

THE LAWYER IN LITERATURE

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The lawyer in literature by John Marshall Gest

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JOHN MARSHALL GEST

**THE LAWYER
IN LITERATURE**

read that book two or three times, and this is how it profited me afterwards. I was retained in a very serious case of fraud. I studied the party on the other side. I made up my mind that if ever there was a miser out of the pages in literature, that was the man, and that Grandet was his literary father-in-law. I studied *Eugénie Grandet* again, and then I attacked that opponent. It was an eight years' task. But the image of Grandet helped me to hound that man so, that at the end of eight years there was not anything left but his hide. The greatest admirer of the work I did is that man's own lawyer; but he will not give me credit for having any legal acumen. He maintains that I knew all the facts beforehand. Yet the truth of the matter was that I did not; I drew the bill before I had the facts. I merely judged the man's character from what I had read of *Eugénie Grandet*. That experience was to me a life lesson.

"Let me allude also to another case, one that nearly broke me down with the mental and physical strain. I had bought every printed trial I could find on that particular subject. I had a year to prepare for the actual trial of the case. There were very eminent lawyers on the other side. I will not mention names, for the parties are living. But I did not receive from all these books as much light as I did from a certain classical novel, one that characterized exactly the plaintiff's object and put that party in the lime-light. With that aid I was able to follow all the ins and outs of his maneuvers, and finally to win the case. It was a work of fiction that guided me to a right solution of that person's character, and a knowledge of his character that was essential to victory.

"Still another lesson I now recall which I learned from reading — a lesson I shall never forget. It related to a gentleman by the name of Gil Blas. Gil had various and sundry adventures, and among others he was made secretary to the Archbishop of Toledo. The Archbishop said to him one day: 'Gil, I look upon you as a very likely young man, I like your intelligence and acumen. Now I am getting old. I have to preach once a month. Make it your duty to let me know when you see any failing signs in my mental powers. I will trust you as a friend to tell me about it.' So Gil noted the character of the sermon the next month. Then he heard the ensuing sermon; and he thought the Archbishop showed signs of age and senility. At the third sermon he was more satisfied of this, and the fourth was shockingly significant. He complimented the Archbishop on the first sermon, and spoke fairly of the second, but of the others he did not. The Archbishop asked, 'Now, Gil, what is the truth?' Gil said: 'Your Eminence, your mental powers

are failing rapidly.' 'Gil,' responded the Archbishop, 'I find that I am mistaken in your acumen. The treasurer will pay you and you will leave the house.' I have never forgotten the moral of that story. Such incidents of literature add to your knowledge."

And so the best literature — drama or poetry, philosophy or fiction — must always be an arsenal for the lawyer. That is why I offer the hope that this volume may whet the zest of all devoted members of our profession to follow the example of our author, and to seek in literature its manifold message to the lawyer.

TO
1907

To George Stuart Fullerton

Professor of Philosophy in Columbia University

*That F marches just before G in the familiar procession of the alphabet may not be considered by the careless crowd a matter of any special moment, yet it was due to this that you and I rubbed elbows in the class room many years ago. You, as a Philosopher, may resolve the problem of cause and effect, or reason high of Fix'd fate, free will, foreknowledge absolute; I, as the Plain Man for whom you have written, am content with
the assurance that the passage of Time
and separation in Space have not
lessened the friendship that
then and there began.*

J. M. G.

Preface

THE papers contained in this volume were written in the leisure intervals of professional work, partly for my own amusement, and partly to interest members of my profession in the literary aspect of the law. I have been led to hope that they may interest a wider public in the legal aspect of literature.

The Law and Lawyers of Dickens was read before the students of the Law School of the University of Pennsylvania in April, 1905; The Law and Lawyers of Pickwick, before the Law Club of Pittsburgh in May, 1908; The Law and Lawyers of Scott, before the Law Association of Philadelphia in March, 1906; The Law and Lawyers of Balzac, before the Sharswood Law Club of Philadelphia in April, 1911, and afterwards before the Pennsylvania Bar Association at its annual convention in June, 1911; The Influence of Biblical Texts upon English Law, before the Societies of Phi Beta Kappa and Sigma Xi, at Philadelphia in June, 1910; and all of these were published in the University

of Pennsylvania Law Review. The paper on the Writings of Sir Edward Coke appeared in the Yale Law Journal of May, 1909; and the address on the Historical Method of the Study of the Law was delivered to the students of the Law School of Temple College, Philadelphia, in February, 1902.

The republication of the papers that have already appeared in the University of Pennsylvania Law Review and in the Yale Law Journal is with the approval of their publishers, whose courtesy is gratefully acknowledged.

JOHN MARSHALL GEST.

*City Hall, Philadelphia,
January 1, 1913.*

Introduction

By John H. Wigmore¹

THE compliment is an agreeable one, to be allowed to figure as the Introducer of so accomplished a legal scholar as the Author of these essays. When they first saw the light in the *Pennsylvania Law Review*, I was among those who urged that they receive a more permanent form in our literature: and it is a satisfaction to see this proper destiny now shaped for them.

Who, that has already made acquaintance with these characters of the law in Dickens and the rest, will not take pleasure in comparing notes upon them with Judge Gest? Who, that has his favorites and his aversions among them, will not be interested in the author's new points of view, his fuller survey, his keen judgment, his trenchant wit, his generous sympathies, his illuminating comments?

And yet a main use of the book ought to be to send those readers to the originals who have never been there. Can a lawyer — I mean one of self-respect, of aspiration, of devotion to his art and science, — can he afford to ignore his profession as it is glassed in the literature of life?

Why should a lawyer, *as a lawyer*, be familiar with literature, particularly the literature of the novelists?

Well, in the first place, there are episodes of fact and types of character in professional life whose descriptions by famous novelists have become classical in literature,—

¹ Professor of Law in Northwestern University.