

Gilbert and Sullivan for Lawyers

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Abstract

Usual practice, in present-day performances of operas of Gilbert and Sullivan, is to freshen songs through substitution of current references for original references. The aim of a freshening is to perform a song for the benefit of contemporary audiences.

Example 1 (from *The Mikado*): “Then the idiot who praises, with enthusiastic tone, / All centuries but this, and every country but his own,” can be understood readily.

Example 2 (also from *The Mikado*): There is no present humor in the reference to “Parliamentary trains,” a Victorian railways term.

This essay offers a freshening of “I Am the Very Model of a Modern General,” from *The Pirates of Penzance*. Revised legal references, such as to court-packing (*Legal Tender Cases*; President Roosevelt), should be, but aren’t, teachable moments.

One of the songs in *The Mikado* is “As Some Day It May Happen That a Victim Must be Found.” In the song, Ko-Ko, the Lord High Executioner, offers his list of Victorian “society offenders . . . who never would be missed.” Among the revised legal references in the freshening is, “And law profs who convey as truth the lies of *Marbury*.” Other legal references aren’t better.

INTRODUCTION

Gilbert and Sullivan

William S. Gilbert (1836–1911) and Arthur Sullivan (1842–1900) created fourteen comic operas. Gilbert, a barrister, wrote the words and the lyrics. Sullivan, a musician, wrote the music. The best, and the most popular, among them are *Trial by Jury* (1875), *H.M.S. Pinafore* (1878), *The Pirates of Penzance* (1879 and 1880), *The Mikado* (1885), and *The Yeomen of the Guard* (1888).

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There is an abundance of G&S resources¹ and spoofs.²

Carte

The success of Gilbert and Sullivan required Richard D'Oyly Carte (1844–1901), the impresario, as the catalyst. Equal in importance to the success of Gilbert and Sullivan was Carte's second wife, Susan Black (1852–1913), whose stage name was Helen Lenoir.³

Ultimately, Gilbert and Sullivan aced the test of time, due to their transcendent creativity. Vocubular genius, lyrical genius, and musical genius are inexplicable, except as gifts of God.

Comic operas

Gilbert and Sullivan used the term “comic operas” to describe their productions. “They are certainly not mere ‘light’ operas, which are soft-centered romantic offerings; nor are they ‘operettas’, which are frilly, frothy affairs, devoid of any shade of the dark side.”⁴

¹ Recommendations:

Biographies: Michael Ainger, *Gilbert and Sullivan[.] A Dual Biography* (Oxford: Oxford University Press, 2002); Andrew Crowther, *Gilbert of Gilbert & Sullivan* (Stroud, Glos.: The History Press, 2011); Arthur Jacobs, *Arthur Sullivan: A Victorian Musician* (Aldershot, Hants.: Scolar Press, 2nd ed. 1992).

Guides: Leslie Baily, *The Gilbert and Sullivan Book* (London: Cassell, 1952); David Eden and Meinhard Saremba, *The Cambridge Companion to Gilbert & Sullivan* (Cambridge: Cambridge University Press, 2009); Ed Glinert (ed.), *The Complete Gilbert & Sullivan* (London: Penguin Books, 2006) (hereinafter “Complete G&S”); Stanley Sadie (ed.), *The New Grove Dictionary of Opera* (London: Macmillan Press, 1992) (hereinafter “Grove”).

Librettos: Ian Bradley (ed.), *The Complete Annotated Gilbert and Sullivan* (New York: Oxford University Press, 1996); Martyn Green (ed.), *Martyn Green's Treasury of Gilbert & Sullivan* (New York: Simon & Schuster, 1985).

Online: “The Gilbert and Sullivan Archive at Boise State University” (n.d.), available at <http://math.boisestate.edu/gas> (accessed 8/2/2014) (main page); John Kenrick, “Gilbert & Sullivan 101” (2003), available at <http://www.musicals101.com/g&s101.htm> (accessed 8/2/2014).

² E.g., Anna Russell, “How to Write Your Own Gilbert and Sullivan Opera,” on *Anna Russell Sings! Again?* (Columbia Masterworks, Mono LP, ML4594/ML4733, 1953); Anna Russell, *The Anna Russell Songbook* (New York: Citadel Press, 1960).

³ Philip H. Dillard, *Sir Arthur Sullivan[.] A Resource Book 119* (Lanham, Md.: Scarecrow Press, 1996); 1 *Grove*, supra, n. 1, at 745 (“Carte, Richard D'Oyly”); Geoffrey Smith, *The Savoy Operas 39-40* (London: Robert Hale, 1993).

⁴ *Complete G&S*, supra, n. 1, at x.

In the comic operas, a spotlight is focused on Victorian society, and the spotlight simultaneously illuminates human nature.

Word and lyrics

Gilbert's words and lyrics are exceptionally-versatile applications of the versatile English language. Even approximation of Gilbert's facility with words is a challenge.

Although *The Mikado* is performed in various foreign languages (French,⁵ German,⁶ and Yiddish,⁷ and possibly others), the value of any foreign-language performance is dubious. Gilbert's wordsmithery is above and beyond foreign-language equivalence.

One wonders what foreign-language audiences hear. It is impossible to translate Gilbert's words and lyrics, and there is no way to transmute cultural essences.

Furthermore, it is hardly likely that a language other than English can match its happy amalgamation of grammar, vocabulary, and syntax. The German dialects brought to Britain by Angles, Saxons, and Jutes were transmuted into Old English, and the latter developed into Middle English and then became Modern English, in part through copious takings in of Norman French, Latin, and Greek words, and in part through an admixture of Dutch (freebooter; landscape; skipper), Irish (bog; keening; whiskey), and Old Norse (awkward; kindle; raft) words, and in part by way of a drizzle of Hindi (avatar; guru; loot), Spanish (alligator; canyon; renegade), and Yiddish (chutzpah; glitch; nudnik) words, and so on.

Music

Sullivan's music is catchy, adaptable, and eminently musical. There is utility, in varied contexts, in re-use of Sullivan's music.

Act II of *The Pirates of Penzance* has:

Come, friends, who plough the sea,

⁵ actions pédagogiques, "Le Mikado (adaptation), Gilbert & Sullivan" (n.d.), available at [http://www.operafuoco.fr/fr/fiche-action_pedagogique-le_mikado_\(ou_la_ville_de_ttipu\)_gilbert_&_sullivan-34.html](http://www.operafuoco.fr/fr/fiche-action_pedagogique-le_mikado_(ou_la_ville_de_ttipu)_gilbert_&_sullivan-34.html) (accessed 8/22/2014).

⁶ *Der Mikado; oder, Ein toller Tag in Titipu* (Köln [Cologne, Germany]: Bosworth, 1959).

⁷ Gilbert & Sullivan Yiddish Light Opera Company, available at <http://www.gsyiddish.com> (accessed 8/22/2014) (main page).

Truce to navigation;
Take another station;
Let's vary piracee
With a little burglaree!

That led to:

Hail, hail, the gang's all here,
What the heck do we care,
What the heck do we care,
Hail, hail, the gang's all here,
What the heck do we care now.⁸

Which became:

Hail, hail, the Celts are here,
What the hell do we care,
What the hell do we care,
Hail, hail, the Celts are here,
What the hell do we care now.⁹

Lawyers, solicitors, and barristers whose singing voices don't frighten children may sing the following:

Hail, hail, almighty judge,
Sees to restitution;
Metes out retribution;
Varies severitee
With a little equitee!

And:

Come, friends, lawyers like me,
Stop representation;
Find your true vocation;

⁸ Wikipedia, "Hail, Hail, the Gang's All Here" (n.d.), available at http://en.wikipedia.org/wiki/Hail,_Hail,_the_Gang%27s_All_Here (accessed 8/10/2014).

⁹ Celtic Wiki, "Songs – History of Hail Hail and The Celtic Song" (n.d.), available at <http://www.thecelticwiki.com/page/Songs+-+History+of+Hail+Hail+and+The+Celtic+Song> (accessed 8/10/2014).

We'll live good lives when we
Quit the lawsuit industree!

Patter songs and list songs

The comic operas of Gilbert and Sullivan have both patter songs and list songs.¹⁰

A patter song is characterized by light, quick music. Words are difficult to sing, because of numerous syllables, or alliterations, or similar consonants, or similar vowels, or a combination of these.

The quintessential patter song is “I Am the Very Model of a Modern General,” sung by Major-General Stanley in *The Pirates of Penzance*. It is presented in Act I of this essay, below.

In Act II of *Ruddigore*, by Gilbert and Sullivan, Robin, Despard, and Margaret sing “My Eyes Are Fully Open to My Awful Situation,” which is a patter song. The “awful situation” is Robin’s intended defiance of his ancestors; the penalty for defiance is death.

In part:

DEP.

This particularly rapid, unintelligible patter
Isn’t generally heard, and if it is it doesn’t matter!
ROB. If it is it doesn’t matter –
MAR. If it is it doesn’t matter –
ALL. If it is it doesn’t matter, matter, matter, matter, matter.¹¹

An in-joke, perhaps. Intelligibility as well as speed are vital for a quality performance of a patter song. The art of a patter song is to sing the words rapidly *and* clearly.

A list song is characterized by a theme. “As Someday It May Happen,” sung by Ko-Ko in *The Mikado*, is the quintessential list song. The theme is “society offenders . . . who never would be missed.” It is presented in Act II of this essay, below.

¹⁰ James Anderson, *The Complete Dictionary of Opera & Operetta* 436 (New York: Wings Books, 1993); Tvtrapes.org, “List song” (n.d.), available at <http://tvtrapes.org/pmwiki/pmwiki.php/Main/ListSong> (accessed 8/19/2014).

¹¹ Complete G&S, *supra*, n. 1, at 478.

Therein, at p. 840, footnote 41 reads: “*PATTER-TRIO*: Humorous song for three, where a large number of words are [*sic* (should be ‘is’)] sung rapidly to a few notes.”

Copyright – United Kingdom

Copyright law effective 1842: The copyright term of a dramatic work or of a musical composition was the longer of (a) the life of the author, plus a period of seven years after his death, and (b) 42 years from the first date of publication.¹²

Copyright law effective 1911: The copyright term of a dramatic work or of a musical composition was the life of the author, plus a period of 50 years after his death.¹³

Copyright law effective 1956: As with the copyright law which became effective in 1911, the copyright term of a dramatic work or of a musical composition was the life of the author, plus a period of 50 years after his death.¹⁴

Gilbert and Sullivan died in 1911 and 1900, respectively. Accordingly:

Gilbert's copyrights of the Gilbert and Sullivan comic operas expired in 1961.

Sullivan's copyrights of the Gilbert and Sullivan comic operas expired in 1950.

Under the copyright law of the United Kingdom, no permission is needed for use in this essay of "I Am the Very Model of a Modern Major-General" and of "As Someday It May Happen."

Copyright – United States

An American copyright for any Gilbert and Sullivan comic opera falls into the copyright category of literary works first registered or first published in the United States prior to 1923. It follows that, in the United States, every Gilbert and Sullivan comic opera is in the public domain.¹⁵

¹² An Act to Amend the Law of Copyright, 5 & 6 Vict., c. 45, § III (copyright provisions for books), § XX (copyright provisions for books extended to dramatic works and musical compositions) (U.K.).

¹³ Copyright Act 1911, 1911 c. 46, 1 & 2 Geo. 5, § 3, 1st para. (U.K.).

¹⁴ Copyright Act 1956, 1956 c. 74, 4 & 5 Eliz. 2, § 2(3), 1st sent. (U.K.).

¹⁵ Cornell Copyright Information Center, "Copyright Term and the Public Domain in the United States 1 January 2014" (n.d.), available at <http://copyright.cornell.edu/resources/publicdomain.cfm> (accessed 8/12/2014) (heading: Works Registered or First Published in the U.S.; column: Date of Publication; row: Before 1923).

Under the copyright law of the United States, use in this essay of “I Am the Very Model of a Modern Major-General,” and the companion use of “As Someday It May Happen,” without the copyright-law equivalent of *May It?*, are allowed.

Freshening – the span of decades

Traditionalist cannot deny that a passé person or a displaced archetype lacks entertainment value. Consider some significant events:

The Liverpool and Manchester Railway, the first inter-urban passenger-and-freight railroad, commenced operations in 1830. The two tracks of the L&MR were of standard gauge.¹⁶

The reign of Queen Victoria began in 1837.

Trial by Jury was first performed in 1875, when Ulysses S. Grant was President.

The Pirates of Penzance was first performed in 1879 (in Devon and New York) and in 1880 (in London), when Rutherford B. Hayes was President.

The Mikado was first performed in 1885, when Grover Cleveland was President.

The reign of Queen Victoria ended with her death in 1901.

It is a century after the start of World War I.

It is 72 years after the Atomic Age began, with the first controlled, self-sustaining, nuclear-fission chain reaction.

Necessarily, objects of humor changed since *Trial by Jury* opened, since *The Pirates of Penzance* opened, and since *The Mikado* opened.

Freshening – place and time

¹⁶ Wikipedia, “Liverpool and Manchester Railway” (n.d.), available at http://en.wikipedia.org/wiki/Liverpool_%26_Manchester_Railway (accessed 8/15/2014).

Standard gauge is 4 feet, 8½ inches between the inner sides of the heads of the two rails which constitute a track. Broad gauge is wider than standard gauge. Medium gauge, narrow gauge, and minimum gauge are narrower than standard gauge. Wikipedia, “Track gauge” (n.d.), available at http://en.wikipedia.org/wiki/Track_gauge (accessed 8/17/2014). George Stephenson (1781–1848) pioneered standard gauge. Wikipedia, “George Stephenson” (n.d.), available at http://en.wikipedia.org/wiki/George_Stephenson (accessed 8/17/2014).

English references and Victorian references in the comic operas are indicative of the place and of the time in which the comic operas were written. Some references survived performances outside of England, and some references survived the succession of generations; others did not.

Examples:

- “Then the idiot who praises, with enthusiastic tone, / All centuries but this, and every country but his own” (*The Mikado*, Act I) can be understood by everyone.
- “And the lady from the provinces, who dresses like a guy, / And who ‘doesn’t think she dances, but would rather like to try’” (*The Mikado*, Act I) is not obvious to Americans.
- “And that singular anomaly, the lady novelist —” (*The Mikado*, Act I) is past its use-by date.
- There will be no ripple of amusement upon learning that dull people, “Who chatter and bleat and bore, / Are sent to hear sermons / From mystical Germans / Who preach from ten till four.” (*The Mikado*, Act II.)
- Puzzlement will be evoked by the requirement that certain railway-carriage idiots are “To ride on a buffer / In Parliamentary trains.”¹⁷ (*The Mikado*, Act II.)

Freshening – changes of taste

Societal tolerance enlarges and diminishes that which may be staged.

Unacceptable words become acceptable. Think of public use, in the present, debased decade, of curse words, vulgar words, and scatological words. Bad, for men. Worse, for women. Worst, for children. Twenty-first century technology is coeval with twenty-first century libertinage.

Acceptable words become unacceptable:

In the song “As some day it may happen”, sung by Ko-Ko in Act I, the character goes through a “little list” of “society offenders” who, if executed, “would not be missed”. One of these is “the nigger serenader and the others of his race”.

¹⁷ Michael Williams, “The hunt for Britain’s ghost trains” (*The Independent*, 12/19/2011), available at <http://www.independent.co.uk/news/uk/this-britain/the-hunt-for-britains-ghost-trains-6279103.html> (accessed 8/29/2014).

Gilbert's reference was to blackface minstrels who were white entertainers in makeup, not to dark skinned people. Also included in the list are "the lady novelist", referring to a particular type of novelist earlier lampooned by George Eliot, and "the lady from the provinces who dresses like a guy", where *guy* refers to the dummy that is part of Guy Fawkes Night celebrations, hence a tasteless woman who dresses like a scarecrow.

To avoid distracting the audience with references that have become offensive over time, the lyrics are almost invariably modified in modern productions; universally, the word "nigger" is changed. Other changes are made to the opera to take advantage of opportunities for topical jokes; the "Little List" song is often significantly rewritten. The precedent for such updating was set by Gilbert himself in the 1908 Savoy revival, with his additions to the Lord High Executioner's list of "The lovely suffragist" and "The red-hot Socialist". Richard Suart, a singer well known in the role of Ko-Ko, published a book containing a history of rewrites of the song, including many of his own. Another frequent alteration is to Pooh-Bah's list of titles, which must be kept largely the same due to later plot references, but may be added to with modern, topical positions. The Mikado's list of punishments and crimes in "A more humane Mikado", is also sometimes rewritten to include modern infractions.¹⁸

Freshening – Pooh-Bah's titles

In Act I, Pooh-Bah reveals that he "First Lord of the Treasury, Lord Chief justice, Commander-in-Chief, Lord High Admiral, . . . Archbishop of Titipu, and Lord Mayor,..." The office of Archbishop of Titipu cannot be taken away from Pooh-Bah, because he is authorized, as archbishop, to officiate at marriages. In Act II, Pooh-Bah is directed by Ko-Ko to officiate at the marriage of Nanki-Poo and Yum-Yum.

There may be a contemporary addition to a necessary title, to suit. Examples: "Lord High Admiral, Marshal of the Air Force, . . ."; "Archbishop of Titipu, Chief Rabbi, . . ."

¹⁸ Wikipedia, "The Mikado" (subheading: "Analysis and reception"; sub-subheading: "Modernised words and phrases") (n.d.), available at http://en.wikipedia.org/wiki/The_Mikado (accessed 8/8/2014) (footnotes omitted).

OVERTURE

Trial by Jury

This comic opera is a one-act spoof of the British courtroom. A jilted woman sues her former fiancé. Her claim sounds in breach of promise to marry. At trial, romantic love takes a distant third to greed and lust.

Fourth Common-Law Principle of Litigation: No matter that a client swears up and down that his case is not about the money, but is about his expressed principle, it's about the money.

The setting of the trial is the Court of the Exchequer. Presumably, Angelina, the complainant, filed a bill of complaint against Edwin, the defendant, and pleaded that he breached his promise to marry her, and pleaded further that she is entitled to damages.

The judge (“And a good Judge too!”) does not recuse himself, although, prior to his elevation to the bench, he jilted a woman. When Angelina enters the court room, the judge takes a fancy to her. The judge does not recuse himself for that, either.

Edwin, who represents himself, has a current love. It is conceded by Edwin that he breached his promise, but he offers an affirmative defense. Angelina became, to him, a “bore intense.”

Cherchez l'argent in a court room, as everywhere else. Angelina contends that she loves Edwin exceedingly. “My loss I shall ever deplore.” The jury should award appropriate large damages to her.

Edwin reveals his shortcomings: “I smoke like a furnace – I’m always in liquor, / A ruffian – a bully – a sot.” The jury should award appropriate small damages against him.

A settlement suggested by Edwin is that he marry both Angelina and his current love. The suggested settlement is found by Angelina’s counsel and the judge to be precluded by law, which prohibits burglary. (They confuse burglary and bigamy.)

The legal dilemma which Edwin faces is clear to all. Edwin not marrying Angelina will be held by the jury to be a breach of his promise to marry her. Edwin marrying both Angelina and his current love will subject him to an accusation of burglary.

Another shortcoming revealed by Edwin is that, were he in liquor, he would thrash, perhaps kick, Angelina. “I am such a very bad lot!”

To the jury, it seems that this shortcoming would support an abatement of damages. The judge suggests that Edwin should be made tipsy, to see whether, in that condition, he would, in fact, thrash and kick Angelina.

Angelina’s counsel: “With all respect I do object.” Angelina: “I do object.” Edwin: “I don’t object.”

The judge is in a hurry to get away, so he cannot be in court all day. He gets annoyed that no resolution of the dispute is possible. Thereon, the judge (whose “law is fudge, Yet of beauty I’m a judge”) offers to resolve the dispute by marrying Angelina himself.

Angelina accepts. There is “joy unbounded.”

As of January 1, 1971, in England and Wales, an agreement to marry is not a contract. No cause of action arises from a breach of a promise to marry.¹⁹

ACT I

THE PIRATES OF PENZANCE

Introduction

The fifth of the fourteen comic operas by Gilbert and Sullivan is *The Pirates of Penzance*. This Act offers a freshening of “I Am the Very Model of a Modern General.”

Settings

Cornwall. Act I: A rocky sea-shore of Cornwall.²⁰ Act II: A ruined chapel by moonlight.

¹⁹ 9(1) Halsbury’s Laws of England ¶ 742 (p. 486) (4th ed. 1998). Accord, e.g., Family Law Act, 1981 (Ire.) § 2(1) (agreement to marry is not a contract; no civil action for breach of agreement to marry may be maintained); N.Y. Civ. Rts. L. § 80-A (abolition of civil action for breach of contract to marry), § 80-B (permits civil action to recover transferred money and property, or to recover the value of transferred property, when a marriage which did not occur was the sole consideration for the transfer) (2014); Action for Breach of Promise of Marriage (Abolition) Act 1971 (South Aust.) § 2(1) (prohibition of civil action to recover damages for failure to fulfill promise to marry), § 3 (civil action to recover gift given in contemplation of marriage may be maintained).

Main characters

Major-General Stanley.

The Pirate King.

Frederic, the pirate apprentice.

Major-General Stanley's daughters, including Mabel.

Ruth, the pirates' maid-of-all-work.

Legal elements

Ruth was instructed by Frederic's father to apprentice Frederic to pilots (*i.e.*, ship pilots), so that he would learn to be a pilot. Ruth misheard the instruction, and she apprenticed Frederic to the pirates. He learned to be a pirate. The agency-law issue is whether the contract (the articles of apprenticeship) is voidable by the principal (Frederic's father) because of the serious mistake of his agent (Ruth).

Frederic thought that he was apprenticed to the pirates until he reached his twenty-first *year*. The Pirate King pointed out to Frederic that, according to a term of the articles of apprenticeship, Frederic was apprenticed to the pirates until his twenty-first *birthday*. The distinction between year and birthday is critical, because Frederic was born on February 29. Counting birthdays, Frederic is only five and a quarter. Frederic's strong sense of duty leads him to conclude that he is contractually obligated to be a pirate apprentice until his twenty-first birthday, which will occur when he is really old. The contract-law issue is whether the parties to the articles of apprenticeship intended "twenty-first birthday" literally or figuratively.

The daughters of Major-General Stanley are described as "Wards in Chancery." The equity issue is why that should be so. The daughters' mother was not in the picture, but their father was. A minor with one parent is not an orphan, so there is no ground for a wardship under the supervision of the Chancery Court.

An objection is raised by Major-General Stanley to pirates as sons-in-law. The Pirate King rejoined, "We object to Major-Generals as fathers-in-law. But we waive that point. We do not press it. We look over it." The family-law issue is whether the defect (Major-General Stanley's rank) may be waived by the pirates.

²⁰ In the original, "A rocky sea-shore on the coast of Cornwall." *Id.* at 146.

"[O]n the coast" causes an unfortunate tautology. A sea-shore is located only on a coast.

Major-General Stanley describes the tombs situated on his real property as “the tombs of my ancestors.” Frederic reminds him that the real property was bought only a year before, “and the stucco on your baronial castle is scarcely dry.” Major-General Stanley counters that the bodies buried there are indeed those of his ancestors. “I bought the chapel and its contents. I don’t know whose ancestors they *were*, but I know whose ancestors they *are*.” The contract-law and family-law issue is whether Major-General Stanley is the “descendant by purchase” of those deceased people.

The song

Major-General Stanley displays his erudition through “I Am the Very Model of a Modern Major-General.” Some vacuous references contradict the impression of a good education. Also, Major-General Stanley’s military knowledge “Has only been brought down to the beginning of the century.”

Synopsis

Act I. The pirates celebrate the completion by Frederic of his piracy apprenticeship, and his rise to the status of pirate.

Frederic, who has a strong sense of duty, does not join the celebration. After he completes his apprenticeship, it will be his duty to fight the pirates. Not as persons, but as pirates, because they commit piracy.

The pirates are asked by Frederic to give up piracy. The Pirate King responds that, compared with respectability, piracy is honest.

The trade of piracy is unsuitable for the pirates. They are tender-hearted, so they don’t attack weaker people. When they attack stronger people, they lose.

Also, the pirates are orphans, so they don’t attack other orphans. Frederic calls attention to the consequence of the policy. “Every one we capture says he’s an orphan. The last three ships we took proved to be manned entirely by orphans, and so we had to let them go. One would think that Great Britain’s mercantile navy was recruited solely from her orphan asylums – which we know is not the case.”

After Ruth made her serious mistake of apprenticing Frederic to the pirates, she did not want to break the news to Frederic’s father. Instead, Ruth became a maid-of-all-work of the pirates.

The only woman ever seen by Frederick is Ruth, so Frederic believes that Ruth is beautiful. The pirates, who know better, suggest that Frederic take Ruth with him when he returns to civilization.

After the pirates depart, Frederic sees a group of beautiful young women approaching the pirate lair. He realizes that Ruth lied to him about her looks, so he sends her away.

The young women, who are Major-General Stanley's daughters, come into sight. Frederic, who hid from them, reveals himself, and he asks them to help him reform. Mabel, one of Major-General Stanley's daughters, responds to Frederic's request, and she chides her sisters for their lack of charity.

Frederic and Mabel fall in love. The others among Major-General Stanley's daughters wonder whether they should eavesdrop, or leave the couple alone. They decide to "talk about the weather," while stealing glances at Frederic and Mabel.

A warning about the pirates is given by Frederic to Major-General Stanley's daughters. Before they can flee, the pirates show up. They capture Major-General Stanley's daughters, and intend to marry them.

The pirates are cautioned, "we are Wards in Chancery, And father is a Major-General!" by Mabel. Major-General Stanley arrives, and he appeals to the pirates not to take his daughters, "the sole remaining props of my old age." It is known to Major-General Stanley that the pirates are sympathetic to orphans, so he (Major-General Stanley) buttresses his appeal by asserting falsely that he is an orphan. Thereon, the pirates release Major-General Stanley's daughters.

Act II. Major-General Stanley sits in the ruined chapel which is on his estate, surrounded by his daughters. His conscience is bothered by his false assertion, to the pirates, about being an orphan.

Frederic is to lead the police to the pirates, but the Pirate King informs Frederic that his (Frederic's) apprenticeship binds him until his twenty-first birthday, not until he reaches the age of twenty-one. Therefore, Frederic is still an apprentice pirate. Frederic acts on his duty, as an apprentice pirate, and makes known to the Pirate King that Major-General Stanley lied about being an orphan. The pirates vow to take revenge.

Mabel pleads with Frederic to stay with her. He responds that he must fulfill his duty. Mabel agrees to wait the long years until Frederic is no longer an apprentice pirate.

The police appear at the ruined chapel, and they are ready to arrest the pirates. Admiration is expressed by Major-General Stanley's daughters for the bravery of the

police to face fierce and merciless pirates, and possibly to die. The police are unnerved, but they stay, and hide.

Upon the arrival of the pirates at the ruined chapel, the police and the pirates meet. Major-General Stanley is seized by the pirates, and the pirates get the better of the police.

Then, the tables are turned on the pirates. “We charge you yield,” the police demand of the pirates, “In Queen Victoria’s name!”

The demand is obeyed, because the pirates love their Queen.

Ruth discloses that the pirates are not common criminals. They are “noblemen who have gone wrong.”

Nobility removes Major-General Stanley’s objection to the marriages of his daughters to the pirates.

Piracy is given up by the pirates, who will take their seats in the House of Lords. Presumably, the giving up of piracy terminates Frederic’s apprenticeship, and Frederic can marry Mabel soon, rather than wait until his twenty-first birthday to do so.

All ends happily.

“I Am the Very Model of a Modern Major-General”

GEN.: I am the very model of a modern Major-General,
I’ve information vegetable, animal and mineral,
I know the kings of England, and I quote the fights historical
From Marathon to Waterloo, in order categorical;
I’m very well acquainted too with matters mathematical,
I understand equations, both the simple and quadratical,
About binomial theorem I’m teeming with a lot o’ news –
With many cheerful facts about the square of the hypotenuse.

ALL: With many cheerful facts, etc.

GEN.: I’m very good at integral and differential calculus,
I know the scientific names of beings animalculous,
In short, in matters vegetable, animal and mineral,
I am the very model of a modern Major-General.

ALL: In short, in matters vegetable, animal and mineral,
He is the very model of a modern Major-General.

GEN.: I know our mythic history, King Arthur's and Sir Caradoc's,
I answer hard acrostics, I've a pretty taste for paradox,
I quote in elegiacs all the crimes of Heliogabalus,
In conics I can floor peculiarities parabolous.
I can tell undoubted Raphaels from Gerard Dows and Zoffanias,
I know the croaking chorus from the *Frogs* of Aristophanes,
Then I can hum a fugue of which I've heard the music's din afore,
And whistle all the airs from that infernal nonsense *Pinafore*.

ALL: And whistle all the airs, etc.

GEN.: Then I can write a washing bill in Babylonian cuneiform,
And tell you every detail of Caractacus's uniform:
In short, in matters vegetable, animal and mineral,
I am the very model of a modern Major-General.

ALL: In short, in matters vegetable, animal and mineral,
He is the very model of a modern Major-General.

GEN.: In fact, when I know what is meant by "mamelon" and "ravelin",
When I can tell at sight a Mauser rifle from a javelin,
When such affairs as sorties and surprises I'm more wary at,
And when I know precisely what is meant by "commissariat",
When I have learnt what progress has been made in modern gunnery,
When I know more of tactics than a novice in a nunnery;
In short, when I've a smattering of elemental strategy,
You'll say a better Major-General has never *sat* a gee –

ALL: You'll say a better Major-General, etc.

GEN.: For my military knowledge, though I'm plucky and adventury,
Has only been brought down to the beginning of the century;
But still, in matters vegetable, animal and mineral,
I am the very model of a modern Major-General.

ALL: But still, in matters vegetable, animal and mineral,

He is the very model of a modern Major-General.²¹

Freshening of "I Am the Very Model of a Modern General"

GEN.: I am the very model of a modern lawyer practical,
I've information mineral, vegetable, and animal,
I know the Magna Carta, and I quote the courts historical
From the Exchequer to Queen's Bench, in order categorical;
I'm very well acquainted, too, with matters litigational,
I settle quarrels which are *bona-fide* labyrinthinal,
Of equity applied in court I'm teeming with a lot o' news –
And I have tidings of a landmark law case which I did not lose.

ALL: And I have tidings, etc.

GEN.: I hold my own at con law, and construction law I can discuss;
My 9-zip win from the Supremes was a success miraculous:
In short, in matters mineral, vegetable, and animal,
I am the very model of a modern lawyer practical.

ALL: In short, in matters mineral, vegetable, and animal,
He is the very model of a modern lawyer practical.

GEN.: I know our legal history, not all of which is positive,
The Framers gave us passive courts, but judges are dispositive.
*Dred Scott*²² kicked darkies off the bus, and *Plessy*²³ furthered race disdain,
The court was packed to *aye* greenbacks,²⁴ and Franklin would have packed again.²⁵
Kill fetuses²⁶ and burn the flag,²⁷ but pervies get immunity,²⁸
In place of liberty and law there is imperialism.
A judge says this, a judge says that, opinions of whole cloth are made,

²¹ Complete G&S, *supra*, n. 1, at 163-64 (footnotes omitted).

²² *Dred Scott v. Sandford*, 60 U.S. 393 (1857).

²³ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

²⁴ *Hepburn v. Griswold*, 75 U.S. 603 (1870); *Knox v. Lee*, 79 U.S. 457 (1871); *Juilliard v. Greenman*, 110 U.S. 421 (1884).

²⁵ Wikipedia, "Judicial Procedures Reform Bill of 1937" (n.d.), available at http://en.wikipedia.org/wiki/Judicial_Procedures_Reform_Bill_of_1937 (accessed 8/13/2014).

²⁶ *Roe v. Wade*, 410 U.S. 113 (1973).

²⁷ *Texas v. Johnson*, 491 U.S. 397 (1989).

²⁸ *Romer v. Evans*, 517 U.S. 620 (1996); *Lawrence v. Texas*, 539 U.S. 558 (2003); *United States v. Windsor*, 570 U.S. ____ (2013).

All courts have FORCE, all courts have WILL,²⁹ neutrality's a masquerade.

ALL: All courts have FORCE, etc.

GEN.: I do my work proficiently, though law will ne'er be what it should,
My wife and child come always first, career is means not central good.
That's how in matters mineral, vegetable, and animal,
I am the very model of a modern lawyer practical.

ALL: That's how in matters mineral, vegetable, and animal,
He is the very model of a modern lawyer practical.

GEN.: Beyond the law my knowledge thins, though I retain a smattering
Of facts accrued when I was young, and had the time for studying.
It's good that other lawyers know much less, and some don't know a thing,
Among the blind, Erasmus wisely said, the one-eyed man is king.³⁰
Yet I do know from Antonin, the Framers wrote just what they mean,³¹
And thus, for text-denying change, a judge should not be keen; but seen
By justices, the Constitution is whatever *they* may say,
The Framers' words are merely principles, which just get in the way.

ALL: The Framers' words, etc.

GEN.: The second-rate wordsmithery in this pastiche is my best bid,
There's nothing which I write to hold a candle to what Gilbert did.
Elseways, in matters mineral, vegetable, and animal,
I am the very model of a modern lawyer practical.

ALL: Elseways, in matters mineral, vegetable, and animal,

²⁹ Contra, Yale Law School, The Avalon Project, The Federalist Papers, No. 78 (n.d.), available at http://avalon.law.yale.edu/18th_century/fed78.asp (accessed 8/11/2014).

³⁰ Oxford Dictionary of Quotations 316 (Oxford: Oxford University Press, 7th ed. 2009).

³¹ E.g., Antonin Scalia, "Remarks at the Woodrow Wilson International Center for Scholars in Washington, D.C." (3/14/2005), available at http://www.cfif.org/htdocs/freedomline/current/guest_commentary/scalia-constitutional-speech.htm (accessed 8/12/2014); Antonin Scalia, "Originalism: The Lesser Evil," Univ. Cincinnati L. Rev. 57 (1989). Accord, C-Span, Associate Justice Clarence Thomas, "U.S. Constitution and Role of Government" (10/16/2008) (video), available at <http://www.c-spanvideo.org/program/SConstitut> (accessed 8/12/2014); The Federalist Society, "The Great Debate" (11/1/1986) (speech by Edwin Meese III, 7/9/1985), available at <http://www.fed-soc.org/publications/detail/the-great-debate-attorney-general-ed-meese-iii-july-9-1985> (accessed 9/2/2014).

He is the very model of a modern lawyer practical.

ENTR'ACTE

My object all sublime

I work on all the time –

To individuate law and crime –
dividuate law and crime;

But government has bad laws,

Opinions always have flaws,

So law is crime, but without good cause!

Crime without good cause!³²

ACT II

THE MIKADO

Introduction

The Mikado is the ninth of the fourteen comic operas by Gilbert and Sullivan. This Act offers a freshening of “As Some Day It May Happen.”

Settings

Japan. Act I. Courtyard of Ko-Ko's official residence. Act II. Ko-Ko's garden.

Main characters

Ko-Ko, the Lord High Executioner of Titipu, who is a jumped-up cheap tailor.

Nanki-Poo, the son of the Mikado, disguised as a wandering minstrel.

Pooh-Bah, the Lord High Everything Else.

Yum-Yum, a beautiful young woman.

Katisha, an elderly lady.

The Mikado.

³² See *The Mikado*, Act II, Song – Mikado and Chorus, in Complete G&S, supra, n. 1, at 406.

Legal elements

A law against flirting, leering, or winking, “unless connubially linked,” which is the only crime punishable by decapitation.

A law which makes suicide a capital offense.

A contract between Nanki-Poo and Ko-Ko.

A law that, when a married man is beheaded, his wife is to be buried alive.

A false affidavit.

A false certificate of death.

A law against “compassing the death of the Heir Apparent.”

A legal fiction.

Synopsis

Act I. Nanki-Poo, the son of the Mikado, fled the imperial palace to avoid the amorous intentions of Katisha, an elderly lady. He (Nanki-Poo) assumed the guise of a wandering minstrel. While Nanki-Poo was in Titipu for a performance, he met, and fell in love with, Yum-Yum. She is a ward of Ko-Ko, as are her two sisters, Pitti-Sing and Peep-Bo. Yum-Yum is betrothed to Ko-Ko.

For flirting, Ko-Ko, a cheap tailor by trade, was condemned to death by beheading. Nanki-Poo hears of it, and returns to Titipu to find Yum-Yum. Pish-Tush, a noble lord, informs Nanki-Poo that Ko-Ko was reprieved, and was raised to the rank of Lord High Executioner.

The goal of raising Ko-Ko to that rank was to stymie the harsh penalty for flirting. Ko-Ko was to be executed for flirting. Beheadings must be done sequentially, so Ko-Ko’s first job as Lord High Executioner will be to behead himself. That is the prerequisite to his beheading of someone else.

Young ladies, Yum-Yum, Pitti-Sing, and Peep-Bo among them, are school-leavers, and are on their way home. Nanki-Poo is informed by Pooh-Bah, Lord High Everything Else (such as First Lord of the Treasury, Lord Chief Justice, Lord High Admiral, Archbishop of Titipu, and Lord Mayor, “both acting and elect, all rolled into one”), that Yum-Yum will wed Ko-Ko that afternoon.

Yum-Yum appears. She greets Ko-Ko reluctantly, and she greets Nanki-Poo enthusiastically. Nanki-Poo declares his love for Yum-Yum, with whom he shares the secret of his identity.

Ko-Ko receives a letter from the Mikado, who is concerned that, for the previous year, there were no beheadings in Titipu. The Mikado threatens abolition of the position of

Lord High Executioner, and reduction of the town of Titipu to the rank of village, if no one were to be beheaded within a month.

It is impossible for Ko-Ko to behead himself. Aside from that, suicide is a capital offense. Nanki-Poo wants to kill himself, rather than face life without Yum-Yum.

Thereon, Nanki-Poo and Ko-Ko enter into a contract. Nanki-Poo will marry Yum-Yum the following day. After one month, Ko-Ko will behead Nanki-Poo, and Ko-Ko will marry Yum-Yum, Nanki-Poo's widow.

Act II. Yum-Yum gets ready for her wedding. She is saddened by the prospective brevity of the marriage.

Nanki-Poo tries to cheer up Yum-Yum, but a catch is discovered. When a married man is beheaded, his wife must be buried alive. Yum-Yum's enthusiasm for the marriage diminishes.

To spare Yum-Yum her grim fate, Nanki-Poo decides to kill himself at once. That, however, would leave Ko-Ko with nobody to behead.

Nanki-Poo offers himself for immediate beheading. Ko-Ko accepted the post of Lord High Executioner, thinking its duties "purely nominal." In lieu of a beheading, Ko-Ko swears falsely to an affidavit that Nanki-Poo was beheaded by him.

Ko-Ko arranges for Nanki-Poo and Yum-Yum to be married, and to leave Titipu immediately. If Nanki-Poo were to remain, Ko-Ko would be seen by the Mikado, contrary to the affidavit, as not having beheaded Nanki-Poo.

The Mikado enters Titipu. He sings of his criminal-law policy:

My object all sublime
I shall achieve in time –
To let the punishment fit the crime –
The punishment fit the crime;
And make each prisoner pent
Unwillingly represent
A source of innocent merriment!
Of innocent merriment!³³

³³ Complete G&S, *supra*, n. 1, at 406. See Poul Anderson, "My Object All Sublime" (*Galaxy*, June, 1961). (2014) J. JURIS. 393

Ko-Ko, Pooh-Bah, and Pitti-Sing advise the Mikado that an execution took place, and show him a certificate of death. The Mikado reads only the initial part of the certificate of death, so he does not read the name of the beheaded person. A creative description of the beheading is provided to the Mikado by Ko-Ko, Pooh-Bah, and Pitti-Sing.

The Mikado is glad to learn that someone was beheaded, but he (the Mikado) is in Titipu to learn of the whereabouts of his son. From the certificate of death, Katisha imparts that the wandering minstrel, Nanki-Poo, the Mikado's son, was beheaded.

A ghastly death is prescribed for "compassing the death of the Heir Apparent." The presumed execution of Nanki-Poo is understood by the Mikado to have been a mistake, which arose from Nanki-Poo disguising himself as a wandering minstrel, but the law does not provide an exception for a mistake. Ko-Ko, Pooh-Bah, and Pitti-Sing are scheduled to die after luncheon.

The seeming way out is for Ko-Ko to produce Nanki-Poo alive and well. Per contra, Nanki-Poo already married Yum-Yum, so he is no longer free to marry Katisha. Were Nanki-Poo to reveal that he is married, Katisha would insist that he (Nanki-Poo) be executed for jilting her. Then, Yum-Yum would have to be buried alive.

The resolution is for Ko-Ko to marry Katisha. In that event, Katisha would have no claim on Nanki-Poo, and no cause to seek his execution. Consequently, Yum-Yum would not have to be buried alive.

Ever so reluctantly, Ko-Ko woos and wins Katisha. They get married.

Nanki-Poo shows up, and introduces his wife, Yum-Yum, the Mikado's daughter-in-law, to the Mikado. A legal fiction saves Ko-Ko, Pooh-Bah, and Pitti-Sing. Ko-Ko explains that his affidavit averred permissibly that Nanki-Poo had been executed, because, when the Mikado orders that a man is to be beheaded, it is the equivalent of it having been done. The man is as good as dead, so saying that he's dead, although he's still alive, is acceptable.

All ends happily.

The term "Pooh-Bah"

In Act I, Pish-Tush informs Nanki-Poo that Ko-Ko was reprieved, and was raised to the rank of Lord High Executioner. For a citizen, that is the highest rank. Pooh-Bah adds, "Our logical Mikado, seeing no moral difference between the dignified judge who

condemns a criminal to die, and the industrious mechanic who carries out the sentence, has rolled the two offices into one, and every judge is now his own executioner.”

Other officials refused to be subordinate to an ex tailor, so Pooh-Bah became the Lord High Everything Else. He holds all public posts other than that of Lord High Executioner, and he collects all salaries for all public posts which he holds.

Through *The Mikado*, Gilbert and Sullivan added the term “Pooh-Bah” to the English language. “**Pooh-Bah**. n. (also **pooh-bah**) **1** a holder of many public offices at once. **2** A pompous self-important person.”³⁴

No difficulty

Prior to the song, Ko-Ko reports to the nobles that “there will be no difficulty in finding plenty of people whose loss will be a distinct gain to society at large.” Certainly. Other people who won’t be missed are:

1. Lawyers, solicitors, and barristers who never learned to be decent people.
2. Judges who would have their nether anatomies osculated by practicing lawyers and barristers who appear before them.
3. The legislators and the executives of the states and of the United States, each government of which is a government of those who govern, by those who govern, for those who govern.³⁵
4. Leftists of all stripes: liberals, left-liberals, socialists, progressives, and communists.
5. Civil-law writers, for their support, in criminal cases, of prosecutorial appeals of verdicts and judgments, and of prosecutorial appeals of punishments.
6. Advocates of big government, generally. In particular, advocates of a big United States government.³⁶
7. Proponents of high taxes, and opponents of low-tax jurisdictions.

³⁴ Judy Pearsall and Bill Trumble (eds.), *The Oxford English Reference Dictionary* 1125 (Oxford: Oxford University Press, 2nd ed. 1996) (modified).

³⁵ Cf. “. . . and that government of the people, by the people, for the people, shall not perish from the earth.” Abraham Lincoln Online, *Speeches & Writings*, “The Gettysburg Address” (n.d.), available at <http://www.abrahamlincolnonline.org/lincoln/speeches/gettysburg.htm> (accessed 8/11/2014).

The Gettysburg Address is a speech given by President Lincoln on November 19, 1863, at the dedication of the Soldiers’ National Cemetery in Gettysburg, Pennsylvania.

³⁶ Contra, U.S. Const. art. I, § 8 (delegated powers), amends. I-X (Bill of Rights).

“As Some Day It May Happen”

KO-KO: As some day it may happen that a victim must be found,
I’ve got a little list^[37] – I’ve got a little list
Of society offenders who might well be underground,
And who never would be missed – who never would be missed!
There’s the pestilential nuisances who write for autographs –
All people who have flabby hands and irritating laughs –
All children who are up in dates, and floor you with ’em flat –
All persons who in shaking hands, shake hands with you like *that* –
And all third persons who on spoiling *tête-à-têtes* insist –
They’d none of ’em be missed – they’d none of ’em be missed!

CHORUS: He’s got ’em on the list – he’s got ’em on the list;
And they’ll none of ’em be missed – they’ll none of ’em be missed.

KO-KO: There’s the nigger serenader,^[38] and the others of his race,
And the piano-organist – I’ve got him on the list!
And the people who eat peppermint and puff it in your face,
They never would be missed – they never would be missed!
Then the idiot who praises, with enthusiastic tone,
All centuries but this, and every country but his own;
And the lady from the provinces, who dresses like a guy,
And who ‘doesn’t think she waltzes, but would rather like to try’;
And that singular anomaly, the lady novelist –
I don’t think she’d be missed – I’m *sure* she’d not be missed!

CHORUS: He’s got her on the list – he’s got her on the list;
And I don’t think she’ll be missed – I’m *sure* she’ll not be missed!

KO-KO: And that *Nisi Prius*^[39] nuisance, who just now is rather rife,
The Judicial humorist – I’ve got *him* on the list!

³⁷ In the Complete G&S, supra, n. 1, at 831, footnote 15 reads in part: “*I’ve got a little list*: There have been innumerable pastiches of this piece, mostly attuned to events and mores with which the audience would be familiar.”

³⁸ In the Complete G&S, supra, n. 1, at 831, footnote 16 reads in part: “*nigger serenader*: The text was changed to ‘banjo serenader’ in 1948 after American audiences found it offensive.”

³⁹ In the Complete G&S, supra, n. 1, at 831, footnote 17 reads: “*Nisi Prius*: A term in English law, based on the Latin ‘unless before’, i.e. ‘unless heard before’, to denote cases tried in the Assize Court which should have been civil cases.”

All funny fellows, comic men, and clowns of private life –
They'd none of 'em be missed – they'd none of 'em be missed.
And apologetic statesmen^[40] of a compromising kind,
Such as – What d'ye call him – Thing'em-bob, and likewise – Never-mind,
And 'St-'st-'st – and What's-his-name, and also You-know-who –
The task of filling up the blanks I'd rather leave to *you*.
But it really doesn't matter whom you put upon the list,
For they'd none of 'em be missed – they'd none of 'em be missed!

CHORUS: You may put 'em on the list – you may put 'em on the list;
And they'll none of 'em be missed – they'll none of 'em be missed.⁴¹

Freshening of "As Some Day It May Happen"

KO-KO: As some day it may happen that a victim must be found,
I've got a little list – I've got a little list
Of society offenders who might well be underground,
And who never would be missed – who never would be missed!
There's the justices who twist the law to make it what they please –
All politicians who have brought the country to its knees –
All newsmen who make propaganda into daily news –
All camel jockeys and their friends who live to kill the Jews –
And traitors who on Europeanizing us insist –
They'd none of 'em be missed – they'd none of 'em be missed!

CHORUS: He's got 'em on the list – he's got 'em on the list;
And they'll none of 'em be missed – they'll none of 'em be missed.

KO-KO: There's the economists who preach free trade for the economy,
Hollywood celebrities – I've got them on the list!
And law profs who convey as truth the lies of *Marbury*,⁴²
They never would be missed – they never would be missed!
Then the idiot who praises, with enthusiastic tone,
All governments but ours, and every system but our own;
And lawyer know-it-alls who say that *Lochner*⁴³ went astray,

⁴⁰ In the Complete G&S, *supra*, n. 1, at 831, footnote 18 explains a few mockings of Victorian politicians and of contemporary politicians.

⁴¹ Complete G&S, *supra*, n. 1, at 373-75 (footnotes omitted).

⁴² *Marbury v. Madison*, 5 U.S. 137 (1803).

⁴³ *Lochner v. New York*, 198 U.S. 45 (1905).

It is intellectual kludge.⁴⁵

On this subject I ask you to think –
 Think – think!
And to be with the Framers in sync –
 Sync – sync!
 The Framers were sages,
 They wrote for the ages,
A “living” charter is Leftists’ sludge.

The Framers’ charter has to be,
The only canonicity
Of government in Washington –
Preserve it for posterity!

Then let good laws,
Our lives advance,
With firm regard,
For Framers’ stance.

With fewer *leges scriptae*⁴⁶ we

⁴⁵ “**kludge** * * * ‘An ill-assorted collection of poorly-matching parts, forming a distressing whole’ (Granholm); esp. in *Computing*, a machine, system, or program that has been improvised or ‘bodged’ together; a hastily improvised and poorly thought-out solution to a fault or ‘bug.’” VIII Oxford English Dictionary 479 (2nd ed. 1989).

⁴⁶ Latin: lex, legis. *Lex* is nominative feminine singular. *Lex scripta* (sing.), *leges scriptae* (pl.).

“**Lex scripta:** Law authorized or created by statute rather than custom or usage.” Black’s Law Dictionary 924 (St. Paul, Minn.: West Publishing Co., 7th ed. 1999) (modified).

“**Lex non scripta:** Common law, including customs and local laws, as distinguished from statutory law.” *Id.* at 923 (modified).

The earliest Britons and Gallic Druids were unlettered. They committed their learning, including their laws, to memory, and they had an oral tradition of laws and customs.

But, with us at present, the monuments and evidences of our legal customs are contained in the records of the several courts of justice, in books of reports and judicial decisions, and in the treatises of learned sages of the profession, preserved and handed down to us from the times of highest antiquity. However I therefore style these parts of our laws *leges non scriptae*, because their original institution and authority are not set down in writing, as acts of parliament are, but they receive their binding power, and the force of laws, by long and immemorial usage, and by their universal reception throughout the kingdom.

¹ Blackstone, Commentaries *63-*64 (1765). See Wayne Morrison (ed.), *I Blackstone’s Commentaries on the Laws of England* 47 (Abingdon, Oxford: Routledge-Cavendish, 2001).

Will have authentic liberty!⁴⁷

⁴⁷ See *The Mikado*, Act II, Finale, in *Complete G&S*, *supra*, n. 1, at 422.