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Hearsay Evidence: Legal Discourse, Circumstantiality, and The Woman in White

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In Wilkie Collins's *The Woman in White*, Walter Hartright begins the narrative by stating that, because "the Law is still . . . the pre-engaged servant of the long purse," he has arranged the following account in order to reveal the truth (5). Immediately, through an intermediary, Collins engages the core anxiety of Victorian jurisprudence: the ability of a circumstantial legal process to uncover the truth and, critically, to serve the socioeconomic system from which such a legal demand emerges. In *The Woman in White*, Wilkie Collins puts the law on trial by engaging the interplay between legal questions of witness credibility and testimonial evidence and their impact on social factors such as class and gender. The law's emphasis on externality leads the system to privilege the snakelike Fosco over the heroic Walter, Laura, and Marian, signaling the system's capital offence. Ultimately, not only does the law stand condemned, but Collins's expository method and the stage adaptation he authored ten years later reveal that writing itself is insufficiently expressive.

Although the vicious Count Fosco receives judgment at the hands of the narrative in the form of his ultimate assassination, Collins foregrounds him as the character who, in an actual trial, would have been the most credible witness. In her study of Victorian jurisprudence, Jan-Melissa Schramm outlines the contemporary criteria by which a witness would have been evaluated. Specifically, she argues that, in the Victorian era, the medieval and early modern method of assessing a witness according to his or her class standing ("Origins" 68) was replaced by an emphasis on the wealth of the testator ("Origins" 70). In an industrialized, capitalist society, wealth signifies independence and power and, therefore, the best position from which to evaluate circumstances without being affected by external motivations. In assessing Fosco's independence, Collins tells the reader that Fosco is "an Italian nobleman" who, "though not a rich man, was not a penniless adventurer either. He had a small, but sufficient income of his own; he had lived many years in England; and he held an excellent position in society" (151). If Fosco is not wealthy, he is certainly the most financially independent actor in the narrative. Collins's explication of Fosco's economic standing therefore establishes Fosco as a credible witness in the eyes of capitalist society.

If Collins's evaluation of Fosco establishes his economic independence, it also seeks to prove his character, and his credibility, by appealing to Fosco's reception in "society." Schramm points out that, in addition to economic independence, such recommendations on the grounds "of character and reputation were also of probative evidentiary significance in eighteenth-century trial proceedings" ("Origins" 70). In the novel, the solicitor, Vincent Gilmore, also confirms the reliability of reputation: in making decisions as regards legal questions, Gilmore feels that he is "to weigh the explanation . . . [and] to allow all due force to the reputation of the gentleman who offered it" (133). By effectively

translating Fosco's social reputation into legal capital, Victorian jurisprudential discourse finds Fosco an entirely credible witness. His credibility explicates Walter's anxiety to secure Fosco's testimony at all costs; Hartright is willing to risk death in order to extract a confession from a man of the Count's public reputation and economic independence. In this way, external Victorian legal discourse and the narrative itself confirm that the Count's testimony is the best representative of the truth.

If Collins foregrounds the villainous Count Fosco as the most credible witness of the narrative, Laura remains the least credible. One of the greatest costs to her legal capital is her gender. Anthea Trodd argues that, although women did appear in the witness box in actual and fictional trials, their testimony always carried "potentially explosive implications" (131) because "The court is a masculine institution in which the female presence is anomalous" (130). Schramm corroborates the inherent suspicion of the female witness in Victorian courtrooms when she points out that "the constrained circumstances of women, servants, the mercantile classes, Roman Catholics, foreigners, and some members of the court, were seen to produce falsity" ("Origins" 69). The legal dependence of married women on their husbands is Laura Lady Glyde's critical disadvantage in court; because this dependence is articulated in the language of identity, her lack of credibility is ultimately an issue of a lack of independent identity.

Indeed, Collins's depiction of Laura, particularly following her imprisonment in an insane asylum, insists on her inability to offer testimony because of a lack of identity. Natalie Huffels points out that memory, the standard method of establishing identity, is unavailable to Laura: "She must remember what happened to her to regain her name and social status, but she cannot remember what happened to her if she wants to regain the emotional stability required for a deeper sense of identity" (44). In the context of pre-Freudian English psychological discourse, Collins positions Laura in a sinister place where identity comes at the cost of insanity. She is therefore either completely dependent on others, and a bearer of highly suspect testimony, or she is insane and unable to offer legally recognizable testimony of any kind. The critical issue that Laura introduces is therefore the problem of identity: if her place between insanity and legal identity is ultimately logically untenable, then she is erased by the text. Collins foregrounds this problem in order to show that circumstantiality, in the law and in the written word, is inadequate for cases such as Laura's.

The narrative frames of *The Woman in White* confirm Laura's impossibility as witness. Although Marian does refer to a series of notes written by Laura concerning her honeymoon on the continent (*Woman* 202), her testimony is never offered as a reliable source of truthful information. Marian complains, in fact, that these letters are largely circumstantial: "not a word can I find anywhere which tells me plainly that she is reconciled to her marriage" (202).

Throughout the novel, Laura's testimony is degraded and ultimately rejected by the narrator, confirming her inability to act as a credible witness. This lack of credibility in the novel reflects Victorian legal discourse concerning the unreliability of women and the handicapped as witnesses.

In addition to affecting Laura's credibility, gender is a hurdle for Marian Halcombe's testimony. Marian's preoccupation with distancing herself from femininity at meeting Walter Hartright is both an acknowledgment of and reaction to this prejudice. In the course of their breakfast, Marian first includes herself in her critique of women when she explains that, "We are such fools, we can't entertain ourselves at the dinner table" (33). Although this statement acknowledges and legitimizes misogynistic cultural paradigms, Marian's next move is to distance herself from womanhood and, therefore, confining stereotypes. In confirming to Walter that, "You see I don't think much of my own sex, Mr. Hartright ... no woman does think much of her own sex, although few of them confess it as freely as I do" (33), Marian attempts to distinguish herself from the majority of other women by her very act of criticizing femininity. Marian reacts to Victorian stereotypes of feminine unreliability, then, not by confronting them, but by discursively removing herself, and therefore her testimony, from such a confining label.

Marian and Walter Hartright imagine that this posturing will liberate her testimony from any suspicions of unreliability. Hartright includes her journal entries because they correspond to his criteria for trustworthiness; that is, her testimony is able to "speak to the circumstances under notice ... just as clearly and positively as he [Hartright] has spoken before them" (*Woman* 5). The meticulous details of Marian's journal, such as "the roundness of outline in [Laura's] face" (213), attest to her belief that her testimony will be taken seriously by the legal system with which she has attempted to discursively identify herself. Ultimately, though, the court-of-the-novel finds that Marian's testimony is not credible; she is unable to escape gendered stereotypes that limit the viability of her witness. Collins encodes this limitation in the fabric of the narrative when Marian attempts to leave the feminine domestic sphere and break into essentially masculine space. As Count Fosco and Percival "'decide on the future ... secretly to-night'" (328), Marian listens, her "whole interest fixed breathlessly on the conversation" (329), from the roof. Marian's having to physically hide from the Count and the baronet in order to listen to their scheming signals the masculine nature of the conversation and the anomaly of Marian's participation in it. Such a scene symbolically reconstructs Marian's relationship to gender and the law: excluding herself from domestic, female spaces, Marian seeks to participate in the largely masculine legal discourse by gathering testimony, subversively, outside of the home.

Although Marian is able to write the conversation into her journal, Collins does not allow her to overcome the disadvantages of gendered legal discourse. Marian falls ill as a result of her adventure on the roof (*Woman* 342); not only does this illness disable Marian from helping her sister, the consequences of this intrusion eventually invalidate her own testimony. The Count writes in Marian's journal that "the illness of our excellent Miss Halcombe has afforded me the opportunity of enjoying" her diary (343). Indeed, in what he adds to her journal, Fosco does not deny that he has added or deleted any information from Marian's record (*Woman* 343-344). Because it is, in very real ways, changed by the Count, the status of Marian's journal as a reliable legal document is ultimately dubious. Collins's linking this compromising alteration with Marian's attempted subversion of gendered legal limitations through the narrative device of her illness is a clear sign to the reader that Marian's testimony is not fully credible. Tragically, that incredibility results from Marian's very attempt to gain credibility.

While gendered Victorian legal discourse submerges the credibility of Laura and Marian's testimony, Walter acts as Count Fosco's foil in an evidentiary function in that the core issue that Walter reveals is the role of capitalism in legal discourse. Although the Count bears the title of the landed aristocracy, as Walter observes, "his vocation in life was the vocation of a Spy" (578). This dishonorable occupation foregrounds Fosco as a member of the decadent, ignoble nobility who reject the code of chivalry for material gain. If the Count's profession identifies him with the shifting values of a newly industrialized society, it also distinguishes him from the noble Walter, who refuses dishonest means of achieving his goals when he rejects the idea of wearing a disguise: "In my own character I had acted thus far—and in my own character I was resolved to continue to the end" (*Woman* 493). Indeed, while Count Fosco is ultimately willing to sell his testimony for his life (*Woman* 605), Walter refuses to make his "discovery a marketable commodity" (539). That is, Walter's sense of chivalry, what he refers to as his "common honesty and common honour" (539), forbids him from offering testimony that would have saved the legal identity of his wife and secured his own future. Under the same demands to speak, Walter stands by his sense of honor while Fosco sells his voice for his life.

Collins coordinates this narrative inversion of chivalric values with the cultural inversion of establishing witness credibility. The aforementioned shift to assessing witnesses according to their wealth following the Industrial Revolution ("Origins" 70) explains why, ultimately, Walter's refusal to make his "discovery a marketable commodity" (539) renders his testimony inadmissible to the official legal system. Kyrle articulates this economic disadvantage to Hartright's case when he explains that, "by the time we had spent our thousands, instead of our hundreds, the final result would, in all probability, be against us" (452). As the

contemporary courts might evaluate, because he refuses to participate in mercantile exchange, Walter does not measure up to Fosco's credibility. Ultimately, Collins uses Hartright as a symbol of pre-modern legal discourse: it is the common people at a country manor that accept his testimony (*Woman* 635) rather than the judge and jury of a London courtroom.

By contrasting Walter's nobility with the process of selling and buying, it appears that what Collins finds troublesome with the Victorian legal process is the participation of money. Ultimately, though, Walter allows his testimony to be lucrative—when it has been translated into a novel. Even though Walter's testimony is not ultimately recognized by an official courtroom, the fact is that, by the end of the novel, Walter has made known to the reader that Glyde's secret is "that he was not Sir Percival Glyde at all" (521) and has installed his son as "*the heir of Limmeridge*" (643). The narrative differentiates the law from the truth, then, with implications both for the changing social hierarchy of Victorian England and contemporary jurisprudential discourse. Firstly, Walter's role as a symbol of truth-telling chivalric legal discourse signals the narrative's valorization of the middle classes and, interestingly, their capitalist values. Until the end of the novel, Walter is a wage-laborer who claims legitimacy by introducing himself in terms of profession and age: "Let Walter Hartright, teacher of drawing, aged twenty-eight years, be heard first" (6). By associating Hartright with chivalric values such as honesty and integrity against the morally decadent Count and baronet, Collins shifts moral values from the landed upper classes to the merchant class. An essential definition of this middle class is its participation in free-market capitalism, which differentiates it from the upper class and its inherited wealth. The narrative claims, then, that truth and valor reside in the middle classes, and capitalism, and not with the upper classes.

This association between merchants and morality ultimately complicates an easy reading of Walter's protest that he will not make his "discovery a marketable commodity" (539). If those who participate in capitalism are the "knights" of Collins's tale, why is the translation of testimony to economic power dishonorable? In the novel, Collins foregrounds his attempt to resolve this essential tension between chivalric and capitalist values in the person of Walter to explicate a perhaps more sinister rift in Victorian culture: the difference between the truth and the law. The reason that Walter finds testifying in a courtroom to be dishonorable is not because, as he says, it implicates him in the capitalist system; rather, it is dishonest for the simple reason that it implicates him in the process of the law. After surveying Victorian literature in the light of jurisprudential anxieties over the recent introduction of the counsel for the defense, Schramm finds that "to retain legal representation is a tacit admission of guilt and consequent need for guilt and duplicity" in Victorian culture ("Criminal" 130). That is, participation in officially recognized legal discourse is itself viewed as

dishonest. By highlighting Walter's hesitation to enter the courtroom with the truth on his side, Collins emphasizes both the association between capitalism and chivalry and the courtroom's rejection of chivalric values. He also shows that internal moral values paralyze Walter's testimony, rendering him unable to speak in the same effective manner that the Count does.

As has been noted, the association between chivalry and capitalism does not mean that the courtroom rejects capitalistic values; indeed, Walter complains that money's influence is the reason that "the machinery of the Law [cannot] be depended on to fathom every question of suspicion" (5). But the novel's deep structural assertion of participation in capitalism as an element of chivalry suggests that the problem Collins perceives with Victorian legal discourse is not the one that is explicitly stated in the narrative. Collins, then, is not critiquing money as the primary evil of jurisprudence. His own participation in capitalism in ways that mimic Fosco and Walter suggests that Collins, far from denigrating mercantile values, is interested in affirming them. Instead, his use of sensational descriptive patterns, the interplay he builds between character and credibility, and, finally, the stage adaptation he wrote ten years later suggest that Collins destabilizes the primacy of circumstantiality in Victorian culture, with implications both for the written word and the official legal system.

As a writer, Collins shares many values and practices with Fosco, Walter, and Sir Percival. Gwendolyn MacDonagh and Jonathan Smith, commenting on these parallels, argue convincingly that "Collins shares with Walter, Percival, and Fosco a similar compositional technique that he both draws our attention to and attempts to cover up" (284). The likeness of Collins to the novel's villains is not a denigration of the writer himself; rather, Collins finds himself in these villains because his villains are writers. The practice of writing for gain, whether that be an estate, in Percival's case, one's life, in Fosco's case, or legitimacy, in Walter's case, is something that Collins himself engages in and that the reader finds to be universal to all writers. If we are to find the reason for the novel's condemnation of Percival and Fosco, we must look beyond the fact that they write for a living; indeed, Collins's valorization of Walter is an affirmation of this essentially capitalist value.

The Woman in White suggests that, in contrast to Walter's accusation that the legal system is motivated by money, the "smoking gun" of Victorian jurisprudence is actually its reliance on externality. Schramm notes this reliance on circumstantiality by establishing the preference for the professional defense counsel as a way to privilege the exterior, rather than interior, voice: "The testimonial of a prisoner's defense was subordinated to a lawyer's claim of technical expertise which could establish innocence on non-substantive grounds" ("Criminal" 121). Although, in reality, this preference was articulated by the prominence of the defense counsel's words, *The Woman in White* generalizes and

dramatizes this preference for externality in order to highlight its shortcomings. The first clue to this offense is the way in which the novel favors Fosco over Marian, Laura, and Walter. The submergence of Marian's testimony under Fosco and Walter's pens is symptomatic of the narrative's use of externality to assess the value of testimony: because her body is female, Marian's voice is automatically suspect. Walter's disadvantage to Fosco is similarly articulated in an external form. In his case, it is his class and his participation in the market economy that finds his testimony to be less desirable than that of the apparently genteel Count Fosco. In fact, the Count's later revelation that he is a spy and that he and Sir Percival "both wanted money" (614) is a condemnation of the novel's reliance on appearances: if the Count's claim to credibility is built on his financial independence and his reception in society, Fosco's credibility is built on a lie. The narrative's simultaneous valorization and rejection of Laura, Marian, and Walter, and its favoring of the ultimately deceptive Fosco, are signs of the costs of the fallacies of a system that favors circumstantiality.

Another sign of the cost of the law's circumstantiality is the way that the novel relies on a dramatizing sensationalism that heightens the external while obscuring the internal; although this sensationalism makes a claim to realism, the text of the novel, like the discourse of legality, does not meet reality. The use of sensationalism in *The Woman in White* is not an essential part of the plot. The description of Walter's first meeting with Marian makes this clear:

The easy elegance of every movement of her limbs and body as soon as she began to advance from the far end of the room, set me in a flutter of expectation to see her face clearly. She left the window—and I said to myself, The lady is dark. She moved forward a few steps—and I said to myself, The lady is young. She approached nearer—and I said to myself (with a sense of surprise which words fail me to express), The lady is ugly! (31)

With his use of short, repetitively structured sentences, expressive punctuation, and minutely descriptive words and phrases and by channeling these observations through a character, Collins develops Marian's physical characteristics in a sensational manner; that is, in a way that appeals to the senses. Nevertheless, this descriptive run is not an element of the plot insofar as the novel could have moved forward without examining Marian. Instead, it is a trope that allows Collins to develop a distinctive reading experience that makes a claim to realism by attempting to fabricate the texture of experience. This trope actually comes at the expense of understanding the character of Marian, and therefore aligns the novel with the essential problem of the legal system: a reliance on externality that obscures the internal. By deploying sensational descriptions of key parts of the novel, Collins utilizes an essentially external, and therefore circumstantial, narrative technique to foreground the novel's realistic quality.

Curiously, this use of sensationalism implicates the novel in the very offense for which Collins critiques the legal system: a reliance on externality in order to develop a realistic, or truthful, report of experience. In his study of eighteenth century novelists, Ian Watt notices this similarity between the novel form and the legal system. The novel, like the trial, must offer “a full and authentic report of human experience [to be successful], and is therefore under an obligation to satisfy its reader with such details of the story as the individuality of the actors concerned [and] the particulars of the times and places of their actions” (Watt 32). Because these requirements concern the externality of the situation rather than internal characteristics such as motive, Watt’s criticism shows that novels such as *The Woman in White* that make a claim to realism necessarily rely upon external, or circumstantial, patterns of description and plot development.

In order to “present the truth always in its most direct and most intelligible aspect” (*Woman* 5), then, *The Woman in White* must participate in the same juridical-style exposition that Collins critiques in the novel. This privileging of externality through sensational description and circumstantial plot development suggests that, rather than speaking from it in order to critique the legal system, Collins uses the novel as a model of jurisprudential discourse in order to upset the primacy of circumstantiality in literature as well as in the legal system. The internal critique of the novel’s method of exposition comes into focus as the reader balances the narrative’s interplay between character and credibility and its reliance on external, sensational descriptive patterns. A comparison with Collins’s own stage adaptation of the novel heightens this criticism and reveals that, for Collins, what is at stake in *The Woman in White*’s trial is actually writing itself.

In the ten years that Collins waited to adapt *The Woman in White*, he had the satisfaction of seeing his novel, as he had written it, become wildly popular. It is curious, then, that the play diverges significantly in narrative structure and in exposition from the novel; the differences suggest that the play gives Collins a space in which to tell the same story in a way that rejects the circumstantial expository technique demanded by the novel form. A comparison between the end of the novel and the drama explicates this essential distinction: while the novel ends by resolving the economic, and therefore external, circumstances that Walter, Laura, and Marian face (643), Collins’s drama leaves the theater-goer with Fosco’s dead body and “the voice of Madame Fosco ... audible outside, saying—'Count! may I come in?'" (88). Our final impression of Walter is also noticeably different. In the novel, Walter finishes his story emotionally as “the pen falters in [his] hand” (643), thankful for the end of “the long, happy labour of many months” (643). In contrast, the stage’s last view of Walter is his exit from Fosco’s house, sinisterly urging the Count to “Take care of YOURSELF!” (87, emphasis original). These changes reflect an ending that is less concerned with

patching up the appearances of resolution than with exploring the internal personalities and motives of its principal actors.

In her study of the drama, Janice Norwood also notices this de-emphasis of externality. She articulates this by suggesting that, in contrast to “versions ... of the play [which] feature the death of Sir Percival in the vestry fire as a sensation scene” (225), Collins’s drama omits all of “the obvious sensation scenes” (226). The omission of the external quality of sensationalism is another clue that, together with the resolution of the drama, suggests Collins’s adaptation presents an alternative to the dominant method of composition. Far from presenting the story “clearly and positively” (*Woman* 5), then, Collins’s novel implicates itself in the very circumstantial model of exposition that the narrative indicts by using a circumstantial method of exposition in order to conform to the demands of realism. It is only by writing the drama that Collins is able to extricate himself from the structures of exposition with which he takes issue and present a text that truly condemns the legal system.

The novel’s critique of exteriority in jurisprudence and novel culture calls the reader to look beyond the narrative in order to realize its significance. Insofar as readers do not direct their gaze to the poor, handicapped, and women who suffer under a circumstantial legal system, the direction of the critique remains exterior and deferred. The entirely circumstantial nature of the novel, balanced against *The Woman in White*’s critique of circumstantiality, ultimately gives the reader a tool with which to question the import, purpose, and argument of the novel: we must ask, with Collins, what the effect of a circumstantial narrative structure might be on readers or on characters. The erasure of Laura Lady Glyde’s identity as a result of the narrative’s demand for a realistic treatment of her insanity is one example of the way that the novel condemns itself. It is only by revising and re-presenting the novel as a play that Collins is able to actualize a logically sound critique of circumstantial jurisprudence without implicating his own argument in the process. Rather than evaluating testimony according to the testator’s circumstance, reputation, or wealth, then, Collins calls the legal system to listen and watch as audience. Only by turning its attention to the interior may the law avoid being “the pre-engaged servant of the long purse” (*Woman* 5) and serve the most vulnerable in society.

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