
Book Review

Ian Ward, *Sex, Crime and Literature in Victorian England*, Hart Publishing, 2014, ISBN 978-1-84946-294-5, HB £30.00

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Can we learn more about Victorian jurisprudence through novels than we can through the works of Austin, Stephen or other Victorian jurists? Ian Ward's short book sets out to prove we can, by taking the reader on a romp through Victorian life; blending fiction, jurisprudence and the lives of his selected authors in an entertaining account of nineteenth century England. Drawing on this array of sources, the book provides a compelling feminist account of the regulation of Victorian sex, noting that while Austin wrote for a narrow and circumscribed circle of jurists, Dickens wrote for a public of hundreds of thousands. He is therefore critically important and "we need to read his novels, as we do those of Thackeray, Eliot and Gaskell, and Wood and Braddon and so on, because thousands and thousands of Victorians did.... [These] are the texts which shaped the Victorian mind, what it thought about women and their sexuality, about marriage, and about the law which was somehow supposed to regulate it" (28).

To analyse these narratives, Ward intertwines key pieces of fiction and excerpts from the lives of their authors with discussion of case law and legislative developments, effectively conjuring up a sometimes fevered literary and jurisprudential atmosphere. The period is one in which there was an explosion of literacy and reading, with both novels and newspapers reaching a huge new audience, and with women playing a far greater role as both readers and authors than ever before. Ward notes that "the idea that fiction played a vital role in the nurturing of an emergent female consciousness in nineteenth century England has become a critical commonplace" (85). Books were being written by women for women, none more so that the intensely contemporary 'sensational' novels, written by female authors for readers who were "female, middle-class and legion" (61).

It was a society obsessed with the family, home and 'womanly' women (and while single woman could be 'womanly' "they were generally viewed as being odd if they did not sooner or later get married" (5)). It was also a historical moment of great anxiety. The mid-Victorians were anxious over the criminality of 'fallen' women, whether within marriage (bigamists or putative divorcees) or outside (prostitution, murder or child-murder) and even more anxious over the potential that other women could fall. In this context, critical enthusiasm for moral didactic literature – novels which both pleased and educated – could be seen as a direct response to

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concerns that sensationalist literature was inimical to thought and reason. Reading was dangerous, and

“If there was one thing a Victorian gentleman liked more than worrying, it was reading about worrying things. The same, it was commonly felt, was true of his wife; indeed, of all the worrying things, few were more worrying than the thought that women were reading too much. Indeed, it was commonly supposed that women like [Charles Dickens’ partner] Ellen Ternan fell because they read novels written by men such as Charles Dickens.” (4)

Ward draws out the complexities of his literary materials, arguing that both sensationalist and realist novels could recommend conformity, while also citing instances of literature which constituted sites of resistance, challenging the law and legal establishment by bringing legal injustices to public attention, humanising the consequences of legislative injustices, and raising the voice of the silenced.

As such, some of the novels Ward draws on are expressly critical of the law, exposing flaws and injustices in the law, but the methodological aim of Ward’s analysis is to go beyond this and to draw out the iterative relationship of literature and law. The first novel discussed is Dickens’ *Dombey and Son*, where the law – and specifically criminality in the shape of assault, adultery and prostitution – is one of many dark shadows lurking around the house of the protagonist. This sets out Ward’s stall, as the rest of the book weaves law into his narrative, showing the different ways law and literature combine. This includes how specific cases influenced characters, such as Eliot’s Hetty Sorrel from *Adam Bede* and Ruth Hilton in Gaskell’s *Ruth*, and how the framework and incoherence of law regulating sex inside and outside marriage provided richness in realist and sensationalist plots. Conversely, he discusses how narratives of law were influenced by literature. An example of this interweaving is in his discussion of the interrelationship of sensationalist novels and the newly created Divorce Court. Ward examines how fiction shaped the way in which real life cases were read by the public, and conversely, how details of the cases heard fed novelists with salacious materials – accounts which were, according to Queen Victoria, of “so scandalous a character that it makes it almost impossible for a paper to be trusted in the hands of a young lady or boy” (37).

Ward takes legal frameworks as the organising principle of his book, and deals in the first two chapters with women falling within marriage, while the third and fourth chapters engage with regulation of sex outside marriage.

The marriage section of the book opens with the notorious adultery suit brought by MP George Norton against the then Prime Minister, Lord Melbourne, in 1836, in which Norton’s wife Caroline Sheridan Norton was accused of adultery with the PM in an action for criminal conversation. Prior to 1857, divorces were expensive and convoluted, requiring a successful criminal conversation suit and parliamentary

approval, with approximately 2-3 successful divorces a year. The Norton case, and the following 30 years' worth of consequent fall-out, provided crucial inspiration for authors of adultery novels, and a familiar context for their readers. Ward argues that Thackeray drew on Caroline Norton's experiences to write *The Newcomes*, "one of the most caustic critiques of marital practice in nineteenth-century English literature" (38). When divorce was introduced in the 1857 Divorce Act, the legislation created the Divorce Court and at the same time instituted a double standard whereby a wife's petition was more difficult to obtain than a husband's. Ward uses this legal shift to move to another place for literature: that of sensationalising the law, but also moralising and educating. Once the Divorce Act was in place, and divorces were thrilling daily news items, the best-selling novel of Victorian Britain, Ellen Wood's *East Lynne*, was published. *East Lynne* related the tale of notorious adulteress Isabel Carlyle and encouraged readers to "contemplate rather more closely the implications of the 1857 Divorce Act" (53).

The decade immediately after the creation of the Divorce Court is also the setting for the most absorbing chapter in Ward's account, in which he discusses the relationship between law, the sensational novel, and bigamy. Dual fuelled by the growing influence of French authors and the creation of the Divorce Court in 1857, novels about bigamy became huge sellers in the early 1860s. Real cases such as the *Yelverton* bigamy case influenced literary creations, including Braddon's *Aurora Floyd*, an amiable but unsettling bigamist, with "unfeminine interests and mysterious propensities" (74). Such novels reached an estimated audience of 5 million, mainly women, readers and were distinctive not only because their plots drew from and played with the newly created legal framework, but also because they were radical in being contemporary and grounded in the immediate moment. They also contained critical depth, and Ward notes that *Aurora Floyd* demonstrates that "If a woman makes a mistake, the law of marriage is not written to facilitate an easy redress. Matrimonial law is written by men for men, and the law of bigamy is part of that jurisprudence" (77). The bigamy novels were threatening because of an "insinuation that their heroines were driven to criminality because the institution of marriage so often causes pain, and the law of marriage is unable, and unwilling to provide relief" (84).

Ward then moves onto the regulation of sex outside marriage; focussing on illegitimacy and the cult of motherhood, before concluding with prostitution.

On motherhood, Ward highlights the "essentially jurisprudential" (95) distinction between a 'natural' mother and an 'unnatural' mother, where the latter had conceived her children outside marriage. In such an environment, "readers of Elizabeth Gaskell's *Ruth* were invited to consider an alternative; that the naturalness of a mother was better adjudged in terms of the quality of her devotion, and an appreciation of her maternal responsibilities" (95). Such accounts added to critique of the Poor Law regime, in which 'unnatural' mothers became primarily responsible

for their offspring, and if they were unable to provide, then Boards of Guardians and the workhouse beckoned. Prior to the Poor Law of 1834, fathers had been responsible, but the legislative change arose from a concern that this encouraged scheming young women and promoted immorality. Trollope's *Jesse Phillips*, "exposed the particular iniquity of a law which was 'plainly deficient in legislative morality'" (101). Ward argues that

"As was the case with adultery, divorce and bigamy, the readers of novels such as *Ruth*, *Adam Bede* and *Jessie Phillips* might be expected to share a common appreciation that there was something amiss in regard to illegitimacy and infanticide, and the various, often conflicting, rarely complementary array of statutes intended to proscribe, or where necessary, punish, their incidence." (117)

At the same time, legislative endeavours to counter prostitution and sex outside marriage, including the abhorrent regime under the Contagious Diseases Act 1864, proved ineffective, and as further endeavours to regulate were passed, "it was becoming ever more crisply apparent that the law ... could no more eradicate sexually transmitted disease than it could ensure connubial bliss" (145). However, it was not lawyers who led resistance but novelists, poets and critics, with key literary takes on prostitution highlighting injustices embedded in jurisprudence, whilst simultaneously humanising the prostitute characters and raising their previously silenced voices, from Dickens' Nancy to prostitutes in poems by Barrett Browning and both Christina and Dante Gabriel Rossetti.

As well as highlighting the influence of law on literature and vice versa, Ward also argues literature is essential to give meaning and context to Victorian law. His discussion draws on literature to explore the wider socio-political circumstances, noting that the historical moment he is examining is one of rationality and reform; reform focussed on efficacy rather than justice. Quoting Elizabeth Lynn Linton, law could or should not regulate love, but should keep the family together and maintain their peace, it "should never be 'invited into the heart of the house', but rather 'must be dragged across the threshold' like an 'evil spirit'" (25). Thus, using literature to contextualise the reform of law, Ward shows how themes of the privacy of the hearth, the public place of the idealised family, anxiety about transgression of the norm, rationality and progress, improvement, and the desire to prevent or rescue a fallen woman play into legal developments.

It is testament to the strength of Ward's inquiry that many of these themes can also be identified outside of the scope of this book but in the same historical moment. One example is the introduction of Lord Campbell's Fatal Accident Act in 1846, giving bereaved dependent families the right to sue for negligently caused death for the first time. In this moment of legislative reform, the law sought to maintain the peace of the family and protect them from external threat; rationalising the law and

formalising the family so that only spouses, parents and children could claim damages (where previously an unevenly applied regime of discretionary financial relief existed, through an inquest jury's ability to name an object deodand). At the same time, legislators expressed concerns about the need for law to enter the home to secure funds to bereaved children. As Viscount Sandon observed in the House of Commons, MPs had to protect children, as a widow left to herself might marry another man and "the money might all be expended the day after the verdict in a drunken frolic."¹

The novels Ward discusses are part of the fabric of this moment, but Ward also introduces us to the authors of these novels, and it is often in his discussion of their lives that his account is most engrossing. The lives and attitudes of George Eliot, Mary Braddon, William Thackeray and others provide valuable insights into their literary creations and their purpose in writing fiction, but it is perhaps Charles Dickens who is brought to life most vividly in Ward's narrative. Dickens stalks through the book; leaving his wife for a younger woman, popping up in the public gallery for the Norton case, and setting up a home for fallen women. This all builds towards his narcissistic, sensationalist readings of the brutal murder of Nancy by Sikes from *Oliver Twist*, designed to "perfectly petrify an audience" (121) and liable to result in fainting fits across the auditorium. Ward argues that Nancy's repeated death brought on Dickens' own, and as the account illustrates, in an age driven by the complexities of competing obsessions between decorum, sex, rationality, improvement and sensationalism, Dickens' life and death provide a compelling thread to follow.

Ward closes with an appeal to law students to read Victorian novels; if they did so they would "learn much not just about the state of English matrimonial and criminal law in mid-nineteenth-century England, but about its condition today" (148). This book, with its breadth and detail, has made such a reading possible for those of us lacking the author's grasp of the field, but it also powerfully re-states the value of an approach to academic research combining law and literature. For students uninterested in nineteenth century Britain, or unmoved by *Aurora Floyd* and *East Lynne*, the critical eye which Ward brings to bear can be applied to other fictional lives – Bridget Jones, Anastasia Steele or William Stoner perhaps – to identify, contextualise and explore the regulation of intimacy in other historical or contemporaneous moments and spaces. As such, Ward's narrative reiterates the potential wealth of insight which literature can bring to legal studies, as well as providing an enjoyable and stimulating read for those interested in family and criminal law, and the enduring influence of Victorian Britain on our contemporary lives.

¹ Hansard, July 22, col. 1369