

Walter Scott's Legal Expertise and Law Narrative in His Novels

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Abstract Walter Scott was a renowned writer with a strong legal background. This paper aims to explore the legal expertise evident in his literary works and the unique value of his narrative regarding law in his series of novels. The author argues that Scott demonstrates exceptional artistic talent in his depiction of historical events and legal concepts, clearly indicating that he is a literary genius influenced by the field of law. Scott's historical novels are closely intertwined with legal themes, using a legal perspective to examine history while also scrutinizing legal matters through the lens of historical accuracy. The depiction of legal events in Scott's works serves not only as a crucial structural element but also enhances the portrayal of characters. By examining Scott's literary works through the framework of legal literary criticism, readers can gain a deeper understanding of his creative tendencies and the rich legal ideas embedded within his writings.

Keywords Walter Scott; legal expertise; law narrative; legal literary criticism

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Sir Walter Scott (1771-1832) was a writer with profound legal expertise. As a unique writer with a legal background, it is essential to understand how his legal expertise influenced his literary creation and shaped the style of his novels. It is also the root of the distinctive characteristics of his works in terms of artistic structure, characterization, and creative philosophy. As some scholar aptly noted: "It is safe to say that had not Scott been a lawyer, his writings would have lost much of their characteristic flavor" (Gest 3). Of course, the legal elements in Scott's literary works are not merely a display of his legal expertise, but rather an artistic presentation of his legal ideals that were difficult to achieve in judicial practice, through the unique form of literary genres.

I. The Literary Genius Nurtured in the Legal Field

Scott's legal narrative is closely tied to his birth and upbringing. He was born into an ancient Scottish family in Edinburgh. His family background alone signifies a fascinating blend of law and literature. His father, John Scott, was a legal professional and a highly respected lawyer, while his mother, Anne Rutherford, had received a solid literary education. His father provided guidance for Scott's legal career, while his mother provided the cultural foundation and creative inspiration for his literary works. It is clear that throughout Scott's professional and literary career, his parents' legal and literary backgrounds exerted a subtle yet profound influence on him.

In 1786, he followed in his father's footsteps and entered the legal profession. In 1789, he enrolled at the University of Edinburgh to study law, where he diligently researched and studied the subject, attending numerous academic lectures held at the university. While pursuing his legal studies, he enthusiastically engaged in literary activities and actively participated in discussions on issues of widespread interest, including law and society, literature and history, and philosophy. After completing his legal studies, he became a lawyer in 1792, directly engaging in judicial work and achieving considerable success. In 1806, he was appointed as clerk to the Court of Session in Edinburgh, where he was given significant responsibility in the judicial field.

While pursuing a long career in law, Scott dedicated immense passion to literary creation. Thus, this outstanding legal professional, who specialized in law and worked in the legal field after graduation, blossomed into a literary genius nurtured in the legal field, achieving remarkable accomplishments in historical fiction and poetry. For Scott, who was just beginning his legal career, spending long periods on foot in the remote corners of Scotland, listening to and recording half-forgotten folk songs and medieval legends, were far more fulfilling than the monotonous study of law in his father's office. "Scott began systematically collecting Scottish folk songs and later launched his professional literary career by publishing them. At the same time, he gained an understanding of the diverse and unique characters of the Scottish people, which was of great importance to Scott's literary creation as a novelist" (Gorky Institute 188). Meanwhile, he also studied Scotland's legislative and litigation systems in detail. Whether it was the collection of folk songs and ballads or the extensive understanding of Scotland's legal system and litigation procedures, both had a subtle yet profound influence on his literary creation.

It was precisely his dual expertise in literature and law, coupled with his unwavering dedication to literary pursuits, that enabled Scott to produce 27 historical novels, several short stories, and numerous poetic works throughout his lifetime. Among these are *Ivanhoe* (1820), *Rob Roy* (1817), *Old Mortality* (1816), *Kenilworth* (1821), *Tales of the Crusaders* (1825), *The Heart of Midlothian* (1818), and other historical novels, as well as the epic poems *The Lady of the Lake* (1810) and *The Lay of the Last Minstrel* (1805). His poetic works were based on his research into Scottish ballads and were imbued with a strong sense of legend. His novels, on the other hand, were based on his research into Scottish and British history. "His novels were to allow fuller scope for his natural gifts and acquirements, and for his wholesome humour as well as his comprehensive sympathies" (Sampson 516).

Most of Scott's novels are grouped under the "Waverley Novels," a name derived from his 1814 novel *Waverley*, which recounts the Jacobite uprising of 1745. Since Scott did not acknowledge his authorship until 1827, for a considerable period after the publication of *Waverley*, he was typically credited as "the author of *Waverley*" or "the author of the Waverley Novels" on the covers of his books.

Thus, the "Waverley Novels" became the collective term for most of Scott's novels. Although these novels are primarily known as historical fiction, a significant portion of their content delves into various aspects of legal issues. To the extent that some Western scholars have argued: "In all of Sir Walter Scott's novels the difference between the modern world and the world of the past is defined by the difference between the rule of law and the rule of violence" (Cottom, 65). In Scott's novels, the conflict between legal rules and rules of violence is frequently examined, and at times, the interplay between the two is revealed, as he strives to explore an ideal balance. In specific novels, Scott often uses the voices of characters in his works, particularly the fictional legal professionals, to make numerous interesting comments on the law, thereby elucidating his legal philosophy.

In his novel *Guy Mannering*, Scott uses the voice of his character Mr. Pleydell to systematically explain the social functions of law and employs literary irony to reveal some of the flaws in the legal system of the time. Mr. Pleydell said, "In civilised society, law is the chimney through which all that smoke discharges itself that used to circulate through the whole house, and put every one's eyes out—no wonder, therefore, that the vent itself should sometimes get a little sooty" (Scott, *Guy Mannering* 71). In this novel, Scott uses the words of his characters to provide a vivid explanation of the functions and characteristics of law. By comparing law to a chimney, he not only vividly illustrates the unique role of law as a social regulator but also defends certain imperfections within the legal system.

In the novel *Rob Roy*, the story is told in the first person by Frank Osbaldistone, set against the backdrop of the Scottish uprising of 1715. It explores the complex ethnic, religious, and social conflicts of that time, as well as the psychological states of characters from all walks of life. Frank is falsely accused by villains and nearly imprisoned, but is saved by the Scottish outlaw Rob Roy.

In the novel *The Heart of Midlothian*, Scott's characters engage in more in-depth discussions about the law. To a considerable extent, this novel is a successful example of "combining writing with a career in the law" (Dolin 45). It demonstrates outstanding artistic talent in terms of historical events and legal writing, fully revealing that he was a literary genius nurtured by the field of law.

II. The Ingenious Combination of Historical Novels and Legal Themes and Its Influences

As in the aforementioned *The Heart of Midlothian*, Scott's historical novels skillfully blend legal themes with historical narratives, using legal themes to illuminate history while also scrutinizing the law through the lens of historical truth. Though his works draw inspiration from historical events, he employs these events to reflect on the present. "He did not merely attempt to write historical fiction, and by using material from histories, represent the past; he re-created the past" (Fisher 99). His purpose in re-creating the past is not purely to use history as a mirror, but rather to use history to examine reality, achieving the effect of using the past to illustrate the present.

In his novel *Redgauntlet*, Scott references the famous case of Peebles vs. Planestanes, thereby adding legal elements to this literary work. As a result, some scholars have argued: "There is probably none of Scott's novels which contains more legal terms and allusions than *Redgauntlet*" (Gest 32).

During the early 19th century, when Scott was primarily engaged in novel writing, the contradictions within British society were distinctly pronounced. In particular, due to the accelerated pace of industrialization, both labor-management conflicts and tensions between the general populace and the ruling class reached an unprecedented level of sharpness. In such circumstances, as a legal professional working for the government, if Scott had directly depicted the true state of society in his novels, his works would inevitably have been unable to be published. Therefore, it is not difficult to understand why Scott was so passionate about historical themes in his literary creation. "Scott's historical novels are mostly based on real historical events. The author uses the description of these historical events as the central content of his works, around which he shapes characters, arranges

plot structures, sets scenes, and depicts environments” (Yang 84). By using similar historical events as his subject matter, he avoids sensitive issues and sensitive discourse, while achieving the purpose of using the past to comment on the present. Therefore, Scott’s historical fiction, especially the legal issues addressed in his historical novels, aims to draw attention to and examine contemporary legal issues. His portrayal of historical legal issues and criticism of legal systems in his novels essentially reflect his questioning and criticism of the legal systems and judicial injustices of his own time. As Karl Kroeber pointed out, in the “Waverley Novels,” there is not only a wealth of legal procedural case references, but also “an implicit questioning of the whole concept of civilized law” (Kroeber 185).

Novels such as *The Heart of Midlothian* use literary narrative as a vehicle to question the law. The questions raised are not only about the irrationality of the legal system, but also about the redundancy of legal provisions. As Daniel Cottom has noted: “Moreover, this questioning not only suggests that law may lead to violence rather than enlightenment, but further suggests that the violence which law was invented to curb may not have been entirely undesirable” (Cottom 67). Such questioning in Scott’s novels constitutes a strong condemnation of the legal system of his time and an aspiration for an ideal legal system.

It is precisely because of the ingenious combination of historical events and legal themes that Scott’s literary works have had a profound influence on later writers. His literary achievements have been widely recognized by society. He was “an author to whom Marx again and again returned, whom he admired and knew as well as he did Balzac and Fielding” (Praver 386).

The renowned Russian writer Alexander Pushkin demonstrated his respect for Scott’s literary achievements and artistic techniques in several essays, including “On Walter Scott’s Novels,” and regarded Scott as a model for historical fiction. “In Europe, Pushkin is one of the greatest successors to Scott in the field of historical novels. His lineage in this regard has long aroused people’s interest” (Hu 62). Scott’s literary works not only influenced Pushkin’s *The Captain’s Daughter*, but some scholars even believe it influenced *The Tales of Belkin*: “Certainly there are similarities between Pushkin’s Preface to *The Tales of Belkin* and Scott’s mystifications. Closer examination reveals, however, that Pushkin plays with Scott’s conventions, cleverly undermining Belkin at the same time that he introduces him to the reader” (Hoisington 357). The renowned French writer Victor Hugo summarized Scott’s novels, writing: “Walter Scott has been able to draw from the springs of nature and truth an unknown species. It is new to us, because he makes himself as ancient as he wills. He unites to the minute exactness of the chronicles

the majestic grandeur of history and the all-compelling interest of romance. His potent and curious genius divines the past; his true pencil traces a faithful portrait after a confused shadow, and forces us to recognize even what we have not seen; his flexible and solid mind takes the peculiar impress of every age and of every country, like soft wax, and preserves this impress for posterity like imperishable bronze” (Hugo 310).

Not only Pushkin and Hugo, but many other writers have benefited from Scott’s literary works. His monumental achievements in historical fiction exerted a profound influence on numerous subsequent writers of diverse styles across Europe and America. “His writing influenced Balzac, Dostoevsky, Flaubert, Tolstoy, Dumas, Pushkin and many others; and Scott’s interpretation of history was seized on by Romantic nationalists, particularly in Eastern Europe” (Pittock). All of them drew inspiration and guidance from Scott’s novels in their creative endeavors. Charles Dickens, another British writer who also focused on legal issues in his literary works, held Scott in the highest regard: “He was well-versed in Shakespeare... He also admired Fielding and expressed great admiration for Scott” (Pearson 36). It is clear that Scott achieved remarkable success in the creative writing of historical novels and novels with legal themes, and has garnered significant attention.

III. The Artistic Function of Legal Elements in Scott’s Novels

In Scott’s novels, not only are legal events described, but they also play an important role in the artistic structure of the plot and in enhancing the characterization.

The plot of *The Antiquary* revolves around the legality of the marriage between the Earl of Glenallan and Eveline Neville, but the lawyer is most interested in the conversation with the antiquarian Jonathan Oldbuck. This antiquarian had studied law and was well-versed in feudal legal knowledge, but since there was no need for him to practice law, he naturally cultivated his interest in old books and ancient scholarship. He spent days “pondering over an old black-letter copy of the acts of parliament” (*The Antiquary* 15) instead of playing golf; he would seek out the ruins of ancient Roman camps; he also discovered a strange stone engraved with some initials, which the antique dealer wrote down in an erudite manner, while Edie Ochiltree wrote them down in a trivial manner, reminding us of the similar story of the stone discovered by the Pickwick Club, though it is possible that Charles Dickens borrowed the idea from Scott.

In the novel *Ivanhoe*, the protagonist, Wilfred of Ivanhoe, is also strengthened through legal events. After being kidnapped by Bois-Guilbert, Rebecca was taken to a building belonging to the Knights Templar, which was half palace and half church.

Rebecca's father was worried and anxious. The letter he wrote to Bois-Guilbert fell into the hands of the ruthless knight commander, who accused Rebecca of using witchcraft against Bois-Guilbert. Rebecca was thus found guilty and sentenced to be burned at the stake, unless someone would duel for her and defeat Bois-Guilbert. Just as Rebecca was about to be taken to the execution ground, the young knight Ivanhoe finally arrived, engaged in a life-and-death duel with enraged Bois-Guilbert, and defeated the latter. Thus, Rebecca was declared innocent and released.

In the novel *Rob Roy*, the work begins with an appendix that discusses legal issues, including litigation. The first chapter of the main text opens with the lines: "How have I sinn'd, that this affliction / Should light so heavy on me?" (Scott, *Rob Roy* 5). The author incorporates these legal elements at the beginning to serve a structural function in the narrative.

In the novel *The Betrothed*, the author combines real historical events with a fictional love story, using legal events as the backdrop to tell the tale of star-crossed lovers who ultimately find happiness together. In the novel, the male protagonist, Sir Hugo, is the savior of the female protagonist, Eveline. Out of gratitude, Eveline decides to marry Hugo. However, since Hugo had already joined the Crusaders and was about to set off, he entrusted his nephew, Damian, to protect Eveline after their engagement. But after Hugo left, his fiancée Eveline developed feelings for Damian. Their romance was met with criticism from others and was also targeted by Hugo's cousin Randal. As a result, Damian was falsely accused of sympathizing with a peasant uprising and imprisoned for treason. After gaining the king's trust, Randal falsely claimed that Hugo had died on his way back, and Randal was thus appointed as the new leader. On the day of the celebration, Hugo made a dramatic return. At the celebration, Randal was mistakenly killed. During the interrogation of the murderer, the king learned the truth. Meanwhile, Hugo disguised himself as a mendicant monk and investigated the prison. Moved by Damian's loyalty, he pleaded with the king to pardon him and dissolved his engagement to Eveline, thereby fulfilling the young couple's love.

In the novel *The Heart of Midlothian*, the structural and functional role of legal elements is particularly prominent. The historical backdrop of this novel is the early 18th century, specifically the period immediately following the formal union of Scotland and England. The novel's main plot is constructed from a combination of real historical events and a fictional love story. The real historical event is the sensational "Porteous Riots" that took place in Edinburgh, while the fictional love story is the romance between Effie and George Stanton (i.e., George Robertson). Both the historical event and the love story are closely related to legal matters.

Both involve court trials and the enforcement of case judgments. The former concerns the riots and the illegal actions taken to suppress the riots, while the latter involves a wrongful conviction based on a lack of direct evidence. Legal events play a crucial role in the artistic structure of this novel. “The plot of *The Heart of Midlothian* employs this law to begin the Porteous case and to end the case of Effie Deans” (Dolin 56). Moreover, there is a character who plays a connecting role in both of the main plots, namely George Stanton. In the “Porteous Riots,” he is an accomplice to the riot leader Wilson, while in Effie’s wrongful imprisonment, he is Effie’s lover, both a catalyst for her wrongful imprisonment and a victim in the legal sense. It is George Stanton’s unique role that enables the two main plotlines to form independent yet interdependent whole in the legal realm.

In Scott’s novels, legal elements not only play an important role in the artistic structure but also serve a supporting function to the characterization. Take the two main female characters in *The Heart of Midlothian* as an example. In terms of characterization, the author fully utilized his expertise as a legal scholar, using legal elements to highlight the unique personality traits of the characters.

The main plot of this novel is based on an anonymous letter that the author, Walter Scott, claimed to have received. In the letter, the writer recounts an extraordinary experience: a woman named Helen Walker, undeterred by hardship, set out from Edinburgh and walked all the way to London to appeal to the court on behalf of her sister, who had been sentenced to death. The woman’s extraordinary appeal ultimately succeeded. The queen of the court in London, for political reasons — particularly the need to maintain relations between England and Scotland — commuted the sister’s death sentence to exile. Walter Scott, in his novel *The Heart of Midlothian*, drew inspiration from Walker to create the main character Jeanie Deans, a young woman who, with remarkable determination, traveled to London to appeal for her sister Effie’s wrongful conviction.

In developing the character of Jennie, the author uses the concept of petitioning in legal proceedings as a foundation. The experiences Jennie undergoes during the legal petitioning process showcase her decisiveness, bravery, and unwavering determination to clear her sister Effie’s wrongful conviction. Scott employs this petitioning form to shape Jennie’s character. Additionally, the portrayal of Jennie has influenced the depiction of Martha in Pushkin’s *The Captain’s Daughter*.

Effie Deans was no different from other characters in the story. Scott primarily develops Effie’s unique character from a legal perspective. She kept her relationship with George Robertson a secret from her father, sister, and those around her. Additionally, she chose not to disclose her pregnancy, primarily due to her lack of

legal knowledge, her shy personality, and her desire to protect her lover. George Robertson had already become a suspect and was on the run, so any evidence could lead to his arrest. As a result, Effie preferred to face the consequences herself rather than risk harm coming to him. This illustrates that Effie's character—innocent, pure, yet slightly rebellious—is influenced by legal elements within the novel.

As the ideal model that Scott strived to create, Jennie's character, as depicted in the petition process, demonstrates unwavering resolve and deep affection for her sister, qualities evident from the novel's title. The title of this novel carries significant symbolic meaning. The "heart" is the "engine" of human survival, but the "heart" of Midlothian refers to the imposing "prison" of Edinburgh. Viewing the "prison" as the "heart" symbolizes Edinburgh as the key to the functioning of the political system. If the "heart" of the body malfunctions, the health of the body cannot be maintained. Every beat of the heart reflects the health of the body. In the opening of *The Heart of Midlothian*, several lawyers discuss the symbolic meaning of this prison in the capital city of Edinburgh. One says, "The metropolitan county may, in that case, be said to have a sad heart" (14). Another adds, "And a close heart, and a hard heart" (14). Others believed, "And a wicked heart, and a poor heart" (14). But still others argued, "And yet it may be called in some sort a strong heart, and a high heart" (14). It is clear that the symbolic meaning of the "heart" is extremely rich. If the "prison" symbolizes the "wicked heart," then Jennie, the protagonist of the novel, represents "a strong heart, and a high heart."

Conclusion

As a writer with profound legal expertise, Scott inevitably expressed his legal views in his literary works. Therefore, only by conducting an in-depth study of Scott's works from the perspective of legal literary criticism can we gain a deeper understanding of his unique creative tendencies and the essence of the legal ideas contained in his works. In a sense, literary creation serves as a platform to convey dissatisfaction with existing legal systems, to articulate legal ideals that are difficult to realize within the judicial sphere, and to express aspirations for the improvement of Scottish and British law and the pursuit of judicial justice. "Scott, himself, describes Scottish law as a fabric formed originally under the strictest influence of feudal principles, but renovated and altered by the change of times, habits and manners, until it resembles some ancient castle, partly entire, partly ruinous, partly dilapidated, patched and altered during the succession of ages, by a thousand additions and circumstances—" (Gest 4). The pursuit of legal fairness and perfection is the essence of Scott's legal writings. Through literary form, he disseminates the

ideals of law and issues a rational call for judicial justice.

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