

Ask Bartleby

Dear Reader,

Kudos to member Judge Patrick Flatley for his excellent work in bringing the C.A.R.E. educational program to West Virginia's young adults. Ask him about it!

In the absence of a query this issue, I leave you with some choice thoughts on the law, lawyers and issues near or dear to them from *Les Misérables*, by Victor Hugo, with which to impress your spouse (or Justice Bullingham) at the appropriate time.

On a gathering of lawyers:

“The sight of these groups of black-robed gentlemen murmuring together on the threshold of a court of law is always a chilling one... they are like clusters of buzzing insects absorbed in the construction of dark edifices of their own.”

On the death penalty:

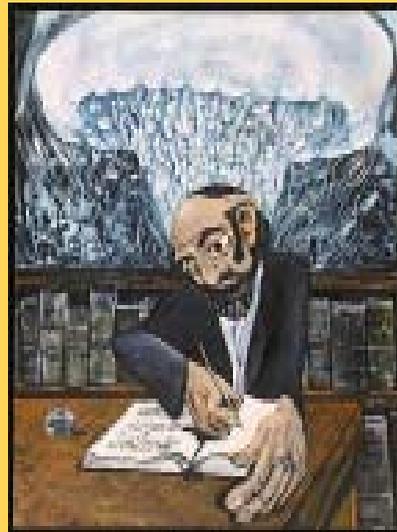
“What right have men to lay hands on a thing so unknown?”

On ignorance and dens of iniquity:

“The real threat to society is darkness... What is needed to exorcize these evil spirits? Light, and still more light. No bat can face the dawn. We must flood the underworld with light.”

On partisans:

“Factions are blind men with true aim.”



Yours Sincerely,
Bartleby, the Scrivener.

The State of Justice - con'd from P.3

there are just and peaceful means (i.e. the civil justice system) for seeking redress for perceived or real harms suffered at the hands of others?

Does our system, in fact, lack social empathy, as opposed to sympathy?

Isn't it about time we did at least re-consider the prohibition? Would it be so hard to instruct a jury that sure they had to follow the law, and sure they had to base their verdict on the evidence, and not on sympathy, but that

they nevertheless could use universal ethical precepts or the Golden Rule to the extent they are NOT in conflict with the law and evidence, and not based on sympathy?

If a juror were told that in distributing justice, whether for the plaintiff or the defendant, that they would want their decision to be an ethical norm applicable to their own future case, would that be so harmful to the civil justice system? Wouldn't it rather make it more empathetic, less impersonal, more worthy of trust? Perhaps give the community more of a vested interest in it?

We know the law can change tomorrow. But “do unto others...” has stood the test of time—more than two thousand years.

So just maybe it's time to let jurors consider “within the confines of the law” to do unto others as they would have done to themselves. Maybe it's a way to return social empathy to their deliberations.

But then again, I could be wrong. I do take the occasional drink, and my thinking may be fuzzy on this

issue. I do humbly submit, however, the issue worthy of discussion, and soon, while some civil trials by jury still remain. 

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