

## Law in literature: a monstrous maze?

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**T**he Anglo-American public has always found law a particularly difficult profession to warm to.

The adversarial system seems to stick in the craw of the common man who feels certain that there must be a better system out there somewhere, although he has only the vaguest notion of what that might be. It would certainly involve a lot more criminals going to jail and a lot less money pouring into the pockets of lawyers.

Five centuries of western literature have done little to clear up this jaundiced view of the profession. With few exceptions, playwrights, poets and novelists have reflected the law in a very unflattering mirror indeed. Even the Bible seems to have a special message for lawyers when it admonishes mankind not to bear false witness.

One of the earliest important depictions of lawyers and the law in modern English literature may be found in Shakespeare's *The Merchant of Venice*. The hero, Bassanio, puts his finger on the nub of what the public finds incomprehensible about the legal system when he says,

In law, what plea so tainted and corrupt,  
But, being seasoned with a gracious voice,  
Obscures the show of evil?

Lawyers are a notoriously silver-tongued breed. Perhaps understandably, laymen struggle to understand why they should expend their eloquence quite so energetically on causes they know to be profoundly unrighteous. If they do their jobs badly, they are bunglers, and if they do them too well they are the cynical agents of the dark side. Lawyers simply can't win – except of course by coming out on the right side of the ledger book.

The plot of *The Merchant of Venice* revolves around a particularly sticky question of law. Shylock, a rapacious

usurer, has lent the sum of three thousand ducats to the merchant Antonio with the provision that Shylock shall claim a pound of Antonio's flesh in lieu of penalty interest should Antonio default.

Antonio agrees to this unusual contract because he is expecting several of his ships to reach safe harbour any day now, whereupon he will be able to pay Shylock in full. Then Antonio hears that all his ships have been lost at sea, and suddenly the pound of flesh clause acquires sinister significance.

Shylock has Antonio arrested and petitions the Duke of Venice to enforce the agreed penalty. Antonio's friend, Bassanio, meanwhile, has come into money by marrying the heiress Portia. He offers Shylock six times the original amount if he will forego his pound of flesh. Shylock stands firm. He has nursed a grudge against Antonio for too many years to be baulked of the pleasure of slicing a pound of flesh from his breast.

Enter Portia, disguised as a man and dressed in the robes of a doctor of law. Portia has been doing her homework. She points out to the court that since the pound of Antonio that Shylock is entitled to is specified as flesh it shall be held to exclude blood – a particularly ingenious application of *expressio unius est exclusio alterius*.

Shylock is forced to concede defeat – but his bad luck doesn't end there. Portia declares that the law requires him to forfeit both his life and his fortune for attempting, as a foreigner, to cause harm to a citizen of Venice. The Duke is merciful, however, and Shylock escapes with his life, although not with his fortune.

The point Shakespeare seems to be making is not that the law is evil in itself, but that those who would insist on its literal application will find it to be a double-edged sword that may

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rebound on them with devastating effect.

As Portia explains to Shylock what his position really is, Shylock – who up until now has been insisting on the exact application of his contract – asks bemusedly, "Is that the law?" Portia replies:

Thyself shalt see the act: for, as thou urgest justice, be assured

Thou shalt have justice, more than thou desirest.

Getting more justice than one desires is shown to be a pretty grim fate.

Still, it is worth remembering that in Shakespeare's world it is not the law that is evil, but the people, claimants and lawyers alike, who would abuse it.

Charles Dickens recognises no such ambiguity. In Dickens's fictional Victorian England, the law, lawyers, and criminals alike are all tarred with the same corrupt brush. And since most historians would agree that Dickens's dismal universe bears a striking resemblance to the real Victorian England, it is safe to conclude that the legal system of the nineteenth century was in dire need of reform.

Dickens's most celebrated assault on the English legal system is undoubtedly *Bleak House*. His particular target was the Court of Chancery. The Lord Chancellor was top dog of this institution, which had been set up to determine the fate of widows and orphans and to settle all testamentary disputes.

On the second page of the novel, Dickens already dismisses the High Court of Chancery as that "most pestilent of hoary sinners". By the end of the novel, the reader is left with the impression of the court as a vast, fly-blown corpse being battered upon by thousands of vile scavengers.

The Chancery suit at the centre of the novel is the matter of Jarndyce and Jarndyce – a case that has outlived generations of its claimants and become a byword in Chancery Lane.

It is interesting to note that it has become something of a byword among the more literate of modern day legal practitioners too. An advocate who has been landed with an interminable brief, complicated beyond all hope of unravelling, is quite likely to say that he has been given a Jarndyce and Jarndyce.

*Bleak House* opens with a hearing in this perennially hopeless matter. It is a foggy, gloomy day, and nowhere is the fog so thick or the relentless rain so wet as in Chancery Lane:

Thus, in the midst of the mud and at the heart of the fog, sits the Lord High Chancellor in his High Court of Chancery.

'Mr Tangle', says the Lord High Chancellor, latterly something restless under the eloquence of that learned gentleman. 'Mlud', says Mr Tangle. Mr Tangle knows more of Jarndyce and Jarndyce than anybody. He is famous for it – supposed never to have read anything else since he left school.

'Have you nearly concluded your argument?'

'Mlud, no – variety of points – feel it my duty tsubmit – ludship', is the reply that slides out of Mr Tangle.

'Several members of the bar are still to be heard, I believe?' says the Chancellor with a slight smile.

Eighteen of Mr Tangle's learned friends, each armed with a little summary of eighteen hundred sheets, bob up like eighteen hammers in a pianoforte, make eighteen bows, and drop into their eighteen places of obscurity.

'We will proceed with the hearing on Wednesday fortnight', says the Chancellor. For the question at issue is only a question of costs, a mere bud on the forest tree of the parent suit, and really will come to a settlement one of these days.

This is quite in the Pickwickian style – calculated to raise a smile rather than furious indignation. For some reason, barristers seem to escape relatively unscathed at Dickens's hands. They are mere hired guns, the reader is encouraged to feel, more notable for their long-windedness than for their villainy. Dickens's true Juvenalian savagery is reserved for solicitors whom he saw

as preying directly upon the public.

One of the most grotesque literary lawyers of all times must surely be the repulsive Mr Vholes.

This ornament of his profession is introduced as the legal adviser of Richard Carstone, one of the principal claimants in Jarndyce and Jarndyce. He is described as "a sallow man with pinched lips that looked as if they were cold, a red eruption here and there upon his face, tall and thin, about fifty years of age, high-shouldered, and stooping." Dressed in black, black-gloved, and buttoned to the chin, there was nothing so remarkable in him as a lifeless manner, and a slow fixed way he had of looking at Richard. He is also described as; "looking at his prey and charming it" and "always looking at the client as if he were making a lingering meal of him with his eyes as well with his professional appetite".

Proximity to the vampire Vholes causes Richard Carstone to grow weaker and weaker until he finally expires on hearing the news that the whole estate in Jarndyce and Jarndyce has been absorbed in costs. There is nothing left to sustain Vholes's cannibalistic appetite, so he is forced to depart: "He gave one gasp as if he had swallowed the last morsel of his client, and his black buttoned-up unwholesome figure glided away to the low door at the end of the Hall."

Perhaps the most sinister thing about Vholes is that he is not a rogue lawyer, but the natural product of a system that exists only to feed itself:

The one great principle of the English law is, to make business for itself. There is no other principle distinctly, certainly, and consistently maintained through all its narrow turnings. Viewed by this light it becomes a coherent scheme, and not the monstrous maze the laity are apt to think it. Let them but once clearly perceive that its grand principle is to make business for itself at their expense, and surely they will seek to grumble.

One can imagine Dickens wiping the ink from his fingertips and thinking, "so much for the English legal system". Certainly, no other writer has combined wit, pathos and savage

satire with such devastating effect against the law.

Another writer who had much to say about lawyers, although in a more benign vein, was PG Wodehouse. Wodehouse was never slow to recognise good comic material when he saw it and quickly incorporated lawyers into his cast of stock characters.

Wodehouse's lawyers appear in two guises – middle-aged and pompous, and young and incompetent. His middle-aged barristers suffer from a severe case of self-importance brought on by years of bringing their hands crashing down on lecterns and thundering at timid witnesses, "I put it to you, sir, that you are a liar!"

His middle-aged solicitors are simply insufferable bores with the added flaw of rapaciousness.

Wodehouse's young lawyers are a much more endearing breed. They are almost always either barristers or young men reading for the Bar. The legal profession is never their true calling in life and they have usually only gone into it to please an affluent godfather. They clutter up the Bar for a few years until circumstances allow them to pursue their real dreams which may be anything from writing detective fiction to opening an onion soup bar on Piccadilly Circus.

One such young man is Pongo Twistleton of whom the narrator says:

He is reading for the Bar, and while he would be the first to admit that he hasn't yet got a complete toe-hold on the Law of Great Britain he had a sort of notion that oiling into a perfect stranger's semi-detached villa on the pretext of pruning the parrot was a tort or misdemeanour, if not actual barratry or soccage in fief or something like that.

Legal terms never failed to tickle the Wodehousian funny bone.

In Wodehouse's jolly fictional world, the young hopeless lawyer and the middle-aged pompous lawyer never see eye to eye. In *Money in the Bank*, this natural tension is underscored by the fact that the young barrister is engaged to be married to the middle-aged solicitors daughter:

Mr Shoemsmith, the well-known solicitor, head of the firm of Shoemsmith, Shoemsmith, Shoemsmith, and so on, of Lincolns Inn

Fields, leaned back in his chair and said that he hoped he had made everything clear.

He accompanied the remark with one of those short, quick, roopy coughs by means of which solicitors announce that a conference is concluded, and Jeff Miller came out of his meditations with a start. Mr Shoesmith always reminded him of a bird, and in an attempt to decide just what kind of a bird he had allowed his attention to wander. However, what he had missed must presumably have had to do with some aspect of the forthcoming case of Pennefather v. Tarvin, in which he had been briefed to appear for the plaintiff. That was what he had come here to discuss, and that was what Mr Shoesmith had been talking about at the moment when he had ceased to hang upon his lips. So it seemed safe to nod intelligently.

Not surprisingly, Mr Shoesmith is as little taken with Jeff as Jeff is with him:

He could think of no detail in which his future son-in-law's deportment during the interview which was just terminating had not differed from that of the ideal young barrister, receiving instructions for his first appearance in the courts.

It was not to be expected that Wodehouse, in focusing on lawyers, should fail to recognise the vast comic potential of the bench. Judges, magistrates, and justices of the peace come in for their fair share of gentle ribbing from England's greatest humorist. In *The Girl in Blue* the hero has the misfortune of being summoned for jury duty in a particularly boring matter:

The case of Onapoulos and Onapoulos vs the Lincolnshire and Eastern Counties Glass Bottling Corporation, one of those dull disputes between business firms where counsel keeps handing books to the judge and asking his lordship with the greatest respect to cast an eye on the passage marked in pencil on the right hand page, upon which he immediately looks at the left hand page. ('Who is this Mr Jones? I have nothing about him in my notes.' 'Your lordship is looking at the wrong page. If your lordship would

kindly look at the right hand page instead of the left hand page.' 'But why should I *not* look at the left hand page?' Because, my lord, with great deference, there is nothing there concerning this particular case.)

It would be too much to say that PG Wodehouse was an enthusiastic public relations exponent for the legal profession, but his wit was never unkind or even unfair.

The writer who has probably done the most to explain lawyers – criminal defence lawyers at that – to the reading public is John Mortimer. Mortimer is the creator of the immortal Horace Rumpole, barrister at law, who never prosecutes, never pleads guilty, and knows more about blood stains and typewriters than any other man alive.

Rumpole's best clients are the Timsons, a large and ever-expanding family of south London villains. Rumpole is destined never to take silk or even to become head of his chambers because crime does not pay, and crime is what Rumpole does best. It barely pays enough to support him and his wife Hilda ('She who must be obeyed') in modest discomfort in their draughty mansion flat on the Gloucester Road.

The Rumpole books, plays, and television series spawned a host of real-life Rumpole imitators. In recent years, the Old Bailey has become infested with overweight barristers of a certain age smoking small cigars, swilling claret by the bowlful and referring to their judges as the old darling.

At the heart of all the highly entertaining caricatures in the Rumpole stories is a warm moral core that celebrates the adversarial system and particularly those who would champion the underdog. The other members of Rumpole's chambers frequently agitate for a concerted attempt to attract more lucrative civil cases to their group. Rumpole never misses such opportunities to climb on his soap-

"Tax cases?" I saw them all smiling encouragement at me. "Marvellous! Tax cases make the world go round. Compared to the wonderful world of tax, crime is totally trivial. What does it matter? If some boy loses a year, a couple of years, of his life? It's totally unimportant! Anyway, hell grow up to be banged up for a good five, shut up with his own chamber pot in some convenient hole we all prefer not to think about." I glared round at the learned friends. "Any fool could do it! It's only a matter of life and death. That's all it is. Crime? It's a sort of a game. How can you compare it to the real world of Off Shore Securities. And deductible expenses?"

Mortimer himself was a notable QC whose most famous cases involved indecency charges rather than the bread-and-butter criminal matters of Rumpole's practice. But while Mortimer's most famous creation may not be his *alter ego*, he obviously considers Rumpole and his ilk to be the unsung heroes of the profession. The fact that he has done much to make a censorious public think so too is perhaps the greatest achievement of his career.

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