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Detecting Arguments: The Rhetoric of Evidence in Nineteenth– Century British Detective Fiction

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DETECTING ARGUMENTS: THE RHETORIC OF EVIDENCE
IN NINETEENTH-CENTURY BRITISH
DETECTIVE FICTION

by

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ABSTRACT

Detecting Arguments: The Rhetoric of Evidence in Nineteenth-Century British Detective Fiction

by

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My dissertation argues that within the mid- to late-nineteenth-century British detective novel, the abductive arguments used to build circumstantial evidence (indirect evidence), or “clues,” form the method of the detective, but those arguments are not logically certain. In order to resolve the mystery of the detective novel, to discover how the crime was committed and who committed it, circumstantial evidence proves insufficiently conclusive, so confessions, a more logically conclusive (direct) form of evidence, begins to appear frequently in detective novels. Confessions conclusively confirm the events of the crime, the guilt of the criminal, and reveal the inner workings of the criminal mind. Yet by also investigating the larger category of testimony as both direct and indirect evidence, I also show how receiving evidence from people instead of things complicates the detection process.

I look to the legal philosophy of Jeremy Bentham for much of the schema of evidence that I use. In my first chapter, I argue that lawyers in detective fiction should receive more critical attention than they currently receive. Both lawyers and legal

language frequently appear in detective novels of the 1850s-1870s, and the rational, evidentiary methodology of the lawyer is also that of the detective. Both use abductive arguments, namely those arguments based on inferences that explain a set of circumstances, to create narratives about the events of a crime. I investigate the literary and historical circumstances that account for the prevalence of legal matters and lawyers in detective fiction of the 1850s-1870s.

In the second, third, and fourth chapters I lay out the argument concerning circumstantial evidence, testimony, and confession that I stated above. The second chapter examines the logical underpinnings of circumstantial evidence, drawing on C. S. Peirce's observations on logic. I demonstrate that the production of circumstantial evidence via abductive reasoning is the detection method not only of Edgar Allan Poe's legendary Auguste Dupin, but of nearly all mid- to late- British detectives as well. By analyzing *The Notting Hill Mystery*, a novel in which the only form of evidence offered to the reader is circumstantial evidence, I explore how insufficient such evidence and the abductive reasoning out of which it is built ultimately turn out to be, failing to be logically conclusive enough to satisfy the reader concerning the resolution of the criminal investigation.

In the third chapter, I examine two categories of testimony, indirect and direct, in Wilkie Collins's novels *The Law and the Lady* and *The Moonstone*, arguing that though it might seem that direct — or eyewitness — testimony is more reliable than indirect testimony, or circumstantial evidence, *The Moonstone* suggests that even eyewitness testimony might be unreliable, because there is the possibility that a person cannot accurately interpret his or her own experiences.

The final chapter considers a special form of direct testimony, the confession. Largely by analyzing *Lady Audley's Secret*, I argue that confession alone is the type of evidence that confirms lingering uncertainty that is the necessary result of abductive arguments made from circumstantial evidence. It is the resolution of this uncertainty that accounts for the prevalence of confessions in detective fiction where detectives use abductive reasoning to solve crimes. Additionally, confession allows the reader insight into the criminal mind and confirms the guilt of the criminal.

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I would like to thank my parents for all of their encouragement throughout my life. It was my mother who gave me my first collection of Sherlock Holmes stories, setting me on the path to this dissertation long ago. My father has always strongly supported my educational pursuits, and for that I am truly grateful.

Finally, my husband, John, has been my constant companion throughout this dissertation, endlessly reading and re-reading drafts and engaging in conversations about my research. I could not have asked for a more supportive or helpful spouse. He and our son have been the source of much positive motivation and encouragement over the years. I owe many thanks to them both.

DEDICATION

To my family,
thank you for your love and support.

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INTRODUCTION: BETWEEN POE AND CONAN DOYLE

Surely one of the most memorable characters of English literature is Sherlock Holmes. First appearing in *A Study in Scarlet* in 1887, the brooding, brilliant, bohemian detective quickly became a popular favorite, subsequently appearing in fifty-six more short stories and three more novellas. Over the course of the publication of the Holmes works, from the late nineteenth century into the early twentieth century, detective fiction became a popular and standardized genre. By Holmes' final appearance in 1927, the "Golden Age" of detective fiction was well under way. Agatha Christie published her first Hercule Poirot novel, *The Mysterious Affair at Styles*, in 1920, and Dorothy Sayers' first Peter Wimsey novel, *Whose Body?*, was published in 1923.

Holmes' shadow loomed large over the Golden Age, and Agatha Christie undoubtedly felt Sir Arthur Conan Doyle's influence when writing her Hercule Poirot novels. In her autobiography, she states that while writing *A Mysterious Affair at Styles*, "I was still writing in the Sherlock Holmes tradition – eccentric detective, stooge assistant, with a Lestrade-type Scotland Yard detective, Inspector Japp..." (268).¹

Holmes' popular reputation only grew larger over the course of the twentieth century, and

¹ Sherlock Holmes was significant in the creation of the character of Poirot, too. Christie writes of Poirot that "he should be very brainy – he should have little grey cells of the mind – that was a good phrase: I must remember that – yes he would have little grey cells. He would have a rather grand name – one of those names that Sherlock Holmes and his family had. Who was it his brother had been? Mycroft Holmes" (*Autobiography* 244). In *The Mysterious Affair at Styles*, Poirot notes that "this affair must all be unravelled [sic] from within... These little grey cells. It is 'up to them' – as you say over here" (181).

he has since appeared in countless films, television episodes, plays, and works of fiction written by authors other than Conan Doyle.²

Aside from Holmes' engaging eccentricities, including his penchant for using disguises and storing his pipe tobacco in a Persian slipper, it is his method of detection that stands out. Holmes famously claims in *A Study in Scarlet*, "from a drop of water... a logician could infer the possibility of an Atlantic or a Niagara without having seen or heard of one or the other" (18). Throughout Conan Doyle's short stories and novellas, Holmes masterfully practices his art of "observation and... deduction" (17)³ and astonishes both his companion John Watson and the reader with his abilities to solve cases using seemingly insignificant and overlooked pieces of evidence, or clues.

However, Holmes was not the first fictional detective to interpret evidence to solve crimes. Detectives in the detective fiction that preceded Holmes similarly used evidence to "infer possibilities," and it is the very type of arguments they make and the evidence they use that ties together the emergent Victorian detective fiction genre.

This dissertation examines how evidence and arguments function in detective fiction. Detective fiction, I postulate, is composed of a series of arguments, which are in turn concerned with creating a narrative that explains a series of events. Tzvetan Todorov observes in *The Poetics of Prose* that detective stories have a dual narrative structure: the story of the crime and the story of the solving of the mystery of the crime (45). I

investigate how detectives and readers, in the solving of the crime, make arguments about

² Contemporary literary adaptations vary widely. For example, Laurie R. King's popular series examines Holmes' later life with a new companion and chronicler, Mary Russell. There are also far less popular novels like Sam Sciliano's mash-up of literary classics, *The Angel of the Opera: Sherlock Holmes Meets the Phantom of the Opera*.

³ In the article that Holmes writes in *A Study in Scarlet*, he also refers to this method as "the Science of Deduction and Analysis" (17).

the story of the crime. In other words, detectives use evidence to create a narrative about the events of the crime. More broadly, the detective texts themselves create narratives of crimes for the reader. With regard to the detective, the manner of interpreting evidence is commonly referred to as the detective's method. Though Edgar Allan Poe's C. Auguste Dupin short stories may call the method "ratiocination" (181), and Conan Doyle dubs Sherlock Holmes's method "observation and...deduction" (17), these methods are fundamentally the same, and it is the methodology of making arguments that I explore.

These arguments are at the heart of detective fiction itself. As the title of J.K. Van Dover's book, *We Must Have Certainty*, suggests, in detective fiction the reader is looking for an absolutely conclusive resolution to the mystery. Van Dover states,

The detective's logos...speaks a narrative of connections into existence. The detective's logos does, indeed, name the villain, and by naming him, in a sense it creates him: he was the butler; now he is the murderer. But the real re-creation of the detective is the chain of causes and effects that make the butler the murderer; merely naming the killer would be inadequate in any form of detective story. The naming must be persuasive; it must be conclusive, and that derives from the indubitable moral logic that the words of the detective's exposition carry. (131)

It is this "logos" that I explore in this dissertation. Starting from Van Dover's premise that detectives have logos and that this logos "must be conclusive," I examine how detective fiction creates conclusive arguments for its readers. In detective fiction, detectives create arguments by discovering and assembling clues, interviewing witnesses, and often, but not always, ultimately prompting the criminal to confess.

To investigate how these arguments work, I look at two different categories of evidence, indirect and direct. Indirect or circumstantial evidence in literature has been the subject of excellent work by Barbara Shapiro, Alexander Welsh, and Charles Rzepka. In her book *Probability and Certainty in Seventeenth-Century England*, Shapiro refers to circumstantial evidence by the general name “probability,” which accounts for the statistical nature of the type of argument. Shapiro notes how, beginning in the modern era, circumstantial evidence appears in many branches of study, from natural philosophy to theology to rhetoric. In examining those fields she argues that there was a substantial shift in evidence and argumentation towards probabilistic reasoning. Examining British literature in *Strong Representations*, Alexander Welsh uses the terms “circumstantial evidence” and “things not seen,” basing those terms in a history of legal reforms, in order to argue that circumstantial evidence provided a mode of narrative in the late seventeenth and eighteenth century, with a return to “stories of experience” in the nineteenth century (199). Charles Rzepka, referring to the method of the detective, discusses how it was based upon inductive arguments that were popular in scientific arguments of the nineteenth century (16-18).⁴

My dissertation further investigates circumstantial evidence in nineteenth-century detective fiction by examining the logical underpinnings that make circumstantial evidence unique. Alexander Welsh and Barbara Shapiro chronicle the rise of circumstantial evidence in multiple fields of study, from natural philosophy to religion to literature, during the early modern era in Britain. Both note how prevalent circumstantial

⁴ I am making an argument about abductive arguments, which are a type of probability. When Rzepka and Shapiro discuss induction and probability, they are referring to a broader form of argument. I detail the differences between abduction and induction in the subsection of this introduction entitled “Bentham and Peirce.”

evidence, or what Shapiro dubs “probability,” became in the seventeenth and eighteenth centuries, and Welsh in particular ties circumstantial evidence to the formation of literary narratives. I explain why the logical uncertainty associated with the abductive arguments employ circumstantial evidence is significant. I examine the logical form of arguments made from circumstantial evidence, or abductive arguments, in order to argue that it is that very logical form of the abductive argument that leads to the prevalence of criminal confessions, or direct testimony, in early British detective fiction. Additionally, I examine epistemological concerns associated with testimony, and note how those concerns complicate arguments made from circumstantial evidence and confessions.

While there is not yet a great deal of work on the specific logic of circumstantial evidence and detective fiction, there are a handful of noteworthy undertakings. Nancy Harrowitz identifies the abductive argument, defined by Charles Sanders Peirce, as the form of argument that Dupin uses in “The Murders in the Rue Morgue” and that Poe uses extensively in his short stories. Heta Pyrhönen categorizes abductive reasoning in detective fiction as being undercoded, overcoded, or creative in order to show how the detective must choose which rules to apply in a given case. I expand this type of logical criticism, namely that of investigating the logical form of the abductive argument and circumstantial evidence, arguing that it is the method of crime-solving not only for Poe, but also for many works of British detective fiction from the 1850s to the 1870s. Furthermore, I examine how circumstantial evidence works with direct evidence to form larger arguments in early British detective works.

In order to outline arguments in early British detective fiction, it is necessary to investigate more than just the appearances of indirect evidence, or “clues,” as pieces of

evidence are commonly called. If we map only the “clues” and consider them as mere devices to alternately guide and deceive the viewer, then we miss the larger pattern of argumentation. For example, Marty Roth looks at detective methodologies by examining clues⁵ and coincidences, arguing that coincidences are “crucial...to mystery and detective fiction, and [that] the function of coincidence is to signal that we are close to the place of the secret” (206). By viewing those coincidences in detective fiction not as devices, but instead as parts of a larger argument made out of circumstantial evidence, we can describe *why* those coincidences appear so often and seem so significant. Rather than being mere coincidences, clues function as part of a more complex argument.

In “The Slaughterhouse of Literature,” Franco Moretti creates categories and schemas, or “trees” of clues in late-nineteenth-century detective fiction to try to discover why the works of some authors become canonical and why others do not. In this project, Moretti classifies clues according to whether they are necessary, visible, and decodable, but does not really examine what the clue consists of in the first place. Consequently his divisions of detective stories by types of clues lead to results that surprise even him, as a number of the Sherlock Holmes tales end up not following a consistent “clue” pattern (215). However, by considering clues as part of a larger set of indirect and direct evidence, I develop a more consistent picture of mystery-solving where clues are placed in the larger context of multiple bodies of evidence.

Overlooked Texts

⁵ Roth considers clues and evidence to be different things. He says that clues are trivial items (187) and that evidence is obvious (180). Both clues and evidence adhere to the same argument form according to my analysis, however.

In his highly influential *Bloody Murder: From the Detective Story to the Crime Novel*, Julian Symons sketches a broad framework of the early detective fiction genre: “There was to be a crime or an attempted crime, a problem, a solution reached through the skill of the detective, and all this was to be compressed within a few thousand words” (63).⁶ This is the genre definition I adopt in this dissertation, expanding it to include not just short stories of “a few thousand words,” but novels. Although it is a quite simple definition, it is its very flexibility that makes it useful in analyzing the early British detective fiction genre. Nineteenth-century British detective fiction was born from multiple genres, such as picaresque fiction, crime fiction, and sensation fiction, and because the genre was still nascent then, adopting too rigid and narrow a genre framework would rule out a good many books. It is by expanding my genre definition that I am able to draw examples from a broad pool of popular works. The additional feature I look for is that “The solution of a puzzle” is “the main object of the book” (Symons 28). Without this additional feature of focusing on the solution of a mystery, it is difficult to consider a work as early detective fiction; rather, it is a tale with a detective element, as Symons suggests (28).

To the Golden Age detective fiction writers of the 1920s and 1930s such a “loose” genre definition would not have been sufficient because it does not include any account of whether or not the detective novel ensures a sense of “fair play” for the reader (Rzepka

⁶ Dennis Porter has a similarly broad definition, in which detective novels are those “novels whose principal action concerns the attempt by a specialist investigator to solve a crime and to bring a criminal to justice, whether the crime involved be a single murder or the endeavor to destroy a civilization” (5).

17).⁷ Dorothy Sayers writes of the readers of her own time period that “connoisseurs have come, more and more, to call for a story which puts them on equal footing with the detective himself, as regards all clues and discoveries” (97). This relationship with the reader could be tricky to negotiate:

The reader must be given every clue — but he must not be told, surely, all the detective’s deductions, lest he should see the solution too far ahead.

Worse still, supposing, even without the detective’s help, he interprets all the clues accurately on his own account, what becomes of the surprise?

How can we at the same time show the reader everything and yet legitimately obfuscate him as to its meaning? (Sayers 97)

By the 1940s this idea that the reader must have access to all of the clues in order to ensure “fair play” became commonplace among critics. In his analysis of the short stories of Edgar Allan Poe in *Murder for Pleasure* (1941), Howard Haycraft notes that “The Gold Bug” is “not a detective story for the simple reason that every shred of evidence on which Legrand’s brilliant deductions are based is withheld from the reader until *after* the solution is disclosed” (164). If the reader does not have the same evidence to work from while reading the detective tale, then the tale does not qualify as a “detective story” by twentieth-century standards.

Charles Rzepka describes this shift in how the genre is conceived as as one from *detective* stories to *detection* stories (12). Both *detective* and *detection* stories are parts of the detective genre, but they differ with regard to the extent that they involve the reader.

Detective stories, narrowly defined, merely feature a detective, while *detection* stories are

⁷ Charles Rzepka analyzes this idea of fair play in detective fiction at length (12-17). George Dove analyzes “play” (taken from Hans-Georg Gadamer) in his book *The Reader and the Detective Story*.

ones that actively engage the reader in the detective process; the latter are the stories governed by so-called generic “rules,” the most prominent of which is that the reader be given enough clues to solve the crime him or herself. Rzepka postulates that

The difference between reading *detection* and reading *detective*, or Mystery, or sensation stories, or fiction in general for that matter, lies in the degree of intensity and variation with which the reader’s analeptic invention is engaged and prolonged at every instant. That difference depends in turn on the author’s degree of adherence to, and creativity in applying or even subverting (within narrow limits), the formulaic “rules” that will stimulate the reader’s desire for invention. (30)

The difference Rzepka highlights between detective and detection fiction is that in detection fiction the reader is more actively involved in looking backward at clues that are “non-proleptic” and “lack anticipation” (28).⁸ For the purposes of my dissertation I look at works that contain both proleptic and analeptic clues, with the former being more prominent in the pre-1890’s detective fiction that this dissertation examines than the latter. Rzepka notes that *detection* fiction “rose to prominence...as a subgenre of detective fiction toward the end of the nineteenth century” (17).

Many of the works I analyze in this dissertation belong to the *detective* genre. That is to say, they focus on the workings of a detective, but not all of the evidence of the case is presented to the reader such that s/he can solve the crime before the detective does. That being said, all of the works offer a significant amount of evidence to the reader, and oftentimes that evidence is enough for the reader to solve the crime on his or her own. At the very least, the reader receives enough evidence such that the solution to

⁸ Rzepka states that he is adopting the idea of “prolepsis” from Gerard Genette (28).

the crime seems plausible. Having evidence is, after all, what makes the very arguments of detective fiction compelling. The main difference between *detective* fiction and *detection* fiction is that the authors of the former did not view “fair play” for the reader as a *necessity* as the authors of the latter did. This is not surprising, given that the conventions of the genre were forming in the time *detective* fiction was being written. For the purposes of this dissertation I have looked at *detective* works because I am retrospectively examining a developing genre, and it is necessary to have a broad definition in order to consider texts that belong to different writing traditions.

Julian Symons traces the early development of detective fiction from crime literature. Highlighting a critical divide between critics who believe that “there could be no detective stories until organized police and detective forces existed,⁹ and those who find examples of rational deduction in sources as various as the Bible and Voltaire” (27), Symons traces the origins of detective fiction to two works of crime fiction, *Caleb Williams* (1794) and *The Memoirs of Vidocq* (1828-29). *Vidocq* is largely in the tradition of crime fiction and is characterized by “the interpenetration of police with criminals, and the doubt about whether a particular character is hero or villain” (32). Symons notes that this line of crime fiction has roots in the picaresque novel *Jonathan Wild* (1743) (28), and I argue that elements of the picaresque genre are still present in *Caleb Williams* and *Vidocq*. After *Vidocq*, detective fiction develops from the short stories of Edgar Allan

⁹ I believe that here Symons has in mind Howard Haycraft, who, in his 1941 work *Murder for Pleasure*, wrote that “Clearly there could be no detective stories (and there were none) until there were *detectives*. This did not occur until the nineteenth century” (161). Haycraft is supposing that the detective is someone who practices the art of detection as part of his or her livelihood. Dupin falls into this category for him, as do police investigators. I find this distinction too fine to establish a helpful history of the genre. There are plenty of examples of “accidental” detectives who practice the art of detection in nineteenth-century fiction. The narrator of *The Notting Hill Mystery* is one such detective, as is Valeria Woodville in *The Law and the Lady*.

Poe featuring the detective C. Auguste Dupin. Symons notes that “the form” of subsequent detectives in novels by Charles Dickens, Wilkie Collins, and Emile Gaboriau “was derived from Poe,” and that “the detective story was suited to the emotional needs of the growing middle class” (42). By the mid-Victorian era, excepting works by Fyodor Dostoevsky and various short stories by Sheridan Le Fanu (57-58), Symons states, “there was an interregnum between the time when the detective novel proper appeared, and the publication in 1887 of *A Study in Scarlet*” (59). It is the detective fiction of “the interregnum” upon which I focus in my dissertation.

Part of my claim in the first chapter of this dissertation is that the figure of the lawyer becomes important in detective fiction of the “interregnum.” In order to do this, I consider early works of detective fiction that lead up to the mid-nineteenth century. Many of these works do not look like detective novels as they are envisioned today because the early nineteenth century is precisely when the genre was forming. *The Memoirs of Vidocq* and *Richmond: Scenes from the Life of a Bow-Street Runner* (1827) are critically recognized¹⁰ as being influential upon later mid-nineteenth century detective fiction, but they are also influenced by the picaresque. The works also focus quite heavily on following one detective as he solves crimes, and thus are foundational in studying early British detective fiction. I use these works as a contrast to detective novels, casebooks, and short stories that appear later in the nineteenth century.

Much of the fiction that appears in “the interregnum” is in the vein of sensation fiction. Stephen Knight notes that sensation fiction is one of the genres from which detective fiction develops, arguing that “detection was a recurrent element in these first major sensation novels, and in some it can dominate” (43). One such novel, he suggests,

¹⁰ See Knight, Worthington, Rzepka, Symons, and Ousby.

is *The Notting Hill Mystery* (1862-63), which Julian Symons also hails as the first detective novel, noting that “Its primacy is...unquestionable” (52). Setting aside the question of whether or not it was “the first” to be published in the then-forming genre of detective fiction, with its focus on solving a series of murders and describing the method of the primary investigator, *The Notting Hill Mystery* is a novel with many features that would later delineate the genre. Despite these features, *The Notting Hill Mystery* rarely, if ever, garners more than a paragraph or two of criticism. I heavily focus on this novel in my second chapter concerning circumstantial evidence because it is the exemplar of detective novels that use circumstantial evidence in order to create arguments about guilt.

The works of detective fiction that I explore in this dissertation all contain varieties of circumstantial evidence and testimony and are important works in the history of the genre’s development. It is possible that one reason they have been overlooked in scholarship on early detective fiction is that they are traditionally thought of as sensation novels. Sensation fiction¹¹ as a genre is closely related to detective fiction, which makes sense given that the very thrill of sensation fiction lies in the assumption that “The threats of passion and crime could thrive not just in the mysterious romantic foreignness of the Gothic novel, nor in the pullulating streets and lower social orders of popular melodrama, but within the walls of respectability” (Knight 40). The nineteenth-century British detective novel is nearly always concerned with crimes occurring in the domestic sphere, and as such draws together the world of crime and the middle- and upper-class household.

¹¹ For further discussions of sensation fiction see *Wilkie Collins and Other Sensation Novelists* by Nicholas Rance; *Victorian Crime, Madness and Sensation*, edited by Andrew Maunder and Grace Moore; and *Victorian Sensations*, edited by Kimberly Harrison and Richard Fantina.

This dissertation examines novels published between the 1850s and the 1870s, many of which at the time were considered to be in the sensation genre. Retrospectively one can see that the novels partake of both genres. While at the time of publication they were called sensation fiction and are often referred to as such today as well, they contain strong detective fiction elements as well. Aside from *The Moonstone* (1868), scholars gloss over detective fiction of this time period, either relegating it *solely* to the arena of sensation fiction, or skipping it entirely by jumping from the works of Edgar Allan Poe in the 1840s to Sir Arthur Conan Doyle in the 1880s. While I do address the works of those venerated authors, I also examine works that receive far less critical attention in order to account for the development of the detective novel in the intervening years. The texts I examine have also been overlooked in part because Edgar Allan Poe and Arthur Conan Doyle were, and still are, so prominent in both literary and critical imaginations. However, as I stated above, much detective fiction was published in the intervening years between Poe and Doyle, and it is those forgotten texts that I focus upon.¹²

The detective genre in the 1850s through 1870s was still nascent. Certainly the authors of this time period did not consider themselves to be writing “detective” fiction. As I discussed above, detective fiction arises from a variety of genres, ranging from the crime fiction of the Newgate novels to police memoirs to picaresque tales. However, for the sake of convenience I use some broad terms in this dissertation to refer to a group of works. Where I refer to “early detective fiction” or “early British detective fiction,” I am referring to works published before 1880 or so. One of the reasons why I mostly cut off my study at the end of the 1870s is because of the shift in detective fiction after the

¹² It is also possible that some of these novels have been overlooked because they are not particularly well-crafted. *The Notting Hill Mystery* has a rather awkward narrative construction and flat characters.

publication of the Sherlock Holmes novellas and short stories. *A Study in Scarlet* was published in 1887, and Conan Doyle's works were (and are) so popular that they profoundly impacted nearly all of the British detective fiction that followed, and after that point detective fiction writers can be said to be consciously writing in the genre of detective fiction. My dissertation, therefore, focuses primarily on the novels that come between C. Auguste Dupin and Sherlock Holmes, while only lightly touching upon those two figures themselves.

Bentham and Peirce

For this dissertation, I have chosen to use a schema of evidence based upon Jeremy Bentham's *Rationale of Judicial Evidence* (1827) and *Treatise of Judicial Evidence* (1825). These are both substantial works of legal philosophy, but I look at only his divisions of evidence. His schema of evidence allows for finer distinctions among types of evidence than those made by previous scholars. Welsh, Shapiro, and Rzepka all discuss the same type of indirect (circumstantial) evidence when they refer to "probability," "clues," or "things not seen."¹³ However, when Welsh, for example, discusses testimony he does not allow for divisions among types of testimony. He calls it a "story of experience" (199), but does not distinguish between indirect testimony and direct testimony, and this distinction is key to the argument of my dissertation.¹⁴

By using Bentham's schema, I can account for the argument of the whole detective novel, not just the argument of the detective him or herself. Gathering circumstantial evidence is the methodology of the detective, but not of the whole text.

¹³ This also, for those critics, includes induction.

¹⁴ Jan-Melissa Schramm offers the same critique of Welsh's division of evidence (20).

Just as important as circumstantial evidence is direct evidence, which in detective fiction usually comes in the form of a confession at the end of the novel. These confessions are necessary for the satisfaction of the reader. By focusing solely on circumstantial evidence and the methodology of the detective alone, critics like Nancy Harrowitz do not account for the larger argument of the *whole text*.¹⁵ By focusing on how additional types of direct evidence, like eyewitness testimony and confession, function in detective fiction, I account for how writers address concerns such as logical uncertainty and the need to explain the motivations of the criminals. Moreover, by employing Bentham's account of evidence, I can show how those types of evidence interact, because Bentham's schema, familiar to detective fiction writers of the 1850s-1870s, makes a necessary distinction between circumstantial and direct evidence, a division almost entirely overlooked in previous scholarship.¹⁶ Harrowitz's critique of abduction (the argument associated with circumstantial evidence) in "The Body of the Detective Model" does outline the abductive argument in Poe's works, but does not consider how that argument acts as evidence in relation to other types of evidence, like confession. By using Bentham's schema of evidence, I can account for more types of evidence than just the evidence derived from abductive reasoning, i.e. circumstantial evidence. Doing so allows me to describe the relationship between circumstantial and direct evidence in early British detective fiction and to show that the two types of evidence often appear together.

¹⁵ However, Harrowitz does not set out to do this in her article. As she notes of her work, "The task of this particular research will not be one which would analyze the literary beginning of the detective method in a rigorous fashion, although that work is certainly needed" (180). My dissertation puts forth the very analysis that she says is "certainly needed."

¹⁶ Alexander Welsh provides some discussion of what he calls "stories of experience" (199). My dissertation analyzes direct evidence in detail with special attention to the roles it plays in detective novels.

Above I stated that one of the reasons that Bentham's schema is so appropriate for this dissertation is because it was familiar to the writers of Victorian detective fiction. Both the professions of the writers and the language of the texts themselves suggest this was the case. As I outline in Chapter One, nearly all of the writers I examine in this dissertation were briefless barrister or solicitors or otherwise associated with the law. Unsurprisingly, the language of the law makes its way into the fiction they wrote, and that language continued to have influence through the end of the nineteenth century. Consider, for example, the solicitor detective of "A Circumstantial Puzzle," a short story by R. E. Francillon published in 1889, who observes to his client that "We've as yet got no direct proof; but, with such circumstantial evidence to start with, direct proof is absolutely sure to come" (167). The language of the law, and in particular the very tension between circumstantial (indirect) evidence and direct evidence is present in the text, as it is in many of the texts I examine in more detail in Chapters Two through Four.

My goal in most of this dissertation is not to prove that the historical legal culture of the nineteenth century had a direct impact on the formation of the detective, although it is doubtless to me that it did. In the first chapter, I argue that there is reason to suspect this connection and that it would be fruitful to undertake a fuller study of this subject, but the rest of this dissertation is not strictly historical in nature. Rather, it is a study of the structure and appearance of evidence in the early detective novel. This structure of evidence also appears in the studies of rhetoric, logic, and the law, from ancient philosophy to contemporary philosophy and legal studies, and so it is from those areas that I adopt the terminology and framework for my discussion of evidence.

Although the categories of evidence I discuss appear in fields ranging from rhetoric to theology to law, I have chosen to use legal terminology to refer to different categories of evidence both because such terminology is, to some extent, already present in literary criticism and because many of the works of detective fiction use those terms as well. The latter circumstance is most likely because many of the writers of British 1850s to 1870s detective fiction were affiliated with the legal profession. Although I investigate the relationship between the law and detective fiction in Chapter 1, in the other chapters of my dissertation I am using legal terms to refer to the structure of the arguments and the nature of evidence. It is thus important to note that Bentham's schema of evidence is more important in my dissertation as a logical system of evidence types than as a specifically legal framework. Accordingly, the final three chapters are more concerned with an epistemology of detective fiction than a historical study.

A small branch of law and literature studies supports this type of interpretation, namely one that supposes that there are common structures across writing genres, particularly with regard to law and literature. Barbara Shapiro neatly sums up the theoretical underpinnings of this approach when she states,

Interpretation, of course, has always been central to literary and humanistic endeavors, but has taken on growing importance for the law as belief in literature as a unique variety of text has eroded... Interest is now focused on the extent to which the same or similar interpretive modes and strategies can or should be employed in a variety of different discourses. ("Circumstantial Evidence" 219)

In this dissertation I interpret how the early detective novel employs broad categories of evidence to make arguments about the guilt of a given suspect, supposing that the structure of that evidence is similar in kind to that found in legal rhetoric, and more broadly in logic and rhetoric.

The categories of evidence I make reference to are general in nature. The division between circumstantial and direct evidence may well be the most basic that can be made in the classification of evidence. My aim is not to go into detail about the differences among further types of evidence, aside from looking at confessions, broadly understood, as a subset of direct evidence (eyewitness testimony). There are critics who delve in to sub-sections of circumstantial evidence like forensic evidence,¹⁷ but this dissertation uses only the most foundational of categories.

In order to better understand the logical boundaries of such categories of evidence, I look to nineteenth-century lawyers and philosophers such as Jeremy Bentham and Charles Sanders Peirce. The logical boundaries of these categories of evidence and argumentation have not changed much since the early modern era, just as the terminology used to talk about these categories seems to have remained largely intact from the nineteenth century to today, perhaps owing to the heavy influence of nineteenth-century legal evidence theoreticians like Jeremy Bentham and John Henry Wigmore on the Anglo-American legal tradition¹⁸ and to the influence of lawyers upon literature. Additionally, I look to contemporary law and literature scholars such as Barbara Shapiro

¹⁷ See Ronald R. Thomas, *Detective Fiction and the Rise of Forensic Science*.

¹⁸ See Welsh and Twining for discussions of the influence of these legal thinkers.

and Jan-Melissa Schramm for an understanding of the historical development of these terms, although I leave arguments made from the history of case law to them.

Even though the schema of evidence I use comes from Bentham, I rely upon Charles Sanders Peirce for a foundational understanding of the abductive argument that underlies circumstantial evidence. Peirce is the philosopher, logician, and semiotician most closely tied with the abductive argument, which he described in his 1878 paper “Deduction, Induction, and Hypothesis.” While Peirce’s conception of abduction is multi-faceted, I look at it in its simplest form, namely if A is B and C is B, then C is A. This argument form was previously considered a species of induction before Peirce:¹⁹

Prior to about 1865, thinkers on logic commonly had divided arguments into two subclasses: the class of deductive arguments (a.k.a. necessary inferences) and the class of inductive arguments (a.k.a. probable inferences). About this time, Peirce began to hold that there were two utterly distinct classes of probable inferences, which he referred to as inductive inferences and abductive inferences.” (Burch n. pag.)

It is helpful to view the arguments in detective fiction as abductive rather than inductive because inductive arguments cover a very broad category of differing arguments, while abductive arguments are more limited.²⁰ At the same time, abductive arguments link together a number of fields: “Scientific discoveries, medical and criminal detections, historical reconstructions, philological interpretations of literary texts (attribution to a

¹⁹ Charles Rzepka considers the method of the detective to be induction and credits Regis Messac’s 1929 work *Le ‘Detective Novel’ et l’Influence de la Pensee Scientifique* with first stating that the method of the detective is induction (16).

²⁰ Charles Brownson’s 2014 book *The Figure of the Detective* also considers the differences between induction and abduction (37-40).

certain author on the grounds of stylistic keys, ‘fair guesses’ about lost sentences or words) are all cases of *conjectural thinking*” (Eco 205). However, by viewing the detective method specifically as abductive it is possible to create a cohesive, contiguous narrative of nineteenth-century detective fiction while accounting for its emerging generic features during that same time period.

Critics of detective fiction have already observed the ways in which the methodology of C. Auguste Dupin and Sherlock Holmes resembles that of the scientist or physician.²¹ J.K. Van Dover notes that in the nineteenth century “the detective offered himself as a special model of the new scientific thinker...” (1) and describes how Poe, Conan Doyle, and other detective authors of the nineteenth century create detectives that employ a “scientific method” that consists of “the method nineteenth-century scientists professed to practice” (18). His focus on a scientific method associated with detective fiction anticipates the work of Lawrence Frank and Ronald Thomas, both of whom describe how Poe, Conan Doyle, and other nineteenth-century British authors use detective fiction to participate in actual scientific debates. Frank and Thomas have differing theoretical viewpoints, however. Frank himself states that he “resists” Thomas’ claims that “detective fiction...colluded to transform Romantic conceptions of consciousness” into a more limited notion of subjectivity (5). Frank instead claims that “Poe, Dickens, and Doyle reaffirm Romantic conceptions of consciousness within the context of a thoroughgoing philosophical materialism” (5). However, their considerations of the scientific discourses in which nineteenth-century detective fiction participates are both based in the forensic analysis of evidence. My dissertation further considers the

²¹ See Rzepka.

abductive argument structures common to not only the scientific and medical analyses of such evidence, but the analysis of such evidence by literary detectives as well.

Nineteenth-century scientists, and particularly nineteenth-century medical practitioners, employed abductive arguments regularly. Carlo Ginzburg has tied the abductive arguments found in Sir Arthur Conan Doyle's Sherlock Holmes short stories to the abductive arguments made by Sigmund Freud and the art critic Giovanni Morelli concerning psychoanalysis and artwork identification, respectively, by locating these figures' origins in the medical field. The work of each is akin to how doctors diagnose diseases through "medical semiotics or symptomatology" (87). Nor is Ginzburg the only scholar to notice that the nineteenth-century detective shares qualities with the nineteenth-century physician. Heather Worthington argues that forgotten 1840s-50s author Samuel Warren's writings about medicine "explore a discursive space that will later be occupied by the disciplinary detective in the private sphere" (46). Worthington further argues that Warren's writings about the law provide a similar model, as I discuss in my first chapter.

Although it is clear that the nineteenth-century physician and the fictional detective used abductive reasoning, it is not the physician alone who shares this similarity. The lawyer also uses abductive reasoning to create narratives concerning evidence. By identifying Bentham's definition of circumstantial evidence as one that relies upon the type of argument that Peirce will, late in the nineteenth century, identify as abduction, I create a narrative of the fictional detective that bridges the "interregnum" between the "scientific" detectives of Poe and Conan Doyle. By recognizing abductive reasoning as common to both physician and lawyer, and more importantly as the type of

reasoning used by mid- to late-nineteenth-century fictional detectives, I account for a methodology that is both cohesive and contiguous. In other words, by looking at type of argument (abductive) rather than considering field alone (just the sciences), I show that the detective's methodology is not apparent exclusively in detective fictions — like the Holmes stories — that align the detective with the scientist. Rather abductive arguments appear in many works of early British detective fiction that pre-date Sherlock Holmes. By opening up my analysis to works that do not deploy scientific language or analogies alone, I can create a continuous account of the methodology of the detective and of detective fiction that spans the period between Poe and Conan Doyle.

While Peirce wrote about abduction long after Bentham wrote about the law, Peirce's work clarifies the type of arguments present in Bentham's schema. I do not claim that Peirce himself directly influenced any of the authors I examine in this dissertation, only that they present in their texts a type of argument that Peirce later names and theorizes. Using the framework of a logician to analyze argumentation in Bentham's legal philosophy is appropriate because "Bentham's intention was to bring the law of evidence into conformity with the rules of logic" (Shapiro, *Reasonable Doubt* 36). Concerning abductive reasoning and the law, Douglas Walton notes, "abductive reasoning of the most common sort is found in reasoning about evidence of the kind used in police investigations and trials. The abductive model applies most obviously to legal cases of circumstantial evidence that comes under the category called trace evidence" (123). Walton relies on legal theorist John Henry Wigmore's (1935) account of "trace evidence," which involves a complex interpretation of what one might call physical circumstantial evidence, like a bloody knife. I provide a simplified account of how this

type of abductive argument works in Chapter Two. Bentham's schema of evidence also accounts for this type of circumstantial evidence, in addition to circumstantial evidence that is derived from testimony, but which, I believe, still contains the same basic abductive argument structure.

Much of my dissertation relies upon only the most basic of logical distinctions that Bentham and Peirce make. Certainly studies that take into account the more complex aspects of Peirce's account of abductive reasoning or Bentham's schema of evidence would contribute greatly to the study of detective fiction of the nineteenth century and beyond, and could be expanded to cover other genres of literature as well. For this dissertation, however, I confine myself to the simplest form of abduction and the simplest distinctions between circumstantial and direct evidence in order to make arguments about diverse nineteenth-century British detective fiction texts.

Abductive Arguments and Types of Evidence

Throughout this dissertation I make reference to "abductive reasoning," "circumstantial evidence," "indirect evidence," "testimony," and "direct evidence." In order to avoid confusion, I will define these terms here. In doing so, I will also show how those categories function logically with regard to arguments.

As I stated above, abductive reasoning is often considered a form of inductive reasoning. It was Peirce who demonstrated that they are different but related types of arguments. Induction and abduction are related to one another insofar as they are what Peirce calls synthetic inferences. These inferences differ from deductive inferences, or those inferences which come to a necessary conclusion already contained in the premises.

Figure 1 is the tree that Peirce created to map his classification of inferences in his 1878 paper “Deduction, Induction, and Hypothesis” (189).

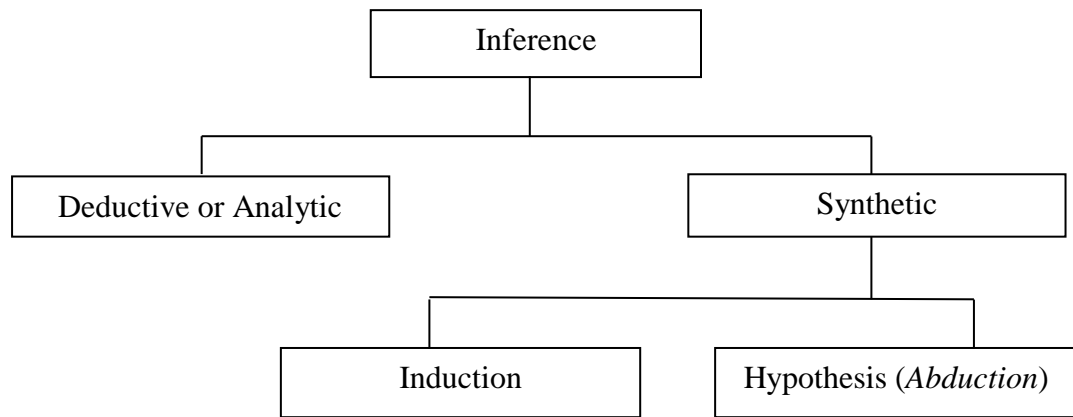


Fig. 1. Peirce’s Classification of Inferences.

Peirce splits the category of synthetic inferences into two more categories, induction and what he terms in this paper as “hypothesis.” For the sake of clarity, I use the term “abduction” instead of “hypothesis,” so as to not confuse the latter term with its more common meanings.

As Peirce goes on to explain, “Induction is where we generalize from a number of cases of which something is true, and infer that the same thing is true of the whole class. Or where we find a certain thing to be true of a certain proportion of cases and infer that it is true of the same proportion of the whole class” (189). In other words, induction is the argument one makes to arrive at general rules. If we observe a given phenomenon repeatedly, we might infer that such a phenomenon might hold true for a larger group of occurrences. Peirce uses the following example:

Induction

Case. ---These beans are from the bag.

Result. ---These beans are white.

∴ Rule. ---All the beans from this bag are white. (188)

Note how in induction one is reasoning from the specific case to the general rule. The more often the argument holds true, the more probable, and therefore the more conclusive, the rule is. Inductive arguments are persuasive because they are highly probable.

By contrast, abductive arguments are about a specific case rather than a general rule: “Hypothesis is where we find some very curious circumstance, which would be explained by the supposition that it was a case of a certain general rule, and thereupon adopt that supposition. Or where we find that in certain respects two objects have a strong resemblance, and infer that they resemble one another strongly in other respects” (Peirce 189). Where the inductive argument arrives at a conclusion that is meant to apply in many specific cases, the abductive argument begins with the rule to arrive at an explanation for a specific case. Peirce offers the following example:

Hypothesis (*Abduction*)

Rule. ---All the beans from this bag are white.

Result. ---These beans are white.

∴ Case.--- These beans are from the bag. (188)

In Peirce's example, the goal of the argument is to explain the "curious circumstance" of where these beans came from. As in an inductive argument, the conclusion of the abductive argument is only probable, not certain. However, the probability of the inductive conclusion depends upon the number of times the argument holds true, whereas in the abductive argument the conclusion's likelihood depends upon how probable it is that another argument could satisfactorily explain the circumstance in question. For this reason, abduction is commonly called "inference to the best explanation" (Douven n. pag.).

The differences between abduction and induction play out clearly in the realm of detective fiction. Take a general example:

Rule: People jumping from windows leave smudged sills.

Result: This sill is smudged.

∴ Case: This sill has been jumped from by a person.

Such an abductive argument might be used to explain a "clue" about a smudged window-sill at a murder scene. Here the conclusion of the argument is not the general rule that "people jumping from windows leave smudged sill," as it would be in an inductive argument. Rather, the conclusion explains the "curious circumstance" of the smudged sill. That particular abductive argument could be worked into a larger chain of abductive arguments that then explained the murder.

In the above case, the smudged sill would be considered circumstantial, or indirect, evidence. Circumstantial evidence is not directly related to the larger conclusion about whom the murderer might be, but is indirectly related by way of a chain of

abductive arguments. By contrast, direct evidence, which includes eyewitness testimonies and confessions, does not involve any arguments at all.

Synopsis

I address specific aspects of circumstantial evidence in Chapter Two, testimony in Chapter Three, and confession in Chapter Four. By doing so, I offer a comprehensive system of evidence in mid- to late-nineteenth-century British detective fiction. I demonstrate that circumstantial evidence and direct evidence balance one another in nineteenth-century British detective works, circumstantial evidence ultimately *necessitating* the appearance of direct evidence. By focusing on both types of evidence, I show how they work together to prove guilt. I account for the methodology of abductive reasoning used by detectives, but I also show how the insufficiencies of that type of reasoning leads to the appearance of direct evidence. This work differs from previous critical works thus differs as much in the scope of evidence I consider as in the range and kind of texts I examine.

The overall argument of my dissertation is that within the mid- to late-nineteenth-century British detective novel, the abductive arguments used to build circumstantial evidence (indirect evidence), or “clues,” form the method of the detective, but those arguments are not logically certain. In order to resolve the mystery of the detective novel, to discover how the crime was committed and who committed it, circumstantial evidence is not presented by the novel as being sufficiently conclusive, so confessions, a more logically conclusive (direct) form of evidence, begin to appear frequently in detective novels. Confessions both conclusively confirm the events of the crime and the guilt of the criminal and reveal the inner workings of the criminal mind. I also investigate the larger

category of testimony as both direct and indirect evidence to show how receiving evidence from people instead of things complicates the detection process.

As I stated earlier, I look to the legal philosophy of Jeremy Bentham for much of the schema of evidence that I use. In my first chapter, I argue that lawyers in detective fiction should receive more critical attention than they currently receive. Both lawyers and legal language frequently appear in detective novels of the 1850s-1870s, and the rational, evidentiary methodology of the lawyer is also that of the detective. Both use abductive arguments to create narratives about the events of a crime. Scholars have generally favored the model of the policeman or the scientist as the basis of the figure of the detective over the lawyer.²² I investigate the literary and historical circumstances that account for the prevalence of legal matters and lawyers in detective fiction of the 1850s-1870s. To do so, I consider a large number of nineteenth-century detective fictions (see Table 1), beginning with one of the earliest detective memoirs, *The Memoirs of Vidocq* (1828-29)²³ by the real French policeman Eugene Vidocq. I then trace the development of legal language in a group of what Haia Shpayer-Makov calls detective “pseudo-memoirs” (238), including *Recollections of a Detective Police-Officer* (1856),²⁴ *Revelations of a Lady Detective* (1864), and *The Female Detective* (1864). These casebook novels²⁵

²² See the works of J.K. Van Dover, Carlo Ginzburg, Lawrence Frank, Ronald Thomas, and Heather Worthington.

²³ While *Vidocq* went through many editions, Ian Ousby notes that it was first “published in Paris in 1828-1829 and quickly translated” (45).

²⁴ This work was originally published from 1849-1853 in *Chamber’s Journal* as a series of stories collectively titled “Recollections of a Police-Officer.” It was then republished in 1856 in a single volume titled *Recollections of a Detective Police-Officer* (Shpayer-Makov 234).

²⁵ It is questionable if these should be called novels. Casebooks were collections of stories of varying lengths that concern the cases of a single detective. Unlike *Recollections of a Detective Police-Officer*, *The Female Detective* and *Revelations of a Lady Detective* seem to both have

remained popular until the 1880s,²⁶ and coincided with detective fiction that comes from the sensation genre. Works of detective fiction that are also sensation fiction make up the last group that I include in my analysis. *The Notting Hill Mystery* (1862-63), *Lady Audley's Secret* (1862), *The Moonstone* (1868), and *The Law and the Lady* (1875) come under this heading, and the authors of each of these works were each associated with the legal profession.

This first chapter is methodologically different from the remaining three chapters. Even though this dissertation set out to be about the forms of evidence in the detective genre, as my research progressed it became clear to me that the forms of evidence are intertwined with the historical circumstances of the rise of the detective novel. In the first chapter I address some of the historical influences that may have been responsible for this development, while in the three subsequent chapters I make arguments about the logic of evidence, only occasionally considering the historic legal culture and practices of the nineteenth century.

In the second, third, and fourth chapters I lay out the argument concerning circumstantial evidence, testimony, and confession that I stated above. The second chapter examines the logical underpinnings of circumstantial evidence. Using the logical framework of Charles Sanders Peirce,²⁷ I first note that the investigative method of C.

been published as single volumes. See Mike Ashley's introductions to the respective works for more publication details. For a further explanation of the casebook genre, see Barbara Emrys' *Wilkie Collins, Vera Caspary, and the Evolution of the Casebook Novel*.

²⁶ Haia Shpayer-Makov notes of the genre of police pseudo-memoirs that "arrival of Sherlock Holmes coincided with its decline" and that further research into the genre is needed (238).

²⁷ For more on abductive reasoning, Peirce, and detective fiction, see the collected essays in *The Sign of Three: Dupin, Holmes, Peirce*. Ed. Umberto Eco and Thomas A. Seabok. Bloomington, Indiana University Press, 1983.

Auguste Dupin is abductive reasoning. Abductive inferences are formed into the arguments that constitute circumstantial evidence. I more broadly account for abductive reasoning and circumstantial evidence in a greater number of works of detective fiction than just those of Edgar Allan Poe, and argue that abductive reasoning is not only the detection method of Dupin, but of many mid- to late- British detectives as well. In addition to Poe's Dupin stories, I briefly consider circumstantial evidence in *Bleak House* (1852-53) by Charles Dickens and *L'Affaire Lerouge* (1866) by Emile Gaboriau before turning to *The Notting Hill Mystery* (1862-63) by Charles Warren Adams. I examine *The Notting Hill Mystery* heavily both because it features circumstantial evidence exclusively (there is no direct evidence) and because it is lacking the critical attention it deserves. By interpreting the text of *The Notting Hill Mystery*, a novel in which the only form of evidence offered to the reader is circumstantial evidence, I argue that abductive inferences and circumstantial evidence alone are not sufficiently logically conclusive enough to satisfy the reader concerning the resolution of the criminal investigation.

In the third chapter, I examine two categories of testimony, indirect and direct, mostly in Wilkie Collins's novels *The Law and the Lady* and *The Moonstone*. I look primarily at those novels because Wilkie Collins, more than many detective novelists of the nineteenth century, addresses the problems of testimony. I postulate that the detective interpreting indirect testimony, which is a form of circumstantial evidence, must additionally consider that people may view the same event differently, which may limit or color their testimony. Additionally, the character and physical abilities of the witness are important in weighing the value of the testimony. I argue that it might seem that direct testimony, also called eyewitness testimony, is more reliable than indirect

testimony, or circumstantial evidence, but *The Moonstone* suggests that even eyewitness testimony can be unreliable, because there is the possibility that a person cannot accurately interpret his or her own experiences.

The final chapter considers a special form of direct testimony, the confession. Primarily by analyzing *Lady Audley's Secret*, I claim that the confession is the type of evidence that dispels lingering uncertainty that is the necessary result of abductive arguments made from circumstantial evidence. It is the resolution of this uncertainty that accounts for the prevalence of confessions in detective fiction where detectives use abductive reasoning to solve crimes. Additionally, confession allows the reader insight into the criminal mind and confirms the guilt of the criminal. I focus on *Lady Audley's Secret* largely because the two confessions in it are very detailed, and they touch upon a number important aspect of the confession, like providing the back-story of the criminal and the motivation for the crimes (madness and circumstances, in this case). However, I also incorporate examples from *The Female Detective*, a critically overlooked work, and *L'Affaire Lerouge* as well.

My choices of texts have been influenced by considerations for their authors' national affiliations,²⁸ publication periods, their detective elements,²⁹ and their critical attention (or lack thereof). Nearly all of these works are touched upon by critics including Julian Symons, Charles Rzpeka, Stephen Knight, J.K. Van Dover, and Ian Ousby, but

²⁸ While most of the texts I consider are by British authors, it would be impossible not to include Vidocq, Poe, and Gaboriau in a study of nineteenth-century detective fiction. Critics universally agree upon their importance. See Maurizio Ascari's chapter "The Language of Auguste Dupin" in his book *A Counter-History of Crime Fiction* for more on the relationships between English, French, and American crime literature.

²⁹ *Bleak House* is not a detective novel per se, but critics including Ian Ousby give its detective subplot considerable attention.

many of them have not received much substantial attention. *The Memoirs of Vidocq*, *Bleak House*, *The Moonstone*, *A Study in Scarlet*, Edgar Allan Poe's short stories, and Emile Gaboriau's works have been commented upon heavily, but the rest of the texts have not received nearly as much attention, with the exception of *Lady Audley's Secret*, which critics have examined mostly with regard to gender identities and dynamics.³⁰ In general, I have focused most heavily on texts that bridge the gap between Poe and Conan Doyle, while also looking to fill in scholarship on texts that best exemplify each type of evidence I consider: circumstantial evidence, testimony, and confession. On the following page I provide a chronological list of texts I examine in more or less detail (Table 1).

³⁰ See Richard Nemesvari's "Robert Audley's Secret: Male Homosocial Desire in *Lady Audley's Secret*," Elaine Showalter's *A Literature of Their Own*, and Pamela Gilbert's *Disease, Desire, and the Body in Victorian Women's Popular Novels*.

Texts Considered in This Dissertation		
Title	Author	Year
<i>Caleb Williams</i>	William Godwin	1794
<i>Richmond: Scenes from the Life of a Bow-Street Runner</i>	Richmond	1827
<i>The Memoirs of Vidocq</i>	Eugene Vidocq	1828-29
“Murders in the Rue Morgue”	Edgar Allan Poe	1841
“The Mystery of Marie Rôget”	Edgar Allan Poe	1842
“The Purloined Letter”	Edgar Allan Poe	1845
<i>Bleak House</i>	Charles Dickens	1852-53
<i>Recollections of a Detective Police-Officer</i>	William Russell	1856
<i>Lady Audley’s Secret</i>	Mary Elizabeth Braddon	1862
<i>The Notting Hill Mystery</i>	Charles Warren Adams	1862-63
<i>The Female Detective</i>	Andrew Forrester	1864
<i>Revelations of a Lady Detective</i>	William Stephens Hayward	1864
<i>L’Affaire Lerouge</i>	Emile Gaboriau	1866
<i>The Moonstone</i>	Wilkie Collins	1868
<i>The Law and the Lady</i>	Wilkie Collins	1875
<i>A Study in Scarlet</i>	Arthur Conan Doyle	1887
“A Circumstantial Puzzle”	R. E. Francillon	1889

Table 1. Texts Considered in This Dissertation.

CHAPTER ONE: DETECTIVE FICTION AND THE LAW

It is difficult to pick up a contemporary edition of any nineteenth-century detective novel without reading about how it is the first detective novel, or the first *British* detective novel, or the first British detective novel to feature a *female* detective, or the first British detective novel to feature a *professional female* detective, etc. Publishers seem to like advertising claims about firsts as much as critics like to make them. While numerous scholars³¹ chronicle rise of the detective novel, Stephen Knight's and Heather Worthington's works are particularly detailed accounts of the early detective novel. Knight and Worthington both claim that the origins of the British detective novel lie in the crime fiction of the end of the eighteenth century and the beginning of the nineteenth. Knight identifies William Godwin's *Caleb Williams* (1794) as an early crime fiction novel. Worthington notes that "The *Newgate Calendar*" and Newgate novels "might occasionally mention a constable or watchman" (103), but that there are few fictional texts that concern the Bow Street Runners or the police, with the exception of *Richmond: Scenes in the Life of a Bow Street Runner* (1827) (104). A. E. Murch cites *The Memoirs of Vidocq* (1829), a non-fictional memoir written by an early French police officer, as an important early influence upon the detective novel (48).³²

Concurrently with and following the *Memoirs of Vidocq* appeared what Martin Kayman calls "pseudo-factual 'memoirs'" of fictional policemen and detectives (116). These works include *Recollections of a Detective Police-Officer* (1856), *Revelations of a*

³¹ See Rzepka, Knight, Murch, Ousby, Worthington, Symons, Sayers, Van Dover.

³² As do Knight and Ousby, and many others.

Lady Detective (1864), and *The Female Detective* (1864). These “memoirs” are in fact or also known as “casebooks”: collections of cases all involving a central detective. They were sometimes published first as short stories and then collected in one volume, thus functioning as novels of a sort, or they were initially published as a collection of cases in a single volume.³³

The sensation fiction of the 1860s was an important source of detective fiction. In sensation novels, the central detective tends to be an amateur detective or, in some cases, a private detective rather than a policeman. As Kathleen Tillotson points out, sensation novels are “novel[s]-with-a-secret,” and as such naturally lead to the appearance of detective figures who solve the mysteries (xv). The most notable of these novels is *The Moonstone* (1868), which T.S. Eliot called “the first, the longest, and the best of modern English detective novels...in a genre invented by Collins and not Poe” (qtd. in Thomas, “Detection” 179). Although *The Moonstone* does contain a policeman, Sergeant Cuff, working in a private capacity as a consultant, he is not the only detective in the novel. Rather, as D.A. Miller points out, *The Moonstone* contains a community of other detectives as well, including the gentleman Franklin Blank, steward Gabriel Betteredge, lawyer Matthew Bruff, and medical professional Ezra Jennings (42).

However, by far the most famous of nineteenth-century detectives are those created by Arthur Conan Doyle and Edgar Allan Poe. In 1887 Sherlock Holmes made his first appearance in *A Study in Scarlet*. A professional private investigator, Holmes is perhaps most notable for his celebrated detective “method” of observation and analysis. Holmes’ method echoes the process of “ratiocination” (181) which C. Auguste Dupin

³³ For a further explanation of the casebook genre, see Barbara Emrys’ *Wilkie Collins, Vera Caspary, and the Evolution of the Casebook Novel*

employed to great success in the Dupin short stories written by Edgar Allan Poe over fifty years earlier in the 1840s — “The Murders in the Rue Morgue,” “The Mystery of Marie Rôget,” and “The Purloined Letter.” The Dupin and Holmes tales together form, for many critics, the narrative of the development of detective fiction that runs alongside the development of detective fiction from police memoirs and pseudo-memoirs and sensation novels.

Auguste Dupin and Sherlock Holmes are two of the most influential detectives in the history of the genre. Their processes of detection, “ratiocination” (181) and “observation and...deduction” (17) respectively, are characteristic of the famous figure of the “armchair” detective, who is just as much a staple of detective fiction as the police investigator. This method of ratiocination is composed of a series of abductive inferences, which I discuss in more detail in Chapter Two, and has been rightly described by Charles Rzepka and Barbara Shapiro as one that belongs to the sciences. Because of the link to the sciences, J.K. Van Dover postulates that nineteenth-century detectives are modeled on scientists, while Heather Worthington states that Samuel Warren’s “‘Passages from the Diary of a Late Physician’...inaugurates the case structure that will typify later detective fiction, and, in the figure of the observing and analytic physician, explore a discursive space that will later be occupied by the disciplinary detective in the private sphere” (46-47). Ronald Thomas and Lawrence Frank also investigate how detective fiction is related to the scientific discourses and practices of the nineteenth-century.

Important as these analyses of the detective as a policeman and as a scientist are, however, a major and too-often-ignored figure in the development of the detective novel, particularly of the 1850s-70s, is the lawyer. Heather Worthington argues that the lawyer

is one of the models for the private detective in the overlooked 1830s and 1840s works of author Samuel Warren, a barrister himself. However, it is not only in Warren's works that lawyers have a significant presence. By the 1850s-70s is hard to find a detective novel that does not feature an attorney. *Bleak House*, *Lady Audley's Secret*, *The Moonstone*, and *The Law and the Lady* all afford lawyers significant roles. *L'Affaire Lerouge* features a magistrate. And even those novels that lack an actual lawyer nonetheless rely heavily on the language of the law. Likewise, the casebooks *The Female Detective* and *Leaves from the Diary of a Law-Clerk* contain lawyers, while *Recollections of a Detective Police-Officer* uses extensive legal language.

As or more importantly, the law employs the method of abductive reasoning first made famous by detectives such as C. August Dupin and Sherlock Holmes. Charles Rzepka and J.K. Van Dover rightly link the "methods" of Holmes and Dupin to the studies of science and mathematics, respectively, but as I discuss in Chapter Two, the type of logical inference crucial to their process belongs just as much in the legal arena as in the scientific. Lawyers, and in fact all detectives, make the same types of inferences, namely abductive inferences, that Dupin and Holmes make. Many detective novels, including *Lady Audley's Secret*, make a point of explaining to the reader how those inferences work. Because the fields of science, mathematics, the law, and logic and rhetoric have historically given different names to this type of abductive inference, some critics of detective fiction, including Van Dover, have overlooked how widespread abductive inferences are outside of the sciences. However, whether you refer to it as induction, "the calculus of probabilities," circumstantial evidence, hypothesis, or

abductive inference, there is a common, fundamental type of argument they employ.³⁴

Although the canon of nineteenth-century detective fiction is bookended by a mathematician and a scientist/doctor duo, lawyers fill the works in between.

The figure of the lawyer may play a particularly important role in mid-Victorian detective novels because of the access lawyers had to middle- and upper-class families. Where police detectives were socially inferior undesirables, lawyers often served in life, as in literature, as trusted confidantes and advisors. Lawyers play a key role in the detective fiction that appears in the period between Dupin and Holmes, particularly in the sensation fiction that relies on bringing together crime with middle- and upper- class society in an intimate way. Lawyers prove to be the only characters who can negotiate between the drawing room and the world of crime.

In this chapter, I examine the roles lawyers play in the development of detective fiction from early police memoirs and pseudo-memoirs to the detective novels that arose from sensation. Although absent from the earliest police procedurals, legal language and legal figures proliferate in the late 1850s and 1860s, regardless of whether the works are police procedural casebooks or sensation novels. By analyzing the appearance of attorneys and legal language in detective fiction, I demonstrate that the law becomes a significant facet of detective fiction in the decades that separate Edgar Allan Poe from Arthur Conan Doyle. While Ronald Thomas contends that fictional detectives seemed to become better interpreters of evidence than lawyers “at least in the popular imagination” in the nineteenth century (“Detection” 182), I contend that it is because by the 1850s detectives look and sound more like lawyers that they are so good at interpreting evidence.

³⁴ I discuss abductive inferences in detail in Chapter Two.

The London Metropolitan Police Service and Early Detective Fiction

The Metropolitan Police Service traces its origins back to The Bow Street Runners. The crime-solving group assembled in 1749-1750 by Henry Fielding and later run by his half-brother John Fielding (Beattie 17, 25), the Runners themselves “originated from a number of shadowy figures, some of whom had criminal backgrounds and who used their connections within the criminal world to act as semi-official officers of the law enforcement” (Sopenoff 14). In 1827 an early pseudo-memoir *Richmond: Scenes in the Life of a Bow Street Runner* was published, followed in France by the publication in 1829 of *The Memoirs of Vidocq*, the real memoirs of one of the first French police officers, Eugene Vidocq. Part of the thrill of reading detectives’ memoirs, whether real or fictional, no doubt lies in the tales they told of the unusual and outlandish paths by which men become detectives. In 1829 the “New Police” of the Metropolitan Police Service became London’s first professional policing force. Clearly identifiable by the uniforms they wore, this force was designed to be “preventive” rather than investigative (Knight 30). Initially part of the intent of the police force was to develop a means of “visible surveillance” (Kestner 3), but in 1842 the first plain-clothes unit was established (Knight 30). Early police memoirs and pseudo-memoirs are thrilling chiefly because of the scuffles between criminals and policemen. The detectives they feature are adept at disguise and tend to solve crimes by relying mainly or even exclusively on a “hunch” or intuition based upon experience and a certain understanding of the criminal mind, backed up, only occasionally, by actual clues. The detective then follows up on that hunch, often donning a disguise in order to secretly surveil the suspected party until s/he reveals his

or her guilt, often to an accomplice. After a confrontation, the guilty party is apprehended.

In the later pseudo-memoir detective novels of the 1850s and 1860s, however, detective-narrators begin to give some account of methods of detection, even if that method is often unclear or only implied. In William Russell's *Recollections of a Detective Police-Officer* (1856), the "detective police-offer," Waters, alludes to "police philosophy" without sharing with the reader just what that philosophy is (35). His actions nonetheless demonstrate that he has some idea of surveillance, possibly in disguise, as is mentioned above. In *The Memoirs of Vidocq*, Vidocq does not focus heavily on the creation of arguments or "trac[ing] out clear meanings" (Forrester, *The Female Detective* 29). He relies more on intuition and revelation. Novels like *Bleak House* and *Memoirs of Vidocq* rely upon the remarkable surveillance abilities of their respective policemen, rather than a logical method that can be learned by anyone, to understand how a crime was committed. Even earlier than that, the eponymous hero of *Caleb Williams* discovers Ferdinando Falkland's guilt not because of a laid-out logical argument, but because of a revelation brought about by the discovery of a clue, namely the contents of Falkland's trunk. In other words, 1790s-1830s detectives solve crimes through revelation instead of logic. While Caleb is not an amateur or professional detective by any stretch of the imagination, his mode of crime-solving closely resembles that of early police procedurals. This is not to say that there are not arguments inherent in these revelations, because there certainly are. Rather, it is to say that early novels focusing on the police do not highlight these arguments or suggest that they have any particular significance. It is

the instincts of the policeman that are remarkable, not the use of evidence in an argument. One of the earliest instances of this type of tale is *Memoirs of Vidocq* (1829).

More a *roman policier* in the picaresque tradition than a true detective novel, *Memoirs of Vidocq* was an extremely influential work both during Vidocq's lifetime and afterwards (Symons 31). This memoir is particularly helpful for differentiating the detective novels that develop out of the early police memoirs and pseudo-memoirs — in which detectives are remarkable mainly for their intuitive and criminal-nabbing powers — from the law-driven novels of the 1860s — in which detectives draw logical conclusions to build arguments. Vidocq does little to explain the logic by which he discovers the guilt of a criminal. Julian Symons notes that Vidocq had no “skill in analytic detection” (31). Rather, he spends much of his time in disguise or creating traps to catch people he already suspects of being guilty. His narrative is not one in which the reader partakes in the process of discovering guilt, but rather one in which the reader is to be passively thrilled by the ingenious ways in which Vidocq tracks down seedy criminals and gets them to confess.

As an example, consider one of Vidocq's tales about apprehending a group of burglars circa 1810. Vidocq, in this part of his memoirs, recounts that a piece of evidence, namely a feed-bag, made him think that one of a group of burglars was a coach driver. Through this piece of evidence he tracks down said carriage driver and all of his cohorts save one, Delzève. Vidocq captures Delzève by hiding in a dung pile, then springs upon him and restrains him at gunpoint. Vidocq then persuades Delzève to confess, saying, “I made him understand that the only way to propitiate the favor of justice was to confess all he knew; and to fortify his resolution in this case, I used some

arguments of a peculiar philosophy, which I have always employed with success in consoling criminals; and at length, he was perfectly disposed to do all I wished..." (318).

Vidocq then offers up Delzève as something of a "new-year's gift" to his superior.

What is notable in this episode is that while Vidocq does make an initial inference, surmising that the guilty party is a carriage driver based on the clue of the feed bag, the rest of his narrative simply does not involve the discovery of information through a process of argument-building. The reader is told at the very beginning of this tale how the burglary was committed; the only mystery is how Vidocq will succeed in trapping the burglars. The bulk of the narrative is thus devoted to anecdotes demonstrating Vidocq's clever tracking skills, the indelicate situations these lead him into, his physical prowess, and his ability to coerce criminals into confessing. The "arguments" Vidocq makes have nothing to do with solving the crime and resolving a mystery, but simply function as a means of displaying his powers of persuasion to get criminals to confess to their crimes.

Vidocq does not explicitly employ the "method" of Sherlock Holmes; neither does he display the ratiocination of Dupin. He is the opposite of the armchair detective who works primarily through logic to discover criminals. Rather, he relies on some combination of intuitions, skills at concealing and disguising himself, deftness with a gun, and rhetoric. Vidocq's abilities to solve crimes, and, more to the point, to catch criminals, are unique to him. There is nothing clearly explicated of the detective methodology even as displayed by later policemen such as Sergeant Cuff in *The Moonstone*. Cuff's logical detective methodology can be practiced by anyone, and even Betteredge catches Cuff's "detective-fever" (108). However, such argumentation is

absent from Vidocq's account. He does not have a fully developed "method" that other detectives could practice, either.

Again, Vidocq's mode of catching Delzève involves an argument from circumstantial evidence akin to those made explicit in later detective novels. When Vidocq encounters the feed-bag he makes an abductive inference that leads him to the driver who leads him to the brothers Delzève. Where Vidocq's narrative differs from later ones is that it fails to explain how and why he made this inference or how such inferences might be applied to other cases. Nevertheless, this type of abductive inference, so essential to Poe's and Doyle's accounts of the work of the detective, is also present in some of the earliest non-fiction police procedural proto-types. Although Vidocq subordinates the importance of this process to his recollection of his intuitive and physical skills as a detective, his implicit argument is still present.

It is also notable that this account, like many of the detective novels, ends with the criminal's confession. I argue in Chapter Four that confessions are a convention of the emergent detective genre in the nineteenth century because of the type of evidence and arguments used to determine guilt. Here, however, the confession, too, is merely another result and proof of Vidocq's unique skills rather than of a transferable ratiocinative method. Vidocq attributes his ability to coerce confessions to his unique understanding of criminals, implying that not all detectives are as adept as he is.

After Vidocq, however, there are a number of detective pseudo-memoirs that contain detectives who are not only as ingenious as Vidocq, but who understand the law as well. Mrs. Paschal, of *Revelations of a Lady Detective* (1864), is just as good at disguising herself, even if she does not always obtain a confession. Her first-person

narratives of her exploits as an agent for what she calls the “London Detective Police” foreground her skills at disguising herself and her patience in surveilling suspects she identifies through her understanding of human psychology. Again, her detective methods are much the same as Vidocq’s, but what is notable about her cases is that in a least two of them she expressly discusses matters in the courts of law or consults with attorneys.

In her narrative of the “Stolen Letters” case, one of the criminals she is following, in order to determine who at the post office is stealing money out of letters, tells another criminal how he had first landed in prison. The raconteur, Mr. Wareham, describes in great detail how his attorney managed to convince the jury that his attempt to steal a horse was merely a youthful escapade gone awry. This account would seem to bear little relation to the main plot except insofar as it establishes Wareham’s duplicitousness, but it also provides an ad hoc commentary on the ability of lawyers to spin evidence in the courtroom. More specifically, it establishes the unreliability of circumstantial evidence and the way it yields itself to multiple interpretations, multiple arguments and/or narratives. Mrs. Paschal nicely side-steps this problem by directly witnessing the pair of criminals stealing money from letters, and thus no inferences need to be made. Though later in the casebook, Mrs. Paschal foils an unethical solicitor’s plot to defraud a wealthy gentleman of his estate and title, his profession proves only incidental to the case. Here, then, the legal realm enters the narrative as just one of many arenas in which crimes may be committed. While legal matters and processes are not integral to the plot, and lawyers surface, if at all, more as potential antagonists to detectives than as detectives or proto-

detectives in their own right, *Revelations of a Lady Detective* shows the beginnings of the influence of the law upon detective fiction.³⁵

By the mid-nineteenth century there were also several pseudo-memoirs in which lawyers and the law play much greater roles than in *Revelation of a Lady Detective*. In the first case of *Recollections of a Detective Police-Officer* (1856) by William Russell,³⁶ “One Night in a Gaming-House,” the main detective, Charles Waters, is told by the police commissioner that “It will be your duty to discover their private haunts, and secure legal evidence of their nefarious practices” (11). Waters proves a skillful interpreter of what counts as legal evidence, both in this and the following case, “Guilty or Not Guilty?,” where he must find evidence to clear a man falsely accused of murder. After recounting the trial, Waters takes his assistant Barnes to track down the real murderers, with an eye specifically to finding convincing proof. At one point he even reproaches Barnes for failing to gather strong enough evidence, saying, “This is scarcely judicial proof” (51). Regardless of whether or not the actual police detectives of the mid-nineteenth century understood rules of evidence, it is certain that some fictional detectives did.

The principal detective in *The Female Detective*, Mrs. Gladden, sometimes works as a private detective and sometimes consults for the police. Although “women did not enter the police force until 1915” (Klein 16), there were some female “enquiry agents” in the mid-nineteenth century (Ashley xi). Mrs. Gladden, the shadowy narrator of the cases in *The Female Detective*, shares her opinions about a detective’s role and function. Miss

³⁵ For further scholarship on *Revelations of a Lady Detective*, see Klein (24-29).

³⁶ For detailed scholarship on *Recollections of a Detective Police-Officer*, see Worthington (140-159).

Gladden does not operate like a traditional policeman. At some points she states that she is a police officer, and at others she states that she is a member of “the secret police.” Mike Ashley observes that Miss Gladden “is not employed directly by the police force. Rather she is a form of enquiry agent who works independently but on behalf of the police” (viii). This relationship becomes evident as she details how she is paid by clients rather than the police force, and through her interactions with actual policemen, several of whom she knows in a professional capacity. Because of the unclear extent of her involvement with the police, *The Female Detective* sometimes looks like a police officer, but Miss Gladden’s professional identity is fluid.³⁷

However ambiguous her status might be, Miss Gladden understands her work — and that of all detectives, of whatever status — as analogous to that of the lawyer. As she puts it in “Tenant for Life,” she is “accustomed to weigh facts, and trace out clear meanings, something after the manner of lawyers, a habit common to all detectives...” (29). Later, Miss Gladden observes that “Indeed it may be said that the value of the detective lies not so much in discovering facts, as in putting them together, and finding out what they mean” (33). Clearly Miss Gladden envisions the detective as more than a bloodhound. Implicit in this idea of putting facts together in order to get meaning is the creation of an argument. Detectives discover and create narratives that correspond to an as-yet not understood mystery. The creation of narrative, Miss Gladden suggests, is the purview not only or even primarily of the policeman, but instead of the lawyer. Miss Gladden does not merely “spy” on people, she creates arguments out of evidence, as lawyers do. While she aligns herself with the police force in the way she identifies herself to clients and criminals, she also employs the terminology and keeps in mind the

³⁷ For further scholarship on *The Female Detective* see Klein (18-24).

procedures and protocols of the court-room. At one point, when speaking to the housekeeper, Miss Gladden observes that she is “cross-examining her, poor dear old lady” (56). And she always seems to have in mind how the case of “A Tenant for Life” will play out in the legal sphere. When speculating upon an interview with a key witness named Mr. Geffins, “G” believes that she will be “instrumental in subpoenaing [sic] him as a witness” (54).

Indeed, Miss Gladden not only employs legal rhetoric and compares her work to that of an attorney’s but also consults with lawyers. As much as “G” knows about the law, she still seeks the services of an actual attorney on a regular basis, going so far as to intimately link detective and lawyer together. She explains to her readers at one point that “I felt pretty certain that I was on the right road at last, but before I consulted my lawyer (most detectives of any standing necessarily have their attorneys, who of course are very useful to men and women of my calling)...” (34). In “A Tenant for Life,” a lawyer is instrumental in piecing together the motive for the peculiar act of substituting a living child for a dead one. Only because of his knowledge of inheritance laws can he deduce that such a substitution took place in order to keep control of an estate. Though a confession later proves that this was in fact *not* the motive, it is nonetheless the one that Miss Gladden assumes to be true for most of the narrative. It is important to know how and why people as ostensibly good as the suspects seem to be could be involved in this criminal affair. Discovering the suspects’ possible motives necessitates having an understanding of British inheritance laws and customs. In order to get the necessary information about who receives income from the estate in question if the heir passes away, Miss Gladden must use the services of her lawyer. While this unnamed lawyer of

“Tenant for Life” does not have a large role in the case, his role is a vital one. For the mid-nineteenth-century fictional detective having a source who is knowledgeable about the law is necessary, if not for solving the crime then for estimating the possible size of a reward that might reliably be offered. Even in the early police pseudo-memoir subgenre, legal matters are of great importance to the detective.

The Lawyer, Detective Fiction, and Sensation Fiction

Although a number of early police procedurals and casebooks refer to or even involve lawyers and courts, it is with the development of sensation novels that detective fiction begins to prominently feature lawyers and the language of the law. It is in these 1860s-1870s works of British detective fiction that arise from sensation fiction that lawyers play highly visible roles, functioning as everything from family advisors and friends to churlish villains. Lawyers and legal matters come to the fore for reasons related both to genre and to historical developments: it is in part a reflection of the realism of sensation fiction, a result of the fact that many writers of sensation fiction were affiliated with the courts, a result or reflection of legal reforms, and in part due to the fact that the narrative structure of legal arguments is well-suited to solving the mysteries contained in sensation fiction, mysteries and “secrets” that Kathleen Tillotson and Patrick Brantlinger point to as generic hallmarks of the sensation novel and later the detective novel (Tillotson xv, Brantlinger 1).

Before I proceed, I would like to remark upon how I categorize the novels I discuss as “sensation fiction” and/or “detective fiction.” While I use such labels for ease of reference, the relation between these genres is complex, particularly since only the essential seeds of what will become a fairly well-defined genre are present in these

detective/sensation novels, namely they feature detectives as protagonists. Certainly no nineteenth-century writer of sensation fiction thought of what they were writing as “detective fiction.” Nor do all sensation novels look like detective novels. I am proceeding to call *Lady Audley’s Secret*, *The Notting Hill Mystery*, *The Moonstone*, and *The Law and the Lady* “detective novels” while still referring to them as sensation fiction as well in order to acknowledge the slippery nature of the genres these works belong to.³⁸

Even though many of the sensation novels of the 1860s and 1870s contain fantastic coincidences and colorful characters, there is, nonetheless, some adherence to realism. In defense of his novels, Wilkie Collins states in a prefatory note to *The Law and the Lady*, “characters which may not have appeared, and Events which may not have taken place, within the limits of our own individual experience, may nevertheless be perfectly natural Characters and perfectly probable Events, for all that” (6). Many of the novels out of which the detective genre developed, e.g. *The Moonstone* and *Lady Audley’s Secret*, are in the sensation fiction genre, the very thrill of them lies in their claims to represent “perfectly probably Events” and “Characters.”

Henry James perfectly articulated the realistic appeal of sensation fiction in his 1865 *Nation* review of Mary Elizabeth Braddon’s works:

To Mr. Collins belongs the credit of having introduced the most mysterious of mysteries, the mysteries which are at our own doors. This innovation gave a new impetus to the literature of horrors. It was fatal to the authority of Mrs. Radcliffe and her everlasting castle in the Apennines. What are the Apennines to us, or we to the Apennines? Instead of the terrors of “Udolpho,” we were treated to the terrors of the cheerful

³⁸ Concerning how texts relate to genres, see Jacques Derrida’s “The Law of Genre.”

country-house and the busy London lodgings. And there is no doubt that these were infinitely the more terrible. Mrs. Radcliffe's mysteries were romances pure and simple; while those of Mr. Wilkie Collins were stern reality. (593)

Here James rightly points out that it is the very possibility of crime close to home, in familiar settings, that makes sensation novels and early detective novels so very thrilling for readers. Though literary critics rightly differentiate sensation fiction from more realistic fiction, the genre of sensation fiction is nonetheless grounded in contemporary events occurring in familiar places. Indeed, James suggests that "sensation" depends on this very fact:

Of course, the nearer the criminal and the detective are brought home to the reader, the more lively his "sensation." They are brought home to the reader by a happy choice of probable circumstances; and it is through their skill in the choice of these circumstances – their thorough-going realism – that Mr. Collins and Miss Braddon have become famous. (593)

It is essential to the sensation novel that the framework and characters be plausible. Without those "probable" circumstances, the genre loses its force and appeal.

Detective novels, as many scholars have noted, partly developed out of sensation fiction. Nearly all of the novels I discuss might best be described as proto-detective novels in the sensational mode. That is to say, they are works of sensation fiction that display what will become the hallmarks of the detective genre, including the very realism on which James insists. The events of detective novels are plausible in nineteenth-century London. Of course, as detective fiction has developed there have been numerous sorts of

genre-pushing experimentation, but an adherence to reality, albeit somewhat sensationalized, remained fundamental to early-twentieth-century Golden Era detective fiction by writers ranging from Agatha Christie and Dorothy L. Sayers to American hard-boiled authors like Raymond Chandler and Dashiell Hammett.

This adherence partly explains why and how lawyers become familiar figures in early British detective novels. Police detectives, solicitors, barristers, clerks, and magistrates or judges may all be important enforcers of the law, but only solicitors and barristers are likely to be on intimate terms with the middle- and upper-class families of Victorian England. Family solicitors like *The Moonstone*'s Mr. Bruff are trusted advisors, while barristers like Robert Audley could plausibly be members of middle- and upper-class society, he being the only son of a younger son. Most of the time, these lawyers are heroes or "sidekicks" in detective novels. Occasionally, however, solicitors are villains, like the Dedlocks' solicitor, Mr. Tulkinghorn, in *Bleak House*. Either way, legal officials are some of the most plausible advisors to the accidental aristocratic detectives of early British detective fiction, if not detectives themselves.³⁹

In the detective novel, that is, the policeman can never have the same access to the upper-class families seemingly always the subject of these cases as can, say, a family member or lawyer. Because of the middle- and upper- class horror of professional police detectives in nineteenth-century detective fiction, such characters are not privy to the family secrets and histories that inevitably prove vital in solving crimes. Early British detective fiction in fact frequently remarks upon this very prejudice. As early as 1827, the

³⁹ While *The Woman in White* is not always conceived of as a detective novel, Ronald Thomas includes it in his analysis of detective fiction and argues that its main character, Walter Hartright, depends heavily upon lawyers to complete "successful acts of detection" (61).

narrator of *Richmond: Scenes in the Life of a Bow Street Runner* remarks that when he “first” became a runner he

had an indescribable notion that I was now degraded and shut out from all society, as every body has a dislike and horror at the very sight of an officer – caused, no doubt, by the very general prevalence of private unfair dealing and villainy, and the secret dread of unexpected detection which these must always produce. (89)

Interestingly, Richmond attributes this dislike not only to the taint of corruption adhering to the Runner and the thief-taker, but also to a deeper concern about surveillance and uncertainty about who was doing the watching.⁴⁰

This fictional prejudice is one reason why lawyers loom so large in 1850s to 1870s detective fiction. Even in novels in which a policeman plays a central, detective role, as does Sergeant Cuff in *The Moonstone*, he cannot singlehandedly construct a complete narrative of the crime. When Sergeant Cuff cannot find the stolen diamond, solicitor Matthew Bruff steps into the role of detective, as do other characters in the novel, “dispers[ing] the function of detection” (Miller 42). Only his and Blake’s access to Rachel Verinder and her family ensures the investigation can continue. Although she does not immediately confide in Bruff, Rachel does not send him away as she does Cuff early in the novel. Although her mother wrongly takes Rachel’s dismissal of Cuff as elitist rudeness and Cuff interprets it equally wrongly as a sign of Rachel’s guilt, the very plausibility of Mrs. Verinder’s interpretation demonstrates the real prejudice against policemen even when, as in Cuff’s case, they function as private investigators.

⁴⁰ For further scholarship on *Richmond* see Worthington and Ousby.

The prejudice against the lower-class policeman by the middle- and upper-class families in nineteenth-century detective fiction reflects the actual class structures of the nineteenth century. Primarily middle-class authors wrote 1850s -70s detective fiction for primarily middle-class audiences. Critics, including Henry James and middle-class novelist-critic Margaret Oliphant, ended up writing reviews of the novels, too (Carnell 244). Middle-class values were present from creation to commentary. Jennifer Carnell, writing about Mary Elizabeth Braddon, notes:

Just as the middle and upper class family resent the police as a lower class intruder, so critics treated the fictional policeman as a lower class intruder into respectable literature. Braddon's reluctance to give a high profile to a detective in her middle class fiction was perhaps due to the snobbery of critics, with the perception that to introduce them lowered quality fiction. (244).

Authors, critics, and readers alike belonged to the middle class. They expected their fiction to reflect that class status, and that expectation influences the framework of the detective novel. The detective novels of the 1850s through 1870s marginalize the police and embrace the middle-class family, as troubled as it may be. As George N. Dove observes,

In any genre in which survival is directly dependent upon sales, the expectations of the reader determine the preintentions of the genre, and in detective fiction especially it is the paradigms of expectation that modify the interchange between reader and text, not only anticipating but bringing

to fruition the method by which the text will be normatively understood.

(75)

While Dove is here speaking about genre conventions regarding literary devices, it is also fair to say that this idea can encompass expectations of the reader concerning the types of characters that appear in detective fiction, and popular fiction more broadly. Doubtless, these expectations are manifested in the texts themselves: “At a rough guess, 90 per cent of the characters in Victorian fiction which is read today belong to the middle class and the gentry” (Altick 33).

Undoubtedly, however, the prominence of middle-class figures, and in particular those associated with the law, in detective fiction has to do, too, with the number of “briefless barristers” who wrote Victorian novels, in the detective genre or otherwise. Speaking of all “(male) Victorian novelists,” John Sutherland estimates that:

one in five ... was a lawyer, and in the vast majority of cases a failed barrister. “Called to the Bar but never practised” is thus the commonest prelude to a career in writing novels. And if one adds lawyer fathers (or, for women, lawyer husbands) the coincidence of a training in law with the Victorian novel is even more pronounced. (162)

Authors of 1850s to 1870s detective fiction were themselves almost exclusively either lawyers or affiliated with the courts.⁴¹ Wilkie Collins had a substantial understanding of British laws of evidence and conventions regarding legal rhetoric. In 1846 he was

⁴¹ The profession of the author seems to have some influence upon the character of the detective. Notably, Sir Arthur Conan Doyle trained as a physician, and Sherlock Holmes is characterized as a scientist far more than as a lawyer.

"admitted as a student of Lincoln's Inn" (Pykett 8).⁴² After five years of study, Collins was called to the bar and became a barrister in November of 1851, "but discovering that he could earn a living in more pleasant ways," he chose to write fiction rather than practice law (Robinson 51). *Notting Hill Mystery* author Charles Warren Adams worked as a lawyer; Dickens "articled as a solicitor's clerk in Gray's Inn" (Sutherland 162). William Stephens Howard, author of *Revelations of a Lady Detective*, was called to the Bar (Ashley 11). Mary Elizabeth Braddon, while not a lawyer herself, was a solicitor's daughter (Carnell 252).

Victorian lawyers were largely middle-class and came from middle- or upper-class families. In his exhaustive account of the British legal profession in the nineteenth and twentieth centuries, Richard L. Abel states that, based on samples, by 1885 seventy percent of barristers were university graduates (47), and that "family wealth and connections and elite education all tended to produce a strong class bias within the Bar, admitting only those who could afford to qualify and allocating pupillages, tenancies and business on the basis of personal contacts" (74). Solicitors, considered to be of a lower class than barristers (170) and far, far less likely to have a university degree (143), still enjoyed substantial incomes (235).

Furthermore, highly publicized trials likely served as inspiration for detective novels. The Road murder case, which concerned the gruesome murder of a four-year-old child, seems to have influenced a number of works of detective fiction. Mike Ashley notes that the case "A Child Found Dead" in *The Female Detective* references the Road murder case ("Introduction"), while Elisabeth Rose Gruner, among other critics,

⁴² Douglas Maceachen seems to dispute this date and claims that Collins studied at Lincoln's Inn from 1835 to 1842 (121). However, I have not found any other source that confirms Maceachen's claim.

documents the influence of the Road murder case upon Wilkie Collins and the similarities between the details of that real-life case and of *The Moonstone*. It is interesting to note that Constance Kent, Scotland Yard Inspector Jonathan Whicher's prime suspect in the case, was released from arrest on the "grounds of insufficient evidence" only to confess five years later to the murder. Apparently this confession, though sufficient for conviction in a court of law, was not widely believed by the general public or "the judge who reluctantly sentenced her" (225).

By the end of the nineteenth century, novels concerning the law had become so numerous that studies of the law and literature became recognized in their own right (Frank 69), even as lawyers began complaining of novelists misrepresenting courtroom practices (Frank 70). Frank, in tracing the relationship of law and literature, points to a critic of the genre, A.E. Wilkinson. In addition to postulating that popular literature had created a particularly negative view of the legal profession, albeit while acknowledging the shortcomings of lawyers, Wilkinson warned in 1905 that "The prediction of cut fingers for those who meddle with lawyers' tools has been verified in the case of novelists. The writer of fiction who proposes to deal with the law or courts as incidents in his story, unless himself of the brotherhood, had best secure the services of a competent professional coach" (217). Clearly the number of lawyer-authors and novelists writing about the law was significant enough to draw comment from lawyer and authors alike.

The intermingling of the law and literature becomes apparent not only in the number of lawyers writing fiction and the number of works written about legal matters, but also in the legal language that pervades early detective fiction. Part of the integration of legal terminology into literature may lie in the warring public sentiments concerning

lawyers. Nicola Lacey theorizes that the Victorian public saw lawyers simultaneously as “assassins” bent on defending, and thereby abetting, criminals and as “necessary and skillful professionals” (610). She notes that the Prisoners’ Counsel Act of 1836, “which gave felony defendants the right to be fully represented by a lawyer for the first time” (610), contributed to the “expansion” of the legal profession (616). Lacey posits that this expansion created a need simultaneously to establish and secure distinctive professional markers, such as language and costume, and to escape “the Benthamite critique of law as deliberately fostering archaic and obsfusatory fictions” (616). The legal profession had both to clearly distinguish itself from, and to become more “transparent” to, the public (616).

Sensation fiction, and by extension early detective fiction, itself has to balance these two concerns. As popular literature, it is accessible to a popular audience. As sensation fiction, it places scandalous events in familiar domestic settings, and it must use the trappings of those settings, employing the language of court reports and newspapers. In many novels the use of the legal language of evidence and procedure both establishes the “realism” of the novel and is familiar enough from newspapers and magazines to appeal to middle-class mid-nineteenth-century audiences.

Consider, for example, *Lady Audley’s Secret*. The detective of that novel, the barrister Robert Audley, goes to great lengths to explain how circumstantial evidence can be used to build a case. And he does so by using a familiar and accessible metaphor — “links of iron” — to describe how pieces of evidence can be combined into a convincing narrative of criminal guilt (152). Absent from that novel, however, is any discussion of other courtroom rules or customs. *Lady Audley’s Secret* focuses narrowly on the

interpretation of evidence and even explains that process in order to make the language of the courtroom accessible to a lay audience.

Likewise, Wilkie Collins' *The Law and the Lady* raises questions about the certainty of testimony and the status of the "Scotch Verdict" of "Not Proven" by offering a trial transcript in the heart of the novel. Collins takes care to make sure that his readers fully understand the nature of that verdict by providing an explicit definition, related by Major Fitz-David. He says:

There is a verdict allowed by the Scotch law, which (so far as I know) is not permitted by the laws of any other civilized country on the face of the earth. When the jury are in doubt whether to condemn or acquit the prisoner brought before them, they are permitted, in Scotland, to express that doubt by form of compromise. If there is not evidence enough, on the one hand, to justify them in finding a prisoner guilty, and not evidence enough, on the other hand, to thoroughly convince that a prisoner is innocent, they extricate themselves from the difficulty by finding a verdict of Not Proven. (95)

Though he employs legal rhetoric in order to explain legal verdicts, he ignores other significant aspects of the trial process, such as jury selection. The unusual verdict is clearly explained in a few lines whose style itself mimics spoken legal rhetoric. A. E. Wilkinson, writing at the very beginning of the twentieth century, notes that the lawyer "must explain complicated matters and difficult trains of reasoning so clearly, if possible, that the wayfaring juryman, though not very bright, can not fail to understand him" (207). What applied to the juries of the day also applies to the reader of fiction.

This accessibility and clarity of language seems at odds with historically convoluted British legal system: “In 1800, adjective law in England hardly deserved to be called a ‘system’: it was the confused and confusing product of largely *ad hoc* and often arbitrary growth, developed largely by lawyers and judges with little regard for principle or consistency” (Twining 21). Nowhere do the abuses and obfuscations of the British Courts system come under more fire than in *Bleak House*. Dickens frames the events of the novel within the proceedings of Jarndyce v. Jarndyce, a fictional Chancery case that has, for some, lasted more than a lifetime. Dickens, more than any fiction writer of the mid-nineteenth century, presents lawyers as either blustery and ineffectual (Conversation Kenge and Mr. Guppy) or manipulative and corrupt (Mr. Tulkinghorn and Mr. Wholes). However, Dickens’ characterization of lawyers⁴³ is more the exception than the rule among works of early British detective fiction. As mentioned above, lawyers in *The Moonstone*, *The Law and the Lady*, *L’Affaire Lerouge*, *Lady Audley’s Secret*, and *The Female Detective* are as important in solving crimes as the detectives themselves.

Conclusion

Although the literary community has paid a good bit of attention to the influences of the police force, forensic science, medicine, and science upon the development of the detective novel, there is more work to be done with regard to the law. It is hard to overestimate the impact that scientific discoveries and theories, especially Darwin’s, had upon the literature of the time. Likewise, the development of an official, government-controlled policing force caused quite a stir. However, it is important to note that the legal profession significantly influenced the detective novel as well.

⁴³ It is worth noting that *Bleak House* is a novel with a detective sub-plot rather than a detective novel tout court.

In addition to the sheer number of authors associated with the Courts, the nineteenth century was a time of considerable legal reform. The nineteenth century was awash in legal reforms and upheavals, and this concern with legality displays itself in sensation and detective fiction. Middle-class authors, many of whom were “briefless barristers,” exercised their legal knowledge in their fiction, incorporating the language of the law into detective fiction tailored for their middle-class readership.

In this chapter I have traced something of the literary history of detective fiction, and have argued that lawyers should receive more critical attention both because of their significance in works of detective fiction and because of the historical influence of lawyer and the legal system upon literature from the 1850s to the 1870s. In the following chapters I examine the forms of the arguments used in detective fiction, as well as types of evidence. These forms and types are also those of the law, although they are not exclusive to it. Future studies might consider the construction of monologues by both detectives and suspects to see if they correspond to the rhetorical moves commonly made in courtrooms. Law schools have embraced Law and Literature studies (Dolin 8), and it would be fruitful to see how literature, in turn, has influenced legal rhetoric.⁴⁴ Kiernan Dolin’s *Fiction and the Law: Legal Discourse in Victorian and Modernist Literature* provides a masterful account of the interplay between the law and the Victorian novel, and it is a model that could be extended to examine the influence of evidence law in detective fiction. Regardless of what future studies may show, it is clear that in the space between the masters of early detective fiction, C. Auguste Dupin and Sherlock Holmes, lawyers play a significant role.

⁴⁴ Daniel Pollack-Pelzner addresses this very concern.

CHAPTER TWO: CIRCUMSTANTIAL EVIDENCE

The use of circumstantial evidence is a key feature of the nineteenth-century British detective novel. The discovery and interpretation of circumstantial evidence constitutes much of the plots of these early detective novels, and by the twentieth century, the practice of including "clues" in detective novels had reached the point where authors such as S. S. Van Dine (pseudonym of Willard Huntington Wright), W. H. Auden, and Dorothy Sayers had devised "rules" and genre guidelines that shaped the later use of circumstantial evidence in detective novels. The popularity of circumstantial evidence in twentieth-century detective novels has its roots in the emerging detective fiction of the mid- to late-nineteenth century.

While Alexander Welsh investigates the role that circumstantial evidence plays in the development of the novel throughout the eighteenth century and into the nineteenth century in *Strong Representations*, Ian Hacking and Barbara Shapiro document the rise of circumstantial evidence in science and the law. However, the role that circumstantial evidence plays in the development of the British detective novel specifically remains to be examined. This is significant because the gathering and interpretation of circumstantial evidence constitute the methodology made so famous by nineteenth-century detective fiction that, although it is often called by other names, such as Edgar Allan Poe's "ratiocination" and Sir Arthur Conan Doyle's "observation and... deduction" (Poe 181; Conan Doyle 17), it is now one of the most recognizable aspects of the detective genre. The presence of "clues" in detective novels becomes a central feature of the genre, such that today it is difficult to imagine a detective novel that does not contain clues.

When the detective authors of the early twentieth century devised "rules" for the genre, they had in mind a scenario in which the reader of the detective novel is active in trying to solve the mystery presented in the novel alongside the detective.⁴⁵ Such a scenario is made possible by the presence of circumstantial evidence, which invites the reader to judge for him- or herself whether or not the evidence presented in the novel is compelling. Influenced by the language of the law, early British detective fiction lays a "case" in front of the reader, inviting him or her to analyze the proposed narrative of events in order to come to a conclusion about the guilt of the accused.

Given the dominance of circumstantial evidence in other realms of study like science and the law, it is perhaps surprising that circumstantial evidence rarely appears as the only type of evidence in nineteenth-century detective fiction. Often, circumstantial evidence is accompanied by direct evidence, such as eyewitness reports or confessions, which appears towards the end of the novel. I argue that this is because circumstantial evidence, while persuasive, is not logically conclusive enough so that the reader can ever be fully persuaded of the guilt of a person without some other form of corroborating evidence.

To investigate this theory further, I examine *The Notting Hill Mystery* (1862-63), a detective novel that until recently has received little critical attention but which is notable because it employs circumstantial evidence exclusively to make an argument concerning the guilt of Baron R***, a man supposed to have murdered three people. Baron R*** is never found guilty and is never caught, which leaves open the disturbing possibility that some criminals may pass among us unknown to others. Cases built upon circumstantial evidence alone, in which no criminal is ever found guilty, suggest that the

⁴⁵ See the discussion of genre development in the introduction.

law and arguments of legal rhetoric founded upon circumstantial evidence are not fully capable of bringing criminals to justice.

Circumstantial Evidence in Nineteenth-Century Detective Tales

Circumstantial evidence has been at the center of detective fiction since Edgar Allan Poe wrote “The Murders in the Rue Morgue” (1841). Poe is widely acknowledged as one of the first writers of detective fiction, if not the very first, and in his C. Auguste Dupin stories he pays close attention to the power of circumstantial evidence. Indeed, for many nineteenth-century detective⁴⁶ novels, circumstantial evidence is the main means by which the plot is motivated.⁴⁷ Circumstantial evidence is the material used by the original “armchair” detective C. Auguste Dupin during the process of investigation and what Sherlock Holmes observes in his famous method of observation and deduction. Poe introduces the methodology of reasoning, or “ratiocination,” as his detective C. Auguste Dupin calls it, in “The Murders in the Rue Morgue.” His subsequent short story, “The Mystery of Marie Rôget” (1842-43), is an explication of the process of abductive reasoning in itself.⁴⁸ Throughout this short story, the second in the series of Dupin stories, Dupin lays out what he calls “the calculus of probabilities” (169), one of the many names for the reasoning processes and use of circumstantial evidence that detective novels

⁴⁶ As I discuss in the introduction and in Chapter One, I am using this term retrospectively. It is clear that as the genre was forming the authors did not consciously conform to the genre expectations later created, given that they were the ones forming the genre.

⁴⁷ In *Strong Representations* Alexander Welsh makes the broader argument that plots in eighteenth- and early-nineteenth-century British novels in general were motivated by circumstantial evidence.

⁴⁸ Nancy Harrowitz argues that Poe’s detective stories share the abductive method set out by Charles Sanders Peirce and that the abductive argument form opens the possibility of hyperreal explanations (179-197).

employ. Far from being an eccentric mathematical prop that adds flavor to Dupin's character, as LeRoy Panek suggests (70), the "calculus of probabilities" is another name for the methodology employed in solving all of the crimes Dupin investigates. At every point in the narrative, Dupin weighs the probabilities of a given scenario being true, given the bits of circumstantial evidence he gathers from reading a number of newspaper stories. From circumstantial evidence alone, Dupin arrives at the identity of the killer, all the while explaining what inferences may reasonably be made from the evidence before him and alerting the narrator when certain conclusions might be considered improbable. Indeed, "The Mystery of Marie Rôget" is foremost a work instructing the reader how the "calculus of probabilities" may be applied to criminal mysteries rather than being a mystery or detective fiction in its own right.

Circumstantial evidence continued to be the primary evidence used in the solving of crimes in many nineteenth-century novels, even as the degree to which the reasoning process is explicated varies from work to work. Although relatively little of Inspector Bucket's methodology is apparent, the text of the detective subplot of *Bleak House* (1852-53) suggests that Bucket uses circumstantial evidence to prove Hortense's guilt. Inspector Bucket recounts to Sir Leicester Dedlock how he figured out that Hortense murdered Mr. Tulkinghorn, and in doing so he reveals the pieces of evidence he views as key to establish her guilt. The process of detection differs from the later tradition of detective novels in that Bucket realizes that Hortense is the murderer as it "flashed upon [him]," and then he lays a "trap" for her to prove her guilt (649). Yet the evidence Bucket collects in doing so is circumstantial in nature. Inspector Bucket, through the help of Mrs. Bucket, discovers that Hortense most likely used the piece of paper from which the

wadding used in the gun that shot Mr. Tulkinghorn had been taken. Furthermore, Bucket finds the murder weapon of which Hortense seems to attempt to dispose. This use of circumstantial evidence is interesting because it is not used by the detective to discover who is guilty, but rather to confirm that guilt. This process is somewhat different from that which appears in the detective novels that follow it, but it is important to remember that *Bleak House* is not, in fact, a detective novel, though some critics, like Ian Ousby, point to the sub-plot as an early work of detective fiction (96-110). Inspector Bucket uses arguments from circumstantial evidence to resolve the detective sub-plotline, thus establishing him in a line of gifted detectives who use that methodology to track down criminals.

It is not just in American and British detective stories that detectives use circumstantial evidence. Circumstantial evidence is woven into the very fabric of the genre. By the late 1850s, it is almost impossible to find any work of detective fiction that does not rely upon circumstantial evidence to build a case. Émile Gaboriau, the famous French detective novelist of the mid-nineteenth century, includes a discussion of circumstantial evidence in *L’Affaire Lerouge* (1866) when discussing the qualities of the investigating magistrate, M. Daburon. Gaboriau offers the following description:

Laborious, patient, and acute, he knew with singular skill how to disentangle the skein of the most complicated affair, and from the midst of a thousand threads lay hold to the right one. None better than he, armed with an implacable logic, could solve those terrible problems in which X --- in algebra, the unknown quantity --- represents the criminal. Clever in

deducing the unknown from the known, he excelled in collecting facts, and in uniting a bundle of overwhelming proofs circumstances the most trifling, and in appearance the most insignificant. (8-9)

While M. Daburon is not the principle detective of *L’Affaire Lerouge*, the first of the M. Lecoq stories in which even M. Lecoq is not heavily featured, he is one of the main characters involved in the investigation.⁴⁹ The description of him is similar that of M. Dupin, with both being especially adept at drawing conclusions from circumstantial evidence.

While circumstantial evidence is heavily featured in mid- to late- nineteenth century detective stories, the most famous detective novels of the nineteenth century display varying attitudes towards its utility. In Poe’s and Conan Doyle’s works the gathering and interpretation of circumstantial evidence forms the distinctive methodologies of those authors’ memorable detectives. In their stories circumstantial evidence is very apparently necessary. *The Moonstone*, on the other hand, takes a more circumspect view of circumstantial evidence, painting it first as misleading and then ultimately as useful. While there are certainly more well-known detective works of the nineteenth century, *The Notting Hill Mystery* is, in many ways, perfectly representative of both the reliance upon circumstantial evidence in nineteenth-century detective novels and of the logical weaknesses inherent in circumstantial evidence. It is a useful novel to look at because the entire argument of the novel is based upon circumstantial evidence alone, and the criminal is never conclusively proved guilty, he never confesses, and he is never

⁴⁹ See Murch for a discussion of M. Taberet in *L’Affaire Lerouge* (122-129) and Priestman (56-62).

caught or punished in any way. While Holmes and Dupin stories rely heavily upon circumstantial evidence, their tales always end with confessions, testimonies, and/or the death or punishment of the criminal. *The Notting Hill Mystery* is unique in its unresolvability, and for this reason fully exposes the logical strengths and weaknesses of the argument based upon circumstantial evidence.

Circumstantial Evidence and the Abductive Argument

Before proceeding further, I am going to address what, precisely, circumstantial evidence is. Circumstantial evidence is a type of evidence dependent upon probability, which I will discuss in more detail below. As a form of evidence, it became popular among natural philosophers, legal philosophers, and rhetoricians at the dawn of the modern era, around 1660 or thereabouts (Hacking 1, 48). Given the number of disciplines that rely upon this type of evidence, it is not surprising that it goes by a number of names. “Probability,” “hypothesis,” “induction,”⁵⁰ “inference to the best explanation,” and “abduction” are all names for the type of argument that produces circumstantial evidence. Legal philosophers also sometimes call circumstantial evidence “indirect evidence.” However, all these terms refer to the same type of argument or evidence. For this chapter, I use the terms “circumstantial evidence” to refer to the evidence and “abductive inference” to refer to the argument that results in circumstantial evidence.

⁵⁰ Logicians differentiate abductive and inductive arguments from each other, and many literary critics refer to abductive arguments as inductive arguments, because they are, technically, a species of induction. See Charles Rzepka’s *Detective Fiction* for an example of the use of “inductive” in this way. See the introduction for a detailed explanation of how the two forms differ.

One of the most important nineteenth-century works concerning evidence in the English legal system is Jeremy Bentham's *Rationale of Judicial Evidence* (1827). Bentham, in this work, seeks to unify and explicate principles concerning the nature and application of evidence in any given case. In the shorter work *A Treatise on Judicial Evidence* (1825),⁵¹ Bentham lays out a clear system of classification of evidence. In the first division he considers "personal evidence," also called testimony, and "real" evidence, which comes from objects (12). In the second division, he accounts for indirect and direct evidence. He notes that "all real evidence is circumstantial" (12), which means that all evidence from objects is circumstantial. He goes on to make a distinction between direct evidence and circumstantial evidence as well, arguing that some forms of personal evidence, i.e. testimony, may be circumstantial and some may be direct.

To understand better what these divisions mean, it is important to understand what Bentham thinks evidence does. He states that "the question of fact is decided by evidence" (*Treatise* 9). A fact, more broadly, is a part of a proof, which is "a fact supposed to be true, and then considered as a reason for believing in the existence or non-existence of some other fact" (8). A proof contains two parts, the "principal fact" and the "proving fact" (8).⁵² With regard to a criminal case, then, the principal fact would be that Sally murdered Joe, and the proving fact might be a piece of circumstantial evidence. Thus, Bentham's account of proofs and evidence necessitates inferences. He states, "every decision, founded on proof, proceeds by way of inference: Such and such a fact being given, I infer the existence of another fact" (8).

⁵¹ See Mill's "Preface" to *A Rationale of Judicial Evidence* for an account of the origins of *A Treatise on Judicial Evidence*.

⁵² Later in the *Rationale*, Bentham calls the "proving fact" the "evidentiary fact" (18).

To look at this from another perspective, arguments constructed from circumstantial evidence are called, in contemporary logical parlance, abductive arguments.⁵³ These inferences are supposed to determine relationships that provide explanations for some sets of circumstances. Abductive arguments work by comparing a particular instance to a general principle to arrive at an explanation. For example, an abductive inference one might find in a detective novel would begin with the general principle: knives used in stabbings are covered in human blood. From there the detective (and reader) would look at the particular instance: This knife is covered in human blood. The conclusion, therefore, is: this knife was used in a stabbing. With the abductive argument, the detective and reader are able to link clues together to form a hypothesis about a series of events.

C.S. Peirce, the late-nineteenth-century logician, characterizes abductive inferences, or what he calls “hypothesis,” this way:

Hypothesis is where we find some very curious circumstance, which would be explained by the supposition that it was a case of a certain general rule, and thereupon adopt that supposition. Or, where we find that in certain respects two objects have a strong resemblance, and infer that they resemble one another strongly in other aspects. (189)

Peirce is explaining that “hypothesis,” or abductive inference, can provide an explanation of how a “curious circumstance” came to be. These abductive inferences provide “the best explanation” for a set of given events or circumstances. Peirce offers the following example (188):

⁵³ As mentioned in the introduction, some critics maintain that abduction is merely a form of induction, but the forms do have some differences. Since abduction is precisely what I am discussing, I will use that term.

Rule. – All the beans from this bag are white.

Result. – These beans are white.

Case. – These beans are from the bag.

The abductive argument form is able to account for an explanation of where the beans came from, i.e. the circumstances of the beans. However, it is important to note here that this explanation of the origin of the beans is only probable, not necessary. It is not necessarily true that these beans came from that particular bag.⁵⁴

Circumstantial evidence, dependent upon probabilities, can lead to varying amounts of certitude with regard to how likely it is that circumstances indicate a particular narrative of events. This aspect of circumstantial evidence has long been commented upon in the tradition of presumption, which Bentham states is another term for proofs that use real and circumstantial evidence (*Treatise* 13). According to Barbara Shapiro, such conclusions might lead to “light, probable, or violent presumption,” and the case below is history’s most oft-cited example of “violent” presumption. She writes, “The most famous example of violent presumption derived from ‘circumstances’ – a man standing over a dead body, bloody sword in hand – although frequently attributed to [Sir Edward] Coke, can be found earlier in Bartolus and his many Romano-canon successors” (“Circumstantial Evidence” 232). Probability has long been coded into the Anglo-American legal tradition.⁵⁵

⁵⁴ See Ginzburg, Harrowitz, Eco, and Brownson for discussions of Peirce, abduction, and detective fiction.

⁵⁵ Douglas Walton links abductive reasoning specifically to the law: “abductive reasoning of the most common sort is found in reasoning about evidence of the kind used in police investigations and trials. The abductive model applies most obviously to legal cases of circumstantial evidence that comes under the category called trace evidence” (123).

Because circumstantial evidence relies on probabilities for strength, accounting for an entire set of circumstances in an argument is a key feature of the detective genre. Poe states that the superior analyst is one who observes not only the things that are directly relevant to the situation at hand, but all things that might offer information. The narrator thus states in the introduction to “The Murders in the Rue Morgue,”

The necessary knowledge is that of what to observe. Our player confines himself not at all; nor, because the game is the object, does he reject deductions from things external to the game. He examines the countenance of his partners, comparing it carefully with that of each of his opponents...the counting of the tricks, with the order of their arrangement; embarrassment, hesitation, eagerness, or trepidation – all afford, to his apparently intuitive perception, indications of the true state of affairs. The first two or three rounds having been played, he is in full possession of the contents of each hand, and thenceforward puts down his cards with as absolute a precision as if the rest of the party had turned outward the faces of their own. (142-43)

The genius of the detective lies in the fact that s/he observes more than what appears to be only directly relevant to the crime. Later in “The Murders in the Rue Morgue,” the reader discovers that one key piece of circumstantial evidence is the placement of a nail that explains the escape of the “criminal.” It is because Dupin observes more than the police that he is able to explain the other, more apparently directly relevant circumstances of the crime. Sherlock Holmes, too, remarks upon the importance of observation in A

Study in Scarlet, noting that, “from a drop of water...a logician could infer the possibility of an Atlantic or a Niagara without having seen or heard of one or the other” (18). Even Jeremy Bentham, in his recommendations for the reformation of evidence laws in England, states, “the legislator should lay down no binding rules about the admissibility or the weight to be attached to particular kinds of circumstantial evidence” (Twining 34). Although in the case of Bentham he is writing with an eye to reforming a system of rules governing the admissibility of evidence, his treatment of the issue shows that he, too, rejects the notion that any given piece of circumstantial evidence is irrelevant because of the class of thing to which it belongs.⁵⁶ This maxim holds true in the detective novel as well, where seemingly irrelevant details, such as the abduction of Rosalie as a small child by gypsies in *The Notting Hill Mystery*, end up being important parts of the “chain” of evidence.

The use of circumstantial evidence to create and motivate literary narratives has been common in English literature since at least the eighteenth century, according to Alexander Welsh, and likely even earlier, according to Barbara Shapiro (“Circumstantial Evidence” 230). However, the use of circumstantial evidence as the main narratological device belongs particularly to the detective novel, as the entire focus of the detective novel is upon the revelation of the identity of a criminal. Many mid- to late- nineteenth-century British detective novels rely upon circumstantial evidence, at least to some degree, to make their arguments. However, the exclusive use of circumstantial evidence seems rare. Even Poe’s Dupin stories, such as “The Murders in the Rue Morgue” and

⁵⁶ While I am making reference to a historical circumstance here, what I am pointing out is the philosophical implications of this view, without concerning myself too heavily with the historical circumstances that necessitated this view, i.e. the difficult British legal system. For a discussion of that system see Twining, Shapiro, and Allen.

“The Mystery of Marie Rôget, ” which explicitly set out to show the power of “analysis,” end with direct testimony or an account of the successful capture of the criminal, respectively. Poe himself does not rely solely upon circumstantial evidence alone to convince the reader that Dupin’s account of the crimes is the correct one. *The Notting Hill Mystery*, then, stands out as a novel that relies solely upon circumstantial evidence.

The Notting Hill Mystery

Within the realm of notable mid-nineteenth-century novels, *The Notting Hill Mystery* is unique. Unlike readers of Poe’s stories, or Collins’, or any other detective novel of the time, the reader of *The Notting Hill Mystery* never receives confirmation from the novel that Baron R*** is, in fact, guilty. He is never caught, never confesses, and the tale that Ralph Henderson puts together to explain the deaths in the novel is outlandish at best. Despite the nineteenth-century fascination with the paranormal, the proposed resolution to *The Notting Hill Mystery* is so sensational that to resolve the mystery with a factual account of the events of the murders would ruin the novel by highlighting how very unlikely the entire situation actually is. However, because the novel relies exclusively upon circumstantial evidence alone to build its case, it showcases both the strengths and weaknesses of arguments built from circumstantial evidence in nineteenth-century British detective novels, namely that circumstantial evidence engages the reader but fails to prove literarily satisfying.

Until very recently, scholars of detective fiction have paid very little, if any, attention to *The Notting Hill Mystery*. This is somewhat surprising, given that in 1972 noted crime fiction critic Julian Symons stated in his groundbreaking book, *Bloody Murder: From the Detective to the Crime Novel*, that “there is no doubt that the first

detective novel, preceding Collins and Gaboriau, was *The Notting Hill Mystery*” (52). Victorian scholars have overlooked the book as well, perhaps because it has been out of print for a number of years, and perhaps because so much attention has been placed on more canonical works of sensation fiction. Either way, *The Notting Hill Mystery* has only received a paragraph here and there.⁵⁷ Only recently has the novel garnered more study, largely because Paul Collins revived interest in it when he identified its pseudonymous author, Charles Felix, as Charles Warren Adams in a 2011 article in *The New York Times Sunday Book Review*. Subsequently, the British Library published a print edition of the novel in 2012, which is the first time *The Notting Hill Mystery* has been in print since 1976.⁵⁸

The Notting Hill Mystery deserves the renewed attention. As Symons notes, it is a remarkably modern novel (51), despite its Victorian anachronisms. Paul Collins states that “Its crime-scene map and reproduced ‘evidence’ were ideas that wouldn’t gain currency again until the 1920s,” but such elements are seamlessly woven into the text (n.pag.). Also unusual is the intricate narration of the novel, in which the narrator, Ralph Henderson, an agent working on the behalf of several life insurance companies, withholds his account of the events of the crime until the very end of the novel. Up to that point, he pieces together testimonies, forensic evidence, and physical evidence in a number of sections, with only a few pages of explanation at the beginning of each stating roughly to what events the evidence pertains. Indeed, reading *The Notting Hill Mystery* for the first time is confusing for this very reason. From the beginning of the narratives

⁵⁷ See Knight (43-44).

⁵⁸ This was a part of the “Literature of Mystery and Detection” series published by Arno Press.

concerning both the investigation and the crime itself little is clear except that they involve the death of Gertrude Anderton.

The complete narrative is fantastic, replete with Victorian concerns about identity, mysterious foreigners, and paranormal deaths. Mrs. Gertrude Anderton and Madame Rosalie are twin sisters who have a strong physical sympathy with one another. Madame Rosalie was stolen by gypsies as a young girl and was subsequently sold to some type of performance troop, where she became a tightrope walker. Baron R***, a man with an amazing power to mesmerize, finds her and makes her become his assistant. Later, Mr. and Mrs. Anderton, desperate to find relief for their nervous constitutions, hire the Baron to treat Mrs. Anderton via mesmerism. When Mr. Anderton finds it inappropriate for the Baron to treat Mrs. Anderton himself, then the Baron uses his assistant, Rosalie, to communicate the treatments, which work remarkably well due to the sympathy between Mrs. Anderton and Rosalie, even though no one knows about their biological relationship.

Around this time the Baron discovers that Mrs. Anderton and Rosalie are related and that Mrs. Anderton will come into an inheritance of twenty-five thousand pounds. In order to gain this inheritance, the Baron marries Rosalie and proceeds to kill Mrs. Anderton and then her husband, ensuring the inheritance passes to Rosalie. In the meantime he also takes out five life insurance policies amounting to an additional twenty-five thousand pounds upon Madame Rosalie. Finally he kills her to gain a total of fifty-thousand pounds. In order to murder Mrs. Anderton, the Baron mesmerizes his wife, Madame Rosalie, such that every fortnight she drinks antimonial sherry. Rosalie is poisoned, and because of the sympathy between her and her sister, Mrs. Anderton also

suffers the effects of the poison. Being the constitutionally weaker of the two twins, Mrs. Anderton dies, while Madame Rosalie lives. After Mrs. Anderton dies, the Baron mesmerizes Mr. Anderton and makes him poison himself in what appears to be a suicide. Finally, after receiving a love letter from an unknown woman imploring him to be done with his relationship with Madame Rosalie, the Baron mesmerizes his wife and causes her to take a fatal dose of antimonial sherry in her sleep.

The first four sections of the novel are filled with the testimonies and letters of relatives, friends, medical professionals, and others associated with the main characters, all of which are supposed to provide the (entirely circumstantial) evidence that makes Mr. Henderson's argument concerning the narrative of events credible, and even convincing. In a marvelous rhetorical ploy, Mr. Henderson offers the evidence of the case before his version of the narrative of events, in order to get the readers to arrive at the same conclusion as he does by the use of their own reasoning skills. His evidence is carefully chosen to support his narrative, which serves to reinforce, and perhaps clarify somewhat, what the reader already knows — or should know.

Circumstantial Evidence in *The Notting Hill Mystery*

Within the pages of *The Notting Hill Mystery* it is possible to trace the elements of arguments made from circumstantial evidence present to some degree in nearly all mid- to late- nineteenth-century detective novels. At its core, *The Notting Hill Mystery* employs abductive arguments to link pieces of circumstantial evidence together in order to create a narrative explaining how Mrs. Anderton died. An example of this is one of the central arguments concerning the principles of mesmerism that is employed to show how it is possible that the Baron could have poisoned Mrs. Anderton. To begin this abductive

argument, the reader is presented with a reasonable premise: Antimony poisoning causes a person to vomit and have a metallic taste in his/her mouth. The reader is supposed to apply this to the specific instances of Mrs. Anderton vomiting and having a metallic taste in her mouth. The conclusion is that Mrs. Anderton has suffered from antimony poisoning. There are a number of other abductive arguments that suggest that the Baron murdered Mrs. Anderton. For example, with regard to motive, Henderson and the reader create an argument beginning with the major premise: people are motivated to commit murder when they stand to inherit large amounts of money from their victims. In the novel Henderson shows that the Baron would stand to inherit large amounts of money from Mrs. Anderton. The conclusion is that the Baron is motivated to commit murder. Of course, these are only two of the numerous abductive arguments that Henderson and the reader need to make in order to come up with a complete narrative of the crime. For example, Henderson must show how it was possible for the Baron to inherit money from Mrs. Anderton, given that he is not apparently related to her. This is just one part of the larger overall argument.

Individually, each of the conclusions reached from abductive arguments is not necessarily true. They are only reasonable hypotheses. In *The Notting Hill Mystery* it is easy to see how concerns about probabilities in circumstantial evidence manifest in nineteenth-century detective novels. Within the arguments concerning circumstantial evidence, conclusions gain strength the more the evidence points to a particular narrative and the more unlikely it seems that any other narrative would explain the same circumstances. Just as it is almost impossible to explain how Madame and Mademoiselle L'Españaye died in "The Murders in the Rue Morgue" other than at the hand of the

ourang-outang, in *The Notting Hill Mystery*, it would be difficult to explain otherwise how Mrs. Anderton died, given that no one besides Baron R*** could possibly have a motive for murdering her. It would be even harder to come up with a narrative that explains how both Mrs. Anderton and Rosalie suffered from the same symptoms of antimony poisoning repeatedly and always concurrently with one another. The narrative Henderson suggests to the reader is the one that most easily accounts for the entire set of circumstances, and, as stated above, accounting for an entire set of circumstances is a key measure of the strength of the an argument made from circumstantial evidence.

The Notting Hill Mystery tests the limits of what circumstantial evidence is capable of explaining with regards to both crimes and the paranormal.⁵⁹ The major obstacle to the apparent truth of the circumstantial narrative is the postulation of murder by mesmerism. Such an idea seems contrary to, as Henderson puts it, “the most firmly established laws of nature” (6). What “murder via poisoning transferred through mesmerism” leaves behind in terms of physical “clues” is substantially different than in more “traditional” murders. This causes some of the abductive conclusions to appear to be manifestly false. For example, in the above abductive argument, the reader concludes that Mrs. Anderton dies from antimony poisoning. This should be a fairly easy hypothesis to verify, since it is generally accepted that a person who has suffered from antimony poisoning will have antimony in his/her organs.⁶⁰ However, when Dr. James Watson

⁵⁹ Poe also tests these limits in “The Murders in the Rue Morgue” by positing death by “ourang-outang.”

⁶⁰ This argument is the result of both induction and deduction. The general principle that a person who dies of antimony poisoning will have antimony in his/her organs is derived from an inductive argument. This argument has the premises that “this person died from antimony poisoning” and “this person had antimony in his/her organs” to arrive at the conclusion “people who die from antimony poisoning have antimony in their organs.” This conclusion becomes

performs the autopsy, there is no trace of antimony in Mrs. Anderton's body. It appears that it is impossible that she has died from antimony poisoning. In order to show that Mrs. Anderton has been poisoned, Henderson must adopt a new, radical principle concerning poisoning via mesmerism.⁶¹ To do so, Henderson presents the reader with an article obtained from the fictional *Zoist* magazine about a man who was able to heal his patient by eating food himself and then transferring the beneficial effects of the food to the patient by mesmerizing her. From this example Henderson and the reader are supposed to derive a general principle that would apply to the case of Mrs. Anderton and the Baron,⁶² namely that one can transfer the effects of ingestion from one person to another through mesmerism. Accordingly, there is no trace of ingestion left behind in the person who has not eaten anything.

This principle is difficult to swallow mostly because it is largely untested. All the reader receives is one account from a magazine, which makes the argument fairly weak. Inductive arguments derive their strength from repeating them many times and always arriving at the same conclusion. This is apparent in the sciences, where one must be able

stronger with each specific instance of its being true. In the novel, the truth of this conclusion is never really questioned. This inductive principle is then worked back into a deductive argument with the major premise that "people who die from antimony poisoning have antimony in their organs" and the minor premise that "this person (in this case Mrs. Anderton) died from antimony poisoning," and the conclusion that "Mrs. Anderton has antimony in her organs." Of course, the autopsy reveals that Mrs. Anderton does not have antimony in her organs, so the reader can conclude that Mrs. Anderton did not die of antimony poisoning.

⁶¹ Henderson's views about mesmerism are not conclusive. Just a few pages after stating that poisoning via mesmerism is against "all the most firmly established laws of nature" (6), he says that the Baron's poisonings "which, by the workings of a true, though most mysterious, law of Nature, may really have been carried out" (9).

⁶² This is an inductive argument in which the major premise, "the patient was mesmerized," and the minor premise, "the patient received the effects of eating food without ingesting any food," combine to form the conclusion that "mesmerism can transfer the effects of eating food without ingestion."

to replicate results in order for the principle to hold true.⁶³ There is no other instance of poisoning via mesmerism of a similar kind outside of the account from *Zoist* magazine, and certainly there is no possibility of the reader having had common experiences by which to verify such a claim. Thus, Henderson and the reader are left with a conundrum: whether to accept poisoning via mesmerism, which would account for all of the circumstantial evidence, or whether to ignore such claims altogether and view the incidents as a series of strange coincidences.

By requiring that the reader accept such an outlandish idea in order to also admit that several murders were committed, *The Notting Hill Mystery* shows how convincing circumstantial evidence can be, and makes more conventional cases of murder like the shooting in *Bleak House* look completely solid by comparison. Likewise in “The Murders in the Rue Morgue,” the evidence is strong enough that it seems unlikely that all of the pieces of circumstantial evidence taken together are numerous mere coincidences. In *The Notting Hill Mystery*, the overall argument built out of circumstantial evidence that tells the narrative of the Baron being a murderer is convincing because of the number of individual abductive arguments that the reader can make that support that narrative when taken together. The amount of evidence is difficult to ignore, as is Henderson’s narrative, which seems perfectly reasonable except when it comes to the means of the murders. On the other hand, the circumstantial evidence is not entirely conclusive; if it were then it

⁶³ Notably, it is from the sciences and observational psychology that Sherlock Holmes derives his general principles to apply to cases. The principles he employs are far more believable than the case of mesmerism in *The Notting Hill Mystery*, and this is in part due to his reputation as a scientist. Consider *A Study in Scarlet*, where Holmes categorizes the remains of different types of cigar ash.

would be able to prove that the Baron killed Mrs. Anderton, Mrs. Anderton, and Rosalie without question, but it cannot. Henderson himself admits as much when he states,

In possession of the evidence thus placed before you, your judgment of its results will as [sic] good as mine. Link by link you have now been put in possession of the entire chain. Is that chain one of purely accidental coincidences, or does it point with terrible certainty to a series of crimes, in their nature and execution almost too terrible to contemplate? That is the first question to be asked, and it is one to which I confess myself unable to reply. (283-84)

Henderson perfectly articulates the worry posed by arguments built upon circumstantial evidence alone. There is no conclusive way to prove that such a narrative is not merely a “chain” of “purely accidental coincidences.” Henderson acknowledges the tenuous nature of the chains of circumstantial evidence on which nineteenth-century detective novels depend. He addresses the reader, writing, “the chain of evidence on which hangs, as I have so often said, the sole hypothesis⁶⁴ by which I can account for the mysterious occurrences that form the subject of our enquiry, is not only of a purely circumstantial nature, but also of a nature at once so delicate and so complicated that the failure of a single link would render the remainder altogether worthless” (168). This “chain” that Henderson describes is the narrative of the crime that he suggests.

The creation of “chains” is a key feature of the argument built out of circumstantial evidence in nineteenth-century detective novels,⁶⁵ from the works of Emile

⁶⁴ This is the hypothesis that Baron R*** murdered Mrs. Anderton, Mr. Anderton, and Rosalie.

⁶⁵ *Lady Audley's Secret* also makes specific references to “chains” of evidence (152).

Gaboriau to those of Mary Elizabeth Braddon and Wilkie Collins. Because each individual piece of evidence on its own is not very conclusive, for the guilt of a criminal to be established the reader needs many pieces of evidence and arguments that all point to the same conclusion. When one part of the overall argument does not work, the rest of the argument is weakened. Furthermore, the individual abductive arguments often rest upon one another to create a narrative, such that if one part is not true, then the next part also will not be true. For example, the inference that Baron R*** discovers that Mrs. Anderton and Rosalie are twins is necessary to continue to argue that Baron R*** had a motive for murder. If the former statement is not true, then the latter will not be either. Circumstantial evidence is most convincing when it is woven into a very tight and precise narrative.⁶⁶

Not only does the logical strength of the argument built from circumstantial evidence depend upon it being presented in a neat narrative, but its ability to persuade does, as well. This emphasis upon neatness is not limited to *The Notting Hill Mystery* alone, but has roots in eighteenth-century law courts. In *Strong Representations*, Alexander Welsh notes Edmund Burke's belief in the importance of a clear narrative to make circumstantial evidence convincing (31-42). As such, any narrative must be carefully constructed to guide the reader's attention to the key pieces of circumstantial evidence necessary to make inferences concerning guilt.⁶⁷ In *The Notting Hill Mystery*, for example, the physical sympathy between the twins, Gertrude and Catherine, is of the

⁶⁶ Heta Pyrhönen argues that it is abductive arguments that allow detectives to create narratives of crimes. She categorizes those into "overcoded, undercoded, and creative abductions," based on Umberto Eco's "Horns, Hooves, and Insteps" in *The Sign of Three*. For my purposes it is sufficient to note that these are all still abductions and that those feed into chains of circumstantial evidence.

⁶⁷ Likewise, the misdirection of attention has been used with great success to stump readers and to make the guilty party less obvious. Red herrings are now commonplace in detective fiction.

utmost importance in establishing both the identity of Rosalie and the means by which the Baron may have murdered her and Mrs. Anderton. As such, Mr. Henderson is sure to include several accounts attesting to this sympathy in the beginning of the novel in addition to offering reminders of this relationship at various points in the text. This focus on key pieces of evidence helps the reader see the narrative Henderson is creating. Because the argument built out of circumstantial evidence is a “chain,” and parts depend upon each other to be convincing, it is crucial that the reader follows each point throughout the narrative. Henderson understands the importance of creating this type of seamless narrative, and to aid the reader he orders his depositions and evidence according to the narrative he wants to tell.

While the construction of such a narrative, with its focus on key points, makes the creation of an argument possible, it also raises questions concerning its very construction. Works of detective fiction often have to account, within the framework of the novel or story, for how they come to be. Dupin and Holmes both have chroniclers who accompany them on their adventures. *The Moonstone* is a collection of testimonies. *The Female Detective*, *Revelations of a Lady Detective*, and *The Law and the Lady* are first-person accounts. The formation of a narrative requires that the evidence is arranged in a particular fashion in order to make sense to the reader, and the text of *The Notting Hill Mystery* draws attention to its construction through its narrator. Ralph Henderson identifies himself as the organizer of the various depositions, letters, and articles, and repeatedly explains how he has arranged the texts. The narrator offers these items as parts of a larger argument meant to establish the guilt of the Baron, and they are ostensibly chosen for their relevance.

This constructed-ness necessitates that information is left out, as well. Real courtroom arguments about crimes, for example, are carefully constructed, and lawyers must choose what pieces of information to include and which to leave behind in accordance with evidence law. This is both to enable the jury to follow what might be a complex narrative and to create an argument that suggests a certain conclusion. However, the inclusion of some pieces of evidence suggests the exclusion of others. What the detective does in the detecting process is to look at complex circumstances and to find which bits are relevant to the matter at hand. This entails creating a narrative where, for example, the fingerprints on the knife are relevant but the fingerprints on the empty glass are not. When that detective narrative is presented to the reader, only certain pieces of evidence are included. The reader's ability to gather information is restricted by the author; the reader does not have the luxury of, say, gathering testimony from twenty possible witnesses and looking at an entire room trying to find out what is important as does a detective, but is instead dependent upon which information the author chooses to furnish. The reader will hear maybe two or three testimonies and have his/her attention drawn to only a few key elements at the crime scene. For the reader, the focus of the argument is already narrowed by the very nature of the constructed fiction. In *The Notting Hill Mystery* Henderson presents his constructed narrative to the reader, limiting the scope of evidence to which he or she has access.

Comparing the reader either to a detective or a juror is a well-established critical move. In *The Poetics of Prose*, Tzvetan Todorov, notes that S.S. Van Dine suggests that the reader is analogous to the detective (49). The reader searches for clues, makes inferences, and hunts the criminal. Todorov states that the detective novel depends upon a

narratological structure where there are two stories running concurrently; the first is “ – the story of the crime – tells ‘what really happened,’ whereas the second – the story of the investigation – explains ‘how the reader (or the narrator) has come to know about it’” (45). The reader is then invited to act alongside the detective in the second, which Todorov links to the “two aspects of every literary work which the Russian Formalists isolated forty years ago:” the “fable (story)” and the “subject (plot)” (45). While this distinction is useful, the reader is not in all aspects like the detective, for the reasons stated above. It is, in some ways, more helpful to think of the reader as a juror. Ian Watt, as Neil C. Sargent also noted, conceives of the reader as a juror (31),⁶⁸ saying that:

The novel’s mode of imitating reality may therefore be equally well summarized in terms of the procedures of another group of specialists in epistemology, the jury in a court of law. Their expectations, and those of the novel reader coincide in many ways: both want to know ‘all the particulars’ of a given case – the time and place of occurrence; both must be satisfied as to the identities of the parties concerned, and will refuse to accept evidence about anyone called Sir Toby Belch or Mr. Badman – still less about a Chloe who has no surname and is “common as the air”; and they also expect the witnesses to tell the story “in his own words.” The jury, in fact, takes “the circumstantial view of life,” which T.H. Green found to be the characteristic outlook of the novel. (31)

⁶⁸ Watt cites T.H. Green, saying that “The jury, in fact, take the ‘circumstantial view of life,’ which T.H. Green found to be the characteristic outlook of the novel” (31). Watt gives the reference “Estimate,” *Works*, III, 37.

This is the avenue that *The Notting Hill Mystery* takes. The reader, rather than becoming a detective, acts more as a juror. S/he is presented with a narrative of a crime, often in the form of depositions, testimony, and bits of evidence, and is expected to weigh the value of such evidence and decide whether or not the narrative of the crime holds true.

After all, the reader can never truly be a detective. The reader is always considering the text before him/her, as that is part of the act of reading. In other words, the reader is always presented with a constructed narrative, much as a jury is, rather than a crime scene, as is a detective. The detective has the ability to choose what to look at and what to investigate; the juror does not. The juror is constrained to the text presented before him/her. Likewise, the reader is constrained by the narrative as to what he/she sees and hears. The author chooses what parts the reader views, or not. Sometimes, the author may present multiple possible narratives through the use of red herrings, but those possibilities are far more limited than the ones a real detective would face.

However, the detective and the juror do have some common responsibilities. They both must decide whether or not evidence is relevant; they both must make abductive inferences to create a narrative of events and then weigh the likelihood of that narrative being true. A juror is asked to use the same evidence as the detective to create an argument that arrives at the same conclusion concerning the guilt of a criminal. In the case of *The Notting Hill Mystery*, the reader is asked to use the evidence that Henderson has compiled, to come to a conclusion about the Baron's guilt, and then to compare that narrative and conclusion with the one Henderson presents in the final section.

Henderson addresses the novel to the Secretary of the --- Life Assurance Association, for the purpose of deciding whether or not to bring charges against Baron

R**, presumably for defrauding the life insurance agencies of the settlements of the policies he took out against the wife Henderson asserts he later murdered. While these gentlemen are not jury members, Henderson presents the evidence, as well as his version of the narrative, to them as though they were. He expressly states at the opening that “[the pieces of evidence] I have arranged, as far as possible, in the form in which they would be laid before counsel, should it ultimately be deemed advisable to bring the affair into Court” (7). Henderson prepares the narrative as he would for another lawyer, with an eye as to how the narrative might be presented in a courtroom. This leaves the reader, standing in for the gentlemen at the life insurance agency, seeing the case largely as a juror might, albeit with depositions instead of the question-and-answer format of witness testimony.

Henderson frames the narrative this way because, he claims, he does not know with any certainty whether or not the Baron is guilty. So, he says, “I have determined, therefore, simply to submit for your consideration the facts of the case as they appear in the depositions of the several parties from whom my information has been obtained” (7). Such a position forces the reader to become an active participant in figuring out “whodunit,” and if a crime has even been committed in the first case. Henderson sets up the entire argument for the reader to decide whether or not his “case” holds water. This purpose shapes the way Henderson presents the evidence to the reader, such that he creates a clear narrative out of many confusing events. He arranges the depositions, letters, and pieces of evidence in several sections, with each section having a particular focus. In the first section, Henderson arranges the evidence necessary to demonstrate that Mrs. Anderton and Rosalie are twins separated in their youth. In subsequent sections, he

focuses on establishing the Baron's motivation, the death of Mrs. Anderton, the death of Mr. Anderton, the death of Rosalie. Finally he offers his own account of the crimes.

While most sections are loosely chronological, Henderson sometimes breaks with the overall chronology of the narrative to preserve the chronology of a given section. In doing so, he preserves the chain of circumstantial evidence so necessary to creating a convincing argument and narrative of events.

By leaving it up to the reader to decide whether or not the Baron is guilty of a crime, Henderson places the reader in a unique position. Rather than determining with certitude the Baron's guilt, Henderson ends with a question about the events of the crimes, and if any have even been committed. Doing so allows the reader to form his/her own arguments about the circumstantial evidence, which makes this novel engaging for the reader. Indeed, all detective novels that use circumstantial evidence ask for the reader to participate in the construction of a narrative about the events of the crime(s).

Circumstantial evidence demands that the reader be an interpreter, making the reader an active participant in the detective novel. Do the circumstances lead to a "red herring?" Does such-and-such a clue imply that the butler did it? Because circumstantial evidence requires the interpreter to make inferences to reach a conclusion, the reader, following the argument put forth in a novel, must continually make inferences about who the criminal is. However, circumstantial evidence also leaves the narrative unresolved. Without eyewitness testimony or a confession,⁶⁹ the uncertain nature of circumstantial evidence ensures that the reader will never know with certainty whether or not the Baron murdered

⁶⁹ This type of evidence is called "direct evidence" in modern legal terminology, and requires no inferences to link the evidence to the crime. It is therefore probabilistic in nature and avoids the accompanying uncertainties. As my next chapter suggests, however, such evidence is subject to other weaknesses, in that it relies upon the trustworthy character of the person offering the account.

three people. This uncertainty haunts the novel, raising questions about how to conclude guilt and what power the law has.

Failure of Arguments and Justice

Perhaps most concerning in *The Notting Hill Mystery* is the idea that there are some crimes for which no arguments can establish the guilt of the criminal. Notably in *The Notting Hill Mystery* the Baron is never prosecuted for his crimes, at least not that the reader knows, and this provides the novel a disturbing and unstable end. W. H. Auden suggests in “The Guilty Vicarage” that “readers of detective stories” crave “the illusion of being dissociated from the murderer.” He describes the process:

The magical formula is an innocence which is discovered to contain guilt; then a suspicion of being the guilty one; and finally a real innocence from which the guilty other has been expelled, a cure effected, not by me or by my neighbors, but by the miraculous intervention of a genius from outside who removes guilt by giving knowledge of guilt. (n.pag.)

The reader is dissociated from the murderer because at the end of the novel the criminal is identified, punished, and removed from society, thus no longer posing a threat. However, in *The Notting Hill Mystery* the criminal is likely identified, but never punished, and still remains at large. Furthermore it is possible that the Baron will never be punished, as it is possible that no arguments can ever be made to prove his guilt. This points to a potentially unnerving failure of the detective, the abductive argument, and the law.⁷⁰ The ideas that some crimes are beyond proof and that the law cannot adequately

⁷⁰ For a discussion concerning the ways that the law and morality can differ in detective fiction, see Heta Pyrhönen’s *Mayhem and Murder*.

deal with all criminals are significant concerns from the beginning of the novel to the end. *The Notting Hill Mystery* finishes with Henderson wondering “are crimes thus committed susceptible of proof, or even if proved, are they of a kind for which the criminal can be brought to punishment?” (284)

The worry about the ability of the law to bring all criminals to justice, whether because of a failure of argument, monetary corruption, or an antiquated legal system, underscores other novels of the mid-nineteenth century, too.⁷¹ When Wilkie Collins writes at the beginning of *The Woman in White* (1859-60), “If the machinery of the Law could be depended upon to fathom every case of suspicion, and to conduct every process of inquiry, with moderate assistance only from the lubricating influences of oil of gold, the event which fill these pages might have claimed their share of the public attention in a Court of Justice” (9), he expresses the concern that the law is not always able to adequately handle all criminal misdeeds. In analyzing this very passage, Philipp Erchinger, writing about *The Woman in White*, points out that the law “is supposed to convert contingent events into calculable cases, indeterminate facts into meaningful evidence, inconsequent details into well-grounded proof, [and] suspects into convicts...” (49). This is the goal of the law, “to present the truth always in its more direct and most intelligible aspect” (Collins, qtd. in Erchinger 48). Unfortunately the law falls short of this goal and “is expressly declared to work in a highly unpredictable and erratic fashion... thus creating an uneasy feeling of hidden secrets and unresolved cases that its ‘machinery’ is unable to ‘fathom’ or clear up” (Erchinger 49). Henderson worries that the events he describes might become one of these “unresolved cases.”

⁷¹ *Bleak House* is another excellent example of literature highlighting the failure of the British Court system in the mid-nineteenth century, although the court is not a criminal one.

What is particularly troublesome about Henderson's concerns over whether or not the law "clear up" his case is that he seems to have no ideas about how one might determine whether or not the law is able to do so. He states that upon this matter he is "unable to advise" and offers no mechanism by which he or his readers might be able to do so (8). He offers arguments based upon circumstantial evidence, and when it is possible that they will fail to be sufficiently conclusive, he has no recourse to another method by which the law might punish the criminal. This leaves the reader with the unsettling feeling that even if s/he finds the circumstantial evidence convincing, in spite of its inconclusiveness, there is no way to ensure that justice is served. *The Notting Hill Mystery* leaves open the very real possibility that there are crimes for which there will be no punishment or justice and that consequently, criminals, murderers even, might be free to move in society, and perhaps commit similar crimes again.

Other novels that rely upon circumstantial evidence often employ additional methods to ensure that the reader is clear that the guilty party is caught and punished. In Mary Elizabeth Braddon's *Lady Audley's Secret* Lady Audley ultimately confesses her crimes. In Emile Gaboriau's *L'Affaire Lerouge* the killer confesses just before dying. Likewise, in Edgar Allan Poe's "The Murders in the Rue Morgue," the owner of the orang-outang confesses what happened on the night of the murders. In the cases where there is never a confession, like *The Moonstone*, the novel resolves with the death of the criminal. Godfrey Ablewhite, interestingly, is not punished by the English justice system, but by the Brahmins from whom the diamond was originally stolen. Nonetheless, he is punished for taking the diamond. The criminals of *Bleak House* and "The Mystery of Marie Rôget" are caught by the respective detectives in those stories and, it is implied,

will be found guilty of their crimes. While they do not confess, the circumstantial evidence at hand is sufficient to ensure that they are caught.

The Notting Hill Mystery stands apart from other detective stories because it lacks a conclusive ending. Indeed, as the detective genre developed, such a conclusion became a near-ubiquitous or requisite feature. The plots of detective stories only resolve when the detective and the reader discover “whodunit.” This discovery is often accompanied by the assurance that justice will be served, either through the legal system or outside of it. That *The Notting Hill Mystery* fails to offer either of these things is unusual, and the end of the novel proves to be unsatisfying when compared to other works that come later in the genre. In this respect *The Notting Hill Mystery* little resembles the detective novels that follow it in the twentieth century, even though abductive arguments persist. In many of the detective novels that follow, written in times when there is such a thing as a recognized detective genre, unsolved crimes are a rarity. It is, perhaps, this sense of resolution and revelation that has made the genre so popular.

However, *The Notting Hill Mystery* is not solely a detective novel; it is a meta-detective novel. It is a novel that questions the very actions and methods of detection itself. By leaving the guilt of Baron R*** inconclusive, Adams highlights the gaps in arguments made from circumstantial evidence and calls into question how it is that a detective, or lawyer, can ever satisfactorily prove the guilt of a criminal without direct evidence.⁷² In laying bare the potential fault Adams forces the reader to consider whether or not we, as humans, can ever truly establish guilt without having witnessed a crime for

⁷² Direct evidence is evidence that does not need any inferences to be relevant to the case. For example, if someone witnesses a stabbing, that testimony is considered direct evidence. Likewise, a video of a crime or a confession are both examples of direct evidence. Please see the following chapter on testimony for a further discussion of different types of evidence.

ourselves. In its focus on evidence and arguments, *The Notting Hill Mystery* highlights the features and concerns of nineteenth-century British detective novels regarding circumstantial evidence.

CHAPTER THREE: TESTIMONY

Around 1660 or so, European natural philosophers began to favor arguments made from probability, another name for abductive inferences that use circumstantial (indirect) evidence over those made from testimony (Hacking 1, 48). This preference continued well into the eighteenth century, affecting the fields of science, law, and rhetoric (Shapiro, *Probability*). Many of the advances in nineteenth-century science concerning magnetism, electricity, medicine, and geology reflect the interest in gaining knowledge of “things not seen,” to borrow a term from Alexander Welsh (199), through circumstantial evidence. The fossil record, for example, gave budding paleontologists a wealth of information about the creatures for which there were no witnesses (Welsh 178-84). Scientific principles concerning evolution were developed through abductive arguments made from numerous, detailed observations of the effects of the proposed cause. In the nineteenth century, scientists made use of their extensive empirical knowledge in order to shed light upon the unobservable, objects for which there were no witnesses and no testimony.⁷³

Along with developments in the physical sciences came developments in forensic sciences, too. The end of the nineteenth century saw the birth of the lie-detector machine and fingerprinting (Thomas, *Detective Fiction* 22, 201). Circumstantial evidence, perhaps, could tell readers and juries more than physical witnesses. However, as much as circumstantial evidence shapes nineteenth-century thought and nineteenth-century detective fiction, testimony plays a vital role in the genre as well. Certainly by the end of

⁷³ For more about circumstantial evidence or “probability” and the sciences, see Hacking’s *The Emergence of Probability* and Shapiro’s *Probability and Uncertainty in Seventeenth-Century England*.

the nineteenth century Sherlock Holmes relies more heavily on forensic evidence than he does on the word of others. However, witnessing and testimony play more significant and complex roles in the British detective fiction genre from the 1850s through the 1870s than they do later in Arthur Conan Doyle's short stories and novellas. In, for example, *The Notting Hill Mystery* (1862-63), *The Moonstone* (1868), and *The Law and the Lady* (1875), testimony provides ample means for authors to conceal information from readers with unreliable witnesses, or those with bad character, and to create dramatic interplays between detective and suspect. Precisely because witnesses "can lie," as opposed to "circumstances" which "cannot lie," as the eighteenth-century maxim goes (Shapiro, *Reasonable Doubt* 217), witnesses can be used to keep the detective from solving the crime, the delay of which is important to these "novel[s]-with-a-secret" (Tillotson xv).⁷⁴ At the same time, testimonies can provide scenes of dramatic revelation, where the key to solving the crime at hand is revealed by, say, a terrified young woman who believes she is insane. Testimony is sometimes misleading and sometimes revelatory, but it always provides the reader with a unique insight into characters and motivations.

Witnessing and Testimony in *The Moonstone* and *The Law and the Lady*

Wilkie Collins wrote *The Moonstone* and *The Law and the Lady* in the wake of substantial changes in British evidence law.⁷⁵ Collins' novels respond to Victorian concerns about the reliability of testimonial evidence, especially in contrast to

⁷⁴ This is Tillotson's term for sensation novels.

⁷⁵ For an excellent account of the legal developments concerning testimony and evidence in Victorian courts and the way those developments are reflected in Victorian novels, see Jan-Melissa Schramm's *Testimony and Advocacy in Victorian Law, Literature and Theology*.

circumstantial evidence.⁷⁶ While other nineteenth-century authors of detective fiction, including Charles Warren Adams, use testimony to great effect, few focus upon it to the degree that Wilkie Collins does. Alexander Welsh, among other scholars, observes how Collins uses testimony and “narratives of experience” as a framework for *The Moonstone* (215-236). Collins’s complex depictions of the testimonies given by the characters in his novels reflect both his concerns about personal experience and his training in the law. *The Law and the Lady* illustrates how perception, mental faculties, and character can affect the reliability of testimony. *The Moonstone* demonstrates the power of eyewitness testimony, the appearance of which is rare in nineteenth-century detective fiction. While I occasionally discuss other works of detective fiction in this chapter, I focus mainly on Collins’s two novels, mostly because there few other works of early British detective fiction present testimony with the same complexity or sophistication.

Within *The Moonstone* and *The Law and the Lady* indirect testimony is the main way that information about the crime is given to the reader, but the novels suggests that testimony can also be misleading. In *The Moonstone* the very eyewitness testimony that should be airtight is, in fact, completely misleading. Rachel Verinder misinterprets what she witnesses, while Franklin Blake’s own recollections of the theft prove faulty at best, demonstrating how even witnesses of good character with no motive to deceive can give unreliable testimony. In *The Law and the Lady* the trial report of, and subsequent interviews with, Miserrimus Dexter offer equally misleading testimony. Collins first shows how court reports are shaped by those who write them, as the account of the trial masks Dexter's madness, and then demonstrates how Dexter's character affects Valeria's interpretation of his testimony, both within and outside of the courtroom.

⁷⁶ See Allen for an account evidence law in Victorian England.

My chapter argues that ultimately, even as Collins focuses on the importance of testimony in his novels, he highlights a more fundamental problem with the interpretation of experience, namely that it is not merely the state of mind of the character that affects the reliability of testimony, but that it might not be possible to accurately interpret the experience of even the most trustworthy of witnesses. In addition to simply commenting on the usefulness of testimony, Collins emphasizes the ways in which context shapes and misshapes our interpretation of experience, suggesting that even under the most perfect of conditions, experience might not provide reliable and truthful evidence. In the first part of this chapter I examine some of the reasons why indirect testimony appears to problematic in *The Law and the Lady* and other works of detective fiction, and in the second part I investigate direct eyewitness testimony, a type of testimony that is highly uncommon in detective fiction, in *The Moonstone*.

Definition of Testimony

Testimony itself is a very broad category of evidence and one that is central to studies of rhetoric, theology, and the law. The simplest definition of testimony is the report of given by a person about his or her experiences. Before delving into texts to examine the ways that they employ evidence, I will define the different basic categories of testimony. To do this I have based the following explanations on Jeremy Bentham's schema of evidence as it is laid out in *A Treatise on Judicial Evidence*, which was published in 1825. Although many philosophers and rhetoricians lay out schemas of evidence, Bentham's work seems most appropriate to use because it directly precedes many of the nineteenth century works of detective fiction that I am discussing.

Additionally, it is helpful because it allows for finer distinctions between types of direct and indirect evidence than those found in more contemporary literary criticism.

In his *Treatise on Judicial Evidence*, Jeremy Bentham first divides testimony into direct and indirect evidence. Indirect evidence, also called circumstantial evidence, encompasses testimony that is given about what one has seen or heard that can be linked to the event in question through an abductive argument. For example, when the chemist in *The Law and the Lady* states that he sold Eustace Macallan arsenic, this testimony is circumstantial evidence, because the investigator still needs to make an inference to connect Eustace's possession of arsenic to Sara Macallan's poisoning. Likewise, when Miserrimus Dexter claims that he saw Mrs. Beauly leave her room in the middle of the night around the same time Sara Macallan was supposedly poisoned, that is also circumstantial evidence. The witnessing of these events equates to Sherlock Holmes' discovery of cigar ash; it is evidence that suggests a set of circumstances is probably true, but not necessarily so.

Indirect testimony, or circumstantial testimony, is different from forensic evidence and physical evidence, or "evidence provided by things" (Hacking 32), which are also both types of circumstantial evidence, because testimony is given by humans, and is therefore subject to human error. Early detective fiction presents three possible problems regarding the certainty of testimony. The first of these is that people might have the same sensory experience but interpret it differently. Experience, Collins' novels suggest, has a subjective quality, and that can lead to conflicting testimonies regarding the same event. These conflicting testimonies might be the result of differing physical or mental capabilities, but regardless of the cause there is the concern that not all individuals

will interpret a given event in the same way. Second, there is a question regarding the character of the witness. The reader, and often characters in the works as well, are unsure how to assess the character of a witness. Is she being truthful? Is there a reason to lie? Is the witness secretly malicious? Often early detective fiction tries to resolve such questions by determining whether or not the witness has an interest in the outcome of the answer. Finally, many works of detective fiction raise the question of whether or not a given witness is, in fact, the guilty party. I will address specific instances of each of these concerns in this chapter.⁷⁷

Testimony as circumstantial evidence might be confusing in light of the distinction scholars like Ian Hacking and Alexander Welsh make between testimony, where “people provide the evidence of testimony and authority,” and circumstantial evidence, or “evidence provided by things” (Hacking 32). In fact, this dichotomy should be made more neatly, because logically testimony can serve as circumstantial evidence if the witness is testifying about a thing or action witnessed, as Jan-Melissa Schramm also notes in response to Welsh (20). Bentham is helpful here, stating that

In the case of testimonial evidence, the subject of the testimony is either the very fact, the existence or non-existence of which is the principal matter of fact in question, or some fact which, though distinct from it, is considered as being evidentiary of it. Sources of division in this case, – identity or diversity of the matter of fact, asserted by the deponent in the instances in question, with the principal fact in question in the cause.

⁷⁷ For an account of the history of witnesses in the Anglo-American legal tradition, see Chapter Four of Barbara Shapiro’s *Beyond Reasonable Doubt and Probable Cause*.

Species which are the result of the division made in this direction and from this source, – direct evidence, and circumstantial evidence.

All evidence which comes under the description of real evidence, is circumstantial evidence. (*Rationale* 55)

In other words, testimony is circumstantial evidence if it concerns a piece of circumstantial evidence (evidentiary fact) that is submitted for the purpose of trying to prove a supposed action, like a crime (principal fact). For example, if I testify that shortly before someone died a man walked into a room, that testimony would be circumstantial evidence trying to prove that said man murdered the person who died.

Direct evidence is the other category of evidence to which testimony can belong.⁷⁸ Direct evidence, with regard to testimony, may come in either the form of eyewitness testimony or confession, and it may be gotten voluntarily or not. Rachel Verinder's account of the theft in *The Moonstone* is direct evidence, as is Sara Macallan's suicide note in *The Law and the Lady*. Direct evidence, and in particular direct testimony,

⁷⁸ Here is an example of how Bentham's schema of evidence provides for important fine distinctions. In his book *Testimony: A Philosophical Study*, C.A.J. Coady does not distinguish between testimony that is indirect evidence and testimony that is direct evidence. He analyzes the many potential logical pitfalls of testimony, which he defines as "a certain speech act, or, in J.L. Austin's terminology, an illocutionary act, which may be and standardly is performed under certain conditions and with certain intentions such that we might naturally think of the definition as giving us conventions and governing the existence of the act of testifying" (25). He goes to great lengths to differentiate testimony from hearsay, and even differentiates among types of hearsay (29), but, being more concerned with testimony itself rather than testimony as a form of evidence, he does not differentiate between direct and indirect evidence. This distinction, I suspect, would make clearer Coady's discussion of the *Theaetetus*, wherein Socrates states, "Or do you think there are any teachers so clever as to be able, in the short time allowed by the water-clock, satisfactorily to teach the judges the truth about what happened to people who have been robbed of their money or have suffered other acts of violence, when there were no eyewitnesses?" (201B). The distinction that Socrates is making here is one between direct (eyewitness) evidence and indirect (circumstantial evidence), and viewing the distinction as such clarifies Coady's point about true belief.

on the other hand, contains no inferences; it is all principle, if you will. Direct evidence traditionally involves eyewitness testimony and confessions, which rely on the ability and character of the witness to determine truth (and I have addressed the concerns with ability and character above). However, there is no logical reason why an eyewitness statement should not be true. When Rachel Verinder sees Franklin Blake steal the diamond, there is no reason, providing that she has good eyesight and is not prone to lying, that such a statement should not be true. Where circumstantial evidence provides logically likely conclusions, direct evidence provides logically certain conclusions. Technically, conclusions from direct evidence are not conclusions at all, because there is no argument to be made with direct evidence. If Rachel sees Franklin take the diamond, then the “conclusion” is that he took the diamond, if one believes that the senses can be relied upon for gaining knowledge. Rather, the concern with the conclusiveness of direct testimony concerns the character of the witness. With direct eyewitness testimony it is important to know that the witness will not lie and can reliably see and hear things. If the eyewitness is known not to be lying and that her senses are reliable, then there is no reason why her testimony about a set of events should not be true.^{79 80} However, *The Moonstone* complicates these principles of direct testimony with Rachel Verinder’s account of the theft. Her eyewitness testimony proves “false” in some sense, because although she sees Franklin take the diamond she does not know whether or not he is

⁷⁹ Technically, arguments about whether or not a person is lying fall under the category of circumstantial evidence, at least according to Bentham (*Treatise* 13). The evidence used to determine if someone is lying, say if the person is sweaty and looks nervous, is circumstantial because it must be fed back into an abductive inference in order to draw the conclusion that the person is lying.

⁸⁰ For more about evidence that is literally of the body in the history of science, see Simon Schaffer’s article “Self Evidence.”

guilty of any crime. This suggests direct testimony can be misleading, even though such testimony is logically conclusive and even if the witness is trustworthy. The other type of direct testimony is confession, in which the criminal admits his or her guilt regarding a crime. Sara Macallan's suicide note is a confession, as is Lady Audley's monologue at the end of *Lady Audley's Secret*. I will discuss the former type of direct testimony towards the end of this chapter, and the latter type in Chapter Four.

Indirect Testimony

Early detective fiction frequently uses indirect testimony as a way of transmitting information about the crime to the detective and, by extension, the reader. Apart from the difficulties with the logical certainty of circumstantial evidence discussed in the previous chapter, testimony has additional uncertainties associated with it that early detective fiction writers exploit in order to prolong the mystery while offering evidence. One of those uncertainties comes out in the form of conflicting testimonies about the same person or event. In these cases, the witnesses are not lying. They simply describe the same experience differently. Conflicting testimony highlights the uncertainty associated with testimony, causing the reader, and often the detective as well, to try to account for the conflict.

In some cases, the conflicting testimonies become clues, as in "The Murders in the Rue Morgue" (1841). C. Auguste Dupin learns from a newspaper story that six of the witnesses to the crime had heard part of the struggle that immediately preceded the deaths of Madame and Mademoiselle L'Esplanaye. The reports conflict concerning the language that was being spoken, with witnesses alternately believing it to be English, French,

Italian, German, and Russian. There is no reason to suspect that any of the witnesses is lying, and as such the unidentifiable language becomes one of the circumstances of the case that Dupin must account for. He ultimately concludes that the ourang-outang “committed” the murders and that the witnesses were hearing the screeching of the animal and mistook it for languages with which they were not familiar. In this short story the conflicts in testimony are obviously foregrounded as a puzzle that must be solved.

Apart from the puzzle aspect of conflicting testimonies, the very conflict suggests that testimony is limited by the knowledge and experience of the witness. The testimonies printed in the newspaper in “The Murders in the Rue Morgue” highlight that the witnesses are possibly mistaken in their observations based upon their previous knowledge. For example, the testimony of Henri Duval, whom the reader supposes to be French because of both his name and his identification as a tradesman living in Paris, is as follows: “The shrill voice, this witness thinks, was that of an Italian. Was certain it was not French. Could not be sure that it was a man’s voice. It might have been a woman’s. Was not acquainted with the Italian language. Could not distinguish words, but was convinced by the intonation that the speaker was Italian” (149). Here the text illustrates clearly that the witness had no knowledge of Italian, but that he thought it was Italian nonetheless. Later, when the reader finds out that the killer was an ourang-outang, the inability of any of the witnesses to agree upon a language seems explicable. Each witness believed the killer to be speaking a language with which he, the witness, had no familiarity. It is apparent that the testimony is inaccurate not because of any intentional deceit on the part of the witness, but because the testimony is limited by the witness’

knowledge, which in this case is not sufficient to be able to identify the “speech” as that of an ourang-outang.

Sometimes it is not the witness’ knowledge and experiences that cause conflicting testimonies, but rather their dispositions and feelings towards a person or event. Such is the case in *The Law and the Lady*, where two key witnesses, Christina Ormsay and Miserrimus Dexter, offer testimony about the events concerning Sara Macallan’s death. Ormsay, Sara’s nurse, testifies about Sara Macallan’s temper, her interactions with her husband, and the course of her illness. This testimony fits into the prosecution’s narrative, showing that Sara Macallan had a terrible disposition that made her insufferable to her husband. Furthermore, it is through Ormsay’s testimony that the jury comes to hear of Sara Macallan’s ugliness. Ormsay sets up the rivalry between Sara Macallan and Mrs. Beaulieu early in the case, stating, “Mrs. Macallan was a very plain woman. She had a cast in one of her eyes, and...one of the most muddy, blotchy complexions it was ever my misfortune to see in a person’s face. Mrs. Beaulieu, on the other hand, was a most attractive lady...Poor Mrs. Macallan said of her, most untruly, that she painted” (124). Mrs. Macallan is portrayed as a jealous, unattractive woman who made herself a nuisance to her husband.

However, just as the prosecution finishes with Ormsay, the defense elicits further testimony from her that paints a very different picture of Mrs. Macallan. Even though she could be difficult, she apologized for her actions, and “She spoke and acted like a well-bred lady” (133). She was fashionable and had an excellent figure, even though her face was plain. Furthermore, Mrs. Macallan’s temper was not very wild. Mrs. Macallan, “though she certainly was jealous of [Mrs. Beaulieu,] she had shown at the same time that

she was capable of controlling that feeling. It was through Mrs. Macallan that Mrs. Beauly was in the house” (133). Mrs. Macallan was also well-liked by her friends and servants (134).

The importance of this testimony becomes clearer later in the trial, when the prosecution attempts to show Mr. Macallan’s motive for killing his wife. Ormsay’s testimony about Sara Macallan’s appearance and temperament is key in establishing Eustace Macallan’s motive for killing his wife. The prosecution contends that Eustace Macallan is in love with Mrs. Beauly, an old flame recently widowed. Ormsay’s testimony contrasts Mrs. Beauly and Sara Macallan, showing how Mrs. Beauly has the physical beauty and pleasant demeanor that Mrs. Macallan lacks. Christina Ormsay’s account is meant to prepare the way for later readings from Eustace Macallan’s diary, in which he admits that he has passion for Mrs. Beauly and cannot love his wife the way she wishes.

What is striking about Ormsay’s testimony is the seeming disparity between the two pictures of Mrs. Macallan it produces: in the one she is an ugly tyrant, and in the other she is a passionate and “popular” lady. In no other testimonies is Mrs. Macallan portrayed as being as physically repulsive as she is in Ormsay’s first account, and Mr. Dexter has a high regard for her character. Ormsay’s testimony illustrates how variable testimony is. Depending upon who is asking Ormsay questions, her answers seem quite different. In *The Law and the Lady*, testimony, especially concerning a person’s character or motivation, is suspect. The reader is offered a variety of accounts about the late Sara Macallan’s appearance and temperament, each changing with the witness. Their testimonies are valuable because of the level of detail they can offer with their

observations and intuitions, but it is questionable precisely because humans, who have predispositions toward people and events, make these observations. The reader is then left trying to figure out whether or not to trust a witness' observations.

Furthermore, Ormsay's testimony shows how testimony can be shaped by the person who asks the questions. When the prosecution questions her, she offers an account that supports the prosecution's case. Mrs. Macallan is all but intolerable. However, when the defense questions Ormsay, her picture of Mrs. Macallan is much more favorable. While the reader is not offered an exact account of the questions the defense asks, from Ormsay's answers it is reasonable to infer that they asked how Mrs. Macallan was viewed by her servants and neighbors, if she had any redeeming physical qualities, if she were always in an ill-temper, as she was the day before her death, etc. Such questions as these might elicit responses more in line with what the defense wishes the jury to hear. How questions are framed and who frames them can significantly alter testimony.

Of course, the questioner alone does not determine the reliability of testimony in *The Law and the Lady*. As the novel points out, the characters and mental capabilities of witnesses are equally likely to affect their testimony. Upon initially reading the transcript of the trial, Valeria is hopeful that Miserrimus Dexter will be able to help clear her husband's name. Of course, what Valeria does not see in the transcript is that Dexter is exceedingly eccentric, and she later finds that the court reporter smoothed over Mr. Dexter's testimony to make it more coherent. Because of Mr. Dexter's mental illness, in person his testimony appears to be somewhat untrustworthy and difficult to understand. Valeria's first-person account of Dexter is astonishing, as he is in his wheelchair roaring around a large room in his dilapidated mansion pretending to be different great leaders

from history. This view of Dexter does little to assure either the characters in the novel or the reader of Dexter's ability to judge the character of another person or to accurately relate events as they actually happened. Because of this, other characters in the novel, including Mr. Playmore and Lady Macallan, find his testimony to Valeria suspect. However, Valeria continues to believe in the truth of his testimony until nearly the end of the novel, when she finally discovers that Dexter hid his knowledge of the existence and contents of Sara Macallan's suicide note. Interestingly, where Valeria's skill correctly leads her to infer that Dexter knows more than he is letting on, it does not lead her to infer the truth about Sara Macallan's death.

Dexter's testimony illustrates one of the key troubles with assessing the veracity of a witness' testimony, namely that how much one might believe a person's testimony depends largely upon the quality of the character and health, both mental and physical, of the witness. Within the transcript of the trial, Dexter's testimony is difficult to believe because he is Eustace's old friend and because of his questionable actions upon the arrival of the police. After the trial, Dexter's testimony is difficult to make use of, largely because he is subject to fits of insanity. Although he does not lie about seeing Mrs. Beauly leave her room in the middle of the night, he intentionally, it seems, offers this testimony in order to put Valeria on the wrong track, all the while knowing that Sara Macallan actually committed suicide. At the same time, it is his love for Sara and his contempt for Eustace and, arguably, his mental illness that inspire these actions. Although he often seems sincere with Valeria, the final part of the mystery of *The Law and the Lady* consists of Valeria's attempts to figure out the full extent of Dexter's knowledge as he approaches a catastrophic mental break. She does this by carefully

observing Dexter and by relying upon her own intuitions and the advice of her friends. In his final story about the mistress and the maid, he makes allusions to destroying a letter written by Sara Macallan just before she died in order to make Eustace suffer. However, within this testimony it is difficult to discern what is fictional and what is real because Dexter delivers it at a time when his mental faculties are obviously failing. The truthfulness of his testimony in this instance can be proven only because Mr. Playmore eventually discovers the letter to which Dexter refers.

Dexter's troublesome speeches demonstrate the difficulty of assessing the reliability of testimony. Only in hindsight does it become clear how much Dexter's love of Sara and his madness affected his testimony. Ultimately, Valeria discovers that Dexter is not a trustworthy character. He deceives her in order to preserve Sara's memory and to ensure that Eustace is continually punished through the blemish upon his name. Valeria discovers this at the end of the novel when Sara Macallan's suicide note is finally reassembled. Ironically, it is Dexter's final words that lead Valeria and Mr. Playmore to the location of the letter, even as he was trying to conceal it from them. Dexter's final testimony contains the information that yields the evidence that will clear Eustace's name.

What is disturbing about Dexter's testimony is that it contains elements of truth wrapped up in lies. It is true that Dexter believes that Eustace did not kill Sara. Dexter knows this because he read Sara's suicide note, which he then conceals from the police, the court, and finally Valeria. Additionally, Dexter purposefully tries to deceive Valeria, pointing her towards Mrs. Beaulieu and suggesting that she and her maid killed Sara Macallan. Dexter is not a person to be trusted, but that is a difficult thing to ascertain. This question of character is one of the main problems with testimony; it is never entirely

clear whether or not a person should be trusted. In the case of Mr. Dexter, his love for Sara Macallan is not readily apparent enough to make it clear that he considered Eustace a romantic rival. He appears, for much of the novel, to lack a motivation to hide any information regarding the circumstances of Sara Macallan's death. It is only towards the end of the novel, when it is clear that he is an unreliable witness, that the investigation can reach a satisfying conclusion.

However, the use of unreliable witnesses is not exclusive to Wilkie Collins' novels alone. Providing unreliable witnesses in order to prolong and complicate the plot is common in early detective fiction. Unreliable witnesses necessitate further investigation on the part of the detective, so the crime takes longer to solve. For example, in *The Notting Hill Mystery* Ralph Henderson gathers testimony from Henry Aldridge, a man who witnessed Madame R** sleepwalking shortly before her death. His testimony concerning the night in question is made unreliable by the accusation that he is a drunk who was intoxicated at the time. Aldridge claims he was sober, but Henderson takes care to gather further testimony concerning Madame R**'s sleepwalking and the Baron's possible involvement. He turns to Susan Turner, a maid in the house at the time of Madame R**'s illness, for her account of the night Madame R** was poisoned. Susan Turner witnessed Baron R** watching Madame R** as she was sleepwalking, suggesting that Baron R**, at the very least, knew where Madame R** was headed when she was sleepwalking. In his final account of the crime, Henderson implies that he believes that Baron R** was controlling his wife via mesmerism at the time she ingested the poison (276).

However, Susan Turner's testimony is not altogether reliable either. She is a servant at the house, and at the time she saw the Baron and his wife she was entertaining a male visitor. At the time *The Notting Hill Mystery* was published, such an action on the part of a female servant would have made her character questionable to readers, so Henderson, in his final account, offers those readers an argument for why her testimony should be regarded as reliable, regardless of what the reader might think of her character. Writing of the maid Susan and her male friend, Henderson states, "The only weak point in their position is the fact, that they were both doing wrong in being in that place at that time; but the admission of this, in truth, strengthens rather than injures the testimony which involves it. We must seek the clue, then, not in their motives, but in those of the Baron" (273). Henderson must justify to the audience why this testimony is trustworthy and argue that the fault of the crime lies with the Baron, not with the maid.

Henderson needs to make this argument because it is always possible that a witness is lying to protect him or herself. In fact, in most detective novels it is necessary that at least the person who committed the crime is lying about what s/he was doing during the time of the crime. There are some exceptions to this rule, as in the case of truly random murders such as those in "The Murders in the Rue Morgue." However, in early British detective novels, the character who is the murderer is generally introduced relatively early in the investigation, so the reader has good reason to suspect that at least one of the characters is lying in order to avoid detection. In addition to the problems of logical certainty associated with circumstantial evidence, indirect testimony becomes even more uncertain because of the possibility of intentional deceit or unintentional errors in perception.

Thus it is that within the trial in *The Law and the Lady*, witness testimony is not enough to ensure the successful conviction of Eustace Macallan, but it is enough to give the jury reason to believe he is guilty, even if it cannot be proven according to the standards of the law; the jury accordingly renders the verdict of "not proven." This verdict, as the novel explains, means that the jury does not believe the accused is innocent but lacks sufficient evidence to render a verdict of "guilty." Indirect testimony is still circumstantial evidence, and as such it involves an argument of probability, not necessity. The reader must make inferences and abductive arguments to link the testimony of the witness to the crime committed. Furthermore, the testimony of the trial appears to be particularly unreliable, given the nature of the witnesses. Overall, the indirect testimony is convincing enough to stain the Macallan name, but not convincing enough to conclusively prove Eustace's guilt.

The evidence that does prove conclusive in *The Law and the Lady* is direct testimony. Collins sets up the problem of the trial and verdict as one of inconclusive evidence. In order to resolve this problem, Valeria, with the help of Mr. Playmore, Eustace's lawyer, finds the letter containing Sara Macallan's confession. Confession is a form of direct testimony, and it is one that does not rely upon probability in order to be persuasive. I will address confession more fully in the next chapter, but for the moment I am broadly asserting that it is direct testimony that resolves the uncertainties that arise from indirect testimony, thus putting to rest the mystery of Sara Macallan's death in *The Law and the Lady*.

Direct Testimony

Direct testimony in the form of a confession is common in nineteenth-century British detective novels, because it conclusively resolves the lingering doubt that inevitably accompanies indirect, or circumstantial, evidence. However, direct testimony in the form of an eyewitness account is much, much more rare in detective novels because once the eyewitness tells how the crime was committed and by whom, the narrative concerning the discovery of the crime is finished. One of the only nineteenth-century detective novels to use direct eyewitness testimony is *The Moonstone*. Direct eyewitness testimony is pitted against circumstantial evidence and indirect testimony in *The Moonstone* just as it is in *The Law and the Lady*. However, in *The Moonstone* it is circumstantial evidence and indirect testimony that lead to the discovery of the thief, unlike in *The Law and the Lady*, where direct testimony resolves the uncertain conclusions that result from arguments using indirect testimony. *The Moonstone* presents the certitude of the two types of evidence in a complex fashion. Initially the characters of the household show a preference for direct testimony, and Sergeant Cuff's inferences made from indirect (circumstantial) evidence prove to be false, but by the end of the novel, direct testimony seems to be unreliable, and it is circumstantial evidence that leads Cuff to Godfrey Ablewhite.

Testimony is one of the most striking features of *The Moonstone*; the novel is supposedly a compilation of testimonies from various characters, which, collected together, tell the story of the theft of the Moonstone. In *Strong Representations*, Alexander Welsh notes that in *The Moonstone*, the narrative focuses on "stories of experience," i.e. testimony. Welsh argues that *The Moonstone* is more concerned with telling a narrative with an eye to the experience of the characters than with relating a set

of facts in a more traditional "narrative of managed circumstantial evidence" (199, 215-236). *The Moonstone*, with the narrative of the loss and recovery of the diamond being related through the "testimonies" of various characters, foregrounds how experience relates to epistemology. The characters within the story, Franklin Blake in particular, stress the value of witnessing according to experience, and are asked to confine their accounts only to events they have witnessed. As attested by Gabriel Betteredge and Drusilla Clack, Franklin strictly instructs them to "write the story of *The Moonstone* in turn – as far as our own personal experience extends, and no farther" (10), a directive of which they both repeatedly remind the reader. This reiterated directive suggests that Blake, at least, as organizer of the testimonies, believes that only knowledge gained through experience is reliable enough to serve as evidence in the case.

Certainly, *The Moonstone* is unique in its focus on direct testimony and witnessing. Initially, the novel seems to eschew the circumstantial evidence model of detective story established by Edgar Allan Poe, wherein the armchair detective need not speak to anyone, but can, from clues, piece together the narrative of the crime. The narratives of Mrs. Clack and Betteredge do not overtly direct the reader's attention to pieces of circumstantial evidence in the manner of detective novels that follow *The Moonstone*, particularly in the twentieth century, where the "narrative of managed circumstantial evidence" (Welsh 199) makes up a significant portion of all detective stories. By the twentieth century, the establishment of "rules" whereby a reader should be able to solve a crime alongside a detective, make it such that those novels necessarily artificially highlight certain "clues" that are largely glossed over in *The Moonstone*.⁸¹

⁸¹ See the introduction for an account of the "rules" of detective fiction.

Within the novel, pieces of circumstantial evidence, like the smudge on the door, are overlooked by Betteredge, and only brought to the attention of the reader through his dialogue with Sergeant Cuff.

The reader receives instructions about the limitations of circumstantial evidence even before Betteredge's and Mrs. Clack's narratives begin. The introductory paper explaining how John Herncastle came to acquire *The Moonstone* in the first place emphasizes the importance of eyewitness testimony. The unnamed author of the paper describes the scene at the storming of Seringapatam and the death of three Indian guards. He ends his tale with an account of two types of evidence, that of indirect (circumstantial) evidence and that of direct evidence. With regard to what to do regarding John Herncastle, the wicked cousin who initially stole the Moonstone and murdered three Indians in the process, the narrator states, "Whether this be true or not, I cannot prevail upon myself to become his accuser — and I think with good reason. If I made the matter public, I have no evidence but moral evidence to bring forward. I have not only no proof that he killed the two men at the door, I cannot even declare that he killed the third man inside — for I cannot say that my own eyes saw the deed committed" (5). With this distinction the paper's narrator sets up a distinction between types of evidence that yield proof. While indirect evidence, or moral evidence, is sufficient to persuade the narrator of Herncastle's guilt, as Ian Ousby also observes (117-18), he does not believe it is sufficient for him to accuse Herncastle publically. In this opening paper, the novel sets the precedent for the importance of direct, eyewitness testimony, pitting the certitude of it against the uncertain nature of circumstantial evidence and indirect testimony.

In the first half of *The Moonstone*, circumstantial (indirect) evidence is “fatally mislead[ing]” (147), and Sergeant Cuff’s hypothesis that Rachel Verinder stole her own diamond proves false. Cuff focuses on Rachel’s behavior and physical clues, like the smudge on the door, to build a narrative of the crime in which Rachel secretly takes the diamond in order to pay for some supposed debts. This narrative is in conflict with the direct eyewitness testimony with which Rachel confronts Blake. Blake then must compare Rachel’s direct eyewitness testimony with his own memories of the evening. There is tension between Rachel’s and Franklin’s first-hand accounts of the night in question. On the one hand, Rachel states very confidently that she saw Blake take the diamond. She has no reason to lie about this, her reputation already having suffered the damage of being under suspicion, and can provide enough details about his actions to sound very convincing. On the other hand, Blake has no memory of this having happened, and, as the reader has seen throughout the novel, it seems unlikely that he would lie about this, especially given that he is one of the main investigators of the case. However, within the novel Rachel’s claim of having seen the theft is privileged over Blake’s inability to remember having done so. The text itself even highlights the importance of viewing the act. When Rachel reveals that she knows Blake took the diamond, her accusation appears in italics: “*You villain, I saw you take the Diamond with my own eyes!*” (303). This emphasis on the importance of sight continues, with repeated references to eyes and viewing in the subsequent paragraph: “To her eyes, to any eyes, I must have looked like a man overwhelmed by the discovery of his own guilt” (303). Later Blake goes on to think, “From the moment when I knew that the evidence on which I stood condemned in Rachel’s mind, was the evidence of her own eyes, nothing — not

even my conviction of my own innocence — was clear to my mind" (303). The "evidence of [her] own eyes" is strong enough for Blake to question even his knowledge of himself and of his own actions. Direct eyewitness testimony in *The Moonstone* is incredibly powerful, enough so that Blake reevaluates his knowledge of himself.

But testimony is not presented as being entirely unproblematic. Once Blake is presented with Rachel's accusation, the novel must reconcile their opposing narratives. Blake is tasked with discovering how it is possible for a man who believes he is innocent to be guilty. Blake has no corresponding evidence of his own eyes to match Rachel's. Or rather, his experience, his evidence, is that he did not take the diamond. At the point, the novel seems to question the value of evidence drawn from experience, i.e. testimony. After this revelation, it is Blake's task to reconcile what Rachel has seen with his own knowledge of the events of that evening.⁸²

It is no easy task to show how two witnesses of the same events could have truthfully given competing testimonies. The answer that *The Moonstone* offers is that a person can perform actions without having any knowledge of them, testify truthfully that s/he has no knowledge of those actions, and then have that testimony proven to be untrue or inaccurate. However, this explanation is quite complicated and seems to be more than a bit improbable; it would be far more likely that either Franklin Blake or Rachel Verinder is lying. The perceived potential for witnesses to lie, being a major weakness in the strength of any testimony, must be overcome such that both the readers and the characters within the novel can be satisfied of the truth of the claim. To do this, Collins must show conclusively that it is possible to commit such actions without having a

⁸² For a Freudian reading of *The Moonstone*, see the section on "Freud and *The Moonstone*" in Martin Priestman's *Detective Fiction and Literature: The Figure on the Carpet*.

memory of them. Blake, too, must make this point to Miss Verinder in order to prove that he is not a scoundrel and a thief.

In this situation indirect testimony is not sufficiently persuasive. The characters find direct testimonies of experience convincing, so in order for Blake to prove his innocence he needs a way to prove that he had no conscious knowledge of taking the diamond. Indirect testimony from a third party is not available, so the investigators look for another way of clearing Blake. It is possible that Mr. Candy could provide indirect testimony that would show that he drugged Blake, but that would only show that he was under the influence of opium, not that he was unaware of his actions.

The solution to this problem is to devise a way to observe the night in question again. The reader and many of the characters within the book are able to witness for themselves, first hand, how Blake took the diamond. The re-enactment of the theft is perhaps the closest a nineteenth-century text can come to offering up video surveillance footage. Through a scientific experiment, Jennings, Blake, Betteredge, and Bruff test the hypothesis that Blake was acting under the influence of opium, which Mr. Candy may have slipped to him as a revenge for an insult. The theory is that if they can recreate the scene of that night down to the last detail then Blake will again perform the same actions when he is given another dose of opium. If he does these things again, it will prove that he acted under the influence of opium, clearing his name once and for all, and it will answer the question of how the diamond left Blake's possession. This experiment, in re-creating the scene of the crime, allows the reader, as well as the characters of the novel, to be eyewitnesses to the theft. Discussing the importance of trust in expertise in witnesses, C.A.J. Coady notes, "If I am hallucinated [sic] then standardly the testimony

of others will establish that fact despite my firm convictions to the contrary” (12). Blake, then, must accept the testimony of others as being accurate.

Within the novel, the experiment is only partially successful. When dosed, Blake seems to perform the same actions that Rachel witnessed. However, the experiment falls apart shortly after the theft, when Blake falls asleep instead of doing what he did with the diamond after removing it from the cabinet. Ezra Jennings points out that “Two distinct objects were to be gained by [the experiment]. The first of these objects was to prove, that Mr. Blake entered this room, and took the Diamond, last year, acting unconsciously and irresponsibly, under the influence of opium. After what you have both seen, are you both satisfied, so far?” Both Mr. Bruff and Betteredge agree. Jennings continues on to say that

The second object ... was to discover what [Blake] did with the Diamond, after he was seen by Miss Verinder to leave her sitting-room with the jewel in his hand, on the birthday night. The gaining of this object depended, of course, on his still continuing exactly to repeat the proceedings of last year. He has failed to do that; and the purpose of the experiment is defeated accordingly.” (376-377)

While the experiment was sufficient to resolve the mystery about Franklin Blake, it was not sufficient to solve the mystery of the disappearance of the Moonstone.

Although Rachel’s and Franklin’s direct testimonies, verified by the experiment, answer the question of who took the diamond from the cupboard, they still do not resolve the mystery of what happened to the Moonstone after that night. Direct testimony, while providing crucial proof of how part of the theft occurred, is not ultimately enough to

solve the crime. Rather, the team of detectives must return to the use of circumstantial evidence to show how the diamond made its way to the bank through the hands of Godfrey Ablewhite. What is notable about direct testimony in *The Moonstone* is that for all of the emphasis the text places on the trustworthiness of eyewitness evidence, the two testimonies in the novel do not lead directly to the real thief. These testimonies function almost as red herrings, suggesting that Blake is guilty of a theft when, in fact, he is only a very minor accessory to one. If he had not met Ablewhite in the hall that evening, the diamond would have been quickly found and perhaps all would have been revealed earlier. Direct testimony is not the evidence that leads to the resolution of the crime. If such evidence is to be believed, then Blake performed the theft and lied about all of his actions following that evening. In terms of the economy of argument leading to guilt, this would seem to be the most likely account for how the diamond was stolen. In spite of this, the novel's other characters believe Blake's claims of innocence, and they go on to make a series of inferences which lead to the discovery of a dead Godfrey Ablewhite, without ever recovering the diamond. The novel concludes without any sort of confession or confirmation of Ablewhite's guilt aside from witness testimony about Ablewhite's possession of the diamond, which amounts to overwhelming circumstantial evidence. The end of the book mirrors and alters the beginning of the story. Where in the beginning the writer is presented with overwhelming circumstantial evidence (the possession of the diamond, the freshly killed bodies, the lack of other suspects) but refuses to come to a conclusion about guilt based on circumstantial evidence alone, at the end of the book the reader is presented with a similar scenario (freshly dead body, a witness placing the

diamond with Ablewhite, the lack of other suspects) and is expected to find such circumstantial evidence conclusive.

Through his complex construction of direct testimony and circumstantial evidence, Collins investigates the difficulty of interpreting evidence. Aside from concerns about using direct eyewitness testimony to establish the narrative of a crime, *The Moonstone* presents a more fundamental question about direct testimony. What if a person does not have access to all of his or her experiences? Franklin is unaware of his actions, and his memories of his experiences do not suggest that he has taken the diamond. His ability to get knowledge about the events of the crime are mitigated by his physical condition, and were it not for Rachel witnessing him take the diamond, he would have never known that he did. Furthermore, the events of the novel suggest that even if a person can reliably get information from the senses, that information might not accurately represent the full extent of any given set of events without understanding the context in which those events take place. Rachel has no reason not to trust her senses – she was not drugged – but she does not understand the fuller context of Franklin’s actions. She does not know that he was drugged when he stole the diamond, so she thinks he is guilty of stealing from her in order to pay his own debts. Both the possibilities of not being able to have access to experience and of not being able to place experiences into context render direct testimony insufficient to determine guilt.

Collins questions the very validity of the narrative presented by experience. Within the narrative neither of the two key witnesses to the initial theft are able to arrive at a true narrative through their experiences. On the one hand, Rachel Verinder’s powers of witnessing are limited by her perspective and her ability to interpret what she sees. She

should, both through circumstantial evidence (she knows that Blake has a motive for the theft because of his money troubles) and her own direct experience of witnessing his removing the diamond from her cabinet, be absolutely certain of his guilt. And yet she is unaware that he is drugged and that Ablewhite got the diamond from Blake later, and thus misinterprets what she sees. Blake, on the other hand, simply has no recollection of his experience whatsoever and therefore is unable to reason from his experience. It is his expectation of being able to remember his experiences that leads him astray.

What *The Moonstone* highlights is *not* that experience is a better method for determining the truth than arguments from circumstantial evidence *nor* that circumstantial evidence is more reliable than direct experience. Collins highlights problems with *both* forms of evidence. On the one hand, Blake and Verinder's direct testimonies regarding the events of the theft represent an inability to interpret experience. On the other hand, "circumstances...fatally misle[ad]" Cuff a number of times in the book (155). Indeed, Cuff is right about details, but not criminals, in most of what happens throughout Betteredge's narrative. This is not so much the fault of the circumstances but is again a problem of interpretation. What Collins illustrates is the difficulty of using any means to come up with a "true" narrative of events. In the end, both forms of evidence are both useful and misleading and require a skilled interpreter to make use of either of them.

Evidence and Experience

Alexander Welsh characterizes the tension between circumstantial evidence and eyewitness testimony as the tension between evidence of "things not seen" and "stories of experience" (198-199). Circumstantial evidence is a series of "strong representations," while testimony is based in experience. Welsh states that he wants to "examine the

continued erosion of strong representation in...*The Moonstone*" (200), but I would counter that direct evidence does not prove superior to circumstantial evidence in the novel. However, it is not really a matter of experience that divides the two types of evidence, and it is important to recognize that both forms of evidence are based in experience.⁸³ It is not the case that circumstantial evidence is purely objective while testimony is purely subjective. While circumstantial evidence requires abductive arguments precisely because it concerns things "unseen," the inductive principles used to make those arguments are discovered through empirical observations. *The Moonstone* addresses this very point when Lady Verinder argues with Sergeant Cuff about whether or not Rachel has "stolen" her own diamond. Lady Verinder contends that Rachel could not have stolen the diamond because it is not in her daughter's nature to do so, an assertion that she bases on her experience of her daughter's character. The exchange continues with Cuff stating an account he thinks is true based upon his past experiences in similar cases. Cuff's speech ends with him setting his own experiences against those of Lady Verinder, saying, "That is the conclusion which my experience draws from plain facts. What does your ladyship's experience say against it?" Lady Verinder responds by saying that "The circumstances have misled you" (165). In both cases, Lady Verinder

⁸³ Joan Scott investigates the problems of exclusion that arise from creating an evidentiary system that privileges experience. She notes that "when experience is taken as the origin of knowledge, the vision of the individual subject (the person who had the experience or the historian who recounts it) becomes the bedrock of evidence on which explanation is built" (367). In *The Law and the Lady*, this bedrock is solid, as compared to *The Moonstone*, where the reliability of experience is regularly questioned. Scott continues, "Questions about the constructed nature of experience, about how subjects are constituted as different in the first place, about how one's vision is structured – about language (or discourse) and history – are left aside" (367). I would argue that in *The Moonstone* it is those very questions that Collins investigates. In *The Law and the Lady* Collins is somewhat concerned with mental health, but experience itself is never seriously questioned, even as Valeria almost blindly trusts that her experiences with Eustace accurately reflect his kind and gentle character. It is remarkable that she never doubts his innocence.

and Sergeant Cuff have made inductive inferences based upon past experiences and arrived at general principles, which are then woven into “inferences to the best explanation,” or abductive arguments, about whether or not Rachel made off with the diamond. This use of “experience” is not the same as Rachel’s witnessing Franklin take the diamond, because it involves inferences to arrive at the conclusion about guilt.⁸⁴ To cast direct testimony as based upon experience and circumstantial evidence as not based upon experience, as Welsh does, is to create something of a false dichotomy. Both are based in experience, albeit in different ways.⁸⁵

The significant difference between the two types of evidence is based upon which one has more certain conclusions. In the case of circumstantial evidence, the fallibility of the argument lies in its inability to be logically conclusive. There is always the possibility, however remote, that the circumstances in question were caused by a different set of events than the ones supposed to be true. Contrast this to the uncertainty that arises with any type of testimony, eyewitness or otherwise, from concerns about the veracity of a statements and the character of a witness. The question of which of these arguments is stronger depends exclusively upon which type of doubt is preferable, one of probability or one based upon the ability to assess character.

⁸⁴ It is worth noting that this form of experience comes no closer to solving the mystery of the disappearance of the Moonstone than any other form of circumstantial evidence found in the first part of the novel. On the one hand, Lady Verinder’s belief in her daughter’s innocence proves to be justified, but at the moment of her exchange it does nothing to account for the disappearance of the Moonstone or any of the particulars of the case. It is merely the rebuttal of the conclusion without taking into account any of the parts of Cuff’s argument. Cuff, on the other hand, while appearing to account for all of the particulars of the case, proves to be, as Lady Verinder suggests, “fatally misled” by the circumstances (155). Neither one’s “experience” does much to solve the mystery. With regard to the subsequent “prophecies” Cuff makes based upon his experience and his interpretation of the circumstantial evidence, even though they come true, so to speak, they are likely to be true regardless of who stole the diamond.

⁸⁵ Jan Melissa Schramm similarly observes “that most circumstantial evidence is presented to the court in testimonial form,” as a rebuttal to Welsh (20).

In *The Moonstone*, the knowledge of Rachel's virtuous character leads her family and friends both to maintain her innocence and to believe her accusation against Franklin Blake. They trust their abilities to assess whether or not she might be lying more than the probability of her guilt based upon circumstantial evidence. Her eyewitness testimony initially seems unassailable, even in the face of Blake's memory loss. Her testimony seems strong because it lacks any possibility for logical fallibility and because the truth of it is supported by multiple reports of her absolute trustworthiness. Within *The Moonstone*, initially direct eyewitness testimony from a reliable witness is held to be of the utmost importance, but the novel eventually demonstrates that eyewitness testimony is not as reliable as it appears to be, and it is experience that can lead to the misinterpretation of both indirect and direct evidence.

In *The Law and the Lady* Collins does not worry deeply about the nature of experience. Rather, Collins considers what to do with witnesses in the court of law. He offers, for the most part, a rather ordinary story of a crime, with the exception of one sensational witness, Miserrimus Dexter. The account of the trial and Valeria's subsequent investigation highlight the differences between the testimonies of Dexter and Sara Macallan's servant, Christina Ormsay. Dexter, on the one hand, is insane, and as his insanity is revealed the reader begins to see the way his insanity affects his testimony. Ormsay, on the other hand, is a sane, competent woman, and her testimony serves as a point of comparison for Dexter's. Collins shows how testimony is shaped by the character and beliefs of the witnesses. Additionally, Collins investigates how testimony changes depending upon who is eliciting the testimony and the circumstances of the situation. Interestingly, it is in *The Law and the Lady* that direct testimony leads to

resolution of the mystery behind how Sara Macallan died. Through the help of forensic science, a team of excavators and chemists are able to piece together the remains of Sara's suicide note, in which she describes how, when, and why she chose to end her life. It is Sara Macallan's confession, another type of direct testimony, which has the potential to clear Eustace Macallan's name. Here direct testimony proves conclusive where indirect testimony does not. This is the opposite of what happens in *The Moonstone*, where Franklin Blake's first hand memories are unreliable.

The Law and the Lady, while maintaining the power of direct testimony, also more broadly investigates indirect testimony. As in *The Moonstone*, the circumstantial (indirect) evidence is initially misinterpreted, not by a British police investigator but by a Scottish jury, who believe Eustace Macallan to be guilty of murder, even if it is not provable by the law's standards. Just as in *The Moonstone* where Rachel Verinder's family and friends maintain her innocence, those close to Eustace believe that he is not guilty of murder because of his character, despite what circumstances suggest. However unlike in *The Moonstone*, much of the investigation centers around the statements of witnesses who offer indirect testimony, which is circumstantial evidence. They have no firsthand knowledge of the crime, but have seen circumstances that suggest Eustace murdered Sara Macallan. *The Law and the Lady* suggests that indirect testimony is especially fallible. First, it is circumstantial evidence, and therefore the conclusions drawn from that testimony are not logically necessary. Second, there is always the possibility that the witness could be lying. Dexter, while not overtly lying to Valeria, certainly misleads her with his testimony concerning Mrs. Beauly, attempting to make her look guilty of murder when he knows that Sara committed suicide. Not only is

indirect testimony difficult because of the potential dishonesty of a witness, but testimony itself can also vary greatly depending upon what questions are being used to elicit it. Christina Ormsay's testimony shows how different testimony about the same people and events can be. Indirect testimony in *The Law and the Lady* is quite problematic and proves misleading for nearly all of the main characters in the novel at some point or another.

Instead, *The Law and the Lady* upholds direct testimony as a means of discovering guilt and innocence. Unlike *The Moonstone*, however, there are no eyewitnesses or experiments to be had. Rather, the direct testimony comes in the form of Sara Macallan's suicide note, in which she explains her reasons for committing suicide and describes the manner in which she ends her own life. This suicide note, a confession of sorts, is the most direct and strongest evidence for Eustace's innocence, surpassing even the direct eyewitness testimony in *The Moonstone*, because there can be no misinterpretation of the evidence. Confession, its own form of direct testimony, provides the resolution not only of *The Law and the Lady*, but of many other works of early British detective fiction. Unlike the eyewitness testimony in *The Moonstone*, confession is presented as the most certain form of evidence that a detective can get. It is confession that resolves uncertainty with regard indirect, circumstantial evidence. In the next chapter, I argue that confessions are ubiquitous in the early British detective novel, in part to provide the reader with certainty regarding criminal guilt. Ultimately, *The Moonstone* suggests that direct testimony is not certain, while *The Law and the Lady* suggests that it is. As I demonstrate in my next chapter, other detective novels of the time follow the evidentiary model of *The Law and the Lady*.

CHAPTER FOUR: CONFESSION

Although sometimes critically overlooked in favor of more popular detective stories such as the Sherlock Holmes series, *Lady Audley's Secret* is notable in the history of detective novels for its use of circumstantial and direct evidence to prove the guilt of the criminal. Published in the *Sixpenny Magazine* in 1862 (Houston 9), about twenty-five years before *A Study in Scarlet*, the first of the Sherlock Holmes tales, and about twenty years after "The Murders in the Rue Morgue" (1841), the first of the C. Auguste Dupin short stories, *Lady Audley's Secret* makes extensive use of circumstantial evidence and abductive inferences to form a persuasive narrative concerning Lady Audley's "secret" and the murder of George Talboys. This reliance upon circumstantial evidence to create arguments and narratives is representative of British novels in the eighteenth and nineteenth centuries, as Alexander Welsh notes in *Strong Representations*.⁸⁶

Circumstantial evidence provides a seemingly impartial narrative that leads to reasonable conclusions and allows the detective to "solve" a crime, i.e. to figure out who did what, when. Given that this is the goal of a detective novel, it is fitting that this method of reasoning is employed, and it proves convincing for both the characters in detective stories as well as readers.

What is different about *Lady Audley's Secret* is the inclusion of not one, but two confessions from Lady Audley, the criminal. Given the prevalence of circumstantial evidence in detective fiction, the appearance of the double-confession is noteworthy. I argue that in this novel, these confessions provide a unique sense of closure that circumstantial evidence cannot, as confessions offer both a first-person account of crimes

⁸⁶ See Shapiro and Hacking for broader accounts.

committed and reveal the motives and character of the criminal. By giving such a personal and revelatory insight into the criminal mind, confessions seem to offer certitude that circumstantial evidence cannot, precisely because circumstantial evidence is impersonal. Furthermore, the confessions in *Lady Audley's Secret*, by giving the novel's characters and readers insight into her motives, ensure that both have the sense that she is justly punished for her crimes. While Welsh notes that "The great triumph of circumstantial evidence over direct testimony – including confession – is that it can turn even false testimony to account (39), in *Lady Audley's Secret* there is no triumph. Confession is the means of shoring up the gaps left by circumstantial evidence."⁸⁷

Innovative as its double confession might be, however, *Lady Audley's Secret* is far from unique in including and emphasizing confession. In fact, the plots of most works of nineteenth-century detective fiction are resolved through confessions. More importantly, the appearance of confessions runs contrary to the preference for circumstantial evidence in the modern era (Hacking, Shapiro), and indeed, contrary to the narratives of "managed circumstantial evidence," to borrow a term from Welsh (199), that make up the substance of the detective novels themselves. At work in the detective novel is both a response to the logical uncertainty that always must accompany circumstantial evidence and a final, ultimate turn towards subjectivity and interiority.

To investigate these claims, I consider *Lady Audley's Secret* as a model for confession in the detective novel, largely because the confession in the novel is one of the most complex and dramatic confessions that exist in nineteenth-century detective fiction.

⁸⁷ Jan-Melissa Schramm contests Welsh's claim and argues that "insofar as circumstantial evidence was associated with the epistemology of 'plain' fact, then its demise should be placed some thirty or forty years earlier than the mid-Victorian date claimed by Welsh, in the debates about the extension of full representation to felons" (109).

I also draw in examples from *L’Affaire Lerouge* by Emile Gaboriau and *The Law and the Lady* by Wilkie Collins to elaborate more fully upon the particular features of confession in this genre.

Logical Uncertainty and *Lady Audley’s Secret*

Lady Audley’s Secret begins with Mr. George Talboys’ return from Australia. He had suddenly left his wife and son three years previously in order to earn the fortune necessary to support them in style. His wife, Helen Talboys, had a fondness for luxuries, and George, a dragoon, often wanted to indulge her. Upon arriving in London, George meets up with his old friend Robert Audley. Over a meal together George reads an announcement in the paper saying that Helen Talboys has recently died; they later confirm this with Helen’s father. George falls into a deep depression and is cared for by Robert.

Meanwhile, Robert Audley’s uncle, Sir Michael, has recently married Lucy Graham, a beautiful governess with no known past. Sir Michael invites George and Robert to come visit him. They do, but unfortunately Lady Audley, formerly Lucy Graham, is called away and is unable to meet Robert and George. Later, when Lady Audley returns, George goes to Audley Court to meet with her, and disappears. Robert becomes obsessed with his friend’s disappearance and vows to find out what happened to him. Throughout the rest of the novel he chases after “clews,” links together circumstantial evidence, and eventually concludes that Lady Audley is really Helen Talboys, George’s supposedly dead wife. In two confessions Lady Audley reveals that she tried to kill George by pushing him down a well and to murder Robert and an innkeeper who had been blackmailing her by setting the inn on fire. Interestingly, her

attempted murders and bigamy are not the “secret.” In her first confession Lady Audley states that she is mad, and that is why she committed these crimes. Robert has her committed to a *maison de santé* in rural Belgium under the name Madame Taylor and she dies there about a year later. After hearing her confess to the murder of George Talboys, Robert learns from the innkeeper, Luke Marks, that George survived the fall down the well and sailed back to Australia. He eventually returns to England to live with his son and his sister and Robert, who are now married.

Ronald Thomas, relying in part on Alexander Welsh, argues that in the nineteenth century “trials were becoming increasingly dominated by lawyers rather than witnesses, [as] the authority of direct testimony was being replaced by the professional management of circumstantial evidence” (“Detection” 68). Ultimately, this chapter will suggest that in actuality the uncertainty arising from circumstantial evidence necessitates confession (direct testimony) in detective fiction. Yet, like most nineteenth-century detective fiction, *Lady Audley’s Secret* nonetheless *seems* to give circumstantial evidence primacy. Such evidence plays a key role in Robert Audley’s investigation of Lady Audley, and he emphasizes the strength of circumstantial evidence repeatedly throughout the novel, describing it to Lady Audley as

that wonderful fabric which is built out of straws collected at every point of the compass, and which is yet strong enough to hang a man. Upon what infinitesimal trifles may sometimes hang the whole secret of some wicked mystery, inexplicable heretofore to the wisest upon the earth! A scrap of paper, a shred of some torn garment, the button off a coat, a word dropped incautiously from the overcautious lips of guilt, the fragment of a letter,

the shutting or opening of a door... — a thousand circumstances so slight as to be forgotten by the criminal, but links of iron in the wonderful chain forged by the science of the detective officer; and lo! The gallows is built up;...and the penalty of crime is paid. (152)

As Robert sees it, pieces of circumstantial evidence are the bricks from which criminal investigations and prosecutions are built. He regards the strength of the argument made from inferences as so powerful it can convince a jury to execute a person, making reference to how “links of iron” can lead to the gallows. This conviction stays with him throughout the novel and influences how he gathers evidence while investigating George’s disappearance. His chain of reasoning is fully given to the reader, and in one place, Robert even lists point by point all of the circumstantial evidence to be had regarding George Talboys’ disappearance and Lady Audley’s guilt, such as Lady Audley’s aversion to meeting George and the bit of telegram that Robert discovers at Lieutenant Maldon’s house (134-35). In this way, Robert creates a cohesive narrative to explain a series of events that culminate in George’s apparent murder.⁸⁸ This narrative is persuasive because it provides a plausible explanation for a number of seemingly unrelated, unusual events, the “links of iron.” By offering this account, Robert not only makes an argument for the guilt of Lady Audley, but also presents the case as he would to a jury, even noting at the time that he has the makings of a good barrister (134). Through this presentation, the reader is invited to follow along, as a jury member might, and to go

⁸⁸ Martin Kayman theorizes that in *Lady Audley’s Secret* there is a “struggle for dominance between the legalistic position which codes its narrative as ‘evidence’ and a medical (psychiatric) coding...” (185), viewing the tensions as “constant in sensation fiction” (186).

through the same inferential process as Robert does to reach the same conclusion concerning Lady Audley's guilt.

The reader has a bit more information than Robert Audley, however, even though it is still circumstantial. The reader is privy to the scene where Luke and Phoebe find Lady Audley's necklace with a ring and some baby's hair wrapped up in a note, which later becomes significant when the reader finds out that Helen Talboys was married and had a baby and that George left her a note when he deserted her. Also, when Luke demands money from Lady Audley to buy a public house after George disappears, Lady Audley exclaims, "Phoebe Marks, you have told this man" (142), implying that Lady Audley and Phoebe share a secret that Lady Audley does not want anyone else to know. If the reader has been following what the narrator has stated closely, s/he may realize that this is significant because at the time George Talboys disappeared, he had searched for Lady Audley in the lime walk, and the only room with a view of the well at the end of the lime walk was occupied by Phoebe Marks, who was working for the Audleys at that time. This being the case, it is possible that she witnessed the two together, and this possibility is reinforced by Lady Audley's statement.

In addition to this extra circumstantial evidence, the reader gets literary clues from the narrator. While these clues are not revealed to the characters of the story, they are important for the reader in forming arguments. In contemporary detective fiction, literary clues are often more significant than evidentiary clues. For example, the practiced contemporary reader of detective fiction expects that it will be difficult to solve the mystery; therefore a suspect who seems too "obvious" will be quickly discounted. Another example of a "literary clue" is when the apparent solution of the mystery occurs

halfway through the book. Since a savvy reader knows that the resolution of the mystery should come at its very end, the reader assumes that any solution produced earlier in the narrative is a red herring and will move on to a new hypothesis. The literary clues offered up *Lady Audley's Secret* include extensive foreshadowing, with repeated references to blood (64), decay, and a previous case of a farmer murdering his beloved (91). This foreshadowing is just as responsible for the reader believing George Talboys has been murdered as anything Robert Audley says, perhaps even more so because the narrator has access to information that Robert does not.

However, even this evidence alone is not enough to show conclusively that Lady Audley killed George. After all, Sir Michael seems very willing to believe whatever Lady Audley says, even to the point of setting aside his own daughter and nephew to placate her. It seems just as possible, to the reader, at least, that Lady Audley could have simply denied whatever claims Talboys made against her and declared that he was mad over the loss of his wife. Neither Robert Audley nor the reader know that Phoebe Marks witnessed the event until after Lady Audley's confession.

In the end, though, the circumstantial evidence in *Lady Audley's Secret* concerning whether or not Lady Audley murdered George Talboys is not overwhelming. The most concrete pieces of evidence Robert discovers are Lady Audley's letter, the sample of Helen Talboys's handwriting, the trunk that bears the labels of both Helen Talboys and Lucy Graham, and the testimony of Mrs. Barkamb, who could identify Helen Talboys if asked to do so. The trunk and the letters are reasonably convincing because it is unlikely that Lucy Graham could have received the old trunk of a Helen Talboys. Likewise, it is possible, but unlikely, that the unique style of handwriting could

belong to two different ladies. However, this evidence that Robert Audley compiles proves only that it is very likely that Helen Talboys and Lucy Graham/Lady Audley are the same person. Neither the trunk labels nor the handwriting samples suggest that Lady Audley murdered George Talboys. At best, they show that Lady Audley/Helen Talboys would have a motive for murdering Talboys, such as to protect her new identity. To come to the conclusion that Lady Audley acted on that motive, however, Robert must look to even less convincing evidence having mainly to do with the timing of certain events such as George's disappearance. But this alone is not enough to provide a solid conclusion. For the argument concerning George's murder to be persuasive, direct evidence, either eyewitness testimony or confession, is also necessary. As I have shown in previous chapters, circumstantial evidence relies upon inferences to produce conclusions, and those inferences are not certain. Arguments built from circumstantial evidence can provide a story that plausibly explains a series of events, but cannot remove all doubt from the reader's mind. That Lady Audley is really Helen Talboys and that she murdered George to escape exposure is a plausible explanation for George's disappearance, but so is an account where George is so overcome by Helen's betrayal that he becomes deeply depressed and leaves Audley Court suddenly, resuming his old plan to return to Australia. As it happens, a combination of both of those stories ultimately turns out to be true, but the circumstantial evidence provided is not enough to come to either one of those conclusions with absolute certitude. Circumstantial evidence may be more reliable than witnesses who are prone to human errors, but inferences drawn from it do not produce necessarily true conclusions.⁸⁹

⁸⁹ There seems to have been a historical backlash against circumstantial evidence in the British legal system as well. Jan-Melissa Schramm observes that James Fitzjames Stephen, in his 1863

Furthermore, while circumstantial evidence can provide a likely account of a motive, it cannot show the inner workings of the criminal mind. Arguments based upon circumstantial evidence are pieced together by a person not party to the crime itself, and thus are removed from the suspect. While, as in the case of Lady Audley, Robert can use circumstantial evidence to posit a motive for Lady Audley's actions, he cannot ultimately know what caused her to act as she did. This distance is part of the appeal of circumstantial evidence; it can be used to build an argument without relying upon deceptive or fallible witnesses. Provided that the person making the argument is competent,⁹⁰ circumstantial evidence can form the basis of a convincing, "scientific" argument. However, in *Lady Audley's Secret*, as in many of the detective novels that follow it, there is more at stake than merely understanding a series of events. The reader wants to know why the criminal did what she did, why Lady Audley, a beautiful and pleasant creature, was driven to commit murder and arson. As importantly, the reader and Robert want to be sure that Lady Audley is appropriately punished for her crimes, and for that to happen one must understand, with certainty, the motivation behind the crimes. Circumstantial evidence cannot provide such understanding any more than it can establish guilt itself with absolute certitude.

Understanding why a criminal commits a given act is almost as important as understanding how. Writing of the penal system reforms in Europe that began in the nineteenth century, Michel Foucault notes that judges began to judge "the 'soul' of the

General View of the Criminal Law, "attacked the basis of any distinction between the two types of probative material" (108). Schramm quotes Stephen as saying "circumstantial evidence...proposes a sham canon of proof, and leads jurymen to believe that they are deciding on a particular kind, and a highly scientific and ingenious kind, of evidence when, in fact, they are making a conjecture" (Stephen, qtd. in Schramm 108).

⁹⁰ Robert Audley is trained as a barrister, so he is sufficiently competent to make these arguments.

criminal” (19), by which he means that judges needed to understand the motivations of the criminal because merely establishing the events of the crime no longer seemed sufficient:

But now a quite different question of truth is inscribed in the course of penal judgment. The question is no longer simple: “Has the act been established and is it punishable?” But also: “What is this act, what is this act of violence or murder? To what level or to what field of reality does it belong? Is it a phantasy, a psychotic reaction, a delusional episode, a perverse action?” It is no longer simply: “Who committed it” But: “How can we assign the causal process that produced it? Where did it originate in the author himself? Instinct, unconscious, environment, heredity?” (19)

The reader of detective fiction asks the same questions. The reader wants to know what drove the criminal to commit a certain act, not merely to ascertain that he did so. Circumstantial evidence cannot answer those questions, but confessions can. In confessions, the reader is privy to the inner workings of the criminal mind, so confessions can answer the question of *why* a crime was committed.

While much of the argument of *Lady Audley's Secret* relies upon circumstantial evidence, testimony in general and in particular confession play a key role in the argument concerning Lady Audley's guilt. Direct confessional testimony reaffirms, in a concrete way, the chain of reasoning created by linking together bits of circumstantial evidence. Confession, as a specific form of testimony, is especially persuasive in *Lady Audley's Secret*, because it confirms Robert Audley's suspicions and because it shows the character and motives of Lady Audley. Her confession is necessary because of the

probabilistic nature of arguments that link together circumstantial evidence. Such arguments lead to likely, but not certain, conclusions. Because certainty is necessary to resolve the plot of any mystery or detective story, circumstantial evidence alone is not enough to prove that a person, or persons, committed a the crime that is the main focus of the story. For all of Robert Audley's talk about the power of circumstantial evidence, it alone is not enough to convince the reader or Dr. Mosgrave of Lady Audley's guilt.

Certitude, Character, Ability, and Motive

Two aspects of confession in the detective novel are important to explicate here. One is the logical certainty provided by direct evidence, and in particular, confession. The other relates to the aspects of confession that concern individual character, ability, and motive. In other words, one part of what confession addresses in the detective novel concerns logical conclusions, and the other part concerns the inner workings of the criminal him- or herself. Here I will address the first aspect with regard to certitude and then, following this discussion, I will address the second aspect.

Emile Gaboriau, the influential French author of detective fiction, includes in *L'Affaire Lerouge* (1866) a discussion of the relationship between circumstantial evidence and confession in courts of law that shows how a jury is unlikely to convict a criminal on the basis of circumstantial evidence alone. M. Daburon, a magistrate and investigator in the novel, reflects:

And the jury, thank heaven! do not content themselves with a moral conviction. The strongest probabilities cannot induce them to give an affirmative verdict...In short, save where a criminal is taken in the very

act, or confesses his guilt, it is not certain that the minister of justice can secure a conviction. (155-156)

This reasoning is confirmed by the novel's plot. In it, a young man, Albert, is wrongly accused of murder and protests his innocence. The main investigator in the case, M. Tabaret, eventually believes in Albert's innocence because the circumstantial evidence against him is not strong enough to provide certainty. Ultimately, Albert is proved innocent when the real murderer provides a deathbed confession. Here, *L'Affaire Lerouge* affirms what is the case in *Lady Audley's Secret* as well, namely, confession takes precedence over circumstantial evidence with regards to proof.

Note that this same scenario, in which a wrongly accused man is proved guilty through circumstantial evidence but vindicated through confession, recurs in *The Law and the Lady*. Circumstantial evidence builds a case against Eustace Macallan, but Sara Macallan's confessional suicide note proves that the abductive inference that Eustace murdered his wife is false. These confessions are logically more certain than circumstantial evidence because they require no arguments to explain the circumstances. There is no logical possibility for error. Circumstantial evidence, on the other hand, is open to misinterpretation. As C.S. Peirce, the late-nineteenth-century logician, explains circumstantial evidence or what he calls "hypothesis"⁹¹ is

... a weak kind of argument. It often inclines our judgment so slightly toward its conclusion that we cannot say that we believe the latter to be true; we only surmise that it may be so. But there is no difference except one degree between such an inference and that by which we are led to

⁹¹ Hypothesis is what Peirce calls abductive inferences that result in circumstantial evidence.

believe that we remember the occurrences of yesterday from our feelings as if we did so. (189)

Circumstantial evidence does not provide “belief.” Confession, on the other hand, as a form of direct testimony, does not need to rely upon arguments to be believed true. All that is necessary is that the person confessing is telling the truth.

Jan-Melissa Schramm notes,

...testimony in nineteenth-century English realist fiction is often closely allied to proof of innocence rather than guilt. That Victorian authors felt compelled to prove a protagonist's innocence in the face of unjust accusation places the act of literary construction in a peculiarly symbiotic relationship to legal history, where the emphasis has traditionally been on the proof of guilt. (6)

However, in the detective novel, this relationship works the other way. Confession, a specific form of direct testimony, works to prove guilt rather than innocence. Confession is the final admission of guilt that confirms the narrative of circumstantial evidence the detective creates.

Narratives of science, literature, and the law previous to the modern era favored testimony as a means of providing knowledge (Hacking, Shapiro). However, in the eighteenth and early nineteenth centuries, testimony, and in particular direct testimony, ceased to be the preferred evidence from which to draw conclusions concerning criminal guilt. Alexander Welsh explains that this was because eighteenth-century thinkers began to view witnesses as unreliable, causing testimony to fall out of favor (12). A testimony's worth depends upon the character of the witness. Unethical witnesses might lie about

what they have seen and heard, or they might be unreliable observers. Poor eyesight or hearing, drunkenness, and senility are just a few conditions that could render a witness' testimony questionable. In *Lady Audley's Secret*, Luke Marks, for example, is both a blackmailer and a drunk, making the truth of his testimony dubious at best, even if it is provided upon his deathbed, when presumably he has nothing to gain or lose by offering it. In the novel his testimony is valuable only because it is provided after — and thus merely confirms — Lady Audley's two confessions and the presentation of Robert's argument from circumstantial evidence. However, it is not only those who are outwardly disrespectable whose testimony can be deceptive. *Lady Audley's Secret* raises questions about the value of testimony from even those who seem innocent, as when Lady Audley tells Sir Michael that Robert is mad. Here the power of Lady Audley's charm makes her irresistible, and Sir Michael cannot help but believe her. What is particularly troubling in this instance is that Lady Audley appears to be a perfectly trustworthy witness to Sir Michael, Mr. Dawson, and to the rest of the village Audley as well. Their belief in the goodness of her character is misplaced, although through much of the novel there is no reason for them to question it. This misplaced faith and her later actions illustrate how unreliable appearances are as indicators of character.⁹²

Given that testimony can be false for a variety of reasons, it is still not enough to provide an absolutely convincing conclusion concerning guilt. Discovering guilt is just as

⁹² This concern extends backwards in the nineteenth century. Consider *Pride and Prejudice* (1813). Mr. Wickham hides near-criminal intentions behind a pleasing mask, while Mr. Darcy has excellent moral character beneath a cold exterior. In both cases appearances are deceiving. In the case of Lady Audley, however, the deception is even more marked, as Lady Audley bears no outward markers of her disease. Lady Audley even expects to find her mad mother looking more like Bertha in *Jane Eyre* than the childish beauty that she is. For a brief discussion of Jane Austen and detective fiction, see chapter one, "What Are We Talking About and How Did It Begin?" in P. D. James' *Talking About Detective Fiction*.

important as discovering the events of a crime in the detective genre, and the two do not always coincide (Pyrhönen, *Criticism* 44). The remedy for this doubt lies in a special form of testimony: the confession. Confession is especially convincing because it allows the reader to receive an unmitigated account of the events of the crime, as well as to learn the motives of the criminal, since the criminal has usually been hiding his/her guilt throughout the story, and here the reader gets a glimpse at the “real” person. In *Lady Audley’s Secret* the reader knows, from the very beginning, that Lady Audley has been concealing something about herself. This idea is born out from the title of the book to the first scene where Phoebe and Luke discover Lady Audley’s necklace to Robert’s suspicions about her identity. Provided that the confession is not gotten through torture or blackmail, it provides a window into the criminal mind that is especially enlightening because of its immediacy, and because presumably it is not in the criminal’s self-interest to confess to a crime s/he didn’t commit. Thus, in the development of detective stories the confession has become nearly ubiquitous because it, combined with compelling circumstantial evidence linked together by a thoughtful detective, provides the ultimate proof of guilt, and because it illuminates the workings of the criminal mind.

Lisa Rodensky notes that nineteenth-century crime literature demonstrates substantial interest in interiority (9), and Jonathan Grossman addresses this same issue, postulating that the Newgate novel “began to blend the psychological immediacy and living closeness of such first-person narratives into its omniscient view of a leading, criminal character” (145). Grossman contends that this is the opposite of what happens in the detective novel, where the reader is cut off from the thoughts of the criminal, as in *The Moonstone* (160). Indeed, obscurity is one of the signs of criminality (161). This

view of the detective novel is only partially true, however, as the criminal's thoughts, though withheld from the reader for some portion of the novel, must eventually reveal themselves, or be revealed, in order for the story to be resolved. Rodensky bases her *Crime in the Mind* on the premise that nineteenth-century novels suggest that there is substantial importance in probing the interior of the criminal mind. While Rodensky focuses on third-person narration (24), I would argue that confession provides this access to the interior mind.

However, it is important to note that the criminals in detective novels rarely confess before they are caught and presented with damning evidence concerning their guilt. Detective novels suggest that it is unreasonable to think that a criminal would confess if escape seemed plausible, except on a few rare occasions, such as confessing to a crime of which one is innocent in order to protect the guilty party or confessing because of madness. This latter reason highlights a special quandary in *Lady Audley's Secret*. As the reader discovers, Lady Audley attempts to murder George Talboys and burns the Castle Inn in fits of madness. Her madness calls into question the validity of her confession, as her madness might have prompted her to make a false confession. However, the reader and the characters do not judge the validity of her confession without the circumstantial evidence Robert Audley has strung together,⁹³ which suggests a strong motive for her actions, as Dr. Mosgrave notes. However, Dr. Mosgrave also notes that there is no body that has been discovered, so neither any jury nor Dr. Mosgrave can prove that Lady Audley has murdered anyone based on the circumstantial evidence. Fortunately the combination of circumstantial evidence followed by confession is quite

⁹³ While I do not accept that circumstantial evidence is superior to confession (Welsh 39), I do agree that circumstantial evidence can work to corroborate confession, an outcome for which Welsh's account would allow.

powerful, given that the two support one another and serve to address concerns of inference/probability and validity.

This is especially important because Lady Audley's madness in itself is problematic. For much of the novel she appears perfectly sane, making it difficult to believe her story. The solution Braddon provides is that Lady Audley suffers from latent madness, which is not manifested in her everyday life. Only at extraordinary points does this madness appear, but at the times of her confessions, she is perfectly sane. This seems like an extraordinary explanation of Lady Audley's motives and one that Robert Audley, understandably, does not immediately accept. Rather, he calls in a medical specialist to confirm Lady Audley's self-diagnosis. This appeal to a medical authority reassures the reader as well of the truth of Lady Audley's confession. Of course, to the contemporary reader this explanation seems a bit hollow, and is instead indicative of Victorian concerns about the mind and about the possibility of women performing horrific, criminal acts.⁹⁴ Regardless, within the confines of the story this explanation is acceptable, and seems to satisfy Robert Audley, Dr. Mosgrave, and Monsieur Val, the head of the *maison de santé*.

The confession of madness and Dr. Mosgrave's diagnosis provide closure about the identity of Lady Audley, but not about the disappearance of George Talboys. In the first confession Lady Audley says that she killed George Talboys, but does not say how or why. In a second confession Lady Audley reveals that she caused George to fall down the well and takes responsibility for the fire at the Castle Inn. Interestingly, in *Lady Audley's Secret* the second confession is framed not in legal, but in religious terms. While the confession completes the argument for the reader, for the characters it is a cathartic

⁹⁴ Andrew Mangham explores the Victorian concerns about female criminality and medicine in *Violent Women and Sensation Fiction*. He particularly discusses hysteria in *Lady Audley's Secret* (87-92).

experience. Robert Audley asks Lady Audley to “render [atonement] for [her] sins” and to “[perform] a light penance” and then instructs her to “repent!” (396). Even as she bemoans the secluded nature of the *maison de santé* where Robert places her, he attempts to console her by reminding her that there are many women in Belgium who happily reside in convents, all the while failing to appreciate her horror at the life before her. The second confession has distinctly religious overtones, resembling a deathbed repentance before Lady Audley is confined to a “living grave” where “her life, so far as life is made up of action and variety, will be finished” (Braddon 386). This rhetoric is very different from that surrounding the first confession, in which Robert and Dr. Mosgrave discuss the legal ramifications of Lady Audley’s madness and whether or not it would be just or profitable to bring the case to court.

Confession, thus, in *Lady Audley’s Secret* serves dual purposes for the novels’ characters. On the one hand, it is practical; Lady Audley is allowed to air her grievances against the husband who deserted her and to provide an explanation of her actions, and Robert Audley receives information sufficient to decide her fate, keeping her from leading his family into scandal. On the other hand, confession provides a cathartic experience whereby Lady Audley is supposed to prepare herself for repentance and forgiveness, and Robert Audley can finally put to rest the mystery of what happened to George Talboys. Robert is also able to finally achieve the gravity of character he has been working towards throughout the novel and to assume the role of a stern and thoughtful religious man who can be the head of a household, as opposed to an indolent bachelor. In both senses, however, the ends are imperfectly achieved. Lady Audley is not repentant and regrets her actions only insofar as she has suffered for a goal she does not reach. Her

“religious” confession is a failure. As for the practical side of the confession, justice is not served, but Lady Audley neatly tucked away. Lady Audley should be tried for murder (as far as Robert Audley knows at this point) and for arson, according to the law; however, preserving the appearance of appropriate domesticity (Robert repeatedly states that he wishes to avoid the scandal of a criminal trial) outweighs the desire for legal justice (382).⁹⁵

Some critics believe that confession is of limited usefulness in convincing a reader. In “Mys-Reading the Past in Detective Fiction and Law” Neil Sargent argues that “confessional speech in particular should be treated with suspicion and normally has a very limited place in the narrative,” being inferior to “material circumstances” in building arguments (293). However this argument fails to take into account the apparent necessity of confessions for the reader. While in a courtroom confessions may be rare, in the detective novel they provide the most satisfactory resolutions. It is true that they are usually reserved for the ends of detective stories, as Sargent notes, but that is not because they are viewed as particularly fallible. Rather, they come after the denouement where the “detective has already laid his or her proofs before the reader” (293) because they provide confirmation of those proofs. To have a confession early in the story would render the rest of the story pointless, because a confession generally reveals the solution to the crime, along with the motivation of the criminal, and these elements are of utmost interest in the detective story.

⁹⁵ See Kayman’s commentary on gallows confessions (43-44) and the tension between medical and legal coding in *Lady Audley’s Secret* (183-192).

For the reader, the confessions resolve the mysteries that motivated the plot and offer important information about the ethos of the characters.⁹⁶ Through Lady Audley's confession, the reader finds out that Lady Audley/Lucy Graham definitely is Helen Talboys, that she attempted to murder George Talboys, and that she is insane.⁹⁷ The confessions confirm the conclusions Robert reaches from weaving together the circumstantial evidence he discovers, a process which the reader has been following throughout the novel. The confessions are especially important at this point in the novel because this is the first overt statement concerning Lady Audley's identity and guilt. Until this moment the reader has had to draw his/her own conclusion about Lady Audley based on the circumstantial evidence, as well as some literary clues, but no character has expressly stated a theory about what happened to George Talboys. The confessions confirm or deny the conclusions the reader has been making throughout the story.

Not only do the confessions confirm the events of the crime and Lady Audley's guilt, but they also enlighten the reader about Lady Audley's moral character. This is necessary because throughout the story Lady Audley has appeared to be nothing but pleasant, beautiful, and angelic, if somewhat childish, so her actions seem completely contrary to her apparent nature. The motive of madness Lady Audley provides in the confessions makes her actions plausible, even if they are out of the ordinary. In the first confession Lady Audley offers her madness and unfortunate circumstances as an

⁹⁶ Heta Pyrhönen argues that one of the main things a detective does is to develop a sense of the ethos of the suspect in "The Reading of Guilt" in *Mayhem and Murder: Narrative and Moral Problems in the Detective Story* (129-162).

⁹⁷ As if the dual confessions were not enough to assure the reader of her guilt, George Talboys (miraculously climbing back up the deep well with a broken arm, finding someone to take him in, and sailing for Australia, all without being seen by any of the main characters) confirms it in the letters Luke gives Robert after Lady Audley is housed in the *maison de santé*.

explanation for why she assumed another identity. She also explains her abhorrence of poverty and her compulsion to start a new life. The madness is the ostensible reason why a lovely, perfect housewife might be driven to such a crime as bigamy.⁹⁸ Being deserted by George Talboys and being left to raise a young baby on her own furthers the audience's sympathy for her, and she links her madness to the birth of her child, suggesting that she had what we today call postpartum depression, or perhaps even postpartum psychosis. She notes that this madness is hereditary, as having a baby also caused her mother to go mad. Hers is a tragic account of how such unfortunate circumstances might occur. At this point she seems even more pitiable as she states, "I am glad no life was lost" at the Castle Inn (373). She claims that she did not act "treacherously and foully" (355), but was the victim of an hereditary illness exacerbated by extreme circumstances. Lady Audley appears to be a sympathetic criminal, innocent of ill intentions. However, lest Lady Audley become too sympathetic, such that the audience feels that her actions might be justified, there is a second confession, in which Lady Audley appears significantly more selfish and less pathetic. Here Lady Audley recounts the details of the murder with a great deal of sangfroid and appears defiant and

⁹⁸ It is striking that madness seems to be the only explanation for Lady Audley's actions. Somehow being deserted by her husband with a newborn child is itself not enough reason to find a new husband. Had Lady Audley not gone in search of a new life, the poverty she would have endured would have been difficult, to say the least. Likewise, fear of discovery and an unwillingness to lose her position as Lady Audley are not sufficient motives for trying to kill George Talboys, Robert Audley, and Luke Marks. While Lady Audley's madness does lend a gothic sensibility to the story, it also seems to demonstrate that the thought of a beautiful, domestically talented woman, who is also a member of the gentry, attempting to commit murder requires an extraordinary explanation. For a feminist interpretation of Lady Audley's apparent madness, see Pamela K. Gilbert's *Disease, Desire, and the Body in Victorian Women's Popular Novels*.

angry.⁹⁹ Robert and the reader no longer feel any pity for her, as all traces of her remorse are absent.

Like so many of the detective novels that follow it, *Lady Audley's Secret* is about more than uncovering who committed crimes and why; it is about restricting criminal behavior in the future. For example, in the case "A Tenant for Life" in the casebook *The Female Detective*, a woman, Miss Shedleigh, is supposed to have defrauded her brother-in-law of his estate by substituting a living baby for the stillborn heir to the estate, thereby keeping the estate from passing into the brother-in-law's hands. In her confession she reveals that she had no intent to defraud her brother-in-law, but was merely carrying out a dying mother's last wishes. Her confession makes it clear that there is no chance of her carrying out any criminal actions in the future. In "A Tenant for Life," the very confession of the crime ensures that no further crimes can be committed.

However, with regard to *Lady Audley's Secret*, the argument convincing the reader that the novel has an appropriate ending is separate from the one that reveals Lady Audley's identity and suggests that she killed George Talboys, although it is created from some of the same materials, such as Lady Audley's confessions and Robert Audley's

⁹⁹ As in other Victorian novels, in *Lady Audley's Secret* it appears that the only thing to do with a madwoman is to lock her away in a country house. Lady Audley is horrified at the fate before her, going to "a living grave" as she puts it (396). Perhaps the reader is not supposed to be as horrified as she, however. The *maison de santé*, while dreary, is a great deal more pleasant than the nightmarish Bethlehem Hospital. Her fate, like that of many female characters, including Lady Dedlock in *Bleak House*, is to be bored to death, literally. It is important to note that Lady Audley's attempted murders are no less significant than her bigamy. This sexual transgression was the subject of fear during the mid-nineteenth century (Fahnestock 55), and is particularly dreadful in this case because Lady Audley leaves behind a child and could produce a bastard heir to a great deal of wealth and a title (Sir Michael is a baronet). This sexual delinquency must be contained and even erased from memory. The name of Lady Audley dies out, as only Madame Taylor resides at the madhouse. Helen Talboys is on record as having died at the very beginning of the novel. The house falls into disuse, and Lady Audley's portrait grows moldy with the rest of the artwork. It is clear that Robert wishes her to be as impotent as possible, ensuring not only that she cannot harm anyone else, but also that she cannot find another husband.

opinions. This argument has to do with whether or not Lady Audley deserves to be locked away in a foreign madhouse, where she dies after approximately a year. At the end of the story, the unknown narrator states, "I hope no one will take objection to my story because the end of it leaves the good people all happy and at peace" (446). Given that Lady Audley, being dead, is far from happy, the narrator implies that she is not one of the "good people."

However, it is hard to accept that Lady Audley's punishment is just because it seems simultaneously too harsh and too lenient. After Lady Audley's first confession, in which she reveals her madness brought on by duress, she hardly seems like a cold-blooded, maniacal murderer who should be subjected to a madhouse. Her appeal is pathetic in the extreme, especially when she describes growing up in the specter of her mother's madness and being cared for by a woman who seemed to detest her, while her father drank his household into poverty. When she feels she has finally escaped such dreadful conditions, her husband abandons her with their newborn baby, and she succumbs to her hereditary madness. The picture Lady Audley paints is that of a young girl victimized by a mad mother, an irresponsible father, and a cowardly husband. She hardly seems fully responsible for her criminal actions, which occur only because, as she tells Robert, "George Talboys goaded me, as you have goaded me, and reproached me, and threatened me, my mind, never properly balanced, utterly lost its balance, and I was mad!" (355). She explicitly appeals to the sense of compassion already aroused in her audience by the accounts of Helen Talboys. The audience has already seen Helen's pitiful, repugnant father, who continually pawns his grandson's watch in order to get money for drink, and heard accounts from the townspeople about how Helen was

abandoned. When Lady Audley relates her story during her first confession, the reader is reminded of all of the previous details of her sad life, gained through Robert Audley's investigation. The pathos of her story makes her sentence seem unjust, and Robert himself wonders if he is being too harsh. After all, at this point the only crimes he can prove she has committed are bigamy and perhaps arson, but not murder. He justifies his decision only by thinking that he is protecting the rest of society instead of believing that Lady Audley belongs in a madhouse.

However, this is before he hears the second confession in which she makes clear that she did, in fact, mean to murder George Talboys. Now her confinement to a madhouse does not seem just because by law she should stand trial for her crimes and be executed. The pathetic argument in favor of lenience falls apart, as Lady Audley is no longer sympathetic, but appears to be a "beautiful devil" (Braddon 396). No longer is she just a bigamist; she is an intended murderer as well. Her circumstances do not outweigh or excuse the heinous nature of her crimes, so it would be only just for her to be judged in a court of law and not by Robert Audley alone. Dr. Mosgrave makes this argument after visiting Lady Audley, telling Robert, "you cannot expect me to assist you to condone one of the worst offenses against society. If I saw adequate reason for believing that a murder had been committed by this woman, I should refuse to assist you in smuggling her away out of the reach of justice, although the honor of a hundred noble families might be saved by my doing so" (385). The only reason he does not bring the case to the authorities at that time is because no body has been found. In Lady Audley's second confession, however, she informs Robert of the location of George Talboys's corpse, so there would be enough evidence to begin a criminal trial. That Robert Audley fails to turn her over to

the courts is unsatisfactory, so the story must resolve this injustice in another way. In the end, the reader discovers that George did not die, so there is no murder to prosecute, and Lady Audley dies shortly after being committed. There is no longer any reason for a criminal trial, and the problem of bigamy is solved by Lady Audley's demise, freeing George and Sir Michael to seek other spouses, if they so desire.¹⁰⁰ Lady Audley's criminal actions are punished, and those who suffered are afforded some measure of happiness.

Confession is the only means through which Robert can ascertain whether or not Lady Audley warrants the fate to which he has sentenced her. By being privy to the story of her life and to her motivations, he is able to judge if she is merely the victim of disease and circumstance or if she has vicious intentions enflamed by selfishness. Not only is Robert able to do this, but the reader is as well. The role confession plays in forming arguments about motives and justice is unique, as it offers a first-person account from the criminal not available in any other form. In addition to providing a window into Lady Audley's mind, it supports the arguments Robert makes from the circumstantial evidence he uncovers, offering the reader the satisfying, certain conclusion concerning Lady Audley's identity and her attempt to murder George Talboys. Where circumstantial evidence falls short, confession is able to account for Lady Audley's secret.

¹⁰⁰ As in *Jane Eyre*, the only solution to the problem of bigamy and a mad wife is her death. For further discussion of *Jane Eyre* and *Lady Audley's Secret*, see Tamara Silvia Wagner's "Sensationalizing Women's Writing," and Elaine Showalter's *A Literature of Their Own* (165). Concerning bigamy, see Jeanne Fahnestock's "Bigamy: The Rise and Fall of a Convention."

CONCLUSION

The detective fiction that originated in the nineteenth century became incredibly popular in the twentieth. Even as British detective fiction continued into the “Golden Age” of detective novels in the 1920s and 1930s, American writers developed their own “hard-boiled” genre of detective fiction, filled with grit, hard-knocks, and gumshoes. By the end of the twentieth century, movies and television shows also provided numerous new genres and media for the detective story, and in the 2013-2014 season four major public American television networks, ABC, CBS, FOX, and NBC, all ran at least one detective series.¹⁰¹ This is to say nothing of the American imports of British detective shows on PBS’ *Masterpiece Mystery*.

Interestingly, despite the wide variations in the scenarios of contemporary detective fiction, the methodology of most detectives remains fundamentally the same. Most detective tales have references to clues, or some sort of detective methodology that involves a detective using circumstantial evidence to outline a narrative of events that accounts for the crime. But confession also remains popular in contemporary detective fiction. From the forensic evidence of *Bones* to the policework of *Castle*, creating a narrative from circumstantial evidence and ending that narrative with a confession is still widespread in contemporary detective fiction.

While much of my dissertation has been concerned with the logical aspects of arguments in detective fiction, I see interesting possibilities for future research in analyzing how contemporary arguments in detective fiction play out for the reader. My

¹⁰¹ According to the respective broadcasting companies’ websites, in the 2013-2014 season, *Castle* aired on ABC, *Law and Order: Special Victims Unit* aired on NBC, *Bones* aired on FOX, and *Elementary* aired on CBS.

interests here are twofold. In the first place, I see an opening for a larger discussion of confessions in detective fiction, particularly in terms of its historicist and sociological implications. In the second place, there is evidence that the ways in which detective fiction presents arguments affects the readers' expectations for evidence in real courtrooms (Dysart), suggesting that art is shaping life in a very direct way.

Looking back to the nineteenth century, Walter Houghton notes that as much as the Victorian era was an age of optimism, it was an age of anxiety as well (54). Writing about the fear of atheism, Houghton states, "It was assumed, in spite of rationalist denials, that any collapse of faith would destroy the sanctions of morality; and morality gone, society would disintegrate" (58). Confession may well have become popular in detective fiction because it provides a testimonial counterbalance to the scientific proceedings of circumstantial evidence, thus reasserting the importance of an acknowledgement of guilt for a readership already anxious about the possible erosion of the moral beliefs of other society members. In confessing, the criminal admits to some wrong-doing, thus making it clear that moral standards still exist. Heta Pyrhönen states that, "Ostensibly, the genre would seem to reinstate certain very widely accepted values such as the sanctity of human life, the need for justice, the need to accept responsibility for one's actions, and the importance of truth" (*Murder and Mayhem* 156). Detective fiction reinforces such values through the mechanism of confession, which is able to convey to the reader not only what the events of the crime were, but *why* the criminal committed the crime in the first place.

Roughly a hundred and fifty years later, contemporary American society does not appear all that different from Victorian England when it comes to concerns about the

erosion of faith and its social implications. Debates about prayer in school, creationism, and marriage equality fill airtime in 24-hour news networks. Perhaps confession persists in contemporary detective fiction because of current concerns similar to those of the Victorians with regard to religion, science, and domestic relationships, as well as violent crime rates and the sentencing and punishment of criminals. If confession in detective fiction reinforces a largely consistent moral code by demonstrating that criminals can be caught and made to explain their actions, while allowing the audience to judge their actions as morally reprehensible, then it is not surprising that confession lives on in detective fiction.

Detective fiction not only reinforces the expertise and authority of policing forces, but it encourages the reader to become a policing agent him or herself as well. Additionally, the act of confession allows readers to be the moral arbiters of the case before them. Confession, then, in detective fiction is just as much a way to reinforce moral codes as it is to provide certainty about the events of a crime. Michel Foucault states in *Discipline and Punish* that at the beginning of the nineteenth century those deciding a verdict had new aspects to consider: “And the sentence that condemns or acquits” became “not simply a judgment of guilt, a legal decision that lays down punishment” but also “an assessment of normality and a technical prescription for a possible normalization. Today the judge – magistrate or juror – certainly does more than judge” (20-21). The reader of detective fiction becomes the juror who, by “hearing” the criminal’s confession, is equipped to make the “assessment of normality” that Foucault describes. When Lady Audley confesses in *Lady Audley’s Secret*, it becomes clear that she acted out of madness. When Miss Shedleigh confesses in *The Female Detective*, she

reveals to the reader that she had no criminal intention, but was merely carrying out another woman's dying wish. Jefferson Hope's confession in *A Study in Scarlet* shows that he was avenging the deaths of his beloved and her father. In each of those instances the criminal reveals the circumstances and motivations that lead to their criminal acts. By understanding why the criminal committed the crime, the reader can decide whether or not the criminal's motivations fit with societal norms.

Pyrhönen suggests that "whatever 'positive' or widely endorsed value is put forth, such promotion always has a transgressive act as its starting point" and that the reader enjoys voyeuristically partaking in the crime (*Murder and Mayhem* 156). I would argue that as much as the reader may enjoy the criminal element, she is simultaneously called to be his or her own agent of surveillance. Insofar as the reader is a juror, s/he is called to make moral pronouncements about the criminal. Insofar as the reader is enjoying any criminality, s/he is called upon to restrict his or her own desires. Foucault notes that the move to surveillance as a disciplinary model means that the individual "assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection" (202-203). Whatever sympathies the reader may develop with the criminal by understanding his or her motivations must quickly be restricted, and thus detective fiction reiterates and reinforces social norms.

Given the current popularity of detective fiction, a further study of confession and the ways it manifests itself could shed light upon the interplay between the social context of the creation of literature and how that literature is consumed. This could be particularly interesting when it comes to fiction that subverts reader expectations, as in *Dexter*, where

the primary detective is himself a serial killer. In Jacqueline Winspear's *Maisie Dobbs* series, Maisie, something of a psychic detective, finds killers who confess, but the texts also suggest that it is not so much the individual who is responsible for the crime as are the societal conditions in the aftermath of World War One. Confession, in those cases, becomes a more complex device.

While the underpinnings of the reader's desire for confession may be found in anxieties concerning moral codes in real life, confession is not always available, so there is a very practical reason for examining how detective fiction makes arguments as well: detective fiction shapes the way people form and judge arguments. One instance is the "CSI Effect," in which "high-tech, forensic science dramatized in television crime dramas...theoretically promotes unrealistic expectation of how apparently clearly and definitely forensic evidence can determine innocence or guilt..." (Dysart n. pag.). These types of expectations shape how juries determine what constitutes sufficient evidence for courtroom convictions. Dysart explains, "The *CSI* Effect has perhaps rewritten the standard burden of proof in the criminal context from 'beyond a reasonable doubt' to 'beyond any doubt.'" This effect suggests that people who watch detective shows become jurors who are uncomfortable with the very possibility of uncertainty.

One way that such a logical uncertainty could be removed is through a confession. However, presumably jurors are in the courtroom because the person on trial did not give a confession. The *CSI* effect suggests that jurors view certain types of forensic evidence as being "beyond any doubt" as well. Far from being conclusive, though, most forensic evidence is still just circumstantial evidence. It does not remove logical uncertainty; all forensic evidence can do is increase the probability that a given scenario is true. Without

direct evidence it is not possible, logically speaking, to be “beyond all doubt,” and, as I discussed in Chapter Three, direct evidence presents its own interpretive problems. What this means is that while readers and viewers become familiar with certain types of forensic evidence, they are not aware of the types of arguments that show how that evidence relates to a supposed crime. As much as people may have picked up about different technologies that can be applied to a forensic investigation, there is still more to learn about the arguments that make such technologies and evidence relevant.

I have endeavored to cast some light upon how evidence and arguments function in the narrow field of early British detective fiction, but my study could certainly be extended to encompass the wealth of detective fiction that has been published since then. Detective fiction bleeds together with almost every other contemporary popular fiction genre, and is constantly trying to reinvent its generic limits while, at the same time, maintaining the dual-narrative construction Todorov describes in *The Poetics of Prose*, namely that there is a story about a detective who is discovering the story of a crime (45). This structure ensures that there is always the need for an argument to be made in one narrative about the events of the other. And as long as there are such arguments, it is important to understand how they work. By analyzing arguments in detective fiction, future scholars could shed more light on the interplay between the reader and the text and on the ways such arguments and texts reflect and affect society.

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Presentations

- "Testimony as Evidence in *The Moonstone* and *The Law and the Lady*." North American Victorian Studies Association Conference for 2013. Pasadena: October 2013.
- "The Persuasive Power of Circumstantial Evidence in *The Notting Hill Mystery*." 67th Annual Rocky Mountain Modern Language Association Convention. Portland: October 2013. (Accepted)
- "Links of Iron': Circumstantial Evidence in *Lady Audley's Secret*." 66th Annual Rocky Mountain Modern Language Association Convention. Boulder: October 2012.
- "Delusions of Grandeur': The Evolution of the Cult Film in the Home Movie Era." Panelist with Dr. Maura Grady and Ms. Cassie Hemstrom. 2012 Joint Conference of the National Popular Culture and American Culture Associations. Boston: April 2012.

- “‘Inferring the Possibility of an Atlantic or a Niagara’: Arguments in Detective Fiction.” Far West Popular Culture Association/American Culture Association 23rd Annual Meeting. Las Vegas: February 2012.
- “The Rhetoric of Confession in Detective Fiction.” 33rd Annual Meeting of the Southwest/Texas Popular Culture Association/American Culture Association. Albuquerque: February 2012.
- “Social Norms and the WWI Detective Fiction of Jacqueline Winspear and Anne Perry.” Far West Popular Culture Association/American Culture Association 21st Annual Meeting. Las Vegas: March 2010.
- “Ads and Aesthetics: Teaching Visual Rhetoric in the College Classroom.” Far West Popular Culture Association/American Culture Association 21st Annual Meeting. Las Vegas: March 2010.
- “Sensational Scenes: Illustration Analysis and Early British Detective Fiction.” 31st Annual Meeting of the Southwest/Texas Popular Culture Association/American Culture Association. Albuquerque: February 2010.
- “Re-envisioning the British Golden Age Detective Novel: Jacqueline Winspear’s *Maisie Dobbs* Series.” 2009 Joint Conference of the National Popular Culture and American Culture Associations. New Orleans: April 2009.
- “Satiric Elements of Aristophanes’ *Lysistrata* in Ancient and Modern Productions.” Far West Popular Culture Association/American Culture Association 21st Annual Meeting. Las Vegas: March 2009.
- “Imperialist Thwarted: Rochester’s Identity Struggle in Jean Rhys’s *Wide Sargasso Sea*.” 62nd Annual Rocky Mountain Modern Language Association Convention. Reno: October 2008.
- “‘Caverns Measureless to Man’: The Sublime in Coleridge’s ‘Kubla Khan’.” Other Voices, Others’ Words: The Indeterminacy of Allusion Duquesne University Graduate English Conference. Pittsburgh: April 2007.
- “Using Blackboard to Facilitate Key Institutional Processes.” (with Diana Sasso, Anne Clifford, Constance Ramirez, and Paula Witt-Enderby) Pittsburgh Blackboard

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Employment/Teaching Experience

Information Literacy Fellow, University of Nevada, Las Vegas Lied Library Summer 2013

- Created a LibGuide for World Literature program pedagogy resources
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- Designed visual guides for students about how to use online databases, like Oxford Reference
- Identified multimedia resources for World literature instructors
- Provided sample information literacy assignments, handouts, and assessment materials

Instructor/G.A., University of Nevada, Las Vegas, Fall 2007 – Fall 2013

- ENG 098: Preparatory Composition – developmental composition (3 sections Fall 2013)
- ENG 101: Composition I – expository composition (1 section)
- ENG 101E: Composition I – first semester of a two-semester developmental composition course sequence (2 sections)
- ENG 101F: Composition I – second semester of a two-semester developmental composition course sequence (3 sections)
- ENG 102: Composition II – research composition (3 sections)
- ENG 231: World Literature I – Ancient to Renaissance literature (2 sections)
- ENG 232: World Literature II – Early Modern to Contemporary literature (8 sections)
- ENG 407A: Business Writing – business writing (2 hybrid online sections)
- ENG 407A: Business Writing – business writing (2 technology assisted face-to-face sections)
- ENG 407A: Business Writing – business writing (1 online section)

Research Assistant, University of Nevada, Las Vegas Spring 2009

- Assisted Dr. Evelyn Gajowksi by creating summaries of secondary research articles and books

Teaching Assistant, University of Nevada, Las Vegas Fall 2008

- ENG 231: World Literature I – Ancient to Renaissance literature

Consultant, University of Nevada, Las Vegas Writing Center

Fall 2007

MSCHE Accreditation G.A., Duquesne University

Fall 2006 – Spring 2007

- Worked as an assistant on Duquesne's MSCHE accreditation project
- Designed and managed an online database and Blackboard site
- Maintained Duquesne accreditation web site
- Collected and cataloged accreditation data
- Coordinated meetings and planned for the MSCHE team visit

Intern, Carnegie Library of Pittsburgh, Main Branch

May 2005 – August 2008

- Answered users' informational, directional, and reference questions
- Conducted reference interviews to assess users' information needs
- Developed readers' advisory subject guides
- Created book displays
- Provided users with information about their circulation records

Service

University of Nevada, Las Vegas

- World Literature Assessment Team, Spring 2013
- Graduate and Professional Student Association, Fall 2010 – Spring 2012
- GPSA Elections Committee, Fall 2010 – Spring 2012
- President, English Graduate Student Association, Spring 2010 – Spring 2011
- English Graduate Self Study Outreach Sub-Committee, Fall 2010 – Spring 2011
- English Graduate Self Study Assessment Sub-Committee, Fall 2010 – Spring 2011
- English Department Graduate Committee, Fall 2009 – Fall 2010

Awards and Grants

University of Nevada, Las Vegas

- Barrick Graduate Fellowship, 2011-2012 (\$14,000)
- English Department Travel Grant, Spring 2012
- GPSA Travel Grant, Spring 2010 (declined)
- English Department Travel Grant, Spring 2010
- GPSA Travel Grant, Spring 2009
- English Department Travel Grant, Fall 2008

Professional Memberships

America Library Association
Association of College and Research Libraries
North American Victorian Studies Association

Languages

French (Reading Proficiency)