

# SIX: THE BEACON ON THE HILL

## DEEPER UNDERSTANDING

### **“AGAINST THE INTRIGUES OF A SET OF INFERNAL SKUNKS THAT MAKE TOO MUCH MONEY ANYWAY”: JUDICIAL OPINIONS**

When a judge comes to a decision, their decision will often be put in writing. These written decisions form what is called the “common law.” Common law is the body of precedents created by judicial decisions. When similar cases are tried in the future, judges will look back to earlier common law decisions for guidance.

Because common law decisions are meant to persuade people that the right decision has been reached, judges will often eloquently write their decision. As legal scholar Richard Posner says, when reading a judge’s written decision:

What we can expect (though our expectations will frequently be dashed) is a perspicuous, even dramatic, bodying forth of the judge’s concerns; a lucid presentation of arresting particulars; a sense of the relatedness of these particulars to larger themes; a sense of the intellectual world outside of law; a sense of history and of the Zeitgeist; a point of view that transcends the litigants’ parochial concerns; a power of clear and forceful statement; a high degree of sensitivity to the expectations of the audience; a taste of brevity...; and a leavening of wit.<sup>13</sup>

This is a lengthy list of expectations. Some judge’s rulings only meet a few of these expectations. Other judge’s rulings meet almost all of these expectations. In fact, some decisions are so well-written, it has led people to study them as works of literature.

1. In *Sunshine Sketches*, the insurance company takes the church to court over the insurance payout. Judge Pepperleigh rules in favour of the church:

I do know that in upholding the rights of a Christian congregation – I am quoting here the text of the decision – against the intrigues of a set of infernal skunks that make too much money anyway, the Mariposa court is without an equal. (105)

What is being satirised? The insurance company? The church? The judge? Something else?

2. Do you see any of Richard Posner’s expectations for a judicial decision being met by the text of Judge Pepperleigh’s decision?

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Posner, Richard. *Law and Literature*, Third Edition, Harvard UP, 2009, p. 353