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Tearing up the sanity clause: A class action

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Abstract: The law and lawyers are so pervasive in US life and culture that it should come as no surprise that they invite the kind of parody that the cinematic tradition has displayed from the birth of the movies to the present day. By examining a small number of well-known courtroom comedies, this short essay will examine how these movies often use an unlikely character, an outsider and an underdog in terms of class or education who is unable to adhere to the rules of judiciary procedures. While it is true that this outsider is there to be laughed at, humor also emerges from the ridiculousness of many aspects of the legal system and especially of legalese.

Keywords: legalese, courtroom comedies, Marx Brothers, class, education and comedy

Lawyers, judges and jurisprudence in general fascinated Christie Davies. His widow Janetta Davies, former Crown Prosecutor, is a solicitor for the defense in criminal trials in England and Wales and, as Milner Davis reports (2018: 74), Davies himself has acted as *amicus curiae* at the US Crown Court and provided evidence for the British Law Commission's report "Consent in the Criminal Law." Yet Davies as a humor scholar, explored the law and its role in humor (1973, 2004) especially examining the significance of joke cycles implicating lawyers and the law (2011). However, humor connected to lawyers, judges, and courtrooms also thrives beyond the joke form. As the presence of the legal profession and its associated players is pervasive in US American life and culture, it should come as no surprise that they would also invite parody in the cinematic tradition. This paper aims to demonstrate that the language of key players in films regarding legal proceedings often acts as a satire about, and a parody of, the formal language of the legal process i.e. legalese. Furthermore, it will also link these films to another aspect of Davies' work, namely the figure of the underdog in a joke, who in the screen courtroom comedy is often the lawyer. The filmic lawyer underdog may well start out as the butt of the "joke" yet, by the end of the movie, s/he usually comes out trumps and a hero.

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Since the birth of the talkies to the present day, the cinema has paid homage to numerous comic aspects of not only lawyers, but judges, courtrooms, trials and the entire judiciary procedure. In an exhaustive overview of so-called “courtroom movies” from the 1930s onwards, Bergman and Asimow classify over 150 films and compare the portrayal of trials on screen to how they would be played out in real courtrooms (2006). The collection provides a useful guide for both law students and movie buffs who might want to sort the plausible from the inconceivable and ascertain whether the legal process on screen bears any resemblance to the reality of courtrooms. Yet for all the joke cycles, it would appear that on screen, the law is no laughing matter as Bergman and Asimow’s robust collection of courtroom movies includes only six so-called “courtroom comedies.”¹ As well as films that are set in legal settings such as courtrooms, barristers’ chambers, the premises of legal firms and prison cells, there are countless humorous scenes pertaining to the law embedded within movies that are not specifically of the courtroom genre.

Without exception, “courtroom comedies” adopt parody and/or irony in order to highlight how the law can, on the one hand be an absolute ass as well as providing a welcome respite from the mainstream deadly serious courtroom genre. In comic courtrooms on screen, humor occurs in a number of ways that range from the insertion of an outsider who is unable to adhere to the rules, to lawyers behaving badly, the portrayal of implausible cross-examinations all the way to the exploration of social issues. Those involved in the legal profession, at whatever level, tend to be wordsmiths. A barrister’s verbal dexterity can make or break a case, both in reality and at the movies and so; it is common for courtroom comedies to take the verbal dexterity of its protagonists up a notch or two in order to elicit laughter—often rendering the very language of the law itself a source of humor. The way diverse characters choose their words in a courtroom is vital to their aims, whether they are for the prosecution, the defense, in the witness box, in the dock or sitting on the bench. Together with the vocabulary, features such as accent add volumes to the content of what the characters actually say. Emerging from an examination of the films discussed below, there is evidence that social class is a significant indicator of the benign violation of the status quo of the justice system as it is portrayed in courtroom comedy.

In comedies, legalese itself may become a source of humor. The humorous aspects of legalese are portrayed to perfection in what might be considered the notorious “contract scene” from the 1935 classic Marx Brothers’ movie *A Night at*

¹ The six movies Bergman and Asimow classify as “courtroom comedies” are the following: *Adam’s Rib* (1949); *Bananas* (1971); *The Castle* (1977); *From the Hip* (1987); *Legally Blonde* (2001) and *My Cousin Vinnie* (1992).

the Opera, a film directed by Sam Wood which, over and above its farcical narrative, is about migration, language, multilingualism, translation, education, and only obliquely about the law.² The Marx brothers themselves were the offspring of French-German Jewish migrants, yet did not accentuate neither their Jewishness nor specific Franco-Germanness in their performances. As argued by Berger (2001) Groucho gets his laughs by adopting an “outsider voice” delivering his puns and one-liners in a lower class New York accent, Harpo adopts silent slapstick and Chico transforms himself into an Italian through his stereotypically Brooklynese-Italian parlance. *A Night at the Opera* is a representation of the migrant experience – the Marx brothers are stowaways on a ship from Naples to New York – and much of the humor pivots on the rebuffs that non-English speaking immigrants faced upon arrival in the USA. The film underscores how serious humor and joking can be by exploring the hardships faced by new migrants with low proficiency in the dominant language and its range of registers.

Jessica Wolfe (2011) adopts the concept of “accented” literacy as a way of describing the links between diasporic language and social enfranchisement. Accented, or diasporic literacy, requires robust associations between speech and reading as forms of social participation, which the contract scene highlights by contrasting casual talk with legalese—both of which finally lose meaning yet make their own comical logic.

The notorious contract scene exposes the paltry, specific, technical and monosemic nature of legal language. The contract that Driftwood (played by Groucho) reads aloud to Fiorello (played by Chico) had not been written to be read aloud. Like any other legal document, the contract had been written to be read against a background of technical knowledge in the reader’s head, or possibly aloud, perhaps finally, in a court of law. Outside a courtroom, legalese does not have a voice and lies dormant in documents that exist only be read. In other words, the documents that legislate the lives of most speakers are couched in a language that is not to be spoken and that is probably foreign to most of them. Legalese is far removed from the language of everyday conversation and it is this sharp contrast upon which the scene hinges.

Fiorello has Driftwood read the contract, while trying to hide from him the fact that he cannot read. Apart from the numerous puns and quips— the allusion to Driftwood’s affairs in Canada; the diverse meanings of the word “party” and the final punch on “Sanity/Santa Claus(e)” — the real joke is only partly on the underdog Fiorello, the illiterate Italian migrant who is pretending that he can read and is au fait with legal jargon. He is pretending that he understands what

2 Scene available at: <https://www.youtube.com/watch?v=G_Sy6oiJbEk>

Driftwood is reading to him, yet he only understands the words in their basic everyday meaning. While Driftwood annoys Fiorello by constantly repeating “the party of the first (second/third/fourth, etc.) part,” much of the actual dialogue is made up of a continuous repetition of the same words, phrases and fillers. Repetition and excess verbal meaning are well known humorous tropes and the scene thus focuses on the mechanics of chatter, and reveals that legally significant sentences are the least meaningful in the social context of conversation. The true butt of the joke, however, is not Fiorello but the ridiculousness of contracts, and how incomprehensible they are even to an educated audience. In the end, the rapport between Driftwood and Fiorello is developed through their mutual discarding of the treaty.

What is more important to a migrant, being proficient in the language of everyday conversation or in the language of the law? The scene raises the question as to which kind of language is indeed more useful in practice, the “party of the first part” and “sanity” clauses or casual chatter. Ironically, it is the law that restricts the mobility of linguistically challenged migrants and their access to public life. There is a huge gap between Fiorello’s grasp of conversational English and that of the contract. Fiorello is unable to neither read nor understand the contract. Yet he understands popular culture, the notion of Santa Claus is clear to him, but not that of a sanity clause.

Driftwood ends up tearing the contract to pieces – an act that highlights its insignificance. The truth of the matter is that these marginalized characters are literally tearing up the very language that is restricting them. According to Artaud, the Marx Brothers’ humor “always leads toward a kind of boiling anarchy, an essential disintegration of the real by poetry” (Artaud 1958, 144).

Decades later *My Cousin Vinnie* (directed by Jonathan Lynn, 1992) produces an unlikely lawyer, Vincent “Vinnie” Gambino (played by Joe Pesci) who has to defend his cousins from the accusation of murder and robbery. Vinnie is an outsider to legal environments who has had to take his bar exam six times, has never been inside a courtroom, and is oblivious of the rules. Above all, Gambino’s literacy, like that of Fiorello, is “accented.” His pronounced Brooklyn accent and colorful use of idioms betray his origins. Furthermore, he eschews legalese. To make matters worse the trial takes place in rural Alabama and judge, prosecution and jury all speak in a strong Southern drawl that heightens the contrast between the locals and the intruding stranger, Vinnie.

Vinnie portrays the outsider that audiences can laugh at, not only at his clothes and his accent, but also at his inability to address the judge in the correct manner often employing as he does, taboo words in court. Vinnie exemplifies Davies’ underdog. He comes from the periphery, he is low class and he seems uneducated. Yet Vinnie is the underdog and anti-hero that

audiences love. Vinnie's opening statements at the trial consist of "Uh... everything that guy just said is bullshit... Thank you" to which the District Attorney objects causing the judge to declare, "Sustained. Counsellor's entire opening statement... with the exception of "thank you", will be stricken from the record." The rules and language of the courtroom are violated and as in the contract scene, Vinnie, like Fiorello, is streetwise and literate in popular culture, but less so in the language of the law although he is quite unaware of this.

In fact, it is Vinnie's knowledge of popular culture, in particular that of his equally "outsider" girlfriend's familiarity with cars and mechanics, that win him the trial. In several cross-interrogations, Gambino is able to destroy the witness's testimony through knowledge of popular culture such as how long it takes to cook grits.³ Gambino's lack of both linguistic and social class are evident, yet his verbal dexterity, albeit Brooklynese is successful as he triumphs in each round, gets his laughs and finally persuades the jury that his cousins are innocent. Gambino successfully fits his knowledge of popular culture into the kind of logic required in a trial. Audiences may well laugh at his accent and incorrect use of grammar but he is efficacious at winning his argument, even though he is an accented wordsmith. Expectations are subverted as the butt of the joke surpasses those of higher social standing.

Elle Woods, (played by Reese Witherspoon) in *Legally Blonde* (directed by Robert Luketic, 2001), also finds herself an outsider as a dizzy, social savvy blonde at Harvard Law School, traditionally a "male space." Davies explored blonde jokes at length and in many ways, Woods epitomizes the stupid woman of the blonde joke cycles (Davies 2011). In a courtroom environment where success depends upon traditionally masculine traits such as aggression and competition, Woods is totally out of place with her predilection for pink outfits, her squeaky voice and over the top femininity. Apart from dressing inappropriately for the court, during the cross-examination of a prime witness with which she is entrusted at a murder trial, Woods falters, stutters and hesitates almost to the point of unintelligibility. Like Vinnie, Woods is out of place because she displays the wrong language for the courtroom. Her language is accented too, revealing not her social roots but a series of "feminine" traits that are not highly regarded or valued in that society. In her naivety, she opens her cross-examination by explaining the concept of *mens rea* to the judge:

"I am aware of the meaning of *mens rea*. What I am unaware of is why you are giving me a vocabulary lesson. When you should be questioning your witness."

Lost for an argument Woods exasperates the judge by repeating seven times that the witness was in the shower at the time of the murder. "I believe the

3 "Grit" scene available at: <https://www.youtube.com/watch?v=_T24lHnB7N8>.

witness has made it clear that she was in the shower,” remarks the judge. Just like outsider Vinnie, our pink outsider perks up and becomes a true wordsmith when she falls on a mainstream space of expertise, in this case hair care, an area of knowledge typically considered unimportant in a male arena, but that provides Woods with the argument that wins her the case. Neither knowledge of car-tires nor knowledge of hair care are seen as the kind of cultural capital required to win a case, yet they do exactly that in both *My Cousin Vinnie* and in *Legally Blonde*.

Witness for the Prosecution (directed by Billy Wilder, 1957) is an intense American drama set in London with an all-star international cast (Tyrone Power and Marlene Dietrich) that gently pokes fun at UK legal procedures. From satirizing the attire and wigs of British judges and barristers to a series of light-hearted quips about the two different systems, Wilder injects a touch of humor into a murder case in which American Leonard Vole (played by Tyrone Power) who is accused of murder, is defended at the Old Bailey by Sir Wilfrid Roberts (played by Charles Laughton).

This film too, accentuates the notion of class as Sir Wilfred brilliantly destroys an important witness by making her the butt of the joke. Rather like the Marxian contract scene in which legalese is contrasted with chatter, the eloquent Received Pronunciation of Sir Wilfred is juxtaposed with the working class Scottish English of witness Miss McKenzie. McKenzie, one of the chief witnesses for the prosecution claims she heard Vole at her mistress’s house at the time of the murder of which he stands accused. In the solemnity of the witness box, McKenzie is unable to use the appropriate Standard English term under the circumstances “yes” preferring the regional term “aye.” Although Miss McKenzie testifies under oath that she had heard Vole with the victim on the night of the murder Sir Wilfred cleverly demolishes her testimony displaying both his linguistic and tactical superiority by demonstrating that she is deaf and therefore unable hear anyone’s voice let alone to distinguish Vole’s speech from anyone else’s. In terms of humor, all this is trumped by Miss McKenzie’s inappropriate appeal to the judge at the end of the scene, in which she pleads for help in obtaining her hearing aid to which Justice supplies a witty riposte:

Janet Mackenzie: “Perhaps you can help me, your Lordship. Six months, I have applied for my hearing aid and I am still waiting for it.”

Judge: “My dear madam. Considering the rubbish that is being talked nowadays, you are missing very little.”

Judges on screen certainly emerge as masters of understated deadpan humor yet who manage to get to the crux of the minutiae of the trial.

Witness for the Prosecution is liberally sprinkled with witty remarks about the British legal system such as when Vole proudly claims that he gets to get “two lawyers” when in effect he simply has a solicitor and a barrister. Vole is cavalier about British law “But this is England, where I thought you never arrest, let alone convict, people for crimes they have not committed” he says, to which his barrister Sir Wilfrid displays typical British understatement in his response: “We try not to make a habit of it.” Similar understatement occurs in *A Fish Called Wanda* (directed by Charles Crichton, 1988) when gangster’s moll Wanda (played by Jamie Lee Curtis) visits barrister Archie Leach (played by John Cleese) barrister in his chambers.

Leach: “My dear lady, you are a defense witness. I must ask you to leave immediately,” It’s not ethical for me to talk to a witness.”

Wanda: “Everybody does it in America.”

Leach: “Not in England. It’s forbidden.”

The British, it would seem, must maintain a stiff upper lip and adhere to rules no matter what. A Monty Python courtroom sketch from the 70s illustrates both this and the British obsession with class. In *Received Pronunciation*, the judge (played by Terry Jones) asks the defendant who is standing in the dock (played by Eric Idle) whether there is anything he wishes to say before he passes sentence. In a strong Cockney accent, the defendant tells the judge “I’d just like to say M’Lud, I’ve got a family, a wife and six kids...” The defendant begins to state that he hopes for a lenient sentence, but his speech gradually morphs from Cockney into Standard English and eventually into a full-blown imitation of Sir Lawrence Olivier delivering a dramatic Shakespearian soliloquy on freedom. “What goddess doth the storm toss’d mariner offer her most tempestuous prayers to?” asks the defendant in poetic terms as he slowly builds up to a climax and cries out “Freedom, freedom, freedom,” to which the judge, in a more relaxed RP accent than before, replies “It’s only a bloody parking ticket.”

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