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Dickens v. Lawyers

By JOSEPH TARTAKOVSKY | NY Times

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TUESDAY is the bicentenary of the birth, in Portsmouth, England, of Charles Dickens, literature's greatest humanist. We can rejoice that so many of the evils he assailed with his beautiful, ferocious quill — dismal debtors' prisons, barefoot urchin labor, an indifferent nobility — have happily been reformed into oblivion. But one form of wickedness he decried haunts us still, proud and unrepentant: the lawyer.

Lawyers appear in 11 of his 15 novels. Some of them even resemble humans. Uriah Heep ("David Copperfield") is a red-eyed cadaver whose "lank forefinger," while he reads, makes "clammy tracks along the page ... like a snail." Mr. Vholes ("Bleak House"), "so eager, so bloodless and gaunt," is "always looking at the client, as if he were making a lingering meal of him with his eyes." Most lawyers infest dimly lighted, moldy offices "like maggots in nuts." (No, counselor, writers dead since 1870 cannot be sued for libel.)

Dickens knew whereof he spoke. At 15, he was hired as an "attorney's clerk," serving subpoenas, registering wills, copying transcripts; later he became a court reporter. For three formative years he was surrounded by law students, law clerks, copying clerks, court clerks, magistrates, barristers and solicitors who (reborn in his fiction) uttered cheerful sentiments like "I hate my profession." His portraits of nearly every London court — Chancery, Divorce, Probate, Admiralty, etc. — are so accurate that one scholar wrote a lively book called "Charles Dickens as a Legal Historian." At 32 he filed his first suit against a pirate publisher. Dickens told a friend afterward that "it is better to suffer a great wrong than to have recourse to the much greater wrong of the law."

Who can disagree, at least in his portrayal? Jarndyce v. Jarndyce, from "Bleak House," grinds on for generations as wiggled pedants spend entire careers "groping knee-deep in technicalities." In the "Pickwick Papers" trial — one of the great comic scenes in literature — innocence is irrelevant, the lawyers are thugs, and the judge is asleep. Yes, Dickens hated lawyers for the same reason your neighbor does: every lawsuit leaves (at least) one side unhappy — yet the bar always wins. He invoked every known indictment of the profession: sorcerers who command the law to harm others, nitpicking complicators of life ("red tape," in Dickens's time, still bound legal papers), chicaners who exploit procedure to free the guilty, and prolix corrupters of the English tongue.

But before we resign our bar licenses in shame (and I only got mine in November), let us call, for the defense, Judge Jed S. Rakoff of the Federal District Court in Manhattan. He tells me lawyers are scorned because "they think there are two sides to most stories, while many people think there is just one side: theirs."

Are attorneys just amoral mouthpieces? Samuel Johnson, the great critic who himself once hoped to enter the bar, knew better: “A lawyer has no business with the justice or injustice of the cause” — that is “to be decided by the judge.” The best means we have of discovering truth is to take opposing sides and let them tango. If a lawyer had to believe in the client’s cause, most people would go undefended.

Besides, much has improved since Dickens: more disciplined trials; delays measured in months, not lifetimes; fewer openly inebriated judges. Unshaken is the perception that we worship an object called the Fee. Yet the essayist Joseph Epstein, another man of letters who eyed the path of law, thinks lawyers only appear “worse because the nature of their work requires them to be better.” Without our role as officers of the court, commissioned to uphold the moral grandeur of the law, we’re just a “used-car dealership without the burden of inventory.”

Dickens himself enrolled as a law student in 1839 and, in 1846, inquired about work as a magistrate. His biographer Claire Tomalin hints that Dickens, like David Copperfield, didn’t pursue a legal education in part because he could not afford the 100 pounds needed. (Incidentally, of his 10 children, only Henry was successful — as a lawyer.)

Yet in a way Dickens did become a lawyer — in the court of public opinion. John Forster, his biographer and his closest friend, wrote that the suffering children in his works were “his clients whose cause he pleaded with such pathos and humour, and on whose side he got the laughter and tears of all the world.”

Isn’t it true that for both lawyers and novelists, whoever tells the best story wins? The difference is that lawyers (one hopes) take facts as they exist instead of inventing them. Dickens, for all his genius and wrath, was himself unable to undertake reforms, or protect clients, or draft fairer rules. He needed lawyers to achieve his vision of a just society. Even the inimitable novelist would agree that the two old trades must go hand in hand, together improving the noble system that, for all its Dickensian farce, makes us civilized.

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