

MEMORY AND LEGAL TESTIMONY IN VICTORIAN LITERATURE

By

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To Anna

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This project shows how literary representations of legal testimony in the nineteenth century consistently underscore social and cultural anxieties about the relationship between memory and testimony. Such literary narratives place testimony and memory at the center of their exploration of narrative collection, testimonial record-keeping, and communal memory, suggesting a vision of memory and testimony that is about more than simply evaluating facts; instead, the literary works position literature itself as the communal memory, the better story, that people will remember in the future. Such narratives, therefore, offer imaginative solutions for the growing anxiety during the nineteenth century that the legal system was ill-equipped to address scientific advances that revealed the complexities (and fallibilities) of memory, and the ways in which such advances might undermine legal testimony. This project examines the works of a variety of authors—Wilkie Collins, Charles Dickens, Anthony Trollope, James Hogg, Elizabeth Gaskell, Catherine Crowe, and Robert Browning—and demonstrates how their texts sought to address the ways in which individual testimony was joined together with other forms of evidence in the legal system to become part of a wider community narrative of an event. Nineteenth-century literature often positioned itself as offering restorative narratives in which communal identity and memory are preserved in spite of the legal system. By establishing the

extent to which memory and legal testimony were central concerns in Victorian literature, this project suggests how these concerns functioned either to stabilize or undermine the existing social and legal status quo. Literary representations of both criminal and civil cases feature pervasive tension over whether the legal system can adequately arrive at accurate decisions, and as a result, these works offer literature as a solution to the problems with which the legal system is struggling.



## CHAPTER 1 INTRODUCTION

### **Memory and Testimony**

During the nineteenth century, British literature took a particular interest in the relationship between testimony and memory as science and the legal system began to complicate cultural understandings of the reliability and accuracy of human memory and testimony. This literary interest is reflected in the increasing proliferation of novels, stories, and even poems in which courtrooms, lawyers, legal documents, and testimony all play central narrative and thematic roles. Legal professionals were well aware of this growing corpus of literary interest in the legal system. Indeed, Daniel Pollack-Pelzner has shown how a famous moment in *The Pickwick Papers* came to be a topic of particular concern in legal treatises and textbooks.<sup>1</sup> However, while the legal system was particularly interested in how it was represented in literature, this dissertation examines how literature was equally interested in the ways that the legal system told stories. Of course, the legal system is not a story-telling institution; its role is to make decisions based on legal evidence. In fact, common law even provides room for attorneys to object to a witness's testimony if it verges on a narrative response.<sup>2</sup> Yet in spite of these institutional resistances to narrative story-telling, the testimony and evidence that was given during trials in the nineteenth century became of great interest to the reading public, as evidenced by the popularity of court reports in the press.

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<sup>1</sup> The instance in view is the moment when Sam Weller takes the stand during Pickwick's breach of promise trial. Weller's comical and irreverent responses result in the judge's misguided admonition: "'You must not tell us what the soldier, or any other man, said, sir,' interposed the judge; 'it's not evidence'" (need page).

<sup>2</sup> From William Gillespie Dickson's *A Treatise on the Law of Evidence in Scotland* (1864): "[A] statement which resolves into a narrative of a past occurrence will not be admitted to qualify or explain [that occurrence]" (80). This particular admonition against narrative responses appears in the midst of a discussion of hearsay testimony.

I argue that while the legal system grappled with evolving attitudes toward testimony and evidence, literary representations of legal cases and institutions critiqued their ability to relate witnesses' stories by often depicting the legal system as unable to detect, account for, or correct flawed memory and testimony; at the same time, literature that addressed legal questions often expanded its narrative scope to provide more insight into the intricacies of their fictional cases, often by focusing on evidence or testimony that would have typically been impermissible in the courtroom. Integral to these representations was a focus on testimony and memory precisely because it was through testimony that the legal system most nearly approached being a narrative institution; I want to first examine testimony and memory as loci for philosophical and literary inquiry before returning to the question of nineteenth-century literature.

Human experience is continually dependent upon both testimony and memory. From day to day we rely on what others tell us, often taking action based upon information that is attested to by our friends and colleagues. Indeed, the analytic philosopher C. A. J. Coady describes how testimony is central to scholarly inquiry, “[R]espect for the opinions of fellow professionals or experts runs very deep. [...] It is common, though not invariable, for an individual to accept corrections to firmly held perceptual and memory beliefs from others who were in a position to observe or remember the relevant state of affairs or happening” (12). Coady’s representation of testimony within the context of academic work is suggestive of the larger cultural role that testimony plays in culture. Testimony is important even to our identity formation since many of “our most important beliefs about ourselves were learned at an earlier time from our parents and

caretakers” (Lackey 1).<sup>3</sup> Whether in professional or personal contexts, testimony is an essential part of how we receive knowledge about ourselves, our communities, and the world in general.

Additionally, Coady’s description of the intellectual exchanges that rely on testimony invokes the essential relationship between memory and testimony. Testimony necessitates a reliance upon individual memory to draw upon recollected experience and then communicate that experience through speech, writing, or some other means. The title of the first chapter in Jonathan K. Foster’s *Memory: A Very Short Introduction* (2009) aptly alludes to the overlap between memory and testimony: “You are your memory” (1). Foster goes on to suggest that “memory is essential for virtually everything that we do” (22). These kinds of arguments run through many scholarly studies that take either memory or testimony as their subject: both memory and testimony are separately characterized as necessary, pervasive, and foundational. As a result, to study one would suggest the importance of understanding the other. However, these same studies do not tend to give any particular emphasis to this intrinsic connection. Of course, as I have already indicated, there is a particular social institution in which the connection between testimony and memory are drawn persistently into view: the legal system.

In the legal context, testimony is most commonly associated with the process of a witness providing relevant information to a case under the examination of an attorney. Evocations of memory are often present in cultural representations of the legal system, particularly in television dramas where a lawyer might snidely prompt a witness, “Remember that you are under oath.” This phrase, clichéd though it may be, does prompt us to recognize that the act of giving legal testimony is also an act of remembering. To recollect and testify has been a central component of

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<sup>3</sup> Lackey’s generic description is evocative of the opening chapter of Dickens’s *David Copperfield*, in which the main character narrates the night of his birth, ostensibly a tale which he has learned from the testimony of others (likely his nurse and friend, Peggotty).

legal practice for centuries. As Lynn Nadel and Walter P. Sinnott-Armstrong opine in their recent collection of essays on *Memory and Law* (2012), “legal system has frequently assumed that memory is a reliable tool” (v). However, they go on to suggest that the legal systems in both the US and the UK have only recently begun to recognize that “our intuitive understandings of how memory works and doesn’t work [...] are far from the whole truth of the matter” (4).

Although their conclusion may be accurate insofar as the current scientific study of memory and the mind has offered a much more complete picture of how memory works than would have been available to legal practitioners in centuries past, it overlooks the fact that the nineteenth century saw significant attention paid to the relationships between memory, the mind, testimony, and the law. In other words, Nadel and Sinnott-Armstrong neglect to account for the fact that nineteenth-century legal and literary texts were especially keen to highlight the fact that memory is not a wholly reliable source of information. Indeed, the very fact that concerns surrounding memory were not limited to legal treatises on testimony and evidence suggest the extent to which these questions were engaged by the wider British culture during the nineteenth century.

Over the course of the following chapters, I first examine how literary representations of legal testimony in the nineteenth century consistently underscore social and cultural anxieties about the relationship between memory and testimony in the legal system. Central to these anxieties was a concern for how well-prepared the legal system was to address scientific advances that revealed the complexities (and fallibilities) of memory, and the ways in which such understandings might undermine legal testimony. As James Hogg has one of his characters lament, “We have nothing on earth but our senses to depend upon: if these deceive us, what are we to do?” (56). Of course, while the question is particularly concerned with our ability to accurately perceive the world around us, in many ways the question of whether our recollections

of perceptions are accurate is no less intertwined with the concern to which Hogg's character gives voice. Memory and our recollections of experience are vital not only to the legal system but to our very sense of self.

Secondly, I demonstrate how the authors I examine sought through their narratives to address the ways in which individual testimony was joined together with other forms of evidence in the legal system to become part of a wider community narrative of an event. In her book *Common Precedents* (2013), Ayelet Ben-Yishai suggests that the legal concept of precedent was central to the development of a communal or common identity in Victorian culture. Precedent, in Ben-Yishai's argument, "reminds us that being English and being a Victorian—in law and in culture—were necessarily predicated on a deep past and a complex relationship with that past" (9). The importance of precedent as a strong conceptual force is clearly present within British legal practice, and as a result, the development of communal identity that Ben-Yishai identifies would have also been vulnerable in the face of compromised testimony. But literary representations of the legal system expanded the boundaries of this concern beyond the legal ramifications of faulty precedent; literature often was concerned with the possibility that legal narratives entering the social and cultural conversation might also be compromised by incomplete, inaccurate, or manipulative testimony. The significance of communal identity that Ben-Yishai identifies in precedent also complicates concerns surrounding compromised testimony; literary portrayals of legal testimony often underscore how such a compromised narrative would become part of legal record, allowing a flawed report to enter into public knowledge and determine future judgments.

The fear that inaccurate legal narratives can become a determining feature of public discourse is alluded to in Foucault's *Discipline and Punish*, when he describes how the spectacle

of the execution (both literal and metaphorical) of justice was supplanted in the nineteenth century by the spectacle of the trial itself. The act of punishment became hidden, and so “the publicity has shifted to the trial, and to the sentence”—to the process, rather than the result (9). The courtroom becomes the new place of public interest, where stories of criminal and crime are told and reported at large. While Foucault suggests that this interest in the trial was relatively new in nineteenth century France, the English had traditionally (with a few exceptions) had public trials. As Jonathan Grossman describes in *The Art of Alibi* (2002), “unlike [...] the rest of Europe, where inquisitorial, secret prosecutions dominated, [in England] the court trial has an ancient and continuous history of being public and juried” (16). Due in part to the courts’ openness, trial accounts became a very popular feature in the eighteenth-century press, as editors and publishers realized that “lurid accounts of crime and criminals [were] guaranteed to attract readership” (May 119), a trend that continued into the nineteenth century. In this way, English culture fostered an environment in which legal testimony often entered into public discussion and memory.

Such movements of individual testimony and memory into a wider public recollection is indicative of the twentieth-century concept of collective or communal memory, and facets of the ways in which legal testimony was circulated publically during the nineteenth century suggest that these narratives existed as part of a communal memory. Richard Crownshaw, in his study of Holocaust testimonial narrative, describes the relationship between memory and community in this way: “Despite the particularity of individual experience, the individual’s memorative thoughts on past happenings exclusive to him or her will be, by their very nature, social. Discourses are social and the individual’s participation in the discourses of the group attributes a social significance to past happenings as they are reconstructed within a social frame” (1). In this

case, the social frame through which these narratives are reconstructed is the legal system, and the communal recollection of an event is entirely shaped by the testimony that gets reported. Jeremy Bentham, citing Michel de Montaigne, proffers a description of how hearsay testimony spreads that is an apropos nineteenth-century formulation of Crownshaw's idea: "At first, individual error occasions the error of the public; and the public error, in its turn, produces individual error [...] so that the witness farthest removed knows more [...] than the nearest, and the last informed is better persuaded [...] than the first" (*Treatise* 206). The distinction between Bentham and Crownshaw is, of course, that Bentham is supremely concerned with the ways in which an erroneous report, testimony, or memory can become public. But in both cases, memory becomes a foundational component of testimony not only in the instance of a witness who recalls their own experience, it also shapes the ways in which that experience joins with other narratives to form a communal narrative for public consumption and recollection.

In light of this concern, nineteenth-century literature often dealt directly with the ways in which legal conflict could result in the spread of incorrect or exaggerated information that could adversely affect those whom such reports concerned. Returning then to the question of narrative, memory's relationship to testimony takes on two facets in these literary legal cases: first is the question of individual memory in the act of a witness testifying, but memory is also relevant to the ways in which such testimony becomes part of the public narrative of the case. While the legal system regularly considered how to manage testimony and memory in the courtroom, the question of how those testimonies entered into the public memory was most often taken up by fiction.

### **Psychology and the Legal System in the Nineteenth Century**

During the nineteenth century changes in both the legal system and the nascent field of psychology fundamentally altered both the ways in which legal testimony functioned in

courtrooms and scientific understanding of the human mind and memory. Psychology as a field came into its own during the century, as a great deal of writing on the subject was published by such thinkers as Alexander Bain, William Carpenter, Herbert Spencer, and George Henry Lewes. As writing and research on psychology increased, disputes erupted over the nature of consciousness, the relationship between the mind and the body, and the existence of psychical phenomena. A key component of these studies was memory's relationship to the mind and consciousness.

In his book *Principles of Mental Physiology* (1874), William Carpenter suggests that “there is no part of our purely psychical activity, the relation of which to physical conditions is more obvious and more intimate, than that *reproduction of past states of consciousness*, which, when supplemented by the *recognition* of them as having been formerly experienced, we call *Memory*” (429). Memory was also a component of Alexander Bain's concept of “acquisition,” which he developed in *The Senses and the Intellect* (1855). Bain saw acquisition as “a foundation of our intelligence,” in which memory played a key role (111). In one hypothetical example, Bain looks to the legal system to suggest that experience and memory govern the ways in which we receive new information “The judge listening to a law-pleading hears little that is absolutely new; if he keeps that little in his memory, he stores up the whole case” (538). While Bain's description of a judge's behavior during a legal proceeding suggests a somewhat less than ideal level of attentiveness, the centrality of memory to his description is clear. Both the judge's previous experience with similar cases and his present memory of the case at hand contribute to his capacity to carry out his responsibilities.

While Bain's example demonstrates a sense of how memory functions in a professional environment, Carpenter's *Principles of Mental Physiology* focused on the connection between



memory and physiology. In his concept of ideation, Carpenter sought to show how memory could become entirely independent of consciousness; as an example, Carpenter points to Mozart, who “could always retain in memory the brilliant solos in the Concertos which he heard” (237). As Jill Matus argues in *Shock, Memory, and the Unconscious in Victorian Fiction* (2009), Carpenter saw memory as an “automatic process,” in which “the mechanisms of memory go beyond consciousness” (94). But this emphasis led Carpenter to focus on the powers of memory, how it could be used to perform tasks without conscious thought. This kind of recollection is, of course, quite different from the narrative (or episodic) memory that is employed to give testimony. For his part, Carpenter does suggest that memory can be faulty, but he links this possibility primarily to “local affections of the Brain,” like “blows to the head” (5). Carpenter’s theories create a notion of the permanence of memory, a concept that Wilkie Collins’s drew upon in *The Moonstone*. In Franklin Blake’s case, his absence of conscious memory is got around via Ezra Jennings’s experiment, during which Blake re-enacts his original theft of the diamond. As I will discuss in the following chapter, it is in part due to Blake’s memory loss that he must collect testimony. And the process of providing testimony, either written or oral, is a deliberative exercise quite unlike the automatic functions that Carpenter describes.

Contrasting psychological discussions of memory during the period honed in on the way that it was liable to be inaccurate or incomplete. Frances Power Cobbe’s extended discussion of memory in her 1864 travelogue *Cities of the Past* also returns to a legal metaphor, and is worth reprinting in full:

[W]e can scarcely return, after the lapse of only ten or twenty years, to any scene of our own youthful accidents or exploits without finding ourselves bewildered between the tricks of memory and the actual facts of the spot before us. How rarely does it happen that we have not pictured the lawn twice as large, the tree standing in a different place [...]? Yet we go on treating such betrayals of memory as curious individual failures [...]. But the greater and more exciting the event, the

more it has been thought of, and talked over, and described, the more certain it is to undergo the process of alteration and exaggeration. A learned lawyer once informed me that he had occasion to study the records of a trial which by some legal contingency had been gone over three times, at intervals of a year. The evidences of the witnesses, all on oath, and all of unimpeached probity, varied so far in each of the three trials in the way of exaggeration, that it was almost impossible to harmonize, on any hypothesis, their last depositions with the first; and, what was most remarkable, was the fact that each successive evidence of each witness grew more and more accurate and decided in proportion as it receded from the original recollection. (181-82)

Cobbe's description is a treasure trove of insights into how memory was both seen as fallible and how that fallibility was thought to impact the legal system. On one hand, Cobbe offers a view of memory as something that is both narrative and constructed. Memories are composed and our narrations of past events take on new features with each retelling. I would also suggest that despite their fundamental distinctions, Cobbe's and Carpenter's conceptions of memory do challenge a common conception of memory: that it is something we control. While Carpenter does discuss the role that habit plays in forming automatic memory, the reality is that on the whole, he description places memory completely outside of our conscious control. On the other hand, and perhaps even more unsettlingly, Cobbe suggests that our very attempts to control and manage our memories actually introduce more error and "exaggeration" into our recollections. Thus, Cobbe's identification of the witnesses in her anecdotes as being of "unimpeached probity" is connected to the ways in which witnessing within the legal system fluctuated during the nineteenth century.

Whereas Cobbe and Bain simply used the legal system to illustrate their arguments on memory, the legal community itself was also considering how to address the place of memory in testimony specifically and in the legal system generally. Jeremy Bentham's *Rationale of Judicial Evidence* (1827) was one of the first and most influential texts to consider how memory related to testimony. Bentham defined testimony as relying upon a strand of four mental processes:

perception, judgment, memory, and expression (I.155). Significant to Bentham's analysis of testimony is his recognition that incorrect or false testimony need not be mendacious—if a witness's mental capacity in any one of those four areas is undermined, then the witness's testimony is also compromised. Bentham's work on legal evidence sought to reform and simplify the ways in which testimony was handled by the British legal system. Throughout the nineteenth century, legal writers referenced Bentham's foundational work on evidence, as they continued to grapple with the questions of who could testify and what counted as evidence.<sup>4</sup>

While legal philosophers and scholars like Bentham considered the role that memory played in testimony, the very rules governing testimony in the courtroom were in flux. First came the Prisoner's Counsel Act of 1836, which for the first time accorded a right to counsel for anyone accused of a crime. Prior to this, a defendant might have been allowed to have counsel, but this was at the discretion of the presiding judge and was by no means widely available. On the surface such a change would seem commendable, as the right to counsel is now widely accepted. But at the time, the ability of defendants to hire legal counsel also came with what might seem to modern readers an odd caveat: in exercising their right to counsel, defendants also lost their right to testify in their defense. Because the defense attorney was called upon to address the court on his client's behalf, the defendant essentially relinquished to his attorney his right to speak. In this way, the methods and means of how the accused's defense would be presented to the court were very much in transition. While hiring an attorney granted access to specialized

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<sup>4</sup> See S. March Phillipps and Andrew Amos, *A Treatise on the Law of Evidence*, 8th ed. (1838); Henry Roscoe, *A Digest of the Law of Evidence in Criminal Cases*, 2<sup>nd</sup> ed. (1840); W. M. Best, *A Treatise on the Principles of Evidence*, 3rd ed. (1860); and many others all reference or rely on Bentham in their own works.

legal knowledge, it also required that one give up control over how one's narrative is represented to the jury, and by extension, the public.<sup>5</sup>

The restriction preventing defendants from testifying if they retained counsel was in place until 1898, when the Criminal Evidence Act reintroduced the right to testify in one's defense to all those accused of a crime. The issue of whether or not a witness could be allowed to testify in court was addressed under the legal concept of "competency." Those who were not deemed "competent" were not permitted to testify. Several characteristics, including simply being the accused, might render one "incompetent" to testify in a court: not believing in God or having been convicted of a previous crime were two things that might render a witness's testimony inadmissible. Despite Bentham's part in discussions of evidence throughout the century, he departed from the predominant view of his time by condemning the practice of suppressing testimony based on witness competency: "of that corrupt system [of judicial procedure], the doctrine of exclusion constitutes a fundamental part" (IV. 2). However, the notion of competency (and a defendant's lack of it) had many strong supporters. Thomas Starkie's *A Practical Treatise on the Law of Evidence* (4<sup>th</sup> ed., 1876, first published in 1824), includes an entire chapter on the "Excluding Principles" of evidence.<sup>6</sup> Starkie's defense of exclusionary rules of evidence is quite simple: that the law provides for the inadmissibility of evidence that "would be more likely to mislead than to answer the purposes of truth" (17). Starkie continues by suggesting that the "truth" is easily obtained in the case of testimony, because "it is easier to state the truth than to

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<sup>5</sup> J. M. Beattie's work analyzing Old Bailey trials found that because of varying rules between judges, some defendants were able to hire defense counsel in the eighteenth century, but the percentages were quite small. However, in the years immediately preceding to the passage of the Prisoner's Counsel Act, more and more judges began allowing defense counsel (although these cases were still in the minority), which suggests that in some ways the act codified a practice that was already underway.

<sup>6</sup> S. March Phillipps's *Treatise on the Law of Evidence* (see note 2) begins with the exclusionary rules regarding competency as well, making them the initial subject of his work.

invent; the former requires simply an exertion of the memory, whilst to give to false assertions the semblance of truth is a work of difficulty” (19). In this way, Starkie’s characterization of testimony, unlike Cobbe’s, assumes a natural fealty between memory and truth, but this assumes that the only kind of inaccurate testimony is perjurious, and so Starkie neglects to consider the possibility that testimony could be fallible yet honestly given.

A key distinction is also apparent between Starkie’s discussion of testimony and Bentham’s, whereas Starkie suggests that memory is a mere act of recall (thus making truth a fairly simple matter of accessing and reciting the appropriate memory), Bentham’s analysis suggests a more layered and complex version of testimony in which memory might be honestly mistaken. In other words, Bentham recognized that memory and truthfulness were not so inexorably linked as Starkie’s description suggests. Recalling a memory accurately might not be the same as recalling the past accurately. The variety of positions on memory and testimony in both the legal system and psychology suggest the extent to which these concepts were both linked in a variety of nineteenth century discourses. There has been a surge in literary scholarship on the law and literature in the period, and on the relationship of literature to nineteenth century psychology of memory. But no studies have yet combined these two undeniably related questions, despite Victorian literature’s preoccupations with testimony, memory, and courtroom scenes. I aim to show that reading these texts with both the legal and the psychological in view allows us to understand how the individual and the communal coalesce in these literary narratives. That is to say, individual testimony and the social institution of the legal system are shown in these texts to be mutually reifying sources of communal narrative. The courtroom relies on multiple testimonies, which then become an overarching narrative. Memory’s uncertainty destabilizes this process.

In the study of the legal system and literature, Alexander Welsh's *Strong Representations* (1992) has become a foundational text for understanding how developments in evidentiary theory during the nineteenth century, particularly in the area of circumstantial evidence, found their expression in the literature of period. Similarly, Jan-Melissa Schramm's *Testimony and Advocacy in Victorian Law, Literature, and Theology* (2000) shows how the gradual easing of restrictions on courtroom testimony underscores the value that the Victorian legal system placed on testimony and the desire to ascertain truth from testimonial evidence. Jonathan Grossman argues that changes in the style of trial narratives correspond to the increasing popularity of the novel in the early nineteenth century, as such stories of the courtroom spectacle subsumed the place once held by the gallows. Most recently, Ayelet Ben-Yishai has suggested that precedent in the common law system is a substantive component in Victorian literature, as authors relied upon this concept to manage cultural change in their narratives. Broadly speaking, all of these studies consider the ways in which literary narratives are linked to and indicative of a variety of changes in the legal system during the nineteenth century.

The last fifteen years have also seen a renewed scholarly interest in the ways in which nineteenth century psychology was both reflected in and influenced by literary texts. At the turn of the twentieth century, the psychological methods and theories developed in Britain began to be overshadowed by approaches developed in Europe, particularly Freudian psychoanalysis. Psychoanalysis has obviously been a strong presence in literary scholarship, but new research has started to re-examine the importance of understanding nineteenth-century psychology and begun the process of recovering the approaches of Victorian psychologists, providing for them a place in the development of current psychological and psychiatric discourse. Sally Shuttleworth and Jenny Bourne Taylor edited *Embodied Selves: an anthology of psychological texts, 1830-*

1890 (1998), collating a variety of selections from Victorian psychological writings. In shaping the purpose of the collection, Shuttleworth and Taylor point to an absence of significant research on what they term the “emerging materialist science of the self,” which was the Victorian effort to “conceiv[e] both the body and the mind in diverse and complex ways” (xiii-xiv). Rick Rylance’s *Victorian Psychology and British Culture* (2000), offers a history describing how psychology addressed a range of questions, including some that would now seem pseudoscientific or religious, like the relationship between the mind and the soul. Rylance’s description of psychological study in the period underscores how varied the field really was: “Victorian psychology of the years 1850-80 was a more open discourse, more spaciouly framed in its address to common issues, and with an audience crossing wide disciplinary interests. Economists, imaginative writers, philosophers, clerics, literary critics, policy-makers, as well as biomedical scientists contributed to its formation” (7). These early studies provide a broad foundation of how the mind was studied and contemplated during the nineteenth century, and they have allowed more recent work to hone in on particular aspects of psychology and literature.

Vanessa Ryan has argued in *Thinking without Thinking in the Victorian Novel* (2012) that the “functional view of consciousness that [...] shapes Victorian psycho-physiology has striking similarities to the recent contemporary approach to the mind as an embodied dynamic system in philosophy and psychology” (179). Ryan’s particular interest is the ways in which Victorian scientists and writers “began to look seriously at nondeliberate thought,” which was known as “unconscious cerebration” (2). Among the many Victorian texts that revolve around memory, Ryan emphasizes those instances of what she terms “unbidden memory,” in which a lost memory suddenly returns to the conscious mind (65). Like “unbidden memory,” Jill Matus’s work, which

I referenced earlier, examines traumatic memory as memory that “possess[es] the unremembering subject by obtruding on the present in the form of dreams, flashbacks and hallucinations” (92). Matus articulates how “changing conceptions of emotions during the period were central in shaping nineteenth-century theories of consciousness and memory” (3). Both Ryan and Matus draw their conclusions by examining literary narratives that overtly reference psychological theory (as in Collins’s *The Woman in White*) or that feature characters experiencing (or remembering) traumatic events.

Other critics have shown how conceptions of memory were quite fluid and changing in the nineteenth century. Nicholas Dames (2001) argues that throughout the century there is a growing understanding of memory and particularly of memory loss as a pathology. Similarly, Ann C. Colley (2002) traces the development of thinking about nostalgia from a kind of languorous disease to what we now consider to be a pleasant recollection. Julian Wolfreys (2007), on the other hand, considers the ways in which historical literary texts in the nineteenth century serve as the “signs of a memory discourse,” in which the past rises in an almost spectral way. Perhaps most intriguing is Athena Vrettos’s (2007) discussion of the nineteenth-century notion that memory was capable of existing outside of the body, able to transfer itself from one person to another or attach itself to inanimate objects. While the literature of the nineteenth century often probes questions of memory and testimony through representations of the legal system, there has not yet been a comprehensive study examining this association. Studies of psychology and literature tend to focus on individual experience, and scholarship on the legal system has emphasized broader social and institutional implications. But I show how individual memory and testimony, when brought into the legal system, become a part of the social discourse, in a century in which, as Ben-Yishai indicates, the British sought actively to maintain



a sense of common identity (5-6). Anxieties about the influence of memory and testimony are then apparent in how social and cultural memory is articulated and preserved in the face of troubling and destabilizing realizations about the fragility of individual memory. In this way my work draws upon scholarship in a variety of literary fields to demonstrate precisely how this anxiety manifests itself in a wide range of literary texts.

### **Memorial Acts and Literary Representation**

If, as I contend, literary representations of testimony and memory are indicative of a connection between individual recollection and broader communal memory, then identifying the ways in which those concepts converge in literature is necessary. To identify and plumb this convergence will allow us to understand why authors across the century were drawn to this concern and what they believed the stakes were in the face of memory and testimony's newfound fragility. Fortunately, texts in which testimony and memory play a significant role often feature what I call "memorial acts." By memorial acts, I mean any activity in which a character's recollections are recorded or transcribed as testimony, with the intention of entering into a wider communal discourse. Strictly speaking, memorial acts need not only occur in legal situations, but the legal system offers the most clear indications that a memory as recorded testimony has the potential to be reported and discussed in the community. Consequently, memorial acts demonstrate how the individual memory flows into the social; as the individual recollection moves from a person's mind and into the wider community by way of its documentation and distribution. In the legal context, the evidentiary nature of these memorial acts then becomes a key component of legal discourse as it is represented in the texts.

Of course, literature's connection to legal discourse is not unique to the nineteenth century; eighteenth-century writers also expressed an interest in remembrance and the legal system. However, prior to the nineteenth century, the memorial act is either not present or does

not enter into the larger communal discourse. Henry Fielding's *The History of the Life of the Late Mr. Jonathan Wild the Great* (1743), alludes to the possibility of the difficulties of how the legal system influences the community's recollection of an individual, in this case the historical criminal Jonathan Wild. Fielding was, of course, not only retelling the story of Wild's life, but also satirizing mid-eighteenth-century British politics. In the case of Jonathan Wild, Fielding makes the paradoxical argument that Wild, for all his criminal actions, should be remembered as a "great man," who was "hanged by the neck till he was dead" (176). But Fielding's narrative doesn't show a particular interest in how testimony and memory interact within the larger community, beyond invoking the notion of how a person is remembered after they die.<sup>7</sup>

Furthermore, Charlotte Smith's *The Old Manor House* (1793) tells the story of a young man who attempts to reclaim his rightful inheritance. While his experience includes a journey to collect testimony from a variety of witnesses to affirm his claim, none of these testimonial statements is recorded or enters the communal discourse. These earlier literary intersections of testimony and memory are present in a variety of eighteenth century texts, but it's not until the nineteenth century that memorial acts as key components of the narrative emerges.

Charles Dickens's *David Copperfield* (1849-50) is a perfect example of a memorial act that takes the form of the novel itself. Although the full title's parenthetical note undermines, to some extent, the degree to which the narrative was designed to enter into communal memory: *The History, Adventures, Experiences and Observation of David Copperfield the Younger of Blunderstone Rookery (which he never meant to Publish on any Account)*. Dickens's gesture to the distinction between testimonial writing and the distribution of that writing in his title suggests an awareness of the ways in which such records of memory can develop lives of their own in a

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<sup>7</sup> In a way, as a novel based upon the life of an actual character, Fielding's work is itself part of the communal discourse that develops out of the legal system and the trials surrounding Wild's offenses.

community. At the same time, Dickens writes his novel in such a way as to recognize developing concepts of memory and its experiential function. As in Cobbe's discussion of memory's fallibility, *Copperfield* at times narrates his own recollections with a sense of displacement between himself and the memories he relates: As he says of the period of time preceding his marriage to Dora, "Let me stand aside, to see the phantoms of those days go by me, accompanying the shadow of myself, in dim procession" (609). Later in the same chapter, Dickens has *Copperfield* compare his recollected memories to the experience of an "incoherent dream" (615). The working of memory and its recollection is in *David Copperfield* a somewhat vexed process that fluctuates between being perfectly clear (particularly about things of which *Copperfield* himself can have no personal memory, such as his birth) and attaining a ethereal and ghostly touch. This representation of memory serves a narrative function, allowing Dickens to skip over large swathes of time in the narrative in a relatively short amount of space. At the same time, however, *David Copperfield* is not particularly concerned with the ways in which the distribution of *Copperfield*'s memories might impact legal discourse or justice. However, the novel does provide an appropriate introduction to the ways in which memory became more distinctively connected to memorial acts and communal memory in the nineteenth century.

As I will show, memorial acts are present in nineteenth-century literature in three primary ways. First, similarly to *David Copperfield*, the literary work itself can be constructed as a collection of memorial acts—witness testimony that is collected and becomes the novel. Secondly, narratives may document the process by which a memorial act takes hold in the public consciousness and is traced through social interaction. And finally, the representation of communal discourse and memory of a legal event can be a focal point within the narrative. While in some cases, a literary work might feature one of these portrayals of memorial acts more

prominently than others, I do not intend these categories to be static and immovable, but offer them as general indicators of the major approaches to memorial acts in nineteenth century literature.

### **Summary of Chapters**

Memorial acts function differently depending on the kind of legal concern that is at the center of the text at hand. Thus, this dissertation is divided into two parts, the first focusing on representations of litigation and legal disputes over property, and the second turns to accounts of violent crime, primarily murder. While strict categorization of these texts along legal lines may at first appear arbitrary, the memorial acts represented in each text fill a very particular role. In the case of legal disputes over property, memorial acts are deployed as a way of legitimizing heredity and identity, especially where such legitimization provides a foundation for the acquisition of disputed property. However, where murder is the central legal battle of the text, memorial acts are directed toward exonerating the accused, both guilty and innocent. So, in the case of *Bleak House*, although the murder of Tulkinghorn figures prominently in the narrative, it is the dispute over the Jarndyce fortune and Esther's relationship to that heritage through her mother that is central to her memorial record. Conversely, in *The Ring and the Book* (1868-69), while a property dispute is arguably one of the catalysts for the murder, it is Guido's trial for murdering Pompilia and her parents that Browning places at the center of his poem. The difference between the kinds of legal concerns addressed in nineteenth-century literature suggests not only that memorial acts could serve a variety of legal purposes but also that the issue of communal memory cuts across both kinds of cases. What is finally important in these narratives is less the outcome of the legal case than the communal memory of the events and persons involved. In the case of property, the question of families and their descendants' place in

the community is central, and in criminal cases, the reputation of the accused plays a key role, since an inaccurate charge could still damage a person's standing in the community.

In the first part of the dissertation, I begin with Wilkie Collins's sensation novels *The Woman in White* (1859) and *The Moonstone* (1868) and show how each in turn suggests that prosperous families should take steps to manage how they are remembered by their communities. These novels draw primarily on the first method of incorporating memorial acts into the text, whereby the text itself becomes the memorial record of testimony. Collins employed this structure to intentionally mimic the style of courtroom testimony, where each witness gives their portion of the narrative in turn. In *The Woman in White*, I show how Collins's organization of the various testimonies creates a temporal disconnect in the novel, since Walter Hartright, the character "collecting" these witness statements, is shown to rearrange them in order to prove Laura Glyde's identity. This rearranging serves a narrative purpose, by allowing each testimony to connect with its successor, but it also serves a memorial purpose, since Laura's memory has been partially lost. In this way, *The Woman in White* suggests that communal testimony offers a solution to the problem of memory loss. In *The Moonstone*, Collins complicates this by highlighting more overtly the narrative's constructedness. Franklin Blake is a more obtrusive editor, whose control over the testimonies he's collating is always just below the surface. Essentially, I show that *The Moonstone* reveals the potential for testimonial and memorial manipulation in the way that individually recorded memories can be used to reify social authority. In both novels, Collins deploys his testimonial collectors as reputation protectors: while losing some of their wealth (Laura to her first husband, and Blake to Godfrey Ablewhite), the narratives conclude with a return to the status quo. In this way testimony and memory, despite their frailties, are shown to support the British social hierarchy.

In Chapter 3, I turn to Charles Dickens's *Bleak House* and Anthony Trollope's *The Eustace Diamonds* (1871), both of which focus on lawsuits over property. Unlike Collins's novels, both Dickens and Trollope present a legal system that has amassed so much information that details are often lost or misremembered. In the case of Trollope, Lizzie Eustace is so adept at spreading her testimony among London high society that the legal system, with its voluminous rules regarding inheritance and heirlooms cannot seem to counteract her tenacity. Trollope draws from this representation the possibility that gossip and rumor can be used to circumvent legal testimony by influencing the community's perception of a particular case. Meanwhile, Esther's recollections, unlike David Copperfield's, are suggested to be a part of a larger testimonial document (presumably the novel), when she begins by referring to her "portion of these pages" (27). Similarly to the individual testimonies in Collins's novels, then, Dickens frames Esther's record of her experiences as contributing to a larger narrative project. But in this case, Esther's narrative is notably distinct as the sole first-person testimonial record. The contrast between Esther's and the third-person narrator's portions of the novel form a crucial detail in Dickens's critique of the Chancery court. Specifically, because Dickens often relied on the third-person narrator to conclude each of the novels' serial issues, Esther's narrative comes to represent a sense of certainty and completion, where the third-person narrative suggests uncertainty. In this way, I show how Esther's memorial act is set up against the third-person narrator and Chancery as an ideal method of remembrance and identity formation. As a result of her preferable approach to recollection, Esther achieves the ideal novelistic ending: marriage, family, and wealth.

In the second part of the dissertation, I first turn to James Hogg's *The Private Memoirs and Confessions of a Justified Sinner* (1824), in which both communal, individual, and

institutional memory are all undermined. Hogg's novel contains the memorial testimony of the "Justified Sinner" Robert Wringhim, who clearly seeks to explain and vindicate himself of several murders. Preceding Wringhim's memoir, however, a fictional "editor" offers a summary of the story that he has cobbled together from local records and oral history, with one caveat that it excises the memoir's many supernatural elements. Hogg's design of the novel posits a fundamental conflict between historical reconstruction and individual testimony. However, both portions of the novel's disparate narrative represent the legal system as so fragile that its reliance on testimony often leads to miscarriages of justice, while individual witnesses find that their own recollections are suspect. As a confessional memoir, I argue that Hogg's novel adapts a prominent genre of religious self-writing in order to critique how communal narratives derived from a weakened legal system can reverberate through history.

In Chapter 5, I turn to the ways in which other forms of evidence were introduced into literary representations of testimony and memory by examining Catherine Crowe's *Susan Hopley* (1841) and Elizabeth Gaskell's *Mary Barton* (1848). In these novels, the legal system turns away from testimony to embrace circumstantial and physical evidence. Whereas Crowe's novel begins as a testimonial record, Gaskell's is a more conventional narrative, but both Gaskell and Crowe invoke the extent to which an accusation can irrevocably change a community's posture toward an individual. I demonstrate how both Gaskell's and Crowe's narratives resist the legal system's move to physical evidence by suggesting that human testimony and memory are still central to legal narratives.

In my final chapter, I analyze how Robert Browning's *The Ring and the Book* offers a radical solution to the complications that these legal narratives link to memory and testimony. By creating a series of overlapping, contradictory, and complementary memorial testimonies,

Browning's narrative poem exemplifies a representation of the legal system in which art and testimony are integrated, thus allowing art to offer a holistic truth that incorporates both the variety and contradiction of individual testimony into a broader communal narrative that readers will remember. In this way, I argue that *The Ring and the Book's* representation of memorial acts suggests that memory and testimony are about more than simply determining which particular version of events is correct; instead, the poem itself becomes the communal memory, the better story, the people will recollect from the trial in the future.



## CHAPTER 2 COLLECTING TESTIMONY AND MANAGING FAMILY MEMORY

Testimony, writing, and the law have long been intimately connected in Britain. Shortly after the Norman Conquest “writing bec[ame] the normal mode of conducting legal business,” because it was thought to provide a “faithful re-creation of past events in their historical factuality,” making writing far more reliable than a system based strictly on oral communication (McKeon 35). The memorization required for an orally-based jurisprudence would have been substantial, and so the “process of writing” became more appropriate for an act of witnessing than the oral transmission of memory. Writing became the standard against which verbal testimony would be judged, and yet both writing and oral testimony need human memory as a starting point.

However, with the proliferation of novels in the nineteenth century, even the value of writing as a preserver of memory was faltering. Contemporary critic Nicholas Dames argues that the nineteenth century novel was a “narrative form struggling to transform the chaos of personal recollection into what is... able to be applied to the future” through a process of nostalgia (3-4). While the novel might often be thought of as “an act of remembrance,” Dames suggests that nineteenth-century novelists saw memory as a “dilemma or a threat” (3). In approaching the question of memory and literature from this angle, Dames’s argument focuses on the ways in which memory is paradoxically mediated and harnessed in literature to accomplish acts of forgetting rather than remembrance. In his discussion of Wilkie Collins’s works, Dames rightly underscores the fact that both *The Moonstone* and *The Woman in White* memory is lost, and that this memory loss is cast in medical and pathological terms. But Dames’s insightful analysis does not consider the narrative structure that Collins’s employs to contend with the instances of memory loss that are so central to the plots of these novels. What Wilkie Collins demonstrates in

these novels is a recognition that individual written testimony plays a vital role in addressing the problems created by memory loss. Deploying a unique form of multiple narrators inspired by the legal system, Collins's novels proceed to deal with memory loss by filling in the blanks of memory loss through the recorded testimony of multiple narrators.

Beginning with *The Woman in White*, I will argue that this framework of written testimony becomes the system through which lost memory is recovered. Rather than relying on any one "personal recollection," the novel draws from many witnesses to construct a replacement narrative that is legally viable. In this way individual memory becomes very important, as each witness represents an integral part of the narrative puzzle, and yet the legal narrative ultimately seeks to supplant the materials of its own construction. Moving next to *The Moonstone*, I will show how Collins modified his approach by emphasizing an entirely different aspect of testimonial collections, specifically their memory-forming potential. By examining Franklin Blake's role as the narrative collection's editor, I will argue that Collins crafts the narrative of *The Moonstone* to function primarily as a constraining account in which Blake's role as editor draws upon the testimonies of others in order to eliminate alternative theories about the theft of the diamond, whatever those might be. In the process, Blake pursues the installation of a particular version of events, to be remembered and recalled by later generations, in which he is fully exonerated; I will argue that Collins successfully implements this narrative strategy to such an extent, that alternative narratives based on the available evidence are essentially precluded.

### ***The Woman in White* and the Novel as Inadmissible Affidavit**

In his chapter on *The Woman in White*, Dames argues that "Collins's novels of the 1860s [*The Woman in White* and *The Moonstone*] refuse to settle exactly on one use or meaning of memory's failures" (190), and yet the novel clearly shows that Laura Glyde's memory loss is the impetus for Walter Hartright's collection of testimony. The novel itself is the result of

Hartright's quest to establish Laura's identity by collecting testimony; I would counter that Laura's memory loss serves the absolutely critical purpose of being a catalyst for the retrieval of evidence from other witnesses. The fact that Collins, and by extension Hartright, uses a legal framework to organize the narratives further indicates that the legal structuring of testimony is beneficial in establishing the identity that Laura's memory-loss obscures.

The fact that it is Hartright alone, without the help or endorsement of the legal system (a lawyer at first cautions him against the entire project), who engages in this process of collecting testimony functions as both an endorsement and a critique of the British legal system. While Lenora Ledwon argues that the "[l]aw fails both men and women in the text" (2), I would suggest that while the legal system itself is often a failure, it is Hartright's implementation of legal principles by pursuing testimony that restores Laura's identity. We see the systemic failings of the law in Hartright's opening narration, in which he indicates that this collection of testimony cannot be told in a legal setting, so "the story is left to be told, for the first time, in this place" (9). This parallels precisely with Jan-Melissa Schramm's observation that "a number of narratives begin where the laws of evidence define a piece of information as relevant to the cause at hand, but inadmissible, or obtainable only by paralegal means" (10). Because Hartright's collection of testimony has apparently been rejected by the legal system, he resorts to presenting the fruits of his efforts as we encounter them in the novel.

In studying the thematic and structural impact of memory and the law on *The Woman and White*, I argue that the novel's legalistic framework, through Hartright's narrative project, is the very system through which lost memory can be overcome. While Hartright may not be capable of physically restoring Laura's memory, he does, through a system of legally guided communal narratives, generate a restorative memory through which the culpabilities both of the human

mind and the legal system are exposed and obviated. In order to examine this narrative and testimonial process, I will first discuss the novel's legal framework as a collection of affidavits. Then I discuss each of the three major legal issues in the novel and their contribution (or lack thereof) of text to Hartright's project, while showing how, in each case, the framework allows for restorative discovery. Through this system of memory loss, recovery, and legally structured narrative, Collins demonstrates how the novel can navigate and value individual memory while simultaneously depending on the law for narrative structure.

As a novel structured around a series of witness statements, Collins purposefully invokes the form of a common law trial, a point that he is not shy about emphasizing in his prefaces and in the opening chapter. Collins himself briefly pursued a legal career, and was called to the bar, but he never practiced law. Still, his interest in challenges presented by the legal system is clear, insofar as many of his novels intersect with nineteenth-century legal problems in Britain. In 1950 Dougald MacEachen surveyed the influence of the law on Collins's fiction, but his work did not go much further than identifying and outlining the various legal issues of the novels. Curiously, MacEachen gives *The Woman in White* only a cursory survey before moving on to other works. However, *The Woman in White* is the first of Collins's novels to be directly influenced *both* in its plot and its structure by the law.

The preface that Collins wrote for the French translation of *The Woman in White* immediately establishes the legal impetus for the novel from Collins's own experience in a courtroom: "Several years ago, I found myself in the public gallery witnessing the proceedings of a criminal trial which was being heard in London. ...I was struck by the dramatic manner in which the story of the crime unfolded under the investigation of the court, as the account of each witness was heard in turn" (Preface). Collins also reveals in an 1861 English Preface that "[a]

solicitor of great experience... guided [his] steps, whenever the course of the narrative led [him] into the labyrinth of the Law. Every doubtful question was submitted to this gentleman.... The 'law' in this book... has been decided to be sound" (6). Not only was the novel's genesis based in Collins's experience of a trial, but the narrative itself, by Collins's admittedly biased account, withstood contemporary legal scrutiny. It is ironic then that from the very outset even the novel's internal editor, Walter Hartright, acknowledges the legal inadmissibility of the whole story, while maintaining its form as a legal document. As a result, it becomes clear that Hartright is in many ways more concerned with recovering the story rather than seeking legal recompense; the failure of Laura's memory and her lawyer, William Kyrle's insistence on certain kinds of evidence lead Hartright to generate the novel. However, it is not the justice system, but extra-legal forms of justice, mainly evidenced in the rather convenient death of each culpable character as soon as his part of the story is uncovered, which expose the narrative as operating well outside the law despite its legalistically structured format.

In fact, to read *The Woman in White* is to recognize that it actually is not structured as a trial transcript at all; as Jan-Melissa Schramm argues, "the *telos* of the plot is generated by its very dissimilarity to a trial; the conception of law as foil... liberates fiction to pursue its own idea of justice. ...[T]his tale can only be told in fiction when the law has refused to claim it as her own" (12). Obviously there are two major aspects of trial testimony lacking in the novel's format: first, it is not a question and answer format but uninterrupted narrative (until a new "witness" takes over), and second there is no cross-examination. However, I would also suggest that Schramm's argument doesn't sufficiently distinguish between the novel's two distinctly different levels of narrative development; with respect to Collins, it is true that his novel, as a fictional narrative written by one man, can never be claimed by legal discourse in the same way

that a series of witness statements might, but within the narrative itself, we are not dealing with a “fiction” as such. Hartright is pursuing these people’s “real” experiences and knowledge, terms which can both be read under the larger category of memory. He wants their memories, transcribed as texts; built under the auspices of legal narrative, his project is one that has as its goal the veracity of the text. We must also consider that Collins could just as easily have given the characters a legal avenue through which to pursue justice, but having neglected to do so, we must ask why he would allow these narratives to remain inadmissible in a court of law. The answer, I believe, is in the overlapping of the law and memory, and that effect of that overlap on the novel.

First, however, I would like to provide a clearer understanding of what the novel *is* if not a trial testimony. None of the narratives in the novel are written in trial testimony format, but are, for the most part, a series of affidavits requested of their authors by Walter Hartright. John Jane Smith Wharton published the first edition of his successful *The Law-Lexicon* in 1848. He defines an affidavit as “an oath in writing, sworn before some person, who has authority to administer such oath...The affidavit ought to set forth the matter of fact only intended to be proved, it ought not declare the merits of the case” (20).<sup>1</sup> The novel highlights, through constant assurances that hearsay has been disallowed in the constituent narratives, its attempt at addressing only the direct facts. Even still, from this legal definition, there is evidence sufficient to recognize that Hartright’s project has not produced legal affidavits. None of the following statements are sworn and several of them “declare the merits of the case” with impunity. What Hartright, not knowing the ins and outs of the law himself, seems more concerned with is replicating the *style* of an affidavit rather than the legal requirements for filing one.

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<sup>1</sup> This dictionary would go to eight editions, spanning the second half of the century.

Another point of British law sheds additional light on the stylistic qualities of the affidavit, and how they are reflected in the novel's individual accounts and overall structure. Concerned as the narrative is with the fantastically failed marriage between Laura Fairlie and Sir Percival Glyde, it is significant that the British requirements for divorce proceedings in 1858, the year before *The Woman in White*'s serialization began, state that a divorce case was initiated by filing a petition "accompanied by an *affidavit* made by the petitioner, verifying the facts stated in the petition of which he or she has personal cognizance" ("Rules" 58, italics mine). Furthermore, Wharton's dictionary provides one additional stylistic requirement for affidavits, "Any...person filing an affidavit not taken and expressed in the first person of the deponent is not to be allowed" (20). So the two legally required stylistic components of affidavits, only relating that of which the deponent "has personal cognizance" and that it be written in the first person, are met in the text. However, in terms of the novel, the primary concern was not divorce, but to establish that Laura's alleged death was faked. Only then could any attempt to divorce her from Sir Percival be initiated, but even if Laura was found to be living still, divorce proceedings would have required an affidavit from her—the very thing which Laura, due to her memory loss, cannot provide.

Laura's ability to write, to commit memory to text, is shown to be severely lacking throughout the novel. Despite her central place in the narrative, she has no narrative voice of her own. As Ledwon observes, "Laura's writing is more ephemeral than [Anne Catherick's].... Laura's writing is written in the sand" (7).<sup>2</sup> In addition to her writing on the sandy shores of the lake at Blackwater Park (Percival's home), the only other text she provides to the story is the

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<sup>2</sup> While it's true that Anne Catherick also writes in the sand, there are two distinctions to be made between her writing and Laura's. First, her marks are a sign of her buried letter; rather than the communication itself, the sand-writing is a harbinger. Second, Anne's marks are not hers at all, but writing that was put there by Sir Percival, ostensibly to replace Anne's original markings.

letter she sends to Mrs. Vesey, revealing her “sad distress and anxiety” and “fear of being found out” (436). But even this bit of writing, showing the significant strain under which she is struggling due to Percival’s abuse, is dismissed by Hartright almost immediately: “What help was there in those lines? None” (437). His only reason for including any portion of it at all seem to be as evidence of the letter’s insignificance, as if the uselessness of Laura’s writing must be patently obvious to every reader. Just as the wind sweeps away the writing in the sand, so too does Hartright ignore Laura’s letter as a non-source. As someone who cannot even fulfill the first legal step of producing a written statement, Laura “needs” Hartright to complete her statement of memory.

In an ironic twist, Hartright’s collection of narratives first is dismissed by Mr. Kyrle in much the same way that Hartright excludes Laura’s writing, and the attorney goes so far as to conclude that, “you have not the shadow of a case” (441). Hartright excludes Laura’s writing, and Mr. Kyrle excludes Hartright’s collection of documentation. Schramm argues that Kyrle’s suggestion that a British jury won’t accept a complicated explanation for Laura’s being alive is “formulated to enhance the ethical profile of the novel which can then lay claim to a more sophisticated ability to unravel secret truths” (13). On the other hand, Lynne Marie DeCicco, in her book on *Women and Lawyers in the Mid-Nineteenth Century Novel*, points out that it is Kyrle himself, more than any phantom English jury, who sees “the most obvious explanation [a]s the best” (164). Thus, Kyrle demonstrates that it is the lawyers who are the gatekeepers, and whether or not an English jury would tolerate a convoluted story is, to an extent, irrelevant, because as long as the lawyer cannot tolerate it, the jury will never hear it. Thus, while Schramm is correct in her observation that this comment allows for an elevated view of Hartright’s project, we should also recognize that it is Kyrle who admits that the single legal inroad available is to



establish that Laura was taken from Blackwater to the asylum *after* her date of death. Therefore, Kyrle is not above considering the conspiracy theory so long as sufficiently persuasive legal testimony is presented; it is this hope which continues Hartright's efforts. In meeting with Kyrle Hartright realizes that it is not Laura's actual memory that he needs, but legal evidence to "fill in the gaps." In this way, Collins shows how the affidavits collected, while legally inadmissible, serve to ignite the search for further, admissible evidence.

### **Laura's Inheritance**

There are three major legal issues that forward the plot in *The Woman in White*. In each case, I will show how the novel relies upon its collection of testimony to circumvent a lack of memory. In the narrative order in which we as readers encounter them, these issues are as follows: first, the pre-marriage question of Laura's inheritance and its entail upon her death; second, the date of Laura's alleged death; and third, the identity of Percival Glyde. However, it is important to note that this is not the order in which Hartright learns of each issue, although it is the order in which he organizes them. Gilmore's narrative of the marriage negotiations involving Laura's large inheritance is the first legal matter in the novel, but it is actually the very last narrative which Walter receives before the novel ends (127, 625). As Matthew Sweet indicates, the issue of Laura's fortune before her marriage is the one major legal failing in the plot, as she would not have had the option, under current law in the 1850s, to control her money after marrying Sir Percival (660). Legally speaking, it was inevitable that Laura's inheritance would have become her husband's. This law of marriage, which Ledwon discusses at length, was called coverture, and it held that the woman, and all her possessions, became the property of her husband upon marriage. Despite this discrepancy between the novel and current English law, Gilmore confirms the possibility of and pursues greater latitude for Laura in the matter of her inheritance.

Gilmore's first draft of the marriage settlement gives the future Lady Glyde control of the principal of her inheritance (a hefty twenty-thousand pounds), which would go to her children first, and "[i]n default of issue, the principal was to be disposed of as the lady might by her will direct" (150). But Percival's attorney finds this arrangement unacceptable, and so the battle for Laura's money begins even before her wedding. It is during his narrative that Gilmore makes two contradictory statements on legal matters in the novel, for, in an address to the reader, he claims that "no one who reads [his version of the settlement], can fail, I think, to agree with me that it meted out equal justice to all parties" (150). This, from the same man who only pages earlier states that "[i]t is the great beauty of the Law that it can dispute any human statement...reduced to any form" (132). The latter of these statements, especially its description of the law's capacity to dispute as a beautiful quality, is clearly a satirical critique designed to reveal the very problem with the law that the novel exposes. At the close of *The Woman in White*, Gilmore's partner Kyrle confirms that Hartright has proven his case "by the plainest evidence he had ever heard in his life" (618). With two statements by professionals supporting the idea that written evidence can arrive at an indisputable conclusion, Gilmore's second statement appears more clearly satiric; especially since the "beauty" of contestation in the law is evoked in a case that Gilmore essentially loses.

Of course the legal issue of Laura's income is inextricably linked to gender politics of the mid-nineteenth century. Because the novel's entire existence is the result of an absence of memory, there is an accompanying absence of narrative agency in Laura. Similarly, her powerlessness over the question of her marriage settlement further reflects legal inequity for women, and despite Gilmore's efforts, the legal system to which he is bound does not recognize "equal justice" for Laura, as she has no voice in the matter. Ann Gaylin argues that the novel

“presents a struggle for authority that ultimately reaffirms the social and institutional status quo” (116). This is born out both in the overarching narrative, as Walter and Laura eventually marry and achieve the ideal domestic life, but it is also true of the smaller legal episodes which comprise that larger plot. In this case, Gilmore struggles for Laura’s financial independence, but is constrained by the law, which gives her uncle and guardian, Mr. Frederick Fairlie, power over the marriage settlement. After Gilmore’s first proposal is rebuffed, he approaches Mr. Fairlie to get permission to continue to press the issue, but the hypochondriac Fairlie cannot be bothered. While Laura expresses her interest in leaving the principal to Marian, Mr. Fairlie wields the final say, and thus his blasé disinterestedness facilitates the very possibility of the novel’s conspiracy by acquiescing to Percival’s demand that all the money go to him in the event of Laura’s death. If Gilmore’s version of the marriage settlement had been the final one, Percival could not have benefited (financially) from faking his wife’s death.

As the last narrative received, Hartright reveals that it is only at the end of his narrative collection project that he, Laura, and Marian discover the role that Fairlie played in their situation. Its position as the final portion of testimonial writing given to Hartright also makes it the most displaced in terms of the time it was written compared to its narratological order in the text. It is the oldest recovered memory in the novel, and it is this recovered memory which allows for the final restoration. Here Collins begins to blur the lines between fictional narrative construction (Hartright’s project) and the authorial project of Collins the novelist. As readers we have long been aware that Mr. Fairlie was responsible for Laura’s financial insecurity, but since internal narrative order had not yet recovered this piece of the story, the external narrative could not apply an appropriate consequence. *The Woman in White* has two obvious antagonists in Count Fosco and Percival Glyde, but I would argue that Mr. Fairlie’s death, which occurs soon

after Hartright receives Gilmore's narrative, places him in the novel's pantheon of villainy; he dies almost immediately, once his contribution to Laura's weakened financial position is uncovered by Walter. While not a malevolent conspirator, Fairlie dies for his willful and perhaps criminal disinterest, and in terms of narrative discovery, his justice comes far swifter than either Percival's or Count Fosco's: only a page after Gilmore's narrative is delivered.

In this way Gilmore's text is, throughout the novel, really an absent testimony, or an absent memory, which does not exist for the characters as it does for the reader. It embodies the very convergence of the law, memory, and restoration (or healing): it is very much an affidavit, written after the fact; it represents a recollection, a textual reproduction of memory unavailable to Hartright; and finally, it is restored, representing not only the return to health of its author, Gilmore, but the also the exaction of justice on Mr. Fairlie and of Laura and Walter's inheritance of Limmeridge House. Many critics see a problematic quality of the novel in this restorative moment, because the social status quo is reaffirmed—Laura marries again, becomes subject to a patriarchal disbursal of inheritance through her uncle's death, and continues that pattern by giving birth to a new "Heir of Limmeridge."<sup>3</sup> I do not dispute those arguments but wish also to allow for the recognition of this moment as a space wherein Collins is uniquely blending seemingly disparate aspects of his novel. While the particular outcome *is* a site of criticism due to Laura's newfound subservience as Hartright's wife, the process by which it is derived emphasizes the inequity of Victorian law, while claiming a justifying potential in the legal framework through which the narrative is told.

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<sup>3</sup> It is also interesting that in this moment, as Matthew Sweet notes in his edition, Collins's phrasing the novel's last line as the "Heir of Limmeridge" is a direct reference to Charlotte Yonge's Tractarian novel *The Heir of Redclyffe* (1854). While Collins apparently had much distaste for the novel, it does tell the story of Sir Guy Morville, and his constant efforts to live a life different from that of his father. In essence, like Dames's argument, Guy seeks to escape the memory of his father's immoral and unsavory life.

## The Date of Laura's Death

The final two legal questions that are resolved in the novel deal more directly with the conspiracy between Sir Percival Glyde and Count Fosco (whose wife is Mr. Fairlie's sister). Their primary objective is to seize Laura's fortune, but to do so in a way that *seems* legal. After failing to get her to sign it away through a contract, the only avenue left is through her death, after which Percival can take control of her entire fortune. Fosco, the criminal mastermind, concocts a plot to switch Laura with the insane Anne Catherick, a woman to whom she bears a striking resemblance. Anne is taken to London by Fosco, but identified to all those who meet her (several servants and a doctor) as Lady Glyde. Upon the moment of their arrival, Anne dies under dubious circumstances, but a medical examiner rules that she died of an aneurism. Her certificate of death is under the name of Lady Glyde, and she is buried in Limmeridge next to Laura's mother. Meanwhile, Percival takes Laura to London, where she is drugged, placed in an asylum, and wakes up to everyone claiming that she is Anne Catherick. The doctors have been informed that Anne's neurosis now presents itself as an earnest belief that she is actually Lady Glyde. Thus her protestations that she is not Anne Catherick fall on deaf ears. Fortunately, Laura's half-sister, Marian Halcombe, rescues her from the asylum, but how to prove that this woman is Laura and not Anne?

So the second legal question that occurs in the novel's retroactively organized narrative is the issue of exactly when Lady Glyde left Blackwater Park, and, concomitant with this question, who was it that died in London? Since Laura and Anne left Blackwater and arrived in London on different days, proving that Laura was still alive *after* she supposedly died in London will dismantle the conspiracy. These are the questions which first propel Hartright into his quest for evidence; as I have previously explained, Kyrle recognizes the potential for an evidentiary project in this part of the narrative. Part of the problem, as Kyrle points out, is that all the legal

documentation, death certificate and tombstone, flatly contradicts Hartright's assertion that Laura Fairlie was "exchanged" with Anne Catherick, that it was Anne who died in London, and that it was Laura who subsequently found herself in the asylum. The simple, documented facts leave little room for the outlandish tale that Hartright tells.

Memory studies in the twentieth and twenty-first centuries has been interdisciplinary, drawing interest across many fields in the humanities, social sciences, and the sciences. Much of this work has specifically examined the interrelation between memory, testimony, and trauma, with a particular emphasis on the narratives of Holocaust victims.<sup>4</sup> Memory discourse in the twentieth century has drawn upon the notion of collective memory first forwarded by Maurice Halbwachs in the late nineteenth century, but as Kerwin Klein argues, many contemporary critics are loath to fully embrace the notion that "individual psychological phenomena" can be transposed "onto imaginary collectives" (135). Remarkably, this hesitancy was not shared by psychologists and parapsychologists in late Victorian England, who developed an idea called displaced memory, whereby "the recollections that make up a continuing sense of identity and individuality migrate from past to present and from mind to mind" (Vrettos 206). This is exactly the process that the doctors at the asylum are (albeit unknowingly) enacting: the woman in their care, who they believe is a delusional Anne Catherick, can recall memories as Laura Fairlie. A dual displacement of memory occurs in the asylum as Laura is being coerced into forming memories of herself as Anne, while also harboring memories of herself as Laura—in both cases memories from one identity are being displaced onto another. Of course, in the novel, memory is subordinate to legal documentation (or evidence), and this is the second area where Klein

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<sup>4</sup> Julian Wolfreys's chapter on "Trauma, Testimony, Criticism: Witnessing, Memory and Responsibility," in his edited edition, *Introducing Criticism at the 21<sup>st</sup> Century*, provides a good (but brief) overview and understanding of the issues, ideas, and arguments that have been made in this area.

describes the move to collective memory. He identifies a process whereby a “common strategy for justifying the analogical leap from individual memories to Memory—social, cultural, collective...is to identify memory as a collection of practices or material artifacts” (135). So through these “material artifacts” communal memory is constructed, in this case, that Laura Fairlie is dead. This kind of documentation, which Klein identifies as contributing to the contemporary critical transition from individual to collective memory, is precisely what Kyrle uses to refute Hartright’s story. The legally accepted documents form memories for the people who encounter them, so that act of reading a death certificate makes it “real.”

The death certificate and the tombstone are, in a sense, collective forms of memory, because, by Kyrle’s logic, people generally accept them as factual. The death certificate as a witnessed document executed by a professional, and the tombstone as a marker, a memorial, is publicly available for viewing. Through the tombstone any passerby can, in effect, “bear witness” to the life and death of Lady Glyde (Laura Fairlie). Hartright recognizes the power that such a document holds against his project, and so, perhaps to demonstrate that he is an unbiased *collector* of evidence, that is, unbiased to the extent that the evidence he gathers applies to the case even if it seems to contradict his overall goal (to prove that Laura is still alive), he includes the text of the tombstone in the collection.

Sacred to the Memory of Laura, Lady Glyde, wife of Sir Percival Glyde, Bart., of Blackwater Park, Hampshire; and daughter of the late Philip Fairlie, Esq., of Limmeridge House, in this parish. Born, March 27<sup>th</sup>, 1829; married, December 22<sup>nd</sup>, 1849; died, July 25<sup>th</sup>, 1850. (405)

In Hartright’s organization of the evidence, this record is placed immediately preceding his (temporary) discovery of Laura’s death and later discovery of her still being alive. Additionally, giving the inscription its own “The Narrative of” heading grants the tombstone, a document which, unlike every other narrative in the novel, has no author identified in its title (though

Hartright later parenthetically mentions that “it was said” to have been written by Madame Fosco with Mr. Fairlie’s approval [416]), thus granting it the quality of a disembodied voice of authority. Collins employs a certain degree of irony, then, in having Laura’s first words spoken after her “death” occur at the site of the tombstone. Not only this, but these words invoke the very memories which the tombstone flatly contradicts: “They have tried to make me forget everything, Walter; but I remember Marian, and I remember *you*” (414).

The collective memory of Laura’s death, which the gravestone represents, is dramatically, even sensationally contradicted in this moment. But breaking the “memory” of the stone memorial requires that Hartright discover a way to negate the challenge presented by Laura’s memory loss. As Dames argues, “Laura in her post-traumatic phase is now an *object of investigation*” as part of Hartright and Marian’s effort to recover the lost memory (197). In some ways, it is paradoxically critical to Hartright’s project that Laura’s memory be irrecoverable. For Collins to position Hartright as the heroic recoverer of testimony, he needs to have the full responsibility of filling in the gap left by Laura’s traumatic experience. Appropriately, Hartright is firm in his evaluation of Laura’s mental state: “Her memory of events, from the period of her leaving Blackwater Park to the period of our meeting in the burial-ground of Limmeridge Church, was lost beyond all hope of recovery” (556). The difficulty is compounded by Marian’s own trauma; because she became very ill while trying to uncover Percival and Fosco’s plans, she is eliminated as a reliable witness to the events surrounding Marian’s removal.<sup>5</sup> As Fosco remarks, in his lavish praise of Marian, she has a “wonderful power of memory” and he corroborates her representation of the conspiratorial conversation between himself and Sir

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<sup>5</sup> Marian sneaks out of her bedroom window at Blackwater Park in order to eavesdrop on Percival and Fosco’s conspiratorial meeting. It is raining outside and she gets very ill, forcing her to remain in bed for much the time during which the conspiracy is put into action. See Gaylin, *Eavesdropping in the Novel from Austen to Proust*, for more on the recurrence of eavesdropping in literature.



Percival. Even in the midst of enacting his villainy, Fosco's respect for Marian (and her memory) compels him to aid Marian in her recovery, but through the inept local doctor's ministrations her condition worsens. Collins appears to be doing everything possible to create a memory gap around this particular event. While it requires a fair amount of manipulation, these failures of memory provide the impetus for the novel's creation. In order to create a novel that is structured around the concept of a legally organized collection of written affidavits, the narrative needs some kind of evidentiary gap that can only be filled by Hartright's project.

Hartright's position as a man is also a significant component of the narrative's construction, because the legal system as it related to marriage was pitted against women at this time. DeCicco explains that, as represented in the nineteenth century, "women suitors may even become mentally unbalanced, and lose their sanity... a preoccupation with the law itself causes a breakdown, and even if their case has merit, women themselves are unable to mitigate against the law's insistence on proper procedure" (9). Hartright (and Kyrle to some extent) must protect Marian and Laura from the possibility of another breakdown. They have already both experienced traumatic illnesses, abductions, and terrors, much of which is brought on by Gilmore's inability to win an equitable marriage settlement for Laura. The law, through men, has already done a lot of damage to these women, but now they have a male intercessor, who can paradoxically encounter the law for their benefit. As an indirect consequence of Gilmore and Mr. Fairlie's legal foibles, Laura loses her memory and suffers a breakdown, and without Hartright's assistance it is unlikely that a plausible (and verifiable) alternative to the story of Laura's death can be discovered. The inequity in the legal system, exploited by Percival and Fosco, caused Laura's traumatic experience, and therefore her memory loss, to occur. Hartright observes that "in the eye of reason and of *law*, in the estimation of relatives and friends, according to every

received formality of civilised society, ‘Laura, Lady Glyde’, lay buried” (413, italics mine). In a sense, Laura trades one form of asylum for another, while Hartright works toward filling in the memory gap, she and Marian remain in their London flat, quietly tucked away.

Collins demonstrates, through this incarceration, that Hartright’s work to recover memory in a legal format has a restorative impact on Laura. Her “new life” with Marian and Walter leads to a resurgence of memories from before her marriage to Glyde, “From their long slumber, on her side and on [Hartright’s], those imperishable memories of [their] past life in Cumberland now awoke...the memories of [their] love” (556). DeCicco argues that “*where* women are becomes important...one cannot clearly distinguish a ‘home’ from an asylum, since the two sterile estates operate more like prisons, not homes” (192). Location is certainly an important factor here, but Collins clearly demonstrates that the “good” asylum in London leads to a restoration and recovery of memory, while the “bad” asylum does just the opposite.<sup>6</sup> So as the collection of legally structured narratives proving Laura’s identity increases, there is a similar increase in Laura’s health and memory, as if the very acquisition of these documents generates a restorative affect.

### **The Identity of Sir Percival Glyde**

In the novel’s final legal matter, Collins draws attention to the issue of parentage and inheritance, not uncommon themes in Victorian literature, but *The Woman in White* underscores how the reliance of the social system upon legal documents can invite deception and abuse.

Throughout the novel, Percival has evinced a fear of Anne Catherick, who seems to know a terrible secret about him. For a majority of the narrative, it is hinted that most of the characters

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<sup>6</sup> One common thread between the two asylums, however, is that in both locations Laura is lied to. The doctors at the asylum try to convince Laura that she is Anne Catherick, and similarly in London, Walter and Marian convince Laura that she is assisting them by having her paint. In actuality, Walter collects the paintings and puts them aside, and his deception is in some ways more insidious, being intentional, while the doctors at the asylum can be absolved in part because they did not know their patient was not Anne Catherick.

think she is his illegitimate daughter—hence, the reason why he would pay for her to be placed in a private asylum rather than a state run institution, which had much worse conditions. It is in reality, of course, not this at all, but rather Anne only knows that a secret exists, without actually knowing what it is. The actual secret is not one of Anne’s illegitimacy but of Percival’s; his parents never married, and he has no legal right to Blackwater Park at all. In a way, it is not Sir Percival’s illegitimacy which is so damning but his altering of the marriage register in the parish church to retroactively “marry” his parents. Unlike the documentation of Laura’s death, which is not forged or faked (even if it is inaccurate), Percival adds to the public record, thereby using the legal system to *create* and verify a memory that is inaccurate. Additionally, Percival allows another suspicion, that he is Anne’s father, to go unchallenged, thus creating a red herring out of a rumor fueled by collective memory. The fact that Collins, with respect to Percival, debunks the more sensational story (that he has an insane illegitimate daughter), for the more legally problematic question (the doctoring of public records), demonstrates his concern in the novel for the issue a legal framework’s impact on memory.

In his pursuit of legal documentation, Hartright becomes very much involved with the methods of public record keeping. After finding the record of marriage in the parish church, Hartright resolves to check the second copy in town. Thus Collins, in what appears to be an almost contradictory gesture, saves his characters through an example of *beneficial* legal documentation and record keeping: the backup copy of the marriage register. In essence, these records are a form of public narrative, since it is through these records that Percival hopes to tell the story of his legitimacy, and, conversely, it is through the second copy that Hartright can establish his illegitimacy. Kieran Dolin’s book on the law and literature in Victorian and

Modernist texts uses *The Woman and White* as a starting point and directly addresses the importance of public narrative to the novel:

The pages [of *The Woman in White*] are constructed as an alternative forum for an inquiry into a crime and a proclamation of right that cannot be pursued through the courts. The novel represents itself as an intervention in the public sphere, more particularly as a supplement to the law, going where it cannot go, but performing a similar function. Justice is the story's end, in both senses of that word; and it is justice that restores the heroine to her rightful position in society, a justice that fulfills the law. (1)

I would, however, add that it is not necessarily that the novel goes where the law *cannot* go, but rather it goes where the law has already gone, in order to rectify the injustice the characters have suffered at its hands.

Contrastingly, Percival also suffers injustice at the hands of the law, despite his being a villain in the novel. It is through Anne's mother, Mrs. Catherick, that Walter gets the entire story of Percival's background; it is also through Mrs. Catherick that he discovers why Laura and Anne look so much alike: they have the same father, Philip Fairlie. However, with respect to Percival, Mrs. Catherick's letter points out that while Percival's father and mother were not married, Percival was unaware of this fact: "then, his father confessed it, and promised to do what he could for his son. He died having done nothing—not having even made a will" (530). This scenario is almost identical to the one faced by sisters Magdalen and Norah Vanstone from Collins's later novel, *No Name*. Of course, that novel is more sympathetic to the situation of children whose entire fortune is torn from them; however, unlike Percival, the Vanstone sisters eventually access the inheritance through an alternative, but legally acceptable, avenue. In both cases, the children of neglectful parents are in a sense "forgotten." Collins's later title connotes erasure—a complete removal, much like Laura's memory loss, except this is procedural amnesia; illegitimate children do not exist so far as the inheritance of wealth is concerned. Hartright even adds to the extraordinary power of the documents by investing them with almost supernatural

power over past events. In his description of the second marriage register, Hartright exclaims, “The marriage was not there...there was a blank space...evidently left because it was too narrow to contain the entry of the marriages of the two brothers...that space told the whole story!” (509). Notice that while the “two brothers” have marriage *entries*, for Percival’s parents “the marriage” is missing, as if the record itself contained the event of the marriage.

In his analysis of memory discourse, Klein points out that memory “found its early meaning in the union of material objects and divine presence, a meaning that was displaced by the rise of the modern self and the secularization and privatization of memory” (132). Even with the rise of privacy in the secular world, one area where memory is intentionally brought into the public sphere is law. The legal system of testimony is specifically designed to elicit memory that is *not* granted privacy, which is why, as DeCicco points out, the earliest idea of the attorney (as opposed to the barrister) was of one who would “undertake the day-to-day management of a client’s case and [who was] privy to virtually every aspect of his intimate affairs” (38). Thus, the attorney could simultaneously be aware of the secrets and prevent the unnecessary revelation of sensitive material. Contrastingly, Hartright’s project, with respect to Percival, is an attempt to make public a heretofore secret memory, which he can only do through an examination of legal (and public) documents.

Hartright’s experience would seem to suggest that those whose secrets are revealed come to nasty ends, “If I spoke, my speaking would confer advantage on no one. If I kept the secret, my silence concealed the character of the man who had cheated Laura into marrying him. For her sake, I wished to conceal it—for her sake, still, I tell this story under feigned names” (543). As soon as Hartright discovers the truth, Percival burns to death in his own attempt to conceal the

secret.<sup>7</sup> But Hartright's explanation for changing all the names in the story seems contradictory insofar as a public meeting is held at Limmeridge House to demonstrate that Laurie is in fact not dead. All the tenants who originally attended "Laura's" funeral are brought to the house for Hartright's "plain narrative of the conspiracy [and] statement of the practical contradiction which facts offered to the assertion of Laura's death" (617). In a sense, because of Laura's status as a victim of legal and mental trauma, revealing the nature of her abuse acts as a catharsis, unlike the revelatory texts for Percival Glyde, Count Fosco, and Mr. Fairlie. Each is shown to have had some complicity or involvement with Laura's trauma and suffering, and each dies. Conversely, Hartright directs a "statuary in Carlisle to send a man...for the purpose of erasing an inscription" (617), so that Laura's death, written in stone, can be textually "undone," in a sense, bringing her back to life. This act is a symbolic reversal of Percival's insertion of a record into the public record; Hartright restores Laura's identity to the community by erasing the textual confirmation of her death.

I would like to conclude with the same narrative anachronism that Hartright uses to organize his textual collection, and briefly examine the novel's opening sentence: "This is the story of what a Woman's patience can endure, and what a Man's resolution can achieve" (9). Because the "Woman" is left to endure, she has no recourse of action in herself. Collins connects the novel to the perception that women were incapable of acting for themselves in the legal system. Laura, Marian, Anne, and Mrs. Catherick are all helpless at the hands of the men who manipulate the law and use them to serve their own interests. This endurance, in Laura's case, resulted in her memory loss. The achievements of "Man's resolution" are evidenced both in

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<sup>7</sup> Matthew Sweet poses an interesting question based on Hartright's first person narration of Percival's death: "Walter leaves Sir Percival to die in the fire...but as *he* is narrating these events...can we really trust his account? Was he really powerless to save the Baronet?" (xxx).

Hartright's narrative collection and in Percival's conspiracy with Fosco. While the latter manipulate the law to solve their financial problems by extracting what they need from Laura, damaging her memory in the process, the former takes the principles of legal narrative and draws from them a re-solution, through which Laura's life and memory are restored.

### ***The Moonstone and Narrative Construction***

While in *The Woman in White* Collins demonstrates how an approach to narrative construction that is guided by the legal process can overcome a loss of memory that is induced by trauma, in *The Moonstone* (1868) Collins takes a different tack in that the narrative construction takes place after the loss of memory has been discovered and explained. Nicholas Dames is correct in saying that Franklin Blake's "opium-induced inability to remember one night, the night in which the fabled Moonstone is stolen, drives the entire mystery" (168), but Blake's proposal to collect the narratives that constitute the novel is not driven, as in *The Woman in White*, by a desire for the project itself to recover missing memories. Mr. Betteredge, the steward who narrates the opening third of the novel, states that it was in May 1850 that Blake instructed him to record in writing his remembrances from the affair of the Moonstone. However, the question of Blake's memory loss and its relationship to the theft of the diamond is fully resolved by 1849, meaning that Franklin Blake does not expect the narrative collection itself to circumvent his memory loss. And yet the fact that Blake, the one who stole the diamond from Rachel Verinder's room in the first place, is also the one now organizing this record pushes the novel beyond being a straightforward mystery; the collection is also a highly persuasive apologia organized by Franklin Blake in defense of his own involvement in the entire affair.

In his preface to the novel, Wilkie Collins underscores this aspect of *The Moonstone* by comparing it to his earlier novels, emphasizing the contrasting role between circumstances and characters in the two novels. Where he had previously emphasized "the influence of

circumstances upon character,” here he has sought “to trace the influence of character on circumstances” (3). Alexander Welsh, in his study of circumstantial evidence in literature, concludes that Collins “undoubtedly has in mind Rachel Verinder’s decision to remain silent about what she saw on the night of her birthday” (223), pointing to Collins’s statement that “the conduct pursued, under a sudden emergency, by a young girl, supplies the foundation” for the novel (3). However, while Rachel’s behavior may have offered the catalyst for the narrative’s inception, the notion of a character influences the circumstances of a story extends to Franklin as well. Taken as a whole, I would suggest, based on the way that Collins writes Franklin Blake’s careful molding of the narrative collection into the novel, that *The Moonstone* is primarily tracing the influence that Franklin Blake has on a chain of circumstances as described in a body of evidentiary testimony. His narrative collection recognizes connections between memory, testimony, and text, and Franklin Blake draws on these connections to formulate a new and unique “memory” of the Moonstone’s story for the collection’s readers.

Part of the reason that Blake (and Collins) engage in this molding of testimony is the fact that the entire mystery of *The Moonstone* hinges on a nascent concept in the nineteenth century about memory formation that is now known as state-dependent memory. In the novel, Ezra Jennings provides to Franklin Blake a passage from an actual text of the period, *A System of Phrenology*, by George Combe. In it, Combe theorizes that “before memory can exist, the organ must be affected in the same manner, or be in a state analogous to that in which they were when the impression was first received” (Combe 521). Indeed, the story is told that Collins himself used so much laudanum during the composition of the novel that upon receiving a copy, he couldn’t remember the ending (Collins, *Moonstone* x). In this way, Collins was able to introduce his own experience into this narrative, bringing into the public sphere the notion that experiences



or memories formed while under the influence of a drug, in this case opium, could be forgotten entirely *except* during those moments when the subject is under the influence of the same drug. In fact, the very structure and design of the several narratives in the novel make it clear that Blake is putting forth a great effort to demonstrate that his memory loss is legitimate, not, as it would have at first appeared to characters like Rachel Verinder, a convenient way to explain away his culpability in the diamond's loss. The narrative progression forms a buffer for Franklin Blake against any accusations leveled at him for stealing the diamond.

This buffer works quite well, because while critics recognize the uncertainty and variability in the testimonies of *The Moonstone*, in the end, most readers agree on one key point: "The thief, Godfrey Ablewhite, is dead" (Collins, *Moonstone* xxix), and by implication, Franklin Blake is not the thief. It is generally accepted that the novel, though "a discontinuous, fragmented, and heterogeneous collective of singular contesting experiences and memories," manages to nail down this one crucial (and potentially uncertain) fact with certainty (Wolfreys, *Dickens* 108). In essence, then, the novel shows that Blake manages to accomplish the primary task for which he set out on this editorial project: to prevent the suffering of "the memories of innocent people" (21). Blake's stated purpose carries with it an important ambiguity, insofar as the "memories of innocent people" can refer both to the individual memories of those witnesses contributing to the collection as well as to the long-term reputations of those individuals. Their memories might suffer either by losing their clarity over time, or by becoming fodder for rumor. In both cases the presence of the textual record can serve as an authoritative resource for managing the ways in which the story of the moonstone is propagated. Therefore, Blake draws readers of this narrative collection into his shaping of these textual memories as a way to confirm his story: that his taking of the diamond was unintentional and

that his claim to memory loss is valid. While I am not arguing that Blake is lying or covering up some damning evidence, the very fact that Collins combines in one character the original but ostensibly innocent thief and the editor whose collection of testimony serves to affirm that innocence suggests a possible anxiety about the likelihood that others might seek to confer such a nefarious motive or behavior on Franklin Blake.

### **Witness Selection and Organization**

The first and most immediate method of narrative construction that Collins presents Franklin Blake employing rests both in his selection of testimonies and in his ordering of those testimonies. Rather than beginning the collection with the immediate concern of the diamond's theft, Blake opts for a "prefatory narrative [...] in the form of an old family paper" (22). This narrative, written by an unnamed relative, gives the author's reasons for breaking all contact with his cousin, John Herncastle. Taking place in 1799, fifty years before the action of the novel, this opening narrative describes how Herncastle originally came to possess the Moonstone—the story is not complimentary. In essence, the story strongly suggests that John Herncastle murdered at least one Indian (and possible two others) and stole the diamond in an act of looting that went unnoticed during the confusion during the Battle at Seringapatam. Herncastle's cousin does not actually witness anything other than the wounded Indian's dying words: "The Moonstone will have its vengeance yet on you and yours!" (14). When questioned on the Indian's death by the author of this "family paper," Herncastle's only reply is that "the Indian met his death, as I suppose, by a mortal wound" (15). This statement is vague enough to be at once true, while simultaneously obscuring how the Indian received his "mortal wound."

Though this encounter results in the author terminating his contact with John Herncastle, he also recognizes that his role as a witness to what may very well have been a capital crime is shaky at best. Excusing his failure to seek charges against Herncastle, the author states that he

has “no evidence but moral evidence to bring forward” (15). This would seem to entirely undermine the power of his narrative, if not for the opening of his testimony, in which he claims, like a court witness at trial, that what he has written is “strictly and literally, the truth” (11). In the context of this one bit of testimony, the truthfulness of the author’s testimony cannot be the “truth” that Herncastle murdered an Indian and then stole a precious diamond, since the author himself admits that his evidence is only that of his inferences (well-founded though they may be); in fact the truthfulness of the testimony must then be in the observations he did make *and* the strength with which the author believes in the assertions he drew from those observations. Collins allows this character to radically redefine the nature of “truthful” testimony; the author can make a tenuous conclusion and identify it as “the truth,” so long as he fully believes in its truth value.

Used as the preface to an entire series of narratives, this family paper suggests that both Collins and Blake intend for readers to accept as fully true not only what the author saw but also the conclusions that he drew. By beginning the collection with a convincing appeal to truth that rests solely on circumstantial (or moral) evidence, Blake puts himself in a position to make similar claims on circumstantial evidence should the need arise (and it does arise). Secondly, Blake begins his collection with the *first* theft of the diamond, so as to suggest that the diamond does not really belong to the John Herncastle or, by extension, anyone to whom he chooses to give it (Rachel Verinder). The novel’s ending certainly seems to sustain this conclusion, since the diamond is seen returned to its rightful place as part of a Hindu shrine. Ironically, the very rhetorical maneuver through which Blake’s narrative organization indicts John Herncastle for murder and theft will ultimately allow him to deflect suspicion of his own memory loss by

urging the reader to conclude, based on circumstances, that Blake's theft of the diamond was entirely unintentional.

In light of this goal, Blake's choice of first contemporary narrator, Gabriel Betteredge, may seem unusual. Blake is present for many of the incidents that Betteredge describes in his narrative; why not give his own viewpoint, especially considering his more direct role as the one who brings the diamond to the Verinder's Yorkshire house in the first place? The answer lies in the very project of the narrative collection; if Blake wants to demonstrate that he was earnest in his desire to see the diamond found, even after he had allegedly stolen it, that evidence cannot come from himself. Additionally, because he is claiming memory loss at the time of the diamond's theft, he would inevitably expose his testimony about that time to question. On the other hand, Betteredge's testimony exhibits a certain degree of naïveté with respect to the possible culprits in the loss of the diamond, and his descriptions of Blake's efforts to recover the diamond lend a sense of legitimacy to Blake's later claim of memory loss.

Betteredge's opening narrative is the longest single contribution to the novel, and he begins almost immediately by affirming his own memory's capability: "I possess an active memory, and legs to correspond" (22). In what will later be revealed as a contrast to Franklin Blake's failed memory, Betteredge asserts his strength of recollection, and yet, he has difficulty beginning his version of the story on the right footing. Only after consulting his daughter, Penelope, does Betteredge set upon the notion that he "should set down what happened, regularly day by day, beginnings with the day when we got the news that Mr Franklin Blake was expected on a visit to the house. When you come to fix your memory with a date in this way, it is wonderful what your memory will pick up for you upon that compulsion" (27). Betteredge's strategy here almost exactly corresponds to Jeremy Bentham's notion of refreshing memory

through “intermediate statements,” in which memories are revived through the mediation of other statements, either written or oral (*Rationale* I.170). In this case, Betteredge’s entire testimony hinges on his daughter’s suggestion. Consequently, while Betteredge’s affirmation of his own memory is meant as a reassuring encouragement to readers, the fact that his daughter’s suggestion was necessary for him even to begin recording his recollections immediately weakens his assertions of a strong memory.

Betteredge seems from the beginning to direct his narrative toward bolstering Franklin Blake’s image; though Blake has traveled extensively on the continent, Betteredge is pleased that he “didn’t forget us after he went abroad. He wrote every now and then; sometimes to my lady, sometimes to Miss Rachel, and sometimes to me” (28). Not only is Blake’s capacity to *remember* emphasized here, but that capacity is specifically linked to writing. As Julian Wolfreys argues, writing is “an externalized mode of memory, an archive and repository for transmitting truthfully the events of the past to the readers of the future” (*Dickens* 120). Blake’s very writing is the evidence of his memory; when coupled with what we learn later about his memory loss, Betteredge’s statement carries great significance for further explaining why Blake has not contributed to this opening narrative. First, if he hasn’t written then perhaps his memory is suspect. Since writing is linked to memory so strongly, the absence of writing would imply a lack of memory or an awareness of particular memories’ shortcomings. Secondly, and perhaps paradoxically, the very fact that Blake is spearheading the collection of these writings indicates that he understands the importance of writing and memory. As I pointed out earlier, his very introduction of the project to Betteredge recognizes the connection of memory and writing, because if they fail to collect these narratives, “The memories of innocent people may suffer” (21). While Collins’s organization of the mystery prevents his readers from realizing that Blake

himself is the primary “innocent” person referenced, readers can at least recognize, in his bringing these narratives together, Blake’s strong desire to preserve the memory of an event in writing (which he would presumably not wish to do if he were genuinely culpable).

While Blake’s choice of Betteredge as the man to carry the first half of the narrative may provide him some rhetorical cover, it also opens Betteredge’s narrative to suspicion on account of his reporting events to which he is not a witness, specifically those events in which Blake plays a direct role. After the diamond is stolen, Blake hurries to the nearby town of Frizinghall to ascertain whether or not the three Indians who had been loitering about Lady Verinder’s property might have had anything to do with the theft. Fearing that the Indians may have sought to reclaim what they believed to belong to them by right, Blake is frustrated to discover that the Indians have airtight alibis. Betteredge reports that “the magistrate said there was not even a case of suspicion against them so far,” but his report is in essence a recollected summary of “Mr Franklin’s narrative of events at Frizinghall” (94). This moment flies in the face of what Betteredge says near the end of his testimony, in which he imagines a later family heir reading the narrative with satisfaction, because he will “be asked to take nothing on hearsay, and [will] be treated in all respects like a Judge on the bench” (197). Why, then, does Blake allow such an obvious instance of hearsay in a narrative collection whose contributors have been instructed to relate only their personal experiences? This apparent leniency in the face of Betteredge’s bending of Franklin’s rule against hearsay allows Betteredge the opportunity to describe, in his honest, unsuspecting fashion, the fervor with which Blake pursued the recovery of the diamond. As we discover much later in the novel, during Blake’s first narrative contribution, Rachel Verinder’s ire after the theft stems to a great extent from her belief that Blake is falsely pretending that he doesn’t know who stole the diamond (354). If Betteredge can convincingly

convey how much Blake desired to recover the diamond, then perhaps the charge of duplicity will lose some of its sting.

Unfortunately, Betteredge's very naïveté makes him susceptible to deception, as evidenced by Sergeant Cuff's successful manipulation of Betteredge during his investigation in the second half of Betteredge's narrative. When Cuff presents his findings to Lady Verinder, with all evidence seemingly pointing to Rachel Verinder, Betteredge is caught off guard. Despite working so closely with the detective, he does not recognize what Cuff thinks of the case until Cuff is making his case before Betteredge's lifelong employer. In his recollection of the scene, Betteredge acknowledges that he is "constitutionally superior to reason" (174); this sweeping statement rather undermines much of Betteredge's status as a witness in a serious legal matter. Therefore, it is not surprising that Betteredge's narrative ends soon thereafter, having done what he could to support Blake's position.

Franklin Blake's own narrative does not appear until much later in the novel, after several other narrators have presented their testimonies. This delay in presenting his testimony is founded first, as I have already suggested, in not wanting to place suspicion on his memories of the days before and after the theft (which he avoids by having Betteredge record those testimonies). Now that his memory is not automatically under suspicion, Blake can use his powers of expression to demonstrate that his faculties are generally in order, save for the night of the theft. The logic through which Blake accomplishes this comes from Ezra Jennings, the doctor's assistant who helps Blake demonstrate that his memory loss is due to the physician Mr. Candy (and Jennings's employer) secretly dosing Blake with laudanum to prove that medication could improve his sleep. Candy, who became extremely ill after Rachel's birthday party, was often delirious and babbling. During his observation of the delirium, Jennings comes to the

conclusion that, despite popular prejudice to the contrary, “the loss of the faculty of speaking connectedly [does not imply] of necessity the loss of the faculty of thinking connectedly as well” (374).

In laying out this psychological theory, Jennings reinforces a major aspect of Jeremy Bentham’s argument on the relationship between testimony and memory: the process of perception, discernment, memory, and expression. As Bentham describes it, a witness must first observe an event or piece of evidence, recognize it as being noteworthy, remember it, and finally, report accurately what they perceived and remembered (*Rationale* I.155). In this case, a breakdown occurs in Mr. Candy, the doctor, between his memory and his expression. In essence, Jennings contends that while Mr. Candy’s illness prevents him from communicating effectively, his memory is essentially unaffected. On the other hand, Blake’s narrative demonstrates that he can perceive a piece of evidence (the stained nightgown), discern that it is significant (“I had discovered Myself as the Thief”), and communicate that process effectively. The only part of his testimony that is open to question, then, is his memory. He can communicate a cogent statement of events, therefore, when he claims that he cannot relate a particular event because of failed memory, we will be more likely to accept his explanation for this absence of testimony.

This strategy is demonstrated almost immediately upon Franklin’s discovery of the stained nightgown: “I have not a word to say about my own sensations. [...] Of what was said between [Betteredge and me] on the beach, I have not the faintest recollection” (315). Recognizing that the “picture which I am now presenting of myself, will, I suspect, be thought a very strange one,” Blake’s maintaining a cogent and relatively clear narration of events, amidst another bout of memory loss (albeit short-lived) further emphasizes and supports his contention that the diamond’s theft was entirely unintentional and unknown to him. Wilkie Collins



constructs his fictional editor in such a way that we accept his organization of the narrative as coming from within the narrative rather than from Collins. Hiding his own authorial presence behind the editorial manipulations of Franklin Blake, Collins demonstrates his ability to grapple with the problems inherent to testimony when memory is lost. As Franklin Blake strives to provide evidence in favor of his memory loss, Collins draws us into the chain of evidence so completely that it becomes difficult to formulate other possibilities. But Collins also recognizes that there must be an alternative interpretation to every chain of evidence, and through Franklin Blake's editing of the collection of testimony, Collins demonstrates the capacity of a well-molded text to prevent the reader from developing alternative narrative in the first place.

### **Editorial Commentary**

Through his use of certain editorial insertions and commentaries, Franklin Blake and Wilkie Collins shape the progression of the narrative collection. Such insertions are of two kinds, more common are those in which the evidence of a witness is discounted, and less commonly, those which express support for a witness's testimony. These commentaries begin near the end of Betteredge's testimony when he offers his opinion of Miss Drusilla Clack, the witness who is to follow: "Do me the favor of not believing a word she says, if she speaks of your servant" (195). Miss Clack is arguably the most odious of the witnesses in *The Moonstone*; she allows her "Christianity" to serve as an excuse for being unkind and harsh toward family and strangers alike whom she deems as being in need of salvation. But Betteredge's statement begins casting aspersions on her testimony before she's even had a chance to set her pen to paper, and his ability to do so is rather suspect. Betteredge's comment suggests that Blake has conferred with him about the organization of the written testimonies to be collected, further implying that his undermining of Clack's contribution would seem to be with Blake's blessing. Indeed,

undermining Clack's testimony is quite important for Blake, because her account is potentially damaging to him.

In fact, Blake is not content to allow Betteredge's isolated remark to be the only framing commentary for Clack's writing; he inserts his own editorial footnote at the beginning of her narrative. Where Blake has refrained from editorial comment throughout Betteredge's narrative, with Clack's he finds it necessary to shape more directly the reader's reception of her testimony. Not allowing the reader, as Betteredge suggested, to act as judge by reading the narratives unadorned, Blake exercises his ability as the narratives' organizer to shape how the narratives are received and interpreted. For Miss Clack's part, she recognizes the power over testimony that Blake wields, and suggests that he might attempt to suppress "what may not prove to be sufficiently flattering in these pages to the person chiefly concerned in them" (202). While Clack herself is somewhat vague about the "person" who won't be flattered by her narrative (it could easily be Lady or Rachel Verinder), Blake's footnote clearly indicates that he places himself in that position. His note also possesses a certain paradoxical quality, in that he insists that "nothing will be added" to the manuscript in a note *that is itself an addition to the manuscript* (202).

By making this claim in what is essentially an editorial addition, Blake not so subtly undermines Miss Clack's *authority* and points out that her writing has "unquestionable value as an instrument for the exhibition of Miss Clack's character" (202). Blake's footnote prejudices his readers against Miss Clack from the beginning—her testimony is no longer about a presentation of the facts in a case of theft but a character analysis with some facts, which the reader should take with a grain of salt. While Blake's cautionary statement may be accurate, the very fact that he is compelled to place this footnote belies a certain anxiety on his part, and the insertion functions as insurance against the possibility of a "wrong" reading or judgment.

The primary difficulty that Miss Clack poses to Blake's narrative project is her unflinching loyalty to and support of Mr. Godfrey Ablewhite. In the course of the novel, it is discovered that while Blake may have been the one who "stole" Rachel's diamond, it was Godfrey who took advantage of Blake's opium induced delirium and made off with the diamond after the theft to put it up as collateral for a loan that he needed to keep paying out a young man's annuity (Ablewhite had embezzled the man's fortune to finance his secret mistress's needs). However, Miss Clack refuses to accept this version of events; near the end of her testimony Clack admits to wavering in her belief in Godfrey, but ultimately "once reinstated in his place in my estimation, [Godfrey] never lost that place again. I write with tears in my eyes, burning to say more. But no – I am cruelly limited to my actual experience of persons and things" (260). The "more" that Miss Clack is likely referring to is both Godfrey's murder and tarnished reputation, and the cruel limitations are those of Blake, who, in a transcribed exchange of letters, specifically forbade Clack from allowing her narrative to comment on later events.

Blake's staunch enforcement of the narrative collection's "rules" seems inconsistent insofar as he allowed Betteredge to present hearsay testimony, while forbidding a similar privilege to Miss Clack. Why does Franklin establish a standard, allow his first narrator to break it, and then proceed to enforce that standard with an iron hand with his second narrator? In the case of Miss Clack it seems clear that she intends to outline a defense of Godfrey that is based upon her own interpretation of the events that occur later in the narrative. While she was not present for nor involved in these events, Clack clearly has an understanding of them that would explain away the evidence against Godfrey, leaving Blake open to scrutiny. Blake's refusal is also influenced by the narrative structure that Collins has adopted in both this novel and *The Woman in White*; while he claims to have been inspired by legal proceedings, Collins does not

replicate the adversarial process of the legal system, in which at least two interpretations of the case in question will be offered. In effect, Clack's desire to offer an alternative reading of these events is quashed by Blake, who also encourages the reader, through his first footnote, to engage in an ad hominem dismissal of Miss Clack due to her uncharitable behavior despite professing a devout Christian faith. Although he claims that his refusal is grounded solely in a desire to maintain the narrative collection's chronology, the entire exchange suggests that Blake wishes to censor whatever interpretation Clack wants to give to later events.<sup>8</sup>

A similar, though perhaps more minor, editorial insertion occurs when Franklin Blake first learns, through a posthumous letter written by Lady Verinder's servant, Rosanna Spearman, that he was the one who removed the diamond from Rachel's room. Spearman's letter reveals that she discovered Blake's nightgown with the paint smudge indicating that he had been in Rachel's room on the night of the theft; she hides the nightgown and sews a replacement, because of her unrequited love for Blake. However, her letter is critical of Blake for his apparent disregard for her, a disregard that seems to lead her to suicide. Planning to intercept Franklin on the grounds in order to tell him what she knew, she waits near a shrubbery toward which Blake is walking, when, as Rosanna describes the scene, "you saw me – I am certain, sir, you saw me – and you turned away as if I had got the plague" (329). Once again, Blake cannot allow this testimony to go without response, and his footnoted reply states that "The Writer is entirely mistaken, poor creature. I never noticed her," and that he had only remembered that Lady Verinder wished to speak with him, so he returned to the house. Already contending with the possible accusation of theft, the last thing Blake needs right now is a servant laying her own

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<sup>8</sup> Blake also censors several Christian tracts that Clack attempts to append to her narrative, but I believe this censorship is more appropriate since Clack's weak attempts at evangelism are certainly irrelevant to the case at hand. However, to deny an alternative argument of the evidence circumvents a fundamental aspect of the British legal system.

suicide at his feet. Blake is willing, although reluctantly, to accept her testimony regarding the nightgown and his role in the disappearance of the Moonstone, but he will not take on the role of a callous gentleman who drove a poor maid to her death.

However, there is one editorial insertion of support for Sergeant Cuff, the original investigator whose report (in the form of a letter to Franklin Blake) on Godfrey Ablewhite appears in the final pages of the narrative collection. His testimony regarding Ablewhite is largely based on an absurd chain of hearsay testimony, combined with a laughable test of truth, but confirms Jennings's theory about Blake's memory loss. The evidence presented comes from Mr. Luker, the man to whom Ablewhite pawned the diamond. Luker was reticent to accept the item until Ablewhite convinced him of how he came by it. The story Ablewhite told Luker confirms that Blake was delirious when he took the diamond, that he gave it to Godfrey for safekeeping, and that Godfrey, on realizing that Blake had no memory of his actions, knew he could keep the diamond without anyone knowing. This report comes so late in the novel that readers probably wouldn't notice the fact that what they are reading is hearsay of a more egregious sort than Betteredge ever managed to perpetrate. The chain of testimony starts with Ablewhite (who is now dead and cannot speak to its accuracy) who tells it to Luker who tells it to Cuff who writes it to Blake who presents it to us in the collection. To further generate questions about Cuff's investigative prowess, he uses a "perfectly reliable" test of truth, in which he determines that the story must be true because "Mr Godfrey Ablewhite was too great a fool to have invented [the story]" (457).

Franklin Blake deals with these evidentiary problems by offering a note at the end of Cuff's report, suggesting that the reader return to Betteredge's narrative to corroborate the details of the night of Rachel's birthday. Encouraging the reader to act as her own investigator, Blake is

ensuring that the evidence is consistently weighted in his favor. Julian Wolfreys reads in such recommendations to return to earlier portions of the novel an undermining of Blake's own authority, as he is forced to rely on others to support his narrative (123). However, I would argue that through these editorial suggestions we are presented with a character who is firmly in control of his edited collection; although his own memory has failed him, Blake displays his strengths in organizing and collating a disparate collection of narratives in such a way that his memory loss is accounted for and his innocence affirmed. Indeed, Blake's use of Cuff's narrative, despite its shaky foundation underscores how able an editor he is. Walter Hartright gets his confession from Count Fosco first hand in *The Woman in White*, but Blake is able to accomplish the same narrative end (the villain's confession) at a much greater remove from the original testimony. Welsh points out that "the main purpose of the arrangements [of the narratives] seems to be managing evidence [...], and especially managing the pace of concealment and revelation" (218). In arriving at the moment when the mystery is uncovered, Collins stretches credulity to the breaking point but writes Blake's editing into the novel as a way to support and convince us of the circumstantial connections being drawn.

### **Imagination and the Testimony of the Dead**

The testimony of Godfrey Ablewhite, as filtered through Luker, Cuff, and Blake, presents another aspect of Blake's collection: his reliance on testimony from deceased persons. I have already discussed the testimony provided by Godfrey Ablewhite and Rosanna Spearman, both of whom have their narratives presented within the testimonies of other characters. On the other hand, Ezra Jennings, Mr. Candy's assistant and the architect of the experiment that purports to demonstrate Franklin Blake's innocence, is allowed a place as a full-fledged contributor to the narrative. We are informed that Jennings's narrative is "extracted" from his journal, and that on his deathbed, Jennings gave the pages to Mr. Candy with specific instructions that Franklin

Blake should have them. This testimonial and evidentiary sequence makes it unclear to what extent Blake has edited Jennings's testimony—the ambiguous use of “extracted” could refer only to Jennings's own removal of the pages from the complete diary, or to a further extraction on Blake's part from the material Jennings provided to him. In this way it is similar to the other “extracted” narrative, the opening preface, which is also, presumably, the work of deceased person. In the whole of the novel it is the testimony from the dead that is the most significant: the preface establishes that the diamond is already stolen, Rosanna Spearman identifies Franklin Blake as the thief, Godfrey Ablewhite gives his confession, and Ezra Jennings “proves” that Franklin Blake acted under the influence of opium.

The prevalence of deceased narrators functions as a reflection of Blake's self-professed views on reality and allows him to persuade us of his interpretation of the circumstantial evidence these witnesses provide. Early in the novel, Blake describes himself as an “imaginative man” for whom “the butcher, the baker, and the tax-gatherer, are not the only credible realities in existence” (52). When he first voices this opinion of himself, he and Betteredge are discussing the possible interpretations of Colonel Herncastle's decision to give the Moonstone to Rachel Verinder; already the notion of imagination and interpretation is implicitly linked to voices from beyond the grave and the influence that the deceased can wield upon our understanding. At this moment, Blake takes what he calls the “Subjective-Objective point of view,” in which “one interpretation is just as likely to be right as the other” (55). Of course, as I have been arguing, as the editor of this collection, Blake no longer holds such an egalitarian view of interpretation—and therefore, the imagination becomes a vehicle not, as it was at this moment, for the juggling of multiple interpretations, but for the establishing of the authoritative understanding of a

sequence of events. It is during Ezra Jennings's experiment that this shift in Blake's understanding of imagination becomes clear.

Unlike his expansive definition of imagination early in the novel, Blake's view of Jennings's experiment limits imagination to the specific purpose of his exoneration. As I mentioned earlier, the entire experiment derives from Jennings's theory that Mr. Candy slipped laudanum into Blake's drink, and that the subsequent delirium from the drug, combined with his anxiety about the diamond, led Blake to sneak into Rachel's room and steal it. In an attempt to recreate the circumstances of Rachel's birthday night, Jennings wants to see if he can replicate in Blake the same behavior he believes was exhibited on the night in question. But Betteredge and Bruff, the family lawyer, are extremely skeptical, and Blake scoffs Bruff's doubts as those of a man who must "have no more imagination than a cow!" (419). Whereas Bruff can see no benefit from the experiment, Blake's imaginative ability now allows him to shape circumstances toward a single conclusion: that he did not knowingly steal the diamond.

Indeed, the very performance of the experiment demonstrates that it is not an empirical investigation but a controlled instillation of a particular imaginative interpretation of circumstances. Even the testimony upon which Jennings's theory is based consists only of Mr. Candy's reconstructed delirious ramblings. Rachel Verinder accepts the theory wholeheartedly before the experiment has even been performed, and Bruff's doubts are expunged as Blake begins to wake in a laudanum induced delirium: "the Law (as represented by Mr Bruff's papers) [was] lying unheeded on the floor" (423). Jennings's metaphorical use of "the Law" has great significance, because it recognizes the fact that the experiment can only demonstrate what is happening on that night, and bears little probative value with respect to the night of the theft—only by not heeding the law can this experiment engage our imaginations. Similarly, Jennings



himself is taken in by imagination as he describes Blake's movements during the experiment: "Thus far, he had exactly repeated what he had done on the birthday night. Would his next proceeding be the same as the proceeding of last year?" (426). The subtle slippage of language has Jennings describing the scene as if he had a complete and reliable record of Blake's behavior last year, when in fact all that we know is that Rachel saw him take the diamond, yet in Jennings's testimony, this distinction is eliminated. The experimental observation becomes an imaginative substitute for the actual night of the theft, and by the experiment's end, the substitution is so complete that even Bruff seems unaware of what has happened. Exclaiming to Jennings that "In our legal phrase, you have proved your case," Bruff now returns to the law with this imaginative demonstration holding a position of factual proof (428).

Through the propagation of this experimental demonstration, Collins illustrates an important relationship between imagination and memory that David Hume first described in *A Treatise of Human Nature* (1739). Part of Blake's editorial control and anxiety is based, I would argue, in his very imaginative ability. He recognizes that for others, another interpretation of the circumstances might arise, so his project of collecting these narratives aims to minimize that possibility. For David Hume, such a project is explicitly related to memory; as contemporary critic Michael Rossington argues, Hume's understanding of imagination "gives us the illusion of there being a unity in our different perceptions over time" (72). In the *Treatise*, Hume conceives of the imagination as bringing "acquaint[ance] with such existences, as by their removal in time and place, lie beyond the reach of the senses and memory. By means of it I paint the universe in my imagination" (108). Blake's readers are encountering a series of narratives that "lie beyond the reach" of their memories, and this edited collection works to "paint the universe" for us. In the act of "shor[ing] up his identity with the ruins of the past," Blake reveals his anxieties about

any “act of reading beyond his control” (Wolfreys 123). And because Collins places so much critical evidence in the memories and testimony of dead witnesses, readers are left little choice but to accept the theory posited and demonstrated by Ezra Jennings.

Over the course of *The Moonstone*, Collins signals on many occasions the fact that while memory is contingent, capable of being lost and even susceptible to suffering at the hands of posterity, written evidence in the form of testimony can both minimize the impact of the memory loss and work to prevent the “suffering” to which Blake alludes in the novel’s opening. There is one clue that Collins strategically places in both the beginning and closing pages of the novel, alluding to the fact that all we have encountered over the course of the narrative is a version of the events and should not necessarily be read as fact. I’ve already mentioned the fact that John Herncastle’s cousin felt that he could take no action against Herncastle because he had only “moral evidence.” In Sergeant Cuff’s report, he uses the same phrase, admitting that he has “moral, if not legal, evidence, that [Godfrey was murdered] by the Indians” (451). The fact that the novel is essentially framed with this notable phrase suggests that the entire story is one of “moral evidence,” which to the characters who use it, and by extension to Collins himself, suggests a body of evidence that is compelling in its narration but lacking in its probative force. The story encourages the deployment of the reader’s imagination in order to arrive at and support its conclusions, so that even the admission that “moral evidence” is the foundation for the entire novel doesn’t provide an opening for alternative versions of what occurred.

As I have argued, the closing off of alternative interpretations signals a particular anxiety about the contamination of the “Franklin Blake is innocent” plot by subversive cross-examination, and the implications for memory and testimony are quite significant. Collins signals that the following generations can’t be trusted to remember the story correctly; therefore

the responsibility of remembering is displaced into the text itself. Yet the very process of testimonial molding that is practiced by Blake suggests that even text itself is problematic and susceptible to misremembering. This susceptibility would seem to contradict the restorative capacity that I argue is exhibited in *The Woman in White*, but there are similarities in the difficulties Hartright realizes he faces in proving that Laura Glyde is alive. The legal texts to which Mr. Kyrle alludes, the death certificate and the gravestone, each “remember” Laura’s death. On the whole, Hartright’s project is less about managing the *possibility* of misinterpretation than it is about undoing a misinterpretation that has already occurred. In both novels, Collins is probing the particular difficulties that arise from memory as it is expressed through written testimony, and in both cases he manages to indict the legal machinery for its failures while simultaneously endorsing and using the basic processes of witness testimony to both reverse and prevent the systemic legal failures with which his characters must contend.

CHAPTER 3  
OF HEIRLOOMS AND INHERITANCE

**Information and Fragmentation in *Bleak House***

The information age has changed the way people remember. The vast computer network that makes up the Internet has allowed us to store tremendous amounts of data that is, for the most part, freely and easily accessible. A recent study in the journal *Science* has shown that the advent of search engines and information retrieval systems has fundamentally changed the way that human memory functions in the face of technological change. The study found that “when people expect to have future access to information, they have lower rates of recall of the information itself and enhanced recall instead for where to access it. The Internet has become a primary form of external or transactive memory, where information is stored collectively outside ourselves” (Sparrow 776). Of course, our ability to amass collections of information preceded our ability to create electronic retrieval systems for organizing and accessing that information. The British legal system in the nineteenth century had amassed several centuries of information, both in the laws themselves and in case law history. Of course, nineteenth-century legal professionals had no recourse to Internet databases, nor was there a centralized catalogue or index for locating information. Charles Dickens opens *Bleak House* with a description of the Chancery Court that emphasizes this exact problem; a line of lawyers stands in the court “with bills, cross-bills, answers, rejoinders, injunctions, affidavits, issues, references to masters, masters’ reports, mountains of costly nonsense, piled before them” (14). The famous case, of course, is that of Jarndyce v. Jarndyce, a suit that has “become so complicated, that no man alive knows what it means” (16). Whereas today we face concerns of how an overly effective search engine carries with it the possibility of invading our privacy, Dickens is grappling with the problematic ability of the Chancery court’s legal practices to create a testimonial archive so vast

and disorganized that identity becomes lost, memories are forgotten, and the promise of equity evaporates (or spontaneously combusts).

Of course, the novel simultaneously and contradictorily engages in a process of remembering even in the midst of its condemnation of the legal processes of the Chancery Courts. Dickens's unique combination of both a traditional third-person narrator with Esther Summerson's first-person narrative highlights the disparities between personal and institutional narratives. D. A. Miller has argued that the institutional instabilities underscored in the text (primarily in the contrast between Chancery and the police) are mirrored in the reading practices that novels require. Just as the *Jarndyce v. Jarndyce* drags on for years and years, so too does *Bleak House*'s great length have the potential to tax a reader's patience. Consequently, "the novel dramatizes the liabilities of fragmentation and postponement within the hopeful prospect that they will eventually be overcome" (90). Although Miller's argument is helpful, he does not fully consider how these two narrative styles are not equivalent in their relationship to the social institutions represented in the novel. Indeed, *Bleak House* does not provide as homogenous a reading experience as Miller's argument might suggest. Esther's narrative provides an alternative to the protracted, seemingly endless narration of Dickens's third-person narrator. Unlike the impersonal and labyrinthine legal system, which cannot seem to make sense of its own vast collection of testimony, Esther's presence as a narrator moderates the fragmenting effect that reading the novel might share with the experience of the *Jarndyce v. Jarndyce* lawsuit.

Furthermore, Dickens's own design of the individual numbers for the novel's serial release, a process with which he took great care, bears this out. The novel was printed in nineteen issues, and of the eighteen issues preceding the final installment, thirteen conclude with chapters written in the voice of the third person narrator (leaving only five numbers that conclude with

chapters from Esther's narrative). Over the course of the narrative, it becomes clear that Dickens primarily relies on his third person narrator to end most of the novel's serial issues, thereby suggesting that it is the third person narrator who is most likely to leave the reader with a sense of incompleteness. Serialized novels had a task foreign to modern readers (but more familiar to television audiences) of concluding each installment in such a way that would encourage the reader to return and purchase the next issue. If, as D. A. Miller asserts, *Bleak House* is a novelistic representation of the endlessness of the Chancery Court, then we must recognize that this experience is located more firmly in the more distanced third person narrator, on whom Dickens relies to fragment his novel and bring readers back for more.

This is not to suggest that fragmentation does not exist in Esther's narrative; rather, it is to show that fragmentation exists in varying modes for the narrators of *Bleak House*. The Chancery Court in *Bleak House* manufactures fragmentation, artificially complicating matters instead of resolving them. Esther's narrative, on the other hand, is one in which the fragmentation has already occurred and been resolved prior to her writing. Her first-person narrative traces a process of discovery that is independent of the legal institutions that cause so much trouble for so many characters. Dickens suggests this difference between Esther's narrative and the third-person narrative in titling Esther's first chapter "A Progress," which immediately sets Esther apart from the interminable exchanges in Chancery with which Dickens opened the novel. Quite early in her first chapter we are made aware of the fragmentation in Esther's early life: "I had never heard my mama spoken of. [...] I had never been shown my mama's grave. I had never been told where it was" (29). Dickens emphasizes this fragmentation further by underscoring that a central concern for Esther is that she has no memory of her mother, as her "earliest remembrance" is of her godmother raising her (28). A significant reason for this is that

Esther's personal story is shown to be a sequel written by someone unaware of the original story—her memory cannot answer questions about her past (Tsomondo 109). Esther's "re-memory" as contemporary critic Thorell Tsomondo terms it, demonstrates that her "experience [...] is a consequence of another life and story, of her mother's life, and [...] of her mother's experiences" (109). Dickens makes this fragmentation effect of Esther's experience quite explicit in her first encounter with Lady Dedlock.

In the nineteenth century competing claims about the nature of the mind and memory led to the development of some theories that seem preposterous to modern readers. One idea in particular held that memories could become attached to particular places and objects; in effect, one could potentially access the memories of past inhabitants of a house (Vrettos 200). In a way, Esther's first sight of Lady Dedlock performs a similar function, as Lady Dedlock's visage provides Esther a brief glimpse into her obscure origins. Dickens is, of course, foreshadowing the revelation that Lady Dedlock is Esther's mother, but in this initial moment, Esther almost seems able to discover her relationship to Dedlock absent any external confirmation or testimony.

"[T]hat lady was Lady Dedlock. But why her face should be, in a confused way, like a broken glass to me, in which I saw scraps of old remembrances; [...] I could not think. [...] This made me think, did Lady Dedlock's face accidentally resemble my godmother's? It might be that it did, a little; but, the expression was so different, and the stern decision which had worn into my godmother's face, like weather into rocks, was so completely wanting in the face before me, that it could not be that resemblance which had struck me. (292)

Esther has a similar response during a later encounter, this time based on aural rather than visual evidence; when Mr. Jarndyce, Ada, and Esther take shelter from a thunderstorm, Esther hears Lady Dedlock's voice for the first time and "in a moment, there arose before [her] mind innumerable pictures" of herself (296). These sensorial experiences suggest a great power and potency to memory. John O. Jordon has suggested that these moments of an almost remembered

past are “the unthought known,”<sup>1</sup> which is a kind of knowledge that is “preverbal and extra-rational” (22). What is fascinating about these moments of memory is that Dickens suggests that Esther attempts to revert to her earlier memory of the event in remembering it as the narrator.

Similarly to the ways in which Collins layers narrative voices in *The Woman in White* and *The Moonstone*, Dickens’s use of two narrators in *Bleak House* is layered in such a way as to suggest that Lady Dedlock has an almost supernatural ability to draw out Esther’s lost memories. Several critics have examined the importance of Esther’s temporal distance (she’s writing her story seven years after the novel ends) from the events of the story.<sup>2</sup> Of course, Esther’s seemingly open and unassuming character is undermined by the simple fact that her narrative is deceptive almost from its very beginning. For Dickens this deception is necessary to maintain the mystery of the story’s progression—it would not do for Esther to simply state that Lady Dedlock was her mother, as the statement would give away the obvious fact of their relationship and less obviously, because of its past tense construction, suggest that Lady Dedlock dies in the course of the story. Within the narrative, this deception shows us that Esther the writer is attempting to narrate the story as if she were actually experiencing the events in the present. However, as with her strange sensations upon encountering Lady Dedlock, this retroactive remembering creates an unusual memorial effect, wherein the perfectly plausible explanation for these sensations of remembrance is delayed. Esther’s narrative does, however, provide a clue to this mystery in the visit she receives from Mr. Kenge after her “godmother’s” death; it is during this encounter that Esther learns that Mrs. Barbary was actually her aunt and not merely her godmother. Of course,

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<sup>1</sup> Jordon is drawing these terms from the work of psychoanalyst Christopher Bollas, *The Shadow of the Object: Psychoanalysis of the Unthought Known*. New York: Columbia UP, 1987.

<sup>2</sup> Ellen Serlen has argued that the world of Esther’s narrative exists in “suspended animation,” because she is recalling a “highly personal and nostalgic vision of the past” (552). J. Hillis Miller has linked the seven year gap to the idea that Esther’s narrative constitutes a “demand on the reader for a response of ‘remembrance’” (58).



during the encounter at the church, Esther demonstrates her deception in continuing to refer to Mrs. Barbary as her godmother rather than her aunt. As Esther relates her memory of what happened, Dickens wants to ensure that the reader is drawn into the immediacy of these past events; in order for us to experience them as Esther did, it is necessary for a certain degree of distortion to be drawn over the remembrance.

### **Family Connections and Family Secrets**

Of course, distortion and fog are key components to the way in which Dickens represents the legal system in *Bleak House*, and so the fog of memory becomes linked to the fog of Chancery. The novel's memorable opening paragraphs provide an extended description of the London fog, which ends where "the dense fog is the densest, and the muddy streets are the muddiest, near that leaden-headed old corporation: Temple Bar. And hard by Temple Bar, [...] at the very heart of the fog, sits the Lord High Chancellor in his High Court of Chancery" (14). Reminiscent of that wonderfully tactile description of London's "palpable brown air" in *A Christmas Carol*, Dickens suggests the extent to which the air, so assaulted by the fires of England's industrial growth, has become a visual impediment that further obfuscates the labyrinth that is urban London. The novel, of course, connects this fog with the legal machinery of the Chancery court, and particularly to the person of the Lord High Chancellor. Dickens proceeds to illustrate the Lord High Chancellor's fogginess in an exchange he has with one of the many attorneys entangled in *Jarndyce v. Jarndyce*. The attorney, in appropriately Dickensian fashion, is named Mr. Tangle, and is "supposed never to have read anything else" but the *Jarndyce* case "since he left school" (18). In our earliest exposure to the inner workings of the court, Tangle is shown to have considerably more knowledge about the case than even the Chancellor. Their brief exchange shows the Lord Chancellor to be almost entirely ignorant of the complexities of the case, as Mr. Tangle is constantly correcting him throughout the conversation.

Yet Dickens complicates this surface reading of the court's ignorant Chancellor in the muddled speech of Mr. Tangle, who, though the most knowledgeable, is also the most difficult to understand. Tangle's constant stream of "Mlud"s and "Begludship"s connote that the Chancery system's problems lie both in its leadership and in its professional class (Bondi 567).

The novel suggests, then, that it is not the institutional principles of the legal system that have created the problem so much as the individuals responsible for operating according to those principles. If *The Woman in White* shows the amateur Walter Hartright appropriating legal principles to recover and reclaim lost memory, then *Bleak House* envisions legal professionals as incapable of drawing upon the resources of their vocation to arrive at a unified understanding of the facts of a Chancery suit. In particular, the Lord High Chancellor has no knowledge of the family relationships between the litigants in the case. Dickens questions whether a court that cannot even maintain a sense of family ties, one of the most basic methods of crafting personal history and identity, can or should be allowed to decide the fate of a family fortune. The implications of the Lord High Chancellor's ignorance go beyond the simple question of how Ada Clare and Richard Carstone are related to John Jarndyce (fortunately, the Lord Chancellor has Tangle there to correct him). After this rather comical exchange, Dickens shows the classist tendencies facing a system that simultaneously privileges family heritage but cannot seem to remember who is related to whom.

At the inquest into the death of Nemo, the law-writer who is later identified as Captain Hawdon, the testimony of little Jo, the impoverished boy who knew Nemo, is ruled as inadmissible; through this episode we see that Jo's testimonial memory is rejected because of his inability to provide sufficient personal history and religious knowledge. Rick Rylance draws attention to the theories of vision propounded in 1855 by William B. Carpenter, in which he

argued that sight was a combination of both the reception of the image by the eyes and of the interpretation of that image by the mind (106).<sup>3</sup> Carpenter's theory is implicitly a theory of memory, since visual images are simultaneously present and past the moment that we experience them.<sup>4</sup> To see is to interpret, and therefore to testify as to what one has seen is to offer one's interpretation of the recollected visual experience. The importance of sight to the inquest is apparent prior to the inquest, as the surgeon who has been called to examine Nemo's body at once says that he "knew this person by sight very well" (167). The surgeon sold opium to Nemo regularly for over a year, and he knew that Nemo had "been in the habit of taking" great amounts of the narcotic (167). So the surgeon's first statement attempts to make an important distinction: clarifying that he knows Nemo well only by sight, and therefore resisting any suggestion that his knowledge of the man should have extended to the recognition that he was purchasing such large quantities of opium that he was likely to overdose. So at first, the surgeon attempts to separate his sight and an obvious interpretational conclusion that his sight might have suggested; instead, his sight is reduced to a classificatory gesture—in the same way that a naturalist might know a particular species of spider by sight, so does the surgeon limit his knowledge of Nemo.

Although Carpenter published his theories a few years after *Bleak House* first appeared, his division of sight into the components of reception and interpretation is particularly apropos to Jo's experience at the inquest. Once the inquest is convened, sight is the reason for Jo's being

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<sup>3</sup> Rylance's more detailed description: "There are two rival models in play here: that associated with the inert reception of visual images, which, in the old, Lockean metaphor for psychological ideas, are 'impressed upon the retina', and that associated towards the end of the passage with the experientially derived *interpretation* (not mere reception) of visual data" (106). Rylance later points out that Carpenter supported his theory by pointing to cases of "recovered sight"—that is, of patients who, born blind, later acquire sight through surgery. What such patients report is not a sudden 'turning on of the light', but a sudden, distressing, baffling chaos of visual signals that they have slowly, and painfully, to learn to interpret" (106).

<sup>4</sup> In *Camera Lucida* (1980), Roland Barthes makes a similar claim when considering the relationship of time and photography: "Perhaps we have an invincible resistance to believing in the past, in History, except in the form of myth. The Photograph, for the first time, puts an end to this resistance: henceforth the past is as certain as the present, what we see on paper is as certain as what we touch" (87-88).

called in the first place, as Mrs. Piper, the first witness, comments that Nemo was not known to talk to anyone “excepting the boy that sweeps the crossing down the lane over the way round the corner which if he was here would tell you that he has been seen a-speaking to him frequent” (176). Dickens adopts what at first may seem a peculiar narrative style during the testimonies of Jo and Mrs. Piper; once the inquest begins, standard quotations are dropped in favor of a journalistic style that strikes an uneasy balance of both reporting and direct quotation, but without the usual quotation marks. I will reprint Jo’s entire testimony, which is contained in a single paragraph, before proceeding, as it serves as an ideal demonstration of this style.

Name, Jo. Nothing else that he knows on. Don’t know that everybody has two names. Never heerd of sich a think. Don’t know that Jo is short for a longer name. Thinks it long enough for *him*. *He* don’t find no fault with it. Spell it? No. *He* can’t spell it. No father, no mother, no friends. Never been to school. What’s home? Knows a broom’s a broom, and knows it’s wicked to tell a lie. Don’t recollect who told him about the broom or about the lie, but knows both. Can’t exactly say what’ll be done to him arter he’s dead if he tells a lie to the gentlemen here, but believes it’ll be something wery bad to punish him, and serve him right and so he’ll tell the truth. (177)

The coroner’s response to this exchange is immediate: “This won’t do, gentlemen! [...] ‘Can’t exactly say’ won’t do you know. We can’t take *that* in a court of justice, gentlemen. It’s terrible depravity” (177). The coroner’s response is clear: it is only on the basis of Jo’s insufficient eschatological knowledge, that is, his inability to recite sound Christian doctrine with respect to death and judgment, that his testimony is revoked. Unlike the surgeon, who self-censored his professional knowledge, Jo’s willingness to share his uncensored memories is rejected out of hand. In effect, Jo’s ability to interpret and testify to what he has seen and experienced is undermined by the inquest’s requirement that he properly regurgitate a particular theological position. Without anyone else to testify, Jo’s knowledge is absent from the public record; it’s as

if his relationship with and knowledge of Nemo never happened or existed.<sup>5</sup> Fortunately, Dickens circumvents the negligence of the coroner, who rules Nemo's passing as accidental death, when Tulkinghorn immediately corners Jo after the inquest. It is then that we learn that Nemo had told Jo "he had not a friend in the world," and had asked Jo "whether he ever wished to die" (178). This suggests, of course, that Nemo was contemplating suicide and that Jo was the one witness whose evidence could have pointed the inquest to this fact.

Dickens is not only critiquing the legal system's method of selecting witnesses but also its tendency to overlook humanitarian interpretations of evidence. As readers we are perhaps indicted in this criticism as well, for, upon realizing that Nemo probably did commit suicide, Dickens lands an emotional blow as Jo laments, "He was wery good to me [...] Wen I see him a-layin' so stritched out just now, I wished he could have heerd me tell him so. He was wery good to me, he wos!" (178). Jo may have seen Nemo regularly and spoken with him, and he may see him now at the inquest, but Nemo can no longer hear his confession of deepest gratitude, and the inquest will not hear his testimony. In this way Dickens highlights the very integral relationship between the visual and oral components of testimony. Yet Chancery, as the legal venue at the center of the novel, does not seem to share the inquest's problem of not having enough testimony. As I suggested earlier, the first chapter of *Bleak House* points us to the professional participants in Chancery as the perpetrators of its ills. However, Tulkinghorn's actions at the inquest set him apart; in his position as solicitor to Sir Leicester Dedlock, Tulkinghorn becomes a figure who represents the dangers of a legal system that is too efficient.

Mr. Tulkinghorn has always been a fascinating character, and I argue that part of this fascination must stem from his dissimilarity to the other legal professionals in the novel. In his

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<sup>5</sup> John O. Jordon draws on psychoanalytic theories to suggest that Esther too is constantly struggling with a sense of blankness due to her abandonment by her mother (44ff.).

interrogation of Jo after the inquest, Tulkinghorn acknowledges that Jo's knowledge was probably important and accurate, even though the inquest was of a different opinion. On the surface, his silence at the moment when the coroner rejected Jo's testimony also suggests that Tulkinghorn agreed, from a legal perspective, with the decision to reject Jo's testimony. But his further investigation suggests that he wanted to be the sole person privy to Jo's memory of Nemo. Stanley Tick has argued that Tulkinghorn's brooding reserve and inscrutability is a product of his staunch loyalty to Sir Leceister (212). Beginning only with Lady Dedlock's reaction to a legal document, he manages to uncover the truth of her life prior to marrying Sir Leicester. Lady Dedlock's is not the first secret that Tulkinghorn has uncovered, as we are told, he lives "among [...] many boxes labelled with transcendent names" (158). Dickens makes it quite clear that Tulkinghorn has many of the great family's secrets locked away in his rooms. Tulkinghorn's collection of secrets bears a notable similarity to Sven Spieker's description of the archive: "Archives do not record experience so much as its absence; they mark the point where an experience is missing from its proper place" (3). As an archive, Tulkinghorn's collection is specifically designed to minimize access to information that could damage the reputations of his clients.

In both Chancery and Tulkinghorn's collections of testimony, Dickens gives us two models of memorial archives. These memorial archives function as legal storehouses for information about families, and both wield distinctive control over the memories they hold. Whereas the morass of Chancery conceals the truth simply through its monumental inefficiency, Tulkinghorn puts himself in the position of gatekeeper over his archive. In a way, then, Tulkinghorn's concealment of these secrets is not unlike the shift in modern cognition that the Internet has effected. As with searching the Internet, Tulkinghorn is the repository of secrets, but

unlike the Internet, his archive of information is not openly accessible but reserved for the patriarchal head of the household. Therefore, Lady Dedlock's desire to regain control over the records of her own memories is thwarted by Tulkinghorn's loyalty to her husband.

Yet, Dickens shows that an archive that is built under the auspices of keeping secrets is subject to a crucial but fatal flaw: the possibility that a family member does not care to keep the secret herself. It is this flaw that Lady Dedlock ultimately exploits in order to assert some measure of sway over Mr. Tulkinghorn. When Lady Dedlock first learns that Mr. Tulkinghorn knows about her illegitimate child, she at first plans to run away that very night, but he prevents this, instructing her to do nothing without his permission, so that the scandal may "be hushed up, if it can be" (658). He fatally presumes that he can control Lady Dedlock through his knowledge of her secret, but Tulkinghorn makes a critical error when he holds the scandal over Lady Dedlock's head. Returning to the novel's opening chapters, our first encounter with Lady Dedlock reveals that she is "bored to death," a status that the narrator ascribes to the lady herself. In the moment of Tulkinghorn's attempt to control her, she describes her life as a "gaudy platform, on which my miserable deception has been so long acted" (659).<sup>6</sup> It's not clear why Tulkinghorn expects her to abide by his command (a command that he deviously terms an "agreement"); if Lady Dedlock was already planning to run away, surely she already assumes that the information will become public. Either way, Lady Dedlock eventually decides to break her agreement to keep her past hidden, and she signals her decision by allowing (indeed, encouraging) her maid, Rosa, to leave service, thus protecting her from the ignominy that is to come. Recognizing this, Tulkinghorn resolves that Lady Dedlock is "not to be trusted" and he therefore intends to reveal all to Sir Leceister (745). Lady Dedlock's strategy allows her to exert

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<sup>6</sup> Her desire to break away from her stagnant life is reflected in her flight from Chesney Wold and in her death not long thereafter; if there is one thing true about Lady Dedlock's final hours, they could not be construed as boring.

control over the archive that Tulkinghorn believed was his alone, and his recognition of this is tinged with admiration: “The power of this woman is astonishing. She has been acting a part the whole time” (743). So while Tulkinghorn insists on claiming that Lady Dedlock’s secret is no longer hers, but a secret of the family, her ability to influence and alter Tulkinghorn’s plans demonstrates that she still wields power over her own memory.

### **Chancery and Personal History**

Dickens draws a contrast between Lady Dedlock’s experience of her memory and her daughter Esther’s through his use of the novel’s double narrative. Lawrence Frank has suggested in *Victorian Detective Fiction and the Nature of Evidence* (2003) that the two narratives represent varying ways of understanding human experience; Esther’s is “a retrospective, at once providential and teleological, after the fact” narrative, while the third-person narrator offers a “naturalistic” story that “eschew[s] a concern with divine intervention” (78). Frank contends that the third-person narrator is not omniscient, which he must do in order to characterize the present-tense narrative as a “paleontological enterprise” that is only digging up “figurative fossils” in the form of “remnants of the past” (79). Frank’s reading is reminiscent of a detective excavator narrating his findings in process. Of course, this understanding of the excavational third-person narrator must also be understood as representative of the institutional practices of the legal system. I would argue that the narrator’s style resembles the authority of the Court as much as (if not more than) it does the evidentiary practices of geologists and paleontologists. Dickens contrasts the Court’s institutional authority with the personal recollections and testimony of Esther. Whereas Lady Dedlock’s past is emptied of personal meaning by Tulkinghorn when he coldly proclaims her secret to be no longer her own; Esther’s narrative describes a process of investing personal meaning into her memories and experiences by refusing to conform to the systems of memorial collection represented by Tulkinghorn and Chancery.



The novel's ending suggests that Esther's personalized exploration of memory is far more beneficial, both personally and pecuniarily, than the institutionalized methods of (re)storing memory. A key clue to Esther's relationship to Lady Dedlock is her appearance, as Guppy first notes during his visit to Chesney Wold upon seeing Lady Dedlock's portrait:

"It's unaccountable to me [...] how well I know that picture! I'm dashed [...] if I don't think I must have had a dream of that picture, you know!"

As no one present takes any especial interest in Mr Guppy's dreams, the probability is not pursued. But he still remains so absorbed by the portrait, that he stands immovable before it [...]. (111)

Of course, the reason that the picture seems so familiar is that Guppy has just come from London where he met Esther. Both Lady Dedlock and Esther are reputedly beautiful, but Dickens clearly attempts to remove any intimation that narrative benefits are conferred particularly on beauty in the novel, first by showing that Lady Dedlock is miserable ("bored to death"), which is followed by Esther's scarring as a result of her disease. In fact, Esther's scarring immediately precedes Lady Dedlock's admission that she is Esther's mother; with such precise timing, Dickens intimates that Lady Dedlock could only reveal her secret to a daughter whose physical resemblance to her had been obliterated.<sup>7</sup> So at the very moment that Esther achieves a momentous insight into her past, her outward physical connection to that past is expunged. Furthermore, Esther establishes her contrast to Tulkinghorn's style of archival memory by burning the letter from Lady Dedlock after she has read it. The act mirrors the physical separation imposed by her illness, destroying the one document that irrefutably connects her to Lady Dedlock. Her decision is extraordinary in a novel that is supremely concerned with the

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<sup>7</sup> This is Alexander Welsh's belief as well, although he construes it somewhat differently: "Esther's meeting with her mother becomes possible only after the resemblance is erased" (*Dickens Redressed* 39).

tracing and locating of documents.<sup>8</sup> In this way Esther symbolically effaces the institutional evidence of her mother's identity in favor of her personal memorial, in the form of the first-person narrative she pens.

However, the simultaneity of this discovery/separation from her mother also accompanies Esther's symbolically drawing nearer to her father, Captain Hawdon. Esther's maid, Charley, cares for Jo during his illness, the same Jo who said of Esther's father, "He was very good to me." Charley gets the illness and in turn gives it to Esther; Dickens forms a line of charity that follows the illness from Esther back to Jo, the recipient of Nemo's charity. Alexander Welsh suggests that in *Bleak House* Dickens was becoming more interested in the "ironies of the Sermon on the Mount," which extended not only blessings to the poor but blessings to "those who are blessed *by* the poor" (*Dickens* 29). If so, then Esther's ending in the novel becomes clearer as her narrative suggests that the damage done by her disease fades with time. During her illness, Esther feels that her life prior to the disease becomes "like an old remembrance" (555), a fading of memory that corresponds to her physical alteration. But in the novel's final pages, Esther's husband, Allan Woodcourt, counters that she is prettier than ever (989). Esther is incredulous, which leads to the novel's abrupt and halting end:

I know that my dearest little pets are very pretty, and that my darling is very beautiful, and that my husband is very handsome, and that my guardian has the brightest and most benevolent face that was ever seen; and that they can very well do without much beauty in me – even supposing—. (989)

Esther's closing narrative can be seen as loaded with false modesty, burdened by the reassertion of patriarchy and the submission of women to male dominance. Yet, if we consider the

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<sup>8</sup> In *The Novel as Event* (2010), Mario Ortiz Robles argues that novels of inheritance "hinged on questions of whether, by whom, and in what manner the [act...] of bequeathal will have been brought about, or, to put it in terms of speech acts, on the circumstances under which the novel's protagonists will have uttered the simple performative formula [...] 'I bequeath'" (x). So Esther's action is generically unusual because she neglects an opportunity to seek a legacy from a wealthy relative (unlike, for example, John Durbeyfield in *Tess of the d'Urbervilles*).

possibility that Esther is being genuine in these final lines, then we see that the return of her beauty is all but certain. The very act of affirming beauty in others while humbling herself is indicative of the “Sermon on the Mount” ethic; in this way Dickens suggests that this ethic, while potentially dangerous to those who fully live it, is restorative in the end. Esther may have voluntarily expunged the written record of her relationship to Lady Dedlock, and the disease may have marred their physical resemblance, but in these final lines we are left to suppose that Esther has regained that one connection to her mother, their familial affinity has been restored. Thus Dickens clearly associates Esther with physical and memorial restoration, which is partly made possible by the death of the original, her mother.

The Chancery Court, of course, is entirely incapable of effectively resolving questions of memory. While Esther’s encounter with her family past is intensely personal and devoid of excessive record-keeping, *Jarndyce v. Jarndyce* is nothing if not an exercise in the ineffective practice of collecting documents. Dickens further supports Esther’s method of document management in using spontaneous combustion as the catalyst for the discovery of the one document that breaks the back of the whole case. The fire that consumes Krook is also symbolic of the fact that the court has consumed all of the wealth in the *Jarndyce* case in the very act of attempting to ascertain who should receive that wealth. Also, Dickens directly contrasts Esther’s memorial narrative with Richard Carstone’s growing obsession with the *Jarndyce* case, and his futile hopes that the case’s resolution will grant him a windfall. Indeed, at the moment that he announces to Esther his resolve to pursue his cause in the suit, Dickens demonstrates how Esther’s memory functions as she describes Richard sitting with his lawyer, Mr. Wholes: “I shall never forget those two seated side by side in the lantern’s light [...]; Mr. Wholes, quite still, black-gloved, and buttoned up, looking at [Richard] as if he were looking at his prey and

charming it. I have before me the whole picture of the warm dark night” (608). Esther’s strength, to return to my earlier discussion of William Carpenter’s theories of vision, lies not only in her ability to recall what she saw, but to correctly interpret that image (that Vholes is not a trustworthy attorney). At the same time, Richard’s interest in the case draws him away from accurately interpreting his physical and social surroundings by enticing him to bury himself in legal texts.

Both Esther and Richard are searching for the same thing: a link to the past. For Richard, however, this search involves constantly poring over texts and separating himself from familial ties. Richard rejects the guardianship of John Jarndyce and hires his attorney almost simultaneously. His focus becomes the legal documents of the case, documents that are so conflicted that they lead him to take the action of cutting off ties from Mr. Jarndyce in the first place. Richard hopes to attain financial independence through the courts, thereby defining family through inheritance. Those whose pecuniary interests in the case differ from his own (as Jarndyce’s do) can no longer be in Richard’s social circle. On the other hand, Esther often goes out of her way to form personal connections that contribute to her composition of her own textual record, unlike Richard’s obsession with the texts of the court. The contrast between these two characters again confirms that Esther’s is correct in her reticence to recover her familial past within the legal systems of either Tulkinghorn’s secret archive or Chancery’s unfathomable mountain of evidence.

In conclusion, I’d like to return to the final lines of the novel, and Esther’s final dash. As I mentioned earlier, J. Hillis Miller has argued that Esther’s narrative calls to the reader for an act of remembrance. Hilary Schor suggests that Esther’s testimony is indicative of the “courage not to *stop* that process of writing and rewriting that is duplicated in every reader’s baffled reading

and rereading of *Bleak House*” (Dickens 123). Both of these arguments parallel D. A. Miller’s representation of the novel’s length as characteristic of the endlessness of Chancery; remembrance and rewriting continuing ad infinitum through each reader. But I have shown how Esther’s memorial act, her written testimony, is distinctly counter to this continuance. While her testimony is an act of personal remembrance, it is of the kind that brings finality. She destroys her mother’s letter; her chapters rarely serve to bait the reader into picking up the next issue in serialization; and she ends with a dash. The dash is symptomatic of the entirety of Esther’s narrative position in the novel; it ends suddenly, pushing the reader out, as if the door into her memories was suddenly slammed shut. As it relates to the mystery of her family past and the Jarndyce case, Esther’s memories are open to us, but the moment that story is complete, her narrative ends in the midst of a thought whose completion is kept from the reader. Granted the novel’s grand scope provides much for readers to return to, as Schor suggests, but Esther’s final narrative act is to remind us that she controls her testimony, and our access is revoked absolutely. In this way, Dickens’s presents a kind of memorial act that is at once open to readers but carefully guarded; property is restored to its rightful owners, and the impotence of the Chancery system is displayed for all to see, but Esther’s alternative approach to memory and testimony finally invokes a claim to privacy.

### ***The Eustace Diamonds and Public Secrets***

Appearing as it did in the early years of the decade immediately following the immense popularity of sensation fiction among the British public, it is not surprising that Trollope’s narrator in *The Eustace Diamonds* (1871) opines that he “scorns to keep from his reader any secret that is known to himself” (117), assuring the reader that this is *not* a novel with a secret. As a sub-genre that had suffered many blistering attacks, Trollope was inclined, it seems, to set his work apart, especially since his title would have, for many readers, immediately brought to

mind Wilkie Collins's famous novel about a diamond, *The Moonstone*, which had only been published three years earlier.<sup>9</sup> Sensation as a genre has been primarily associated with the 1860s, and while recent scholarship has shown that its influences and impact precede and continue beyond that decade, Trollope's narrator does signal a moment of transition at the beginning of the 1870s. In many ways *The Eustace Diamonds* is a novel particularly engaged with transitions, both literary and social. Through the narrative of the Eustace diamonds themselves, Trollope offers a commentary on and a dramatization of the disruptive social impact that the transition away from real property's value as a measure of importance in society. By staging the dramatization of this transition in the legal system (and the social commentary that system produces in high society), I argue that Trollope's novel underscores this shift through Lizzie Eustace's narrative flexibility. Unlike Esther Summerson, Lizzie Eustace develops a public method for transmitting her memorial testimony. Through the simultaneous modification and reification of her ownership narrative, both socially and under oath, Lizzie Eustace succeeds in moderating the collective memory of London's elite in a way that nearly supersedes even the institutional memory of the legal system.

*The Eustace Diamonds* is the third in Trollope's Palliser series of novels, and while the Pallisers are not major players in the narrative, they are critically important to the novel as social commentators on the story as it unfolds. The novel primarily tells the story of Lizzie Eustace and her determination to keep the set of diamonds presented to her by her late husband, Sir Florian

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<sup>9</sup> In his *Autobiography*, Trollope wavers on the question of sensation fiction. At one point he criticizes those who try to establish a harsh division between sensational and realistic fiction: "A good novel should be both" the development of character and the "development of plot" (204). Yet he also criticizes Collins specifically, who "seems so to construct his [novels] that he not only [...] plans everything on [...]; but then plots it all back again [...]. The construction is most minute and most wonderful. But I can never lose the taste of the construction" (231). Trollope seemed to be concerned about perceptions that this novel was unduly influenced by other works, as he also insists that Lizzie Eustace should be considered a kind of anti-heroine, similarly to Becky Sharp in *Vanity Fair* (1848).

Eustace. The Eustace family, aided (and strongly encouraged) by their solicitor, Mr. Camperdown, is eager to reclaim the diamonds, valued at £10,000, while Lizzie insists that the diamonds were given to her outright and that they now belong to her fully to do with what she chooses (129). While her ownership of the diamonds is in dispute, her lifetime possession of Portray, her husband's estate in Scotland, is legally certain. And yet, Lizzie's stewardship of the property is almost immediately problematic precisely because she publicly speaks of the property as if it were her own, despite the fact that it reverts back to the Eustace family upon her death. The legal wrangling surrounding both Portray and the titular diamonds are the framework through which Trollope's novel depicts the legal system as susceptible to manipulation through what I term social testimony. As distinct from common gossip or rumor, social testimony is that mode of communal narrative in which the witness seeks to influence the outcome of a legal case. In this way, Trollope offers Lizzie Eustace as a character whose effective social skills allow her to wreak legal havoc.

### **Memory As Property and Possession**

Britain, as is well known, has a long history of valuing real property and the social and political benefits that came with land ownership. Edmund Burke's famous commentary on the French Revolution demonstrates how important real property was not only to the individual owners but also to the very fabric of British national identity. Going so far back as the Magna Carta, Burke claims that British liberty is "an entailed inheritance derived to us from our forefathers, [...it is] an estate specially belonging to the people of this kingdom" (47). Burke begins with the more generic metaphor of inheritance to craft his image of British identity, but he then links inheritance explicitly to the passing of a landed estate from one heir to the next. For Burke, the importance of this metaphor is critical to the maintenance of Britain's social fabric, as "People will not look forward to posterity, who never look backward to their ancestors" (47-8).

In *The Eustace Diamonds* Lizzie's decisions at Portray perfectly embody Burke's uneasiness about those who do not "look forward to posterity." Not long after she has taken over running the property the Eustace family solicitor, Mr. Camperdown, is shocked to discover that she has been cutting down portions of the property's forest, ostensibly to shore up her income. Lizzie treats the property as an investment; something to be mined for its resources in the short term, a perspective that flies in the face of Burke and his predecessors, like Sir Edward Coke, who argued that a key component of estates is their "long continuance" (45). Of course, the very nature of Lizzie's possession of Portray discourages her from maintaining a concern for the property's long-term potential, precisely because she only has the use of it for her lifetime. This legal reality, like so many others, does not get in the way of Lizzie construing her relationship to the property quite differently. Early in the novel, Lizzie reports "that the Portray property was her own for ever, to do what she liked with it" (52). Her wanton disregard to the fact of her temporary possession lends credence to R. D. McMaster's argument in *Trollope and the Law* (1986) that Trollope "agrees with Burke in seeing a spiritual contiguity between the descent of entailed property, the life of the nation, and the idea of society" (76). In this context, then, Lizzie represents a pernicious threat to property, nation, and society. However, while criticism of the novel has tended to support this assessment, *The Eustace Diamonds* offers us more than an unmitigated condemnation of Lizzie's behavior.

The critical history of *The Eustace Diamonds* has been fairly uniform in its recognition that Lizzie Eustace is meant as an anti-hero; at one point the narrator accuses her of being both ignorant and a liar (125). Yet, some recent criticism has sought to reevaluate Lizzie Eustace; Zubair S. Amir has argued that by giving the "liar" of Lizzie Eustace such a prominent place as a character in the novel's representation of London society Trollope suggests that "marginalized



[...] forms of discourse,” like lying and deceit, can expose “the limits of nineteenth-century realism’s capacity to apprehend and represent plots of upward mobility” (188). I concur with Amir that Lizzie represents more than just an exemplar of moral and intellectual depravity to be excoriated by the narrator and the reader, but the ramifications of Lizzie’s discourse goes far beyond the capacity of a particular novelistic genre to represent a particular sort of narrative. Trollope’s representation of London society suggests that Lizzie’s storytelling is able to manipulate what is and is not factual in fashionable society.

The success of her deception about owning Portray are evidenced in her early engagement to Lord Fawn, a rather mercenary peer, who at first believes that by marrying Lizzie he will come into possession of Portray, a particular boon since his lands in Ireland do not even have a manor house. Lizzie’s ability to spin such deceptions out into the wider society is in part related to her poor memory and her capacity for self-deception. Upon her husband’s death, Lizzie attends a meeting with Mr. Camperdown and her brother-in-law, John Eustace, where it is explained to her quite clearly “that the income from the Portray property belonged to Lady Eustace for her life only” (77). But it’s not long before she is once again making outlandish claims to Lord Fawn about owning the property outright, not realizing “that [Fawn] would certainly find out the truth from other sources before he married her. Indeed, she was not quite sure herself whether the statement was true or false, though she would not have made it so frequently had her idea of the truth been a fixed idea” (127). Trollope highlights two aspects of Lizzie’s character her: first, that she has quickly forgotten the meeting with Camperdown, and second, that her understanding of legal practices is sadly lacking. Yet, while Lord Fawn, Mr. Camperdown, and John Eustace might try to combat the falsehood, “there was hardly a man about town who didn’t know that Lady Eustace had eight or nine thousand a year, altogether at

her own disposal, down in Scotland” (189). Trollope demonstrates that Lizzie’s convenient lapses of memory actually aid her social stature in London, as she continues to claim Portray as her own, it becomes “known” to be the case.

Trollope also signals, however, that the interest in Lizzie’s landed property is largely focused on its (inflated) monetary value. Of course, focusing on the monetary value of the property more than the property itself is not particularly new to literature in the 1870s. Many, if not all, of Jane Austen’s novels are interested as much in income as they are in real property; yet even there, property plays a significant role in establishing a character’s stature, as Elizabeth Bennet jokes that she first began to fall in love with Fitzwilliam Darcy when she saw Pemberley. However, Trollope’s description demonstrates that the interest in landed property has changed, insofar as the name of the property is not even mentioned in the rumors of Portray; and rather than exaggerating the property through overblown or lavish descriptions of the house or the grounds (and thereby its value), the rumor first inflates Lizzie’s income and merely implies the quality of the property through that value. As a result, the novel indicates that it is not only Lizzie who is disengaged from Burke’s ideal of British inheritance and property ownership, London society is also more interested in the pecuniary value of Lizzie Eustace’s dower. Just as Lizzie’s poor memory allows her to perpetuate this myth, the society generally has abandoned the long memory of Burke and Coke for a more immediate interest in pounds sterling.

Of course, while the Scottish property initially sparks interest in this young widow, what really draws attention to Lizzie is her possession of the Eustace diamonds, a necklace valued at £10,000. Almost immediately, Mr. Camperdown begins pressuring Lizzie to return the necklace, claiming that it is a family heirloom to which Lizzie has no legal right. As an heirloom, it cannot, according to Camperdown, “be made over legally without some visible evidence of transfer”

(75). Trollope repeatedly indicates that it is primarily the necklace's monetary value that creates such a furor among Lizzie's acquaintances. Both Lord Fawn and Mr. Camperdown often allude to the necklace's value, and its pecuniary value is mentioned thirty-five times over the course of the novel. One of the primary indicators that real property has ceded some of its social power to possessions of value is this very fascination that Trollope inculcates into the social fabric of his novel. The Burkean ideal of communal memory inscribed through the ownership of property visibly dissipates as the Eustace Diamonds seize the interest of the London elites.

The legal question regarding the diamonds specifically concerns the definition of their status as owned things. If, according to Camperdown, the necklace is an heirloom, then Lizzie's claims to ownership are naught. As an heirloom, the diamonds would revert to the possession of the Eustace family upon Florian's death. Indeed, Florian's grandfather first purchased the diamonds for his wife, and he had called them an heirloom in his will, but no subsequent will in the Eustace family had made specific mention of the diamonds (184-85). Unfortunately, as is pointed out in the novel by Camperdown's colleague Mr. Dove, in a strictly legal sense the diamonds are not, nor could they ever have been, considered heirlooms. In his *Commentaries on the Laws of England* (1766) William Blackstone explains that the term's second half (loom) "is of Saxon original; in which language it signifies a limb or member; so that an heir-loom is nothing else, but a limb or member of the inheritance. They are generally such things as cannot be taken away without damaging or dismembering the freehold" (2.427). Consequently, as Mr. Dove explains in the novel, "the Eustace estate cannot claim the jewels as an heirloom" (263).

In fact, as far as offenses to the Eustace property go, it is Lizzie's reckless cutting of timber on the Portray estate that constitutes a greater infraction upon the settlements made in her husband's will. Returning to Blackstone's commentaries, as a tenant for life, Lizzie would be

entitled to “full enjoyment and use of the land, and all it’s [sic] profits” (2.122), but this came with specific limitations, particularly with respect to the cutting of timber. “But [the tenant for life] is not permitted to cut down timber or do other waste upon the premises: for the destruction of such things, as are not the temporary profits of the tenement, is not necessary for the tenant’s complete enjoyment of his estate; but tends to the permanent and lasting loss of the person entitled to the inheritance” (2.122). Yet in the novel, Lizzie’s wanton disregard for this legal restriction is mentioned only once by John Eustace, Florian’s brother, and never by Camperdown. As the Eustace family solicitor, Camperdown would be expected to immediately address issues concerning family property, and yet he is consumed by his pursuit of the diamonds.

As a part of the Eustace family’s larger estate, Portray is of far greater value than the diamonds. The annual income Lizzie receives from Portray is £4,000, nearly half of the diamonds’ absolute value. For a solicitor to become overwhelmed with concern over a necklace while neglecting the potential misuse of his clients real property suggests a serious abrogation of responsibility. Coral Lansbury has suggested that during his lifetime, Trollope developed an antipathy toward lawyers; such a position is reflected in the treatment of Mr. Camperdown in *The Eustace Diamonds* (26).<sup>10</sup> Lizzie Eustace may be wicked for cutting timber to which she has no right, but Camperdown’s failure to stop her is even more worrying. As an heirloom, Camperdown would have to show that the diamonds are somehow attached to the estate itself, because, as Mr. Dove explains heirlooms were conceived “with the more picturesque idea of maintaining chivalric associations” rather than for the “protection of property” (296). Mr.

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<sup>10</sup> Coral Lansbury elaborates on this by positing that Trollope “was quite capable of holding two contradictory opinions of the lawyer in his mind at the same time: one as a manipulator of facts, crafty and deceptive, the other as an inflexible narrow-minded pettifogger” (36).

Camperdown's opinion of what should constitute an heirloom is not legally or historically viable, insofar as his desire to reclaim the diamonds is largely tied up in their monetary value rather than their noble history or heritage. Heirlooms are primarily about preserving the memory of a family through both its real property and the chattels that are attached to it.<sup>11</sup> The entire premise of real property as the repository of the family's history and memory of itself is shown to be in serious jeopardy not only from tenants like Lizzie, who have no respect for such ideals, but also from solicitors like Camperdown, who can be so easily distracted by personal property to the detriment of the inherited property.

As Trollope signals the demise of social memory as transmitted through real property, he also introduces the surprising alternate possibility for the diamonds' legal status. Once again through Mr. Dove, we learn that despite Camperdown's assertion that the necklace is "certainly an heirloom" (the title of chapter twenty-six) it is much more likely that Lizzie could claim them as paraphernalia. Although on this point even Mr. Dove is less than certain: he expresses some doubts as to whether Lizzie could claim the diamonds as paraphernalia at all, and even if she did, she would not be allowed to sell them (263-64). In describing the differences between an heirloom and paraphernalia in the novel, Trollope sought the advice of his friend, Charles Merewether, a barrister, on the finer points of the law (McMaster 79). Dove's statement that there is "much error about heirlooms. Many think that any chattel may be made an heirloom by any owner of it. This is not the case" is aimed as much at Camperdown as it is at the reader of the novel (262). These passages, while attempting to educate readers on the nature of ownership and what can or cannot be an heirloom, ultimately serve to muddy the water rather than clarify it.

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<sup>11</sup> Mr. Dove elaborates that heirlooms are preserved so that "the son or grandson or descendant may enjoy the satisfaction which is derived from saying, my father or my grandfather or my ancestor sat in that chair, or looked as he now looks in that picture, or was graced by wearing on his breast that very ornament which you now see lying beneath the glass" (296).

As a legal term, “paraphernalia,” represents something quite different from how we use the word today. Blackstone’s discussion provides a helpful legal definition (in Book II, “Of the Rights of Things”):

Our law uses [the term paraphernalia] to signify the apparel and ornaments of the wife, suitable to her rank and degree; and therefore even the jewels of a peeress usually worn by her, have been held to be paraphernalia. These she becomes entitled to at the death of her husband, [...]. Neither can the husband devise by his will such ornaments and jewels of his wife; though during his life perhaps he hath the power [...] to sell them or give them away. But if she continues in the use of them till his death, she shall afterwards retain them against his executors and administrators, and all other persons except creditors where there is a deficiency of assets. (2.435-36)

In this view, Lizzie’s claim to the diamonds seems quite strong. Blackstone clearly states that a wife’s ornaments are protected against seizure by her husband’s executors or other representatives.<sup>12</sup> I will address the importance of things as repositories of memory more fully in Chapter 5; what is key to Trollope’s composition of *The Eustace Diamonds* is that a clear-cut legal argument like Blackstone’s would circumvent much of the novel’s narrative, so it stands to reason that Trollope would prefer a more uncertain reading of paraphernalia. In an impressive testament to his skills at research (or to Merewether’s input), Trollope has Mr. Dove draw from actual historical cases to support his uncertainty as to Lizzie’s ability to claim the diamonds as paraphernalia.

While the egregious inefficiency of the Chancery courts was soon to be dismantled by the time of *The Eustace Diamonds*’ publication (the court would be dissolved in 1875), the mass of texts that comprised English statutes and case law was still decentralized, making it difficult for legal practitioners to rely on primary texts. Lawyers in Trollope’s day lacked even a basic and

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<sup>12</sup> This legal definition is maintained in later and updated commentaries. *Mr. Serjeant Stephen’s New Commentaries on the Laws of England (Partly Founded on “Blackstone”)* was first published in 1841; in its fourteenth edition (1903) paraphernalia is still defined as a wife’s “apparel and ornaments,” which “did not pass to the husband’s representatives” upon his death (Jenks 2.311).

comprehensive index to English case law, and therefore had to rely on a hodgepodge of volumes of exemplary cases, which often contained no more than a few sentences of summary for each case (Roth 881-82). Indeed, with these kinds of resources, it's no wonder that Mr. Dove actually misinterprets most of the cases that he cites in his opinion, as Alan Roth argues. Writing for the *Stanford Law Review*, Roth painstakingly combs through each of the cases in Dove's opinion, and shows that Trollope's allegedly knowledgeable barrister more often than not got the law wrong.<sup>13</sup> Trollope himself expressed frustration with this state of affairs in his narration for *Phineas Finn*:

And then those terrible meshes of the Law! How is a fictionist, in these excited days, to create the needed biting interest without legal difficulties; and how is he to steer his little bark clear of so many rocks,—when the rocks and shoals have been purposely arranged to make the taking of a pilot on board a necessity? (267-68)

Trollope's criticism of the law in this passage is analogous to Dickens's criticism of the Chancery Courts in *Bleak House*. The sheer breadth of information in the British legal system had so completely outstripped the capacities of human memory (without a corresponding development to organize and catalogue the information) that even supposedly experienced lawyers like Mr. Camperdown and Mr. Dove could get things wrong. In his opinion, Mr. Dove points out that the British common law system has tended to favor "custom to devise" (262). In *The Eustace Diamonds* Trollope suggests that nowhere has this become truer than in the legal profession itself; only in a profession that tends to follow traditions rather than statute could a substantial portion of its members become so confused on the basic tenets of what constitutes an heirloom. Thus does Mr. Dove's opinion become exemplary of the intrinsic dilemmas with

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<sup>13</sup> Roth suggests that "Lizzie's claim to the necklace as paraphernalia was not as doubtful as Mr. Dove opined. [...] Trollope did not say how often she wore them, but even a few times during her brief marriage might be enough to confer paraphernalia status under *Northey* as well as under the stricter criteria of *Tipping* and the *Hastings* dissent. Fact problems aside, by 1870, the doctrine of holding jewels 'as paraphernalia belonging to her station' no longer existed" (891).

respect to memory and information proliferation facing the legal system in the nineteenth-century.

In the cases Dove cites, and in the Blackstone definition above, paraphernalia is often linked to the status of the wife in question. She is allowed the paraphernalia that is appropriate to her station in life, so that the daughter of an earl who married a duke would historically be allowed more than the commoner who married a wealthy businessman. Under this standard, Lizzie's claim to paraphernalia would be weak indeed, but fortunately in her case this standard of judgment for paraphernalia had been dissolved by the 1870s.<sup>14</sup> Additionally, because the necklace had been "in her constant [...] possession from the moment Sir Florian gave them to her until he died," she could have made a decent argument in favor of their being conferred as paraphernalia (Roth 891). Despite the legal dissolution of social station as a central consideration for questions of paraphernalia, the diamonds are still items that confer a high (albeit unofficial) social status to their wearer, which necessitates that they be in keeping with contemporary fashions. Roth neglects to mention in his analysis the detail that Trollope provides in the novel of the diamonds' having been reset at least once after their original purchase by Sir Florian's grandfather. In the first (and ostensibly truthful) narration of Lizzie's memory of the moment when Sir Florian presented the diamonds to her, he comments that the diamonds were reset for his mother and will be reset again for Lizzie (79-80). As the stones had been reset, with attention of doing so again, the Eustace family has removed any memorial quality to the diamonds—they have been updated to current tastes and to suit the particular preferences of the wearer. In allowing their wives to change the setting, thereby changing the ornament's original state, the

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<sup>14</sup> Roth points out that the Hardwicke case to which Dove refers resulted in the largest award to a commoner ever under the rules of paraphernalia. Hardwicke specifically indicated that "the value of the jewels" did not have "any bearing on the case" (891).



Eustace heirs have (perhaps unwittingly) fatally undermined any argument that the diamonds are an heirloom. Just as Camperdown's obsession with the diamonds mirrors the London public's in the novel, so too does the resetting of the stones in accordance with contemporary fashion, to the detriment of family memory, suggest that English high-society no longer values memory as conferred through property as it once did (or claimed to have done).

### **The Oath and Social Testimony**

Throughout the novel, Lizzie is constantly shifting her story of how and when Sir Florian presented the diamonds to her in an effort to thwart Mr. Camperdown's attempts to seize them from her. While it is clear that she could have made a fairly solid argument that the diamonds were hers as paraphernalia, Trollope destabilizes this possibility just enough through Mr. Dove's opinion that no clear legal advantage emerges for either Lizzie or Mr. Camperdown. The story that Lizzie eventually settles on, for the most part, is that when Sir Florian gave the diamonds to her he said, "[T]hose are yours to do what you choose with them" (129). The legal problem, of course, is that there is no one to controvert or corroborate Lizzie's version of events. Within the Courts of Chancery, the likelihood of Lizzie's sole word carrying any evidentiary weight was miniscule. In a case from the 1860s in which a wife sued for several items that she claimed as gifts from her late husband, the Chancery Court's ruling noted that "the unsupported testimony of any person, acting on his own behalf, cannot be safely acted upon," therefore the court "could not act on the uncorroborated testimony of the wife" (Quoted in Roth 892). Lizzie would face the same insurmountable hurdle herself in claiming that the diamonds were given to her outright. And yet, Lizzie's constant repetition of her story is not directed at the legal system but at the social system of fashionable London society. In so doing, Trollope suggests that the power of social testimony to shape identity and memory has begun to supplant that of land and property.

As with the question of the diamonds' legal status, Trollope first introduces Lizzie's manipulation of social testimony in her discussions of the Scottish property, Portray. In the novel's opening, the London public is shown to be highly susceptible to belief in a plausible statement simply because of its repetition. Through such repetition, fashionable London comes to believe that Sir Florian gave Lizzie Portray as "her own, to do what she pleased with it" (189). The story takes hold in spite of the continual efforts of Mr. Camperdown, John Eustace, and several others to rebut the rumors. But Trollope ascribes the story's success to "Lizzie's own diligence," until "there was hardly a man about town who didn't know that Lady Eustace had eight or nine thousand a year, altogether at her own disposal, down in Scotland" (189). Of course, the income and the purported ownership are entirely inaccurate. In her influential book, *Gossip* (1985), Patricia Meyer Spacks eschews a formal definition of "gossip," but she does go so far as to say that gossip always "involves talk about one or more absent figures" (4). Spacks's definition is effective, but in the case of *The Eustace Diamonds*, readers are presented with a special case in which the gossip about a particular character is in fact initiated by that character. Of Lizzie herself, Spacks concludes that she "makes words instruments of speculation in her effort to consolidate her social position and power" but that she fails in this effort (194-95). I fear that this judgment is too abrupt, as it suggests that Lizzie's manipulation of her social testimony was somehow faulty or ineffective. Indeed, until the moment of the diamonds' theft, her efforts at "consolidate[ing] her social position and power" tended to be effective, as evidenced by the common misconception of her financial gains from the Scottish property.

It is social testimony that generates the kind of speculation and gossip that Spacks describes. Trollope's interest is not only in documenting how speculation and gossip can spread and impact social life but also in the process of its genesis. In the absence of the concrete links to

the past provided by landed property and inherited possessions, the past can be more easily crafted through social testimony, that is, narratives that are crafted for the specific purpose of reification and promulgation. Concomitantly with this process is that of the judgments of the public involved in spreading the social testimony. Ayelet Ben-Yishai posits an apt comparison: that the London public that hears and spreads Lizzie's stories is akin to a jury (131). Drawing from Spacks's work, Yishai offers a fuller understanding of the gossip that results from social testimony: "[G]ossip is a structure of meaning-making; it not only exhibits the cultural capital of knowing things, but also performs the ability to deploy this knowledge in a plausible, convincing, and desirable way" (133). Ben-Yishai's word choice here is particularly apropos, as Trollope demonstrates a shift away from the links that things of property provide to the past, it is now "knowing things" that provide "cultural capital."

The concept of knowledge from testimony is closely related to factuality and evidence; by claiming to know something, one is implicitly making a claim to the veracity of a particular statement. Trollope writes of Lizzie that she wished to be "the possessor of the outward shows of all those things of which the inward facts are valued by the good and steadfast ones of the earth" (163). Why is it, then, that Trollope, who hardly misses an opportunity to excoriate Lizzie's behavior in the novel, allows the "communal facts" that she establishes through social testimony to "trump" the empirical facts (Ben-Yishai 137)? In *The Sacrament of Language* (2011), Giorgio Agamben excavates the linguistic artifact of the oath; his claim is that any investigation of the institution of the oath inevitably "stretche[s] between anthropogenesis and the present" (11). In other words, the oath itself forms a linguistic link to the past. The connective tissue of testimony and the oath that Agamben describes helps to explain Lizzie's (unfounded) confidence in her control of the diamonds. As the conflict over the necklace begins to take form, Lizzie surmises

that as the sole individual with any recollection of the moment when she received the diamonds, her sworn testimony would be irrefutable by default: “She could swear that her husband had given them to her, and could invent any form of words she pleased as accompanying the gift. No one else had been near them then” (80). Thus Trollope shows how Lizzie’s believes that she can testify under oath to any fabricated or exaggerated version of the moment when Florian gave her the diamonds, precisely because her oath would be, in Agamben’s terms, “a linguistic act” guaranteeing the “truth or effectiveness” of her story (5). While Lizzie realizes that her testimony must offer a more convincing narrative of how Sir Florian presented the necklace to her; the novel also suggests that Lizzie’s belief in her outright ownership of the diamonds is sincere. Trollope frames Lizzie’s difficulty as one of contending with the deficit between her oath of certainty that the diamonds were a gift and the precise wording of the moment when her late husband presented them to her. Trollope clearly indicates that Lizzie only married Sir Florian for his money, in the hope that he would not long survive, making the diamonds a testament to her success and to the memory of a husband whose generosity outstripped his discernment.

However, Trollope complicates Lizzie’s certainty of her oath’s power by couching her ability to “swear” in conditional language. The disparity between the oath as the “assurance of [language’s] truthfulness and actualization” (Agamben 4), and Lizzie’s manipulative intentions creates a problem for which an evolving social testimony becomes the solution. According to Agamben, the speaker of an oath, the promise is one of assurance that the spoken word will be verified in the “actual” world, and that this actualization can be shared by those who hear the oath and the speech. By writing that she “could swear,” Trollope intimates the possibility (and perhaps the likelihood) that Lizzie’s oath would in no way be a guarantee of accuracy, but merely a reflection of her belief that she can manufacture whatever testimony is necessary to

convince others that the diamonds are her own. In other words, she “could swear,” but oaths alone won’t be sufficient to solidify her claim to the diamonds. The fact that Lizzie’s strategy hinges on maneuvering public opinion to affirm her outright ownership of the diamonds suggests that Trollope was particularly concerned with the ways in which social or communal memory could be manipulated. If possession is nine tenths of the law, then Lizzie’s approach makes public opinion the final tenth. In the face of Lizzie’s possession and social acceptance of her ownership, *The Eustace Diamonds* becomes a novel in which the oath loses the testamentary force to which Agamben ascribes it and becomes merely an empty formality.

Initially, Lizzie claims the diamonds outright, but she also attempts to allow for other possibilities that would permit her to keep the diamonds. A new suitor, Lord Fawn, is unsettled by the conflict over the diamonds, especially because Mr. Camperdown is his solicitor as well, and it would not do for his future wife to be locked in a struggle over property with his own attorney. As an active member of the House of Lords, Fawn is also highly susceptible to public perception, and he fears the consequences of Lizzie’s intransigent possession of the diamonds. In arguing her position to Fawn, Lizzie demurs that she might not be able to claim them as her own, “If they don’t belong to me, they belong to my son;—and who has so good a right to keep them for him as I have? But they belong to me” (132). In this moment Lizzie references her first memory of the moment Sir Florian gave her the necklace, in which he made “some little husband’s joke as to a future daughter-in-law who should wear them” (80). As mother to Sir Florian’s only son and the heir of the Eustace fortune and inheritance, Lizzie suggests that she should at least keep the diamonds in trust for her son’s future marriage.

But Lizzie’s story shifts once again, and as she attempts to take advantage of the little knowledge of the law that she gleans from her social interactions, her narrative comes to rest on

the detail of where Sir Florian gave her the necklace. This final emendation to the story becomes the master narrative that she maintains through the rest of the novel, and which she even comes to believe herself. In short, Sir Florian's will made no mention whatever of the diamonds, an oversight that certainly contributes to the entire conflict.<sup>15</sup> However, he did specify that all the property inside the Scottish castle at Portray belonged to Lizzie. Upon discovering this, Lizzie "clarifies" her social testimony to include the detail that Sir Florian gave her the diamonds in Scotland, suggesting that they were intended to form a part of the possessions of the castle. Of course, refuting her claim only requires a confirmation from the London jeweler with whom the diamonds had been stored as to the date when Sir Florian removed them. Realizing that Lizzie's story has changed, Mr. Camperdown pursues this evidence with which he might impeach her. Unfortunately, due to a clerical mishap, the record in the jeweler's log is smudged such that it could read either September 4th or September 24th, meaning that Lizzie's new story cannot be refuted based on textual evidence. As in *The Woman in White*, record keeping rears its head as capable of both exposing and occluding the truth, and now Mr. Camperdown is "doubtful whether he could prove" that the diamonds had not been given to Lizzie outright (265). Meanwhile, Lizzie's confidence in her story grows in proportion to her conviction that each successive emendation solidifies the likelihood of her maintaining possession of the necklace. Her new testimony is also strengthened as it enters into social discourse and is accepted by many who hear it.

Trollope turns to Lady Glencora Palliser in order to elucidate how Lizzie's story is being interpreted by the London public. In a confirmation of Lizzie's success, Lady Glencora reports to

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<sup>15</sup> It's worth noting that this particular detail would have been Mr. Camperdown's responsibility. Perhaps his fervor in pursuit of the diamonds is partially due to a recognition that this all could have been avoided with a properly drafted will, one in which the diamonds were specifically entailed.

a friend that “Lady Eustace had found all the family jewels belonging to the Eustace family in a strong plate room at Portray Castle, and had taken possession of them as property found in her own house” (191).<sup>16</sup> While Lady Glencora’s version of the story is a further elaboration of Lizzie’s narrative, this grandiose exaggeration suggests that Lizzie’s story has seized the imaginations of London’s elite, leading to further embellishment of the narrative. Contemporary critics have disagreed on whether or not Trollope intends to depict Lizzie’s social testimony as effective: Jane Nardin quips that “Lizzie understands how to tempt men, and she knows how to finagle a loan—beyond that, she can’t lie her way out of a paper bag” (45). Walter Kendrick claims that “ignorance and mendacity are Lizzie’s primary characteristics, and between them they account for everything she is and does” (137). My concern is that readings like Nardin’s and Kendrick’s too easily adopt the narrator’s contemptuous stance toward Lizzie. On the other hand, Zubair Amir offers a more favorable interpretation of Lizzie’s testimonial abilities; Amir claims that Lizzie is herself a kind of novelist whose story “emerges in the text with greater stability [...] reflecting Lizzie’s habitual, even calculated, use of narrative to achieve her ends” (191). Those ends are of course that everyone will believe that the diamonds belong to her. Lizzie’s social testimony is effective, as evidenced by Lady Glencora’s statement and also by Lizzie’s access to social functions about town. Her language has, to an extent, become performative among society. Trollope illustrates the power of memory and narrative to impact social life and also to influence the law.

The very fact that Lizzie is able to accomplish so much simply by repeating a carefully constructed narrative over and over demonstrates that ownership can be manipulated without the necessity of inheritance law and properly drafted entails—those links to a family’s memorial

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<sup>16</sup> It is also worth noting that Lady Glencora significantly inflates the value of the diamonds to £24,000 in her report, in addition to the exaggeration that Lizzie “had found all the family jewels” (191).

history, themselves invented to make durable memories that were too fragile, have been superseded by the malleable form of social testimony that Lizzie employs. She has sworn that the diamonds are hers, and has endeavored to make the world conform to that position. As Agamben argues, the oath primarily concerns “the very signifying power of language” (33), and Lizzie has harnessed this power to her own advantage. Historically, the utterance of an oath included the invocation of a curse if the speaker lied; where the oath “expresses the positive force of language, namely the just relation between words and things,” the curse “expresses a weakness of language, namely the breaking of this relation” (Agamben 36). If, as Amir argues, Lizzie has shown herself to be adept at the novelist’s art, she has also brought down on herself the contempt of the narrator by employing her abilities so well. Due to the strong possibility that she might succeed against Mr. Camperdown in the Chancery Courts, Lizzie’s social testimony threatens to fully instill itself within Trollope’s fictional world. I describe the possibility in this way because Trollope himself, in his Autobiography, claimed that *The Eustace Diamonds* “produced itself without any forethought” (308). In a way, Trollope’s anti-heroine takes on the quality of an uncontrollable force. To constrain her testimony, Trollope shifts the setting of Lizzie’s testimony from the social sphere to a criminal investigation.

The linguistic artifact of the oath is equally concerned (if not more so) with combatting perjury as well as ensuring the truthfulness of a witness’s testimony (Agamben 7). In the nineteenth century perjury was seen as “an offence against public justice” (Wharton 505). This definition demonstrates how the public’s views on the power of the oath had shifted. Whereas the oath had in past times been seen as an act of religious sanctity, in a period where people had begun to more openly question God’s existence and the authority of the church, the primary offense of perjury can no longer be against God but against the public. As an offense against the



public, it is then through the public that perjury is prosecuted; a person so accused cannot be convicted “except on the oath of two witnesses” (Wharton 505). Lizzie has sought to affirm her memory of ownership of the diamonds by introducing social testimony to the London public, so Trollope engages in a kind of symmetrical justice when Lizzie commits legal perjury, an offense against the public.

William Cohen’s chapter on *The Eustace Diamonds*, delightfully titled “Trollope’s Trollop,” points out that Lizzie is shown to obsess about the diamonds’ security in the novel (162-63). She has a hefty iron strongbox constructed for them that she carries with her on the train back and forth from London to Scotland. It is during one of these trips that the first attempt to steal the diamonds occurs during an overnight stop in Carlisle, just south of the Scottish border. Unbeknownst to the thieves, Lizzie had taken the diamonds out of her strongbox and put them under her pillow, so all they made away with was an empty, but weighty, box. But when the police question her about the diamonds’ location, Lizzie declines to correct their mistaken assumption that the diamonds have actually been stolen. Thus does she commit her offense against the public; Cohen concludes then that “the public, in passing judgment, evaluate[s] events and construe[s] them as scandal,” and therefore, “*The Eustace Diamonds* affirms that the significance of an event hinges upon the consensus of the public that judges it [...], and the social institutions intended to regulated conduct [like the courts] must wait upon the tide of an imagined public opinion” (184). Yet, Lizzie’s actions are not fully interpreted as scandalous until the intervention of the very public institutions that Cohen argues must wait for the public’s opinion. Without the theft of the diamonds, the narrative of *The Eustace Diamonds* does not convincingly suggest that Lizzie wouldn’t succeed in obtaining the diamonds.

While Lizzie's perjurious testimony puts her on a path to legal retribution, it also allows her to finally succeed (albeit temporarily) at fully possessing the Eustace diamonds. Jane Nardin claims that "Lizzie's dishonesty becomes increasingly purposeless. She can gain nothing by lying about the first robbery—and yet she does" (45). Unfortunately, the novel suggests that there is a very clear thing to be gained with this lie. As the novel carries on, the diamonds are described as great source of anxiety precisely for Lizzie because everyone is so obsessed with her possession of them. But once everyone believes they have been stolen, Lizzie revels in the possibility that there might be "delight and even profit if she could safely dispose of the jewels before suspicion against herself should be aroused" (449). The purpose of her lie seems clear enough: she wishes to keep the diamonds long enough "to do what [she] liked with them," without the prying eyes of the world. Once again Lizzie's rhetoric operates as a method of controlling the public, in this case by distracting them. Of course, she never gets the opportunity to attempt her plan, because another theft occurs in London, and the necklace is successfully taken. A trial ensues, but Lizzie's manages to evade prosecution for perjury, precisely because her testimony is required to convict the thieves.<sup>17</sup>

Throughout *The Eustace Diamonds*, Trollope crafts Lizzie's story in order to portray the legal system as vulnerable to social manipulation, as well as suggesting that English high society had become too obsessed with present monetary value to the detriment of the long, ancestral memory instituted in real property. While it may not be surprising that many critics have reached negative conclusions about her role in the novel, precisely because Trollope constantly reminds the reader about how terrible a person she is, in many ways Lizzie manages to outdo her creator.

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<sup>17</sup> Ben-Yishai claims that "Lizzie is finally brought to trial [...] for committing perjury, an offense of talking rather than doing" (102). It should be clarified that Ben-Yishai is mistaken on this point; Lizzie is never brought to trial, and Major Mackintosh, one of the investigators in the case, confirms that "if she were summoned and used as a witness, there would be no attempt to prosecute her" for perjury (661).

The dissolution of the links to a memorial past through inheritance and property has opened a space for new kinds of social narratives. Trollope recognizes the potential for these narratives perhaps too well, as his own creation is so masterful at employing them to her own advantage. Jan-Melissa Schramm has examined the role that religious inquiry and skepticism played in the development of legal theories of testimony and witnessing in the nineteenth century. Alluding to David Strauss's book *The Life of Jesus Christ Critically Examined* (1846), Schramm observes that "[f]or Strauss, the truth of an 'event' is synonymous with the expectations of the witness, which both generate, and retrospectively shape and collate, the subject under observation" (43). This is an apt description of the process in which Lizzie engages as she shapes her social testimony of Sir Florian's wish that the diamonds become her personal property. The truth of her testimony is not attested to by empirical evidence or textual corroboration but by the social impact of her tenacity. Camperdown's failure to reclaim the diamonds only affirms the permanence of the shift that the novel outlines: if wealth and glamour have taken hold in the minds of fashionable society, then an old musty castle in Scotland doesn't have a chance against the imaginative invention of crafted memory.

## CHAPTER 4 RELIGION, LAW, AND TESTIMONIAL WRITING

In the previous two chapters, I have focused on legal scenarios that primarily involved questions of property. While those narratives often included violent crimes, these are framed within the larger property questions. For example, the feigned death of Laura Fairlie is perpetrated as a way to get at her fortune. Similarly, in *The Moonstone*, Godfrey Ablewhite is murdered in the process of recovering the diamond. And *Jarndyce v. Jarndyce*, a case over inheritance, overshadows all that occurs in *Bleak House*, even the murder of Tulkinghorn. Now, however, I will turn to narratives that focus primarily on violent crime and the particular challenges that such cases pose for memory and testimony. In particular, the following chapters consider the relationship between criminal prosecution (or suspicion), testimony, and their impact on the accused's reputation in the community. I begin with James Hogg's *The Private Memoirs and Confessions of a Justified Sinner* (1824) because its dual-narrative structure points to the fragility of both individual and communal memory. Whereas novels on property tended to assert the superiority of one narrative over another, James Hogg is an equal opportunity critic, and his representation both of testimony in criminal trials and of personal memory present grave misgivings about the degree of certainty that can be given to either. This critique is presented both through the novel's representation of the Scottish legal system in the early eighteenth century, but also in the context of a variety of religious debates during that time.

The novel's contemporary reviewers saw in James Hogg's presentation of a murderous Presbyterian and a murdered Episcopalian an attack on religion generally.<sup>1</sup> More recent criticism,

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<sup>1</sup> The *New Monthly Magazine*'s anonymous reviewer wrote, "We do not altogether approve of the mode which the author has chosen of attacking the religious prejudices of numbers, who, notwithstanding their speculative opinions, are in no danger of becoming either parricides or fratricides" (506). *The Quarterly Theological Review and Ecclesiastical Record* was quite specific in its condemnation: "The title is false, illusory, and considering the story, almost blasphemous; the subject not only disagreeable but impossible; the framework disjointed and ill contrived;

beginning with John Carey's introduction to the 1969 Oxford edition of the novel, has demonstrated that Hogg was himself a devout Presbyterian, and thus, the notion that his novel was in fact intended as an attack upon religion or Christianity at large loses its force (Carey xviii).<sup>2</sup> Yet it seems likely, if Hogg's reviewers are any indication, that the religious extremism and violence of the story startled contemporary readers to such an extent that they could see little in the novel other than a blasphemous and self-contradictory story. Although at first glance the novel's seemingly disparate and irreconcilable halves suggest an author unable to wrest his narrative into coherence, recent critics have recognized that the novel's discontinuities are not, as was thought upon its publication, errors or signs of Hogg's inability to wrangle a novel-length project. The ambiguity produced by this structure is now generally thought to be an intentional and central feature of the novel, and yet, the precise purpose and impact of that ambiguity continues to be debated.<sup>3</sup> I argue that the novel's ambiguity is a key component of Hogg's critique of legal testimony and communal memory, in which religion, the law, and testimonial writing intertwine. For all the conflict and ambiguity between the novel's two halves, the editor's narrative and Robert Wringhim's memoir both present a legal system at the mercy of testimony, and often inaccurate or mendacious testimony at that. While religiously motivated violence permeates the novel, the focal point for my argument is the way in which the reporting and recording of this violence is undermined both in legal and religious contexts. As a result, the

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the filling up a heap of undigested matter; the style sometimes vulgar, and often profane; the language, at least the English, by no means correct; and the tendency in many parts decidedly immoral, and in more anti-religious" (100).

<sup>2</sup> See also Douglas Mack, "Hogg's Religion and *The Confessions of a Justified Sinner*" (1970); Mack points out that while Hogg was religious, his particular brand of Presbyterianism was more moderate, and that he wrote disapprovingly of pastors or sermons that seemed to extreme or "enthusiastic" (273).

<sup>3</sup> L. L. Lee, in "The Devil's Figure: James Hogg's *Justified Sinner* (1966), argues that the novel is "deliberately ambiguous" (232). See also Susan M. Levin, *The Romantic Art of Confession* (1998) and Ismael Velasco, "Paradoxical Readings: Reason, Religion, and Tradition in James Hogg's *Private Memoirs and Confessions of a Justified Sinner*" (2006), both of whom consider the nature of the novel's ambiguity.

Editor struggles to construct a satisfying version of the events, while Robert Wringhim's ability to recollect and record his own experiences is subverted.

This chapter will first examine the role that religious memoir plays in the novel's dual-narrative structure. Both in its historical setting (late-seventeenth and early-eighteenth century Scotland) and in the moment of its composition (early-nineteenth century Scotland), memoir and confession were genres of particular interest, and yet Hogg frames his novel as a confession that isn't. While its title suggests a confessional memoir, this is a novel that refuses to confess, and indeed often functions as an accusation rather than a confession. Following from these generic and structural features, I will examine how Hogg consistently returns to legal testimony, within the narratives, as a mechanism for demonstrating the ways in which individuals will thwart courtroom narrative in order to control their own stories. I show how both the Editor's and Robert's narratives represent the legal system's control of testimony as tenuous at best, and that the system itself, by focusing on judgment and decisions, actually disincentivizes community participation in and contribution to legal testimony. Consequently, the novel's ambiguity becomes a kind of foil for the more definitive legal decision-making that occurs in the narrative.

Summarizing the relationship between the novel's dual-narrative structure and its ambiguity is made difficult, since any summary can hardly avoid privileging one narrator's version over another's. In the novel, the fictional "editor" presents his distillation of the events in the memoir, then the memoir itself appears, followed by a brief epilogue from the editor. The memoir's events take place during the late-seventeenth and early-eighteenth centuries in and around Edinburgh and primarily concern two brothers, George Colwan and Robert Wringhim. However, the Editor is writing as a contemporary of James Hogg, in the 1820s, and his account seeks to offer a historical retelling of the events chronicled in Robert Wringhim's memoir.

Cobbling together the narrative from “tradition” and “some parish registers still extant,” the Editor tells how George Colwan, the Laird of Dalcastle, was unhappily married to a fervently religious woman who finds him impious and repugnant (3). She bears him two sons, George and Robert. The Laird refuses, however, to acknowledge Robert as his own son, suspecting that he is actually the son of the Rev. Robert Wringhim, a strident antinomian minister with whom Lady Dalcastle spends much of her time.<sup>4</sup> The Laird takes up with his own mistress, Miss Arabella Logan, and Lady Dalcastle and Reverend Wringhim take the young Robert (also called Wringhim) and move to Glasgow. The boys grow up apart, and years later meet in Edinburgh, where Robert constantly harasses George. After several tense encounters, George is murdered one night after a party. While another young man with whom George was known to have quarreled is accused of the crime, Arabella Logan suspects that it was actually Robert. She eventually discovers a witness, Mrs. Calvert, who was not known at the time of the trial, and she claims to have seen Robert stab George in cold blood. They confront Robert, now Laird of Dalcastle, and he vehemently denies everything.

Following this introduction, the Editor presents the unedited “Confessions” of Robert Wringhim. His account, while confirming some aspects of the Editor’s narrative, differs greatly in the particulars of what happened. He outlines with approbation how he was raised according to the extreme antinomian views of his adoptive father and how he was encouraged to view his brother George and the Laird of Dalcastle with disdain. The shift from the Editor’s narrative

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<sup>4</sup> Antinomianism is an extreme theological position adopted by those who, following the emphasis placed on grace by John Calvin, argue that Christians, therefore, are freed from any earthly moral constraints, as their salvation is guaranteed. The extremity of this view is demonstrated in the fact that John Milton, who was by no means an orthodox adherent of Calvinist teachings, rejected it in his first defense of divorce tract (Gordon Campbell and Thomas N. Corns, *John Milton: Life, Work, and Thought* [2008], 162). Additionally, Karen McConnell rightly points out that antinomianism should be understood as distinct from the reformed (Calvinist) Presbyterianism of Scotland (23). Criticism of Hogg’s novel often elide Calvinism and antinomianism (or use the phrase “radical Calvinism” suggesting an innate connection that was more tenuous in reality).

comes with the arrival of a charismatic young stranger named Gil-Martin, who befriends the young Robert. Gil-Martin further distorts Reverend Wringhim's teachings to the extent that Robert begins to be convinced that he can further God's work on Earth by willfully murdering those whom Gil-Martin identifies as apostate enemies to the faith. Their exploits, which include the murder of a local minister, are aided by Gil-Martin's uncanny ability to alter his appearance to match that of any person he wishes, resulting in the wrongful suspicion of several people.<sup>5</sup> Robert, while susceptible to Gil-Martin's persuasions, often faces crushing doubt at the moment when Martin expects him to commit murder. After George's murder, which Robert claims was perpetrated by Gil-Martin, Robert's guilt becomes overwhelming. Plagued by Gil-Martin, who Robert believes is assuming his likeness to perpetrate other crimes, Robert flees into the countryside and ultimately commits suicide.<sup>6</sup>

### **Religious Memoir and Confession**

Hogg's novel, in a way that somewhat mirrors the divided nature of its own narrative, is ensconced in two particular literary traditions, one from the memoir's historical setting and one from the editor's contemporary retelling. First, the novel takes as its historical foundation the religious upheaval that plagued Scotland throughout much of the late-seventeenth and early-eighteenth centuries. Of particular concern to the novel is the conflict between the conforming Episcopalian and the dissenting Presbyterian factions in Scotland. After the return of Charles II to the throne of England in 1660, Presbyterianism was forcibly replaced with Episcopalian church government, and while Presbyterian church government was restored to Scotland after the Glorious Revolution, emotions were raw and conflict of various kinds continued into the

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<sup>5</sup> Douglas Mack points out that this name is probably derived from Gaelic folk-tales, in which "Gille-Martuinn is a shape-changing trickster, devious and cunning" ("Revisiting," 10).

<sup>6</sup> The suicide is actually presented in a short piece from the Editor that follows the close of Robert's memoir.



eighteenth century.<sup>7</sup> At the same time that these ecclesiastical and political disputes were occurring, a particular literary trend was taking place: the second half of the seventeenth century saw a proliferation of religious memoirs. In his study of religious memoir in Scotland, historian David George Mullan located around eighty such texts, although he speculates that many more, most likely written by “lesser folk, perhaps without surviving relatives and living in conditions less conducive both to preservation and tradition, have perished” (39). Such findings suggest that Scotland’s religious turmoil fostered an environment in which many felt it necessary and proper for them to record their lives.<sup>8</sup>

Of particular interest is the fact that the acrimonious nature of the religious debates occurring in Scotland during the period in which Hogg’s novel is set, spills over into these autobiographical writings. Mullan points out that the “historiography of the period has been a partisan affair right from the beginning,” and that readers “may be attracted by the defiance of authority manifested by the [Presbyterians], but then equally repelled by their self-righteousness” (43). In a sense, these religious memoirs recall Milton’s desire to “justify the ways of God to men” in *Paradise Lost*, but in these cases the authors were writing their own lives as exemplary justifications of God’s work in the world. Indeed, the “self-righteousness” of Mullan’s description draws us back to the title of Hogg’s novel, a title that is both external and internal—functioning as both the title Hogg gives to his novel and as the intranarrative title that Robert

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<sup>7</sup> The Marrow Controversy was one such conflict that centered on antinomianism, the religious philosophy that Robert Wringhim espouses.

<sup>8</sup> Mullan notes several reasons for this trend, but it seems that most writers felt that their experiences would, in some respect, be edifying to future generations and strengthen their faith. Other scholars have speculated that the nature of Calvinist and reformed theology, by holding to the belief that God’s grace is predestined for certain individuals, encouraged adherents to write their lives as an exercise in self-assurance, to demonstrate that they were indeed among those chosen for salvation.

Wringhim gives his memoir.<sup>9</sup> In fact, Yale philosopher and theologian Nicholas Wolterstorff has raised questions with the common practice of New Testament translators to render the classical Greek word *dikaiosune* as “righteousness” in English. Wolterstorff points out that outside of Biblical translation, the common practice has been to translate *dikaiosune* as “justice.” While Wolterstorff’s concern is a hermeneutic one, his observation of this translational tendency indicates how closely the concepts of justice and righteousness are associated in the Christian tradition, so that the link between self-righteousness and self-justification in these Scottish memoirs of religious life becomes even more pronounced (111).<sup>10</sup> In this way, Hogg’s choice of title indicates the novel’s indebtedness to the tradition of religious memoir and autobiography in the seventeenth and eighteenth centuries, particularly to the ways in which these texts were designed to illustrate the beneficent nature of God’s providence in the author’s life.

But of course, Hogg’s novel is not concerned with demonstrating God’s providence, quite the opposite, in fact. P. D. Garside points out that the self-writing of the early-eighteenth century was not limited to pious religious memoir, but also included works like *The Last Speech and Confession of Nicol Muschet of Boghal* (1721), whose author was executed for murdering his wife. Muschet’s confession is a noteworthy case first because it is that of a murderer, as Robert Wringhim is suggested to be, and second due to Muschet’s claim that one of his acquaintances was “the only Viceregent of the Devil” (6). Such uncanny similarities to both the catalyst and the nature of Robert Wringhim’s crimes is certainly noteworthy, but apart from these surface

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<sup>9</sup> Although he does not reference or address the novel in any substantial way, Mullan does title his first chapter “Memoirs and Confessions of Justified Sinners”. Additionally, Hogg had apparently intended for the novel to be titled *The Private Memoirs and Confessions of a Self-Justified Sinner*, but the term “self-justified” was specifically rejected by Hogg’s publisher (Hogg lxii-lxiii).

<sup>10</sup> Wolterstorff’s argument is not only that these two concepts are related, but he also suggests that “justice” makes much more sense for translating several key New Testament passages. He points particularly to the beatitudes, where the standard “Blessed are they which do hunger and thirst after righteousness,” becomes “Blessed are they which do hunger and thirst after *justice*” (Matt. 5:6).

comparisons Muschet's memoir is strikingly different from the memoir in the novel. In its opening, Muschet's writing is clearly positioned as a redemptive and cautionary tale:

To leave an ample testimony, against the many gross and enormous transgressions, I have been guilty of since my infancy, would I'm confident, swell into a whole volumn [sic] [...] But that all Youth may be aware of themselves, by my example, least by their going on in such wicked courses of life, as I have done, [...] they provoke a holy and just God to abandon and suffer them to fall into some great sins. (3)

Muschet's (perhaps dubiously authored) pamphlet is framed continually as a narrative designed to repel people from his course of action, and throughout the short narrative, Muschet always affirms his own guilt and just punishment. Hogg begins Wringhim's memoir in a very different fashion, as Robert immediately denounces the world and affirms his own uprightness:

My life has been a life of trouble and turmoil; of change and vicissitude [...]. My sorrows have all been for a slighted gospel, and my vengeance has been wreaked on its adversaries. Therefore, in the might of heaven I will sit down and write: I will let the wicked of this world know what I have done in the faith of the promises, and justification by grace, that they may read and tremble, and bless their gods of silver and of gold. (67)

So while it is clear that Hogg's novel adapts the historical popularity of religious self-writing, (as Robert Wringhim himself attests, "religious pamphlets [...] were the very rage of the day" [153]), the nature of the memoir in the novel is distinctive in this key way. Robert's testimony is not one of penance or pious, ascetic living; rather, he immediately begins by proclaiming his uprightness and the sinfulness of the world, as well as by tacitly admitting to many of the crimes that he later demurs to own.

The second of the literary trends in which Hogg's novel participates is contemporary with his composition of the novel in the early-nineteenth century. Susan Levin has shown how this period saw an increased interest in self-writing as confession. She argues that in such texts, the narrator "tries to resolve his guilt through an extended prose piece. Complementing the desire for absolution is the attempt to set out a personal identity, as if in analyzing what he has done wrong

by examining his past and present existence, the confessor will attain pardon through self-knowledge” (3). Levin sees Hogg’s novel as participating in this trend, which included works like DeQuincey’s *Confessions of an English Opium Eater* (1821). However, DeQuincey’s seminal text cuts against Levin’s characterization of confession in a key way that presages Hogg’s work. In his opening DeQuincey avers, “Guilt [...] I do not acknowledge” (5). DeQuincey’s refashioning of the confession was not to make it a document of sin and redemption, but rather that it might function as a kind of self-help manual for others who were suffering from opium addiction.<sup>11</sup> In any case, neither DeQuincey nor Robert Wringhim are writing their memoirs and confessions as an act of penitence. Hogg goes even further than DeQuincey, in fact, and completely subverts the genre of confession by offering a narrative in which the ostensible confessor refuses to properly confess. In this way, Wringhim’s “confession” anticipates Guido Franceschini’s anti-confession in *The Ring and the Book*, which I’ll discuss in Chapter 6. What becomes clear is that Hogg, in writing his novel, positions its distinct literary influences in the same way that the novel itself offers both historical and subjective accounts of the narrative—in this case, the novel proceeds from both the history of religious memoir and literary confession without fully conforming to either.

In both religious memoir and literary confession, memory looms large. Even in his seminal religious memoir, St. Augustine contends with the nature and accuracy of his memory.<sup>12</sup> But it is Hogg’s focus on the legal system in *The Private Memoirs and Confessions of a Justified*

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<sup>11</sup> The “moral” of the story, as DeQuincey describes it, is that other opium-eater’s might see that DeQuincey’s experience is “proof that opium, after a seventeen years’ use, and an eight years’ abuse of its powers, may still be renounced: and that *he* [other opium-eaters] may chance to bring to the task greater energy than I did, or that with stronger constitution than mine he may obtain the same results with less” (184–85). As a result, DeQuincey’s text also eschews categorization as a cautionary tale, since his stated purpose is not to prevent people from using opium in the first place, but to provide inspiration to those attempting to break the bond of addiction.

<sup>12</sup> He asks, “Lord my God, judge of my conscience, is my memory correct? Before you I lay my heart and my memory” (79).

*Sinner* that makes his approach to the question of memory and testimony unique. Throughout the novel, the formal structures through which the narrative is told, namely the historical reconstruction and the religious memoir, intersect the legal system in telling ways. Particularly, the juxtaposition of the novel's storytelling structures and those of the legal system suggests an irreconcilable conflict between how testimony is managed within these narrative systems. Brian Artese's recent book, *Testimony on Trial* (2012), offers a succinct description of what Hogg's novel proffers. Indeed, Artese examines literary modernism and suggests that while "literary criticism takes it as a given that modernism is interested in testimony because it raises questions about our access to truth and reality," the suspicions of testimony were more far reaching, "maintained in cultural institutions beyond the literary, that degrade[d] the authority of testimony" (3). But of course, Hogg's work (and the work of this dissertation) demonstrates that in the early nineteenth century any notion of testimony as a concrete concept granting unfettered access to history or truth was already troubled. If anything, *The Private Memoirs and Confessions of a Justified Sinner* is putting testimony and memory on trial well in advance of Joseph Conrad and Ford Maddox Ford.

### **Editing the Faithful and Faithfully Forgetting**

In addition to the specific theological conflicts I've just described, the eighteenth and nineteenth centuries were periods that saw religious doubt grow through both historical and scientific discoveries. Previously sacred notions like the inerrancy of the Bible and the historicity of the gospels, along with new understandings about the origins of life on Earth, shook Christianity's cultural foundation. Jan-Melissa Schramm has shown how many of the developments surrounding the evaluation of testimony during this period were tested (if not broken in) as evaluative techniques for gauging the authenticity of the gospel accounts of Jesus's

life.<sup>13</sup> *The Private Memoirs and Confessions of a Justified Sinner*'s structure reflects, in a way, these shifting understandings; in the Editor's narrative all the supernatural components of the memoir are entirely expunged from the historical account. As Ismael Velasco has indicated, the conflict between the Editor's history and Wringhim's memoir is suggestive of a kind of violence; the Editor, by combining elements of the memoir with other sources, "is forced to do violence to both the documentary and traditionary narratives" (41). Indeed, the Editor's opening statement on the text is incredibly dismissive: "I offer no remarks on it, and make as few additions to it, leaving everyone to judge for himself. We have heard much of the rage of fanaticism in former days, but nothing to this" (64). While we know little about the Editor, Hogg's introduction of this humorous irony at the end of his account does tell us something. The Editor has prefaced the memoir with his findings because, whatever he may say about allowing the reader "to judge for himself," he certainly wants us to begin under the presumption that Robert is a fanatic. In other words, we are encouraged to distrust the memoir at the very moment when the Editor claims that we should judge for ourselves.

In this way, Hogg's novel draws attention to both literal and literary violence. Additionally, the Editor's textual violence is particularly designed to undermine testimonial and communal memory. Hogg subtly accentuates the Editor's insidious tactic: because his opening line suggests that at least some of the supernatural components of the story circulate among the local population, his framing narrative serves not to annihilate the stories but to relegate them to myth. Similarly to the doubts cast on the gospels, the "testimony" of those familiar with the story becomes invalidated—the community's story is subverted. However, while the Editor clearly seeks to confine such memories or stories to the realm of fable or legend, the novel as a whole is

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<sup>13</sup> See Schramm, *Testimony* pp. 37ff.

not so clear cut. Indeed, as I indicated earlier, Hogg's reviewers were somewhat exasperated by the layers and contradictory nature of the novel's dual-narrative structure. The *Westminster Review* went so far as to suggest that the author had somehow made a mistake in not clearly preferring one account over the other:

In the supposed autobiography of a victim of superstition, to preserve that unity which is essential to the production of a pleasurable impression on the reader, one or two obvious courses must be consistently adhered to. The phantoms of that superstition must either have a real, external being; or they must exist solely in the diseased imagination of the supposed writer. [...] The author must make this election, and adhere to it. The "Justified Sinner" will not allow us to jog along comfortably with him in either character [...]. This inconsistency is as great an annoyance as if the audience were compelled to change their dresses three or four times during a performance, instead of the actors. (561)

What the reviewer finds so problematic is that the Editor performed his testimonial act of violence imperfectly—like a murderer whose victim manages to linger on (as Pompilia does in *The Ring and the Book*), some components of Robert Wringhim's memoir, while not explicitly supernatural, are corroborated by the Editor's narrative in such a way as to suggest that certain descriptions of supernatural occurrences might in fact be accurate.

*The Westminster Review's* comparison of the novel to the theatre is a telling choice, especially in the feeling that Hogg is asking too much of his readers. Indeed, while the reviewer clearly intends this remark as a sarcastic and cutting critique, the novel might be better understood as purposefully doing exactly what the review suggests: expecting the reader to change as the narrative changes. Just as the radical violence of the plot creates and perpetuates the story's ambiguity, so too does that ambiguity create difficulties for readers trying to fit the novel into an easily identifiable category or genre. If our task as readers, as Ian Watt famously characterized it, is to function as a jury for the events of the novel, attempting to weigh the evidence that is presented by the narrative, then Hogg is purposefully foiling such efforts at every turn.

On the night of George's murder, the Editor's narrative reports that a witness, Arabella Calvert, saw Thomas Drummond, the young man eventually accused of the crime, take his leave of the lodgings where George was socializing with friends. Observing from across the street, Calvert sees Drummond walk away and as soon as he leaves her view, she saw "two men coming down the bank on the opposite side of the loch" and "*one of them was extremely like Drummond* So like was he, that there was not one item in dress, form, feature, nor voice, by which I could distinguish the one from the other" (51-52). Taken by itself, Calvert's testimony may not amount to much, after all, it is unlikely that her testimony would have been heard in any court at the time. As a woman of ill-repute connected to a burglary, Calvert's description would probably have been dismissed in court, yet the Editor includes it in his account. And as readers of the novel soon discover in the memoir, Gil-Martin's particular ability is shape-shifting. So while the Editor does not explicitly endorse the supernaturalism of Wringhim's memoir, elements of his historical account seem to support Wringhim's assertions about Gil-Martin's powers.

Ostensibly, the Editor's position suggests that the fanaticism of Wringhim's religious upbringing tainted not only his written testimony but the "traditional" stories passed down through the years. Velasco concludes that "Hogg uses history to construct a solid and integrated argument against dogmatic, fanatical, sectarian and hegemonical attitudes [...]. He does this by demonstrating the relativity of all belief, exposing its inherent limitations and inescapable ambiguities" (50). However, this argument seems to suggest that this "vision of unity and diversity" must simply accept the conflict between these narratives (Velasco 45).<sup>14</sup> I would counter that the novel's ambiguity is not an endorsement of ambiguity as such, but an indictment

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<sup>14</sup> David Sandner makes a similar argument in his contention that the novel produces a scenario in which "the undermining of the Editor's position and the lack of a 'final reconciliation' leaves Hogg's work in the radical position of demanding that a supernatural reading coexist with a rational, psychological reading" (79).



of the fallibilities of memory and history, particularly in recollecting or reconstructing moments of religious violence.

Indeed, the same process that occurs between the Editor's narrative and the memoir also occurs in reverse between Gil-Martin and Wringhim within the memoir. While the narrator tries to redefine the memoir as myth, Gil-Martin takes what Wringhim believes are dreams or delusions and confirms them as real experiences. One such moment occurs not long after Robert and George meet for the first time in Edinburgh after their long separation. Robert falls ill and narrates a strange experience in his sickness:

I generally conceived myself to be two people. When I lay in bed, I deemed there were two of us in it; when I sat up, I always beheld another person, and always in the same position from the place where I sat or stood, which was about three paces off me towards my left side. It mattered not how many or how few were present: this my second self was sure to be present in his place [...]. (106)

This elusive and illusory sense of separation from the self is in a way indicative of the memory of guilt. Eve Kosofsky Sedgwick has insightfully shown how Gil-Martin functions as an "eroticized, paranoid double for Robert," and that Robert's loss of self in Gil-Martin "dramatize[s] precisely the inextricability of identification from desire that makes male homosexuality a necessary structuring term for male heterosexual empowerment" (105). But in addition to the sexual overtones in this doubling, I would suggest that Robert's experience is also representative of the dissociative quality of guilt. Robert experiences these events as if they are being performed by another (possibly Gil-Martin in Robert's form), but even in the face of this sense that these actions are not his own, Robert feels responsible and begins to question "whether or not [he] had been commissioned of God to perpetrate these crimes in his behalf, for in the eyes, and by the laws of men, they were great and crying transgressions" (108). Thus, Robert's testimony of his own bewilderment and guilt at this dissociation is compounded when Gil-Martin suggests that his hallucinations are in fact recollections of his actual deeds.

In effect, Gil-Martin takes what Robert describes as a purely psychological experience and testifies to its reality. After George's murder, Robert takes up his family's estate as Laird of Dalcastle. But he soon learns that a young woman's family has accused him of having an illicit relationship with her. Wringhim's vehement protestations are met with Gil-Martin's confirmation of the accusation, "I am sorry that I know for certain that you have been frequently haunting her house, and have often had private correspondence with one of the young ladies" (121). Soon thereafter, Robert learns from Gil-Martin that he has hired a lawyer to cheat a neighboring estate out of some of its land. Both Wringhim's sense of an illusory second self and Gil-Martin's suggestion that this second self is in fact Wringhim indicate a reversal of the Editor's process within the narrative of the memoir. Indeed, rather than suggesting that the historical account and the memoir have some kind of narrative parity, this inversion of their respective postures toward memory problematizes both history and memoir by suggesting that the former attempts to mythologize the fantastic and that the latter struggles to realize it.

This moment within the memoir, when Robert's supposed delusions and dreams move from the realm of the imagined to the realm of the real, reflects a legal understanding of testimonial evidence, and it demonstrates how Robert's religious convictions have undermined his own memory such that even his sense of identity becomes ambiguous. Meredith Evans suggests that Wringhim's theological antinomianism is largely to blame for this descent into ambiguity: "he [...] knows himself to be justified in his actions and not ultimately responsible for them, and, on the other hand, he [...] has a sneaking suspicion that such actions are *transgressions*—that is, [he] acknowledges the authority of the law that his moral stance requires him to deny" (206). In describing this inner-conflict, Evans briefly touches on memory's role, suggesting that Robert's "loss of moral memory" prevents him from being able to bind his

“fractured ‘selves’ together” (215). But this inner conflict that Robert experiences is not limited to his personal theological turmoil; indeed, the failing of memory that Robert experiences is also dramatized within the legal system in the novel. Hogg reveals how the ambiguity of Robert’s religious experience poses a particular challenge for the legal system.

### **The Law and its Discontents**

As the novel’s ambiguity results from the contradictory efforts of Gil-Martin to legitimize and the Editor to mythologize supernatural religious fanaticism, Hogg locates several moments of crisis within the legal system that complicate the novel’s treatment of testimony, the legal system, and religion. Hogg’s choice is not without a certain degree of irony; for a character whose stated theological position is that those chosen by God have no cause for concern regarding sin and law, Robert’s struggles are often played out in the courts. Of particular interest in these cases is the nature of testimony and the ways in which it is susceptible to manipulation. On multiple occasions in the novel, the reader is aware that justice is being thwarted through the acceptance of inaccurate, misleading, or perjurious testimony. As it so happens, one of the primary manipulations that the novel seems to highlight is the susceptibility of the legal system to supernatural manipulation. This may seem an obvious observation to make, but it suggests that testimony and memory are the legal system’s Achilles heel. Joel Faflak and Meredith Evans have both read portions of the novel as anticipating elements of Freudian psychoanalysis, and I would argue that in these anticipatory moments the novel also suggests the need for a science of the mind to address such legal quandaries.<sup>15</sup>

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<sup>15</sup> Faflak argues that there “is an ‘other’ psychoanalysis in advance of Freud that is its own ghost, traceable to various Enlightenment efforts to deal with the psychosomatic body, which inform the context of Hogg’s novel” (97). Likewise, Evans observes that Robert’s disjointed sense of being above the law and yet guilt-stricken by it is a “pre-Freudian ‘impossibility’ [...] of being, at the same time and in the same body-and-spirit, both agent and judge, both moral and legal subject” (206).

The question that Arabella Calvert poses is precisely the query that draws the reader's attention to the problems with human observation and testimony in the novel: "We have nothing on earth but our senses to depend upon. if these deceive us, what are we to do?" (56). This is an especially troubling question considering the novel's legal focus. Of course, even the notions of accuracy and inaccuracy<sup>16</sup> in witness testimony presuppose the possibility that there is an objective, verifiable account external to the witness, a concept that, as I've already indicated, Hogg destabilizes throughout the novel. The reader is encouraged to engage in a paradoxical exercise of judging the testimony of various characters all while recognizing that our only sources of information in the text are the two narrators, who are both characterized as biased and potentially unreliably managers of their narratives.

Within the logic of the memoir, Gil-Martin's ability to mimic the appearance of others almost immediately undermines the legal system. The first murder Gil-Martin and Robert commit is that of Mr. Blanchard, a local preacher, who takes a dislike to Gil-Martin after meeting him with Robert. Indeed, Blanchard's warning about Gil-Martin to Robert encapsulates the dangerous of religious extremism:

It is for his [Gil-Martin's] great mental faculties that I dread him [...]. He, indeed, pretends great strictness of orthodoxy regarding some of the points of doctrine embraced by the reformed church; but you do not seem to perceive, that both you and he are carrying these points to a dangerous extremity. Religion is a sublime and glorious thing, the bond of society on earth, and the connector of humanity with the Divine nature; but there is nothing so dangerous to man as the wresting of any of its principles, or forcing them beyond their due bounds [...]. (90)

Blanchard's "dread" of Gil-Martin focuses first on his intellect and second on his religious extremism; through the first Gil-Martin is able to consistently persuade Robert Wringhim into

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<sup>16</sup> In the *Rationale of Judicial Evidence*, Bentham divides legal testimony into three broad categories: correct, incorrect, and incomplete (xix).<sup>16</sup> The evidence that appears in *The Private Memoirs and Confessions of a Justified Sinner* roughly corresponds to Bentham's categories, but Hogg underscores the possibility that even the most sincere of witnesses might give an inaccurate statement in court, while the seemingly duplicitous witness might be the very one giving accurate testimony.

accepting the second, thus convincing him to commit murder in the hope of ushering in God's kingdom.

In his recollections, Robert consistently affirms that his commitment to Gil-Martin's plan was less than enthusiastic, and at the moment when they go to attack Blanchard, Robert at first fails to fire his weapon. But when Gil-Martin calls him a coward, at "that moment my piece was discharged," Robert recalls, in a telling use of passive voice (97). As soon as Blanchard dies, Gil-Martin changes his form in order to implicate a journeyman preacher of the murder by walking along the road toward oncoming witnesses who find Blanchard's body but are unable to apprehend Gil-Martin. The key to understanding the implications of this manipulation of the law emerges when Robert and Gil-Martin attend the trial. Witnessing the journeyman preacher's vain attestations of his innocence result in an inevitable guilty verdict due to the number of witnesses who "saw" him, Robert laments that from that moment he has had "no faith in the justice of criminal trials. If once a man is prejudiced on one side, he will swear any thing in support of such prejudice" (98). A person's memory, as Robert observes, can be manipulated as a way of interfering with the legal process. But Robert's condemnation of the legal system cuts both ways, for it was not only the witnesses who would have sworn anything to support their contention that the young man killed Blanchard, the accused also would have sworn anything that he did not commit the murder, and they both would have been justified in doing so. Through Robert's observation, the novel indicates how this is an untenable position, because the adversarial nature of the trial cannot allow for a decision in which everyone is right (based on their honest observations) and yet no one is right (for while the accused wasn't actually there, his likeness was, and the court could not consider such a possibility, nor had it any reason to do so).

Simultaneous to undermining the court's ability to differentiate between reliable and manipulated testimony; Hogg shows how Robert is also coming to question his memory's reliability. In his discussions with Gil-Martin, Robert admits that while he often came to agree with Martin, he "cannot from memory repeat his words" due to Martin's "overpowering" eloquence (92). On the other hand, at the moment that they are to murder Blanchard, Robert claims that his memory is quite clear: "[Blanchard], however, came onward, and I will never forget the manner in which he came! No—I don't believe I ever can forget it, either in the narrow bounds of time or the ages of eternity!" (96). Robert's description is significant, because he relates his memories in such a way as to suggest that he has no control over them. He uses a double negative to express this experience: an inability ever to forget the memory, rather than an assertion that he will always remember. The memory is ingrained so strongly that Robert suggests that its existence lies outside of his control. In fact, the description suggests that Robert has attempted to forget the memory and failed, underscoring one of the paradoxes of memory. Attempting to forget something tends only to strengthen the memory even more. Robert even recalls an argument between John, a servant in the Wringhim household, and Rev. Wringhim in which John claims, "A body canna help his thoughts, sir" (72). This is, of course, the very thing that Robert experiences with Blanchard's murder, except the phrase can now be modified to read: "A body cannot help his memories."

Through this description, Hogg offers an astute depiction of memory that seems to prefigure contemporary descriptions of the symptoms of psychological trauma, in which a person suffering from trauma might consistently recall in lurid detail the particulars of their experience. So we can read Robert's sudden distrust of the legal system through his personal recognition of memory's variability. Another component of Robert's experience that is important to underscore

is his contention that the witnesses were guilty of prejudice. It is an unusual claim, since Robert is consistent in affirming Gil Martin's supernatural abilities, but it belies Robert's evolving sense of memory's role in observation and testimony. In the case of Blanchard, who was a preacher, to make a charge of prejudice against the witnesses when the accused was also a preacher suggests that Robert believes that religious bias influenced their testimony. However, to make such a claim calls into question the very power of Gil Martin's abilities. Robert subtly implies that Martin's supernatural powers, while not a complete sham, do rely to a significant extent on the impressionability of those who experience his changing face.<sup>17</sup>

In a way, Hogg demonstrates through this initial courtroom scene in Robert's memoir both the capacity for such violence to shake Robert's commitment to his faith, while also serving to affirm his belief in an antinomian theology. Already, the novel has shown how neither memory nor testimony can be adequately relied upon for legal decisions. As a result, Robert's rejection of the legal system for reasons of evidentiary failure aligns with antinomian theology's rejection of law for reasons of divine salvation. The antinomian controversy in eighteenth-century Scotland was precipitated by the republication of a seventeenth-century book, *The Marrow of Modern Divinity* (1646). Somewhat contradictorily, *Marrow's* author, Edward Fisher, wrote that his purpose was to strike a balance between a rejection of the law in antinomianism and an over-reliance on salvation by good works (xxiii). Despite this stated intent, upon its reprinting, the book was condemned as antinomian. Central to my argument is the extent to which the law, both as a theological and institutional concept, is crucial to these theological disputes, because embedded within these disputes is a question of how the various stances on law change the nature of morality and judgment. In other words, in Robert's confession, Hogg

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<sup>17</sup> Hogg might very well be drawing from Charles Brockden Brown, since Carwin of *Wieland* (1798) and *Memoirs of Carwin the Biloquist* (1805) uses his uncanny ability to mimic others' voices for his own nefarious purposes.

presents a narrative in which the legal and testimonial results of an antinomian position are imagined.

The fact that law was of fundamental importance to the antinomian question in Scotland is evidenced in the organizational frame for *The Marrow of Modern Divinity*, which consists of three dialogues, each addressing in turn the law of works, the law of grace, and the law of Christ. In the opening Edward Fisher suggests that the very feeling of guilt is itself a sign of being beholden to the “law of works,” wherein a person’s guilt convinces them to “become a zealous professor of religion, performing all Christian exercises, both public and private [...]; yet, it may be, all this while ignorant of Christ” (xxi). The way in which Hogg allows this process to enter into Robert’s testimonial memoir is significant, precisely because Robert’s experience so closely aligns to Fisher’s description of the person who is failing to receive Christ’s grace. But an important distinction arises between the “law” that Fisher’s interlocutors are debating and the law that Gil-Martin convinces Robert to disdain. On the whole, Fisher’s text deals specifically with the notion of religious or Biblical law, and does not focus on the question of governmental law. Where the legal system as a social institution is raised, Fisher’s conclusion clearly contradicts Gil-Martin’s position: “[T]he Lord [...] doth require, that subjects do think and esteem reverently of their magistrates [...]; and by an humble, ready, and willing submitting of themselves to their commands, either to do, or to suffer” (282). Fisher’s text, while feared as antinomian, does suggest that Christians should follow the laws of the land.

Moreover, Fisher describes murder, along with adultery, theft, and idolatry, as “gross acts” or alternatively, “gross sins.” While the reformed theological tradition had abandoned the Roman Catholic notion of mortal sins, this appellation seems to connote the severity of egregious and reprehensible transgressions. Where Fisher’s dialogues create an interesting parallel to



Robert's memoir is in the dissociative experience that Robert narrates. In the case of such gross sins, Fisher's character Evangelista strikes the middle ground between legalism and antinomianism; on the relationship between religious law and faith, Evangelista confesses: "though I have not been guilty of the gross act of murder, yet have I had, and have still, an inclination of heart and disposition of will thereunto, in that I have been, and am still, many times subject to rash, unadvised, and excessive anger" (307). Not unlike Robert's sense of a dual self, Fisher's "Evangelista" narrates his own contradictory nature, as one who has not in fact committed murder, but who has felt the compulsion. What's key for Fisher's argument is the notion that even this desire is an abrogation of Christian law. What Evangelista cautions against, then, is the idea that religious self-narrating can include self-gratulatory affirmation that one has avoided committing gross sins, because even in moments of desire toward wrongdoing, the gross sin is enacted.

Distinctively, then, Robert's recollection of Blanchard's murder is careful to provide two particular details—not only does Gil-Martin use his powers to implicate an innocent man, but Robert's own reticence to commit the murder suggests an awareness of this duality between act and desire that is present in the antinomian debate.<sup>18</sup> In order to "justify" his actions, Robert must also clarify his lack of eager participation in the murder. By avoiding the pitfall of sinful desire, Robert is able to absolve himself of both spiritual and legal guilt. In Robert's observation of the trial convicting an innocent man of Blanchard's murder, Hogg foregrounds the defendant's ineffectual testimony; in this way, Robert's dismissal of the legal system as a result of this experience is also a statement of his intention to control his own narrative. Of course, the novel

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<sup>18</sup> Of course, this distinction is not original to the antinomian debate. In the Sermon on the Mount in Matthew's gospel, Christ preaches on both murder and adultery, indicating that simply having the desire to act sinfully is enough to have broken God's commandments (Matthew 5:21ff).

suggests that even Robert's dismay at the legal system is the result of Gil-Martin's deception, rather than an innate failing in the institution itself. The legal system did not have any mechanism to account for a person who can change their appearance! Still, Robert's effort to control his own narrative, both legally and spiritually, contrasts the journeyman preacher's futile attempts to assert his innocence.

Hogg complicates this presentation of the legal system in the Editor's narrative when perjurious legal testimony is given in order to obtain personal testimony. After Robert has become Laird of Dalcastle, Mrs. Logan, the longtime mistress of Robert and George's father, sets out to determine whether or not Robert was involved in George's murder. In the midst of her detective work, her home is burglarized and Mrs. Logan discovers that the accused is Arabella Calvert, the one witness to George's murder for whom Logan has been searching. Logan's description of Calvert suggests that she has searched for some time: "So you are indeed Bell Calvert, so called once. Well, of all the world you are the woman whom I have longed and travailed the most to see. But you were invisible; a being to be heard of, not seen" (43). Hogg has Logan describe Calvert in terms that strongly foreshadow Robert's dissociative experiences in his memoir. In essence, the testimonial evidence that Logan has been searching for was lost to her in a similar fashion as Robert's experience of his crimes has been lost to him. In both cases, Calvert and Robert's secondary self are experienced as testimonial subjects; their existence is only realized second-hand. Of course, Logan's experience differs here because she actually encounters Calvert in the flesh. But their meeting is not as simple as Gil-Martin's revelations to Robert of his crimes. In this case, Calvert demands compensation for her knowledge of George's death; this exchange allows Hogg not only to suggest the uncertainty of legal testimony but also

to offer a distinction between the legal system's adjudication of George's murder and Mrs. Logan's independent investigation.

Velasco argues that the exchange that Calvert instigates serve to "highlight the inescapable ambiguity and fickleness of discourse, even when found in written form in apparently neutral registers" (42). Velasco's argument hones in on the ways in which the Editor's narrative, which is ostensibly pieced together using textual evidence and the oral tradition, confidently sets aside the court's findings in the case in favor of the traditional narrative that Calvert's acquittal was the price that Mrs. Logan paid to receive her testimony. Since the court records would have been available to the novel's fictional historian, it stands to reason that the fuller story that we are presented originates in the communal or traditional account of the case. In this way, Calvert's plea to Mrs. Logan: "If you deny this day, that these [stolen] goods are yours, there is no other evidence whatever against my life, and it is safe for the present. [...] If you deny them, you shall have them all again to the value of a mite, and more to the bargain" (42). And yet, Velasco's argument does not consider the motivational framework in which this bargain occurs. Hogg has essentially set up a scenario in which one legal procedure will be thwarted in order for a previous court ruling to be undermined. In practical terms, this means that the recorded testimony of Calvert's case will be compromised so that Mrs. Logan can complete her inquiry into the story of George's murder. This framework is important because it shows how Mrs. Logan (and perhaps Hogg) privileges the personal memory and testimony that Arabella Calvert can offer far more than she values the accuracy of the institutional record of her home's burglary.

Similarly to Robert's experience of the trial for Blanchard's murder, the concern that Arabella Calvert raises about the potential fallibility of human senses also resonates with

religious debates that were beginning to percolate in the eighteenth and nineteenth centuries. Michelle Faubert has shown that Calvert is articulating the “debate that raged between the skeptical philosophers [...] and their opponents, the Common Sense philosophers” (94). By interweaving this debate into Calvert and Logan’s experiences, Faubert argues that “Hogg undermines his audience’s understanding by confounding expectations about where authority lies” (95), but Faubert’s focus is primarily on the development of psychological science, where Hogg’s invocation of this philosophical debate is equally related to the question of religion as raised in David Hume’s section “On Miracles” in *An Enquiry Concerning Human Understanding* (1748). Hume’s definition of miracles aptly underscores why Calvert and Logan are so disturbed by the possibility that their senses might be deceptive; miracles are, in Hume’s estimation, “a violation of the laws of nature” (173). Additionally, Hume immediately argues that the Gospel accounts of miracles represent “merely [...] the testimony of the apostles,” and this testimony would then “diminish in passing from them to their disciples; nor can anyone rest such confidence in their testimony, as in the immediate object of his senses” (169). In other words, testimony of the miraculous is subordinated to the senses, but Hogg’s novel suggests that this line of thinking also destabilizes the senses—for if one perceives an event that seems miraculous, the result is to doubt the senses, just as Arabella Calvert does. In this way, the religious foundation of testimony as well as the physical evidence of the senses is undermined.

However, Hume’s characterization of miracles also invokes the concept of law, this time in the natural world. I would argue that this conceptual connection between the novel’s legal focus and Hume’s definition of miracles as an abrogation of law offers also clarifies why Calvert and Logan react so forcefully to their discoveries. In the aftermath of Calvert’s trial, she and Logan investigate further and observe Robert Wringhim walking with a companion who, to their

eyes, looks exactly like the deceased George Colwan. Upon seeing him both women fall into convulsions, yelling out, “It is he! It is he!” While the Editor doesn’t acknowledge the possibility, the fact that this companion is Gil-Martin seems clear. Furthermore, drawing upon Hume’s views on miracles, I believe that in Gil-Martin, Hogg demonstrates a trinity of transgressions, since Gil-Martin’s miraculous powers simultaneously violate the laws of nature, the laws of humanity, and the laws of God. In addition to the shock of seeing the image of a man they know to be deceased, Hogg’s use of these three violations of law heightens the unsettling quality of Gil-Martin’s power.

In his 1960 play based on the life of Sir Thomas More, Robert Bolt imagines a scene in which More calls out his future son-in-law’s opinion on the relationship between law and religion:

What would you do? Cut a great road through the law to get after the Devil? [...] And when the last law was down, and the Devil turned round on you—where would you hide [...], the laws all being flat? This country’s planted thick with laws from coast to coast—man’s laws, not God’s—and if you cut them down [...] d’you really think you could stand upright in the winds that would blow then? Yes, I’d give the Devil benefit of law, for my own safety’s sake. (66)

Bolt’s dialogue is representative of More’s unease over his tenuous relationship with Henry VIII, but it also articulates a specific aspect of Robert’s relationship with Gil-Martin, insofar as Robert *does* “flatten” the legal system by subscribing to Gil-Martin’s theology. This makes him increasingly vulnerable to Gil-Martin, and both the Blanchard and Calvert trials show how the legal system’s recorded narratives are shown to be deficient. But Hogg also suggests that Robert’s attempts to assert control over his narrative are continually subverted by Gil-Martin. In the final portion of the memoir, Hogg returns us to the novel’s opening theme as Robert begins to work on his memoir. Just as the Editor describes his process of collecting historical evidence through testimonial records and communal narrative, Robert’s narration of his attempt to record

his story, while not an explicitly legal scenario, shows how communities render judgment based on testimonial narratives. This judgment often involves the damage done to the accused's reputation, a theme that I will address more fully in the following chapter, but in this instance, Robert's experience combines his religious and testimonial background and ultimately drives him to suicide.

Near the close of the novel's second half, Hogg reveals that the entirety of the memoir is a project that Robert undertakes in secret after he is driven from Dalcastle on suspicion of having murdered both his mother and the young woman with whom he was accused of having an affair. Working on the journal as a way to "astonish mankind, and confound their wisdom and their esteemed morality," Robert's memoir is his concerted effort not only to reassert control over his own narrative, but also clarifies his intention to offer that narrative to the public. But this attempt ultimately fails—Peter Garside has characterized the memoir as a text driven by an "artificial discourse" (16). If the memoir is meant to be a better testimony than that which the legal system offers, a truer insight into the testifier, then Garside's conclusion underscores the extent to which both the Editor and Robert's narratives are highly constructed narratives rather than unmediated windows into the past or the soul. Indeed, Robert's very statement of his goal suggests that the conflicting goals of his project: to at once justify himself and condemn the world. He wants his narrative to be remembered correctly, but he has little faith in the humanity to whom his narrative is directed. Similarly to Hume's distrust in Gospel testimonial transmission, Robert simultaneously depends upon and seriously doubts the community's ability to recollect.

Indeed, just as Bolt's Sir Thomas More fears the power of the devil in a world denuded of a legal system, Robert's memoir project is upset when the owner of the publishing house in which Robert was typesetting his manuscript reads through the material and finds it "a medley of

lies and blasphemy” (153). Meredith Evans points out that employees of the printing house believe “the devil has assisted with the printing of the pamphlet,” further underscores the extent to which the evidence of the memoir is suspect (201). Evans goes on to suggest that the novel ultimately represents the law and morality as “irreconcilable” (206). But Hogg representation of Robert’s experience seems to indicate that these two areas are not inherently irreconcilable, but become so as a result of Robert’s willingness to pervert his sense of morality as a result of Gil-Martin’s influence. Indeed, as a result of his antinomian theology, Robert’s intense suspicion of morality as a concept drive his antipathy for humanity. Evans approaches this question by positing that Robert has lost his “moral memory,” resulting in his being removed “from the collective consciousness that either the family or civil society represents” (215). And yet the production of the memoir is itself an attempt to reclaim some sense of that connection to the community (civil society), albeit from a position of superiority. In other words, Robert not only seeks to preserve his personal recollections but also to protect his memory to posterity. Similarly to Walter Hartright and Franklin Blake, Robert is hoping to control his narrative independent of legal judgment.

### **Rendering Judgment**

However, unlike Collins’s novels, which both carry a heavy presumption that the family narrative will be perpetuated as it’s represented in the texts Blake and Hartright prepare, Hogg concludes his novel by allowing the Editor to render judgment over the text of the memoir. Not unlike a judge in the British legal system would offer a summary of the proceedings before the jury deliberated its verdict, and many judges went so far as to encourage the panel to rule in a particular way, the Editor completes the novel with his assessment of the entire memoir.

In short, we must either conceive him not only the greatest fool, but the greatest wretch, on whom was ever stamped the form of humanity; or, that he was a religious maniac, who wrote and wrote about a deluded creature, till he arrived at

that height of madness, that he believed himself the very object whom he had been all along describing. And in order to escape from an ideal tormentor, committed that act for which, according to the tenets he embraced, there was no remission, and which consigned his memory and his name to everlasting judgment. (175)

Of course, much of this summation sounds true on the surface, but Hogg has deftly worked into this judge-like synopsis a reflection on the Editor himself. In this case, the Editor's characterization of the memoir suggests a poor recollection of his own historical project. In this way, Hogg points to the difficulty of wrangling a large body of memorial text; the ease with which the Editor seems to judge the memoir's merits belies the extent to which his history has actually supported the memoir.

On two occasions the Editor's presentation of the communal narrative seems to support the memoir. First, in Arabella Calvert's recollection of Drummond, George's purported murderer, exiting the street at one end and then reentering it from the opposite end simultaneously, subsequently in Calvert and Logan's experience of seeing a figure in the appearance of George Colwan walking alongside Robert. Both circumstances seem to bolster the miraculous content of Robert's recollections, but the Editor never dwells on this connection; indeed, his silence on this evidentiary link is deafening. Where Robert's narrative is almost myopically self-reflective, the Editor seems to lack even a basic awareness of how his narrative might contribute to the fabulous content in the memoir.

Secondly, the Editor refers to the fact that Robert's memoir was found in an undisturbed and surprisingly well-preserved suicide's grave. Thus he concludes that Robert committed the act for which there is no forgiveness, consequently damning himself. Yet surely the antinomian renunciation of legal requirements for salvation would suggest that at least as Robert's personal theology was concerned, suicide would not in itself consign someone to eternal damnation. It is true that the last lines of the memoir take on a quality not dissimilar to Doctor Faustus's final



cries before being dragged to hell, but it's not clear that the act of suicide is the primary reason for this spiritual judgment. In fact, I see in Hogg's final line a suggestion of the role that novels play in contributing to a community's narrative of itself and its history. For while the Editor's lament that Robert has been consigned to eternal judgment has an overtly spiritual quality, it also suggests the fact that readers of the novel will each in turn serve as judges of the memoir and the history.

In this way, both the Editor and Robert are "consigned to everlasting judgment" through their readers. Furthermore, the very act of the judgment that the Editor authoritatively pronounces at the novel's end mirrors the kind of judgment that Robert and Gil-Martin attempted to enact. Not only does the Editor proclaim a religious judgment, but he also implies a literary judgment, encouraging his readers to relegate the memoir to fabulous fiction, as Hume encouraged his readers to do with the Gospels. Hogg suggests in this conclusion that the Editor's desire to discount the memoir in favor of his historical account is reminiscent of Gil-Martin's suggestion that Robert should murder the reprobate. Both are acts of judgment, but Hogg underscores a distinction between his two author's varying awareness of their fate as objects of judgment. Despite his antinomian sympathies, by the end of the memoir, Robert clearly expects to be judged both by his community and his God, but the Editor seems blissfully unaware of this possibility in his narrative. Therefore, while many critics have convincingly shown that the narratives are inextricably intertwined, I would argue that Robert's awareness of the role that his memoir might play in how he is remembered lends to his text a somewhat greater stature. It is impossible to definitively declare one narrative superior over the other, but Robert certainly recognizes the role that the community plays in judging a text's author more explicitly than the Editor does. In the end, the eternal judgment of the novel is not heavenly or infernal but

communal—as the novel enters into the public’s discourses on religion, literature, and the legal system.

CHAPTER 5  
CIRCUMSTANTIAL EVIDENCE AND THE MEMORY OF THINGS

**Circumstantial Evidence in Law and Literature**

Catherine Crowe was a woman well acquainted with the tremendous damage that could be done to one's reputation by the quick and merciless judgment rendered through social testimony. In the mid-1850s, Crowe's literary career was proceeding fairly well; she had been published in *Household Words*. She had also published several novels, the most popular of which was *Susan Hopley, or, Circumstantial Evidence* (1841). Unfortunately, all this came to a sudden end after a pernicious rumor spread through literary circles; according to the story as told in a letter Charles Dickens wrote to James White, Crowe was "found t'other day in the street, clothed only in her chastity [...]. She had been informed, it appeared, by the spirits, that if she went out in that trim she would be invisible. She is now in a mad-house and, I fear, hopelessly insane" (*Letters* 7.285-86). Interestingly, while Crowe's reputation was damaged by the story, in a way indicative of the social processes that Trollope highlights in *The Eustace Diamonds*, Dickens's specific conclusion about the reasons behind Crowe's episode are rooted in an inferential interpretation of circumstances—the very practice that Crowe scrutinizes in *Susan Hopley*. Crowe had been known to have an interest in spiritualism, and her collection of ghost stories and hauntings, *The Night Side of Nature* (1848) was quite popular; this well-known fact formed the basis for the inference that she ran into the streets of Edinburgh under the influence of messages from the spiritual realm. Crowe's denials of the story, in which she claimed that her delirious references to spirits during an illness had been cruelly exaggerated (Letter 280). Although Crowe did recover and lived until 1872, her career never revived; Crowe's life was irreparably damaged by the way that inference and gossip coalesced in the descriptions of her illness.

Crowe's interest in circumstantial evidence in *Susan Hopley* underscores the ways in which a character's livelihood and reputation could be sullied through the malicious manipulation of circumstantial evidence. In the novel the titular character's brother, Andrew, is charged with the murder of Mr. Wentworth, their employer. For Susan, this accusation throws her life into turmoil, because the circumstantial evidence against her brother is immediately disseminated through the town and the household, effectively condemning Andrew without a trial. As Alexander Welsh has shown in *Strong Representations* the question of circumstantial evidence was a particularly salient one in the nineteenth century, as Crowe's subtitle for *Susan Hopley*, "or Circumstantial Evidence," demonstrates. However, Crowe's novel also serves as a distinct departure from what Welsh has argued was a period in which "narratives consisting of carefully managed circumstantial evidence [...] flourished nearly everywhere—not only in literature but in criminal jurisprudence" (ix). It is worth noting, however, that Welsh's study almost exclusively considers texts written by male authors, opening room for an examination of how women writers deal with the issue of circumstantial evidence.

At the end of the 1840s, Elizabeth Gaskell's novel of industrial life in Manchester, *Mary Barton*, was published. A more well-known and well-studied novel, *Mary Barton* tells the story of the title character's family and close friends, the Wilsons and the Leghs, as they struggle with poor living conditions, poverty, and economic injustice. The novel's famous twist occurs near the middle of the story, when Harry Carson, an affluent factory owner's son, is murdered. Mary Barton's childhood friend and recently confessed lover, Jem Wilson, is accused of the crime based on circumstantial evidence, when in reality Mary's father is the culprit. In fact, Gaskell's interest in a narrative exploration of the place of circumstantial evidence in the legal system may well have been influenced by *Susan Hopley*. Although Crowe's work is little known today,

Gaskell read and commented on *Susan Hopley* the very year that *Mary Barton* was published—suggesting that perhaps Gaskell’s rendition of the murder and false accusation plot are meant in some way to correct what she saw as Crowe’s missteps in *Susan Hopley*. To be sure, Gaskell apparently didn’t care much for *Hopley*:

I don’t think one does *admire* [...] ‘Susan Hopley’; it is a series of most unnatural adventures, naturally told, in a common-place way; but some people can’t even be common-place naturally. They just interest one in certain states of mind in which one is too lazy for thought or any high feeling, and only *up* to being a bit occupied by scenes passed before you without much connexion. (60)

But despite Gaskell’s apparent (and perhaps intense) dislike of Crowe’s novel, both writers are grappling with similar issues of evidence and memory in their texts. Particularly, Crowe and Gaskell question the use of circumstantial evidence that was dependent on quotidian things and suggest a significant anxiety in Britain about the possibility that circumstantial evidence could result in a serious miscarriage of justice by disregarding human testimony.

Starting in the eighteenth century, circumstantial evidence began to play a more significant role in British legal thinking (Welsh 3). Sir William Blackstone describes circumstantial evidence as a fallback form of evidence, to be used in the absence of direct evidence, “[N]ext to *positive* proof, *circumstantial* evidence [...] must take place: for when the fact itself cannot be demonstratively evinced, that which comes nearest to the proof of the fact is the proof of such circumstances which either *necessarily*, or *usually*, attend such facts” (III.371). Blackstone’s contemporary, the philosopher and theologian William Paley, disagreed with Blackstone’s contention that circumstantial evidence was a second-best form of proof. On the contrary, Paley argued that a “concurrence of well authenticated circumstances composes a stronger ground of assurance than positive testimony, unconfirmed by circumstances usually

affords. Circumstances cannot lie” (2.300).<sup>1</sup> Paley and Blackstone’s contrasting opinions suggest that the question about the value of circumstantial evidence and its position vis-à-vis other forms of evidence was still being debated.

By the nineteenth century, the concept of circumstantial evidence continued to develop in legal scholarship. Jeremy Bentham, in his *Rationale of Judicial Evidence* (1827), claims that circumstantial evidence must inevitably be used in criminal cases, “In a case regarded as criminal, the body of evidence (unless it consist of confessorial evidence) cannot, if complete, be composed solely of direct evidence: how satisfactory soever, it cannot but include a mixture of circumstantial evidence” (III.5). And yet, ten years later, William Wills sought to counter Paley’s earlier maxim that circumstances “cannot lie,” when he rightly pointed out that “circumstances and facts of every kind must be proved by human testimony; [...] although ‘circumstances cannot lie,’ the narrators of them may; and [...] like witnesses of all other facts, they may be biassed [sic] or mistaken” (38-39). Wills’s argument allows for circumstantial evidence to be weighed on a more equal footing with direct testimony, because, as he states, all evidence relies on some kind of human testimony. Alexander Welsh indicates that John Pitt Taylor, in *A Treatise on the Law of Evidence* (1848), argued for a full abolition of the distinction between types of evidence, and this position was later echoed by James Fitzjames Stephen in 1863 (Welsh 17-18). In effect, these later writers sought to take the middle ground between seeing circumstantial evidence as inferior and seeing it as superior; by the mid-nineteenth century William Wills’s early argument had been developed into an urging that circumstantial evidence as a separate evidentiary category be folded into a single overarching concept of evidence.

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<sup>1</sup> *The Principles of Moral and Political Philosophy* first appeared in 1785, and Blackstone’s *Commentaries* had their first publication from 1765 to 1769.

Alexander Welsh has argued that this shift from a focus on circumstantial evidence to an inclusive holistic vision of evidence was also represented in nineteenth-century literature. As a phrase, circumstantial evidence “was wrested from the prosecution by popularizers of the law and fiction writers, by those who viewed circumstances as more of a threat than a blessing” (18). In other words, literary use of circumstantial evidence reflected an intense anxiety about the potential for circumstantial evidence to be misused. Welsh points to the fact that circumstantial evidence was almost always used as a prosecutorial tool, especially in the eighteenth century (47). In response, novels were written in which initial judgments based on circumstantial evidence are later shown to be false, in essence making circumstantial evidence a tool for the defense. Tracing this trend through the nineteenth century, Welsh finds that “up to a certain point [...], the evidence supports any number of charges against the protagonist; then, in a complete view of the evidence, charges are dismissed” (97). In effect, Welsh’s argument shows how authors demonstrated the defensive potential for circumstantial evidence.

However, circumstantial evidence, in its very definition, requires that some kind of inference is being made based on the available observations (or circumstances). As Lisa Rodensky has pointed out, Welsh’s analysis assumes that “when we read a novel or other work of fiction our access to the inner life is as limited and as inferentially bounded as the access we are allowed when we observe a trial” (21). Additionally, Rodensky notes that as readers we are often given more information, and therefore are not required to infer a character’s innocence, even when other characters within the narrative rely on circumstantial evidence to infer guilt. While Welsh “observes that the third person narratives reveal the interior life of other characters [...] by inferring those mental states [...] by means of circumstantial evidence,” Rodensky counters that such “narrators do not have to infer thought from circumstance. They give us direct

access to the thoughts themselves” (23). Although Rodensky and Welsh differ on the question of inference as it relates to circumstantial evidence and literature, they agree that there is a relationship between circumstantial evidence as represented in literature and the mental states that are described in narrative.

In addressing the mental components of crime, Rodensky’s argument focuses more on *mens rea* (the intentions or thoughts on the part of a perpetrator in connection with a criminal act), but I argue that in both Crowe and Gaskell’s novels we see the authors struggling with the tension between the evidence of things and the evidence of human testimony. Athena Vrettos has described the ways in which late-nineteenth century parapsychological theories suggested that “material objects associated with significant [...] events were deemed capable of transmitting memories between temporally and physically disconnected people” (200).<sup>2</sup> In effect, these psychological theories posited a connection between memories and things—material artifacts were thought to be capable of preserving and transferring human memory. But such speculation was not limited to the late nineteenth century; Clare Pettitt has shown that in *David Copperfield* (1850), Peggotty’s workbox functions as a “maker of memory.”<sup>3</sup> I would argue that this perception within Victorian literature and culture of the capacity for material objects to carry memories with them spills over into the anxiety surrounding circumstantial evidence, precisely because such evidence was seen as being independent of human testimony.<sup>4</sup>

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<sup>2</sup> Vrettos addresses theories forwarded by William James in *Principles of Psychology* (1890) that saw furniture and personal belongings as “extensions of the body” (200). She also draws upon the work of Samuel Butler in *Life and Habit* (1878) and F. W. H. Myers from a series of essays he wrote in the 1890s.

<sup>3</sup> Pettitt argues that because Peggotty’s workbox manages to survive the novel’s conclusion it renews for the reader a memory of all that has happened through the novel. The workbox becomes “a marker of time and mortality,” by evoking these memories (para. 14).

<sup>4</sup> Schramm correctly points out that even in cases of circumstantial evidence, human testimony is a mediating necessity (*Testimony* 19-20). In other words, a person must still testify to the circumstances from which the evidentiary inference is to be drawn. However, the fact that the language of facts “speaking for themselves” often



Of course circumstantial evidence need not be limited to the evidence of things. As I indicated earlier, William Wills's study of circumstantial evidence correctly noted that even circumstances need to be testified to by human beings. And yet, within the narratives of Gaskell and Crowe's respective novels, circumstantial evidence is distinct from human testimony, suggesting the sense of unease that such evidence created. In fact, recent research has shown that the inherent tension in a novel's use of circumstantial evidence is reflected in how contemporary juries interpret evidence. Kevin Jon Heller argued in the *Michigan Law Review* (2006) that "jurors dramatically *undervalue* circumstantial evidence and just as dramatically *overvalue* direct evidence," even though "direct evidence—false confessions and mistaken or perjured eyewitness identification—is much less reliable than circumstantial evidence" (244). Heller suggests that one cause of this trend is that jurors are less likely to interpret the circumstantial evidence based solely on probability; rather they tend to focus on whether or not they can "imagine a scenario in which the defendant is factually innocent" (259). I would further suggest that the imagination that Heller describes as being an integral component of how juries interpret circumstantial evidence might also be drawn from people's experiences of representations of circumstantial evidence in literature. The hesitation that Heller describes in modern juries, rooted as it is in an imaginative consideration of circumstantial evidence, mirrors the kind of anxiety that Gaskell and Crowe offer their readers by confirming that such imaginative considerations of innocence can be accurate.

But *Susan Hopley* and *Mary Barton* do more than simply offer narratives that serve to undermine the certainty of circumstantial evidence, they also offer a corrective through the ways in which women play vital roles in overturning the flawed conclusions that have been drawn

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permeated treatises discussions of circumstantial evidence suggests a conception of circumstantial evidence as somehow standing outside of human testimony.

from circumstantial evidence. In his treatise on evidence, John Pitt Taylor opines that while women are prone to exaggeration (due, of course, to their “innate vain love of the marvelous”), “they are in some respects far superior witnesses [than men]; for first, they are, in general, closer observers of events than men; next, their memories, being less loaded with matters of business, are usually more tenacious” (53). W. M. Best expanded on Taylor’s view in his *Treatise on the Principles of Evidence* (1849), concluding that the restriction of women’s testimony is “an absurdity long since exploded among us” (171). Drawing on Best and Taylor’s representations of women as witnesses, Laura Struve argues that Gaskell “encourage[s] readers to reject [...] a restrictive ideology of separate spheres” in which women are relegated to the privacy of the home (“Expert” 3). But in addition to this rejection, both Crowe and Gaskell privilege their heroines memories and their evidentiary prowess, especially where domestic and personal things are concerned. Furthermore, in *Mary Barton* and *Susan Hopley* the memories of the title characters are shown to be more astute than the conclusions drawn from circumstantial evidence. In this way, Crowe and Gaskell not only question the validity of circumstantial evidence in criminal trials, but they also present women as the most valuable of witnesses.

### **The Villainy of Circumstantial Evidence**

Although both Crowe and Gaskell’s novels probe the ways in which circumstantial evidence can be flawed, they do so in unique ways. As I indicated above, *Susan Hopley* suggests that the primary danger of circumstantial evidence concerns the way that it can be maliciously manipulated. In other words, many of the instances of misinterpreted circumstantial evidence in the novel occur when the actual perpetrator of a crime has purposefully framed an innocent party using circumstantial evidence. In this way, Crowe’s consideration of circumstantial evidence is suggestive of Shakespeare’s Iago and the evidence of the handkerchief. It is a novel exploring circumstantial evidence as villain—Crowe first draws her reader’s attention not to the question

of who actually committed the crime but to the question of who manipulated the evidence to suggest that an innocent character was guilty. And while the perpetrators of the actual crime and the evidential manipulation are often the same person, Crowe's approach to the question effectively evades the typical focus on guilt and innocence, electing to subordinate this concern to the narrative of the evidence.

The traces of circumstantial evidence and its connection to memory in the novel are anticipated from the first chapter in which Harry Leeson, the initial narrator,<sup>5</sup> begins with a description not of Susan Hopley herself, but of her clothes. Leeson frames this description as a fond recollection of Hopley after she has since passed away, having spent most of her lifetime in his service. Immediately, Crowe situates both Hopley and her narrator in a world of things—a world observed by Leeson, but managed by Hopley.

[M]ethinks I see her now, in her neat, plaited cap, snuff-coloured stuff gown, clean white apron, and spectacles on nose, plying her knitting needles, whose labours were to result in a comfortable pair of lamb's-wool stockings for my next winter's wear, or [...] in something, be what it might, that was to contribute to the welfare and benefit of some human being [...]. (3)

Not only does Leeson conceive of Hopley primarily by her attire, but also by the fruits of her labor: stockings or some other knitting project of which he will be the beneficiary. As a housekeeper and maidservant, Hopley would have been responsible for the things in the household. Harry's description of Susan is suggestive of memory's capacity to hone in on particular aspects of a person or situation. As Kay Young points out in *Imagining Minds*, "Modern neuroscience has demonstrated that retrieving memories is not the simple act of accessing a storehouse of reader-made photos in a stable neural album [...]. Rather, each act of recall is a re-creation, drawing upon multiple, dynamically changing modular fragments to shape

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<sup>5</sup> The novel cycles through several narrators, some of whom are characters, and at times the narration slips into a third-person omniscient perspective.

a new mosaic” (193). While I do not mean to suggest that Crowe is specifically presaging modern neuroscience, her introduction of Harry’s recollections indicates a kind of memorial mosaic that begins not with Susan’s personality or physical appearance but with her accoutrements.

In some ways it is a fitting introduction, because Susan’s brother Andrew is condemned through a malicious reading of his things. While Harry’s description accurately represents the way that memory often functions, by recalling tangentially, his focus on Susan’s attire reflects an implicit understanding that a person’s things tell us something about them. In Susan’s case, Harry’s recollection confirms her as a dutiful and faithful servant, but for Andrew, the disarray of his room after Mr. Wentworth’s murder is exploited by Gaveston, Wentworth’s business partner and future son-in-law, to suggest his involvement in the crime. But as Crowe reveals at the novel’s end, the disheveled state of Andrew’s room is actually the result of his own murder at Gaveston’s hands, his body having been hidden at the bottom of a well.<sup>6</sup> Gaveston plotted the murder after discovered that Wentworth planned to include the young Leeson in his will; so the murder is related a theft, but not the kind of haphazard theft suggested by the state of Andrew’s room. But the state of Andrew’s things becomes a primary point of concern at the inquest:

The [bed] clothes were dragged nearly off, and, as well as the pillow, were lying on the floor. A chair that stood by the bedside was overturned, and under it were found a leathern purse containing a few shillings, and a silver watch [...]. No clothes were found in the room but one stocking, which lay near the window, and appeared to have been dropped. [...] At the door of his bed-room were found his boots [...].  
(29)

Throughout the hurried investigation, Gaveston wields considerable influence in suggesting that Andrew is guilty of the murder, and the inquest’s verdict is, predictably, “Wilful murder against

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<sup>6</sup> Lucy Sussex has conjectured that Mary Braddon was very likely familiar with *Susan Hopley* from her days on the stage, as Braddon’s company was known to have toured a theatrical adaptation of *Hopley*. Although there is no firm evidence, one wonders if Braddon’s own sensational use of a well in a murder plot in *Lady Audley’s Secret* might have been inspired by her familiarity with Crowe’s novel.

Andrew Hopley” (30). An anonymous review of the novel in *The Law Magazine* criticized this first example of circumstantial evidence, suggesting that the abandonment of his watch, purse, and boots is hardly enough to have warranted the inquest’s finding (“Susan” 366). Yet the story being told by the abandoned things is not necessarily one of inadequate evidence, but of the way in which evidence might be framed and understood.<sup>7</sup>

In the lead up to the inquest, Crowe draws attention to two items that Gaveston claims were stolen from him: his pocket-book and watch. These items are again emphasized during the inquest, when the narrator describes Gaveston’s discovery of Wentworth’s body, and his subsequent observation that Wentworth’s watch is also missing. In both cases, the narrator attributes these missing items to their owners with possessive pronouns (*his* watch). Crowe incorporates Gaveston’s control of the narrative of the crime into the third-person narration, which serves the dual purpose of putting the reader off the scent of what really occurred, while also suggesting that Gaveston’s influence permeates even through to the very narration of the novel. The description of Andrew’s room during the inquest is also telling precisely because the possessive pronouns are omitted, as if to suggest that the ownership of the items there is less certain: Gaveston’s “my watch” becomes “a silver watch” in Andrew’s room. Here, the watch’s presence is simply affirmed, followed by Susan’s confirmation that it belonged to Andrew. In a sense, the murder turns on three watches, two of which are missing, one of which remains. Because Gaveston has already framed the inquiry as a theft gone awry, the fact that Andrew’s watch remains and that Gaveston’s and Wentworth’s were taken could be construed as suggesting that Andrew has abandoned his watch in favor of the no doubt more valuable pieces

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<sup>7</sup> Additionally, it’s worth noting that both *Bleak House* and *The Private Memoirs and Confessions of a Justified Sinner* describe or allude to inquests in which evidence or testimony is ignored or a missing person is held responsible in absentia. In either case, this trend suggests that inquests, as much as trials, were seen as problematic components of the legal system.

belonging to his employers. While it's not made explicit, Crowe seems to suggest that the watch's presence implicates Andrew; the two other victim's watches are missing, and while the state of Andrew's room suggests that he was involved, his watch remains. Admittedly, such a strand is tenuous, but I would suggest that the connection's very tenuousness is part of Crowe's point: a missing watch may be enough to warrant a presumption of guilt.

Of course, a presumption of guilt works counter to the accepted legal practice of assuming innocence until proven guilty. But the evidence of Andrew's room does not afford him any conjecture of innocence; in fact, Crowe underscores this when Susan's several theories about what might have happened to Andrew (including that accurate assessment that he too might be a victim of an attack) are generally ignored. In *Atonement and Self-Sacrifice in Nineteenth-Century Narrative* (2012), Jan-Melissa Schramm suggests that "imaginative literature, so keen to imitate the law's strategies for representation of the real in other ways [...] reject[ed] the presumption of innocence as cheap and untrustworthy, preferring instead *proof* of individual virtue" (70). In some ways, Crowe suggests that this resistance to the presumption of innocence derives from the ways in which circumstantial evidence might be abused, or at least suggest inaccurate conclusions. In the midst of the investigation, Gaveston has a telling conversation with the coroner and the local magistrate.

"I remember a remarkable case of circumstantial evidence," said the coroner, "where appearances were quite as condemnatory as in this instance, and yet the suspected person was innocent; and what was extraordinary, the real criminal ultimately proved to be—"

"But I repeat, is there any other way of accounting for [Andrew's] evasion than by supposing him guilty?" said Gaveston.

"There's no telling," answered Sir Thomas. "I remember a case in which the supposed criminal proved himself to have been one of the vic—"

"Oh, no doubt such mistakes do occur occasionally," interrupted Gaveston: "but they are rare, and cannot by any means be admitted as precedents; or the

consequence would be to throw so much discredit and uncertainty on circumstantial evidence,—which, remember, gentlemen, is very often all the evidence we can get at,—that the march of justice would be altogether embarrassed and impeded.” (24-25)

In this conversation both the coroner and the magistrate allude to cases whose details are finally revealed to be consistent with this case: that the alleged perpetrator is one of the victims and that the real criminal was not a random stranger. While this exchange obviously functions as a moment of foreshadowing, Crowe’s phrasing of the dialogue suggests a connection with the wider discourse on circumstantial evidence.

The coroner’s description of these cases as “remarkable” is itself remarkable, as a small monograph was published in 1833 under the title *Remarkable Instances of Circumstantial Evidence*. The book purports to outline several English and Scottish cases in which circumstantial evidence resulted in the wrongful conviction (and sometimes execution) of an innocent person. The very first case in its pages is that of the execution of Thomas Harris for the murder of James Gray in 1642, in which it was discovered that the primary witnesses against Harris, namely his maid and his manservant, had committed the crime and arranged the evidence to implicate their employer. Harris’s story is a regular feature in nineteenth-century texts purporting to highlight the dangers of circumstantial evidence,<sup>8</sup> but the extent to which its broad strokes resemble Gaveston’s strategy, make it likely that Crowe had at least a passing familiarity with the debates about circumstantial evidence. Indeed, Gaveston’s response to the coroner and the magistrate seems to anticipate the criticism of *The Law Magazine*’s reviewer, who also wanted to warn against *Susan Hopley*’s take on circumstantial evidence being understood as factual: “[W]e enter a protest against any inferences of any kind, that may be drawn from

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<sup>8</sup> See *Celebrated Trials of All Countries* (1835), Alexander Burrill’s *A Treatise on the Nature, Principles and Rules of Circumstantial Evidence* (1868), and Samuel March Phillipps’s *Famous Cases of Circumstantial Evidence* (1873).

[Crowe's] statements or narratives, regarding the administration of justice or the received maxims of criminal jurisprudence in this country" (391). Coming from a journal representing the legal profession, the reviewer seems intent on assuring readers that the dangers of injustice being highlighted in the novel are in no way representative of the norm.

And yet, through Crowe's handling of the second piece of circumstantial evidence used against Andrew, a short and cryptic letter, it becomes clear that *Susan Hopley* is not a novel that provides perfect answers to every question, suggesting that evidence is often illusory and may never be fully explained. The letter discovered in Andrew's room is described as "the strongest circumstance against Andrew," because it references a need to "cut till after dark" followed by the question, "How far to London?" (29). And yet, at the novel's conclusion, when Andrew's remains are discovered and Gaveston is identified as Wentworth's murderer, this mysterious letter is never explained. Ostensibly, Gaveston placed it there to generate suspicion, but the letter almost seems too vague if it was meant to be a red herring with which to implicate Andrew. In any case, this trace text remains unresolved in the novel. Critics such as Welsh and Schramm have pointed out how many novels in the nineteenth century demonstrate the innocence of their characters through a total reinterpretation of the circumstances or an airing of the complete evidence, refuting every aspect of the case against the innocent.<sup>9</sup> But in this case, Crowe doesn't seek to reinterpret this most damning piece of evidence at all.

Crowe's failure to fully account for every evidentiary thing in the novel's opening may be a result of *Susan Hopley*'s narrative scope; the novel contains an abundance of plots, subplots, and sub-subplots, which all intertwine as the story progresses. Indeed, to return to *The Law Magazine*'s review, the novel's opening chapters could be said to "lay a foundation broad

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<sup>9</sup> See *Strong Representations* (97) and *Testimony and Advocacy* (10ff.)



enough for a novel in twenty volumes,” much less three. And for *The Law Magazine* reviewer this creates a “most thoughtless profusion,” in which many details “are either dropped, knotted, or inextricably intertangled from their multiplicity” (360). In many ways the review is an accurate portrayal of a novel that, while much shorter, compresses a Dickensian panoply of characters (many of whom assume false identities at various points in the narrative), into a much shorter novel than *Bleak House*, for example. As a result, and because Crowe was a relatively new novelist, the possibility that resolving the question of Andrew’s letter simply slipped away in the end is not without merit.

However, Lucy Sussex points to a review of the novel by John Forster, who saw the overwhelming amount of detail positively: “[Crowe’s] incidents, at first minute and carelessly thrown in, grow up by degrees into matters of great importance and elaborate art. Precisely as in real life, facts and recollections of apparently the most trivial kind, which have got remotely away in some inaccessible corner of memory, come gradually out into more and more prominence” (Quoted in Sussex 58-9). Still, in the midst of so many crossing stories and competing threads, the idea of a scrap of evidence never being fully explained suggests another way in which circumstantial evidence is troubling: in effect, even in the face of proof that Andrew was a victim, not the perpetrator, of the murder, the evidence used to implicate him is not simply explained away. The mysterious letter, while no longer a marker of a missing criminal, remains in a kind of evidentiary limbo, without a firm narrative resolution. Reading the letter’s absence from the novel’s resolution as indicative of experiential reality, as Forster does, allows *Susan Hopley* to underscore another aspect of things as evidence: sometimes things are forgotten. In an ironic twist, then, the reader is left to presume that Gaveston placed the letter; in a novel condemning the dangers of circumstantial evidence, we must infer from the circumstance

of Gaveston's guilt that he forged the letter. Crowe's refusal to account for the letter, if intentional, indicates a more insidious quality of circumstantial evidence: that even in the face of narrative and judicial justice (the falsely accused exonerated, and the guilty punished), we find that we still rely on circumstantial evidence to construct our corrected narrative.

### **The Memory of the Gun in *Mary Barton***

The evidence of a textual trace also weighs heavily in the narrative of *Mary Barton*, when Mary infers from the piece of paper wadding discovered by her aunt that it was her father, John Barton, and not her love interest, Jem Wilson, who murdered Harry Carson. But the critical history of *Mary Barton* has struggled to make sense of the apparent tonal and narrative shift that occurs midway through the novel, at the point when Harry Carson, a prominent factory owner's son, is murdered. While the first half of the novel focuses more overtly on the living (and dying) conditions of the working poor in industrial Manchester, the second half seems to turn away from its radical critique of urban industrialization toward a more traditional domestic marriage plot. Raymond Williams offers the quintessential version of this argument when he suggests that the novel becomes "of little lasting interest," because Gaskell elected to finish the story as a "familiar and orthodox plot of the Victorian novel of sentiment" (96). But subsequent criticism has challenged the assertion that the novel is inherently disjointed or uneven; Hilary Schor argues that "Mary's plot both echoes the questions of the more explicitly political novel, and questions the politics of the heroine's story" (*Scheherezade* 15). Similarly to Schor, I suggest that the novel's treatment of circumstantial evidence is deeply intertwined between the novel's opening half and its conclusion.

Consequently, before we even reach the discovery of the scrap of wadding, Gaskell has worked steadily to emphasize for the reader the significant role that possessions and things have as keepers of memory and identity. Early in the novel, Mary visits her neighbors Job Legh and

his granddaughter, Margaret. Job is an amateur naturalist, and his specimens fill the spaces in their small home. Mary's question upon observing Job's unusual collection is telling. "What things are these?" she asks, and is at first given the beginning of a lecture by Job on the scientific names for all the creatures. But Margaret senses that Job's response doesn't speak to Mary's question, and she interrupts to tell the story of how her grandfather came by a certain specimen of scorpion, which he purchased from a sailor. Initially he thought it was dead, but it soon revived, scaring Margaret to death while dashing about their house before Job finally recaptured and killed it. While Job's answer to Mary lacks any human connection to the collection, Margaret's story immediately connects the small scorpion to a memorable event in their lives, making the scorpion both the repository of the memory and the catalyst for her recollection of it. Mary's question is specific: "What things *are* these," and Margaret's answer suggests that these things are the memories they carry with them.

The relationship between things and memory in *Mary Barton* has, to some extent been explored by other scholars. Elaine Freedgood's chapter on the novel in *The Ideas in Things* (2006) considers the relationship between the domestic decor of the working Manchester families Gaskell describes and the industrial and economic realities represented by those items. First pointing out that a "weak metonymic reading" of the Barton's possession of curtains in their home might suggest that the family is "properly domestic," Freedgood then problematizes this reading by pointing out that factory workers, as described in contemporary studies of working class living conditions, rarely could afford such furnishings (61). But Freedgood's most compelling argument is that the "meanings of things are still available in some depository of cultural memory," which allows "metonymic expansion [to] begin, or resume" (69). Freedgood's focus on the economic significance of things like curtains and calico struggles, however, with the

same narrative shift I described above. Indeed, by asserting that in its ending “*Mary Barton* regresses generically to a protonovelistic form, the *Robinson Crusoe*–like starting-over-in-the-new-world story” (78), Freedgood essentially concedes the point that the novel is disjointed. As a result, Freedgood’s analysis neglects to account for the role that things play in the novel’s legal plot.

On the other hand, Jonathan Grossman draws an intriguing connection between the traces of evidence that appear in *Mary Barton*’s narrative and the novel itself: “The book in Gaskell’s reader’s hands [...] is a (missing) piece of evidence [...]. It tells the real story” (115). Grossman pays particular attention to the paper wadding that convinces Mary that it is her father, and not Jem, who committed the murder; in his argument, Grossman sees the paper itself as representing the fusion of the romantic, political, and legal strands of the novel: it is a scrap of a valentine from Jem, on which Mary copied a radical poem, and with which she infers the identity of the actual criminal. This reading helpfully demonstrates how Gaskell is able to weave together the seemingly disparate strands of the novel’s narratives, and yet, Grossman’s argument never makes a connection between the material traces of evidence in the novel and the ways in which those traces are connected to memory. In essence, criticism on the question of memory and things in *Mary Barton* has been somewhat uneven; the focus on memory in Freedgood is more directed toward the cultural memory surrounding details in the novel, rather than Gaskell’s treatment of memory itself, and Grossman’s understanding of evidentiary traces, while insightful, is not concerned with memory. In order to put these two areas of inquiry into conversation, I want to first demonstrate how, throughout *Mary Barton*, Gaskell positions memory as a conflicted faculty, quick to recall affections and grudges, but slow to grasp details that are often of use in legal scenarios.

Specifically, the language of memory is often used to frame the relationship between Mary Barton and Jem Wilson. Early in the novel, Mary is said to have a “hold on Jem Wilson’s memory. A thrill would yet come over him when he remembered how her hand had rested on his arm” (79). This moment occurs as the Wilson family is mourning the loss of Jem’s younger twin brothers—the emotion of grief becomes mixed with the exhilaration of Mary’s affection. Alice Wilson, Jem’s aunt, is constantly recalling her days as a young girl, and after suffering a stroke, lingers on in a delirium of recollections from childhood. Similarly, although stemming from a negative experience, John Barton’s unsuccessful journey to London, as part of the Chartist movement, prompts him to say that Parliament’s rejection of the Chartist delegation is “not to be forgotten, or forgiven either” (99). Harry Carson also utters this phrase when he is confronted by Jem Wilson regarding his relationship with Mary. In each of these situations, characters are defined by their memories, or by their vows to remember.

Furthermore, Gaskell underscores the ways in which legal inquiry can be difficult in its approach to garnering information from witnesses. After the murder, Mary is subpoenaed to appear during Jem’s trial, and she immediately expresses anxiety about the precision of her memory: “[I]f they asked me if I had seen you on a Saturday, or a Tuesday, or any day, I should have clean forgotten all about it, and say the very thing I should not” (250). Earlier in the same chapter, Mary is trying to recall the name the ship on which Will Wilson was to set sail; she believes that Will can testify to Jem’s location at the time of the murder, as Jem had planned to escort Will to Liverpool from Manchester on the night Harry Carson was killed.

She had still to collect her thoughts and freshen her memory enough to arrange how to meet with Will—for to the chances of a letter she could not trust; to find out his lodgings when in Liverpool; to try and remember the name of the ship on which he was to sail: and the more she considered these points, the more difficulty she found there would be in ascertaining these minor but important details. (247)

Then, after agonizing over her inability to remember, Mary's mind wanders to thinking about Jem, and how much she desires to exonerate him, and then it happens: "All at once, when she had ceased to try and remember, the name of Will's ship flashed across her mind. The *John Cropper*" (247).<sup>10</sup> Mary's anxiety, then, is not unfounded. Margaret and Job's story of the resurrected scorpion has a material connection, but in a courtroom, details beyond the occurrence of an event are often required—specific dates and times must accompany the story.

By showing that human memory is already prone to unique difficulties of recollection of details, Gaskell provides a frame for her critique of material memory as represented by circumstantial evidence. The novel suggests that if human recollection is already fraught with potential lapses, then circumstantial evidence, by comparison, must also be suspect, perhaps even more so. Elsewhere in *Mary Barton*, objects are shown to carry memorial significance: John and Mary's house, for example, is described as being "hallowed by his wife's presence in the happy days of old" (112). As the two grapple with their poor financial state and consider moving to cheaper lodgings, the ethereal presence of Mary's mother, who died several years earlier, evokes memories of happier times. To leave it would almost be to leave the memory of wife and mother. Later, prior to the trial, Mary sits alone at home considering how to deal with Jem's trial and her father's guilt; these mental burdens are exacerbated because "the very house was haunted with memories" (257). These cases (along with the scorpion incident) suggest the palpable reality of memory in things, but also create a distinction with circumstantial evidence—in these cases the memories and the material objects share a connection to the person remembering. But with

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<sup>10</sup> This "tip-of-the-tongue" phenomenon of memory was remarked upon in later nineteenth-century psychology texts. William James's seminal work *Principles of Psychology* (1890) notes that "Something we have made the most strenuous efforts to recall, but all in vain, will, soon after we have given up the attempt, saunter into the mind, [...] as innocently as if it had never been sent for" (681).

circumstantial evidence, the objects are being used to form a narrative, a memory, outside of those most closely related to the evidence.

Grossman suggests near the end of his discussion of *Mary Barton*, that Gaskell's novel targets police detective fiction for condemnation (131-32). The police in the novel behave unscrupulously, forcing unwilling witnesses to contribute to the narrative of circumstantial evidence that suggests Jem committed the murder. But Grossman's analysis stops short of demonstrating precisely how the police methods on display in the novel become problematized. It is through one key piece of evidence, the gun, that Gaskell suggests that the prosecutorial use of material circumstantial evidence is deficient. After discovering the gun, a policeman in civilian clothes stops by the Wilson house and asks Jem's mother to identify the gun (a task that she is forced to repeat at the trial)—Mrs. Wilson is stunned when she realizes that the police have tricked her into providing them with information to suggest that her son is guilty of murder. Indeed, she can hardly believe that policeman would use such methods: "Nay; they'd never go for to that, and trick me into telling on my own son. It would be like seething a kid in its mother's milk" (218). But by identifying the gun as Jem's, Mrs. Wilson contributes to the circumstantial case against her own son, since his ownership of the weapon suggests that he is the most probable person to have fired it.

But Gaskell does not simply provide an counter-narrative to the prosecution's assertion of Jem's guilt. Knowing that John Barton is the actual murderer, Jem's explanation of why he allowed Mr. Barton to borrow the pistol suggests that the gun also carries certain memories with it. Before it was Jem's, the gun belonged to his father, George Wilson, who often went to the shooting gallery with John Barton for target practice. So when Jem discovers that John Barton wants to borrow the old gun, he associates the request with the memory of his father's former

pastime (368). This memorial connection between Jem's remembrance of his father and John Barton's alleged desire to borrow the firearm, contribute to the ease with which Barton is able to acquire and use it to murder Harry Carson. In effect, Barton's strategy exploited the material and memorial connection that the gun held for Jem. And yet, unlike Gaveston's placement of evidence to implicate Andrew in *Susan Hopley*, it is not clear that Barton maliciously intended for the crime to be blamed on Jem. On his death bed, John apologizes to Jem for allowing him to "bear the brunt" of the investigation and the prosecution, but John was ignorant of the conflict between Jem and Harry Carson and could not have predicted that their argument would so quickly lead to Jem's arrest. John's use of the gun unwittingly fed this prosecutorial narrative.

Part of what Gaskell identifies in this contrast between the personal memories the gun holds and the evidentiary narrative constructed by police is that in many ways the indictment of Jem is an entirely logical inference from the available evidence. I would suggest that this makes Gaskell's representation of the legal system considerably more terrifying than Crowe's, because it suggests that without deliberate or nefarious manipulation, the machinery of the legal system can seriously malfunction. As Schramm points out "the trial process fails in *Mary Barton* to elicit the truth – they accuse the wrong man [and] Barton dies before his guilt can be publicly disclosed" (*Atonement* 137). But the reasons for this failure are centered around the legal investigation's inability to access the more personal memorial history of the firearm.

Of course, one of the primary reasons that the investigation is never able to understand the firearm's history is because Jem Wilson refuses to testify or speak in his own defense, even though he knows (or strongly suspects) who committed the crime. In this way, the novel is able to contrast the prosecutorial narrative of circumstantial evidence with the fact that *Mary Barton's* primary discoverers of accurate evidence are women (despite Mary's own protestations that her



memory is unreliable). These accomplishments are demonstrated on two fronts: first in Esther's discovery of the paper wadding and second in Mary's successful mission to bring Will Wilson back to testify on Jem's behalf. Esther is Mary's aunt and a fallen woman who, after having heard news of the murder, goes to the scene of the crime and discovers a small scrap of paper with Mary's name on it. Her detection abilities obviously rival those of the police force, but she also concludes that Jem must have been the murderer. In the moment of Esther's discovery, Gaskell's narration is telling, as Esther is "guided by the only circumstance which afforded any evidence, the trailing mark on the dust in the road" (226). The circumstantial sign of the road leads Esther to the circumstantial evidence of the scrap of paper. As the one who told Jem of Harry Carson's attentions to Mary, Esther sees herself as the instigator of Jem's confrontation with Harry. Finding the wadding with Mary's name written in what she believes is Jem's handwriting confirms for Esther that the murder was the act of a jealous lover. Gaskell's allusion to the "circumstance" of the "trailing mark" then leads to the circumstantial marks written on the paper. Esther's interpretation of these marks is filtered through her own memories and feelings of guilt at having spoken to Jem and encouraging him to intervene, and that encouragement is framed by her experiences as a prostitute.

Esther's history in the novel is marked by a sense of forgetting, and so her fervor to save Mary from Harry Carson's advances, suggests the possibility of preventing in Mary the same necessity for forgetting that she experiences. When she speaks to Jem of Mary's relationship with Harry, he encourages her to allow him to help her find "some honest way of living" (159). But she declines, saying that she "must have drink. Such as live like me could not bear life if they did not drink. [...] If we did not drink, we could not stand the memory of what we have been, and the thought of what we are" (159). Esther finds that she cannot stand to remember who

she is and what she has done, and this forgetfulness hounds her even in death.<sup>11</sup> When Jem makes inquiries as to her whereabouts, he can only find the trace of a woman known as “Butterfly,” who was near death. So Gaskell’s subplot for Esther suggests a kind of anti-memory, through which Esther’s identity and body fade away, not unlike Andrew’s unresolved letter in *Susan Hopley*. In this case, Esther acted specifically to save Mary from a life like hers, a life whose existence on the fringes of society is prone to being forgotten. Esther’s discovery and interpretation of the wadding is filtered through and framed by this existence, she does not directly discover the truth, but by passing through her, this piece of evidence leads to Mary’s discovery of the actual murderer.<sup>12</sup>

The circumstantial evidence of the gun and the wadding convince the police and Esther that Jem is the murderer, and Gaskell’s narration of these conclusions suggests their deficiencies. Yet, when Mary receives the wadding from Esther, she concludes that her father is the murderer, and Mary’s conclusion is no less based on circumstantial evidence than anyone else’s. All she knows is that the scrap of paper was torn from a larger paper that she finds in her father’s coat pocket. Strictly speaking, such evidence in no way confirms that her father was the murderer; it is simply another piece of material circumstantial evidence from which Mary infers (correctly) that her father is the culprit. Gaskell’s treatment of circumstantial evidence appears to be somewhat uneven at this moment in the novel. Why does the circumstantial evidence of Jem’s guilt receive such doubt, but the evidence of John Barton’s guilt is immediately confirmed by the narrator? In the moment of Mary’s conclusion about her father, Gaskell’s narrator makes a rare

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<sup>11</sup> Her connection to the Barton household is also signaled through absence. Unlike the possessions that carry the memories of Mary’s deceased mother, it is an absent nail, on which Esther once hung her coat, since removed by John Barton, that is the lone trace of Esther having once lived there.

<sup>12</sup> As Holmes says of Watson in *The Hound of the Baskervilles*, “It may be that you are not yourself luminous, but you are a conductor of light” (Doyle 2).

direct address to the reader: “And you must remember, too, that never was so young a girl so friendless, or so penniless, as Mary was at this time” (238). Not unlike a lawyer trying to sway the jury in his favor, the narrator here asks the reader to consider Mary’s position and interpret her judgment through this light. Whereas the characters have been interacting with the material memories of their lives throughout the novel, now the novel itself becomes another object of memory. Combining Mary’s evidence with the earlier scene in which the frustrated laborers draw straws for a political assassination (an occurrence of which Mary is ignorant), the reader’s memory now becomes a key component in the narrator’s confirmation of Mary’s conclusion.

In this way, the narrator actually takes on the role of a direct witness, offering corroborating testimony to the reader in support of Mary’s suspicions of her father. While it may come as no surprise that *Mary Barton* offers direct human testimony as a corrective for the inferences of circumstantial evidence, even Gaskell’s presentation of direct testimony is somewhat vexed. First, during her journey to the assizes in Liverpool, Mary overhears a conversation that frames her quest to bring Will Wilson back to testify in Jem’s defense. Two law clerks are talking about the case, and while they agree that “Juries are always very unwilling to convict on circumstantial evidence,” in this case “there can hardly be any doubt” (274). This conversation, although it confirms Gaskell’s critique of circumstantial evidence, also serves to further invigorate Mary’s fervor to find Will and save Jem. Of course, Mary’s efforts are ultimately successful, but this is not evident at first, and faced with the possibility that she has failed to secure an alibi for Jem, Mary’s own memory is temporarily obscured. Upon returning to Liverpool after chasing down Will’s boat, “every minute her mind became more cloudy. She strove to remember where Will had lodged, but she could not; name, street, everything had passed away, and it did not signify” (289). Gaskell positions this small episode of memory loss

prior to Mary's more serious delirium after the trial not only as a foreshadowing of what is to come, but also as an ironic contrast between the search for the testimonial memory of a human witness and the consequent loss of memory this search inflicts on Mary.

Finally, in Will Wilson's testimony to the court, Gaskell establishes an explicit distinction between the ways in which the circumstantial evidence of things can be misread and the prosecution's attempts to "misread" Will Wilson's testimony. After Will Wilson has given his testimony attesting to the fact that Jem Wilson was walking with him to Liverpool on the night of the murder, and therefore could not have been the perpetrator, the prosecutor makes a serious strategic miscalculation in his cross examination of Will. In his address to Will, the prosecutor asks what the narrator describes as "his first insulting question,"

Still there is one circumstance you have forgotten to name; and I feel that without it your evidence is rather incomplete. Will you have the kindness to inform the gentlemen of the jury what has been your charge for repeating this very plausible story? How much good coin of her Majesty's realm have you received, or are you to receive, for walking up from the Docks, or some less creditable place, and uttering the tale you have just now repeated,—very much to the credit of your instructor, I must say? Remember, sir, you are upon oath. (319-20)

Implying, of course, that Will is a paid informant, tasked with spinning a perjurious (but exculpatory) tale of Jem's innocence, the prosecuting counsel wants to treat Will himself like a circumstantial thing that can be read and reinterpreted. But unlike the inanimate gun or the scrap of wadding, Will resists this alternative reading, this implication that there are other "circumstances," beyond his honest testimony, that might be at work. Gaskell characterizes Will's resistance to this imputation as so fierce that it is turned back upon the prosecutor. Will demands to know "how much money you've been paid for your impudence towards one who has told God's blessed truth" (320). Not only does Will Wilson resist the attempt to read his evidence as disingenuous, he turns the accusation around and points out that the attorney always gets paid for his work. In many ways, Will's ability to resist the prosecution's misreading of his

testimony further serves to strengthen the likelihood that Jem will be acquitted (which, of course, he is). This demonstration of the strength of human testimony also serves to undermine any prosecution that relies too heavily on circumstantial evidence.

In Will's testimony, Gaskell is offering a twist on the fears surrounding the Prisoner's Counsel Act of 1836, which allowed anyone accused of crimes to enlist the services of an attorney for his defense. In particular, it was feared that defense counsel would be forced to lie, or at least face ethically questionable situations in which a client might publicly claim to be innocent while privately confessing to the crime. Schramm has pointed out how these fears were apparently confirmed in the case of Francois Courvoisier's defense by Charles Phillips, who continued to employ tactics to suggest his client's innocence (like accusing others of the crime), even after Courvoisier had "made significant admissions of his guilt" (*Testimony* 115). And yet here, Gaskell suggests that it is the prosecution who is also put into a position of continuing to accuse a man, even after they have firm evidence of his innocence. The entire process of accusation and defense is upended during Will's testimony, suggesting that neither the prosecutorial use of circumstantial evidence, nor the defensive use of it is proper. It would seem, then, that Gaskell's overarching principle is to draw attention to the ways in which memory connects to and inhabits the things around the characters in *Mary Barton*, while also indicating that these same objects can be misread to form inaccurate narratives, and offering a somewhat conservative return to the standard of human testimony as the foundation for reliable legal evidence.

### ***Susan Hopley and Women Detectives***

As I indicated above, Gaskell's move toward implicating circumstantial evidence also puts women, particularly Esther and Mary, into positions of investigative power that supersede those of the police force. In many ways, Catherine Crowe follows a similar tack in *Susan*

*Hopley*, and despite their distinctive approaches to circumstantial evidence, both Crowe and Gaskell are keen to position women as particularly effective detectives of evidence. Indeed, Lucy Sussex points out that Edgar Allan Poe's publication of his first detective story was actually preceded by Crowe's novel, and she conjectures that *Susan Hopley*'s "influence cannot be underestimated. It is difficult to see how Poe could have been unaware of the work, either as a book or in its adaptation for the stage, which occurred within six months of the original publication, and toured internationally" (62). Furthermore, I would suggest that both Crowe and Gaskell's emphasis on women as detectives points to a conviction that women, as managers and keepers of the home, were uniquely equipped to read the evidence of quotidian things—they are connected to the memories of the home in ways that the police force cannot replicate. While detectives like Dickens's Bucket seemed more familiar with the streets of London (and Esther is able to find the scrap but misinterprets it), Gaskell and Crowe offer up domestic women as detectives of the drawing room.<sup>13</sup>

This is born out during Susan's employment with Mr. and Mrs. Aytoun, in which Crowe pits the evidentiary knowledge of Susan and her employer against that of a suspicious shopkeeper. After being forced to leave the employ of the Wentworth household, Susan serves with several different families over a period of years; in this particular case, the pregnant Alicia Aytoun, whose husband is in the midst of an extended business "expedition," is accused of stealing from a fabric shop. First, during her visit to the shop, one of the shop's employees points out that a piece of lace had caught to her handkerchief. While an innocent enough occurrence,

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<sup>13</sup> Collins comes close to asserting the same thing with Marian's bold venture to discover Fosco and Percival Glyde's plans, but her subsequent illness, and Walter Hartright's eventual control of the case, end up suggesting that a woman can't quite cut it as a detective of the home without a man to help her. Of course, with Conan Doyle's Sherlock Holmes, detection moves from the drawing room and the police station to the laboratory. In some ways, Holmes himself is an amalgamation of Bucket and Hopley, as he assumes both a feminine and masculine persona in Doyle's short stories.

“Alicia blushed, and looked confused, as most people would do under the like circumstances” (202). Of course Alicia’s blushing suggests a kind of guilt, or at least embarrassment, which only contributes to her later being charged with theft. The shop owner, who is convinced that otherwise well-to-do women are taking advantage of his services by cutting off more fabric than they pay for, decides to make an example of Mrs. Aytoun when the bolts of fabric he sends to her house come back short of the amounts his employee cut for her.

As is common in the detective genre popularized later in the century by Arthur Conan Doyle’s Holmes stories, in order for the detective to have a chance at solving the case, the police force must be shown to be ineffective. In this case, the authorities general search of the Aytoun residence reveals no incriminating evidence, circumstantial or otherwise. Still, the shopkeeper is intransigent, and Mrs. Aytoun’s is brought before a magistrate. At the hearing, Crowe underscores how the initial circumstance in the shop has morphed into something much more insidious when the shopkeeper claims that “Mrs. Aytoun, on the preceding day, had been detected in the act of putting a piece of lace in her pocket that was wrapped up and partly concealed in her handkerchief” (208). Already the memory of the original encounter has been filtered through the accusation of theft; and what was at one point a harmless oversight has transformed into an underhanded (but foiled) attempt at theft. Indeed, with the shopkeeper’s insistence that it is the “dishonesty of the ladies who frequent” his establishment Crowe points to a gendered hierarchy in which women cannot be trusted to honestly acquire their own cloth—men sell domestic goods to women, men investigate the alleged theft of those goods when they go missing, and men run the courts where these women are accused (203). At every turn Mrs. Aytoun faces a world in which the abilities and motives of women are suspected, misinterpreted, and misremembered.

In the face of this reality, Crowe suggests that women's familiarity with the domestic things that land Mrs. Aytoun before the magistrate, can also hold the key to solving crimes. Consequently, Susan ultimately unravels the mystery of the missing cloth because of her ability to recall material details, in both the sense of material as textile and material as pertinent or significant. Observing that a neighborhood girl's doll is dressed in fabric identical to that which Mrs. Aytoun is meant to have stolen, Susan's suspicion's are aroused. Crowe is insistent that Susan doesn't simply notice a similar fabric, or an approximate fabric, but the identical fabric. Beginning with this trace evidence, belonging, as we discover, to the daughter of the actual thief, Susan is able to uncover an intricate criminal web, with the shop employee who originally cut the fabric at Mrs. Aytoun's home at its center. In other words, Susan's ability to recognize and trace the fabric, combined with the actual thief's apparent belief that such an insignificant trinket as a doll's dress would go unnoticed, allow her to solve the crime. It is also important to note that Susan's detective work in this case occurs quite a while after the original accusation, and as a result, Crowe continues to draw attention to Susan's long-lasting memory of such things as these particular fabrics.

Lastly, and perhaps most significantly, Crowe introduces a lengthy subplot into the novel involving a woman named Julia, whose story of how her parents, Julie and Valentine, came to be married and emigrate from France, comprises almost a fifth of novel. Indeed, Sussex rightly suggests that Julia's narrative of her parents' adventures "represents a perfect encapsulated female detective narrative, told with a skill that would make it eminently suitable for inclusion in a historical anthology of the female detective" (61). In fact, I would argue that Julia's narrative undermines the criticism that Adeline Sergeant made of *Susan Hopley* in her 1897 retrospective on Crowe, which was that the novel did not contain "a 'sympathetic' heroine or any other really



interesting character” (157). On the contrary, Julie Le Moine not only saves Valentine from a false accusation, but she manages to combine the urban and street-wise abilities of Esther with the domestic insights of Mary and Susan; in this way, Crowe’s seemingly out of place narrative digression synthesizes the detection abilities of a variety of women characters. However, Julie’s unhappy marriage and bleak life in the aftermath of successfully solving a complicated crime also seems to function as a cautionary tale against women pursuing their detective work too fervently.

In this case, Valentine, an Englishman living in France, works as a clerk for Julie’s father, but he does not return Julie’s affections. And as with so many aspects of the two novels I’ve examined in this chapter, a scrap of paper proves to be a particularly significant piece of evidence; here, it is the key to Julie’s pursuit of Valentine’s love. Julie’s desire to know whether or not Valentine is entertaining the affections of another woman compels her to examine a note that he receives in the office, but she is able to do so without arousing suspicion by replacing the note carefully enough that it appears undisturbed. The paper confirms Julie’s fears, but the ensuing adventure allows her to secure Valentine’s loyalty and a proposal of marriage. Julie thus deploys her evidentiary skills not only to uncover (rather unscrupulously) details about Valentine’s love life, but also to save him from an unjust prosecution.

Valentine’s case begins when he is summoned to a house, ostensibly on business, in the middle of the night, but is unceremoniously locked inside a bedroom with a dying man. The man, who has been mortally wounded, claims just after the police arrive that it was Valentine who attacked him. It seems that due to his injuries, the victim deliriously testifies that Valentine is the murderer. Crowe, unlike Gaskell, whose trial scene clearly establishes a testimonial hierarchy ruled by human testimony, undermines both human testimony and circumstantial

evidence. In this case, both Valentine's presence and his attempt to escape the room seem suggestive of guilt, and the victim himself makes a positive identification. Today, of course, witness identification is understood to be one of the most error-prone forms of evidence, particularly in cases of the homicide, where the pressure to identify a suspect is particularly high.<sup>14</sup> In some ways, then, Crowe's narrative prefigures some of the issues that Robert Browning raises later in *The Ring and the Book* and which I will discuss in the following chapter, suffice it to say that Crowe's representation of a victim's veracity is far more troubling, because Mr. Bruneau truly believes that Valentine is his attacker. So while Valentine's presence in the room follows *Susan Hopley's* trend of favoring manipulation and deceit as the fatal flaws of circumstantial evidence, the particular component of the narrative alludes to the concerns that Gaskell examines more closely: that even a witness's honest misreading of circumstances can result in a serious judicial error.

Having drawn upon her domestic skills to determine Valentine's romantic situation, Julie's tactics shift significantly when she learns of his arrest. Desiring to discover the truth of the case, and believing him innocent, Julie disguises herself as a page boy and begins to wander the streets of the city trying to glean information about the case in an effort to discover who was actually responsible. Her strategy is bold and dangerous, but she ultimately uncovers the true perpetrators of the crime in a seedy, somewhat squalid public house—the pub owner's son, Rodolphe Grimaud, is in league with the victim's nephew, Rodolphe Bruneau, who had concocted the murder plot for money. But Grimaud realizes that the pageboy staying at his mother's establishment is not who he appears to be, and he locks Julie in the basement with the

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<sup>14</sup> See my earlier references to Kevin Jon Heller's article on juries' tendency to over rely on eyewitness testimony, even when it is less reliable.

intention of killing her as well. Unfortunately, the trauma of being discovered and her near death (she is found by police at the last minute) render her unable to provide testimony for Valentine.

[T]he poor girl is incapable of giving her testimony; and it is even doubtful whether she will ever be in a condition to do so. She was found in the cellar speechless, and has remained so ever since; in short, her life is despaired of, and it is too probable that the secret will descend with her to the grave. (154)

However, in a bizarre turn, the police detective's discovery of Julie's whereabouts allow them access to enough material evidence to convict both Grimaud and Bruneau, thereby vindicating Valentine.

Crowe's representation of Julie as a female detective is in some ways far more complicated, due not only to the nature of the intricate plot, but also because Julie is both effective and ineffective as a discoverer of material memory. She deftly manages to obtain both the scrap of paper from Valentine's desk and the briefcase whose contents ultimately prove who Bruneau's actual murderers are, but in the latter case, her discovery is almost incidental, since it is the police who must enter in and finalize Valentine's vindication. Julie's delirium is not dissimilar from Mary's, but her affliction begins prior to the trial and therefore forces her to rely on police presentation of evidence. In some ways, this makes Valentine's exoneration somewhat more convincing as a legal scenario. As I pointed out earlier, Mary's testimony in *Mary Barton* is founded almost entirely upon emotion and sentiment rather than empirical evidence, but in the case of Julie and Valentine, Julie's illness prevents such a shift from ever occurring. Valentine's innocence is effectively established by the presentation of the perpetrators' own belongings.

Of the ending to *Mary Barton* Raymond Williams opines, "All are going to Canada; there could be no more devastating conclusion" (98). But in the case of Julie's story: all are going to England; there could be no more devastating conclusion. There is a certain affinity between the

ending of this episode in the novel and the ending of *Mary Barton* as a whole, but whereas Gaskell by and large affirms the conservative marriage plot, although with the added twist of moving to Canada, Crowe shows how Julie and Valentine's eventual marriage slowly collapses. Far from being the adventure that leads to a loving relationship, Crowe describes Julie's later life as being plagued by both memory loss and suspicion. Valentine and Julie return to England, but Julie's original pursuit of Valentine, framed as it was by her suspicion of his pursuit of another woman, results only in bitterness over the years, as she believes he only married her out of a sense of obligation. In a way, Julie's ability to fully embrace her role as detective by taking on a male disguise is ultimately punished by her resulting domestic misery.

*Susan Hopley* and *Mary Barton*, in their approaches to questions of circumstantial evidence and legal machinery, are far more closely related than any critics have posited before. Part of this is due, of course, to *Susan Hopley*'s relative obscurity, but it was certainly a novel that Gaskell had read, and perhaps in *Mary Barton* her treatment of the legal question of circumstantial evidence was meant as an improvement upon Crowe's work, which she clearly didn't care for. At the same time, because these novels frame the 1840s, the shift between them from malicious to honest misinterpretations of circumstantial evidence is significant. Gaskell's treatment of the courts is, in many ways, far less sensational than Crowe's, although it is far more sentimental. For Crowe, the best antidote for such nefarious manipulations of circumstantial evidence was a persistent woman with a good memory—represented by both Julie and Susan; and yet, in *Susan Hopley*, these women do not see their efforts rewarded with the traditional marriage plot ending that Gaskell provides. Hopley spends her life as a spinster maid-servant, and Julie lives on in a loveless marriage. For Gaskell, the solution to the problem of circumstantial evidence and memory was a return to the value of human beings as human. Even

John Carson, who at first wishes that his sins might remain unforgiven so long as he can have revenge for his son's death, later comes to recognize John Barton's humanness and forgives him. And Mary's testimony in Jem's favor hinges very little on all those legal details that she showed so little ability to recall; indeed, her testimony is to Jem as a human being. Likewise, Will Wilson's impassioned reproach of the prosecuting attorney asserts his honesty and impugns the legal system's reliance on technically dispassionate, but pecuniarily incentivized, attorneys.

This emphasis on the humanity of the characters over and against the judicial system functions as the key component in both Gaskell and Crowe's critiques of things as circumstantial evidence. Whereas *Susan Hopley* and *Mary Barton* both show how things can be misinterpreted or used to reinforce a prosecutorial narrative, the personal memories and recollections of the people most intimately connected to these things regularly complicate and contradict those same inferential accusations. In this way, Gaskell and Crowe not only position human testimony as generally preferable to circumstantial evidence, they suggest that domestic intimacy and familiarity with the things of the home make their character far superior interpreters of their own evidentiary objects.

CHAPTER 6  
THE HOLISTIC TRUTH OF MEMORY AND TESTIMONY

**The Truth of Force**

On February 22, 1698, a feeble and haggard man ascended a platform in the Piazza del Popolo in Rome.<sup>1</sup> He was surrounded by spectators, many of whom had paid handsomely for the privilege of seeing him on this day. This was the conclusion to a long and drawn-out legal saga that had become the talk of the town around Rome, and now Duke Guido Franceschini was leaning down atop the platform to have his head cut off. Nearly two months earlier, on January 2, Franceschini and four others had gone to the house of his in-laws, Pietro and Violante Comparini, and murdered them both along with his young wife, Pompilia. While the case generated a lot of interest in its day, as with many sensational trials, it was quickly forgotten after its conclusion until one day in 1860, when Robert Browning happened upon a curious collection of documents while browsing through an outdoor market in Florence. It was on that day that this “Roman murder-case,” (I. 121) as Browning called it, was rediscovered.<sup>2</sup>

Contrary to the speaker of Book I, who says that he “mastered the contents” of the Old Yellow Book before arriving back home from the market, Browning did not immediately begin working on *The Ring and the Book*. The bulk of the poem was composed between 1864 and 1865, a break of several years from his acquisition of the primary documents on which the poem is based. In that time, Browning actually offered the Old Yellow Book to at least two other

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<sup>1</sup> A portion of this chapter was previously published as “The Holistic Truth of Memory and Testimony in *The Ring and the Book*.” *Victorian Literature and Culture* 41.2 (2013): 329-342.

<sup>2</sup> In his translation of the old yellow book, John Marshall Gest argues that Browning actually mistranslates the title page, which in Italian read, “Romana Homicidiorum.” While Browning’s translation carries with it all the sensational associations with murder, the more accurate translation would be, “a Roman case of Homicides.” In Roman civil law there were not any legal associations between the term “homicide” and the gradation of the crime, whereas the same cannot be said of the term “murder” in English. (Gest 26)

authors as a subject.<sup>3</sup> By the time he did begin work on what would become his epic, Browning certainly had mastered the story as told in the *Old Yellow Book*. Briefly, the story is as follows: Pietro and Violante Comparini were a relatively well-off but elderly couple in Rome, whose income was derived from a trust estate, meaning that if they had no children, the income would go to another part of the family.<sup>4</sup> It was fortunate, then, that their daughter Pompilia was born in July 1680. Thirteen years later, in an attempt to secure an alliance with an aristocratic family, Violante arranged Pompilia's marriage to Count Guido Franceschini, without her husband's knowledge or consent. Three months after the wedding, in December of 1693, the Comparini and Pompilia traveled to Franceschini's family home in Arezzo. The union was not a happy one.

Within three months of moving to Arezzo the Comparini had returned to Rome, leaving their daughter behind. At the same time Violante revealed that Pompilia was adopted, and Pietro brought a suit against Guido to recover the dowry on the grounds that she wasn't his daughter. Three years passed while the case languished in the Roman courts and Pompilia languished under the increasingly cruel treatment of her husband. Finally, in late April 1697, Pompilia escaped her husband's home with the help of Guiseppe Caponsacchi, a subdeacon (although Browning identifies him as a priest throughout the poem) of the Church. Guido discovered them at an inn on the road to Rome and both were arrested and accused of adultery. In September the court gave its decision; Caponsacchi was sent away from Rome, and Pompilia was sent to a convent. After a few weeks, Pompilia returned to her parents' house, as she was pregnant and would soon give birth. While Guido questioned the paternity of the child, its being born in mid-

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<sup>3</sup> In his published diary, William Allingham mentions that Browning offered the story to both Trollope and Tennyson, neither took him up on it (180, 326).

<sup>4</sup> For a more detailed description of the legal issues involved, see Gest 3-4. I am drawing upon a very helpful timeline that Gest includes in his translation of the *Old Yellow Book* to provide dates for many of the historical events described here.

December, only 34 weeks after Pompilia's escape, makes it more likely that the child was Guido's. On January 2, 1698, for reasons that Browning explores thoroughly in the poem, Guido and four other men arrived at the Comparini's house and attacked Violante, Pietro, and Pompilia. Violante and Pietro died during the attack, but miraculously, Pompilia survived for four days, despite twenty-seven stab wounds, and died on January 4. The trial began almost immediately, followed by an ineffective appeal to the Church for clemency, and the entire affair concluded with the February executions of Guido and his accomplices.

The story is certainly sensational enough to warrant a literary treatment, but when *The Ring and the Book* first appeared in 1868, it represented a great departure from the tradition of the epic poem. Browning's poem was unique in that each of its first eleven books retells the entire story from a different perspective, with the final book functioning as an epilogue to the work as a whole. Even within the first book of the poem, this process exists in miniature, the opening 300 lines provide a brief outline of the whole story before returning for a more thorough treatment (Kennedy and Hair, 320). This unusual structure allowed Browning to explore the facets and contours of testimonial interpretation in a way that would not have been available with a more traditional linear approach. Since many of the facts of the case are stipulated in the poem's opening, the narrative interest centers on the variations in the story that result from each of the perspectives that frame subsequent re-tellings of the tale. Even among other examples of multi-narration, like Wilkie Collins's *The Woman in White* and *The Moonstone*, Browning sets his work apart. Where Collins's narrators are responsible for different parts of the story, often generating suspense around the narrative gaps between individual narrators' contributions, Browning's characters tackle the whole narrative while their first-hand knowledge of the case varies widely from those directly involved to those entirely outside of the legal process.



Memory is central to *The Ring and the Book*, and its centrality is not limited to those monologues delivered by characters directly involved in the case. Indeed, Browning begins the poem with testimonies from those who have no firsthand knowledge of the events in question. Like the question of reading in *The Moonstone* and *The Private Memoirs and Confessions of a Justified Sinner*, whose editors are interested in molding available interpretations, Browning immediately opens up the concept of testimony to embrace more than courtroom utterances; the conversations in Books 2-4 between Romans demonstrate that spectators of the case also perceive, judge, and express varying interpretations based on the same body of evidence. Memory enters into these monologues in the way that such interpretations become part of the community narrative; the communal memory of the event is circulated and reified by the process of testimony that Browning introduces. This process becomes even more complex as the voices of those directly involved in the case are added to the mix.

In her recent assessment of *The Ring and the Book*'s critical history, Laura Struve argues that earlier, epistemological readings of the poem tend to center on questions of how to “[piece] together [the truth] from various sources. [...]ruth becomes one story derived from many accounts” (426). But Struve and other critics like Stephen Jeffcoat have departed from this approach and sought instead to focus on the poem’s fictionality as a key component to understanding its historical, legal, and epistemological implications.<sup>5</sup> As E. Warwick Slinn argues, neither approach fully appreciates the poem’s complexity, since “[a] conclusive telos...is neither within nor outside the text; it is simply not available” (115). Focusing solely on historicity or fictionality leads to a kind of myopia that glosses over the poem’s conflicted

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<sup>5</sup> Both Struve and Jeffcoat arrive at what are essentially disapproving conclusions about the poem. Jeffcoat goes so far as to say, “In 21,000 lines of dense verse in *The Ring and the Book*, [Browning] spins a fictionalized romantic edifice that entertains but ultimately fails to convince or move.” One wonders how something that is unconvincing and unmoving could be entertaining.

pursuit of truth as a work of fiction. By introducing memory as a primary concept through which to understand *The Ring and the Book* I will demonstrate that Browning's formulation of "truth" in the poem is inexorably interwoven with how and what characters remember, irrespective of whether or not that memory is historically accurate. While truth may be presented as a process in the poem, as Slinn, Patricia Rigg, and Suzanne Bailey have argued, I suggest that it is primarily a process of memory, in which truth becomes a holistic concept that encompasses all the variance and contradiction that are inherent in multiple testimonial memories.

Of course, such a statement raises the question of how such a truth could be formed in the first place. Browning makes it quite clear that the legal system alone cannot accomplish this. Indeed, Browning demonstrates a particular weakness in the ways that legal testimony is interpreted and handled by the legal system itself. In Books VIII and IX, we are presented with the narratives of the two lawyers in this case of homicide. In both narratives, we see that the lawyers are particularly focused not only on the rhetoric of their arguments (particularly in the case of Archangelis, Guido's attorney) but also on the fine legal points on which their respective arguments turn. The Roman courts operated under the legal tradition of Civil Law; this is separate and distinct from the Anglo-American tradition of Common Law. In Civil Law, legislation is "interpreted and applied by courts on the basis of deduction from first principles. [... T]he lawyer and the judge function more as trained technicians of the law, for their task is not to discover the law, or even interpret it, but to apply it" (Presser 6). Paradoxically, while this case is being argued in courts that operated under Civil Law, it is very much a case about tradition and historical practice, which appeals much more to the tradition of Common Law, in which precedent is used to constrain and generate consistency among decisions. As a result, we find that Guido's lawyer points to laws that allowed for a husband to kill an adulterous wife and

to the many scenarios in which a husband killed his wife for unfaithfulness but was not sentenced to death (VIII. 550-846). Browning weaves an implicit criticism of this tendency of the legal tradition into the text by suggesting rather strongly that the two lawyers represent a bit of comic relief between Pompilia's and the Pope's narratives (Buckler 187).

In his translation of the Old Yellow Book documents, early 20<sup>th</sup> century judge, John Marshall Gest, takes issue with the ways Browning portrays these men of the legal profession. In part, Gest is responding to Charles Hodell's earlier translation of the *Old Yellow Book*, in which Hodell argued that the attorneys were "chiefly devoted to the establishing or refutation of certain points of law" and so "the truth of the tragedy and the real claims of justice are of little interest" to them (239). Gest argues that this is not a precise description of what lawyers are supposed to do. Feeling that his brothers in the legal profession are being unfairly attacked, Gest points out that it is not the lawyer's job to express excessive "human sympathy," because to do so would have wounded their standing before the court (48). In other words, Gest defends his colleagues on the grounds that "real claims of [human] justice" are not at issue in the case from a professional standpoint, but this is of course precisely the problem that Browning sees in the legal process. Because the process doesn't claim to pursue truth and justice in any ideal sense, the lawyer's attention to legal maneuvering, skilled though they may be, misses the mark. (The only British courts that approximate this pursuit of justice were the Chancery courts, which were defunct by 1875 in consequence of their gross ineffectiveness.) So the legal voices are a part of the poem's fabric of truth, but they are not seen as having exclusive access to that truth.

Any consideration of Browning's approach to truth in *The Ring and the Book* is fraught with difficulty, since the term is deployed in varied ways throughout the text. As Paul Cundiff has pointed out, the poem often presents an inconsistent application of "truth" as well as "fact":

“In Book I [...] Browning seems to use truth [...] in the sense of fact or factual evidence” (41). Yet the poem also draws a contrast between “truth [‘fanciless fact’] and truth [fanciful fact],” whereby Browning distinguishes his work of “truth” in the poem from the “truth” of the legal documents contained in the *Old Yellow Book* (Cundiff 49). The narrator in Book I describes the *Old Yellow Book*, as “A book in shape but, really, pure crude fact” (I.86), drawing a distinction between fact and truth. This distinction is important because with it Browning asserts that such fact as is contained within the *Old Yellow Book* has failed as a record of memory as expressed through testimony. In *Memory, History, Forgetting* Paul Ricoeur argues that at its core, “memory is tied [to] an ambition, a claim – that of being faithful to the past” (21). Ricoeur later exposes what he calls a “crisis of testimony” in which historical criticism undermines “the trustworthiness of testimony” (180). While Browning’s conception of memory aligns quite nicely with Ricoeur’s, the poet’s delineation of “fact” and “truth” suggests that he locates a crisis in the process of historical documentation that resulted in the *Old Yellow Book* rather than in testimony, and therefore his poetic work seeks to restore testimonial memory that has been obscured by history.

In pursuit of this restoration of testimonial memory, the ring metaphor that Browning introduces in the poem’s opening allows him to claim that the poem arrives at a truth that is more faithful to the memory of the events recorded than the historical documents have provided.

This is the bookful; thus far take the truth  
 The untempered gold, the fact untampered with,  
 The mere ring-metal ere the ring be made!  
 And what has hitherto come of it? Who preserves  
 The memory of Guido, and his wife  
 Pompilia [...]? Was this truth of force?  
 Able to take its own part as truth should,  
 Sufficient, self-sustaining? Why, if so—  
 Yonder’s a fire, into it goes my book,  
 As who shall say me nay, and what the loss? (I.364-369, 371-376)

Here Browning gives three criteria for judging whether any narrative has the “truth of force”: first, it must “preserve the memory.” Truth must have at its core a capacity to keep the memory of an event—preservation must maintain the thing itself in its original, unaltered state. So part of Browning’s task in the opening book of the poem is to assess whether or not the *Old Yellow Book* has done this with respect to the truth of Guido’s crime. The second criterion is that truth be “sufficient” and “self-sustaining.” How can a truth be self-sustaining? The answer is in the final criterion: Browning suggests that if the truth of the *Old Yellow Book* is a “truth of force” then if he were to destroy the original document, nothing would be lost to memory. The truth must be immune to the destruction of its physical, textual record.<sup>6</sup> Browning’s point is well-made; at the time of his discovery, the truth of the *Old Yellow Book* was neither self-sustaining nor immune to the destruction of the book itself. In other words, the truth of force that preserves memory exists both outside of text and outside of individual recollection. Browning’s conclusion is that this type of sustained memory can only be effected by the imagination of the artist poet.

Browning argues that the imagination of the poet can slice through the fog of history and arrive at the truth of force; only the poet’s imagination can resurrect the memory and make it self-sustaining. Whatever effort was made in this regard at the time of the trial was insufficient:

Years came and went, and more and more  
Brought new lies with them to be loved in turn.  
Till all at once the memory of the thing, [...]   
Which hitherto, however men supposed,  
Had somehow plain and pillar-like prevailed  
I’ the midst of them, indisputably fact,  
Granite, time’s tooth should grate against, not graze,—  
Why, this proved sandstone, friable, fast to fly  
And give its grain away at wish o’ the wind. (l.659-668).

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<sup>6</sup> The image is a prescient foreshadowing of Ray Bradbury’s *Fahrenheit 451* (1953), in which literature is maintained by roving bands of memorizers who burn their physical copies of books without any fear of loss, precisely because they have the entire text in their minds.

All that remains is the debris of that granite pillar turned sandstone; the original has “dwindled into no bigger than a book” (I.671), making the *Old Yellow Book* the very result of this process of the degradation and loss of truth. Rigg reads this passage as suggesting that “the heart of the murder story survives” (42), but I would argue that Browning’s metaphor is not nearly so encouraging as her analysis suggests. Indeed, the imagery is far more bleak, as the memory has dwindled from a great structure to this one, fragile book – the notion of an essential core or “heart” being maintained does not appear here. As the detritus of historical memory, Browning does not see in the *Old Yellow Book* a complete document to be understood and interpreted but the remains of something greater that can only be claimed through the application of imagination to the written memory. As a result, the *Old Yellow Book* is both inadequate and indispensable for his project; without the original documents Browning has only fact-less fancy, so the *Old Yellow Book* must simultaneously be preserved and totally superseded by the poem’s truth.

By linking the concept of truth to a self-sustaining memory, one which would be endangered by the *Old Yellow Book*’s destruction, Browning conflates the textual legal testimony of his source material and memory. As he indicates, the Italian legal system of the seventeenth century is especially conducive to a poetic treatment of the original testimony; because those involved in the case “only spoke in print,” they have “printed voice[s]” (I.166-7).<sup>7</sup> It is perhaps surprising that Browning would choose a collection of legal testimony as the basis for a series of dramatic monologues, since that poetic genre, with which Browning is most associated, often simulates vocal speech, with the character seeming to speak to a particular listener, as in “My

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<sup>7</sup> Richard Altick and Thomas J. Collins, in their notes for the poem, point out that “In conformance with Roman practice, there were no courtroom scenes in which the two sides confronted each other. The legal documents were presented to the court in printed form” (9).

Last Duchess.”<sup>8</sup> Spoken courtroom testimony would seem to make a better subject for dramatic monologue, and yet *The Ring and the Book* manages to provide some of the most convincing “printed voices” of Browning’s career. In producing this epic work, Browning essentially aims to restore the “pure crude fact” of the affidavit or legal pleading through an artistic representation of each document’s origin as an oral speech unconstrained by the necessities of legal testimony. As the poem’s conclusion argues, “Art remains the one way possible / Of speaking truth,” (XII.843-4) since “our human speech is naught, / Our human testimony false” (XII.839-40). Books II through XI follow the pattern that I have described; the monologues serve as transcripts of each character’s vocal speech, and it is these speeches that are later transformed into the legal documents contained within the *Old Yellow Book*. In this way, Browning anachronistically positions his work prior to the written documentation on which it is based.<sup>9</sup>

In essence, the poem becomes what Michel Foucault called the “oral correlative” – the speech that confirms and ultimately gives the power of truth to the written account (39). While Foucault is primarily concerned with the nature of confession, a more expansive rendering of his concept is present in *The Ring and the Book*, for it is not just the accused who is offered the chance to speak, but all who have a part to play in this crime, including those who only interpret it, as in Books 2-4. As Foucault points out, the classic purpose of the confession was to be the “authentication [...] of the written preliminary investigation” (39). But Browning is not interested in simply providing corroboration of the *Old Yellow Book*; his source material is only the crumbling remains of a once grand structure. Foucault’s term then is not precisely accurate; a

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<sup>8</sup> As Ivan Kreilkamp describes the genre, “dramatic monologue” constitutes the “construction of an idealized voice” (156).

<sup>9</sup> Bailey’s focus on Higher Criticism also considers the role that orality plays in the poem. She suggests a connection between the kind of anachronistic repristination that Browning claims for his poem and the Higher Criticism that undermined claims of Biblical infallibility (571).

better approximation of Browning's work in the poem would be the creation of the "oral spirit" of the *Old Yellow Book*. These speeches are the utterances that together take the dusty detritus of the *Old Yellow Book* and breathe the truth of force back into its pages. However, in pursuing this project of repristination, Browning does not give obvious preference to one reading or interpretation of the evidence. While the legal system, as Foucault indicates, would use the oral correlative as a method of reifying its decision, Browning creates in the poem an oral spirit for The Old Yellow Book that is at once indebted to its source material while also resisting the possibility of a single preferred reading of its contents.

### **Guido and Truth in the Law's Failure**

It could be argued that Browning does not intend for the entire poem to function in the way that I've described. After all, the accused does get his chance to speak before execution, as Guido Franceschini is the only speaker who gets to speak twice, in Books V and XI. Perhaps his speech functions as the traditional oral correlative that Foucault describes: the final speech of the condemned in which he confesses his crimes. There is support for such a position, especially in the existence of the second speech in Book XI, which is the speech of the condemned. Yet Browning's imagining of this moment before Guido's execution has none of the hallmarks typically associated with the final confession of the condemned, because in it Guido does nothing to confirm the truth as established by the courts. He does not confess in the sense of admitting his actions as wrong and repenting from them; indeed this final speech is an accusation. Guido so vehemently decries the nature of the justice he has received, he seeks to undermine the authority of the those who have played a part in the process that has led to his condemnation.

However, as Richard Altick and James Loucks argue, Book XI can be seen as an authentication of the legal and papal decision, because Guido reveals "his true bestial self" (69).



Altick and Loucks's reading of this Book is telling in that they conclude that the "'truth' revealed is not so much in the words themselves as in what they tell of the speaker" (74). Unfortunately, such a reading encourages us to dismiss the content of Guido's speech in order to confirm him as nothing more than the villainous murderer. As William Buckler points out, we must recognize that "Guido makes some cogent arguments that are not made false by his personal falseness" (259). Despite Guido's murder of Pompilia and her parents, his final speech is not simply a moment for him to heap burning coals upon his own head. Instead, this speech reveals a man desperately trying to maintain a memory of himself that has been undone by his conviction and impending execution. Consequently, Guido's monologue works to counter the authority of the courts, raising piercing questions about the nature of testimony, memory, and law in the process. While many critics have focused on Guido as a villain, which he undoubtedly is as a confessed murderer, his criticism of the legal system's inconsistency and of the Catholic Church's dogmatic certainty of the distant past echoes Browning's own suspicions about the authenticity of his source material. In this section of the chapter, I will examine two major critiques that Guido posits in his final speech, a critique of the law and a critique of the Church, in order to show first that Guido contributes to the holistic truth of the entire poem and second that he offers several reasonable arguments that undermine both the Church's and the legal system's claims to authority. In this way, Browning's Guido is not simply a man revealing his madness, but a key component in the entire poem's demonstration that only Art is far superior to the law in generating a self-sustaining truth that preserves memory.

### **Critique of Law**

In his final speech, Guido is visited by two clerics, who have come, presumably to hear his final confession before being executed. Guido almost hardly loses any time in questioning the need for his confession from a legal standpoint. He demands to know "If Law suffices would you

come here, entreat / I supplement law, and confess forsooth? / Did not the Trial show things plain enough? (XI.509-11). Guido's question is rhetorical insofar as the obvious implication here is that the Trial was *not* able to "show things plain enough." By consistently claiming that he has been wronged by a legal system that had previously allowed for the killing of promiscuous wives, Guido destabilizes the authority of the legal system to execute him. Unlike the prisoner who confesses his crime and accepts punishment, Guido's speech will not deign to provide approbation for the system that has led him to this position. The confessed criminal removes any grain of doubt as to the justice of the execution, but the defiant criminal not only refuses to remove that grain, he might even increase uncertainty as to whether the execution is just.

However, while claiming that a Trial cannot provide a completely accurate account of a crime, the general facts of what occurred are not in dispute by Guido or anyone else. Throughout his final speech, Guido's arguments, while often cast in grandiose language, still hinge on the particular legal question of whether or not he should be executed for his crime. It was Guido's lawyer, Dominus Hyacinthus de Archangelis, whose monologue presented a series of precedents in which husbands who had killed their promiscuous wives were allowed to live. One leaves his wife to be "half-devoured by dogs" (VIII.818) and is sentenced to seven years hard labor; another catches his wife in an entrapment scheme and is exiled for four years (VIII.831-2). The argument suggests that these men were even less certain of their wives' infidelity than Guido was; Pompilia left the care and protection of her husband in the company of a man of the Church and was alone with him. Based solely on these events, Pompilia would have been, "by the standards of the day, a fallen woman" (Kreilkamp 177). Of course, as I have already indicated, the Roman courts did not operate under the same constraints of precedent that held sway in the English common law courts.

Archangelis's use of these examples in pursuit of indicating Guido's correct implementation of "honoris causa" would perhaps be less convincing than a strict statutory explanation of the conditions under which Guido's act would not result in execution. Unfortunately, Archangelis's own monologue reveals a legal failing of which Guido is not likely even aware. One of the judges in Guido's case passed a law when he was Governor of Rome that if four or more men were found to be armed in the city they would automatically receive the death penalty (VIII.1123-27). This was apparently irrespective of their intentions in being armed, making Guido's situation even more dire; "We five were armed to the teeth, meant murder too?" (VIII.1128), Archangelis exclaims in his clients' voice. So, in order to Guido to be saved by the legal system, it would require one of the judges on his case to ignore a law he was instrumental in creating. Guido's own frustrations with the trial indicate that he was not aware of this impediment; Archangelis's tactics were clearly ineffective, and Guido's disparages his lawyers' attempts to flatter the judges.

Look at my lawyers, lacked they grace of law,  
Latin or logic? Were not they fools to the height,  
Fools to the depth, fools to the level between,  
O' the foolishness set to decide the case?  
They feign, they flatter; nowise does it skill,  
Everything goes against me: deal each judge  
His dole of flattery and feigning,—why,  
He turns and tries and [...] whisks away,  
Leaving your thumb and finger dirty. Faugh! (XI.1757-68)

While Archangelis is using this flattery to get around the problem of a judge whose own law is being tested by this case, to Guido, this flattery is just the price of doing business with the legal system. Of course, it is only helpful to the extent that the judges succumb to it. If, as happened in his trial, they refuse to be influenced by such flattery, then only the one offering up the flattery is left "dirty." Guido shifts this consequence of his lawyers' legal strategy to himself—whereas the third-person plural pronoun was used to describe the act of flattery, the final line shifts to the

second-person singular, suggesting that it is Guido himself who is left besmirched for the attempt, even though it was his lawyers' doing. Guido could be seen as little more than a disgruntled client at this moment, but Browning is revealing a key component of Guido's dissatisfaction with and criticism of the law: many of Guido's expectations of how the legal system should have functioned (usually in his favor) have been continually frustrated.

Guido's explanation of how his expectations of the legal system have been controverted forms a key component in which Browning underscores the fallibility of legal authority. In principle, it is not unreasonable for Guido to expect that the legal system should have clearly defined standards that are recognized by all those under its power is not unreasonable. He also expects, as Stanley Fish has described the Common Law system, that precedent should play a role as "the process by which the past gets produced by the present so that it can then be cited as the producer of the present" (Fish 514).<sup>10</sup> In other words, one should be able to reasonably conclude that whatever legal action was taken for a certain behavior in the past would continue to be the case in the present (barring significant revisions to the legal code, of course). In Guido's opinion, the legal system has failed to behave in this way; drawing upon a morbid story in which his grandfather killed a "knave / For daring throw gibe—much less, stone—from pale" (XI.104-5), Guido discovers that "the law o' the game is changed" (XI.116). Rather than being informed of the law's shift, Guido sardonically realizes that he will be "a warning [...] / To all and each [...] / And make law plain henceforth past mistake" (XI.117-19). The notion of "the law o' the game" in which the rules are constant and consistently applied to all Guido finds to be

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<sup>10</sup> We see here one of the ways in which Browning's British background sneaks into the poem, as the Roman legal system was not defined by precedent in the same way that the Common Law system often was. Still, the fact that Guido's attorney in *The Old Yellow Book* draws from so many past cases to defend his client suggests that precedent still had a role to play in the courts of Rome.

hollow. Thus, while Guido's crime is terrible, his complaint about a legal system that does not operate with a certain mechanistic reliability has merit.

In *The Poetry of Experience* (1957), Robert Langbaum claims that "law [in the poem] is too mechanical to deal adequately with moral issues" (118), and yet Guido's very criticism of the legal system in his final speech is that it all too often fails to follow its own mechanistic guidelines. Appropriating language suggestive of social contract theory, Guido outlines his view of the Law: anyone "Who breaks law, breaks pact therefore, helps himself / To pleasure and profit over and above the due, / And must pay forfeit,—pain beyond his share / [...] So, law must watch for everyone" (XI.526-28, 31). But Guido's experience suggests that there were things left unsaid in the pact itself, as in Archangelis's examples of previous wife-murders, the husbands did not suffer "pain beyond his share" (the death penalty) but were exiled or subjected to hard labor. In the end, Guido's decision to commit murder hinges on this realization:

Then flashed the truth.  
The letter kills, the spirit keeps alive  
In law and gospel: there be nods and winks  
Instruct a wise man to assist himself  
In certain matters, nor seek aid at all (XI.1530-34)

Guido draws the contrast between *de facto* and *de jure* claims with respect to what is allowable under the law. While the letter of the law (*de jure*) prohibits murder, history has shown that in actuality (*de facto*) husbands who kill adulterous wives are not sentenced to death. So while the legal system is conceived of in terms suggestive of a mechanistic contract, its implementation is far more nuanced, allowing certain acts to pass without the severest punishment. Guido is also commenting on the failure of the legal mechanism to perform expediently in the lawsuits that had been brought by himself and the Comparini against one another. Most of the cases were unresolved at the time of the murder, and Guido's feeling that he needed to take matters into his own hands may indeed have been encouraged by the legal system's sluggish response.

Browning deftly ties Guido's destabilization of the legal mechanism into the very method of his death, suggesting that the capacity of legal machinery is subordinate to that of the artist. The *mannaia*, which Browning anachronistically depicts as a guillotine, is the new "engine" by which Guido will experience the finality of the legal mechanism, and it represents the rapidity with which Guido's expectation that the legal system would allow him to live was overturned. While previous experience had suggested that the act would be overlooked or lightly prosecuted, Guido now finds that the legal machinery has moved quite swiftly at the very moment when he expected the opposite. After cataloguing several ways he might die if allowed to live (old age, stroke), Guido compares the inhuman guillotine to the hand of a professional.

That's Nature's way of loosing cord! [the spinal cord]—but Art,  
How of Art's process with the engine here,  
When bowl and cord alike are crushed across,  
Bored between, bruised through? Why if Fagon's self,  
The French Court's pride, that famed practitioner,  
Would pass his cold pale lightning of a knife,  
[...] adroit 'twixt joint and joint, [...]  
The thing were not so bad to bear! (XI.308-314, 316)

Browning suggests, through Guido's comparison of the guillotine to Art, that the machine is inadequate to the job that a single professional human being could perform. Alluding to Louis XIV's physician, Fagon, Guido expresses his belief that a surgeon's severing of his spinal cord would be less painful than the allegedly painless guillotine. In other words, the new "engine" removes the human from the moment of execution, whereas an artistic approach would require the dexterity and precision of a master surgeon. Therefore, Browning is using Guido's speech to further support the importance of the poem's artistic representation of the past to the historical moment of Guido's death. In a way, Browning's own writing becomes a (re)enactment of Guido's death, and, as an artistic rather than a mechanistic execution, the poem offers a more humane end than that which was afforded to him by the guillotine. Browning dons the black

mask and executes Guido poetically by enacting the memory of Guido's death for the reader of the poem; in this way, Browning becomes the kind of executioner that Guido claims he would prefer. By devoting the longest monologue in the poem to Guido, Browning allows Guido a measure of control over how he is remembered, the very kind of control that *The Old Yellow Book*, in Browning's characterization, removes.

### **Critique of the Church**

The second prong of Guido's critique is focused on the Church—indeed, Guido's final legal strategy was to hope for the Pope to become a last-minute *deus ex machina* and save him from death; but instead the Pope guarantees Guido's imminent death by making the final decision to execute Guido and his accomplices. It has generally been thought that “the Pope's judgments [...] come from Browning rather than the Vatican” (Friedman 123); historically speaking, there is no evidence that the Pope took as great a degree of interest in the case as the poem suggests. But the Pope's conclusion in Book X of the poem that “Truth, nowhere, lies everywhere in these [legal pleadings]— / Not absolutely in a portion, yet / Evolvable from the whole” (X.229-231) is particularly different from the ring metaphor that Browning establishes for his own work in the poem. The Pope's statement suggests that it is possible to draw the truth out of the original documents, but for Browning the entirety of the *Old Yellow Book* must be melted down and refashioned into the poem before any access to truth can be provided. In other words, Browning's process is one of refashioning and renewal, but the Pope's process is still about adjudicating. Therefore, it is important to recognize that Browning's project is distinctly different from the Pope's, and that Guido's criticism of the Church, as envisioned by Browning, is neither a purposefully vacuous attack on Browning's own position or, as I have previously argued, the ravings of an absolute villain. In his criticism of the Church, Guido is specifically questioning the certainty of the Gospel itself; as a collection of documents that is over a thousand

years old, it makes claims of the miraculous that require a much greater leap of faith than Guido's own claim that Pompilia and Caponsacchi had an illicit relationship. Through Guido's criticism of how the Church interprets historical and contemporary testimony, Browning undermines the authority of institutional memory and provides further support for the artistic project itself.

Of course, the Church was not simply an institution for the living out of one's faith; it was a powerful force of ecclesiastical law. It is to the church law that Guido directs his final appeal, because he had "taken minor orders many enough" (I.261) to warrant judgment by the Pope. Recognizing that "the law gives him the very chance [...] to let my life alone" (XI.68-69), Guido is surprised that the Pope seems to have withheld mercy without a care. Indeed, in the Pope's own monologue, his decision has practically been made ("A mere dead man is Franceschini here" [X. 210]) a short two hundred lines into a two thousand line monologue. Drawing out his criticism of the Pope, Guido questions why the Church supports the death penalty, if the guilty are destined for Hell anyway. In other words, by supporting the use of the death penalty, the Church undermines its own foundations of faith, and Pope Innocent XII betrays his very name with the blood of Guido's death.

By having Guido argue against the death penalty in this manner, as contrary to the mission of the Church, Browning creates one of the more anachronistic moments in the poem. The notion that a religious approach to punishment would eschew the death penalty came to the fore in the 18th century with the institution of the "penitentiary," as a place for the penitent to work off their crime and be reformed (Foucault 122-23). This anachronism also moderates, to an extent, Guido's villainy—while it's clear that he merely wants to escape paying the absolute price for his crimes, he isolates a key weakness within the Church's support of his execution.



The larger implication is that the Church's practices at large encourage hypocrisy. This is not just traditional hypocrisy in the sense that one might expect when a person condemns others for a particular behavior in which they themselves engage, rather Guido claims that the very structure of the Church is at odds with its own theological foundations.

The Church's primary theological foundation is of course the New Testament of the Christian Bible, a collection of documents that attest to the works and miracles of Christ and his disciples. The Pope's own institutional hypocrisy is underscored when he approaches the legal documents of the case; he finds them to be only the "filthy rags of speech [...] Tatters all too contaminate for use, / Have no renewing: He, the Truth, is, too, / The Word" (X.373-77). Referencing the opening verse of John's gospel, the Pope derides vocal testimony in favor of Christ (the "Word") and his capacity for renewal. And yet, as Guido points out, the Church has often used dubious vocal testimony to its own ends, as in the example of those who keep relics and testify to their authenticity. In a particularly Protestant turn, Guido charges that these Sacristans are simply fabricating stories in order to make money from unsuspecting parishioners (XI.576). Guido also underscores a particular problem with physical evidence, in this case a relic: it is only as authentic as the one who professes to its authenticity. If the Church professes the authenticity of the evidence of scripture while betraying its own theological standards, then the whole of its authority is undermined.

However, while Browning's formulation of Guido's final speech may question the basis of the Church's authority, the fact of its authority remains. Returning the image of the machine, Browning shows how the Church's stifling social supremacy creates a culture in which the very nature of humanity is reduced. Guido posits the possibility that even in Rome, "faith's fountain-head" a person might fall into unbelief without an external sign or change in her behavior

(XI.597). Why? Rome is so inculcated in Christianity that “Unbelief still might work the wires and move / Man, the machine, to play a faithful part” (XI.612-13). By making belief a requirement, the Church has reduced humanity to a machine that must “play a faithful part” whether or not that faith is actually realized in the individuals who “profess” it. Indeed, “professors turn possessors” in a culture in which faith is forced to have “full effect / On every circumstance of life” (XI.590, 592-93). Those who might otherwise profess actual faith are reduced to mere possessors who claim faith for their own well-being. Faith then becomes little more than “fancy,” a term of primary importance to Browning’s work in the poem. Working into the metaphor of the poem as whole, Guido’s critique of the Church conceives of faith, as it is imposed by the Church, as fancy without fact, a distinct contrast to the poem itself as “fanciful fact.”

The image of humanity as a puppet dangling from strings contrasts starkly with Browning’s own image of human purpose in the poem’s opening book. Humanity is

Formed to rise, reach at, if not grasp and gain  
 The good beyond him,—which attempt is growth,—  
 Repeats God’s process in man’s due degree,  
 Attaining man’s proportionate result,—  
 Creates, no, but resuscitates, perhaps. (I.715-719)

Meanwhile, Guido’s critique of the Church again identifies within its practices an institutional hypocrisy. Speaking ironically for the Pope, Guido claims that “Christ’s gospel changes names, not things, / [...] Jove’s rechristened God” (XI.362, 365)—the church effects what is little more than a “retinkering” rather than a “resuscitating.” It doesn’t give life (particularly to Guido in this context), it only rearranges what was there in the beginning.

Throughout his final monologue, in critiquing both the legal system and the Church, Guido is endeavoring to unveil the institutional weaknesses of those powers that have decided to execute him. Where Altick and Loucks (and others) have argued that Guido’s final monologue is

essentially an exposure of his own villainy, I would argue that Browning has his villain expose weaknesses in the social institutions that are charged with arriving at justice. Furthermore, Guido's critiques work toward the goal of undermining the authority of his death sentence.<sup>11</sup> Guido's monologue then posits the possibility that it is unjust for a legal system to exert its power to end the life of one whose memory and testimony present an alternative to its own master narrative. By rejecting Guido's perspective of the case entirely, the institutional memory of the Church is shown to be hypocritically preferential and the legal system rejects the truth of Guido's memories of what occurred.

### **Memory Exposed and Concealed**

Guido's final monologue forms a key component to the poem's truth of force in the way that Guido demonstrates memory's capacity for revelation and exposure. Browning's Guido watches as the legal processes that he fully believed would accept his perspective categorically reject it. Seeing his own memories and perspective have been ignored, Guido's final monologue engages in the kind of memory that Yale theologian Miroslav Volf calls "masochistic memory" (11).<sup>12</sup> In this form of memory, Guido recalls those institutional practices that anger him, but there are dangers associated with the continual exposing of the past that is endemic to Guido's memory in his monologue. Volf's description of the way memory functions for the victim of wrongdoing is in fact also an apt description of Guido's own experience, "Memory metastasizes

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<sup>11</sup> In "The Construction of a Self" (1989), Lisa O'Connor has suggested that Guido attempts to destroy the institutions that have, in his mind, failed him, but I would argue that to expose an institution's weaknesses is not the same as attempting to destroy that institution outright. Like many of the critics I have referenced, O'Connor also focuses her argument around language and expression, so the role that memory plays in Guido's Book 11 monologue does not enter into her argument. Similarly, in "'Now for the Truth!'" (2009), Dunbar posits a contrast between Guido's two monologues in which she asserts that Book 11 shows Guido's increasing inability to control how his narrative will end (151ff.); yet if we consider that Guido's concern in Book 11 is as much about exposure, then the very fact that he introduces complexity and instability into the narrative demonstrates that a level of control remains.

<sup>12</sup> Volf draws this term from Milan Kundera's novel *Ignorance* (2000).

into the territory of the future, and the future, drained of new possibilities, mutates into an extension of the painful past” (81). Guido’s future is obviously drained of possibilities in that he is soon to be executed, but even in his pleas for clemency he focuses on the failings of the authorities that have convicted him. His primary concern is to expose the faults of others.

The difficulty is that memory does not function solely as an exposing force. While attempting to uncover the institutional hypocrisy of the Church, Guido actually points to a quality of the Church that is reflected in Browning’s purpose for the poem. Guido’s amazement at the Church’s foundation on highly improbable events is similar to Browning’s threat to destroy the *Old Yellow Book* in the poem’s opening. The Church is so ubiquitous in its power and influence that even the destruction of every copy of the scriptures would not mean its end. Indeed, the very genesis of the Church predates the canonical Gospels. As Alain Badiou argues, in *St. Paul: The Foundation of Universalism*, the Pauline epistles, which predate the Gospels by many years, were some of the first documents to outline Christian theology (32ff.). In other words, the very documents in which the historical events to which Paul attests are recorded were not necessary for the Church’s doctrine to attain a “truth of force” for many people. For *The Ring and the Book* to arrive at a self-sustaining memory, it would need to become, in some ways, like the Church that Guido so detests. Furthermore, if Browning had fully embraced the implications of self-sustaining memory as described in Book I, he really would have destroyed the *Old Yellow Book* once the poem was completed, or destroyed all but enough for questions of its authenticity to be quelled. To do so would have been to leave the poem as the sole authority on the matter.<sup>13</sup> Guido’s critiques of the Church and the legal system, based as they are in a form of memory that

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<sup>13</sup> I am speaking here from Browning’s perspective. He would not have known that further documents on the trial would be discovered later.

unveils, also reveals a paradox within the notion of self-sustaining memory and the truth of force: a self-sustaining memory conceals as much as it reveals.

Robert Browning recognizes this and thus *The Ring and the Book* does not present us with a single view of memory. If, as I have argued, the whole of the poem functions as a self-sustaining memory, then Browning's decision to counter-balance Guido's masochistic memory with something quite different in Pompilia's monologue is not an instance of readers being asked to take sides or decide who to believe. Guido's own awareness that not all memory unveils is most poignantly realized near the end of his monologue. Accusing his confessors, Guido claims that they have both pursued their ecclesiastical careers "Over a scantling of heads brained, hearts broke, / Lives trodden into dust! [...] / Does memory haunt your pillow? Not a whit" (XI.2239-40, 42). Envisioning a forgetfulness that is favorable to their own ambition, Guido implies that it is improper, perhaps even immoral, for these two men not to be haunted by their memories. While Guido resists memorial concealment by highlighting the guilt his confessors experience, Browning demonstrates through Pompilia's narrative that memory can conceal and still contribute to the memorial sustenance of the whole. Like Guido, Pompilia is facing her death; in fact, Books VII and XI are the only monologues of characters who are facing their deaths and have firsthand knowledge of the case.<sup>14</sup> Just as Browning hopes to replace *The Old Yellow Book* with *The Ring and the Book*, Pompilia counters Guido's masochistic memory by concealing what happened to her on the night of the attack.

Criticism of *The Ring and the Book* has generally agreed that Browning expects the reader to fully sympathize with and accept Pompilia's testimony. Such a position is commensurate with the notion that the Pope speaks with Browning's voice, or at least with

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<sup>14</sup> The Pope is also facing death in his monologue, but his interaction with the case is indirect as he considers the evidence when Guido appeals to ecclesiastical jurisdiction.

Browning's judgment, since the Pope describes Pompilia as "Perfect in whiteness" and seems to base much of his understanding of the case on her testimony (X.1006). And yet in the final book of the poem, Browning claims that the one lesson to be learned from his work is that "our human speech is naught, / Our human testimony false" (XII.839-40). Such a statement suggests that even Pompilia's testimony should be viewed with an eye of skepticism.<sup>15</sup> However, Browning is not, therefore, invalidating the holistic truth of his work. While Pompilia's motives and methods may not be as crystal clear as the Pope's description suggests, her concealing memory harmonizes with her husband's revealing memory. Such a harmonization of testimony and memory is absolutely essential to Browning's project because a holistic truth poetically rendered will by definition have internal contradictions. To return briefly to my earlier contention that the historical development of the Church in some ways mirrors the poem itself, just as apparent internal contradictions within the perspectival Gospels have not stopped them from being accepted as a whole truth, so to does Browning's artistic endeavor as offering a similar opportunity for readers to find the poem to be true without requiring that every narrative agree. Just as Guido's narrative offers us more than a murderer's revelation of his evil, we must also recognize that Browning's poem requires that we approach Pompilia's narrative with a skepticism that highlights Pompilia's skill at crafting her testimony.

Unfortunately, readings of Pompilia have tended to fall into one of two camps. The first was popularly voiced by Thomas Carlyle when he "summarily dismissed the whole endeavor" because, as Carlyle said at the time, "The real story is plain enough in looking into it; the girl and the handsome young priest were lovers" (qtd. in Brady 22). Here we have skepticism of Pompilia that slips into complete distrust and essential dismissal of Pompilia; Ann Brady argues that such

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<sup>15</sup> Rigg rightly points out that Pompilia's "organization of 'facts' is no more stable and permanent than any other organization [in the poem] has been" (125).

a reading is based on a suspicion that “Browning could not have created these people as they actually were: the *facts* would have to dictate otherwise,” resulting in “sexual skepticism” that is ultimately incredulous in the face of Pompilia’s testimony in Book VII (23). However, in reacting against this tendency, we must not overcorrect for Carlyle’s error by immediately accepting Pompilia’s testimony unexamined. That would be, in effect, to reenact the very nature of the trial within the criticism of the work itself; skepticism and discernment would be deployed to favor one side over another. While Browning has not written in Pompilia’s narrative the veiled pleadings for sympathy from a lustful young woman, neither has he presented us with an unadorned and innocent narrative from an unassuming victim. Pompilia’s narrative has all the signs of a woman who is keenly aware of the power that she wields with her testimony, and Browning invites his readers to understand that innocence is not merely the absence of guilt, but the creation and sustenance of a particular narrative genre—the victim’s testimony. In this way Pompilia is developed by Browning into a character who is both sexually pure, the poem suggests that Caponsacchi and Pompilia did not have an illicit relationship, but she is also a skilled narrative craftswoman, whose testimony is at once calculating and compelling.

In the closing book of the poem, Browning begins by addressing the relationship between the historical testimony and memory:

What was once seen, grows what is now described,  
Then talked of, told about, a tinge the less  
In every fresh transmission; till it melts,  
Trickles in silent orange or wan grey  
Across our memory, dies and leaves all dark,  
And presently we find the stars again.  
Follow the main streaks, meditate the mode  
Of brightness, how it hastes to blend with black! (XII.14-21)

Memory here is conceived of as an ephemeral faculty, incapable of grasping and retaining the full “brightness” of testimony as time passes. The solution to this problem lies, according to

Browning's final lines, in the poem itself: "Art may tell a truth / Obliquely" (XII.859-60). In this way Browning describes not only his own project in the poem as a whole but also that of Pompilia's own testimony. Art can serve to reignite the brightness of memory through its oblique truth-telling, and this is precisely how Pompilia approaches her own witnessing. The notion of an oblique truth comes as a direct result of the concealing memory that Pompilia enacts through her narrative. Browning's metaphor of light is particularly apropos, because as the poem progresses it is clear that Pompilia's testimony has outshone that of the other witnesses. By figuring Pompilia as an artist-witness, she becomes a ring-maker like Browning as well, whose "gold ring" of testimony has been waiting to be revived by Browning's pen.

The first and most obvious way that Pompilia tells her oblique truth is by concealing her memory of the actual attack. Nowhere in her monologue does she illuminate or describe what happened after her mother opened the door of her home to Guido and his accomplices. Indeed, several times her narrative appears to be heading in that direction, approaching the moment when she will finally divulge the details about her fatal encounter with Guido and his henchmen. Describing that fateful day, Pompilia explains that her father went out sight-seeing, returned and described the Christmas decorations, "when, at the door, / A tap: we started up: you know the rest" (VII.266-67). The great irony of this is that of course, we don't know the rest; she is the only surviving victim of the attack, and yet the only descriptions of what happened in the home are to come from the perpetrators of the crime. The knocking on the door becomes an asymptote<sup>16</sup> to the crime itself, a moment that Pompilia approaches, but never crosses, leaving the actual commission of the crime on the other side of her parents' front door.

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<sup>16</sup> This term I am drawing from mathematics; it describes two lines that approach one another but never meet. Thomas Hobbes describes asymptotes thusly, "they will always come nearer and nearer together, but never touch one another" (199-200).



By never fully describing the crime, Browning's Pompilia testifies in a way that would be psychologically consistent with a victim of trauma. Her resistance to recalling the terrible violence she must have witnessed not only against her parents but also as Guido assaulted her is entirely understandable. Pompilia acknowledges her "twenty-two dagger-wounds" early in her monologue, but only insofar as it relates to "the surgeon who cared for me, / To count my wounds" (VII.38, 37). In other words, this report of her injuries is not her own testimony, but a repetition of what her doctors have reported to her. Otherwise, she is silent on the attack itself. Slavoj Žižek adopts a similarly oblique and veiled approach in his book *Violence* (2008):

There are reasons for looking at the problem of violence awry. My underlying premise is that there is something inherently mystifying in a direct confrontation with it: the overpowering horror of violent acts and empathy with the victims inexorably function as a lure which prevents us from thinking. (3-4)

To an extent the character of Pompilia structures her monologue in precisely this way, as a "lure" that "prevents" or at least discourages reading askance. The irony of the monologue is that while the character speaking the monologue attempts this concealing, the author writing the monologue demonstrates how reading the poem for its holistic truth leads us to resist, on some level, complete empathy with Pompilia.

Through Pompilia's narrative inconsistencies, Browning suggests that she is crafting her story in order to sanctify her identity in the memories of those who hear her testimony.

A distinction needs to be made, as well, between (factual) truth and truthfulness: what renders a report of a raped woman (or any other narrative of trauma) truthful is its very factual unreliability, its confusion, its inconsistency. If the victim were able to report on her painful and humiliating experience in a clear manner, with all the data arranged in a consistent order, this very quality would make us suspicious of its truth. The problem here is part of the solution: the very factual deficiencies of the traumatized subject's report on her experience bear witness to the truthfulness of her report, since they signal that the reported content "contaminated" the manner of reporting it. (*Violence* 4)

While Žižek's account is one based in a contemporary understanding of trauma, it offers a helpful framework for understanding Pompilia's narrative as well. If she were to present her narrative in a fashion similar to that of the lawyers, it would raise a certain suspicion. However, the narrative inconsistencies that are created by her concealing of memory are more than just gaps due to trauma. Through the process of telling her story, Browning shows that Pompilia's very act of obfuscation is how she cloaks her own actions behind the image of the Virgin Mary.

One of the earliest inconsistencies in Pompilia's narrative draws upon Mary's other relationships in the Gospels, namely to her husband, Joseph, and her son, Jesus, in order to frame the Marian shroud that Pompilia casts over her own memories. Through this inconsistency, Browning shows how Pompilia draws Caponsacchi and her son, Gaetano, into her narrative as representations of Mary's own husband and child. On two occasions, Pompilia reveals who she believed was at the door when the knock came; the two accounts are not the same. In the opening one hundred lines of the poem, she claims that she thought the knock was that of her son's nursemaid, who had promised to bring the baby back when he first smiled. In the final one hundred lines, the story has changed, and now Pompilia says she expected a different person at the door: Caponsacchi. At first such an inconsistency might also be consistent with the expectations of a victim's narrative: she attempts to relate her experiences, but the violence "contaminates" her ability to remember precisely or accurately. However, this reading also assumes that the victim's primary purpose is in fact to remember as accurately as possible in order to be believed. But Pompilia's testimony is already privileged by the very fact that she is near death and that this is her final confession, so she does not have to be nearly as concerned about how her testimony will be received as evidence. Pompilia's awareness of this is demonstrated near the end of her monologue, "Yes, my end of breath / Shall bear away my soul

in being true!” (VII.1771-72). It is with a certain irony, then, that Pompilia’s confession takes the form of a demonstration of her innocence by forming her identity from the Virgin Mary. While inconsistent in detail, the two versions of her thoughts in the moments prior to the attack firmly place Caponsacchi and Gaetano in this narrative identity.

Browning’s placement of the poem’s monologues prior to any written record is especially important in the case of Pompilia’s narrative. The *Old Yellow Book* contains no transcription of Pompilia’s testimony, only the impressions and recollections of those who were present as her life slowly ebbed away. Appropriately, then, Pompilia is quite aware that she has an audience that clings to her every word. She makes direct reference to them at several key moments, as when she deflects the question of specifically describing the murders by saying, “you know the rest.” Pompilia confirms and affirms Guido’s guilt as being so obvious it requires no description, and her claim that the audience knows the rest suggests that others will testify to the attack. So by using her testimony as a method of identity construction and concealment of memory, Pompilia’s identity will be repeated and reified by those present, for the moment at least. Early in her monologue, Pompilia laments that she is unable to write down her final testimony so that her son can read it when he is older (VII.82-83). Of course, even this is a moment of constructing her innocence. By focusing on Gaetano, Pompilia has also made a very specific claim about Caponsacchi: that she did not write any love letters to him, because she is unable to write. But while the aside about her illiteracy may be related to Caponsacchi, it is Gaetano whose very existence creates a problem for Pompilia’s desire to figure herself like the *Virgin Mary*.

Throughout *The Ring and the Book* Gaetano’s paternity is questioned, but Pompilia’s method of concealing memory provides a unique for her to ultimately claim that “No father that he ever knew at all, / Nor ever had—no, never had, I say! / That is the truth” (VII.91-93). Neither

of the potential fathers is keen on the idea of their own paternity: Guido describes Pompilia's child as "the priest's bastard and none of mine!" (V.1531), while Caponsacchi reminds us, with a less forceful argument, that though Pompilia and he had earlier been charged with adultery, the charge was never proved (VI.2006-2014). If Caponsacchi and Pompilia's claim that they did not commit adultery is true, then the natural conclusion would have been that Guido must be the father of the child. Pompilia admits that she resisted, without success, Guido's sexual advances and that she knew she was pregnant before leaving with Caponsacchi (VII. 787, 1222ff). Her then testimony systematically draws upon the undescribed fact of Guido's violence, obviates Guido's very existence by this act, and subsequently leaves Gaetano fatherless, sealing Pompilia's own virginal position by making Gaetano's conception immaculate.

Browning uses theological language to frame Pompilia's concealment of her own memories; rather than remember what has happened, Pompilia notes about halfway through her narrative that "more days, more deeds must I forget," (VII.1190) as if to speak is to be "purged of the past, the foul in me, washed fair" (VII.352). Pompilia's acts of "forgetting" should be more aptly thought of as acts of concealment, precisely because forgetting is not a conscious act. If asked to forget one's parents, for example, the human mind does precisely the opposite, it recalls the very thing that it's been instructed to discard. In the same way, Pompilia's testimony is not forgetting in the sense of an actual absence of memory but is a statement of her commitment to move through her narrative without returning to previously described events. By promising to forget as she tells her narrative, Pompilia invokes specifically religious terminology.

The logic of Pompilia's testimony allows her to cast herself in the role of the one forgiving a great wrong. Her choice of "forgetting" as a descriptive term invokes the religious

language not of innocence but of guilt; within the Christian doctrine of atonement, Christ removes the sin of his people and is thereby reconciled with them. This is construed as a process wherein God forgets the sin of those He has forgiven; in a passage from Jeremiah that the author of Hebrews adopts as representing Christ's forgiveness, God says, "I will forgive their iniquity, and I will remember their sin no more" (Jeremiah 31:34). However, this event is offset in Christianity to a time in the future; the Nicene Creed looks for "the life of the world to come," and the Apostles' Creed also uses the future tense in reference to Christ's returning "to judge the living and the dead." Browning, however, has crafted Pompilia's narrative such that she interprets this reconciliation and forgiveness as having already occurred through Guido's violent attack. Referring to her body, Pompilia claims that "whatever he touched is rightly ruined: plague / It caught, and disinfection it craved / Still but for Guido; I am saved through him / so as by fire" (VII.1736-1739). Guido's attack is interpreted here as literally "saving" Pompilia by purifying her defiled body—the taint of his sexual penetration is removed by his sanguinary penetration.

With the cancellation of Guido's acts of physical and sexual rape, Pompilia restores her own virginity. Gaetano is now, by Pompilia's argument, more than just a child without a father, he is a fatherless child, a child for whom there can be no father. As the mother of such a child, Pompilia claims that her "lot" is different "From any other woman's in the world" (VII.115-116), a phrase that recalls the angel Gabriel's greeting to Mary, "Blessed art thou among women" (Luke 1:28). The infant Gaetano then becomes "God's way of breaking the good news to flesh" (VII.625), in a direct reference to the "gospel" (the word gospel being derived from "good news" in Old English) of Jesus Christ. Furthermore, Browning's Pompilia plays expertly on the fact that

Guido's attack happened during the Christmas season by tying this circumstance into her deification of her own son.

I never realized God's birth before—  
How He grew likest God in being born.  
This time I felt like Mary, had my babe  
Lying a little on my breast like hers.  
So all went on till, just four days ago—  
The night and the tap. (VII.1690-95)

Here the metaphor clearly takes precedent over narrative consistency, as Pompilia has already testified that Gaetano had been left with a nursemaid and was not in the house. As she describes her feelings as a mother, the celebration of Christ slips into a celebration of Gaetano—the “He” in line 1691 has a certain ambiguity that allows it to be read as both a reference to Christ and to Gaetano simultaneously. But there can be no ambiguity about Pompilia's rhetorical purpose throughout her narrative as she slowly uses the Virgin Mary to frame her own experience; as her narrative comes to a close the conclusion is clear:

My babe nor was, nor is, nor yet shall be  
Count Guido Franceschini's child at all—  
Only his mother's, born of love not hate! (VII.1762-64)

Having only a few lines earlier claimed that “hate was [...] the truth of” Guido, Pompilia turns to Caponsacchi as the clear example of love and the other key player in her concealment of memory.

In her study of *Browning's Voices in The Ring and the Book* (1969), Mary Rose Sullivan concludes that “the facts [Pompilia's narrative] reveals are few and serve mainly to corroborate Caponsacchi's testimony” (99). This assessment accurately reflects the role that Pompilia crafts for Caponsacchi: he is Joseph to her Mary. Browning takes advantage of the historical coincidence that Caponsacchi's first name, Guiseppe, is the Italian form of Joseph. To Pompilia, he is a star that will “Lead on, nor pause before it should stand still / Above the House o' the

Babe” (VII.1449-50). The reference to the journey of the magi, being led by a star, also recalls the journey of Mary and Joseph, as they traveled from Nazareth to Bethlehem. Caponsacchi completes Pompilia’s construction of herself as the Virgin Mother by being figured as the husband and father who loves without sexual intercourse. In assuming this identity, Pompilia counterbalances her husband’s memories of exposure and underscores that “active forgetting [is] part of remembering itself” (Volf 195). Browning draws on both types of memory in order to arrive at the poem’s “truth of force.”

### **Holistic Truth**

The relationship between Pompilia’s concealed memory and her appropriation of Marian identity works with Guido’s own narrative to define the kind of holistic truth at which the legal system cannot arrive. Pompilia describes the time from the moment of her wedding to Guido as “one blank / Over and ended; a terrific dream. / It is the good of dreams—so soon they go!” (VII. 584-86), and yet her confessor urges her to “Remember more! / [...] I need cruelty exposed, explained, Or how can I advise you to forgive? He thought I could not properly forgive / Unless I ceased forgetting,—which is true” (VII.627, 629-32). Pompilia’s narrative resists both of the requests that Don Celestino makes of her: to confess and forgive. As I have argued, her conception of Guido has eliminated his acts, which, having never occurred, are then not forgiven, and her own identity as the unblemished Virgin Mary requires no confession of wrongdoing. Through her acts of “forgetting” she evades the priest’s calls for confession and forgiveness. Guido’s own narrative similarly resists the call of the priests to confess his crimes and therefore admit the justice of the state and the Church to execute him; by using memory to expose the faults and foibles of the very systems that seek his confession, Guido’s final cry (“Pompilia, will you let them murder me?” [XI.2427]) is a reflection on his entire monologue, which attempts to undermine the right of his execution.

The characters within *The Ring and the Book* are clearly concerned with the religious implications of the case as much as they are concerned with its legal implications, and yet the poem suggests that the holistic truth is not about God but about human relationships. J. Hillis Miller argues that the “aesthetic moral of the poem is: ‘By multiplying points of view on the same event, you may transcend point of view, and reach at last God’s own infinite perspective’” (*Disappearance* 149). Yet, the very testimonial memories of Guido and Pompilia alone prove to be far more complicated than would allow for a transcendent divine truth. Indeed, because human testimony draws from human memory, “our human speech is naught, / Our human testimony false, our fame / And human estimation words and wind” (XII.838-40). Miroslav Volf’s work on memory in Christian theology comes to a similar conclusion about memory’s relationship to the human:

Our selves are not unlike what post-modern thinkers describe them to be: dispersed in all centeredness, discontinuous in all continuities, fractured notwithstanding all attempts to render ourselves coherent, and ever changing while manifestly always being self-same. And memory is at the heart of all these pulsating tensions of our vital selves. (198)

The paradox of being human is that our memory always seems to be the truth—to both Guido and Pompilia the truth is what they tell us. Readers are no better equipped to judge the truth of the matter, as our own memories and perspectives constrain our understanding. Browning argues that as long as human discourse is fraught with the possibility that truth “when it reaches [us], looks false, / Seems to be just the thing it would supplant” (XII.854-55). Because our identities are refracted through memory, so too will our testimony fractured, dispersed, and discontinuous.

The holistic truth that Art provides, then, is one that allows us to experience all the perspectives *without* the requirement that we judge who is true and who is false. As we encounter each character’s monologue, we are brought into that character’s way of seeing the world and presenting his or her memories of it. Because Browning construes Art as a form of



discourse “wherein man nowise speaks to men,” it paradoxically is both a product of and immune to the inevitable failings in human discourse (XII.858). This is key to Browning’s claim that the poem itself is more true than the *Old Yellow Book*, which is not Art, and therefore susceptible to all the failings of testimony. The artistic treatment of its contents not only reconstructs the sandstone pillar of which the *Old Yellow Book* is the only remaining stone, it makes in *The Ring and the Book* a more ideal pillar than could have existed before. The poem then becomes a part of the paradox that it displays so effectively: as the work of human hands it strives towards a unity that will communicate the fractures in human discourse that stem from our own memories. Finally, the poem obtains its “truth of force” in the memories of its readers; rather than discarding or favoring one side, by reading and remembering the poem, Browning’s readers carry the holistic truth of this Roman murder-case, providing the very sustenance that the *Old Yellow Book* was unable to effect.

## CHAPTER 7 EPILOGUE

Over the course of the nineteenth century, concerns of how memory and testimony intersected with the legal system resonated through a variety of texts. In a way, these concerns are still with us today, as methods of recording and storing information continue to proliferate. Suspicions surrounding the reliability of human testimony have only increased in recent years as DNA testing, video surveillance, and other kinds of evidence cast doubt on witnesses' recollections and memories. It may come as no surprise, then, that fictional narratives focusing on the legal system and criminal investigation remain popular. Perhaps we still carry a sense that fiction can somehow supplement or buttress the narrative possibilities (or lack thereof) offered by the judicial system's stories. At the same time, entire television channels are now devoted to the latest sensational trial-of-the-century, suggesting that our appetite for "real-life" salacious criminal and civil trials has hardly abated since the nineteenth-century.

One short-lived legal drama, *Justice* (2006), introduced a novel concept in its presentation of the cases taken on by a high-power defense firm. Like many other such shows, each episode followed a case from beginning to finish, but after the final verdict has been rendered and the characters go their separate ways, the screen would fade to black followed by a final scene showing what "really happened." In a way, this narrative device allowed the show to probe the possibility that the legal system might get its verdicts wrong, or that lawyers might defend someone as innocent who was actually guilty, but in the end the viewers were rewarded with a sense that they knew the "truth." Unlike the complex and contradictory retelling in *The Ring and the Book*, *Justice* sought to affirm the notion that there is a single, correct version of events.

Perhaps detective fiction, which was popularized toward the end of the nineteenth century largely by the Sherlock Holmes stories of Arthur Conan Doyle, is partly responsible for propagating the notion that every crime has a single solution, or that every case can be unraveled. Fiction does have the capacity to avoid all the pitfalls of testimonial memory by ensuring that every detail is explained and every piece of evidence accurately recalled. And yet, despite Sherlock Holmes's impeccable crime-solving record, it was through an genuine unsolved case that Conan Doyle arguably had the greatest impact on the British legal system. The case involved the prosecution of George Edalji for several "outrages" involving the violent maiming of farm animals. On scant evidence, and likely due to prejudice regarding his Indian heritage, Edalji was tried and convicted of the crimes in 1903. Conan Doyle's involvement came later in 1907, when he began to raise awareness about the wrongful conviction and pursue his own investigation into who might have been responsible for the crimes. In the end, Edalji was released from prison, although the identity of the actual culprit was never firmly established.

The Edalji case drew enough attention to the problem of wrongful conviction that it helped in the creation of the British Court of Criminal Appeal. I turn to this case as an exemplary moment in which the literary world intersected with the judicial system and served as a catalyst for institutional change. Particularly, the dangers of a legal system that might not always arrive at the "correct" conclusion were highlighted in Edalji's case, and a mechanism was put into place to manage possible miscarriages of justice. In a way, courts of appeal serve a corrective narrative function by which we seek to guarantee that the verdicts of guilt rendered in criminal cases are sound. Just as the authors I've examined throughout this project have drawn attention to the instability and contingency of memory and testimony, the appeals process affirms the judicial system's need to question its own narratives.

Julian Barnes wrote a fictionalized account of the lives of George Edalji and Arthur Conan Doyle in his novel *Arthur & George* (2005). In his retelling of the Edalji case, Barnes draws a connection between Conan Doyle's desire to solve the mystery of the maimed animals and his fascination with spiritualism later in life. In a way, this compulsion to know what actually happened in the past is suggestive of the very anxieties about memory's inadequacies I have been describing throughout this dissertation. In *Arthur & George*, spiritualism and séances become a way to mitigate the uncertainty of memory and of the legal process. If our memories are a central part of our identities, then the identity that Doyle seeks to affirm in the novel is one in which our access to the past is not curtailed by death and the loss of individual memory that it represents. Spiritualism claims to extend its adherents access to past events even beyond the lifespan of those involved, so that an investigation can never be curtailed, never be truncated, because of a lack of testimony. Even after death, testimony is possible in Conan Doyle's understanding.

Nowhere is this coalescence of memory, identity, and testimony more clearly articulated than in Barnes's reimagining of the séance that Doyle's wife organized after his death. The scene's poignancy emerges from its dramatization of a key component of the late-nineteenth and early-twentieth century interest in spiritualism. On the stage sit several people tasked with divining Doyle's messages to those in attendance. But Barnes stilted and halting descriptions of the participants undermine the authenticity of the séance itself (at one point, Edalji wonders why the spirits of the English can't form a satisfactory queue when trying to get the attention of the various mediums on stage [429]), while simultaneously pointing out how the entire event is an exercise in communal remembrance and testimony in which the deceased is meant to participate.

Running throughout the texts in this project is a similar concern—how to remember the individuals with whom we share our lives.

Concomitant to this concern is how we will be remembered ourselves. Barnes narrates the séance through the eyes of Edalji, who finds in the ceremony not an affirmation of life after death, but a “realization that everybody was going to be dead” (419). The inevitability of death is a stark epiphany, but it also parallels Barnes’s characterization of Edalji throughout the novel as a kind of naïve but observant person, who always seems a little behind the times. In narrating Edalji’s reflection on his wrongful conviction, Barnes writes that

England was [...] a place where the common law was trusted more than government statute; where people got on with their own business and did not seek to interfere with that of others; where great public eruptions took place from time to time, eruptions of feeling which might even tip over into violence and injustice, but which soon faded in the memory, and were rarely built into the history of the country. This has happened, now let us forget about it and carry on as before: such was the English way. (411-412)

But Edalji’s somewhat archaic sense of Englishness and cultural memory is in many ways the very kind of status-quo thinking that many nineteenth-century authors challenged. England was not as forgetful a place as Edalji suggests here, and Barnes’s description is made all the more persuasive when read through the social and political upheaval of the twentieth century.

What the texts of this study demonstrate is a consistent sense not that England had sufficiently managed to forget its injustices, but that literature needed to provide a venue for a more complete communal remembrance of the narratives shaped by the legal system, both just and unjust alike. For these writers, keep calm and carry on, as the now popular World War II era poster read, was not the appropriate response to the changing judicial system or the changing understanding of the human mind. Instead, their response was to stay alert and continually seek to contribute to British cultural memory in a way that would not only get “built into the history

of the country,” but become essential to understanding that our testimony determines how we are remembered.

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