

# NOTES ON THE STYLE OF THE LAW

## *Review: The Duke (2020)*

by

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≈ reviews ≈ criticism ≈ film ≈ cinema ≈ Hutchinson



ECCENTRICS are a crucial driver of the history of English law, albeit not always in the direction they desire. The stubborn Englishman (and this sort of obsessive does tend to be male) is a crucial feature of our legal system. Any student of the law is familiar with the cases of, say, Mr Blackburn or Mr Boddington or Mr Thoburn, where pure, seemingly (and often actually) foolish insistence on principle, led to a significant decision clarifying the law. Even fiction embraces such figures (perhaps most famously *The Winslow Boy*).

Readers of Mr Thomas Grant KC's wonderful volume *Jeremy Hutchinson's Case Histories* (John Murray, 2016) will be familiar with one of the greatest eccentrics in the history of English case law, Mr Kempton Bunton, who was tried for the 'theft' of a portrait of the Duke of Wellington in 1965 (four years after the painting had been taken). Mr Bunton would claim that he had taken the painting merely to highlight his pet cause (all eccentrics have one) of free television licences for the old and disabled. Despite his apparent confession, Mr Bunton was able to escape most liability on account both of his capturing the sympathy of the jury and some masterful legal manoeuvring on the part of his brief, Mr Jeremy Hutchinson QC.<sup>1</sup>

Mr Grant KC's book sets out every detail of the legal drama, but the film based on the same events, *The Duke*, manages to capture something of the psychological motivations underlying the legal eccentric. So often in discussions of legal history, characters from case law appear merely as interlopers into legal theatre, without much sense of the fact that these are human beings. *The Duke*, starring Jim Broadbent as Mr Bunton, does a sterling job of contextualising why it is that one man could be so seemingly pigheaded as to risk everything for a seemingly foolish crusade.

Mr Bunton is shown a man thrown about by history. His father was disabled in the First World War (by an accident involving a British tank, rather than the enemy), and had grown increasingly isolated from

<sup>1</sup> Later the Lord Hutchinson of Lullington

society. Mr Bunton, in turn, had lost his child, and struggled with how to express his grief, in a society where a working-class man had little voice to articulate the pain of such a loss. A failed playwright, whose many scripts failed to galvanise society as he had hoped, Mr Bunton was desperate for some sort of cause, some sort of way to express his value of community. The loss of his daughter, along with a formative episode where he nearly was lost in a rip tide, made him passionate about humanity, about community. When fellow bakery workers mock a South Asian coworker, Mr Bunton stands up and walks out rather than be complicit. When television licence inspectors come to demand payment, rather than simply pay up, as his wife (Helen Mirren) wants, Mr Bunton chooses prison on principle.

It was small wonder, then, that this person so desperate for meaning, for validation, for solidarity amidst the increasing anomy of post-war society, seized on an opportunity for protest. When Mr Bunton's disaffected son, Kenny (Jack Bandeira), steals the Duke's portrait, Mr Bunton is quick to write to the *Daily Mirror* ('the worker's paper') demanding that the government pay money to subsidise TV licences in exchange for its return. Despite the agitation of the Home Secretary, Mr R A Butler (in a wonderful performance by Richard McCabe), the police are helpless. It is only the eventual return of the painting and confession by Mr Bunton which even leads to a trial.

Here, the legal viewer delights, because Mr Hutchinson QC (Matthew Goode) pops in to steal the show. Calm, collected, and never betraying a hint of his strategy (even to Mr Bunton), Mr Hutchinson is shown to deftly pull out, in his final speech to the jury, the legal flourish which elevated this trial from mere public spectacle to criminal law history. As Mr Bunton had not intended to *permanently* deprive the gallery of the painting, he therefore did not meet the definition of theft under the law, which required intent to permanently deprive another of their property. At most, he had borrowed it.

This is one of the best depictions I have seen of the rôle of a trial barrister. There is no flashy drama, not even a raised voice. Goode's delivery captures the conversational, intimate tone of a good jury summing-up, and despite the weight of evidence on the prosecution side, Goode's Mr Hutchinson QC never loses control of the court. Equally, he never over-promises to the client; indeed (with justification), the client conference scenes are downright pessimistic. This is courtroom drama at once at its finest and most realistic.

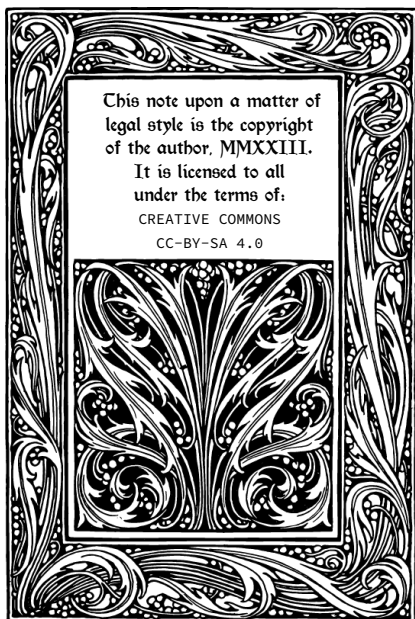
The film, however, is about Mr Bunton, not Mr Hutchinson QC. By title cards, we are told the well-known twist (that while the jury acquitted him of theft of the painting, they got him on theft of the lost and destroyed frame). Regrettably, the title cards fail to add that the law relating to theft was, almost certainly inspired by this case, amended to prevent similar 'I was merely borrowing it' defences.<sup>2</sup> In the end, though, the greatest victory for Mr Bunton is not that he became a folk-hero, nor that he managed to get off rather lightly for a serious crime, nor even that his son was able to escape scot-free for the *actual* theft of the painting. Rather, as the film touchingly shows, it was to be able to come to some sort of understanding with his wife, who was understandably deeply frustrated with the pains of having a legal eccentric husband.

The personal toll of the campaigns of the legal eccentric is shown unflinchingly. It is very clear that having such a character in one's family would be a difficult thing indeed. The obsession with a cause is a destructive

<sup>2</sup> Theft Act 1968, s 11

force which can tear apart relationships, as those close to the eccentric ask ‘Why must you do this?’ We ought to be grateful that we have legal eccentrics, and we ought to be especially grateful for our tradition of granting such oddballs the most sensible of counsel at public charge. Part of that gratitude, as this lovely film reminds us, is understanding the eccentric as a person in the round, not just a name on the case.





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