

“[O]ur legal fictions”: Law Reform, Jurisprudential Concerns and Benign Aspects of the Law in Charles Dickens’s *Bleak House*



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It is as commonplace as it is true to say that *Bleak House* (1852–53) is a scathing attack on the law and the legal system. To the best of my knowledge, the least condemnatory reading is that of Brenda Welch, who considers that the novel is asking for reform of the legal system and profession (48, 58–59). Still, says Welch, what Dickens offers is a reformist message, not a plan; he calls for the education of lawyers to the duties of the profession (60). In fact, there are moments in the novel where the legal system appears beneficent; these, as I shall argue here, serve an overall function that has been overlooked. That is, to connect *Bleak House* in general with the field of jurisprudential enquiry – the study of the role, content, form and quality of the law – which was gaining ground in nineteenth-century Britain and in Victorian legal thought.

To establish these arguments, I first discuss the legal background to *Bleak House*, for example the proposals for reform and the actual reforms which happened from the 1850s onwards, using, *inter alia*, material from the periodical press. Then, I consider the appearance of the field of jurisprudence in Victorian Britain, as well as (briefly) landmarks of Victorian case law. Finally, I examine benign examples of the workings of the legal system in *Bleak House*, suggesting the ways in which the novel is associated with a jurisprudential and philosophic, rather than monolithically condemnatory, response to the law.

Critical Readings of the Legal System in *Bleak House*

Criticism of the law and legal system in *Bleak House* has been extensively documented and discussed by scholars, and is exemplified numerous times in the novel. To quote directly, “Suffer any wrong that can be done you, rather than come here!” (13; ch. 1), “here” meaning the Court of Chancery. The

only way by which people can give a “coherent scheme” to the “monstrous maze” of English law is by realizing that its “one great principle ... is ... to make business for itself” (573; ch. 39). *Bleak House* is sharply topical, referring to the “decay” and “entropy” of the Court of Chancery, among others (Gill xix). For Andrew Sanders, “Dickens’s experience as a legal clerk was to give him a consistent antipathy to the servants, functionaries ... and practitioners of the English Law. This antipathy was to reach its apogee in *Bleak House*” (12). The novel’s “sustained critique of the Court of Chancery” is at “the centre of its attack on ... moribund and deadlocked social institutions” such as the Law and Parliament (Pykett 131). As J. Hillis Miller, writing on this novel, points out, “Dickens detests lawyers, the legal system, and most legally operative speech acts” (56). For Jan-Melissa Schramm, *Bleak House* is a penetrating critique of the Court of Chancery, in which “Dickens located a powerful symbol for the absurdity of bad governance” (“Dickens” 221).

What is more, the novel seems to expose forms of sinister, systemic malfunction. As Suzanne Daly has recently noted, *Bleak House* contains features of “documentary violence” (23), that is, violence emanating from written paperwork, and perpetrated mainly by Mr. Tulkinghorn, Mr. Vholes and Smallweed (33). Although brutal, physical violence is present in the novel (for example, in the murder of Tulkinghorn and the domestic abuse at the brickmaker’s home), Dickens does not portray that violence directly; rather, he focuses on the aftermath. What is happening in *Bleak House* is an “emergent species of wrongdoing,” now known as “indirect or structural violence” (21). The “conceptual framework and attendant vocabulary of indirect violence” did not exist at Dickens’s time, yet *Bleak House* is full of instances of such violence, as when Nemo’s handwritten document, a packet of letters and the promissory note in the possession of George construct “a fatal trap for Lady Dedlock” (22).

In addition, and apart from villainy, direct or indirect, the law exhibits absurdity and ridiculousness. This is evident in Sir Leicester’s and Boythorn’s legal sparrings. The measures taken by the two landowners fail to resolve the Boythorn–Dedlock land law dispute, but do not fail to show the law as ineffective, empty and the reserve of the idle rich. Boythorn and Dedlock spend a lot of time exchanging letters through their agents (132; ch. 9), and make their own servants construct gateways and attack each other with fire engines, servant versus servant. As Boythorn says, “[Sir Leicester] brings actions for trespass; I bring actions for trespass. He brings actions for assault and battery; I defend them, and continue to assault and batter. Ha, ha, ha!” (133; ch. 9).

Laughable indeed. A similar, hyperbolic and satiric depiction of legal squabbles is found in the legal adventures of a “Welshman named Bones,”

“the most litigious fellow I know,” in Charles Knight’s 1851 article for Dickens’s journal *Household Words*, titled “The Law” (407). The article aims to show how far English law is from “certainty,” “cheapness” and “expedition.” The story follows Bones in a long chain of claims, counter-claims, trials and writs. Like the Jarndyce litigants, Bones is lost into “the labyrinthic vaults of the Court of Chancery,” his petty disputes over a brick wall carrying on beyond the narrator’s knowledge (408). Bones belongs to the same category as Boythorn and Dedlock in his willingness to pour money into endless lawsuits and countersuits, and is a symptom of the catastrophic pointlessness of a corrupt system.

Need for Reform: Voices from the Periodical Press

Nevertheless, it would seem that *Bleak House* contains only a partially accurate reflection of the climate surrounding the nineteenth-century legal institutions. True, there was general agreement that reform was needed, but there were also voices more hopeful about the prospects of such reform, and about the nature and working of the law.

“The common sense of England has at length become irresistibly clamorous for law reform,” stated *Tait’s Edinburgh Magazine* in October 1851. The reform most urgently needed in Chancery, as in every “other department of our law, is procedural reform” (“Law Reforms” 585). Earlier, in August 1849, the same magazine spoke about “great abuses in the administration of the law” (“Reform” 477). The article included specific proposals: such as for the civil law (the law governing relationships between private citizens) to imitate the swift procedures of criminal law (480), uniformity (479), revision of current legislation (479), and organizing the country in small districts (481). Without reform, warns the article, “justice is checked in more cases than are ever, perhaps, brought into any court” (483). Additionally, *Fraser’s Magazine*, in an 1853 article titled “Law Reform – Its Progress and Prospects,” charts the establishment of the Law Amendment Society, and the law commissions set up to pass legislation such as the 15th and 16th Victoria, c. 76 and c. 87, which aimed to improve the machinery of the Court of Chancery (“Law Reform” 357–60). The article commends ex-Chancellor St Leonards’s efforts “to bring the law into alliance and harmony with Justice itself” (361).

Reform was ongoing, but not altogether effective. Michael Lobban explains:

... the reforms that were made [concerning the legal system] were piecemeal and often lacked coherence. So it was with the Chancery: reform of the court was not ideology-driven and was not informed

by principled goals such as Benthamite codification or substantive fusion. Reformers were more concerned with promoting efficiency by responding to practical problems.... Reforms were experimental. ("Preparing" 565–66).

The cumbersome procedures in Chancery, which often prove detrimental to litigants were still being noted by the *Athenaeum* as late as 1875 ("Judicature Act" 569), while the high cost of legal expenses is scrutinized as late as 1880 in *The Examiner* ("Law and its Administration" 497). Eliza Lynn Linton, in an 1851 article in *Household Words* on marriage laws in England, clearly distinguishes between Justice and legal rules when she says that existing court decisions and legislation are "an example of the great Injustice done to [women], and of their maltreatment under the eyes of a whole nation, by the Law" (260).

Jurisprudence Rises in Importance

Those same institutional reforms, nevertheless, took place in a framework which saw the rise of jurisprudence, the philosophical inquiry into the content, purpose and fairness of law. Jurisprudence was introduced in Britain by John Austin in his great work *The Province of Jurisprudence Determined* (Lorrimer 2). Austin had been a pupil of Jeremy Bentham and in many ways continued his work. In 1861, the *Athenaeum* marked the occasion of the publication of the *Province* by Austin's widow. This was a reprint of Austin's lectures, already published in 1832. In Austin's work, says the *Athenaeum*, the reader "will find ... the working of a mind of no common order upon a subject of overwhelming importance which has been sadly neglected in England" ("Province" 593). The *Athenaeum* regrets that Austin lacked success during his lifetime and seeks to acquaint the reader with his life (292), as well as urging the reader to acquire his books. In 1863, two more of Austin's works were published, *Lectures on Jurisprudence* and *On the Uses of the Study of Jurisprudence*. The *Edinburgh Review*, in a long article reviewing these books, discusses the relationship between Bentham and Austin, and presents some basic jurisprudential concerns, such as the logic of law, the creation of good law (441), the science of law (440), and the construction of legal terminology (445).

Any reference to Bentham in the context of Dickens must take account of Dickens's objections to Utilitarianism, which are well known. Though it is beyond the scope of this article to launch an enquiry into the relationship between Bentham's work and Dickens's writing, it should be noted that scholarship now views this relationship as multifaceted and subtle. For instance, Kathleen Blake argues that Dickens's views actually reflect

utilitarian values, to an extent: “Education, work and the saving and investing of capital are as much promoted by Utilitarian political economy, as they are by *Bleak House*.” Moreover, “whatever disagreements Dickens may have with Benthamites over pedagogical particulars, he shares in their support for popular education” (13).

Kieran Dolin points out that Dickens in *Hard Times* “appears ardently anti-Benthamite”: Dickens resisted Bentham’s attitude to imaginative literature, while the humanitarian and imaginative treatment of social problems was not contemplated by Benthamite reformers. And yet, as Dolin notes, Dickens and Bentham “could, on occasion, attack the same targets with the same weapons.” Further, the “genealogy of law reform is, in nineteenth-century England, Benthamite in inspiration” (76). Though Bentham rejected equity ideals which Dickens would endorse, such as sympathy and the attribution of justice outside the regulatory system (Dolin 80, 81, 84), Bentham too attacked the Equity Courts in the *Rationale of Judicial Evidence* (Blake 8).

In fact, in their jurisprudential work, both Austin and Bentham had aimed to classify and tidy the masses of statutes that made up British law. As W. M. Dias writes in the classic *Jurisprudence*, Austin and Bentham “represent ... a love of order and precision. Bentham was a tireless campaigner for reform, and both he and Austin insisted that prior to reform there had to be a thorough-going classification of the law as it is” (331–32). All this in an era in which, as Lobban notes, common law “looked [like] a chaotic mass of particularities” (“Legal Theory” 5). In *Of Laws in General*, Dias explains, what Bentham did was map out the maze of legal rules (335). Bentham and Austin probed analytically into concepts of law “on which so much confused thinking existed,” and their work “has had a lastingly beneficial effect in persuading lawyers” that the common law is not a “brooding omnipresence” but a phenomenon susceptible to scientific analysis and investigation (216).

The Contribution of the Nineteenth Century to the Operation of Law

The law in *Bleak House* exists to make business for itself, with Jarndyce and Jarndyce acting as a prime example. However, the legal world of the novel is limited and constricted. In fact, during the nineteenth century, a number of legal judgments established authority for principles which are in operation today. While it is beyond the scope of this article to provide a full catalogue of Victorian legal judgments that are still followed, the few that I shall mention show that nineteenth-century courts, rather than being slow and antiquated, were in fact quick to respond to challenges posed to the business world from industrialization and technological developments. As

Lobban points out, the development of substantive law during the nineteenth century was a response “both to procedural reforms and to new problems posed by social and economic development” (“Chancellor” 617). From mass advertising of products and the capacity of the periodical and newspaper press to reach the wide public (*Carlill*) to the personal responsibility of shareholders (*Salomon*), case law was able to deal with newly formed legal questions in an effective and adequate manner.

The “famous [1893] case of *Carlill v Carbolic Smoke Ball*” (1 QB 256; Twigg-Flesner 535) is a contract law milestone that clarified a number of points concerning the intention to create legal relations in an agreement, the definition and characteristics of the contractual offer and its difference from advertisements, and the nature of valid consideration (the element of exchange that makes an agreement a contract). Similarly, *Salomon v A. Salomon & Co* ([1896] UKHL 1, 1897) is central to the field of Company/Corporate law, its centenary in 1997 having been “marked by a number of conferences and publications” (Worthington 37). *Salomon* clarified the meaning of a limited company’s separate legal personality from its owners’, and its ability to hold property and borrow money; the rules established in *Salomon* have been followed in subsequent cases ever since (Worthington 66). “Since the *Salomon* case,” say Andrew Hicks and S. H. Goo, “the company as a vehicle for business enterprise has grown from strength to strength ... the one-man private company ... became a commonplace and has been accepted without further question” (81).

In fact, the limited liability company is a Victorian creation: “incorporation of companies by registration was first introduced by the Joint Stock Companies Act 1844” (French 56). Liability of investors for the debts of the company was still unlimited. That is, investors were personally liable for the company’s debts and their private property could be confiscated. In 1855, however, the Limited Liability Act

allowed any registered company (other than an insurance company) with at least 25 members to limit the liability of its members to the amounts unpaid on their shares, provided it put “limited” as the last word of its name. ... [T]he Joint Stock Companies Act 1856 reduced the minimum number of members to seven (it is now one). (French 57)

It is not only *Carlill and Salomon* that are examples of Victorian legal precedent still applied today – there are the cases of *Raffles v Wichelhaus* ([1864] 2 H&C 90637) concerning contractual mistakes, *Poussard v Spiers and Pond* ([1876] 1 QBD 410) and *Bettini v Gye* ([1876] 1 QBD 183) on the consequences of contractual breach, and *Inglis v Stock* ([1884] 12 QBD 564) on risk concerning sales of goods, to name but a few.

Nineteenth-Century Reforms Historically Judged as Successful

At the time *Bleak House* was being written, actual statutory reform was happening in Chancery, as Butt and Tillotson already noted in the 1950s (186–87). At the time, these reforms were heralded as a step towards improvement by *The Law Magazine or Quarterly Review of Jurisprudence*, which notes that the recommendations of the Chancery Commissioners had been embodied in the new legislation; process had been modernized and the taking of evidence relatively simplified. For instance, the permissible number of parties to a suit was been diminished and the Court given the new power to make binding declarations of right (“New Equity Acts” 102–03). Another article in the same magazine welcomes the removal of the distinction between the procedures of law and equity, so that two procedures on a single case, one in law, the other in equity, would no longer be necessary (“Annual Report” 130). Furthermore, not all advocates were the likes of Vholes and Tulkinghorn. Lawyers in the United Kingdom were joined in the demand for law reform: “To the honour of the legal profession its members have come forward in the cause of law reform in a body, powerful alike by number and by position” (“Annual Report” 137–38). As Lobban has noted, “the most significant petitions for Chancery reform came from professional groups such as the Metropolitan and Provincial Law Association ... or the Incorporated Law Society ... or provincial law societies,” as well as from “prominent lawyer-MPs” (“Preparing” 566, 568).

The nineteenth-century changes to the law have been historically judged as successful. According to R. J. Walker, “Only sweeping legislation could clear the dead wood and the nineteenth century was to be the great era of legislative reform” (76). Principally, the “dead wood” refers to the separation of law and equity (equity being the system of principles of fairness and justice that runs in conjunction to the law), defective procedure, and the inherent conservatism of judges. Also, to the lack of a system to try small civil claims, and the complex and inadequate system of appeals.

Only those who profited by the general corruption of Chancery, or by the complexity of common law pleading, opposed reform. “Fortunately, there were others such as Jeremy Bentham, Sir Samuel Romilly and Lord Brougham who could detect the fundamental flaws which existed” (Walker 77). Among those flaws was “the scandalous condition of the Court of Chancery”: inadequacy, backlog of cases, corruption. Legislation between 1825 to 1875 corrected most of these, “culminating in the Judicature Acts 1873–1875,” which were “comprehensive and sweeping” (77), completely fusing law and equity, and also providing the important maxim that if there is a conflict between law and equity, equity will prevail (84–85). Thus, in 1879, Frederic Harrison in the *Fortnightly Review* could say,

Our law takes its place as one of the great schemes of legal principle known to civilisation ... English law has worked itself free from whole masses of ... feudal anomalies ... now that much of the old confusion has been cut away, it is seen that the bulk of the English law is entirely comparable to ... the bulk of the civil [European] law. (129)¹

In 1863, *Fraser's Magazine* actually countered Dickens's scathing attack in *Bleak House*. "[O]ne of our great living novelists", says *Fraser's*, produced a "publication ... simultaneously" with amendments and abbreviations in Chancery. The "publication" was an "eloquent denunciation of [Chancery's] abuses"; yet, the article goes on to explain that these "amendments and abbreviations" have not been wholly unsatisfactory. Legal business before the courts is diminishing, as "plain men" are now better able to understand the law; also "[s]ome of the chancery courts have even been prematurely closed for mere lack of matter" ("Law and Lawyers" 313). Two years later, in 1865, the weekly *Bow Bells* was satisfied that new, easy to comprehend, books were helping the public to know their rights and duties, "populariz[ing] the law" ("How" 77). *Bow Bells* (1862–97) was a successful women's penny weekly, a "rival" for the *London Journal and the Family Herald*. It was "essentially a hybrid magazine," between the family and the women's magazine, claiming, by 1865, "an impressive circulation of 200,000" (Phegley 282). Kathryn Ledbetter calls it a "woman's newspaper" with a "civilising mission," its articles demonstrating that "women had a voice to call for reform of social attitudes" (70).

Indeed, *Bow Bells* contained not only fiction, but also fashion news, embroidery patterns, housekeeping material and advice on manners and etiquette. It primarily addressed itself to women, but men also formed part of the readership, as its "Notices to correspondents" indicate. Both men and women, for instance, sent samples of handwriting for the magazine's expert opinion: "A school boy: very good for a school boy; but too large and round for a man" ("Notices," 4 Oct. 1865); "H.S.: not good enough for a clerk's situation" (27 Sept. 1865). Though legal themes did not at first seem to form part of the magazine's *oeuvre*, questions on law and legal rights begin to appear by the mid-1860s with legal advice given in the correspondence column: "T.H. (Bradford). – The agreement is quite legal and binding." *Bow Bells* was also willing to recommend legal practitioners: "S.C.G. – Send us your address and we will recommend you a solicitor practicing in the Chancery Court" ("Notices," 20 Sept. 1865).

1 By "civil," Harrison means European, law, which he considers to be in a state of advancement. European legal systems are commonly called "civil law" systems because of their origins in Roman codices.

However, *Bleak House* takes an, as it were, bleak view of attempts to improve the law, and is clearly in disagreement with the optimistic spirit in some of the material discussed above. As noted by Butt and Tillotson, “Dickens’s indictment of Chancery ... followed in almost every respect the charges already leveled in the columns of *The Times*” (187), which had kept “hammering at the inadequacies of legal education” and at legal professionals who thwarted law reform (186). “Dickens [in *Bleak House*] had no faith in the powers of Parliament to bring any good thing about” (187). There were personal reasons for Dickens’s feelings on this, as Schramm explains. Dickens had lost money when “rogue publishers” of *A Christmas Carol* used bankruptcy laws to avoid liability. Since then, his work “was characterised by an extraordinary indignation at the activities of the Court of Chancery” (“Victorian Novel” 523).

Positive Aspects of the Law in *Bleak House*

Still, there are at least two important instances of a positive depiction of legal rules and legality in *Bleak House*, with implications for the novel’s positioning within Victorian legal thought. The first instance concerns the letters Esther receives from the law office of Kenge and Carboy during her stay at Greenleaf school, and the second is Sir Leicester’s reinstatement of his will in favor of Lady Dedlock during his illness.

To begin with Esther, during her first few weeks at Greenleaf, Miss Donny advises her to write to Mr. Kenge. Miss Donny considers that it will be good if Esther tells the lawyer that she is “happy and grateful.” The lawyer’s office formally acknowledges the receipt of the letter, and informs Esther that the news will be communicated to their client, i.e. Mr. Jarndyce (34; ch. 3). “[A]bout twice a year,” Esther will say subsequently, “I ventured to write a similar letter. I always received by return of post exactly the same answer, in the same round hand; with the signature of Kenge and Carboy, which I supposed to be Mr. Kenge’s” (35; ch. 3).

Admittedly, there are negative ways to read this episode. The letters from the law office show the interchangeability of roles between the two lawyers – one can sign for the other; they are representatives of the legal system, with no distinct personalities. Also, the Kenge and Carboy letters are dry and uninformative. They are not even letters in the strict sense, for they resemble only “receipts.” They are not proper letters as Dickens himself might have defined them.

Yet, the lawyers’ correspondence with Esther continues through the girl’s late childhood and young adulthood; it is uninterrupted and punctual. Content may be stylized and brief, but it is a response to Esther’s letters, verifying her improved status and recording the passage of time. What the

lawyers' letters actually do is chart Esther's six successful years at Greenleaf and the wardship that equips her for a contented adult life. They are tied to the regular payment of Esther's accounts by Jarndyce (35; ch. 3) and form a reminder that the whole scheme to aid Esther was set up through the medium of the law.

Importantly, even the most benevolent charity cannot be created, become binding or able to function without the effective working of the law. Jarndyce's charitable activity, not only in relation to Esther, but also in relation to Ada and Richard, is possible and comes into existence because there is, in operation, a legal system to allow it. This operation is shown to be smooth and benign. In the court office, Ada sits near the Lord Chancellor, who asks "whether she had well reflected on the proposed arrangement [that is, to become the ward of Mr. Jarndyce], and if she thought she would be happy under the roof of Mr. Jarndyce ... and why she thought so?" Then the Lord Chancellor has a similar conversation with Richard (40; ch. 3). The "proposed arrangement" is significant for Esther's life as well, for it will render her Ada's companion and the appointed housekeeper of Bleak House.

The legal system may produce monstrous cases like Jarndyce and Jarndyce, or vampiric humans like Mr. Vholes, but it can also produce structures, rules and mechanisms by which a desire to do good is transformed to actual, real, benevolence. Thus, a major plot of *Bleak House* – Jarndyce's wardship over Esther, Ada and Richard – becomes possible because of the law and the legal system. "Very well!" Said his lordship aloud. "I shall make the order" (40; ch. 3).

The second instance where legal rules make a positive contribution to events, is the episode where Sir Leicester makes sure that Lady Dedlock, though disgraced, will have the full benefit of his fortune in the event of his death. Seriously ill following Lady Dedlock's flight, and aware that his money-grabbing relatives may use her fall to take his property for themselves, Sir Leicester is anxious to clarify that all arrangements made to the benefit of his wife still stand. In the sickroom, and in the presence of Volumnia, George Rouncewell and Mrs. Rouncewell, Sir Leicester reiterates the terms of an existing will: "Therefore I desire to say, and to call you all to witness ... that I am on unaltered terms with Lady Dedlock ... that being of sound mind, memory and understanding, I revoke no disposition I have made in her favour" (828; ch. 58).

Sir Leicester's words and actions are in accordance with the legal rules of his day. Such was the situation until the first decades of the twentieth century: "Any adult person of sound mind may dispose of all his property on death by making a will complying with the formalities prescribed by the Wills Act 1837. Until 1938, the power thus conferred on a man to disinherit his wife

and children was absolute” (Cretney and Mason 291).² As David Paroissien has shown, “Dickens knew the will business intimately, perhaps better than most Victorian novelists. Indeed, we might characterize his viewpoint as unique, an insider’s familiarity with wills as the voice of troubled testators” (8). Dickens’s treatment of wills ranges from a somewhat light to a grave tone, and to a possible final cooling of interest, as he put an end to an 1869 series of articles on wills in *All the Year Round* (Paroissien 8, 9, 21–22). In any event, Sir Leicester’s actions in *Bleak House* display Dickens’s familiarity with the operation of property and inheritance law in relation to individuals in troubled circumstances. Apart from being informed and knowledgeable concerning the overall state of the law, Sir Leicester is also aware that he could have amended his will to disinherit Lady Dedlock, had he so wished: “I abridge nothing I have ever bestowed upon her. ... and I recall – having the full power to do it if I were so disposed ... no act I have done for her advantage and happiness” (828; ch. 58).

The words Sir Leicester uses are formal, legalistic and as professional as any lawyer might use. He employs, for example, phrases like, “I desire to say in your presence” (827; ch. 58); “I am on unaltered terms with”; “no cause whatever of complaint” (828; ch. 58). Sir Leicester clearly appreciates that he is making a disposition that can be, and will be if the need arises, enforced through the law: “If you [Volumnia] ever say less than this [that his affection for the Lady and his testament remain the same], you will be guilty of deliberate falsehood to me.” The narrator himself also sets up this oral declaration as a law document, using legal terms to refer to it: “Volumnia ... protests that she will observe his [Sir Leicester’s] *injunctions* to the letter” (828; ch. 58, emphasis mine).³

Importantly, the confirmation of Sir Leicester’s existing will is oral rather than written. This does not affect its validity, for oral statements and agreements generally stand under British law, provided they can be proved sufficiently or, in the absence of witnesses or any other evidence, provided the court is satisfied that such oral statements or agreements have

2 Nowadays, provision can be made out of a man’s estate for his widow and other dependents, as per The Inheritance (Family Provision) Act 1938 (Cretney and Mason 291). Still, the power of each spouse to leave his/her property to whomsoever he/she wishes remains; what has changed is that now, the “surviving spouse can apply to the court for reasonable financial provision from the other spouse’s estate.” The surviving spouse will not receive such provision automatically, but “is treated more favourably than other applicants” (Gilmore and Glennon 51). The Wills Act 1837 continues to be in force, with amendments. Notably, these amendments cover, in the present day, civil partnerships and same-sex marriage (Wills Act, 18C and 18D).

3 Schramm has also noted the language of “testamentary disposition” deployed by Sir Leicester (“Dickens” 241).

been made.⁴ The orality of the confirmation is, in fact, important for what it suggests about the way the novel inquires into the nature of law. The disposition of rules and provisions in writing, and writing in general, is a constitutive element of state law as we know it. From ancient Mesopotamia to classical Greece, formal legal requirements had to be written, proclaimed and publicized to be binding. According to Dominique Colas, it is writing that makes a state's statutes and legislation politically significant; drawing on Gilles de Rome (1247–1316), he underlines that the law must be mandatory, which means it must be published, which means it must be in writing (Colas 35).

However, it is my view that, in some ways, the episode of the oral confirmation of the will in the sickroom operates as the counterpart of the sequence or process whereby Lady Dedlock's secret is revealed, with the result that she is hunted down by Tulkinghorn. The discovery of the secret has dire consequences for Lady Dedlock and her marriage; in the oral confirmation, her husband restores the lady to her place as his honored wife.

There are other points of antithesis and interaction. It is the written script which puts Tulkinghorn on the trail of Lady Dedlock; Nemo's handwriting is so peculiar that it invokes in the Lady what the lawyer rightly perceives as a peculiar reaction (23; ch. 2). On the other hand, Sir Leicester's oral statements reestablish Lady Dedlock; they even exonerate her from any moral blame relating to her criminal liability for the lawyer's murder, even if such liability could have been established. Had Tulkinghorn dared to mention his "suspicions" against Lady Dedlock, Sir Leicester declares, "I would have killed him myself!" (758; ch. 54).

Thus, some of the power of the written word, invested in *Bleak House* with "the power to destroy legally and bloodlessly" (Daly 20), is countered by Sir Leicester's oral confirmation; if Tulkinghorn's evildoing is founded on the written document, oral speech can, to an extent, reverse this evildoing. Tulkinghorn based a lot of his power on the assumption that a discovery would have ruined Lady Dedlock; here, we are being told that no such thing has ever been possible. For Sir Leicester, Lady Dedlock is blameless – the loss of reputation would not have affected their marriage.

In a similar manner, Esther's boarding and study at Greenleaf, signposted by letters from Kenge and Carboy is, in some ways, the counterpart of her isolation and exclusion from the social world, effected by her Aunt when

4 There are exceptions in relation to certain types of contract, such as sales of land, banking loans, and insurance contracts. Obviously, oral statements, dispositions, agreements and so on may stand, but they are more difficult to prove. It is generally considered expedient to place all agreements in writing. Wills need to be in writing, but oral statements or promises concerning the disposition of property, provided they can be proved, may be binding, in equity, for they may be taken to form an implied trust.

Esther is a child because of her illegitimacy. Mrs. Rachael, in her new role as Mrs. Chadband, summarizes the situation well, in relation to Esther's early upbringing: "*I call her Esther Summerson,*" says Mrs. Chadband with austerity. "There was no Miss-ing of the girl in my time. It was Esther, "do this! ... do that!" and she was made to do it" (288–89; ch. 20). Mr. Kenge, though obviously much more benevolent than Rachael, concurs; the godmother was Esther's "Aunt in fact, though not in law" (29; ch. 3). In the eyes of the law, Esther has no relatives. Yet, after Esther is placed under the guardianship of Mr. Jarndyce – in other words, after she is given, in law, a recognizable position and a future – then Kenge and Carboy use the salutation "Madam" in their letters to her, and address the correspondence to "Miss Summerson" (35; ch. 3).

While Esther stays with her godmother, her birthday is "the most melancholy day at home, in the whole year" (25; ch. 3). At Greenleaf, by contrast, Esther's birthday is a day of celebration and full of gifts. "I never saw in any face there ... on my birthday, that it would have been better if I had never been born" (34; ch. 3). When I refer to Esther's isolation I do not mean her teenage years or young adulthood, but her childhood. During that time, Esther is simply an illegitimate child, raised in her Aunt's strict and merciless form of charity. Mr. Jarndyce's kind-hearted charitable behavior, however, channeled through the medium of the law, changes Esther's status. The letters from the law office, including the altered salutation mentioned above, are indicative of this change. Esther is no longer unwanted, a child who drags her footsteps from house to school and vice versa, a child who is ordered around and whose only companion is a mute doll. Now Esther is a valued and beloved part of a community, albeit a tiny boarding school community.

To sum it up, the two episodes discussed in this article contain an effective legal machinery, which can be made the instrument of good. The two episodes appear minor, yet this is only in relation to extent, for they are not truly minor, either in meaning, or in significance for the plot. Esther's wardship to Jarndyce and education at Greenleaf are life-changing; Sir Leicester's exoneration of Lady Dedlock undermines numerous assumptions concerning femininity and proper feminine behavior in the Victorian era. In the instance of Sir Leicester, the husband not only forgives the "fallen" wife, but also considers that the marriage may continue even after the "fall": "there is a misunderstanding [between the Lady and myself] of certain circumstances important only to ourselves which deprives me, for a little while, of my Lady's society" (827; ch. 58).

Re-articulating the Lexicon of Law

When read in conjunction with the negative presentation of the law in the novel, the legal letters addressed to Esther, and Sir Leicester's affirmation of his commitments to Lady Dedlock, form a re-reading and a revision. The law now becomes articulated in a way that is at variance, even contrast, with the legal machinery depicted in the main, or more central, episodes of the novel – such as the episodes relating to Jarndyce and Jarndyce, Miss Flite, Richard's demise and ultimate death, Gridley, and even the absurd legal conflict between Sir Leicester and Boythorn.

Law is, in general, primarily thought to embody the values, expectations, and presumptions of the dominant group; it is a patriarchal practice (Patricia Smith 309); public, professional, expressed in documents of considerable complexity. Still, as Christine L. Krueger has observed, it might be inaccurate to read law as uniformly authoritarian and patriarchal. Law and literature, says Krueger, are interdependent and can both contribute to “outsider jurisprudence”(2), that is the concepts, machinery and rules pertaining to “excluded groups” such as women (3). Indeed, there are no simple binaries in the *Bleak House* legal world. The episodes discussed here suggest that law as a set of rules and norms may operate better if, upon occasion, it is taken out of context – out of the stiffness of courtrooms and into the lived reality of men and women, where it can remedy the effects of a monolithic application of rules, or respond to the need for compassion and acceptance.

Greenleaf is a sheltered, private space; an all-female school. Sir Leicester speaks in the home, inside the sick chamber – which is also a female, or feminized, space. It was a part of female virtue to “soften the bed of affliction” (“Virtuous Women” 45). As Claire Furlong explains, “most medical care was carried out at home through self-diagnosis” and was the responsibility of “wives, mothers and daughters” (60).

There are other instances in *Bleak House* where public and private meet, in relation to law: Tulkinghorn's chambers, Snagsby's stationers, and Nemo, who copies documents in his rented room. I am not suggesting that the scenes I discuss are unique in this; however, they are unique in the sense that here we see law performing, not in the courtroom, but in the private world of the home (the sickroom). By performing and performance I mean that here law is shown actually in operation and at work – defining and re-defining relationships, establishing status and distributing property. Lady Dedlock remains heir to her husband's estate, the Dedlock marriage remains in force, and Esther is no longer an illegitimate child but someone's ward, with funds allocated for her education.

Women did not have an established place in the Victorian legal world. There cannot be a female House of Commons, while a woman cannot be a

lawyer, opined Dinah Muloch Craik in *A Woman's Thoughts About Women* (5–6). She was, of course, right: the legal profession was opened to women only in 1918, by a Sex Disqualification Removal Act (Tombs 628). For Craik, woman's vocation is the home (15); her lot, "the kindly shelter ... of a private life" where she loses herself "in the exquisite absorption of home" (63). *Bow Bells* concurred: women "accomplish their best work in the quiet seclusion of the home and the family" (Madame Elise 19). Women were permanently considered to be minors, Frances Power Cobbe pointed out. Together with criminals and idiots, women and minors were "the four categories" of persons excluded from "many civil, and all political rights in England" (92).

The two instances of beneficent legal work discussed here revolve around, and scrutinize, questions of woman's place within the socio-legal context. This scrutiny is less about what kinds of legislation may potentially aid women and more about the actual essence of the phenomenon of law. The concerns of *Bleak House* in this episode are largely jurisprudential, in a manner that addresses not only the just content and purpose of law but also how these foreground the particular problems faced by women in the Victorian world. When Mr. Jarndyce establishes a form of legacy (perhaps a trust fund) for Esther, law is infused with principles of charity, compassion and tolerance – principles that are associated with women and the female nature. This charity is performed by a rich, older male, but, as Melissa A. Smith has noted, Jarndyce has, in the novel, the role of "fairy godmother" (199). Moreover, Sir Leicester's testament is repeated and validated orally. The only written statement from Sir Leicester on the occasion is written with chalk on a slate and reads, "Full forgiveness. Find –" (794; ch. 56).

In *The Art of Alibi*, Jonathan A. Grossman has argued that the stories in nineteenth-century novels juxtapose "two central, inter-locking sites of narrative production," that is, the novel itself and the law courts (2–3). The novel is, culturally and historically, entwined with "the narratologically structured space of the court" (4). Grossman does not discuss *Bleak House* in particular, yet, seen under this light, Jarndyce makes efforts to counteract the absurd and essentially destructive essence of the court's narrative. If the law courts shaped the structures and political aims of the novel (Grossman 6), then *Bleak House*, featuring as it does "every kind of story-telling" (Bradbury 160–61), imagines how philosophical legal concepts such as the form and purpose of law may be applied to the needs of particular characters and situations. Plot scenes in *Bleak House* render and record specific jurisprudential concerns: What is the proper aim of law? Importantly, what is the status of an unjust law? What kind of values should law appropriately reflect? Can a fair use of one law (such as Sir Leicester's property arrangements and Jarndyce's wardship of Esther) remedy the unjustness of another?

In true “Dickensian multiplicity” (Bradbury 165), *Bleak House* handles questions and themes that belong to the philosophy of law, exploiting the lexicon of law to illuminate the role of the personal, the individual and individualized life story – for example, Jarndyce’s charity towards Esther, Esther’s happy sojourn at Greenleaf, Sir Leicester’s love and care for his wife. The third-person narrator in *Bleak House* often derides Sir Leicester for being a “perfectly unreasonable man” (19; ch. 2), who is pompous, too: “When he has nothing else to do, he can always contemplate his own greatness” (167; ch. 12). Yet, in the sickbed, Sir Leicester’s words are, the narrator has to admit, “honourable, manly and true” (828; ch. 58). The sickroom may be a feminized space in the sense that it is the province of women, but I do not suggest that Sir Leicester is also feminized because he is ill. Despite diminished abilities, he remains the head of an aristocratic family; Volumnia and the other Dedlocks obey him, and Mrs. Rouncewell defers to him as her master. In fact, it is important that Sir Leicester retains his identity as an influential male: his continued love for and benevolence towards Lady Dedlock are not the results of a diminished agency or emotional weakness.

Dickens’s validation of female practices does not mean that he can, strictly speaking, be described as a feminist. Yet the legal system appears at its most beneficent in *Bleak House* when it seeks to aid women and to outdo the effect of male-created rules (in the case of Esther) or dominant societal assumptions and male rapacity (Lady Dedlock’s pursuit by Tulkinghorn). The novel considers the importance of the female point of view and examines the stories of women within an overall inquiry into the nature of law. This inquiry refers to, but at the same time goes beyond, questions of common law as opposed to equity; it refers to, but goes beyond, the Court of Chancery. *Bleak House* is preoccupied with the essence of law and alternative ways in which the law functions in relation to people’s lives. In other words, the inquiry in *Bleak House* into aspects and characteristics of law and the legal system is a jurisprudential inquiry.

Dedication

This article is dedicated to the memory of my dear father, Gregorios Savva Ioannou, who died last November from cancer.

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