

## CHAPTER 4

# ARBITRATION IN OPERA, LITERATURE, AND ART

## I. WORKPLACE CONFLICT IN OPERA AND LITERATURE

PAULA KNOPF\*

### **Violence in the Workplace**

The role of an arbitrator is to resolve conflict. Without conflict, there is no need for arbitration. Similarly, as a dramatic device, conflict is necessary to propel a plot. *Romeo and Juliet* would not be a very interesting tale if there had not been a dispute between the Montagues and the Capulets. Similarly, there would be no arbitration without conflict; our authority arises from the grievance and the disputes over the many aspects of the collective bargaining agreement.

The most dramatic example of conflict in arbitration is workplace violence. This violence causes disruptions, threatens the safety of all, and can have long-term repercussions. Employers have a duty to prevent it. Unions are challenged by the conflicts of how to deal with disputes between bargaining unit members. The problems are so serious that they are one of the reasons arbitration was developed: to provide a speedy and final resolution to the dispute, so that productivity can resume and peace can be restored. These are cases that draw upon an arbitrator's ability to resolve issues of credibility and to fashion appropriate remedies in very delicate situations.

Workplace conflict is not new and has inspired some of the greatest moments in literature and opera. In fact, some scenes read like transcripts of hearings. An iconic illustration of the value and importance of a neutral dispute-resolution mechanism can be seen in one of the most beloved operas of all—Georges Bizet's *Carmen*. Premiered in 1875, the opera tells the story of Carmen, a freedom-loving beauty, trapped by poverty into working in a

---

\*Member, National Academy of Arbitrators, Toronto, Ontario, Canada.

cigarette factory. The opera begins outside the factory, just as the workers are having their cigarette break. Carmen, bored with her work, notices a young corporal, Don José, in the town square and seductively throws him a rose. He pretends not to notice her. But after she returns to work, he sings a lovely solo reflecting on her charms. Then his chaste sweetheart, Micaëla, appears, bearing a note from his mother, urging him to marry her. He promptly promises Micaëla his eternal love and fidelity.

This promise is the cue for the workplace dispute to erupt. Carmen and another woman are seen fighting. The co-workers take sides in what becomes a brawl. Carmen injures her co-worker. As we often see in arbitrations, the victor in the fight is the one who is disciplined. Don José is ordered to take Carmen away to prison. She tempts him with the notion of becoming her next lover, so he agrees to a rendezvous and lets Carmen escape. He, in turn, is imprisoned and disgraced by his misconduct.

This begins Don José's descent into more and more problems. On his release from prison, Don José becomes an outlaw. Carmen soon tires of him, his mother dies, Carmen leaves him for a handsome bullfighter, and he ends up killing her!

How different the story might have been if the workplace dispute between Carmen and her co-worker had gone to arbitration! The dispute in the cigarette factory would have been heard and resolved without anyone having to go to jail—Carmen or Don José. It is easy to imagine a rewrite of this opera, Hollywood style, with an arbitrator (either a mezzo-soprano or a bass) singing the role of the wise intervener to set things right. This would result in a "happy ending" with a quick and fair hearing, an appropriate disposition of the case, with Don José marrying the sweet Micaëla, and with Carmen marrying her handsome and more interesting bullfighter.

Nevertheless, Bizet's *Carmen* remains as a great dramatic opera. It is fascinating to look back at the scene of this initial workplace dispute. The libretto reads much like the transcript of many hearings. The scene raises issues of credibility, with witnesses providing conflicting perspectives about what happened. The adjudicator has to determine who hit whom first, who is credible, and who is reliable. It also raises the typical questions about what will be the appropriate remedy: Can these people work together again; was there provocation; should we consider deterrence, progressive discipline, and/or rehabilitation? All this can be seen from the

following extract from the libretto, where we pick up the scene at the point that Don José pledges that he will marry Micaëla:

DON JOSÉ

(reading the letter)

Il n'y en a pas de plus sage,  
ni de plus gentille ...

There is no one any smarter,  
nor any kinder ...

Il n'y en a pas surtout qui  
t'aime  
davantage ... et si tu voulais ...

There is none, above all,  
whom I love  
more ... and if you wanted  
to ...

Oui, ma mère ... j'épouserai  
Micaëla,  
et quant à cette  
bohémienne ...

Yes, mother ... I will marry,  
Micaëla,  
and as for that gypsy ...

(Screams and racket inside the factory)

ZUNIGA

Que se passe-t-il donc là-bas?

What's happening then over  
there?

FIRST GROUP OF WOMEN

Au secours! N'entendez-vous  
pas?

Help! Help! Don't you hear?

SECOND GROUP OF WOMEN

Au secours, messieurs les  
soldats!

Help, soldiers, sirs!

FIRST GROUP

C'est la Carmencita!

It's Carmencita!

SECOND GROUP

Non, non, ce n'est pas elle!

No, no! It isn't she!

FIRST GROUP

C'est elle!

It is she!

SECOND GROUP

Pas du tout!

Not at all!

## FIRST GROUP

Si fait! Si fait! C'est elle!  
Elle a porté les premiers  
coups!

Yes it is! Yes it is! It is she!  
She delivered the first blows!

## ALL THE WOMEN (surrounding Zuniga)

Ne les écoutez pas!  
Monsieur! Écoutez-nous!  
Écoutez-nous!

Don't listen to them!  
Sir! Listen to us! Listen to us!

## SECOND GROUP

La Manuelita disait, et répé-  
tait à voix haute  
Qu'elle achèterait sans faute  
Un âne qui lui plaisait.

Manuelita said and repeated  
in a loud voice  
That she would buy, make no  
mistake,  
A donkey that she liked.

## FIRST GROUP

Alors la Carmencita, railleuse  
à son ordinaire,  
dit: "Un âne, pour quoi faire?  
Un balai te suffira."

Then, Carmencita, scoffing  
in her usual way,  
says, "A donkey? To do what?  
A broom will suffice for you."

## SECOND GROUP

Manuelita riposta et dit à sa  
camarade:  
"Pour certaine promenade  
mon âne te servira!"

Manuelita retorted and said  
to her comrade:  
"For a certain ride my don-  
key will serve you!"

## FIRST GROUP

"Et ce jour-là, tu pourras à  
bon droit faire la fière;  
deux laquais suivront derrière  
t'émouchant à tour de bras!"

"And that day, you will have  
good reason to put on airs;  
two lackeys will follow  
behind you  
swatting flies with all their  
might!"

## ALL THE WOMEN

Là-dessus, toutes les deux

At that point, the two of  
them

se sont prises aux cheveux!      pulled each other by the  
hair!

## ZUNIGA

Au diable tout ce bavardage!      To the devil with all this  
chattering!

Prenez, José, deux hommes      Take, Jose, two men with you  
avec vous  
et voyez là-dedans qui cause      and see inside what is caus-  
ce tapage.      ing this uproar.

## FIRST GROUP

C'est la Carmencita!      It's Carmencita!

## SECOND GROUP

Non, non, ce n'est pas elle!      No, no, it isn't she!

## FIRST GROUP

Si fait, si fait, c'est elle!      Yes it is! yes it is! It's she!

## SECOND GROUP

Pas du tout!      Not at all!

## FIRST GROUP

Elle a porté les premiers      She delivered the first blows!  
coups!

## ZUNIGA

Holà! Éloignez-moi toutes ces      Holà! Take away from me all  
femmes-là!      those women!

## ALL THE WOMEN

Monsieur! Ne les écoutez pas!      Sir! Don't listen to them! Sir!  
Monsieur!

Écoutez-nous!      Listen to us!

## FIRST GROUP

C'est la Carmencita qui porta      It's Carmencita who delivered  
les premiers coups!      the first blows!

## SECOND GROUP

C'est la Manuelita qui porta      It's Manuelita who delivered  
les premiers coups!      the first blows!

## FIRST GROUP

La Carmencita! La  
Carmencita!

Carmencita! Carmencita!

## SECOND GROUP

La Manuelita! La Manuelita!

Manuelita! Manuelita!

(First and second groups singing different words at the same time...)

## FIRST GROUP

Si! Si! Si! Ella a porté les pre-  
miers coups!  
C'est la Carmencita!  
Carmencita!

Yes, yes, yes! She delivered  
the first blows!  
It's Carmencita! Carmencita!

## SECOND GROUP

Non, non, non! Elle a porté  
les premiers coups!

No, no, no! She landed the  
first blows!

C'est la Manuelita! Manuelita!

It's Manuelita! Manuelita!

## ZUNIGA

Eh bien! Qu'avez-vous vu?

Well, then, what did you see?

## JOSÉ

J'ai vu une femme au sol.

I saw a woman on the  
ground.

Et en face d'elle j'ai vu...

And opposite her, I saw...

## ZUNIGA

Eh bien?

Well?

## JOSÉ

...j'ai vu mademoiselle.

... I saw the young lady.

## ZUNIGA

Et que disait cette demoiselle?

And what was this young lady  
saying?

## JOSÉ

Rien.

Nothing.

ZUNIGA (to Carmen)

Eh bien? Parlez...j'attend...

Well? Speak...I am waiting...

ZUNIGA

Ah, ah on le prend sur ce ton-là...

Ah, ah, one can grasp it by that tone...

JOSÉ

Une chose est certaine,  
il y a eu des coups de couteau  
  
et c'est elle qui les a donnés.

One thing is certain,  
there have been some blows  
of a knife  
and it is she who gave them.

ZUNIGA

Trouvez-moi une corde!  
Attachez ces deux jolies  
mains.  
C'est dommage...  
Les jolies mains d'une si jolie  
fille...  
  
(to José)

Find me a cord!  
Tie up these two pretty  
hands.  
It's too bad...  
The pretty hands of such a  
pretty girl...

Je vais vous apporter l'ordre.  
C'est vous qui la conduirez...

I am going to get the order.  
It's you who will accompany  
her...

Elle pourra y chanter  
ses chansons de bohémienne.  
(Zuniga exits)

She will be able to sing there  
her gypsy songs.

CARMEN

Ah! Cette corde!

Ah! This cord!

JOSÉ

Si elle vous blesse, je puis la  
desserer.

If it's hurting you, I can  
loosen it.

CARMEN

Laisse-moi m'échapper.

Let me escape.

JOSÉ

J'ai des ordres.

I have orders.

CARMEN

Toi, tu n'es pas d'ici.

You are not from here.

Moi aussi, je suis des provinces.

Me, too. I am from the provinces.

JOSÉ

Tout vous dit bohémienne.

Everyone says you are a gypsy.

CARMEN

Tu crois. Tu n'en feras pas moins

You think so. You will do no less

ce que je te demande.

than what I ask of you.

Parce que tu m'aimes...

Because you love me...

JOSÉ

Moi?

Me?

CARMEN

Eh! Oui, et cette fleur... tu l'as gardée.

Eh! Yes, and this flower... you kept it.

Tu peux la jeter.

You can throw it away.

Le charme a opéré.

The charm worked.

JOSÉ

Ne me parle plus!

Don't talk to me anymore!

CARMEN

Je ne parlerai plus.

I won't talk anymore.

Thus ends the workplace dispute, with no proper resolution, yet it sets up the context for a glorious opera that follows.

This is not the only example of workplace disputes in opera. Wagner's mighty *Ring Cycle*, chronicling the rise and fall of the gods, begins with a labor dispute about wages between the main god, Wotan, and the giants who built his kingdom of Valhalla. When Wotan fails to provide adequate compensation, the Giants, acting as a formidable construction union, demand payment. When none is forthcoming, they take job action by abducting Wotan's daughter. They demand Wotan's ring in exchange for



her. This ring is the Ring of the Nibelung. It has been crafted out of gold that contains the power to give its owner mastery over all. Woton, like most people who hold power, is very reluctant to cede it to anyone else, especially a trade union of giants. What we see in this scene is a classic struggle between an employer and workers over power. However, Woton's wife, valuing family over power, intervenes and persuades her husband to hand over the Ring in order to secure their daughter's return. He capitulates to his wife and the giants, handing over the Ring. However, with its power, the Ring also carries a curse. As soon as the giants gain possession of the Ring, this immediately brings about their own destruction and the destruction of whoever else gains possession of the Ring. The *Ring Cycle* then evolves into hours of operatic conflict, beginning with one giant killing his brother (reminiscent of internal union conflict) and ending 17 hours later with the destruction of Valhalla. The *Ring Cycle* is a dramatic and complex illustration of a labor dispute "gone wrong."

Another operatic example of violence in the workplace is Shostakovich's *Lady Macbeth of Mtsensk*. This is a brutal and disturbing opera about power and sexuality. The soprano is a strong, young woman, bored in her convenient marriage to a shallow factory owner. In the first act, she walks onto the factory floor and witnesses a vicious rape scene, where the factory workers harass, disrobe, and then rape an older female co-worker. The scene is explicit, the music evocative, and the lyrics shocking. The horror is stopped when Lady Macbeth intervenes, denounces the workers for their cruelty, and reminds them of the value of women in society.

### Remedies

The issue of remedy is always a difficult aspect of violence in the workplace for the parties and arbitrators. Many workplaces adopt "zero tolerance" and/or specific penalties to remove arbitral discretion and to deter violence. We see this most often in workplaces where adherence to rules and policies is considered to be critical to safety and productivity. When the rules are broken, there is often little left for an arbitrator to decide, other than whether the alleged misconduct occurred at all. However, whenever there are clear rules, there are always unforeseen circumstances. There can easily be times when the terms of the collective bargaining agreement, the details of the specific penalties, or the acceptance of

“zero tolerance” may no longer seem to fit the circumstances. This raises moral dilemmas for all concerned. This is illustrated in Herman Melville’s tragic novella, *Billy Budd*. It tells the story of a young and good man, who is conscripted into the British Navy, subjected to harrowing abuse, and who then accidentally kills his abuser. He is tried by the Court Martial tribunal, the naval equivalent of an arbitration hearing. The members of the tribunal struggle with their consciences as they try to reconcile the rule that demands death for what Budd did, with their recognition that he bears no moral guilt for his actions.

This is dramatically portrayed in the 1962 Peter Ustinov and Terrance Stamp movie, *Billy Budd*. We also can see it from the following extract from the novella, when the tribunal is finished hearing the evidence and now must come to grips with their obligation to impose the death penalty in a situation that they know will not result in “justice” for Billy Budd. We also see the ship’s Captain articulating the importance of adherence to the codes that impose limits on the tribunal’s jurisdiction:

As the twain disappeared from view, the three officers as partially liberated from some inward constraint associated with Billy’s mere presence, simultaneously stirred in their seats. They exchanged looks of troubled indecision, yet feeling that decide they must and without long delay. As for Captain Vere, he for the time stood unconsciously with his back toward them, apparently in one of his absent fits, gazing out from a sashed port-hole to windward upon the monotonous blank of the twilight sea. But the court’s silence continuing, broken only at moments by brief consultations in low earnest tones, this seemed to arm him and energize him. Turning, he to-and-fro paced the cabin athwart; in the returning ascent to windward, climbing the slant deck in the ship’s lee roll; without knowing it symbolizing thus in his action a mind resolute to surmount difficulties even if against primitive instincts strong as the wind and the sea. Presently he came to a stand before the three. After scanning their faces he stood less as mustering his thoughts for expression, than as one only deliberating how best to put them to well-meaning men not intellectually mature, men with whom it was necessary to demonstrate certain principles that were axioms to himself. Similar impatience as to talking is perhaps one reason that deters some minds from addressing any popular assemblies.

When speak he did, something both in the substance of what he said and his manner of saying it, showed the influence of unshared studies modifying and tempering the practical training of an active career. This, along with his phraseology, now and then was suggestive of the grounds whereon rested that imputation of a certain pedantry socially alleged against him by certain naval men of wholly practical cast, captains who nevertheless would frankly concede that His Majes-

ty's Navy mustered no more efficient officer of their grade than Starry Vere.

What he said was to this effect: "Hitherto I have been but the witness, little more; and I should hardly think now to take another tone, that of your coadjutor, for the time, did I not perceive in you,—at the crisis too—a troubled hesitancy, proceeding, I doubt not, from the clash of military duty with moral scruple—scruple vitalized by compassion. For the compassion, how can I otherwise than share it? But, mindful of paramount obligations I strive against scruples that may tend to enervate decision. Not, gentlemen, that I hide from myself that the case is an exceptional one. Speculatively regarded, it well might be referred to a jury of casuists. But for us here acting not as casuists or moralists, it is a case practical, and under martial law practically to be dealt with.

"But your scruples: Do they move as in a dusk? Challenge them. Make them advance and declare themselves. Come now: Do they import something like this? If, mindless of palliating circumstances, we are bound to regard the death of the Master-at-arms as the prisoner's deed, then does that deed constitute a capital crime whereof the penalty is a mortal one? But in natural justice is nothing but the prisoner's overt act to be considered? How can we adjudge to summary and shameful death a fellow-creature innocent before God, and whom we feel to be so?—Does that state it aright? You sign sad assent. Well, I too feel that, the full force of that. It is Nature. But do these buttons that we wear attest that our allegiance is to Nature? No, to the King. Though the ocean, which is inviolate Nature primeval, tho' this be the element where we move and have our being as sailors, yet as the King's officers lies our duty in a sphere correspondingly natural? So little is that true, that in receiving our commissions we in the most important regards ceased to be natural free-agents. When war is declared are we the commissioned fighters previously consulted? We fight at command. If our judgments approve the war, that is but coincidence. So in other particulars. So now. For suppose condemnation to follow these present proceedings. Would it be so much we ourselves that would condemn as it would be martial law operating through us? For that law and the rigour of it, we are not responsible. Our avowed responsibility is in this: That however pitilessly that law may operate, we nevertheless adhere to it and administer it.

"But the exceptional in the matter moves the hearts within you. Even so too is mine moved. But let not warm hearts betray heads that should be cool. Ashore in a criminal case will an upright judge allow himself off the bench to be waylaid by some tender kinswoman of the accused seeking to touch him with her tearful plea? Well the heart here denotes the feminine in man is as that piteous woman, and hard tho' it be, she must here be ruled out."

He paused, earnestly studying them for a moment; then resumed.

“But something in your aspect seems to urge that it is not solely the heart that moves in you, but also the conscience, the private conscience. But tell me whether or not, occupying the position we do, private conscience should not yield to that imperial one formulated in the code under which alone we officially proceed?”

Here the three men moved in their seats, less convinced than agitated by the course of an argument troubling but the more the spontaneous conflict within.

Perceiving which, the speaker paused for a moment; then abruptly changing his tone, went on.

“To steady us a bit, let us recur to the facts.—In war-time at sea a man-of-war’s-man strikes his superior in grade, and the blow kills. Apart from its effect, the blow itself is, according to the Articles of War, a capital crime. Furthermore—”

“Ay, Sir,” emotionally broke in the officer of marines, “in one sense it was. But surely Budd purposed neither mutiny nor homicide.”

“Surely not, my good man. And before a court less arbitrary and more merciful than a martial one, that plea would largely extenuate. At the Last Assizes it shall acquit. But how here? We proceed under the law of the Mutiny Act. In feature no child can resemble his father more than that Act resembles in spirit the thing from which it derives—War. In His Majesty’s service—in this ship indeed—there are Englishmen forced to fight for the King against their will. Against their conscience, for aught we know. Tho’ as their fellow-creatures some of us may appreciate their position, yet as navy officers, what reck we of it? Still less recks the enemy. Our impressed men he would fain cut down in the same swath with our volunteers. As regards the enemy’s naval conscripts, some of whom may even share our own abhorrence of the regicidal French Directory, it is the same on our side. War looks but to the frontage, the appearance. And the Mutiny Act, War’s child, takes after the father. Budd’s intent or non-intent is nothing to the purpose.

“But while, put to it by these anxieties in you which I can not but respect, I only repeat myself—while thus strangely we prolong proceedings that should be summary—the enemy may be sighted and an engagement result. We must do; and one of two things must we do—condemn or let go.”

“Can we not convict and yet mitigate the penalty?” asked the junior Lieutenant here speaking, and falteringly, for the first.

“Lieutenant, were that clearly lawful for us under the circumstances, consider the consequences of such clemency. The people” (meaning the ship’s company) “have native-sense; most of them are familiar with our naval usage and tradition; and how would they take it? Even could you explain to them—which our official position forbids—they, long moulded by arbitrary discipline, have not that kind

of intelligent responsiveness that might qualify them to comprehend and discriminate. No, to the people the Foretopman's deed, however it be worded in the announcement, will be plain homicide committed in a flagrant act of mutiny. What penalty for that should follow, they know. But it does not follow. Why? They will ruminare. You know what sailors are. Will they not revert to the recent outbreak at the Nore? Ay. They know the well-founded alarm—the panic it struck throughout England. Your clement sentence they would account pusillanimous. They would think that we flinch, that we are afraid of them—afraid of practising a lawful rigour singularly demanded at this juncture lest it should provoke new troubles. What shame to us such a conjecture on their part, and how deadly to discipline. You see then, whither, prompted by duty and the law, I steadfastly drive. But I beseech you, my friends, do not take me amiss. I feel as you do for this unfortunate boy. But did he know our hearts, I take him to be of that generous nature that he would feel even for us on whom in this military necessity so heavy a compulsion is laid.”

With that, crossing the deck he resumed his place by the sashed port-hole, tacitly leaving the three to come to a decision. On the cabin's opposite side the troubled court sat silent. Loyal lieges, plain and practical, though at bottom they dissented from some points Captain Vere had put to them, they were without the faculty, hardly had the inclination, to gainsay one whom they felt to be an earnest man, one too not less their superior in mind than in naval rank. But it is not improbable that even such of his words as were not without influence over them, less came home to them than his closing appeal to their instinct as sea-officers in the forethought he threw out as to the practical consequences to discipline, considering the unconfirmed tone of the fleet at the time, should a man-of-war's-man's violent killing at sea of a superior in grade be allowed to pass for aught else than a capital crime demanding prompt infliction of the penalty.

...

Says a writer whom few know, “Forty years after a battle it is easy for a non-combatant to reason about how it ought to have been fought. It is another thing personally and under fire to direct the fighting while involved in the obscuring smoke of it. Much so with respect to other emergencies involving considerations both practical and moral, and when it is imperative promptly to act. The greater the fog the more it imperils the steamer, and speed is put on tho' at the hazard of running somebody down. Little ween the snug card-players in the cabin of the responsibilities of the sleepless man on the bridge.”

In brief, Billy Budd was formally convicted and sentenced to be hung at the yard-arm in the early morning watch, it being now night.

This passage shows the tension that is created when compassion, special circumstances, and emotions create a desire to shy away from the imposition of a specific penalty. It also shows that

those penalties have often been designed to deal with situations that have far more impact than the individual case that is under consideration.

The modern workplace is, thankfully, a far different and far better place than the frigate *The Avenger*, where Billy Budd was hanged. But the considerations that plagued the Court Martial tribunal and modern arbitrators are similar. What is the consequence of failure to adhere to rules that were designed to protect the workplace and the work force? How can discipline be maintained if exceptions are made to clear rules? Is there always compatibility with the law and with justice? These themes are so important and so universal that the story of Billy Budd haunts ones' conscience. It also has inspired Benjamin Britten to write one of his best operas, also called *Billy Budd*.

### **Sexual Harassment and the Abuse of Management Power**

Conflict in the workplace often arises because of sexual tension, abuse of power, jealousy, and the interaction of all these human emotions. One poignant example of this can be found in the great novel by Victor Hugo, *Les Misérables*. It is set at the time of the French Revolution and written to expose the injustices of repressive laws as well as the inhumanity of the arbitrary imposition of law. Workplace justice plays a pivotal role in the plot when the hardworking and fragile Fantine is unjustly discharged as the result of petty gossip about her being a single mother. The scene where this occurs shows the plight of the factory workers and the damage that jealousy, sexual harassment, and abuse of power can cause. This powerful novel was translated into an equally powerful musical theatre version of the same name. The following scene captures the tension, the injustice, and the disastrous results of injustice. The musical version can be seen via the Internet at <http://www.youtube.com/watch?v=CxZoUARPsFc>. The extract from the novel is as follows:

When Fantine saw that she was making her living, she felt joyful for a moment. To live honestly by her own labor, what mercy from heaven! The taste for work had really returned to her. She bought a looking-glass, took pleasure in surveying in it her youth, her beautiful hair, her fine teeth; she forgot many things; she thought only of Cosette and of the possible future, and was almost happy. She hired a little room and furnished on credit on the strength of her future work—a lingering trace of her improvident ways. As she was not able

to say that she was married she took good care, as we have seen, not to mention her little girl.

At first, as the reader has seen, she paid the Thenardiens promptly. As she only knew how to sign her name, she was obliged to write through a public letter-writer.

She wrote often, and this was noticed. It began to be said in an undertone, in the women's workroom, that Fantine "wrote letters" and that "she had ways about her."

There is no one for spying on people's actions like those who are not concerned in them. Why does that gentleman never come except at nightfall? Why does Mr. So-and-So never hang his key on its nail on Tuesday? Why does he always take the narrow streets? Why does Madame always descend from her hackney-coach before reaching her house? Why does she send out to purchase six sheets of note paper, when she has a "whole stationer's shop full of it?" etc. There exist beings who, for the sake of obtaining the key to these enigmas, which are, moreover, of no consequence whatever to them, spend more money, waste more time, take more trouble, than would be required for ten good actions, and that gratuitously, for their own pleasure, without receiving any other payment for their curiosity than curiosity. They will follow up such and such a man or woman for whole days; they will do sentry duty for hours at a time on the corners of the streets, under alley-way doors at night, in cold and rain; they will bribe errand-porters, they will make the drivers of hackney-coaches and lackeys tipsy, buy a waiting-maid, suborn a porter. Why? For no reason. A pure passion for seeing, knowing, and penetrating into things. A pure itch for talking. And often these secrets once known, these mysteries made public, these enigmas illuminated by the light of day, bring on catastrophes, duels, failures, the ruin of families, and broken lives, to the great joy of those who have "found out everything," without any interest in the matter, and by pure instinct. A sad thing.

Certain persons are malicious solely through a necessity for talking. Their conversation, the chat of the drawing-room, gossip of the ante-room, is like those chimneys which consume wood rapidly; they need a great amount of combustibles; and their combustibles are furnished by their neighbors.

So Fantine was watched.

In addition, many a one was jealous of her golden hair and of her white teeth.

It was remarked that in the workroom she often turned aside, in the midst of the rest, to wipe away a tear. These were the moments when she was thinking of her child; perhaps, also, of the man whom she had loved.

Breaking the gloomy bonds of the past is a mournful task.



It was observed that she wrote twice a month at least, and that she paid the carriage on the letter. They managed to obtain the address: Monsieur, Monsieur Thenardier, inn-keeper at Montfermeil. The public writer, a good old man who could not fill his stomach with red wine without emptying his pocket of secrets, was made to talk in the wine-shop. In short, it was discovered that Fantine had a child. "She must be a pretty sort of a woman." An old gossip was found, who made the trip to Montfermeil, talked to the Thenardiers, and said on her return: "For my five and thirty francs I have freed my mind. I have seen the child."

The gossip who did this thing was a gorgon named Madame Victurnien, the guardian and door-keeper of everyone's virtue. Madame Victurnien was fifty-six, and re-enforced the mask of ugliness with the mask of age. A quavering voice, a whimsical mind. This old dame had once been young—astonishing fact! In her youth, in '93, she had married a monk who had fled from his cloister in a red cap, and passed from the Bernardines to the Jacobins. She was dry, rough, peevish, sharp, captious, almost venomous; all this in memory of her monk, whose widow she was, and who had ruled over her masterfully and bent her to his will. She was a nettle in which the rustle of the cassock was visible. At the Restoration she had turned bigot, and that with so much energy that the priests had forgiven her her monk. She had a small property, which she bequeathed with much ostentation to a religious community. She was in high favor at the Episcopal palace of Arras. So this Madame Victurnien went to Montfermeil, and returned with the remark, "I have seen the child."

All this took time. Fantine had been at the factory for more than a year, when, one morning, the superintendent of the workroom handed her fifty francs from the mayor, told her that she was no longer employed in the shop, and requested her, in the mayor's name, to leave the neighborhood.

This was the very month when the Thenardiers, after having demanded twelve francs instead of six, had just exacted fifteen francs instead of twelve.

Fantine was overwhelmed. She could not leave the neighborhood; she was in debt for her rent and furniture. Fifty francs was not sufficient to cancel this debt. She stammered a few supplicating words. The superintendent ordered her to leave the shop on the instant. Besides, Fantine was only a moderately good workwoman. Overcome with shame, even more than with despair, she quitted the shop, and returned to her room. So her fault was now known to every one.

She no longer felt strong enough to say a word. She was advised to see the mayor; she did not dare. The mayor had given her fifty francs because he was good, and had dismissed her because he was just. She bowed before the decision.



The mayor and factory owner, Jean Valjean, was himself a victim of injustice, who has risen above this and tried to resolve a conflict from the shop floor by asking the parties to work out their differences among themselves. Unfortunately this fails miserably. Fantine ends up destitute and mortally ill. Her child's life is at serious risk. Jean Valjean discovers his error and the rest of the plot involves his personal and professional quest for justice and redemption. The scene shows that although it is important to resolve workplace disputes, it is even more important that the resolution be fair and just.

### **Insubordination**

Literature grows from legend. Legends reflect and illustrate life. There is a classic North American First Nations legend that deals with problems created by insubordination, the importance of working within job classifications, and the way authority can creatively harness the recalcitrant worker:

Nanabush called together all the birds and animals he could find to give them their duties. He told the beaver to build dams; bees to make honey; woodpeckers to play forest music; and so it went until all the animals had been given their duties—all except the Turtle.

When Nanabush called all the animals together, Turtle was swimming far below the lake surface. Finally, when Turtle heard what his duties would be, he sank below the surface in a sulk. As the days passed, Turtle grew angrier. One day, upon seeing a passing canoe, he shot to the surface, upset the canoe and ate the surprised Ojibway. The Ojibway was very tasty and Turtle continued attacking canoes for many days.

Nanabush, upon hearing of the strange events, suspected Turtle was angry with him, and decided to stop the strange behavior by making Turtle do something useful. Nanabush took his bow and arrow, and seeing Turtle, fired at him. Turtle dove into the water and was narrowly missed. When diving Turtle flung his tail up in the air shooting a great spray of water high into the sky. Nanabush, using this magic, turned the spray of water into thousands of little stars, thereby creating the Milky Way.

—From Cree and Ojibway Legend

This passage provides a wonderful inspiration for managers for transforming a problem employee into a creative asset. Unfortunately, arbitrators do not have the power of magic as one of their remedial tools.

### Interest Disputes

One of the best things about being an arbitrator is that our work is interesting; every hearing either has a new issue or a new twist to an old issue. However, it is undeniable that there is great potential for boredom in the traditionally presented interest disputes. They often involve the reading of complex briefs that deal with calculations and comparables that purport to support the relative “justice” of awarding the parties’ respective pitches for higher or lower compensation or benefits. However, if the advocates could turn to the example of song, then they could get their points across in a much more compelling way. This was done in the delightful penultimate scene from *The Pajama Game*, where the striking factory workers’ president sings the justification for a seven and a half cent wage increase:

(Prez)

I figured it out!

I figured it out!

With a pencil and a pad I figured it out!

Seven and a half cents doesn’t buy a hell of a lot,

Seven and a half cents doesn’t mean a thing!

But give it to me every hour,

Forty hours every week,

And that’s enough for me to be living like a king!

I figured it out

(Chorus)

He figured it out!

(Prez)

I figured it out!

(Chorus)

He figured it out!

(Prez)

With a pencil and a pad I figured it out!

Only five years from today!

Only five years from today!

I can see it all before me!

Only five years from today!

Five years! Let’s see... that’s 260 weeks, times forty hours every week, and roughly two and a quarter hours overtime... at time

and a half for overtime! Comes to exactly...\$852.74!  
 That's enough for me to get  
 An automatic washing machine,  
 A year's supply of gasoline,  
 Carpeting for the living room,  
 A vacuum instead of a blasted broom,  
 Not to mention a forty inch television set!

(Chorus)  
 So! Although!  
 Seven and a half cents doesn't buy a hell of a lot,  
 Seven and a half cents doesn't mean a thing!  
 But give it to me every hour,  
 Forty hours every week,  
 And that's enough for me to be living like a king!

(Babe)  
 I figured it out!

(Chorus)  
 She figured it out!

(Babe)  
 I figured it out!

(Chorus)  
 She figured it out!

(Babe)  
 Only ten years from today,  
 Only ten years from today,  
 I can see it, clear as daylight,  
 Only ten years from today!  
 Ten years! Let's see...that's 520 weeks, times forty hours every  
 week, and roughly two and a quarter hours overtime...at time  
 and a half for overtime! Comes to exactly...\$1705.48!  
 That's enough for me to buy  
 A trip to France across the seas,  
 A motorboat and water skis,  
 Maybe even a foreign car,  
 A charge account at the corner bar,  
 Not to mention a Scrabble board with letters made of gold!

(Chorus)  
 So! Although!

Seven and a half cents doesn't buy a hell of a lot,  
 Seven and a half cents doesn't mean a thing!  
 But give it to me every hour,  
 Forty hours every week,  
 And that's enough for me to be living like a king!  
 (Babe and Prez)  
 We figured it out!

(Chorus)  
 They figured it out!  
 They figured it out!  
 (Babe and Prez)  
 We figured it out!

(All)  
 With a pencil and a pad they figured it out!

(Babe)  
 Only twenty years from today!

(Prez)  
 Only twenty years from today!

(Babe)  
 I can see it like a vision!

(All)  
 Only twenty years from today!

(Prez and Babe)  
 Twenty years! Let's see...that's 1040 weeks, times forty hours  
 every week, and roughly two and a quarter hours overtime...at  
 time and a half for overtime! Comes to exactly...\$3411.96!  
 Wow!

(Prez)  
 That's enough for me to be  
 A sultan in a taj mahal  
 In every room a different doll!

(Babe)  
 I'll have myself a buying spree,  
 I'll buy a pajama factory,  
 Then I could end up having old man Hasler work for me!

(Chorus)  
 So! Although!

Seven and a half cents doesn't buy a hell of a lot,  
Seven and a half cents doesn't mean a thing!  
But give it to me every hour,  
Forty hours every week,  
And that's enough for me to be living like a king!

This song leads to the end of the strike with the tenor acting as the mediator, paving the way to a solution and winning the soprano in the end. This is not the typical ending of an interest dispute or a strike. However, it is a tuneful example of how an innovative presentation of a wage demand can lead to labor peace and a "happy ending."

### How (Not) to Conduct a Hearing

Finally, it is always useful to learn from example. It is sometimes also useful to learn from negative example. What follows is an extract from the trial of the knave of hearts from Lewis Carroll's *Alice's Adventures in Wonderland*. This is a demonstration of how *not* to conduct a hearing. The trial is a portrayal of such injustice that it ultimately wakes up Alice and she returns to reality:

"Consider your verdict," the King said to the jury.

"Not yet, not yet!" the Rabbit hastily interrupted. "There's a great deal to come before that!"

"Call the first witness," said the King; and the White Rabbit blew three blasts on the trumpet, and called out, "First witness!"

The first witness was the Hatter. He came in with a teacup in one hand and a piece of bread-and-butter in the other. "I beg pardon, your Majesty," he began, "for bringing these in, but I hadn't quite finished my tea when I was sent for."

"You ought to have finished," said the King. "When did you begin?"

...

Here the Queen put on her spectacles, and began staring at the Hatter, who turned pale and fidgeted.

"Give your evidence," said the King, "and don't be nervous, or I'll have you executed on the spot."

This did not seem to encourage the witness at all: He kept shifting from one foot to the other, looking uneasily at the Queen, and in his confusion he bit a large piece out of his teacup instead of the bread-and-butter.

....

“Give your evidence,” the King repeated angrily, “or I’ll have you executed, whether you’re nervous or not.”

....

“But what did the Dormouse say?” one of the jury asked.

“That I can’t remember,” said the Hatter.

“You *MUST* remember,” remarked the King, “or I’ll have you executed.”

The miserable Hatter dropped his teacup and bread-and-butter, and went down on one knee. “I’m a poor man, your Majesty,” he began.

“You’re a very poor speaker. . . . If that is all you know about it, you may stand down,” continued the King.

“I can’t go any lower,” said the Hatter. “I’m on the floor as it is.”

“Then you may *sit* down.”

....

“What do you know about this business?” the King said to Alice.

“Nothing,” said Alice.

“Nothing *WHATEVER?*” persisted the King.

“Nothing whatever,” said Alice.

“That’s very important,” the King said, turning to the jury. They were just beginning to write this down on their slates, when the White Rabbit interrupted: “*UN*important, your Majesty means, of course,” he said in a very respectful tone, but frowning and making faces at him as he spoke.

“*UN*important, of course, I meant,” the King hastily said, and went on to himself in an undertone, “important—unimportant—unimportant—important—” as if he were trying which word sounded best.

Some of the jury wrote it down “important,” and some “unimportant”. Alice could see this, as she was near enough to look over their slates; “but it doesn’t matter a bit,” she thought to herself.

....

“Let the jury consider their verdict,” the King said, for about the twentieth time that day.

“No, no!” said the Queen. “Sentence first—verdict afterwards.”

“Stuff and nonsense!” said Alice loudly. “The idea of having the sentence first!”

“Hold your tongue!” said the Queen, turning purple.

“I won’t!” said Alice.

“Off with her head!” the Queen shouted at the top of her voice. Nobody moved.

“Who cares for you?” said Alice (she had grown to her full size by this time). “You’re nothing but a pack of cards!”

At this the whole pack rose up into the air, and came flying down upon her: She gave a little scream, half of fright and half of anger, and tried to beat them off, and found herself lying on the bank, with her head in the lap of her sister, who was gently brushing away some dead leaves that had fluttered down from the trees upon her face.

## Conclusion

This concludes just a sampling of the opera, literature, and art that illustrate, celebrate, and explore issues of workplace justice and the role of the decisionmaker. As in life and in art, arbitrators deal with conflict and their awards are meant to capture the essence of the issues and bring enlightenment to others. Arbitrators communicate through the written word. Perhaps our awards may not achieve the status of great literature; but we can find the themes of many arbitral disputes reflected in great opera, literature, and art.

## II. A GLOSSARY OF LITERARY WIT AND WISDOM PARTICULARLY FOR ARBITRATORS\*

### Arbitrators

One should look long and carefully at oneself before one considers judging others. *Molière, The Misanthrope*

---

\*Author’s Note: Many, if not most, of these quotes refer to only the masculine gender. This is only the inevitable result of the historical fact that the “wit and wisdom” of men have been recorded more carefully than the wit and wisdom of women. Further, the citations from European and Christian-Judeo culture are only a reflection upon the limits of my research abilities. The wit and wisdom of other cultures will be found and included as time progresses.

The true way to be deceived is to think oneself more clever than others. *La Rochefoucauld*

Few of us have enough wisdom for justice.  
*Rex Stout, Too Many Cooks*

The way to do well is to do well.  
*Donald Rumsfeld*

Do you know what makes a man a genius? The ability to see the obvious. *Charles McCarry, The Last Supper*

Success is getting what you want. Happiness is wanting what you get. *Dale Carnegie*

I've always tried to go a step past where people expected me to end up. *Beverly Sills*

And what's more, being a miner, as soon as you're too old and tired and ill and sick and stupid to do the job properly, you have to go. Well the very opposite applies with the judges. *Peter Cook, "Beyond the Fringe—Sitting on the Bench"*

Oh, I get by with a little help from my friends.  
*Paul McCartney*

One does not tire from a profitable occupation.  
*Irish Proverb*

Learning comes through work.  
*Irish Proverb*

Good sense is as important as food.  
*Irish Proverb*

### Assessing Credibility

Out of thine own mouth will I judge thee.  
*St. Luke, Ch. 19, v.22*

Lord, Lord, how this world is given to lying!  
*Shakespeare, King Henry IV. Part 1, V,iv,148*

A fool sees not the same tree that a wise man sees.  
*William Blake*

The most damaging lies are told by those who believe they are true. *Dick Francis*



Provable lies are often better than the truth.

*Michael Underwood, Death in Camera, 1984*

A wonderful fact to reflect upon, that every human creature is constituted to be that profound secret and mystery to every other. *Charles Dickens, A Tale of Two Cities*

How often have I said to you that when you have eliminated the impossible, whatever remains, however improbable, must be the truth. *Arthur Conan Doyle*

We reveal more of ourselves in the lies we tell than we do when we try to tell the truth. *Dorothy Davis*

No man has a good enough memory to make a good liar.

*Abraham Lincoln*

The naked truth is always better than the best dressed lie.

*Ann Landers*

It is always the best policy to speak the truth, unless, of course, you are an exceptionally good liar. *Jerome K. Jerome*

If one tells the truth, one is sure, sooner or later, to be found out.

*Oscar Wilde*

A lie is an abomination unto the Lord and a very present help in time of trouble. *Adelai Stevenson*

He was not a direct liar but he would subtly convey untruths.

*Mark Twain*

Any fool can tell the truth, but it requires a man of some sense to know how to lie well. *Samuel Butler*

You can observe a lot by watching.

*Yogi Berra*

I think we're too apt to overlook the simple explanations, which are, after all, nearly always the true ones.

*Burton Stevenson, from The Holiday Case*

Always distrust appearances; believe precisely the contrary of what appears to be true, or even probable. *Emile Gaboriau*

The worst is so often true.

*Miss Marple, Agatha Christie*

When lies are no longer possible, then truth is the only resort.  
*Julian Symons*

I never know how much of what I say is true.  
*Bette Midler*

A truth that's told with bad intent  
Beats all the lies you can invent.  
*William Blake*

A good man who goes wrong is just a bad man who has been found  
out. *Bob Edwards, The Eye Opener, September 22, 1917*

Every story has three sides, yours, mine, and the facts.  
*René Fumoleau, missionary, As Long as This Land Shall Last: A History of Treaty 8 and Treaty 11, 1870–1939 (1973)*

I never let the facts get in the way of the truth.  
*Attributed to author Farley Mowat, from a CFRB Radio interview, December 14, 1975*

There is no true thing on earth. There is no constant, no dependable point, not even in the purest logic or the most obscure mysticism; least of all in the motives of men when they are moved to act violently. *John Le Carré*

Some people tell their stories in Court compellingly, clearly, and with the utmost conviction. They make their listeners feel the wrongs they have suffered, their fears, and well founded outrage at any possible injustice that might be done to them. Such “good witnesses” are often accomplished liars. Others stumble, hesitate, look fearfully round the Court as though seeking ways of escape and convince nobody, even though they may be, and sometimes are, telling nothing but the truth.

*John Mortimer, Rumpole Rests his Case, “Rumpole and the Asylum Seekers”*

No witness except God could tell the truth, the whole truth and nothing but the truth, and up to now he has not appeared in my court as a witness.

*S. Tupper Bigelow, Ontario Provincial Court Judge, quoted in The Toronto Star, December 23, 1977*

The eye shuns what it does not see.  
*Irish Proverb*

Trust not a spiteful man.  
*Irish Proverb*

It is afterwards that events are best understood.

*Irish Proverb*

### Conflict

I was angry with my friend;

I told my wrath, my wrath did end.

I was angry with my foe; I told it not, my wrath did grow.

*William Blake*

*Lawsuit*, *n.* a machine which you go into as a pig and come out of as a sausage.

*Ambrose Bierce, Devil's Dictionary*

A bad compromise beats a good lawsuit.

*Anonymous*

Quarrels would not last long if the fault were only on one side.

*La Rochefoucauld Moral Maxims, 1678*

Let him who will not take advice have conflict.

*Irish Proverb*

### Decision Making

It is our choices . . . that show what we truly are, far more than our abilities.

*J.K. Rowling, Harry Potter and the Chamber of Secrets*

It is a capital mistake to theorize before you have all the evidence.

It biases the judgment. *Arthur Conan Doyle*

Give no decision till both sides thou'st heard.

*Phocylides*

When you come to a fork in the road, take it.

*Yogi Berra*

When it is not necessary to make a decision, it is necessary not to make a decision. *Lord Falkland (1610–1643)*

And differing judgments serve to declare

That truth lies somewhere, if we know not where.

*William Cowper*

If in spite of evidence a mystery remains unsolved, then the truth has never been suspected, and neither side is right.

*Lillian de la Torre*

Facts are not judgments, and judgments are not facts.

*Dick Francis*

If one does not know to which port one is sailing, no wind is favorable.

*Seneca (Seneca the Elder)*

We will not think noble because we are not noble. We will not live in beautiful harmony because there is no such thing in this world, nor should there be. We promise only to do our best and live out our lives. Dear God, that's all we can promise in truth.

*Lillian Hellman, Candide*

“As a policeman, I am bound to draw the logical conclusion from material evidence.”

“And as a man?”

“I want moral proof.”

*Georges Simenon, Maigret's War of Nerves*

It is hard to imagine a more stupid or more dangerous way of making decisions than by putting those decisions in the hands of people who pay no price for being wrong. *Thomas Sowell*

Whenever I make a bum decision, I go out and make another one.

*Harry S. Truman*

### **Discipline and Discharge**

Our repentance is not so much regret for all the ill we have done as fear of the ill that may happen to us in consequence.

*La Rochefoucauld, Moral Maxims, 1678*

Quarrels would not last long if the fault were only on one side.

*La Rochefoucauld, Moral Maxims, 1678*

The management of a balance of power is a permanent undertaking, not an exertion that has a foreseeable end.

*Henry Kissinger, The White House Years, 1979*

### **Ethics**

To me, morality is how you treat others.

*Gregory Baum, Canadian theologian, quoted in the Globe and Mail, August 5, 1974*

I cannot and will not cut my conscience to fit this year's fashions.

*Lillian Hellman*

The act of acting morally is behaving as if everything we do matters. *Gloria Steinem*

### Evidence

Facts are not judgments, and judgments are not facts.

*Dick Francis, In the Frame, 1976*

My ultimate object is only the truth.

*Edgar Allan Poe, The Murders in the Rue Morgue, 1841*

Never accept anything at face value.

*Arthur W. Upfield, The Lake Frome Monster, 1966*

An enemy can partly ruin a man, but it takes a good-natured injudicious friend to complete the thing and make it perfect.

*Mark Twain, Pudd'nhead Wilson, 1894*

A verbal agreement isn't worth the paper it's written on.

*Samuel Goldwyn*

Always distrust appearances; believe precisely the contrary of what appears to be true, or even probable.

*Emile Gaboriau, Monsieur Lecoq, 1880*

Circumstantial evidence which runs counter to experience is always to be doubted. *Anthony Wynne, The Blue Vesuvius, 1930*

Some circumstantial evidence is very strong, as when you find a trout in the milk.

*Henry David Thoreau, Entry of November 11, 1854, Journal*

Hearsay evidence is often first-class evidence, though the law doesn't think so.

*M. McDonnell Bodkin, The Rule of Thumb Detective, "Murder by Proxy"*

Judge not, at least until the evidence is unequivocal.

*Colin Dexter, Service of all the Dead, 1979*

### Human Rights

If human rights and harmonious relations between cultures are forms of the beautiful, then the state is a work of art that is never finished. Law thus takes its place, in its theory and practice, among man's highest and most creative activities.

*F.R. Scott, Preface to "Essays on the Constitution: Aspects of Canadian Law and Politics," 1977*

He flattered himself as being a man without any prejudices; and this pretension itself is a very great prejudice.

*Anatole France, The Crime of Sylvestre Bonnard, 1881*

It is not what you have lost, but what you have left that counts.

*Harold Russell, Oscar acceptance speech, 1947*

Bigot, *n.* One who is obstinately and jealously attached to an opinion that you do not entertain. *Ambrose Bierce, Devil's Dictionary*

### Issuing Awards

It ain't over till it's over.

*Yogi Berra*

I don't know that there are any short cuts to doing a good job.

*Sandra Day O'Connor*

Murder may pass unpunished for a time,  
But tardy justice will o'ertake the crime.

*John Dryden, "The Cock and the Fox"*

Justice delayed is justice denied.

*William Gladstone*

### "Justice"

The love of justice in most men is simply the fear of suffering injustice.

*La Rochefoucauld, Moral Maxims, 1678*

*Ius est ars bobī et aequi.* [Legal justice is the art of the good and the fair.] *Anonymous*

Justice is not a mincing machine, but a compromise.

*Friedrich Durrenmatt, from The Marriage of Mr. Mississippi, 1959*

*Res iudicata pro veritate habetur.* [A matter which has been legally decided is considered true.] *Anonymous*

Peace is more important than all justice; and peace was not made for the sake of justice, but justice for the sake of peace.

*Martin Luther*

Justice cannot reveal all wrongs; its hands are tied by the restrictions of the law. *Melville Davidson Post, The Strange Schemes of Randolph Mason, 1896*

Justice?—You get justice in the next world, in this world, you have the law. *William Gaddis, A Frolic of His Own, 1993*

Justice is beyond definition, but the humblest citizen traveling the highways of life has a fairly clear idea of what injustice is in any particular circumstances and he looks to the organized courts to protect him from injustice in the application of law to his human affairs. *James C. McRuer, former Chief Justice of the High Court of Ontario, quoted in The Globe and Mail, January 22, 1977.*

All my bloody life I've been trying to find justice and the only place before this has been in the boxing ring and the football field. *David Wood, first Inuit lawyer, quoted in The Globe and Mail, February 16, 1983*

Justice is the best word in the English language.

*June Callwood, journalist, quoted in The Globe and Mail, June 5, 1987*

### The Law

Justice cannot reach all wrongs; its hands are tied by the restrictions of the law. *Melville Post*

“If the law supposes that,” said Mr. Bumble . . . “the law is an ass, an idiot.” *Charles Dickens, Oliver Twist*

### Legal Counsel and Advocacy

Do as lawyers do in law.

Strive mightily, but eat and drink as friends.

*Shakespeare*

The first thing we do, let's kill all the lawyers.

*Shakespeare, Henry VI, Part Two, IV,ii*

I am not arguing with you—I am telling you.

*James McNeil Whistler*

No brilliance is needed in the law. Nothing but common sense, and relatively clean fingernails. *John Mortimer*

With the fees we charge, we don't get the innocent, but by God, they're innocent once we get them! *Joseph Sedgwick, legendary Canadian trial lawyer, quoted by Jack Batten in "Joe Sedgwick and the Ottawa Spy," In Court, 1982*

The law seems like a sort of maze through which a client must be led to safety, a collection of reefs, rocks, and underwater hazards through which he or she must be piloted. *John Mortimer*

A lawyer's relationship to justice and wisdom... is on par with a piano tuner's relationship to a concert. He neither composes the music, nor interprets it—he merely keeps the machinery running. *Lucille Kallen, Introducing C.B. Greenfield*

His argument is as thin as the homeopathic soup that was made by boiling the shadow of a pigeon that had been starved to death. *Abraham Lincoln*

Canadian trial judge (with exasperation, after listening to a long and obscure argument); "Just what is it that you want for your client, Mr. Walsh?"

*Walsh: "Justice, my Lord. With costs."*

Defending a client in a court of law is like selling a somewhat unattractive product to 12 unwilling purchasers. *H.A.D. Oliver, criminal lawyer, adapted from a remark quoted by Tom Alderman in "The Canadian," July 19, 1975*

Say little but say it well.

*Irish Proverb*

### Neutrality

Justice consists not in being neutral between right and wrong, but in finding out the right and upholding it, wherever found, against the wrong. *Theodore Roosevelt*

The hottest places in Hell are reserved for those who, in a time of moral crisis, maintain their neutrality. *Dante*

To make judgments about great and lofty things, a soul of the same stature is needed; otherwise we ascribe to them that vice which is our own. *Montaigne*

We know what happens to people who stay in the middle of the road, they get run over. *Aneurin Bevan*

When people feel deeply, impartiality is bias.

*Lord Reith*

The man who sees both sides of a question is a man who sees absolutely nothing at all. *Oscar Wilde, The Critic as Artist*



In the case of dissension, never dare to judge 'til you have heard the other side. *Euripides*

We rarely find people have good sense unless they agree with us. *La Rochefoucauld, Moral Maxims, 1678*

The cold neutrality of an impartial judge.  
*Edmund Burke, Preface to Brissot's Address*

### Patience

Genius is nothing but a greater aptitude for patience.  
*George Louis Leclerc de Buffon*

Let patience have her perfect work, that ye may be perfect and entire, wanting nothing. If any of you lack wisdom, let him ask of God. *The General Epistle of James 1:4-5*

Keep strong, if possible. In any case, keep cool. Have unlimited patience. Never corner an opponent, always assist him to save his face. Put yourself in his shoes—so as to see things through his eyes. Avoid self-righteousness like the devil—nothing so self-blinding. *Basil Henry Liddell Hart, Advice to Statesmen*

Wherefore seeing we also are compassed about with so great a cloud of witnesses . . . let us run with patience the race that is set before us. *Hebrews 12:1*

Where there is charity and wisdom, there is neither fear nor ignorance. Where there is patience and humility, there is neither anger nor vexation. . . . Where there is peace and meditation, there is neither anxiety nor doubt. *Counsels of Saint Francis, Admonition 27*

And please keep your mind open until I can get more of my argument into it. *Jane Seabrook, Curry Logic, Ten Speed Press*

Patience conquers destiny.  
*Irish Proverb*

### Privacy

Gentlemen, progress has never been a bargain. You've got to pay for it. Sometimes I think there's a man behind the counter who says, "All right, you can have a telephone; but you'll have to give

up privacy, the charm of distance. Madam, you may vote; but at a price; you lose the right to retreat behind a powder-puff or a petticoat. Mister, you may conquer the air, but the birds will lose their wonder, and the clouds will smell of gasoline!" *J. Lawrence and R.E. Lee, Inherit the Wind, Act 2, Scene 2, "Address to the jury"*

Never say anything on the phone that you wouldn't want your mother to hear at your trial. *Sydney Biddle Barrows*

### Remedies

The remedy is worse than the disease.

*Francis Bacon: Essays (1623) "Of Seditious and Troubles"*

War is the remedy our enemies have chosen, and I say let us give them what they want. *William T. Sherman, 1864*

Lady Macbeth: Things without all remedy should be without regard: What is done is done. *Shakespeare: Macbeth Act 3, Scene 2, l.11*

### Research

When you steal from an author, it's plagiarism. If you steal from many, it's research. *Wilson Mizner, 1876-1933*

Affect not as some do that bookish ambition to be stored with books and have well-furnished libraries, yet keep their heads empty of knowledge; to desire to have many books, and never use them, is like a child that will have a candle burning by him all the while he is sleeping. *Henry Peacham, The Complete Gentleman, 1622*

I have always been offended by the need to cite a so-called recent case a century old to argue that a rule of law should be applied because it has been laid down for two hundred years. It would be more relevant to argue that precisely for this reason the rule of law should be changed or abandoned. *David Lewis, Lawyer and leader of the New Democratic Party, address to the Montreal Bar Association, January 31, 1972*

### Seniority Rights

The mountain rests on the earth; the image of splitting apart.  
Thus, those above can insure their position only by giving generously to those below. *I Ching, The Book of Changes*

### Work

Work is the curse of the drinking classes.  
*Oscar Wilde*

No man goes before his time, unless the boss leaves early.  
*Groucho Marx*

### Writing

Just try to tell it like it was.  
*Ogden Nash, The Old Dog Barks Backwards*

The most essential gift for a good writer is a built-in, shock proof, shit detector. This is the writer's radar and all great writers have had it. *Ernest Hemingway, Interview in Paris Review, 1958*

Nothing you write, if you hope to be any good, will ever come out as you first hoped. *Lillian Hellman*

There are two duties incumbent upon any man who enters on the business of writing: truth to the fact and a good spirit in the treatment. *Robert Louis Stevenson*

One precedent creates another. They soon accumulate and constitute law. What law yesterday was fact, today is doctrine.  
*The Letters of Junius*

If you would not be forgotten  
And soon as you are dead and rotten,  
Either write things worth reading  
Or do things worth the writing.  
*Benjamin Franklin*

Sir Roger told them, with the air of a man who would not give his judgment rashly, that much might be said on both sides.  
*Joseph Addison*

The secret of joy in work is contained in one word—excellence.  
To know how to do something well is to enjoy it. *Pearl S. Buck*

The art of writing is applying the seat of the pants to the seat of a  
chair. *Mary Heaton Vorse*

Haste makes mistakes.  
*Irish Proverb*