

Realism, Evidence, and Truth

Hal Gladfelder, *Criminality and Narrative in Eighteenth-Century England: Beyond the Law*. Baltimore and London: The Johns Hopkins University Press, 2001. Pp. xiii, 281. \$42.50.

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Hal Gladfelder reconsiders the much-considered relation between early modern nonfictional representations of crime and the novel. His nonfictional accounts include newspaper reports, Old Bailey Sessions reports, dying speeches of malefactors about to be hanged, and popular criminal biographies. He focuses on two novelists, Daniel Defoe and Henry Fielding, both of whom also wrote nonfiction about crime. A third novelist, William Godwin, who addressed the problem of crime in his anarchist *Enquiry Concerning Political Justice* (1793), comes in to frame the overall analysis. Some earlier writers have stressed the differences between, on the one hand, the nonfictional literature of crime, which they see as serving primarily to inculcate and reinforce ruling-class norms, and, on the other hand, fiction, which they see as critical of those norms.¹ Others have found the novel itself an ally of the police.² Gladfelder, however, argues that both the nonfiction and the fiction are oppositional. He contends that both forms of writing “tend to legitimate, to project as desirable, the very disruptive potentialities they set out to contain.”³

1. On nonfiction as inculcating ruling-class norms, see, for example, J.A. Sharpe, *Last Dying Speeches: Religion, Ideology, and Public Execution in Seventeenth-Century England*, 107 PAST & PRESENT 144 (1985); LINCOLN B. FALLER, CRIME AND DEFOE: A NEW KIND OF WRITING (1993); and LINCOLN B. FALLER, TURNED TO ACCOUNT: THE FORMS AND FUNCTIONS OF CRIMINAL BIOGRAPHY IN LATE SEVENTEENTH- AND EARLY EIGHTEENTH-CENTURY ENGLAND (1987). In *Crime and Defoe*, Faller finds that Defoe's fiction diverges from and resists the ideological simplifications of the nonfiction.

2. See, e.g., JOHN BENDER, IMAGINING THE PENITENTIARY: FICTION AND THE ARCHITECTURE OF MIND IN EIGHTEENTH-CENTURY ENGLAND (1986); D.A. MILLER, THE NOVEL AND THE POLICE (1988).

3. HAL GLADFELDER, CRIMINALITY AND NARRATIVE IN EIGHTEENTH-CENTURY ENGLAND: BEYOND THE LAW 8 (2001).

A key link between the nonfictional representations of crime and Defoe's fiction is what Ian Watt in *The Rise of the Novel* dubbed "formal" or "circumstantial" realism.⁴ As Gladfelder notes, the detailed inventories of stolen goods in a legal indictment are close cousins to Defoe's descriptions. Moll Flanders, indeed, is indicted for stealing things the novel describes as "two Pieces of Brocaded Silk, value 46 l., the Goods of *Anthony Johnson*."⁵ As a style, circumstantial realism manifests an epistemological shift toward empiricism and a belief that truth is to be found in "facts." Gladfelder, however, adopting the perspective of deconstruction, aims to show that circumstantial realism's intrinsic properties subverted its ability to convey truth. Thus, because of "the peculiar endlessness of circumstantial realism," its "formal resistance to closure," realism's amassing of factual detail ultimately fails to serve as a guarantor of truth; instead, it "endlessly opens the narrative to discordant meanings, contradictory plots."⁶ Fielding, for example, in his nonfictional pamphlet, *A True State of the Case of Bosavern Penlez*,⁷ intended to support the justice of Penlez's conviction. He reprinted a long series of witness depositions to support the conviction, as Gladfelder says, "the better to display the disinterested procedures by which the representatives of the law uncover the hidden truth of a case."⁸ Yet, Gladfelder finds, "the realist strategy of seeming to let the story tell itself through the density of its circumstantial detail only reveals, in the end, the limits of the law's knowledge" and "the obviously *constructed* character of the narrative the representatives of the law have to fabricate to justify Penlez's suffering."⁹

Gladfelder also argues that print itself—far from being a guarantor of accuracy—subverted realism's capacity to establish truth. As the dying speeches of malefactors were transformed into print, "the closeness of observation made possible by the representational resources of print—its immediacy, quickness, attention to the shifting surfaces of things—encouraged a fullness of scrutiny" that subverted simple moralizing.¹⁰ While eighteenth-century criminal proceedings were generally brief and scantily documented, an occasional case

4. IAN WATT, *THE RISE OF THE NOVEL: STUDIES IN DEFOE, RICHARDSON, AND FIELDING* (1957).

5. DANIEL DEFOE, *THE FORTUNES AND MISFORTUNES OF THE FAMOUS MOLL FLANDERS* 284 (George A. Starr ed., 1971) (1722).

6. GLADFELDER, *supra* note 3, at 71.

7. See HENRY FIELDING, *A TRUE STATE OF THE CASE OF BOSAVERN PENLEZ, WHO SUFFERED ON ACCOUNT OF THE LATE RIOT IN THE STRAND* (London, Millar 1749).

8. GLADFELDER, *supra* note 3, at 183.

9. *Id.* at 185.

10. *Id.* at 51-52.

could generate a lengthy record and accompanying pamphlet debate that offered sharply different versions of the case. The Elizabeth Canning case, in which Fielding was involved as a magistrate and on which he published a pamphlet,¹¹ produced materials that, collected in *The State Trials*, run to over 400 pages.¹² Gladfelder follows Peter Linebaugh in using John Cleland's *The Case of the Unfortunate Penlez* to give an alternative version of the facts in the Penlez case, one opposed to Fielding's.¹³ While Gladfelder seems to me to overstate the degree of uncertainty produced by eighteenth-century recourse to print, he has a useful insight about the way that invitations to create a full record and to produce all possible evidence threaten to make judgment humanly impossible. I think of the scene at the end of *A Civil Action* where Jan Schlichtman looks at a warehouse filled with the documents that have become the record of the case, documents so numerous no human life could be long enough to read them.

While there is certainly evidence that some ordinary criminals opposed and even critiqued the principles of justice under which they were condemned, Gladfelder's evidence of their resistance is weaker than he acknowledges. In a book that wants to argue that the early modern literature of crime brings poor people into sympathetic representation for the first time and makes them "objects of complex textual sanctioning,"¹⁴ Gladfelder's use of an interregnum trial of John Lilburne to make his point that the English jury trial "worked against the formation of a monologic discourse of criminality and law"¹⁵ suggests a paucity of evidence more relevant to his main argument. Lilburne was a gentleman and a famous political dissident, certainly not an ordinary criminal. Gladfelder too easily dismisses and oversimplifies the work of the historian John Sharpe and the literary critic Lincoln Faller, who have seen popular nonfictional crime writing as primarily reinforcing the legitimacy of legal norms but who offer more nuanced and complex accounts than Gladfelder acknowledges. Sharpe's discussion of the useful but problematic distinction between social crime and ordinary crime in *Crime in Early*

11. HENRY FIELDING, *A CLEAR STATE OF THE CASE OF ELIZABETH CANNING, WHO HATH SWORN THAT SHE WAS ROBBED AND ALMOST STARVED TO DEATH BY A GANG OF GIPSIES IN JANUARY LAST* (London, Millar 1753).

12. 19 *A COMPLETE COLLECTION OF STATE TRIALS AND PROCEEDINGS FOR HIGH TREASON AND OTHER CRIMES AND MISDEMEANORS FROM THE EARLIEST PERIOD TO THE YEAR 1783*, at 283-692 (T.B. Howell ed., London, Hansard 1816).

13. See Peter Linebaugh, *The Tyburn Riot Against the Surgeons*, in *ALBION'S FATAL TREE: CRIME AND SOCIETY IN EIGHTEENTH-CENTURY ENGLAND* 65, 89-101 (Douglas Hay et al. eds., 1975).

14. GLADFELDER, *supra* note 3, at 121.

15. *Id.* at 62.

*Modern England, 1550-1750*¹⁶ serves as a caution against assuming that the populace at large felt sympathy and solidarity with virtually any act of criminality. The distinctions Faller makes in *Turned to Account*¹⁷ between narratives of murder and narratives of theft warrant more of Gladfelder's attention; so do Faller's reexamination of Defoe's realism and his complex readings of the novels in *Crime and Defoe*.¹⁸

Particularly in considering fiction, it would be worth thinking harder about what we want to count as a "crime narrative." Gladfelder agrees with Sharpe that by the end of the seventeenth century, law replaced religion as "the main ideological cement of society"¹⁹ and argues that crime narratives become central to the novel because "the singularity of the individual is transgressive *in itself*, inescapably deviant in its origins and enactments."²⁰ But the kinds of crime narratives Defoe offers are not characteristic of the mid- or later eighteenth-century novel, in part because most later novels do not have protagonists who inhabit such lowly social milieus. Paula Backscheider, Defoe's biographer, has recently complained that she finds it hard to understand "why Defoe, not Defoe and Haywood, is credited with originating the realist novel."²¹ Many of Haywood's novels descend from the novella and abound with crimes, but are firmly set in contemporary London. Should we regard Haywood's *The Mercenary Lover* (1726), in which a man "of no higher Rank than a Trader" seduces and then poisons his sister-in-law, as a crime narrative?²² If not, why not? Does the fact that he is not prosecuted remove it from that category, or does the fact that he is not prosecuted suggest that Haywood offers a more scathing indictment of contemporary justice than Defoe does?

If Gladfelder does not consider the novella as a significant source of crime narratives, Fielding does. Gladfelder is interested in Fielding's *Amelia* (1752) because part of it is set in Newgate prison and because he finds that "Fielding's progressive accommodation to the

16. J.A. SHARPE, *CRIME IN EARLY MODERN ENGLAND, 1550-1750* (2d ed. 1999).

17. FALLER, *TURNED TO ACCOUNT*, *supra* note 1.

18. FALLER, *CRIME AND DEFOE*, *supra* note 1.

19. *Id.* at 5.

20. *Id.* at 6.

21. Paula Backscheider, *The Story of Eliza Haywood's Novels*, in *THE PASSIONATE FICTIONS OF ELIZA HAYWOOD: ESSAYS ON HER LIFE AND WORK 24* (Kirsten T. Saxton & Rebecca P. Bocchicchio eds., 2000).

22. ELIZA HAYWOOD, *THE MERCENARY LOVER: OR, THE UNFORTUNATE HEIRESS 10* (London, N. Dobb 1726) *reprinted in* *THE REFORM'D COQUET AND FAMILIAR LETTERS BETWIXT A GENTLEMAN AND A LADY, BY MARY DAVYS. THE MERCENARY LOVER, BY ELIZA HAYWOOD* (Josephine Grieder ed., 1973).

circumstantial narrative strategies adopted also by Defoe,"²³ coupled with his experience as a magistrate, led Fielding in this last novel "to doubt the possibility of ever fully ascertaining the truth."²⁴ Gladfelder directs most of his attention to Amelia, who he claims recognizes that the domestic sphere is also a prison, and to Dr. Harrison, who becomes a figure of Fielding's "own sense of uncertainty in the face of cultural instability and contention over the control of narrative meanings."²⁵ But neither Amelia nor Dr. Harrison is a criminal. In Newgate, however, we meet Miss Mathews, a character who deserves more of Gladfelder's attention. Confined for the murder of her lover, she narrates her history in a style reminiscent of Haywood's. Unlike the typical malefactor who repents in a dying speech, and unlike Defoe's Moll, Miss Mathews is unrepentant. Fielding frames her narrative with references to the stories of other "heroines" (including those of two eighteenth-century women executed for murders), with histories the narrator calls "false or true," and with warnings about women who look sweet and innocent but are vicious. Here the fact that the criminal narrates her own story does not have the effect of making the reader sympathetic toward her; instead, the narration becomes another of Fielding's exercises in training readers to be skeptical about such stories. (Since *Amelia*, although darker than *Tom Jones*, still has some relation to comedy, we eventually discover that Miss Mathews' lover did not die of the penknife wound she inflicted.)

While most readers would agree that in *Amelia* Fielding presents a bleak, even satirical, portrait of the system of justice, I think Gladfelder goes too far in characterizing Fielding at the end of his career as radically skeptical about the possibility of ascertaining truth or as in despair about his capacity to control narrative meaning. That ascertaining truth is impossible and that narrative meaning cannot be controlled are beliefs of the theoretical position from which Gladfelder writes, and he wishes to congratulate Fielding for coming to realize their truth. Yet, like most modern prosecutors, Fielding seemed confident that he had been able to discern the truth about Penlez and Canning, despite what others with less experience, poorer judgment, or interested motives might claim. To say, as Gladfelder does, that there was no evidence that Penlez was in or near the house attacked by the rioters is to discount the probative value of the linen from the house found on his person, and of the contradictory lies he told about why it was in his possession. Gladfelder thinks Penlez's

23. GLADFELDER, *supra* note 3, at 259 n.32.

24. *Id.* at 204.

25. *Id.* at 203.

“innocent incompetence at making up a plausible story”²⁶ creates sympathy for him, but I think most magistrates and most contemporaries would have seen it as suggesting his bad character and his guilt. According to Fielding’s biographer, Martin Battestin, Fielding’s own interrogation of Canning convinced him of her innocence and, even after she was indicted for perjury, Battestin offers evidence that he continued to believe in her innocence.²⁷

Gladfelder’s nicely written book offers insights into how early modern narratives of crime cultivated sympathy for transgressive energies and into how realist styles of narration did not guarantee the effect of truth. Yet his own arguments are less persuasive than they might be because he presses them too hard, declining to consider significant exceptions and counterevidence, and because he insists that the narrative of crime is more central to eighteenth-century culture and to the development of the novel than it was. The literature of crime was important, but it requires more than assertion in order to establish whether this genre was central or more important than travel literature, the literature of science, the novella, history, memoir, the discourse of political economy, spiritual autobiography, or other contenders.

26. *Id.* at 186.

27. MARTIN C. BATTESTIN & RUTHE R. BATTESTIN, *HENRY FIELDING: A LIFE* 575-76 (1989).