

Dickens and the Law

by

W. B. GOULD

Charles Dickens died on the ninth day of June, 1870. The centenary of his death is unlikely to pass without eulogistic comment, particularly as to the enduring quality of his work; each one of his novels has stood the test of more than one hundred years. The books in their physical form have survived because of their immortal content.

Closer examination of the novels will show that they teem with legal life. Nine of Dickens's thirteen major novels, and many of his short stories, contain characters who are lawyers; even the only deliberately theatrical piece he ever wrote has a lawyer in it. There are thirty-four lawyers altogether, without counting the many nameless lawyers and unnamed embodiments of "Law". The proliferation of legal personalities does not end with the lawyers themselves, although lawyers of every degree and status are represented. There are law clerks (many of those), magistrates, judges, notaries, law writers and copying clerks, court clerks and ushers, jurymen, a bailiff and bailiff's men, a law student, and, of course, clients.

There are intimate views of legal offices. There are close studies of nearly every court in London. There are comments on the laws, and on the procedures, and there are histories of cases and of their participants. And, at the farther end of the Law, there are commissions of inquiry into punishment, and prison.

Considering the width of the social scale portrayed by Dickens and the diversity of types, professions, trades and occupations presented, this solid core of Lawyers and the Law represents an unbalanced emphasis on the profession. This has led some commentators to wonder whether or not Dickens's connection with the Law was closer than it appears to be.¹ The reasoning adopted is that the legal incidents and details in the novels could only have been written so convincingly

¹ F. E. Vaughan, "Dickens and his Lawyers: A Literary Mystery that remains Unsolved", 41 A.B.A.J. 595.

by someone who had an everyday involvement in some aspect of the Law and its administration. How, they ask, did such a young man, with no apparent legal education, manage to write such a book as *Pickwick Papers*, one of the two foremost legal novels? Lord Chief Justice Hewart of Bury wondered at “the range and accuracy of knowledge which had somehow been acquired by this amazing young novelist of twenty-four years. How had he acquired it?”²

Let it be said that there is no mystery: the facts of Dickens's life are too well known for there to be any forgotten years when he could have studied Law. But nevertheless there were factors in his life which, when accumulated, can explain his knowledge of the law, and which can also explain his attitude towards it. Every author (except writers of romantic and escapist fiction) uses the experience of his own life as the raw material for his works of fiction; this varies in degree from author to author, of course. Before any study of Dickens and the Law can be commenced, it is essential to know the exact nature of Dickens's involvement with the Law. A comparison of the fact with the fiction will explain much.

On a chronological basis, the first thing to notice about Dickens's meeting with the law is his father's imprisonment for debt. His father's affairs had been in a precarious situation for some time, and, after juggling for a while with various Deeds of Composition, John Dickens and his wife were arrested and taken to the Marshalsea prison. They remained there for nearly a year, until John Dickens received a timely legacy of “some hundreds” of pounds. This was not before Charles had suffered many indignities, including attendance at the Official Appraiser's, to have the clothes he wore valued, to ensure that the property retained by his father was worth no more than twenty pounds, pursuant to the Insolvent Debtors Act 1813.

While his parents were in prison, Charles visited them nightly, and from these visits he grew to know the prison well—too well for his own taste. His knowledge of the prison and the prison customs enabled him to write those portions of *Little Dorrit* which relate to the Marshalsea; this experience is also reflected in what must be considered accurate historical and social detail about the prison in “The Old Man's Tale of a Queer Client” in *Pickwick Papers*. The prison yard no doubt provided Dickens a fund of characters of the grotesque type for which he later became famous. One of his most successful characters was actually modelled on his father, and that character is Mr Wilkins Micawber from *David Copperfield*. The two had much in common, it seems.

Dickens always had a taste for inspecting prisons, and writing about prison conditions and the abuses of the prison system. One of the two most praised sketches in Dickens's first published volume was entitled

² *The Times* for 14 February 1928.

“A Visit to Newgate”. The Newgate prison is not forgotten in later novels: in *Oliver Twist*, Fagin spends his last hours in the condemned cell at Newgate; executions outside the jail are described in *Barnaby Rudge*; and Wemmick takes David Copperfield on a visit inside the prison. The Fleet Prison is described memorably in *Pickwick Papers* as the scene of Mr Pickwick’s semi-voluntary incarceration, and it is also referred to in *Barnaby Rudge*; but the Fleet ceased to exist after 1842, and Dickens speaks of it no more. Of all the London prisons of the time, the least mentioned is the King’s Bench. Although John Dickens’s imprisonment was in the Marshalsea, Mr Micawber’s corresponding adventures take place in the King’s Bench, which is also referred to in *Nicholas Nickleby*. Dickens’s interest in prisons and prison systems did not abate on his overseas tours, and in *American Notes* he writes at length on the New York “Tombs” and the Philadelphia State Penitentiary.

Dickens’s closest actual involvement with the legal world came during two periods of clerkship in legal offices. The first was with a Mr Molloy of New-square, Lincoln’s Inn; this lasted for only seven weeks or so, and was probably only intended as an occupation to fill the time between leaving school and finding a more permanent position. In May 1827, through a connection of his father’s, he found employment with Ellis and Blackmore, attorneys of Gray’s Inn, and remained there till November 1828, at a weekly wage of 13s. 6d., rising to 15s. His duties, however, do not appear to have been very grand. “He was very far below the articulated clerk . . . He was not so high as the salaried clerk . . . He was not even on the level with the middle-aged copying clerk . . . He was one of the office lads.”³ Nevertheless, the experience was not without use for Dickens. Mr Blackmore later recorded that “several incidents took place in the office of which he must have been a keen observer, as I recognised some of them in his *Pickwick* and *Nickleby*: and I am much mistaken if some of his characters had not their originals in persons I well remember.”⁴ A record book kept by Dickens in his own hand discloses clients with names such as Weller, Bardell, Corney and Rudge—names which were destined to become much better known than their originals no doubt were. Mr Blackmore recalled that the main things he remembered Dickens for were his ability in mimicking and impersonating his clients, and at dropping cherry-stones onto clients as they came in at the front door below. The latter rewarding occupation is indulged in by Young Blight, clerk to the briefless barrister in *Our Mutual Friend*.

Young Blight is only one of many law clerks, who, as a class, are

³ John Forster, *The Life of Charles Dickens*, ed. J. W. T. Ley. Cecil Palmer, 1928, p. 46.

⁴ Forster’s *Life*, p. 46.

well represented by quantity if not quality. Many of them are important characters; William Guppy in *Bleak House* and John Wemmick in *David Copperfield*, for example. The two best-known law clerks are Uriah Heep and Sally Brass. Uriah Heep, the so 'umble clerk to Mr Wickfield in *Copperfield*, eventually becomes a partner in the firm, after having reduced the once noble Mr Wickfield to a state of drunken inertia. Sally Brass, though equally capable, no doubt, never becomes a lawyer; lawyers of the feminine sex were, at this time, impossibilities. She was nevertheless the "confidential plotter, adviser, intriguer and bill of costs increaser" to her brother Sampson, and⁵

. . . she had been remarkable, when a tender prattler, for an uncommon talent in counterfeiting the walk and manner of a bailiff . . . which was only to be exceeded by her exquisite manner of putting an execution into her doll's house, and taking an exact inventory of the chairs and tables.

The law clerks are variously affiliated to lawyers and law firms: Dodson & Fogg, Spenslow & Jorkins, Kenge & Carboy, and Snitchey & Craggs are the principal law firms in practice in the works of Dickens. Their offices are described with particularity in several places, and it is here that the link between Dickens's experience and his fictional presentations is seen to be very close. Mr Jagger's office in *Great Expectations* is remembered for its plaster masks of deceased criminals and clients, and Dodson & Fogg's clerks' room for its long-legged stools and partition. Dickens's legal offices were always dingy, dirty and drab; a tradition which has lived long in the memory, if not in fact. In later life, he wrote a sketch in which he said much that he had written before on the subject. The Chambers in question, he said⁶

. . . were so dirty that I could take off the distinctest impression of my figure on any article of furniture by merely lounging upon it for a few moments: and it used to be a private amusement of mine to print myself off — if I may use the expression—all over the rooms. It was the first large circulation I had.

It was during the time of Dickens's employment as a law clerk that he began the earnest study necessary to become a Parliamentary shorthand-writer, but, after having done exceedingly well to accomplish this in a very short time, there was no opening in the Gallery for him for nearly two years. That time was occupied in reporting in Doctor's Commons, which, as Steerforth in *David Copperfield* says, was⁷

. . . a little out-of-the-way place, where they administer what is called ecclesiastical law, and play all kinds of tricks with obsolete old monsters of acts of Parliament, which three-fourths of the world know nothing about, and the other fourth supposes to have been dug up, in a fossil state, in the days of the Edwards. It's a place that has an ancient monopoly in suits about people's wills and people's marriages, and disputes among ships and boats.

—in other words, Probate, Divorce and Admiralty. Also part of

⁵ *The Old Curiosity Shop*, Chapter 36.

⁶ *The Uncommercial Traveller*, Chapter 14.

⁷ Chapter 23.

Doctor's Commons were the Court of Arches and the Consistory Court of the Bishop of London—the ecclesiastical side of its jurisdiction, which was utilised by Dickens in the earliest of his writings. He rented an office in Doctor's Commons and set up as a shorthand-writer taking transcripts for counsel involved in the various cases, and despite his age (he was still only eighteen), was considered very able. His reporting extended on occasions to other courts as well: he reported a number of cases in the Police Courts and in the Court of Chancery, at that time presided over by Lord Chancellor Lyndhurst, who was recognisably the model for the Lord Chancellor in *Bleak House*.

Dickens appears to have taken every available opportunity to introduce the subject of Doctors' Commons into his novels; even the apparent error in law of allowing Mrs Weller in *Pickwick Papers* to make a will may be excused because it has to be proved in Doctor's Commons. The Court also formed the subject of one of the sketches in the early *Sketches by Boz*. Other Courts received varying degrees of attention. The Court of Chancery is the prime target of abuse throughout *Bleak House*, the theme being set at once in the famous opening chapter.

Fog everywhere . . . At the very heart of the fog, sits the Lord High Chancellor in his High Court of Chancery. Never can there come fog too thick, never can there come mud and mire too deep, to assort with the groping and floundering condition which this High Court of Chancery, most pestilent of hoary sinners, holds, this day, in the sight of heaven and earth.

The extent of Dickens's wrath at the Court overflowed the bounds of the expansive *Bleak House*; there are references to it in many other books, especially *Pickwick Papers*. That book also introduces the Court of Common Pleas, which is treated in a much more light-hearted fashion, but Dickens was younger then, and did not seem to care as much. The Criminal Courts and the Old Bailey are described in gruesome detail in several places, notably in *Sketches by Boz*, *A Tale of Two Cities*, *Oliver Twist* and *Great Expectations*. There are three inquests in Coroner's Courts; and an episode in *Pickwick* describes the Insolvent Debtor's Court.

Dickens was not only acquainted with the Courts, but also with the proceedings heard in them, and counsel who practised in them. *Jarndyce v. Jarndyce* in *Bleak House* is the vehicle which carries the abuse against Chancery, and it truly became the Monument of Chancery Practice which Conversation Kenge claimed it to be. The other famous case from Dickens is *Baraell v. Pickwick*, which, like its faint echo, *Rugg v. Hawkins* in *Little Dorrit*, is a breach of promise case. A lesser known case is *Bumple v. Sludberry*, a brawling case heard in the Court of Arches in Doctor's Commons. During this period, Dickens must have met and seen a great number of lawyers, and the evidence of that may be seen in almost every book he wrote.

Nearly every type of lawyer is represented, including some, such as the Proctor and the Serjeant, who are not with us today.

Although his works are informative of lawyers of the higher echelons, a strong bond with the legal world was Dickens's friendship with leading personalities in the law. Among his intimate friends he numbered Lord Denman, Lord Campbell, Lord Chief Baron Pollock, Baron Bramwell, Mr Justice Willes and Chief Justice Cockburn. His personal contacts with the men who administered the law seem to have had no mollifying effect on his attitude to the law. His friends were not always satisfied with his portrayal of the law. Chief Justice Cockburn, for example, after hearing one of Dickens's celebrated readings of *Bardell v. Pickwick* said that it was "perfectly ridiculous, a mere broad farce or exaggerated pantomime."⁸

Serjeant Talfourd (later Mr Justice Talfourd) was, after his biographer Forster, Dickens's best and longest friend, their acquaintance dating from the time of *Pickwick Papers*. That book was dedicated to Talfourd, although not at that time in his capacity as friend, but rather as a patron and respected figure whom Dickens had seen from the Press Gallery help the Copyright Act 1838 through Parliament. In the first extant letter to Dickens, Talfourd refers to him as "the subtlest and most genial delineator of human manners and affectations who has arisen among us since the days of Fielding."⁹ Their friendship continued throughout their lives and was valued by them both. Claims that Talfourd vetted *Bardell v. Pickwick* for legal accuracy prove, on investigation, to be groundless, although on certain occasions Talfourd did comment and advise Dickens on the legal aspects of his fiction. One social occasion is recorded, for example, when Dickens was writing the last chapter of *Oliver Twist* and was pondering on the fate of Charley Bates and the Dodger, at which Talfourd "pleaded for them as earnestly in mitigation of judgment as ever at the bar for any client he most respected."¹⁰ Dickens used Talfourd as the original of Thomas Traddles in *David Copperfield*.

Dickens was obliged to go to law himself on several occasions, the principal cause being the piracy of his writings, a practice which had been going on ever since *Pickwick*, and was building up, if anything, in volume. In 1844, stung more than usual by the audacity of the *Christmas Carol* and *Martin Chuzzlewit* pirates, he finally took Talfourd's advice and commenced a Chancery suit against them. Talfourd, who represented Dickens, spent much time and labour in preparing the case, sitting up till three in the morning of the day of the hearing preparing his speech.

⁸ Yates, *Recollections and Experiences* II, p. 132.

⁹ *Letters of Charles Dickens* I, p. 684.

¹⁰ Forster's *Life*, p. 112.

At the hearing, counsel for the pirates was constantly interrupted by Knight Bruce, who asked him to produce a passage from the pirated version which was not an expanded or contracted idea from Dickens's *Christmas Carol*, and as each passage was read out, the Vice-Chancellor called out: "That is Mr Dickens's case! Find another!" The reported judgment records this in more sober style:¹¹

The defendant has printed and published a novel, of which the fable, persons, names and characters of persons, the age, time, country and scene, are exactly the same; the style of language in which the story is told is in many instances identical, in all similar.

Judgment for Dickens was given at once (much to Talfourd's chagrin at not being heard). This outcome was not as satisfactory to Dickens as might be supposed, as execution of the judgment proved profitless, and Dickens had to pay all his own costs himself. On a later occasions, when pursuit of the pirates was again suggested, Dickens wrote to Forster:¹²

My feelings about the law is the feeling common, I suppose, to three-fourths of the reflecting part of the community in our happiest of possible countries; and that is, that it is better to suffer a great wrong than to have recourse to the much greater wrong of the law. I shall not easily forget the expense and anxiety, and horrible injustice of the *Carol* case, wherein, in asserting the plainest right on earth, I was really treated as if I were the robber instead of the robbed.

In 1858, as a result of other disputes with his publishers, Dickens decided to bring to an end his editorship of *Household Words*, a weekly periodical conducted by him and published by Bradbury & Evans under a partnership agreement which included Forster and W. H. Wills as partners. On 22 December 1858 Dickens advertised by circular that "on Saturday 28th May 1859 Mr Charles Dickens will cease to conduct *Household Words*, that periodical will be discontinued, and its partnership of proprietors dissolved."¹³ Bradbury & Evans objected to his attempting to deal with a partnership asset in this way, and brought a suit against him for *inter alia* an injunction to prevent repetition of the advertisement. Sir John Romilly, Master of the Rolls, on the undertaking of Dickens to insert "by him" after the word "discontinued" in the advertisement, made no order at all, and reserved costs until the partnership property had been disposed of. At an auction on 16 May 1859, Dickens bought all rights to *Household Words* for £3,500.

His experiences in court must have been of great assistance when it came to describing court procedure in his books; although *Bardell v. Pickwick* was written before either of his own cases occurred. *Bardell v. Pickwick* is the only fictional case to have been used in a serious textbook of the law as support for a legal proposition, namely, the

¹¹ *Dickens v. Lee* 8 Jurist 183, 184.

¹² Forster's *Life*, p. 322.

¹³ *Bradbury v. Dickens* 27 Beav. 53.

rule against hearsay.¹⁴ Sam Weller is in the witness-box, being questioned by Serjeant Buzfuz:¹⁵

“Little to do, and plenty to get, I suppose?” said Serjeant Buzfuz, jocularly. “Oh, quite enough to get, Sir, as the soldier said ven they ordered him three hundred and fifty lashes,” replied Sam.

“You must not tell us what the soldier or any other man said, sir,” interposed the judge; “it’s not evidence.”

The trial scene in *Pickwick Papers* had its origin in fact. The year before the book appeared, a Stipendiary Magistrate sued the Prime Minister for damages for adultery. Circumstances such as these were bound to attract the avid following of the country’s readership, and Dickens had been among the reporters who furnished accounts of the trial to the daily press. Serjeant Talfourd was amongst counsel involved in the case. The points of correspondence between the two cases are slight—or so they seem today—but the relationship between them must have been much more noticeable after the interval of one year, as it was widely assumed at the time of publication that the fictional case grew out of the factual one.

The judge who heard part of the original case of *Norton v. Melbourne*¹⁶ was Gaselee J., whose person and whose name were thinly disguised in the form of Stareleigh J., the presiding judge at *Bardell v. Pickwick*. Thus Dickens put to use the details of his experience. There are several other similar examples of using a real person as a model for a character. Mr Perker from *Pickwick Papers* is based on Mr Ellis, of Ellis & Blackmore, the law firm for whom Dickens had worked; Mr Stryver from *A Tale of Two Cities* was copied from one Edwin James; and Mr Fang, the magistrate who hears charges against Oliver in *Oliver Twist* was in reality Mr Laing, a notorious magistrate of the day.

Dickens appears to have been in and out of the courts much more often than is commonly thought. He insisted that the police lay charges against a girl whom he had heard using foul language in the streets, though the police advised against it; he assisted at the prosecution of various pickpockets; he was a witness in an infanticide case; he was a common juror and also sat on a coroner’s jury; and he took action against a begging-letter writer. Of the latter experience, he wrote:¹⁷

The Magistrate was wonderfully struck by his educational acquirements, deeply impressed by the excellence of his letters, exceedingly sorry to see a man of his attainments there, complimented him highly on his powers of composition, and was quite charmed to have the agreeable duty of discharging him.

On 6 December 1839, Dickens put his name down among the

¹⁴ *Taylor on Evidence*.

¹⁵ *Pickwick Papers*, Chapter 34.

¹⁶ 3 Bing (N.C.) 67; 132 Eng. Rep. 335.

¹⁷ “The Begging-letter Writer”, *Household Words*, 18 May 1850.

students at Middle Temple, but he did not eat dinners till many years later. He was able to speak of it later, in *The Uncommercial Traveller*.¹⁸

I was uncommercially preparing for the Bar, which is done, as everybody knows, by having a frayed old gown put on . . . and, so decorated, bolting a bad dinner in a party of four, whereof each individual mistrusts the other three.

He was never called to the Bar, and petitioned to withdraw from the Inn on 17 March 1855. Despite his indignation with the law in general, it seems probable that if he had not made his name as an author, he would have become either an actor or a lawyer. On 17 April 1846, he wrote in a letter:¹⁹

I am (nominally, God knows) a Law Student, and have a certain number of "terms to keep" before I can be called to the Bar; and it would be well for me to be called, as there are many little pickings to be got—pretty easily within my reach—which *can* only be bestowed on Barristers.

Dickens probably had in mind his friend Forster, who had been called to the Bar but accepted no briefs. Forster later obtained a virtual sinecure under the Lunacy Commission.

The remaining connections with things legal are of a minor nature. In the same year of 1846 he made inquiries about obtaining admission to the paid magistracy of London, after due qualification, but he proceeded no further. This was not long after a temporary drop in the circulation of *Martin Chuzzlewit* had first turned his thoughts towards providing for a day when his talents might fail him.

His separation from his wife no doubt created some problems of a legal nature, and also as a man of business he would have been familiar with the laws governing commercial transactions. At times, he undertook specific research into legal matters, to satisfy the demands of his fiction. Finally, and rather ironically, his son Henry became an eminent barrister and later a Judge.

Two factors emerge from Dickens's experience with the law and the legal profession. One is the sense of shame he felt for his earlier days. The degrading circumstances of his father's term in the Marshalsea and the necessity for his own employment in the blacking factory were memories which he would rather have forgotten, and they were only introduced into *David Copperfield* as a therapeutic means of reducing their significance to him. Coupled with this was the anger he felt as a result of his law suits; as we have seen, they left a bitter taste which even Talfourd was unable to assuage. The one quality which Dickens sought most of all was Justice, and Injustice in any shape or form was there to be attacked and brought down. It was because the law, in his view, was so often the perpetrator of injustice that his fundamental attitude towards it was hostile.

¹⁸ Chapter 14, "Chambers".

¹⁹ *Letters of Charles Dickens I*, p. 745.

Opposed to this, but not to any great extent counterbalancing his animosity to the law, was his semi-professional interest in the subject. He was an office-boy for a year and a half in a legal office; for two years he had been employed in making transcripts of cases for the proctors and advocates in Doctor's Commons; and many of his closest friends were lawyers. For a long time during the formative years of his life he was therefore surrounded by lawyers and legal talk. It is easy to imagine the droning of case after case in Doctor's Commons finally permeating into the intellect of even an uninterested observer who was obliged to attend day after day, and write it all down. But Dickens, bent on self-improvement and advancement, was actively interested in what he heard. He had a feeling for drama to which the courtroom procedure would have appealed and, of course, he had that great ability with the English language which must surely have been attracted to the smoothly-rolled phrases and grandiloquent speeches he heard from the proctors whom he reported.

But Dickens had no legal training, and the task of gleaning his legal knowledge under these circumstances meant that he learnt irregularly and in no great depth. The legal words and phrases he heard used so glibly by the lawyers were used just as smoothly in his novels, but it is wrong to assume that because he used such words that he had a thorough understanding of their meaning. Acting upon his natural love of language, the influence of legal terminology found a favourable medium for spreading and colouring his language. It is surprising how often Dickens uses legal imagery. It is evident in his writing from the beginning, and is most striking when used in an entirely non-legal context. Writing, for example, of his jesting suspicion that the chimney sweeps who traditionally danced in the streets on May Day were no longer true sweeps because they were too big for the job, he says:²⁰

This is strong presumptive evidence, but we have positive proof—the evidence of our own senses. And here is our testimony.

Dickens enjoyed using legal language. In earlier days, before the activities of the pirates had reduced both his tolerance and his income, he issued a proclamation in legal style, beginning²¹

WHEREAS we are the only true and lawful Boz AND WHEREAS it hath been reported to us, who are commencing a new work, that some dishonest dullards . . .

Mr Guppy, clerk to Kenge & Carboy in *Bleak House*, could well be, in this respect, a caricature of Dickens himself. Mr Guppy's oratory is highly forensic, and his existence is imbued with the law with which he lives: on the occasion of his proposal to Esther Summerson he

²⁰ *Sketches by Boz*, Chapter 20, "The First of May".

²¹ Forster's *Life*, p. 322n.

“files a declaration . . . without prejudice.” Not only did Dickens enjoy using forensic language, but he also enjoyed making fun of legal terminology, especially the pronunciation of legal words by laymen. Joe Gargery in *Great Expectations* calls a codicil a “coddle-shell”; Sam Weller in *Pickwick Papers* refers to *habeas corpus* as “have-his-carcase”; and for Rogue Riderhood in *Our Mutual Friend* an affidavit is an “Alfred David”.

The assumption of legal knowledge in this way leads to another feature of Dickens’s treatment of the law, and that is, that he dealt in a very superficial way with the legal problems it was necessary for him to face. Although there were certain occasions when he did enter into a question with the quantity of detail a lawyer would desire, the general case is one of sketchiness. In *Bleak House*, the great case of *Jarndyce v. Jarndyce* looms ominously at the foundation of the novel and its gloomy shadow is made to influence all the characters and incidents of the book. But when we come to ask, What specifically was the case about? we are given little in the way of an answer. All we are told is that it “was about a will when it was about anything at all,” that it was something to do with the way trusts were administered, and that “it’s about nothing but costs, now.”²² Of course, this does not affect the novel as a work of art, however much the lawyer may deplore the lack of detail; the novel may have suffered if such information had been included (though Dickens could surely have done it palatably). However, it does serve to illustrate that, before giving Dickens credit for a broad and accurate knowledge of the law, one should remember that, at best, he was only a layman-lawyer.

²² *Bleak House*, Chapter 8.