

**Law and Literature are Not Enough: The Intersections Between
Legal History, Gender, and Print Culture**

Reading for the Law: British Literary History and Gender Advocacy. Christine L. Krueger.
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<1> Christine Krueger's *Reading for the Law* is not simply a major intervention in the field of Law and Literature, but a call for a rigorous and complex new approach to cross disciplinary work. Krueger divides *Reading for the Law* into four parts, each of which is titled with a legal term ("Precedent," "Agency," "Testimony," and "The Motives of Advocacy"). Within these sections, chapters cross into the discourses with which Krueger engages: literary history and theory, historiography, feminist theory, narrative jurisprudence, and philosophy. As the structure suggests, this is a thoroughly researched and wide-ranging text.

<2> Krueger begins "Precedent," which is devoted to a diachronic analysis of intersections between feminist legal jurisprudence, print culture, witchcraft trials, and realist fiction, with a reading of Elizabeth Gaskell's *Lois the Witch* (1859), a story set in Salem during its notorious witch trials. Encouraging legal theorists to examine these trials with attention to historical specificity, she posits that Gaskell herself models this approach: "Gaskell analyses witch-hunting . . . not as a transhistorical misogynistic conspiracy or feature of the male psyche" but as something that "could be better understood—and thereby combated—by means of detailed historical investigation that remained theoretically self-critical" (29). Krueger herself aims to enact this practice by interrogating "the gaps and contradictions in universalizing ideologies," whether they are present in histories of trials for indecent assault or hearings to determine mental competency (36). To start, Krueger identifies two problematic ways that historians have responded to the horrors of witch trials. In the Orwellian version, witch-hunting is emptied of gender and signifies a "fundamental threat to democratic freedoms" (38). In "radical feminist jurisprudence," witch-hunting has been equated with woman-hunting (39). Krueger takes both approaches to task for oversimplification. Gender, Krueger suggests, appears to be a central factor in witch-hunting, one that cannot be erased, but also one that should not exclude all other factors. After extensive treatment of the historiography of witchcraft trials from the sixteenth century, Krueger turns to the cycle in print culture in which nineteenth-century authors continue to grapple with the early irrationality surrounding witch trials. In *Lives of the Necromancers* (1834), William Godwin finds solace in the progress of enlightenment thought as the only viable explanation for the

absence of witch trials in his own time (87). The conservative Sir Walter Scott differed from Godwin politically but shared Godwin's horror at the witch trials of yore. Scott, however, turns to aesthetics as a means to come to terms with the past in *The Heart of Mid-lothian* (1818). He sees the dramatic rendering of the hunts and trials in his historical fiction as a "sufficient safeguard" against their repetition in the present or future, but does not consider the trials' lingering effects on women in his own time (91). Thus both men turn away from the possibility of continuity between an irrational and unjust past and their own present.

<3> This was not the case for Mary Wollstonecraft, who pointed out the ways in which legal culture continued to refuse to see women as rational beings. In the next section of the book, through a reading of Wollstonecraft's *Maria; or, The Wrongs of Woman* (1798), Krueger challenges Robin West's argument for "a property-rights model of self-narration," or the right to own one's own story, specifically as a means of obtaining recognition before the law (105). West's model, Krueger notes, could provide an answer to the dilemma Jürgen Habermas argues faces feminism: how to find a "discursive means" to bring into being "*de facto* equality" (105). *De facto* equality requires individuals to recognize the rationality and "life worlds" of others; female ownership of stories presents the possibility that audiences would see women as rational agents, capable of communicating their "life worlds" to others, and worthy of response. Yet Krueger contends that West's model does not account for how a speaker can truly gain the attention and respect of a resistant audience. Krueger illustrates this dilemma in her reading of *Maria*, a novel about wrongful incarceration that has been critiqued as a sentimental departure from Wollstonecraft's earlier claims for women's rationality. However, Krueger defends Wollstonecraft's change in her "discursive tactics" as a way to "exploit the fear of propertied males that they, too, could . . . be robbed of their rights as rational agents" (116). Wollstonecraft shows how women's ownership of their own narratives in a trial setting was problematic because women were already considered inherently irrational and not capable of managing property (119). Krueger maintains that *Maria* helps us to see how West's theory cannot fully account for the problem of a non-receptive audience. *Maria* thus "points to an impasse in the history of feminist appeals to liberal conceptions of the self" (120). Krueger later shows that late nineteenth-century acceptance of women as rational agents came as an outgrowth of changes to English property law.

<4> In the remainder of Part Two on "Agency," Krueger locates some limits to "literary and legal narrative advocacy on behalf of agency for women who remained *femes covertas*" in fiction and fact (129). Again historical documents and nineteenth-century fiction sit side by side. She considers lunacy inquiries in Chancery, reports by visitors to lunatic asylums, and Charles Reade's novel *Hard Cash* (1863). Victorian individuals "deemed incompetent" became wards of Chancery; thus the same court to hear disputes over property became a place in which one would "defend his status as a rational agent before the law" (130). While most cases in Chancery had to do with men, visitors' reports on the incarcerated also created written records detailing the narratives of women (132, 135). Notably, Krueger focuses here on the visitors, not the incarcerated, as she emphasizes the role of listening in communicative practices. Because these listeners were male, one effect of the process was "to expose privileged males to the stories of dispossessed women" (142). Furthermore, the listeners often acted on behalf of women they believed to be wrongfully incarcerated; in doing so, they gained empathy for alternative life worlds and "discovered a shared basis of rationality" (142). *Hard Cash*, based upon actual

accounts of incarceration in asylums, reveals a central motivating factor for confinement in a lunatic asylum: control over other people's wealth. Again we find threats to the agency of the propertied male lurking in the background. The right to manage one's property was at stake in lunacy law, and consequently, Krueger asserts, "Women protesting the power of the law to render subjects *non compos mentis* were shrewd to avoid explicitly feminist advocacy and focus on financial issues" (152). It makes sense that, as Krueger argues, it was not a more enlightened understanding of women's rationality that brought about the first inkling of female agency in lunacy hearings, but the Married Women's Property Act (1882), legislation that afforded women the "procedures of agency—those in which to assert their property rights" (153) and a public venue to exhibit their rationality.

<5> In the book's third part, "Testimony," Krueger reconsiders voice and silence, especially the ways in which this dichotomy has been cast: voice, or "the power of speech," has come to indicate agency and silence its squelching (158). Krueger aims to move past this "conceptual impasse"; in doing so, she also rejects a divide between law and aesthetics. Law does not necessarily mean the silencing of women and literature is not always "more amenable" to women's voices (7). In addition, she indicates that women authors were as likely as male authors to "succumb to the polarization of aesthetic and legal discourses" (159). George Eliot, for example, in *Felix Holt*, offers "consolations of sentimental domesticity" in place of "legal recognition" (172). Yet with non-fiction in the period, specifically that detailing indecent assault cases, she finds a reversal: literary "sentimental conventions . . . turn out to be accessible to *male* plaintiffs and defendants alike, whereas the testimony of *female* witnesses is characterized by a matter-of-fact quality" (160). Krueger compellingly makes the case that neither silence nor voice, nor law nor aesthetics, fall into categories neatly divided by gender.

<6> The final section, "Advocacy," overturns assumptions about the relationship between narrative, speaking, and advocating for those who are given short shrift under the law. She challenges the claim that it is always advantageous to "bring unrecognized groups into representation"; instead, sympathetic juries sometimes made use of "cover stories" to protect defendants (203). For instance, Krueger demonstrates how the accused, in cases of infanticide and sodomy, were able to find protection in "forged identities when eloquent self-representation could prove fatal" (204). To illuminate the pitfalls of narrative exposure, she offers a history of the Victorian prison reformer Mary Carpenter, whose detailed accounts of juvenile delinquents were often consumed not out of compassion, but by readers interested in sensation. George Eliot's *Adam Bede* (1859), as well as newspaper representations of infanticide and trials, are subject to Krueger's analysis as she identifies a pattern where, for example, Wordsworth's narrative "distance from his subject" in "The Thorn" (1798) can be read as protecting the privacy of the character who has committed infanticide (222). Krueger moves from women accused of infanticide to men accused of sodomy. She links a jury's strategies in twice acquitting a guilty woman in Anthony Trollope's *Orley Farm* (1862) with a detailed investigation of an 1871 sodomy trial, which also resulted in acquittals. Such illustrations, Krueger explains, show that "opacity" in "legal decision making" is not always a sign of dereliction, but can "signal the secret agency of citizens quite capable of forging solidarity with defendants" (238). Hence, Krueger again challenges legal history's conventional wisdom.

<7> Kruger's strengths are many. Her arguments are bold: she challenges and rethinks tenets in the Law and Literature movement that are central, not peripheral, to its aims. Her rigorous and extensive research, her multiple examples, and her meticulous approach do so much to convince her readers that her claims are well supported. She also makes the case that the duality of Law and Literature scholarship needs to become multidisciplinary, especially because history is so often left out. Krueger shows that to bring in history also means that one must draw on a whole range of intersecting discourses. Engaging with theorists across disciplinary boundaries, she continually rejects an either/or position, be it in historical analysis, literary readings, or feminist theory, and asks her readers to move beyond traditional divides between, for example, law and aesthetics, silence and voice, legal reasoning and storytelling, or exposure and nullification. Because of these practices, the texture of the work is richly layered and sometimes daunting. This is, of course, part of its challenge and its pleasure. Krueger acknowledges that there are "risks incurred" in interdisciplinary scholarship and she hopes her "readers find their patience rewarded" (11). I would reply that her readers, whether from law or literature, will not approach their own interdisciplinary practices the same way again.