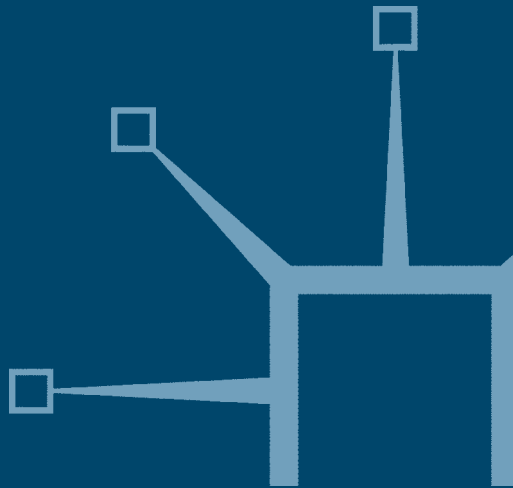


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The Gothic and the Rule of Law, 1764–1820

Sue Chaplin



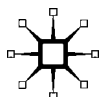
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Sue Chaplin

Leeds Metropolitan University



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For Richard Clemens

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Introduction: Thresholds

'What man of sense and judgement can read a single word of this word play without suffering weariness of heart as at a foul smell?'¹ It is strange, perhaps, to find that what François Hotman was describing here in 1567 was the study of law. It is odd to read early modern legal scholarship castigating its discipline as an 'abyss' of 'uncertain conjectures and tenuous divinations' (OL, p. 1), as 'harsh, unsavoury, unpleasant, rude and barbarous'.² To its own students and practitioners, the law has a 'loathsome savour'; the study of it is 'fearful', 'dangerous' and even maddening (OL, p. 2). Richard Burton in 1628 associates the law with a kind of individual and national melancholy, '[it is] a general mischief of our times, an unsensible plague' (OL, pp. 4–5). These analyses suggest that there is possibly something of what we would term 'the Gothic' within the early modern rule of law.

Postmodern legal scholarship has returned to the 'abyss' of law, evoking certain 'Gothic' tropes and images in its interrogation of the law's melancholia and mourning, its fictivity and abjection. Contemporary critical legal theory has also begun to draw upon theoretical schema very similar to those utilised by late-twentieth-century critics of the literary Gothic. From the moment of its origin, the Gothic contested a certain literary hegemony concerned to privilege an ideal of literary 'truth', a literary 'metaphysics of presence', as it were.³ As Costas Douzinas observes, the law has sought similarly to situate itself firmly within a 'metaphysics of presence'; it perpetually polices its borders, spending 'unlimited effort and energy demarcating the boundaries that enclose law within its sovereign terrain, giving it an internal purity'.⁴ What critical legal theory and contemporary Gothic criticism suggest, however, is that law and literature are always already impure: 'What is non-legal is always necessary to make the law properly legal. The

frame between the two, rather than being a wall, is a point of passage' (PJ, p. 26).

The Gothic, I argue, may be understood as an aesthetic and juridical 'point of passage', an abject 'non-legal' *thing* that makes 'the law properly legal' whilst also contesting its authority and authenticity.⁵ In making this argument in a range of literary and juridical contexts, this work returns throughout to the question of the legitimacy and stability of borders, a question which is begged not only of the legal theorist, but also of the literary critic approaching the marginal, hybrid 'formless form' that is the Gothic.⁶ The Gothic subverts 'the concept of category'⁷ and it may, I will argue, be posited as *more* than a literary 'genre': it is a cultural, aesthetic and philosophical mode – perhaps *the* mode – of engaging with the 'disavowed ghosts' of modernity. The Gothic reminds the critic and the legal theorist that 'the dynamics of "impure" writing are found lurking behind all self-assured claims to unmediated self-presence' (PJ, p. 11).

On account of the unsettling indeterminacy that appears to mark the Gothic, David Punter has contended that 'in the context of the modern, Gothic is the paradigm of all fiction, all textuality',⁸ and in this respect one might bear in mind Maurice Blanchot's contention that textuality 'is alien to all relationships of presence, to all *legality*'.⁹ The Gothic poses a challenge, or at the very least a question, to the law. Gothic representations of power query the origin and legitimacy of juridical authority, frequently exposing its hidden violence, its 'obscene dimension'.¹⁰ At the same time, though, I argue that it is possible to see something *of* the Gothic *within* the rule of law. In making this suggestion, the intention is not simply to attribute some vague 'Gothic' quality to a law that might at times seem sinister, unknowable, even diabolical. I am not interested in representing the law in terms of a range of ostensibly 'Gothic' features. I am interested instead in the extent to which the law and the Gothic coincide ontologically. This work investigates the relation between the absolute radical indeterminacy of what the West calls 'law' and what it has come to call 'Gothic'.

The figure of Antigone at the margins of the law is key to this project. Within the Western jurisprudential tradition, this feminine presence has been made to stand at the threshold between 'nature' and 'culture' and has been posited as the enemy of a certain legal 'purity'. Bringing together some of the 'Gothic' turns within contemporary critical legal studies, Chapter 1 theorises the law in terms of abjection and *differance* and posits Antigone as the deeply ambivalent signifier of the 'Gothic' impurity of law. This chapter considers, first, the origin of law as it has been represented within the Western tradition and explores the law's

relation to notions of truth, presence and purity. Western jurisprudence has tended to theorise (or, I will argue, to *fictionalise*) the law in terms of the *logos*. Following Kristava, Legendre and Žižek, however, Chapter 1 argues that the only abject ‘truth’ about law is that it has no ontological coherence: symbolic fictions of law as *logos* maintain only an illusion of ontological consistency – of pure juridical Presence. The uncanny, disruptive presence of Antigone at the very margins of the law contests these fictions of legality, opening up an essential, supplemental space of *differance* which the law can in no way account for, re-present or control. This, I will argue throughout, is the ‘cryptic space’,¹¹ the abyssal, haunted territory that Gothic fictions open up *within* the rule of law.

The law’s Gothic romance

Chapter 2 continues to foreground the notion of the threshold and its relation to the law *and* the Gothic, beginning with an explanation of the conceptual significance to this work of prefaces, prologues, appendices and other such marginal, textual spaces. Within a literary and philosophical tradition that promotes an ideal of ‘Presence’ ostensibly unmediated by such textual and intellectual supplements, these literary *parerga* have a subversive force that I will evoke throughout. A consideration, furthermore, of the law’s simultaneous reliance upon and repudiation of its own textual and conceptual ‘supplements’ will bring into view a further point of interface between the Gothic and the rule of law: in the early modern period, the Gothic becomes, I will argue, one of the most disruptive ‘supplements’ to a certain legal and literary ideal of ‘Presence’.

In particular, this chapter seeks to contextualise the emergence of a new juridical paradigm in the eighteenth century through a reading of William Blackstone’s ‘romance’ of the English common law in the *Commentaries on the Laws of England*. The development of a quasi-mythic, Gothic narrative of the origin of English law alongside the Enlightenment ideal of juridical ‘science’ reveals the profound instability of emerging modern forms of juridical authority in this period. As shifting representations of power compete and collide, what comes to characterise the eighteenth century jurisprudentially is a hermeneutic crisis that ‘reflects and determines nineteenth century attitudes toward textual (mis)interpretation’.¹² With particular reference to Blackstone, in whom political Gothicism collides and conflicts with a developing scientific model of jurisprudence, this chapter considers the tension in this period between a certain early modern conceptualisation of the origin of

English law (which constituted a politically potent national Gothic romance of law) and a developing modern legal philosophy that sought to replace such legal ‘fictions’¹³ with a scientific juridical discourse divested of any extra-legal supplements. It is precisely the *impossibility* of a purely transparent, truthful legal language that comes radically to the fore at this historical moment, however, rendering deeply unstable the ideal of a pure, juridical ‘Presence’ that is capable of manifesting itself within, whilst necessarily transcending, its historical moment.

Gothic origins

Chapter 2 ends by positing a relation between Blackstone’s ‘romance’ of English law and the simultaneous emergence of literary Gothicism as a mode of writing that in various ways contested an emerging ideal of *literary* ‘Presence’. The dubious generic origin of the Gothic novel in Horace Walpole’s 1764 literary fraud established the status of the Gothic from its inception as a form that ‘draws attention to the fragility of law’.¹⁴ *The Castle of Otranto*, with the audacious false claims of its first preface, contested notions of literary authenticity and proper authority. This abject Gothic ‘original’ also uncannily narrates the law’s reliance upon its ‘disavowed ghosts’.¹⁵ In so doing, I will argue, it uncouples the law from any ontologically stable point of origin and sets a certain precedent in terms of the relation between the Gothic and the modern rule of law: the Gothic exposes not only the ‘fragility’ of law, but its radical indeterminacy, impropriety and *hauntedness*.¹⁶ In the absence of any point of absolute origin, the law must perpetuate its fictions of power through an uncanny, symbolic raising of the dead: like Walpole’s Gothic castle, the law is a haunted, ruined, ‘cryptic’ space.

‘Disgustful Marvels’ – The problem of romance

In a 1789 review of Ann Radcliffe’s first romance, the *Critical Review* had something rather surprising to say:

To those who are delighted with the marvellous, whom wonders, and wonders only, can charm, the present production will afford a considerable degree of amusement. This kind of entertainment, however, can be little relished but by young and unformed minds. To men who have passed or even attained the meridian of life, a series of events which seem not to have their foundation in nature, will ever be insipid, if not disgustful.¹⁷

In its appraisal of Radcliffe's novel, this review seems almost completely misguided: unusually for its time, Radcliffe's text was fairly rigorous in its *disavowal* of the 'marvellous' elements associated with contemporary Gothic romance. What was it, then, that so offended the *Critical Review*? A clue, I think, lies in the key term used here to discredit Radcliffe's fiction: 'disgustful'. For Kant, 'nothing is so much set against the beautiful as disgust', and disgust appears to have a particular relationship to a certain disordered *feminine* state: more than anything, argues Kant, the unclean, indelicate woman 'provokes disgust'.¹⁸ For the 1789 reviewer, then, Radcliffe's fiction is perhaps evocative of an abject femininity that threatens a certain intellectual and aesthetic ideal; he states that the work can appeal only to 'young and unformed minds', and it was a common criticism of the Gothic that, if it was fit for anything at all, it was fit intellectually only for women and children. Radcliffe's work is immature, irrational, feminine, 'disgustful', and this is so in spite of the absence of any obvious Gothic 'marvels' from the text. It seems that, for this reviewer, the concept of 'the Marvellous' has become a generic marker of female Gothic romance irrespective of the actual content of any given text. The Gothic is beyond the bounds of the legitimate literary economy, just as 'disgust' is 'set against' the proper principles of Kant's aesthetic economy. Gothicism offends against good taste at the moment when the question of 'taste' is becoming increasingly bound up with a gendered ideal of 'Truth' in literature and law.

Chapter 4 seeks to position Clara Reeve (a Gothic writer who explicitly looks to Walpole as her chief literary precedent) in relation to literary and juridical discourses that sought to repudiate an aberrant mode of writing culturally coded as 'feminine'. This undisciplined, disgusting, feminine textual excess was increasingly differentiated in the eighteenth century from a privileged 'masculine' space of literary production in which literary 'Truth' (in the form of the Realist novel) was to prevail over 'marvels'. At the same time, however, an emerging national tradition of novel-writing required a sure point of historical origin to guarantee its pedigree and romance fiction paradoxically provided a reliable context for the historicisation of this new form of prose. Romance was thus rationalised as the historical predecessor of the novel at the same time as it was denigrated as a dangerously unstable, feminine literary form. Contemporaneously, as Chapter 2 contends, a similar project was underway within legal discourse as lawyers sought to reorder, politically and theoretically, the dubious history and textuality of the English common law. An emerging national juridical tradition required a culturally and politically convincing source that was paradoxically

provided by means of an imaginative engagement with a quasi-mythic Gothic romance of legal and literary origins. English law sought to establish its origin with reference to a body of texts that was privileged in national political terms, but which was at the same time considered to be labyrinthine, irrational, even potentially maddening.¹⁹ Blackstone's *Commentaries of the Laws of England* was the most significant attempt within the legal discourse of the mid-eighteenth century to reconcile a textuality culturally categorised as 'feminine' (the 'romance' of common law) with legal reason, and to systemise and discipline an inchoate textual body of law according to an ideal of what might be termed legal 'verisimilitude'. Through the development of a form of juridical 'science', Blackstone sought to represent to the nation the content and operation of its laws – its legal experience – as the realist novelist sought accurately to depict, to organise and, ideologically, to validate the nation's rapidly changing social, cultural and political experiences.²⁰ Blackstone's narrative, however, retained a 'romance' element just as early realist novels remained generically close to romance, and it was precisely this aspect of Blackstone's theorisation of law that Jeremy Bentham so strenuously denounced. As Maria Aristodemou has persuasively argued, Bentham's nascent positivism is comparable to the contemporaneous development of fictional realism: both were premised upon a belief in the ability of language to convey truth if cleansed of the rhetorical and imaginative excesses of previous legal and literary modes of writing.²¹ Both discourses shared a profound hostility towards aberrant forms of textuality which nevertheless, in Derridean terms, essentially and subversively supplement ideals of 'Truth' in law and literature. Clara Reeve's critical and Gothic writings, when set within this context, reveal the extent to which this ideal is fractured by its necessary, yet disavowed *parerga*.

Clara Reeve's 1785 essay *The Progress of Romance* is exemplary of the sort of literary criticism in this period that attempted to account for romance in terms of its relation to the privileged Enlightenment form of novelistic prose fiction. Like the numerous, labyrinthine works of the early English common law, romance is perceived here as a vast and potentially disorienting textual domain: 'If read indiscriminately, [romances] are at best unprofitable, frequently productive of absurdities', says Reeve. Romance must be disciplined, 'it wants to be methodized, to be separated, classed and regulated'.²² Reeve demonstrates that same Enlightenment concern with correct systemisation that characterises Blackstone's approach to English common law. Reeve is aiming almost at a *science* of literary criticism that will 'fix a clear and certain meaning'

to romance and its related genres (p. 13). The essay, moreover, takes the form of a quasi-legalistic debate in which the leading participants will present evidence and 'advance nothing that is not proved'. The discourse begins at once to privilege romance as the 'universal Origin' of prose fiction, an origin that is, in historical terms, 'remote and obscure' (p. 13). At the same time, English varieties of romance are related to a Gothic chivalric tradition that carried significant political meaning in the eighteenth century. Reeve's essay, I argue, establishes a significant point of contact between romance fiction and early modern formulations of the origin of the English legal system. Like the common law, romance has its origin in 'time immemorial' and, for the legal and literary theorist, antiquity is equated with *authenticity*. Like the English constitution (so famously figured by Blackstone as an ancient 'Gothic castle'), romance fiction is related to a northern European Gothic tradition that separated England from Catholic Europe and helped establish, across a range of discourses, a sense of unique English national identity. At the same time, however, the derivation of privileged legal and literary discourses from a primitive, poetic, folklore tradition (from 'Gothic ignorance' as Reeve at one point puts it) undermined the Enlightenment attempt to attribute inherent rationality to English literature and law. In Reeve's text, moreover, the power of romance to overwhelm the ideal of 'Truth' in fiction is ultimately irresistible. 'My materials increase upon me', complains the advocate of romance, 'the number and quantity of them' is dizzying (p. 9). Romance becomes a 'fairylend' (p. 106) in which the debaters are lost and fiction *as such* remains throughout for Reeve a 'poison' (p. 77) inimical to truth: 'All those stories that are built upon fiction [...] have no foundation in truth' (p. 6). Reeve's hostility towards fictivity *per se* is expressed, moreover, within the context of a highly gendered *fictional* debate in which a problematised female subjectivity is related to a subversive, unstable, feminine textuality. The debate takes place over a number of evenings in the drawing room of one of the women participants, Euphrasia. The debate, then, is staged within a domestic, feminine space within which Euphrasia, the hostess, becomes the chief exponent of a certain conceptualisation of fiction which aims to rationalise the feminine textual presence of romance within the wider space of eighteenth-century literary discourse. Even as she directs the debate, however, Euphrasia avers repeatedly to the problematics of her female subject position before a male literary establishment that has a privileged existence beyond this feminine domestic space. Whilst to some extent she adopts the male voice in this debate, her appraisal of her position repeatedly reveals an association of her femininity with a

problematic ‘imagination’ that Euphrasia intends to subordinate, if necessary, to the masculine ‘judgement’ of the male participant, Hortensius (p. 4). Moreover, Euphrasia’s *modus operandi* is represented here as entirely reliant upon the production and interpretation of texts: ‘I will bring my papers before you’, she asserts, to which Hortensius replies (and the warlike, phallic imagery here is telling), ‘I find you are making great preparations against me. You are coming upon me armed with your papers and extracts – artillery and firearms against the small sword, the tongue’ (p. 4). Euphrasia is aligned here with a textuality that appears to unsettle Hortensius and this notion of a ‘feminine’ writing that is threatening to a ‘masculine’ speech points to something that is, for Derrida, fundamental to the Western logocentric tradition: a deep hostility towards textuality, a hostility that stems from the way in which writing displaces and disrupts the assumed self-presence of the *logos*. To give this point a further relevant historical and cultural context, it is *Gothic* textuality that emerges in Reeve’s period as the most pernicious and the most ‘feminine’ threat to a literary propriety that can never entirely be assured. Gothic fictions were ‘trash’ – dirty literary commodities produced by and for women who, by association, were classed as trashy and disgusting. A perverse, indisciplined fertility was also attributed to these commodities, aligning them further with an abject, ‘disgustful’ female physicality: Gothic romances ‘propagated their species with unequalled fecundity’;²³ they were metaphorised as sexually improper and were perceived to have an unequalled capacity to provoke and corrupt the imagination of their readers, particularly young women. The sexual metaphors here are interesting not least because they are replicated within legal discourse precisely in respect of that disturbing, inchoate textuality that introduces romance into law. Blackstone speaks anxiously of a ‘creative’ imagination that has the potential to make the law’s texts too ‘fertile’, generating ‘fanciful alterations’ to an essentially rational legal code (CLE, p. 436). In response to Blackstone’s Gothicisation of the common law, moreover, Bentham speaks of legal fictions that spring ‘out of the bed of metaphor’ to corrupt juridical reason (FG, p. 5). Across a range of discourses, then, it is the Gothic which is associated most insistently with this corrupt and corrupting, ‘feminine’ textual/sexual presence.

The second part of Chapter 4 comprises a reading of Reeve’s Gothic fiction, *The Old English Baron* (1778). In an attempt to preserve and promote a morally and epistemologically proper form of romance fiction, *The Progress of Romance* ends by privileging a masculine, heroic mode of romance which the essay posits as an antidote to a

contemporary culture in danger of overly feminising itself (and here Reeve interestingly evokes the same effeminate 'luxuriance' as Blackstone condemns in the *Commentaries* as fatal to juridical reason). *The Old English Baron* is an attempt to create and validate a disciplined Gothic textuality through the combination of a reworked Walpolean Gothic with the developing conventions of literary sensibility and verisimilitude. I argue in conclusion, though, that this Gothic romance subverts its own moral and generic propriety. Against the grain of the literary 'law' that works to discipline and validate this new form of modern romance, the text makes present a Gothic excess that contests the very ground of legitimacy in literature and law.

Archives and crypts

Chapter 5 moves on theoretically to interrogate the law's dependence upon a certain conceptualisation of *exteriority* within the Western tradition. This chapter offers a reading of Sophia Lee's *The Recess* (1785), which draws upon Derrida's notion of the 'space' of law and its relation to textuality, spectrality and the feminine. Derrida posits the 'archive' as a deeply ambivalent signifier of the law's spatial, textual and temporal power. The archive is the place from which paternal power originates: the term in Greek means both 'commencement' and 'command'.²⁴ But the archive is also the space within which texts are *housed* – it is at the same time a domestic, feminine space of textual reproduction and this provides a point of return, perhaps, to Clara Reeve's fraught engagement with an emerging eighteenth-century literary archive comprised of various forms of fiction in need of control. Reeve charts the progress of that most problematic mode of writing – romance fiction – by means of a fictional debate that takes place within a feminine archive, the private library of Euphrasia. Euphrasia's attempted vindication of a certain form of disciplined romance is marked, moreover, by a profound unease concerning an excessive, potentially maddening textuality categorised implicitly as feminine. Euphrasia's production of an almost overwhelming quantity of texts that appear to defy rational systemisation conflicts with, and must ultimately be subordinated to, the masculine 'judgement' of the male guest. As I have suggested, there is a hostility here to writing *per se* as that which displaces the self-presence of the spoken word (and, implicitly, the phallic power of Hortentius's 'little sword – the tongue').

The 'archive', then, can be understood as an unstable site of paternal law, unstable because of the necessity that it house a textuality that

it cannot properly contain. Chapter 5 revisits the formation in the eighteenth century of a national juridical ‘romance’ of law alongside the emergence of an English literary ‘archive’ in relation to which the Gothic occupies a peculiarly vital, yet liminal, position. Gothic fictions (and Lee’s novel is no exception) tend in this period to evoke a particular literary precedent – the work of Shakespeare – which assures the aesthetic credibility of literary Gothicism whilst also contributing to a national literary discourse which posits Shakespeare as the paternal point of origin of a uniquely English literary tradition. English literary history becomes in this period, in and through the Gothic, a genealogical narrative that looks to Shakespeare as its founding father. Thus, alongside the myth of the nation’s ‘Gothic’ constitution, a ‘fiction of patrilineal succession’ flourished which attributed a certain family history to literary texts, particularly Gothic texts.²⁵ As Deirdre Lynch observes, however, the construction of this national literary history out of dead men’s works had an uncanny aspect to it: ‘Do we not encounter here’, she asks, ‘a wish to be haunted?’ (p. 8). Like the spectres which, in Gothic fictions, communicate to the living certain hidden truths concerning proper genealogy, the deceased forefathers of contemporary writers ‘whisper things unfelt before’ (p. 8). Literary inspiration depends upon a form of haunting, and the integrity of the literary tradition requires the construction of monuments to ancestors, a ‘kind of fetishism’ that portrays ‘texts as legacies, readers as mourners’ (p. 10). Great works are remembered and mourned by writers whose work is partly composed out of the fragments of dead men’s texts. The writer is thus, argues Lynch, ‘possessed [...] He is ghost written by tradition’ (p. 10).

This tradition forms an ‘archive’ in the Derridean sense. It embodies a patriarchal point of origin and a principle of law: it is a ‘commencement’, a ‘command’ and also a *family history*. The archive has ‘the force of law, of a law which is the law of the house, of the house as place, domicile, family, lineage or institution’ (AF, p. 7). It is additionally a monument to the dead that must erase the possibility of death – of absence – through ‘repetition, reproduction, re-impression’ (p. 11). The archive exists by virtue of the compulsion to repeat, to re-enact the past. It is therefore, argues Derrida, ultimately ‘indissociable from the death drive’; through the ‘archive drive’, or ‘archive fever’, death enters ‘into the heart of the monument’ (p. 12). The archive – the house of/monument to law *and* literature – is thus also a ‘crypt’, and Derrida’s conceptualisation of ‘cryptic space’ opens up new possibilities later in this work for theorising the traumatic negotiations between ‘inside’ and ‘outside’ that

plague the symbolic economy and that are repeatedly re-enacted within Gothic fictions.²⁶ In Chapter 5 in particular, this Derridean perspective will yield a fresh reading of Sophia Lee's subtle configurations of Gothic space (temples, tombs and labyrinths) in that female Gothic 'original', *The Recess*.

'Swear!'

Of all of the Gothic writers of the late eighteenth century, it is possibly Radcliffe who most persistently evokes Shakespeare in order to contextualise and legitimise her Gothic. On the borders of Radcliffe's texts (in prefaces, as chapter headings, epigraphs and so on) are quotations from or allusions to Shakespeare which not only draw upon, but also to a degree disrupt a certain 'archive' – a paternal genealogy that produces and reproduces the law's fictions. In particular, it is *Hamlet* that emerges here almost as a Gothic ur-text; the spectral father that commands Hamlet to renew the law's 'purity' reappears in a variety of Gothic contexts from Walpole onwards. In Radcliffe, this moment of spectral, paternal command is explicitly recalled by means of a quotation cited in *A Sicilian Romance* and later in *The Mysteries of Udolpho*.²⁷ This fragment of Shakespeare is recited in these texts to hint at the presence of spectres and secrets: it is the pronouncement of the ghost of Hamlet's father to his son – 'I could a tale unfold'. The words evoke a 'tale' that speaks of vengeance and remembrance; they introduce in Shakespeare's play a narrative of disturbed patrilineal succession in which the spectre of the father calls upon the rightful heir to re-institute proper authority through a juridical command: 'Swear!' The tale which prompts this command is one of murder and usurpation and the command to the son is to 'set right' this perversion of paternal law. Derrida's interpretation of this extraordinary moment – the moment of the juridical oath whereby Hamlet accepts his inheritance – is extremely pertinent to a reading of Radcliffe's variations upon this Shakespearean theme. Hamlet's initial response to the spectre's command is to interpret it as a curse: 'The time is out of joint/Oh Curs'd spite, that ever I was born to set it right.' Derrida's *Specters of Marx* foregrounds this notion of disjointed time, relating it to spectrality and legal temporality, and Chapter 6 employs this theoretical perspective on inheritance in order to read Radcliffe's multi-layered contestation of paternal law.

Chapter 7 is a short chapter which offers a reading of the posthumously published *Gaston de Blondville* as a text which illustrates from a variety of perspectives the problematics of fictivity, origin and authority

in literature and law – the problematics, as this work theorises it, of the Gothic and/in the rule of law. This is a novel that brings into sharp focus the fraught question of authenticity in respect of literary and juridical histories, genealogies, archives. It is a text that deviates from the better-known Radcliffean Gothicism associated with the novels published between 1791 and 1797; *Gaston de Blondeville* returns instead to an earlier Gothic form – that associated with Clara Reeve and with Radcliffe's own first Gothic romance, *The Castles of Athlin and Dunbayne*. It is a work that reiterates the patriot Gothic myth of the mid-to-late eighteenth century and the ideal of chivalric masculine virtue that informs Reeve's *Progress of Romance* and *The Old English Baron*. Radcliffe's final Gothic romance, though, is by no means a straightforward reproduction of what James Watt has termed eighteenth-century 'patriot Gothic'.²⁸ First, this text eschews that post-Walpolean Gothic commitment to what Clara reeve terms 'probability': *Gaston de Blodeville* is the only one of Radcliffe's works that does not 'explain' the supernatural and it is significant, I will argue, that it is in the context of a reworked 'patriot Gothic' that Radcliffe does finally allow an unexplained spectral presence to emerge to challenge an ostensibly legitimate paternal authority. Secondly, this is an exceptionally multi-layered, fragmented, textually unstable piece. It is a work the coherence of which depends upon and is undermined by various *parerga* which Chapter 7 considers in some detail. Like Walpole's *The Castle of Otranto*, this is a Gothic work that demands to be interpreted through and that is to an extent destabilised by its ambivalent prefaces. The novel frames itself with an (in)authentic 'contemporary' narrative the aim of which is properly to situate and validate the 'historical' record that follows – a record that profoundly problematises the relation between 'truth' and 'fiction', 'past' and 'present'. Like *The Castle of Otranto*, moreover, Radcliffe's text symbolically privileges the uncanny presence within the literary and juridical archive of a certain signifier of Gothic textuality the theoretical significance of which I consider in Chapter 2 and return to throughout this work: this is the 'black letter' script which marks out Walpole's *Otranto* and Radcliffe's *Gaston* as (in)authentic, abject Gothic 'originals'.

'Enjoy!'

Chapter 8 begins a re-evaluation of the relation between the Gothic and the rule of law through an examination of the juridical and literary contexts of the 1790s. Poststructuralist legal theory, I have suggested, has

taken a certain 'Gothic' turn, interrogating the force and the letter of the law with reference to the law's relation to monstrosity, abjection, mourning and fictivity. This is no coincidence. The Gothic emerges in the eighteenth century as a fissured, disruptive literary form that throws into question a juridical economy that can longer necessarily guarantee the authority and authenticity of its fictions. Gothicism began to develop in this period as one of the most potent aesthetic modes of critical engagement with the modern rule of law. In the 1790s in particular, the Gothic became implicated in and subversive of highly unstable and shifting representations of power. De Sade attributed the unprecedented growth of Gothic fiction in this decade to the traumatic effects of the French revolution, an event that was itself often figured in distinctly Gothic terms.²⁹ It was in the aftermath of the revolution, moreover, that the Gothic began to shape itself into the multiple hybrid forms that came later to be associated with a genre so fluid and diverse as to be almost incapable of proper determination. Gothic textuality came also in this period to be subject to a degree of censure so diverse that this in itself could be said to reveal the shape-shifting, mercurial quality of the modern literary Gothic. For radicals opposed, in particular, to Edmund Burke's narration and theorisation of the events of 1789, conservative evocations of constitutional Gothicism were held responsible for generating in uneducated minds a misplaced passion for corrupt government; the Gothic romance of English legal history was seen by writers such as Paine, Godwin and Mackintosh to cloak an oppressive force of law in a legitimising mystique. Conservatives, on the other hand, came to align the literary Gothic ('terrorist novel writing') with inflammatory, revolutionary rhetoric in terms of its capacity to derange the individual and disorder the community.³⁰ From various political perspectives, the Gothic became in this period a signifier of the political and ontological insecurity of law.

With Godwin's *Enquiry Concerning Political Justice* and *Caleb Williams* as its main focus, Chapter 8 reconsiders the ontological relation of the law to absence, death, spectres, the feminine and to a disruptive yet essential textuality that is coded as feminine. Godwin's theory of justice (and it will be set here within the wider context of conservative and radical anxieties concerning the ontological stability of law) interrogates the problematics of juridical 'Presence' and 'Truth' and, in its critique of what Godwin posits as a deathly and deadly 'Gothic' narrative of power, it comes close, I will argue, to a conceptualisation of justice that anticipates aspects of poststructuralist legal theory. In the *Enquiry*, justice begins to lose its dependence upon a logocentric fiction of juridical permanence

that simply functions to reproduce the power of the dead over the living. Justice as conceptualised here by Godwin becomes almost Derridean. For Derrida, and very nearly for Godwin, justice can take place only in a moment of radical undecidability that is beyond the juridical system of precedent that binds the present to the past, the living to the dead. Godwin's attempt theoretically to position justice beyond the law ultimately fails, however, and *Caleb Williams* can be read as the narration of an abject failure of justice in respect of a defeated protagonist who is, I contend, dreadfully representative of the modern juridical subject who is *always already guilty* before the law.

Chapter 8 elaborates upon this point, introducing and developing the notion that what increasingly characterises the relation between the juridical subject and the rule of law (and this is what the modern Gothic so successfully represents) is an obscene, guilty enjoyment that binds the subject to modern forms of power. Godwin's Caleb is made subject to Falkland not only through the operation of an oppressive force of law (the 'Gothic unintelligible burden' of law, as Godwin puts it in the *Enquiry*), but by virtue of Caleb's own guilty enjoyment of his master/patron/father's transgression. This novel re-focuses the Gothic on an engagement with the abject subjectivity that emerges out of a modern juridical matrix of institutional violence and individual drives, desire and guilt. Chapter 9 reads Godwin's *St Leon* and *Maturin's Melmoth the Wanderer* from this theoretical perspective: what these texts reveal is the modern law's perverse relation to its abject subjects. What they also suggest, moreover, is the extent to which the law's fundamental command to its subject can be seen to be changing in this period. To re-invoke Derrida, this juridical command (the command that institutes juridical subjectivity and that entails a certain renunciation of desire in the subject) is no longer to 'Swear!', but, as Žižek puts it, to 'Enjoy!'.³¹ What the abysmal predicaments of Leon and Melmoth expose is the extent to which an emerging capitalist economy of over-production and over-consumption condemns its guilty subjects to an obscene, unending compulsion to 'Enjoy!'

End point – 'Frankenstein'

The Gothic and the Rule of Law ends with a consideration of what might be termed an 'exemplary gothic signifier' – 'Frankenstein'. By this, I refer not only to Shelley's Gothic novel *Frankenstein*, but to the monster and the creator that have *both* come to bear this name, and to the many

supplements that border on this text – its prefaces, the critical responses to it and the multiple adaptations of it that constitute its extraordinary afterlife.³² The relation of this nineteenth-, twentieth- and twenty-first-century cultural phenomenon to an ambivalent Gothic tradition that it reproduces and also contests brings into sharp focus the problematics of legal and literary authority, the question of precedent, narrativity, ‘origin’ and originality, ‘nature’ and ‘culture’. It allows for a convenient concluding review of the major points of *The Gothic and the Rule of Law*: it is an appropriate end point, or final limit, to my work.

And yet, such is the textual, generic and conceptual instability of ‘Frankenstein’ that it forces one *beyond* stable hermeneutic borders. It blurs, for example, the temporal frame of this work: 1764–1820. Whilst *Frankenstein* was first published in 1818, the 1831 edition with Mary Shelley’s preface is of such critical significance that there is a sense in which *this* is the authoritative, precedent text for subsequent studies of ‘Frankenstein’. Like the Gothic itself, one could argue, ‘Frankenstein’ is a deeply unstable signifier that challenges ‘the concept of category’,³³ resisting attempts to define or ‘frame’ it. Thus it could be said that, in the Derridean sense, the novel *Frankenstein* is indeed the *exemplary* Gothic fiction – a text that points outside itself to the absence of any coherent mark of belonging.³⁴ Of all Gothic fictions, this one has shown the most extensive and subversive capacity to re-present and reproduce itself across generic and hermeneutic boundaries and, in so doing, it has become culturally much *more* than the novel *Frankenstein*. In putting ‘Frankenstein’ to work as an ‘example’, as a limit point, one is forced in fact to go beyond borders in order to assess how the phenomenon signified by ‘Frankenstein’ re-negotiates the relation of the Gothic to modern narratives of power through its eccentric de-centring of literary and juridical ‘truth’.

Shelley’s Gothic fiction, first, has a unique relation to a certain Gothic ‘inheritance’ that is both literary and familial. *Frankenstein* has a number of precedent texts; it has a point of origin in Horace Walpole’s ‘abject fake’, *The Castle of Otranto*; it also emerges out of a Gothic family history that posits Mary as the inheritor of the radical Gothicism of the 1790s. The 1831 preface indeed cites this literary, familial inheritance as a motivation for Mary’s own writing career. *Frankenstein* is the product of a textual and familial lineage that ambivalently (de)authenticates it; the text seemingly has an origin and a history that is capable of being accounted for, genealogically and generically, whilst the very nature of its precedents at the same time undermine its literary propriety. *Frankenstein* emerges out of the ‘Gothic devilism’ of the mid-to-late

eighteenth century³⁵ and the ‘Gothic’ political radicalism of the 1790s. It abjectly reproduces this inheritance, coming itself to exist as a precedent text for a re-formed Gothicism through which monsters have proliferated with all of the perverse fecundity attributed to Gothic textuality in the eighteenth century. Indeed, the monsterism initiated by Shelley’s text can be taken, I will argue, to signify an (il)legal textuality that is ‘always already excessive, grotesque, overflowing’.³⁶ *Frankenstein* contests that which is deemed to be proper, authentic, authorised. It does so by virtue of its uncanny relation to an existing cryptic Gothic ‘archive’ and through its abject positioning of its monster-creator. It does so also, I argue, by virtue of its multiple paratexts. I begin the conclusion with a return to the question of thresholds, particularly textual thresholds, through a reference back to Godwin which is also a gesture forward to *Frankenstein* and beyond. In 1831, Godwin published at the behest of his publishers an advertisement for a new edition of *St Leon*. This preface justifies *St Leon* in terms of the earlier success of *Caleb Williams*, a precedent text for *Leon* which this advertisement radically re-interprets: *Caleb Williams* is presented now as a literary experiment in characterisation and plot rather than as a novel of political protest. The year 1831 also saw the publication of a new edition of *Frankenstein* with Mary Shelley’s preface attached. This paratext re-positions the ‘original’ novel in various ways. Mary finally claims ownership of her work whilst at the same time in a sense disowning it. In narrating the most famous of all modern literary creation myths, the preface describes *Frankenstein* as the product of numerous factors over which Shelley herself is seen to have little control: conversations between her husband and Byron; the ghost-story competition; the dream which finally formed the premise of the novel. The implication is that this feminine Gothic fiction is not the consequence of a disciplined, creative mind at work; it is rather the result of Shelley’s absorption of the scientific, philosophical and literary ambitions of her male companions and her transformation of them, through dreaming, into a monstrous fiction the subversive potential of which this preface attempts to rein in. Like her father’s 1831 advertisement, Shelley’s paratext (de)authenticates and (de)stabilises an already ambivalent Gothic ‘original’. By simultaneously reproducing and *transforming* the texts which they preface and promote, these authoritative, authorial supplements suggest the indeterminacy that characterises ideologically powerful, ‘lawful’ processes of textual production, reproduction, reading and re-reading. They reveal what this work terms the ‘Gothic *in* the rule of law’.

Notes

1. Peter Goodrich, *Oedipus Lex: Psychoanalysis, History, Law* (Berkeley: University of California Press, 1995), p. 1. Hereafter OL. Goodrich quotes François Hotman, *Anti-Tribonian ou discours d'un grand et renommé jurisconsulte de nostre temps sur l'estude des loi*, 1567, Paris.
2. OL, p. 2. Goodrich quotes Abraham Faunce, *The Lawiers Logike, exemplifying the precepts of Logike by the practice of the common law*, 1588, London.
3. Julian Wolfreys echoes a number of contemporary critical accounts of the literary Gothic in terming it 'always already excessive, grotesque, overspilling its own boundaries and limits', *Victorian Hauntings: Spectrality, Gothic, the Uncanny and Literature* (Basingstoke and New York: Palgrave, 2002), p. 8. Hereafter VH.
4. Costas Douzinas and Ronnie Warrington (eds) *Postmodern Jurisprudence* (London: Routledge, 1991), p. 25. Hereafter PJ.
5. For Slavoj Žižek, in psychoanalytic terms, the 'Thing' is the embodiment of an obscene excess which is essential to, yet traumatically disruptive of, the proper origin and authority of law: see *The Sublime Object of Ideology* (London: Verso, 1989), *The Plague of Fantasies* (London: Verso, 1997).
6. Jaques Derrida, 'The Law of Genre', in *Acts of Literature*, Derek Attridge (ed.) (London: Routledge, 1992), p. 230.
7. Anne Williams, *Art of Darkness: A Poetics of the Gothic* (Chicago: Chicago University Press, 1995), p. 17. Hereafter AD.
8. David Punter, *Gothic Pathologies: The Text, the Body and the Law* (London: Macmillan, 1998), p. 1.
9. Maurice Blanchot, *The Gaze of Orpheus* (New York: Station Hill, 1981), p. 156.
10. Slavoj Žižek, *The Plague of Fantasies* (London: Verso, 1997), p. 73. Hereafter PF.
11. Derrida's notion of 'cryptic space' will be considered much more fully in Chapters 5–8. There it will become central to a reading of femininity and law in Lee and Radcliffe, and to negotiations of textual and physical space in Godwin and Maturin.
12. Michael Macovski, 'Juridical Texts and Transgressive Containment', *Romantic Circles*, M. Micovski (ed.), March 1999, <http://www.rc.umd.edu/law/macovski>.
13. Jeremy Bentham was foremost in condemning the intrusion of 'pernicious fictions' into the legal domain: see *A Fragment on Government*, William Harrison (ed.) (Oxford: Blackwell, 1967), p. 21. Hereafter FG.
14. Robert Miles, 'Nationalism and Abjection', in *The Gothic: Essays and Studies 2001*, Fred Botting (ed.) (Cambridge: Brewer, 2001), pp. 47–86.
15. Slavoj Žižek, *The Fragile Absolute* (London: Verso, 2000), p. 3.
16. The Gothic exposes the uncanny coincidence between, as Derrida puts it, 'the real and the unreal, the actual and the non-actual, the living and the non-living, being and non-being', *Specters of Marx: The State of the Debt, the Work of Mourning and the New International* (London: Routledge, 1994), p. 11. Hereafter SM.
17. Critical Review, September 1789, quoted in Alison Milbank's introduction to Ann Radcliffe, *The castles of Athlin and Dunbayne* (Oxford: Oxford University Press, 1995), p. xi.

18. Immanuel Kant, *Observations of the Feeling of the Beautiful and the Sublime* (Berkeley: University of California Press, 1991), p. 113.
19. See Peter Goodrich's discussion of representations of common law in the early modern period as maddeningly and dangerously chaotic, *OL*, pp. 1–10.
20. William Blackstone, *Commentaries on the Laws of England*, Vol. I (Oxford: Clarendon Press, 1966), p. 2. Hereafter CLE.
21. Maria Aristodemou, *Law and Literature: Journeys from Her to Eternity* (Oxford: Oxford University Press, 2000), pp. 25–8.
22. Clara Reeve, *The Progress of Romance* (Colchester: C. W. Keymer, 1785), p. 8.
23. T. J. Matthias, *The Pursuits of Literature* (London, 1805). For a recent study of the moral and aesthetic problematics of the Gothic book trade, see Franz J. Potter, *The History of Gothic Publishing, 1800–1835: Exhuming the Trade* (London and New York: Palgrave, 2005).
24. Jacques Derrida, *Archive Fever: A Freudian Impression* (Chicago: University of Chicago Press, 1995), p. 1. Hereafter AF.
25. Deirdre Lynch, 'Gothic Libraries and National Subjects', *Studies in Romanticism*, 40 (2001), p. 29.
26. Derrida explicitly relates the Western archive to an exteriority that is 'indissociable from the death drive': '[if] there is no archive without consignment in an external place which ensures the possibility of memorisation, or repetition, of reproduction, or of reimpresion, then we must also remember that repetition itself, the logic of repetition [...] remains indissociable from the death drive', pp. 11–12. See also 'Shibboleth', in *Acts of Literature*, Derek Attridge (ed.) (London: Routledge, 1992), pp. 370–413.
27. Epigraph to Ann Radcliffe, *A Sicilian Romance* [1790] (Oxford: Oxford University Press, 1993), epigraph to Ch. 2, Vol. 1, *The Mysteries of Udolpho* [1794] (Oxford: Oxford University Press, 1980), p. 19.
28. James Watt, *Contesting the Gothic: Fiction, Genre and Cultural Conflict* (Cambridge: Cambridge University Press, 1999).
29. According to de Sade, Gothic fictions were 'the necessary fruit of revolutionary tremors' felt throughout Europe in the 1790s; quoted in Robert Miles, *Gothic Writing, 1750–1820: A Genealogy*, 2nd edn (Manchester: Manchester University Press, 2002), pp. 42–3.
30. See Steven Blakemore, *Intertextual War: Edmund Burke and the French Revolution in the Writings of Mary Wollstonecraft, Thomas Paine and James Mackintosh* (London: Associated University Press, 1997) and *Burke and the Fall of Language* (London: University Press of New England, 1988), John Barrell, *Imagining the King's Death: Figurative Treason, Fantasies of Regicide 1793–1796* (Oxford: Oxford University Press, 2000).
31. Slavoj Žižek, *The Sublime Object of Ideology* (London: Verso, 1989), p. 81.
32. As Fred Botting observes, the text is 'a product of criticism, not a work of literature'. *Frankenstein: Contemporary Critical Essays*. Fred Botting (ed.) (Basingstoke: Macmillan, 1995), p. 1.
33. Ann Williams, AD, p. 13.
34. See Derrida's discussion of exemplarity in *On the Name* (Stanford: Stanford University Press, 1995), p. 17, and see Ch. 8.
35. The Monthly Review, May 1765, in *Horace Walpole: The Critical Heritage*, Peter Sabor (ed.) (London: Routledge, 1987), p. 71.
36. Julian Wolfreys, VH, p. 8.

1

Fictions of Origin

The law's dreaming

In *Hamlet*, the ghost of Hamlet's father beckons his grieving son to the threshold of the castle – to the castle walls – and there reveals the abject truth about the rule of law in Elsinore. In Walpole's *The Castle of Otranto* (1764), the portrait of an ancestor appears to come to life; he beckons his descendant (the inheritor of a usurped power) towards a threshold, only to slam the door in the tormented Manfred's face. In Clara Reeve's *The Old English Baron* (1778), the hero has a dream in which the appearance of a spectre again suggests the murderous disruption of proper, paternal rule. In these Gothic fictions (which invariably raise the literary ghost of Shakespeare), contestations and affirmations of paternal law are mediated through the raising of the dead that occurs in moments of madness or of dreaming.

Contemporary theorists have attempted to show how close the law is to death and dreaming. Peter Goodrich, for example, observes that the term 'Dogma' '[although] derived from the Greek word *dokein*, to think, has an instructively ambivalent semantic history. In one little-known acknowledged derivation, it refers to the unconscious unravelling of thought, to reverie and the recounting of visions.¹ This semantic curiosity suggests a blurring of conceptual boundaries, a slippage between *logos* and *mythos*, reason and reverie. In spite of this apparent ambiguity, however, and the relation that appears to emerge here between rational truth and poetic dreaming, Western juridical thinking has consistently sought to exclude from its domain 'any aesthetic or poetic conceptions of law' (p. 269). Law has been identified with *logos* as the ideal of reason which 'guarantees the truth of a cultural symbolic order'² and, as such, it has been rigorously disassociated from the imagination, from

‘the recounting of visions’, from *poesis* and, one must add, from the feminine. In seeking thus to define and elevate the law *as* the *logos*, moreover, the legal theorist has, like the philosopher, become obsessed with the question of origin. Within Western jurisprudence, as within Western thought generally, there is a philosophy of ‘Presence’ in evidence which articulates this obsession with first principles.³ The meta-physical identification of law with *logos* is an attempt to ground the law in a self-present, self-perpetuating Idea which constitutes a sure point of juridical origin. This gesture, however, does not settle the fraught question of the law’s beginning. Following Pierre Legendre (whose work will be considered more fully below),⁴ it is possible to argue that the search within legal discourse for the moment of origin of the law *in* the *logos* brings the law ultimately into the space of myth. In Legendre’s analysis, the ideal of law as *logos* is nothing but a mythic construction – a ‘Reference’, in his terms – which has ‘the status of a mythical justification for the system as a whole’.⁵ Reading Legendre alongside Kristeva and Žižek, this chapter takes as its point of departure the suggestion that Western representations of law as *logos* amount only to myths of origin that function ‘to symbolise and legitimate a fiction of absolute power’.⁶ This position will then be reoriented towards a Derridean critique of the law’s fictions of origin. The aim here is not to efface the differences between these diverse theoretical approaches, but to draw upon common aspects of each theorist’s work in order to facilitate, in the remainder of this book, a new critical account of the relation between the Gothic and the rule of law. Such a blending of theoretical perspectives, I hope to show, is well positioned to examine the extent to which the Gothic in the modern period has come to inhabit, or perhaps to *possess*, the rule of law.

Kristeva’s theorisation of abjection, prohibition and the maternal body has provided Gothic criticism with a potent tool of analysis. With its focus upon the relevance of law, language and myth to social and psychological development, Kristeva’s work also offers an extremely persuasive account of the formation of myths of legal origin that function to ground individual self-identity within the cultural symbolic order.⁷ For Kristeva, the emergence of law and of abjection is inseparable from a ‘logic of prohibition’ the founding gesture of which is the institution of the incest taboo: the forbidding of incest ‘has the logical import of founding by means of that prohibition, the discreteness of interchangeable units, thus establishing the social order and the symbolic’.⁸ The fundamental *instability* of the incest taboo as civilisation’s founding gesture will be considered more fully below: for Kristeva, it is indeed

the *weakness* of this prohibition which warrants analysis. The abject is produced by means of a 'logic of exclusion' which cannot, in fact, function sufficiently to exclude 'filth' from the symbolic economy. Following George Bataille's reading of culture and abjection, Kristeva stresses 'the inability [of the logic of prohibition] to assume with sufficient strength the imperative act of excluding' (PH, p. 255). The symbolic order is thus threatened with abjection by the very 'law' which founds it and which fails to confine the abject to the exterior of the symbolic. Because of this failure of prohibition, then, abjection comes to pertain precisely to this inevitable slippage, to this blurring of boundaries between 'inside' and 'outside' that threatens individual and communal identity. The taboo object is 'unclean' because it invokes this marginality and reveals the 'frailty of the symbolic order' (p. 259). It is because abjection exists 'on the borderline' that it is 'both terrifying and fascinating' (p. 255), and it is this duality of abjection – its existence 'on the borderline' and its relation to the 'weakness' of prohibition – that I wish to emphasise here. In seeking to account for the institution of a 'law' which produces both the sacred *and* the abject (and which is, it will be argued, itself no more than a 'borderline' between the sacred and the abject) Kristeva not only draws upon, but also challenges the familiar Freudian account of the institution of civilisation by means of the primeval act of parricide:⁹

In psychoanalysis as in anthropology one commonly lists the sacred and the establishment of the religious bond that it presupposes with *sacrifice*. Freud tied the sacred to taboo and totemism and concluded that "we consider ourselves justified in substituting the father for the totem animal in the male's formulation of totemism." We are all familiar with that Freudian thesis as to the murder of the father and, more specifically, with the one he develops in *Moses and Monotheism*: in connection with Judaic religion the archaic father and master of the primeval horde is killed by the conspiring sons who, later seized with guilt for an act that was on the whole inspired by ambivalent feelings, end up restoring paternal authority, no longer as an arbitrary power but as a right; thus renouncing the possession of all women in their turn, they establish at one stroke the sacred, exogamy and society. (p. 248)

Man's first 'law' is the prohibition of incest, a taboo instituted to demarcate between the sacred and the unclean and to establish the sanctity of paternal rule. The law is a 'religious phenomenon' (p. 249) bound up with rituals that seek to expel the prohibited object from the clean

social body. The process of expulsion, moreover, directs not only the coming-into-being of the law of the community, but the development of individual subjectivity:

If the *murder* of the father is that historical event constituting the social code as such, that is, symbolic exchange and the exchange of women, its equivalent on the level of the subjective history of each individual is therefore the *advent of language*, which breaks with perviousness if not with the chaos that precedes it and sets up denomination as an exchange of linguistic signs. (p. 252)

The constitution of the social code and the advent of language are borne out of a 'logic of prohibition' which demarcates between the sacred and the abject and thus serves ostensibly to safeguard the purity of the community and its members (p. 249). The emergence of law and language, then, is explicable only with reference to 'purification rights whose function is to separate this or that social, sexual or age group from one another, by means of prohibiting a filthy, defiling element. It is as if dividing lines were built up between society and a certain nature, as well as within the social aggregate, on the basis of the simple logic of *excluding filth* [...]' (p. 256). The argument to be pursued here is that the law exists *only as* this 'dividing line' that serves to exclude filth and thereby to define the integrity of individual and communal identity, and what Kristeva's analysis points to is precisely the instability of this borderline. In seeking to account for an apparent anomaly – the inability of the law of prohibition wholly to guarantee the security of the society it institutes – Kristeva asserts that 'filth is not a quality in itself, but it applies only to what relates to a boundary and, more particularly, represents the object jettisoned out of that boundary, its other side, a margin [...]' The potency of pollution is therefore not an inherent one; it is proportional to the potency of the prohibition that founds it' (p. 259). This 'prohibition' produces the 'clean' and the 'unclean' as apparently distinct categories by demarcating between two previously undifferentiated states. The law – this 'prohibition' – emerges as the dubious point of demarcation between the sacred and the abject. These two states exist, therefore, not as *a priori* categories which a transcendental Law makes known to the community, but as entirely contingent, relative categories created and separated by the most fragile of boundaries – by 'law' as borderline, *parergon*, 'hinge, or pleat'.¹⁰ Thus it is that 'filth' exists, not 'in itself' but only with reference to 'a boundary [...]' a margin', and the threat that 'filth' poses emanates not from the 'unclean'

object, but from 'the inner and outer boundaries in which and through which the speaking subject is constituted' (PH, p. 259). The law – the 'inner and outer boundary' of this symbolic economy, the permeable margin between the sacred and the abject – is itself that which jeopardises the integrity of the community and its members. Kristeva's analysis suggests that there is no abjection beyond the law and no law beyond abjection.

Pierre Legendre is close to Kristeva in terms of his emphasis upon the social determinants of individual identity formation. Legendre, however, firmly prioritises law over language in terms of the development of individual and communal subjectivity, and it is this emphasis upon the foundational *juridical* component of subject formation that opens up a further productive theoretical trajectory for reading the law in terms of abjection, *differance* and, ultimately, the Gothic. The human subject must not only be reproduced, according to Legendre, 'it must also be instituted' (p. 10). The 'I', then, is not primarily a speaking subject at its point of inception, but a juridically constituted artifice produced through kinship succession institutionalised as law. Because of the primacy of law in the formation of juridical subjectivity, Western conceptualisations of truth, he contends, become questions of paternity which in turn become questions of law. Juridical reason consequently becomes 'the paradigm of all reason'¹¹ and, given the emphasis within juridical thinking upon legitimate paternal lineage, the question of origin assumes a certain urgency. The law must be grounded in some certain principle: there must be a decisive point of origin capable of generating a legitimate chain of succession. In seeking to account for this point of origin, however, the philosopher encounters an impasse:

The proof of lineage eventually runs up against an impossibility, just as did those proofs of title to property for which European lawyers coined a striking term: *probitio diabolica* . . . In other words, the question reaches an impasse, but not just any impasse; it encounters this void, or vertiginous chasm, through those representations which, so to speak, inhabit the impasse. For westerners, this impasse is inhabited by God, or some functional equivalent, given that God is now dead as the founding signifier of western juridical systems. (p. 147)

There is no decisive, transcendental origin of law, for the question of origin arises out of a contingent chain of succession that impossibly seeks its beginning in something outside itself. The question of origin

thus enters the space of myth: the law must ground itself in a ‘founding supposition’ which functions as a necessary fiction of origin:

Every juridical system is guaranteed by a founding supposition, the expressed content of which may vary according to social and political factors, but which derives its power from its function as a general presupposition, or, in other words, as the axiom from which all other axioms are derived. This general axiom operates within institutional systems as a general normative affirmation having the status of a mythical justification for the system as a whole. (p. 240)

Law as *logos* is this necessary fiction, a ‘founding supposition’ which, as Alain Pottage observes, operates, for Legendre, analogously ‘to the “number” zero in mathematics’.¹² Oscillating between presence and absence, point zero in mathematics is an absent origin that exists not as a number at all, but as a point of demarcation between positive and negative. As the zero point of the symbolic order, the *logos* functions to fictionalise the origin of a law that is, in itself, nothing but the difference between presence and absence and ‘which is paradoxically presence *and* absence’.¹³

Žižek is concerned similarly with the invisibility of *any* proper origin of law, and his work offers a further means of interrogating the emergence and ontological status of the Western juridical fantasy of law as *logos*. For Žižek, the ‘founding supposition’ of the law is a parricidal fantasy, a ‘primordial lie’ designed to conceal something yet more horrific than the murder of the father: this ‘narrative of primordial loss’ is an avoidance of the Real.¹⁴ For Žižek, this fantasmic narrative operates to separate ‘present actual consciousness’ from the chaos of the individual unconscious and the collective primordial prehistory of the community (p. 71). The following passage, in which Žižek considers Schelling’s account of the founding gesture of consciousness, may usefully be compared to Legendre’s analysis of the law as the ‘zero point’ of the symbolic order mythologised so as to justify its juridical system. The primordial act which separates individual and communal consciousness from the unconscious is, in Schellings terms, ‘a deed [which], once accomplished, sinks into unfathomable depth’ (p. 72). In this, argues Žižek, we encounter

the logic of the vanishing mediator: of the founding gesture of differentiation which must sink into invisibility once the difference between the ‘irrational’ vortex of the drives and the universe of the

logos is in place. Schelling's fundamental move is thus not simply to ground the ontologically structured universe of *logos* in the horrible vortex of the Real; if we read him carefully, there is a premonition in his work that this terrifying vortex of the pre-ontological Real itself is (accessible to us only in the guise of) a fantasmic narrative, a lure designed to distract us from the true traumatic cut, that of the abyssal act of *Ent-Scheidung*. (p. 73)

The 'founding gesture of differentiation', the gesture that founds the Sacred in opposition to the 'irrational vortex' of the Real, is unknowable, and conceptualisations of the *logos* initiated through this foundational, invisible gesture exist only as fantasmic narratives of this 'invisible deed'. Reading Legendre with Žižek, it may be argued that the origin of law – Legendre's 'zero point' of the symbolic order – exists *before* its fictionalisation as *logos* only as the 'vanishing mediator' of which Žižek speaks: it is the 'founding gesture of differentiation' between the symbolic order and 'the terrifying vortex of the pre-ontological Real' which, Žižek argues, *is itself* accessible only as a 'fantasmic narrative'. The space *beyond* the symbolic, as it is conceived of *within* the symbolic, has no pre-ontological status, but comes into being through an unstable demarcation that creates the 'abject' as a necessary fictional anathema to the myth of law as *logos*. This traumatic demarcation, this border 'on the threshold of culture',¹⁵ threatens the disintegration of 'present actual consciousness' even as it institutes it by evoking that abyssal absence of origin – the 'true traumatic cut' – the 'presence' of which on the edge of consciousness threatens to dissolve the distracting, oppositional fantasies of the ontological symbolic order and the pre-ontological Real.¹⁶

Man's first 'law', the prohibition against incest, exists only 'on the threshold of culture' (ESK, p. 14). It is, furthermore, untheorisable from *within* the symbolic order which it initiates. In Žižek's analysis, it is mythologised according to a 'primordial lie' of parricide which serves to cover over a traumatic absence of any conceivable origin for the founding 'law' of civilisation. For Levi-Strauss, this first law is both law and non-law: it founds the demarcation between 'nature' and 'culture' whilst remaining itself insusceptible to analysis according to this opposition:

The prohibition of incest is in origin neither purely cultural nor purely natural, nor is it a composite mixture of elements from both nature and culture. It is the fundamental step because of which, by which, but above all in which, the transition from nature to

culture is accomplished. In one sense, it belongs to nature, for it is a general condition of culture [...] However, in another sense, it is already culture, exercising and imposing its rule on phenomena which initially are not subject to it. (ESK, p. 24)

The incest prohibition, then, to move closer to a Derridean analysis has something of the quality of a *parergon*, existing in between two domains whilst belonging decisively to neither. Derrida reveals, moreover, that this law ‘on the threshold’ between ‘nature’ and ‘culture’ brings into being the categories of ‘nature’ and ‘culture’ which it itself *is bound* to exceed, by the very nature of the conceptualising system it initiates: ‘[...] the whole of philosophical conceptualisation, which is systematic with the nature/culture opposition, is designed to leave in the domain of the unthinkable the very thing that makes this conceptualisation possible: the origin of the prohibition against incest’.¹⁷ As the essential, yet untheorisable, ‘inner and outer boundary’¹⁸ of the symbolic domain (within which law as *logos* then functions as the theorisable, yet fictive, ‘origin’ of law), this law that is no law is abject. It may also, I will argue, be re-figured productively according to Derrida’s conceptualisation of *differance*.

Moving from an engagement with Husserl’s notion of self-presence and towards his own conceptualisation of *differance*, Derrida asserts that self-presence is constituted by ‘pure difference [...] The living present springs forth from non-identity with itself’, and that which sets it in motion is ‘*differance* [as] the origin and production of differences, or the play of differences’.¹⁹ *Differance* is no self-present origin in itself, however, but rather that which oscillates between ‘presence’ and ‘absence’ as the groundless condition-of-being of all differences: as such, ‘it has neither existence nor essence. It belongs to no category of being, present or absent’ (SP, p. 134). *Differance* is consequently ‘maddening’, a ‘terrifying menace’, but at the same time ‘the first and surest protection against that very menace’; it ‘exposes and protects us according to the play of forces and the difference of forces’.²⁰ In the context of the formation of individual and communal identity, I would argue that the law functions likewise as the condition of a differential interplay between the sacred and the abject, between culture/presence/*logos* and nature/absence. In deconstructive terms, the law functions as a ‘trace’ articulating ‘the recognition that the privileged term in a difference of opposition would not appear as such without the difference or opposition that gives it form’.²¹ Neither the privileged category nor its subordinated opposite would exist without that differentiating gesture

which is the law. The law as 'trace', then, must (like point zero in mathematics) articulate both presence *and* absence and, in so doing, it exposes the sacred and the abject (positive and negative, to continue the mathematical analogy) to be no more than symbolic fictions constructed out of a demarcation that the law makes appear and threatens to efface:

The trace is the erasure of selfhood, of one's own presence, and is constituted by the threat or anguish of its own irremediable disappearance, of the disappearance of its disappearance. An unerasable trace is not a trace, it is a full presence, an immobile and incorruptible substance, a son of God, a sign of parousia and not a seed, that is, a mortal germ. This erasure is death itself.²²

From the moment of its inception, the law as 'trace', 'borderline' or 'mediator' is constituted by the possibility of its own erasure and it threatens also the effacement of the very thing that it makes possible – the fiction of the *logos* as the 'truth of a cultural symbolic order'.²³

The law's poison – 'Preambles Essential'

The identification of law with *logos* may thus be understood as an attempt to refute a deathly *differance* that threatens the erasure of meaning: fictions of law as *logos* are attempts to create, as Derrida puts it, 'the unerasable trace [...] a full self-presence' (WD, p. 230). As all of the theorists considered thus far suggest, however, the *logos* is always already contaminated by *differance*, by madness; the law's *dogma* is always dreadfully close to a traumatic 'dreaming' and, in Derrida's analysis, it is bound up also with a *textuality* that is likewise a form of 'dreaming'. In 'Plato's Pharmacy', Derrida employs the figure of the *pharmakon* to explore the relation between power and poetry, between *logos* and *mythos*, within the Socratic dialogues. The *pharmakon* functions in the Dialogues as both poison *and* cure; it is the dangerous supplement which undermines, at the same time as it creates, the possibility of the opposition between rational thought and myth. For Derrida, the *pharmakon* is the manifestation of *differance* within this scheme of thought: the *logos* comes into being only after *differance* has established the condition upon which it can exist in privileged opposition to myth. This opposition, however, is entirely fictive: the poetic power of *mythos* is indispensable to the law and the law is always already implicated in and contaminated by myth. To establish its continued 'presence' within the symbolic domain, the law is reliant upon a process of storytelling that

the symbolic economy associates with the *absence* of *logos*. The transformation of a single principle of law into various juridical narratives paradoxically ‘assures the law’s permanence and identity with the vigilance of a guardian’.²⁴ The law, as Plato concedes, is only truly accessible in so far as it exists in writing and the philosopher, judge and lawyer thus become readers, interpreters and creators of texts:

CLINIAS: And, mark you, such argument will be a most valuable aid to intelligent legislation because legal prescriptions, once put into writing, remain always on record, as though to challenge the question of all time to come. Hence we need feel no dismay if they should be difficult on a first hearing, since even the dull student may return to them for reiterated scrutiny. Nor does their length, provided they are beneficial, make it less irrational than it is impious, in my opinion at least, for any man to refuse such discourse his heartiest support.²⁵

The law’s embodiment within the legal text gives it a certain permanence, but at the same time deprives it of its origin in the spoken word; the law is cut off from the paternal principle – the *logos* – that is meant to guarantee its transcendence, rationality and distance from myth. No longer present to itself as the spoken Word, the law in textual form circulates promiscuously without a proper origin and, as the above passage obliquely suggests, opens itself (since its meaning is no longer present to itself, spoken, once-and-for-all) to perpetual re-reading, re-interpretation and possibly to misinterpretation. The legal prescription ‘put into writing’ thus becomes both cure *and* poison and moves the law dangerously away from the paternal principle of origin that is the anti-thesis of myth. Writing is, as Maurice Blanchot contends, ‘alien to every relationship of Presence and to all legality’:²⁶ the law ‘put into writing’ thus evokes, within this tradition, the ‘erasure [that is] death itself’.

Plato’s most famous theorisation of law, moreover, posits poetic, mythic, marginal discourses as *necessary* to the creation and justification of law. In Book 4 of *The Laws*, in a chapter suggestively entitled ‘Preambles Essential’, the Athenian interlocutor – himself a poet – draws an analogy between the art of the poet and the science of the legislator. The art of representation requires the poet to take into account a range of apparently contradictory contingencies; according to the traditional view of law, therefore, poetry is an anathema to the legislator. But this ought not necessarily to be so, says the Athenian, for this restrictive approach to legislation generates a ‘one topic, one doctrine’

methodology²⁷ which is inadequate to deal with the complexities and contingencies of social life. The more enlightened approach, he argues, is in fact to *justify* the law with reference to these contingencies, to formulate preambles to the law which consolidate the law's authority by combining compulsion with a discourse of persuasion designed to illustrate the necessity of law within various social contexts. The Athenian's discourse itself takes the form here of a preface to Plato's exposition of specific principles of law-making; it is a persuasive preamble designed to justify the formulation of what Plato then terms 'law pure and simple':

ATHENIAN: Providentially, the point is brought on by the very conversation we've had today. Since we began to discuss legislation, dawn has become noon and we've reached this splendid resting place; we've talked about nothing but laws – and yet I suspect it was only a moment ago that we really got around to framing any, and that everything we've said until now has been simply legislative preamble. Now, why have I pointed this out? I want to make the point that the spoken word, and in general all compositions that involve using the voice, employ 'preludes' (a sort of limbering up, so to speak), and that these introductions are artistically designed to aid the coming performance. For instance, the '*nomes*' the kind we call 'administrative', nobody has ever so much as breathed the word 'prelude' or composed one and given it to the world; the assumption has been that such a thing would be repugnant to nature. But in my opinion the discussion we've had indicates that it is perfectly natural; and this means that laws which seemed 'double' when I described them a moment ago are not really 'double' in the straightforward sense: it's just that they have *two elements*, 'law' and 'preface to law' [...] the law pure and simple and the part that comes before it, which is essentially 'persuasive' and has an additional function, analogous to that of a preamble in a speech. It seems obvious to me that the reason why the legislator gave that entire persuasive address was to make the person to whom he promulgated his law accept his order – the law – in a more co-operative frame of mind and with a correspondingly greater readiness to learn. That's why, as I see it, this element ought not to be termed the 'text' of law, but the 'preamble'. The legislator must see that both the permanent body of laws and the individual sub-divisions are always supplied with preambles. (pp. 184–5)

The word *nomes* here means both 'law' and 'melody'. Like an artistic composition (an analogy which Plato exploits throughout this text)

the law ought to be prefaced by an introductory narrative that justifies and explains the composition. To invoke another of Plato's favourite analogies – this time drawn from medical science – the law's prefaces exist to recite the 'case history' of the law, providing its essential narrative supplement.

Derrida attributes a particular theoretical significance to *parerga* – to supplemental narratives, peripheral commentaries, ornaments, physical and conceptual supports – that blur the already unstable physical and conceptual distinction between the 'inside' and the 'outside' of a philosophical idea, a literary text, a work of art and so on. A *parergon* (a preface, for example, or a picture frame, or the column of a statue) occupies a marginal space that 'belongs both to the inside and to the outside of the concept';²⁸ it necessarily supports an idea that cannot, in spite of its fictions of self-sufficiency, exist without supplements that exceed and undermine its claim to total, self-contained truth. The preamble to the proper text of law in Plato's *Laws* has this quality of the ambivalent *parergon*: it partakes of something of the law, forming one of its 'elements' as Plato puts it, but is nevertheless outside the 'law pure and simple'. The law's 'preludes' not only mediate and demarcate between 'pure' law and the contingencies that exist beyond and bear upon it, but also generate uncertainty as to the true 'presence' of the law for where, in relation to its essential narrative supplements, is the text of the 'law pure and simple' to be found? The law's capacity to 'present itself on its own' is poisoned by the very textuality that is meant to guarantee its intelligibility: this 'writing' is the maddening *pharmakon* that stretches the limits of the *logos* to breaking point. As has been observed, one of the terms Plato himself invokes here is *Nomes*, a term that means both 'law' and 'melody', and that refers also to those customs, myths and rituals that pre-date the proper rule of law as *logos*. *Nomes* is, in a sense, precisely that which Plato seeks to distance from the *logos*, and yet here it enters into the rule of law.²⁹ The essential, supplemental, poetic preambles to law in Plato's *Laws* expose the contingency of the demarcation between the 'law pure and simple' and its impure, chaotic, mythic exterior: they reveal the fictivity of the ideal of pure, uncontaminated juridical Presence. They also evoke, I would argue, a certain *feminine* presence that has long been made to stand on the threshold between 'nature' and 'culture' and to re-present the difference between them. The figure of Antigone is symbolically highly relevant to theorisations of law and particularly to the relation of 'woman' to the law, though not, I submit, for the reasons that have often been cited.

The space of Antigone – ‘Woman’ before the law

Luce Irigaray’s account of the *absence* of the maternal feminine from the symbolic order – and of its re-presentation as ‘absence’ – has yielded an influential feminist reading of *Antigone* and of the place of ‘woman’ before the law. Antigone is called before the law of the Father and found guilty of a feminine transgression that has been seen to mark the transition from ‘nature’ to ‘culture’ and to place ‘woman’ on the side of ‘nature’. Irigaray’s analysis is persuasive, yet I wish here to re-orientate that analysis towards a more deconstructive reading of the place of ‘the feminine’ before the law. In particular, I wish to explore the possibility that ‘woman’, as a particularly ambivalent category within traditional Western juridical discourse, might have the potential (like the *parergon*, or *pharmakon*) to ‘open up a crack’³⁰ – a ‘cryptic’ or Gothic space³¹ – within the domain of law as *logos*.

As Kristeva observes, Plato relegates the ‘use of rhythm and metre to the mother rocking her child’; rhythm, song and poetry – the impure ‘other of mind’ – are consigned within the polis to the maternal domain, whilst poets themselves are deemed to have no place at all within the rationally ordered state and are abjected from it (PH, p. 245). Kristeva contends, moreover, that the body of the mother is the first thing to be abjected by the community as the logic of prohibition takes effect. The maternal body is associated with ‘a radical evil that is to be suppressed’:

No matter what differences there may be among societies where religious prohibitions, which are above all behaviour prohibitions, are supposed to afford protection from defilement, one sees everywhere the importance, both social and symbolic, of women and particularly the mother. In societies where it occurs, ritualisation of defilement is accompanied by a strong concern for separating the sexes, and this means giving men rights over women. The latter, apparently put in the position of passive objects, are, nonetheless, felt to be wily powers, ‘baleful schemers’ from whom rightful beneficiaries must protect themselves. (pp. 259–60)

Like Kristeva, for whom the abjection of the maternal body is the true foundational gesture in symbolic and social terms, Irigaray re-works the Freudian account of the institution of civilisation by identifying as the founding gesture of the community not an act of parricide, but a symbolic matricide which functions to privilege the ‘presence’ of the paternal principle and to establish the law of the Father.³² Indeed, one

could argue from Irigaray's analysis here that this foundational act of matricide is that which brings into being the demarcation between 'presence' and 'absence': the murder of the mother according to this account becomes the 'vanishing mediator' of which Žižek speaks; it is the 'deed' which separates 'actual present consciousness' from pre-ontological chaos. The denial of the maternal body, moreover, is subjected thereafter to what Irigaray, in a re-ordering of the Greek term, posits as *a-letheia*. *A-letheia* is more than mere forgetfulness; it is a 'forgetting of forgetting', or, perhaps more accurately, a forgetting of denial (SW, p. 350). The mother is abjected from the symbolic order at the moment of its inception and this negation is then itself negated. The 'deed' that founds consciousness in Žižek's reading of Schelling 'sinks into invisibility' once that deed has been accomplished and, Irigaray argues, the maternal body can thereafter only figure within the symbolic economy in the 'castrated' form of acceptable, masculine 're-presentations' of the feminine (p. 344). These re-presentations are frequently dreadful – the image of the Medusa, for example – and one could argue, invoking Žižek alongside Irigaray again, that these re-presentations serve as 'fantasmic narratives' of a pre-ontological Real that is accessible within the symbolic order *only* in the form of mythic evocations of a dread that is nevertheless containable (and thus not 'Real') by virtue of being subject to re-presentation. The *logos*, then, for Irigaray, comes into being through a denial of the feminine which demands a differentiation between the masculine ideal of 'present actual consciousness' and the feminine 'other' of chaos, castration and death. Law as *logos* is thereafter threatened constantly with effacement by this deathly, chaotic and castrating force which it names (and thus contains) as 'Woman'.

It is in terms of this logic of sexual difference that Irigaray reads the position of Antigone. For Irigaray, Antigone represents a transgressive feminine commitment to maternal kinship which offends against an emerging law of the Father and which must therefore be expelled from the community in order for that law to prevail. Antigone seeks to uphold, in Irigaray's view, an alternative feminine economy of private, familial love which cannot coexist with the paternal law that is to be upheld over her dead body. Her fate symbolises the denial of the maternal feminine at the point of origin of the law. Following Judith Butler more than Irigaray (though departing somewhat from Butler also),³³ I would argue, however, that Antigone represents not an alternative 'law' of the feminine, but rather a conflicting conceptualisation of sacred law expressed *through* the feminine which ultimately

reveals the dreadful contingency and fictivity of the singular ideal of law as *logos*. When seeking to justify her rebellion against Creon, Antigone appeals to a divine authority which, she claims, transcends that of Creon. It is by virtue of a divine command that Antigone is required to bury the body of her brother, a command which, for her, takes precedence over the contingent, human dictates of the state. Both Antigone's and Creon's conceptualisations of proper law, however, are similar in that *both* depend upon negotiations between the sacred and the abject. As Butler contends, both Antigone and Creon are 'metaphorically implicated in one another in ways which suggest there is no simple opposition between the two' (AC, p. 6). For Antigone, the uncleanness of Polynices's unburied body must be overcome by means of an adherence to divine law if his spirit is to be sanctified. For Creon, Polynices's impurity as a traitor to the state means that his abject body cannot undergo the ritualistic cleansing of a proper burial. Both accounts posit the body as unclean and both accounts, moreover, rest upon a demarcation between the sacred and the abject which the conflict between Antigone and Creon reveals to be wholly and dreadfully arbitrary. To re-position Antigone in this way is perhaps to appreciate more fully the significance of the sentence imposed upon her. Antigone is not to be expelled entirely from the polis, but to be imprisoned within its walls; she will be incorporated into the community's borderline, forming a part of the marginal space between the privileged interior of the polis and its chaotic outside. Buried within the boundary between the domain of the *logos* and its abject exterior, Antigone's body could therefore be seen to symbolise the operation of the law as 'trace': she occupies that space of differentiation between nature and culture which cannot itself be theorised according to the *logos* of culture.³⁴ *Except* that Antigone's body is *not* ultimately subjected to this fate; she takes her own life before the sentence can be effected, a sentence which Creon has in any event repealed having received the dire prophecy of Tiresias. Antigone's challenge to Creon has fatally undermined the demarcation between the sacred and the abject as supposed *a priori* categories guaranteed by a singular law as *logos*, and the symbolic economy founded upon this fiction of unity crumbles. Antigone cannot be re-presented back into the symbolic economy of the Polis in *any* form; her disobedience entirely suspends the operation of law, revealing it to be abjectly founded in nothing but *differance*. Antigone's rebellion produces the 'erasure that is death itself' and this erasure cannot thereafter be subject to control, to re-presentation or symbolisation: the attempt to do so – to cast Antigone's body into the space of demarcation – radically backfires. Creon's

fiction of law breaks down entirely as Antigone kills herself and the carrion of her brother's corpse infiltrates into the polis to poison the temple.

Antigone, then, does not represent a feminine pre-Symbolic 'law' in opposition to the *logos*. Nor does her presence suggest the undecidability of 'the feminine' within the Western symbolic economy, for there is no *thing* that can be made to occupy the space of *differance* within this economy. Her uncanny, *parergic* position does raise the question of the relation between 'woman' and the law, however, and it *does* point towards the possible implications for feminist theory (and for feminist readings of the Gothic) of a re-conceptualisation of law in terms of *differance*. Antigone's is a self-willed death: she refuses to be subjected to Creon's law and, in frustrating the re-presentation of her body back into the symbolic order as an 'absence' at the threshold of that order, Antigone's death puts an end to the operation of Creon's sacred/abject law. Perhaps what Antigone 'signifies', therefore, is the disruptive potential of a 'feminine' principle which the law pushes to the border of the symbolic order so as to assuage the threat of an untheorisable, unre-presentable *differance*. Derrida contends that this 'feminine' principle says nothing about 'woman'; rather, within the masculine symbolic economy, it functions as a wholly fictive, disruptive presence/absence – a *pharmakon* with the potential to expose the fictive contingency of the paternal law as *logos*. 'Woman' cannot re-present *differance* for Derrida, anymore than Antigone can symbolise an abjected 'feminine' on the threshold between 'nature' and 'culture'. *Nothing* can signify *differance* and, in so far as attempts are made to make *differance* figure as 'feminine' within the symbolic order, then 'woman' is 'present' within this economy only as what Žižek would term a 'fantasy of the pre-ontological Real'. A deconstructive analysis of 'woman' and law need not reiterate these fantasies, but might rather suggest that, since they appear essential in upholding the fiction of law as *logos*, the fictive category 'woman' might exploit its fantasmic potential so as to *appear as* the *pharmakon* which produces/erases the fiction of the 'law pure and simple'. 'The question of the woman', argues Derrida, 'suspends the decidable opposition of true and non-true and inaugurates the epochal regime of quotation marks which is to be enforced for every concept belonging to the system of philosophical decidability'.³⁵ Antigone's rebellion in life and death raises the 'question of the woman' *before* the Law, on its threshold, drawing 'into crisis the very representative function itself' (AC, p. 22). Revealing the dreadful contingency of constructions of the *logos*, the myth of Antigone, re-read as this analysis suggests, reveals (like

the Gothic fictions this work will discuss) that the law which establishes the 'truth' of the cultural symbolic order is not sacred, not fixed, not singular, not 'pure and simple': it is nothing but *differance*.

Notes

1. Peter Goodrich, *Languages of Law: From Logics of Memory to Nomadic Masks* (London: Weidenfield and Nicolson, 1990), p. 268.
2. Alain Pottage, 'The paternity of law', in *Politics, Postmodernity and Critical Legal Studies*, Douzinas and Goodrich (eds) (London: Routledge, 1994), p. 150.
3. Whilst it is Natural Law jurisprudence which grounds the law most explicitly in the 'Logos' beyond the civil code (in Cicero's 'Eternal Law' which pre-exists that which is 'written down', for example), Legal Positivism is also a philosophy of 'Presence'. The authority and origin of the law is grounded here in the word of law itself, free of any validating criteria beyond the command of the civil legal code. As Peter Fitzpatrick contends, however, the Positivist attempt to differentiate law from myth – from the 'fiction' of Eternal Law – generates its own mythic structure: see *The Mythology of Modern Law* (London: Routledge, 1992).
4. Legendre's analysis of the importance of questions of origin to the theory and practice of law has significant implications for Gothic criticism, though Legendre is one of the few psychoanalytic theorists whose work has not thus far been acknowledged to any great extent by critics of the Gothic. His work will form a vital point of reference throughout this work.
5. Pierre Legendre, *Leçons IV: L'inestimable Ob jet de la Transimssion* (Paris: Fayard, 1985), p. 240.
6. Pottage, 'The paternity of law', p. 150.
7. Departing from Lacan, Kristeva insists upon the social specificity of the formation of the subject and in this, I would argue, she is somewhat closer to Legendre's analysis of the juridically constituted subject (see below) than to Lacan's analysis of the institution of the speaking subject. For a reading of Kristeva's distance from Lacan in this regard, see Elizabeth Grosz, *Jacques Lacan: A Feminist Introduction* (London: Routledge, 1990), pp. 147–68.
8. Julia Kristeva, 'Powers of horror', in *The Portable Kristeva*, Oliver (ed.) (New York: Columbia University Press, 1997), p. 255. Hereafter PH.
9. For a consideration of the wider relevance of – and the problematics of – Kristevan theory to critical legal studies, and particularly feminist jurisprudence, see Drucilla Cornell, *Beyond Accommodation* (London: Routledge, 1991).
10. Peter Goodrich, *Oedipus Lex: Psychoanalysis, History, Law* (Berkeley: University of California Press, 1995), p. 10.
11. Pottage, p. 162.
12. Pottage, p. 168.
13. Pottage, p. 169.
14. Slavov Žižek, *The Fragile Absolute* (London: Verso, 2000), p. 82. Hereafter FA.
15. Lévi-Strauss, *The Elementary Structures of Kinship* (Boston: Beacon Press, 1969), p. 14. Hereafter ESK.

16. Julian Wolfreys gives an excellent account of the relevance of spectrality, read through Derrida, to the work of Žižek in the introduction to *Victorian Hauntings: Spectrality, Gothic, the Uncanny and Literature* (London and New York: Palgrave, 2002).
17. Jacques Derrida, 'Structure, sign and play', in *Writing and Difference* (London: Routledge, 1978), pp. 283–4. Hereafter WD.
18. Kristeva, POH, p. 259.
19. Jaques Derrida, *Speech and Phenomena: And Other Essays on Husserl's Theory of Signs* (Evanston: North Western University Press, 1973), pp. 85, 137. Hereafter SP.
20. Jaques Derrida, 'That dangerous supplement', in *Acts of Literature*, Attridge (ed.) (London: Routledge, 1992), p. 97.
21. Radolphe Gasché, *The Tain of the Mirror: Derrida and the Philosophy of Reflection* (Cambridge, Mass. and London: Harvard University Press, 1986), p. 187.
22. Jaques Derrida, WD, p. 230.
23. Pottage, p. 150.
24. Jaques Derrida, 'Plato's Pharmacy', in *Dissemination*, translated by Barbara Johnson (London: Athlone, 2000), p. 113. Hereafter PP.
25. Plato, *Phaedrus*, cited in Derrida, PP, p. 113.
26. Maurice Blanchot, *The Gaze of Orpheus* (New York: Station Hill, 1981), p. 156.
27. Plato, *The Laws* (London: Dent, 1960), p. 184.
28. Derrida, 'Outwork', in *Dissemination* (London: Athlone Press, 1981), p. 9.
29. Penner, Schiff and Nobles, *Jurisprudence and Legal Theory* (London: Butterworths, 2002), p. 39. *Nomos* was originally understood as 'sacred custom'.
30. Luce Irigaray, *This Sex Which Is not One* (New York: Cornell University Press, 1985), p. 191.
31. For the significance of Derrida's theory of 'cryptic space' to the Gothic, and particularly to the female Gothic, see Chapter 5.
32. Luce Irigaray, *Speculum of the Other Woman* (New York: Cornell University Press, 1985), p. 259. Hereafter SW.
33. Judith Butler, *Antigone's Claim* (New York: Columbia University Press, 2000). Hereafter AC.
34. Whilst feminist critics of Derrida have seen in his work an appropriative gesture whereby 'woman' functions as 'trace', I agree with Drucilla Cornell that this interpretation of Derrida ought to be resisted (see Cornell, *Beyond Accommodation*, Chapter 2). Accordingly, the position of Antigone cannot, ultimately, be interpreted by means of an association of 'woman' with 'law-as-difference'.
35. Jacques Derrida, *Spurs: Nietzsche's Styles* (Chicago: University of Chicago Press, 1978), p. 107.

2

'Written in the Black Letter': The Gothic and/in the Rule of Law

Dead Man Voting: A preface

This work has already attached quite considerable theoretical significance to *parerga*, to conceptual and physical thresholds that contest the categories of 'inside' and 'outside'. The focus of this chapter is upon *textual* thresholds and, in the context of written works, prefaces could be said to hover ambiguously and subversively at textual boundaries. Prefaces, argues Derrida, operate as supplements that perform some essential function in relation to the text, but which do not ostensibly form a part of the text proper. Prefaces point towards the texts which they precede, but at the same time disown their own participation in those texts: mediating between text, reader and author, they nevertheless appear to seek their own invisibility:

Prefaces, along with forewords, introductions, preludes, preliminaries, preambles, prologues and prolegomena, have always been written, it seems, in view of their own self-effacement. Upon reaching the end of the pre – (which presents and precedes, or rather forestalls, the presentative production, and, in order to put before the reader's eyes what is not yet visible, is obliged to speak, predict and predicate), the route which has been covered must cancel itself out. But this subtraction leaves a mark, an erasure, a remainder which is added to the subsequent text and which cannot be summed up within it. Such an operation thus appears contradictory, and the same is true of the interest one takes in it.¹

Derrida draws an association here between the peculiar (non)existence of the preface and 'a general theory and practice of deconstruction'

(p. 7). The phenomenon of the preface as the (in)essential supplement to a text indicates, for Derrida, the lack that exists within a system of thought that 'ought to be able to [but cannot] present itself on its own' (p. 9). The preface ought to be entirely useless to the exemplary, self-sufficient philosophical text: it should fall away 'like an empty husk, a piece of formal refuse' (p. 9). Prefaces persist, however, as essential yet troublesome supplements to works that are *not* closed and complete, but which require, if they are to function at all, a mediation between the 'inside' and the 'outside' of the conceptual systems that they articulate. In a deconstructive reading of Hegel's preface to *Phenomenology of Spirit* – in which Hegel *denounces* prefaces as unnecessary encumbrances to texts that, by their very nature, ought to be able to present themselves as complete – Derrida contends that the preface is essential precisely because of the impossibility of the perfect self-presence of the Idea within the philosophical text; the Idea requires a *parergon* to bring into being the distinction between its 'inside' and its 'outside' and thus to give it definition.² The *parergon* itself occupies a marginal space that 'belongs both to the inside and to the outside of the concept'³ and, from the space of this borderline, it undermines the fiction of a pure, self-contained, logocentric 'Presence'.

Prefaces, preambles and other such marginal narratives are vital to this work's approach to the Gothic and the rule of law. On the threshold of Gothic texts, dubious claims are made regarding literary authenticity and integrity; on the borders of canonically marginalised works are found narratives of origin and statements of authorial intent designed to secure for the text a 'legitimate' literary heritage. Prefaces operate likewise within legal discourse, I argue, in order to supplement, legitimate but also often to *contest* the word of law. With this in mind, this chapter begins with its own prefatory narrative – the story of the Dead Man Voting.

In the election of 1868, a man named Chappell exercised his right to vote. He then did so a second time, this time under another name. The name however, belonged to a dead man. Chappell was charged with impersonating a person entitled to vote. The problem for the court was in construing the words 'a person entitled to vote'.⁴ The impersonated voter was dead. He was not entitled to vote. Chappell was therefore acquitted. The case illustrates a certain approach to legal interpretation according to which no extra-legal considerations (such as, in this instance, the desirability of discouraging electoral fraud) ought to be taken into account in the determination of the law's meaning. The sole meaning of the law is to be derived from the word – the letter – of the law

itself: nothing prefatory to it, nothing exterior to it, is admissible in the process of interpretation. It is the very *textuality* of the law, however, which tends to disrupt its claim to certainty. The word of law in the case of *Whitely v Chappell* is haunted by a ghost in the electoral machine with which the court cannot rationally deal. That the judgement in the case did not meet the 'justice' of the circumstances was accepted by all of the judges who acknowledged that the word of the law was incompetent to deal satisfactorily with this uncanny event:

I regret that we are obliged to come to the conclusion that the offence charged was not proved; but it would be wrong to strain words to meet the justice of the present case, because it might make a precedent and lead to dangerous consequences in other cases.⁵

To take the law at its word in this instance, then, is to allow the impersonator of the deceased to go free and to traumatise the law with the uncanny phenomenon of the dead man voting.

The seeming transparency and certainty of legal discourse is, to invoke Žižek, haunted by its own 'disavowed ghost' – an 'obscene nightly law' upon which public law depends for its *semblance* of ontological coherence.⁶ This haunting of the law – its dependence upon a disruptive, spectral supplementarity – will be seen in this work to define the law's conceptual relation to the modern Gothic and, in the particular juridical and literary context of the eighteenth century, this chapter seeks to relate an emerging Gothic aesthetic to the rule of law in two ways. First, constructions of the Gothic across a range of discourses in this period contributed to the formation of a certain historically specific, Gothic narrative of legal origin. Secondly, it will be argued that this 'Gothicisation' of English law threatened to infect Enlightenment jurisprudence with a pre-modern savagery and a degree of historical and *textual* uncertainty that was inimical to truth and reason. The Gothic began to function within juridical discourse (in the form of a specific national historical fiction) as a dangerous supplement to an Enlightenment 'science' of law.⁷ Blackstone's *Commentaries on the Laws of England* will be the focus of this initial investigation of the mid-eighteenth-century impulse towards the systemisation and 'Gothicisation' of English law. Blackstone's project will then be considered alongside the development of the Gothic as an unstable *literary* form that also raised pressing questions of political and cultural origin. The nature of the relation between legal and literary Gothic is approached in the final part of this chapter by means of an engagement with Gothic

fiction's own alleged beginning – the 'black letters' of Horace Walpole's *The Castle of Otranto*, or, more particularly, the ambiguous *prefaces* to that text which make a variety of claims as to the literary authority and authenticity of the work.

The law's Gothic fictions

Behind the Act of Settlement of 1688 lay the body of a dead king. Faced with an originary moment too traumatic to be acknowledged as the proper foundation of the modern English constitution, fictions were spun around the constitutional developments of the late seventeenth century⁸ and around other phenomena that contributed to the nation's sense of its constitution as founded in something other than transgression. One of most influential of these fictions in eighteenth-century legal discourse was the account of English law's Gothic origin.⁹ In the preface to his *Commentaries on the Laws of England*, Blackstone famously likens the English constitution to a 'Gothic castle' in need of only a modicum of renovation to make it relevant and effective within a modern context. The notion of the English constitution as 'Gothic' in its origin was reiterated frequently across a range of legal, political and literary discourses. The Gothic, Germanic tribes of Europe which, apart from anything else, had the virtue of not being Catholic provided the eighteenth-century commentators with a means of securing the foundation of English law with reference to an almost mystical moment of origin. The Gothic narrative, in this context, served also to differentiate English from European and particularly French law, and to set it apart from the constitutional maelstrom of the seventeenth and early eighteenth centuries. This 'Gothicisation' of English law, however, conflicted with the increasing tendency, evident particularly in the work of Blackstone, to systemise and rationalise a legal discourse that was recognised as maddening in its labyrinthine complexities. Indeed, as I hope to show, the attempts within Blackstone's work to justify the law's status as a form of quasi-science conflicts with the romance elements of a narrative that is at once both legal *and* literary and which infects Blackstone's rational ideal of law with what amounts, I argue, to a subversive 'Gothic' textuality.¹⁰ The origin of the English constitution 'in the woods',¹¹ and its dependence upon a body of ancient customs that had the quality of folklore or romance about them, undermined the law's claim to rationality just as the Gothic romance undermined the novel's attempt to establish itself as the properly realistic and morally authoritative form of fiction at the same historical moment. To set Blackstone within

the context of the coterminous emergence of the literary Gothic, I would like to suggest a comparison between his project and that of Horace Walpole as expressed in the prefaces to his Gothic romance, *The Castle of Otranto*. Just as 'wild fancy' is said to be tempered by an adherence to 'probability' in Walpole's modern romance, so Blackstone's new romance of English law combines a Gothic narrative of origin with an emphasis upon rational legal method. Walpole and Blackstone seek to uphold legal and literary Gothicism whilst rationalising and controlling it with reference to legal and literary interpretations of 'verisimilitude'.

Eighteenth-century Gothic legal fictions drew upon the notion, expressed by Matthew Hale in the seventeenth century, that the written word of English law had its origin in, and derived its authority from, an English folk tradition that reached back beyond history to 'time immemorial':

[Laws] are grown into use and have acquired their binding power and force of Laws by a long and immemorial usage, and by the Strength of Custom and Reception in this Kingdom [...].¹²

This gesture had the effect of historicising English law with reference to its unique social, cultural and political heritage whilst at the same time justifying its authority with regard to a quasi-mystical, pre-historical moment of origin far removed from the 'disavowed ghost' of a dead king. It created a mythic narrative of the birth of English law and of the English nation during a period in which notions of national identity and unity had been severely tried. As Peter Goodrich suggests, this theorisation of English legal heritage, which, in many eighteenth-century accounts, reached as far back as the legendary Arthurian court for its 'authentication', served to privilege the unwritten source of English Law-as-Logos without compromising the integrity of the modern civil code.¹³ The tradition of an unwritten legal code passed down through generations and ultimately embodied in the modern text of English law became more than a matter of legal history: it became an ideologically vital 'praise of indigenous law and a national faith of a law that has witnessed the origin of law' (LL, p. 84). The modern English State thus divorced its origins from the constitutional maelstrom of the late seventeenth century and cast it back into a mythic past that came to be increasingly termed 'Gothic': it had its root not in an act of regicide, but in the libertarian, virile aspirations of the 'Gothick warriors' of northern Europe who framed the system of government adopted – and perfected – by the English.¹⁴ These non-Catholic, Germanic 'Gothick nations', moreover,

were perceived to have been committed to an industriousness, valour and religious piety that constituted a sort of proto-protestant work ethic. In their ‘polite gallantry’, respect for women and love of disciplined freedom, the ‘Gothick’ ancestors of the English State appeared to bear more than a passing resemblance to the eighteenth-century English gentleman, posited as their cultural, if not their direct genealogical, descendant.¹⁵

Legal fictions of origin are bound up at this historical moment, therefore, with the construction and idealisation of a quasi-mythical, quasi-historical relation between the people and their nation which drew upon various – and at times contradictory – interpretations of Englishness and the Gothic. The formulation of the Gothic myth of origin, for example, generated a mid-eighteenth-century nostalgia for medieval chivalry and for the insignia associated with feudal government at the very moment when feudal power relations were breaking up under the influence of a new bourgeois hegemony; indeed, the Gothicism of English legal history helped to legitimise this hegemony even as it invoked power structures that were in many respects incompatible with it.¹⁶ Heraldry was re-articulated ‘legally to differentiate and identify the individual according to a system of origins and proof of origins’.¹⁷ Medieval codes of chivalry and heraldic insignia that signified increasingly outmoded forms of political authority were invested with fresh ideological significance in so far as they were able to consolidate the modern myth of origin of the English nation and its law. A *literary* nostalgia for chivalric romance, and an increased interest in a uniquely English (or, more accurately, Celtic) literary tradition, moreover, helped to promote the contemporaneous emergence of the literary Gothic: ‘The mid-century writer’s interest in the literary forms that had accompanied social evolution’, argues R. J. Smith, ‘stimulated the growing interest in chivalry and balladry’ and created an environment in which new literary forms, and new versions of English literary history, could flourish.¹⁸ It is thus vital to consider the development of the literary Gothic alongside the contemporaneous ‘Gothicisation’ of English law. The emergence of the Gothic aesthetic consolidated the eighteenth-century myth of the ‘social evolution’ of England from a noble, virile, ‘Gothick’ past to a modern, democratic present *and* it served to express the value of a unique English literary heritage to compliment the nation’s sense of its unique political and legal identity. Exemplary of the construction and valorisation of a native English body of literature in this period is Elizabeth Montagu’s 1769 critique of Shakespeare in which his genius is seen to emanate out of an ancient literary tradition which he, in turn, perfects.¹⁹ Montagu

presents Shakespeare as both the master and the product of a tradition of folklore, romance and religion that is more Gothic than Classical and that constitutes a body of authentic English literature to be compared favourably with the canons of Europe and, particularly, of France. The narrative tradition that Montagu invokes, moreover, resembles in certain respects contemporary conceptualisations of the English common law in so far as both are seen to have their origin in oral traditions that articulate almost mystically the spirit of the English people. The use of Gothic literary narratives to support Whig conceptualisations of political and legal history in the period, moreover, illustrates further the degree of coincidence and collaboration between legal and literary versions of the Gothic.²⁰ Through these discourses, the cultural and legal heritage of the English nation is posited as being beyond history and, significantly, beyond *writing*. Its origin exists only as a form of folk memory and, as such, it bears a relation, almost paradoxically, to divine, eternal law. England's Gothic past is aligned with

Great Nature's Law, the Law within the breast,
Form'd by no Art, and to no Sect confin'd,
But stamp'd be Heav'n upon th'unlettered Mind.²¹

'Great Nature's Law' transcends the contingencies of any given historical moment and embodies an authentic, unwritten, self-present ideal of justice and reason. Indeed, the same legal theorists who sort to shroud English law in mystery with reference to its immemorial or Gothic origin at the same time insisted upon its essential rationality. 'Reason is the life of the law', said Edmund Coke, 'Nay, the common law itself is nothing but reason.'²² Nevertheless, whilst the substance of individual laws might reflect 'nothing but reason', it had been accepted long before the eighteenth century that the structure of English common law was anything but rational; it was seen to consist of an assortment of custom-based principles which related to one another so haphazardly that the study and application of English law was considered to be something of a maddening activity that could induce real melancholy – or worse – in students and practitioners of law. In the seventeenth century, lawyers spoke of the 'foul stench' of English common law, invoking, perhaps, a different sense of the law as a 'Gothick' body.²³ It was within this context that Blackstone's *Commentaries on the Laws of England* emerged as one of the most ideologically potent mid-eighteenth-century expressions of English common law theory. Whilst consolidating the contemporary Whig account of the Gothic origin of the constitution,

Blackstone emphasised the need for a modernisation of the Gothic structure of English law so as to render it properly operative within a new and complex political, social and economic environment. Thus, whilst locating the origin of law in the nation's Gothic past, Blackstone aimed to demystify and rationalise it and to demonstrate, moreover, that the law was capable of generating out of itself the authority *for* itself. Thus, the right of resistance to government, argues Blackstone, extends only to the right to resist the authority of any given monarch, not to the right to contest the constitution itself, for it is the constitution which generates this limited right of protest. What this elevation of the constitution amounts to, then, is an idealisation of law *as* law: rooted in a process of actual historical evolution that contributes to its legitimacy as a national legal system, the law's authority depends, ultimately, not upon the person of the sovereign, but upon the offices of government as defined by the law itself. This is a law no longer bound to the precarious corporality of the King, but emanating out of a uniquely English 'Gothic' past which has created the conditions of possibility for the emergence of a rational 'science' of modern, English law.

I wish to argue, however, that Blackstone's attempt to rationalise English law with reference to a narrative of Gothic origin that is part history, part myth undermines itself from within its own textual and conceptual framework, *and* that its point of weakness is a narrative supplement that exists, textually and conceptually, on the very threshold of the work. In the preface to the *Commentaries* is an account of Natural Law, the textual positioning of which is interesting in terms of the theoretical concerns explored in my preface to this chapter. Blackstone's account of Natural Law, in spite of his ambivalence to the concept as formulated by Locke, is theoretically vital to his rationalisation of England's Gothic past: it functions, as Michael Lobban argues, as the 'exterior test of rationality' of civil law.²⁴ This vital component of the project nevertheless forms only a preamble to Blackstone's exposition of his subject, a textual positioning which has the effect of structuring the *Commentaries* such that the conceptualisation of the Ideal from which the civil law ought to be derived is supplemental and marginal to the written text of that law. To invoke Derrida again, the Idea central to a conceptual system, which ought to present itself *within* the body of a text without the need of a prefatory supplement, here emerges not only as prefatory, but, as Bentham was later to observe, as almost a digression *within* a digression.²⁵ From a Derridean perspective, then, an uneasy textual relation emerges between the Idea which gives a grounding to civil law, and the civil code itself as represented in the main body of the

text. This unease, moreover, is further evident in the work's ambivalent relation to its subject as signified by its title. Blackstone does not present this text as constituting the laws of England, for this might deny the origin of those laws in a source *beyond* the contingencies of history and textuality – it might suggest that the laws of England were no more than their contemporary manifestation in writing. Instead, he terms the work a 'commentary' upon the laws of England. The first systematic account of English law thus appears alienated from its own subject, presented as supplemental to a law that exists somewhere outside the text. The existence of a law beyond the text which comments upon it, however, was exposed as a fiction almost from moment of the text's publication, for *Commentaries on the Laws of England* was read *as* law and was cited thereafter as a powerful legal precedent. Almost in spite of itself, then, the work took its place within a complex and self-referential chain of legal signification.

Blackstone's ambivalent attempt to invoke Natural Law as the supplemental Idea that justifies the rationality of the civil code reveals a further point of weakness on the level of content as well as form, and it turns upon the relation between Blackstone's evocation of natural law doctrine and his adherence to the notion of the Gothic origin of the English constitution. Blackstone compares the English constitution to an ancient Gothic castle, figuratively associating the law with a manifestation of the material wealth and power of an ancient ruling class. The institution of property, and particularly the principle of primogeniture, is indeed central to Blackstone's understanding of the Gothic origin of English law: for him, this point of origin is a question of history and not of myth. In seeking to account for the seemingly eccentric development of English law, the *Commentaries* takes the form of a historical narrative that describes the evolution of English law from a Gothic, feudal past to an enlightened modernity according to a process guided by providence and rooted ultimately in a divinely ordained natural law. Blackstone encountered a dilemma, however, in seeking to reconcile a body of law English law riddled with inconsistencies with a law of nature supposed to be the embodiment of reason. He sought to surmount this obstacle by differentiating between two categories of civil law: the first consisted of principles derived from natural law and thus intrinsically rational; the second Blackstone termed 'matters in themselves indifferent', these being socially and historically contingent rules bearing no relation to natural law but operating according to the peculiar customs of a given nation at a given time.²⁶ In spite of his best efforts, however, and in these efforts Blackstone reveals the extent of

his hostility towards the existence of the law as text, he could not find any proper grounding for *rights of property* within the Law of Nature. In his discussion of the laws of property, Blackstone begins with a denial of the notion that ‘a set of words on parchment should convey the domain of land’. The ownership of land must, he contends, be guaranteed by something more substantial than ‘words on parchment’ and thus he invokes the very moment of creation as accounting for the institution of property through God’s grant to man of dominion over all the earth. This general, pre-social right of dominion, however, is insufficient to validate land transactions within civil society and Blackstone ultimately concludes that England’s feudal property laws – the very laws that guarantee the historical continuity between England’s Gothic past and the contemporary political and legal moment – cannot be validated according to Natural Law: they are ‘matters in themselves indifferent’, having developed haphazardly according to custom and practice into precisely the sort of legal labyrinth of arcane rules that caused seventeenth-century commentators to speak of the ‘foul stench’ of the English common law. The institution that, in Blackstone’s estimation, is the cornerstone of English law – the law itself being figured metaphorically in terms of that institution (the Gothic castle, the real estate from which power is derived) – is a matter indifferent to reason. The right to property is contingent, at times irrational and, ultimately, comprehensible only as a textual phenomenon and transferable only by means of ‘words on parchment’. Blackstone’s categorisation of property law, moreover, renders unstable his conceptualisation of natural law as the external, eternal test of rationality of the English legal code. In the following passage, in which Blackstone attempts again to account for the relation between the institution of property in society and the operation of natural law, the latter emerges not only as incapable of maintaining social order, but as itself ‘productive of contention’:

We are to reflect in the first place that all rules of succession to estates are creatures of civil polity and *juris positivi* merely. The right to property which is gained by occupancy naturally extends no further than the life of the present possessor; after which the land by the law of nature would again become common and liable to be seized by the next occupant; but society to prevent the mischief that might ensue from a doctrine so productive of contention has established conveyances, wills and succession: whereby the property originally gained by succession is continued and transmitted from one man to

another according to the rules which each state has thought proper to prescribe. (p. 211)

To avoid the mischief generated by the natural law doctrine of ownership, rules of succession are formulated to guarantee not only rights to land, but rights of governance. Primogeniture is the bedrock of the English constitution; Blackstone dedicated the *Commentaries* when it appeared first as a series of Oxford lectures to the property-owning men of England upon whose shoulders responsibility for government rested. Primogeniture had no foundation in natural law, however; it was validated only with reference to conveyances, wills, settlements and so on. As a *legal* entity, then, the 'Gothic castle' of English law existed only in the form of a chain of documents the interpretation of which guaranteed title, and thus what characterised the law in this fundamental respect was not rationality, but *textuality*; not law as *logos*, but law as text. These legal documents were always open to misreadings: they might be confused or even incomprehensible; they might be hidden or lost and this ambiguity of the legal text, which is sometimes fatal to its proper interpretation, is, of course, one of the key plot devices of the Gothic romance.

'Written in the Black Letter': *Otranto's* prefaces

The law's abject, labyrinthine, textual body frustrates Blackstone's attempts to account for the law's key institution with reference to an unwritten ideal of law which transcends 'words on parchment'. The Gothic system of English law has been transmitted through history by means of a contingent legal textuality which cannot guarantee the proper origin of law.²⁷ I wish to align the destabilising effect of these 'words on parchment' within the *Commentaries* to the way in which the very nature of 'writing' has been interpreted within the Western intellectual tradition. Writing, contends Blanchot, 'is alien to every relationship of presence, to all legality'.²⁸ To push this association further, I would argue, as I suggested in Chapter 1, that the irrationality and indiscipline that are ascribed to textuality within the Western tradition²⁹ may conceptually be related to that most undisciplined of literary forms – the Gothic. From the moment of its inception, Gothic fiction was considered to defy moral, epistemological and generic conventions,³⁰ and it is within this context of an emerging subversive Gothic textuality, closely related to the problematics of textuality generally within a broader Western cultural tradition, that I wish to examine Walpole's

The Castle of Otranto. This text, closely contemporary to Blackstone's *Commentaries*, seeks to de-problematise the literary Gothic, reconciling ancient romance with the modern principle of verisimilitude. Realism becomes the 'external test of rationality' of Walpole's modern romance as natural law functioned as the test of rationality of Blackstone's Gothic legal code. *Otranto*, like the *Commentaries*, is a text obsessed by questions of legal origin, authority and authenticity. It is also, like the *Commentaries*, a narrative that is almost overshadowed by its prefaces. My focus is upon these textual borderlines which function as *parerga*, supplementing and subverting a text which has itself generated a powerful fiction of origin in terms of the literary history of the Gothic.

On the title page and in the preface to the first edition, Walpole creates a 'Gothic' fiction of origin for a story that is not yet categorised as Gothic overtly, not on the title page of this edition at least. Indeed, the work appears to escape literary classification altogether, being termed simply a 'story'. The title page also effaces Walpole's authorship, attributing the work to a fictitious author and translator, a gesture which may be seen to subvert what Derrida describes as the 'legality' of the literary text, that is to say, the status of the modern literary work as a legal entity attracting certain legal rights central to which is the proper identity of the author.³¹ Walpole goes on to make further fraudulent claims designed to validate the 'Gothic' authenticity of the story, most notably, that it was found in a northern library 'written in the black letter'.³² The allusion to the manuscript's 'black letters' is clearly designed to guarantee its Gothic pedigree, but the editor goes on almost immediately to make a claim that seems intended to *remove* the text, historically and intellectually, from this Gothic origin: the work conforms to a more contemporary, though not wholly modern, standard of 'civilised letters' (p. 5). The style of the work – its conformity to a civilised mode of writing – distances it from the barbarism invoked by the signifiers of its Gothic authenticity: its black letters. The fiction of origin generated by this preface thus consists of complicated double gesture: the attribution to the text of a genuine Gothic textuality, on the one hand, and the repudiation of the Gothicism of the text with reference to a style that has 'nothing that favours of barbarism', on the other (p. 5). Indeed, much of the preface is concerned with demarcating as clearly as possible between the savage and superstitious elements of the plot of this narrative and its sophisticated literary style which the enlightened contemporary reader, the editor insists, is certain to appreciate. The text is thus differentiated from its own 'authentic' Gothic origin by means of a literary form that

civilises the past and presents it to the discerning eighteenth-century reader as quality entertainment.

On the title page and in the preface to the second edition, Walpole reveals his authorship and clarifies the generic status of the work with the addition to the title page of the word 'Gothic'. As E. J. Clery observes, however, by revealing the contemporary origin of the text, Walpole destroys the Gothic 'authenticity' of his story at the same time as he affirms it.³³ The process of distancing the work from a savage past that is nevertheless necessary to it generically continues, moreover, in this preface. The fantastical elements of the text – those related to the folklore and superstition of a vulgar people in the *first* preface – are *now* seen to be the product of the literary imagination of a contemporary author concerned to affirm the value of a modern romance rationalised by its adherence to 'probability'. The second preface thus attributes to the text an 'authenticity' that is grounded not in its 'Gothic' past, but in the creative genius of the author. This revelation, however, had the effect of forcing a critical re-evaluation of the work by certain reviewers concerned that its 'preposterous phenomena' could no longer be excused as the fancies of an unenlightened age.³⁴ Exposed as the work of a contemporary mind, it threatened to infect eighteenth-century literary discourse with barbaric 'absurdities' that could no longer be historically distanced from the reader (MR, p. 71). The second preface thus closed the gap opened up in the first preface between a modern literary propriety that displays 'nothing that favours of barbarism' and the 'black letters' of a superstitious age capable of producing only 'absurd and monstrous fictions'; in so doing, moreover, it closed the gap between the supposedly sophisticated modern reader and those vulgar minds which the first preface describes as the likely dupes of the Canon of St Nicholas's narrative. The second preface positioned even the professional critic as the naïve dupe of a hoax that had surreptitiously re-introduced into an enlightened literary domain 'the barbarous superstitions of Gothic devilism!' (MR, p. 71). Ironically, then, the 'black letters' of *Otranto* became doubly subversive once they had been revealed as inauthentic, not least because they implied that the cultured eighteenth-century reader was scarcely less gullible than a medieval peasant. Both prefaces thus function as fictions of origin which point towards the generic and epistemological *instability* of the text which they supplement.

Otranto, then, anticipates the Gothic's tendency towards generic and epistemological anarchy. Indeed, there is a sense in which the Gothic defies the very notion of generic categorisation; any attempt to classify

it in conventional generic terms appears to run into difficulty, as if a critical re-appraisal of what counts as 'Gothic' within the literary tradition inevitably problematises that tradition and its theoretical foundations. If literary genre is conceived in terms of the classification of discrete categories of text according to reasonably stable principles of taxonomy, then the Gothic appears incapable of generic classification altogether; as Anne Williams contends, it 'challenges almost everything we thought we knew about genre as a critical concept'.³⁵ No principle of generic organisation appears wholly adequate to classify and contain this literary phenomenon; it seems to demand constant re-negotiation, the formation of fluid 'additional categories [...] which seemingly might be spawned ad infinitum' (AD, p. 14). From a conventional generic perspective, then, the Gothic is disorienting in its capacity to shift shape and resist proper categorisation. Always incomplete, always in need of a supplement to itself to explain some new manifestation of itself, it is a category that appears to subvert 'the concept of category' (AD, p. 17). In deconstructive terms, it could be argued that this resistance to categorisation that appears to mark the Gothic is but one manifestation of the inconsistency of *all* systems of classification. All conceptual systems, Derrida contends, appear troubled by some necessary element that, in spite of its significance, cannot fully be accounted for by the system itself. This is the status that Derrida, within certain philosophical contexts, attributes to the preface or the *parergon*; in the context of literary genre, it is the mark of genre itself which exists neither inside nor outside any particular generic category, but which nevertheless announces the 'presence' of genre to the reader:

[T]his supplementary and distinctive trait, a mark of belonging or inclusion, does not properly pertain to any genre or class. The re-mark of belonging does not belong [...] To formulate it in the scantiest manner – the simplest but most apodictic – I submit for your consideration the following hypothesis: a text would not belong to any genre. Every text participates in one or several genres, there is no genreless text, there is always a genre and genres, yet such participation never amounts to belonging. And not because of an abundant overflowing or a free, anarchic and unclassifiable productivity, but because of the trait of participation itself, because of the effect of the code and of the generic mark.³⁶

The mark of genre is the mark of 'belongingness' which itself belongs nowhere generically. Like Blackstone's conceptualisation of a law that

exists outside the text of law, the mark of genre points *beyond* the literary text to an Idea that cannot, however, be successfully categorised. This apparently authoritative, 'juridical' trait of genre is in fact a 'formless form' revealing 'the possibility and impossibility of taxonomy'; it exists 'within and without the work, along its boundary, an inclusion and exclusion with regard to genre in general' (pp. 230–1). The mark of genre is that dangerous supplement which 'tolls the knell of genealogy or genericity: which it however also brings forth to the light of day' (p. 231).

The Gothic appears often to have functioned within traditional literary history as a 'formless form' which hints at the 'impossibility' of proper literary taxonomy and, regarded in this manner, it bears a significant relation to conceptualisations of what Chapter 1 termed 'law as *logos*'. Law has been theorised within the Western tradition according to an ideal of self-present and self-perpetuating truth. A Derridean perspective, though, has suggested that the law exists only as a line of demarcation between 'form' and 'formlessness' which itself belongs nowhere. The relation of the Gothic to what Derrida terms the 'law of genre' is thus analogous, I would argue, to the relation of law as *differance* to the ideal of law as *logos*. Just as the marginality, textuality and 'nothingness' of law as *differance* disrupts the logocentric legal tradition, so the Gothic destabilises attempts within literary discourse to formulate a rational 'law' capable of guaranteeing the propriety of prose fiction. From the eighteenth century onwards, the Gothic haunts the margins of literary discourse as the 'disavowed ghost' of the ideal of verisimilitude.

The Gothic is also the form which, from the margins of literary discourse, has proved most adept at narrating a culture's anxieties concerning the uncanny corporeality and spectrality of the rule of law. In *The Castle of Otranto*, the eponymous castle is haunted by the ghost of a dead king which manifests itself in the form of disembodied, spectral signs (a giant helmet, a bleeding statue) before returning in gargantuan form to shatter a portion of the castle at the same time as it announces the identity of its legitimate heir. The fiction thus narrates, in fantastical form, the political anxieties of a period troubled by its own 'disavowed ghost'. It is within this legal, political and literary context that Blackstone sought to distance the law from the problematic, spectral body of a dead king through the evocation of a Gothic narrative of legal history which brings forth a systemised, internally coherent 'body' of national law. The law's textual body, however, undermines the pure presence within the symbolic domain of an Idea of law capable of transcending the contingencies of time and place. As a textual entity, the law exists as a rhetorical, literary construct, sometimes contradictory,

lacking proper origin and open to (mis)interpretation. In so far, then, as the Gothic might be seen to exemplify the indeterminacy of textuality, of what Derrida terms the ‘secret’ of the literary,³⁷ the Gothic could be said to inhabit the rule of law *as* text. And to return to those signifiers of an ‘authentic’ Gothic origin in *Otranto* – those problematic ‘black letters’ – ‘black letter law’ is the term modern lawyers use to signify the pure text of the law; to study black letter law is to study the text of the law free of any extra-legal influences, free of disruptive contingencies.³⁸ Metaphorically, then, a certain Gothic textuality is written into the word of modern law. Modern law is ‘written in the black letter’ which perhaps provides a point of return to the case of *Whitely v Chappell* in which a spectre is seen to haunt the machinery of law and government; the ‘black letter’ of English law, those ‘words’ which cannot be ‘strained’, generate the unlikely Gothic fiction of the dead man voting.

Notes

1. Jacques Derrida, ‘Outwork’, in *Dissemination* (London: Athlone Press, 1981), p. 9.
2. For a further discussion of the significance of the *parergon* to Derrida’s deconstructive strategy, see *The Truth in Painting* (Chicago: University of Chicago Press, 1987).
3. Derrida, ‘Outwork’, p. 9.
4. *Whitely v Chappell* (1868–1869) 4 LRQB, p. 147.
5. *Whitely v Chappell* (1868–1869) 4 LRQB, p. 149.
6. Slavov Žižek, *The Fragile Absolute* (London: Verso, 2000), p. 3.
7. This work does not seek, then, to efface the historical context into which the Gothic emerged in the mid-eighteenth century through an abstract theorisation of the Gothic in terms of difference, or supplementary, or spectrality. Rather, I wish to suggest that such theories of the Gothic are the consequence of, are made possible by, the specific material juridical practices that emerge in the eighteenth century and that come to define the deeply conflicted processes of the modern rule of law.
8. The Act was posited as a resurrection of English monarchical *and* democratic principles, the same principles that became associated with England’s ‘Gothic’ past. The ‘abdication’ of James II was also fictionalised *as* an abdication to prevent an interpretation of it as constitutionally transgressive. See J. C. D. Clark, *English Society, 1660–1832* (Cambridge: Cambridge University Press, 2000), p. 76: the ‘fiction’ of an abdication ‘allowed men to avoid framing more plausible, but more extreme, interpretations of what had occurred’.
9. For discussion of the nature, extent and influence of Gothic legal theory, see R. J. Smith, *The Gothic Bequest: Medieval Institutions in British Thought, 1688–1863* (Cambridge: Cambridge University Press, 1987); Christine Gerrard, *The Patriot Opposition to Walpole: Politics, Poetry and National Myth, 1725–1742* (Oxford: Clarendon Press, 1994).

10. The Gothic being aligned here with what Derrida and others have identified as the radical impropriety of writing *per se*. See further below.
11. Montesquieu, 'Spirit of the laws (1750)', in *Gothic Documents: A Sourcebook*, Robert Miles and E. J. Clery (eds) (Manchester: Manchester University Press, 2000), p. 63.
12. Matthew Hale, *A History of the Common Law*, Charles M. Gray (ed.) (Chicago: Chicago University Press, 1971), p. 17.
13. Peter Goodrich, *Languages of Law: From Logos of Memory to Nomadic Masks* (London: Wedenfield and Nicolson, 1990), p. 214. Hereafter LL.
14. James Beattie, 'On fable and romance (1783)', in *Gothic Documents: A Sourcebook*, p. 89.
15. Beattie, pp. 90–1. Beattie describes the valour, chivalry and general strength of constitution of the tribes of northern 'Gothick nations', compared to the inhabitants of southern countries, the climate of which 'promotes indolence'.
16. See Fred Botting, 'In Gothic Darkly: Heterotopia, history, culture', in *A Companion to the Gothic*, David Punter (ed.) (Oxford: Blackwell, 2000), p. 3: 'The projection of the present onto a Gothic past occurred [...] as part of the wider processes of political, economic and social upheaval [and] is bound up with the shifts from feudal to commercial practices in which notions of property, government and society were undergoing massive transformations.'
17. Goodrich, LL, p. 125.
18. R. J. Smith, *The Gothic Bequest*, p. 97.
19. Elizabeth Montagu, 'An essay on the writings and genius of Shakespeare (1769)', in *Gothic Documents: A Sourcebook*, p. 33.
20. Christine Gerrard points to a particularly close relation between legal and literary Gothic during the years of Walpole's government and stresses the significance of this relation to the development of Whig politics in the period. See *The Patriot Opposition to Walpole*, Ch. 5.
21. Henry Brooke, *Gustavus Vasa: or, The Deliverer of His Country* (1739), cited in Gerrard, p. 115.
22. Edmund Coke, *Institutes* (New York: Garland, 1979), p. 21.
23. Peter Goodrich, *Oedipus Lex: Psychoanalysis, History, Law* (Berkeley: University of California Press, 1995), p. 4.
24. Michael Lobban, 'Blackstone and the science of law', *The Historical Journal*, 30 (1987), p. 324.
25. See the preface to Bentham's *A Fragment on Government*, William Harrison (ed.) (Oxford: Blackwell, 1967). It is interesting that Bentham's encounter with Blackstone's 'digressive' account of the Law of Nature – which occurs within Bentham's own preface to the *Fragment* – has the effect of disorienting the whole body of work. Bentham confesses that he has lost sight of his original objective – a critique of the whole of the *Commentaries* – and become absorbed by this digressive aside in Blackstone's introduction. The *Fragment* becomes, in a sense, a supplement to Blackstone's preface. Bentham admits his intention to return to the *Commentaries* in a future work, but this text was never published. Hence, the *Fragment* seems to point to an 'Idea' beyond the text which is wholly absent: it appears to exist as pure *parergon*.

26. William Blackstone, *Commentaries on the Laws of England*, Vol. I (Oxford: Clarendon Press, 1966), pp. 42–3. Hereafter CL.
27. Pierre Legendre points to the extent to which the textuality of law renders impossible a self-present origin of law *beyond* the text: 'The proof of lineage eventually runs up against an impossibility, just as did those proofs of title to property for which European lawyers coined a striking term: *probito diabolica*', *Leçons IV* (Paris: Fayard, 1985), p. 27.
28. Maurice Blanchot, *The Gaze of Orpheus* (New York: Station Hill, 1981), p. 156.
29. Derrida's work is, of course, vital to an understanding of the position of 'writing' within the Western intellectual tradition. Within the specific context of the relation between textuality and law, Derrida's analysis of the 'pharmakon' in 'Plato's Pharmacy' (*Dissemination* (London: Athlone Press, 2000)) and his study of genre in 'The Law of Genre' (see below) are extremely insightful.
30. Particularly scandalous was the eighteenth-century Gothic fiction which sought to pass itself off as a pre-modern Gothic 'original'. Most famous of these were James Macpherson's *Ossian* poems published in 1762, but Walpole's *The Castle of Otranto* was, upon its first publication, another transgressive, fake Gothic fiction.
31. Jacques Derrida, 'The law of genre', in *Acts of Literature*, Derek Aldridge (ed.) (London: Routledge, 1992).
32. Horace Walpole, *The Castle of Otranto* (Oxford: Oxford University Press, 1996), p. 5.
33. E. J. Clery, *The Rise of Supernatural Fiction, 1762–1800* (Cambridge: Cambridge University Press, 1995), p. 54.
34. *The Monthly Review*, May 1765, in *Horace Walpole: The Critical Heritage*, Peter Sabor (ed.) (London: Routledge, 1987), p. 71. Hereafter MR.
35. Anne Williams, *The Art of Darkness: The Poetics of Gothic* (Chicago: Chicago University Press, 1995), p. 17.
36. Jacques Derrida, 'The law of genre', in *Acts of Literature*, op. cit. p. 230.
37. Jacques Derrida, 'Passions: An oblique offering', in *On the Name*, Thomas Dutoit (ed.) (Stanford: University of Stanford Press, 1995), pp. 29–30.
38. See David Sugarman, "'A Hatred of Disorder": Legal science, liberalism and imperialism', in *Dangerous Supplements*, Peter Fitzpatrick (ed.) (London: Pluto Press, 1991) for an analysis of the persistence of what is termed the 'black letter tradition' within British and American legal studies.

3

Spectres of Law in *The Castle of Otranto*

The constitutional negotiations of the late seventeenth century were founded upon regicide. As Chapter 2 contended, political discourse sought thereafter to conceal this juridical trauma, generating fictions of legitimate succession to ensure the appearance of continuous, rightful government. Walpole's *The Castle of Otranto* is a fiction obsessed with the origin and legitimacy of the rule of law, and a number of recent studies of the text have sought to recover the historicised 'contemporaneous meanings' of Walpole's ambiguous Gothic 'original'.¹ Especial attention has been paid to the nationalist backdrop to a text which participates, on a number of levels, in the production and circulation of diverse nationalistic discourses.² Robert Miles's 2001 study of *Otranto* and its contexts prioritises the relation between nationalism and abjection and offers a reading of the text which is convincingly historicised and theorised. Setting Gelner's theorisation of the rise of nationalism at the onset of modernity alongside Kristeva's theory of the abject and Žižek's notion of a national identity 'structured by means of fantasies', Miles gives a powerful account of a historically specific example of the 'social hold' of the abject as, in the eighteenth century, 'nationalism becomes part of the semiological economy of the unconscious'.³

This chapter aims to expand upon these recent studies, using the theoretical framework developed thus far in order to interrogate Walpole's complex and times contradictory treatment of questions of juridical origin and authority. As Žižek suggests, 'perhaps the best way of encapsulating the gist of an epoch is to focus not on the explicit features that define its social and ideological edifices, but on the disavowed ghosts that haunt it',⁴ and here is a text – posited as *the* point of origin of the modern literary Gothic – that conveys a very distinct sense of the hauntedness of contemporary structures of power. The extent of

the novel's troubled engagement with its political moment is evident not least in Walpole's various attempts to justify, re-write and re-claim the text's 'origin'. Having already produced two problematic prefaces to the work, positing diverse sources and various literary justifications for it, Walpole in his private correspondence averred yet another possible origin of the text in his perplexed, over-active political imagination:

I waked one morning in the beginning of last June from a dream of which all I could recover was that I had thought myself in an ancient castle (a very natural dream for a head filled like mine with Gothic story) and that on the uppermost banister of a great staircase I saw a gigantic hand in armour. In the evening, I sat down and began to write, without knowing in the least what I intended to say or relate. The work grew on my hands, and I grew fond of it – add that I was very glad to think of anything rather than politics – in short I was so engrossed in my tale, which I completed in less than two months, that one evening I wrote from the time I had drunk my tea, about six o' clock, till half an hour after one in the morning, when my hand and fingers were so weary, that I could not hold the pen to finish the sentence, but left Matilda and Isabella talking, in the middle of a paragraph.⁵

This text, then, is as much the product of poetic dream-work as it is a conscious experiment in literary form. What is more, it is possible to see in this dream and in the text which it originates a manifestation of precisely those political anxieties which Walpole attempts here to disavow.⁶ The giant hand of Walpole's dream-text represents the remnants of an aristocratic power that still had sufficient presence in the mid-eighteenth century to challenge the Whig conceptualisation of liberty purportedly embodied in the 1688 settlement. As if symbolically to repel the forces of the ancient regime, moreover, Walpole nailed to the wall above his bed a copy of the Magna Carta and the execution warrant of Charles I; his own ideological insecurities, then, were bound up with wider cultural narratives of authority and origin that articulated anxieties as to the nature and origin of English government. Walpole's position in relation to these contemporary narratives of legal and political power provides a significant point of access into a text that engages deeply with the fraught question of the legitimacy of authority and its relation to individual self-identity. What is more, I want to argue, Walpole's dream-work may be related not only to this specific, contemporary anxiety as to the stability and legitimacy of the English

body politic, but to the problematics of the very ideal of law as *logos*. Returning to a theorisation of law in terms of an unstable demarcation between the 'sacred' and the 'abject', this chapter examines the violation of this boundary within Walpole's text by spectral manifestations of a supposedly authentic ruling principle. *The Castle of Otranto* reveals this ruling principle (the Western ideal of a self-present, self-generating Law) to be ultimately no more 'legitimate' than Manfred's own abject usurpation of power. The law exists in this text as no more than a spectral assemblage of signs circulating independently of the system of power which it is supposed to authenticate. The text thus denies the very possibility of a pure, self-generating legal 'Presence'. What is more, it leaves its melancholy subjects ultimately to focus upon a liminal point that is figured in the text as *feminine*. This chapter in conclusion theorises the place of the feminine within this novel according to the re-reading of the Antigone suggested in Chapter 1: abjected to the margins of this juridical economy, a feminine presence/absence exposes the fictivity and impurity of the ideal of law as *logos*.

Spectres of law

Pierre Legendre theorises human subjectivity as *juridical* subjectivity: self-identity is constituted through a system of lineage institutionalised as law. The legitimacy of kinship succession, and thus of the juridically instituted subject, depends, moreover, upon a paternal principle that becomes within the Western legal economy 'the paradigm of all reason'.⁷ The legitimacy of the paternal principle, however, demands a proof of origin which cannot satisfactorily be guaranteed by the order of reason instituted by the law. Thus it is that 'proof of lineage runs up against an impossibility', and Legendre relates this 'impasse' to the struggle within the European legal system to establish unequivocal title to real estate: *Prohibito Diabolica*, Legendre observes, has been the striking term employed by lawyers to signify the search for those elusive 'proofs of title' so central to Western conceptualisations of juridical self-hood (p. 148). From this Legendrian perspective, Peter Goodrich relates conceptualisations of juridical subjectivity in the early modern period to a system of symbols designed to authenticate fluid social and political power structures with reference to a moment of genealogical origin symbolised by means of a 'system of material signs'.⁸ This 'symbolisation of authority', however, is no more than a massive simulation, revealing only that the so-called 'authentic truth' of law is 'unrepresentable save by means of the detour of metaphors' (p. 252).

The ultimate sign of ‘truth’ within this system, Goodrich argues, is the family tree, which posits as the foundation of juridical authority ‘an ancestor, or oldest name’ (p. 252). This founding father, however, exists only as a fiction of origin within a chain of signification that in fact has no source outside itself: ‘[...] presented as Logos, or incarnate Word [this name] has no referent beyond the descent of names, the genealogical tree itself’ (p. 253). Lacking any specific temporal origin, the authority of this paternal ‘name’ depends upon a mythology of power that takes juridical authority outside history; it becomes timeless and immaterial, manifesting itself as an enigmatic ‘aura’ of power mystically related to an economy of signs that include the body of the sovereign, heraldic insignia and those titles to real estate which rest upon an order of descent without proper, historical origin.

There is, then, a spectral quality to a law that can make itself ‘present’ only by means of a metaphorical economy without material origin. The lesson that the law teaches the subject is that ‘no being is self-founding’ (p. 254): juridical subjectivity rests upon a metaphoricity that law as *logos* seeks, and fails, to disavow. This is the lesson learned by Manfred, whose juridical self-identity crumbles under the weight of a symbolic economy that has no pure point of origin outside itself, no source beyond an enigmatic text evoking the authority of a ‘true ruler’ who exists only in the form of disjointed, spectral signs. As Jerrold Hogle argues, there is in *The Castle of Otranto* a proliferation of ghostly and *counterfeit* signs that point towards the inauthenticity of *any* ‘true’ claim to rule Otranto.⁹ Indeed, this chapter will argue that what defeats Manfred ultimately is not so much a force of ‘truth’ working to undermine his illegitimate governance, as his own mistaken belief that power is capable of existing beyond the system of signs that symbolise it. It is because of this misguided belief that Manfred is driven to increasingly desperate and ultimately fatal measures to give a proper foundation (a legitimate bloodline) to a juridical authority that cannot be legitimised in this way – not because it has been appropriated by an abject usurper at odds with Otranto’s true Law, but because this ideal of Law cannot be authenticated with reference to anything other than its own spectral fictions.

Having inherited the usurped throne of Otranto – and having thus rendered himself abject in relation to the sacred principle supposedly represented by Alfonso – Manfred seeks to establish himself as the founding father of a new order of lineage which will legitimate his rule not so much in the present as in the future. By projecting his bloodline forward through the heirs of Conrad, Manfred – aware of the prophecy

that threatens his genealogy – looks towards a future point at which his rule will have become authentic by virtue of the perpetuation of his family name. Manfred thus posits *himself* as the originating ‘name of the father’ in respect of a political order that has not yet been properly legitimated. As an impostor whose only option is to attempt to create the possibility of a future authentication of his family’s right to rule, however, Manfred encounters an impasse: he is seeking to occupy the unrepresentable space of the ‘ground zero’ of the symbolic order. He makes an impossible attempt to embody a point of origin which is (as the text ultimately reveals) always already phantasmic.

He is, in other words, seeking to appropriate for himself, or, more accurately, for his ‘name’, those ‘material signs’ of power which he believes will legitimate his rule as they did that of Alfonso before him. He assumes that power is something *more than* its mode of symbolisation through these signs of lineage and he is in fact encouraged in this assumption by the enigmatic prophecy which haunts his conscience. The word of this ‘law’ of unknown origin asserts that there is a ‘true ruler’ of Otranto, and Manfred, in response to a pronouncement that threatens his legitimacy whilst at the same time asserting the viability of the concept of ‘true’ authority, is driven by the belief that if he can only establish a new genealogy of power in the present he will at some future point be authenticated as ‘true ruler’ of Otranto. What Manfred fails to acknowledge is that power exists only as simulation. In aiming to bring about a future moment at which his ‘name’ will have been enshrined as ‘logos or incarnate word’, he seeks, impossibly, to make of himself a ‘self-founding being’.

In a reversal, almost, of the Žižekian picture of a clean, public Law haunted by its repudiated, obscene spectres, the sacred source of the proper government of Otranto has been abjected by Manfred for whom it returns as the ‘disavowed ghost’ of a supposedly *legitimate* regime (FA, p. 3). The ‘true ruler’ returns to haunt Manfred’s conscience and the seat of his abject authority in the form of spectral fragments that are meant to signify the authentic Law of the ‘good Alfonso’. The giant helmet – a symbol of the dispossessed bloodline – transgresses into a legal domain rendered ‘obscene’ by an act of usurpation which is Manfred’s improper inheritance. The text, however, increasingly undermines the demarcation between the impropriety of Manfred’s rule and the authenticity of Alfonso’s claim to the legal title of Otranto and, in so doing, it calls into question the sanctity of law as *logos*. The intrusion of the deposed sacred Law into the abject realm of the impostor shatters not only the body of Conrad and Manfred’s hopes of a legitimised succession, but

the very boundary between the ‘abject’ and the ‘sacred’ which is meant to safeguard the law’s purity. Manfred is, in a sense, cursed by his own illegitimate inheritance, as much a victim as anyone in the text of an act of usurpation for which he was not responsible and which can in no way be unequivocally categorised as ‘improper’ according to the juridical and epistemological scheme that prevails within this text.

Manfred’s response to this first supernatural portent, once he recovers his senses, is to seek to incorporate it into his own abject order of power: his first articulate response to the helmet’s appearance is to have the ‘peasant’ (later revealed as the legitimate heir, Theodore) imprisoned beneath it. Manfred’s order of power, however, is opposed by a symbolic order comprised of the ‘enchanted’ signs of a disavowed founding father who, in order to reclaim for his heirs their rightful place within the rational order of the *logos*, must manifest himself spectrally in the form of a series of fantastical and near indecipherable symbols of power which are constantly misread not only by Manfred, but by those whom the text aligns with the ‘true ruler’ of Otranto. Theodore, for example, acknowledges the similarity of the helmet to that of the statue of Alfonso and later refers to it as his ‘accomplice’, yet he fails to read its meaning. His strong resemblance to Alfonso is also repeatedly noted but its significance in terms of Theodore’s alignment with Alfonso and his supernatural appearances is scarcely comprehended. What is more, Manfred’s own inability to interpret what is signified by the ‘divine’ portents – beyond the fact that they threaten his rule – cannot be attributed purely to his wilful blinding of himself to the obvious: the spectral signs of ‘true’ authority do not make themselves clear, nor do they establish for Alfonso or his heirs a secure source of power. They reveal, in fact, *nothing* as to the origin of the right of Alfonso’s bloodline to rule Otranto; the foundation of this right to power is lost to history and asserts itself in the text only by means of references to Alfonso as ‘good’, and through the force of an ancient prophecy which is concerned as much with the illegitimacy of the usurper as it is with the legitimacy of Alfonso. Indeed, the one moment in the text at which Manfred does confront a sign that promises to reveal to him the nature of the circumstances in which he finds himself is one that again fails to deliver any possibility of interpretation. Acting as if to support the ghost of Alfonso in impressing upon Manfred the peril he is in, the portrait of Manfred’s grandfather breaks free of its frame; in spite of Manfred’s protestations, however, it refuses to speak. Unlike the appearance to Hamlet of the ghost of his father, which this moment evokes, this apparition reveals nothing to Manfred beyond the fact of its own spectral presence which – given that

Manfred's grandfather was the usurper of Alfonso's throne – functions as an uncanny supplement to Alfonso's haunting of his former seat of power. The apparition is otherwise an opaque sign: it gestures to Manfred to follow it only to shut him out of the chamber into which it disappears. Manfred is left, once more, frantic and unknowing and his response to this intolerable uncertainty is to further his incestuous plot to marry Isabella. In the following passage, Manfred begs the spectre to reveal whatever secret it holds; the apparition, however, will not even allow Manfred to name the crime for which it was responsible and which now condemns Manfred to rule Otranto in fear and guilt:

Do I dream? cried Manfred returning, or are the devils themselves in league against me? Speak, infernal spectre! Or, if thou art my grand-sire, why dost thou to conspire against thy wretched descendant, who too dearly pays for – Ere he could finish the sentence the vision sighed again, and made a sign to Manfred to follow him. Lead on! cried Manfred; I will follow thee to the gulph of perdition. The spectre marched sedately, but dejected, to the end of the gallery, and turned into a chamber on the right hand. The prince, collecting courage from this delay, would have forcibly burst open the door with his foot, but found that it resisted his utmost efforts. Since hell will not satisfy my curiosity, said Manfred, I will use the human means in my power for preserving my race; Isabella shall not escape me.¹⁰

As the narrative progresses, the distinction between Alfonso's sacred right to rule and the abject usurpation of it by Manfred's grandfather becomes increasingly difficult to maintain. The heirs of Alfonso – Frederic and Theodore – become to varying degrees complicit with Manfred's abject design to marry his daughter-in-law. Because of the passion that both men develop for Matilda, they are prepared to promote Manfred's divorce of his wife; thus, the chief players in this drama of (il)legitimate succession become implicated in an ambivalent economy of power which ultimately embraces both Manfred's improper claim to rule *and* the representatives of 'true' government. These men become increasingly prepared to collaborate with Manfred in an obscene plot that would, paradoxically, restore Alfonso's bloodline at the same time as it legitimated Manfred's rule. The plot is frustrated only by a series of 'preternatural appearances' which, by the end of the text, could be said to be operating independently of *any* proper representative on earth, since Theodore and Frederic have proved themselves willing to betray Alfonso's legacy. By the time that the giant spectre of Alfonso

comes to shatter the castle of Otranto as he pronounces Theodore its legitimate heir, Alfonso's Law has become purely spectral, divorced from any material foundation in property or true lineage. The seat of his power lies in ruins and his 'legitimate' heir ascends melancholically to a throne that he has played his part in attempting to subvert and which is only his by virtue of a convoluted, *matrilineal* genealogy.

The space of Antigone – Law and 'Woman' in *Otranto*

In the essay 'The Force of Law: The Mystical Foundation of Authority', Derrida locates the founding moment of law in an always savage, revolutionary instant of violent usurpation whereby one founding father is traumatically dispossessed by another. 'This founding or revolutionary moment of law', he argues, 'is, in law, always a moment of non-law'.¹¹ The savage origin of law must then be obliterated from legal discourse and the originary moment re-presented in the form of 'legitimate fictions' of authority – the law mythologised as *logos*.

Derrida's appraisal of the savage, disavowed founding moment of law permits a review of the relation between Manfred, Alfonso and the order of power which institutes their ambivalent juridical subjectivities. I have suggested that nowhere is Alfonso's right to rule established with reference to some legitimate founding gesture; the only originary moment of government averred in the text is the misappropriation of power through Ricardo's murder of Alfonso and his forging of Alfonso's will. It may be argued that, paradoxically, it is *because* this usurpation is capable of being narrated according to a certain fiction of abjection that it is capable of being cited at all. Whilst it temporarily suspends what is posited as the 'true' governance of Otranto, it does not undermine the principle of the *logos* since it is capable of being accommodated within a symbolic economy founded upon the myth of opposition between the sacred and the abject. What *would* undermine the law's authority would be any hint that Alfonso's 'true' rule was illegitimately instituted, and this is what Derrida's analysis of the force of law suggests it must have been. Alfonso's spectral, disjointed, destructive return may thus be seen to signify not the return of the *logos*, but of its obscene 'disavowed ghost' – the spectre of a monstrous 'truth' about law that cannot be made material.¹² Thus it is that Theodore – heir to the 'sacred' – is almost as traumatised as the 'abject' Manfred by Alfonso's spectacular coup d'état. Whilst Manfred retires to the monastery of St Nicholas, Theodore is left melancholically obsessing over a feminine absence which, it will

be argued in conclusion, fulfils a significant symbolic function in terms of the order of power ambivalently re-instituted at the end of the text.

It is in terms of this obscene 'truth' about the law that one can read the position of Matilda and Isabella in this text. The power of the maternal as an originating principle in *Otranto* is denied within an economy that posits paternal lineage as the only legitimate source of authority. The text begins with Manfred's attempt to secure his paternal line through Conrad's marriage to Isabella; it is imperative that this union produce sons if Manfred's title to Otranto is to be legitimated. To this enterprise, daughters are useless and Manfred's murder of Matilda is prefigured by his repudiation of her relevance to a paternal juridical order: 'Begon', he orders, 'I do not want a daughter' (p. 26). He is, however, required to appropriate female generative power if he is to further his designs and, in so doing, he is paradoxically driven towards a violation of the very principles of legitimate paternal succession that he seeks to uphold: his response to the death of Conrad is to take Conrad's betrothed as his own wife. This incestuous design, it might be argued, constitutes one of the greatest sources of anxiety within the text, for, if realised, it would constitute an act more fundamentally improper than Manfred's illegitimate occupation of the throne. Unlike Ricardo's act of usurpation, which temporarily suspends the rule of Alfonso's bloodline without wholly compromising the principle of paternal law, Manfred's marriage to Isabella – who is related to Manfred by law and Alfonso by blood – would contaminate that paternal principle by threatening to collapse the already unstable dichotomy between the 'abject' Manfred and the 'sacred' Alfonso. Thus is Manfred's determination to pursue his design accompanied by a proliferation of supernatural phenomena, such that virtually every expression of his intention comes to be met by a fresh spectral manifestation. The suggestion of incest is aligned with the return to Otranto of the obscene 'truth' about the Law. It is an obscene misappropriation of the feminine too close to what Žižek terms 'the pre-ontological Real' to be tolerated within the symbolic order (FA, p. 73).

As the object of this threatened misappropriation of the female body, Isabella may be seen as the re-presentation in the text of the feminine as an object of exchange. She is appropriated by Manfred for his son and ultimately posited as a sacrifice by her own father who regards her marriage to Manfred as a means to facilitate his own marriage to Matilda. He is persuaded against this collaboration by an apparition which commands him to 'forget Matilda' (p. 102). If Isabella re-presents the feminine as the symbolically castrated woman-as-chattel, Matilda, as this spectral

command suggests, may be seen to signify a supplemental, apparently superfluous, yet nevertheless potentially subversive femininity. Irrelevant to the symbolic economy save in so far as her consanguinity to Manfred threatens Alfonso's rule (hence the command to Frederic to 'forget' her), she is repudiated by it. Relegated thus to the margins of Otranto's order of power, however, Matilda, like Antigone, subverts the very economy that would disown her. Her uncanny position between life and death hints at the monstrous 'truth' of a Law haunted by the presence/absence at its margins of spectres, supplements and feminine bodies.

Manfred blinds himself to Matilda's presence within the text; she is positioned at the margins of his order of power as the disavowed feminine which is prohibited from producing juridical meaning ('Begon! I do not want a daughter'). Having already symbolically disowned her, he kills her in a fit of rage when, overhearing her talking to Theodore, he mistakes her for Isabella. That he does not even recognise his daughter's voice suggests the extent of Matilda's alienation from Manfred's economy of power; she does not have a voice capable of being heard or understood within this symbolic order. Irigaray metaphorically figures the maternal body as lying beneath the symbolic order which repudiates it and she construes the myth of Antigone as a re-presentation of this symbolic disavowal. I argued in Chapter 1, however, that this myth in fact signifies the *impossibility* of re-presenting the founding gesture of paternal law in this way. Creon's attempt to position Antigone at the margins of his symbolic economy – in the space between the *logos* and its abject exterior – ultimately backfires: Creon succeeds only in polluting the source of his own authority. Matilda's repudiation by a symbolic economy that institutes and problematises the rule of Manfred and Alfonso appears complete as her body finishes buried beneath the rubble of the Castle of Otranto following Alfonso's final spectral appearance. She nevertheless continues to figure in the text as an absence upon which Theodore – the authorised heir of Otranto – remains obsessively focused. Indeed, he marries Isabella almost wholly in order to indulge this obsession. These players in a drama of succession that has finally, if ambivalently, re-instituted law as *logos* are thus left melancholic by the absence of a woman posited as useless to the Law. At the margins of this new order of power, then, Matilda's absence/presence exerts an uncanny influence upon its representatives, functioning as a spectral evocation of the 'deed' which 'seeks into invisibility' once the Law is established. She poisons Theodore's rule and it is she who may be posited ultimately as the (im)proper heir of Alfonso, replacing the dead Father as the spectral reminder of a monstrous 'truth' about Law.

Notes

1. Robert Miles, *Gothic Writing, 1750–1820: A Genealogy*, 2nd edn (Manchester: Manchester University Press, 2002), p. 3.
2. See Toni Wein, *British Identities, Heroic Nationalisms and the Gothic Novel, 1764–1824* (London and New York: Palgrave, 2002); Markman Ellis, *The History of Gothic Fiction* (Edinburgh: Edinburgh University Press, 2000); James Watt, *Contesting the Gothic* (Cambridge: Cambridge University Press, 1999); Emma J. Clery, *The Rise of Supernatural Fiction, 1762–1800* (Cambridge: Cambridge University Press, 1995).
3. Robert Miles, 'Nationalism and abjection', in *The Gothic: Essays and Studies 2001*, Fred Botting (ed.) (Cambridge: English Association, 2001), pp. 47–86.
4. Slavoj Žižek, *The Fragile Absolute* (London: Verso, 2000), p. 3. Hereafter FA.
5. Horace Walpole, letter to the Rev. William Cole, 9th March 1765, in *The Yale Edition of Horace Walpole's Correspondence*, W. S. Lewis (ed.) (New Haven: Yale University Press, 1937).
6. See E. J. Clery, *The Rise of Supernatural Fiction, 1762–1800* (Cambridge: Cambridge University Press, 1995), pp. 73–4.
7. Pierre Legendre, *Leçons IV* (Paris: Fayard, 1985), p. 10.
8. Peter Goodrich, *Languages of Law: From Logos of Memory to Nomadic Masks* (London: Wedenfield and Nicolson, 1990), p. 250.
9. Jerrold Hogle, 'The gothic ghost of the counterfeit and the progress of abjection', in *A Companion to the Gothic*, David Punter (ed.) (Oxford: Blackwell, 2000), pp. 293–304.
10. Horace Walpole, *The Castle of Otranto* (Oxford: Oxford University Press, 1996), p. 24.
11. Jacques Derrida, 'The force of law: The mystical foundation of authority', *Cardozo Law Review*, 11 (1990), p. 921.
12. Žižek (FA, pp. 69–82) discusses the ontological monstrosity of the 'truth' about the law – a 'truth' that is incapable of proper expression within the symbolic order since it evokes the law's dreadful founding 'deed' which 'sinks into invisibility' once accomplished.

4

Clara Reeve and the Problem of Romance

As Walpole's justificatory second preface to *The Castle of Otranto* suggests, romance posed a problem for eighteenth-century critics concerned to comprehend, categorise and privilege certain emerging forms of prose fiction in terms of a new literary ideal of verisimilitude.¹ Romance, as I have suggested, could be said to have posed a similar problem for the law. Jeremy Bentham's nascent legal positivism, and even Blackstone's attempted rationalisation of English law in the *Commentaries*, could be read as conforming to a juridical version of verisimilitude, to the ideal of 'truth' in the text of law. Bentham denounced Blackstone's mythologisation of the origin of English law, however, condemning in particular what he saw as Blackstone's glorification of a kind of legal folklore, his production almost of a *romance* of English common law.² The pre-modern textual body of the law, moreover, was perceived by Bentham *and* Blackstone to disturb the essential 'truth' of law. The pre-Enlightenment texts of English common law constituted a dizzying labyrinth of virtually incomprehensible custom-based rules and regulations with no discernible rationale. Lawyers spoke of the law's 'foul smell' and 'loathsome savour', of its capacity to disease reason, to provoke the imagination, to induce melancholy or even madness.³ These were not far removed from the terms used by eighteenth-century literary critics to condemn romance fiction: romance was a 'poison' and the new body of prose fiction had to be cured of it.⁴ Blackstone's *Commentaries* was in part an attempt to rid the common law of its own romance elements whilst retaining and re-working within a modern juridical context an ideologically useful national myth of the origin of English law. Chapter 2 considered the tensions that emerge out of Blackstone's attempted reconciliation of these conflicting elements of eighteenth-century legal discourse. The

first part of this chapter reads Reeve's *The Progress of Romance* as an attempt at *literary* systemisation which aims to validate *and* to regulate and control a potentially problematic, but nevertheless authoritative body of texts. In its application of Enlightenment principles of categorisation to a somewhat disorderly textual domain, Reeve's project may be compared to Blackstone's systemisation of the 'romance' of English common law: both articulate similar anxieties as to the nature of authority, textuality, history and fictivity. *The Progress of Romance*, moreover, emerges out of what Derrida has posited as those 'conditions of law' under which 'the literary work [...] becomes "literature" only at a certain period of the law'.⁵ Reeve's essay is an extremely revealing work in terms the development in the eighteenth century of the modern ideological relationship of literature to law.

At some point in the eighteenth century, argues Derrida, the modern notion of 'literature' was formulated. The literary text came to be defined as a commodity that generated certain legal rights and obligations and which participated in an economy of 'producing and reproducing' to which the question of proper origin was central:

It is necessary to think together, no doubt, a certain historicity of law and a certain historicity of literature. If I speak of 'literature' as opposed to poetry or belles-lettres, it is to emphasise the hypothesis that the relatively modern specificity of literature as such retains a close and essential rapport to a period in legal history [...]. Only under the conditions of law does the [literary] work have an existence and a substance, and it becomes 'literature' only at a certain period of the law that regulates problems involving property rights over works, the identity of corpora, the value of signatures, the difference between creating, producing and reproducing, and so on. Roughly speaking, this law became established between the late-seventeenth and early-nineteenth centuries in Europe. (p. 187)

The literary text emerged as 'literature' within a certain legal context in which it was positioned 'before the law'. The literary text is defined, first and foremost, as a legal entity. The ownership of it – or, rather, of the creative idea which resides within it – depends, as in the case of chattels or real estate, upon the existence of proper legal title, and proper legal title depends in this instance upon the unequivocal association of a given author with the title of the work. Creative originality was thus becoming the guarantee of authorial power in literary and juridical terms. The creative idea expressed within the literary text generated

a form of intellectual property that was – following the acrimonious copyright disputes of the mid-eighteenth century – capable of increasingly unfettered economic alienation and exchange. Individual artistic creativity thus became one of the key determinants of the ‘literary’ work at the very moment at which the ‘literary’ was emerging as a form of writing capable of being the subject of a legal title based upon that very creative principle. Thus, in admitting his authorship of *The Castle of Otranto* in 1764, Walpole could be said to be asserting his *title* to the text, positioning himself within an economy of artistic production which places authors and their texts/commodities before a new law of literature. At the same time, though, *The Castle of Otranto*, together with other Gothic fictions of the period, contested quite considerably developing notions of the ‘legality’ of the literary text. The origin attributed to the title *The Castle of Otranto* in 1764 was, of course, fake, and the fraud was perpetuated by a preface which attributed to the text an inauthentic authorship and history. There is thus a sense in which, according to Derrida’s analysis, such a fiction does not count as ‘literature’ at all: it conforms instead, albeit fraudulently, to a more medieval model of textual production whereby institutions ‘had quite a different way of regulating the identity of works, which were more readily delivered to the transformative initiatives of copyists or other “guardians”, to the graftings practiced by inheritors or other “authors” (whether anonymous or not, whether masked by pseudonyms or not, or whether more-or-less identifiable individuals or groups)’ (BL, p. 187).

Gothic fiction, then, can be seen to problematise an emerging relation between law and literature in the early modern period. Notions of artistic authenticity and originality were essential in helping to define the legal identity and economic value of literary texts and in guaranteeing the artistic integrity of those texts. The literary Gothic (with its fraudulent prefaces, pseudonymous authors and so on) tended to subvert such notions, acquiring in the process a certain ‘abject’ quality from its dubious, inauthentic moment of inception. Walpole’s faked ‘Gothic’, argues Miles, ‘exposes the bad faith of literary forgery in the manner Kristeva allots to aesthetic abjection: [Walpole] turns aside, misleads, corrupts a “prohibition”, or “rule”; he is a “trickster who draws attention to the fragility of law”’.⁶

This chapter sets Clara Reeve within the cultural, economic and legal context into which, according to Derrida, ‘literature’ emerged in the mid-eighteenth century and probes the extent to which Reeve’s critical and fictional work both consolidates and contests a certain literary ‘prohibition or rule’ in the period. Reeve’s *The Progress of*

Romance (1785) is an attempt to 'methodise'⁷ a growing body of literary work according to an emerging modern 'law' of literature and, like Blackstone's *Commentaries*, it articulates anxieties as to the nature of textuality and its relation to 'truth'. Reeve's major work of fiction, *The Old English Baron* (1778), is a text concerned likewise with questions of literary and juridical authority and generic propriety. The second part of this chapter focuses upon the extent to which this work anticipates the aesthetic, ethical and epistemological principles of *The Progress of Romance* through a commitment to a variety of newly emerging eighteenth-century literary conventions – verisimilitude, the literature of sensibility and a revised (disciplined) Walpolean Gothic. Through the production of a 'Gothic' text that embraces literary realism and literary sensibility, Reeve seeks to legitimate her fiction according to a 'law' of literature which her work, it will be argued, both affirms *and* undermines. The text's problematisation of its own literary 'law', moreover, will be shown to be related to a wider contestation within the work of contemporary notions of juridical and political authority.

The text before the law

The production and circulation of the literary text within an emerging framework of laws intent upon the regulation of new forms of intellectual property is a key concern of *The Progress of Romance*. During the first half of the eighteenth century, following the creation of limited intellectual property rights by the 1709 Statute of Queen Ann, independent commercial publishers sought to argue that once statutory copyright had expired they were free to publish literary works irrespective of authorisation. Against this, copyright holders sought to assert a perpetual, common law right to publish that persisted after the expiry of the statutory period. The problem for the law was in adequately categorising the nature of copyright. Blackstone, along with other supporters of perpetual copyright, drew an analogy between intellectual property and real estate, viewing an infringement of copyright as akin to an act of trespass and the nature of copyright as akin to the freehold ownership of land. Opponents of perpetual copyright contended that intellectual property was an altogether different species of property, the right to which was (unlike the common law entitlement of the freeholder to his land) entirely provisional upon statute law and limited to the period laid down therein. The question was decided by means of a legal battle concerning the ownership of copyright to James Thompson's poem,

The Seasons. The original owners of the work sued an independent publisher who had reproduced copies of the work after the expiry of the statutory copyright period: they claimed a common law entitlement to perpetual copyright which the publisher had infringed. The court eventually decided in favour of the publisher and ruled against the existence in common law of a perpetual copyright analogous to freehold real estate ownership.⁸ The decision thus affirmed the modern notion of 'literature' as Derrida analyses it, positing the literary text as a variety of property capable of circulating within the public domain as an alienable commodity with a legal title attached to it.

The codification of the law of intellectual property had significant implications in terms of contemporary conceptualisations of authorial identity, creativity and even of the very nature of individual selfhood. It created an economy in which it was not the literary text as a material entity that was the subject of property rights, but the imaginative idea expressed therein; this 'commodity' was now to be conceived of as alienable. The very contents of consciousness thus seemed to acquire the status of commercially exchangeable chattels, a development which, whilst commercially useful, potentially undermined the very foundation of Enlightenment subjectivity.⁹ The law's new hold over the literary text threatened to alienate ideas from their point of origin in consciousness and to lessen their intellectual, spiritual and, one could say, ontological status by positing them as no more than dead, material objects of exchange. Intellectual property law guaranteed the right of the author to assert his ownership of the creative idea embodied within the text and this became the basis of his public, authorial identity. Culturally, legally and economically, therefore, copyright law empowered the writer. However, it also attributed to ideas of 'Philosophy, Poetry, Metaphysics, History and Divinity' the common material quality of 'other Articles, that usually compose a Taylor and Butcher's Bill'.¹⁰ Almost independently of their creators, artistic works began to participate as objects of exchange in an economy that came to appear increasingly perverse in its ability to proliferate new and intangible forms of property.¹¹ This new literary market place, moreover, opened up the possibility of new forms of fraud, of theft or corruption of ideas by readers parasitic upon the original works of others. From the moment of its inception, then, there was arguably an abject aspect to an economy in which authors and readers became producers and consumers of commodified ideas alienated from their point of origin in creative consciousness.

The Progress of Romance thus emerged at a historical moment during which the relation between law and literature, between juridical authority and the artistic integrity of the literary text, was undergoing a radical reorientation towards those modes of 'lawful' (albeit, arguably, abject) literary production which, Derrida contends, came to define 'literature' in the modern period. Reeve's essay foregrounds questions of literary originality and authenticity and acknowledges, though with considerable ambivalence, the increasing commodification of the literary work. It reflects contemporary tensions between the status of authors and their creative works, and the growing influence of those who published and circulated those works. In Reeve's essay, for example, the practice of extracting large chunks of fictional texts in literary reviews is condemned by all of Reeve's debaters as a variety of theft. In keeping with the developing eighteenth-century law of copyright, the author is perceived as having rights in the products of his creative labour which ought not to be infringed. At the same time, however, the literary text is regarded throughout the course of the debate as a form of alienable commodity circulating freely in a literary marketplace which subjects it to a variety of influences over which the author has little or no control. Euphensia herself, the leader of the debate, cites long extracts from various literary and critical works and refers approvingly to the process of abridging texts in order to render them morally acceptable to the reading public. She becomes, in fact, a Johnsonian regulator of literary taste, upholding authorial rights whilst at the same time subjecting fiction and its authors to rigorous scrutiny and regulation. The work takes its place within a complex economy of literary production, circulation and criticism within which literary creativity is affirmed at the same time as its products are strictly systemised and disciplined – brought, as Derrida contends, 'before the law'.

Reeve's primary aim, to which these questions prove central, is to 'methodise' the history of romance and to account for its relation to the development of the contemporary novel (POR, p. 8). The preface to the essay identifies romance with an ancient oral tradition which has come to constitute a 'labyrinth' of 'almost infinite variety' (p. 54). Reeve establishes herself as the reader's guide through this literary maze, beginning with an interrogation of the question of origin and its relevance to the legitimacy of romance as a literary form. Like the root of English common law, the origin of romance is seen to be speculative, to be in a sense beyond history. It has some relation not only to the 'songs of the ancient Goths', for example, but also to the Arabian fables which fed into the European tradition through Greece, Rome and, later,

Moorish Spain. More important to Reeve, however, is the association she perceives to exist between romance and epic verse, an association which legitimises romance with reference to the classics of the European literary tradition. Indeed, Reeve comes close to positing romance as the ultimate origin of this tradition:

[...] but let us first trace the origin of our subject. Romance or heroic fables are of very ancient, and I might say universal Origin. We find traces of them in all times and in all countries they have been the favourite entertainment of the most savage as well as the most civilised people. In the earliest accounts of all nations we find they had traditional stories of their most prominent persons, that is of the Heroes, to which they listened in raptures, and found themselves excited to perform great actions by hearing them recited. (p. 13)

Romance appears in this account to constitute the ‘ground zero’ of the literary tradition, and out of the ‘ruins’ of romance ‘the modern novel sprung up’ (p. 8). The contemporary novel is legitimated with reference to a sure point of ‘universal Origin’ (p. 13) and romance is thus privileged in literary terms in a manner which causes *The Progress* to deviate somewhat from the more standard eighteenth-century critical practice of differentiating the novel from the romance and casting the latter as a primitive form at odds with Enlightenment principles. In spite of Reeve’s privileging of romance in this manner, however, it is a genre that remains troubling in its capacity to proliferate new forms and resist systemisation. The genre is so diverse that it threatens to disorientate not only the novice reader, but the experienced critic faced with a mass of fantastical, generically unstable material that ‘wants to be methodised, to be separated and regulated’ (p. 8). Reeve’s response to the indeterminacy of a form that she nevertheless wishes to privilege is to insist upon rigid generic discrimination between texts and repeatedly she asserts the need to define romance rigorously and to differentiate clearly between it and other forms of texts, including histories and modern novels. Romance must be assigned a ‘clear and certain meaning’ (p. 13) and, even though the modern novel is seen to have its origin in romance, generic differences exist between them, which must be upheld. It is necessary to identify ‘the distinguishing characters of the romance and the novel, to point out the boundaries of both’ (p. 6). Generic boundaries are not exact, however, and the more the debaters seek to establish a demarcation between the romance and the novel, the more difficult, even maddening, their enterprise becomes.

At various points, Euphenasia appears almost overwhelmed by the task of systemisation and frequently represents her own scholarly project as a form of dangerous, disorientating romance adventure:

What Goddess, or what Muse must I invoke to guide me through these vast, unexplored regions of fancy? – regions inhabited by wisdom and folly, by wit and stupidity, by religion and profaneness, by morality and licentiousness. How shall I separate and distinguish the various and opposite qualities of these strange concomitants? – point out some as the objects of admiration and respect, and others of abhorrence and contempt? (p. 4)

The textual domain which comprises romance and the novel is a 'fairyland' which the critic enters armed with the tools of Enlightenment systemisation – 'clear and certain' definitions and rigid generic categories. Following Johnson, Reeve emphasises verisimilitude as the key differentiating feature of the novel. The fantastical elements of romance are left behind by a genre concerned, more maturely, with 'real life and manners'. This very commitment to 'real life', however, as Johnson had pointed out, compromises the moral status of the novel, particularly when the novel is situated within and reflective of a culture infected by conceit, sexual incontinence, indolence and greed. Reeve's investigation thus becomes concerned not only to 'methodise' prose fiction, but morally to discipline its contemporary novelistic form and so Reeve becomes, like the reviewers and critics with whom she constantly engages, both critic *and* censor, morally regulating as well as generically systemising a somewhat chaotic and ever-increasing body of texts. It is necessary, Reeve believes, to sift through this vast body of work in order to assess the moral propriety of texts that are seen to possess a remarkable power over readers. Within this context, therefore, the role of the critic, reviewer and editor of fictions becomes crucial; a whole industry of literary production is vital to the process of ensuring that literary texts are brought 'before the law' so as to ensure that only reputable works reach the reading public.

In moral terms, then, the novel is a potentially 'poisonous' literary form that requires an 'antidote' in the form of didactic fictions approved by the guardians of mid-eighteenth-century literary propriety. For Reeve, moreover, it is a disciplined form of *romance* that comes to provide this antidote. In the passage quoted above, it is suggested that ancient people were 'excited to perform great actions' through their exposure to romance narratives (p. 102). Later in the text, Reeve's debaters turn

again to the question of the moral influence of fiction and draw a sharp distinction between the moral effect of romance and a contemporary literary culture which is seen to contribute to and to reflect the moral laxity of a decadent, effeminate society concerned primarily with luxury, excess and artifice:

The effect of romance, and true history are not very different. When the imagination is raised, men do not stand to enquire whether the motive be true or false. The love of glory always has a certain enthusiasm in it, which excites men to great and generous actions, and whatever stimulates this action, must have the credit of the actions it performs. On the contrary, whenever this spirit, and this enthusiasm, become the objects of contempt and ridicule, mankind will set up for themselves idols of a very different kind. They will then devote themselves to mean or mercenary pursuits which debase and corrupt the mind. The thirst of immoderate wealth or pleasure, will engross their attentions and desires, or else they will sink into a state of supine indolence, and become entirely negligent of what they owe to their country. There must be a stimulus to excite men to action, and such as is the motive, will the action be. (p. 102)

In its attack upon ‘mean and mercenary pursuits’, seen here as the disreputable activity of men lacking the stimulus to heroic action provided by romance, this passage mirrors wider eighteenth-century concerns about the moral impact of a capitalist economy that generated ‘immoderate wealth’ often in forms seemingly inaccessible to reason. Contemporary concerns as to the emergence of ‘Credit’, for example, may underlie Reeve’s anxieties here as to the moral effect of excessive wealth. As a seemingly intangible and undisciplined mode of wealth, credit was perceived from the early eighteenth century onwards as a dubious form of unearned riches which could promote indolence amongst its beneficiaries. Like the emerging notion of intellectual property, the rapid development of credit and the markets based upon it generated anxieties as to the rational foundations of an emerging capitalist economy. Credit appeared to function almost as a pure product of the imagination, an abstraction scarcely capable of rational legal categorisation: ‘Credit’, observes Pocock, ‘symbolised and made actual the power of opinion, passion and fantasy in human affairs, while the perception of land [...] might still appear the perception of real property and human relations as they really and naturally were’.¹² Credit, moreover, had the effect, Pocock contends, of transforming real objects into ‘fictions that

were fantasised about' (p. 459). Consumerism thus introduced into the economy elements of fancy, fictivity and desire that were at odds with the supposedly rational, tangible foundation of wealth, legal subjectivity and authority in real estate. In this regard, perceptions of the potential effect of 'Lady Credit' upon the economy may be compared to the perceived negative moral and intellectual influence of romance – that 'women's poison', as Samuel Richardson termed it.¹³ Here, however, Reeve aligns romance with a heroic, masculine ideal that perfectly united what she terms 'private virtue' with the 'public good' and which stands at odds with a culture characterised by lazy mediocrity and 'immoderate wealth'. This culture is one in which pernicious texts ('trash', Reeve terms them – they are *dirty* commodities) are distributed promiscuously via the circulating library: the notion of excess, of the easy availability of corrupting commodities, thus infiltrates the literary domain and is sustained, Reeve suggests, by misguided critical practices which denigrate romance as the antithesis of proper prose fiction.

Masculinised romance thus becomes Reeve's moral solution to the effeminate idleness promoted by 'immoderate wealth'. Novelistic fiction is particularly problematised by Reeve in terms of its rejection of the moral principles of certain forms of heroic romance. Rarely concerned to promote the exercise of private virtue within the public sphere, the novel is in danger of exacerbating the debasement of a society which seems to be in need of the very fictions it has gone to such lengths to denounce. Within this context, the literature of sensibility emerges, for Reeve, as the potential antidote to the moral excesses of the novel: the proper exercise of fine feeling within the sentimental novel becomes the moral equivalent of acts of chivalric heroism in the ancient romance, and the Richardsonian novel of sensibility thus acts to cure the ill effects of the overly sexual, overly 'real' fictions of the period. Sensibility, moreover, was highly significant in the mid-eighteenth century in terms of the formation of the political and cultural identity of the middle classes. It also fed into and was informed by the emergence of legal, political and literary discourses that privileged the Gothic. The eighteenth-century man of sensibility was a more civilised, contemporary version of the ancient 'Gothick warrior' who exemplified the ideals of chivalry, valour and fair-mindedness associated with the Gothic forefathers of the English race.¹⁴ In the literary sphere, the middle-class inheritors of Gothick virtues produced and consumed sentimental novels displaying the operation of the fine moral sense they attributed to themselves and demonstrating its relevance to the stability of new domestic and social arrangements. The novel of sensibility, however, promoted, in the main,

a *domesticated* sensibility: although sensibility was seen to have a significant public function in terms of the regulation of social behaviour, the sentimental novel did not engage explicitly with the relation between the moral sense of its protagonists and the principles of proper government. It is, however, *precisely* this public, political aspect of the discourse of sensibility – its re-working of notions of chivalry and of the meaning of social and moral ‘worth’ – that Reeve draws upon in her representations of legal and political authority in *The Old English Baron*. Through a hybrid text that combines a revised Gothicism with heroic romance and literary sensibility, Reeve articulates the political relevance of a private moral sense which, in the conventional sentimental novel, tends to be restricted in its operation to the domestic sphere. In so doing, she aims to reproduce what for her is the key moral principle of ancient romance: that ‘private virtue’ be reconciled with ‘public spirit’.

Gothic sensibility, Gothic excess: *The Old English Baron*

The cultural and political concerns which inform *The Old English Baron* may thus be set within the context of Reeve’s desire to legitimate prose fiction according to the aesthetic, epistemological and moral principles expounded in *The Progress of Romance*: these principles consolidate an emerging ‘law’ of literature concerned to regulate the production and consumption of an ever-increasing, and sometimes deeply improper, body of literary commodities. It may further be positioned in relation to a range of legal, political and literary discourses which, as Chapter 2 discussed, contributed to the formation of an ideologically potent myth of the Gothic origin of English political, legal and literary traditions. As James Watt contends, Reeve’s ‘Loyalist Gothic romance’ participated in a wider contemporary project to ‘re-imagine national identity’.¹⁵ Reeve’s appropriation of sensibility alongside an ambivalent Gothicism tempered by ‘probability’ is key to her contribution to this project of national myth-making and, this chapter argues, it facilitates a complex and at times contradictory interrogation of legitimate and illegitimate modes of literary and juridical authority.

The Old English Baron sets the conventions of the eighteenth-century novel of sentiment within a feudal, heroic, masculine ‘romance’ environment. Alongside sensibility, Reeve invokes those aspects of heroic romance which she posits elsewhere as a solution to an eighteenth-century crisis of public and private morality. Reeve’s men of sensibility exemplify the eighteenth-century ideal of the ‘man of worth’ who is also a law-giver, the chivalric ‘Gothick warrior’ who rules with a ‘gentler

hand'. This politicised alignment of eighteenth-century sensibility with romance re-focuses the feudal power structures of the society Reeve depicts towards an eighteenth-century bourgeois notion of 'worth': the legitimacy of power to some extent loses its dependence upon aristocratic lineage. Bonds of friendship frequently take priority over strict legal principles of inheritance; ties of the heart, rather than of the blood, function in this text not only to cement relations between friends and family, but morally to validate social and political authority based upon class relations and land ownership. Philip Harclay is posited immediately as the patriotic man of arms, the 'Gothick warrior' who possesses an elevated moral sensibility, and it is this moral sense, more than his military prowess, which justifies the extraordinary loyalty and admiration Harclay inspires in the servants he acknowledges as his 'friends'.¹⁶ Thus, whilst a feudal economy of political power finally holds sway, power finds its ultimate justification within the *moral* economy of the text through the 'fine feeling' of noble men such as Harclay who repeatedly display generosity towards, and even solidarity with, servants and peasants. Sensibility to some extent cuts across distinctions of class, facilitating democratic exchanges of hospitality between landowners and peasants. The egalitarian conceptualisation of subjectivity which emerges here, moreover, to some extent unpicks notions of the legitimacy of juridical authority and ownership based upon bloodline alone. When Harclay returns to England following his lengthy engagement in battle he finds that he no longer has any living relatives. To prove his title to his seat he relies not upon documents demonstrating lineage, but upon 'the testimony of some of the old servants of his family' (p. 6). The legitimacy of Harclay's title, then, is established less by a strict, juridical proof of bloodline than by the ties of mutual obligation and respect that bind Harclay and his family to the generations of servants that have lived with them.

An alternative economy of justice that is dependent on the promptings of the heart thus supplements legally proper claims to property and power. Harclay, for example, initially contemplates sharing his estate with Lord Lovell should the need arise without consideration of the extent to which this might compromise the perpetuation of his own family name. Similarly, at the end of the text, lands are redistributed as much according to merit and need as with regard to principles of lineage and the inheritance rights that flow from them: the currency of this unconventional economy of exchange, which guarantees the proper, moral closure of the fiction, is friendship and virtue rather than wealth and strict legal title. Significantly, however, this economy of sentimental

exchange can only operate after the question of the proper legal title to Castle Lovell has been settled with the discovery of Edmund's true identity, and even then it does not function entirely independently of monetary concerns. Although he has purchased Castle Lovell from the murderer of its proper Lord, the Baron Fitz-Owen is recognised as having a financial claim to the estate that cannot easily be overridden, and the marriage of Edmund to the Baron's daughter is proposed as a means of securing the Fitz-Owen family's financial and legal position in relation to the Lovell estate. The negotiations conducted between Harclay, as Edmund's representative, and the Baron, as the 'nominal owner' of the estate, are, in spite of the goodwill between them, tense and strictly commercial and they demonstrate the extent to which financial settlements remain central to the restoration of social, legal and moral norms at the end of the text (p. 95). Moreover, whilst the text does posit a democratising sensibility as the key to domestic and political order, social class nevertheless reasserts itself as a highly significant organising principle and is clearly shown ultimately to retain a link with 'worth' which undermines earlier intimations of the existence of a universal moral sense. The text simultaneously posits class as irrelevant to, and yet as a key indicator of superior moral feeling and this tension points towards a deeper ambivalence within this work as to what might constitute the legitimate basis of social, political and juridical authority. This ambivalence, moreover, is most keenly articulated through Reeve's problematic appropriation of the conventions of the Gothic.

As in *The Castle of Otranto*, the question of justice in *The Old English Baron* turns upon the struggle to identify and restore to his rightful place the legitimate heir of a usurped seat of power. Unlike Manfred, however, the occupier of the disputed seat of power here is not the usurper himself, or his descendant, but the Baron Fitz-Owen, a man of impeccable honour in *both* of the senses in which the term has meaning within this text: he is a high-born gentleman *and* a man of fine moral feeling. The act of usurpation is thus one step removed from the legal title which guarantees the Baron's right to rule the Lovell estate and it taints neither the character of the Baron nor his ability to be absorbed legitimately into the new economy of power that finally takes shape. By thus distancing the usurpation of the estate by Sir Walter Lovell from the seat of authority occupied by the Baron, Reeve's text does not ostensibly problematise the nature and function of power as overtly as *The Castle of Otranto*: nevertheless, the work does reveal the juridical domain to be haunted by a deeply ambivalent spectre of 'legitimate' rule and, like Walpole's text, it relies upon the manifestation of (dis)embodied spectral

signs to re-establish ancient land rights and thus to re-institute proper, material relations of power.

Indeed, it is through Reeve's willingness to evoke the spectral signs of an authentic, ancient, material power that this text ultimately articulates an anxiety concerning the nature and function of authority which links it not only to Walpole's literary Gothic, but to contemporary Gothic legal narratives which both affirm and deeply problematise the notion of an authentic origin of English law. Reeve's appropriation of Walpole's literary Gothic is also questionable in terms of the literary principles Reeve herself elaborates in *The Progress of Romance* and in the preface to *The Old English Baron*. Reeve, in her preface, acknowledges *The Castle of Otranto* as a precedent and, in so doing, consolidates an emerging literary hegemony to which the notion of credible literary influence is central. At the same time, however, she distances herself from the supernatural excesses of Walpole's literary imagination in a gesture that evokes Walpole's *own* concern to distance his work from the 'black letters' of Gothic textuality. It suggests also William Blackstone's attempts to reign in the influence of a too 'fertile' imagination upon rational legal discourse.¹⁷ Reeve disavows 'fancy' in favour of a literary creativity disciplined by an adherence to 'probability' and, from her preface, it would appear that she is attempting to create the sort of 'modern romance' that Walpole *would* have produced had he conformed to the letter of his own literary dogma. Just as *The Castle of Otranto* veers away from the principle of verisimilitude Walpole expounds in his preface, however, so *The Old English Baron* deviates from the commitment to 'probability' that its own preface makes. Thus, both prefaces form unstable, untruthful supplements to texts which do *not* conform to the letter of the law laid down for them. Both prefaces to varying degrees disavow the Gothic excesses of the texts they purport to justify. Like the castles of Otranto and Lovell, then, the texts within which these Gothic spaces reside are haunted at their margins by principles of 'legitimacy' which the texts themselves do not fully uphold.

The problem that her ambivalent commitment to Gothicism poses for Reeve, as she comes increasingly to rely upon the very conventions she disparages in her preface, exemplifies the extent to which the Gothic has the capacity to subvert, even as it articulates and to some degree affirms, principles of literary and juridical authority. Reeve asserts her text to be 'Gothic' only in terms of its historical location and yet, in the opening pages, her protagonist has a dream that is clearly meant to be read as prophetic and, implicitly, of supernatural origin. The dead Lord Lovell appears to Harclay and insists that only he has the authority to

invite Harclay into Castle Lovell; he then leads Harclay into a dungeon before disappearing and leaving behind a bloodstained suit of armour indicative of the bloody manner of his death. The evocation of the supernatural here is kept ostensibly within the bounds of probability by means of its location within a dream: it is not 'real' and Harclay is able quickly to rationalise its content. It is, however, clearly intended to communicate a certain 'truth' to the reader regarding the proper ownership of Castle Lovell and, in communicating this 'truth', Reeve relies upon the reader's familiarity with the Gothic devices of the text she has cited as her chief precedent. The apparition of Lovell resembles Alfonso's spectral appearances in *Otranto* and the rationalisation of this fantastical element of the text as a dream is undermined by the fact that it is designed to convey a message that *is* 'real' and which relies upon the very excesses Reeve has condemned in her preface.

Such Gothic excesses proliferate following this incident and they do so precisely at those moments at which legal authority is most open to contestation. Gothic excess breaks into this text in order to problematise seemingly legitimate ownership, and questions of lawful and unlawful authority are ultimately resolved by means of a combination of spectral interventions (which throw legitimacy into doubt), and quasi-judicial processes (which settle empirically the issue of rightful succession). Edmund, the adopted son of the Baron Fitz-Owen, is established early on in the text as Lovell's proper heir. He is plotted against by Fitz-Owen's legitimate sons, the apparent heirs to the estate, who are threatened by the Baron's attachment to Edmund. At the point at which Edmund is at greatest risk from their machinations, he is required to spend a night in the reputedly haunted East Wing of the castle. Having been closed off since the death of Lord Lovell, this quarter is dilapidated, but remains 'hung round with coats of arms, with genealogies and alliances of the house of Lovell' (p. 36). Artefacts such as these re-present a certain fiction of juridical origin;¹⁸ they signify the proper name of the father and, within Castle Lovell, the spectre of the father haunts the very chamber in which the power of the name of 'Lovell' is made material in the form of these signs of lineage. In the East Wing, Edmund learns something of his true parentage and the revelation is accompanied by spectral sounds which lead Edmund to discover Lord Lovell's bloody suit of armour. This supernatural intervention is the catalyst for a series of more conventional discoveries which lead to the identification of Sir Walter Lovell as the Lord's murderer. There follows a fairly lengthy legalistic enquiry into the circumstances of Lord Lovell's death and the legitimacy of Edmund's claim to the Lovell estate. Unlike

The Castle of Otranto, in which Theodore's right to rule is validated by the final, supernatural pronouncement of Alfonso, this text's closure is effected by means of the empirical verification of Edmund's status. The text thus demonstrates a commitment to a principle of rational, juridical procedure that appears to uphold the ideal of law as *logos*: 'proofs' are sought as to Edmund's lineage and these take the form of those material signs of aristocratic power some examples of which decorate the haunted East Wing of Castle Lovell. The jewels, cloak and seal of the Lord are brought before the investigators, as is the body of the murdered Lord himself. The investigation is brought to a close with the signing by all parties of a written account of the evidence which stands as the final 'proof' of Edmund's right to rule.

This quasi-judicial process thus produces an authorised narrative of origin and authority which restores to power the proper, paternal name of Lovell. It nevertheless sits uneasily alongside, and is to some extent undermined by, those supernatural manifestations which acted initially to contest the title of the Baron Fitz-Owen. The leader of the investigation, Lord Graham, seems prepared to accept witness accounts of these apparitions as utterly convincing: they appear to represent a 'truth' which is beyond question and which further 'proofs' only serve to corroborate. The empirical investigation which follows these manifestations thus serves, in a sense, only to embellish this 'truth' with the trappings of due legal process. Gothic excess, then, does not merely conflict with principles of legal and literary 'realism' within this text, it supersedes them, providing its own mode of spectral, irrational 'authentication' of legal and literary dogma. Gothic excess breaks into the text to affirm and undermine legal *and* literary propriety.

In conclusion, it is to some extent true that *The Old English Baron* sits uneasily within certain critical accounts of the generic evolution of the literary Gothic, and that it contests certain literary categorisations of the Gothic.¹⁹ The work is generically unstable, for reasons that have been discussed, and what it seems to suggest is indeed the *instability* of what critics have sought to classify as the literary Gothic. Perhaps all that can be said to hold true of this hybrid category of fiction, from its ambivalent moment of origin in an abject forgery, is its capacity to mutate rapidly into forms that challenge 'the concept of category'.²⁰ I would argue, though, that what also holds true of the Gothic from the mid-eighteenth century onwards is that it comes to constitute the essential supplemental space – the 'cryptic space'²¹ – within law and literature from which the 'disavowed ghosts' of public power surface. The Gothic (from Walpole to Maturin and beyond) challenges the basis of authority of modern law

and literature, and of modern laws of literature. Unable to conform to the 'law' laid down for it, *The Old English Baron* is one text that demonstrates the impossibility of bringing Gothic fiction decisively 'before the law'.

Notes

1. Walpole critiques the 'improbability' of the romance genre and posits his novel as an antidote to it. His 'Gothic story' is an experiment in literary form which he hopes will combine the imaginative reach of old romance with the verisimilitude of the novel. *The Castle of Otranto* (Oxford: Oxford University Press, 1996), p. 9.
2. Jeremy Bentham, *A Fragment on Government*, William Harrison (ed.) (Oxford: Blackwell, 1967).
3. Peter Goodrich, *Oedipus Lex: Psychoanalysis, History, Law* (Berkeley: University of California Press, 1995), pp. 1, 3.
4. Specifically, for Samuel Richardson, it was a 'women's poison'. *The Selected Letters of Samuel Richardson*, John Carroll (ed.) (Oxford: Clarendon Press, 1966), p. 173.
5. Jacques Derrida, 'Before the law', in *Acts of Literature*, Derek Attridge (ed.) (London: Routledge, 1992), p. 187.
6. Robert Miles, 'Abjection, nationalism and the gothic', in *The Gothic: Essays and Studies 2001*, Fred Botting (ed.) (Cambridge: English Association, 2001), p. 61.
7. Clara Reeve, *The Progress of Romance* (Colchester: C. W. Keymer, 1785), p. v.
8. *Millar v Taylor* (98) Eng. Rep. 201.
9. See Susan Eilenberg, 'Copyright rhetoric and the problem of analogy in the eighteenth-century debates', *Romantic Circles*, M. Micovski (ed.), March 1999, <http://www.rc.umd.edu/law/eilenberg>.
10. William Warburton, *An Enquiry into the Nature and Origin of Literary Property* (1762), quoted by Susan Eilenberg in 'Copyright and the problem of analogy in the eighteenth-century copyright debates', para 14.
11. Gothic fictions in particular were associated in this period with the capacity of new literary forms to mutate into ever more dangerous and indisciplined modes of textuality. For a range of sources on this point, see *Gothic Documents: A Sourcebook*, E. J. Clery and Robert Miles (eds) (Manchester: Manchester University Press, 2000), ch. 4.
12. J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 2003), p. 452.
13. John Carrol (ed.), *The Selected Letters of Samuel Richardson* (Oxford: Clarendon Press, 1966), p. 173.
14. James Beattie, 'On fable and romance (1783)', in *Gothic Documents: A Sourcebook*, p. 89.
15. James Watt, *Contesting the Gothic: Fiction, Genre and Cultural Conflict* (Cambridge: Cambridge University Press, 1999). Watt argues that Reeve's Loyalist romance minimises supernatural agency and subordinates it, where it does appear, to 'the purpose of purging rogue family members and restoring legitimate rulers'. I want to suggest, though, that the supernatural

subversively exceeds this limited function in Reeve's text so as to cast doubt upon the very notion of 'legitimacy'.

16. Clara Reeve, *The Old English Baron* (Oxford: Oxford University Press, 2003), p. 5.
17. Blackstone, *Commentaries on the Laws of England*, Vol. I (Chicago: Chicago University Press, 1966), p. 60.
18. See Pierre Legendre, *Lecons IV* (Paris: Fayard, 1985), and Chs 1 and 3.
19. See James Watt, *Contesting the Gothic*. Watt argues that the tendency within recent Gothic criticism to establish *Otranto* as a literary point of origin which then serves as a precedent in respect of later Gothic romances belies the distinct heterogeneity of the literary Gothic from Walpole onwards.
20. Anne Williams, *The Art of Darkness: The Poetics of Gothic* (Chicago: Chicago University Press), p. 13.
21. See Derrida, *The Ear of the Other: Otobiography, Transference, Translation* (Lincoln and London: University of Nebraska, 1985), and Ch. 5.

5

The Law's Gothic Space: Sophia Lee's *The Recess*

One of the generic markers of early Gothic fiction is arguably the extent to which Gothic narratives repeatedly negotiate traumatic relationships of power and persecution through configurations of space. Spatiality acquires political as well as aesthetic significance in Gothic fictions; crypts and dungeons become 'images of power' as well as objects of terror.¹ In Walpole and Reeve, Gothic space becomes the haunted space of a law unable to consign its ghosts to history. In Sophia Lee, this chapter argues, Gothic space becomes the location of a more complex legal, epistemological and ontological haunting. Gothic space within Lee's novel embraces the castles, monasteries and crypts of earlier Gothic fictions, and extends also to certain liminal spaces which stand in an uneasy, uncanny relation to the nation and its Law. Moreover, written from a variety of often conflicting female perspectives, this fragmented and sometimes contradictory text is, I will argue, a narration of feminine loss, exile and mourning in which the position of woman before the law is problematised through a figuration of the law in terms of 'cryptic' Gothic space.

The notion of the law as a haunted space recurs throughout Derrida's work and has significant implications in terms of a theorisation of the deployment of space within the Gothic. The law, argues Derrida, produces and reproduces itself as a sacred dwelling place – it is 'home, habitation, apartment, room, residence, temple, tomb'.² In *Archive Fever*, Derrida considers in particular the importance of domestic space to the authority and origin of law. 'Archive' in Greek means both 'commencement' and 'command': this is the place of the law's origin and the place from which its orders are given (AF, pp. 1–2). Traditionally, this centre of command was the residence of the magistrate, the domestic space of the law's guardian. The space of law, then, begins

as a domestic space; it is the space of the patriarchal family home within which the law reproduces itself through the reproduction of its patrilineal genealogies. It is also a violent space, created and sustained by means of an illegal 'force of Law' which traumatically establishes propriety through transgression.³ Following this founding moment of violence, the law must then generate fictions of *legitimate* juridical origin and, for Derrida, one of the most potent of the law's founding fictions is the notion of sacred, juridical space – the space of the archive which is created through the expulsion to the 'outside' of that which is 'other' to the law. A myth of sacred law is generated that is premised upon an entirely phantasmic opposition between 'pure' and 'impure' spaces. What emerges is a dangerous, supplemental fiction – one might say a kind of Gothic fiction – of exteriority and interiority that not only conceals but also tantalisingly hints at the obscene 'truth' about the law: its sacred space is haunted. Its abject 'outside' exists within it precisely because, as Mark Wigley puts it, 'the "outside" of a house continues to be organised by the logic of the house and so actually remains inside it' (Wigley, 1993: p. 107). Whatever the law expels to keep its house in order remains always already incorporated within it, yet always out of touch, beyond proper representation, spectral. The law's exterior is its own cryptic space, a place of 'burial, dissimulation, repression' at the margins of the symbolic order (Derrida, 1990: p. 963).

Gothic spectres tend, of course, to return to the living from borderline, hidden spaces – crypts, dungeons, the walls of the castle and so on. The space of the recess in Lee's novel is the Gothic space which confines and protects the twin daughters of Mary Queen of Scots. Before considering the novel, though, I would like to examine briefly an evocation of space that takes place on the novel's own border, as it were. Lee's epigraph from *As You Like It*⁴ offers a point of access to Lee's complex configuration of Gothic space in this text, which might usefully be read in terms of Derrida's theorisation of space and supplementarity in his discussion of Rousseau in *Of Grammatology*.⁵ The words of the exiled Duke evoke a pre-cultural space which anticipates the text's construction of the recess as a Rousseauian place of refuge away from what Lee terms 'that terrible large place called the world'.⁶ Nature for Rousseau is the space beyond history, beyond writing, beyond all of the corrupting 'supplements' of civilisation. Derrida indicates, however, that this idea of a pre-cultural 'presence' privileged in relation to the legal order that it founds is a fiction that is only made present within culture by means of the very supplementarity that it seeks to exclude: it is brought into being by that trace of alterity, or *différance*, which ambivalently demarcates

between 'nature' and 'culture'. In *The Recess*, the first home of Lee's twins appears to function initially as an idealised, pure space beyond a public domain that is deeply problematised, as it is in Rousseau, as a place of decadence, artifice and abusive power. This first dwelling, however, becomes increasingly uncanny as it opposes, contests, but also *doubles* the operation of a patriarchal legal economy which abjects these improper women into a series of borderline, cryptic spaces. The point is that the cryptic space does not simply oppose the law from within. Its relation to the law is more complex and conflicted than this. The space of law is both temple *and* tomb. The crypt re-presents the law even as it haunts it, or rather it could be said to re-present the sacred space *through* haunting; it is the necessary, deathly supplement of law. Lee's cryptic spaces, then, are, on the one hand, 'other' to a law which cannot tolerate the threat posed to its authority by these daughters of an exiled Queen. On the other hand, though, they function as sites of power which control and contain an improper feminine presence on the margins of the law. It would therefore be wrong to read the recess as standing in simple, Rousseauian opposition to a corrupt public law. It would also be wrong, moreover, to interpret it as the pre-symbolic space of 'the feminine' which offers a refuge to these women beyond patriarchal law.⁷ Rather, this cryptic space is, I argue, the impure, necessary supplement to law: it is the sacred law's spectral, uncanny double which consolidates and deconstructs its claim to power.

The law's Gothic space

The recess contains remainders and reminders of the law 'outside' and through these traces the recess doubles and contests the operation of the law 'outside'. These traces of 'that dreadful large place called the world' establish the problematic identity of the twins, a royal identity which is, at the beginning of the text, kept secret from them. Within one of the chambers of the recess are a number of portraits depicting relations of the girls. As Pierre Legendre contends, such representations of lineage function to reproduce the law's signs of its past and present power.⁸ Like the paintings of forefathers which hang in Walpole's Castle of Otranto and Clara Reeve's Castle Lovell, these paintings invoke a legitimising, yet fictive point of legal origin – the absent 'ground zero' of the first founding father. On the other hand, though, these particular signs of origin within the recess represent an illegitimate *maternal* lineage, a family history which is the improper shadow of the 'legitimate' protestant succession. Like the prophetic spectres which haunt usurped

sites of power in Walpole and Reeve, these portraits suggest to the girls (and to the reader trained in deciphering such Gothic codes) an equivocal 'truth' about their own origin; they are the first sign of the twin's implication in a problematic economy of power 'outside' the recess:

Being deprived of my customary resource, books, to amuse a part of our melancholy leisure, we mutually agreed to invent tales from the many whole-length pictures, which ornamented the best room, and to take them as they came alternately. Ellinor readily invented a ludicrous story upon the portrait of an old man, which made us both laugh heartily. I turned my eyes to consider what I should say about the next; they rested on the figure of a man of noble mien; his dress I then knew no name for, but have since found it to be armour; a page held his helmet, and his hair, of a pale brown, fell over his shoulders. He was surrounded with many emblems of martial merit, and his eyes, which seemed bent on me, were full of a tender sweetness. A sentiment of veneration, mingled with surprising softness, pierced my soul at once; my tongue faltered with a nameless idea, and I rested my head against the shoulder of my sister. That dear girl turned to me with quickness, and the beam of her eye was like that of the picture. I surveyed her over and over, and found in every feature the strongest resemblance; when she frowned, she had all his dignity; when she smiled, all his sweetness. An awe, I could not conquer, made me unable to form any tale on that subject, and I directed my attention towards the next. It represented a lady in the flower of youth, drest in mourning, and seeming in every feature to be marked by sorrow; a black veil half shaded a coronet she wept over. If the last picture awakened veneration, this seemed to call forth a thousand melting sensations; the tears rushed involuntarily into our eyes, and, clasping, we wept upon the bosoms of each other. 'Ah! Who can these be?' cried we both together. 'Why do our hearts thus throb before inanimate canvass? Surely everything we behold is but part of one great mystery; when will the day come, destined to clear it up?' We walked arm in arm round, and moralized on every subject, but none interested us like these; we were never weary of surveying or talking about them; a young heart is frequently engrossed by a favourite idea, amid all of the great world; nor is it then wonderful ours were thus possessed when entombed alive in such a narrow boundary. I knew not why, but we lived in the presence of these pictures as if they understood us, and blushed when we were guilty of the slightest folly. (p. 9)

From this 'narrow boundary' at the margins of the law, the successors to Mary's claim to power survey and are surveyed by a succession of images of the genealogy that founds that dubious claim. These pictures narrate the history of an alternative monarchical lineage, a lineage which – like the 'lawful' genealogy it contests – does not exist apart from the material signifiers which reproduce a fiction of the law's origin through family resemblances, genealogical narratives and symbols of power ('a coronet', the 'many emblems of martial merit'). Such monuments to the law, as Legendre again contends, construct juridical identity. The girls here live in the 'presence' of monuments to ancestors which position them as subjects within the domain of law. Their juridical subjectivity, however, is deeply problematic, since the genealogical fiction which brings them into being as legal subjects is the already abjected inheritance of an improper Queen.⁹ This is an inheritance that must be *shown* to be fictive, untruthful, wholly *other* to an authentic claim to power. In disavowing the legitimacy of this 'other' claim, however, the law can only rely upon the force of its own fictions of authority and these are insufficient completely to exorcise this ghostly genealogy from its domain. The attempt to do so through the repudiation of the twin's close, but in no way legitimate genealogical relation to the throne threatens to expose the violence and the fictivity of the 'authentic' claim to power of the protestant line.

The story of the origin of the recess is inseparable historically and symbolically from this attempt to legitimise and consolidate the authority of the protestant succession. Built as a place of hiding for the Abbey's monks following the Reformation, the recess is a cryptic space beneath a legal order founded upon a violent repudiation of an older law. The recess symbolises the improper origin of a new genealogy posited as 'legitimate' through the creation of a new fiction of protestant succession which exists in violent denial of its past. This fiction is reiterated in the settlement of 1688 and variations of it are reproduced through mid-eighteenth-century romances of the origin of the nation's protestant, 'Gothic' constitution. In Lee's 1785 Gothic romance of English history, the recess is the space abjected by this new legitimising fiction; the law creates its impure, exiled Catholic 'other' as the necessary antithesis to its own internal purity. The excluded object remains, however, always already within the house of law; the crypt is the uncanny dwelling of the law's 'disavowed ghosts'.¹⁰ The recess, then, exists as a monument not to an extinct law repudiated successfully by a present power, but to a hidden moment of transition that founds the new law and continues to haunt it *without* legitimising it. The complex interior space of the recess

symbolises its cryptic, borderline status. Lee describes in detail the secret doors and passages – those transitional, hidden spaces – which connect the recess to Lord Scrope's modern country house. The girls' first escape into the 'outside' is by means of a narrow passage and a small, heavily bolted door concealed in the side of a ruined monument – a 'high raised tomb' with gigantic statues of knights in armour at each corner (p. 37). The girls confront the decaying signs of a past genealogy, the symbols of a now indecipherable, ruined economy of law: 'vast heaps of stone' and 'tall fragments' lie about, 'wild and awful to excess' (p. 37). Like the portraits inside the recess, these ruins signify the girls' connection to an abject genealogy that remains dreadfully present before the law. Through these girls, this improper bloodline passes through the recess, out of the old order and into the new to make itself present before the Protestant Queen. Elizabeth tries to control this abject presence through various schemes of imprisonment and exclusion, and through these further narratives of exile and abandonment the text opens up other Gothic spaces from which to contest the legitimacy and authenticity of the nation's present narrative of origin.

The movement of Ellinor and Matilda between different sites of power and in and out of various of the law's 'cryptic' spaces reveals their marginalisation from a legal economy that cannot accommodate into its narrative of origin the girls' transgressive, maternal genealogy. The twins' movements also form part of that complex symbolic re-ordering of 'inside' and 'outside' which begins with the representation of the recess and which comes increasingly to disrupt the relation between certain abject spaces and the Law's sacred interior. Ellinor and Matilda are at various points removed from England into 'savage' regions constructed as symbolically and physically beyond English law.¹¹ Following her brief incarceration in a French convent, Matilda is taken to Jamaica by an influential plantation owner, Mortimer, who wishes to marry her forcibly. He is killed during a failed slave revolt and Matilda is then imprisoned by the governor of the island who, fearing that her relation to Mortimer might threaten his own authority, has her 'classed amongst the murderers' (p. 144). Matilda, then, is repositioned as an improper juridical subject – a 'criminal' threat to an order of power which is *itself* the foreign 'other' to the privileged imperial nation. Matilda's precarious subject position – an outlaw within an abject space – allows for a reconfiguration within this text of the domain of sacred, national law and its cryptic, supplemental spaces. Matilda attempts repeatedly to construct Jamaica in colonialist terms, averring to its savage customs and arbitrary judicial processes. This construction

of the colony in opposition to a privileged Englishness which Matilda seeks to appropriate for herself, however, cannot be sustained. Matilda's claim to some form of legal security within this domain has been easily repudiated; the governor swiftly 'annihilates her claim to possession' following a slave rebellion during which Matilda aligns herself with the slaves (p. 144). Matilda also demonstrates a misguided, superior form of sympathy towards the slave woman who attends her in prison. She tries to teach the woman English, but the slave woman is deaf. She is, one might say, 'deaf' to Matilda's claim to privilege, which could be seen to exemplify Matilda's lack of purchase upon an economy of power which might otherwise have facilitated an oppressive, colonial 'communication' between dominant and subordinate subjects. What is more, this text elsewhere repeatedly attributes to English law precisely that juridical irrationality which Matilda here imputes to Jamaican legal processes. English law arbitrarily persecutes Matilda, Ellinor, their family and friends. This juridical impropriety, moreover, is not posited solely as the consequence of Elizabeth's abuse of power, although this is suggested more than once. Rather, the text comes to insist that juridical power from wherever it emanates is at all times problematic from the perspective of the (il)legitimate female subject positioned uneasily before the law. Through the complex symbolic positioning of Matilda, the notion of Jamaica as 'other' to the imperial nation is exposed as a fiction which produces and sustains the equally fictive notion of England's 'purity'. What is more, the ostensibly abject, colonial space in fact *reproduces* the 'savage' juridical economy of England in relation to Matilda, and Matilda's Jamaican dungeon thus becomes the symbolic equivalent here of the recess in England which contained and controlled the threat posed by the twins' improper lineage to the proper rule of law. Matilda's cryptic incarceration can therefore be seen to collapse the distinction between a legitimate site of power and its savage 'outside'; her exile reveals these domains to be *the same space* – the clean/obscene space of a law grounded upon a fictive, abyssal demarcation between the 'sacred' and the 'abject'.

Ellinor's narrative parallels her sister's in significant respects, but ultimately goes beyond it, I would argue, in contesting a juridical economy that seeks to place her 'beyond' the law. It is noticeable that Ellinor in particular finds herself increasingly set apart from England's seat of power the closer she in fact moves to it physically. As she passes through Ireland, Scotland and back into England, she finds herself 'entombed' within various Gothic spaces (p. 238): the field of war in Ireland, the castle of the tyrannical Laird of Darnock in Scotland, the 'ivied asylum'

of a Gothic ruin in the north of England (p. 252). Even the English landscape becomes almost a reconfiguration of the recess; it is a 'green labyrinth', an 'impassable landscape', which distances Ellinor from the seat of English power even as she passes through its national borders (p. 256). The 'elegant ruin' in the north of England is Ellinor's final place of confinement/refuge before she learns of Essex's execution and her narrative ends (p. 252). Driven mad by Essex's death, she then comes closest to the order of power that her (il)legitimate presence has constantly contested: she appears as the insane, grieving, spectral reminder of the law's abjected, impure space:

The door flew suddenly open – a form so fair – so fragile – so calamitous appeared there, that hardly durst my beating heart call it Ellinor. The Queen started up with a feeble quickness, but had only power to falter out a convulsive ejaculation. I instantly remembered Elizabeth believed her dead, and imagined this her spectre. The beauteous phantom (for surely never mortal looked so like an inhabitant of another world) sunk on one knee, and while her long garments of black flowed gracefully over the floor, she lifted up her eyes toward Heaven, with that nameless sweetness, that wild ineffable benignity, madness alone can give, then meekly bowed before Elizabeth. – The Queen, heartstruck, fell back into her seat, without voice to pronounce a syllable. – Ellinor arose, and approached still nearer; standing a few moments, choaked and silent. 'I once was proud, was passionate, indignant,' said the sweet unfortunate at last, in the low and broken voice inexpressible anguish, 'but Heaven forbids me now to be so – Oh! You who was surely born only to chastise my unhappy race, forgive me – I no longer have any sense but that of sorrow.' – Again she sunk upon the floor and gave way to sobbings she struggled in vain to surpress. The Queen dragged me convulsively to her, and burying her face in my bosom exclaimed indistinctly, – 'save me – save me – oh, Penbroke, save me from this ghastly spectre!' (p. 266)

Ellinor confronts the Queen with the maddening memory of her disavowed past. Following this encounter, the Queen descends into a despair close to madness, a condition that was thought historically to have preceded her death. Lee's romance re-writes Elizabeth's history to attribute this despair to the evocation, through this spectral feminine presence, of the violence of Elizabeth's past and of the close relation of

Elizabeth to an illegitimate genealogy which had haunted, and was to continue to haunt, the protestant succession.

The sisters' histories are narratives of exile, loss and mourning which, I will argue in conclusion, suggest a deeper symbolic association of feminine mourning with the law's cryptic space. For Freud, the process of mourning enables the ego 'to sever its attachment to the object that has been abolished'.¹² In Gillian Rose's analysis of what she posits as the law's 'mourning', the law comes into being through an 'original separation' from an object that is expelled from the symbolic economy and then mourned within it (Rose, 1996: p. 36).¹³ From an Irigarayan perspective, this lost object could be theorised as the maternal feminine which, following its exclusion from the symbolic order, becomes an object of mourning for the law. Irigaray contends, however, not only that the maternal feminine is abjected from the order of law at its moment of inception, but that this act of abjection is then itself denied.¹⁴ The law cannot therefore 'sever its attachment to the object that has been abolished', since the act of abolition is at once 'forgotten'. Irigaray's conceptualisation of a lost maternal object that cannot be mourned evokes Derrida's analysis of cryptic space and the traumatic object that is enclosed by it within the domain of law:

Not having been taken back inside the self, digested, assimilated as in all 'normal' mourning, the dead object remains like a living dead abscessed in a specific spot in the ego. It has its place, just like a crypt in a cemetery or temple, surrounded by walls and all the rest. The dead object is incorporated in this crypt – the term 'incorporated' signalling precisely that one has failed to digest or assimilate it totally, so that it remains there, forming a pocket in the mourning body. By contrast, in normal mourning, if such a thing exists, I take the dead upon myself, I digest it, assimilate it, idealise it, and interiorise it. (Derrida, 1985: p. 57)¹⁵

For Derrida, it is the feminine that is 'walled up in the violent structure of the founding act. Walled up, walled in',¹⁶ and what this suggests is that the law's relation to the feminine cannot allow for 'normal mourning'. Rather, the law must abject this lost object into the cryptic space within itself. It cannot 'sever its attachment' to this traumatic thing; it cannot, as Rose puts it, 'return the soul to the city, renewed and invigorated' through a successful act of mourning (MBL, p. 36). It is perhaps more appropriate, then, to speak, not of the law's mourning, as per Rose, but of the law's *melancholia*, a state of unresolved loss

consequent upon the law's unrepresentable negation of the mother. As Kristeva contends, 'the denial of negation would be the exercise of an impossible mourning, the setting up of a fundamental sadness cut out of the painful background that is not accessible to any signifier'.¹⁷ The denial of the mother sets up within the legal economy a 'fundamental sadness' that demands 'impossible mourning'. The law, though, has at least a partial cure for its morbid condition. It casts the work of impossible mourning on to woman whose uncanny relation to the lost maternal object places her in an always already cryptic space before the law. In Lee's female Gothic fiction, the cryptic space of law is the space of mourning for women alienated from mothers and daughters who appear always already lost to them. The twins encounter their mother initially by means of the portrait hanging in the recess; this portrait is a commemoration of, a work of mourning for an exiled, grieving queen who appears 'dressed in mourning, and seeming in every feature to be marked by sorrow'. The girls weep 'involuntarily' at the sight of her; they seem to mourn her even before her identity is known to them. Matilda gives birth to her daughter, Mary, whilst captive on the way to Jamaica and the child spends most of her infancy in a Jamaican prison. As they move from one place of confinement to the next, Matilda's relation to her daughter is one of anxiety, painful love and sorrow. She seems constantly to anticipate the loss of her daughter and to mourn her even in life. Mary is, it seems, always already a 'lost object' to Matilda. Mary's death at the end of the Matilda's narrative triggers the fatal fever from which Matilda appears about to die as she completes her history. She writes her story to a friend whose 'partial affection demands a memorial which calls back to being all the sad images buried in my bosom' (p. 7). The work is a memorial to and work of mourning for lost mothers, daughters, sisters and friends, and it refuses a closure that might return the female subject 'invigorated' through successful mourning to a re-instituted, sacred space of Law.

Notes

1. Devandra P. Varma, *The Gothic Flame* (London: Atheneum, 1957), p. 18.
2. Jacques Derrida, *Archive Fever: A Freudian Impression* (Chicago: Chicago University Press, 1996), p. 133. Hereafter AF.
3. Jacques Derrida, 'The force of law: The mystical foundation of authority', *Cardozo Law Review*, 11 (1990), pp. 920–1045.
4. Are not these woods/More free from peril than the envious court? Here we feel but the penalty of Adam/The seasons' difference.

5. Jacques Derrida, *Of Grammatology* (Baltimore: Johns Hopkins University Press, 1976).
6. Sophia Lee, *The Recess* (Lexington: University Press of Kentucky, 2000), p. 8.
7. C.f. Megan L. Isaac, 'Sophia Lee and the gothic of female community', *Studies in the Novel*, 28 (1996), pp. 200–18, and Alison Milbank (1993). Milbank's reading of *The Recess* suggests that it is too easy to read configurations of space in female Gothic fiction in terms of a 'feminine' space beyond the male symbolic order. See her introduction to Radcliffe's *A Sicilian Romance* (Oxford: World Classics).
8. Pierre Legendre, *Leçons IV: L'inestimable Objet de la Transmission* (Paris: Fayard, 1985), p. 27.
9. Juridical identity is always already a fiction, always already abject; one could thus say that the twins' juridical subjectivity is *doubly* abject on account of the impropriety of the disavowed lineage which generates it.
10. Slavoj Žižek, *The Fragile Absolute* (London: Verso, 2000), p. 3.
11. C.f. Janina Nordius, 'A tale of other places: Sophia Lee's *The Recess* and colonial gothic', *Studies in the Novel*, 34 (2002), pp. 162–77. Nordius suggests that Lee reproduces contemporary xenophobic fears concerning the threat of 'contamination from abroad' (p. 23). I would agree, but argue that the text also produces a much more conflicted and complex series of negotiations between 'pure' and 'impure' space.
12. Sigmund Freud, 'Mourning and melancholia', in *The Complete Psychological Works of Sigmund Freud*. James Strachey (ed.) (London: Hogarth, 1955), p. 255.
13. Gillian Rose, *Mourning Becomes the Law: Philosophy and Representation* (Cambridge: Cambridge University Press, 1996), p. 36.
14. Luce Irigaray, *Speculum of the Other Woman* (New York: Cornell University Press, 1985), p. 269.
15. Jacques Derrida, 'Roundtable of autobiography', in *The Ear of the Other: Otobiography, Transference, Translation*, Christie Macdonald (ed.) (New York: Schocken Books, 1985), p. 57.
16. Derrida, *Cardozo Law Review*, p. 943.
17. Julia Kristeva, *Black Sun: Depression and Melancholia* (New York: Columbia University Press, 1989), p. 44.

6

A Maternal Tale Unfolds – Radcliffean Gothic

The time is out of joint: *The Castles of Athlin and Dunbayne* and *The Romance of the Forest*

Twice in Radcliffe's work – once in *A Sicilian Romance* and again in *The Mysteries of Udolpho*¹ – a fragment of Shakespeare is recited to hint at the presence of spectres and secrets. This fragment evokes a juridical order that constructs authority out of the continuing presence of spectres. This economy of power is evident in early Gothic fiction, in Walpole and Reeve for example, both of whom re-work the scenes of haunting in Hamlet in order to interrogate disputed paternal rule. The ghost of Hamlet's father unfolds a tale of murderous usurpation which demands retribution and he commands Hamlet to swear to set it right. Derrida's interpretation of this moment – the moment of the juridical oath whereby Hamlet accepts his inheritance – is extremely pertinent to a reading of Radcliffe's variations upon this Gothic Shakespearean theme. Hamlet's initial response to the spectre's command is to interpret it as a curse: 'The time is out of joint/Oh Curs'd spite, that ever I was born to set it right.' Derrida foregrounds Hamlet's notion of disjointed time here, relating it to spectrality and legal temporality: 'One never inherits', he says, 'without coming to terms with some spectre'.² That is to say that the law of inheritance – which operates according to a certain legal temporality (*the* time that is 'out of joint') – demands that a determination is made with regard to some 'spectre'. Hamlet must come to terms with, and determine his response to, a spectral command which is his inheritance and his 'curse'. This command issues out of a law founded upon a violent patrilineal historical narrative that re-presents the past in the present (through its archives, monuments, crypts, spectres) and that will command vengeance where necessary

to re-assert its historical continuity and, therefore, its authority. This command is a ‘malediction that marks the history of law, or history as law’ (SM, p. 21). This is the law articulated in terms of the passage of time marked by generations which inherit the law’s command to ‘Swear!’ and then to kill. This is the law *as time*, a genealogical ‘time’ that is ‘out of joint’. The command of Hamlet’s father – ‘Swear!’ – inserts Hamlet within this dysfunctional juridico-temporal economy. In taking the oath, Hamlet comes to terms with, even as he curses, the past, present and future of the law that ‘stems from vengeance’ (p. 21).

The protagonists of Radcliffean Gothic ‘never inherit without coming to terms with some spectre’. They must work to re-order legal genealogies before they are able to assert their own proper juridical identity. In particular, her female subjects rarely leave the juridical order through which they inherit uncontested. In particular, Radcliffe’s cryptic, Gothic, *maternal* spaces are subversively implicated in the law’s economy of familiarisation, remembrance and retribution. The cryptic space, as Derrida contends, is never properly legal, even though it is essentially implicated in the juridical economy. It is the disavowed space within the body of the law into which the law’s abject others are expelled; it is the law’s necessary, uncanny, improper monument. In Radcliffe’s work, as in Sophia Lee’s, the cryptic space becomes the site of a maternal feminine presence that is also itself never legal. I will argue, however, that Radcliffe’s female Gothic interrogates more deeply than Lee’s possibilities and problematics of feminine inheritance within a legal temporality that is radically ‘out of joint’. Whilst Radcliffe’s protagonists do tend in the main to remain bound to the law of the father, her work is increasingly concerned to resurrect maternal genealogies and even to conceive of a justice that might find its expression beyond the juridical command that ‘stems from vengeance’.

The Scottish setting of Radcliffe’s first work, *The Castles of Athlin and Dunbayne* (1789), draws upon a contemporary association of Gothicism with a Celtic heritage that worked to consolidate an emerging national literary and cultural tradition in the mid-eighteenth century. North East Scotland becomes in this text a Gothic space positioned at the outer reaches of the nation in which various contemporary meanings of the Gothic in nationalistic, political and cultural terms collide and coalesce. The novel’s opening stresses the antiquity and venerability of a ‘Gothic structure’, an ‘ancient seat of feudal government’ rendered yet more impressive ‘from the virtues which it enclosed’.³ The Castle of Athlin is a monument to the nobility of its inhabitants and their right to govern. It houses a legitimate line of heirs who have nevertheless been overawed

by the barbarous feudal chief Malcolm. In this opening chapter, the Earl of Athlin and his descendants are associated with a certain noble sensibility which is set in opposition to the brutal tyranny of the clan of Malcolm and, with this opposition in mind, Athlin's Gothic 'venerability' may be read in terms of a certain contemporary myth of national origin and identity. As an 'ancient seat' of legitimate, Celtic feudal government, Athlin evokes a northern European Gothic past posited in legal and literary discourses of the period as the origin of a just, modern system of British government. The castle of Athlin doubles Blackstone's 'Gothic castle' of English law as the location of a legitimate genealogy capable of bequeathing to a traumatised nation a coherent body of authentic national law. Against this Gothic precursor of modernity is set the illegitimate tyranny of Malcolm of Dunbayne. What is striking in the initial descriptions of these two 'edifices', however, is the degree of physical similarity between them,⁴ which immediately establishes points of comparison and contrast between these two competing seats of power. It points, moreover, to contemporary tensions between two contrasting conceptualisations of the Gothic. Various conflicting meanings attach to the term 'Gothic' in this period and Dunbayne may be seen to exemplify a certain eighteenth-century interpretation of the Gothic in terms of primitive barbarity; this is 'Gothic' as the very antithesis of civilised modernity. This is the abject 'Gothic' of a diseased legal imagination which must be repudiated in favour of a thoroughly modernised Gothic castle of English law. In literary terms, this notion of an abject 'Gothic' associated with violence, superstition and inauthenticity translates into an anxiety concerning the infection of a new, enlightened English literary tradition with 'Gothic devilism'.⁵ Whilst the literary Gothic might therefore properly consolidate the authority of an emerging national literary tradition, it must admit 'nothing that flavours of barbarism'.⁶ In Radcliffe's *The Castles of Athlin and Dunbayne*, the tension between proper and improper forms of Gothic law and literature is negotiated by means of an opposition between Athlin and Dunbayne as contrasting sites of aesthetic and political authority. By the novel's end, the regime of Malcolm has ostensibly been consigned to the past; the triumph of Dunbayne's proper heir re-establishes an authentic ruling genealogy and re-institutes a benevolent, rational 'Gothic' law. The chivalrous martial heroism of Osbert and Alleyn and their commitment to justice in government evokes the eighteenth-century mythologisation of the Gothic ancestors of the British constitution whilst, in literary terms, the castle of Dunbayne under Malcolm is the site of those equivocal evocations of the supernatural which are ultimately renounced in

favour of a more rational literary Gothicism – the Radcliffean ‘explained supernatural’. What I will argue, however, is that Radcliffe’s first Gothic romance, whilst it might repudiate the most abject Gothic excesses in contemporary legal and literary terms, nevertheless posits the ‘proper’ Gothic economy of Athlin as radically ‘out of joint’ in a number of respects. This sets a precedent for the Radcliffean Gothic: in all of Radcliffe’s later published works, orders of power that ‘stem from vengeance’ are subjected to subtle forms of critique that suggest in particular a re-negotiation of the position of woman in relation to the law.

The epigraph to *The Castles of Athlin and Dunbayne*⁷ evokes justice as a manifestation of divine retribution, suggesting that the order perverted by Malcolm’s usurpation can only be ‘set right’ by an act of vengeance by the heir of the wronged Earl of Athlin. Osbert inherits the command to ‘set it right’; his inheritance demands that he ‘come to terms with’ his own insertion within a legal economy which legitimates violence as a means of restitution. Whilst there is in this work no spectral presence which, in the manner of Hamlet’s father, demands justice through vengeance, Osbert nevertheless recognises that he was ‘born to set it right’ and, unlike Hamlet, he does not curse his duty; on the contrary, ‘His young heart glowed to avenge the deed [...] His clan fondly cherished the hope that their young Lord would one day lead them on to conquest and revenge’ (p. 9). Osbert’s mother, however, does oppose her son’s impulse to revenge; she forbids him to engage in combat and her will prevails until Osbert comes of age. At an annual festival celebrated in honour of the dead Lord, Osbert, stirred by his clan’s fierce fidelity to the memory of his father, swears an oath of vengeance against Malcolm. In so doing, he ‘comes to terms’ with the ‘spectre’ of a past that defines his future legal inheritance in terms of vengeance. His mother is incompetent then to stall the operation of this economy of retribution, for it is only as objects of exchange that women participate in the order of power to which Osbert commits himself. Matilda, Osbert’s sister, becomes the ransom demanded by Malcolm for the release of Osbert, and her freedom, as well as that of Alleyn’s mother and *his* sister, depends upon the successful contestation by men of Malcolm’s rule. The women of Athlin and Dunbayne have no opportunity to counter the injustices that divest them of an active juridical identity – of the means to ‘set it right’ on their own terms.⁸

As in Lee’s *The Recess*, the effect of this marginalisation of women as subjects from a juridical order which nevertheless circulates them as commodities is to produce a narrative of deep feminine loss which is intimately related to – and which subtly contests – the law’s ‘proper’

functioning. The misery of mothers, daughters and sisters is a persistent theme within this text, as is their inability to influence the causes of it. Like the wife and daughter of Manfred in Walpole's *Otranto*, these women often accept suffering with an almost deadly tranquillity; they are reduced to a passive, melancholic contemplation of actual or anticipated loss. Now, the term 'melancholy' carries a range of meanings in Radcliffe's work, as it does within the wider context of eighteenth-century aesthetics. It frequently signifies an aesthetically and morally privileged state of poetic contemplation – the prerogative of men and women of virtuous sensibility. In this instance, however, I wish to focus specifically upon the extent to which 'melancholy' characterises the relationship of women to orders of power from which they – as subjects – are excluded. As Chapter 5 contended, the institution and perpetuation of transcendental, paternal law as *logos* demands a severance from and a disavowal of the maternal feminine. This loss, which is the law's unacknowledged condition of being, creates a situation of potential mourning: the law becomes a 'mourning body'. And yet it is precisely because this loss is and must remain unacknowledged that successful mourning is impossible within this economy: the maternal feminine is that which *cannot* be mourned – it is buried and forgotten. As Chapter 5 suggested, then, it is more appropriate, perhaps, to speak of the law's melancholic body. Reading Derrida alongside Kristeva, it could be said that the law, from its founding moment, is haunted by an absence that demands 'impossible mourning', a disavowed mourning that Derrida relates to the 'cryptic' space – the negative, deathly space that monumentalises the law.⁹ Woman, I have argued, carries out on the law's behalf its work of 'impossible mourning'. The 'proper' subject of the law, meanwhile – the one who cannot mourn, who need not and must not try to mourn – is then free to inherit from the father the right to rule, provided that he can 'come to terms with some spectre' (SM, p. 21). The law must re-present its past continually if it is to present itself legitimately and the legal subject must make some determination in relation to that past, that 'spectre'. The law, invoking its past, issues the command to 'Swear!' The juridical subject is called upon to renew the law's violence, to re-assert by any means necessary the right to rule of the name of the father should it be misappropriated by any other 'name'. Without its ability to exact this promise from its subjects (which it does through its rituals, monuments, archives, myths), the law could not function. In Radcliffe's narrative, the fragility of the law is indeed apparent as the Houses of Athlin and Dunbayne are finally united through Alleyn's marriage to Matilda. Alleyn's identity as Sir Philip Malcolm is marked

out by a physical sign of familial belonging – the strawberry mark on his arm recognised by his mother. This mark legitimises Alleyn’s juridical identity – transformed into Sir Philip Malcolm, he is now fit to marry Osbert’s sister and to inherit Dunbayne. What is significant about this moment juridically, however, is that the legal economy which validates Alleyn/Philip’s ‘true’ identity will not acknowledge what the text posits as an essential moral truth – namely, that Alleyn’s juridical metamorphosis depends only upon a superficial reordering of *names*. Alleyn’s moral ‘self’, the text suggests, exists entirely independently of this juridical economy and it remains fundamentally unaltered by the law’s machinations.¹⁰ This insistence that Alleyn has had throughout an authentic identity that has remained constant in spite of his juridical transformation undercuts Osbert’s ultimate appeal to ‘justice’, for it suggests that Osbert’s opposition to Alleyn was more than mere superficial and transitory aristocratic pride. It *is* this, but it is also, I suggest, *more* than this. It is a product of Osbert’s will-to-power, of his ongoing violent commitment to the reproduction of his own family history. This is the legal/geneological order – the castle of Athlin’s genealogical ‘time’ – which survives at the end of the text as Osbert joins the hands of ‘Philip’ and Matilda in marriage. This order of power stands ready again to re-present itself to future generations, to insist to any future subject that he is ‘born to set it right’.

The protagonist of Radcliffe’s second work, *The Romance of the Forest*, is likewise an heir who has in some sense been born to effect a restitution of proper familial origin. The relation of this subject to the law, however, is problematised by virtue of her femininity. *The Romance of the Forest* marks Radcliffe’s move towards her later more heroine-centred Gothic fiction and it interrogates more deeply, I argue, the fraught juridical position of a woman implicated within a legal economy which only partially and equivocally affirms her status as a proper legal subject. The text may be read as the narration of its heroine Adeline’s movement towards legitimate juridical identity. She is initially vulnerable and marginalised. Lacking any form of legal protection, she suffers various persecutions during which she also encounters certain signs that suggest a mystery concerning her origin and her destiny – her ‘lot’, as she puts it.¹¹ The working out of her destiny ultimately reveals her proper paternal origin and re-orders a legal economy knocked out of joint by a murderous misappropriation of Adeline’s inheritance. To this final affirmation of Adeline’s proper legal ‘self’, the operation of a Gothic economy of space, signs and symbols is essential and it is in this respect, I will argue, that a certain slippage occurs between juridical (and literary) propriety and an

abject Gothic excess that ambivalently affirms and undermines the law's proper genealogical 'time' and the law's (and the text's) claim to 'truth'.

Central to Radcliffe's second novel are certain Gothic imaginings – dreams, visions and moments of 'fancy' – which the text problematises, but which are nevertheless related to an extraordinary 'reality' essential to Adeline's movement towards juridical certainty. Like Clara Reeve's *The Old English Baron*, Radcliffe's work depends upon Gothic excesses which her commitment to verisimilitude requires her at the same time to disavow. Posited as the consequence of a 'perturbed fancy', Adeline has three highly 'Gothic' dreams during her stay at the ruined abbey under the dubious protection of La Motte (p. 120). Like those of Harley in Reeve's work, these dreams evoke the conventions of the literary Gothic to suggest to the reader familiar with those conventions a certain 'truth' as to Adeline's past, present and future. The Gothic spaces of these dreams – dark, funereal chambers and labyrinthine passages – uncannily double the space in which Adeline is in fact sleeping and, directly after this dream sequence has prepared the reader for Adeline's confrontation with some 'truth' about her past, she awakens and discovers a secret door 'held only by a bolt' (p. 127). She passes through it into a chamber which causes her 'instantly to remember her dream'. This suggestion of some possibly supernatural prophetic meaning to the dream is immediately undercut by the appearance of the chamber as 'not much like that in which she had seen the dying chevalier'. Nevertheless, Adeline's passage into this hidden Gothic space is marked by the uncanny return of some memory; the chamber gives her 'a confused remembrance of one through which she had passed'. It is part of the 'ancient foundation' of the abbey and it seems to Adeline that 'a mystery' hangs over it 'which it is perhaps my lot to develop; I will at least see to what that door leads [...]'. Adeline's resolute empirical drive – her concern to assuage her 'melancholy' fears and discover the rational explanation for seemingly ghostly phenomena – is privileged here. At the same time, however, this empiricism coexists with Adeline's acceptance of an unexplained 'lot', an obscure destiny prefigured by the visions of a 'perturbed fancy'. This association of calm, empirical investigation with an extraordinary Gothic dream narrative is pressed further as the text abandons its initial scepticism towards the 'truth' of Adeline's dream:

She stepped forward, and having unclosed it, proceeded with faltering steps along a suite of apartments, resembling the first in style and condition, and terminating in one exactly like that where her dream had represented the dying person; the remembrance struck so forcibly

upon her imagination, that she was in danger of fainting; and looking round the room, almost expected to see the phantom of her dream. (p. 127)

Adeline is indeed about to ‘come to terms with some spectre’ concerning her past and to fulfil a destiny that will place her on new terms with the law ‘outside’ this Gothic dream-space. Recovering her composure, she resumes her explorations, journeying deeper into the cryptic interior of the Abbey. Her reason returns – she is now ‘sufficiently composed to wish to pursue the inquiry [...] believing this object might afford her some means of learning the situation of these rooms’ (p. 128). Her commitment to the investigation of some ordinary truth concerning ‘the situation of these rooms’ is compromised immediately, however, by the discovery of two artefacts which again invoke the Gothic ‘reality’ of the dream sequence: a dagger and a decrepit manuscript, the few words of which she can discern ‘impress her with curiosity and terror’ (p. 129).

Read by Adeline over the course of several days, this fragmented manuscript re-inscribes within the body of this sceptical Gothic fiction the tropes, motifs and narrative strategies of a more excessive, extraordinary Gothicism. Several pages are decayed and illegible, evoking the knowing ‘authenticating’ devices of earlier Gothic texts. The document narrates the imprisonment and torture of an unnamed traveller at the hands of some ‘superior power’ (p. 142). Adeline finds her own predicament strangely doubled in the narrative and, as she attempts to piece together the manuscript’s fragments, apparently supernatural phenomena proliferate to the extent that she concludes – reflecting also upon her dreams and the ‘singular manner in which she found the manuscript’ – that ‘such a combination of circumstances could only be produced by some supernatural power operating for the retribution of the guilty’ (p. 155). Explanations are ultimately provided, of course, for the voices and apparitions which perplex Adeline here. These ‘hauntings’ have natural causes which Adeline’s overwrought imagination has misread. Nevertheless, in spite of the text’s disavowal of ‘supernatural power’, it does admit the possibility that some extraordinary ‘power’ is working to reveal to Adeline a ‘truth’ about her past. First, La Motte’s dismissal of Adeline’s fears following his own perusal of the manuscript serves only to legitimate the text’s truth-value: ‘It appears to exhibit a strange romantic story’, he asserts, ‘and I do not wonder, that after you had allowed its terrors to impress your imagination, you fancied you saw spectres, and heard wondrous noises’ (p. 160). La Motte attributes to Adeline here the naive reader-response associated with the gullible eighteenth-century

female reader of Gothic fictions. It is made clear, however, that La Motte has self-interested ‘motives of his own’ for his scepticism and this is only one of a number of instances in which La Motte disingenuously attributes Adeline’s anxieties to her warped imagination in order to protect himself. The explanation of La Motte’s scepticism in terms of his manipulation of Adeline, and the increasing vindication of Adeline’s imaginings as she moves closer towards the truth about her father, suggests the text’s ambivalence towards its own Gothic excesses. In particular, the power of ‘fancy’ appears to operate on two levels in the work. On the one hand, ‘perturbed fancy’ does occasionally pollute what is posited as Adeline’s intrinsic rationality, and the ‘explained supernatural’ works to correct the worst excesses of Adeline’s (and the reader’s) imagination. To maintain literary propriety, Radcliffe seeks to police the response of her heroine *and* her reader to the ‘terrors’ of a ‘strange romantic story’. On the other hand, however, ‘fancy’ does serve at the same time to promote a variety of extra-rational, but no less valid ‘truths’. Adeline has correctly intuited that some mysterious ‘lot’ has fallen to her that is related to the manuscript and to the dream which seemed prophetically to prefigure its discovery. Her imaginings, moreover, are articulated through the evocation of established conventions of the literary Gothic which constitute in this text an elaborate Gothic sign-system designed to communicate to the reader skilled in deciphering these signs the truth concerning Adeline’s origin and future inheritance. To this sign-system – comprised of the discovered manuscript, prophetic dreams, Gothic spaces, uncanny doublings and *apparent* spectral apparitions – I would argue that the *actual* manifestation of the supernatural is irrelevant. As much as Radcliffe’s ‘explained supernatural’ might have satisfied an eighteenth-century criterion of good taste, her manipulation of standard Gothic conventions nevertheless communicates a certain ‘reality’ to the reader as much as the ‘authentic’ ghosts of Walpole and Reeve. Through them, the reader is given to understand that Adeline’s fate *will* be related in some way to the manuscript she has so ‘singularly’ discovered that she *will* prove to have been born to ‘set right’ some perversion of the law.

Adeline finally appears before the law at the end of the text as she seeks to affirm her origin and her juridical status. By means of various depositions, she is ‘acknowledged as the daughter and heiress of Henry, Marquis of Montalt’ (p. 396), who was, it transpires, the imprisoned author of the discovered manuscript. The text’s reliance here upon proper juridical processes to restore to Adeline her title and estates resembles the closure of Reeve’s *The Old English Baron* in so far as

epistemological and juridical propriety is restored by means of closely interrogated legal depositions. As in Reeve's text, however, juridical reason is to some extent undercut by the suggestion that a providential force beyond the law – a force made manifest through moments of extraordinary Gothic excess – is ultimately the arbiter of Adeline's fate. In practical terms, in fact, law operates quite inefficiently here; it is always on the verge, but for the intervention of a range of providential coincidences, of committing some further injustice. It is the spectral insistence upon retribution emanating out of the past that fulfils Adeline's destiny and restores order. Like Osbert and Alleyn, Adeline works 'to punish the murder of her parent' (p. 335), and to thus restore a 'lawful' patrilineal genealogy. Unlike the men of Athlin and Dunbayne, however, Adeline, as a woman, is not offered the opportunity to swear allegiance to the paternal law which appropriates her as 'the daughter of Henry, Marquis of Montalt'. There is no moment equivalent here to that which sees Osbert actively renew his commitment to a law which 'stems from vengeance'. Rather, Adeline is '*suffered to live as an instrument to punish the murder of her parents [my emphasis]*' (p. 335); she is not in a position to make any determination with respect to her inheritance for she exists in relation to her own family history only as commodity or instrument, not as proper, active legal subject. In moving towards a heroine-centred form of Gothic fiction, then, Radcliffe complicates the juridical demand that the legal subject 'come to terms with some spectre' in order to guarantee the re-presentation of the law. In her later work, I will argue, the law's call to vengeance is further problematised as maternal points of origin emerge to challenge the law's genealogical 'time'.

A maternal tale unfolds: *A Sicilian Romance* and *The Mysteries of Udolpho*

'I could a tale unfold'. The epigraph to *A Sicilian Romance* (1790) evokes the law's call to vengeance. The 'tale' that 'unfolds' in this text, however, does not relate to a lost patrilineal bloodline, but to the concealment of the maternal origin of the two protagonists, Julia and Emilia. This is a work concerned with the denial of the mother rather than the usurpation of the father's 'name', and the contestation of the particular injustices perpetrated by the Marquis of Mazzini against his daughters and their mother widens out into a broader critique of an order of law premised upon institutional violence. The Marquis has imprisoned his first wife – the girls' mother – in the disused southern quarter of

the Castle of Mazzini and declared her dead in order to marry the second Marchioness. In the opening chapters, he and his wife are largely absent from Mazzini and the sisters live under the care of the benvolent mother-figure, Madame de Menon, their mother's cousin. With her, they occupy the 'chief apartments of the castle' until the return of the Marquis requires their relocation to a more distinctly Gothic space – a suite of 'gloomy', 'dismal' apartments which appear to be connected to the southern quarter. The move thus places the girls in closer proximity to their hidden mother and these chambers become the scene of mysterious, seemingly spectral phenomena. Again, then, Gothic literary conventions are evoked to suggest the presence of some secret pertaining to a disputed economy of power and the place of women within it. Shortly after their relocation, Julia (who is of the two sisters the most pressingly associated with the maternal secret and its contestation of the Marquis's rule) finds a 'miniature of a lady, whose countenance was touched with sorrow' (SR, p. 27). The scene is reminiscent of that in *Lee* in which the twin daughters of Queen Mary unknowingly confront portraits of their father and mother. The difference here, however, is that this portrait does *not* form part of the sort of patrilineal, pictorial narrative which introduces *Lee*'s twins to their parents. Those portraits depicted a monarchical bloodline which enforces itself through re-presentations of genealogy – 'law as history' (SM, p. 21). The portrait of the first Marchioness is discovered by Julia hidden in a drawer of her apartments and it bears no such relation to public re-presentations of the rule of law; it is a miniature, a personal memento which suggests a more private, intimate form of remembrance. Madame de Menon informs the girls that this is a picture of their mother and they press her to give an account of their mother's life. She does so and, in so doing, recites her own life history also, deeply involved as it is with that of her cousin. The tragic circumstances of both women's lives are the consequence of their imbrication within an economy of irrational yet legitimised violence over which they have no control. Like the women of *Athlin* and *Dunbayne*, they are caught up within an order of power in which juridical subjectivity is asserted through a violence which affirms law as vengeance – only combat can guarantee proper masculine identity which is posited always in terms of 'honour'. Louisa's lover, who is Madame's brother, must accrue 'the honours of war' before he can marry Louisa. He and Madame's husband enter the same regiment and fall into a 'trifling' dispute which nevertheless 'increased to a serious degree [...] it was decided by the sword' (p. 30). This senseless dispute over 'honour' results in the death of Madame's brother, after which

her husband is driven to despair. His only apparent means of assuaging his guilt is then to rush suicidally back into battle. He leaves a paper '[in which] he said it was his intention to die in that battle' (p. 33). Dying without a will, he leaves his wife at the mercy of his brothers who refuse to give up his estate. Madame is left without legal protection and without any means to live, grieving for her husband and the brother who is also the lover of her closest friend and cousin. This senselessly violent, unjust order exacts a terrible price from women here. Louisa is married off to the Marquis (a marriage she lacks the energy to resist and which she probably could not have opposed anyway) whilst Madame learns of the death of her own mother, 'a prey, I fear, to grief' (p. 34).

This brief early narrative critiques an order of law premised upon honour and revenge which is emotionally and physically devastating to women. This force of law is certainly pushed to excess by the Marquis, but it is arguably not fundamentally perverted by him. It is founded upon a violence which the Marquis merely bends to his will. It operates through the Duke of Luovo and his armies, through the Abbot (who uses Julia as a bargaining chip in his own power struggle with the Marquis) and even, I suggest, through the ostensibly noble Ferdinand. Ferdinand is certainly set in privileged moral opposition to the Marquis, as Alleyne and Osbert are to Malcolm in Radcliffe's earlier text. Nevertheless, Ferdinand is committed to a certain military heroism which aligns him – albeit relatively loosely – with the juridical status quo. It is interesting in this regard that Ferdinand's 'irresistible desire to penetrate' the southern chambers of the castle, to discover their 'secrets', is almost invariably accompanied by forceful acts – the cutting of locks, the breaking down of doors and so on (p. 37). His empirical drive – the same which motivates Adeline in *The Romance of the Forest* and which is privileged in *that* text – is associated *here* with a violent and impatient mode of action which rarely yields any positive results. Indeed, Ferdinand's 'impatient curiosity' leads him to an encounter with the Marquis which in fact impedes the disclosure of the secret of the southern quarter and which vividly displays the problematics of his juridical subject position. Aware that Ferdinand might be about to discover the truth behind the 'hauntings' in the closed chambers, the Marquis exploits his son's curiosity and his notion of 'honour' in order to impart to him an entirely fictitious account of his own paternal origin:

[...] the Marquis entered. The same chilling solemnity marked his manner. He locked the door of the closet, and seating himself, addressed Ferdinand as follows: –

‘I am now going to repose in you a confidence which will severely prove the strength of your honour. But before I disclose a secret, hitherto so carefully concealed, and now reluctantly told, you must swear to preserve on this subject an eternal silence [...]’

Ferdinand was awed by this exordium – the impatience of curiosity was for a while suspended, and he hesitated whether he should receive the secret upon such terms. At length, he signified his consent, and the marquis arising, drew his sword from the scabbard. – ‘Here’, said he, offering it to Ferdinand, ‘seal your vows – swear by this sacred pledge of honour never to repeat what I shall now reveal’, Ferdinand vowed upon the sword, and raising his eyes to heaven, solemnly swore. (pp. 52–3)

The Marquis proceeds to invent a narrative of revenge which posits Ferdinand’s grandfather as the murderer of a family adversary – Henry della Campo – whose ghost is now said to haunt the southern quarter of the castle. This revenge drama entirely convinces Ferdinand who even takes it further, imagining the spirit of della Campo ‘[calling] aloud for retribution on the posterity of him who had disturbed its eternal rest’ (p. 54). This fiction exploits a tradition of patriarchal retributive violence which Ferdinand can so readily accept because this tradition is his own inheritance. He is the son who at the end takes on his father’s identity as ‘the sixth Marquis de Mazzini’ and who returns ‘to the occupations of war’ (p. 199). As he swears an oath to his father in this early episode, he plays his part in allowing a further layer of deception to settle over the disavowed maternal presence that is the true secret of Mazzini. It is Julia who becomes hereafter the key player in the unfolding of this mystery.

It is Julia, I have suggested, who physically and symbolically bears the closest relation of the two sisters to their mother. It is Julia also whose juridical status is most ambivalent, and this ambivalence is often figured symbolically through Julia’s spatial positioning. A great deal of detail is given in the early part of the text to the layout of those chambers occupied first by the sisters and then by the Marquis. Following the Marquis’s re-appropriation of the castle’s chief apartments, Julia is allowed to retain her ‘favourite closet’ within them (p. 5). Julia thus occupies her own private space within the Marquis’s domain, but this feminine space serves in a sense only to reinforce the father’s authority. Her closet is the place in which the Marquis has Ferdinand swear his oath of secrecy in respect of a fraud that perpetuates the Marquis’s

incarceration of his first wife. Symbolically, this gesture signifies the extent to which the abjection of the mother depends upon the incorporation into the symbolic economy of a domesticated, commodified femininity. At the same time, though, Julia's apartment in the southern quarter is the one which opens into the disused chambers that lead to the mother's cell. Julia is thus implicated in and subversive of the Marquis's order of law. Her relation to the lost mother is privileged; it is she who, driven deeper into the caverns beneath Mazzini by the Marquis's army, finally arrives at the truth about her mother's 'death'. Here she finds the mother abjected *within* the house of law, not *beyond* it. The fiction of Louisa's death has concealed a symbolic matricide which locates the maternal feminine within the law's cryptic space. It is Louisa's liberation which then appears to 'set right' the House of Mazzini. In a re-working of the Shakespearean precedent, it is an injustice against the mother which is rectified here and a maternal inheritance which is set back in place.

Does this reconfiguration of the traditional paternal revenge drama thus imply a reconfiguration of the power relations which underlie it? I would argue that it does, but only to a point.¹² In spite of its recovery of this disavowed maternal genealogy, the text ultimately does not repudiate the juridical authority of the paternal bloodline. It is symbolically significant in this regard that Julia's discovery of her mother does not release her; rather, it makes a prisoner of Julia who must hide herself from the servants who feed her mother. It is finally Ferdinand who rescues his sister and mother, returning them to a juridical order which remains fundamentally unaltered in spite of the purging of its worst excesses. This order of power is the same which condemned Louisa and Mme de Menon to bereavement and dispossession and, at the end of the text, the 'name' which ensures the continuity of this economy is that of Ferdinand. He adopts the title and authority of his father and returns to war. The 'justice' that prevails here, therefore, remains bound to a retributive, militaristic order; it is a justice effected through the sword, the sword that kills and that compels the sons of the father to 'Swear!'.

The epigraph to Chapter 2 of *The Mysteries of Udolpho* reiterates the lines from Hamlet which precede *A Sicilian Romance*: 'I could a tale unfold'. The quotation again evokes this 'justice' that 'stems from vengeance' and which demands that the juridical subject 'come to terms' with the past through a reiteration of the law's abyssal founding gesture – a disavowal of the maternal feminine which remains thereafter unmourned. Radcliffe's later works, however, do seek to recover a lost maternal origin – to 'unfold' a maternal tale in opposition to violent,

patrilineal narratives of origin. Even *A Sicilian Romance* – which, I have argued, ultimately restores patriarchal lineage through Ferdinand – hints at an alternative symbolic economy which challenges the militaristic discipline of the dominant order of law. This alternative economy, which is associated primarily with Julia, implies a recuperation of the notion of ‘fancy’. Julia’s personality is described from the outset in terms of a lively, creative imaginative faculty which in Radcliffe’s earlier work tends to be posited as disturbed and dangerous. Whilst Julia is seen to be given to certain imaginative excesses, ‘fancy’ is privileged here as it is not in Radcliffe’s earlier romances. ‘Air drawn schemes for futurity’ plot out another future to that offered by the ‘cruel authority’ of the Marquis (p. 32). These ‘fairy dreams’ (p. 57) are often expressed creatively through music and song and, furthermore, they introduce into the text – as the characters’ sonnets and songs are reproduced – a certain generic instability, a freedom with fictional and poetic form which the *British Critic*, reviewing *The Mysteries of Udolpho* in 1794, deemed ‘impertinent’.¹³ Radcliffe’s transgression of the laws of literary composition open up creative channels of communication which frustrate the ‘cruel authority’ of the Marquis’s rule of law, facilitating often vital discoveries. These poetic moments, moreover, frequently possess a time-less quality; they occur seemingly outside the run of events dictated by the Marquis’s violent schemes. Following Ferdinand’s first investigation of the southern chambers, Julia retires to the seashore to play her lute and sing and there she is found by Hippolitus. The episode is distanced temporally from the rest of the narrative: ‘One evening’, it is stated, ‘Julia took her lute to a favourite spot on the seashore’ (p. 42). This attributes a strangely random temporality to the scene; it is ‘one evening’ – it could be any evening – and it is only apparent from what follows that this moment directly succeeds Ferdinand’s first foray into the southern wing. Temporal order is restored when Julia returns to the castle: ‘Night [had] returned, and Ferdinand repaired to the chamber of Julia to pursue his enquiry’ (p. 45). A similar episode opens volume two of the novel. Mme De Menon, having fled the Marquis’s castle, discovers the hiding place of Julia during a walk into the mountains motivated by ‘a pleasing and complacent melancholy’, a sensitive, aesthetic ‘enthusiasm’. As she listens to the murmur of a distant stream, ‘a voice liquid and melodious arose from amongst the rocks’ (p. 104). This voice appears to emanate out of the landscape, capturing Madame’s imagination and drawing her to Julia. The imagination, operating almost ‘insensibly’ here, is more productive than the disciplined empiricism of Ferdinand and the violent pursuits of the Marquis and the Duke of Luovo, and it is this privileging

of the imagination aesthetically and epistemologically that comes in *The Mysteries of Udolpho* to challenge more overtly an economy of law that ‘stems from vengeance’.

The Mysteries of Udolpho takes further the subversive potential of imaginative exchanges that take place between subjects who stand at the margins of the law and who are frequently the victims of its most violent, vengeful excesses. These exchanges, which are essential to the recovery of female genealogies, operate in this as in the earlier work most notably through poetry and music. The composition and exchange of poetry, singing and lute-playing serve as means of connection between individuals whose communications are otherwise cut off by the law which marginalises and persecutes them. Spectral music is associated often with the maternal secret that is the ‘mystery’ of Udolpho; at many points of crisis for Emily, music intervenes to suggest the presence of Valancourt or to lead her further to the truth pertaining to her own origin. It is indeed when Emily is at her most vulnerable, a virtual prisoner within Udolpho and almost entirely at the mercy of Montoni, that her symbolic association with a lost feminine genealogy is most powerfully conveyed. At one point, Emily is shown by her servant a portrait of the late Marchioness of Udolpho who is, though unbeknown to Emily, her aunt. As in *A Sicilian Romance*, the notion of the family portrait as a signifier of juridical authority through its representation of authentic bloodline is undermined here as Emily confronts the representation of a disavowed feminine line. Emily compares the portrait to the miniature belonging to her father; they depict the same woman, marked in both instances by ‘pensive melancholy’ (TMU, p. 533). As in Lee’s *The Recess* and in Radcliffe’s earlier work, these portraits represent women in a state of loss, a state that I have termed ‘impossible mourning’. Re-presented in the paternal economy as domesticated objects of exchange, cut off from the maternal ‘lost object’, these women confront their descendants in these paintings as mourners. Alongside the portrait, Emily finds her aunt’s black veil which her servant Dorothée throws over her to see ‘how like you would look to my dead mistress’ (p. 534). Emily is indeed the image of the Marchioness; the physical likeness which functions in the paternal order of law to reinforce the authority of law through inheritance here works to evoke a lost female genealogy that reproduces, not legal presence, subjectivity and authority, but feminine mourning.

I would argue, moreover, that this work (like *The Castle of Otranto*) works to collapse the opposition between the ‘sacred’ and the ‘abject’, between an ‘improper’ rule of law (that of Montoni) and a ‘proper’ public domain which might ultimately repudiate a usurped, ‘illegitimate’

power. In the early chapters of the text, as in Lee's work, the term 'the world' is used always pejoratively to describe a degenerate, materialistic and abusive public domain. The injustices which 'the world' perpetrates against Emily as she comes close to losing her family home are not distinguishable from Montoni's persecution of Emily and his wife. The public domain – 'the world' – is underscored by a violence and degeneracy which Montoni merely pushes to excess. Montoni's banditry ultimately only replicates a more 'legitimate' militaristic violence the evidence of which is everywhere. As Emily, her father and Valancourt travel through southern France and Italy, they observe 'battlements and towers', and 'something bright, like arms, glancing in the setting rays' (p. 44); they encounter bands of soldiers laden with the 'spoils of war' whom Montoni greets enthusiastically, his eyes 'gleaming with fire' (p. 172). From Emily's beleaguered position, soldiers become indistinguishable from bandits and the increasing debauchery and violence of Montoni can hardly be separated from the 'proper' domain of law beyond Udolpho. Montoni the murderer and M. Quesnel the bourgeois entrepreneur belong to the same order of power, one which, in relation to Emily, renders both men 'conscious of possessing an absolute power and impatient of hearing it questioned' (p. 213).

Udolpho's critique of this economy of power is hardly unequivocal, however. On the contrary, paternal law is frequently figured in this text through a highly ambivalent evocation of Gothic spaces and patrilineal narratives of origin that draws upon a deeply conflicted legal and literary Gothic inheritance. The three Gothic ancestral seats which feature in the narrative are all monuments to an ancient aristocratic law and all have been to some extent usurped. Epourville is the family seat of St Aubert which has fallen into the unscrupulous and philistine hands of M. and Mme Cheron, Emily's uncle and aunt. The tasteless modernisations of the castle effected by this couple are sharply contrasted with an ancient Gothic splendour that is privileged aesthetically and, arguably, politically:

St. Aubert [...] led Emily into the gothic hall, now no longer hung with the arms and ancient banners of the family. These were displaced and the oak wainscoting, and beams that crossed the rook, were painted white. The large table, too, that used to stretch along the upper end of the hall, where the master of the mansion loved to display his hospitality, and whence the peal of laughter, and the song of conviviality, had so often resounded, was now removed; even the benches that had surrounded the hall were no longer there.

The heavy walls were hung with frivolous ornaments, and every thing that appeared denoted the false taste and corrupted sentiments of the present owner. (pp. 22–3)

The text evokes Gothic monuments to the law in a manner which suggests the validation of a certain Gothic myth of legal origin. Emily's marriage to Valancourt is celebrated in Chateau Le Blanc, seat of the family Villeroi now restored to its proper heirs; its 'sumptuous banners, which had long slept in dust, once more unfurled, to wave over the gothic points of the casements' (p. 671). Passing back to its legitimate heirs through Mme Bonnac, Udolpho itself is ultimately freed from Montoni's Gothic barbarism and re-incorporated into a more enlightened Gothic economy of law. This undoubtedly runs counter to any contention that *Udolpho* upholds an alternative to the economy of law that 'stems from vengeance'. The situation is more complex than that. This text is imbricated within a legal and literary tradition that legitimates by a variety of means the authority of the father. Radcliffe's work situates itself within a literary tradition that cites Shakespeare as its founding father and which reproduces legal and literary myths of origin and authority which problematise feminine authorship and genealogy. *Udolpho's* epigraphs persistently evoke this tradition, thus tying the text, albeit equivocally, to patriarchal narratives of justice as vengeance. And yet, at the end of the novel, Emily is *not* returned to those Gothic monuments to patriarchal law – to the mansions of Udolpho, Epourville or Villeroi. She returns with Valancourt to La Valée, her first home. This is the space which in the novel's opening chapters is situated symbolically beyond a corrupt and corrupting 'world'. It is within this space that the text introduces those motifs, metaphors and modes of communication that gesture towards an alternative symbolic economy of egalitarian, harmonious, imaginative exchanges. La Valée, it might be said, privileges *poesis* over *logos*. It is here that Valancourt first communicates with Emily through poetry, and Emily's (and later Blanche's) poetic compositions connect them throughout the text with the maternal 'mystery' of Udolpho. These poetic interludes, as has been observed, disturb the generic stability of the novel. Their positioning on the page interrupts the progress of the narrative, evoking those parergic textual spaces (prefaces, postscripts, titles, subtitles, etc.) which, for Derrida, interrupt and undermine philosophical, literary and juridical certainty. The *British Critic* termed these interludes 'impertinent'. The *Critical Review*, whilst generally supportive of Radcliffe's work, described the Gothic 'marvels' of *The Castle of Athlin and Dunbayne* as 'disgustful'.¹⁴

Marvellous incidents and poetic interludes represent the unacceptable imaginative excesses of an otherwise legitimate Gothic oeuvre; they offend against an emerging modern ‘law’ of literature and, from this perspective, it is possible to revisit Radcliffe’s evocation of the literary tradition that ostensibly legitimises her Gothic fiction. Alongside ‘impertinent’ feminine poetic compositions and ‘disgustful’ marvels, Radcliffe inserts poetic fragments drawn from Shakespeare and Milton *et al.* to supplement her narrative. These authoritative literary precedents function as *parerga* to a text which in a sense escapes the force of their commentary, their ‘law’. Unlike the secrets of Otranto and the Castle Lovell, Udolpho’s mysteries do not pertain to an ‘illegitimate’ usurpation of a ‘legitimate’ paternal line, but to a maternal presence that is uncovered and ultimately returned, through Emily, to a space symbolically beyond law as *logos*. *The Mysteries of Udolpho* ‘unfolds’ a maternal ‘tale’ that to some extent subverts the authority of the legal and literary archive out of which it itself arises.

Notes

1. The epigraph to Ann Radcliffe, *A Sicilian Romance* (Oxford: Oxford University Press, 1993), hereafter SR; epigraph to Ch. 2, Vol. 1, *The Mysteries of Udolpho* (Oxford: Oxford University Press, 1980), p. 19. Hereafter TMU.
2. Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International* (London and New York: Routledge, 1994), p. 21. Hereafter SM.
3. Ann Radcliffe, *The Castles of Athlin and Dunbayne* (Oxford: Oxford University Press, 1995), p. 3. Hereafter CAD.
4. See p. 13.
5. The *Monthly Review*, May 1765, in response to the second edition of *The Castle of Otranto*, cited in *Horace Walpole: The Critical Heritage*, Peter Sabor (ed.) (London: Routledge, 1987), p. 71.
6. Horace Walpole, first preface to *The Castle of Otranto* (Oxford: Oxford University Press, 1996), p. 5.
7. ‘For justice bears the arm of God, and the grasp’d vengeance only waits his nod’, from James Cawthorn’s ‘Abelard to Eloisa’ (1771).
8. The motif of the lost and/or incarcerated mother – the mother often imprisoned within subterranean Gothic spaces – is introduced in *The Castles of Athlin and Dunbayne* and recurs throughout Radcliffe’s work. It gives ambivalent symbolic expression to the law’s abjection of the mother and the effect of this upon daughters. In this first work, the Baroness of Dunbayne (the mother of the exiled Alleyn) is discovered by Osbert in a secret chamber amongst the labyrinthine passages of Dunbayne. Her incarceration was the condition of Malcolm’s usurpation of power; he overrode the terms of his brother’s will, exiled the rightful heir and imprisoned the mother to complete his repudiation of the legitimate bloodline. The Baroness, then, is abjected

within an already abject space (the Gothic space of Dunbayne) and her discovery marks the beginning of the restoration of legitimacy to Dunbayne's order of power. The return of the mother, then, does not in fact threaten the order of paternal law in this text, for the mother of Alleyn (and, symbolically, she functions *only* as the bearer of the rightful heir) is wholly reabsorbed, as commodity, into that economy. The order of a law that 'stems from vengeance' is deeply problematised in this text, but it remains ultimately intact.

9. Julia Kristeva, *Black Sun: Depression and Melancholia* (New York: Columbia University Press, 1989), p. 44; Jacques Derrida, *The Ear of the Other: Otobiography, Transference, Translation* (Lincoln and London: University of Nebraska, 1985), p. 57. The 'crypt' – the space in which the dead remain abjectly 'present' to the living – signifies 'unsuccessful mourning, mourning that has not been brought to a normal conclusion'.
10. The manifestation of law as vengeance, moreover, is not merely an aberration here; its violence, I would argue, is not posited as a temporary necessary response to an unlawful act that must be 'set right' for justice to prevail. In spite of the text's ostensibly positive closure, with a providential justice working with the law to re-institute proper government, the ending can be read as in fact exposing the *gap* between justice and law. The law must look to a power beyond itself in order for Alleyn to prevail. The law's command to 'set it right' cannot guarantee the justice that it claims for itself and this is not simply a matter of providence intervening to restore an order of power that is essentially just but that has been knocked temporarily 'out of joint'. Providential signs must in a sense work *against* the authority of the 'proper' Gothic economy of Athlin (which will not recognise the 'worth' of Alleyn until providence has marked out his proper name) in order that the text can achieve proper moral closure. As was suggested at the outset, the House of Athlin cannot be set in straightforward opposition to the abject Gothic space of Malcolm. Both Houses uphold a legal economy that 'stems from vengeance'; both are sworn to uphold a patrilineal genealogy that *is* the law – the law is nothing but the perpetuation of their proper 'name'. Hence, although the text articulates at various points a certain 'rights of man' idealism which is ethically privileged against the prejudices of Osbert, for example, this democratic principle (which implicitly upholds throughout the 'worth' of Alleyn against the juridical order which would abject him as 'nameless') has no purchase upon any of the characters in the text. Whilst justice and virtue might be superimposed on to this juridical order – and they are here through the 'providential' victory of Alleyn – justice and virtue are in no way intrinsic to the law. This is the abject 'truth' of even Athlin's enlightened Gothic government and, in so far as Athlin represents a certain eighteenth-century mythologisation of the origin of enlightened English Gothic law, *The Castles of Athlin and Dunbayne* reveals the abject 'truth' of this Gothic legal narrative. The law is nothing more than the right to rule of the right ruler, where 'right' is determined according to the proper inheritance of the name of the father. Patrilineal succession is the mode of transmission of this 'right' through time and this, to recall Derrida, is law as genealogical 'time', 'law as history'. It demands – as it re-presents itself to successive generations of male heirs – an ongoing commitment to violence.

11. Ann Radcliffe, *The Romance of the Forest*, p. 127.
12. To this extent, I would slightly contest Alison Milbank's reading of the place of the feminine within this text in her introduction to the novel. The cave in which Louisa is incarcerated is a 'feminine' space, but I would dispute the Irigarayan reading which produces it as figuring an 'essential mediating position on which culture and history rely'. It is necessary, I think, to take this analysis further and to regard this cryptic, feminine, parergic space as indeed essential to the law, but as abjected *within* its body and subjected then to a *fictionalisation* of 'feminine space' which places woman beyond the law. This, I argued in Chapter 1, is the flaw in Irigaray's reading of Antigone; it does not acknowledge the extent to which the re-presentation of Antigone as the bearer of a 'feminine' law abjected from the space of the *logos* is *itself* a fiction of law.
13. *British Critic*, 4, August 1794, cited in Mary Favret, 'Telling tales about genre: Poetry in the romantic novel', *Studies in the Novel*, 26 (1994), pp. 153–72.
14. *Critical Review*, September 1789, quoted in the introduction to CAD, p. xi.

7

A Supplement – *Gaston de Blondeville*

As a postscript, as it were, to the last chapter's consideration of Radcliffe's better-known works, this chapter offers a re-reading of a text that is in certain respects supplemental to Radcliffe's own writing career, *Gaston de Blondeville*. This text, I will argue, illuminates from a variety of fresh perspectives the problematics of textuality, fictivity, origin and authority in literature and law – the problematics, as I have theorised it, of the Gothic and/in the rule of law. Published posthumously in 1826 and rarely studied critically alongside the earlier romances, *Gaston de Blondeville* stands in uneasy relation to modern 'laws' of literature. The extensive introduction to the 1826 edition – comprised of a long critical essay followed by extracts from Radcliffe's travel journals – appears to acknowledge as much. Interestingly, it posits Radcliffe's *earlier* writings as authenticating supplements to this final romance as it seeks to establish Radcliffe's literary pedigree as a preface to, as a justification for, the posthumous publication of a text that the author herself did not intend to make public. This edition, then, marks a significant stage in the incorporation of Radcliffe into a modern literary economy which, as Derrida argues, places the text and the writer 'before the law'.¹ This legal and literary economy circulates texts and authors as commodities legitimised through notions of originality and authenticity that define texts legally within the public domain. In terms of its authenticating supplements (the preface and the travelogue that accompanies it in this first edition), and in terms of its *own* supplementarity in respect of the main body of Radcliffe's work, *Gaston de Blondeville* brings into sharp focus questions concerning the presence of texts 'before the law' in this period and, in particular, concerning the Gothic textuality of a female-authored romance and its relation to juridical and literary authority.

The prefatory essay aims to justify the publication of a work which differs markedly from Radcliffe's popular earlier romances. It appeals to Radcliffe's existing reputation as a writer of 'genius' and seeks to consolidate that reputation through a positive critical assessment of her work and of her life as an author *and* as a woman. Radcliffe becomes here a case study first in feminine authorial legitimacy and secondly in the workings of 'genius'. The publication with this edition of Radcliffe's travel journals serves as 'the means of watching the development of her faculties';² the journals serve to illustrate, outside the context of fiction, an original literary mind at work and thus the preface and the journals contribute to a greatly enlarged contemporary sense of the importance of originality within a certain legal and literary context.³ Radcliffe is, moreover, posited as a respectable author – a worthy 'precedent' in terms of her life and the quality of her art. The biographical details included in the essay attribute a legitimate ancestry to Radcliffe, whose parents 'though engaged in trade, were allied to families of independent fortune and high character' (p. 5). The propriety of her literary inheritance, meanwhile, is made plain through the reference to Shakespeare, the 'first of the poets [of] terror' (p. 110). At the same time, however, this preface exposes the conflicting, contradictory values and expectations of a certain contemporary 'law' of literature. The literary hegemony to which this preface conforms privileges artistic originality, the integrity of ideas and proper literary precedent whilst also promoting and problematising the commodification of texts (which evokes an improper 'engagement in trade') and the cult of literary celebrity. Radcliffe's position as a female author complicates this hegemonic matrix yet further. She is stated to have earned considerable fame and money through the publication of her work, yet she is lauded above all else for a modesty and moderation so complete that 'the very thought of appearing in person as the author of her romances shocked the delicacy of her mind [...] nothing could tempt her to publish *herself*; or to sink for a moment, the gentlewoman in the novelist' (p. 13). Whilst literary publication motivated – almost against the proper moral inclination of the writer – by 'the force of genius' is acceptable, the fame and wealth that accompanies it is squalid and the author of the preface is keen to disassociate Radcliffe from any insinuation that she is 'engaged in trade' or that she seeks to 'publish', to display, *herself*. Radcliffe is 'allied to families of independent fortune'; she has no need to write for money and, whilst made wealthy by her work, she does not 'lavish time and money on entertainments' (p. 13). What is apparent here is the conflicted position of the writer generally, and of the female writer in particular, who is

necessarily engaged in a form of trade through publication and who stands before a literary 'law' which affirms and contests the value and propriety of that trade, of literary celebrity, commodification and profit. Radcliffe's literary persona is displayed in this preface in such a manner as to strategically capture and resolve these tensions, for here is a woman moderate in spite of her immoderate wealth, modest in spite of her extraordinary fame. Indeed, Radcliffe absented herself so completely from the public domain that her texts circulated almost independently of any affiliation with a living author, even to the extent that she was presumed to be dead. Coupled with the seeming 'antiquity' of her Gothic romances, the preface asserts, her public invisibility generated a form of posthumous fame for the author even during her lifetime. Radcliffe's relation to her texts within the public domain thus appears strangely spectral; her peculiar literary non-presence generated a fiction of (in)authenticity whereby the texts' author was considered to be long-dead and the texts themselves truly antiquated. Ironically, then, Radcliffe becomes implicated in a Gothic romancing of her own history and of the origin of her texts that evokes the excesses of and anxieties associated with an improper, inauthentic Gothicism. The 'Gothicisation' of Radcliffe, moreover, did not end following the discovery that she was, in fact, a living author; her history thereafter remained invested with 'fancies', the most potent of which was that she became insane. In life and death, then, Radcliffe is subjected to a process of almost cultic literary mythologisation to which this preface contributes and which places her in a deeply uncanny relation to her own work. Her modest feminine propriety combines with the power of her Gothic fictions to infect her life history with 'the images with which she thrilled her readers' (p. 94). Within the public domain, Radcliffe is absent to the point of death, Gothicised to the point of madness.

This preface, though, is as keen to distance Radcliffe from madness as it is to assert her 'inventive power' (p. 8), so much so that it publishes the entirety of a lengthy doctor's report testifying to Radcliffe's sanity right up to the point of her death (p. 103). Radcliffe's physical and mental health are as open to scrutiny as her published and unpublished work as the preface takes pains to establish the rationality of the author. Radcliffe's style, it insists, is wholly incompatible with madness; she has complete control of the terrors she creates and not the other way around. Her technique of the 'explained supernatural' is cited as evidence of this controlled Gothicism, as it is also given as proof of Radcliffe's unique 'genius'. Even this Radcliffean device, however, does not, in the opinion of this critic, unequivocally accord with literary criteria of sound taste

and judgement. In apparent defiance of its own 'law', the explained supernatural renders realism *less* probable than overt supernaturalism and its effect on the reader is in a sense more unsettling than the most excessive Gothic fantasy. The preface first praises Radcliffe's 'interweaving of the miraculous with the probable' (p. 106) before proceeding to question her artistic judgement in always eschewing any hint of the supernatural in her work. Radcliffe's aesthetic propriety is here problematised as an overly scrupulous adherence to an arbitrary law:

It is extraordinary, that a writer thus gifted should, in all her works intended for publication, studiously resolve the circumstances, by which she has excited superstitious apprehensions, into mere physical causes. She seems to have acted on a notion, that some established canon of romance obliged her to reject real supernatural agency; for it is impossible to believe that she would have adopted this harassing expedient if she had felt at liberty to obey the promptings of her own genius. So absolute was her respect for every species of authority, that it is probable she would rather have sacrificed all her productions, than have transgressed any arbitrary law of taste, or criticism. (p. 115)

This 'harassing expedient' becomes more than merely irritating; it 'shocks the understanding of the reader' whose mind has been tuned to expect and accept supernaturalism (p. 116). This frustration of what, for the writer of this preface, are entirely legitimate readerly expectations is, one might argue (contra Nicholas Royle), uncanny.⁴ In defying the conventions of the Gothic to insist on 'probability', Radcliffe produces 'rational' explanations for spectral phenomena which are, within the generic context of the works, *less* probable than the 'grand wonders' the reader anticipates. The preface hints at this unsettling 'truth', asking,

Why, having wrought on the fears of her readers till she sways them at her will, must she turn round and tell them they have been awed and excited by a succession of mockeries? Such impotent conclusions injure the romances as works of art, and jar on the nerves of the reader, which are tuned for grand wonders, not paltry discoveries. (p. 116)

What is more, the 'idea of supernatural agency' so deliberately evoked by Radcliffe remains with the reader, the preface suggests, even after the author has 'dissolved mystery after mystery', for the reader is 'still eager to attend again and be again deluded' (pp. 116–17). Radcliffe's

determined conformity to ‘laws of taste’ unsettles the reader’s judgement of what counts as ‘real’, where ‘reality’ in this context has as much to do with generic expectation as with notions of ‘probability’. Indeed, as I have already sought to show, Radcliffe at times relies upon the very conventions she disavows in order to communicate certain ‘truths’ to the reader skilled in decoding these conventions. The Radcliffean Gothic leaves the reader haunted by an ‘impression’ of the spectral that is rendered uncannily (in)authentic by the device of the explained supernatural.

Not intended for publication, *Gaston de Blondville* is the only one of Radcliffe’s texts actually to figure what the critical preface terms a ‘true spectre’. Interestingly, the text also marks a return to an earlier form of Radcliffean Gothic, that which James Watt terms ‘patriot Gothic’.⁵ Like *The Castles of Athlin and Dunbayne*, this text has a medieval setting and it validates a certain eighteenth-century ideal of chivalry, honour and valour that supports the Whig patriot myth of Gothic political origin. It is symbolically significant, I would argue, that it is within the context of a re-articulation of this patriot myth that Radcliffe’s only ‘true spectre’ emerges to challenge monarchical authority: this is a work concerned, like earlier Gothic fictions, with the ‘disavowed ghosts’ that haunt patriarchal seats of power. Indeed, the text turns away to some degree from Radcliffe’s more femino-centric forms of fiction; it focuses, like Walpole and Reeve’s earlier Gothic romances, upon a masculine order of retributive law that more or less excludes active female agency. In this regard, the text has more in common with Reeve’s *The Old English Baron* than with *A Sicilian Romance* and *The Mystery of Udolpho*. I will argue in conclusion, however, that this strangely supplemental work illuminates more starkly than Reeve’s (and, in certain respects, more starkly than some of Radcliffe’s own earlier works) the problematics of fictivity, historicity, ‘truth’ and authority in literature and law and that it does so through its own subversive Gothic textuality – its uncanny positioning of past and present, its lacunae, parerga and strange ‘black letters’.

The romance of *Gaston de Blondville* is prefaced by a frame narrative which foregrounds the national, historical and aesthetic significance of an ambiguous Gothic textuality. Two travellers, Willoughton and Simpson, visit Warwick Castle and are shown around by a guide who alludes to certain ancient texts in his possession that were found, he alleges, beneath an old chapel ruined during Henry VIII’s persecution of the monasteries. Through Willoughton, the antiquarian who insists on seeing the works, a number of economic, historical and aesthetic

issues are brought into focus in relation to these texts. They are ‘printed in the black letter’ and attention is drawn to their textual peculiarities. One of the works (the ‘Trew Chronique’, which Willoughton edits and publishes) is introduced by a preamble ‘written almost in the form of a triangle’ (p. 49). Willoughton reproduces in his edition of the work this odd arrangement of the text. The Gothic script tapers down to form a visually striking black triangle within an otherwise ‘modernised’ text. It resembles a cultic symbol and its presence within the work is an extremely significant marker of the contemporary cultural, artistic and political significance of the question of origin.

On a number of levels, the history of this Gothic ‘original’ is both illuminating and frustratingly obscure. It belongs, Willoughton is convinced, to a ‘dark age’ of superstition and downright mendacity on the part of monks eager to exploit a gullible population (p. 57); its ‘truth’ is thus seriously open to question. At the same time, however, Willoughton acknowledges the historical and aesthetic importance of all of the texts in the guide’s possession. Irrespective of their fabulous content, the works are ‘authentic’ as historical and literary artefacts; they form part of a unique national heritage or archive, a textual link between past and present. The most recent of the three texts is recognised by Willoughton to be ‘one of the earliest books that came off the press in England’ (p. 49). This work thus relates that ‘dark age’ to a modern publishing economy in which the printed word emerges as commodity. Indeed, Willoughton’s acquisition of the texts emphasises their problematic status as commodified artefacts within this modern economy. Willoughton negotiates the purchase of the works ignoring as he does so the advice of his companion Simpson to push the old man down to the lowest possible price. Willoughton refuses to make what for him would amount to a mercenary, dishonest deal. He pays the man according to his appraisal of the texts’ historical and aesthetic value and, in so doing, he establishes his credentials as a man of taste and virtue. Radcliffe’s introduction thus reiterates to some extent the anxieties concerning the commodification of textuality that are expressed in the critical preface to the 1826 edition of her work. At the very moment that texts are commodified – and that history *as text* is commodified – the economic value of these commodities is subordinated to cultural judgements of taste, of ‘authentic’ aesthetic and historical worth. Radcliffe’s text thus reproduces through Willoughton’s discovery complex contemporary conditions of cultural production and this perspective, I would argue, suggests a fresh reading of the peculiar, triangular black-letter preamble that Willoughton preserves. This

cultish black-letter script becomes in these texts – in Willoughton’s ‘Trew Chronique’ and Radcliffe’s *Gaston de Blondville* – the mark of an unstable (in)authentic Gothic textuality that is open to a particular literary, economic and cultural interpretation within this historical context. The preamble functions in Derridean terms as supplement, or *parerga*. It exists ‘within’ the text purchased by Willoughton – it is a part of the ‘Trew Chronique’. Or, perhaps more accurately, it marks the beginning, the *threshold*, of that text. These prefatory black letters mark the transition from the Willoughton narrative to the history of Gaston de Blondville, from the introduction to the text proper, as it were. They make way for the text, stating certain claims in respect of it and announcing how it should be read. The preamble contends that what follows is a true account of certain historical events translated ‘out of the Norman tongue’ by an English monk. This mysterious, cultish preface is thus ‘inside’, yet crucially distinct from, the text which it authorises, interprets, entitles. Visually, it is made yet more distinct by its triangular form which sets it apart from the ‘original’, unedited work. This strange textual form is retained by Willoughton in his ‘modernised’ version – indeed, it is the *only* portion of the text (apart from some of the ‘old words’) which remains unaltered in order, Willoughton claims, to capture ‘some of the quaintness of the original’. The preamble is thus set up to divide the frame narrative from the romance, the fictionalised contemporary moment of Willoughton and Simpson (and the reader) from the ‘modernised’ version of a Gothic past. The preamble in its original form is presented as the ‘authentic’ textual remnant of that Gothic past, and what it *ultimately* points towards, I suggest, is the desire, within an emerging capitalist economy, to represent the intangible value of a certain commodity (Gothic text, Gothic past, Gothic nation) in terms of its immaterial historical and aesthetic ‘worth’. To invoke Derrida again, this preamble is the essential supplement to a certain ‘Idea’ that is incapable of independent self-representation. Here, the ‘Idea’ is the notion of an intangible worth capable of validating texts without reference to commodification and exchange. Thus, the discovery of the ‘Trew Chronique’ in *Gaston de Blondville* is set firmly within a contemporary context which attaches (and not without some anxiety) considerable significance to the notion of a national literary and historical archive capable of embodying a nation’s cultural and political identity and of re-presenting it to posterity. This archive is comprised, however, of dubious fragments, possible fakes, textual commodities which circulate in a market of artefacts open to the highest bidder. It bequeaths to the living a literary inheritance that can never clearly

and cleanly re-present an ‘authentic’ past to the present. It requires its subversive Gothic supplements.

The problem of the integrity of historical and literary representation is foregrounded also through Willoughton’s evocation of Radcliffe’s literary forefather, Shakespeare. Willoughton’s appreciation of the landscape through which he and Simpson are travelling is mediated through his love of Shakespeare and, with reference to Shakespeare, the landscape is found wanting. Willoughton ‘looks in vain’ for some resemblance between the present scene and Shakespeare’s Arden (p. 2). Far from producing an expected sense of continuity with England’s past (‘Well! Now we are in Arden’, Willoughton delightedly exclaims), this encounter with the landscape ‘which his dear Shakespeare had made classic’ produces only a sense of loss. The ‘classic’ Shakespearean landscape exists now only in the theatre, in ‘the very heart of a populous city [...] by the paltry light of stage lamps’ (p. 5). Modernity is implicitly diminished with reference to an idealised past which is acknowledged throughout the Willoughton narrative to be available only as text. In order to recover the past effectively, a disciplined methodology is required to discern fact from fiction within literary and/or historical texts and, within this context, Willoughton’s sceptical reading becomes to some extent an object lesson on how to ‘read’ the past. Even Willoughton, however, falls victim to the influence of a near-maddening Gothic textuality that exceeds rational control. At one point during Willoughton’s modern translation of the ancient text, the manuscript strangely breaks off to describe *Willoughton himself* – peculiarly inside his own narrative – in rapt contemplation of the scene outside his window, which is the setting for the supernatural events described in the ‘Trew Chronique’. The Chronique’s account of the reign of Henry III – which in some of its details is considered by Willoughton to be historically convincing – is interwoven with elements of the supernatural that work powerfully upon the imagination and which to some degree prevent Willoughton’s rational appraisal of the text’s historical ‘worth’. Following Willoughton’s translation of the Chronique, there is a brief conclusion which stands outside the Chronique *and* its introductory narrative. This postscript (the work of some anonymous and more knowing ‘editor’?) discredits Willoughton’s scholarship – he has been ‘unwilling to believe’ the ‘evidence’ of the text’s inauthenticity.⁶ Willoughton’s attempt to place this text properly ‘before the law’ – to validate its ‘truths’ and dismiss its ‘fictions’ – is fractured by a Gothicism that resists rational categorisation, that re-presents history as the romance of a haunted king and that thus contests (through its

textual and temporal inconsistencies and absurdities) the authority and authenticity of England's monarchical bloodlines – the nation's 'law-as-history'. This Gothic tale, 'written in the black letter' and embedded within multiple narrative frames, challenges notions of juridical, historical and literary 'truth' through a romancing of political and literary history that places an unstable, multi-layered Gothic textuality in an essential, subversive, supplemental relation to the rule of law.

Notes

1. Jacques Derrida, 'Before the law', in *Acts of Literature*, Derek Attridge (ed.) (London: Routledge, 1992), p. 187. Hereafter BL.
2. 'Life and writings of Mrs. Radcliffe', in *Gaston de Blondville* (New York: Arno Press, 1972), p. 16.
3. As Derrida argues, 'literature' only emerges at a 'certain period of the law' at which questions of artistic originality become central to the determination of rights of property in 'literary' works; see BL, p. 187.
4. See Nicholas Royle, *The Uncanny* (Manchester: Manchester University Press, 2003), p. 11 and fn. 34, p. 30. I would dispute Royle's assertion that the uncanny is 'quite different from the gothic scenario of [the explained supernatural]'. Royle goes on here to assert that the uncanny 'entails a sort of trembling of what is "natural": it is an involuntary querying, the experience of a hesitation and suspension concerning the very nature of the explicable'. I would argue that this is precisely the effect of the 'explained supernatural' in Radcliffe: it promotes a querying of the probable in its rationalisation into *improbability* of events that, within the generic context, are more readily explicable in terms of the supernatural. Thus it does entail a 'hesitation and suspension concerning the very nature of the explicable'.
5. James Watt, *Contesting the Gothic: Fiction, Genre and Cultural Conflict, 1764–1832* (Cambridge: Cambridge University Press).
6. See Vol. II, pp. 52–3. The conclusion interrogates the manuscript's historical origin and asserts that it is probably a later specimen than Willoughton believes. The conclusion adds a further layer to the novel's narrative frames, problematising the judgements of Willoughton (which are implicitly attributed to his romantic desire to believe the old man's story) without itself coming to any clear determination of the Chronique's 'truth'.

8

Before the Law – Godwin's *Caleb Williams*

In England in the 1790s, radical thinkers began urgently to contest the political legitimacy and ontological consistency of national law and, in so doing, they could be said almost to have anticipated elements of contemporary poststructuralist thinking.¹ In the work of William Godwin, Thomas Paine and James Mackintosh, for example, there is something close to Legendre's observation that 'every juridical system is guaranteed by a founding supposition [having] the status of a mythical justification for the system as a whole'.² In the aftermath of revolution, as the law sought to re-enforce and often seemingly to re-invent the source of its authority, it became dreadfully apparent to these writers and activists that an irrational and violent juridical order was being legitimised primarily through its myths of origin. The law 'hoodwinked' its subjects with its 'superstitions and mysteries'.³ It made itself 'sacred' through 'specious illusions'.⁴ What Paine, Godwin and their contemporaries reveal is the insidious operation of a 'poetry of power' that essentially supplements the force of law.⁵ These writers point to the 'origin' of law in a fiction that covers over an illegitimate foundational violence, a traumatic originating force that constitutes, in Žižek's terms, the 'obscene dimension' of paternal law.⁶ Godwin's *Enquiry* is a key text in terms of the emergence of a (post)modern critique of juridical power. Godwin is alive, it would appear, to the 'obscene dimension' of law. He emphasises the fictive, irrational, abject quality of the texts, symbols and institutions of English law, whilst stressing also their almost irrefutable hegemonic power. Government for Godwin exists by virtue of 'force' and 'pretence'; by these means, it 'insinuates itself' into every aspect of life.⁷ *Caleb Williams* vividly conveys this sense of what Godwin terms the 'Gothic, unintelligible burden' (p. 476) of a modern law that nevertheless posits itself as rational and benign. A seemingly

unassailable power inexorably closes in on a kind of modern juridical everyman – the hapless Caleb who cannot put his case properly before a law that defines him, disciplines him and ultimately abjects him. This novel, in its novel treatment of the law's relation to an abject juridical subject, represents a new form of literary Gothic that begins, from the 1790s onwards, to interrogate a modern juridical mythology of power. If Godwin's work anticipates in key respects a poststructuralist conceptualisation of law (and I will argue here that it does), his philosophical and literary writings also capture the traumas, complexities and contradictions of an emerging modern relation between the Gothic and the rule of law. His work constitutes a fraught engagement with the spectres and supplements that begin to fracture and disrupt juridical discourse in this period – dead kings and deathly texts, disjointed juridical temporality and even the possibility of 'justice' itself.

The law's supplements . . .

James Mackintosh's *Vindiciae Gallicae* (1791) is typical of radical responses to Burke which problematised, in particular, the inauthentic rhetorical 'performance' of *Reflections on the Revolution in France*. For Mackintosh, Burke's text is marked by an invidious tendency towards the purely literary: Burke disingenuously 'clothes' his specious argument in 'pathetic picturesque description' designed to foreclose a rational appraisal of his position through the poetic manipulation of the reader's sensibilities.⁸ Burke has produced a literary narrative of the revolution which displays the worst excesses of an undisciplined, effusive and digressive textuality:

The arrangement of his work is as singular as the matter. Availing himself of all the privileges of epistolary effusion, in their utmost latitude and laxity, he interrupts, dismisses, and resumes argument at pleasure [...] He can escape from an untenable position into a splendid declamation. He can sap the most impregnable conviction by pathos, and put to flight a host of syllogisms with a sneer. Absolved from the laws of vulgar method, he can advance a groupe of magnificent horrors to make a breach in our hearts, through which the most undisciplined rabble of arguments may enter in triumph. (pp. 91–2)

What is increasingly at issue for the radical pamphleteers of the early 1790s is precisely this recognition of the fictivity of certain privileged conceptualisations of government and of the dependence of law upon

textual constructions of ‘truth’. For his adversaries, Burke’s juridical rhetoric is but one further example of the reliance of the ancient regime upon ‘fraud and mystery, cant and sophistry’.⁹ For Burke, on the other hand, the law’s fictions are the essential ‘supplements’ of good government.¹⁰ The law comes into being, he argues, as a historically evolving body of national customs and practices that require certain aesthetic *parerga* – certain ‘pleasing allusions’ – in order to justify and endear them to the nation’s subjects over time (p. 171). These ‘aids to law’ bind the nation to its past. They re-present the authority and authenticity of national law through the evocation of that ‘long line of ancestors’ from which the law derives its legitimacy at any given moment (p. 119). These signs of the history of law (of history *as* law, law *as* history¹¹) guarantee the law’s origin, making material and preserving a temporal continuity (Burke’s entailed succession as the principle of government) that would otherwise be lost. As Burke’s more radical contemporaries were beginning to appreciate, however, such histories of legal origin will, if interrogated too closely, expose precisely the abyssal *lack* of any authentic juridical ‘Presence’ independent of narrative. Burke appears to recognise as much. The *Reflections* is haunted by a possibility so dreadful and yet so urgently real that Burke can only approach it by means of a hysterical, literary ‘performance’. Burke’s narrative of revolution both admits and seeks to disavow the abject possibility that the law’s authority might derive from nothing other than its supplements. The dissolution of these ‘pleasing illusions’ threatens to open up an ontological as well as a political abyss: beyond the law’s fictions, ‘a king is but a man’ and the nature of man is ‘naked’ and ‘shivering’ (p. 171).

The law’s persistent, necessary evocation of its ancestors, moreover, engenders a certain haunting of the law’s sacred space. The principle of succession is a mechanism for raising the dead and for subjecting the living to the dead. It ensures that juridical power is dependent upon a calling up of spectres that disrupts the law’s claim to a pure, eternal Presence beyond death. This spectrality, moreover, is related within this juridical economy (as I have argued throughout this work) to *textuality* – to the existence of the law as a (dead) textual body. For Burke, a mystical chain of signification records and transmits an unchanging ‘idea of inheritance’ that somehow manages to override the inevitable historical cycle of ‘perpetual decay’ (RRF, p. 275). For Burke’s opponents, on the other hand, the historical presence and power of the law as text reinforces a misguided allegiance to spectres, to ‘mouldy records and musty parchments’ and to a juridical violence that justifies itself with

reference to the ‘authority of the dead’.¹² This notion of the deathliness and fictivity of the law becomes an anxious preoccupation of writers in the 1790s. Their defence of revolution against Burke engenders, in particular, a re-conceptualisation of juridical history which nevertheless continues to be marked by death. In opposition to a fiction of historical continuity which allows the dead to define the rights of the living, writers such as Mackintosh, Paine and Godwin developed a theory of politics as ‘the produce of change’.¹³ In *The Rights of Man*, Paine supports this argument by means of an interesting meditation upon futurity in which he could be said to evoke the spectres of the *living dead* in order to stress the contingency of juridical subjectivity. Paine imagines his contemporaries reborn in the future and considers whether they would regard their future selves as bound by their ancestors’ (that is to say, *their own*) laws: ‘Were even ourselves to come again into existence instead of being succeeded by posterity, we have not now the right of taking from ourselves the rights which would then be ours’ (RM, p. 111). History is in such a state of flux that juridical subjectivity is in effect born anew for Paine with each generation; it is precisely in order to deny this contingency and its radical political implications that conservatives have generated oppressive fictions of constant juridical ‘time’ sustained by the inherited symbols, rituals and texts of law.

Such legal fictions re-present with each generation the names, bodies, texts and symbols that guarantee the sacred authority of the ruling paternal genealogy. This ‘imposture’, argues Godwin, enables an irrational, institutionalised force to penetrate the body and mind of the subject, producing a docile juridical subjectivity through the naturalisation of its wholly arbitrary system of signification:

To conduct this imposture with success, it is necessary to bring over to its party our eyes and our ears. Accordingly, kings are always exhibited with all the splendour of ornament, attendance and equipage [...]. The most fatal opinion that could lay hold upon the minds of their subjects is that kings are but men. Accordingly, they are carefully withdrawn from the profaneness of vulgar inspection; it is with every artifice that may dazzle our sense, and mislead our judgement. The imposture does not stop with our eyes, but addresses itself to our ears. Hence the inflated style of regal formality. The name of the king everywhere obtrudes itself upon us [...]. Our bodies and our minds are his subjects [...]. (EPJ, p. 258)

To secure reverence and obedience, the law fastens upon its subjects ‘like an incubus’. This Gothic image recalls Fuseli’s contemporary painting *The Nightmare* in which a demon squats lewdly upon the body of a young woman. For Godwin, the law *is* this demonic presence that possesses the body and ‘haunts’ the mind (p. 437).¹⁴ The implication is, though, that it does so only in *dreaming*. The law’s ‘Gothic, unintelligible burden’ constitutes a nightmare from which an essentially rational humanity can and must awake (p. 476). Throughout the *Political Enquiry*, Godwin evokes a notion of ‘truth’ that is the opposite of ‘dreaming’. The human mind and the human community have a ‘true foundation’ which is obscured by the nightmares induced by government. The present order of things is thus not ‘the genuine nature of things’, from which it follows for Godwin that the law’s fictions are capable of dissolution to reveal a pure truth and justice beyond the ‘artifice’ of government (p. 440). Godwin seeks to replace the haunting, duplicitous fictivity of law with a renewed, rationalised ideal of justice that conforms to ‘omnipotent Truth’. What this amounts to, however, is the formulation of a further contingent legal fiction, a logocentric mythologisation of ‘Justice’ that remains contaminated by the dangerous, delusional textuality it seeks to reject. In particular, I will argue, there is certain essential ‘supplement’ to justice in the *Enquiry*; it takes the form of a textual excess, a ‘trace’ of fictivity that constitutes, from a Derridean perspective, the necessary yet disruptive condition of possibility of Godwin’s case for Justice.

... Justice, for example

Godwin’s *Enquiry* attacks the two essential ‘supplements’ of the Burkean juridical economy: the law’s deceptive rhetoric and the notion of juridical temporality which binds present and future legal subjects to the dead. Godwin contests what Derrida identifies as the foundational command through which the law re-presents and re-authorises itself in the present.¹⁵ The command to ‘Swear!’ binds the present legal subject to a paternal name that is projected back into history to constitute a fiction of legitimate juridical origin. Godwin is alive to the fictivity of the claims that the law makes for itself and to the violence implicit within the command to ‘Swear!’ All juridical promises are dependent for Godwin upon an erroneous ‘principle of permanence’ against which he insists (like Paine) upon a radical temporal discontinuity which divests promissory rhetoric of its force and uncouples juridical subjects from their past *and* their future.¹⁶ Godwin’s dismissal of an oppressive, Burkean juridical ‘time’ (the irrational force of ‘entailed succession’) suggests an

alternative notion of ‘justice’ as existing independently of a law that can only operate through the evocation of death. Justice could be said to exist for Godwin only in a radically contingent moment of living, present, non-judicial, non-representable ‘time’. As Angela Esterhammer suggests, these gestures begin to resemble the deconstructivist critique of performative language and to suggest a conceptualisation of ‘justice’ that is almost Derridean.¹⁷ Unbound from a juridical economy that does violence to justice, that forces justice to re-present and reiterate itself through the specious and deathly rhetoric of law, the notion of justice that Godwin’s analysis hints at here cannot be brought into being through the evocation of names, the symbolic raising of the dead, the repetition of promises or the citation of precedents. There is no certainty in the past that might guarantee justice in the future: ‘new information’ is perpetually arising that demands a constant, careful revision of how justice might emerge ‘at some future period’ (EPJ, p. 220). Justice must take place, as Derrida contends, within a moment of undecidability that is outside the law’s temporal scheme and that resists its command to ‘Swear!’¹⁸ One might say that this Godwinian–Derridean ‘justice’ is never *exemplary* – it does not conform to some pre-existing precedent that might bind the present to the past, the living to the dead. ‘Justice always addresses itself to singularity’ (SM, p. 20): it exists only as the singular, unrepeatable special case.

The horizon of Godwin’s potentially radical conceptualisation of justice, however, remains his commitment to an ideal of non-fictive ‘truth’ that does indeed provide the exemplary Idea to which justice must conform. Justice as *logos* transcends the corrupt sophistry of legal discourse through its reiteration of an unchanging ‘omnipotent Truth’ (EPJ, p. 140). This remains the basis of Godwin’s opposition to the absurd and oppressive fictions of counter-revolutionary legal discourse; it is Godwin’s version of Cicero’s juridical ideal – the ‘Eternal law’ – that is beyond the contingencies of history, writing and death.¹⁹ Even this ideal of ‘truth’, however, requires its supplement, its *pharmakon*, to operate effectively; its influence depends somewhat perilously upon the ‘darkening’, contaminating rhetoric that must make truth known within the social domain.²⁰ There is, in the early volumes of the *Enquiry*, a persistent, nagging anxiety that ‘truth’ might be misappropriated and misrepresented by those who are not its proper advocates. Godwin’s meticulous exposure of the fantastical sophistry of so effective a communicator as Edmund Burke suggests the potential fictivity of all that passes for ‘truth’, and Godwin’s argument thus runs the risk of its own abysmal failure of meaning. Truth is in danger of becoming an entirely

rhetorical construct, its efficacy dependent upon its being ‘adequately communicated’. Thus, whilst ‘truth is omnipotent’, argues Godwin, he has to concede that ‘it would be absurd to affirm that truth, unaccompanied by the evidence which proves it to be such, or when that evidence is partially and imperfectly stated, has any such property’ (p. 140). Truth only offers a rational foundation for justice in so far as the evidence supports it; its case must be correctly and persuasively put if it is to function as an effective antidote to the beguiling legal fictions of Burke *et al.* Godwin must cultivate a sophisticated juridical rhetoric of his own in order to convey the ‘truth’ of *his* case; he must cite appropriate examples of the operation of an as yet unrealised ideal of justice. He must create a convincing fiction of Justice as *logos*.

‘Take precisely this example’. According to Derrida, logocentric discourse functions according to the principle of exemplarity; precedents must be cited in order to support an Idea that is nevertheless considered to exist absolutely apart from the particularity of the example. The exemplary case supplements the Idea: that is all. But, Derrida argues, the exemplary case also subversively suggests *more than* the Idea. Like the preambles, frames and other *parerga* which contaminate intellectual or aesthetic discourses they are meant only to support, the ‘example itself, as such, overflows its singularity as much as its identity’.²¹ It becomes the essential supplementary principle which creates the Idea in terms of contingent instances of how it might be said to exist, and all discourses, Derrida contends, are caught up in this ‘performative fiction which consists in saying “take precisely this example”’ (p. 18). In the *Enquiry*, Godwin gives an example of the operation of justice. He imagines a burning palace in which two individuals are trapped. A rescuer outside has the opportunity to save only one of these unfortunates. One happens to be the Archbishop of Cambay, Fénelon; the other is his valet. Universal justice demands that the rescuer save the life of Fénelon as ‘more conducive to the general good’ (EPJ, p. 169). Then, to further support his case, Godwin imagines the valet to be a relative of the rescuer; the rescuer must still justly save Fénelon. This case I will take as exemplary of the position of the Godwinian subject before the law.

Godwin’s theorisation of justice reiterates the ideal of an eternal, unwritten Law, a Law that is beyond history, corporeality and textuality, a Law that remains untouched by death. Godwin’s exemplary fiction of justice, however, evokes death. Indeed, it evokes sacrifice. Like Antigone, the subject of this example is asked to choose between his own flesh and blood and a transcendental Law of the community. Unlike Antigone,

however, this exemplary subject chooses appropriately; he pledges allegiance to the Father. Interestingly, moreover, Godwin chooses a burning palace rather than, say, a raging river in order to enact the scene of death through which justice comes into being. The palace is the dwelling place of the Father; it is the 'archive' as the original, domestic space of the law's guardian – the place of 'commencement' and 'command'.²² This privileged space is consumed by a fire the cause of which is unclear. Did it begin by accident or design? The origin of the scene of this sacrifice is obscure; the fire simply rages on and demands that the subject choose to subordinate his familial ties to the Paternal law. The subject must enter this deathly place – presumably getting burned in the process – in order to emerge as the 'just' subject, as the pained subject of Justice as *Logos*. Like the drama of *Antigone*, this fiction becomes exemplary of the traumatic, uncanny relation of the subject to a deathly, irrational power that brings the juridical self into being through sacrifice.

Godwin, moreover, says nothing about mourning in this piece. Someone is reduced to ashes and passes unnamed and unmourned in order that justice might come into being. In the essay *Cinders*, Derrida returns to the question of mourning and its relation to *differance*. In particular, he seeks to respond to the 'spectres' that appear to him, with hindsight, to have haunted his own work, unnamed and unmourned. He observes a persistent yet unacknowledged evocation of ashes, or cinders in his work, and this recognition of a certain 'supplement' within his own texts leads him to consider whether '[cinders might be] the better paradigm for what I call the trace – something that erases itself totally, radically, while presenting itself'.²³ Cinders are the remnant of *differance*, the abject supplement of a 'truth' made sacred through ritual burning: 'Pure is the word. It calls for fire' (p. 37). The remnants of this sacrifice, moreover, are located within a domestic space, the space of the archive/house of paternal law: 'there are cinders only in so far as there is the hearth, the fireplace, some fire or place. Cinder as the house of being ...' (p. 41). Cinders become exemplary, one might say, of an almost absent 'trace' which is the essential yet abjected supplement of the 'house of being'. This burnt-out trace of sacrifice remains as the deathly presence/absence 'compelled into' the law's 'crypt' (p. 55). In seeking to come to terms with these spectres/cinders, Derrida admits and interrogates his own implication within this economy of sacrifice. In Godwin, the scene of justice remains the 'place of burning' within which an exemplary subject sacrifices an unnamed, unmourned body – his own flesh and blood – to the law of the Father.

Before the law

There is an extremely significant scene of burning in Godwin’s *Caleb Williams*. Falkland’s ancestral home catches fire and Caleb first resolves, like a dutiful servant, to rescue Falkland’s valuables. Caleb’s insatiable curiosity, however, turns him instead to a locked chest in a private closet which he believes contains Falkland’s confession to the murder of Tyrrel. Caleb chooses to preserve not the symbols of Falkland’s authority, but the deadly secret that threatens to destroy Falkland *and* Caleb. Through the power dynamic between Falkland and Caleb, Godwin interrogates the abject juridical order that gives shape to this dynamic whilst also seeking to articulate an ideal of ‘justice’ that might vindicate Caleb. I argue, however, that what becomes apparent within this conflicted and multi-layered Gothic narrative is the unstable, excessive fictivity that supplements and subverts the force of law *and* the Godwinian ideal of justice. For the question remains even after two alternative endings to the text have explored two distinct possibilities – does Caleb make the right choice? Does Caleb emerge from the fire as the *subject of justice*?

Godwin’s first novel was intended to supplement the intellectual and political project of the *Political Enquiry*, to make plain the violence and irrationality of late-eighteenth-century law and the fictions that functioned to keep it in place. It is initially through Tyrrel’s persecution of Hawkins and Catherine (both of whom are entirely dependent upon Tyrrel’s patronage) that the text begins to expose the arbitrary brutality of a legal regime perpetuated and legitimised through juridical narratives of national tradition, genealogical purity, nobility and masculine ‘honour’. It is eventually through the almost complete subordination of Caleb to Falkland’s vengeful will, however, that the novel reveals the extent of the law’s violent excesses: the law transforms Falkland’s will to power into its own murderous machinations. Falkland is, for all of his apparent chivalric virtue, driven by a code of vengeance every bit as extreme as that of Tyrrel, to the extent that any distinction between the ‘tyrant’ Tyrrel and the ‘just’ Falkland is superficial, if not untenable. Like Athlin in Radcliffe’s first romance (only more so), Falkland emerges initially as a benevolent, paternalistic ruler. He becomes Caleb’s patron – his father, almost. He intervenes on behalf of Hawkins and Catherine as Tyrrel drives them to destruction. His notion of honour coupled with his aesthetic refinement and highly developed sensibility evoke the heroic ideal so prevalent in earlier Gothic fictions and so important in this period to an ideological re-shaping of the nation’s political, cultural and historical sense of itself. Falkland is the protector

of the weak and particularly of women. He is a poet, a man of sensibility who is almost effeminate in appearance but who is nevertheless resolute, courageous. He is the quintessential English gentleman, the inheritor of an ancient, chivalric Gothic/English ideal which he re-forms into a civilised, contemporary model of national virtue. It is this fiction of national power and identity that dissolves in *Caleb Williams*. What motivates Falkland's murder of Tyrrel is not Tyrrel's persecution of the weak, but his affront to Falkland's 'honour'. Falkland's devotion to his paternal 'Name' transforms him into a tyrant every bit as ruthless as his enemy. 'Disgrace is worse than death',²⁴ he claims, and 'disgrace' is indeed a form of death for Falkland; his loss of 'reputation' would obliterate his privileged juridical subjectivity. The text, in its representation of Falkland's brutal defence of his 'honour' at Caleb's expense, blurs to the point of disintegration the demarcation between the benign patron and the murderous tyrant. As in Radcliffe's *The Castles of Athlin and Dunbayne* (only, again, more so), the seemingly benevolent representative of a stable, paternalistic order of law emerges as the enforcer of a juridical code that 'stems from vengeance'.²⁵ The Burkean romance of law is exposed as the abject will to power of the paternal 'Name'. Falkland's 'vengeance' is 'insatiable' and his power almost unlimited (CW, p. 139). Falkland compares himself to God; he becomes the embodiment of a seemingly omniscient, omnipresent force of law. He pursues Caleb with 'superhuman' efficiency and, as Caleb becomes inescapably the victim of Falkland's inexhaustible techniques of persecution, he begins to prefigure the modern legal subject 'ensnared' within an economy of power that constructs, scrutinises, disciplines and, where necessary, obliterates juridical subjectivity (p. 169).

In so far as Caleb's relation to Falkland anticipates the relation between the modern state and its subjects, *Caleb Williams* can be seen to mark a shift in the Gothic novel's interrogation of power. Caleb Williams reflects Godwin's concern in the *Enquiry* that modern government 'insinuates itself' into the lives of its subjects, combining an increasingly rigorous and methodical operation of force with a mysterious 'pretence' that obscures its violence. The relation between Falkland and Caleb, moreover, achieves an almost perverse level of interdependency which reveals the extent to which the modern subject is bound to the law not only by force, but by desire. The relation of Falkland to Caleb is a paternal relation stained by a guilty secret that the 'son' must possess. This secret is, in Žižekian terms, the obscene 'truth' about the father's hidden transgression of his own law. It points to the traumatic contingency of the father's 'Name', to the illegitimacy of a law founded

in nothing more than an irrational and excessive force. This obscene ‘truth’ about the law is dreadfully fascinating to the juridical subject whom it seduces and repels. In the first two volumes of *Caleb Williams*, Caleb is driven against what he posits as his better judgement to expose Falkland’s secret. It becomes a form of madness, a ‘boiling passion’, a ‘frenzy’ (p. 139). Caleb, moreover, clearly wishes to be caught; he ensures that his father/patron discovers his transgression. The struggle between the two men – the one to hide his guilty secret and the other to reveal it and to reveal himself in the act of transgressing – comes to a head during the fire that threatens to consume the seat of Falkland’s power. Caleb chooses to let Falkland’s ancestral home burn. He seeks instead to preserve Falkland’s *guilt*. He desires to uncover Falkland’s secret and to make apparent his own transgression through a ‘choice’ that Caleb cannot interpret as such. Rather, he speaks of an ‘act of insanity’ that ‘passes like a dream’ (p. 139). Repeatedly he stresses that he is ‘at a loss to account for’ such blatant betrayals of his patron, whilst confessing at the same time to ‘a kind of rapture’ in contemplating them (pp. 135, 139). What Caleb will not admit is what Žižek terms the son’s ‘obscene enjoyment’ of the father’s guilt.²⁶ This enjoyment becomes Caleb’s own guilty secret, an insane, obscene ‘truth’ about his desire in relation to the father that threatens the very ground of his being. Caleb thus ensures that his transgression (if not his enjoyment of it) is exposed by means of a range of irrational acts that absolutely guarantee that Falkland will find him out. In this manner, Caleb to some extent ‘takes the [father’s] guilt upon himself’ (EYS, p. 39). Within the economy of power that binds Caleb to Falkland, Caleb’s insatiable curiosity, driven by guilty enjoyment, becomes the corollary of Falkland’s ‘insatiable vengeance’ against the rebellious son: both guarantee Caleb’s destruction.

Through this relationship, the text figures the relation of the law to its subjects as a ‘somasochistic configuration’ of power and desire by means of which the law binds its subjects to itself through violence and guilt.²⁷ The novel leaves no room ultimately for the ideal of ‘omnipotent truth’ which is meant to give meaning to justice in the *Political Enquiry*. The power dynamic between Caleb and Falkland dissolves the ‘sacred sphere’ of rational selfhood which defines the autonomous agent of justice in the *Enquiry*.²⁸ In *Caleb Williams*, power thoroughly ‘infiltrates’ the body and mind of the subject such that the idea of autonomous identity independent of law appears unsustainable: the subject is always already under the law’s command. What makes this plain in particular is the bizarre punishment to which Caleb is subjected. Falkland does not bring Caleb to justice, so to speak, in this text. In spite of his ability

to frame Caleb for fictitious crimes, he does not formally prosecute Caleb according to the law. During the first interrogation of Caleb in respect of an alleged theft, Falkland insists that he will not invoke the full extent of the criminal law against Caleb. Instead, he appeals disingenuously to an older code that he claims must govern his conduct in respect of Caleb, a code of 'honour and not law' (CW, p. 182). He proceeds to subject Caleb to an endless 'unofficial' persecution which he has the juridical authority to sustain and which Caleb is powerless to oppose. This is a punishment that almost seems to suspend the 'proper' operation of the law, that appears to take place *outside* the law's public domain. Nevertheless, this unsanctioned persecution is the only possible response to Caleb's 'insane' exposure of the hidden, obscene condition of the father's power (p. 138). Caleb's transgression is not simply a crime that might properly and publicly be punished according to the law; it disrupts the law's very condition of being – its successful re-presentation within the public domain of its fiction of legitimacy. Caleb cannot be 'lawfully' condemned since his public condemnation would expose the illegitimacy of the law's assumed authority over life and death. One might say that Caleb becomes 'obscene supplement' of law, the living/dead *thing* that must be kept at the margins of the law as the remainder/reminder of the law's own transgression. Once Caleb has partaken of his patron's guilt, his patron must keep him in existence if not exactly, in any proper juridical sense, alive. Caleb ceases to function as a juridical subject. He is perpetually ostracised and unable to put his case. He exists as a living-dead thing before a law that demands precisely his *existence* as *nothing*. Outlawed and barely sane, Caleb's punishment is to live on loaded with guilt – his own and the law's.

Caleb's punishment, then, appears to exceed the proper limit of the law whilst nevertheless conforming to a hidden logic of power that sustains that law. Significantly, during Caleb's first 'trial' averred to above, the logic of power that compels Falkland's persecution of Caleb is related by Falkland to 'honour' and by the magistrate to 'romance'. Falkland seeks to justify his circumvention of the law's proper processes through an appeal to something that he posits as greater than the law – an ideal of chivalric 'honour' that appears to demand some leniency on the part of the master towards his subject. The magistrate dismisses Falkland's 'logic' as 'the language of romance, not reason' (p. 182). Codes of chivalry, however noble, are too primitive to hold sway over the administration of a modern, rational criminal law. Falkland prevails, however, precisely because this ideal *does* still hold sway. Falkland is believed because he is considered 'honourable'; he is the

benevolent father/patron whose appeal to the ‘romance’ of chivalry within a modern context is more than merely a quaint, if misguided evocation of the past: it is an entirely appropriate justification of his right to rule, albeit one that must be superficially disputed by a modern law that ostensibly operates according to ‘the language of reason’. What *Caleb Williams* reveals, and what radical legal discourse was beginning to articulate in a variety of contexts in this decade, is that ‘the language of romance’ is the language of a modern juridical code that ‘intrudes into every rank of society’, that ‘infiltrates’ the body and mind of the subject as it begins in the modern era to combine new techniques of discipline with the ‘Gothic unintelligible burden’ of its fictions.

What is more, the novel’s challenge to the law’s fictions leads ultimately to a problematisation of fictivity itself. As in the *Political Enquiry*, there is a tension in *Caleb Williams* between the ideal of truth as something other than the rhetoric, or romance of law, and the textuality that appears nevertheless essential to the presence of ‘truth’ within the social domain. Early on in life – in his formative years – Caleb is a consumer of romance. The novel rehearses the common contemporary arguments against the influence of romance; Caleb becomes a dreamer whose literary sensibilities in part motivate his fatal curiosity in respect of Falkland’s past. If romance leads to dreaming, though, it also points towards the truth about Falkland. It is the *pharmakon* that allows Caleb dangerously to ‘read’ Falkland. Caleb speculates about Falkland’s character and history as if engaging in an act of textual interpretation and textuality is indeed highly significant to the formation of the relationship between Falkland and Caleb. Falkland dictates literary compositions to Caleb and the two of them enjoy an intimacy early on that is based upon the sharing of texts. Caleb becomes Falkland’s librarian, the protector of his textual inheritance – his archive. It is in a closet adjoining the library that Caleb seeks out Falkland’s confession as the rest of the archive/house burns. The romance of power that develops between Caleb and Falkland functions in part through the composition, dissemination, appropriation and misappropriation of texts. Caleb’s ability to read and narrate events appropriately becomes his key strategy for surviving a persecution that more often than not takes the form of narrative violence. Falkland spreads lies about Caleb that come ultimately to constitute the ‘reality’ of Caleb’s identity. Within the public domain, there is nothing left of Caleb but the fictions Falkland creates about him; the ‘sacred’ idea of Caleb as autonomous subject dissolves into the fiction of Caleb as outlaw which circulates uncontrollably within a literary and juridical economy of narrative power. Gines,

Falkland's agent, supplements Falkland's more measured fictions with a sensational criminal 'biography' of Caleb which Caleb finds on sale in London. He begins to feel utterly disassociated not only from society, but from his own fluctuating, elusive 'true' identity. He adopts various highly successful disguises as a means of escape, but finds them burdensome precisely because of their efficacy: his 'self' too easily mutates into something as apparently insubstantial as the notorious 'Caleb Williams' of Gines's fiction. Caleb continues to believe, however, that it will be possible for him to present his case – his 'self' – truthfully to the law. He remains convinced that, should the opportunity arise, he will be able to acquit himself. He is mistaken. First, under the influence of Falkland, Caleb has become the sort of subject who cannot be believed; Falkland's fictions have divested him of any capacity to represent himself truthfully before the law. Secondly, though, and even more problematically, even if Caleb *could* present his case effectively, his guilt would remain. With its duel endings, *Caleb Williams* narrates both possibilities – that Caleb is believed and that he is not – and both scenarios result in loss for Caleb.

The published ending of *Caleb Williams* takes the form of a postscript. In the final chapter before this addendum, Caleb learns from Gines the form that Falkland's persecution is henceforth to take. Caleb will be unable to leave England in spite of the fact that Falkland has ensured that Caleb will not be welcome in any English community. 'The Squire has determined you shall never pass the reach of his disposal', says Gines, and this information triggers a 'revolution' in Caleb's body and mind (p. 324). Until this point, Caleb had merely sought to escape Falkland's wrath; he now resolves to exact revenge:

I will tell a tale –! The justice of the country shall hear me! The elements of nature in universal uproar shall not interrupt me! I will speak with a voice more fearful than thunder! (p. 325)

Interestingly, Caleb evokes the words of the ghost of Hamlet's father twice here: 'I will unfold a tale! [...] I will tell a tale!' Unlike Hamlet, however, Caleb will not be driven to violence; rather, he will use 'this engine, this little pen' to expose the truth about Falkland and thus to destroy the dearest thing to him – the integrity of his paternal 'Name': 'His fame shall not be as immortal as he thinks. These papers shall preserve the truth' (p. 325). As this chapter draws to an end, Caleb reflects upon the memoir he has produced; he commits his history to posterity in the hope that 'the world will do justice to us both'. Again,

it is narrative power that is at issue here; Caleb opposes the ‘truth’ of his text to the fictions circulated by Falkland and Gines. Textuality becomes Caleb’s ultimate weapon against the ‘omniscient eye’ of his persecutor. He consigns his papers to Collins whom he now addresses, in a repudiation of the symbolic power of his previous patron/master, as ‘father’: ‘Preserve these papers from destruction, and preserve them from Falkland!’ (p. 326). The chapter ends ominously with Caleb’s sense that Falkland might yet destroy him: ‘I know not what it is that renders me thus solemn. I have a secret foreboding, as if I should never again be master of myself’ (p. 326).

Following this chapter is the postscript written by Caleb following Falkland’s trial. Caleb reports verbatim his long, eloquent discourse to the magistrate which has succeeded in establishing Falkland’s guilt. Caleb’s legal victory, however, does not assuage *his* guilt at seeing Falkland in the courtroom ‘with the appearance of a corpse’. Falkland dies three days after the trial and Caleb concludes, ‘I have been his murderer’ (pp. 329, 336). Caleb escapes Falkland’s persecution only to remain haunted by the abject figure of his master:

His figure is ever in imagination before me. Waking or sleeping, I still behold him. He seems mildly to expostulate with me for my unfeeling behaviour. I live the devoted victim of constant reproach. Alas! I am the same Caleb Williams that so short a time ago boasted that, however great were the calamities I endured, I was still innocent. (p. 336)

Caleb’s narrative, far from vindicating him, seals the guilt that he has ‘taken upon himself’.²⁹ In exposing the crime of the father, he destroys the fiction of his own innocence. He can no longer assert that he was only ever acting ‘justly’ in uncovering Falkland’s secret and seeking to bring him to law; he must acknowledge his enjoyment of Falkland’s guilt and ‘endure the penalty of *my crime* [my emphasis]’ (p. 336). Caleb finishes in mourning for the lost father murdered by the son’s ‘wanton’, obscene transgression: ‘Falkland! I will think only of thee, and from that thought will draw ever-fresh nourishment for my sorrows!’

This, though, is still not the end of Caleb. Godwin’s novel is, one might say, haunted by an alternative history which positions Caleb differently before the law. In the original unpublished ending of *Caleb Williams*, Caleb fails to convince the court of Falkland’s guilt. The case which he presents to the magistrate is not recited verbatim here, as it is in the second published ending, but rather summarised and problematised.

The eloquent rhetoric which conveys the ‘truth’ of Caleb’s case in the published text is not reproduced here; rather, Caleb describes himself invoking ‘justice’ ineffectually before the court:

I said I stood there for justice. I observed that it was of consequence, in a degree beyond any thing they could suspect, that justice should be done. I intreated them by every thing that was honourable, I conjured them by every thing that was tremendous, to deal impartially and truly. I spoke with a rapidity, perturbation and vehemence that were absolutely alarming to my hears. I offered to produce witnesses of the symptoms guilt which Mr. Falkland had long continued to display, of the early date of my accusations against him, and of the mischiefs I was every day suffering from his unremitting jealousy. (p. 342)

The contrasting outcomes of this trial, and the manner in which they are related, suggest the disturbing, uncertain relation between ‘truth’ and ‘the phraseology it contains’ (EPJ, p. 139). Narrative power, which throughout has sustained the perverse intimacy between Falkland and Caleb, fails Caleb completely here. Falkland’s fictions prevail over ‘justice’ and, as Caleb contemplates defeat, his narrative breaks down almost entirely. In a second short postscript addressed to Collins, Caleb is ill and close to madness. He can neither write coherently nor remember the details of what he has written. His history has become a ‘blank’ and Caleb ends by writing his own obituary – an epitaph for a living-dead man: ‘Nobody can complain of me – all day long I do nothing – am a stone – a GRAVESTONE! – an obelisk to tell you, HERE LIES WHAT WAS ONCE A MAN!’ (p. 346).

A gravestone is not only a monument to the dead, of course, but also in a sense a monument to the law that survives the dead. It is inscribed with the name of the deceased – the paternal ‘Name’ which brings the juridical subject into being before the law and which survives his death. As ‘gravestone’, Caleb becomes a monument to his own juridical identity, which has ceased to exist, and a monument also to the law that has destroyed that identity. Monuments guarantee the law’s continuity, even as they mark its abject relation to death. As ‘gravestone’, Caleb is the living-dead presence that guarantees the continuation of the force of law, but which also haunts and unhinges it. Whatever his ending, Caleb occupies the cryptic space within the law. Either as the guilty subject of obscene enjoyment or as ‘gravestone’, Caleb is the stain, the ‘black letter’ that signifies the Gothic in the rule of law.

Notes

1. See Angela Esterhammer, ‘Godwin’s suspicion of speech acts’, *Studies in Romanticism*, 39 (2000), pp. 553–78.
2. Pierre Legendre, *Leçons: L’Inestimable Objet de la Transmission* (Paris: Fayard, 1985), p. 240.
3. Thomas Paine, *The Rights of Man* (New York: Prometheus Books, 1984), pp. 110, 116. Hereafter RM.
4. William Godwin, *Enquiry Concerning Political Justice*, 3rd edn (London: Penguin Books, 1985), p. 508. Hereafter EPJ.
5. Alan Pottage, ‘The paternity of law’, in *Politics, Postmodernity and Critical Legal Studies*, Douzinas and Goodrich (eds) (London: Routledge, 1994), p. 150.
6. Slavoj Žižek, *The Plague of Fantasies* (London: Verso, 1997), p. 73.
7. Godwin, EPJ, pp. 81, 239, 441.
8. James Mackintosh, ‘Vindiciae Gallicae: Defence of the French revolution and its English admirers against the accusations of the right Hon. Edmund Burke’, in *Burke, Paine, Godwin and the Revolution Controversy*, Marilyn Butler (ed.) (Cambridge: Cambridge University Press, 1984), p. 91. Hereafter VG.
9. Paine, RM, p. 110.
10. Edmund Burke, *Reflections of the Revolution in France* (London: Penguin Books, 1984), p. 172. Hereafter RRF.
11. See Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International* (London: Routledge, 1994), p. 24. Hereafter SM.
12. Paine, RM, p. 282.
13. Mackintosh, VG, p. 93.
14. Godwin, EPJ, p. 437. Godwin insists, moreover, that the anxieties engendered by government afflict the *rulers* as well as the ruled; he presents a vivid account of the paranoid ruler ‘haunted’ by the possibility that the force and pretence of law might fail.
15. Derrida, SM, p. 21.
16. Godwin, EPJ, p. 220.
17. Angela Esterhammer, ‘Godwin’s suspicion of speech acts’, *Studies in Romanticism*, 39 (2000), pp. 553–78.
18. Derrida, SM, p. 27: ‘Justice remains, is yet, to come, *à-venir*, the very dimension of events irreducibly to come.’
19. Cicero, ‘On the Laws’, Book 2, 8–15, in *Introduction to Jurisprudence and Legal Theory: Commentary and Materials*, Penner, Schiff and Nobles (eds) (Oxford: Oxford University Press, 2002), p. 49.
20. Godwin, EPJ, p. 139. Truth has a tendency to be ‘extremely darkened by the phraseology it contains’.
21. Derrida, ‘Passions’, in *On The Name* (Stanford: Stanford University Press, 1994), p. 17.
22. Derrida, *Archive Fever: A Freudian Impression* (Chicago: Chicago University Press, 1995), p. 1.
23. Derrida, *Cinders* (Nebraska: University of Nebraska Press, 1991), p. 1.
24. William Godwin, *Caleb Williams* (London: Penguin, 1988), p. 98.
25. Derrida, SM, p. 21.
26. Slavov Žižek, *Enjoy Your Symptom!* (London: Routledge, 2001), pp. 124–5. Hereafter EYS.

27. George Haggerty, 'The end of history: Identity and dissolution in apocalyptic gothic', *Eighteenth Century: Theory and Interpretation*, 41 (2000), p. 225.
28. Godwin, EPJ, p. 257. See Robert Anderson, "'Ruinous Mixture": Godwin, enclosure and the associated self', *Studies in Romanticism*, 39 (2000), pp. 617–45.
29. Žižek, EYS, p. 125.

9

In Excess – Godwin’s *St Leon* and Maturin’s *Melmoth the Wanderer*

Caleb Williams shifts the focus of the Gothic towards new narratives of power and, in particular, towards an engagement with a modern juridical force that reproduces its authority through the construction of a deeply conflicted, abject juridical subjectivity. This chapter considers Godwin’s *St Leon*, and Charles Maturin’s *Melmoth the Wanderer* from the perspective developed in relation to Godwin’s first novel. These texts, I will argue, posit the juridical subject as the *guilty* subject, revealing the relation between power and desire that prevails within the modern legal economy and that begins in this period to characterise the modern law’s perverse relation to the abject juridical subject. Whereas the protagonists of earlier Gothic fictions were able often to come to terms, albeit ambivalently, with a re-instituted order of power, the outcast villain/victims of Godwin and Maturin could neither fulfil the law’s command nor effectively repudiate it. Indeed, as this chapter will argue, the very terms of the law’s address to the subject appear to be changing. The law’s command is no longer exclusively to ‘Swear!’ (where this command entails a certain renunciation of desire on the part of the subject), but also to ‘Enjoy!’¹ Within an emerging economy that demands over-production and over-consumption – that depends upon unlimited excess – *St Leon* and *Melmoth* emerge as subjects condemned to a perpetual, perverse enjoyment. Godwin and Maturin’s fictions are thus related to each other, and to some extent distanced from earlier Gothic works, by, as David Punter puts it, ‘a particular kind of modernity’.²

‘Swear!’/‘Enjoy!’ – *St Leon*’s guilty subject

The preface to the first edition of *St Leon*, and the advertisement to the second edition of 1831, mediate between a text that Godwin clearly

regards as partially problematic, and a wider literary context within which certain expectations of authors and their work could be said to be policing the production and reception of fiction. The 1831 advertisement acknowledges, for example, the growing desire on the part of readers for information concerning authors and their motivations; Godwin thus relates how he came to write *St Leon* in 1798 with reference back to the favourable reception of *Caleb Williams* several years earlier.³ The preface of 1798 evinces more of a concern with questions of literary origin and authority, even repeating the ambivalent authenticating gestures of earlier Gothic fictions in suggesting that there might be a genuine historical source for the tale. Godwin is seeking to justify why it is that he feels entitled to write and publish this work and to have it read not only for its ‘novelty’ by the frequenters of the circulating libraries, but for its intellectual seriousness by even ‘the severest judges’ (p. xxxiii). To strengthen this sense of the fiction’s intellectual gravity and creative legitimacy, the preface acknowledges the ideological hold of Shakespeare as a founding father who empowers the writer seeking to ‘imagine [the] new’ (p. xxxiii). This preface also implicitly invokes, in support of *St Leon*, the second preface of Walpole’s *The Castle of Otranto*: the credible blending of human ‘passions’ with the marvels of old romance is given as a justification for the creation of a new form of literary Gothicism. Supporting this text, then, is a body of precedent that Godwin must cite in order to ‘pardon the boldness and irregularity’ of his unorthodox creation and even, he hopes, to have it ultimately ‘rank among the classics of the language’ (p. xxxiii).

What both of these prefaces suggest is an anxiety on Godwin’s part as to the legitimacy of literary creativity per se. A potentially ‘irregular’ literary imagination must be disciplined through the observance of proper literary and historical precedents, through conformity to certain ‘laws’ of textual production. This unease as to the creative impulse is evident in the early chapters of *Caleb Williams*, in which Caleb’s overactive imagination (dangerously stimulated by romance fiction) motivates the ‘frenzied’ curiosity that compels Caleb to pry into Falkland’s past.⁴ In the opening chapter of *St Leon*, a similar anxiety emerges as to the potential reach of the ‘human imagination’ (SL, p. 1). It is immediately cited as the origin of that human striving after power, knowledge and novelty that has apparently been the narrator’s downfall. This compulsion – this striving after some unreachable excellence – seems to take the form here of an almost objectless and limitless drive which (like the creative impulse itself, one could argue) has the capacity to possess and destroy the subject. This Promethean drive towards some *thing* that

is 'brilliant and enviable' has clearly been the ruin of Leon and, by recording his experiences, he hopes that he might disabuse the reader of the fantasy that any individual might benefit from the secret knowledge he has come to possess (p. 2). Leon's narrative, it is clear from the outset, is a narrative of loss; indeed, Leon significantly suggests here that the very condition of narration of his Promethean drama is trauma. If the drive that has compelled Leon to uncover 'the great secret of nature' were capable of proper fulfilment, there would be nothing to narrate. Leon would exist in an almost death-like state, 'too calm and motionless to attract the attention or interest the passions of the reader' (p. 3). The fact that there *is* a memoir remaining after the subject has supposedly satisfied his ultimate desire is evidence of the impossibility of the proper fulfilment of that desire, for what is at issue here is not the attainment of some specific end, but the impractical realisation within the symbolic order of the 'Freudian drive' – the pleasure principle.⁵ The satisfaction of this drive within the symbolic economy is prevented by an 'internal limit' operating within the psyche itself which closes off access to pure, limitless, objectless pleasure. Following Lacan, Žižek theorises this 'limit' as the Real, the 'inherent, internal excess which impedes from within the smooth running of the psychic apparatus as its immanent antagonism' (EYS, p. 49). *St Leon*, I will argue, symbolises this antagonism through the fiction of the (im)possible attainment of some specific end; it reproduces the fantasy of the Promethean man who accesses the ultimate, prohibited 'secret' only in order to suffer for it. Such fantasies, argues Žižek, narrate the trauma of the subject's entry into the symbolic domain; they are inevitably narratives of loss, for without such loss, as *St Leon* suggests at the beginning of his memoir, there would be absolutely nothing to say, no 'motion', no 'passion'. These fantasies exist in order to narrate trauma to and for the subject; they constitute 'the primordial form of narrative [...] emerging in order to resolve some fundamental antagonism by arranging its terms into temporal succession'.⁶ This theorisation of the function of fantasy within this context is vital to an understanding of the emergence of a certain form of Gothic fiction in the early nineteenth century and its relation to the modern rule of law.

Godwin's appropriation of this 'primordial form of narrative' constitutes a shift in the Gothic's relation to juridical power, a shift anticipated in *Caleb Williams* and expressed with increasing urgency in what might be termed the 'monster' narratives of nineteenth-century Gothic.⁷ Žižek contends (and this has been considered in Chapter 1) that a certain traumatic excess, a 'fundamental antagonism', determines that the relation of the subject to 'external reality' will be constituted 'by means of a

primordial act of rejection: the subject rejects, externalises its immanent self-impediment, the vicious circle of drive antagonism'.⁸ This act of rejection marks the inception of individual subjectivity *and* the law of the community; the law and the juridical subject emerge in opposition to an 'experience of the abyss' which demands the psychic and social externalisation of the 'abject' and the 'sacred' in the form of the law's 'symbolic fictions' (EYS, pp. 50, 52). What Godwin's work reveals is the extent to which an emerging capitalist economy – an economy of excess – puts the 'drive antagonism' to work on the law's behalf, binding the subject to the law more potently and more abysmally than pre-modern juridical fictions. St Leon commits the 'primordial crime' of seeking access to the Real; his dreadful predicament is that *this* is what the law has demanded of him. The law's command, as I have suggested, is no longer to 'Swear!', but to 'Enjoy!'

Žižek's reading of law posits modern power as increasingly unable to close off the trauma of its origins, even as the 'neutral-universality' of 'formal law' appears to insist upon a more rigorous distinction between law and desire (POF, p. 11). Modern law is ostensibly divested of its reliance upon myth, ritual, emotion, drives; at the same time, however, capitalism promotes increasingly excessive forms of desire tied to modes of production and consumption (the production and consumption of the literary text as commodity, for example) which threaten to spiral abysmally out of control. St Leon's progress towards ruination takes place within the context of a wider social, cultural and economic shift towards 'commerce',⁹ and the revelation of Leon's 'great secret' in the opening chapter establishes the first of a series of contrasts between contemporary political and economic conditions and an ostensibly privileged past. In antiquity, Leon contends, the desire of men for 'brilliance' was directed towards public political ends; it took the form of 'speculation [upon] a perfect system of civil policy' (SL, p. 1). In Leon's time, this drive has effectively been privatised; it aims towards the achievement of individual immortality and the infinite multiplication of personal wealth. Men are no longer concerned with 'political liberty', but with excessive self-aggrandisement through secret means. Thus, whilst Plato sought publicly to realise his vision of the perfect civil society (antiquity's version of the 'great secret' of contemporary times, observes Leon), Leon has empowered *only himself* through means which he cannot make public. The suggestion is that the individual satisfaction of aberrant, excessive desire has replaced rational, just communitarian concerns, and Leon's drive to possess the 'great secret' is therefore stigmatised alongside the order of power within which it takes shape.

I would like to press this argument further, however, for it is not only the modern shift towards 'commerce' that is the subject of critique within this text. The decadent social environment within which Leon develops his passion for gaming is related to an older economy of power, a pre-modern 'romance' of law that is by no means as privileged as might appear from the opposition which the text initially sets up between antiquity and modernity. It is power *as such*, I would argue, that is problematised here through a detailed imaginative exploration of the relation of law and desire, a relation that precedes the advent of capitalist 'commerce', but which is given an added, deadly force by it.

The revelation of Leon's secret is followed immediately in Chapter 1 by an acknowledgement of his relation to power: 'I am descended from one of the most ancient and honourable families of the Kingdom of France', he asserts (p. 3). His father died in the service of Louis XII and, shortly after his mother's death, it is apparent that Leon is to take his father's place. Leon thus inhabits a militaristic, patriarchal order of power similar to those which are so often presented as 'out of joint' in some respect in earlier Gothic fictions. Authority depends here upon warfare, proper inheritance and a certain supplemental 'romance' of power which has a potent effect upon the already lively sensibility of the young Leon. As a youth, Leon is present at the meeting of Francis I and Henry VIII at the Field of the Cloth of Gold and his encounter here with power mediated through an extraordinary 'pomp and ceremony' could be said to represent his first temptation. Like Caleb's early absorption in romance fiction, Leon's transportation to 'a scene of the most lavish splendour' almost deranges him; it provokes 'a passion for splendour and distinction [...] I lived in the fairy fields of visionary greatness' (p. 5). The Field of the Cloth of Gold becomes here a spectacular romance consumed by Leon as Caleb consumes fabulous literary texts, and, as with Caleb, Leon's 'reading' is but the prelude to the development of more dangerous forms of desire. Following his mother's death, Leon is visited by his uncle, the Marquis de Villeroy, into whose service he enters. The Marquis's arrival is accompanied by another impressive show of force, 'pomp' and 'ceremony'. Leon's imagination is stirred again; he is keen to prove his 'honour', to swear allegiance to a paternal principle that derives from the 'blood of his ancestors' and that is sustained through violence. An inarticulable drive motivates Leon to comply with the Marquis's offer/command to 'prove yourself a true soldier of the standard of France'. 'I have a passion pent up within me', replies Leon, 'that feeds upon my vitals: it disdains speech; it burns for something more unambiguous and substantial' (p. 10). The Marquis's command

and Leon's own 'passion' thus come to position him within a juridical economy that 'stems from vengeance'.¹⁰ The truce between the kings of France and England has ended and the Marquis 'stimulates' Leon's imagination further with accounts of the perfidy of Henry set against the nobility and honour of Francis (p. 11). In addition, he tempts Leon with an offer that prefigures Leon's acquisition of the 'great secret' – he evokes the 'immortal renown' which military success bestows within this order of war (p. 11). By swearing allegiance to the paternal Name, then, Leon can hope to achieve symbolically what he is later to achieve literally and in both instances it is Leon's own 'passion' that binds him to the law.

Leon's military career ends with the defeat of the French king at Pava and a shift then occurs in the individual circumstances of Leon and, it seems, in the historical circumstances of the French nation itself; the 'reign of chivalry' is replaced with a culture of 'dissimulation, corruption and commerce' (p. 26). It is within this debauched society that Leon develops a passion for gaming which is posited as merely an individual manifestation of a vice that is 'characteristic of the age' (p. 27). Thus it appears that the text is attributing Leon's downfall in part to a degenerate turn from ancient chivalry (the Marquis's order of honourable soldiery) to modern commerce. I would argue, though, that what accounts for Leon's ruin is not a particular susceptibility to a certain modern vice, but the almost indescribable, burning passion that motivates him whether he is committing himself to warfare, gaming or alchemy. Within high Parisian society, Leon observes that '[I] retained the original vice of my mind': he craves excess, he is never satisfied (p. 42). Just as in battle, and even in the midst of unspeakable horrors, Leon was driven further into combat by a force within him that seemed to defy reason, so in Paris he is driven into debt by his inability to accept restraint. Moreover, when Leon succumbs to his final temptation, the stranger who offers the 'great secret' to him appeals to Leon's sense of blood and honour in an uncanny doubling of the Marquis's earlier evocation of the 'blood of ancestors'. 'Go; and learn to know yourself for what you are', chides the stranger, 'frivolous and insignificant, worthy to have been born a peasant, and not fitted to adorn the rolls of chivalry, or the rank to which you were destined!' (p. 136). Thus, this demonic bargain, which might be read as the ultimate modern commercial excess, is related back to a 'reign of chivalry' that similarly binds its subjects to itself by means of a pernicious manipulation of 'passion'.

When Leon accepts this bargain, he becomes 'another creature [... full of] joy, almost to bursting' (p. 161). He immediately recognises,

though, that his power has cast him out from human society; it has become his guilty secret, a tainted power, to the extent that even the most benevolent use of it cannot reconcile him to communities that cannot tolerate his inexplicable excesses. Leon becomes, like Caleb, a figure of suspicion and hatred wherever he goes. Like Caleb, Leon's transgression annihilates his public, juridical self; there is no way that these subjects of excessive, obscene enjoyment can exist legitimately within any juridical domain, even, paradoxically, as *properly condemned* subjects. Whilst Leon and Caleb are persecuted, neither is punished convincingly according to the law. Their crime so closely touches the law's own obscene condition of being that they are beyond punishment; they become instead the archetypal guilty subject, the 'exemplary sacrifice to repression'.¹¹ I have suggested, though, that Leon's 'crime' arises out of a different symbolic configuration of power and desire, one that displays a shift in the way in which modern law captivates the subject. In Leon's first individual encounter with authority (an event he has been prepared for emotionally by his experience at the Field of the Cloth of Gold), a drama of power is played out between Leon and his uncle which illustrates the way in which a pre-modern romance/force of law interpolates the subject. The force of law compels the son to swear allegiance to the father, whose representative appears here, as always, in armour, dressed for war. At the same time, though, the law's fictions of authority work to present the law's promise/command as the fulfilment of what the subject *already desires*. The command to 'Swear!' is mediated through a romance of power that posits the law as an extension of Leon's own 'self', his paternal Name, the 'blood of his ancestors'. Leon responds appropriately, 'burning' with passion to sacrifice his body to the law. With the appearance of the stranger, however, Leon's relation to power moves to reflect the condition of being of a more modern juridical subject: the law's command to this subject is not so much to 'Swear!' as to 'Enjoy!' Leon is enjoined to seek immortality and 'inexhaustible wealth'. The modern law of commerce does not demand the allegiance of the body to the paternal Name, so much as the allegiance of desire itself to the principle of unfettered consumption, a consumption that extends beyond commodities to life itself. The name of the father becomes the pleasure principle. 'Surplus-enjoyment' (the 'object cause of desire' and 'constitutively an *excess*') is, for Žižek, the necessary supplement of surplus-value, and the command to 'Enjoy!' (the obscene appeal to 'impossible *jouissance*') thus becomes essential to the perverse logic whereby capitalism 'resolves and reproduces itself through frenetic activity' (SOI, p. 52). Capitalism must constantly exceed

its own conditions of possibility, demanding of the subject an excessive, obscene enjoyment that renders every subject a guilty subject. The law's obscene dimension thus begins to become traumatically apparent whilst remaining nevertheless incapable of proper, rational representation within the symbolic order. A certain type of modern fantasy begins to fill the gap, 'resolving and reproducing' the fundamental antagonism between the pleasure principle and the 'internal limit' that prevents its realisation (SOI, p. 53). Leon is the guilty subject who taints the law with his own (il)legitimate excess, a point strikingly illustrated by the novel's final 'deal', as it were. Leon's son, Charles, is about to marry and the novel appears about to achieve a certain moral balance through a conventional romance closure. The bride, however, lacks the wealth to make the marriage feasible and only Leon's 'beneficent fraud' can supply the defect (SL, p. 477). The ostensible re-institution of the 'reign of chivalry' through Charles at the end of the text is thus stained by the very excess that Charles has sought to repudiate through the renunciation of his father. Leon's final observation appears to bear this out; reflecting upon the marriage of Charles and Pandora, the order of power that it consolidates and his relation to it, he ends his memoirs with a sense of 'exultation, that this bust world of ours yet contains something within its stores that is worth living for' (p. 478). This is a mercantile image, evoking the storage, production and reproduction of wealth. Within the new economy of 'dissolution, corruption and commerce', this 'store' contains a wealth that can no longer be properly accounted for, rationalised, legitimised. It is the 'store' of surplus-value/surplus-enjoyment, containing some *thing* that stains the law (even the law as mediated through Charles and Pandora's marriage) with obscenity. *St Leon* points to this abject truth about the law: its sacred interior, its 'archive' or 'temple' (which is also always, of course, its 'crypt') has become the storehouse, the place of a mad, excessive, frenetic production, reproduction and accumulation, and the modern juridical subject becomes within this space the always-already disavowed subject of obscene enjoyment.

Parerga – Gothic enjoyment and Gothic space in Melmoth the Wanderer

The production of the law's sacred interior – its 'archive' – requires an exclusion, an abjection. This expulsion, however, produces only a fiction of interiority/exteriority; the expelled thing remains within the body of the law, incorporated at its borders in what Derrida theorises as the 'crypt' (which is also always the 'archive' or 'temple'). The cryptic space

beyond/within the law is essential to the re-production of all thought systems, to the process of what Derrida terms 'momumentalisation'.¹² What is a 'crypt' but a monument to law (to the past in the present, to law-as-history, to law as the return of the dead)? The crypt is the hidden 'obscene dimension' of the law; the law 'would be nothing, very simply nothing, if this excess or this surplus [...] did not leave some *remains*' (p. 55).

Following Žižek, one could say that the law must 'contain' a remnant of jouissance in order to bind the subject to itself; the law must allow the remains of prohibited enjoyment to exist within it whilst also controlling that remainder. In order to achieve this double gesture, the law requires something to mediate between its 'neutral-universal' domain and the remains of primordial desire (POF, p. 11). Romance, poetry, myth, 'primordial narratives' – these parerga 'contain' jouissance within the symbolic economy. To guarantee its ontological self-presence, however, the law must seek to differentiate itself entirely from its parergon, or pharmakon; the supplement, and the enjoyment it 'contains', must appear nowhere 'within' the law. As Žižek and Derrida maintain, however, the supplement 'outside' the law is essential to the production and reproduction of the law's fiction of its own ontological coherence; it is also the very thing that threatens its erasure. It is the 'obstacle which is simultaneously the condition of possibility of the exercise of power' (p. 73). This 'obscene supplement', in Žižek's terms, is ordinarily contained/controlled by means of the 'symbolic fiction' of exteriority/interiority; it can break out of its proper place, however, during periods of crisis which traumatise the subject and the community. The transition from pre-modern to modern forms of power could be said to constitute such a crisis, within which context Gothic fictions narrate the effect on the subject and the community of the 'obscene dimension' of power obliquely emerging 'from the underside of paternal authority' (p. 73).

Gothic fictions threaten the (re)appearance of the law's 'obscene dimension'; they are excessive, transgressive narratives that encourage a perverse enjoyment that runs counter to conventional aesthetic principles of good taste.¹³ Gothic fiction from the mid-eighteenth century is a site of disorder within an increasingly disciplined literary domain. It could equally be said, though, that the Gothic serves to 'contain' excess, to control obscene enjoyment as a 'screen against the Real' (EYS, p. 64). Gothic enjoyment might thus be read as a troubling yet necessary remainder of jouissance – a textual, feminine, parergic enjoyment contained by and within a marginalised literary form.

From this perspective, Gothicism comes to supplement the law that it subverts and, given its success as a literary commodity, it might be said to exemplify the essential yet obscene excesses of the capitalist literary market place. The new commerce of literature finds its most extreme expression in the over-production and over-consumption of Gothic romances, a phenomenon that ‘contains’ at the conceptual (if not the economic) margins of the literary domain an excess that might otherwise contaminate the entire literary economy with ‘surplus [feminine] enjoyment’.

The alignment of the Gothic text as commodity with female reading and writing practices, and with a certain textual enjoyment perceived as feminine, provides a context of interpretation for *Melmoth the Wanderer*, a text which ‘contains’ Gothic enjoyment on a number of levels. Maturin’s preface to the novel simultaneously evokes, exploits and disavows its problematic literary context. Like William Godwin, Maturin the novelist must justify himself and his work before some imagined tribunal of good taste. In particular, he endeavours to distance his fiction firmly from the mass of disreputable romances (most notably Radcliffe’s) which appear disconcertingly close, generically, to *Melmoth*. Interestingly, Maturin suggests that his text was censored in this regard even before publication. He describes reading a portion of his draft to a friend who complained it contained ‘too much attempt at the revivification of the horrors of Radcliffe-Romance, of the persecutions of convents and the terrors of the Inquisition’.¹⁴ Maturin defends his work on the ground that his romance is not merely a narration of ‘startling adventures’, but an examination of ‘the petty torments which constitutes the misery of life in general’ (p. 5). He cites one of his own sermons as the intellectual origin of the tale and he quotes from it. He thus presents the fiction as a literary theological meditation on the problem of evil and therefore as a legitimate creative enterprise for a clergyman to be engaged in. There is, however, a sense of futility implicit in Maturin’s defence of his text; he failed to convince his friend of the merits of his work and he half suspects that he will fail to convince the rest of the serious reading public. The preface ends with a frustrated disavowal of a novel he has been ‘compelled’ to write in order to economically survive (p. 6). Thus it seems that if Maturin cannot appeal to the good taste of discerning readers for exoneration, he can at least appeal to their sympathy as a man driven to emasculate himself by ‘appearing before the public in so unseemly a character as that of a writer of romances’ (p. 6).

As R. B. Oost has suggested, this preface evinces a hostility on Maturin's part towards *Melmoth's* perceived readership that might account for why this text appears actively to resist readers' expectations even as it purports to satisfy them.¹⁵ Circling indefinitely around the secret of Melmoth's fate, Maturin's highly digressive narratives aim to frustrate the enjoyment of a reading public which (like Maturin's 'friend', perhaps) hypocritically censures fictions that it nevertheless craves. A complex configuration of power and desire (the readers' and Maturin's) thus produces a work in which, I will argue, textuality, femininity and power are figured in terms of perverse enjoyment, madness and excess. Like Sophia Lee's *The Recess*, moreover, this is a Gothic fiction in which textual and physical spaces – narrative and geographical interiors and exteriors – are manipulated constantly to re-position, re-orientate and disorientate the reader 'outside' the text and the multiple narrators/readers 'within' it. *Melmoth* is a novel that not only teases and frustrates its readers, but almost persecutes them, forcing them through a labyrinthine text in search of some kernel of truth about Melmoth. The narrative moves outwards from John Melmoth in Ireland to various other narrators in Spain, England and India whose tales gradually make up the disjointed 'whole' of *Melmoth the Wanderer*. At the same time, the text also moves *into* itself, embedding narrative within narrative in a structure *en abyme*. These narrative wanderings constantly transgress the borders between the 'inside' and the 'outside' of multiple scenes of narration; the novel foregrounds its own aberrant textuality until, ultimately, the opposition between the 'outside' of John Melmoth's originary narrative (the main frame, as it were) and the 'inner' narratives enclosed by this frame collapses as the Wanderer appears in Melmoth's chamber just as Moncada is promising to relate further and more dreadful tales about him. The demonic excess represented by the Wanderer is thus projected outwards through narrative progressions away from John Melmoth, only to return as the text turns in on itself, abolishing the textual and physical distance between the Wanderer and his descendent. These textual inversions, moreover, mirror a series of uncanny displacements of juridical space within the text. A certain political and cultural madness, associated primarily with Catholic Spain, is projected back into the privileged space of a newly united Great Britain through the interventions of the Wanderer – an Anglo-Irish Protestant whose guilt contaminates the paternal Name inherited by John Melmoth. The elder Melmoth's wanderings, narrated through textual digressions that uncannily bring the Other back 'home',

reveal as fictive the opposition between the sacred site of law and the abject physical/textual spaces 'beyond' it.

This novel foregrounds and problematises paternal power (as it foregrounds and problematises *textual* power) from the outset. Chapter 1 begins with an epigraph from Shakespeare's *Henry VI* which suggests the presence of a King and the immanence of death. Death and paternity are intricately related in this opening chapter. Paternal authority is displaced, first of all, from John Melmoth's dead father to a dying uncle before whose deathbed John has been 'summoned' to appear (p. 9). As John makes his way through an increasingly desolate rural Irish landscape to his Uncle's manor house, he recalls with a shudder the dying words of his father asserting John's 'dependence' on the wealth of this now apparently deranged patriarch. Legitimate paternal power is compromised by its transference initially here from John's dead father to an incapacitated uncle; it is then disabled further by its displacement on to the diabolical ancestor whose image haunts this death-scene: John Melmoth's namesake, Melmoth the Wanderer. A portrait of the elder John Melmoth hangs in a closet in John's uncle's bedroom. John is directed into the closet by his uncle in search of wine and is immediately captivated by the painting. Here, like many Gothic protagonists before him, John Melmoth confronts a representation of an ancestor, a portrait which symbolises the power of a politically privileged Anglo-Irish bloodline. John is transfixed by the seemingly malignant gaze of the 'deceased' John Melmoth. The portrait of his namesake and forefather captivates and terrorises his imagination to the extent that he is almost compelled against his better judgement to believe his uncle's bizarre pronouncement that 'that man [...] is alive still' (p. 21). Keen at first to shake free of 'superstition', John gradually finds himself overcome by the desire to return to the portrait, to scrutinise it and finally to believe what initially appeared impossible. Thus, in an attempt to justify an otherwise fantastical belief, John surmises as follows: since his uncle was never 'nervous, fanciful or superstitious', and since he nevertheless claims now to be 'dying of fright', and since it is indisputable that 'he is dying', it follows he *must* have been scared to death by the 'living original' of the portrait (pp. 21, 23). John Melmoth – who is initially posited as bringing reason into this superstitious, near-hysterical household – accepts this absurd conjecture as the only possible explanation for an otherwise groundless conviction that his uncle speaks the truth. Like Godwin's Caleb Williams, John Melmoth cannot properly justify to himself the dreadful, fascinating pull that this uncanny power exerts over him. As his uncle dies, he is 'urged by an impulse for which he

was not going to attempt to account [to venture] into the forbidden room, – the *blue chamber* of the dwelling' (p. 22). Like the 'frenzy' which compels Caleb to pry into Falkland's past, this 'impulse' is something that John Melmoth is aware of, but which he cannot/will not 'attempt to account for' (p. 22). The allusion to Blue Beard, moreover, casts John (again, like Caleb) as the fatally curious, fascinated/terrorised subject of a deadly patriarchal power. As John returns to his uncle's death-chamber, the 'living original of the portrait' appears twice and John confronts his family's guilty secret in the form of this living/dead re-presentation of the Melmoth family Name.

Maturin repeats here a certain Gothic re-presentation of power whereby a privileged genealogy is subverted through an uncanny evocation of the symbolic significance of portraiture, of family resemblances that reproduce a potent myth of juridical origin. Following his uncle's death, the younger John Melmoth becomes obsessed with the figure that appears to have stepped out of the portrait he was ordered by his uncle to destroy. As his thoughts 'begin to take a darker turn', he summons Bidy Branigan to reveal to him 'the odd story that the old woman confessed was in the family'.¹⁶ Bidy's narrative immediately sets the history of the Wanderer within the context of Anglo-Irish political struggle. The date on the portrait of the Wanderer is 1646. Bidy tells John that 'the first of the Melmoths, who settled in Ireland, was an officer in Cromwell's army' (p. 29). Melmoth the Wanderer was the elder brother of this officer. He became estranged from his family, who heard 'strange reports' of him from Europe: 'He was said to be (like the "damned magician, great Glandower") "a gentleman profited in strange concealments"' (p. 29). This lost elder brother, says Bidy, is the subject of a manuscript left behind in the Melmoth home by a visiting Englishman; this document is said to contain 'an extraordinary account of the circumstances under which [the Englishman] had met John Melmoth the Traveller (as he was called)' (p. 30). This manuscript is now in the possession of the younger John Melmoth following his uncle's death. He has been requested to destroy it along with the portrait; inevitably, of course, he reads it.

This fragmented, crumbling manuscript (which, to the frustration of John Melmoth, fades into incomprehensibility at key moments in the narrative) describes the persecution of an Englishman, Stanton, by the Wanderer. Stanton encounters Melmoth first in Spain and then in England, where Melmoth prophesies that Stanton will be incarcerated in an asylum. When this indeed occurs, Melmoth visits Stanton in his cell to tempt him with the prospect of freedom in return for some dreadful exchange, which the damaged manuscript prevents John

(and, of course, Maturin's reader) from discovering. What is politically interesting about this confinement, and Melmoth's role in relation to it, is the extent to which the madness that prevails within the asylum is mostly a consequence of recent political and religious traumas. Stanton's neighbours are puritans and loyalists sent mad by their involvement in the English civil war. These are highly politicised scenes of suffering into which the Wanderer intrudes as the demonic 'double' of a law that has sent its subjects mad. Melmoth uses the probability of Stanton's own eventual insanity to tempt him with an offer which, like St Leon's 'great secret', remains hidden. Melmoth's dreadful promise constitutes a maddening, guilty excess within a symbolic economy which is itself abject, which does not need Melmoth in order to terrorise its subjects. Melmoth's potential victims are all tormented, in various ways, by a public law (English/Protestant, Spanish/Catholic) which sanctions their impoverishment, imprisonment, torture, humiliation. The law thus becomes paradoxically the real source of Melmoth's power. It is the crisis engendered by legitimate public power in the lives of these victims that gives Melmoth the opportunity to tempt them with the offer to 'Enjoy!', to seize *jouissance*, to take power over life and death, and thus to damn themselves.

Melmoth acts perversely on behalf of the law. At their moment of crisis, traumatised by the law's seemingly irrational, excessive demands, Melmoth allows the subject to glimpse the obscene dimension of paternal power, the perverse enjoyment that supplements the law's fictions of authority. It proves too much for all of them – not one of Melmoth's potential victims actually accepts his offer. They are all returned to the law. Nevertheless, the possibility of escape, of unfettered access to the Real, remains embodied in the person of Melmoth. Melmoth is the law's most guilty, most abject subject and, at the same time, its essential support. He has taken it upon himself to 'Enjoy!' He satisfies the law's need for a scapegoat, a sacrifice that can stand in the place of obscene enjoyment on behalf of all subjects bound to the law by their own guilty, impossible desire. Melmoth becomes the 'fantasy' that serves as the law's 'unacknowledged, obscene support [...] a screen against the direct intrusion of the Real'.¹⁷ Melmoth is a perverse agent of the law, a *parergon* who might be said to mark out and police the law's borders whilst at the same time radically contesting them. What is more, his promiscuous wanderings beyond national boundaries and in and out of the multiple textual frames that 'contain' his presence work to dissolve the physical and conceptual limits that differentiate between the law's sacred interior and its abject 'outside'. As I have suggested,

what is at issue in these negotiations of frames and spaces is the presentation/concealment of the 'cryptic space' that contains the abject within the juridical domain. As the law's 'disavowed ghost'¹⁸ – the embodiment of prohibited enjoyment within the symbolic order – Melmoth moves fluidly beyond boundaries, unlimited by the law's fictions of 'inside' and 'outside'. His narrative, temporal and geographical wanderings, moreover, have a significant symbolic relation to the position of the feminine within the juridical domain. As in many of the Gothic fictions considered in this work, *Melmoth* has no stable place for 'woman' before the law. The feminine in this text becomes instead a site of more radical indeterminacy than even Melmoth himself. The uncanny presence/absence of the feminine is the disavowed supplement that facilitates this abyssal narrative. Woman becomes the signifier of what drives Melmoth's wanderings – the Gothic excess/enjoyment that the text seeks to exploit and 'contain' through the Wanderer.

The uncanny 'coming to life' of the portrait of the elder John Melmoth in the novel's opening chapter completes an abject displacement of paternal power from John's dead father to the demonic living/dead ancestor whose appearance brings death into the family home. Before Melmoth's appearance, however, patriarchal space and power has been infiltrated and subverted already by a feminine presence that is symbolically aligned with the Wanderer. To a great extent, the novel's first Gothic space – the ancestral manor in rural Ireland – is constructed as an anarchic, feminine space uneasily positioned on Britain's national borders. As John Melmoth approaches his uncle's mansion, 'signs of desolation' accumulate (p. 11). The place is semi-derelict, unbounded and open to the elements; it is almost in the process of being re-absorbed into the landscape. When John eventually gains access to the house by virtually breaking down the front door, he finds a group of servants sitting by a turf fire one of whom he immediately recognises 'as the doctress of the neighbourhood – a withered sybil' (p. 12). This 'witch' has a dreadful power over the credulous locals – including old Melmoth himself – whom she 'torments and terrifies' (p. 13). She is monstrous, animalistic, exotic and dreadfully fascinating – subhuman, yet also *more than* human. As she delivers her mysterious verdict in respect of Melmoth's illness, she 'slowly drew her pipe from her mouth, and turned towards the party: The oracular movements of a pythoness on her tripod never excited more awe, or impressed for the moment a deeper silence' (p. 15). Even John Melmoth feels a 'moment of involuntary awe' in her presence. It is this 'being to whom old Melmoth had committed his life'

(p. 14); she is a monstrous mother surrogate, the first amongst a band of ‘hags’ who attend the bedside of the patriarch, forecasting his death:

[...] all clapping their hard hands, or wiping their dry eyes. These hags all surrounded the bed; and to witness their load, wild and desperate grief, their cries of ‘Oh! He’s going, his honour’s going, his honour’s going’, one would have imagined their lives were bound up with his, like those of the wives in the story of Sinbad the Sailor, who were to be interred alive with their deceased husbands. (p. 16)

These women enact an obscene parody of mourning and, subversively, of Protestant Christian ritual. In the absence of a clergyman, Melmoth asks the housekeeper to read a prayer. She claims that she is too overcome with grief to do so, and is replaced by a woman who ‘never before [having] opened a Protestant prayer book in her life’ reads out the wrong service. Old Melmoth suffers the indignity of having his last rites replaced by ‘the service for the “churching of women”, which, in our prayer books following the burial of the dead, she perhaps imagined was somehow connected with the state of the invalid’. The relation between an abject femininity (presented very much in terms of bodily, religious and national otherness), death and degenerate male power is thus further consolidated here through this juxtaposition of Melmoth’s death rites with the ritual for the purification of the maternal body – the ‘churching of women’.

Oost convincingly aligns the uncanny power attributed to these women – and particularly the narrative authority given to Bidley Branigan in the early chapters – with the narrative power of contemporary female producers of Gothic romance. In the production of *Melmoth the Wanderer*, Maturin is exploiting and resisting female writing practices posited as excessive, transgressive, abject. For economic reasons, Maturin feels compelled to appropriate this feminine Gothic form, but he keenly wishes to distance himself intellectually from the trash of the circulating libraries and the Minerva press. The women who torment the final hours of Melmoth’s uncle are anti-intellectual, duplicitous, materialistic ‘hags’ and chief amongst them is the manipulative storyteller, Bidley, ‘a grotesque figure – obsequious, manipulative, willing to sell what few talents she has to the highest bidder’.¹⁹ Gothic textuality and feminine excess are thus closely related in the novel’s opening frame narrative *and* in the preface in which Maturin apologises for appearing in public as a ‘writer of romance’. Indeed, one could argue that this novel’s condition of possibility is a feminine excess that

must be abjected, or at least properly 'contained'. The 'witches' who disrupt the opening death-scene, and who are the first to suggest something of the mystery of Melmoth the Wanderer, are present only in this initial narrative frame. Bidley's narrative 'command' is relatively short-lived; her authority as storyteller passes to Stanton, then to Monçada and ultimately to Melmoth himself. There remains, though, a feminine narrative 'presence' within this text which is arguably more significant than that of the grotesque romancer, Bidley, in terms of the symbolic relation that exists here between woman, law and fiction. Embedded within Monçada's narrative, at the very centre of the text, is the tragic tale of Imalee/Isadora. This young woman is a virginal feminine ideal, almost the exact opposite of the abject women who perplex the dying Melmoth, and it is her spectral voice which uncannily 'narrates' the most complex, digressive, textually problematic portion of the novel.

In the Melmoth home, the Spaniard, Monçada (rescued from a shipwreck by John Melmoth), describes his imprisonment within a Spanish monastery, his temptation by the Wanderer and his ultimate escape. It is as Monçada flees the Inquisition that he finds himself within one of the novel's strangest and most vividly drawn Gothic spaces. Beneath the streets of Madrid is a network of passages constructed by Jews in hiding from the Catholic authorities. Pursuing these passages in the course of his own escape, Monçada finds himself in a subterranean apartment that resembles a pharmacy, museum, library and crypt:

It was a large apartment, hung with dark-coloured baize within four feet of the floor, and this intermediate part was thickly matted, probably to intercept the subterranean damp. In the centre of the room stood a table covered with black cloth; it supported an iron lamp of antique and singular form, by whose light I had been directed, and was now enabled to descry furniture that appeared sufficiently extraordinary. There were, amid maps and globes, several instruments of which my ignorance did not permit me then to know the use, – some, I have since learned, were anatomical: there was an electrifying machine, and a curious *model of a rack* in ivory; there were few books, but several scrolls of parchment, inscribed with large characters in red and ochre coloured ink; and around the room were placed four skeletons, not in cases, but in a kind of upright coffin, that gave their bony emptiness a kind of ghastly and imperative prominence, as if they were the real and rightful tenants of that singular apartment. Interspersed between them were the stuffed figures of animals I knew not then the names of, – an alligator, some gigantic bones, which I

took for those of Samson, but which turned out to be fragments of those of the mammoth, – and antlers which in my terror I believed to be those of the devil, but afterwards learned to be those of an Elk. Then I saw figures smaller, but no less horrible, – human and brute abortions, in all their states of anomalous and deformed construction, not preserved in spirits, but standing in the ghastly nakedness of their white diminutive bones; these I conceived to be the attendant imps of some infernal ceremony, which the grand wizard, who now burst on my sight, was to preside over. (p. 292)

The occupant of the apartment – an ‘awful figure with the appearance of a sorcerer’ (p. 293) – offers Monçada protection if he will agree to act as his scribe in copying a manuscript which contains the histories of the four skeletons kept in the cavern. The manuscript is another decrepit, barely legible text; it contains a ‘horrible secret’ which Monçada is enjoined to ‘hear and relate’ (p. 302). This is one of those points at which the novel foregrounds and problematises its own abyssal textuality; it blurs the demarcation between narrative frames and different temporal and physical locations; in so doing, it establishes multiple parallels between readers and narrators that confuse the separation between the storyteller and the listener/reader, between the producer and the consumer of narratives. Monçada’s position parallels that of Melmoth; both uncover in mysterious circumstances scarcely legible manuscripts which they read/recite with dread and fascination. Both of these narrator/readers, moreover, double Maturin himself as a reluctant producer and consumer of Gothic narratives. There is also a close affinity here between Gothic textuality, Gothic space and death; the narrative becomes increasingly labyrinthine, twisting and turning like the passages that lead Monçada to the Jew’s apartment. The manuscript that surfaces there is disfigured and crumbling, associated with ashes, dust and dead bodies. As Monçada reluctantly sits down to copy the document, he appears to be overlooked and almost commanded to write by the skeleton of the woman whose story he is about to read/write/narrate:

‘Does thy hand tremble still?’ said Adonijah; ‘and dost thou still hesitate to record the story of those whose destiny a link, wondrous, invisible, and insissoluble, has bound to thine. Behold, there are those near thee, who, though they have no longer a tongue, speak to thee with that eloquence which is stronger than all the eloquence of living tongues. Behold, there are those around thee, whose mute

and motionless arms of bone plead to thee as no arms of flesh ever pleaded. Behold, there are those who, being speechless, yet speak – who, being dead, are yet alive – , who, though in the abyss of eternity, are yet around thee, and call on thee, as with a mortal voice. Hear them! – take the pen in thine hand, and write.’ I took the pen in my hand, but could not write a line. Adonijah, in a transport of ecstasy, snatching a skeleton from its receptacle, placed it before me. ‘Tell him thy story thy self, peradventure he will believe thee, and record it’. And supporting the skeleton with one hand, he pointed with the other, as bleached and boney as that of the dead, to the manuscript that lay before me.

It was a night of storms in the world above us; and, far below the surface of the earth as we were, the murmur of the winds, sighing through the passages, came on my ear like the voices of the departed – like the pleadings of the dead. Involuntarily, I fixed my eye on the manuscript I was to copy, and never withdrew till I had finished its extraordinary contents. (p. 302)

The relation here between reading and narrating, and between speaking and writing, becomes especially fraught. Monçada recites orally to John Melmoth (presumably from memory) the convoluted contents of a lengthy manuscript which he was made to transcribe in Madrid in return for Adonijah’s protection. The origin of the manuscript Monçada copies, remembers and recites is completely obscure; there is no explanation as to how and, more significantly, by whom it came to be narrated. It could be read in Derridean terms as *pure textuality*, an abyssal signifier of iteration and re-iteration without origin. Its subject is the young Imalee/Isadora and at times the narrative appears as if it could have been written by her. The reader ‘moves inside [the narrative] far enough to know her feelings at every moment’.²⁰ The narrative voice, though, is patently *not* that of Imalee; it shifts ‘oddly and inexplicably’ towards and then away from its subject. Imalee is not a storyteller; she does not have any of the narrative authority of Bidy Branigan, for example. As an idealised woman, Imalee is also a silent woman, lacking a narrative presence that is capable of any logical explanation. As Joseph Lew observes, Maturin goes ‘out of his way to provide admittedly far-fetched explanations for his narrators’ knowledge: Stanton happens upon an old woman who tells him a story about the Wanderer, and Monçada receives incredibly long epistles narrating the recent history of his parents’. This level of detail, however, is entirely lacking in respect of Imalee’s portion of

the novel. The origin of her history is absent; quite simply, ‘we have no idea how Adonijah came about it. It is truly as if her skeleton had recited it for Moncada.’²¹

Through this aberrant narrative that emerges out of the novel’s most cryptic space, *Melmoth the Wanderer* re-presents an ideal of feminine purity, goodness and submission which symbolically counters the abject feminine power that troubles paternal authority in the novel’s opening stages. Imalee/Isadora is the heroine, modelled to some extent upon Richardson’s *Clarissa*, whom one would expect to prevail against Melmoth’s diabolism. Indeed, the novel holds open throughout the possibility that Melmoth might ultimately be reformed by his lover; right up to the moment of Isadora’s death, the reader is teased by the prospect of Melmoth’s redemption through the self-sacrificing love of this good woman. Maturin defies readerly expectation and literary precedent, however, and in so doing produces what is arguably the novel’s most horrific scenario: the moral power of idealised femininity fails and Isadora is seduced and abandoned by a demon/man who remains unredeemed. Thus, the woman whose bodily and spiritual purity ought to support paternal law ends by subverting it entirely. Isadora marries the Wanderer in a grotesque parody of a Christian wedding and then gives birth to his son. The female body that ought to produce the legitimate heir and, in so doing, reproduce the paternal name in fact defies the father and reproduces instead that which is dreadfully other to the law. The feminine fails to fulfil its spiritual and symbolic function in this text to the extent that, whilst Isadora’s spiritual integrity remains more or less intact (she never fully accepts Melmoth’s satanic bargain and there is no question of her sharing in his damnation), the distinction between the domesticated woman/saint and the disgusting woman/hag is significantly blurred. Isadora’s fall illustrates the fragility of the ideal of proper womanhood upon which the law depends for its successful perpetuation. Her moral and spiritual resistance to Melmoth is weakened by her emotional and sexual desire for him; she is corruptible, the text suggests, because of her feminine tendency towards undisciplined desire, towards Gothic enjoyment. It is this female weakness that Isadora’s father fails to acknowledge and control; his incompetence allows Isadora to indulge a fatal passion. Don Aliaga is thus complicit in his daughter’s destruction and, ultimately, in the obliteration of his own paternal family name, since his son and heir is killed in the violence that attends Isadora’s second wedding. Isadora shortly afterwards gives birth to Melmoth’s child; her very body becomes a Gothic space, containing and reproducing the contaminated blood of

the Wanderer – which is also, of course, the blood of the younger John Melmoth, of the Melmoth line, and thus of the Protestant ascendancy itself. As the story of Isadora ends, the association between the Wanderer and his descendent is abruptly reinforced. The text suddenly spirals back out from Isadora's cell, to the 'crypt' beneath the streets of Madrid, to John Melmoth's closet where Monçada concludes his narrative and promises his eager listener further and even more dreadful tales to follow. The text recalls the reader back to Melmoth and, in so doing, presents Melmoth as the reader's double, as a captivated consumer of the Gothic: 'Young Melmoth (whose name perhaps the reader has forgot) did seriously incline to the purpose of having his dangerous curiosity further gratified, nor was he perhaps altogether without the wild hope of seeing the original of that portrait he had destroyed burst from the walls and take up the fearful tale himself.'²² The novel returns to the original scene of narration – the privileged/problematised ancestral home of the Melmoth family – and here its sole surviving heir emerges as the subject of a 'dangerous' Gothic enjoyment that centres upon his guilty forebear. The younger John Melmoth is now desperate to know the fate of the Wanderer; having destroyed the man's image in the portrait, he wills the 'living original', the living/dead embodiment of a perverse paternal law, to appear to reveal the Melmoth family's guilty secret. This is indeed what happens: Melmoth himself breaks into the family home to announce, 'Melmoth, you behold your ancestor' (p. 599). The textual and temporal compression here creates the impression that Melmoth has just left Isadora's cell, and, as he intrudes out of Monçada's narrative and into the text's main frame, various Gothic spaces collapse back into their originary textual and juridical space: the Anglo-Irish Protestant manor. This space is the 'archive', the domestic space in which the privileged genealogy is reproduced and re-presented through portraiture, memoirs, monuments. This is the space to which the disavowed ghost of an ostensibly 'clean' public law returns. It is the haunted, cryptic space of law, the 'home' to which the younger John Melmoth and the storyteller Monçada return following Melmoth's final disappearance, 'exchanging looks of silent and unutterable horror' (p. 607).

Notes

1. Slavoj Žižek, *Enjoy Your Symptom! Jacques Lacan in Hollywood and Out* (London: Routledge, 2001), hereafter EYS; *The Sublime Object of Ideology* (London: Verso, 1989), p. 81.
2. David Punter, *The Literature of Terror* (London: Longman, 1996), p. 136. Hereafter LT.

3. William Godwin, *St Leon* (Oxford: Oxford World Classics, 1994), p. xxx.
4. William Godwin, *Caleb Williams* (London: Penguin, 1998), p. 139.
5. Žižek, EYS, pp. 47–8.
6. Slavoj Žižek, *The Plague of Fantasies* (London: Verso, 1997), p. 10. Hereafter POF.
7. C.f. David Punter, LT, Chs 4 and 5. These narratives (of Godwin, Maturin, Hogg, Shelley, Stoker) are characterised by what Punter terms a ‘dialectic of persecution’; they are frequently narrated by abject, monstrous creatures who are ‘themselves persecuted’, p. 138.
8. Žižek, EYS, p. 49.
9. *St Leon*, p. 26; ‘[...] the defeat of Pavia may, perhaps, be considered as having given a deadly wound to the reign of chivalry, and a secure foundation to that of craft, dissimulation, corruption and commerce’.
10. Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International* (London: Routledge, 1994), p. 21. See Ch. 6.
11. David Punter, LT, p. 102.
12. Derrida, *On the Name* (Stanford: Stanford University Press, 1995), p. 51.
13. The point here is that Gothic fiction is always already disordered, always already in defiance of what Žižek terms the ‘neutral-universal’ law, whatever its apparent orientation in contemporary social and political terms. This claim does not contradict the argument that certain Gothic fictions (many of those published by the Minerva Press in this period, for example) adhere to and promote a range of socially and politically conservative, normative values. On the contrary, I would argue that it is because of the obscene unlawfulness of Gothicism that certain Gothic fictions indeed appear to cleave to the ‘clean’ public face of paternal law, to *over-act* its commands, in fact. And this over-performance of the law can only reinforce the Gothic’s obscenity, as Žižek’s astute discussion of taking the law *literally* suggests: POF, p. 22.
14. Charles Robert Maturin, *Melmoth the Wanderer* (London: Penguin, 2000), p. 5. Hereafter MTW.
15. R. B. Oost, ‘“Servility and Command”: Authorship in *Melmoth the Wanderer*’, *Papers in Language and Literature*, 31: 3 (1995), pp. 291–312.
16. Oost, p. 297.
17. Žižek, *The Plague of Fantasies*, p. 64.
18. Žižek, *The Fragile Absolute*, p. 3.
19. R. B. Oost, ‘“Servility and Command”: Authorship in *Melmoth the Wanderer*’, p. 292.
20. J. W. Lew, ‘“Unprepared for Sudden Transformations”: Identity and politics in *Melmoth the Wanderer*’, *Studies in the Novel*, 26 (1994), p. 180.
21. Lew, p. 180.
22. MTW, p. 598.

Conclusion: *Frankenstein* – Reproducing the Gothic

Genre and ‘Entitlement’

In conclusion, I wish to return first to issues of authorship, authority, literary ‘origin’ and generic expectation that surface in relation to the late-eighteenth- and early-nineteenth-century texts of Godwin and Maturin. These novels, I have argued, mark a shift in the Gothic’s relation to the modern rule of law, a shift that finds its fullest expression in this period, I suggest, in Mary Shelley’s *Frankenstein*. The responses to these works (not least by the authors themselves) also reveal anxieties concerning questions of literary and political production and reproduction that tended in this period to centre upon and to be articulated through the Gothic. Godwin’s preface to the first edition of *Caleb Williams* in 1794, for example, makes quite plain the radical political intent of the work. The fiction aims to communicate to a much wider readership a political truth well known to philosophers ‘that government intrudes itself into every rank of society [...] this is a truth highly worthy to be communicated to persons whom books of philosophy and science are never likely to be read’.¹ The form that this work takes is thus designed explicitly to extend its reach beyond the class to which the *Political Enquiry* would have been accessible. The preface posits the fiction as more significant in political than in literary terms and its subversive potential was acknowledged a year later when Godwin’s publisher added a note to the subsequent edition explaining why this preface had been withdrawn from the original publication in May 1794:

This preface was withdrawn in the original edition in compliance with the alarms of booksellers. ‘Caleb Williams’ made his first appearance in the world, in the same month in which the sanguinary plot

broke out against the liberties of Englishmen, which was happily terminated by the acquittal of its first intended victims, in the close of that year. Terror was the order of the day; and it was feared that even the humble novelist might be shown to be constructively a traitor. (p. 4)

Contrary to what is suggested by the publisher's final words here, however, it was in a sense precisely because of the form of the work as fiction that it was perceived to be so potentially dangerous. The *Enquiry* had escaped prosecution in part because it was considered to be accessible only to a privileged intellectual elite. It was an exercise in 'refined and abstract speculation' (p. 2); it was also too expensive to be circulated widely amongst the masses. As a 'humble novel', however, *Caleb Williams* escaped that cultural economy of control which limited the impact of radical philosophy to the class least likely to be affected by it. The threat posed by this text's seditious content was magnified by its status as a cheap, widely circulating form of imaginative writing. Literary fictivity becomes the subject of censure here, aligning *Caleb Williams* with the excessive, inflammatory, 'Gothic' discourse of the radical pamphleteers of the 1790s: it was 'a most evil work, anti-Christian and anti-law'.²

Whatever might have been Godwin's initial political intent, however, he came some forty years later to re-write to some extent his account of the text's origin. In the advertisement prefacing the 1831 edition of *St Leon*, Godwin acknowledges a changing literary climate and the growing desire amongst readers for information concerning authors and their motivation. Godwin narrates how he came to write *St Leon* in 1798 with reference back to the favourable reception of *Caleb Williams*, and he posits that earlier text no longer as an intervention in post-revolutionary political debate, but as a literary experiment in psychological realism. This later intervention into *Caleb Williams* suggests a shift in the text's cultural and political positioning; the advertisement is designed to revise interpretations of the earlier novel, to justify Godwin's later literary works and to consolidate Godwin's position as a writer of fiction. It constitutes a narrative of authorial self-representation through which Godwin asserts control over his earlier material, albeit by obscuring an aspect of the text's original cultural and political meaning. This is signified, moreover, by Godwin's reconfiguration of the title of the earlier work in the 1831 advertisement. Originally entitled *Things as They Are: Caleb Williams*, the text is re-named *Caleb Williams: Things as They Are*. This shift in title reflects Godwin's re-interpretation of

the text as primarily a study of the life and mind of his protagonist as opposed to an interrogation of political society in the 1790s.³ It re-positions the text according to new 'laws' of literary production and consumption, entitling the novel to speak differently to a new generation of readers. The critical and biographical essay which prefaces the edition of Radcliffe's *Gaston de Blondville* published in 1826 can be cited as a further example of this phenomenon, as, of course, can the preface to another Gothic 'reproduction' – the second edition of Shelley's *Frankenstein* published also in 1831.

Beyond boundaries – *Frankenstein*

Like her father's appendix to *Things as They Are*, Shelley's 1831 preface to *Frankenstein* sought to re-position the text and its author within a new literary context and, most controversially, to limit the potentially subversive philosophical and political reach of the original. In seeking thus to 'entitle' a new reading of a novel that had already been the subject of multiple interpretations and recreations since 1818, however, Mary Shelley's preface (like Godwin's) in fact reveals the unsettling absence of any singular, authoritative reading of the text. From the moment of its initial publication in 1818 (and even *before* this, given Percy Shelley's interventions into the draft manuscripts), this work was to some extent beyond proper authorial, hermeneutic control.⁴ It was widely attributed to Percy Shelley initially and the first edition could be said to have been inauthentically 'authorised' by *his* preface. *Frankenstein* is a text that is almost ghost-written. It is the product of a complex textual and familial tradition that originates, on the one hand, in the 'Gothic devilism' of Walpole⁵ and, on the other, in the revised Gothicism of *Caleb Williams* and *St Leon* (both of which were and still are cited as 'precedents' for *Frankenstein*).⁶ In literary and familial terms, then, Mary Shelley and the novel she (dis)owns in that 1831 preface are part of a Gothic inheritance that stretches back to Walpole and forward to the innovative/derivative Gothic creations of the nineteenth, twentieth and twenty-first centuries. Indeed, in its capacity to breed new versions of itself, *Frankenstein* is perhaps exemplary of that perverse literary fertility attributed to the Gothic from the moment of its dubious origin in an 'abject fake'.⁷ Gothic fictions were seen to possess the uncanny ability to produce copious imitations of themselves, to defy literary 'laws' that sought to insist upon a certain order of precedence. The Gothic reproduces itself outside the 'archive' that produces and enforces the law. It can be imaginatively innovative or derivative to the

point of plagiarism. Or, when it purports to ‘copy’, it can so utterly defy hermeneutic discipline that, as in the case of *Frankenstein*, the very notion of a precedent that ‘entitles’ its successors begins to disintegrate. To invoke Derrida’s theory of the frame or preface once more, it could be argued that *Frankenstein’s* various paratexts (which I take to include its own prefaces as well as later adaptations of the novel) function as *parerga* to some ‘absent Idea’ – the ‘Idea’ being, as Derrida puts it, the impossible notion of *any* text or concept functioning as the clear, unmediated point of origin of a literary, philosophical or juridical tradition. The textual afterlife of *Frankenstein* – that deeply unstable chain of Gothic signification without any clean, clear generic beginning – thus uncannily resembles a Western juridical discourse that has no origin in any Idea outside its own fluid, contingent, abject textuality.

Pharmakon

Frankenstein is a text that foregrounds the relation of a creative–destructive principle of power to aberrant forms of textuality. The monster that Victor brings out of the crypt is related to a deviant narrativity that places and displaces meaning within and beyond the law. Gothic textuality, I have argued, refutes the ability of ‘truth’ to stand outside the supplemental narratives that contain and transmit the law, and *Frankenstein* is exemplary, in the most disruptive sense, of this Gothic contestation of authority and authenticity, not least because it contests the very notion of ‘exemplarity’. The narratives engendered by the creation of the monster both inside and outside the novel can be read as Gothic reproductions without a stable point of origin; they are products of a cryptic literary space – a subversive Gothic ‘archive’. One contemporary review of *Frankenstein* hints at this perverse Gothic inheritance through its observations on Victor’s unorthodox reading practices: his destructive ambition, the review suggests, is in part the consequence of his immersion in ‘marvellous writings’.⁸ Like Caleb and St Leon, therefore, Victor is a protagonist whose desires are provoked and corrupted by an abject tradition of writings (alchemy, romance, Gothic) that shadows and doubles a ‘legitimate’ literary and philosophical tradition. What is more, the reading practices of the monster itself signify an uncanny relation between subjectivity (im)proper textuality and the law. The first text that the monster reads (though it is the last that he admits to reading) is Victor’s account of the monster’s own origin. In this narrative, the monster recognises the extent of his

abjection and (like Caleb dreadfully uncovering Falkland's secret) he comes to partake of Victor's guilt. It is after he has read this journal that the monster discovers the three 'classics' that educate him so adeptly in rhetoric. These texts re-form the monster into a dangerously eloquent speaking subject – a seductive, cryptic subject whose capacity, as it were, to incorporate the 'archive' into himself collapses the opposition between 'archive' and 'crypt'. To see the monster and to hear him speak is to confront the fictivity of the demarcation between the 'sacred' and the 'abject', and this is why the monster occasions such wholesale trauma within the text: his existence as an abject speaking subject – as a monstrous subject of the law – is an absolute 'social scandal' that goes beyond Victor's personal drama of desire and loss.⁹

The monster in a sense misappropriates and manipulates the authorised texts of the archive; he is the cryptic 'other' who suddenly demands a hearing, speaking and subverting the law's language. In so doing, the monster reveals the fundamental (il)legality of writing. Once 'put into writing' the law remains 'always on record'.¹⁰ The textual record guarantees the law a certain permanence, but also opens it up to the possibility of supplementation and mutation; the law is severed from its (fictive) 'origin' in the self-present, spoken Word of the *logos*. The monster (who likewise lacks any proper point of origin) similarly preserves and perverts the 'truth' of the texts that he reads and recites. The monster arguably becomes, to paraphrase David Punter, paradigmatic of Gothic textuality and thus of textuality *per se*.¹¹ He signifies something similar to those 'black letters' which re-present Gothicism for the eighteenth-century writer and which also record and transmit the modern word of law. The monster is paradigmatic of the extent to which the Gothic inhabits the word and the rule of modern law: he is the *pharmakon*.

In this regard, there is one minor textual and sartorial detail pertaining to Victor's monster that I think is particularly illuminating: the monster carries his four texts around with him in the pocket of his coat. In Plato's *Phaedrus*, Socrates and Phaedrus are about to discuss a speech by Lysias ('one of the ablest writers of our day') when Socrates asks his companion to remove whatever it is he has concealed in his cloak.¹² Phaedrus has hidden there a copy of Lysias's speech; he needs it 'because he has not learned the speech by heart' (p. 72). He is uneasy about the relation between his speech and the written record that he must give an account of, and he guiltily keeps the text close by him in order that he might, if necessary, supplement his

spoken, memorised recitation of Lysias's argument. Socrates compares the text to a drug – a *pharmakon*. Derrida reads this moment of anxiety concerning the supplemental writings Phaedrus conceals about him thus:

This *pharmakon*, this medicine, this filter, which acts as both remedy and poison, already introduces itself into the body of the discourse with all its ambivalence. This charm, this spell-binding virtue, this power of fascination, can be – alternately or simultaneously – beneficent or maleficent. The *pharmakon* would be a substance – with all that that term can connote in terms of matter with occult virtues, cryptic depths refusing to submit their ambivalence to analysis, already paving the way for alchemy – if we didn't have eventually to come to recognise its anti-substance itself: that which resists any philosopheme, infinitely exceeding its bounds as non-identity, nonessence, nonsubstance; granting philosophy by that very fact the inexhaustible adversity of what funds it and the infinite absence of what funds it.

Operating through seduction, the *pharmakon* makes one stray from one's general, natural, habitual paths and laws [...]. (p. 70)

The *pharmakon* is a monstrous substance – matter 'with occult virtues'; it evokes abject corporeality, and also the possibility of mutation and magic. It carries perverse connotations of the sacred, for it is also an 'anti-substance' that is nevertheless *not* spirit; the *pharmakon* does not partake of any immaterial 'truth'. The *pharmakon* is a spectral substance, one might say; it exceeds categorisation as 'presence' or 'absence'; it is beyond symbolic fictions of the sacred and the abject. Rather, it evokes the *differance* that is the abyssal 'origin' of law, bringing to philosophy the dreadful 'inexhaustible adversity that funds it, the infinite absence that grounds it'. Victor seeks to exploit 'matter with occult virtues' and in so doing he creates the living/dead *pharmakon* which embodies and defeats his desire: he becomes consequently outcast from 'natural, habitual paths and laws'. On the very border between the living and the dead, the monster meanwhile seeks to exploit an alchemic textuality that has the potential to transform *him* into a proper, speaking subject. He carries his texts with him. They only succeed, however, in making him more monstrous, in alienating him further from the 'habitual paths and laws' that his traumatised victims call 'home'.

What remains – *Cinders*

In William Godwin's work there are two scenes of burning which I argued in Chapter 8 are significant to an understanding of Godwin's conceptualisation of justice and law. In the *Enquiry*, Fenelon's palace burns and an individual is called upon to choose a 'just' victim to sacrifice to the flames. In *Caleb Williams*, Falkland's home burns and Caleb must choose whether to save Falkland's material goods or to preserve what he suspects is Falkland's confession to the murder of Tyrrel. Now, the closure of *Frankenstein* also evokes a scene of burning, though in this instance the fire is not set to break out in a privileged, powerful domestic space (a bishop's palace, an aristocratic ancestral home). On the contrary, it is to take place in the frozen wastes of the Arctic – about as far as one could get from hearth and home. It is also to be lit deliberately by the monster to constitute his funeral pyre. The monster's end is observed and narrated by Walton following the death of Victor and it completes what has been an ongoing process of marginalisation of all the narrators from domestic, 'feminine' space. In the essay *Cinders*, which was also considered in Chapter 8 in respect of Godwin's scenes of burning, Derrida discusses the symbolic relations between hearth, home, 'archive' and sacrifice. The law demands a sacrifice that is administered through a domestic economy of power – the archive is the domestic dwelling place of the guardian of the law. The law demands purification, the achievement of a pure, sacred presence that is symbolically realised through burning. The law as *logos*, the home, the archive come into being through sacrifice: 'Pure is the Word. It calls for fire.'¹³ All that remains of what is sacrificed is the mark of its absence: cinders. Ashes are a remainder or reminder of the body that has been consumed, taken into the law, in order to give the law 'presence'. Derrida likens cinders to the *pharmakon*, the potion that 'sometimes designates a kind of incense', and thus he returns to Plato – the arch-chemist of the *logos* – 'murmuring in the enclosure of the pharmacy', like Victor in his crypt (p. 57). At the end of Shelley's abject modern creation myth, the monster prepares to atone for his creator's death and for his/his creator's guilt by sacrificing himself to the flames: he reduces his 'occult' substance to ashes, to a remainder of his already abject, living/dead body. In cinders, the *pharmakon* remains.

Swear/Enjoy!

According to a certain reading of *Antigone*, the law comes into being through the sacrifice of the female; the law repudiates the familial,

feminine principle that Antigone signifies in order to initiate the paternal symbolic order – Creon’s order of retribution. Frankenstein’s monster has been read in a manner analogous to this; his monstrous corporeality signifies matter/mater and his abject flesh cannot be tolerated within the paternal symbolic economy.¹⁴ This reading is supported by the absence of mothers from this text and by the fact that Victor’s destructive urge takes shape following the death of his mother. He appropriates the maternal function and in so doing produces a ‘filthy mass’ that stands in his imagination for the filthy flesh of the mother.¹⁵ The monster is in this sense the very stuff of his nightmares – he dreams of the nubile body of his fiancée, which becomes the corpse of his mother, which becomes, on awakening, the body of the living/dead monster. The repudiation of the maternal feminine is, for Irigaray, the founding gesture of the patriarchal symbolic order; what follows, in respect of woman, is the formulation of acceptable fictions of femininity, of proper feminine ‘subjectivities’ that contain the ever-present threat of a re-emergence of uncontrolled maternal corporeality. *Frankenstein* is full of such ‘proper’ women. In opposition to them, the monster emerges as the uncontained stuff not only of Victor’s nightmares, but of the community’s. The monster ‘embodies an aspect of the social fantasy that ought never to have shown itself’.¹⁶ Like Antigone’s improper position before the law, the monster’s presence in the paternal order is a ‘social scandal’.

These readings of the disgusting ‘maternity/materiality’ of the monster are convincing. I wish, though, to begin to stray from them slightly. In Chapter 1, I argued that Antigone ought not to be read as re-presenting an unlawful, feminine excess that a transcendental *logos* must reject. The point is rather that Antigone’s disobedience reveals the notion of law as *logos* to be a fiction: neither *her* version of divine law *nor* that of Creon is sustainable because both are phantasmic. There is no sacred ‘law’ beyond which there is abjection, there is only the contingent borderline between two fictions of the ‘abject’ and the ‘sacred’. This shifting, untheorisable boundary (the ‘threshold’ between ‘nature’ and ‘culture’) *is* the law – there is nothing else. The sentence imposed upon Antigone for her transgression is thus, I argued, symbolically appropriate: she is not to be abjected beyond the walls of the Polis, but to be incarcerated *within* them, within the very space of demarcation, the space of law as *differance*. Throughout this work, I have termed this ‘the space of Antigone’: it could be termed ‘the space of the monster-Antigone’. It is the cryptic non-space (the *pharmakon*, *parergon*, the

'occult' substance or *cinder*) that essentially supplements the *logos*, that grants the law 'the infinite absence that founds it'.¹⁷

Still, though, *something* remains. Antigone circumvents Creon's juridical process by taking her own life; she is not absorbed back into the symbolic order to re-present the notion of *differance*. The presence/absence that founds the law cannot be contained in this way. What the drama of Antigone contests is 'the very representative function itself',¹⁸ just as the monster also 'exceeds the very basis of signification, a strange by-product or leftover of the process of making meaning'.¹⁹ The monster is a remainder, a *parergon*, as I have been suggesting. And yet, to fix the meaning of the monster *in* this lack of signification is to formulate yet another fiction of abjection that seeks legitimately to accommodate this excess: it reproduces the violent, oppositional logic of a law that commands the subject to 'Swear!/'Enjoy' even to the point of death. This fantasy and force of law, however, is what the signifier 'Frankenstein' resists. The signifier 'Frankenstein' is beyond the law: nothing that is said about 'Frankenstein' is *properly* true.

'Frankenstein' is a novel written by 'the daughter of a celebrated living novelist', according to *The Literary Panorama* in 1818. She is Mary Wollstonecraft Godwin Shelley whose husband appears to have had a heavy hand in the production of the 'original' manuscript and who writes a rather apologetic preface for the work when it first appears. Most reviewers initially attribute 'Frankenstein' to him. The work is a huge success, though it is also a troubling narrative – the product of a 'diseased and wondering imagination that has stepped outside of all legitimate bounds', according to *The British Critic*.²⁰ *The Quarterly Review* associates the author and the text with a transgressive 'literary family' presided over by a 'Mr Godwin, whose chief skill is in the wondering of the intellect...[his] disciples are a kind of "out pensioners" of Bedlam'.²¹

'Frankenstein' appears on stage in 1823 and re-appears as a novel in 1831 when the author, now acknowledged to be the wife of Percy Shelley, contributes a preface in which she purports to provide a new 'origin' for the work: she dreamed it. This provides for critics a new interpretative frame for the text, a new 'dogma', as it were.²² The novel is presented as a Gothic dream-text and is opened up for analysis. Still, though, 'Frankenstein' resists interpretation, slipping out of bounds from horror, to high camp, to blaxploitation movie, to parody and beyond.²³ It is wholly unclear what 'Frankenstein' signifies. The novel? Some particular adaptation of it? The protagonist? The monster? Boris

Karloff as the monster? Monstrosity itself? Does it exemplify transgression? Or the Gothic?

Lawyers seek to prove a point always with reference to examples of a principle that is meant to transcend the point at issue; in this fashion, they make their case. In seeking to make a case for the critical significance to literature and law of the relation between the Gothic and the rule of law, I have cited various 'examples' of the Gothic (including its 'originating' text, *The Castle of Otranto*) and sought to show the extent to which the Gothic is implicated in the modern rule of law – how it consolidates and contests 'lawfulness'. I have ended by following many critics in citing *Frankenstein* as possibly the most exemplary of all Gothic texts – a text in respect of which there must surely exist a generic 'truth' about the Gothic. The principle of exemplarity, however, relies upon what Derrida terms the 'performative fiction' that there is an 'Idea' beyond the example, a 'truth' outside the chains of citations that are meant simply to point towards, and invoke, and clarify the concept, law or genre that lies beyond them. According to this analysis, the principle of 'genre' depends upon the fiction that there is a 'mark' of genre that somehow stands outside any specific instance of generic categorisation.²⁴ As Chapter 2 contended, though, the 'mark' of genre, the 'distinctive trait' that might define 'the Gothic', cannot be properly accounted for: it exists beyond categorisation, 'within and without the work, along its boundary' (pp. 230–1). The mark of genre is akin to the *Pharmakon* that brings to philosophy 'the infinite absence of what founds it'; it resembles the *differance* – law as *differance* – that 'brings forth to the light of day' the fiction of the law as *logos* (PP, p. 70). More than any other literary form, the Gothic – and 'within' the Gothic, the unruly signifier 'Frankenstein' – reveals the impossibility of proper literary taxonomy. It also exposes the impossibility of coherent juridical narratives. The Gothic 'brings to the light of day' the trauma that attends the 'origin' of law and, what is more, the modern Gothic implicates its readers in it. Gothic enjoyment reproduces the guilt of an already guilty subject, and the reception of the Gothic from the mid-eighteenth century onwards reveals the considerable dis-ease it is capable of provoking. A review of *Frankenstein* in 1818 provides an important context for this modern literary dis-ease: 'Our appetite, we say, for every sort of wonder and vehement interest, has in this way become so desperately inflamed, that especially as the world around us has again settled into its old dull state of happiness and legitimacy, we can be satisfied with nothing in fiction that is not highly coloured and exaggerated.'²⁵ The Gothic is the product of a culture of excess

and *Frankenstein*, like its contemporary 'precedent' texts (*Melmoth*, *Caleb Williams*, *St Leon*), articulates a concern with (and encourages the reader to take a perverse pleasure in) the relation of 'legitimate' forms of power to exclusion, guilt, enjoyment and excess. In *St Leon*, for example, the protagonist finds himself ostracised not because of his *transgression* (the exact nature of which is never narrated), but because he is unable to account for the consequences of it. Leon's extraordinary wealth escapes rational explanation: it is simply *too much*, and it is this dreadful manifestation of pure excess within the symbolic order that causes Leon to be abjected even from his own family. Similarly, Victor Frankenstein's trauma is not occasioned by a transgression that must be punished according to the law; it is indeed significant that *no* authority in fact intervenes to correct Victor's 'crime', to bring him to account properly before the law. Victor's trauma and his guilt – like that of Leon – begin and end with this pure excess (Leon's wealth/Victor's monster). This excess (and here one could draw an analogy with Caleb's transgression and Falkland's extra-judicial punishment of it *and* with the obscene promise that Melmoth the Wanderer makes to his victims) is 'beyond' the law. It is at the same time that which exposes the obscene, hidden logic of the law. This excess is always already *within* the law – abjected ostensibly out of it, it remains within the law's 'cryptic space'. As Victor draws his monster out of the crypt, he is terrorised not by anything 'unlawful' in the monster's appearance as such ('unlawfulness' is at least a category capable of comprehension), but by his inability to account for the monster in any way at all. The 'living' monster exceeds categorisation completely and thus, at the moment of the monster's coming to 'life', Victor confronts an ontological abyss: the realisation of his desire is the moment of total lack, of the failure of the object of desire to fulfil the 'fantastic demand' that is the unrealisable, unrepresentable condition of being of the subject and the law. *Frankenstein* narrates its protagonist's attempt to fulfil this 'fantastic demand'²⁶ – a demand that, in the modern Western economy, has come to be posited as a potentially *attainable*, 'legal' desire. The law commands the subject to produce and consume to an unimaginable, unaccountable degree *as if this were possible*. Modern law dreadfully brings the subject's guilt (the obscene truth that even too much would never be enough, that even *jouissance* would never satisfy) into the public domain where it becomes – like Victor's monster running rampage through civilised society – an open, dirty secret: too much is *not* enough – *Enjoy!*

Notes

1. William Godwin, preface to *Caleb Williams* (London: Penguin, 1987), p. 2.
2. *British Critic*, July 1794, quoted in Maurice Hindle, introduction to *Caleb Williams*, p. x.
3. The relation between a literary work and its title has considerable hermeneutic and generic significance. It is vital to the way in which a text is 'entitled' to be understood at any given moment. Whilst a title might appear to be peripheral or supplemental to a text – like a preface, postscript or advertisement – it mediates essentially between the work and its context, constituting a necessary intervention into the text from an ambivalent, parergic space on its border. Indeed, as Wigley points it, the title 'produces the sense of the border in the first place – which is to say the sense of the interior; the text's definition, its rule, its law' [*The Architecture of Deconstruction: Derrida's Haunt* (Cambridge, MA, London: MIT Press), p. 150]. Such parergic, textual interventions, moreover, have an added significance in relation to Gothic fictions, the titles of which often shift and which are frequently supplemented by prefaces, postscripts and advertisements making claims as to the origin and authenticity of the work. Gothic textuality has the capacity to subvert generic and hermeneutic laws that exist to stabilise literary meaning; from the margins of the literary canon, Gothicism throws into question the 'entitlement' of the literary text to be understood according to proper rules of generic coding, historical and literary 'authenticity' and 'origin'. Godwin's 1831 intervention into *Caleb Williams/Things as They Are* evokes something of this 'Gothic' capacity to revise, shift and unhinge strategies of 'proper' interpretation – a capacity for hermeneutic disruption that Derrida identifies as the uncanny 'secret' of the literary text *per se* (*On the Name*, pp. 27–8. This also evokes David Punter's point that the Gothic can be seen to signify textuality *per se*, see *Gothic Pathologies*, p. 1.).
4. See Harriet Hustis, 'Responsible creativity and the "Modernity" of Mary Shelley's prometheus', *SEL*, 23 (2003), pp. 845–58, for a consideration of Percy Shelley's revisions of the 1816–1817 manuscript and the 'author's' preface to that edition.
5. *The Monthly Review*, May 1765, in *Horace Walpole: The Critical Heritage*, Peter Sabor (ed.) (London: Routledge, 1987), p. 71.
6. *Bell's Court and Fashionable Magazine*, 17 March 1818, pp. 139–42 and *The Literary Panorama and National Register*, 8 June 1818, pp. 411–14, for example; see also Chris Baldick, 'The politics of monstrosity', in *Frankenstein: Contemporary Critical Essays*, Fred Botting (ed.) (London: Macmillan, 1995), pp. 62–3, on the influence specifically of *Caleb Williams*.
7. Robert Miles, 'Abjection, nationalism and the gothic', in *The Gothic: Essays and Studies 2001*, Fred Botting (ed.) (Cambridge: English Association, 2001), p. 61.
8. *Bell's Court*, March 1818, p. 149.
9. John Reider, 'Frankenstein's dream': Patriarchal fantasy and fecal child in Mary Shelley's *Frankenstein* and its adaptations', *Romantic Circles*, Jerrold Hogle (ed.), June 2003, <http://www.rc.umd.edu/frankenstein/reider/reider.html>, para 8.

10. Jacques Derrida, 'Plato's Pharmacy', in *Dissemination* (London: Athlone Press, 1981), p. 113. Hereafter PP.
11. David Punter, *Gothic Pathologies*, p. 1.
12. Derrida, PP, p. 72.
13. Derrida, *Cinders* (Nebraska: University of Nebraska Press, 1991), p. 37.
14. See Margaret Homas, 'Bearing demons: *Frankenstein's* circumvention of the maternal', in *Frankenstein: Contemporary Critical Essays*, pp. 140–65; Anne Williams, '“Mummy, Possesst”: Sadism and sensibility in Shelley's *Frankenstein*', *Romantic Circles*, Jerrold Hogle (ed.), June 2003, <http://www.rc.umd.edu/frankenstein/Williams/Williams.html>.
15. Mary Shelley, *Frankenstein, or The Modern Prometheus* [1831] (London: Penguin, 1985), p. 140.
16. John Reader, 'Frankenstein's dream', para 8.
17. Derrida, PP, p. 70.
18. Judith Butler, *Antigone's Claim* (New York: Columbia University Press, 2000), p. 6.
19. Peter Brooks, 'What is a monster?' in *Frankenstein: Contemporary Critical Essays*, p. 100.
20. *The British Critic*, 9 April 1818, p. 139.
21. *The Quarterly Review*, 18 January 1818, p. 383.
22. Peter Goodrich explores the semantic and conceptual relation between 'dogma' and 'dreaming' in *Languages of Law: From Logics of Memory to Nomadic Masks* (London: Weidenfield and Nicolson, 1990), p. 268. See Ch. 1.
23. *The Rocky Horror Picture Show* (1975) features the transvestite Dr Frank N. Furter; *Blackenstein* (1973) features a black monster. The most famous adaptation is probably still that directed by James Whale in 1931 starring Karloff as the monster. Whale's sequel, *Bride of Frankenstein* (1935), has also been hugely influential. Other less reverent adaptations include *I was a Teenage Frankenstein* (1957), *Jesse James Meets Frankenstein's Daughter* (1966), and the Mel Brooks and Gene Wilder parody, *Young Frankenstein* (1974). One of the most recent adaptations, the 2004 *Van Helsing*, is unusual in naming the monster Frankenstein and in portraying him very sympathetically.
24. Derrida, 'The law of genre', in *Acts of Literature*, Derek Attridge (ed.) (London: Routledge, 1992), p. 230.
25. *The Edinburgh Magazine*, 2 March 1818, p. 249.
26. John Reider, 'Frankenstein's dream', para 7.

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