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Title: Briefless Ballads and Legal Lyrics

Author: James Williams

Release date: May 2, 2008 [eBook #25281]  
Most recently updated: January 3, 2021

Language: English

Credits: Produced by Bryan Ness, Stephen Blundell and the Online Distributed Proofreading Team at <https://www.pgdp.net> (This file was produced from images generously made available by The Internet Archive/American Libraries.)

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## BRIEFLESS BALLADS

AND

## LEGAL LYRICS

SECOND SERIES

By JAMES WILLIAMS

"You will think a lawyer has as little business with poetry as he has with justice. Perhaps so. I have been too partial to both."

—THOMAS LOVE PEACOCK, in *Melincourt*

LONDON  
ADAM AND CHARLES BLACK

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**Transcriber's Note:** Minor typographical errors have been corrected without note. Hyphenation has been standardised.

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## CONTENTS

[5]

(The First Series was published anonymously in 1881, and is now out of print. Some of the following pieces have already appeared in periodicals.)

	PAGE
JUSTINIAN AT WINDERMERE	9
A VISION OF LEGAL SHADOWS	15
THE SQUIRE'S DAUGHTER	21
HER LETTER IN CHAMBERS	25
LAW AND POETRY	27
SOMEWHERE	30
ROMAN LAW	34
BOLOGNA	36
A GARDEN PARTY IN THE TEMPLE	37
THE SPINNING-HOUSE OF THE FUTURE	41
HOW WE FOUND OUR VERDICT	44
A GREEK LIBEL	47
LE TEMPS PASSÉ	50
LAWN TENNIS IN THE TEMPLE GARDENS	52
A BALLADE OF LOST LAW	53
COMEDIA JURIS	56
CASES—	
MYLWARD <i>v.</i> WELDON	59
HAMPDEN <i>v.</i> WALSH	61
WILLIS <i>v.</i> THE BISHOP OF OXFORD	62
DASHWOOD <i>v.</i> JERMYN	66
<i>EX PARTE</i> JONES	70
FINLAY <i>v.</i> CHIRNEY	71
POLLARD <i>v.</i> PHOTOGRAPHIC COMPANY	71
THE MINNEAPOLIS CASE	73
COMMONWEALTH <i>v.</i> MARZYNSKI	77
TRANSLATIONS—	
GREEK ANTHOLOGY	81
MARTIAL	89
CINO DA PISTOIA	92
PEDRO LOPEZ DE AYALA	94
PIRON	94

[6]

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*Interioris amat Templi jam Pegasus  
aulas  
Pieria in Medio plenior unda ruit.*

---

[7]

[9]



## Justinian at Windermere

WE took a hundredweight of books  
To Windermere between us,  
Our dons had blessed our studious  
looks,  
Had they by chance but seen us.

Maine, Blackstone, Sandars, all were  
there,  
And Hallam's *Middle Ages*,  
And Austin with his style so rare,  
And Poste's enticing pages.

We started well: the little inn  
Was deadly dull and quiet,  
As dull as Mrs. Wood's *East Lynne*,  
Or as the verse of Wyatt.

[10]

Without distraction thus we read  
From nine until eleven,  
Then rowed and sailed until we fed  
On potted char at seven.

Two hours of work! We could devote  
Next day to recreation,  
Much illness springs, so doctors  
note,  
From lack of relaxation.

Let him read law on summer days,  
Who has a soul that grovels;  
Better one tale of Thackeray's  
Than all Justinian's novels.

At noon we went upon the lake,  
We could not stand the slowness  
Of our lone inn, so dined on steak  
(They *called* it steak) at  
Bowness.

[11]

We wrestled with the steak, when lo!  
Rose Jack in such a hurry,  
He saw a girl he used to know  
In Suffolk or in Surrey.

What matter which? to think that she  
Should lure him from his duty!  
For Jack, I knew, would always be  
A very slave to beauty.

And so it proved, alas! for Jack  
Grew taciturn and thinner,  
Was out all day alone, and back  
Too often late for dinner.

What could I do? His walks and rows  
All led to one conclusion;  
I could not read; our work, heaven  
knows,  
Was nothing but confusion.

[12]

Like Jack I went about alone,  
Saw Wordsworth's writing-table,  
And made the higher by a stone  
The "man" upon Great Gable.

At last there came a sudden pause

To all his wanderings *solus*,  
He learned what writers on the laws  
Of Rome had meant by *dolus*.

The Suffolk (was it Surrey?) flirt  
Without a pang threw over  
Poor Jack and all his works like dirt,  
And caught a richer lover.

We read one morning more to say  
We had not been quite idle,  
And then to end the arduous day  
Enjoyed a swim in Rydal.

[13]

Next day the hundredweight of  
books  
Was packed once more in cases,  
We left the lakes and hills and  
brooks  
And southward turned our faces.

Three months, and then the Oxford  
Schools;  
Our unbelieving college  
Saw better than ourselves what fools  
Pretend sometimes to  
knowledge.

Curst questions! Jack did only one,  
He gave as his opinion  
That of the Roman jurists none  
Had lived before Justinian.

I answered two, but all I did  
Was lacking in discretion,  
I reckoned guardianship amid  
The *vitia* of possession.

[14]

My second shot was wider still,  
I held that *commodata*  
Could not attest a prætor's will  
Because of *culpa lata*.

We waited fruitlessly that night,  
There came no blue *testamur*,<sup>[A]</sup>  
Nor was Jack's heavy heart made  
light  
By that sweet word *Amamur*.

[A] Since the above was written, the *testamur*, like many other institutions dear to the old order of Oxford men, has been superseded.



[15]

## A Vision of Legal Shadows

A CASE at chambers left for my opinion  
Had taxed my brain until the noon of  
night,  
I read old law, and loathed the long

dominion  
Of fiction over right.

I had consulted Coke and Cruise and Chitty,  
The works where ancient learning reigns  
supreme,  
Until exhausted nature, moved with pity,  
Sent me a bookman's dream.

Six figures, all gigantic as Gargantua,  
Floated before my eyes, and all the six  
Were shades like those that once the bard of  
Mantua  
Saw by the shore of Styx.

[16]

The first was one with countenance  
imperious,  
His toga dim with centuries of dust;  
"My name," quoth he, "is Aulus and Agerius,  
[B]  
My voice is hoarse with rust.

"Yet once I played my part in law  
proceedings,  
And writers wrote of one they never saw,  
I gave their point to formulæ and pleadings,  
I lived but in the law."

The second had a countenance perfidious;  
What wonder? Prætors launched their  
formulæ  
In vain against Numerius Negidius,  
And not a whit cared he.

[17]

With voice of high contempt he greeted  
Aulus;  
"In interdicts thou wast mine enemy,  
Once passed no day that students did not  
call us  
As parties, me and thee.

"On paper I was plaintiff or defendant,  
On paper thou wast evermore the same;  
We lived apart, a life that was transcendant,  
For it was but a name.

"I hate thee, Aulus, hate thee," low he  
muttered,  
"It was by thee that I was always tricked,  
My unsubstantial bread I ate unbuttered  
In dread of interdict.

"And yet 'twas but the sentiment I hated:  
Like thee I ne'er was drunk e'en *vi* or  
*clam*, [C]  
With wine that was no wine my thirst was  
sated.  
Like thee I was a sham."

[18]

Two country hinds in 'broidered smocks next  
followed,  
Each trundled him a cart-wheel by the  
spokes,  
Oblivion now their names hath well-nigh  
swallowed,  
For they were Stiles and Nokes.

They spake no word, for speech to them was  
grievous,  
With bovine eyes they supplicated me;  
"We wot not what ye will, but prithee leave  
us,  
Unlettered folk are we."

"Go," said I, "simple ones, and break your  
fallows,

Crush autumn apples in the cider press,  
Law, gaffer Stiles, thy humble name still  
hallows,  
Contracted to J. S."

[19]

Another pair of later time succeeded,  
With buckles on their shoes and silken  
hose,  
A garb that told it was to them who heeded  
John Doe's and Richard Roe's.

"Ah me! I was a casual ejector,<sup>[D]</sup>  
In the brave days of old," I heard one  
say;  
"I knew Elizabeth, the Lord Protector  
I spake with yesterday."

To whom in contradiction snarled the other,  
"There was no living blood our veins to  
fill.  
Both you and I were nought but shadows,  
brother,  
And we are shadows still."

Room for a lady, room, as at Megiddo  
The hosts made way for passage of the  
king,  
For from the darkness crept there forth a  
widow  
In weeds and wedding ring.

[20]

"I am the widow, I, whereof the singers  
Of Scotland sang, their cruel words so  
smote  
My tender heart, that ofttimes itched my  
fingers  
To take them by the throat.

"He scoffed at me, dour bachelor of  
Glasgow,<sup>[E]</sup>  
If I existed not for him, the knave,  
'Twas all his fault who let some bonnie lass  
go  
Unwedded to her grave."

- [B] Aulus Agerius and Numerius Negidius are names continually occurring in the Roman institutional writers as typical names of parties to legal process, corresponding very much to the John Stiles and John Nokes of the older English law-books, and the Amr and Zaid of Mohammedan law. John Stiles was frequently contracted to J. S.
- [C] *Vi* and *clam* were part of the form of the interdict, which was a mode of procedure by which the prætor settled the right of possession of landed property.
- [D] The casual ejector was John Doe, who was, like Richard Roe, an entirely imaginary person, of much importance in the old action of ejectment abolished in 1852.
- [E] The allusion is to the "Advocates' Widows Fund," subscribed to by all members of the Scottish bar, married or unmarried. The non-existent widow of the unmarried advocate has been a frequent subject of legal verse. See "The Bachelor's Dream," by John Rankine, (*Journal of Jurisprudence*, vol. xxii. p. 155), "My Widow," by David Crichton (*id.* vol. xxiv. p. 51).



[21]

## The Squire's Daughter

We crawled about the nursery  
In tenderest years in tether,  
At six we waded in the sea  
And caught our colds together.

At ten we practised playing at  
A kind of heathen cricket,  
A croquet mallet was the bat,  
The Squire's old hat the  
wicket.

At twelve, the cricket waxing slow,  
With home-made bow and  
arrow  
We took to shooting—once I know  
I all but hit a sparrow.

[22]

She took birds' nests from easy  
trees,  
I climbed the oaks and ashes,  
'Twas deadly work for hands and  
knees,  
Deplorable for sashes.

At hide and seek one summer day  
We played in merry laughter,  
'Twas then she hid her heart away,  
I never found it after.

So time slipped by until my call,  
For out of the professions  
I chose the Bar as best of all,  
And joined the Loamshire  
Sessions.

The reason for it was that there  
Her father, short and pursy,  
Doled out scant justice in the chair  
And even scantier mercy.

[23]

As Holofernes lost his head  
To Judith of Bethulia,  
So I fell victim, but instead  
Of Judith it was Julia.

My speech left juries in the dark,  
Of Julia I was thinking,  
And once I heard a coarse remark  
About a fellow drinking.

I practised verse in leisure time  
Both in and out of season,  
It was indubitably rhyme,  
Occasionally reason.

I lacked the cheek to tell my woes,  
Had not concealment fed on  
My damask cheek, but left my nose  
With twice its share of red on?

[24]

Too horrible was this suspense,  
At last, in desperation  
I went to Loamshire on pretence  
Of death of a relation.

The Squire was beaming; "Julia's  
gone  
To London for a visit,  
But with a wedding coming on  
That's not surprising, is it?"

"Old friends like you will think, no  
doubt,  
That she is young to marry,  
But ever since she first came out,  
She's been engaged to Harry."



---

## Her Letter in Chambers

[25]

I SAT by the fire and watched it blaze,  
And dreamed that she wrote me a  
letter,  
And for that dream to the end of my days  
To Fancy I owe myself debtor.

Next day there came the postman's  
knock,  
The morning was bright and sunny,  
And showed me a sheaf of circulars,  
stock  
Attempts to get hold of my money.

'Mid correspondence of this dull kind  
A dainty notelet lay hidden,  
It seemed as though it had half a mind  
To consider itself forbidden.

The writing was like herself, complete,  
With a touch of her queenly bearing,  
So Venus wrote when she ordered in  
Crete  
Her doves to take her an airing.

[26]

Inside it was just as promising,  
'Twas a pressing invitation  
To dine at her house to-morrow, and  
bring  
My book for her approbation.

For I have published, be it confessed,  
A little volume of verses,  
And in the volume whatever is best  
The praise of herself rehearses.

I sit by the fire, and again I dream  
A happier dream than ever,  
I see her beautiful eyes soft gleam  
As she murmurs, "How lovely—how  
clever!"

Her criticism may be commonplace,  
But who can be angry after  
Now sweet with pity he marks her face,  
Now bright with impulsive laughter?

---

## Law and Poetry

[27]

IN days of old did law and rime  
A common pathway follow,  
For Themis in the mythic time  
Was sister of Apollo.

The Hindu statutes tripped in  
feet  
As daintily as Dryads,  
And law in Wales to be  
complete  
Was versified in triads.

The wise Alfonso of Castile  
Composed his code in  
metre  
Thereby to make its flavour  
feel  
A little bit the sweeter.

But law and rime were found



to be  
A trifle inconsistent,  
And now in statutes poetry  
Is wholly non-existent.

[28]

Still here and there some  
advocate  
Before his fellows know it  
Has had bestowed on him by  
fate  
The laurel of the poet.

Let him who has been  
honoured so,  
In truth a *rara avis*,  
Find precedents in Cicero  
And our Chief Justice  
Davis;

And more than all in Cino; he,  
So plaintive a narrator  
Of fair Selvaggia's cruelty,  
Won fame as a glossator.

Let him remember Thomas  
More  
And Scott and Alciatus,  
And Grotius with an ample  
store  
Of most divine afflatus.

[29]

But let him, if his bread and  
cheese  
Depend on his profession,  
Bethink him that the art of  
these  
Was not their sole  
possession.

The stream that flows from  
Helicon  
Is scarcely a Pactolus,  
A richer prize is theirs who con  
Dull treatises on *dolus*.

'Tis well that some bold spirits  
dare  
To cut themselves asunder  
From bonds of law like old  
Molière,  
While lawyers gaze in  
wonder.

The world had been a poorer  
place  
Had Goethe lived by  
pleading  
Or Tasso won a hopeless case  
With Ariosto leading.



[30]

## Somewhere

SOMEWHERE in a distant star,  
Cities of Cocaigne there are,  
Paradises of the Bar.

Somewhere 'neath another sun  
Counsel cease to see the fun  
Lurking in a judge's pun.

Somewhere courts are fair to  
see,  
Beauty joins utility,  
Ushers answer courteously.

Somewhere there are bailiwicks  
Which for dock defences fix  
Nothing under three-five-six.

[31]

Somewhere rises struggle sore  
For revisorships no more,  
Every shire has half a score.

Somewhere educated thought  
Scientifically taught  
Cross-examines as it ought.

Somewhere judgments are  
obeyed,  
Executions are not stayed,  
Fees are almost always paid.

Somewhere County Councils  
press  
Banquets on the circuit mess,  
Fleshpots in the wilderness.

Somewhere at Assizes grow  
Prosecutions row on row,  
Every man has six or so.

[32]

Somewhere, eager but for right,  
Court and counsel cease to cite  
Pointless cases recondite.

Somewhere headnotes give the  
ground  
Whereupon the judges found  
Judgments generally sound.

Somewhere juries use their  
sense,  
Basing on the evidence  
Verdicts of intelligence.

Somewhere rich embroideries  
Woven cunningly of lies  
Part in twain at truth's clear  
eyes.

Somewhere justice grows from  
wrong,  
Till the right that suffered long  
Sings at last its triumph song.

[33]

Somewhere—even in a place  
Peopled by a perfect race—  
One side holds a losing case.

Somewhere since the world  
began  
Heaven hath made an honest  
man,  
Somewhere in Aldebaran.



I AM a "coach" in Roman law by fate,  
 But Nature must have meant me for a  
 poet,  
 And while I struggle with a rule or date,  
 Poetic thoughts intrude before I know  
 it.

The changing sunshine on the summer sea  
 Drives forth the law of *cessio*  
*bonorum*,  
*Peculium castrense* speaks to me  
 Of Horace and his *Dulce et decorum*.

I see the matine bee among the flowers  
 Instead of *testamentum militare*,  
 And wander far away from agent's powers  
 To picture me again some Maud or  
 Mary.

In truth there is no sequence in the  
 thought,  
 Why should the title *De Societate*  
 Suggest, not trading partners, as it ought,  
 But visions of my last night's valse  
 with Katie?

[35]

But worse than this, when I have done my  
 task,  
 Stern law again asserts her  
 domination,  
 'Tis cruel 'mid the new-mown hay to bask,  
 And find one's mind is running on  
 novation;

Or in the dusk, when glow-worms light the  
 moss,  
 To hear the distant voice of Philomela  
 Expound the three varieties of *dos*  
 And wax right eloquent about *tutela*.

I had a little respite yesterday,  
 Dining with one who well knew how to  
 dine us,  
 But when I slept, the charm soon fled  
 away,  
 I dreamed I was a *prætor peregrinus*.

Dismasted in the deep of law I lie,  
 A poor reward it is to stand confessed  
 as  
 The Virgil of the interdict *de vi*,  
 The Petrarch of the *patria potestas*.



[36]

Bologna

I go from colonnade to colonnade  
 In streets that Dante trod, and past the  
 towers  
 Aslant toward heaven, and listen to the  
 hours

Chimed by the bells of choirs where Dante  
prayed.  
They cease; then lo! the foot of time seems  
stayed  
Five hundred years and more, I find me  
bowers  
Where sweet and noble ladies weave them  
flowers  
For one who reads Boccaccio in the shade.  
The cowlèd students halt by two and threes  
To hear the voice come thrilling through  
the trees,  
Then tear themselves away to themes  
more trite.  
Anon I mark the diligent hands that turn  
Unlovely parchment scrolls whereby to  
learn  
The beauty of inexorable right.



[37]

## A Garden Party in the Temple

ON hospitable thoughts intent  
To me the Inner Temple sent  
An invitation,  
A garden party 'twas to be,  
And I accepted readily  
And with elation;  
Good reason too, but oft the seeds  
Of reason flower in senseless deeds.

I stood as savage as a bear,  
For not a human being there  
Knew I from Adam  
I heard around in various tones,  
"So glad to see you, Mr. Jones;"  
"Good morning, Madam."  
It seemed so painfully absurd  
To stand and never speak a word.

[38]

I brought my doom upon myself,  
And there I was upon the shelf  
In melancholy.  
Why, say you, did I go at all?  
I once met Chloris at a ball,  
And in my folly  
I went and suffered all this pain  
In hopes to see her once again.

Of strawberries a pound at least  
I ate, and made myself a beast  
With tea and sherry;  
And raspberries I ate and trembled,  
Until I felt that I resembled  
Myself a berry,  
But 'twas the berry that at school  
We used to call a gooseberry fool.

[39]

The I. C. R. V.<sup>[F]</sup> band droned on,  
While guests had come and guests  
had gone  
Since my arrival;  
My brow grew gloomier with  
despair,  
And on it sat the guilty air

Of a survival  
Of some remorse for ancient crimes  
Wrought in the pre-historic times.

My seventh cup of tea was done,  
My seventh glass of wine begun,  
    Then of her coming  
I was aware, nor shall forget  
How she and that brown sherry set  
    My brains a-humming;  
Well should I be rewarded soon  
For all the weary afternoon.

[40]

Her eyes looked vaguely into mine  
Without as much as half a sign  
    Of recognition.  
My heart, my heart! the blow was  
    sore,  
But you have often been before  
    In this condition;  
As said the bard of old, those eyes  
Are not my only Paradise.[G]

[F] Inns of Court Rifle Volunteers.

[G] Dante, Par. xviii. 21.

---

## The Spinning-House of the Future

[41]

"Cada puta hile."—*Don Quixote*, i. 46.

WITHOUT my dinner here I lie,  
    And all because that proctor  
With her stout bull-dogs passed, and  
    I  
        Mocked her.

For Clara is at Girton too,  
    That dragon is her tutor,  
I threatened once what I would do,  
    Shoot her.

Her life by Clara's tears was saved,  
    Wherefore she doth detest me,  
And hither hungry and unshaved  
    Pressed me.

I would that I could have  
    commenced  
    An action 'gainst that devil,  
Like that once brought by Kemp  
    against  
        Neville.[H]

[42]

To her I owe the statute framed  
    That one against it sinning  
Should dwell within the house that's  
    named  
        Spinning.

Ah me! it runs in sections three:  
    Who speaks to Girton student  
Is fined to teach him how to be  
    Prudent.

Who loves a Girton girl must do  
    Twelve months on bread and  
    water,  
From a digestive point of view  
    Slaughter.

[43]

Who kisses her commits a crime  
    By hanging expiated,

And she in tears must spend her  
time

Gated.

Would that at Oxford I had been,  
At Balliol or at Merton,  
And then I never should have seen  
Girton.

Go down I must, no more shall I  
And Clara cross the same  
bridge;  
Still, Granta, art thou her and my  
Cambridge.

Some day on this her eyes may light,  
This doggerel stiff and  
jointless,  
And she may own it is not quite  
Pointless.

[H] An action brought in 1861 by a dressmaker at Cambridge against the Vice-Chancellor for false imprisonment in the Spinning-House (the University prison). The Court of Common Pleas held *inter alia* that no action lies against a judge for a judicial decision on a matter within his jurisdiction (10 Common Bench Reports, New Series, 523).



[44]

## How we found our Verdict

WE sat in the jury-box, twelve were we all,  
And the clock was just pointing to ten in  
the hall,  
His Lordship he bowed to the jury, and we  
Bowed back to his Lordship as gravely as  
he.

The case of *De Weller v. Jones* was the  
first,  
And we all settled down and prepared for  
the worst  
When old Smithers, Q.C., began slowly to  
preach  
Of a promise of marriage and action for  
breach.

A barmaid the plaintiff was, wondrous the  
skill  
Wherewith she was wont her tall tankards  
to fill,  
The defendant, a publican, sought for his  
bride  
Such a paragon, urged by professional  
pride.

[45]

But the course of true love ran no  
smoother for her  
Than the Pas de Calais or the bark of a fir,  
The defendant discovered a widow with  
gold  
In the bank and the plaintiff was left in the  
cold.

An hour Smithers spoke, and he said that  
the heart  
Of the plaintiff at Jones's fell touch flew  
apart,  
But a cheque for a thousand might help to

repair  
The destruction effected by love and  
despair.

Miss de Weller was called, and in ladylike  
tones  
She described all the injury suffered from  
Jones,  
How he called her at first "Angelina," and  
this  
Soon cooled to "Miss Weller," and lastly to  
"Miss."

But the jury were shaken a little when  
Gore  
Cross-examined about her engagements  
before,  
For Jones was the sixth of the strings to  
her bow  
And with five other verdicts she solaced  
her woe.

[46]

Re-examined by Smithers, she won us  
again,  
For the tears of a maid are a terror to  
men,  
Then his Lordship awoke from his nap and  
explained  
How love that is frequent is love that is  
feigned.

Miss de Weller looked daggers, and under  
the paint  
Of her cheeks she grew pale and fell down  
in a faint,  
She played her trump-card in the late  
afternoon,  
For damages satisfy girls who can swoon.

Till she fainted most thought that a  
farthing would do,  
Though I was in favour of pounds—one or  
two;  
But after the faint—and she *was* so well  
dressed—  
At a hundred the void in her heart was  
assessed.



---

## A Greek Libel

[47]

ARCHILOCHUS.

NEOBULE, yesternight  
Saw I thee in beauty dight,  
On thy head a myrtle spray  
Cast its shadow as the day  
By the stars was put to  
flight.  
Twining on thy temples  
white  
Roses gave the myrtle light,  
Sign thou wilt not say me  
nay,  
Neobule.  
Loosened from its coilèd  
height  
Streamed thy hair in thy

despite  
On thy shoulders soft to  
stray  
And to bid the bard essay  
Never but of thee to write,  
Neobule.

NEOBULE.

Sorry poet, who dost dare  
Cast bold glances on my  
hair,  
Let thy most presumptuous  
eyes  
Seek another enterprise,  
Ceasing now to linger there.  
Hearken, I can tell thee  
where  
Grow the bushes that will  
spare  
Rods to teach thee humbler  
guise,  
Sorry poet.  
Know I not that I am fair?  
Need thy halting verse  
declare  
What my mirror daily cries?  
Rid me of thy silly sighs,  
Rid me of thy hateful stare,  
Sorry poet.

ARCHILOCHUS.

Neobule, poets see  
Dreams of things that are to  
be.  
Vengeance is the poet's  
trade,  
Come, iambus, to my aid  
'Gainst the fools who scoff at  
me.  
All the world will laugh with  
glee  
When they mark my verses  
free  
Grasp thee like a pillory,  
And thy scorn with scorn  
repaid,  
Neobule.  
E'en in death thou canst not  
flee  
From the doom the Fates  
decree.  
When my satire's keenest  
blade  
Cuts thee to the heart, fond  
maid,  
I shall laugh, but what of  
thee,  
Neobule?



## Le Temps Passé

THOSE brave old days when King Abuse

[48]

[49]

[50]



did reign  
We sigh for, but we shall not see again.  
Then Eldon sowed the seed of equity  
That grew to bounteous harvest, and  
with glee  
A Bar of modest numbers shared the  
grain.  
Then lived the pleaders who could issues  
feign,  
Who blushed not to aver that France or  
Spain  
Was in the Ward of Chepe;<sup>[1]</sup> no more  
can be  
Those brave old days.

[51]

O'er pauper settlements men fought  
amain,  
And golden guineas followed in their  
train,  
John Doe then flourished like a lusty  
tree,  
And Richard Roe brought many a noble  
fee,  
We mourn in unremunerated pain  
Those brave old days.

- [1] See, for instance, the well-known case of *Mostyn v. Fabrigas*, in which the plaintiff declared that the defendant on the 1st of September, in the year 1771, made an assault upon the said plaintiff at Minorca, to wit, at London, in the parish of St. Mary-le-bow, in the Ward of Cheap.



[52]

## Lawn Tennis in the Temple Gardens

Not in contempt but to our sport inclined  
Smile on us, shades of Judges short and tall  
Portrayed on windows of the Temple Hall;  
There was a time that ye grave thoughts  
resigned,  
Then, warm with sack, the Serjeants' hearts  
waxed kind,  
In mirth Lords Keepers danced the galliard all,  
Not in contempt.

Of pleasures past the shadows here we find,  
Gay strife on brighter swards we thus recall,  
Where maiden laughter winged the flying ball;  
Declare us, fair ones, with a merry mind  
Not in contempt.



[53]

# A Ballade of Lost Law

*(Spirit of Lord Eldon speaks)*

THIS England is gone staring  
mad,  
She hath abolished Chancery,<sup>[J]</sup>  
See the long lines of suitors, sad  
To find themselves unwontedly  
After one day of trial free.  
Pleading and seals have gone  
their way.  
"I know," said I, "that after me  
Too quickly comes the evil day."

*(Spirit of Lord Lyndhurst speaks)*

[54]

I was Chief Baron, and I had  
A Court of Law and Equity,<sup>[K]</sup>  
The Courts at Westminster were  
clad  
With ancient glory fair to see.  
Now County Courts have come  
to be  
Exalted high on our decay,  
And every whit as good as we;  
Too quickly comes the evil day.

*(Shade of Butler speaks)*

In days of yore we used to pad  
Our deeds with words of  
certainty;  
Alas! that now the office lad  
Is qualified to grant in fee!  
Lost is our old supremacy,  
Lost is the delicate display  
Of learning on *pur autre vie*;  
Too quickly comes the evil day.

[55]

L'ENVOI

*(The Three in Chorus)*

Thurlow, to thee we bend the  
knee,  
When law was law, then men  
were gay,  
'Tis down with port and up with  
tea,  
Too quickly comes the evil day.

[J] The Court of Chancery was merged in the High Court of Justice in 1875.

[K] In the days of Lord Lyndhurst the old Court of Exchequer had equitable as well as common law jurisdiction.



[56]

Est omne jus forense quasi  
    comœdia;  
Hic advocatus maximas partes  
    agit  
Laudatus undique a  
    procuratoribus,  
Labore vocis redditus ditissimus;  
Cui brevia nil forensis et  
    quaestus valent  
Silenter ille spectat, at pro  
    præmio  
Fruitur quietus optime comœdia.



---

## Cases

[57]



[59]

## Cases

### MYLWARD *v.* WELDON

[The plaintiff was committed to the Fleet Prison on Feb. 8, 1596, by order of the Lord Keeper, for drawing a replication of sixscore sheets containing much impertinent matter which might well have been contained in sixteen. On Feb. 10 the Lord Keeper ordered that on the following Saturday the Warden of the Fleet should cut a hole through the replication, and put the plaintiff's head through the hole and let it hang about his shoulders with the written side outwards, and lead the plaintiff bareheaded and barefaced round about Westminster Hall, and show him at the bar of all the courts, and so back to the Fleet.—Abridged from Spence's *Equitable Jurisdiction*, vol. i. p. 376.]

'GAINST Weldon Mylward files a bill,  
But doth his replication fill  
With scandalous and idle matter,  
That would disgrace the maddest  
    hatter.

Woe is me for  
    Mylward!

[60]

'Twas sixscore sheets, it might have  
    been  
Contained, and amply, in sixteen;  
So after that the court hath risen  
Must Mylward Fleetward go to prison.  
    Woe is me for  
    Mylward!

And two days afterwards 'tis meet  
That by the Warden of the Fleet  
He be led on in slow progression  
Through every court that sits in  
    session.

Woe is me for  
    Mylward!

The pleading writ with words so fair  
Must Mylward like a tabard wear,  
A hole therein, the Warden cuts it,  
A head put through it, Mylward puts it.

Woe is me for  
Mylward!

[61]

The bar makes merry at his shame;  
What careth he? He winneth fame,  
Three hundred years his reputation  
Hath rested on that replication.

Woe is me for  
Mylward!

## HAMPDEN *v.* WALSH

(1 Queen's Bench Division, 189)

"FIVE hundred pounds as stake I'll lay,"  
Says Hampden, "that by such a day  
No man of science proves to me  
That earth not flat but round must be;  
The earth is flat, and flats are they."  
The sum Walsh holds right willingly;  
But Wallace by philosophy  
Proves roundness, and would take

away  
Five hundred pounds.

[62]

"Proof me no proofs," quoth Hampden,  
"Nay,

Let Wallace get it if he may,  
I'll sue Walsh for it." So sues he.

"Let Wallace," hold the judges three,  
"Take nought, let Walsh to Hampden

pay  
Five hundred pounds."

## WILLIS *v.* THE BISHOP OF OXFORD

(2 Probate Division, 192)

AID me, Muses! my endeavour is to sing a woful song,  
How a very learned bishop in the Arches Court went  
wrong.

Aid me, for *duplex querela* is an uninviting theme,  
And the practice of the Arches raises no poetic dream.  
'Tis the Reverend Child Willis, child in name but not in  
age,

[63]

Comes he to the Court of Arches burning with a noble  
rage,  
Filing his *duplex querela*, claiming for himself thereby  
Vicarage of Drayton Parslow, or to know the reason  
why.

"Reason why?" the bishop answers; "that is not so far  
to seek.

Little Latin have you, Willis, innocent are you of  
Greek.

You were specially examined by my good Archdeacon  
Pott;

He reported to me promptly, 'Greek and Latin all  
forgot,

*Non idoneus* is Willis, *minus et sufficiens*,  
He may have a *sanum corpus*, but he lacks a *sana*  
*mens*."

[64]

"Nay," says Willis, "such an answer is but trifling with  
the court,

I have preached a Latin sermon, and the classics are  
my forte,

You must name the books I failed in, you must give me  
every chance

Of a fresh examination at the hands of Lord

Penzance."  
 Lord Penzance supported Willis: "Bishop, you must  
 file," said he,  
 "Some more tangible objection, some less vague and  
 general plea.  
 As it stands I cannot gather what it is you ploughed  
 him in,  
 Whether Hellenistic aorists or the Latin word for sin."  
 But alas! the world has never known as yet what Willis  
 did,  
 In the breast of the Archdeacon still it lies a secret  
 hid.  
 Was his Latin prose defective? Did his style of writing  
 show  
 More resemblance to Tertullian than to Tullius Cicero?  
 Were his dates a little shaky? Could it, could it be that  
 he  
 Confidently made Augustine flourish at a date B.C.?  
 None will know save Pott, Archdeacon, for alas! the  
 patroness  
 Showed no mercy to Child Willis in the day of his  
 distress.  
 She revoked the presentation, leaving Willis in the  
 lurch,  
 One of undisputed learning preached in Drayton  
 Parslow church.  
 Doubly barren was his triumph, it was not a twelve-  
 month ere  
 Death set up *his* Court of Arches, Willis did not  
 triumph there.

[65]

[66]

## DASHWOOD *v.* JERMYN

(12 Chancery Division, 776)

CAPTAIN DASHWOOD, who had been  
 In the service of the Queen,  
 Sick of "Eyes front" and  
 "Attention,"  
 Came to London on his pension.  
 At the "Portland" as he stayed,  
 Firm the friendship that he made  
 With one William Richards, who  
 Put up at the "Portland" too.  
 Passed six years, then he was  
 wrapped in  
 Love's embraces, vanquished  
 captain!  
 "Yes," he cried, "I will; no bar shall  
 Stop my wedding Edith Marshall."  
 But there was a bar, 'twas that  
 He was poorer than a rat;  
 Indian pensions do not run  
 More than just enough for one.  
 Edith, too, had not a cent,  
 Who would pay the rates and rent?  
 Two more years, and Richards  
 moved  
 (He perchance had sometime  
 loved),  
 Promised them an income clear,  
 'Twas five hundred pounds a year  
 For his life; when he was dead,  
 Then ten thousand pounds instead.  
 This to Dashwood in a letter  
 Wrote he, deeming it was better  
 They should marry soon while he  
 Lived their happiness to see.  
 'Twas a modest sum, but marriage  
 May be blest without a carriage,  
 Forty pounds a month and more  
 Keep the wolf from near the door.  
 So they wed for worse or better,

[67]

On the faith of Richards' letter.  
 Scarcely was a quarter's payment  
 Due when mourning was their  
     raiment.  
 Richards died. Alas! no cash would  
 Find its way to Captain Dashwood.  
 Dashwood's head began to swim—  
 Not a shilling left to him!  
 "Ha, I'll have it still," cried he;  
 "Justice dwells in Chancery."  
 So the case was straightway taken  
 To the court of V.-C. Bacon.  
 Vainly Dashwood cash expended  
 The executors defended,  
 Claiming that what Richards wrote  
 Was not worth a five-pound note;  
 First because the dead testator  
 Well, not wisely, loved the  
     "cratur,"  
 More than that, had often been  
 In delirium tremens seen;  
 Secondly, because he signed  
 When he did not know his mind;  
 Third, because pollicitation  
 Is not good consideration.  
 Law, of justice independent,  
 Gave its judgment for defendant.  
 Poorer than he was at first,  
 That unhappy plaintiff cursed,  
 With a special satisfaction  
 Cursed the day he brought his  
     action.  
 Would that he'd in India tarried!  
 Would that he had never married!  
 He, alas, is tied for life  
 Pauper to a pauper wife,  
 Scarce consoled that on his name  
 Equity reports shower fame,  
 Bearing down to endless ages  
 Dashwood's story on their pages.

### *EX PARTE JONES*

(18 Chancery Division, 109)

OH for the wily infant who married the widow and  
     made  
 Profit of coke and of breeze, and never a penny he  
     paid!  
 Oh for the Corporation of Birmingham cheated and  
     snared,  
 Taking orders for coke that the widow and infant  
     prepared!  
 Oh for the Court of Appeal, and oh for Lords Justices  
     three!  
 Oh for the Act that infants from contracts may shake  
     themselves free!  
 Oh for the common law with its store of things old and  
     new!  
 Birmingham coke is good and good Coke upon  
     Littleton too.

### *FINLAY v. CHIRNEY*

(20 Queen's Bench Division, 494)

WHEN love-sick man descends to  
     folly  
     And gets engaged, he must not  
     stray,  
 The jury takes the part of Polly,  
 And if he jilts her, he must pay.

The only way his fault to cover,  
From damages and costs to fly,  
To leave his jilted lady-lover  
Without an action is—to die!<sup>[L]</sup>

[L] The decision was to the effect that in most cases an action for breach of promise of marriage does not survive against the representatives of the promiser.

## POLLARD *v.* PHOTOGRAPHIC COMPANY

(40 Chancery Division, 345)

"SHALL I take your photograph, my pretty  
maid?"

"You may if you like, kind sir," she said.

[72]

"Do you like your photograph, my pretty  
maid?"

"It is more than flattering, sir," she said.

"I'll publish your photograph, my pretty  
maid."

"Indeed but you won't, kind sir," she  
said.

"As a Christmas card, my pretty maid."  
"The very idea, kind sir!" she said.

"But what if I've done it, my pretty  
maid?"

"I'll get an injunction, sir," she said.

"The law is with you, my pretty maid,"  
The learned judge of the Chancery said.

"You have proved the negative, my  
pretty maid,  
A difficult thing in law," he said.

[73]

## THE MINNEAPOLIS CASE

*(Tried in Minnesota in 1892)*

KIND reader, tarry here, nor miss  
The law of Minneapolis.  
There was a carpenter called Brown,  
A citizen of that great town,  
Who stood his "inexpressive she"  
A dollar's worth of comedy.  
Was it a Gaiety burlesque,  
Or labour of Norwegian desk?  
Or did they spout in stagey tones  
Morality by H. A. Jones?  
Or tear romance to rags and set it  
In heavy platitudes by Pettit?  
I know not, and it matters not,  
The subject I have clean forgot.  
Sufficient that the pair did sit  
In expectation in the pit,  
An expectation not fulfilled,  
'Twas otherwise by fortune willed.  
Before this loving couple sat  
In solitary state a hat—  
A hat, I say, for in their wonder  
They never noticed what was under,  
The wearer must have been a  
"human,"  
But might have been a man or woman.  
'Twas like a mountain crowned with  
trees  
Amid the pathless Pyrenees,  
Or like a garden planned by Paxton,  
Or colophon designed by Caxton,

[74]

So intricate the work; and flowers  
 Were trained to climb its soaring  
                   towers,  
 Convolvulus and candytuft,  
 And 'mid them water-wagtails stuffed.  
 Such splendour never yet, I wis,  
 Had shone in Minneapolis.  
 But Brown was in a sore dilemma,  
 A dollar he had paid for Emma  
 To see a play, and not a hat;  
 A dollar, it was dear at that.  
 And Emma—disappointment racked  
                   her,  
 She never saw a single actor.  
 So Brown, with visage thunder-black,  
 Demanded both his dollars back.  
 The man who took the cash said,  
                   "Sonny,  
 Our rule is not to give back money.  
 But if you'll come another night,  
 Maybe you'll get a better sight."  
 So Brown went home and nursed his  
                   sorrow,  
 His writ he issued on the morrow.  
 A hundred dollars was his claim,  
 And the young lady claimed the same.  
 The case was argued, on revision  
 Of pleadings, this was the decision:  
 "The theatre's defence is bad,  
 Brown paid for what he never had,  
 He paid when in the pit he sat  
 To see a play and not a hat.  
 To bring defendants to their senses,  
 I find for plaintiffs with expenses."  
*Justitiæ columna sis,*  
 Wise judge of Minneapolis!

[75]

[76]

[77]

## COMMONWEALTH v. MARZYNSKI

(21 New England Reports, 228 [Massachusetts, 1893])

[On a complaint for keeping open a tobacconist's shop on Sunday, contrary to the law of Massachusetts, it was held that the court will take judicial notice that tobacco and cigars are not drugs and medicines, and will exclude the testimony of a witness who offers evidence that they are.]

AGAINST the statutes of the Old Bay State  
 Marzynski on a Sunday stood behind  
 His counter, well content his gain to find  
 In pipes not pills, cigars not carbonate.  
 From breakfast till 'twas dusk at half-past eight  
 Tobacco cheered this hardened sinner's  
                   mind,  
 The price of it his pockets, disinclined  
 To add their dime to the collection plate.  
 The State Attorney claimed the penalty;  
 "Cigars are no cigars," said the defence,  
 "But drugs, and we have witnesses to prove  
                   it."  
 "Cigars to be cigars judicially  
 We notice, and reject the evidence."  
 So said the Court, and spat, and nought  
                   could move it.

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## Translations

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[79]

[81]





## Translations

### GREEK ANTHOLOGY

x. 48

Woe to the house whose mistress was a  
    slave!  
So say old saws, my own in aid I crave;  
Woe to the court whose judge once spake  
    for fees,  
Though he were readier than Isocrates!  
An advocate that pleaded once for pelf  
Scarce on the bench forgets his former  
    self.

*Palladas.*

xi. 75

THIS Olympicus of old  
Had, Sebastus, I am told  
Quite his share of upper gear,  
Nose and chin and eye and  
    ear.  
All he lost, and by his fist—  
He became a pugilist.  
Loss of members with it drew  
Loss of patrimony too.  
When his birthright he would  
    claim,  
Into court his brother came  
With a portrait, saying, "Thus  
Looked the old Olympicus."  
None could any likeness see,  
Disinherited was he.

[82]

*Lucillus.*

xi. 141

A PIG, a goat, an ox I lost:  
I want them back at any cost,  
And so retained, O woful fate!  
Menecles for my advocate.  
But tell me, will you, what have  
    these  
In common with Othryades?  
The heroes of Thermopylæ  
Have nought to do with theft  
    from me.  
Against Eutyichides I bring  
My action for a trivial thing.  
Let Xerxes rest a little space,  
And leave the Spartans in their  
    place.  
For if you don't put all this by  
I'll go into the streets and cry,  
"The voice of Menecles is big,  
But what about my stolen pig?"

[83]

*Lucillus.*

PLUTO rejected at his gate  
 The soul of Mark the advocate;  
 "No, Cerberus my dog," quoth  
     he,  
 "Will make you pleasant  
     company;  
 But if within you needs must  
     go,  
 Practise on poet Melito,  
 And you shall have, if he won't  
     do,  
 Tityus and Ixion too.  
 You'll be to hell the sorest ill  
 Of all that hell contains, until  
 There come to us worse  
     barbarisms  
 When Rufus speaks his  
     solecisms."

[84]

*Lucillus.*

So soon hath Asiaticus  
     The gift of eloquence  
     achieved?  
 It was in Thebes it happened  
     thus,  
 The story well may be  
     believed.

*Ammianus.*

[85]

THE statue of an advocate, as like as like can be.  
 And why? The statue cannot speak a word, no  
     more could he.

*Anon.*

PAUL, dost thou wish to make thy  
     boy  
 An advocate like these his  
     betters?  
 Then let him not his time employ  
     To useless ends in learning  
     letters.

*Ammianus.*

THE parties were as deaf as deaf could be,  
 The judge was far the deafest of the three.  
 Said plaintiff, "Sir, I ask for five months'  
     rent."  
 Defendant, "Grinding corn all night I spent."  
 "Why," quoth the judge, "dispute? Your  
     mother's claim  
 Is good, and you must both support the  
     dame."

[86]

*Nicarchus.*

REMEMBER justice and her yoke, and

know  
That 'gainst the wicked votes of  
"Guilty" go.  
Thou trustest in thy cunning speech,  
thy power  
Of speaking words that vary with the  
hour.  
Hope what thou wilt, thy trifling tricks  
are vain,  
Thou canst not make the path of law  
less plain.

*Agathias.*

XI. 376

ONCE to Diodorus came a client in a state of doubt,  
And to that most learned counsel thus he set the  
matter out:  
"Alpha Beta found a slave-girl who had run away  
from me:  
To a slave of his he wed her, though she was my  
property,  
Well he knew she was my chattel; she has had a  
child or two;  
Now I cannot tell for certain whose the children are,  
can you?"  
Diodorus thought, consulted all authorities on  
"Slave,"  
To his client turned his furrowed brows and slowly  
answer gave:  
"'Tis to you or to the other who, you say, has done  
you wrong,  
That the children of the handmaid rightfully of  
course belong,  
Your best plan will be the matter in the proper court  
to place,  
So you'll get a good opinion whether you have any  
case."

[87]

*Agathias.*

[88]

PLAN, 193

"GOOD Hermes, only just one cabbage  
plant."  
"Stop, stop, my thieving traveller, you  
can't."  
"What, grudge me one poor cabbage! is  
it so?"  
"Nay, I don't grudge it, but the law says  
no.  
The law says, Keep your itching palms,  
d'ye see,  
From meddling with another's property."  
"Well, this beats anything I ever saw!  
Hermes against a thief invokes the law."

*Philippus.*

APPENDIX, 385

PUPILS seven of Aristides,  
Tell me, how are ye?  
Four of you are walls,  
beside is  
Nought but benches  
three.

*Another Version*

Seven pupils of the rhetor  
Aristides, how are ye?

[89]

Seven! *Hoc et nihil præter*,  
Four are walls and benches  
three.

*Anon.*

## MARTIAL

### *In Caium*

"LEND me sestertia, Caius, only twenty,  
'Tis no great thing for you who roll in  
plenty."  
He was an old companion, and his coffers  
Were full enough to stand such friendly  
offers.  
"Go, plead in court," said he; "'tis  
pleadings pay us."  
"I want your money, not your counsel,  
Caius."

*Martial*, ii. 30.

[90]

### *In Causidicum*

'Tis said that some bold advocate  
Has dared to criticise my  
poem,  
His name I have not learned, his  
fate  
Will be a warning when I know  
him.

*Martial*, v. 33.

### *In Postumum Causidicum*

No claim for trespass do I bring,  
Or homicide, or poisoning.  
I claim that by my neighbour's  
theft  
Of she-goats three I was bereft.  
The judge of course wants  
evidence,  
But you go wandering far from  
thence,  
And with a mighty voice declaim  
Of Mithridates and the shame  
Of Cannæ, and the lies of old  
That Punic politicians told.  
And why should you pass Sylla  
by,  
The Marii and Mucii?  
When, Postumus, d'ye hope to  
reach  
My stolen she-goats in your  
speech?

*Martial*, vi. 19.

[91]

### *In Cinnam*

Is this advocacy, Cinna, this a type of lawyers' powers,  
This immense oration, Cinna, some nine words in some ten  
hours?  
Waterclocks I grant you asked for, Cinna, yes, you called  
for four;  
There you stopped, such wealth of silence, Cinna, ne'er  
was seen before.

*Martial*, viii. 7.

A THOUSAND doubts and pleadings in a day  
 Are filed in Empress Reason's court  
 supreme  
 By angry Love—his eyes with anger  
 gleam.  
 "Which of us twain hath been more  
 faithful, say.  
 'Tis all through me that Cino can display  
 The sail of fame on life's unhappy  
 stream."  
 "Thee," quoth I, "root of all my woe I  
 deem,  
 I found what gall beneath thy sweetness  
 lay."  
 Then he: "Ah, traitorous and truant slave!  
 Are these the thanks thou renderest,  
 ingrate,  
 For giving thee a maid without a peer?"  
 "Thy left," cried I, "slew what thy right hand  
 gave."  
 "Not so," said he. The judge, "Your wrath  
 abate.  
 I must have time to give true judgment  
 here."

*Cino da Pistoia.*

[Imitated by Petrarch in the conclusion of the Canzone, *Quell' antico mio dolce empio signore.*]

## TO ROME

TELL me, proud Rome, why dost these edicts  
 read,  
 These many laws by prince or people  
 made,  
 Or answers by the prudent duly weighed,  
 When now thou canst the world no longer  
 lead?  
 Thou readest, sad one, of each ancient deed  
 Where thy unconquered sons their might  
 displayed,  
 Afric and Egypt at thy feet were laid,  
 But slavery, not rule, is now thy meed.  
 What boots it that thou wast of old a queen,  
 And over foreign nations heldest rein,  
 If thou and all thy fame no more exist?  
 Forgive me, God, if all my days have been  
 Devoted to man's laws, unjust and vain  
 Unless Thy law within the heart be fixed.

*Cino da Pistoia.*

## JUSTICE

AH! justice is a virtue bepraised and full of  
 worth,  
 It castigates the sinner, and peoples all the  
 earth,  
 And kings with care should guard it—instead  
 they now forget  
 The gem that is most precious in all the coronet.  
 Some think they may do justice by cruelty, I  
 wist;  
 But 'tis an evil counsel, for justice must consist  
 In showing deeds of mercy, in knowledge of the  
 truth,  
 And executing judgment it executes with ruth.

*Pedro Lopez de Ayala.*

## THE POET AND THE ADVOCATE

GLORY and gain thus mixed distract the  
thought,  
We owe to honour all, to fortune  
nought;  
The poet, like the soldier, scorns for  
pay  
Peruvian gold, but seeks the wreath of  
bay.  
How is the advocate the poet's peer?  
The poet's glory is complete and clear;  
He far outlives the advocate's renown,  
Patru is e'en by Scarron's name  
weighed down.  
The bar of Greece and Rome you point  
me out,  
A bar that trained great men, I do not  
doubt,  
For then chicane with language void of  
sense  
Had not deformed the law and  
eloquence.  
Purge the tribune of all this monstrous  
growth,  
I mount it, and my soul will sink,  
though loth,  
Will yield to fortune and will speak in  
prose.  
But since reform in this so slowly  
grows,  
Leave me my tastes, for I aspire to be  
By verse ennobled to posterity,  
To hold first place in arts above the  
law,  
More grave and noble than it ever saw.  
Fraud in this age of ours unpunished  
can  
Tread down the equity so dear to man.  
Can you for spirits just and generous  
find  
A fairer cause to plead before  
mankind?  
Mother or stepmother let Fortune be,  
The theatre and not the bar for me;  
For client virtue, truth for counsel's  
wage;  
For judge the present and the coming  
age.

[95]

[96]

*Piron, La Métromanie, Act iii. Sc. 7.*



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