

Columbia Law School

Scholarship Archive

Studio for Law and Culture

Research Centers & Programs

2013

Nature, Nurture, Narrative, Law: The *Wellesley Case*, *Oliver Twist*, and the Victorian Anxiety about Parentage

Sarah Abramowicz

Follow this and additional works at: https://scholarship.law.columbia.edu/law_culture



Part of the Family Law Commons

Nature, Nurture, Narrative, Law:

The *Wellesley* case, *Oliver Twist*, and the Victorian Anxiety about Parentage

Sarah Abramowicz¹

The success of Charles Dickens’s *Oliver Twist* (1838) heralded the popularity in Victorian England of a new type of novel that traced the experience of displaced child protagonists as they found their proper place in the world by working out their relationships with a series of parents and parent-figures. The Victorian novel of child development, as I will call it, came to prominence at the same time as did a new body of English law that also dealt with children and parents. This was the field of English child custody law, which in adjudicating disputes between parents and other caretakers began to articulate why and how parentage matters for a developing child. An examination of one of the first highly publicized English child custody disputes, *Wellesley v. Beaufort* (1827), will bring out some of the concerns about childhood and parentage that are also at work in *Oliver Twist*. The reading of *Oliver Twist* that follows will delineate the contours of the novel of child development, and in so doing will explore why stories of children and parents became prominent in the Victorian age, and why the novelistic versions of these stories so often intertwined attention to childhood experience with attention to law.

This paper argues that at stake in the Victorian story of the displaced and developing child was the fiction that the rigid social hierarchy of the feudal past was

¹ Assistant Professor of Law, Wayne State University Law School. Please email comments to: sabramowicz@wayne.edu.

giving way to a freedom-of-contract meritocracy. As the paper suggests through its reading of *Oliver Twist*, the Victorian narrative of childhood helped to contain within the specialized realms of the novel and of child custody law the uncomfortable truth that ascription of status by birth did not so much disappear as become reconfigured, into the more palatable figure of the developing child.

*

On the first of February, 1827, in a courtroom filled to capacity by a crowd that had waited since early morning for the courthouse to open,² Lord Chancellor Eldon of the Court of Chancery announced his decision in the monumental child custody dispute that treatise writers would still refer to decades later as “the celebrated case”³ of *Wellesley v. Beaufort*.⁴ After two years of widely publicized litigation that entailed the taking of over two hundred depositions, the scandalous details of which were reported in the London papers, the Lord Chancellor ruled to deny William Long Wellesley the custody of his three children. The decision did not award custody to someone other than the father—their mother, Catherine Wellesley, had died two years earlier (killed, according to counsel, by the “broken heart” inflicted by her husband's profligate behavior (240)), and as he refers the case to a Master to determine “in whose custody and care these children should be placed,” the Lord Chancellor notes that “I know not whether there be any body who will accept this guardianship” (251-52).

The father thus denied his children's custody had not treated them with cruelty or neglect; citing letters between Wellesley and his sons, the court notes that these exhibit

² See *The Times*, 2 Feb. 2 1827: 2 col. F.

³ William Forsyth, *A Treatise on the Law Relating to the Custody of Infants in Cases of Difference between Parents or Guardians* (London: William Benning, 1850) 16.

⁴ *Wellesley v. Beaufort* [the Duke of], 38 Eng. Rep. 236 (Ch. 1827). For all future citations from *Wellesley v. Beaufort*, page references to this report of the case will be given parenthetically in the text.

an affectionate solicitude about the their upbringing and education, and concedes that there was much that was “good” in the principles Wellesley sought to instill in his children (250).⁵ Nor was this father poor, or insolvent, or an outlaw, as had been most of the other fathers denied custody of their children earlier in the century: Wellesley was, in fact, socially prominent—he was a nephew of the Duke of Wellington, soon to become Prime Minister, and was himself a member of Parliament—and immensely wealthy. Yet the Lord Chancellor declares that he “ought to be hunted out of society if I hesitated for one moment to say, that I would sooner forfeit my life” (247) than permit the 9-year-old Victoria, along with 11-year-old James and 13-year-old William, to return to the care of their father. His decision ends with the defiant statement that “if the House of Lords think proper to restore these children to Mr. Wellesley, let them do so; it shall not be done by my act” (251).

Why was Wellesley denied custody of his children, in a legal decision that set a rarely-followed precedent for the Court of Chancery's power to interfere in a father's rights? Though much of the evidence presented in the case went to show that Wellesley had committed adultery, and in so doing had driven his wife, one of the wealthiest heiresses in England, to an early death (it was this story of adultery and heartbreak amongst the aristocratic elite that attracted the attention of the press), the court insists that its ruling does not rest on the “mere” fact of adultery (247). It rests its decision on a different sort of story: that of a father who has deliberately set out to raise children “eminent in rank and fortune” (240) in a manner that will render them indistinguishable from children of “the lowest classes of society” (249).

⁵ The court reporter summarizes Eldon as finding that Wellesley's letters, while often “objectionable,” also “manifested, upon the whole, much attachment towards his children, and much anxiety for their improvement” (239).

The court in telling this story draws heavily on the testimony of the doctor who treated Wellesley for venereal disease during his travels in Italy, focusing in particular on an anecdote that Wellesley was said to have recounted to the doctor to illustrate his manner of rearing and educating his children:

Mr. Wellesley often expressly declared his determination to let them associate with company or with children of the lowest classes of society, and of the most depraved habits: and also, that it was his particular wish and desire that his children should adopt the manners and language of the lower classes, in order that they may obtain a knowledge of the world; and upon many occasions, W. L. Wellesley has made it a boast to deponent, that he, while residing in Paris, had frequently procured children of the lowest description to come to the back of his house, to teach his children to learn and repeat the oaths and blasphemous language made use of by such vagabonds and others of the lowest order; and that, in return for the oaths so taught to, and learned and repeated by, the infant plaintiffs in the French language, he made his boys teach those low children to swear in English . . . (249)

Of the thousands of pages of often scandalous testimony presented to the court, it is this scene of the aristocratic father inviting children “of the lowest description” to come to the “back of the house” to teach his children to curse that became the core of the *Wellesley* case, and was referred to in later accounts as the basis of the court’s decision to remove these children from their father’s custody. The story told by the court is of a father who, by inviting in “vagabonds” to infect his children with their corrupting influence—consisting primarily of language, language so corrupt that manners and morals will presumably follow in its wake—violates the very boundaries of home and of social class that it is his duty to defend. The court agrees with the doctor who recounts this episode that it demonstrates Wellesley’s intent to erase all signs of his children’s social class, with the goal that one day “they should be qualified to enter into and associate with the lowest and most vulgar society, without the persons with whom they should associate being able to discern that they were the children of a gentleman, or gentlemen themselves” (249). It rules against Wellesley on the basis that it cannot permit him to carry out his scheme to “train up” his children in “a course of conduct, and with feelings

and sentiments, which must inevitably destroy their moral and civil characters, and render them unfit for the society to which their birth and station in life entitles them” (249).

Wellesley, from his side of the case, presents counter-evidence demonstrating that he never intended to eradicate the signs of his children’s aristocratic standing.⁶ On the contrary, Wellesley insists, his exposure of his sons to their lower-class peers was part of an educational plan designed to bring them up as proper gentlemen by training them to act toward “persons in an inferior station in life” in a manner that “make[s] them keep their places.”⁷ Wellesley would thus seem to share the court’s assumptions about the importance of class distinctions, and, if anything, to take a more sanguine view than the court about their durability: in letters to his sons that are left out of the story told by the court, Wellesley demonstrates the breezy confidence of an earlier age in which class distinctions were inviolable and unquestioned, telling his sons that in their interactions with their social inferiors, they should recall the example of Prince Hal from Shakespeare’s *Henry IV*, and remember that they, too, would eventually need to leave their Falstaffs behind.⁸ But this and other evidence of Wellesley’s belief in class distinctions, and of his attempt to raise his children in accordance with their rank and station, are not cited by the court, and disappear from later accounts of the case. The story that remains is that of the father whose goal was to train up his children in a manner that would obliterate all signs of the social identity to which they were born.

The *Wellesley* case was the first to bring widespread attention to the rights of parents to the custody and care of their children. Wellesley used his prominence and his

⁶ See Affidavit of William Long Wellesley, filed with the Court of Chancery on 25 May 1826, reprinted as Affidavit No. 53, Record on Appeal to the House of Lords 92 [hereinafter "Affidavit No. 53"].

⁷ See letter from Wellesley to the children's tutor, dated 4 Sept. 1824, reprinted as Affidavit No. 100, Record on Appeal to the House of Lords 186.

⁸ See Affidavit No. 53, quoting letter from Wellesley to his son William, dated August 1824.

extensive resources to ensure that if the Court of Chancery were to keep him from his children, it would do so under great public scrutiny. He refused entreaties to have the case heard in private,⁹ and when he lost in the Court of Chancery, Wellesley appealed to the House of Lords, with the result that in 1828 the House of Lords for the first time debated, and ultimately affirmed, the right of the Court of Chancery to remove children from the custody of their fathers.¹⁰ In the decades that followed, child custody disputes would continue to proliferate, and in many instances to be highly publicized.¹¹

The story told by the *Wellesley* court, of a father who sets out to form his upper-class children into a lower-class mold, would be echoed ten years later in the groundbreaking work of another discourse. In 1838, Charles Dickens published *Oliver Twist*, thus initiating the variant of the English novel that I am calling the novel of child development, which would become one of the signature forms of Victorian English literature. *Oliver Twist*, like the *Wellesley* case, tells of a man's plot to raise a child so that he will be unfit to enter the social station of his parents. Oliver is the son of a middle-class "gentleman" and of a middle-class mother who bears her son out of wedlock.¹² Because his mother runs away out of shame and dies as soon as she gives birth, Oliver, his origins unknown, spends his early years raised as a workhouse pauper in a rural village. When Oliver eventually, at the age of ten, runs away to London, he is taken in by Fagin, a leader of the London criminal underworld who fills out the ranks of his criminal enterprise by taking in young children and subjecting them to a course of upbringing and

⁹ Wellesley thus provoked what the Lord Chancellor characterizes as "a most distressing discussion," distressing because "matters of so much delicacy" are "discussed and argued in public" (242-43).

¹⁰ See *Wellesley v. Wellesley*, 4 Eng. Rep. 1078 (H.L. 1828). For all future citations from *Wellesley v. Wellesley*, page references to this report of the case will be given parenthetically in the text.

¹¹ See Susan Maidment, *Child Custody and Divorce* (London, Croom Helm: 1984) 110-43.

¹² Charles Dickens, *Oliver Twist*, ed. Fred Kaplan (1838; New York: Norton, 1993) 360. For all future citations from the novel, page references to this edition will be given parenthetically in the text.

education designed to train them as criminals (the girls become prostitutes, the boys pick-pockets and robbers). Fagin works assiduously to transform Oliver into a criminal as well, teaching him to act, speak, and even feel like a criminal by exposing him to the company of his gang of child thieves, who give Oliver lessons in criminal morality and criminal slang; by presenting pick-pocketing as a merry game; and by arranging for the sensitive child to be forced into committing a criminal act that will “fill his mind with the idea that he has been a thief,” thus making him “ours! Ours for life!” (137).

With scenes of the grimy, corrupt Fagin giving this son of a gentleman lessons in pick-pocketing and in the language of crime, Dickens creates a fictional version of the social nightmare presented by the *Wellesley* case. The parallel deepens when we learn that Fagin has been hired by Oliver’s diabolical half-brother Monks to carry out a plot even more similar to the one that the Court of Chancery attributes to Wellesley: to instill in Oliver, who as Monks knows is “a gentleman’s son” (276), a character appropriate instead to the lowest ranks of English society. The children in the *Wellesley* case come from the highest ranks of English society, and Oliver is merely of respectable birth, but the alleged plot against them is in both cases the same: an attempt to educate and raise children against the grain of the social class into which they were born. In the legal case and the novel alike, we see machinating villains and depraved children working together to render the child-heroes “unfit for the society to which their birth and station in life entitles them.”

*

As we start to see in the *Wellesley* case and in *Oliver Twist*, both Victorian child custody disputes and the Victorian novel of child development were centrally concerned

with the connections between parentage, parenting, and traditional distinctions of social class. The House of Lords, in affirming the power of the *Wellesley* court to remove children from the custody of their father, found that even though a father's rights are "sacred," it would pose "the greatest possible mischief to the country" to leave courts powerless to prevent a father from raising a future "peer of the realm" in a vulgar mold:

[I]t could never be endured that the country should be in such a situation, that children, such as these are, particularly, should be in the power of the father to treat as he might think proper with respect to their education, the eldest child in this case likely to be a peer of the realm.

Only consider to what extent this might go. It might happen that a person might form an improvident marriage. A lady who had high expectations, might marry a person of the lowest, and most profligate description, and her son might, after her death, be entitled to a great property, and might also be a peer, the father being a person of the most abandoned description, of the worst education, the most improper person to have any care or direction of the management of that son; and is the doctrine to be endured that there does not exist in this country a jurisdiction to control the power of the father in such circumstances. (1084)

What sort of "mischief to the country" did the House of Lords fear? At the time *Wellesley* was decided, Parliament, under pressure to stave off popular uprisings such as were then occurring throughout Europe, was debating the legislation that would become the Reform Act of 1832. That Act would greatly weaken upper-class power by extending the political franchise to a large portion of the male middle class and reallocating Parliamentary seats to better represent England's rapidly expanding urban population.¹³ Given this background, the image of Wellesley deliberately importing a lower-class influence across the threshold of his home suggests an anxiety about what would happen should Parliament permit "this house" (1080)—the House of Lords—to be invaded from within by a lower-class influence. Moreover, a hybrid monster such as the House of Lords believed that Wellesley was trying to produce—a member of that House indistinguishable in mind and manners from the most vulgar members of society—could

¹³ See generally A.V. Dicey, *Lectures on the Relation Between Law and Public Opinion in England During the Nineteenth Century* (London: Macmillan, 1905) 31-32, and Karl Polanyi, *The Great Transformation* (1944; Boston: Beacon P, 1957) 101-02.

undermine the claim of superior character on which the landed classes rested their increasingly tenuous hold on political power.

Published shortly after the Reform Act went into effect, *Oliver Twist* conveys the anxiety of the middle class about the precariousness of its own ascendant social status at a time when the English social hierarchy and political regime seemed newly up for grabs.¹⁴ Fagin's attempt to raise Oliver, a gentleman's son, as a common criminal—a middle-class version of the "perverted" (240) child rearing feared by the *Wellesley* court—is a nightmare scenario. It is a nightmare of individual dislocation and displacement from middle-class status, a theme that recurs throughout Dickens's novels and recalls his childhood trauma of being forced to work in a blacking factory when his father was imprisoned for debt. It is a nightmare about the horrors of poverty. And it is a nightmare about the possibility that middle-class status, and the comforts of middle-class life, are both precarious and undeserved. Fagin's attempt to corrupt Oliver raises the question of what, if anything, distinguishes one social class from another. What if Fagin were to succeed in transforming Oliver into a criminal? Would this not suggest that what distinguishes the comfortable middle class from paupers and criminals is not any superior virtue or merit, but simply the accident of birth?

¹⁴ *Oliver Twist* is often characterized as a "fable" of middle-class emergence, one of several that were published "during the turbulent period between the Reform Bill of 1832 and the onset of middle-class prosperity." Nancy Armstrong, *Desire and Domestic Fiction* (New York: Oxford UP, 1987) 51-52. As Catherine Waters observes, the "fable of identity for the newly risen middle classes" that Oliver's story provides works on two fronts, distinguishing the newly powerful middle class both from the declining aristocracy and from the growing ranks of the English poor. Catherine Waters, *Dickens and the Politics of the Family* (Cambridge: Cambridge UP, 1997) 31-32.

Oliver Twist, the first serious novel of child development,¹⁵ exhibits what would become the defining feature of the genre: it uses the story of a displaced child to raise questions about the definition and function of parentage, and thus the validity of class distinctions, at what was seen as a time of social and political upheaval. Like many other instances of the genre, *Oliver Twist* maps these questions onto the terrain of law with a plot that explores the role of law in formulating parentage and therefore identity. While *Oliver Twist*, like many Victorian novels, attempts to distinguish law from novelistic narrative as competing enterprises, it at the same time collapses those distinctions by suggesting how narrative and legal innovations can work together to negotiate this upheaval in a way that seems to question, but ultimately preserves through transformation, the status quo.¹⁶

I. The Contradictory Form of *Oliver Twist*: Dickens's Double-Take on Nature v. Nurture

Oliver Twist was the first English novel to feature a child protagonist and to pay extended attention to childhood experience.¹⁷ Whereas prior novelists such as Henry Fielding, Samuel Richardson, and Jane Austen attended to the adventures of adolescents or young adults, *Oliver Twist* opens with Oliver's birth, and ends when Oliver is twelve

¹⁵ *Oliver Twist* has also been described, more generally, as "the first important Victorian novel." J. Hillis Miller, "What the lonely child saw: Charles Dickens's *Oliver Twist*," in *Victorian Subjects* (Durham: Duke UP, 1991) 32.

¹⁶ The notion of "preservation-through-transformation" was formulated by legal historian Reva Siegel, who describes it as a process of legal change by which "[s]ocial struggle over the legitimacy of a status regime . . . produce[s] changes in its formal structure" such that "the legal system [is] still . . . enforcing social stratification, but by new means." Reva Siegel, "The Rule of Love': Wife Beating as Prerogative and Privacy," *Yale Law Journal* 105 (1996): 2180.

¹⁷ As Franco Moretti notes, the English variant of the *Bildungsroman* attends to the experience of childhood in a way that the European *Bildungsroman* does not. Moretti argues that the focus on childhood by the English *Bildungsroman* reworks a genre that in its European incarnations celebrates the freedom and mobility of youth into one that instead celebrates the security and stability of tradition and the past. See Franco Moretti, *The Way of the World* (London: Verso, 1987) 191-228. My own view is that the Victorian novel makes the more complex and conflicted move of using childhood to explore both the desire for, and the impossibility of, any meaningful freedom of choice.

years old. This attention to childhood experience is combined with a middle-class version of the foundling plot, or story of mysterious birth,¹⁸ which I will also call the parentage-recovery plot.¹⁹

Earlier English novels had featured a foundling plot, most notably Henry Fielding's *Tom Jones* (1749), which is the most salient precursor to *Oliver Twist* and to the Victorian novel of child development. Although *Tom Jones*, like *Oliver Twist*, tells of an illegitimate foundling who eventually discovers his proper parentage, Fielding devotes only a few paragraphs to the childhood experience of the foundling hero, who for the bulk of the novel is a young adult. Dickens's great innovation in *Oliver Twist*—which would become the defining feature of the Victorian novel of child development—was to integrate a plot about parentage lost and found with an extended representation of the experience of a developing child.²⁰ By grounding the foundling plot in the experience of a child protagonist, *Oliver Twist* establishes a new paradigm that questions the nature and relevance of parentage as earlier English novels had not, and in so doing encapsulates a particularly Victorian anxiety about the connections between parentage and social class at the outset of a newly unstable legal and political regime.

In the traditional fairy-tale version of the foundling plot, a child of unknown origins, raised in humble circumstances, eventually discovers that he or she is of noble

¹⁸ Northrop Frye, in discussing the relation between myth and literature, characterizes the plot that is the basis of *Oliver Twist* as a "foundling plot," and observes that this convention "goes back to . . . to Euripides, and so back to such myths as the finding of Moses and Perseus." Northrop Frye, *Fables of Identity* (San Diego: Harcourt Brace, 1951) 34.

¹⁹ Franco Moretti characterizes this plot as the "recognition-inheritance pattern," and notes that it is "virtually non-existent in European narrative," but is "the most typical form of the English happy end." Moretti 205.

²⁰ Dickens's formal innovation in *Oliver Twist* has not been formulated by others in quite this way, although several have noted Dickens's innovative attention to a child's perspective, often linking it with the message of social reform that *Oliver Twist* conveys. Thus, for instance, J. Hillis Miller writes that "it might be said that Dickens' special innovation in literature is the presentation of the realities of city life as seen through the eyes of a lonely child." J. Hillis Miller 37.

birth.²¹ Like the typical foundling hero, Oliver, born in mysterious circumstances and raised in poverty, demonstrates traits, such as physical beauty, that mark him as superior to his lower-class peers; it is because of Oliver's unusually delicate appearance that Fagin thinks him more valuable than the other young boys in his criminal enterprise, whose "looks convict 'em" (137). The origin of the foundling's superiority becomes clear when the child matures and discovers his or her true parentage: in the case of Oliver, that he is the son of a middle-class "gentleman," a social category that, while it applied to the upper classes as well as to the respectable middle class, would in Victorian England become an increasingly prominent facet of middle-class identity.²²

Just as the fairy tales end with the foundling princess reclaiming her proper place in the royal palace, often by reuniting with the king and queen and then marrying a prince, Oliver's story ends with his integration into a middle-class family. Oliver is adopted at the end of the novel by his father's friend Mr. Brownlow, who is, like Oliver's father, a "gentleman" (73), and they retreat to a "little society" (357) in which they are joined by Oliver's newly discovered aunt, Rose Maylie, and her own adoptive mother, a "lady" (347) who is Mr. Brownlow's female counterpart. Rounding out the middle-class nature of the society in which Oliver is ensconced as the novel comes to a close, he and his reconstituted family are joined by two archetypally middle-class friends, Mr.

²¹ Anny Sadrin similarly identifies the foundling plot of *Oliver Twist* with the genre of the fairy tale. See Anny Sadrin, *Parentage and Inheritance in the Novels of Charles Dickens* (Cambridge: Cambridge UP, 1994) 30-43, 99. As Sadrin observes, the story of the foundling that Dickens plays out in *Oliver Twist* corresponds with what Freud termed the Family Romance, the daydream by which a child struggling to "liberate" himself from "the authority of his parents" creates "a phantasy in which both his parents are replaced by others of better birth." Sigmund Freud, "Family Romances," in James Strachey, ed., *The Standard Edition of the Complete Psychological Works of Sigmund Freud* (London: Hogarth P, 1959) 237-41.

²² See Robin Gilmour, *The Idea of the Gentleman in the Victorian Novel* (London: George Allen, 1981).

Grimwig, the lawyer, and Mr. Losberne, the doctor. This ending seems fitting and just, a restoration of the initially displaced child to his proper social station.

The central ideological assumption of the foundling plot is that every person has a distinct place in the social hierarchy, a place assigned at birth. The typical foundling plot takes for granted the rigid social hierarchy of an earlier feudal regime populated by kings, nobles, and peasants. In this regime, parentage and social class are inextricably linked, such that the child's displacement from or restoration to his or her parentage is simultaneously a displacement from or restoration to his or her proper social class. The message of this plot is that social identity is static: The child of royalty who is raised by a peasant, but eventually becomes king, does not undergo a transformation, but simply reclaims the identity that was his all along.

Dickens expresses ambivalence about the hierarchical assumptions of the foundling plot even as he sets it in motion, thereby setting the stage for formal and ideological contradictions that will deepen as the novel progresses. In the opening scene of *Oliver Twist*, the narrator, after describing Oliver's birth to an unidentified mother who dies in the process, makes the following observation about the infant hero:

Wrapped in the blanket which . . . formed his only covering, he might have been the child of a nobleman or a beggar; it would have been hard for the haughtiest stranger to have assigned him his proper station in society. (19)

Here the narrator implicitly distances himself from the social snobbery of the "haught[y] stranger" who would insist on assigning each individual his "proper station in society," and who takes for granted that this station is determined by asking whether one is "the child of a nobleman or a beggar." The narrator's egalitarian tone is sustained in what follows, as Oliver is "badged and ticketed" as a "parish child":

[N]ow that he was enveloped in the old calico robes which had grown yellow in the same service, he was badged and ticketed, and fell into his place at once—a parish child—the orphan of a workhouse—the humble half-starved drudge—to be cuffed and buffeted through the world—despised by all, and pitied by none. (19)

The figure of the naked child stands, it seems, for the interchangeability of social identity, and the original equality and potential of us all. Here and throughout *Oliver Twist*, the figure of the innocent child “cuffed and buffeted” by the world—as Oliver is when he is starved, beaten, and alternately left to sleep on the streets and locked in grim cells—works both to expose the extent of Victorian social problems such as poverty and urbanization and to criticize the legislative response to those problems, in particular the New Poor Law of 1834, which goes into effect, Dickens informs the reader, just as Oliver enters the workhouse at the age of nine. When the reduction in food rations mandated by that law inflicts on Oliver the “tortures of slow starvation” (26), Oliver’s childish innocence conveys the fallacy of treating poverty as akin to crime, as Dickens believed the Poor Law did by making poor relief as unpleasant as possible. When Oliver leaves the workhouse, the vehicle of the innocent and unthreatening child then enables Dickens to depict, and to encourage empathy with, not just this one child’s suffering, but that of those he encounters as he moves from place to place, from the “houseless wretches” of the rural slums (47) to the “heaps of children” Oliver observes “crawling in and out” of the London tenements (64).²³

But if the figure of the naked child suggests the equality of us all, the plot of *Oliver Twist*, by tracing Oliver’s recovery of his parentage and restoring him to the social station that that parentage entails, seems to support instead the hierarchical world-view of

²³ The connection between *Oliver Twist*, the figure of the child, and resistance to the New Poor Law has been much remarked on; as many have noted, “[f]rom the start, *Oliver Twist* was a player in the public debate over the new poor law,” with the scene of the innocent Oliver asking for more cited heavily by those critical of the new legislation. Laura C. Berry, *The Child, the State, and the Victorian Novel* (Charlottesville: UP of Virginia, 1999) 44.

the “haught[y] stranger.” The import of this plot is that dressing Oliver in pauper’s rags and sending him off to the workhouse was a mistake, not because it is wrong to “badge and ticket” any child as a parish drudge, but because the badging and ticketing in this case was inaccurate, in that it provided the incorrect answer to the question of Oliver’s parentage. By setting up the opening scene of the novel as one of mysterious birth and following it by slowly unraveling the mystery of Oliver’s parentage, Dickens asks—and thus assumes the importance of—the very question he derides: Is Oliver the son of a nobleman or a beggar? Or is he, as it turns out—in this and many other Victorian novels of child development—the son of a gentleman?

*

By integrating the foundling plot with an extended representation of childhood experience, *Oliver Twist* at once undermines, and ultimately affirms, the hierarchical assumptions of that plot. This ambivalence is displayed most prominently by the novel's contradictory staging of what today we would term the contest between “nature” and “nurture,” terminology popularized in the 1860s by Francis Galton, a founder of the eugenics movement, to describe the relative effect of heredity and biology on the one hand, and environment and parental upbringing on the other. This contest is staged most vividly in *Oliver Twist* by Fagin’s attempt to make Oliver into a criminal, but it is set in motion as soon as Oliver starts to mature. In summarizing Oliver’s first nine years being “brought up by hand” on the baby farm run by a Mrs. Mann who is as unmotherly as her name suggests (19), the narrator conveys a belief that character is, at least in part, biologically inherited by explaining that Oliver survived an early upbringing that killed many of his peers because of the “good sturdy spirit” that had been “implanted . . . in

Oliver's breast" by "nature or inheritance" (21). A bit later, describing the effect on Oliver of his subsequent experience in the workhouse, the narrator then gives voice to the Lockean view that a child's character can be influenced and reshaped by upbringing and environment:

Oliver, instead of possessing too little feeling, possessed rather too much; and was in a fair way of being reduced, for life, to a state of brutal stupidity and sullenness by the ill usage he had received. (39)

The contest between nature and nurture has thus been framed early on: Will Oliver's natural spirit be worn down, or otherwise "reduced," by his early experience of deprivation and brutality?

While the foundling plot had always, on a theoretical level, tested the relative power of nature and nurture, Dickens's formal innovations make the contest a much closer one. The genre of the novel is distinguished by its "realism," a convention typified, in part, by attention to the everyday life of the protagonist.²⁴ By applying the techniques of the novelist to a child protagonist, Dickens presents in concrete detail the various environments to which that child is exposed during his first twelve years, and thus heightens the plausibility that these will work in accordance with the Lockean model to influence his course of development.²⁵ In representing Oliver's trajectory from baby farm to workhouse to an apprenticeship in which he is beaten and starved and exposed to the horrors of rural poverty, Dickens renders with precision the environmental pressures—

²⁴ See Ian Watt, *The Rise of the Novel* (Berkeley: University of California Press, 1957) 9-34.

²⁵ While novelistic realism has often been linked with the epistemology of John Locke, see Watt 12, 21, it should also be noted that the Victorian extension of novelistic realism to the representation of childhood necessarily invokes the model of child development through which Locke presented his epistemology, according to which children begin life as a blank slate, and are formed into their adult selves through their upbringing and their early experiences. See John Locke, *An Essay Concerning Human Understanding* (1690) and *Some Thoughts Concerning Education* (1693).

both physical and psychological—that are brought to bear on this child as he tries to make his way in the world.²⁶

The contest between nature and nurture becomes most acute when Oliver arrives in London and is taken up by Fagin and his criminal gang. Here *Oliver Twist* falls within the tradition of the Newgate novel, a genre popular in the 1830s and 1840s that recounted the lives of criminal protagonists whose real-life counterparts were featured in the *Newgate Calendar*, a fact-based publication to which Dickens alludes when Fagin at one point gives Oliver a book describing “the lives and trials of great criminals” (140).²⁷ Like other Newgate novels, *Oliver Twist* depicts the London criminal underworld, and does so in a manner that conveys the influence of environment in forming the criminal character.²⁸ But *Oliver Twist* departs from the Newgate tradition in that the great criminals whose “lives and trials” it depicts—most notably, Fagin, who is tried and condemned to death near the end of *Oliver Twist*—are only peripheral to the central story of the novel. As one of a series of would-be surrogate parents who take temporary custody of the child protagonist, Fagin stands for the possible influence on Oliver of the criminal underworld, just as Mrs. Mann stands for the possible influence of the baby

²⁶ There is critical disagreement on the realism, or lack thereof, of the depiction of the London underworld in *Oliver Twist*. In “Another Version of Pastoral: *Oliver Twist*,” *ELH* 35.3 (1968), Joseph M. Duffy, Jr., argues that this is “a novel where no serious attempt at realistic depiction is made,” viewing Dickens’s representation of Fagin and his gang as the “stylized” counterpart to Dickens’s equally exaggerated representation of pastoral bliss. Duffy 413. Others, however, view Dickens’s representation of the London underworld as notably “realistic,” and as such at odds with other, less realistic aspects of the novel, such as the pastoral ending, the fairy-tale plot, and, as I will discuss below, the character of Oliver himself. Thus, for example, J. Hillis Miller argues that Dickens in *Oliver Twist* employs a style of “realistic reporting” to represent “the actual experience” of life in the workhouse and in the London slums, while noting the disjunction between this gritty realism and the novel’s “fairy-tale” plot. J. Hillis Miller 33-34, 41.

²⁷ For an account of the place of *Oliver Twist* within the Newgate tradition, see Jonathan Grossman, *The Art of Alibi* (Baltimore: Johns Hopkins UP, 2002) 137-63. See also Robert Tracy, who views *Oliver Twist* as moving from a satiric account of the workhouse to a realistic drama within the Newgate tradition to a melodramatic story within the equally popular Gothic tradition. Robert Tracy, “‘The Old Story’ and Inside Stories: Modish Fiction and Fictional Modes in *Oliver Twist*,” *Dickens Studies Annual* 17 (1988): 1-33.

²⁸ Grossman 137-63.

farm, and Bumble that of the workhouse. *Oliver Twist* thus—in a move that threatens to collapse, but ultimately defends, the distinction between the criminal poor and the deserving middle-class—recasts the question of how environment produces crime into the broader question of whether character is determined by the environmental accident of how each child is parented, or whether it is more durable, deriving instead from the seemingly immutable fact of parentage.

With the appearance of Fagin as a monstrous father-figure, the contest between nature and nurture becomes one between the middle-class parentage that is Oliver's by birth and the criminal parenting that Fagin tries to impose on Oliver. In the most realistic scenes of the novel, Dickens describes Fagin's techniques with an attention to detail that shows the full extent of the psychological pressures that Fagin brings to bear on the child in his attempt to "instill . . . into his soul the poison which he hoped would blacken it, and change its hue forever" (131). Fagin's likelihood of success is enhanced by his status as the first nurturing parent-figure that Oliver encounters. When Oliver first makes his way to London, Fagin gives the exhausted and thus-far mistreated child a warm welcome, feeds him hot sausages and gin, and then, in the first tender gesture that Oliver has experienced, he feels himself "gently lifted" and put to bed (66). Dickens shows Fagin to be a deviously effective teacher and parent-figure, who makes a life of crime seem both pleasant and admirable by treating pick-pocketing as a game and telling the eager-to-please Oliver that he will become a "great man" if he "models" and "pattern[s]" himself (71) on the other "pupils" in Fagin's entourage (66). Fagin comes across to the child as a "merry old gentleman" (66), and at the outset there is no reason for Oliver to know that Fagin not a "gentleman" at all, nor a father whose nurture he should accept, but instead a

monstrous double of the real thing, the gentleman-father Oliver will eventually find in Mr. Brownlow.

If the outcome nonetheless seems foreordained, this is because of the great formal divide within *Oliver Twist*: the disjunction between Dickens's representation of Oliver's environment and his representation of Oliver himself. Oliver is so good, so passive and blank, and, most importantly, changes so little over the course of his history,²⁹ that he is clearly, as Prospero said of Caliban, albeit with opposite import, "one on whose nature/Nurture will never stick."³⁰ If Fagin fails to have any effect on Oliver, this is in part because Oliver is a remarkably flat and unchanging child. Other than his bland goodness, Oliver is in many ways a blank. Unlike the Wordsworthian child, and unlike some of the adult characters in *Oliver Twist* with whom the reader is meant to identify, Oliver is given very little interiority: we rarely have access to his thoughts and mental impressions, and while we witness his early experiences, we are never presented with his memories of those experiences.³¹ It is therefore not surprising that Oliver's experiences have no formative effect on him: he has no interiority, no memory, and no real personality on which these experiences, however "realistically" rendered, can make their

²⁹ Oliver's extraordinary passivity and immutability have been commented on extensively. As J. Hillis Miller noted, Oliver's is a story of "passivity, the passivity of waiting, of expectation, of 'great expectations.'" J. Hillis Miller, *Charles Dickens, The World of his Novels* (Cambridge: Harvard UP, 1958) 36-84. Both Anny Sadrin and Steven Marcus view Oliver's passivity as rendering him a figure of secularized grace. Sadrin 33; Steven Marcus, *Dickens from Pickwick to Dombey* (New York: Basic Books, 1965) 67-91.

³⁰ William Shakespeare, *The Tempest* 4.1.188-89. For a discussion of this passage in the context of Shakespeare's representations of adoption, fostering, and heredity, see Marianne Novy, *Reading Adoption* (Ann Arbor: U of Michigan P, 2005) 84.

³¹ Although Oliver does not seem to have any interiority of his own, he does invoke it in those who observe him: Oliver's face inspires in Brownlow an uncanny nostalgia, "awaken[ing]" in him "buried . . . recollections" of his own past (76), and it reminds the prostitute Nancy of a "long-forgotten feeling" (139) that in recalling her to her childhood self awakens her dormant goodness.

mark.³² As implied by the subtitle of the novel—"The Parish Boy's Progress," a reference to Bunyan's religious allegory³³—Oliver is less a realistic child than an allegory for goodness and innocence.³⁴ In fact, as many have noted, Oliver does not even "progress" to the extent that Bunyan's pilgrim does, a stasis all the more striking given that Oliver appears not in a religious allegory, but in a novel that unlike religious allegory³⁵ invokes the conventions of realism, including the expectation that the protagonist will develop over time.³⁶

But the disjunction between the realistic account of Oliver's environment and the unrealistic representation of Oliver himself is a productive one, making visible a faultline that will continue to run throughout the Victorian novel of child development, but will become more difficult to discern as the representation of the childhood becomes increasingly consistent with the conventions of novelistic realism. This is the faultline between the conception of identity embedded in the foundling plot, and that conveyed by the representation of reality that the novelist presents in the telling of that plot. In *Oliver Twist*, this faultline emerges most prominently in the paradoxical move by which Dickens

³² As Hilary Schor summarizes, "[c]ritical responses to Oliver have ranged from those who view him as no character at all, a cipher, to those who, while allowing him to be a character, believe him an improbable one." Hilary Schor, *Dickens and the Daughter of the House* (Cambridge: Cambridge UP, 1999) 22.

³³ For a discussions of the relation between *Oliver Twist* and Bunyan's *The Pilgrim's Progress*, see Marcus 74-75 and Janet Larson, "Oliver Twist and Christian Scripture," from *Dickens and the Broken Scripture* (Athens: U of Georgia P, 1985) 47-67.

³⁴ Dickens underscores Oliver's allegorical quality when, in his Preface to the third edition of *Oliver Twist*, he explains that "I wished to show, in little Oliver, the principle of Good surviving through every adverse circumstance" (3).

³⁵ Compare Ian Watt's observation that one cannot seriously object to the lack of temporal realism in *The Pilgrim's Progress*, because "there is not enough evidence of the reality of time for any sense of discrepancies to be possible." Watt 24.

³⁶ Thus, Anny Sadrin describes Oliver as "the fairy-tale hero of a realistic novel." Sadrin 40. *Oliver Twist* is deeply contradictory on a number of levels, generically as well as thematically. Some of the contradictions that others have identified in *Oliver Twist* include the following: a simultaneous affirmation and rejection of the notion that character is socially determined; a simultaneous sympathy with and hostility toward the lower classes; and a contradiction between the mode of "realism" and that of what Sadrin calls the "fairy tale," Schor calls "romance," and Larson that of the religious parable. Sadrin 30-43; Schor 19-32; Larson 47-67. My argument is that these disjunctions are produced in part by the contradictions built into the novel of child development.

uses Oliver's innate and unchanging—and therefore, by the environmental logic of *Oliver Twist*, unrealistic—goodness to castigate those who believe goodness, or its absence, to be innate.

Oliver is repeatedly treated, in his early childhood, as if his birth in the workhouse were a sign of moral turpitude inherited at birth. We know early on that Oliver is virtuous—he is appropriately grateful when treated well, and accepts brutal treatment with a meek obedience from which he departs only once, and then to defend his mother's virtue when Noah Claypole suggests that she was a prostitute. We thus align against those who assume that Oliver “will come to be hung” (29), as one workhouse official repeatedly predicts, because workhouse foundlings such as he are “born of low and vicious parents” (123), as Bumble puts it, and therefore are necessarily, in the words of Mrs. Sowerberry the undertaker's wife, “dreadful creaturs, that are born to be murderers and robbers from their very cradle” (53). Dickens condemns this static and hereditary view of character by having it voiced by such unpalatable figures and by having the angel of the novel, Rose Maylie, voice the contrary view—based on her own experience as an adopted child—that children are formed over time by their environment. Urging that her own adoptive mother take in Oliver as well, even though he seems to have participated in the attempt to burglarize their home, Rose argues that even if Oliver “has been wicked” (which, as it turns out, he had not), one should “think how young he is; think that he may never have known a mother's love, or the comfort of a home,” and should rescue him, and give him his “chances of amendment” before it is “too late” (197-98), instead of assuming him to be already “hardened in vice” (199).

Most of the evidence in *Oliver Twist*, apart from Oliver himself, indicates that character is not static and biologically inherited, but is instead malleable and shaped by upbringing and early environment. This is certainly the view that Dickens presents as that of the criminal class, based upon its experience witnessing children either indoctrinated into a life of crime or saved from one by the intervention of more beneficial influences. Thus, Fagin's star "pupil," the Artful Dodger, assumes that Oliver's initial repugnance to crime is the product of nurture—"You've been brought up bad," he tells Oliver—and assumes as well that it is not too late for Fagin to turn Oliver around, boasting that if Fagin fails to "make something" of Oliver, "you'll be the first he ever had that turned out unprofitable" (129). We see the types of environmental influence that might counter the work of such corrupters of youth when Fagin's cohort Sikes shortly thereafter bemoans the loss of a young criminal assistant through the interventions of the Juvenile Delinquent Society, which removed the boy from Sikes's influence by teaching him to read and write and arranging for a legitimate apprenticeship. As Sikes notes sardonically, "if they'd got money enough (which it's a Providence they have not), we shouldn't have half-a-dozen boys left in the whole trade, in a year or two" (135-36).

The lesson of *Oliver Twist* thus seems to be, at least initially, that crime and poverty originate not in inborn vice, but in upbringing, education, and other environmental causes. This lesson is rounded out by the story of Nancy the prostitute, who explains to Rose that she was driven to a life of crime by the circumstances of her early childhood.³⁷ Without knowing that Rose was herself saved from a possible life on

³⁷ Hilary Schor places Nancy at the center of *Oliver Twist*, arguing that this "novel without a hero" is in fact a "novel with a heroine," such that what begins as the parish boy's progress is displaced by "the harlot's progress." Schor 22.

the streets by her fortunate adoption, Nancy implicitly attributes the gulf between them—one a prostitute, the other a gentlewoman³⁸—to the difference in how they were raised:

“I am the infamous creature you have heard of, that lives among thieves, and that never from the first moment I can recollect my eyes and senses opening on London streets have known any better life, or kinder words than they have given me, so help me God!” . . .

“Thank Heaven upon your knees, dear lady, . . . that you had friends to care for and keep you in childhood, and that you were never in the midst of cold and hunger, and riot and drunkenness, and—and something worse than all—as I have been from my cradle; I may use the word, for the alley and the gutter were mine, as they will be my deathbed” (266).

Because Nancy in this same scene demonstrates an inner goodness akin to Oliver’s own, by risking her own life—which will in the end be sacrificed—to protect Oliver from harm, we are meant to agree with her assessment that her fallen condition is the product not of any inner propensity to vice, but of social circumstances beyond her control: She is a prostitute not because she was bad “from the cradle,” but because her “cradle” was “the alley and the gutter.” If any moral censure is to be levied for Nancy’s plight—and Oliver’s initial one—its proper recipients are not Nancy and Oliver, but those who have done nothing to help them and others like them.

Where Nancy is wrong, however, is in the assumption she voices earlier in the novel, when she kidnaps Oliver on Fagin’s behalf and returns him to Fagin’s control, that “[h]e’s a thief, a liar, a devil: all that’s bad, from this night forth” (116). Nancy here believes that Oliver will respond to Fagin’s influence as would any other initially innocent child, and become quickly indoctrinated into a life of crime. But unlike Nancy and her peers, *Oliver Twist* is immune to the influences of environment, and the pressures of novelistic realism. Instead of becoming “all that’s bad,” as Nancy predicts, Oliver

³⁸ Schor argues that the opposition between Nancy and Rose ultimately breaks down, as the figure of transgressive femininity produces a loss of authorial control.

emerges from the inferno of the workhouse and the London slums, and even from Fagin's usually effective tutelage, entirely unscathed.

While Dickens's descriptive realism deploys the logic of environmentalism to explain the suffering of the poor, his foundling plot, in tension with both realism and the environmentalist premise that it represents, uses a contrary logic—or perhaps illogic—to at the same time affirm the essential justice of middle-class status. From his first appearance to his last, Oliver exhibits the manners and the moral standards of the virtuous middle class. In addition to his refusal to succumb to Fagin's pressure to commit criminal acts, Oliver has, improbably, spoken from his early childhood a perfect English that distinguishes him from his lower-class peers,³⁹ and he is consistently well-mannered, sensitive, and obedient. Oliver's middle-class benefactors, the Maylies and Mr. Brownlow, reward him for these middle-class virtues by recognizing him as “a child of a noble nature and a warm heart” (274) and taking him into their middle-class homes of books and comfortable beds. When Oliver's parentage is subsequently revealed, the source of his virtue becomes clear: If, as Fagin complains, “he was not like other boys in the same circumstances” (179), and could not so easily be made a pickpocket as Fagin had “done . . . with other boys, scores of times” (178), this is because Oliver, presumably unlike them, is the son of a middle-class “gentleman.” Oliver's unusual goodness, it turns out, is just as much a product of his middle-class parentage as are physical characteristics such as his delicate face.

Particularly when read without attention to the legal complications that we will explore shortly, the lesson of Oliver's story of parentage lost and found seems to be not

³⁹ As Steven Marcus notes, Oliver “speaks the language of angels, ‘correct’ English. . . . Speech is the recognized sign of class and status.” Marcus 80.

just that class will out, but that the character of the class in question—the middle class—is both virtuous and unassailable. By taking a middle-class child out of his proper milieu and depositing him in that of the lower class, Dickens creates a literary social experiment that tests whether the members of the middle class possess qualities that merit the life of relative comfort and privilege that they enjoy. When Oliver retains his middle-class virtue even though he has no knowledge of his provenance and is given none of its advantages, he demonstrates that the rewards of middle-class life are well deserved. The triumph of Oliver’s “nature” over the lower-class “nurture” to which he is exposed suggests that distinctions of rank and station are grounded in innate virtue, and therefore are both stable and just.

II. Nature, Nurture, Narrative, Law?: The Complicity of Law in the Narrative Enterprise of *Oliver Twist*

With the happy ending of *Oliver Twist*, in which Oliver’s middle-class “nature” triumphs over his lower-class “nurture,” Dickens’s ambivalence about the connections between parentage and social class seem to be resolved by agreeing with the traditional founding plot, or parentage-recovery plot, that social identity is properly ascribed at birth. By emerging from the depths of poverty with his middle-class virtue intact, Oliver affirms the validity of a rigid social hierarchy in which rank and station derive from parentage.

But this happy ending takes on a different, and more potentially disruptive, aspect when we take into account an element of *Oliver Twist* that those who focus on the contest between nature and nurture tend to overlook: the tangled question of Oliver’s legal

parentage. Oliver is illegitimate, and his triumphant installation into the middle class comes at the expense of his legitimate half-brother Monks, who is disinherited in favor of Oliver by their father's will. This makes it difficult to read the ending of *Oliver Twist* as an easy reaffirmation of the status quo. More complicated still, the contest between Monks and Oliver is not simply one between legitimacy and illegitimacy, or the law and the absence of law, because Oliver is tied to his parentage by a number of legal, and quasi-legal, instruments, most significantly his father's will. And these legal instruments, in turn, play an important role in establishing Oliver's parentage and identity.⁴⁰

The law would become a recurrent feature of the stories about children and parentage told by the Victorian novel of child development; law features prominently, for instance, in the stories of the displaced children who discover their parentage in Benjamin Disraeli's *Sybil* (1845); William Makepeace Thackeray's *Henry Esmond, Esq.* (1852); George Eliot's *Silas Marner* (1861); Dickens's *Bleak House* (1853), *Little Dorrit* (1857), and *Great Expectations* (1861); and Thomas Hardy's *Jude the Obscure* (1895). We can better understand the role of the law in these novels if we examine how it operates in this early example of the genre. What is the law⁴¹ doing here? Why are there so many legal elements to Oliver's story of parentage lost and found, and what are they? And how does the legal thread that runs through *Oliver Twist* complicate the message about parentage and social class conveyed by the parentage-recovery plot?

⁴⁰ Compare Steven Marcus's claim that when Dickens in *Oliver Twist* "introduces an institution like the law, he invariably presents it as maliciously bent on nullifying . . . primary distinctions" such as those between benevolent characters and corrupt ones. Marcus 90.

⁴¹ By "law," I refer in particular to the civil law of contracts and wills, rather than to the criminal law and the other disciplinary institutions that D.A. Miller attends to in *The Novel and the Police* (Berkeley: U of California P, 1988). While Miller's reading of *Oliver Twist* also questions any easy dichotomy between law and its absence, he focuses on the disciplinary function of law and of its internalized counterparts, rather than, as I do, on the constructive and potentially empowering function of law, and in particular of the civil law.

*

In a regime in which identity and social station derived from parentage, being the son of no-one meant that an illegitimate child such as Oliver was, socially as well as legally, no-one himself.⁴² By making Oliver illegitimate, *Oliver Twist* thus brings into question the social hierarchy that Oliver's story at first seems to validate. For when one takes Oliver's illegitimacy into account, it is no longer clear that his story signals the triumph of middle-class nature over lower-class nurture. As a legal "filius nullius," Oliver is not properly a member of the middle class, or of any class, for that matter.⁴³ Rather than a displaced child of the middle class who eventually reclaims his proper social status, then, Oliver is instead an outsider who successfully enters the ranks of that class. Granted, Oliver is no usurper in the tradition of illegitimate villains such as Edmund of *King Lear*, who ousts his legitimate brother and then gouges out the eyes of their father. Rather than plot to infiltrate the middle class, Oliver operates passively, earning his middle-class status by demonstrating a good character and virtue that lead others to bestow on him the rewards of middle-class life. But the implications of Oliver's illegitimacy, and of his corresponding lack of middle-class status when his adventures begin, are unsettling nonetheless. In this reading, his rise from the workhouse no longer proves the innate good character of the established middle class, but instead suggests, to the contrary, that socially and legally recognized rank and station are not necessarily commensurate with virtue. While one could perhaps understand Oliver's rise in station as indicating that England has become a meritocracy, this is a much weaker endorsement of

⁴² Dickens, as many have observed, emphasizes Oliver's lack of a proper place in the social order by having others denote him with a series of shifting and emphatically fictitious names, beginning with Bumble's "invented" name "Oliver Twist" (23). Sadrin 42-43.

⁴³ See generally Jenny Teichman, *Illegitimacy* (Ithaca: Cornell UP, 1982).

middle-class virtue than the notion, as many have interpreted Oliver's story to indicate, that class will out.⁴⁴

Even more damaging to the validity of the existing social hierarchy is the revelation that while the illegitimate Oliver is virtuous, his legitimate half-brother Monks is irredeemably corrupt. Monks, it turns out, is behind many of the “plots and wiles” (329) carried out by Fagin, having agreed to compensate Fagin for transforming Oliver into a criminal. Monks is a stereotypical villain. “[F]rom the cradle,” he has exhibited a “rebellious disposition, vice, malice, and premature bad passions.” He robbed his mother of her jewels and money at the age of eighteen, then “gambled, squandered, forged, and fled to London,” where he began a lifetime of associating “with the lowest outcasts” (344). A long-time associate of Fagin, Monks frequents “low haunts,” “mingl[es]” with an “infamous herd,” and “hold[s] council with thieves and murderers in dark rooms at night” (329). Monks in fact fits precisely the characterization that Mrs. Sowerberry and others inaccurately make of Oliver: He is one of those “dreadful creaturs, that are born to be murderers and robbers from their very cradle” (53). If Monks stops short at ordering Oliver's murder, this is only because “it's always found out, and haunts a man besides” (179)—a comment that suggests Monks has already murdered at least once.

Monks is in many ways an exaggerated version of the villain that the Court of Chancery presents in the father of the *Wellesley* case. Both Monks and Wellesley were born to a high social station, but have chosen instead to associate with the “lowest outcasts,” and plot to encourage the next generation to do the same. Both lead “vicious” lives that demonstrate a “reprobate character.” And both are characterized by a tendency

⁴⁴ For a reading of *Oliver Twist* along these lines, see Cates Baldridge, “The Instabilities of Inheritance in *Oliver Twist*,” *Studies in the Novel* 25.2 (1993): 184.

to swear, and in particular to pepper their speech with references to the devil. The Court of Chancery, in finding Wellesley unfit, places great emphasis on his tendency to utter such phrases as “damn his infernal soul to hell” (250), and the House of Lords thinks it enough to doom Wellesley that he once wrote in a letter to his children’s tutor that “a man and his children ought to be allowed to go to the devil their own way, if he pleases” (1083). The first words we hear Monks utter are “Where the devil have you been?” (177), and thereafter he, like Wellesley, refers to the devil repeatedly. Dickens employs this linguistic pattern to render Monks a figure of gothic and quasi-supernatural villainy: Monks is introduced by Fagin as “a born devil” (176), and Monks at times seems to invoke the powers of the devil he so often names, as he does, for instance, when he first encounters young Oliver: “‘Rot his bones!’ murmured the man, in a horrible passion: between his clenched teeth; . . . ‘Curses on your head, and black death on your heart, you imp!’” (221).

One sees a similar move from the ill-mannered to the monstrous in another trait that Monks shares with Wellesley: Both villains manifest their internal perversion in external deformity. Wellesley, suggests the Court of Chancery, has manifested “the tenor and bent of his mind” even on his body, by the signs of the venereal disease to which his doctor testifies. Monks is an epileptic, a trait that Dickens renders as a sign of an evil nature, showing Monks fall to the ground “violently . . . writhing and foaming” (221) after attempting to strike a blow at Oliver. Monks also bears on his neck “[a] broad red mark, like a burn or scald” (309) that Brownlow, in excoriating Monks, suggests is the product of venereal disease, and asserts is an “index” to the viciousness of Monks’s mind:

[Y]ou, who from your cradle were gall and bitterness to your own father's heart, and in whom all evil passions, vice, and profligacy, festered, till they found a vent in a hideous disease which has made your face an index even to your mind. (330)

Comparison of Wellesley with his fictional counterpart shows the extent to which the Court of Chancery and Dickens alike render as monstrous one who has violated established categories of social class. Both Wellesley and Monks have turned out corrupt despite their respectable births, to the dismay of their respectable families—just as Monks was gall to his gentleman father from the cradle, the Court of Chancery notes with sympathy the inability of even the Duke of Wellington to rein in his deviant nephew. And it is this shared deviation from their social class—and not simply their shared determination to create a new generation in their own mold—that make Wellesley and Monks so disturbing that they appear monstrous.

Wellesley and Monks are represented as just the sort of hybrid creatures that they are accused of trying to produce: men of the highest rank and station who have become so corrupt in mind and manners that they are indistinguishable from the lowest outcasts of society. Should one as “vicious” as Wellesley be allowed to retain the rank and station ascribed to him at birth, and the privileges that accompany it? The Court of Chancery and House of Lords sidestep these questions, but Dickens does not, raising the possibility, in the figure of Monks, that perhaps some who hold the legal rank and status of gentleman deserve to be ousted from it.

This is one way of reading what happens at the end of *Oliver Twist*, when the illegitimate Oliver comes into his inheritance by dispossessing the legitimate Monks.⁴⁵ In

⁴⁵ Although Monks's villainy has often been explained as merely a sign of aristocratic decadence, on the basis that his mother is of aristocratic lineage, see Berry 53, Monks is also the son of a middle-class gentleman, and I read him as conveying a predominately middle-class anxiety about the justice and stability of class distinctions. I believe that Monks's aristocratic aspect works, along with his gothic qualities, to displace some of the discomfort engendered by his status as an undeserving member of the middle class.

the final pages of the novel, while Oliver, the illegitimate son, prospers in a middle-class rural paradise, his legitimate counterpart sickens and dies in a foreign prison. Taking into account Oliver's illegitimacy alongside Monks's legitimacy, then, the ending of *Oliver Twist* can be read as not the restoration of middle-class status to one who was displaced from it, but instead the usurpation of a middle-class position by a more deserving upstart.

*

What sort of attitude toward law can we discern in the contest between the illegitimate Oliver and the legitimate Monks? Given that an illegitimate child such as Oliver was often called a "natural" child, and that the legitimate Monks is labeled his father's "most unnatural issue" (326), one might be tempted to read the contest between them as one between nature and law, in which nature triumphs, and the law is indicted as unnatural and corrupt.⁴⁶ This reading is lent support by the Manichean and melodramatic aspect of Dickens's representation of nature and of the pastoral in *Oliver Twist*, which juxtaposes the worlds of nature and of law.⁴⁷ Insofar as the absence of a legal tie to his parent, in combination with the presence of a biological one, renders Oliver a symbol of nature, it aligns his purity and innocence with that of the natural world, which Dickens describes, in Wordsworthian fashion, as a restorative so "purifying" that a remembered "glimpse of Nature's face" momentarily erases all thoughts of "worldliness" from those who live—as Monks chooses to do—amidst the "squalid crowds" of urban life (215). The

⁴⁶ Rosemarie Bodenheimer argues that Oliver's status as a "natural child" signals the primacy of natural over social and legal constructions of character. See Rosemarie Bodenheimer, *The Politics of Story in Victorian Social Fiction* (Ithaca: Cornell UP, 1988) 120. Somewhat similarly, Steven Marcus characterizes Oliver as born "outside the sanctions of society" and therefore "[e]ssentially detached from social preconditions," such that Oliver's purity of character indicates the irrelevance of "legal privilege" in constituting a gentleman. Marcus 86.

⁴⁷ In Rosemarie Bodenheimer's view, the Manichean opposition in *Oliver Twist* between the pastoral and the social is "a sentimental predecessor to [the] more originally conceived separate worlds that perform comparable functions in Dickens's later narratives." Bodenheimer 130.

absence of law, in this reading, helps to place Oliver's relationship to his father in a realm uncorrupted by any worldly taint. At the same time it links this father-child tie with the pastoral fantasy into which Oliver and his friends retreat at the end of the novel, a fantasy that identifies the pastoral with a withdrawal from the world of politics and of law. Thus, in joining this pastoral retreat, Oliver's new uncle, Henry Maylie, gives up his political future in Parliament for a position as the clergyman of a rural church, and Oliver's friend Mr. Grimwig, a former lawyer, quits his life in London to take up gardening.

Nonetheless, the contest between Oliver and Monks does not simply juxtapose the good child of nature with the bad child of law. Monks, after all, has the same biological tie to his father that Oliver has. More significantly, although rarely noted by critics, there is law, as well, on both sides of the equation. For though Oliver is illegitimate, he does not lack legal ties to his father. And these legal ties, as well as the legal mechanisms by which they are recovered and enforced, play a crucial role in bringing about the happy ending of the novel, which therefore cannot be reduced into any simple rejection of law.

The plot of *Oliver Twist* emphasizes the importance of legal ties between parent and child by tracing the disappearance and subsequent recovery of two legal devices that link Oliver to his parents: his mother's quasi-legal wedding ring and his father's will. The recovery of these legal artifacts is a crucial element of the larger story of Oliver's recovery of his birth and parentage. Though Oliver toward the end of the novel has already proven his moral worth to Brownlow and the Maylies, his identity as a true son of the middle class is not fully established until confirmed by the "proof" (329) of the legal instruments that define Oliver as his parents' child. The mode of establishing these proofs is a quasi-legal one as well: The resolution of Oliver's story occurs in a trial-like scene in

which Mr. Brownlow establishes the truth of Oliver's "birth" and "parentage" (329) by forcing Monks to testify before "witnesses" to the existence of the ring and the will, as well as to sign legal declarations attesting that his descriptions of these items are a "statement of truth and facts" (330).⁴⁸

From the start of Oliver's story, his mother's "wedding" ring is held out as a clue to the truth of his identity. The doctor who in the first chapter presides over Oliver's birth and his mother's death lifts up his mother's hand to observe, "The old story . . . no wedding ring, I see" (19). But the doctor is not quite correct—in a difference that means nothing under the law of marriage, but is central to Dickens, Oliver's is not quite the same old story, because his mother does wear a sort of wedding ring—not on her finger, as she was not quite married, but in a locket around her neck. The doctor does not observe this quasi-wedding ring because the attendant nurse has stolen it, rather than keep it for Oliver as his mother pleaded with her to do. The initial disappearance of this ring sets in motion the story of lost and found legal identity in *Oliver Twist*.

The ring does not provide Oliver with any recognizable legal tie to his mother or father under the law of marriage; Oliver's father never legally divorced his first wife, and thus any marriage ceremony he might have gone through with Agnes would have had no legal validity. But, in Dickens's rendering, the ring is nonetheless a constitutive element of Oliver's parentage. The ring is inscribed with the name "Agnes," followed by a blank for the surname, and it is dated a year before Oliver's birth. Moreover, Oliver's father

⁴⁸ D.A. Miller identifies this quasi-trial as a private "supplement" to the "legal and police apparatus" of the state, one that in punishing Monks exhibits the congruence between the disciplinary functions of the state and of the middle-class family. D.A. Miller 7-8. But this scene plays an identity-constructing function as well as a disciplinary one, and it does so not only through a trial-like format, but also through private legal instruments—a quasi-wedding contract and a will—that Miller does not discuss, and that cannot, I think, be reduced simply to mechanisms of state coercion and punishment.

saw himself as “contracted, solemnly contracted” (327) to Agnes. The ring thus constitutes, as Monks puts it, “proof[] of the boy’s identity” (329). It is for this reason that Monks is intent on having the ring destroyed; he is fearful that the ring, by proving who Oliver is, might help Oliver to displace Monks from their father’s inheritance. Monks’s instincts are correct: While the ring has no weight under the law of marriage, it does have legal weight as proof of Oliver’s identity. By linking Oliver to Agnes, the ring serves as evidence that Oliver is his father’s son, and thus the intended beneficiary of his father’s will.

The will of Oliver's father is at the crux of Oliver’s legal identity, and of the plot of *Oliver Twist*. Oliver’s father wrote the will in the hours before his death with the goal of providing for Agnes and for their illegitimate, and as yet unborn, child. He did so by disinheriting his wife and their son, known to the reader as Monks, in favor of Agnes and her child. Explaining in the preamble of the will that his wife “had brought miseries upon him,” and that their son had a “rebellious disposition, vice, malice, and premature bad passions” and “had been trained up to hate him,” Oliver’s father left his wife and Monks an annuity of eight hundred pounds. He then divided the bulk of his property into two equal portions, one for Agnes, and one for their unborn child. The crucial detail of the will is the caveat that follows: Should the child be a girl, she would “inherit the money unconditionally,” but “if a boy, only on the stipulation that in his minority he should never have stained his name with any public act of dishonour, meanness, cowardice, or wrong.” Oliver’s father explained, in the text of the will, that he added this condition to mark his conviction that the son of Agnes would inherit her “noble nature.” However, “if he were disappointed in this expectation,” rendering his children “equal,” then it was only

fair for him to recognize the child with “a prior claim upon his purse,” that is, his legitimate but depraved son, Monks (344).

This will drives much of the plot of *Oliver Twist*, to begin with by giving Monks the incentive to hire Fagin to transform Oliver into a criminal. Monks’s goal is not simply to secure his father’s inheritance, but to do so in a way that “[brings] down the boast of the father’s will” (268). By motivating Monks’s machinations, the will generates the master-plot of Oliver’s life, leading to the tests of Oliver’s virtue that make up the core events of the novel. The will also sets forth the terms by which Oliver is to be rewarded when he passes those tests successfully, that is, Oliver’s installation into the financially well-off middle class. At the end of the novel, this takes place through first the revelation, and then the enforcement, of his father’s will: Brownlow forces Monks not only to attest to the will and its terms, thus establishing Oliver’s legal identity, but to give effect to that identity by signing a legal declaration promising to “make restitution” to Oliver by “carry[ing]” the terms of the will “into execution” (330).

*

Once we recognize the importance of legal devices in establishing Oliver’s birth, parentage, and social station, we can go beyond the reductive view according to which the law functions in this novel, and in Victorian domestic novels more generally, as simply a straw man, a nefarious and monolithic public entity in reaction to which the novel carves out a private, intimate retreat (a notion exemplified, and parodied, by Wemmick’s castle in *Great Expectations*). The law, indeed, often gets it wrong in *Oliver Twist*, and in so doing inflicts more harm than good—witness the magistrate who almost jails the innocent Oliver, and the constable who would have done the same. However,

Dickens does not present the law as an all-or-nothing proposition that we must either embrace or reject. In the very act of criticizing legal failures such as the criminal magistrate and poor law legislation, Dickens places on law the responsibility of better fulfilling what he presents as the necessary social task of protecting the disenfranchised and the vulnerable. Moreover, the law in *Oliver Twist* is more than the coercive state apparatus that D.A. Miller termed “the police.” It is also a system of private ordering, and as such provides a set of tools that, as we see in *Oliver Twist*, can work alongside novelistic ones either to facilitate or to protect against the disruptions of the Victorian age. Like the novel, the law is a tool and also a terrain, one on which conflicts are fought out, and the identities of individuals and of social groups are contested and forged.

Accordingly, the contest between Monks and Oliver is best understood as a contest, not between legitimacy and illegitimacy, or between law and nature, but between two types of law, the tradition-bound law of the past and a newly fluid law that became increasingly dominant in the Victorian age. As the legitimate son who stands automatically to inherit his father’s estate, Monks is aligned with a traditional legal regime that I will call “feudal,” according to which each person’s rank and station was fixed at birth by the unalterable factors of legal parentage and birth order. Oliver, on the other hand, is tied to his father through a will, a legal instrument that reflects the newer legal trend of allowing individuals to exercise ever-greater freedom of choice—individual “will”—in disposing of their property and shaping their lives, a trend that would culminate in the rise of contract.⁴⁹

England had long allowed the free testamentary disposition of property, but it was not until the nineteenth century, as a result of both legislation and the pressures of a

⁴⁹ See generally P.S. Atiyah, *The Rise and Fall of Freedom of Contract* (Oxford: Clarendon P, 1979).

capitalist economy, that settlements and other legal devices by which each generation restrained the free alienation of land by the next began to disappear, and individuals began widely to exercise a new freedom to redistribute and alienate their property as they saw fit.⁵⁰ This is what Oliver's father does, in contravention of the legal status quo dictated first by his parents and then by the law of marriage, when he writes a will that disinherits his legal wife and heir and diverts his money instead to Agnes and their unborn child.

The association of Monks with the legal regime of the feudal past, and of Oliver with the rise of contract and of individual freedom of choice, is heightened by the distinctions between each boy's mother and her relationship to Oliver's father. Monks is the son of an aristocratic mother, whose marriage to his father was the product of the older, predominately aristocratic tradition in which marriages were arranged by parents in order to solidify their family dynasties: Oliver's father was forced into the "wretched marriage" by a father who aimed at currying favor with wealthy relatives, a goal that the middle-class Brownlow derides as driven by "family pride, and the most sordid and narrowest of all ambitions" (326). Oliver's mother, on the other hand, as the daughter of a Naval officer rather than an aristocrat, was a member of the newly rising middle class, and her union to his father was based on their love and free choice, thus typifying the trend away from arranged marriages and toward what Lawrence Stone has called "affective individualism."⁵¹ The rise of free choice in marriage was closely related to the movement away from feudalism and toward freedom of contract, as Dickens signals by

⁵⁰ The need to foster the free alienability of land was a prominent topic of legislative debate at the time Dickens wrote *Oliver Twist*, as Parliament began a century-long project of revising English land law in a manner that would make it increasingly difficult for families to restrain the alienation of land by future generations. See A.H. Manchester, *Modern Legal History* (London: Butterworths, 1980) 310-15.

⁵¹ Lawrence Stone, *The Family, Sex and Marriage* (New York: Harper & Row, 1979) 149-72.

juxtaposing the “heavy chain” that binds Oliver’s father to his parentally-imposed wife with his feeling that he was “contracted, solemnly contracted” to Agnes, the object of his affection (326-27).

When we examine the contest between Oliver and Monks in terms of the different legal regimes with which each son is linked, we begin to see how the law could serve, much as did the displaced-child story with which it is here intertwined, as a symbolic site of conflict for some of the major struggles of the Victorian age. Legal issues such as the differences between feudalism and contract, inheritance by default and inheritance by legal will, and old marriage law and new, were all problems that Dickens and his contemporaries struggled with and contested on a literal level, as were the related questions of how to care for and protect some of the victims of these struggles, especially vulnerable children such as the illegitimate Oliver. But, at least in the pages of *Oliver Twist*, these legal issues also functioned as ways of expressing larger differences and power struggles: between the decaying aristocracy and the rising middle class, the past and the present, stability and freedom, tradition and change.

There is irony, however, in a legal alignment in which Oliver represents the new age of free choice and contract, and Monks the feudal status quo. This irony, in turn, leads us back to the tension that is at the core of the Victorian variant of the parentage-recovery plot that we first see in *Oliver Twist*. In so doing, it can help us better to understand the connection between the preoccupation of the Victorian novel with displaced children and their parentage and its preoccupation with legal themes.

For even though Oliver is, in a sense, an upstart affiliated with the disintegration of the old legal order, and the rise in its place of affective individualism and freedom of

choice, his identity is as much determined by the will of his father as was his father's before him. While the legal instrument that dictates Oliver's identity rewrites the status quo, and thus conveys the possibilities of a new era of freedom of contract and freedom of choice, it is authored not by Oliver himself, but by his father. In *Oliver Twist* as in most Victorian novels, the legal device that changes the child-hero's destiny is not a contract, but a will, a device by which the dead hand of the past controls the future. The legal will, as we see in Oliver's story, ensures that each new generation is determined by the one that preceded it, with children taking on the social role dictated for them by their parentage. The new middle class is, in this way, no different from the aristocracy, and the age of contract no different from that of feudalism, a rigid social hierarchy in which rank and station derive not from choice or merit, but from a privilege arbitrarily assigned at birth.

The will of Oliver's father replicates the maneuver by which the parentage-recovery plot of *Oliver Twist*—in which young Oliver first proves his worthiness of middle-class status, and then recovers that status by discovering his middle-class parentage—tries to reconcile the tension between a social system based on parentage and one based on individual merit. This legal will is unlike most parental bequests to children in that it makes Oliver's inheritance conditional on his attaining the age of majority without committing any act of wrongdoing. As a result, Oliver inherits his father's fortune—and thus the accompanying social status—only if he deserves it. He demonstrates that he does (despite, it seems, not having attained the age of majority), by maintaining his good character even in the face of Fagin's concerted efforts to engage him in a life of crime.

The effect of Oliver's father's will is to mandate the continued importance of birth and parentage, while at the same time attempting to reformulate these vectors of privilege in meritocratic terms. This effect is heightened by the conjunction of the will with the events of the parentage-recovery plot, according to which Oliver enters life without the benefit of even knowing of his middle-class provenance. If only every child were subjected to the displacement that Oliver initially experiences, and every parent made his child's inheritance contingent on proof of merit, then perhaps a world in which social station and identity derive from parentage would be a just one, in which each person's comforts are earned and well-deserved instead of assigned arbitrarily at birth.

Oliver Twist papers over its contradictions—in particular, its simultaneous questioning and reaffirmation of middle-class virtue—by ultimately collapsing the distance it works so hard to establish between novelistic narrative and law. The Victorian novel's use of the law as a foil to the superior truth-seeking function of the novel has been much commented on, and *Oliver Twist* is no exception. Dickens punctuates the novel with a trio of trials that juxtapose legal techniques of truth-telling with literary ones, and show the failure of law to discern what the novelist so ably represents. In all three scenes, Dickens suggests that the courtroom—like the novel itself— can serve as a locus both of reading a child's identity (who is Oliver?) and of writing it (who and what will he eventually become?), and illustrates the propensity of the law to get things wrong on both counts.

Thus, the early trial in which three magistrates believe Bumble's lies about Oliver—“I suppose he's fond of chimney-sweeping?”; “He doats on it, your worship.”—and as a result are prepared to consign Oliver to almost certain death at the

hands of an abusive chimney sweep, a fate from which he is saved when a half-blind magistrate, with a symbolism by which Dickens at once reminds us of law's authoring functions and conveys its failure to execute those properly, is unable to locate his inkwell to sign Oliver's indentures, and in seeking the inkwell accidentally catches a glimpse of Oliver's "pale and terrified" face (34-35). Dickens further elaborates upon law's failed authorship with the well-known trial scene in which the magistrate Fang, charged with assessing whether Oliver is a thief, does his best to get Oliver's story wrong by repeatedly shutting down Mr. Brownlow's truthful testimony with the command to "Hold your tongue, sir!" (78).

We see what else is at stake in the failure of the magistrate to draw out Oliver's story, and thus properly to assess Oliver's character, when we see how the magistrate treats Mr. Brownlow in this same scene. As D.A. Miller has observed, *Oliver Twist*, by telling of a child-hero unjustly subjected to the workhouse and almost to wrongful imprisonment, "dramatized the shameful facility with which such institutions might mistakenly seize upon what were middle-class subjects to begin with."⁵² Nowhere is this more clear than in the courtroom dialogue in which Fang the magistrate mistakes Brownlow—the victim of Oliver's alleged pick-pocketing attempt—for a criminal himself. Mr. Brownlow is the quintessential "gentleman" of *Oliver Twist*, and this moment, when he is mistaken by a magistrate for a common thief, encapsulates the central anxiety of *Oliver Twist*: that we "respectable person[s]" (77) will be pulled out of our comfortable world of books and leisure—Mr. Brownlow is reading, caught up in his book, when he is first drawn into the adventures of *Oliver Twist*—and into a courtroom where we will be misread, and misjudged, by a legal system that, *Oliver Twist* suggests,

⁵² D.A. Miller 59.

falls short of novelistic narrative (or of middle-class readers of books such as Mr. Brownlow) in properly assessing individual character and identity—that is, in recognizing and respecting middle-class virtue.

But the tension between novelistic narrative and law culminates, and becomes something else—a more symbiotic relationship—in the denouement of *Oliver Twist*, the mock trial in which Brownlow forces Monks to testify in Oliver’s presence to the “proofs of his birth and his parentage.” The “evidence” (274) that Brownlow presents here of Oliver's identity is, as we have seen, legal or quasi-legal, in the form of the wedding ring by which Oliver's father saw himself as “contracted, solemnly contracted” (327) to Oliver's mother and the legal will by which Oliver is established as his father's son and heir. But the scene in which these proofs are revealed is not an actual trial, but a mock-trial that is a scene of, and about, storytelling.

By the time Oliver’s legal identity is established and revealed in this final mock-trial scene, the legal instruments that affiliate Oliver with his parents have long ago been destroyed—we watched earlier in the novel as Monks dropped the ring into raging waters, and we learn in this final scene that Monks's mother burned his father's will before Oliver was born. What preserves these legal instruments, and enables them to establish Oliver’s birth and parentage, is a series of narratives, from the childhood story of the “secrets” of the will and its destruction that Monks's mother “bequeathed” to him before she died (345); to the “story” that Mrs. Bumble tells first Monks, and then, in the final scene, Brownlow and the assembled witnesses, about Oliver's mother's wedding ring (253), a story that she, in turn, was told in a deathbed confession by the workhouse nurse who stole the ring from, and was told its story by, Oliver's mother on her own deathbed;

to the paupers who force Mrs. Bumble to tell the truth when they recount how, when she pocketed the ring and learned of its origins, ““You shut the door, but you couldn’t shut out the sound, nor stop the chinks”” (346); to Monks's boast to Fagin, upon destroying the ring, that “the only proofs of the boy’s identity lie at the bottom of the river” (268), a boast that is preserved through narration when it is overheard by Nancy, who relays it to Rose, who relays it to Brownlow, who repeats it back to Monks, leading to Monks’s agreement to “testify” to the truth. This chain of stories, and the narrative that recalls and recounts them, come together in the final scene in which Brownlow forces Monks and the other gathered witnesses to tell the “story” of the ring and legal will that are "proofs" of Oliver's parentage, and thus of his "identity" (268).

While the will and the wedding ring show the crucial role of legal instruments in constructing parent-child ties, these legal devices—themselves supplements to the legal status quo—prove inadequate in protecting those ties, and do so, in the end, only by working together with “story” (343). *Oliver Twist* thus presents its own medium—novelistic narrative—as working in tandem with legal tools to preserve Oliver’s parentage and identity. And what the novel, along with the legal devices it represents, establishes in so doing is “proof” of the fantasy that *Oliver Twist* at once protects and works to disavow—the same fantasy that courts worked to protect by intervening in custody disputes such as the *Wellesley* case—namely, that the status quo of the privileged classes is well-deserved.

At stake in the Victorian story of the displaced and developing child—a story that continued throughout the nineteenth century to animate both Victorian novels and Victorian custody disputes—was the notion that should parentage and parenting be

separated as they are in *Oliver Twist*, the essential justice of middle-class comforts would reassert itself through the mechanism of freedom-of-contract meritocracy. Perhaps the deepest fiction driving this fantasy was that a rigid social hierarchy was soon to become an artifact of the feudal past. The ascription of privileged status by birth did not so much disappear as become reconfigured—through novelistic efforts as well as legal ones—into the figure of the developing child. The Victorian narrative of childhood both captured and made palatable contradictions that otherwise went unacknowledged, shunted aside into the specialized realm of novels and of the new field of child custody law—stories that had great appeal and cultural prominence, but little seeming relevance to the world of the market, the law, and of autonomous adults.