, but they will be represented in our play reading by the President alone. Herman also lost his head in 1795.

The script is imaginative. It must be. French men and women did not speak in rhyming couplets -in the English language- in 1793 [or at any other time]. However, it does owe its origins to the trial conducted in October 1793. The explicit and implicit criticisms made of the conduct of the Tribunal, the Prosecutor, witnesses and the spectators are justified [except for the musical bits!] There were 39 witnesses at the trial. You will only hear from a small sample, plus two fictional characters from Charles Dickens.

The Play Reading and Acknowledgments

Our previous play in 2017 included some unusual features. The device of using rhyming couplets was well-received. It will be used again with this performance. There was some musical support and interruptions by a rowdy group in the jury. This will be provided this time by the *Paris Mob*, a group anxiously wanting to see Citizen Capet's head roll. Some occasional [and original] music, as in 2017, will be provided by Martin Fisher. Thanks, Martin!

My friend Trish Smith, of the NT Office of the Director of Public Prosecutions [with the Director's approval], has once again reduced this Introduction and the play reading script to manageable documents. She has prepared copies of the Introduction which will have been distributed to delegates and their friends at the Conference. I am grateful to her. Thank you also to Anne Healey who volunteered to proof-read the Script and this Introduction. She provided valuable suggestions and corrections to both documents. I remain responsible, of course, for any faults which delegates may find in either.



As I usually do, I now thank the President and the Committee of CLANT for this further opportunity to participate in the affairs of the Conference, maintaining my association and friendship with my former colleagues.

Finally, I thank the players who have, *mostly*, volunteered their services. I expect they will enjoy this particular performance as much as any that have preceded it. Their names, without any honorifics, are listed somewhere amongst these papers. Thank you, in anticipation, also to the Delegates and their family and friends for participating in the proceedings!

REX WILD

Darwin

18 June 2019

- The plays are listed on the CLANT website. The original introductions are there available, together in many cases with the associated play reading script.



The Mistrial of Marie Antoinette

The CLANT Players 2019

The Narrator [Sydney Carton, from <i>Tale of Two Cities</i>]	Russell Goldflam
The President of the Tribunal [Martial Joseph Armand Herman]	Tom Berkley
The Prosecutor [Antoine Quentin Fourquier- Tinville]	Rory Pettit
Marie Antoinette [Capet]	Peggy Dwyer
Juror François Trichard	Frank Lawrence
Jailer/Clerk	Alfred Hitchcock
The Paris Mob	Jenny Blokland Liz Pearson Amelia Noble Bella Politis Zoe Neumayer
Madame Thérèse Defarge [Mob Barracker, from <i>Tale of Two Cities</i>]	Beth Wild
<u>Defence Lawyers [2]:</u>	
[Claude François Chaveau-Lagarde]	Grant Algie



**[Guillame Alexandre
Tronçon-Ducoudray]**

Max Stretton

Witnesses:

Laurent Le Cointre

Dean Mildren

Antoine Rousillon

Ian Read

Didier Jourdheuil

Tony Elliott

Jacques René Hébert

Richard Coates

Pierre Manuel

Julian Murphy

François Tissot

David Morters

Jean Sylvain Bailly

Stephen Apps

Reine Millot

Elizabeth Morris

Antoine Simon

Ambrith Abayasekara

Augustin Germain Jobert

Elana Scoufis

Renée Sevin

Felicity Graham

Music written & performed by

**Martin Fisher [with Amelia
Noble]**





Beautiful Marie Antionette



Maria's husband Louis XVI





Marie Antoinette being prepared for the guillotine





*A late 18th century painting depicting the execution of Marie Antoinette
In 1793*



Antoine Quentin Fouquier-Tinville ...



Jacques René Hébert (French: [ɛbɛʁ]; 15 November 1757 – 24 March 1794) was a French journalist, and the founder and ...



Image: Jacques René Hébert



Hébert arrived in Paris in 1780, at the age of 23.

Hébert



Je fais le véritable père Duchesne, sçavoir.
L'INDIGNATION
 DU
PERE DUCHESNE
 CONTRE
 L'INDISSOLUBILITE
 DU
 MARIAGE,
 ET SA MOTION POUR LE
DIVORCE.
 COMMENT, sçavoir, encore une femme affligée par son mari! Cette mode-là prend beaucoup.

