COVERED BUT NOT BOUND:
CAROLINE NORTON AND THE
1857 MATRIMONIAL CAUSES ACT

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The history of family law is clearly important to any account of the women's movement, not simply because the law constitutes the means by which the state has entered, so as to regulate, the personal lives of its subjects, but also because family law in particular has historically codified social relations along the axis of a normative heterosexuality that reinforces what counts as proper (gendered) behavior and identity.¹ The mid-nineteenth-century debates about divorce in England provide an especially interesting example of some of the contests by which this second legal effect has been produced. By simultaneously appealing to a normative, because biological, definition of sexed human nature and eliciting responses that patently violated the gender difference that supposedly followed from sexual difference, the debates about Matrimonial Causes exposed the instability of what counted as ideological consensus in mid-Victorian England.² These debates, moreover, enable us to chart the extent to which one woman, Caroline Sheridan Norton, was able to participate in legal reform—and the way that the discourse by which she entered the debate limited the solution she could propose.

The most important contribution of the Matrimonial Causes Act passed in 1857 was that it secularized and regularized legal procedures for obtaining a separation or divorce. Prior to this act, separations (or divorces a mensa et thoro) were adjudicated by the ecclesiastical courts, and absolute divorces (divorces a vinculo) required a complex series of legal procedures that culminated in the passage of a private parliamentary act.³ These overlapping and sometimes competing legal systems were rationalized by the establishment after 1857 of a civil divorce court. Apart from this

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contribution to legal reform, however, the 1857 act did not remedy the anomalies its proponents had identified when discussion about divorce began in 1850. The procedures for obtaining a divorce still remained different in England and in Scotland; absolute divorce was still prohibitively expensive, and woman whose property had been confiscated by deserting husbands still had to institute a suit in order to obtain protection—a remedy that was useless if the woman was penniless and the man was gone. More telling still, the 1857 Matrimonial Causes Act did not protect women from marital abuse by making cruelty a sufficient grounds for divorce, did not enable women to petition for divorce on equal grounds as men, and did not give married women control over property. The 1857 Matrimonial Causus Act, in other words, reinscribed both class and sexual double standards, and its passage effectively foreclosed substantive action on these inequities until the 1880s.

The class and sexual double standards at the heart of the 1857 legislation did not go unnoticed by legislators involved in the parliamentary debates. Significantly, however, although social and economic forces had combined to make class inequity a subject of legislative concern at mid-century, assumptions about gender were so deeply held that arguments about innate sexual differences were often used to waylay legislation proposed to rectify the class bias. In the 1856 second reading debate in the Lords, for example, Samuel Wilberforce, bishop of Oxford, announced that in principle he was opposed to having one law for the rich and another for the poor; in practice, however, as his argument made clear, the only remedy to this injustice would be denying every one the right to divorce. Only by protecting the morality of poor women, which was ensured by monogamous and indissoluble marriage, could legislators prevent “the whole family and social life of the community” from succumbing to decay.4

In Wilberforce’s argument, gender is simultaneously marginal and central; class distinctions can be guaranteed as long as middle-class morality governs working-class women. For the most part, assumptions about the sexual double standard implicit in this argument went unstated; in the few instances in which they were articulated, the defense was based on the biological “fact” that only a woman’s infidelity could visit “spurious offspring” upon her husband. But as Lord Lyndhurst pointed out, this reasoning was pro-
foundly one-sided. Moreover, it failed to explain satisfactorily why the sexual double standard could be used to derail an entire series of legislative reforms apparently unrelated to “spurious offspring.” The logic behind the sexual double standard emerges most clearly, not in the legislators' arguments, but in the complaints of Caroline Norton, the out-of-house petitioner whose pamphlets on divorce helped shape the course of legislative reform.5

The history of Caroline Norton (1808-77) is a veritable case study in the wrongs a married woman could suffer in the first half of the nineteenth century.6 The granddaughter of the playwright Richard Brinsley Sheridan and one of the most eligible debutantes among the Whig elite, Caroline was married in 1827 to George Norton, a Tory aristocratic younger son whose slenderness of means was rivaled only by his physical and emotional brutality. By 1830, Caroline had to support the family, first by her literary earnings, then by persuading Lord Melbourne, the Whig home secretary, to appoint her husband justice to a magistrate's court. But this did not forestall George's avarice or his anger. In 1836, when Caroline refused to let him raise money against her marriage trust, he retaliated by abducting their three children and suing Lord Melbourne for "criminal conversation" (adultery)—one of the necessary first steps toward George's obtaining a divorce. Melbourne was by that time prime minister: George Norton demanded £10,000 in damages, and rumors spread that Norton had undertaken the suit, not only in hopes of extricating himself from financial difficulties, but also in response to Tory desires to bring down the Whig government. So ludricrous was George Norton's evidence that the jury returned a verdict against him without calling a single witness or leaving the box. Even though she was implicitly exonerated, however, the consequences of the trial were disastrous for Caroline, both because George still had the children and because merely having her reputation impugned cast the taint of a fallen woman upon her.

In 1853, after more than a decade of wrangling over custody of the children and the allowance George had agreed to provide her, Caroline, who was by then a renowned poet and novelist, found her dirty laundry being aired in public again. Once more, the squabble was about money. When Caroline's mother bequeathed her daughter an inheritance of £480 per annum, George summarily reduced the £500 allowance he had agreed to pay Caroline in a
deed of separation the couple had signed in 1848. Caroline, who had thought the deed was binding, was shocked when George pointed out that he was not legally bound to keep his word because a man could not contract with the wife who was legally part of him. Enraged, Caroline then turned the letter of the law back upon George. Because a wife could not sue her husband, Caroline allowed a carriage repairman to sue George for his failure to pay Caroline's bill. The trial held in Westminster County Court on 18 August 1853 highlighted the financial difficulties of the couple. George used the occasion to bring up the legacy that Lord Melbourne had left to Caroline upon his death in 1848 in order to besmirch her reputation one more time. When the jury found for George on a technicality, Caroline resorted to the press, writing first to the Times, and then in two pamphlets on divorce, the litany of false accusations she had endured.

Caroline used Lord Cranworth's Matrimonial Causes Bill, which had been introduced and then tabled in June 1854, as the pretext for rehearsing her private complaints. She specifically criticized Cranworth's bill for preserving "the grotesque anomaly which ordains that married women shall be 'non-existent' in a country governed by a female Sovereign." Throughout both her pamphlets—English Laws for Women in the Nineteenth Century and A Letter to the Queen on Lord Cranworth's Marriage and Divorce Bill—Norton focused on the legal contradictions underwritten by the sexual double standard. Here, for example, is a passage (page 13) from her Letter to the Queen:

As her husband, he has a right to all that is hers; as his wife, she has no right to anything that is his. As her husband, he may divorce her (if truth or false swearing can do it); as his wife, the utmost "divorce" she could obtain, is permission to reside alone, — married to his name. The marriage ceremony is a civil bond for him, — and an indissoluble sacrament for her; and the rights of mutual property which that ceremony is ignorantly supposed to confer, are made absolute for him, and null for her.

Norton was able to identify these injustices because she had personally endured them, but voicing them in such political terms required transforming herself from the silent sufferer of private wrongs into an articulate spokesperson in the public sphere. English Laws for Women, the more autobiographical of the two pamphlets, narrates the process by which Norton authorizes herself to speak publicly and politically. Although clearly not her intention, Norton's
self-authorization implicitly challenged the entire ideological order that the legal and sexual double standard supported.

The climactic moment of Caroline's narrative in this pamphlet is her recapitulation of the domestic quarrel with George, which culminated in the August 1853 court case. This is also the moment at which the long-suffering, long-silenced woman becomes a self-conscious, articulate historical agent, determined to speak and write. The transformation begins when George calls his wife to the witness stand and forces her to see herself as he sees her. She wrote: "I felt, as I looked for an instant towards him, that he saw in me neither a woman to be spared public insult, nor a mother to be spared shameful sorrow—but simply a claimant to be non-suited; a creditor to be evaded; a pecuniary incumbrance he was determined to be rid of." Norton's first response to this unsexing is to vacillate wildly between a man's "angry loudness" and a woman's frustrated speechlessness. Only when she applies Lord Melbourne's words to George can she find authority enough to speak for herself.

I felt giddy; the faces of the people grew indistinct; my sentences became a confused alternation of angry loudness, and husky attempts to speak. I saw nothing—but the husband of whose mercenary nature Lord Melbourne himself had warned me I judged too leniently; nothing but the Gnome, proceeding again to dig away, for the sake of money, what remnant of peace, happiness, and reputation, might have rested on the future years of my life. Turning up as he dug—dead sorrows, and buried shames, and miserable recollections—and careless who was hurt by them, as long as he evaded payment of a disputed annuity, and stamped his signature as worthless!

The terms by which Norton authorizes herself to speak are derived from a commonplace Victorian literary genre, the melodrama. The roles in the melodramatic script were as conventional as its underlying values. The trio of an innocent lady-in-distress, a gnomelike villain, and a selfless defender appears repeatedly in both stage melodramas and in Norton's pamphlet; for example, she depicts Anne Boleyn suffering the brutalities of Henry VIII, only to have her reputation vindicated (posthumously) by the poet Wyatt. But if George is the villain here, and Caroline is the lady-in-distress, who, now that Melbourne is dead, is to be the lady's defender? In the current, lamentable state of society, there is no one to play that role but Caroline Norton herself. The melodramatic plot provides the terms, her identification with other (male) defenders provides the means, and, in a dramatic moment,
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Caroline Norton becomes, not just innocence personified, but also judge, jury, and executioner all at once.

On that day, when in cold blood, for the sake of money, Mr. Norton repeated that which he knew to be false. . . . In that little court where I stood apparently helpless, mortified, and degraded—in that bitterest of many bitter hours in my life,—I judged and sentenced him. I annulled the skill of his Tory lawyer's suggestion to a Tory judge. I over-ruled the decision of Lord Abinger in that obscure and forgotten cause, which upheld him against justice. I sentenced Mr. Norton to be known.¹¹

The evidence that Norton uses to convict George here consists primarily of a series of letters in his own hand, which Caroline refers to as the "Greenacre" letters. Composed by George between 1836 and 1841, after the unsuccessful action against Melbourne, these letters pleaded for a reconciliation and playfully entreated Caroline to meet George in an empty house to discuss terms. The signature that George appended to these letters, Caroline tells us, cast a pall upon their teasing tone because Greenacre was the name of a notorious murderer convicted of killing his fiancé in an empty house. These letters had long been in Caroline's possession, and she had wanted to publish some of them in 1838 in conjunction with another trial for debt. This is the "obscure and forgotten cause" to which Caroline refers in the passage I have just quoted. In that 1838 trial, one of Caroline's creditors had subpoenaed Sir John Bayley to attest to George's good character, but Bayley never testified because Sir Fitzroy Kelly, George's lawyer, had advised Judge Abinger not to accept Bayley's testimony because Bayley had seen the Greenacre letters. This conspiracy of Tory silence, Caroline now charges, was mounted to protect George so that he would not reveal that a Tory plot had motivated his earlier suit against Melbourne. In other words, Caroline's reputation had twice been hostage, not simply to George's perfidy, but also to political intrigue. When the verdict in the 1838 trial was announced for George, Caroline had decided to expose her husband and Lord Abinger by publishing her account of the case, but she had been stopped by Lord Melbourne, who, as prime minister to a young queen, dreaded scandal above everything. Amid such political machinations, Caroline Norton's grievance was simply buried, as it had been after the 1836 trial.

By 1854 she could no longer be silenced. "What could my passionate printed justification be?" she asks rhetorically in her
defense, "but a plague and an embarrassment to him [Melbourne], already justified, and at the pinnacle of fortune?" Once repressed by that "double chance" of Whig and Tory politics, Norton's anger now returns to punish both George and Melbourne. Once she has acknowledged the abuses she had suffered as a victim, Norton the defender could formulate the social and legal injustices that permitted these private wrongs. In the last chapter of English Laws for Women and in the bulk of A Letter to the Queen, Norton set out the inequities of the current marriage laws, calling attention to their class and gender bias and pointing to the masculine self-interest that was inhibiting reform.

Despite Norton's ability to recognize these injustices, however, the solution she proposed seemed inadequate to many of her feminist contemporaries (and to us). Norton did not ask for equal rights for women or even for equalization of the grounds for divorce. Instead, she asked for protection. "Petitioning," she writes in English Laws (p. 165), "does not imply assertion of equality. The wild and stupid theories advanced by a few women, of 'equal rights' and 'equal intelligence' are not the opinions of their sex. I, for one (I, with millions more), believe in the natural superiority of man, as I do in the existence of a God. . . . Women have one right (perhaps only that one). They have a right—founded on nature, equity, and religion—to the protection of man."

Norton explicitly endorses here the existence of a natural difference between men and women, and the natural difference of "rights" that follows from this: men have political rights within the public sphere, and women have the right to protection from the stresses of that sphere; women have the right, that is, to remain within the nonpolitical and nonmercenary sphere of the home. The problem with this position is that Norton's melodramatic usurpation of the defender's role, her revelation of the role politics and money had played in her domestic woes, and her entry into political discourse had already collapsed the very differences she wanted to support. This peculiar combination of conservatism and audacity simultaneously enabled Norton to influence legislators like the sympathetic reformer Lord Lyndhurst and prevented her from formulating the more radical analysis that women like the pioneering feminist Barbara Bodichon advanced. Nevertheless, the implications of even Norton's limited demands were potentially more subversive than they might initially appear. To pursue this, I want to
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turn away from Caroline Norton for a moment to examine another piece of legislation that Parliament considered alongside Cranworth's divorce bill. This piece of legislation is the Married Women's Property Bill. Both Caroline Norton's complaint and the parliamentary debates about divorce were inextricably bound with the issue of married women's property. Every episode of the Nortons' dispute involved property, and one of Caroline's most adamant complaints against Lord Cranworth's bill was that it did not allow separated women like herself to keep whatever money they earned; it was the publication of Norton's Letter to the Queen, moreover, that helped Barbara Bodichon convince the reformist Law Amendment Society to take up the issue of married women's property. Norton's well-publicized complaints were confirmed by the more than seventy petitions presented to the Commons in 1856 about women and property, one of which had 26,000 signatures. Legislation about this issue was introduced in the Commons in 1857, not to "assert a new principle of woman's social position," but to "correct a practical grievance" that had been overlooked by Cranworth's divorce bill, which was then under debate in the Lords. The intricate exchange by which the divorce legislation was amended to incorporate some provisions of this property bill, and then used to foreclose serious consideration of its inherent principle, reveals the persistent influence of a set of assumptions about gender, the family, property, and the law.

When discussion about married women's property began in Parliament in 1856, this issue was governed by two different sets of judge-made law, the common law and equity. Under the common law provision of coverture, most of a woman's property became her husband's absolutely when she married, whether she brought that property into the marriage or acquired it subsequently. All of a married woman's income belonged to her husband, she could not bind herself to a contract, and her testamentary capacity was extremely limited and could be exercised only by her husband's consent. If, however, the woman's family was sufficiently wealthy, her property could be settled upon her by means of a trust, which was administered for her by a (male) trustee. The trustee was bound in equity to deal with the property according to the terms of the trust and therefore (generally) according to the woman's wishes. But although equity could thereby give the married woman almost all
the rights of a single woman, her relation to property continued to be both indirect and limited, partly because her testamentary and contract rights were limited to the value of her separate property, and partly because, by a clause known as the restraint upon anticipation, a woman could be prevented from selling her property or charging it with her debts as long as she was married.15

By the mid-nineteenth century, there were at least two reasons these legal provisions might have come to seem obsolete. In the first place, the entry of increasing numbers of women into waged labor called into question the justice of there being one law for rich women and another for poor—especially because common law gave working women no protection against their husbands’ appropriating their earnings and spending them as they liked. In the second place, for well-to-do men, a wife’s provision of separate property meant that potential investment capital was held hostage to Chancery’s cumbersome legal machinery even when the wife consented (as Caroline Norton would not) to let monies be raised against her trust. It was therefore in the economic interest of working women and propertied men to have the laws governing married women’s property changed; the former would benefit by having the protection of equity extended to all women and the latter by eliminating altogether the category of separate property.

The bill introduced in the Commons in May 1857 took a middle course in its proposal for reform; it did not abolish marriage settlements in equity, but it did provide that women married without such settlements would be femes sole in regard to their personal property and earnings.16 Although the bill had considerable support, it also met fierce opposition. What is most interesting about the accompanying debate is how frequently legislators invoked the specter also disparaged by Caroline Norton: the “wild and stupid theories” of “strong-minded women.” When Sir Richard Bethell, the Whig attorney general, responded to the bill in the Commons, for example, he claimed that such legislation tended “to the placing of the women of England in a ‘strong-minded and independent position,’ which so few [choose] for themselves.” The Conservative member for Maidstone, Alexander James Beresford-Hope, reinforced this hobgoblin when he worried aloud that the “extravagant demands of the large and manly body of ‘strong-minded women’” could eventuate in legislation that gave women and men the same status under the law. When Sir John Butler took up this lament, he
clarified the implicit threat to property: a financially independent woman, he surmised, "might, with the best intentions, lay [her property] out, without consulting her husband, in some worthless railway shares or in some unsound speculation, and the husband might find that the whole of that property, to which he had looked, perhaps, for the maintenance of himself during his lifetime, and for the benefit of his children afterwards, had been swept away."17

These objections suggest a fear that any reform would collapse an implicit but critical difference between men and (married) women in relation to property.18 Although married women had no legal independence from their husbands, the very principle of coverture both assumed and codified an essential difference between those who could own property and those who could not. This difference was part of the most basic opposition of English law—that between legal subjects (those people considered able to determine and act upon their own interests, hence capable of binding themselves by contract) and nonsubjects, who were not considered responsible, and who were therefore not so bound. To the latter—children, orphans under guardianship, lunatics and married women—the law extended its protection in lieu of awarding rights.19

In order to understand why this distinction was so important in mid-Victorian Britain, it is important to identify the structural position it occupied in the dominant, middle-class ideology. At mid-century, the legal distinction between responsible subjects and individuals who needed protection codified another, underlying opposition—that between property owners (men), on the one hand, and representatives of property (women and children), on the other. But this opposition actually masked the way that the law constructed all its subjects. In nineteenth-century Britain, the fundamental criterion of subject status—the individual's capacity to recognize and act upon his own interests—was underwritten by another capacity, the ability to possess himself. Locke had formulated this notion of the male proprietary self in his statement that "every man has a property in himself."20 This amounted to every individual male being constituted as a divided subject. This internal division was the basis for the "free" exchange of labor and therefore the production of surplus value, but it was also the basis for the alienation every man experienced in the market economy.

What is important here is the role that gender played in making this structural alienation tolerable. For the (spurious) opposition
between property owners (men) and representatives of property (women and children) was legitimated and explained by what seemed to be its biological basis. Female nature, which was theoretically determined by maternal instinct, was supposedly noncompetitive, nonaggressive, and self-sacrificing (that is, internally consistent and not alienated); as such, it was the perfect complement to the competitive, aggressive, acquisitive nature of man. This apparently fixed biological difference was also taken to anchor the (putative) opposition between the public sphere, where alienation was visible and inescapable, and the home, where there seemed to be no alienation at all—and this difference (between the public and private spheres) was represented as the antidote to the alienation and frustration even wealthy men could not escape.21 But the notion that relations in the home transcended alienation depended on defining woman as naturally self-sacrificing. Only as long as women did not assert any desire that exceeded maternal love or transgressed the marital bond and only as long as a wife's domestic labor was rhetorically distinguished from paid labor could the illusion be maintained that there were separate spheres, that there was an antidote to the alienation of the marketplace, and that men were fundamentally different from women. The ground of this circular logic, in other words, was the definition of female nature as self-consistent and self-sacrificing—but this definition assumed precisely what it was invoked to prove: that social behavior reflected nature, not constituted it.

This deep structure of ideological relations helps explain why the Married Women's Property Bill was considered so "evil" a piece of legislation,22 why arguments about the sexual double standard held sway for so long, and why Caroline Norton's pamphlets were simultaneously potentially subversive and susceptible to appropriation by male legislators. Because it proposed giving all married women rights over property, the Married Women's Property Bill of 1857 would have overthrown the alignment of gender and economic privilege. The bill challenged the equation of man with owner and woman with property and therefore threatened to subvert the entire social order by revealing what was, in fact, the case—that the opposition between owner and property was specious. Moreover, the possibility that women could also be divided subjects—proprietary selves—undermined the naturalness of the putative indivisibility of female nature. Taken together,
these notions and the pending legislation challenged the assumption that the biological differences between women and men authorized social, economic, and political inequality.

This is the context in which to understand the peculiar place of Caroline Norton in the history of nineteenth-century family law reform. To the extent that she insisted upon articulating her own desires independent of her husband's will, and to the extent that her history exposed the nexus of economic, social, and ideological factors in the laws concerning married women, Caroline Norton also threatened to subvert the ideological oppositions crucial to her society. But to the extent that she formulated her complaint in terms derived from the prevailing ideology, her challenge actually supported the status quo.

The threat that Norton posed was twofold. In the first place, in claiming the right to represent herself in this form, Caroline Norton violated the separation of spheres within representation. In articulating her emotional plea in legal rhetoric and in levying political charges to defend her cause, Norton mixed emotions and legal rhetoric in a defense that collapsed political and personal wrongs, and she spoke as a woman in a language in which only men had been authorized to speak. In the second place, in exposing the extent to which politics and money matters always underwrote and undercut her domestic life with her husband, Norton exploded the supposedly stable barrier between civil society's public and private spheres. Her life history made absolutely clear what her writing made legible: that women were not necessarily protected in exchange for their dependence and that women were also always alienated—both outside the home and within it—from their economic productivity, their independent desires, and even the children they bore.

Despite the subversive implications of her discourse, however, Norton's suggestions for reform challenged neither legislators' assumptions about women nor the ideological equations that underwrote these assumptions. In contrast to the demands of the army of "strong-minded women," given names if not faces by those 26,000 signatures, Norton's request that separated women be given legal protection seemed reasonable and safe. When the House of Lords amended the divorce legislation to address this injustice, it thereby foreclosed discussion of the much more subversive issue of married women's autonomy in relation to property.
Even though the Married Women's Property Bill passed its second reading in the Commons, when the divorce bill came up nine days later the property bill simply disappeared from parliamentary discussion and the subject was not addressed again until 1868. The Matrimonial Causes Act that Parliament finally did adopt in 1857 did not disturb either women's relation to property or the sexual double standard. Because a husband could sue for divorce on the grounds of adultery alone, but a wife could do so only for the combination of adultery and some other serious offense, the Matrimonial Causes Act enshrined the inequality of women and men. By retaining a provision whereby a man could sue a corespondent for damages after divorce, moreover, it reinforced the equation between women and property that the structural opposition between men and married women simultaneously disguised, protected, and preserved. This situation was not altered until 1882, when a substantive Married Women's Property Bill was finally passed.²²

The complexities of Caroline Norton's paradoxical role in challenging but ultimately endorsing the ideology of separate spheres becomes clearer if we read her story against that of another woman whose tragic fate occupied a prominent place in Norton's conceptualization of her own history. This other woman is the victim of the celebrated Greenacre murder, Hannah Brown.

Early in 1835, James Greenacre persuaded a widow named Hannah Brown to marry him at Christmas, but when Christmas came, the widow Brown had disappeared. Greenacre dismissed the neighbors' curiosity by saying that the wedding had been given up, but a few days later suspicions were aroused when a worker in Edgware Road, London, came across the “trunk of a female body, without head or legs, in a sack which had been tied at the mouth.” One week later, the lockkeeper of Regent's Canal, investigating an impediment to the lock's gates, “dragged up by its long hair the head of a woman.” A worker in Coldharbour-lane completed the puzzle on 2 February, when he “found a sack among the bushes. There was a hole in the rotting old sack, and through the hole he saw part of the knee of a human being. The sack was opened, and found to contain the legs of a woman.”²⁴

The police determined that the body was Hannah Brown's. Sum-
marizing the police report, Norton offers this gruesome description of the woman's murder. She wrote that the police decided "that a heavy blow given to the miserable creature's head during life, had burst her eye, fractured her skull, and broken her jaw, several of the teeth of the upper jaw being forced out and the tongue crushed between them; that her head had been sawn off while life yet lingered—though, from the blow which ruptured the eye, she was then probably in a state of temporary insensibility." Although she alluded to it repeatedly in the 1830s and 1850s, Caroline Norton finally set out the details of this story in the 1870s in an appendix to a privately printed pamphlet entitled *Taxation: By an Irresponsible Taxpayer*. Her primary argument in the pamphlet is that a married woman should not be obliged to pay taxes if she has no legal existence; but, here as elsewhere, her real complaint is that the husband who should protect her can avoid doing so because the law denies her a separate legal existence.

Appending Hannah Brown's story to this complaint implied that George Norton, the ex-magistrate, was aided by the laws of his country in the brutal (if metaphorical) "assassination" of his wife. This analogy, however, is only one part of an entire set of relationships, characters, and plots ultimately derived from melodrama. For Norton, the dismembered woman's body—its tongue crushed, its head sawn off while the body was still alive—is a precise image of the woman who is denied protection. She is innocence silenced; she is helplessness and vulnerability victimized by man's predatory nature. That Caroline Norton repeatedly identified herself with Hannah Brown suggests the stark polarities of Norton's self-conceptualization as well as the extent to which she continued to define herself in terms derived from the domestic ideology. The gratuitous brutality of Brown's murder bespeaks a world where male violence preys on female helplessness and where the only imaginable remedy is giving women not political rights but legal protection within the separate sphere of the home.

Widow Brown's melodramatic story provided Norton with a language bristling with metaphorical violence that allowed her to express her outrage against all her oppressors—the brutal husband, the preoccupied politician, the indifferent legislators. Indeed, in one sense, the fact that Norton, as a married woman, could use such highly personal and hyperbolic language, instead of the more abstract and euphemistic terms to which male legislators were
bound, enabled her to say things they could not say—at least on the floor of Parliament. The relative freedom that came from Norton's marginal political position also enabled her to expose—whether intentionally or not—the price extracted from all subjects by the personal alienation inherent in capitalism's proprietary individualism. The figure of Hannah Brown's dismembered corpse not only epitomizes the violated domestic ideal, but it also constitutes a trace of the alienation inherent in the proprietary self, an alienation that was most visible in this story where it was theoretically least felt—in the woman who should have been safe and protected at home.

By contrast, however, Norton's identification with Hannah Brown also marks the limitations of her public complaint. Even though the woman who spoke melodramatically of domestic wrongs articulated the contradictions she lived in such a way as to mobilize her contemporaries' sympathies and fears, she did not thereby escape the situation that set the terms for her vulnerability in the first place. The language of melodrama and the idealization of domesticity that underwrote it worked against both a genuine recognition of the interests women shared, especially across class lines, and the entry of women as a group into the public sphere of politics and business. In an important sense, Caroline Norton was able to tell the story of Hannah Brown's dismemberment because she did not identify with the working-class woman; whatever periodic brutality George might express in the privacy of their home, Norton, like many other upper-class and middle-class women, imagined herself to be immune to the pervasive and random violence that so many lower-class women feared to be a condition of their daily lives. Class is operative in Caroline Norton's story, then, not as a factor she overcame in constructing a female alliance, but rather as a buffer against overidentification and therefore as the necessary condition for self-representation itself.26 If the respect and protection upper-class and middle-class women claimed as their right depended on keeping the sexual spheres separate, then this symbolic separation also worked against many women of the upper classes seeing working-class women as anything other than fictional characters.27 Insofar as this was true for women such as Caroline Norton, the class differences perceived to divide women helped obscure the way laws such as the 1857 Matrimonial Causes Act actually institutionalized dependency among women as a class by
equating sex with gender and by giving this factor priority over all other demarcations of difference.

NOTES


3. The ecclesiastical courts could also grant divorce a vinculo matrimonii (from the bonds of matrimony) when either the husband or the wife petitioned that the marriage was null and void because of some defect that had existed from its beginning. Relevant defects included kinship within the prohibited degrees, physical incompetence, and insanity. Such divorces allowed both parties to remarry and declared their children illegitimate. See Holcombe, 94.

Parliamentary divorce was created in part because of the difficulty propertied men experienced in obtaining a divorce when children and property were concerned in a period in which property and legitimate, patrilineal inheritance were so critical to the economic consolidation of families. What is generally held to be the first petition to Parliament for divorce a vinculo was not actually a bill for divorce but a bill to allow Lord Roos (John Manners) to set aside the bond required by the ecclesiastical court when it granted him divorce a mensa so that he could remarry. Entitled "An Act for Lord Roos to marry again," the bill was passed in 1669.

The first genuine divorce bill was passed in 1697 to enable Lord Macclesfield to divorce the Countess of Macclesfield, the mother of Richard Savage, the poet. The first divorce bill granted after an ecclesiastical judgment granting divorce a mensa was for Mr. Box in 1701. According to a mid-nineteenth-century commentator, this precedent-setting case "gave rise to an opinion that nothing short of an Act of Parliament could dissolve an English marriage—an opinion which, though owing its birth to an accident, is now as firmly settled as if it had been determined upon solemn deliberation by the highest court of justice in the realm" (The Law Review, and Quarterly Journal of British and Foreign Jurisprudence 1 [1844-45], 365. See also 362-66). On the general history of divorce, see William Latey, *The Tide of Divorce* (London: Longman, 1970); O.R. McGregor, *Divorce in England: A Centenary Study* (London: Heinemann, 1957); and Gellert Spencer Alleman, *Matrimonial Laws and the Materials of Restoration Comedy* (Wallingford, Pa.: Privately published, 1942), esp. 113-14.


6. For biographical discussions of Caroline Norton, see Alice Acland, *Caroline Norton


9. For a pertinent discussion of nineteenth-century melodrama, see Peter Brooks, The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess (New Haven and London: Yale University Press, 1976), chaps. 1 and 2. Brooks argues that melodrama "tends to become the dramaturgy of virtue misprized and eventually recognized" (p. 27). "In a striking number of cases," he continues, "this recognition requires a full-fledged trial, the public hearing and judgment of right against wrong, where virtue's advocates deploy all arms to win the victory of truth over appearance and to explain the deep meaning of enigmatic and misleading signs" (p. 31). Brooks's comment about the villain of melodrama could be a description of the threat George Norton poses: "The force of evil in melodrama derives from its personalized menace, its swift execution of its declarations of intent, its reduction of innocence to powerlessness" (p. 34). And his discussion of the source of melodrama's hyperbole sheds an interesting light on the psychological underpinnings of Caroline Norton's self-presentation in the Westminster courtroom: "Evil's moment of spectacular power—when it imposes its rule and drives out innocence—provides a simulacrum of the 'primal scene.' It is a moment of intense, originary trauma that leaves virtue stunned and humiliated. . . . The familial structure that melodrama (like Greek tragedy) so often exploits contributes to the experience of excruciation: the most basic loyalties and relationships become a source of torture" (pp. 34-35). On the subject of melodrama in the nineteenth century, see also Judith Walkowitz, Jack the Ripper's London (forthcoming, University of Chicago Press and Virago Press). Leonore Davidoff and Catherine Hall point out that the Queen Caroline adultery scandal was represented by the press as a melodrama. See Family Fortunes: Men and Women of the English Middle Class (Chicago: University of Chicago Press, 1987), 150-55.

10. I am indebted for this point to a paper by Teri Silvio, "The Male Representing the Female Representing Herself: Wilkie Collins and Caroline Norton," Bryn Mawr College, 1985, 6-7.


12. Ibid., 134.


14. In 1856, Barbara Bodichon's Married Women's Property Committee secured thirty thousand signatures on a similar petition, and in 1857 she presented twenty-four thousand more. For a reprint of the 14 March 1856 petition, see Holcombe, app. 1, 237-38.

15. For discussions of women's place in the family economy and the specific restrictions governing their ownership of property, see Davidoff and Hall, chap. 6.


18. Although the explicit legal opposition is between men and *married* women, the implicit opposition is between men and women—not only because an unmarried woman was legally her father's ward but also because marriage was generally held to be the natural destiny of all women, that legal state in which a woman became what she was biologically destined to be. The normative status of married women helps account for the distress provoked by the 1851 census, which revealed a "surplus" of women—hence that every woman could not possibly become a "normal" woman.


19. Here is Sir Henry Sumner Maine in 1861:

The child before years of discretion, the orphan under guardianship, the adjudged lunatic, have all their capacities and incapacities regulated by the Law of Persons. But why? The reason is differently expressed in the conventional language of different systems, but in substance it is stated to the same effect by all. The great majority of Jurists are constant to the principle that the classes of persons just mentioned are subject to extrinsic control on the single ground that they do not posses the faculty of forming a judgment on their own interests; in other words, they are wanting in the first essential of an engagement by Contract."

(From *Ancient Law*, quoted by Tony Tanner, *Adultery in the Novel: Contract and Transgression* [Baltimore: Johns Hopkins University Press, 1979], 4-5). The justification typically offered for including women in this category is that their interests are identical to those of their fathers or husbands. The fact that Maine's argument about the inability to recognize or act upon their own interests actually underwrites including women in this group is argued forcefully by William Thompson. See *Appeal of One Half the Human Race, Women, against the Pretensions of the Other Half, Men, to Retain Them in Political, and Thence in Civil and Domestic, Slavery* (1825; reprint, London: Virago, 1983), 25-113.

20. John Locke, *The Second Treatise of Government: An Essay Concerning the True, Original Extent, and End of Civil Government* (Indianapolis: Bobbs-Merrill, 1952), 17. During this period there were several formulas for symbolically resolving this structural division. One of these was the paradigm of psychological development, according to which the gap written into the self was represented as the potential for psychological growth. For a discussion of this solution, see Clifford H. Siskin, *The Historicity of Romantic Discourse* [New York: Oxford University Press, 1988], chap. 6; and Mary Poovey, *Uneven Developments: The Ideological Work of Gender in Mid-Victorian England* (Chicago: University of Chicago Press, 1988), chap. 4.

21. Here, for example is Peter Gaskell, writing on the idea of "home" in 1833.

Home ever has been and ever will be the school for moral education. It is here alone that man can develop in their full beauty those affections of the heart which are destined to be, through life, the haven to which he may retire when driven about and persecuted by the storms of fortune. It is here alone he can find refuge; it is here, that he may have about him if his condition is not supereminently wretched, feelings and emotions of the most holy and sacred influence; it is here that he may hold communion with himself; and it is here and here, alone, that he will be enabled to retain his pride of self, his personal respectability.


22. Lord St. Leonards, ex-chancellor, insisted upon including in the Divorce Act a provision protecting deserted wives from their husbands' taking their property because, he said, this would prevent "a greater evil"—passage of the Married Women's Property Bill. Quoted in Holcombe, 102.

23. When the first Married Women's Property Act was passed in 1870, it did not really disturb this alignment, for in maintaining the provision of coverture and the category of separate property, it continued to equate married women and the property they owned.
By the 1880s, economic, social, and ideological factors had finally combined to pose a substantial challenge to the sexual double standard so crucial to these oppositions. The mid-century religious revival that focused middle-class attention on prostitution initiated this challenge, and, by the 1860s, the campaign for repeal of the Contagious Diseases Acts had sharpened this challenge into a specific, well-publicized campaign. Couching its arguments in medical and moral language, the Ladies National Association capitalized on widespread anxieties about the relationship between female and male promiscuity, social problems like disease and urban overcrowding, and unstable class relations. The public campaign against the acts, which continued into the 1880s, demonstrated the extent to which the conceptualization of sexuality could be effectively challenged by a determined, organized, special-interest group. (See Judith R. Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* [Cambridge: Cambridge University Press, 1980], esp. 42-45, 70-100.) The language of sexual relations continued to function as a discourse for discussing other kinds of social and power relations, but by the 1880s the terms of the discourse no longer derived unproblematically from what seemed to be a fixed binary opposition of male and female. This was made clear by the emergence of sexology as a medical speciality in the 1880s and by the proliferation of sexual discussions that tried to reestablish the nature of sexual desire according, not just to male and female oppositional norms, but also to a range of "perversions," "inversions," and "neurosis." (See Jeffrey Weeks, *Sexuality and Its Discontents: Meanings, Myths, and Modern Sexualities* [London: Routledge & Kegan Paul, 1985], esp. 61-95.) The passage of the 1882 Married Women's Property Act was just one sign of the extent to which the realignment of social, legal, economic, and sexual oppositions opened a space for consideration of women's legal and economic autonomy that was unthinkable two decades previously.

24. See Caroline Norton, *Taxation: By An Irresponsible Taxpayer*, 30. I assume this pamphlet is privately printed; a note in Caroline Norton's hand in the copy in Yale University's Beinecke Library is dated 3 July 1874 and refers to the fact that the pamphlet is "only for parliamentary circulation."

George's Greenacre letters are reprinted in the section entitled "Letters, etc. Dated from June, 1836, to July, 1841, [Privately Printed]" in Caroline Norton, *The Separation of Mother and Child by the Law of "Custody of Infants," Considered* (London: Roake & Varty, 1838). The following excerpt from one of the letters gives a sense of why Caroline was so outraged by his joke:

You had better make haste to seize the 500l. I offered, as I assure you it is in dangerous hands, - those of a man trying to furnish two houses at once, and of one very tired of his own lame legs, and arguing thus: - Have I not a stable with two delicious loose boxes? and have I not daily run from this place of Wilton to the Omnibus of Charing Cross? Am I not weary of my legs? and is there any more pleasure in my life? No, there is not; and I'll spend the money in horse flesh and curtains, if you don't look sharp. Pray *Mrs Brown*, how many chairs have you got - also tables? have you e're a dining one? 'Pray come on Friday night; bring all you have got, and we'll be married on Christmas Day.' Your affectionate intended, 'GREENACRE.'


26. I am indebted for this observation to Anna Clark and Judith Walkowitz.

27. This was not upper-class and middle-class women's only response to working women. Some women, notably Jessie Boucherette, Barbara Bodichon, and Josephine Butler, claimed that all women belonged to a sisterhood— even if these early feminists did retain distinctions within that sisterhood. See Martha Vicinus, *Independent Women: Work and Community for Single Women, 1850-1920* [Chicago: University of Chicago Press, 1985]; and Poovey, chap. 5.