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Rake and Rumpole: Mavericks for Justice—Purity and Impurity in Legal Professionalism

John Flood

Abstract

TV shows and films about law and lawyers are hugely successful. During its heyday in the late 20th century Rumpole of the Bailey drew 10 million viewers and was watched worldwide. Law programs are often the only source of knowledge about law for many people. The shows play on the themes of right and wrong, justice and injustice, usually through the medium of the adversarial court process. The two shows compared here, Rake and Rumpole, are emblematic of the legal themes emerging in popular legal culture. I have borrowed from Mary Douglas' Purity and Danger the idea that symbolic and professional culture of the Bar is diverse. Both Cleaver Greene and Horace Rumpole in their lives and professional practices express this diversity. Rumpole represents an essentially Whiggish ideal of the Bar and English society while Greene rampages through a Benthamite Australian ideal rejecting authority. The chapter also includes reflections on professionalism and women in law.

Introduction¹

My thesis is that lawyers regularly fall into two categories in various media—either saints or sinners; heroes or villains; conventional or maverick, representing the pure and impure. The classic saint is *Perry Mason* who was rather dull but a dependably good lawyer. Over the last twenty years or so, television has emphasised the sinner and the maverick. TV shows such as *L.A. Law*², *Ally McBeal*,³ *Boston Legal*⁴ and *The Good Fight*⁵ have played up the quirky aspects of lawyering, edgy, serendipitous, even whacky. And while US shows identify individual lawyers, they mostly operate in the context of a law firm with partners who can function as a brake w needed.

In the Anglo-Australian context the barrister tradition thrives. Here the individual lawyer is pitted against bigger opponents such as business or the state. There is considerably more space for outré personality traits and idiosyncrasies to flourish. The British series *Rumpole of the Bailey*⁶ and the Australian *Rake*⁷ illustrate two variants of a similar theme—the maverick against the powerful.⁸ The Bar as a profession represents a clubbable environment where class, status and education signify one's position in the hierarchy. Horace Rumpole and Cleaver Greene, even though well educated,⁹ are portrayed as archetypes of Groucho Marx's maxim, 'I don't want to belong to any club that will have me as a member.' They are barristers in spite of themselves, fiercely independent, clever, and ethically fluid. They seek a form of ethics bound to justice rather than ideas of discipline and governmentality.

These two television series are not contemporaneous: *Rumpole* was filmed in the late 20th century and *Rake* in the early 21st. Nevertheless, they speak to each other over the years in small but detectable ways. Both the protagonists are Australian. Leo McKern (*Rumpole*) and Richard Roxburgh (*Rake*) are acclaimed actors of their generations with a range of roles, but both have been captured by these particular characters. Rumpole appears in both television and book form with the result that McKern's physical representation became that of Rumpole. And although Rumpole has been performed in radio by other actors, no visual depiction has yet replaced the original.¹⁰ There is one connection that occurs in early episode. Cleaver Greene is a witness in a bungled robbery and his former lover, Scarlet, a crown prosecutor, decides to cross-examine him instead of letting her junior do it. This breaches ethical conduct. As her questions cause Cleaver to squirm, he bursts with frustration and shouts at his somnolent counsel, 'Oi, Rumpole', in order to get him to object.¹¹ It is the only time when the two shows acknowledge each other.

There are stark differences between the two shows despite the time differences. English lawyer shows tend to concentrate on the courtroom with the outside world only barely registering¹² *Rumpole* is an exemplar of this. We see him at home with Hilda and we see him in chambers and Pommeroy's Wine Bar drinking Chateau Thames Embankment, reciting Keats,¹³ but the majority of each episode is in court.

Rumpole is also more genteel; on the whole people are decent to each other as befitting stereotypes of British society at this time.¹⁴¹⁵ *Rake*, however, spends possibly more time outside the court than in and is far less genteel: many bad things happen to Cleaver as befitting the narratives of a more rough and tumble society in Australia. This is certainly so as the series progresses. Much of *Rake* revolves around Cleaver's relationships, dysfunctional and functional.¹⁶ One other distinguishing aspect is how much of *Rake* is taken up with Cleaver's own legal problems. The first few episodes show him in a tax tribunal because of his own non-payment. Cleaver is desperate to delay the proceedings as long as possible using all sorts of wiles—dodgy witnesses, half-destroyed evidence, and eventually succeeding when, as the judge is about to find against him, the judge conveniently has a heart attack and dies.¹⁷ As this chapter is taken up with comparison, I dip in and out of the characters; for a sustained analysis of *Rake* as a larrikan see Lili Pâquet's chapter in this volume.

The differences I outline here are redolent of the political and social cultures of Britain and Australia. *Rumpole's* world is essentially Whiggish¹⁸. It is ordered, tolerant and even liberal. It nevertheless has some conservative ideals which the Whigs demonstrated by their support for the aristocracy although this was combined with a commitment to parliamentary supremacy. Even when the hippies appear to challenge the illegitimacy of drug laws, order is soon restored and the hippies are marginalised.¹⁹ There is a natural order to *Rumpole's* world and he is nicely situated in it.²⁰

The same cannot be said of Cleaver Greene's world. Australia in many ways was a reaction to Whiggish sentiment, abhorring aristocracy and privilege.²¹ According to Hugh Collins Australia is a Benthamite society—utilitarian, legalistic and positivistic. He neatly summarises these traits thus:

It should not be surprising that the Benthamite ideology is compatible with Australians' conventional sense of identity—that myth of national character that depicts them as practical, sporting, fair-minded, and

egalitarian. For these are a people proud in their pragmatism, skeptical of speculative and abstract schemes, wedded to 'common sense'. They are passionate about sport, yet legalistic limits are imposed on competitive zeal: above all else, their sporting ethic demands adherence to the umpire's decision.²²

Despite the rationality of Australian Benthamite culture political corruption has been and is rife (Perry 2011). *Rake* articulates this corruption clearly as Greene is manipulated by the political and legal classes. It gives an impression that everything is up for grabs and inherently unfair. Greene talks much about fairness (or how unfairly he is treated) to his wife, to his bookie, and to his lovers. He detests irrationality as demonstrated when having pushed the traffic button to cross the road, someone else comes along and pushes it. Greene is so outraged he punches the other person for not properly observing that he had pushed the button himself. He can be hyperlegalistic also. When cross-examining the same individual, as a witness in a case, the witness can't be sure of his recollections because he was recently beaten up. Greene plays on this ambivalent Australian identity throughout the series, both as lawyer and as politician.

Partial Autobiography

To explain why I am writing about these characters, I need to explain something of my background and how my interests developed over the years I have been an academic. To begin, I am British, although I have lived and worked in several countries including Australia where I have been for three years. I'm new here and there is still much about Australian culture I find puzzling, so forgive me for my errors.

As much as Horace Rumpole and Cleaver Greene are accidental characters. Fate always has a trick or two to play on them. My interests and career are largely also accidental. Therefore, I am not merely interested in them as tropes in legal fiction but more as ways of understanding myself through them. I don't think of myself as a

‘real’ person but someone who is made up perceptions—mine and others—and I seem to bounce off these rather like a ball in a pinball machine. When I read and watch *Rake* and *Rumpole* it is with sympathy and questions and reflection about how well I might have lived my life.

I like Horace and Cleaver in the way I like Sherlock Holmes or other detectives who puzzle their way through problems. These characters inhabit the social world and interact daily with it, but they have chosen professions that commit them to living mostly solitary lives inside their heads. Much to my surprise this is what I have done throughout my career and life. Lawyers, detectives too, live reactive lives: problems appear in front of them and they solve them. They may look for clients, but it isn’t feasible to persuade people to commit murder or fraud in order to get cases. That form of proactive marketing won’t suffice. The essential point I’m making here quite simply is that stuff happens to these characters—as it does to me—and it is how we respond that shapes our characters. One way of viewing these responses is to see them as situating us within the ideas of Aristotle’s *Rhetoric*. I will return to this below when I discuss the concepts of purity and taboo.

I am not a lawyer, nevertheless I have been interested in them, as a tribe, for a long time. I had Michael Zander as one of my teachers and some of his critics would say, was a zealot.²³ He was, and is, highly critical of the legal profession and has no hesitation in calling out its failings and restrictive practices. This led to him being called a ‘failed lawyer’, which I believe is how many practitioners would frame academic lawyers.²⁴ Up to this point in my life lawyers were mysterious, Dickensian figures, rather dull and ponderous. But I soon realised the legal system was lacking in providing more access to justice for people who couldn’t afford law and lawyers. Then I encountered phenomena like neighbourhood law centres and other groups advocating change in law. Thus lawyers could be activists.

My fascination with lawyers was strengthened further after taking a course on anthropology of law with Simon Roberts.²⁵ This took me away from the study of

substantive law to those who made and interpreted it. I followed this up by doing an ethnographic study of barristers' clerks,²⁶ which brought me into intimate contact with the Bar. Spending several months hanging around the Temple and other Inns of Court was appealing to a young and naïve graduate student. This initial involvement with the legal profession shaped my relationships and perceptions of lawyers.²⁷

I use the term tribe as a term of art in how I perceive lawyers but not in an ironic way. I consider them as occupants of economically and culturally shaped fields of activity that have particularly important consequences for society. For me it is not so much the discipline of law that is of interest—recall I am not a lawyer—but those whose task it is to be immersed in law. Law, then, can't be detached from its rituals, history, social structure, culture, and economics. It is both driven by external forces, e.g. economic imperatives, as well as its own internal logics. Neither can exist without the other. It is distinctly tribal.

While I was based in the United States during the 1980s doing a sociology PhD at Northwestern University in Chicago (ethnography of corporate law firm), shows about lawyers and law firms started appearing on television. Of course, there had been others before but the crucial one was *L.A. Law*. This show portrayed a modern law firm as populated by whites, blacks, Latinos, gays and lesbians, as well as male and female partners: even the loo was unisex. It was highly unrealistic yet it boosted law school admission figures and had high viewing ratings. *L.A. Law* helped stimulate the publication of the first issue of the *Yale Law Journal* on law and popular culture in 1989, which included two articles and one commentary on the show.²⁸ I fully agree with Stephen Gillers in this issue when he distinguishes *L.A. Law* from shows like *Perry Mason* because *L.A. Law* is not merely about solving some legal or criminal problems, it is about the lawyers and their lives (and by extension, academic lawyers).²⁹

Since *L.A. Law* I have religiously watched television shows (and films) about lawyers.³⁰ And when people have asked me (or criticised me for) what I'm doing, I

share Stewart Macaulay's sentiments when he was queried about watching sports on TV, '[I'm] not wasting time. It's research'.³¹ There are, and have been, many TV shows about lawyers, and, in this respect, I defer to the writings of Peter Robson and Michael Asimow who both write extensively on lawyers in film and TV.³²

The Dramatis Personae

For me Cleaver Greene and Horace Rumpole are interesting because they present different ideal types of professionalism in the Bar. Why does this matter? It matters because professionalism is one of the most important and enduring forms of occupational control and organisation over the centuries.³³ The Bar exemplifies this more than most other professions with eight hundred years history behind it.³⁴ This is why barristers exalt themselves and lord it over solicitors whose history is effectively a few hundred years shorter.

The law is one of the traditional professions along with medicine and the church. It borrowed freely from the other two in that barristers see themselves as a kind of secular priesthood (or in De Tocqueville's terms, an aristocracy); and that their compact with clients can entail their life or death. Law assured one's daily and future material successes; medicine ensured one lived to enjoy it; and the church secured one's eternal status in the divine realm afterwards. Law has also succeeded in promoting the charismatic status of its members to the wider public, most significantly through the Bar. For example, George Carman was renowned as a libel barrister representing many celebrities, becoming as famous as them.³⁵ Geoffrey Robertson is a well-known Anglo-Australian human rights barrister who has represented journalists and newspapers throughout the world.³⁶ It is, however, difficult to point to any solicitors with the same kind of profile as these barristers. These elements of tribalism also take us into the territory of purity and taboo.³⁷

Mary Douglas's portrayal of purity, cleanliness and uncleanness provides a lens for understanding inter- and intra-professional distinctions.³⁸ Indeed Andrew Abbott argues that is the core of status distinctions in professions, which the legal profession exemplifies.³⁹ Douglas uses the distinctions between cleanliness and uncleanness as ways of thinking about order and disorder, what is central to our thinking and what is marginal, and all of this permeates our culture. These distinctions are not hard-wired into our culture, in fact they can be fluid and show us how our symbolic lives change over time.⁴⁰

The rules around uncleanness urge us to pay attention to our material circumstances because they will also impact our symbolic lives. This can be seen in religious invocations to avoid certain foods. As Douglas says:

It is true that there can be a marvellous correspondence between the avoidance of contagious disease and ritual avoidance. The washings and separations which serve the one practical purpose may be apt to express religious themes at the same time. So it has been argued that their rule of washing before eating may have given the Jews immunity in plagues.⁴¹

The Bar has many such rituals from the eating of dinners, to being gowned in court, to not shaking hands with other barristers and more. One of the most distinctive of these types of rituals is the adoption and use of the cab rank rule.⁴² The rule states barristers are like taxi cabs patiently waiting for the next client who they will take regardless of case, crime, or demeanour. The principle is that no client, no matter how obnoxious or repellent, will go without representation. As simple as the rule is it is wrapped up in so many exceptions and exemptions that it has little value in reality. What it does have is enormous symbolic value since it indicates to the wider public that barristers are different from all other lawyers and professionals.

While conceptions of purity and taboo can assist in demarcating professional groups from the laity, they are especially useful in the categorisation of intra-professional distinctions. Both Andrew Abbott and John Heinz and Edward Laumann show how these distinctions operate in practice. Law practice essentially functions with two

conceptual categories: facts and doctrine. One's closeness or proximity to either determines the state of purity. According to Abbott a lawyer's closeness to legal doctrine situates her in quasi-priestly role because she is constructing legal arguments around legal disquisition or discourse based on interpretations of the rules. These arguments are no longer based on evidence or factual inquiry; they exist within the refined realm of the pure law as found in the appeal courts.⁴³ Heinz and Laumann argued on the basis of their extensive surveys that lawyer status depended on client type within the context of legal work.⁴⁴ Lawyers fell into two hemispheres: the corporate and the individual. Corporate work included such fields as securities and banking, while individual included criminal defence and divorce.⁴⁵ Higher status and esteem were accorded to the corporate sphere lawyers than those in the individual hemisphere. Securities lawyers dealt with documents, financing, and investment banks. They were not dealing with people's problems, but rather constructing ways of advancing their clients' interests. Their world is pristine, clean and inhabited by like-minded lawyers, all of whom understand the customs of the securities world.⁴⁶ Their world is about the construction of legal orders. Criminal defence lawyers, however, fundamentally deal with the dirt of society's offenders.⁴⁷ Legal norms might be involved but much of the lawyer's work is sifting truth from lies and then negotiating plea bargains with the prosecution or sowing sufficient doubt about their clients' culpability. Their world is not pristine rather it is murky and disturbing.

Interestingly, there are fields of legal work that seem to transgress these boundaries. If, for example, we take immigration law, most of it involves completing bulky forms for administrators or arguing before low-level tribunals.⁴⁸ Yet the same field will find itself dealing with the higher echelons of the law in judicial reviews which can end up in the highest appeal courts. Of course, the lawyers doing these different types of immigration work are themselves distinct from each other. The former have as their clients the migrants themselves, whereas the appellate lawyers are arguing the finer points of judicial review and administrative law; their primary concern is with improving the sanctity of the law and only secondarily are they concerned with the client.

There are connected distinctions within the legal profession that augment the argument made here. Income distributions among lawyers reflect these. Corporate lawyers are remunerated more highly than individual lawyers practicing family or criminal law. Although judges are superior to lawyers,⁴⁹ they have their own hierarchies which are based on conceptions of purity and taboo. The occupants of Supreme Courts, High Courts, and Courts of Appeal focus on the development and refinement of the law and adjudicate over a purer law.

We also see the distinctions resonate through the tools of lawyers, the words they use to persuade others. Aristotle's *Rhetoric* is salient for the discussion of purity and taboo in which he analyses three forms of persuasion.⁵⁰ For Aristotle there are three forms of persuasion: pathos, ethos, and logos. Lawyers, especially advocates, use all of them.⁵¹ Logos, the most elevated, is reasoning and logic and stands with law as pure law. Ethos is also important as it speaks to character and ethics. But pathos is the emotional content of persuasion and here within this structure could be interpreted as at the unclean end of the spectrum. Both Rumpole and Greene make enormous use of pathos, since they are often making emotional appeals to juries and judges on behalf of their clients. Appellate cases rarely require recourse to pathos. The most vivid exception is when Darryl Kerrigan's counsel in *The Castle* asks the High Court to decide whether the decision that Darryl should lose his house next to Melbourne Airport was made 'on just terms'.⁵² The entire scene is replete with pathos (almost tearful), but the QC clearly uses his ethos as the platform on which to mount his appeal.⁵³ Pathos and ethos are combined to produce an effective and winning argument for the court.

Presenting Professionalism

So here we have our two characters, *Rake*'s Greene and Rumpole, loitering with intent at the low end of their professions. Neither is likely to rise within their profession: Rumpole refuses and Greene is rejected. They are very different from the likes of Jonathan Sumption QC, for example, a retired UK Supreme Court judge and

former Queen's Counsel whose last case before ascending to the bench was defending the Russian oligarch, Roman Abramovich, for a brief fee reputed to be 'probably north of £5 million'.⁵⁴ When Queen's Counsel are represented on television, like *Kavanagh QC*⁵⁵ or Martha Costello in *Silk*,⁵⁶ they are mainly criminal defence barristers not civil. Does this mean then that it is impossible to show professionalism in film because it always deals with the detritus? Not really because we are shown how both Greene and Rumpole ultimately respect the law and strive to uphold its integrity.

We see our characters' versions of professional life revealed to us in dramatically different ways in the shows. At the start of *Rake* a car careens to a halt in an industrial hinterland. In it are Greene and his bookie's runner whose task it is to teach Cleaver a debtor's lesson by beating him up and throwing him out of the car. Cleaver eventually wanders into town dishevelled and dirty but sarcastically chipper. Rumpole, in his sixties, muses to himself about the state of his work—will there or won't there be any briefs in the clerks' room?—as he strolls up to 3 Equity Court. His life is sedate and dull.

Both Greene and Rumpole tend to succeed in their cases but their success doesn't bring them financial or professional rewards and esteem: quite the contrary, every success they register reinforces attitudes against them. They both constantly bemoan their poverty. For Cleaver Greene his spending seems to be mainly on cocaine, gambling, and the 'Club Jules', the brothel where Missy works and provides him with solace.⁵⁷ Now divorced, he skimps his child maintenance frequently to the annoyance of his ex-wife, Wendy. The poverty motif is reinforced by showing Wendy living in the opulent former marital home while Cleaver dosses down in a shabby studio flat above a coffee bar in Kings Cross. The fall from grace appears complete and irreversible for Cleaver. Horace Rumpole, however, lives in a mansion flat in west London with Hilda, 'she who must be obeyed'.⁵⁸ Their flat has a run-down appearance that Horace is loath to change, even though his flat came close to starring in a television makeover show that would have given him a sunken 'talk pit' and a 'relationship area' in the living room.⁵⁹

Both Rumpole and Greene lead equivocal lives with women. The roles of women in these shows share some common features. They are largely secondary to the men and any success they achieve appears to be at the expense of men. In *Rumpole* the relationship between Claude Erskine-Brown and Phyllida Trant is fraught as he attempts to compete with her brilliance but is convinced her advancement is largely owing to her gender rather than her intellect. When Phyllida applies for and is successful in becoming Queen's Counsel, Claude is consumed with envy and his feelings are mollified only when Rumpole agrees that women applicants were given a special dispensation by the Lord Chancellor that year. In *Rake Scarlet*, a crown prosecutor married to solicitor Barney, puts her career on hold while having a family and then finds her return to work difficult. Barney tries to be a more involved father but it doesn't really work; both seem incapable of adapting to their changed ways. Scarlet is not in the same mould as *Janet King*, the most successful crown prosecutor on Australian television who also returns from maternity leave and continues to succeed.⁶⁰

To digress, the place and role of women in the legal profession is a difficult one. The greediness of legal institutions in the claims they make on people's time militates against the combination of legal practice and family. The three editions of Cynthia Fuchs Epstein's *Women in Law* moved from grim despair to cautious optimism, but not equality.⁶¹ It is one of the reasons that women have found corporate law inhospitable and continually move into in house or government roles. More recent research reinforces this view.⁶² More women are entering the profession, although recently, but their progress through the profession is hampered by gender stereotyping leading to the growing exodus out of private practice. On television, however, we are beginning to see more strong women presented. Martha Costello in *Silk* is a strong QC yet she is hampered by the prejudice against her northern roots in her London chambers.⁶³ And the women in the *Good Wife*⁶⁴ and the *Good Fight*⁶⁵ are both strong and resilient as Diane shows when she decides to retire from her firm and is prevented from rejoining after she discovers her life savings have been embezzled. Finding her way blocked in other big Chicago law firms—too old, past it—she radically departs

from the normal, expected course and joins a medium-sized black firm where she is in the minority as a white person but not quite so sequestered as a woman lawyer. Her former colleagues ceaselessly denigrate her as if she has lost her mind. As she starts to win cases and get clients for her new firm, she rebuilds some, but not all, respect and esteem. But more importantly, Diane finds she *likes* her new colleagues; they are human and not merely money-making automata.

It is interesting that the most successful women in *Rake* are not lawyers—Wendy is a psychotherapist and Kirsty is a gangster. Missy, sex worker, author, erstwhile law student, is too enveloped in drugs to count as successful although she won plaudits for her novel in which thinly disguised the legal and commercial elites of Sydney appear to their shame. Greene never remains with his women long, his relationships are passionate but brief, though he is fond of all of them. Wendy divorces him and Missy leaves him and both marry others to Cleaver's distress. He needs women to satisfy his hungers and apparently little more; the companions he talks with most tend to be men.

Rumpole never has affairs; his subjugation to Hilda's regnal authority in the home is absolute, and we are left unsure of the intimacy of their relationship, yet it is evident neither can live without the other. In chambers, however, Horace is seen as a champion of women. He secured the entry of Phyllida Trant, Fiona Allways and Liz Probert into chambers, previously an all-male environment. Of the two characters Greene is definitely the more misogynistic and we can see that he is destined to end up on his own while Horace will never be without Hilda. In general, the women in *Rake* are not portrayed well, not strong, not fully independent, unlike *Rumpole* where there are strong women. Certainly, sexism and misogyny are rife in both societies and we might think a Benthamite society more fulfilling for women than its Whiggish other. Why it is such remains unknown.

They both share deep rivers of despair forcing them to seek solace in cheap red plonk or cocaine and gambling, yet, despite their moral ambiguity, they embody a sense of virtue that justice is worth fighting for. Of the two, Horace Rumpole is more attuned

to the context of the Bar and never pushes too hard against its limits. He is older and more resigned to his fate as an 'Old Bailey hack.' Although fiercely protective of his clients, he is committed to behaving ethically and using the tools of his trade to win his clients' cases. His constant reiteration of the *Penge Bungalow Murder Case* displaying his forensic skills when it comes to blood stains is a key signifier. Cleaver Greene, however, is a wilder figure, hanging out with prostitutes, taking drugs, gambling, being beaten up. His capacity to be a lawyer is tentative at best. He is always on the verge of being disbarred, but despite that he is aware of the value of his profession and that without it he would be diminished.

There are differences of course, in age and context. Greene is a more modern figure than Rumpole who constantly quotes the Bard in support of his position situating him in bygone eras. The English chambers model provides more support and gatekeeping with figures like Henry, the barrister's clerk⁶⁶. It is almost familial. Australian chambers don't insulate the barrister as much from the external world as in England thus Greene is far more exposed to the world and less protected than Rumpole.⁶⁷ At least Rumpole has 3 Equity Court as his work place and respite from home. He belongs and is part of the community. He struggles against his upright and Christian head of chambers, Ballard. He connives to ensure pupil barristers he likes are taken in and given a tenancy and those he dislikes are kept at bay. Rumpole understands the balance of his chambers and strives to maintain it. Even when Equity Court's senior clerk is found pilfering small amounts of petty cash, Rumpole tries to protect him knowing that it's the way things have been done for years.⁶⁸

Greene is a character adrift in his chambers. He isn't a full tenant, he can't afford to be, so he squats in rooms left empty while the true tenant is away on holiday or sabbatical. Everything is uncertain and tentative. Greene is completely alienated from other members of chambers. His assistant, Nicole, when discovered to have been taking a third of Greene's earnings over the years defends her actions claiming her needs to fund a house overcame Greene's right to the money. Cleaver, in resignation, forgives her and continues her assistant role on a higher salary to compensate for her loss of pilfering.⁶⁹ At times like this Greene is a pitiable character.

Their attitude to money is of interest. Both need it to live and worry about it, but neither is too concerned about accumulating it. However, Hilda is horrified when she finds their bank account overdrawn. 'I have to face the butcher!', she cries. Horace is reasonably sanguine that something will come along to remedy the situation.⁷⁰ Cleaver is constantly in debt to his bookies and even his dalliance with Kirsty, gangster and bookie Mick Corella's wife, can't get him excused of his debts.⁷¹ Horace and Cleaver each get one opportunity to overcome their poverty without success. In 'Rumpole's Last Case' Horace wins a chambers sweepstake on the Derby for £100. Dennis Timson, his client, gives Horace a tip on a four-horse accumulator which would bring him £300,000 for a £100 stake. A prison guard places the bets for him and after each horse wins its race, Horace is deprived of his winnings when the guard absconds overseas with the money. He is, nevertheless, philosophical about his loss.⁷² Cleaver gets his golden opportunity when high on drugs he wins enough money at a casino to buy a share in a restaurant. The restaurant never seems busy and Cleaver is eventually forced out for a pittance by Kirsty for the gambling debts he owes her. Cleaver too is resigned at his fate.⁷³

Their clothes and body types, too, distinguish them. Greene is slim and wears a modern black or blue suit with a slim tie—in fact he is hardly ever seen without it even when off-duty—and also has his wig and gown carried in a blue bag.⁷⁴ In either his suit (the tie is always loose) or his gown, Greene appears unkempt and untidy. And given the number of times he is beaten up by his bookies, it is understandable that he seems grubby, despite that he is portrayed as a metrosexual urbanite. Rumpole is corpulent and his clothes are a matter of dispute with his wife, Hilda, his chambers, and the judiciary. He wears a traditional outfit of striped trousers with black waistcoat and jacket. But they have seen better years. He frequently has egg on his shirt or waistcoat. Rumpole is genteelly shabby and this state is best signified with the state of his hat. It is a battered Homburg that draws the disdain of all those around him, including Hilda. Various attempts to adopt a new bowler always collapse in despair. He is even chastised in court by the judge for letting his bands slip and putting his hands in his pockets when cross-examining witnesses.

It is in the wider social and cultural environment that greater differences appear. While Rumpole hints at skulduggery by the Establishment and the police, it never seems too disruptive and order is soon restored in a Durkheimian way. With *Rake* the entire political and legal system appears corrupt and deeply self-serving.⁷⁵ Rumpole would not survive in the Australian milieu. Greene fights in a similar manner to his Australian Establishment—dirty. And it is the only means by which he can attain self-preservation and justice. The context impels them both to behave in the ways they do and it is only in their respective contexts that they can thrive. Rumpole’s England represents Whiggish order and predictability while the *mise en scène* of *Rake* is more attuned to a splintered and fragmented world where chaos is ever present. In this manner Australian depictions of law and justice could be seen as more aligned with the neoliberal order of the world as it is now.

Despite that I would argue both are creatures of the establishment. They both inhabit small, hermetic, closed worlds. Rumpole attends dinners at judges’ lodgings, gala events, and occasionally visits Keith in the Lord Chancellor’s Department.⁷⁶ In *Rumpole and the Genuine Article* Guthrie Featherstone presides over his first case as a Red judge. This is after he feared his wife’s gossiping may have cost him his elevation to the Bench. At the end of the case he says to Rumpole:

‘That bit of a tizz I was in, about the great secret getting out. No need to mention that to anyone, eh?’

‘Oh, I rang the Lord Chancellor’s office about that,’ Rumpole replied....

‘You *what?*’ Featherstone looked at me in a wild surmise.

‘I assured them you hadn’t said a word to anyone and it was just a sort of silly joke...I mean, no one in the Temple ever dreamed that they’d make *you* a Judge.’⁷⁷

Rumpole traverses these worlds with ease because he doesn’t care if he will never become a member. He doesn’t expect to be asked. At one stage there is a rumour that

Rumpole will be appointed as a Circuit judge and he is genuinely anxious that this could be true.⁷⁸ When his chambers colleague, George Frobisher, applies for a Circuit judgeship, he admits to Rumpole that being a judge is a lonely life and he misses the camaraderie of the Bar.⁷⁹ But as Rumpole ponders his fate knowing Judge Frobisher will have a secure pension while he will have a woeful one.

Cleaver Greene, by contrast, uses the same brothel as many other lawyers and members of parliament, which exemplifies his milieu. When he is in danger of being disbarred for some offence, he arranges for one of the ‘girls’ from the club to visit the two leading members of the disciplinary committee to remind them of their own corrupt infidelities. He is not disbarred.⁸⁰ He appears on the news often because of his cases so he becomes a public figure through his work. Like Rumpole Greene spurns political alliances that many of his colleagues and foes form. David ‘Harry’ Potter, for example, a nemesis, moves from prosecution work to becoming head of the Labor Party while Cleaver eventually languishes as a fluke independent senator with zero influence or interest.⁸¹

The Working Worlds of the Courts

It is in their work we see show their true selves and personalities. Both Greene and Rumpole believe in the law and justice. They also recognise law and justice are not isomorphic and therefore justice must be seen to trump law. In ‘Rumpole and the Last Resort’ Horace fails to win an adjournment from Judge Bullingham (‘the Bull’—his constant antagonist) to summons a vital witness that will vindicate his case.⁸² He collapses in court and rumours abound that Rumpole is dead. The necessary adjournment granted on his collapse provides the breathing space to track down the witness. When the trial is resumed, Rumpole appears in court just as the Bull is giving a eulogy for him:

‘We’re not superior beings as judges; we don’t put on ‘side’. We are the barristers’ friends. And one of my oldest friends, over the years, was Horace Rumpole.’ Both Ward-Webster for the prosecution and [Fiona

Allways] looked piously up to the ceiling. We carefully hid our feelings of amazement.⁸³

Rumpole goes on to win the case so proving his (unethical) trick achieved a just outcome.

Achieving justice and the right verdict means that both lawyers must trample over the conventions of the Bar. As junior barristers they will often be ‘led’ by Queen’s Counsel (QC or silk) in serious cases. The QC takes the lead and sets the strategy for the case. Neither Cleaver nor Horace like being led, especially by silks who are less competent or less motivated to prove the innocence of their clients. In the first episode of *Rake* Cleaver is led by a silk who believes their client both mad and guilty.

Professor Murray, cannibal, advertised for someone to be eaten by him. Following his consenting victim’s suicide, he cooks and eats the corpse and also serves it to his unknowing wife. He is charged with murder except it isn’t. The QC is determined to have him go down for murder, but he has a heart attack and dies.⁸⁴ Greene is left to defend the economist professor alone. Now his true brilliance as an advocate is displayed and his client is cleared of murder although he is confined indefinitely to a psychiatric hospital. His defence only succeeds when Cleaver undermines the confidence and authority of his client by exposing his inability to have predicted the Great Recession.⁸⁵ Rumpole is in a similar situation when he too is defending an actress in a murder case in a small provincial town. The local Bar is tight and doesn’t like having a London barrister in their midst. Rumpole’s QC also believes their client guilty much to Rumpole’s disgust—every defendant must be presumed innocent.⁸⁶ The QC falls ill and instead of abandoning the case as is the local culture, Rumpole continues on—against stiff odds—to secure his client’s acquittal. At the local Bar Mess dinner he is forced to acknowledge his faux pas and pay a forfeit of a dozen bottles of wine.⁸⁷ Although Horace cares little for the conventions he follows them to avoid fuss when necessary.

Both Greene and Rumpole are hacks, outliers in their profession. And this is vividly illustrated by their networks and status of their clients.⁸⁸ Rumpole is fortunate to have a committed set of criminal clients, the Timson family from south London whose

succeeding generations keep Rumpole in Pommeroy's plonk. Greene does not have clients in the same way as Rumpole but he is frequently used and exploited by them. He is forced to defend those to whom he is in hock or gangsters who will harm him while corrupting the police and government. He sleeps with the premier of New South Wales and earns the enmity of her husband, the Attorney General, Cal McGregor.⁸⁹ Greene even ends up in prison for a while on manslaughter charges, framed by McGregor, for the killing of a fraudster's neighbour. Greene proves he is a good advocate but he is not necessarily a good lawyer.⁹⁰

As neither slants to the purity end of the continuum and, in Greene's case he is visibly at the danger-taboo end, their desire to the best for their clients doesn't diminish. At times both realise they have been *too* successful and each case it is a woman who gulled them.⁹¹ In Rumpole's case the actress in 'Rumpole and the Show Folk' raises such doubts in Horace's mind when he visits her before the jury returns its verdict that he cannot be rid of her quickly enough. Her performance had overwhelmed and seduced him.⁹² Cleaver successfully defends a Muslim woman charged with conspiracy to commit a terrorist act after her stupid husband blew himself up instead of the parliament building. After the verdict he too comes to realise that the widow was looking for an escape from her sorry marriage and had planned the explosion.⁹³ He was duped.

While they are at heart criminal barristers, they accept there are financial benefits to doing civil work even if they pretend to disdain it. Greene gets caught up in a 'human rights case' representing Missy's husband, Joshua. He even rents his own chambers, but it all eventually collapses, and his world returns to its shambolic normalcy. Rumpole brushes up against civil work in more indirect ways. When CH Wytan, Hilda's father and head of 3 Equity Court, decides to retire Hilda pushes Rumpole to claim the headship as the senior barrister. He is defeated by the elevation of younger Guthrie Featherstone QC MP aided by Wytan's yearning for the chambers to do more civil work.⁹⁴ Featherstone, Erskine-Brown, and later Ballard, the new head of chambers, continuously promote 'purer' civil work at the expense of 'dirty' criminal

defence. But for Rumpole the simplicity and directness of bloodstains outweighs the grubbiness of money-based civil work.

Conclusion

The two advocates typify two different generations and two different environments but within a single profession. Cleaver Greene is wild and unruly. He espouses a concept of law insofar as it doesn't apply to him. His ethical and professional boundaries don't so much blur as get blown away entirely. Horace Rumpole understands the nature of the rules of the game he is playing and gently bends the rules from time to time. He is too conservative to flout convention completely in Greene's manner.

The taboo, dangerous aspects of Greene's life permeate everywhere. He sleeps with clients (including underage ones) and wives of friends, he is complicit in corruption and careless of others' feelings and security. Greene is a liability to all those around him. Greene, as likeable as he appears, is not good. He is dissolute without integrity. His commitment to clients is laudable but that varies according to his whims. Ultimately, Cleaver is a loser. We know whatever opportunities he is given, he will obliterate them. He epitomises the concept of dirt as matter out of place.

Rumpole is harmless in comparison, a gentle person who tries to help those who deserve to be helped. There is some ethical fading with Rumpole but it is always to a well-intended end. Ultimately, Rumpole is good, honest and professional in his own way. He has integrity and understands his profession's rules and how to bend them. He is conservative and won't rend society's fabric. Horace enjoys life but at the same time is mildly disappointed he didn't exploit it to the full. His dreams of the young hippy woman in 'Rumpole and the Alternative Society' indicate how he might have liked to have lived.⁹⁵

There is a larger question: why are shows and programmes about lawyers and law so popular? And *Rumpole* and *Rake* are certainly popular.⁹⁶ One reason is that this is the only way people receive information about the legal system.⁹⁷ According to Richard:

For many, perhaps most, the mass media today are in fact the primary if not the exclusive source of the public's knowledge about law, lawyers, and the legal system as a whole...Put simply, [popular culture, especially visual mass media] is a source of both meaning and the meaning-making tools people use to think and speak with.⁹⁸

If this is so, then we come to rely on the media for our knowledge and interpretations of law. The 'cultivation effect' moves us to acquit defendants unless there is forensic DNA evidence to back up the prosecutor's claims.⁹⁹ During the trial of O.J. Simpson, it became difficult to distinguish between the media representations of the trial and the grim reality of the murders committed.¹⁰⁰ The issue is that we tend to see only one kind of legalism presented, the adversarial system, where two sides battle it out in court. It's heroic and replete with grand gestures. In his closing address in the O.J. Simpson trial, defence counsel, Johnnie Cochran says of the prosecution's argument that Simpson was the murderer in disguise:

And I said to myself, maybe I can demonstrate this graphically. Let me show you something. This is a knit cap. Let me put this knit cap on (Indicating). You have seen me for a year. If I put this knit cap on, who am I? I'm still Johnnie Cochran with a knit cap. And if you looked at O.J. Simpson over there—and he has a rather large head—O.J. Simpson in a knit cap from two blocks away is still O.J. Simpson. It's no disguise. It's no disguise. It makes no sense. It doesn't fit. If it doesn't fit, you must acquit.¹⁰¹

The physicality of putting the knit cap on his head intensifies the drama of the courtroom, forcing each side to more extreme moments. The adversarial system becomes its own theatre.

With the advent of ‘Scandi Noir’, *policiers* represented by *The Killing*¹⁰² or *The Bridge*,¹⁰³ viewers see something different from the adversarial system. They are exposed to the inquisitorial system, which is more judge-led than lawyer-controlled in the adversarial system. One show that brings this to the fore, in a manner analogous to *Law & Order*, is the French *policier Spiral (Engrenages)*.¹⁰⁴ Lawyers, prosecutors and *judges d’instruction* play significant roles in this series. At times it is difficult to distinguish the judges and prosecutors from the police. Quite unlike the passive Anglo style of judging where the lawyers present the evidence. For most viewers of adversarial shows, the civil code system is very alien and disturbing, hence the transformations into different contexts and systems.

We want our legal systems and lawyers and judges to be fair and just. The rule of law is a bulwark against despotism and anarchy. But we know our institutions can be and are corrupted and we need something to protect ourselves from the injustices of corruption. The law and its application help us remedy those injustices. From consumer complaints in the newspapers to cases in the Supreme Courts, we delight in seeing iniquity overturned, and the torn fabric of society repaired.¹⁰⁵ The cultural representation of lawyers is often the closest we come to experiencing a sense of justice, however indirect. Whatever form of repression society throws at us we know there is a defence of some kind. We rebel against the alienation and emptiness of Kafka’s *Before the Law*¹⁰⁶ where repressive institution is designed to crush our spirits. For this reason, we owe a debt of gratitude to Horace Rumpole and Cleaver Greene because, despite their cynicism, their cavalier ways with people, their dismissal of order and bureaucratic nicety, their ethical fading, they demonstrate, at bottom, a fundamental integrity, a professionalism that enables us to remain invested in an ideal of justice however illusory.

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(https://research.legalservicesboard.org.uk/wp-content/media/Cab-Rank-Rule_final-2013.pdf)
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<https://www.nowtolove.com.au/celebrity/tv/richard-roxburgh-rake-interview-51114>.
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¹ As I thought about this chapter—Australian and English lawyers—I did an experiment comparing Vegemite with Marmite by spreading half a slice of toast with each. I think this is a perfect metaphor for *Rake* and *Rumpole of the Bailey*. The results of the experiment, however, do not influence my liking of these two shows—I'm Pareto optimal.

² *LA Law*, Twentieth Century Fox (1979-1992) (for full credits see IMDb https://www.imdb.com/title/tt0090466/fullcredits?ref_=ttco_ql_1).

³ *Ally McBeal*, Twentieth Century Fox (1997-2002) (for full credits see IMDb https://www.imdb.com/title/tt0118254/fullcredits?ref_=ttco_ql_1).

⁴ *Boston Legal*, Twentieth Century Fox (2004-2008) (full credits see IMDb https://www.imdb.com/title/tt0402711/fullcredits?ref_=ttco_ql_1).

⁵ *The Good Fight*, CBS Studios International (2017-) (full credits see IMDb https://www.imdb.com/title/tt5853176/fullcredits?ref_=ttco_ql_1).

⁶ *Rumpole of the Bailey*, Thames Television (1979-1992) (for full credits see IMDb https://www.imdb.com/title/tt0078680/fullcredits?ref_=ttrel_ql_1). *Rumpole* has the advantage of a book series by John Mortimer (e.g. Mortimer (2012)) which provides a considerable amount of back story detail about Horace. There will be a necessary elision in this essay between these two distinct sources. I will not, however, refer to the books.

⁷ *Rake*, ABC (2010-2018) (for full credits see IMDb https://www.imdb.com/title/tt1587000/fullcredits?ref_=ttrel_ql_1).

⁸ The series are structured differently. *Rake* has some episodes which are numbered but not named whereas *Rumpole's* episodes are named after their short story equivalents.

⁹ *Rumpole's* education has a precarious air about it as he only gained a third-class degree at Oxford. In modern-day Britain he would be barred from the Bar for such a poor degree, sometimes referred to as a 'gentleman's degree.' We don't know the status of Cleaver's degree: presumably a good one from the University of Sydney. The Sydney barrister on which Cleaver Greene is supposed to be based, Charles Waterstreet, attended the University of Sydney. But see Maddox (2017).

¹⁰ According to Leo McKern's Wikipedia page, 'Although he enjoyed the role, McKern expressed doubts about its popularity and the extent to which his life was becoming intertwined with *Rumpole's*. 'McKern was often unhappy, decrying his television fame as an 'insatiable monster'. He stressed that his *Peer Gynt* was a greater performance and lamented: 'If I get an obit in any paper, they will say, '... of course, known to millions as *Rumpole*.'" See https://www.wikiwand.com/en/Leo_McKern. Richard Roxburgh, on the other hand, enjoys playing Greene and has lamented that series five is the last one, 'It's really hard to let go.' See <https://www.nowtolove.com.au/celebrity/tv/richard-roxburgh-rake-interview-51114>.

¹¹ *Rake*, "R v Tanner". Series 1, Episode 7. Directed by Jessica Hobbs. Written by Peter Duncan. ABC, December 16, 2010

¹² Robson (2017).

¹³ Rumpole quotes poetry, Keats and Shakespeare, in the majority of episodes, too numerous to reference each one. The attitude to poetry displays the difference between British and Australian archetypes. Rumpole lives by the Quiller-Couch edition of the *Oxford Book of English Verse* and quotes endlessly and passionately. Greene apparently has no such feelings. In episode 3 we hear this exchange between Cleaver and his son, Fuzz:

Cleaver Greene: [after reading out Byron's 'She walks in beauty, like the night'] 'Bugger me, he was good.'

Fuzz Greene: 'Yeah, but what use is it?'

Cleaver Greene: 'What do you mean 'What use is it'? It's poetry, you knucklehead. It has only one use, and that's pulling chicks.' *Rake*, "R v Murray". Series 1, Episode 1.

Directed and written by Peter Duncan. ABC, November 4, 2010.

¹⁴ The genesis of Rumpole occurred thus (https://www.wikiwand.com/en/Rumpole_of_the_Bailey): 'Mortimer's 2009 obituary in The Daily Telegraph confirmed that Rumpole was, in part, based on a chance meeting in court with James Burge QC: In the early 1970s Mortimer was appearing for some football hooligans when James Burge, with whom he was sharing the defence, told him: 'I'm really an anarchist at heart, but I don't think even my darling old Prince Peter Kropotkin would have approved of this lot.' 'And there,' Mortimer realised, 'I had Rumpole.'" *Obituary*, "Sir John Mortimer", *The Daily Telegraph*, January 16, 2009.

¹⁵ *Rake*, Episodes 1-8. Directed and written by Peter Duncan. ABC, 2010-2016.

¹⁶ Beasley (2010).

¹⁷ *Rake*, "R v Corella". Series 1, Episode 8. Directed and written by Peter Duncan. ABC, December 23, 2010.

¹⁸ Sykes (2014).

¹⁹ *Rumpole of the Bailey*, "Rumpole and the Alternative Society". Series 1, Episode 2. Directed by Herbert Wise. Written by John Mortimer. Thames Television, April 10, 1978.

²⁰ Rumpole started before the era of Margaret Thatcher when British welfarism was eroded as public institutions were privatised on the altar of neo-liberalism Steger and Roy (2010).

²¹ Of course that didn't include indigenous peoples in Australia, who were massacred because Australia was terra nullius. Tatz (1999).

²² Collins (1985), p 157.

²³ See Michael Zander's LSE web page at <http://www.lse.ac.uk/law/people/academic-staff/michael-zander>.

²⁴ Snow (1950); Twining (1994); Twining (2002).

²⁵ See Abel (2014) and Murphy (2014).

²⁶ Flood (1983).

²⁷ Flood (2005).

²⁸ See *Yale Law Journal*, <https://digitalcommons.law.yale.edu/ylj/vol98/iss8/>.

²⁹ Gillers (1989), p 1611.

³⁰ I have to include the genre of *policiers* in this category as they too involve much law. For example, the series, *Line of Duty*, is full of law from actual legislation to tiresome administrative requirements. In episode 1 an armed police squad is about to enter a suspect's house but is held up because the required health and safety assessment hasn't been submitted. See *Line of Duty*, BBC (2012-) (for full credits see IMDb, https://www.imdb.com/title/tt2303687/fullcredits?ref_=ttco_ql_1).

³¹ Macaulay (1989:1558).

³² For example, see the *Journal of the Oxford Centre for Socio-Legal Studies*, 2017 Special issue on Law and Popular Culture at <https://joxcsls.com/archive-4/2017-special-issue-law-and-popular-culture/>.

³³ Sciulli (2008).

³⁴ Brand (1987).

³⁵ George Carman, https://www.wikiwand.com/en/George_Carman. See also the TV film, *Get Carman: The Trials of George Carman QC*, IMDb, <https://www.imdb.com/title/tt0810874/>.

³⁶ Geoffrey Robertson, https://www.wikiwand.com/en/Geoffrey_Robertson; <https://geoffreyrobertson.com/>.

³⁷ Cf. Dawes (2016).

³⁸ Douglas (1966).

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- ³⁹ Abbott (1981).
- ⁴⁰ Cf. Campkin (2013:56) for how the city which Rumpole and Greene occupy leaves more room for the ideas that ‘filth, under certain circumstances, might surprisingly be a good or enjoyable thing’ which applies to the ways its inhabitants live thus creating ambiguity around dirt.
- ⁴¹ Douglas (1966), p 30.
- ⁴² Flood and Hviid (2013).
- ⁴³ Abbott (1981).
- ⁴⁴ Heinz and Laumann (1982:84-134).
- ⁴⁵ Ibid.
- ⁴⁶ Ibid.
- ⁴⁷ Carlin (1962/2011).
- ⁴⁸ Boon and Flood (1999).
- ⁴⁹ This is not always so. In our article on lawyers and construction arbitration, Caiger and I found that the lawyers’ views of the Official Referees’ Court (precursor to the Technology and Construction Court) were entirely negative and the judges were not held in high esteem, hence there was much use of arbitration instead of the courts. See Flood and Caiger (1993).
- ⁵⁰ Aristotle, Book 1 (2012:6).
- ⁵¹ There are obvious resonances too to Erving Goffman’s *Presentation of Self in Everyday Life* (1959) where social life is explored through a dramaturgical lens, where the front stage and back stage each claim their own sets of roles. Robert Post (1987:389) uses Goffman to show why we mistrust lawyers: ‘The lawyer is the public and unavoidable embodiment of the tension we all experience between the desire for an embracing and common community and the urge toward individual independence and self-assertion; between the need for a stable, coherent, and sincerely presented self and the fragmented and disassociated roles we are forced to play in the theater of modern life.’
- ⁵² *The Castle*, IMDb, <https://www.imdb.com/title/tt0118826/>.
- ⁵³ This is quite distinct from when Dennis Denuto is asked by the judge which part of the Constitution he is relying on, answers, ‘It’s the vibe of the thing, your Honour.’ This is pathos in the extreme. *The Castle*, ‘Quotes’, IMDb, https://www.imdb.com/title/tt0118826/quotes/?tab=qt&ref_=tt_trv_qu.
- ⁵⁴ Steavenson (2015).
- ⁵⁵ *Kavanagh QC*, Carlton Television (1995-2001) (for full credits see IMDb, https://www.imdb.com/title/tt0108826/fullcredits?ref_=ttco_ql_1).
- ⁵⁶ *Silk*, BBC (2011-2014) (for full credits see IMDb, https://www.imdb.com/title/tt1717455/fullcredits?ref_=ttco_ql_1).
- ⁵⁷ Cleaver is besotted with Missy and is naively convinced they are in love with each other. He finds out the true commercial nature of their relationship after she leaves the brothel and on seeing him in the street cuts him dead. *Rake*, ‘R v Murray’. Series 1, Episode 1. Directed and written by Peter Duncan. ABC, November 4, 2010. Club Jules also connotes an undercurrent in *Rake* that despite his low character, Cleaver is well-connected to the legal and political elites of New South Wales. His economic capital may be precarious but his social and cultural capital are strongly established (Redmond 2014).
- ⁵⁸ For non-London readers the term mansion flat could be puzzling, but for someone of Rumpole’s standing it would have been a good purchase when starting out on married life and its convenience and relative proximity to shops, Tube and work would have then hindered him from moving onto a bigger house. The following description I have cited comes from an estate agent, Foxtons, but it is the best I could find: <https://www.foxtons.co.uk/discover/2019/02/londons-mansion-blocks-victorian-grandeur-from-A465k.html>.
- ⁵⁹ See ‘Rumpole and Asylum Seekers’ (not televised) in *Rumpole Rests His Case*. Viking, 2001.
- ⁶⁰ *Janet King*, ABC (2014-) (for full credits see IMDb, https://www.imdb.com/title/tt2645122/fullcredits?ref_=ttco_ql_1).
- ⁶¹ Epstein 1993.
- ⁶² See for example Kay and Gorman (2008).
- ⁶³ See note 54.
- ⁶⁴ *The Good Wife*, Scot Free Productions (2009-2016) (for full credits see IMDb, https://www.imdb.com/title/tt1442462/fullcredits?ref_=ttco_ql_1).
- ⁶⁵ See note 5.
- ⁶⁶ Flood (1983).

⁶⁷ Chan et al (2014).

⁶⁸ *Rumpole of the Bailey*. ‘Rumpole and the Honourable Member’. Series 1, Episode 3. Directed by Graham Evans. Written by John Mortimer. Thames Television. April 17, 1978.

⁶⁹ *Rake*, “R v Corella”. Series 1, Episode 8. Directed and written by Peter Duncan. ABC, December 23, 2010.

⁷⁰ *Rumpole of the Bailey*. ‘Rumpole and the Last Resort’. Season 3, Episode 6. Directed by Stuart Burge. Written by John Mortimer. Thames Television. November 15, 1983.

⁷¹ *Rake*, “R v Turner”. Series 2, Episode 5. Directed by Jeffrey Walker. Written by Peter Duncan. ABC, October 4, 2012.

⁷² *Rumpole of the Bailey*. ‘Rumpole’s Last Case’. Season 4, Episode 6. Directed by Rodney Bennett. Written by John Mortimer. Thames Television. February 25, 1987.

⁷³ *Rake*, Series 3, Episode 8. Directed by Kate Dennis. Written by Peter Duncan. ABC, March 30, 2014.

⁷⁴ For the history of barristers’ clothing in Australia see, for example, Victoria Law Foundation (2010). Also see, for England and Wales, Ede and Ravenscroft (2003). The colour of the bags barristers use to carry their gowns and wigs has great significance. Junior barristers—those who are not Queen’s Counsel or silk—use blue ones. QCs use red bags. If a junior has distinguished him/herself in a case with a leader (QC), they can be given a red bag by the leader as a signifier of respect and esteem. Rumpole has a red bag although a junior. See Brief (law),

[https://www.wikiwand.com/en/Brief_\(law\)#/Brief_bag](https://www.wikiwand.com/en/Brief_(law)#/Brief_bag).

⁷⁵ Perry (2011).

⁷⁶ The Lord Chancellor’s Department is an earlier incarnation of the Ministry of Justice in the UK. Keith is a senior civil servant, probably a deputy under-secretary or even a permanent under-secretary, and holds the fate of judges’ appointments in his hands. When Guthrie Featherstone QC MP, head of Equity Court chambers, is tapped for a High Court judgeship he lives in fear that it will become widely known and the offer will be withdrawn. It all depends what Keith hears.

⁷⁷ Mortimer, ‘Rumpole and the Genuine Article’ (2012:235).

⁷⁸ *Rumpole of the Bailey*. ‘Rumpole and the Course of True Love’. Season 2, Episode 5. Directed by Brian Farnham. Written by John Mortimer. Thames Television. June 26, 1979.

⁷⁹ Ibid.

⁸⁰ *Rake*, “R v Dana”. Series 1, Episode 3. Directed and written by Peter Duncan. ABC, November 18, 2010.

⁸¹ In series five, Cleaver becomes a senator in the Australian parliament, elected on a slate of having no policies. This brings him into contact with government ministers and the like. Even here his reputation is low as he only wants the regular pay without doing any work. He gets his driver to falsify his attendance and meeting records and diaries, which ultimately puts in the power of the driver and the government drivers’ mafia.

⁸² *Rumpole of the Bailey*. ‘Rumpole and the Last Resort’. Season 3, Episode 6. Directed by Stuart Burge. Written by John Mortimer. Thames Television. November 15, 1983.

⁸³ Ibid.

⁸⁴ *Rake*, ‘R v Murray’. Series 1, Episode 1. Directed and written by Peter Duncan. ABC, November 4, 2010.

⁸⁵ Ibid.

⁸⁶ *Rumpole of the Bailey*. ‘Rumpole and the Show Folk’. Season 2, Episode 3. Directed by Peter Hammond. Written by John Mortimer. Thames Television. June 12, 1979.

⁸⁷ Ibid.

⁸⁸ See Heinz and Laumann note 43.

⁸⁹ *Rake*, ‘R v Mohammed’. Series 2, Episode 1. Directed and written by Peter Duncan. ABC, September 6, 2012.

⁹⁰ In this fraud case Cleaver thinks he has trapped the fraudster only to find he relied on the wrong statute as the judge acidly points out to him.

⁹¹ There is a tradition of women traducing men in these kinds of stories. Sherlock Holmes, for example, in ‘Scandal in Bohemia’ has a reverence for Irene Adler who bested him. See Krumm 1996.

⁹² *Rumpole of the Bailey*, ‘Rumpole and the Show Folk’. Season 2, Episode 3. Directed by Peter Hammond. Written by John Mortimer. Thames Television, June 12, 1979.

⁹³ See note 87.

⁹⁴ *Rumpole of the Bailey*, 'Rumpole and the Younger Generation'. Season 1, Episode 2. Directed by Herbert Wise. Written by John Mortimer. Thames Television, April 3, 1978.

⁹⁵ See note 18.

⁹⁶ At its peak, according to Moran (2008:298), *Rumpole* was watched by over 10 million UK viewers and was distributed to Australia and the US. *Rake* is popular but not to the extent of *Rumpole*. In 2018 *Rake* had Australian viewer numbers of 573,000 (<https://mumbrella.com.au/the-block-achieves-biggest-audience-for-series-to-date-with-1-293m-tuning-in-537472>).

⁹⁷ Asimow (2007).

⁹⁸ Sherwin (2000), p 18.

⁹⁹ Tyler (2006).

¹⁰⁰ Hunt (1999).

¹⁰¹ Johnnie Cochrane: 'If it doesn't fit, you must acquit', O.J. Simpson trial closing argument – 1994, *Speakola: All Speeches Great and Small*, <https://speakola.com/ideas/johnnie-cochrane-oj-simpson-trial-closing-1994>.

¹⁰² *The Killing (Forbrydelsen)*, Danmarks Radio (2007-2012) (for full credits see IMDb, https://www.imdb.com/title/tt0826760/fullcredits?ref_=ttco_ql_1). See also *The Killing*, KMF Films (2011-2014) (for full credits see IMDb, https://www.imdb.com/title/tt1637727/fullcredits?ref_=ttco_ql_1). The Scandi Noir oeuvre has led to the development of a program format with shows being adapted to different legal cultures. *The Bridge*, which began as a joint Swedish-Danish production has spawned Anglo-French, Austro-German, and US-Mexican productions among others.

¹⁰³ *The Bridge (Bron/Broen)*, Filmlance International AB (2011-2018) (for full credits see IMDb, https://www.imdb.com/title/tt1733785/fullcredits?ref_=ttco_ql_1).

¹⁰⁴ *Spiral (Engrenages)* CANAL+ (2005-) (for full credits see IMDb, https://www.imdb.com/title/tt0477507/fullcredits?ref_=ttrel_ql_1).

¹⁰⁵ Durkheim (1960).

¹⁰⁶ Kafka (2007-19),