

THE FEMALE WITNESS AND THE MELODRAMATIC MODE IN ELIZABETH GASKELL'S *MARY BARTON*

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Abstract

This essay examines Elizabeth Gaskell's use of the 'courtroom scene' in her debut novel *Mary Barton* (1848), focusing on the testimony delivered by the eponymous heroine. It situates the passage in the wider context of real-life nineteenth-century court cases, and subsequent criticism about the relationship between legal proceedings and realist fiction. Countering claims that Mary's appearance has a chiefly didactic purpose or that it is simply a leaden part of an otherwise dramatic scene, it argues that her role in the proceedings has an inherently melodramatic appeal, which Gaskell exploits. Reflecting on the way in which the courtroom is cast as a liminal space between the public and private spheres, this essay interrogates the ways in which Mary's aims – to protect Jem Wilson and conceal the identity of the real murderer (her father) – necessitate both the discourse of emotion and an act of deceit. It examines the ways in which Mary may be seen as a 'performer', telling a feminised 'love' story cast in the melodramatic mode. Arguing that Mary uses the genre to both forestall expectation and guy it, this paper looks at the ways in which Mary's tactics may mirror Gaskell's own strategies as a first-time female novelist.

For the Victorian reader, 'the confrontational arena of the courtroom provided an ideal setting for sensation'.¹ Both the press and popular fiction seized on the adversarial trial format – in its infancy in the mid-nineteenth century – as a mechanism for exploring conflict between individuals, and the individual and society. While journalists delighted in gratuitous accounts of real-life crimes, realist and sensation authors employed the trial scene as a compelling plot device, where private narratives and marginalised characters finally came to the fore. Both fiction and non-fiction capitalised on the public appetite for salacious details of private scandals.

In choosing to introduce a 'courtroom scene' to her debut novel, *Mary Barton* (1848), Elizabeth Gaskell was self-consciously turning to a trope already saturated with melodramatic and sensationalist connotations, participating in a mode of representation which would become only more ubiquitous in the following decades.

Yet the dramatic potential of *Mary Barton*'s courtroom scene has been neglected, even wholly negated. Whilst Laura Struve acknowledges that Mary's public appearance is both 'dramatic and compelling',² she fails to expand upon this.

¹ See Michael Diamond, *Victorian Sensation: Or, the Spectacular, the Shocking and the Scandalous in Nineteenth-Century Britain* (London: Anthem Press, 2003, repr. 2004), p. 5.

² Laura Struve, 'Expert Witnesses: Women and Publicity in *Mary Barton* and *Felix Holt*', *Victorian Review*, 28.1 (2002), pp. 1-24 (p. 3).

Her analysis of *Mary Barton* and George Eliot's *Felix Holt, The Radical* (1866) is chiefly concerned with demonstrating that the heroines of both novels prove themselves to be 'good witnesses', whilst assuaging the threat to femininity and respectability that their public appearances pose. Ultimately, Struve portrays Gaskell as a didactic novelist, who uses the courtroom scene principally to exemplify the emotional and moral maturation of her heroine.

Richard Altick obscures the dramatic potential inherent in Mary's public appearance altogether, claiming that the 'most serious defect' of the passage is Gaskell's failure to capitalise on the anticipation surrounding the eventual arrival of Will Wilson. Furthermore, he reproaches Gaskell for using 'wordy' language in the scene, which he feels dissipates 'most of the dramatic tension'.³

Yet it is in the 'wordy' language of the courtroom scene, as much as in the action, that Gaskell achieves her purpose. Whilst the trial clearly functions to further both plot (as Altick feels it should) and characterisation (as Struve believes it does), Gaskell's aim is arguably to explore the tensions inherent in Mary's testimony; for the way in which the trial marks Mary's debut as a public woman in an androcentric arena arguably reflects the fact that *Mary Barton* was Gaskell's inauguration as a first-time female novelist participating in a traditionally masculine genre. Ultimately, Gaskell uses her courtroom as a cynosure for the dramatic conflict between private and public spheres, thus rendering it a 'perfect setting for sensation'.

Conventionally, there has been a tendency to delineate discrete 'private' and 'public' plot strands in *Mary Barton*, a reading undoubtedly borne out of a desire to reflect the Victorian milieu in which Gaskell wrote. The nineteenth century has popularly been characterised as one dominated by a conception of separate private and public spheres. This pervasive ideology traditionally equated public activities with men, whilst relegating women to the confines of the private or 'domestic' sphere. In 'Of Queens' Gardens', for example, John Ruskin contrasted men's 'rough work in the open world' with the home 'ruled' over by the woman.⁴

Many traditional readings of *Mary Barton* have portrayed Gaskell as replicating (even perpetuating) this ideology, by preserving a distinction between her public and private plotlines. In *Culture and Society*, Raymond Williams contrasted the story of John Barton with that of Mary Barton, perceiving the former as a more masculine, 'public' narrative, and the latter as a more 'feminine', private plotline. Indeed, Williams pejoratively portrayed the novel's trajectory as a retreat from the public to the private; from a 'Condition of England' social critique, to that 'familiar and orthodox plot of the Victorian novel of sentiment', one of 'little lasting interest'.⁵

³ Richard D. Altick, 'Dion Boucicault Stages *Mary Barton*', *Nineteenth-Century Fiction*, 14.2 (1959), pp. 129-41 (p. 140).

⁴ John Ruskin, 'Of Queens' Gardens', in *Sesame and Lilies: Two Lectures*, 2nd edn. (London: Smith & Elder, 1865), pp. 147-8.

⁵ Raymond Williams, *Culture and Society, 1780-1950* (London: Chatto and Windus, 1959), p. 89.

Gaskell's decision (albeit at the insistence of her publishers) to amend the novel's title from *John Barton* to *Mary Barton* has been seen as evidence of this.⁶

Whereas Williams implicitly denigrates Mary's plotline, more recent criticism, particularly of the feminist school, has called for a revaluation of her story. These readings have instead portrayed Gaskell as *undermining* the dominant ideology of her day by demonstrating the ways in which the heroine's 'private' (or romantic) plotline can be reconciled and integrated with the 'public' (or social) concerns of the novel. Shirley Foster, for example, refutes the suggestion that this 'is a "purpose" novel with a sentimental subplot added on',⁷ while Hilary Schor presents Mary's plot as a 'jumbling of public and private'.⁸

Significantly, these interpretations continue to acknowledge the contrasting narrative impulses in the text; for rather than artificially effacing the fact tensions *do* seem to exist within the novel, one can instead argue that Gaskell purposefully introduces both sentimental *and* social narrative tropes to her text. Indeed, the final title *Mary Barton: A Tale of Manchester Life* seems to gesture towards the coupling of both a feminised, private plotline, and a broader, socially reflective narrative.

Nowhere do the public and private (or social and sentimental) concerns of *Mary Barton* seem to coalesce quite as potently as in the murder plot and ensuing trial. The ways in which Gaskell quite consciously merges her narrative strands at this point can be illuminated by studying one of the possible real-life antecedents to Gaskell's plot: the murder of Thomas Ashton in 1831. Although Gaskell denied basing her narrative on this incident,⁹ the similarities seem so pronounced that it is difficult not to concur with Judith Flanders' view that Gaskell 'used reality as the basis for her [...] art'.¹⁰ For the real-life incident (like Gaskell's plot) involved the shooting of a mill-owner's son in the area now defined as Greater Manchester.¹¹ Further, the eventual trial three years later revealed a motive seemingly inspired by industrial unrest, which resembles John Barton's own.¹² Although the Ashton murder and trial took place more than a decade before Gaskell began *Mary Barton*, the fact it 'caused a sensation among all classes' (generating almost 27,000 words of coverage

⁶ See Williams, *Culture and Society*, p. 89.

⁷ Shirley Foster, 'Introduction', in *Mary Barton* (Oxford: Oxford University Press, 2006), pp. vii-xxvi (p. xix).

⁸ Hilary M. Schor, *Scheherazade and the Marketplace: Elizabeth Gaskell and the Victorian Novel* (Oxford: Oxford University Press, 1992), p. 15.

⁹ See Foster, 'Introduction', p. xvi.

¹⁰ Judith Flanders, *The Invention of Murder; How the Victorians Revelled in Death and Detection and Created Modern Crime* (London: Harper Press, 2011), p. 87.

¹¹ See Anon., 'Murder of Mr Thomas Ashton', *The Morning Chronicle*, 19149 (11 January 1831), p. 1.

¹² See Anon., 'Trial and Conviction of the Murderers of Thomas Ashton, Esq. of Pole-Bank, near Hyde', *Preston Chronicle* 1146 (16 August 1834), p. 4.

in the *Manchester Guardian* alone) suggests it would have left an impression on her mind.¹³

While seemingly influenced by the Ashton case, Gaskell also clearly *departs* from this precedent, by depicting a trial which never elucidates the ‘masculine’ social motives behind the murder but rather dwells upon an emotionally charged ‘feminine’ love story. Furthermore, whilst women gave evidence at the Ashton inquest, female witnesses appear to have been absent from the trial itself, in an androcentric courtroom scene markedly different from Gaskell’s. Whether one believes that Gaskell appropriated the basic Ashton narrative for her own ends, or that she inadvertently mirrored real-life events, it is nevertheless clear that she made a deliberate decision to introduce both her domestic narrative and her heroine to a trial scene which *could* have been written quite differently.

Gaskell’s decision to incorporate a courtroom scene in the novel is highly significant, given that the adversarial trial format was still in its infancy in the 1840s. In this edition of *Victorian Network* Cécile Bertrand usefully highlights the way in which popular discourse on criminal justice had hitherto centred on the ‘spectacle of the scaffold’ (p. 14). As Lindsay Farmer argues, the courtroom only began to assume its important symbolic function in the early nineteenth century, when the trial replaced the scaffold as ‘the principal symbol of criminal justice’.¹⁴ Farmer depicts the 1836 Prisoners’ Counsel Act as laying the foundations for the ‘reconstructive’ or adversarial trial, as it granted all those accused of felonies the right to a full legal defence. This arguably established the sort of trial with which we are now familiar: one framed as a ‘contest between two sides’, with the purpose of arriving at a verdict ‘based on proof beyond reasonable doubt’.¹⁵ It is important to acknowledge that the principle of full defence for defendants – with barristers able to address the jury on behalf of prisoners – had been controversial, sparking debates about the capacity of ‘truth’ to speak for itself and the status of professional ethics.

Mary Barton is set only a few years after the passage of this legislation, and thus it is perhaps surprising that Jem’s defence counsel plays a relatively minor role in the proceedings. His lawyer seems to avoid any serious cross-examination, and is apparently so poorly paid and ill-advised that he has ‘little hope of establishing anything like a show of a defence’ and instead ‘contented himself with watching the case’.¹⁶ Although he is eventually buoyed by Will Wilson’s arrival, he is largely invisible during Mary’s appearance. This characterisation may be intended as a

¹³ See Flanders, *The Invention of Murder*, pp. 85-6.

¹⁴ Lindsay Farmer, ‘Trials’, in *Law and the Humanities: An Introduction*, ed. by Austin Sarat, Matthew Anderson, and Cathrine O. Frank (Cambridge: Cambridge University Press, 2010), pp. 455-77 (p. 458).

¹⁵ Farmer, ‘Trials’, p. 459.

¹⁶ Elizabeth Gaskell, *Mary Barton* (Oxford: Oxford University Press, 2006), p. 316. Further references are given after quotations in the text.

criticism of the new system's efficacy but, more significantly, it ensures that the early part of the proceedings are not so much a spar between professional representatives as between Mary and the prosecuting counsel.

By explicitly introducing the defence counsel, but then almost assuaging his purpose altogether, Gaskell clearly positions her protagonist centre stage in Jem's defence. This heightens the sense of Mary's transformation into what Struve terms a 'public woman'.¹⁷ The symbolic purpose of the protagonist's appearance at the trial has been widely acknowledged: Robin Colby proposes this as the moment when the 'industrial novel' form is recast in order to 'affirm [women's] fitness for participation in the public sphere'.¹⁸ Whilst this 'participation' may seem largely antithetical to the Victorian imagination, it should be emphasised that the female witness was nevertheless a unique example of the 'public woman'. For whilst women's attempts to participate in other activities in the 'public' sphere – politics or commerce, for example – could be regarded as an unwanted and unsolicited incursion, the justice system *depended* upon female involvement as witnesses (and, in some cases, defendants).¹⁹ Although Schor insists Mary's appearance moves 'beyond normal spheres of action for a woman in a novel',²⁰ her transgression is in fact socially sanctioned: Mary is explicitly called to act as a 'public woman', as symbolised by the subpoena she receives.

While evidence law clearly opened up possibilities for women to engage with legal proceedings, on a practical level, many would have been barred from doing so. During this period, spouses of the accused were still considered incompetent witnesses and one may thus assume that many women well-placed to provide evidence would have been excluded from doing so.²¹ Moreover, if one interrogates the gender dynamics of the nineteenth-century courtroom further, one finds considerable unease about women's fitness to participate in proceedings more generally. Kruger examines trial scenes in a number of mid-nineteenth-century novels from female writers (including *Mary Barton*) and locates a recurrent theme: the inability of the masculine legal system to comprehend women's speech. In these novels, she argues, women's testimony is 'deemed unintelligible, condemned as

¹⁷ Struve, 'Expert Witnesses', p. 10.

¹⁸ Robin B. Colby, *'Some Appointed Work to Do': Women and Vocation in the Fiction of Elizabeth Gaskell* (Westport, CT: Greenwood Press, 1995), p. 33.

¹⁹ The number of female defendants declined considerably between the late 1600s and early 1900s. At the Old Bailey only 22 per cent of defendants were women in the early nineteenth century, and by the early twentieth century the proportion had declined to just 9 per cent. See Clive Emsley, Tim Hitchcock and Robert Shoemaker, 'Historical Background – Gender in the Proceedings', *Old Bailey Proceedings Online*,

<<http://www.oldbaileyonline.org/static/Gender.jsp>>.

²⁰ Schor, *Scheherazade and the Marketplace*, p. 38.

²¹ See Jan-Melissa Schramm, *Testimony and Advocacy in Victorian Law, Literature, and Theology* (Cambridge: Cambridge University Press, 2000), p. 103.

“saucy”, or misconstrued as an admission of guilt’.²² The authors are seemingly exposing entrenched prejudices about women’s capability to deliver testimony, of the type expressed by Victorian lawyer John Pitt Taylor, who characterised ‘proneness to exaggerate’ as an inherently ‘feminine weakness’.²³

Yet while such prejudices undoubtedly persisted, there was clearly a concerted effort to accommodate the notion of the female witness. Taylor, for example, went on to concede that ‘in other respects, the testimony of women is at least deserving of equal credit to that of men’; moreover, he proposed that they might even be ‘in some respects far superior witnesses’.²⁴ He suggests that they are generally ‘closer observers of events than men’ and that their memories are ‘usually more tenacious’.²⁵ A modern reader may balk at his condescending suggestion that a woman’s tenacity is largely due to the fact her mind is ‘less loaded with matters of business’ and that he grants women only ‘unrivalled powers of simple and unaffected narration’.²⁶ Yet by imbuing women with reliability and coherency, he seems to implicitly repudiate any suspicion that they may be too hysterical to participate.

Taylor’s conflicted portrayal of the female witness is perhaps an inevitable by-product of an age in which both legislation and the judiciary were resolutely androcentric.²⁷ To characterise the Victorian courtroom as a contested space is by no means anachronistic, for there were fierce contemporary debates about the role of women in the legal sphere. Indeed, Kruger situates Gaskell’s novel at a particularly charged moment, when there were both changes in jurisprudence ‘disadvantageous to women’ and the ‘beginnings of a concerted feminist assault on women’s legal handicaps’.²⁸ The male bias of the law was railed against by a number of commentators, including Gaskell herself, who once wrote ‘our sex is badly enough used and legalised against, there’s no doubt of that’.²⁹ Three years after the publication of *Mary Barton*, Harriet Taylor specifically attacked the all-male composition of juries in ‘The Enfranchisement of Women’.³⁰ Commentators

²² Christine L. Kruger, ‘Witnessing Women: Trial Testimony in Novels by Tonna, Gaskell and Eliot’, in *Representing Women: Law Literature, and Feminism*, ed. by Susan Sage Heinzelman and Zipporah Batshaw Wiseman (Durham, NC: Duke University Press, 1994), pp. 337-55 (p. 338).

²³ John Pitt Taylor, *A Treatise on the Law of Evidence, as Administered in England and Ireland* (London: A. Maxwell & Son, 1848), p. 53.

²⁴ Taylor, *A Treatise on the Law of Evidence*, p. 53.

²⁵ Taylor, *A Treatise on the Law of Evidence*, p. 53.

²⁶ Taylor, *A Treatise on the Law of Evidence*, p. 53.

²⁷ It was not until the twentieth century that this male bias began to be disassembled. In 1919, the Sexual Disqualification (Removal) Act enabled women to enter the legal profession, serve on juries (though only if they were householders) and become magistrates.

²⁸ Kruger, ‘Witnessing Women’, p. 338.

²⁹ Elizabeth Gaskell, qtd. in Kathleen Loncar, *Legal Fiction: Law in the Novels of Nineteenth Century Women Novelists* (London: Minerva Press, 1995), p. xiv.

³⁰ Harriet Taylor, ‘The Enfranchisement of Women’, in *The Disenfranchised: The Fight for Suffrage*, ed. by M. Mulvey Roberts and T. Mizuta (London: Routledge and Thoemmes, 1993), pp. 1-

repeatedly returned to the idea that women were not only being marginalised, but indeed denied justice, through their exclusion on the grounds of gender.

In turn, there was also a wave of condemnation of female interest in criminal proceedings. The content of legal trials was considered particularly unsuitable for female consumption. In Wilkie Collins' *The Law and the Lady* (1875) – a novel which derives much of its sensational appeal from supposedly antithetical elements (the 'law' and the 'lady') coming together – Valeria Woodville tells her uncle that she means to read the transcripts for the trial involving her husband, and is met with reproach. Her uncle replies, 'Nice reading for a young woman! You'll be wanting a batch of French novels next'.³¹ He seems more concerned that the testimonies may be too lurid for a young woman's delicate constitution than anxious that she could be unsettled by allegations against her husband.

His attitude may also gesture towards the mounting discomfort surrounding the proportion of female spectators at trials. In 1886, when Adelaide Bartlett stood accused of murdering her husband, both the judge and the press complained that nearly two-thirds of observers were female.³² *Bell's* lambasted these women for so 'shamelessly' watching another woman being tried, which it felt would 'soon sap the popular respect for women and the popular respect for justice'.³³ Similar indictments against the prurience of female spectators can be found almost forty years earlier in *Mary Barton*. Whilst on the train to Liverpool, Mary overhears a conversation between two lawyers' clerks, in which one remarks that 'the ladies' will 'come in shoals to hear a trial for murder, and see the murderer' and the other accuses them of hypocrisy for judging Spanish women for taking 'delight in bull-fights' (p. 274). It is not only taken for granted that women will flock to the trial – but also that they will derive enjoyment from it. The clerks' exchange belies any preconceptions that Mary might find a sympathetic ear amongst the female observers in the courtroom.

Despite the clerks' suppositions, both the female *and* male spectators prove to be voyeuristic observers. While they direct their prurient scrutiny towards both men and women involved in the trial – with one pseudo-physiognomist claiming he sees 'marks of Cain' in Jem's face (p. 309) – the objectification of Mary is perhaps more uncomfortable, given the sexual overtones. From the 'many who were looking for mere flesh and blood beauty' to those who see a 'higher and a stranger kind of beauty' in her (p. 312), there is a preoccupation with her physical appeal. Moreover, Mary does not stand accused of any crime, thus her crude objectification seems all the more gratuitous – particularly when she is likened (by an unnamed observer) to 'that well-known engraving from Guido's picture of "Beatrice Cenci"' (pp. 312-13),

37 (p. 7).

³¹ Wilkie Collins, *The Law and the Lady* (London: Penguin Books, 1998; repr. 2004), p. 112.

³² See Flanders, *The Invention of Murder*, p. 317.

³³ Anon., 'The Tatler', *Bell's Life in London*, 3765 (20 April 1886), p. 4.

a simile which, Struve contends, effectively ‘conflates female publicity with criminality’.³⁴

Yet the Cenci image represents more than culpability. For the unnamed observer, it suggests a ‘wild sad melancholy’ and a ‘mute imploring agony’ (p. 313). This idea of ‘muteness’ is particularly striking, given that Mary is about to deliver a powerful and articulate speech. The Cenci simile – and Mr Carson’s characterisation of Mary as ‘the fatal Helen, the cause of all’ (p. 311) – demonstrates the way in which the audience have drawn their own conclusions about Mary before she has even spoken. Indeed, Mary has already overheard the lawyers’ clerks refer to her simply as ‘a factory girl’ (p. 274).

Significantly, Gaskell’s narrator detaches himself from these objectifications – they are all attributed to other people. As Struve argues, the narrator seems to purposefully distance himself from the Cenci image, explicitly couching the simile in reported speech: ‘I was not there myself; but one who was told me [...]’ (p. 312).³⁵ Attributing these comments to other characters – even unnamed individuals – does nothing to diminish their potency. Indeed, the ‘Chinese whispers’ effect in fact makes these circulating images all the more powerful by demonstrating their persistency. It illustrates the way in which Mary’s character and story have already been anticipated. She is partly aware that she must struggle *against* these readings; as she becomes ‘conscious that all was real, that hundreds were looking at her’ (p. 313), she seems to be rousing herself from the sort of mute abstraction so redolent in Guido’s depiction of Cenci. Yet, as this paper shall illustrate, some of these readings are more expedient, and Mary does not detach herself from them altogether.

It is also worth pausing to consider that the coverage of the trial by the *Guardian* and the *Courier* – which earns Mary such ‘miserable notoriety’ and provokes the envy of Miss Simmonds’ other employees (hungry for fame themselves) – probably replicates the voyeuristic gaze of the audience (p. 345). Indeed, it would be difficult to overestimate the way in which the nineteenth-century press objectified women involved in real-life criminal proceedings; for this was an age in which, as Diamond notes, the sexualisation of female defendants extended even to the scaffold.³⁶ Reporting on the hanging of Maria Manning, convicted for murder, the *Morning Chronicle* wrote, ‘even the distortion consequent upon the mode of death [...] could not destroy the remarkably fine contour of her figure’.³⁷

This gratuitous interest in the appearances of the witnesses and the accused was matched by an equally prurient fascination with the potentially salacious details of the case. It is seemingly the possibility of probing Mary’s ‘heart’s secrets’, which

³⁴ Struve, ‘Expert Witnesses’, p. 21.

³⁵ Struve, ‘Expert Witnesses’, p. 21.

³⁶ Diamond, *Victorian Sensation*, p. 161.

³⁷ Anon., ‘Execution of the Mannings’, *The Morning Chronicle*, 24982 (14 November 1849), p. 5.

animates the ‘pert young barrister’ so ‘delighted to have the examination of this witness’ (p. 313). Even after Mary delivers her acutely personal testimony, the prosecuting counsel interrogates her for more sensational detail, as he tries to determine whether she attempted to ‘excite [Jem’s] jealousy by boasting of a lover so far above [her] in station’ (p. 315). Though Mary courageously resolves that ‘there would be no feminine shame to stand between her and her avowal’ (p. 313), the ‘burning scarlet blushes’ (p. 314) that follow her testimony indicate that she feels considerable embarrassment at having to disclose her private feelings in a public setting.

In ‘The Morality of Advocacy’, James Fitzjames Stephen indicted Gaskell for her supposedly unrealistic portrayal of the profession, but he was all too aware that for many contemporary readers, the depiction of an unethical, unscrupulous – even bullying – legal system matched their preconceptions entirely.³⁸ Elsewhere in this issue of *Victorian Network*, Erica McCrystal illustrates how other genres – particularly the Newgate novels – also characterised the legal system as hypocritical. Interestingly, only eight years after *Mary Barton*, a letter in the *Morning Chronicle* (which has since been attributed to Charles Dickens) explicitly associated the unscrupulousness of lawyers with the unsuitability of the courtroom for female witnesses. Apparently dwelling on the recent Courvoisier murder trial, the writer questioned the morality of advocacy and went on to say that ‘no earthly consideration should induce me to permit my wife or daughter to give evidence to the Old Bailey, if any effort of mine could shield her’.³⁹

The way in which Mary’s personal affairs are played out and pored over in the public arena indeed seems to reflect some real-life court cases, particularly two sensational *causes célèbres* from the decades immediately preceding Gaskell’s writing of *Mary Barton*: the reading of the Pains and Penalties Bill in 1820, and the *Norton v. Melbourne* case (1836). It is worth pausing to consider both cases in more detail, to illuminate the ways in which Gaskell may have been influenced by them.

In 1820, the reading of the Pains and Penalties Bill effectively tried Queen Caroline for adultery against King George IV. The Bill, which would have allowed him to divorce her and deprived her of her title, was branded by her defence team ‘a Bill of Degradation, Dethronement and Disgrace’.⁴⁰ It was only narrowly passed by the House of Lords, and was dropped before reaching the Commons due to fears of public unrest. Although Caroline had much public support (due in large part to the unpopularity of her husband), the case was nevertheless a particularly salacious one,

³⁸ James Fitzjames Stephens, ‘The Morality of Advocacy’, *Cornhill Magazine*, 3.11 (1861), pp. 447-59 (p. 454).

³⁹ Quoted in Schramm, *Testimony and Advocacy*, p. 116.

⁴⁰ See Joseph Nightingale, *Report of the Proceedings Before the House of Lords, on a Bill of Pains and Penalties Against Her Majesty, Caroline Amelia Elizabeth, Queen of Great Britain, and Consort of King George IV: The Defence* (London: J. Robins and Company, 1821), p. 287.

for it was claimed she was having an affair with the head servant of her household, a man of lower status and foreign extraction.

Sixteen years later, the *Norton v. Melbourne* case saw another allegation of adultery pique the public's interest, as magistrate George Norton sued the Prime Minister, Lord Melbourne, for 'criminal conversation' with his wife, Caroline. A 'criminal conversation' trial was the first step towards dismantling a marriage, at a time when divorce could still only be obtained through an act of Parliament.⁴¹ The case attracted considerable public interest, due to the unique celebrity of the figures involved; Mrs Norton was the granddaughter of Richard Brinsley Sheridan and a society beauty renowned for her wit. Despite the fact that her conduct was at the heart of the case, as a married woman she was barred from appearing in court to offer her own defence.⁴² While some of the press was more sympathetic towards her, her reputation was effectively tarnished by media coverage of the case. *The Satirist*, for example, portrayed her as 'the unblushing one' and suggested that she had 'already formed a new *liaison*'.⁴³ As with the Pains and Penalties Bill, the defeat of the prosecution (George Norton in this instance) by no means diminished the scandal associated with the case, nor the woman at its centre.

Initially, these cases may seem to have little bearing on Gaskell's trial scene. Neither Queen Caroline nor Mrs Norton was called to give evidence, and their social standing and sexual transgressions differed markedly from Mary's own. The evidence brought forth was also of a far more salacious nature; Mary's shame at bearing witness to 'the human heart'⁴⁴ – confessing her love for Jem and her earlier flirtation with Henry Carson – seems slight compared to the disgrace threatening women in 'criminal conversation' cases. In both of the aforementioned cases a string of (somewhat discredited) servants was called to speculate on their respective mistress's behaviour, giving circumstantial evidence about disordered clothes, dishevelled appearances and intimate exchanges. Atkinson also points out that 'bodily fluids were regularly brought up [...] as evidence of adultery' in such trials.⁴⁵

In contrast, Mary is able to retain both her femininity and morality (as Struve convincingly demonstrates). Yet she too must suffer the anxiety and indignity of

⁴¹ Until 1857, divorce could only be granted by an act of Parliament. Although the Matrimonial Causes Act subsequently made divorce more accessible it did not make cases of separation any less sensational. This is because, in order to obtain a divorce, 'cause' still had to be proven. For a man, this entailed proving that his wife had committed adultery, while a wife – under this inequitable system – would also have to prove an 'additional' offence, such as cruelty, incest, or bigamy. Thus, private matters continued to be aired in a public forum.

⁴² Caroline Norton did, however, give evidence before the courts almost twenty years later, when she was subpoenaed to appear in the *Thrupp v. Norton* case, after the coach builders brought a case against George Norton for one of Caroline Norton's unpaid bills.

⁴³ Anon., 'Multiple News Items', *The Satirist, and the Censor of the Time* (29 May 1836), p. 173.

⁴⁴ See Struve, 'Expert Witnesses', p. 22.

⁴⁵ Diane Atkinson, *The Criminal Conversation of Mrs Norton* (London: Preface, 2012), p. 5.

having her private, intimate affairs played out on a hostile and androcentric stage, her reputation sensationalised and made the subject of gossip. Caroline Norton's claim that 'a woman is made a helpless wretch by these laws of men' may well have resonated with Gaskell and her protagonist.⁴⁶

Mary's sense of helplessness is undoubtedly compounded by her lower social position. The gendered social dynamics of the courtroom are emphasised in the exchange between Mary and the prosecuting counsel: whereas he addresses her as 'young woman', she calls him 'sir' (pp. 314-15). She is also clearly intimidated by her impression of the judge, whom she sees 'sitting up there like an idol, with his trappings, so rigid and stiff' (p. 316). The pertinent questions and ceremonial aspects of the courtroom seem a world away from what she seeks to confess, something a 'woman usually whispers with blushes and tears [...] to one ear alone' (p. 313).

Jan-Melissa Schramm argues that Victorian realist fiction often ridiculed the law for its 'callous failure' to recognise what lies behind it, namely a 'seething world of emotional turmoil and physical experience'.⁴⁷ Many novels – from *Mary Barton* to George Eliot's *Adam Bede* – seem to present this as a gendered social conflict, associating callousness with the 'masculine' legal profession, and emotion with 'feminine' (often working-class) testimony. That the actual confession of murder (and subsequent act of absolution) in *Mary Barton* must take place outside of the courtroom – indeed in the Bartons' own home – seems to question the appropriateness of the courtroom as a vehicle for adequately eliciting truth. The domestic setting (a traditionally feminine 'space') is configured as a rival 'courtroom', where a different type of justice may be enacted. Gaskell does not just teasingly dissolve the private/public binary in the courtroom but forcefully challenges conceptions of the separate spheres.

While the domestic space is presented as better equipped to deal with an examination of truth, the androcentric courtroom seems ill-suited to any consideration of intimate matters, repeatedly reducing Mary's affections to their salacious appeal. While her indiscretions do not amount to adultery, the prurient interest in her conduct nevertheless seems to recall earlier 'criminal conversation' cases. Undoubtedly Mary's behaviour also has its own appeal, given the possibility that it has incited murder. Yet the interrogation focuses not only on her outward conduct, but also her personal preferences; the prosecution twice asks her 'which was the favoured lover?' (p. 313). This strategy also seems reminiscent of the 'love triangle' dynamic found in the infamous *causes célèbres*. Arguably, Gaskell also implicates the reader in the voyeurism surrounding Mary's testimony; for while we are privy to the actual identity of the murderer, we too await the moment that Mary will (publicly) 'own her fault' and 'own her love' (p. 313).

⁴⁶ Caroline Norton, 'Letter to Mary Shelley', quoted in Atkinson, *The Criminal Conversation of Mrs Norton*, p. 182.

⁴⁷ Schramm, *Testimony and Advocacy*, p. 15.

Before interrogating this further, one must acknowledge that while Mary's statement is greatly anticipated, it is ineffective in its *practical* purpose, for it does not secure Jem his reprieve. Indeed, her testimony on Jem's behalf is impotent, even injurious; though it 'might inspire pity for the prisoner, it only strengthened the supposition of his guilt' (p. 314). Many critics have highlighted that it is Will Wilson whose testimony is key to proving Jem's innocence. He also seems to be the more effective witness, 'clear and distinct in every corroborative circumstance', thus ensuring the jury's opinion is 'shaken and disturbed' (p. 319).

Many critics – particularly of the feminist school – elide Mary's immediate failing in order to affirm the wider significance of her participation in events. Thus, Struve portrays her as an 'expert witness', even whilst conceding 'the jury is not convinced',⁴⁸ and Colby maintains that Mary 'profoundly affects the outcome of events', though only by subsuming her courtroom appearance into a broader sphere of action, encompassing her efforts to find Will.⁴⁹ It is also possible to argue that, while Gaskell accepts that Will's testimony is necessary, she accords more importance to Mary's. It seems particularly pertinent that Will's testimony is mediated to the reader simply through reported speech, while Mary's is communicated through direct speech. This has the effect of distancing the reader from Will's evidence, while rendering hers more immediate and intimate.

By championing Mary's subjective version of events over Will's objective truth, Gaskell seems to favour not only the language of emotion but also the more marginalised speaker (the woman). While her courtroom may be unconvinced by Mary's speech, her narrative actively privileges Mary's voice. Schramm writes at length about the development of the adversarial trial format and the realist novel, characterising the relationship between writers and lawyers as one of 'incestuous generic interdependence',⁵⁰ but also one of conflict, as each clamoured to usurp the other as the most authoritative storyteller. She suggests that many authors positioned themselves as exploring material suppressed by conventional trials, as their novels represent traditionally marginalised speakers or stories which lie *outside* of the law.

Mary's testimony is assuredly shaped by stories outside of the law. For our understanding of the emotional, 'confessional' aspect of her testimony should not obscure our appreciation of the fact that it is also an act of deceit. Despite Struve's insistence that Mary is a 'good' witness, sincerely protesting Jem's innocence, she is also deliberately concealing a 'tremendous secret' (p. 313) by shielding the identity of the actual murderer: her father. In this way, Mary may be read as a *successful* witness, for she diverts any suspicion from falling on him.

As soon as she learns of her father's guilt, Mary resolves that both he and Jem must be protected, and gives herself the role of shielding them, aware that it will

⁴⁸ Struve, 'Expert Witnesses', p. 16.

⁴⁹ Colby, *Some Appointed Work to Do*, p. 44.

⁵⁰ Schramm, *Testimony and Advocacy*, p. 15.

‘require much thought, and much prudence’ (p. 238). She has already committed a deliberate act of concealment in burning the gun wadding used by John Barton, and she evidently recognises that she must exploit her testimony as yet another opportunity to suppress the truth. Immediately after her questioning, she mutters to herself: ‘I must not go mad [...] they say people tell the truth when they’re mad’ (p. 317). While Mary feels she was ‘always a liar’, and that she will not necessarily divulge the truth if she loses her sanity (p. 317), she nevertheless rouses and maintains command of herself while it is imperative to do so, perhaps recognising that any sign of insanity could render her testimony inadmissible.⁵¹ It is only when her twin aims have been realised – when she knows her father has escaped suspicion and when Will appears to give Jem his alibi – that her self-command is no longer necessary, and she becomes ‘instantly seized with convulsions’ (p. 317).

Mary’s delirium acts as a framing device to her testimony, for it also manifests before she begins speaking; during the early questioning, she finds herself answering ‘mechanically, as if in a dream’ and ‘with a strange wonder in her brain’ (p. 313), before she rallies herself. Partly this serves to heighten the reader’s admiration for her courage, but it perhaps serves another purpose, assuaging any discomfort about her *deliberate* deceit in a court of law. While not depicted explicitly, readers would assume that Mary has taken an oath and that she thus purposefully conceals the truth about the murder *whilst* speaking under it. (While she does not lie in response to the questions, she certainly withholds pertinent information.) Her early delirium creates a sense of confusion, perhaps suggesting that she is barely aware she has uttered this oath, thus mitigating her culpability. Similarly, her act of destroying the gun-wadding is also presented as a moment of delirium; her ‘head ached with dizzying violence’ (p. 239).

Thus Mary’s anxiety and self-consciousness during her testimony are not only indicative of the sense of shame she feels at her private life becoming public knowledge, but are also symptomatic of her nervousness at committing her most public act of concealment. Significantly, the way in which she sees ‘the court reeling before her’ and ‘hundreds [...] looking at her’ (p. 313) seems to evoke the ‘stage fright’ of an actress, trying to recall her lines before a performance begins. It is possible to accept Mary’s failure to convince the audience about Jem’s integrity, while nevertheless reading her testimony as an artful and concerted performance. Though she does not elicit quite the response she intends, the ‘actress’ metaphor is nevertheless pertinent in other ways, for it illuminates the celebrity she (albeit inadvertently) confers upon herself and the difficulties she faces in becoming a ‘public woman’. In the nineteenth century, actresses were routinely associated with sexual transgression (commonly thought to be prostitutes) and emotional artifice – prejudices which Mary must also navigate in her ‘performance’.⁵² Moreover, the

⁵¹ See Schramm, *Testimony and Advocacy*, p. 103.

⁵² See Elaine Hadley, *Melodramatic Tactics: Theatricalized Dissent in the English Marketplace*,

methods she employs – both to convey emotion and shield the truth – could be read as those of an actress.

Much has been written about the parallels between legal proceedings and theatre, between the courtroom and the stage, and testimony and public speech. Recently, criticism has turned away from simply examining the ways in which trials generate drama, instead analysing how the structure, format and content of the trial are constructed along inherently ‘theatrical’ lines.

Lindsay Farmer, for instance, contends that the purpose of the adversarial or reconstructive trial is not only to ‘investigate/establish the truth, but also to dramatise it’.⁵³ The courtroom is, in his conjecture, ‘an imaginative space in which complex stories are told’,⁵⁴ and the resolution (or judgment) is entirely dependent on ‘what has taken place within the spatial and temporal limits of the courtroom’;⁵⁵ as with a play, the trial may gesture towards the outside world, but the story will be understood in terms of the narrative that is given within a set framework. Farmer also posits that individual elements of the trial recall theatre, such as the way in which participants speak from assigned positions, follow a particular format, and are observed by an audience. Somewhat contentiously, he is cautious about the possibility that nineteenth-century trials consciously exploited drama.⁵⁶

Farmer suggests that an appreciation of the trial/theatre analogy must go beyond the ‘trivial sense of trials being a source of drama’ and frames his own reading as something more sophisticated.⁵⁷ However, one could argue that the ‘trial as theatre’ reading and the ‘trial as a *type* of theatre’ interpretation are in fact contingent upon one another: arguably, one is susceptible to detecting drama within the trial precisely *because* it is constructed along the lines of a play (or narrative), and that it is constructed as such so as to contain the dramatic conflicts which inevitably arise.

The melodramatic genre has proved a particularly useful way in which to mediate the trial narrative, for it archetypally ‘pits absolute innocence against absolute evil’.⁵⁸ Thus it could, in some ways, be understood as a distillation of the adversarial trial format, which arguably ‘pits’ one version of events against another and is essentially predicated on the notion that one side is ‘right’ (or ‘good’) and the other ‘wrong’ (or ‘evil’).

Indeed, the ubiquity of the trial in the nineteenth-century imagination was probably shaped, at least in part, by the melodramatic genre. The trial had been a

1800-1885 (Stanford, CA: Stanford University Press, 1995), p. 149.

⁵³ Farmer, ‘Trials’, p. 460.

⁵⁴ Farmer, ‘Trials’, p. 461.

⁵⁵ Farmer, ‘Trials’, p. 467.

⁵⁶ Farmer, ‘Trials’, p. 460.

⁵⁷ Farmer, ‘Trials’, p. 466.

⁵⁸ See Ellen Bayuk Rosenman, “‘Mimic Sorrows’: Masochism and the Gendering of Pain in Victorian Melodrama”, *Studies in the Novel*, 35.1 (2003), pp. 22-43 (p.22).

‘stock scene’ of early melodrama,⁵⁹ a genre which had become so popular by the mid-1800s that ‘in most respects melodrama was drama’.⁶⁰ This confluence between melodrama and legal proceedings in the popular imagination was undoubtedly bolstered by representations off the stage as well. Real-life court cases came to be depicted in this melodramatic mould, particularly with the growth of sensational crime reporting in the press (the history of which Bertrand traces in her article in this issue). The aforementioned Bartlett trial, for instance, was branded a ‘sensational drama’.⁶¹ It has also been argued that real-life defendants and witnesses came to mediate their experiences through increasingly pervasive melodramatic tropes,⁶² while Kruger suggests that the legal representation in *Norton v. Melbourne* reduced Caroline to a character in a ‘titillating melodrama’.⁶³ Gaskell appears to gesture towards this circuitous, reflexive relationship in *Mary Barton*, for her narrator, characters, and the press industry she presents, all seem to perpetuate melodramatic tropes. By placing her narrator outside of the trial scene, Gaskell highlights the multiple layers of mediation involved in criminal cases, reinforcing the complex web of ‘storytelling’ at play.

Gaskell’s engagement with the melodramatic genre has been acknowledged by a number of critics, such as Sally Ledger, who argues that Gaskell’s contemporary readers would have read the novel ‘according to the conventions of melodrama’.⁶⁴ Furthermore, its sensational appeal is evidenced by the fact it spawned three contemporary melodramas, two of which, *Mary Barton, or The Weavers’ Distress* (1861) and *The Long Strike* (1866), survive. That these proved ‘hugely popular among the working classes’,⁶⁵ and severely truncated Gaskell’s plot (diminishing the acclaimed ‘Condition of England’ narrative), may reinforce the traditional preconceptions of melodrama as a ‘low’ art form. Yet the ingredients for its adaptation are clearly apparent in Gaskell’s original novel. Nevertheless, such prejudices may explain why there has been a lack of critical consensus about the purpose of melodramatic tropes in canonical, realist texts such as *Mary Barton*.

These divergent critical perspectives can be elucidated through reading one of the most explicitly melodramatic elements of Gaskell’s plot. The ‘love triangle’ narrative – particularly the depiction of Harry Carson as Mary’s would-be seducer, Jem as his embittered rival, and Esther as the ‘fallen woman’ that Mary could become

⁵⁹ See Hadley, *Melodramatic Tactics*, p. 75.

⁶⁰ See Hadley, *Melodramatic Tactics*, p. 1.

⁶¹ Anon., ‘The Tatler’, *Bell’s Life in London*, 3765 (20 April 1886), p. 4.

⁶² See Ginger Suzanne Frost, *Promises Broken: Courtship, Class and Gender in Victorian England* (Charlottesville: University of Virginia Press, 1995), p. 26.

⁶³ Kruger, ‘Witnessing Women’, p. 340.

⁶⁴ Sally Ledger, ‘Radical Writing’, in *The Cambridge Companion to English Literature, 1830-1914*, ed. by Joanne Shattock (Cambridge and New York: Cambridge University Press, 2010), pp. 127-46 (p. 142).

⁶⁵ See Flanders, *The Invention of Murder*, p. 88.

– is characteristic of conventional melodrama. Indeed, Sally Leadbitter's remark that she would not 'think much the worse of a spirited young fellow for falling foul of a rival', for 'they always do at the theatre' (p. 346), suggests that Gaskell anticipated a melodramatic reading of this plotline.

Indeed, was the rest of the plot to continue in the melodramatic vein of the early romance scenes, Catherine Gallagher feels that Jem's character might have resorted to murder. However, she sees a melodramatic interpretation of the plot, itself associated with the disreputable character of Sally, as a wholly flawed one. She argues that Mary struggles *against* society's attempts to cast her story in a melodramatic light, particularly in the courtroom scene, where she must disabuse sensationalist notions about the murder in order to attest Jem's innocence. Gallagher ultimately portrays Gaskell as demonstrating the dangers of interpreting events 'according to a preconceived melodramatic pattern'.⁶⁶

Yet Gallagher neglects the possibility that the audience's melodramatic preconceptions may serve as a valuable device. As a marginalised speaker, and a witness moved by complex motives, the melodramatic mode arguably gives Mary not only a voice, but one she may manipulate; for allowing the court to interpret events along the 'love triangle' trajectory of course diverts attention *away* from the actual identity of the murderer.

In order to examine the ways in which one might read Gaskell as having her character exploit the suppositions of her audience, it would be useful to appropriate Elaine Hadley's conception of the melodramatic 'mode', which she defines as 'a behavioural and expressive model for several generations of English people' and a 'reactionary rejoinder' against the classificatory procedures of market culture.⁶⁷

Whilst Gallagher depicts the melodramatic genre as restricting Mary's narrative, Hadley usefully points towards its potential to liberate and empower the 'marginalised', particularly women and the working classes.⁶⁸ She suggests that the domestication and feminisation of the genre by the mid-nineteenth century rendered it 'the ideal narration of a woman's personal story'.⁶⁹ Whilst it persistently cast women in the role of victims, it also gave them a leading role. Thus Gaskell may have seen the genre as a vehicle through which a working-class woman like Mary could enter the public sphere and become a 'heroine on [her] own account' (p. 345).

Although Hadley does not apply her hypothesis to *Mary Barton* specifically, she does consider the ways in which Caroline Norton's legal writings made use of 'the classic melodramatic scenario of virtuous heroine and mercenary villain', by

⁶⁶ Catherine Gallagher, *The Industrial Reformation of English Fiction: Social Discourse and Narrative, 1832-1867* (Chicago: Chicago University Press, 1985), p. 77.

⁶⁷ Hadley, *Melodramatic Tactics*, pp. 2-3.

⁶⁸ Hadley, *Melodramatic Tactics*, p. 165.

⁶⁹ Hadley, *Melodramatic Tactics*, p. 133.

portraying herself as a victim at the hands of her estranged husband.⁷⁰ Mary employs a similar trope: for whilst she does extend pity towards ‘poor young Mr Carson’, her admission that she was ‘foolish enough’ to assume that his interest ‘meant marriage’ (p. 313) clearly establishes his more self-serving, sexual motivations in the minds of the audience. In doing so, she aligns Harry with the self-interested, speculative villain of melodrama, a genre which privileged the relationships in a ‘deferential community’ over more modern, commercially-defined social intercourse.⁷¹ Mary specifically depicts her feelings for Harry in socio-economic terms, conflating them with her desire ‘to be a lady, and rich’, and contrasting them with her more deferential adoration of Jem, whom she loves ‘far above [her] life’ (p. 314). She wishes the audience to disregard her former flirtation, and privilege the latter.

In her reading of Mary’s testimony, Kruger is scathing about the fact that the protagonist is produced by the court ‘merely to deliver the lines already written for her’, to tell her ‘love story’.⁷² While she acknowledges that Mary manages to present an ‘alternative love story’ (confessing her love for Jem), she feels that the audience suppresses that which they do not want to hear and that the stories of others (namely John Barton and Esther) are silenced.⁷³ Yet Mary manipulates expectations when she presents her story – a feminised, working-class narrative – not only because the audience do not care about the ‘other’ narrative, but because she does not *want* them to hear it. Mary’s story guys expectation, both meeting it *and* refuting it: her narrative is ‘some dispute about a factory girl’ (p. 274), as the lawyers assumed it would be, but also her own intimate version of events.

If the reader has any doubts about Mary self-consciously appropriating the performative, melodramatic mode (perhaps considering it disingenuous), then these are allayed by the narrator’s use of physical melodramatic tropes, which simultaneously foreground Mary’s sincerity. Although her ‘deadly white’ pallor (p. 312) and fainting spell are characteristic feminine responses in melodrama, they are also presented as *genuine* responses to the anxiety and trauma she feels. They are visible to her ‘audience’ even as she tries to conceal them.

Melodrama and authenticity need not be read as mutually exclusive; indeed, Hadley perceives melodrama as a type of ‘hyperrealism’, countering ‘empty theatricality’ and ‘privileg[ing] visibility, disclosure, and public authenticity’.⁷⁴ Whilst Mary does not fully privilege disclosure, the paradoxical notion of an ‘authentic theatricality’ does exemplify her conflicting impulses to both reveal *and* suppress the truth – to finally own her love for Jem, but also to protect her father.

⁷⁰ Hadley, *Melodramatic Tactics*, p. 160.

⁷¹ See Hadley, *Melodramatic Tactics*, p. 141.

⁷² Kruger, ‘Witnessing Women’, p. 345.

⁷³ Kruger, ‘Witnessing Women’, p. 347.

⁷⁴ Hadley, *Melodramatic Tactics*, p. 158.

It is not difficult to discern why theatrical entertainment, particularly melodrama, proved such a compelling metaphor for nineteenth-century criminal trials. Both the stage and the courtroom seem to mediate the tensions between disclosure and suppression, demonstrate the difficulties of differentiating between authenticity and artificiality, and legitimise public discussion of private scandal. They also both relied upon public appearances from conventionally marginalised groups (including women and the working classes) and often touched upon stories that otherwise existed outside of the public eye.

Gaskell clearly recognised that the melodramatic mode was the ideal vehicle for mediating the conflicts inherent in her trial scene, particularly Mary's appearance as a 'public woman' in an androcentric space, and her telling of a working-class narrative in an arena of pomp and ceremony. The trial is a cynosure for the collision between the public and the private narratives; Mary must suppress the social motivations behind Harry Carson's murder, whilst divulging her own personal experiences with Jem. Her private concerns become public knowledge, whilst her father's public concerns are relegated to the domestic sphere (as indicated, John finds absolution in the home).

Ultimately, Mary seems to navigate her appearance partly through acceding to the narrative that is expected of her and partly through subverting it altogether. Arguably, this trajectory mirrors the very conflict which Gaskell saw at the heart of her novel and her debut as a female novelist. Kruger persuasively argues that the difficulties faced by female witnesses in novels such as *Mary Barton* correspond with their authors' 'own struggles to influence England's predominant social narrative'.⁷⁵ In this reading of the text, the conflict enacted in the courtroom is the same conflict Gaskell faced in writing *Mary Barton*; namely how does a female speaker (be she witness or author) assume authority in a world dominated by male voices? Just as Mary must face preconceptions about what a 'factory girl' is capable of, so Gaskell faced prejudice towards the literary output from a minister's wife.

Gaskell may have attempted to sidestep this conflict by releasing her novel anonymously but she also, arguably, uses the same storytelling strategy that her protagonist does. The way in which Mary acquiesces to telling a 'love triangle' story in the courtroom, reflects Gaskell's own approach. For Gaskell ostensibly tells the narrative expected of a female author in her debut novel – a conventional love story, which can be assimilated into the patriarchal dominant discourse. However, Mary's acquiescence to the expected narrative is simultaneously an act of transgression and self-empowerment, as she finds a way to 'own her fault' and 'own her love' (p. 313). In the same way, Gaskell uses her private narrative – the story of *Mary Barton* – to both conceal *and* reveal her social, public narrative, the story of *John Barton*. The private narrative is not subservient to the public one, for both are intrinsic parts of her storytelling.

⁷⁵ Kruger, 'Witnessing Women', p. 338.

That Mary's testimony is configured as a performance and an act of 'storytelling' gestures towards Schramm's characterisation of the relationship between the law and humanities (particularly realist fiction) as one which is both combative and symbiotic. By calling into question the courtroom's capability to comprehend emotional, feminised narratives and marginalised speakers, Gaskell is perhaps casting doubt on the efficacy of the adversarial trial. Yet by using the courtroom scene to crystallise the tensions at play elsewhere in the novel, she arguably also illustrates the way in which preconceptions about both romantic and 'Condition of England' fiction may coop other narratives. Gaskell's novel may be a mouthpiece for narratives that lie outside of the law, but she nevertheless recognises realist fiction as encumbered with limitations of its own.

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