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A LIST OF ONE HUNDRED LEGAL NOVELS¹

BY JOHN H. WIGMORE

1. And what, pray, is a 'legal' novel? For there have surely not been many illegal novels. The illegalities in which the great novelists have figured have commonly been not suits for libels committed by them, but gallant struggles (like those of Charles Reade) to protect their copyrights against pirates, or to vindicate themselves (like poor Cooper) against envenomed reviewers.

A 'legal' novel, as here meant, will be simply a novel in which a lawyer, most of all, ought to be interested, because the principles or the profession of the law form a main part of the author's theme.

As for any definition or further subdividing of the 'legal' novel, it is perhaps unprofitable and certainly difficult, being decidedly open to difference of taste and opinion. Nevertheless, for those who care to pick and choose, there may be noted, in the rough, four kinds:

(A) Novels in which some *trial scene* is described—perhaps including a skilful cross-examination;

(B) Novels in which the *typical traits of a lawyer or judge*, or the *ways of professional life*, are portrayed;

(C) Novels in which the methods of law in the *prosecution and punishment of crime* are delineated; and

(D) Novels in which some *point of law*, affecting the rights or the conduct of the personages, *enters into the plot*.

In the following list these sorts are indicated by the letters A, B, C, D. But let it be understood that such an indication is suggestive only; for the class of a particular novel is often a matter for difference of opinion. Moreover, the list will include only those in which one of these circumstances is a more or less prominent feature.

2. But the list need not try to include *all* such works of fiction—good, bad, or indifferent. Where shall the line be drawn? On the one hand, it must not exclude all but the works of the great masters, from Fielding and Dickens to Stevenson and Howells. Yet it may properly be confined to what may be called literature, i. e.,

1. This article is a corrected reprint of an article originally appearing in this REVIEW in April, 1908 (vol. II, p. 574). Notice is hereby given that neither this article nor the list of novels which follow may be reprinted in any other periodical without permission of ILLINOIS LAW REVIEW.

novels in which character is delineated by a writer of whom style may be predicated. A few notable novels, indeed, must be included to which many would not concede these qualities—for example, “Mr. Meeson’s Will”; and a few must be excluded, because, though possibly within that definition, they belong to a class whose influence is bad—such as the Raffles stories. It is obvious, too, that the ordinary detective story—even Mr. Julian Hawthorne’s and Mrs. Green’s—does not fulfill the canons, while Mr. Aldrich’s “Still-water Tragedy,” Sir Conan Doyle’s “Sherlock Holmes,” and M. Gaboriau’s “Monsieur Lecocq” do cross the line safely.

3. But, after all, what is served by such a list? Does a lawyer go to a novel to learn his law? And would he even recommend the layman to look into works of fiction for forming correct notions of the ways of the law? Do not even the greatest of the ‘legal’ novels portray rather the shortcomings and abuses of justice? And will not their perusal by the layman tend rather to fix in his mind (perhaps already prejudiced) a picture distorted and untrue? And even in the commonplace legal incidents of novels, are there not examples galore of the most impossible and illegal doings? Does not the judge sometimes, in a novel, dictatorially order the jury to declare a defendant guilty of murder? Or the plaintiff to pay damages when a verdict in a civil case is found for the defendant? Or the sheriff to sell off the debtor’s property before action is begun—*et alia enormia*? In short, why encourage the layman to read a ‘legal’ novel?

Well, let us repeat, we are not making a list for laymen. We have in mind rather the novel in which the lawyer himself is, or ought to be, most interested. And from this point of view we can think of several reasons why such a list is worth the labor. For it is certain that the lawyer must, like other men, for his pastime and mental ease, abandon himself now and then to the thrall of fiction. He will not read *all* the novels—even all the good ones; he will probably not read many. He must select. Let him, then, select those which will mean something to him as a lawyer, will have a special interest for one of that elect profession with all its traditions, its memories, its secrets of the craft. And thus, since he *must* select, he will want to select those which as a lawyer he cannot afford to ignore.

* * * *

4. In the first place, there are certain episodes or types of character in professional life whose descriptions by famous novelists have become classical in literature, such as Sergeant Buzfuz and

the action of *Bardell v. Pickwick* in the "Pickwick Papers," the chancery suit in "Bleak House," Effie Dean's trial in "The Heart of Midlothian." With these every lawyer must be acquainted. This is not merely because of his general duty as a cultivated man, but because of his special professional duty to be familiar with *those features of his profession which have been taken up into general thought and literature*. What lawyer can go through life unfamiliar with such classical gifts to the world as the character of Advocate Pleydell in "Guy Mannering," of Attorney Tulkinghorn in "Bleak House," of Magistrate Popinot in "Cesar Biotteau," and "A Commission in Lunacy," of Attorney Godeschal's office in "A Start in Life"? What lawyer can neglect to tread the paths of his professional progenitors' pursuits in "Copperfield" and "Pendennis" and "Redgauntlet" and "The Lesser Bourgeoisie"? Or to be ignorant of the never-fading scenes in "The Scarlet Letter" and "Les Miserables"—the perpetual possession of humanity? Or to know Smith's Leading Cases while unfamiliar with *Pebbles v. Planestones* and *Jarndyce v. Jarndyce*?

And there are many romances, not yet exalted into classical niches, which claim us in every other respect—the thrilling trial scenes in Hale's "Philip Nolan's Friends," in Reade's "Griffith Gaunt," in Harte's "Gabriel Conroy," in Blackmore's "Lorna Doone," in Holland's "Seven-oaks," in Foote's "John Bodewin's Testimony," in Gray's "Silence of Dean Maitland." And shall "Pudd'nhead Wilson" be forgot? Scott and Dickens are of course pre-eminently the lawyer's novelists.² But no lawyer can fail to believe that certain others wrote their books especially for him (books not classical, nor marked perhaps by any single undying episodes). We are here thinking of the lawyers' careers in Trollope's "Orley Farm," in Ford's "Peter Stirling" (said to reflect a career like that of ex-President Cleveland), and in Warren's "Ten Thousand a Year" (*the book for lawyers by a lawyer*); the sheriff's life in Alice French's (Octave Thanet) stories, particularly "The Missionary Sheriff"; the lawyers and the law that permeate the books of Mary Murfree ("Charles Craddock," herself the daughter of a lawyer and legal author), of Charles Reade, of Anthony Trollope, of Stanley Weyman. And who cannot want to peruse, woven

2. This is the best place to note that their legal lore has been once for all collected and entertainingly (as well as learnedly) described by Judge John Marshall Gest of Philadelphia, in his two essays, "The Law and Lawyers of Charles Dickens" and "The Law and Lawyers of Sir Walter Scott," reprinted from the American Law Register, vols. 53 and 54 (1905, 1906) with other similar essays in a volume entitled "The Lawyer in Literature" (Boston, 1913).

into romance in Eggleston's "The Graysons," Abraham Lincoln's oft-told manœuvre with the almanac,³ the tale of a liar exposed, or Jeffreys' brutal trial of Lady Lisle, the friend of the fugitives, in Conan Doyle's "Micah Clarke"?

5. Then, again, there are the *great movements of legal progress* which have been aided or reflected in the novelist's works. It is one thing to know that imprisonment for debt has been abolished; or to con a catalogue of the reforms of the nineteenth century in the "Select Essays in Anglo-American Legal History"; or to read the lives of Eldon, Denman, Brougham, or Field. But it is another, and a necessary thing, to know the spirit of those times—to realize the operation of the old rules now gone—to feel their meaning in human life and to appreciate the bitter conflicts and their lessons for today. This deepest sense of their reality we shall get only in the novels.

Two great figures stand out as leaders—Charles Dickens and Charles Reade. No man can truly apportion the meed of influence between them and the lawyer-legislators—Mackintosh, Romilly, Brougham, Denman, Campbell. But it is certain that the former sunned and watered what the latter sowed and reaped. We must go to "Bleak House" to learn the real meaning of chancery's delays—to "Oliver Twist" to see the actual system of police and petty justice in London—to "Pickwick Papers" to appreciate the technicalities of civil justice. Was jail-reform more aided by Bentham's essays or by Charles Reade's "Never Too Late to Mend"?⁴ How soon would the right to imprison sane people in the private lunatic asylums have been abolished if "Hard Cash" had not been written?⁵ That great author's life, in fact, was one long knight-errantry against the dragons and giants of the times.

But even when we leave these eminent leaders we find the institutional abuses of contemporary life pictured in novels here and there with a realism which makes them almost appendices to

3. It is proper here to keep on helping to kill the slander, long ago started, and chiefly given currency in Lamon's *Life*, that Lincoln used a spurious almanac; the slander has been amply refuted by a competent witness, Mr. James L. King, *ex rel*, Judge Bergen, in the *North American Review*, 1898, vol. 166, p. 186; and the evidence is fully collected in Mr. John T. Richards' "Lincoln as a Lawyer" (New York, 1916).

4. Reade himself said that to exaggerate the description of the abuses would be harder than "to write a libel on hell."

We cannot credit "Bleak House" with influencing the first important reforms in chancery, for it was printed at the very moment of enacting them, in 1852. In Mr. Gest's phrase, "Dickens did not kill the chancery snake, but only jumped on it after it was dead." But was it then quite dead?

5. This book's circulation was in its day exceeded only by "Uncle Tom's Cabin."

the law books. Henry Kingsley's "Austin Elliot" is said to have inspired a stringent legislation against duelling. Balzac's "Cesar Biotteau" exposes the misery and chicanery of bankruptcy proceedings. Cooper's "Ways of the Hour" tried trial by jury on its merits. Besant's "Chaplain of the Fleet" makes us wonder how the miseries of the old Fleet debtors' prison could have been allowed to exist as long as they did. No man who has not read Besant's "The Orange Girl" can appreciate the terrible significance of the punishment of the pillory. Cooper's "Satanstoe" and "Chainbearer" (and "The Redskins" belongs also to the series) reflect the system of land-tenure in early New York and that "anti-rent" agitation which was so intense a problem in those days that we wonder it could ever have been forgotten. The system of transporting convicts to Botany Bay has been a favorite theme; in the best of these stories, though not ranked among the classics, are John Boyle O'Reilly's "Moondyne," Rolf Boldrewood's Australian books, and Becke's and Jeffrey's "A First Fleet Family." Can a lawyer know his profession and its past without knowing these things, and the parts that these many legal institutions have played in the life of the community?

Perhaps here belong, too, many novels which depict a special problem or institution of law, not having in mind its abuses or reforms, but full of instruction and reflection for the lawyer, or notable as classics of romance—"Felix Holt," for example, with a plot turning on a base fee in land; "Paul Clifford," with its terrible problem for the judge; "Eugene Aram," an elaborated transcript of a notable English murder trial.

Here, too, are to be noted the interesting pictures of alien systems of justice—Caine's "The Deemster," Erckmann-Chatrian's "Polish Jew" (said to be the foundation of Irving's play, "The Bells"), Franzos' Austrian stories, Jokai's Hungarian stories, Crawford's for Italy, Tolstoi's superb "Resurrection," and, of course, Balzac, Gaboriau, Sue and Dumas for France, and Scott for the ancient modes of trial.

6. And again, there are the *novels which depict history* for us—that is, the scenes in legal annals which general history has made famous. Here, of course, the magic of Scott has done most. The Vehmgericht in "Anne of Geierstein"—the cruel justice of Louis XI in "Quentin Durward"—the ancient trial by battle in "Ivanhoe"

6. Doubtless these could be traced out in the work of Mr. Ernest A. Baker, "History, in Fiction: a Guide to the Best Historical Romances, Sagas, Novels, and Tales" (1908), which contains brief annotations to the titles.

—and the trial by ordeal in “The Fair Maid of Perth”—are there not many who will never know (nor need to know) more of these things than are chronicled by the great romancer? And the unspeakable Jeffrey. All the serious rehabilitations of modern historians (including Mr. Zane) will not avail to lighten the picture which the novelists have drawn of his trials; for those have supplied one of the favorite topics—at London, in “Peveril of the Peak” and in “Lorna Doone,” and on the circuit of the Bloody Assizes, in Besant’s “For Faith and Freedom” and in Conan Doyle’s “Micah Clarke” (this surely must begin to be placed among our classics; it is not too soon). And in “Kidnapped” Stevenson has given us the very pages from Howell’s State Trials. “Barnaby Rudge,” too, almost echoes the witnesses in Lord Gordon’s trial for the riot, and we may study Lord Mansfield here. Going further afield we live over again the times of the ill-fated Roman Republic in “Rienzi,” and observe the tragic fate of the DeWitts in Dumas’ “Black Tulip.” There is in fact hardly an end to the line of boundary where history and law unite in the pages of the novelist.

And who cannot feel that this lore is meant for him as a lawyer? What man can say that he is a member of our profession and not *want* to be familiar with these things? And so, shall there not be a list of “legal” novels?

7. But there is a higher standpoint yet. For the novel—the true work of fiction—is a *catalogue of life’s characters*. And the lawyer must know human nature. He must deal understandingly with its types, its motives. These he cannot find—all of them—close around him; life is not long enough, the range is not broad enough for him to learn them by personal experience before he needs to use them. For this learning, then, he must go to fiction, which is the gallery of life’s portraits. When Balzac’s great design dawned on him, to form a complete series of characters and motives, he conceived his novels as conveying just such learning. He even enumerated the total number of characters. His task was, he says:’

“To paint the three or four thousand salient figures of an epoch—for that is about the number of types presented by the generation of which this human comedy is the contemporary and the exponent. This number of figures, of characters, this multitude of portraits, needed frames. Out of this necessarily grew the classification of my work into Scenes. Under these heads I have classed all those studies of manners and morals which form the general history of Society. * * * If the meaning of my work is understood, my readers will see that I

7. Preface of 1848—“One of the world’s great prefaces,” Brunetière called it.

give to the recurring events of daily life (secret or manifest), and to the actions of individuals, with their hidden springs and motives, as much importance as the historian bestows on the public life of a nation."

In this view the work of the novelist is to provide a museum of human characters, traits and motives—just as we might go to a museum of zoölogy to observe an animal which we desired to understand but had never yet seen alive; this was Balzac's idea:

"There have always been, and always will be, social species, just as there are zoological species. If Buffon achieved a great work when he put together in one book the whole scheme of zoology, is there not a work of the same kind to be done for Society? * * * There are as many different men as there are species in zoology. The differences between a soldier, a workman, a merchant, a sailor, a poet, a beggar, a priest, though more difficult to decipher, are at least as marked as those which separate the wolf, the lion, the ass, the crow, the shark, the seal, the lamb and so on."

And so the lawyer, whose highest problems call for a perfect understanding of human character and a skilful use of this knowledge, must ever expect to seek in fiction as in an encyclopedia, that learning which he cannot hope to compass in his own limited experience of the humans whom chance enables him to observe at close range.

This learning has been sought, possessed, and valued by many great advocates. Perhaps they have seldom openly inculcated its value. But we find at hand one singularly direct exposition of this theme, which must here be quoted:⁸

Read the literature of the lawyers. Read the lives of those great lawyers and judges of England. Read the literature of human nature. The lawyers can gain many points by reading.

To my mind Balzac is the greatest judge of human nature after Shakespeare. I think I learned more of human nature (outside of my own experience) from Balzac than I have from any other author except Shakespeare. I recall especially "Eugénie Grandet," the history of a miser. I have 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 of 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

8. Address of Mr. Frank J. Loesch, President of the Chicago Bar Association, in the Legal Tactics Series, at Northwestern University Law School, 1905; published in the ILLINOIS LAW REVIEW, 1907, vol. I, pp. 455, 465, entitled, "The Acquisition and Retention of a Clientage."

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.⁹

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 will 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. This, to be sure, is a larger matter than our "legal" novels; yet it includes the best of them.

* * *

8. But there is one more thing worth lingering over, before we come to our list itself, and that is the sources of the information and skill of our "legal" novelists. Where did they learn their legal

9. Mr. W. K. Lowrey, of the Chicago Bar, related to the writer an analogous case, in which he solved the mystery of a fraudulent bankruptcy on calling to mind the bookkeeping methods which figure in Freytag's "Debit and Credit."

lore? How could they find and use the materials for their legal scenes and characters?

This, of course, has varied greatly with the individual methods of work. Yet, on the whole, it is possible to distinguish certain general differences. There are, broadly, three groups. There are the novelists who were themselves lawyers, or were trained for the law. There are also a few who learned much of it by personal experience in litigation of their own. And then there are those—the most part—who prepared for the legal episodes by special research.

To the first belong, of course, in prime rank, Fielding, Scott, Balzac and Dickens. A long life in the law, as barristers and as magistrates, gave to Fielding and to Scott the material of the law as a second nature.¹⁰ Balzac was destined and trained for it; only at the last moment could he evade his family's ambitions to chain him for life to the lawyer's desk. Dickens, as an attorney's clerk and a court reporter, had all the direct experience which a lawyer's life gives, and almost all the training which a lawyer was then expected to have. There are, too, among today's contemporaries, notable like instances—Robert Grant, Anthony Hope Hawkins, Frederic J. Stimson; though it is odd that most of these avoid the legal life in their fiction. Arthur Train, however, with the vantage point of a District Attorney's office, may well be deemed our modern Fielding, now that he has broadened his canvas.

In the second group are pre-eminent Cooper and Reade. During the latter half of their lives, it would seem that not a year passed, for either, without a lawsuit pending; and thus they came to observe the lawyer within his native lair. Reade, indeed, did enter at Lincoln's Inn, and was called to the bar; but it does not appear that he studied or worked or ever held a brief, or did more than eat the perfunctory dinners; and his most intense interest in the law was not shown until after he had himself brought a suit to rescue a young friend from an asylum. His law he must have learned mostly from the controversies of reform which he took up and from his own constant lawsuits and the numerous lawyers retained by him. These latter, indeed, he sampled variously and judged freely and dictatorially. Listen to this passage from a

10. Scott, of course, like all the great masters, also made special studies for the accuracy of individual incidents, particularly the historical ones. His appendix-notes exhibit many of these instances. Mr. Gest has pointed out numerous additional ones; his comparison of Scott's "Betrothed" and Tennyson's "Enoch Arden" shows how desirable such accuracy may become.

letter.¹¹ "My successes have been hardly won. In this case I had to dismiss Jessel for incapacity, Ballantine for colloquy with defendant's attorney, Teesdale because of his chief clerk's incapacity, and Rickerd's managing clerk." The client who could dismiss Jessel and Ballantine must indeed have been self-confident in his own legal acumen. But Charles Reade, after all, was himself "the people's lawyer," a never-tiring advocate for humanity. Cooper, too, seems to have engaged in his lawsuits largely as a matter of principle—to defend the rights of authors and the liberty of thought. This famous romancer, much misunderstood and disliked in his own generation (first by our alien kin across seas, and then by his own neighbors and community), found himself from 1837 onwards in almost continuous litigation; and it is noticeable that the majority of his novels with legal episodes and characters date in that period. Himself without legal training, he was by nature (like Charles Reade) an uncompromising fighter for his rights—a striking example of the type of man whom Ihering's "Struggle for Rights" delights to honor. He had usually an unpopular cause, and he was an unpopular man; but he accomplished the remarkable feat, which the greatest of lawyers might envy, of succeeding with judge and jury when he argued his own cause.¹² No such record can probably be found in history. It is no wonder that he was entitled to weave into his novels, with every claim of verisimilitude, whatever he pleased of legal episode and character.

In the third group belong, naturally, most of the novelists who have dealt with phases of the law. Not having the lawyer's profession or a plentiful experience of lawsuits as their source of information, they have been obliged to obtain by special study the sources adapted to their immediate purpose. Many, of course, have failed, for lack of thoroughness; and the successes are due (where traceable) to the persistent resolve of accuracy in research—the directness of touch with the material of life. Charles Reade, to be sure, belongs in this group also, for perhaps no great realist of contemporary life (except Balzac) made so systematic a search for

11. *Memoirs*, by C. L. and C. Reade (1887), p. 384.

12. "In these trials he was assisted by his nephew, Richard Cooper, who was his regular counsel. But, outside of him, in the civil suits, he had very rarely any help, and in most of them he argued his own cause. Wherever he appeared in person, he seems to have come off uniformly victorious. Nor were his victories won over inferior opponents. . . . The men against whom Cooper was pitted stood in the very front rank of their profession; they were leaders of the bar in the greatest state in the Union." (Lounsbury's *Cooper*, 1883, p. 182). The most remarkable instance was his complete victory in the suit involving the correctness of his account of the Battle of Lake Erie.

materials of life pictures—the objective truth of his character facts. His system of newspaper clippings and scrap-books is well known.¹³ His preliminary search of Parliamentary documents and other verified data made him an insuperable opponent in his many controversies over contemporary law and fact. Here is an example of his reply to a sneering reviewer:¹⁴

“Can any man offer a fairer test of a book’s veracity than I did? I said, in my preface to ‘Hard Cash,’ that the whole thing rested on a mass of *legal evidence*—bluebooks, pamphlets, newspapers, private letters, diaries of alleged lunatics, reports of tried cases. I offered, in print, to show these, at my own house, to any anonymous writer who might care to profit by my labor—the labor of Hercules. * * * How many, do you suppose, accepted this infallible test of mendacity or veracity in my book? Not one!”

But, naturally, the methods differed with the individual. It would be interesting to trace out the methods of the other great delineators of legal episodes. George Eliot’s success, in what must have been purely a tour de force, is well known, and has earned approval from no less than Sir Frederick Pollock, in his history of The Land Laws:¹⁵

“The curious kind of estate created by the conveyance in fee simple of a tenant in tail in possession, without the concurrence of the owners of estates preceding his own, is called a *base fee*. Though uncommon, it is not unknown in practice; and it has been used by George Eliot; in ‘Felix Holt,’ with great effect and with perfect correctness, as part of the machinery of the plot; insomuch that conveyancers reading the novel have been known to comment seriously, as if the thing had happened to one of their own clients, that the parties did not take better advice.”

But it is Robert Louis Stevenson—that beautiful soul of authorship—who has furnished us perhaps the most interesting instance of conscientious and painstaking preparation of the correct scenery of a legal drama to which the author adds the magic spirit of life and action. No one ever read “Kidnapped” and its sequel, “David Balfour,” with a cool thought as to the construction of its plot, or the historic foundation; but the story was in fact woven out of a

13. “At least one hour a day was expended in making cuttings from newspapers and magazines for his ‘invaluable’ note-book, as he termed them. . . . The dread of missing some good thing caused him to waste at least three hundred hours per annum on scissors-and-paste work; so that eventually, when he came to catalogue and classify all this congeries of information, the headings alone covered twelve pages of printed matter in double columns” (Memoirs, p. 337).

14. Readiana, “A Terrible Temptation,” p. 271 (reply to the Toronto Globe).

15. 2d ed., p. 110.

recorded trial, used for the purpose.¹⁶ Mrs. Stevenson thus tells of its creation:¹⁷

"I concluded to try and write it myself (i. e., a play called "The Hanging Judge"). As I wanted a trial scene in the Old Bailey, I chose the period of 1700 for my purpose; but being shamefully ignorant of my subject, and my husband confessing to little more knowledge than I possessed, a London bookseller was commissioned to send us everything he could procure bearing on Old Bailey trials. A great package came in response to our order, and very soon we were both absorbed—not so much in the trials as in following the brilliant career of a Mr. Garrow, who appeared as counsel in many of the cases. We sent for more books, and yet more, still intent on Mr. Garrow, whose subtle cross-examination of witnesses, and masterly, if sometimes startling, methods of arriving at the truth, seemed more thrilling to us than any novel. Occasionally other trials than those of the Old Bailey would be included in the package of books we received from London; among these my husband found and read with avidity. 'The Trial of James Stewart in Ancharn in Duror of Appin, for the Murder of Colin Campbell, of Glenure, Esq., Factor for his Majesty on the forfeited estate of Ardshiel.' My husband was always interested in this period of his country's history, and had already the intention of writing a story that should turn on the Appin murder. The tale was to be of a boy, David Balfour, supposed to belong to my husband's own family, who should travel in Scotland as though it were a foreign country, meeting with various adventures and misadventures by the way. From the trial of James Stewart my husband gleaned much valuable material for his novel, the most important being the character of Alan Breck. Aside from having described him as 'smallish in stature,' my husband seems to have taken Alan Breck's personal appearance, even to his 'clothing, from the book. * * * Some time after the publication of 'Kidnapped' we stopped for a short time in the Appin country, where we were surprised and interested to discover that the feeling concerning the murder of Glenure (the 'Red Fox,' also called 'Colin Ray') was almost as keen as though the tragedy had taken place the day before. For several years my husband received letters of expostulation or commendation from members of the Campbell and Stewart clans."

Even more interesting was Stevenson's legal research into the materials for "Weir of Hermiston,"—that last and unfinished work, of which he wrote once, "Mind you, I expect it to be my masterpiece." Under the name of "The Justice Clerk" (as originally selected), it was to depict the great Hanging Judge, confronted at the last with the stern ordeal of sentencing to death his own son—a situation already in literature in Bulwer's "Paul Clifford." The Lord Justice Clerk was the Scottish name for the head of the crim-

16. The trial mentioned by Mrs. Stevenson was held in 1752, and may be found in 19 Howell's State Trials, pp. 1-262.

17. Preface to "Kidnapped," Biographical Edition (Scribner's, 1905).

inal justiciary; and Stevenson took every pains to prepare accurately the law of his case. Sidney Colvin thus reports a part of those efforts:¹⁸

"In a letter of Stevenson's to Mr. Baxter, of October, 1892, I find him asking for materials in terms which seem to indicate that he knew this (legal problem) quite well: 'I wish Pitcairn's Criminal Trials, quam primum. Also an absolutely correct text of the Scots' judiciary oath. Also, in case Pitcairn does not come down late enough, I wish as full a report as possible of a Scot's murder trial between 1790-1820. Understand, *the fullest possible*. Is there any book which would guide me to the following facts: The Justice-Clerk tries some people capitally on circuit. Certain evidence cropping up, the charge is transferred to the Justice-Clerk's own son. Of course in the next trial the Justice-Clerk is excluded, and the case is called before the Lord Justice-General. Where would this trial have to be? I fear in Edinburgh, which would not suit my view. Could it be again at the circuit town?' The point was referred to a quondam fellow-member with Stevenson of the Edinburgh Speculative Society, Mr. Graham Murray, the present Solicitor-General for Scotland, whose reply was to the effect that there would be no difficulty in making the new trial take place at the circuit town; that it would have to be held there in the spring or autumn, before two Lords of Justiciary; and that the Lord Justice-General would have nothing to do with it, this title being at the date in question only a nominal one held by a layman (which is no longer the case). On this, Stevenson writes: 'Graham Murray's note *re* the venue was highly satisfactory, and did me all the good in the world.'"

And so, in the hands of a master, the law of a legal novel may after all be made as true to reality as when the scribe is of the vocation of law.

* * * *

9. And now, at last, for our list. As here offered, it is of composite workmanship, and has grown with the accretions of ten years. It began in a manuscript list of some fifty titles, prepared by the present writer in 1898.¹⁹ This was then enlarged to about one hundred titles for publication in *The Brief*,²⁰ and that list was then reprinted in *The Library Journal*²¹ and in *The Athenæum Monthly Bulletin*.²² To improve it effectively, both in the earlier classics and in the recent fiction, some co-operative effort became necessary. Accordingly, committees of my students were appointed, who kindly

18. Editorial Note to "Weir of Hermiston," Biographical Edition.

19. Apparently the pioneer list was that of Professor Wambaugh, published in the Iowa University Law Bulletin in 1889. A few titles in that, not found in the present writer's original list, were thankfully appropriated.

20. Vol. II, No. 2, p. 124 (New York, January, 1900).

21. February, 1901.

22. Westfield, Mass., May, 1901.

undertook to examine the works of one hundred selected novelists of standing.

The result of these efforts, together with the suggestions of other readers, was to increase the list by about two hundred and seventy-five titles, making some three hundred and seventy-five in all. This list was published in the ILLINOIS LAW REVIEW for April, 1908 (Vol. II, p. 574). That number of the REVIEW, and the reprint of the list, has long since been exhausted. To enlarge the list thoroughly, so as to cover the last decade, is impracticable. But a demand exists for a good reading list of standard Legal Novels. Hence the present list of One Hundred Legal Novels, selected from the former list. Two or three over the hundred are put in for good measure.

It must be added that, in making the selection, the pure detective story, however good, has been omitted; the last decade alone has seen this type of fiction multiplied, until now it forms a genre of its own.

A LIST OF ONE HUNDRED LEGAL NOVELS

- | | |
|--|---|
| <i>Aldrich</i> , Thomas Bailey:
Stillwater Tragedy. (C) | <i>Blackmore</i> , R. D.:
Lorna Doone. (A) |
| <i>Allen</i> , Grant:
Miss Cayley's Adventures.
(A,D) | <i>Bulwer-Lytton</i> , Edward:
Eugene Aram. (A,C)
Paul Clifford. (A,C) |
| de <i>Balzac</i> , Honoré:
César Birotteau. (D)
Cousin Pons. (B,D)
Père Goriot. (D)
Lucien de Rubempré. (A,C)
Lesser Bourgeoisie. (B,D)
Gobseck. (D)
Colonel Chabert. (B)
Commission in Lunacy. (A,B)
Last Incarnation of Vautrim.
(C)
Start in Life. (B)
Marriage Contract. (D) | <i>Burnett</i> , Frances Hodgson:
DeWilloughby Claim. (D) |
| <i>Becke</i> , Louis, and <i>Jeffrey</i> , Walter:
First Fleet Family. (C) | <i>Caine</i> , Hall:
Deemster. (C,B)
Law and the Lady (A,D) |
| <i>Besant</i> , Walter:
St. Katherine's by the Tower.
(A,B,C)
For Faith and Freedom. (A,B)
Orange Girl. (A,B,C) | <i>Collins</i> , Wilkie:
<i>Cooper</i> , James Fenimore:
Ways of the Hour. (A,B,C)
Redskins. (B,C,D)
Satanstoe. (D)
Chainbearer. (D) |
| <i>Besant</i> , Walter, and <i>Rice</i> , Jas.:
Chaplain of the Fleet (Prison).
(C,D) | <i>Cox</i> , E. M.:
The Achievements of John
Caruthers. (C) |
| | <i>Craddock</i> , Chas. Egbert (<i>Mary
Murfree</i>):
Prophet of the Great Smoky
Mountain. (C) |
| | <i>Crockett</i> , Samuel R.:
The Gray Mare. (A,C) |
| | <i>Crawford</i> , Francis Marion:
Sant'Ilario. (C,D) |

- Dickens*, Charles:
 Barnaby Rudge. (C)
 Bleak House. (A,B)
 Old Curiosity Shop. (A,B)
 Oliver Twist. (A,C)
 Pickwick Papers. (A,B)
 Tale of Two Cities. (A,B)
- Doyle*, Arthur Conan:
 Micah Clarke. (A)
- Dumas*, Alexandre:
 Black Tulip. (C)
 Count of Monte Cristo.
 (A,C,D)
 Marguerite de Valois. (A,C)
 Twenty Years After, Part II.
 (A)
- Eggleston*, Edward:
 Mystery of Metropolisville.
 (A,B,C)
 Graysons. (A)
- Eliot*, George:
 Adam Bede. (A)
 Felix Holt. (A,B,D)
- Erckman*, E., and *Chatrian*, A.:
 Polish Jew. (A)
- Franzos*, Karl Emil:
 The Chief Justice. (A,B)
- Fielding*, Henry:
 Jonathan Wild. (C)
 Tom Jones. (C)
- Fletcher*, J. V.:
 Middle Temple Murder. (B,D)
- Foote*, Mary Hallock:
 John Bodewin's Testimony. (A)
- Ford*, Paul Leicester:
 Honorable Peter Stirling. (B)
- Frederic*, Harold:
 Damnation of Theron Ware.
 (B)
- French*, Alice (*Octave Thanet*):
 Missionary Sheriff. (C,D)
 We All. (B,C,D)
- Gaboriau*, Emile:
 File No. 113. (C)
 Monsieur Lecocq. (C)
- Goldsmith*, Oliver:
 Vicar of Wakefield. (C)
- Gould*, S. Baring:
 Broom Squire. (A,B,D)
- Grant*, Charles:
 Stories of Naples and the
 Camorra. (C)
- Grant*, Robert:
 Law Breakers. (D)
 Eye for an Eye. (A,B,D)
- Grey* (or *Gray*), Maxwell:
 Silence of Dean Maitland.
 (A,D)
- Haggard*, H. Rider:
 Mr. Meeson's Will. (A,B,D)
- Hale*, Edward Everett:
 Philip Nolan's Friends. (A)
- Harte*, Francis Bret:
 Gabriel Conroy. (A)
 Heiress of Red Dog. (A,B,D)
- Hawthorne*, Nathaniel:
 Scarlet Letter. (C)
- Herrick*, Robert:
 The Common Lot. (A)
- Hill*, Frederick Trevor:
 Tales Out of Court. (A,B)
- Holland*, Josiah Gilbert:
 Sevenoaks. (A,D)
- Howells*, William Dean:
 Modern Instance. (A,D)
- Hugo*, Victor:
 Les Misérables. (A,C,D)
 Ninety-three. (C)
 Man Who Laughed. (C)
- James*, George P. R.:
 Morley Ernstein. (B,C)
- Kingsley*, Henry:
 Austin Elliot. (A,D)
- La Ramé*, Louise de (*Ouida*):
 Under Two Flags. (A)
- LeSage*, Alain R.:
 Gil Blas. (C)
- Mitchell*, S. Weir:
 Constance Trescott. (A,B,C)
- O'Reilly*, John Boyle:
 Moondyne. (C)
- Page*, Thomas Nelson:
 Red Rock. (D)
- Parker*, Gilbert:
 Right of Way. (A)
- Read*, Opie:
 Tennessee Judge. (B)
 Jucklins. (A,B)
- Reade*, Charles:
 Griffith Gaunt. (A)
 Never Too Late to Mend.
 (B,C)
 Hard Cash. (A,B,C)

Scott, Walter:

- Anne of Geierstein. (A,C)
- Fortunes of Nigel. (C,D)
- Guy Mannering. (A,B,C,D)
- Heart of Midlothian. (A,B,D)
- Fair Maid of Perth. (A)
- Antiquary. (B,D)
- Ivanhoe. (A)
- Peveril of the Peak. (A)
- Quentin Durward. (C,D)
- Redgauntlet. (B,D)
- Rob Roy. (B,C)

Senkiewicz, Henryk:

- Comedy of Errors. (A)

Stevenson, Robert Louis:

- Kidnapped; with its sequel,
David Balfour (B,C)
- Weir of Hermiston. (B)

Stimson, Frederick J.:

- Residuary Legatee. (D)

Stockton, Frank R.:

- Late Mrs. Null. (D)

Thackeray, William Makepeace:

- Pendennis. (B)

Tolstoi, Leo N.:

- Resurrection. (A,B,C,D)

Train, Arthur:

- Tutt and Mr. Tutt. (A,B,C,D)
- By Advice of Counsel. (A,B,
C,D)
- As It Was in the Beginning.
(B)

Trollope, Anthony:

- Orley Farm. (A,B,D)
- Mr. Maule's Attempt. (A,B,
C,D)
- Vicar of Bullhampton. (A,C,
D)

Twain, Mark (Samuel Clemens):

- Pudd'nhead Wilson. (A)

Warren, Samuel:

- Ten Thousand a Year. (B)

Weyman, Stanley:

- Francis Cludde. (A)
- My Lady Rotha. (A)
- Man in Black. (A)

Woolson, Constance Fenimore:

- Anne. (A)

Zangwill, Isaac:

- The Big Bow Mystery. (A,C)