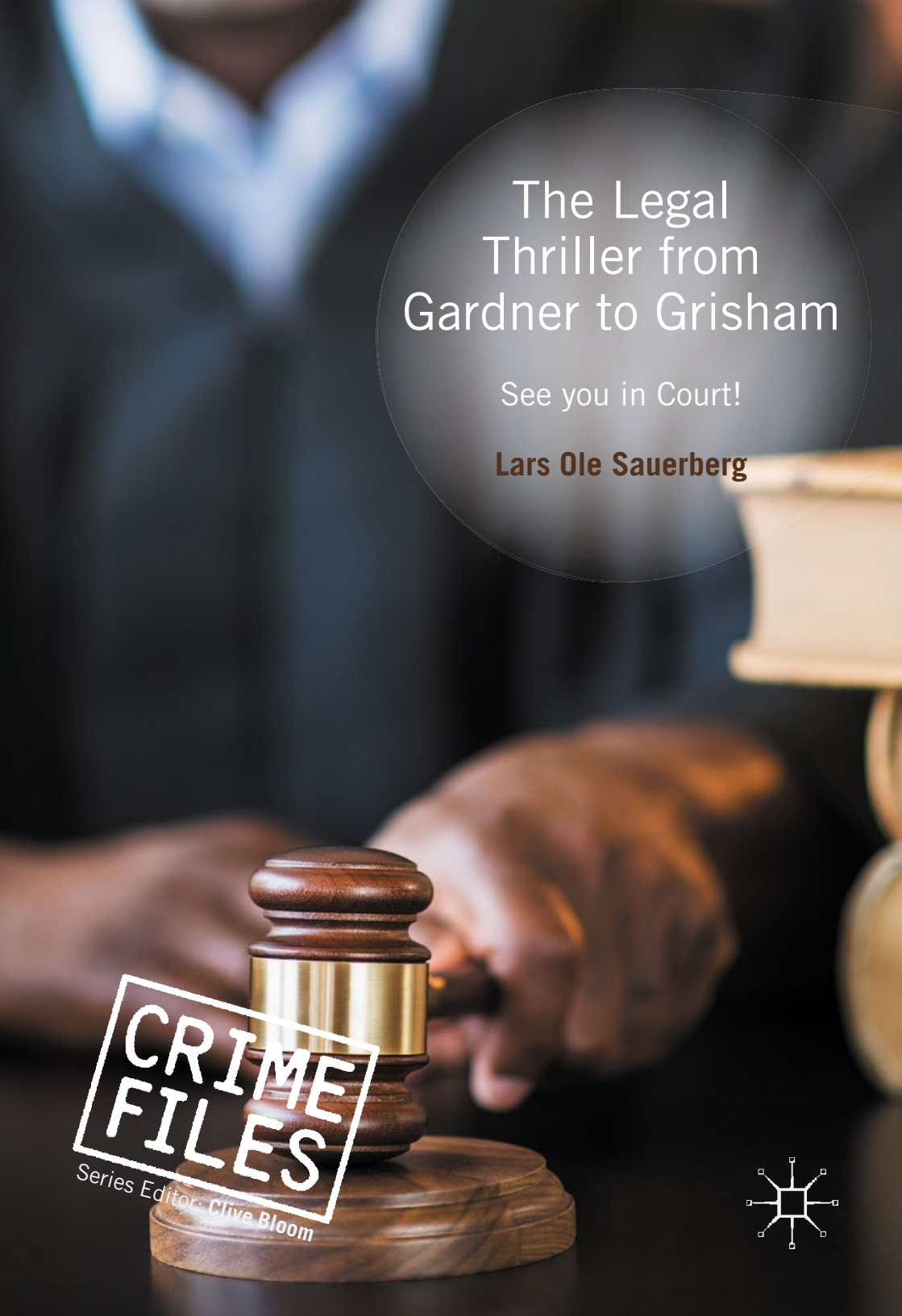
The Legal Thriller from Gardner to Grisham
See you in Court!
Lars Ole Sauerberg
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Lars Ole Sauerberg

The Legal Thriller from Gardner to Grisham

See you in Court!

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To Mette

Preface

The legal thriller as a screen genre has enjoyed immense popularity for a very long time. Courtroom drama, as the legal thriller is often named in its screen version, is one of the pet subjects for film, media, and cultural studies. The print version, the literary effort, seems, in comparison with the attention of such studies, to have been somewhat in the critical shadow. With this treatise I hope to contribute to giving the printed legal thriller a place in critical literature that it deserves.

The legal thriller has a special place in crime fiction as the bulk of it is written by authors with professional, legal backgrounds. The verisimilitude so often claimed in prefaces and afterwords in works of crime fiction has here a quite unique application and validity. My study is not meant to be exhaustive, but, on the strength of the works selected, to provide a sufficiently representational overview.

The study builds on and develops issues from my article "Legal Thrillers" in Kenneth Womack (ed.), *Books and Beyond: The Greenwood Encyclopedia of New American Reading* (Westport, CT and London: Greenwood Press, 2008, vol. 2 (E–M), 561–71.

Thanks are due to the University of Southern Denmark Library for providing so much first-class help, as usual. Thanks also to Tim Vicary for his permission to use passages from private email correspondence.

This book is dedicated to my wife, Mette, who has tolerated patiently and lovingly a husband often distracted by the demands of a work in progress.

Odense, December 2015

On Sources, Approach, and the Selection of Titles

The success of the printed legal thriller in terms of audience popularity has two implications for its status. One is the high degree of generic uniformity: readers expect more of the same and writers provide texts accordingly, so that we end up with fiction of a formulaic nature. The other is the sheer magnitude of titles in print.

The first circumstance provides the critic with analytical tools ready-made and honed, as it were, in the generic theme with variations dynamics. The second circumstance makes a complete critical overview practically impossible. Fortunately, efforts have been made to compile and list writers and works, although a distinction between the more general legal fiction (and drama) and the legal thriller relying on a suspense structure seems not to apply. Three such extremely helpful sources, one print and two online, are accessible for the reader's and critic's consultation.

The first is the outstanding bibliographical work by Terry White, *Justice Denoted: The Legal Thriller in American, British, and Continental Courtroom Literature* (Westport, CT, and London: Praeger Publishers (Greenwood Publishing Group), 2003). White has provided the critic with an indispensable tool to survey a genre with so many, and so professionally qualified, contributors.

The second is the online facility provided by the University of Texas (Austin) School of Law's Tarlton Law Library at the Jamail Center for Legal Research (http://tarlton.law.utexas.edu/lpop/). This is a rich facility affirming that the average American's understanding of our legal system is both reflected and shaped by our popular culture. Bestsellers, movie theatres, and prime-time television have long been filled with images of

lawyers. The goal of this collection is to provide as broad a picture as possible of the image of the lawyer in the Anglo-American tradition.

The collection is broad, as it 'consists of works of fiction in all genres, as well as legal humor, plays, comics, pulp magazines, feature films and documentaries' (Introduction). The collection's breadth is due to the fact that the 'primary criterion for an item's inclusion is that it must either include a lawyer as a central character or have been authored by a lawyer. In this way, we are able to show both the public's perception of the lawyer and the lawyer's perception of the public' (Introduction). The print collection is broken down on subgeneric but quite comprehensive premises without, however, subgeneric genre definitions, distinguishing between 'Detective and Mystery Series, Mystery Fiction, Historical Fiction, Psychological Fiction, Domestic Fiction, Humorous Fiction, Science Fiction, and Graphic Novels' (print collection page), totalling 1,008 titles, of which by far the largest subgenre is Mystery Fiction with its 601 titles. Additional Resources include a PDF file on critical and background literature—'The Lawyer in Popular Culture: A Select Bibliography'—and a very informative and useful compressed, also PDF-formatted, history of the legal thriller (in a web-enhanced version of *Legal Studies Forum*, 22 (1998)) by Marlyn Robinson: 'Collins to Grisham: A Brief History of the Legal Thriller.' The complete online resource also offers copious material on screen versions of the legal thriller.

The third resource is the home page of Professor Martin Kich of Wright State University, Lake Campus, which contains useful exhaustive lists on 'Detectives, by Profession: A List of Significant Characters in Mystery and Detective Novels, Classified by Their Occupations', broken down according to function in relation to crime handling, of which the categories of judge and attorney are especially useful in the context of the present study (http://www.wright.edu/~martin.kich/DetbyProf/Professionals.htm).

The present book is intended not as a catalogue of the genre in its entirety, nor as an encyclopedia of individual authors' work, for which purpose the internet offers excellent possibilities via online bookshops, fan sites, and authors' home pages, but as a critically informed study of a genre on historical and aesthetic principles, applied in a relaxed rather than a critically rigorist manner, and from the vantage point of its status as mass-read narrative fiction in print. Rather than including a great number of titles, the study is restricted to looking more closely into titles selected for their representative value, in the hope of covering as many aspects of the genre as practically possible in the aesthetically oriented perspective chosen for this study. Chapters 7 and 8 focus on a handful of titles appearing from the late 1980s to about 2000,

the time when the genre saw a tremendous upsurge. Many alternative selections would have been quite as relevant, but it is my hope that the titles selected will be comprehensive enough for general representation, so that traits and issues found in any one individual legal thriller out there may be productively related to observations in the present study.

Other Palgrave/Macmillan Titles by Lars Ole Sauerberg

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Versions of the Past—Visions of the Future: The Canonical in the Criticism of T. S. Eliot, F. R. Leavis, Northrop Frye and Harold Bloom
Intercultural Voices in Contemporary British Literature: The Implosion of Empire

Contents

CHAPTER 1

Introduction: The Legal Thriller

Considered as a subspecies in the complex genre of crime fiction, the legal thriller strikes the reader as unique in two respects.

Crime fiction in the by now ubiquitous and genre-dominating manifestation of police procedural terminates its plot development when the culprit has been identified, with court proceedings only apparent when needed to sustain the investigation. The legal thriller, however, usually starts its business with the court proceedings following the closure of an investigation, often resulting in a new angle on the investigation, so as to bring about a final outcome different from the one originally devised by the investigators. In the legal thriller, court proceedings play a very active, if not to say decisive part in a case reaching its ultimate solution.

If this is one characteristic of the structure of the legal thriller narrative, another is to be found at the authorship end of things. Most crime fiction is written by authors with a nose for a good story and with the stylistic gift to handle it in an alluring and engaging way. Professionally, then, it comes as no surprise that journalists and, to a much lesser extent, academics with relations to text sciences—philology, literary criticism and theory, historiography, linguistics—loom large at the productive end of crime fiction generally. Not so in the case of the legal thriller. In this subspecies of crime fiction we find a strikingly high proportion of authors with formal legal backgrounds, such as lawyers, judges, prosecutors, and others similarly professionally qualified. Again, this is surely not surprising taking into account the traditionally narrative nature of the proceedings of a court

L.O. Sauerberg, *The Legal Thriller from Gardner to Grisham*,
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case, and the necessary interest on the part of the professional participants in such proceedings in textual scrutiny.

Legal thrillers constitute a crime-fiction subspecies focusing on the legal procedures in connection with crime. American writers John Grisham and Scott Turow are contemporary writers central to both form and content of the legal thriller. In countries building on the Anglo-Saxon tradition of jurisprudence and law enforcement, the court machinery is usually involved only after the police have handed over a case for trial (except for judges' authorizations of search warrants, for example), but then has a quite active role. In countries adhering to the tradition of Roman/Civil Law, the courtroom leads a less conspicuous life. It sometimes has a role during investigations prior to trial and the passing of sentence—consider Georges Simenon's Paris-based police investigator Maigret, whose life with 'juges d'instruction' is seldom easy. But usually bench and bar in those countries constitute a termination of a criminal case with the meting out of punishment according to the law of the land, with courtroom infighting not expected to change much of the expected outcome.

In legal thrillers, the questioning of police procedures and the call for additional and/or revised investigative procedures take the drama of full-scale crime detection into the courtroom. In the USA especially the genre has found fertile soil, an effect no doubt of the centre-stage role played by law at every level in society. The legal system of the USA is characterized by an extended democratic or popular element reflected in the foregrounding of trials by jury, also in cases of civil litigation, and in both bench and prosecution positions in many instances are elective offices. One of the motifs of the western genre, whether in print or on screen, is the taming of the wilderness in the form of making the law apply to the new areas claimed by pioneers moving westwards. Judges, sheriffs, and lonesome cowboys are ever intent on curbing excesses of free initiative. In fact, all three agents of the law—judge, sheriff, cowboy—have become archetypes in American culture, and their functions are, in various transformations, recognizable in the dramatis personae of the post-closing-of-the-frontier legal thrillers.

The Western world relies on two main law legacies, common law and civil law. The former is a matter of adhering to precedence, with law principles building up over the centuries in the form of court decisions. The latter is a matter of having law in the form of acts and statutes. The UK and the USA lean to the former, whereas countries on the European continent tend, in the wake of Roman law, to prefer the statute book. In practice, common

and civil law both play a part within either system in the contemporary world. Legislative acts supplement precedence in a country without any central constitution like the UK, whereas the US Constitution and the Bill of Rights are regularly invoked in American court proceedings. But it is true that where there is a tradition of common law, the court seems to enjoy a more prominent role. This may be due to the need to examine the applicability of precedence, which gives to the discussants a central role. In the UK there is the additional feature that traditionally judges—for the higher courts—have been selected from the ranks of high profile and extremely competent procedural advocates. In the USA the fact that the officers of the prosecution are from an office depending on the public vote, has in that country a quite telling effect on the dynamics of life in the court.

In his bibliographical study *Justice Denoted: The Legal Thriller in American, British, and Continental Courtroom Literature* (2003), Terry White lists 1,842 titles of books—mostly novels but also short story anthologies and drama—which may be considered representative of the genre of legal thrillers, written by a lesser number of authors, around 1,200, as many have authored more than one title (it is a bit awkward that titles by authors who have more than one book listed are arranged alphabetically, not, more practically, chronologically, though). The compilation's subtitle promises coverage on an Anglophone scale, supplemented by the rather vague 'continental', probably in the sense of European continental. Be that as it may, the compilation not surprisingly has a decidedly US dominance. Out of the approximately 1,200 authors, a rough count yields the result that about 180 are British (further subdivisible into English and Scottish), 8 are French, 7 are Canadian, 4 are Australian, 4 are German, 3 are Austrian, 3 are Irish, and there is a single Belgian, Czechoslovakian, Dutchman, Finn, Italian, and Swiss. The breakdown of the list, in addition to cementing the expectation of US dominance, shows the UK as next in line, followed by other Anglophone nations. The numbers have to be taken with more than a grain of salt, though, not only in view of the non-rigoristic generic criteria applied, which allow for quite a latitude of titles ranging from psychological or social novels with some law in them to regular thrillers, but also in view of the generous chronological sweep, and add to that all the crime fiction which cannot be justifiably included under the heading of legal thriller, but which has legal people and functions as part of the procedures covered. However, although different criteria might alter White's presentation at the margins, the substantial message will not be changed: there is a particularly literature-productive relationship between the law and lawyers in the

Anglophone world with an apparent nexus between specific legal traditions and the specific kind of literature, the legal thriller, building on a suspense structure recognizable from that of the real courtroom.

Although there are strong ties between the legal systems in the Anglophone world, with especially strong ones between the UK and the USA despite a history of secession and revolt, there are limits to the transatlantic understanding. Even if the UK and the USA share the same legal common-law tradition, the two countries have, of course, developed different systems of law application. It is quite telling that D. W. Buffa in his *The Defense* has his narrator protagonist Antonelli react with ignorance when visiting a prospective witness in Canada learning that her husband 'was an attorney. He was one of the youngest attorneys ever called to the silk' (Buffa 1998: 243). The fact that the phrase ('called to the silk') is not the usual one (the correct idiomatic phrase from UK law would have been 'to have taken silk' but is here probably confused with the phrase which is current in both the UK and UK law, 'to have been called to the bar', about a lawyer's qualification to appear in a court of law) may be attributed to authorial unfamiliarity with the hierarchy of the British law system. Antonelli's failure to rise to this bait, intended on the part of the wife to inspire respect, makes it quite clear that the transatlantic traffic in law systems does not necessarily mean thorough mutual knowledge of them.

The domain of legal thrillers is usually criminal law (providing 'standards of conduct as well as machinery (police, courts system) for dealing with those who commit crimes' (Leach et al. 2011: 251)), as opposed to civil law (concerned with 'legal relations between persons' (Leach et al. 2011: 251)). This opposition of criminal to civil law should not be confused with the way the term 'civil law' is also used by comparative law about 'law families'. In his condensed but still comprehensive *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America*, John Henry Merryman reiterates the usual distinction between 'three highly influential legal traditions in the contemporary world: civil law, common law, and socialist law' (Merryman 1985: 1). But he hastens to emphasize that while the 'legal systems of England, New Zealand, California, and New York are called "common law" systems' (Merryman 1985: 1), it is 'inaccurate to suggest that they have identical legal institutions, processes, and rules' (Merryman 1985: 1). Opposed to common law countries, civil law countries are such as 'France, Germany, Italy, and Switzerland, [...] Argentina, Brazil, and Chile' (Merryman 1985: 1). Merryman delineates the civil law tradition by its historical development:

> Of the three, the civil law tradition is both the oldest and the most widely distributed. The traditional date of its origin is 450 BC, the supposed date of publication of the XII tables in Rome. It is today the dominant legal tradition in most of Western Europe, all of Central and South America, many parts of Asia and Africa, and even a few enclaves in the common law world (Louisiana, Quebec, and Puerto Rico). It was the dominant legal tradition in Cuba and in the nations of Eastern Europe—including the Soviet Union—that have become socialist, and it continues to exercise an important influence on socialist legal systems. (Merryman 1985: 2–3)

By comparison the heritage of common law:

> The date commonly used to mark the beginning of the common law tradition is AD 1066, when the Normans defeated the defending natives at Hastings and conquered England. If we accept that date, the common law tradition is slightly over 900 years old. It is sobering to recall that when the *Corpus Juris Civilis* of Justinian [...] was published in Constantinople in AD 533, the civil law tradition, of which it is an important part, was already older than the common law is today. As a result of the remarkable expansion and development of the British Empire during the age of colonialism and empire, however, the common law was very widely distributed. It is today the legal tradition in force in Great Britain, Ireland, the United States, Canada, Australia, and New Zealand, and has substantial influence on the law of many nations in Asia and Africa. (Merryman 1985: 3–4)

Relating to the distribution of legal thrillers by national origins of authors, countries relying on the common law tradition lead by far in terms of the number of titles written and published. The common law view of the law as something flexible and subject to constant change is echoed in John Grisham's 'Author's note' to *The Last Juror*: 'Very few laws remain the same. Once enacted, they are likely to be studied, modified, amended, then often repealed altogether. This constant tinkering by judges and lawmakers is usually a good thing. Bad laws are weeded out. Weak laws are improved. Good laws are fine-tuned' (Grisham 2004: 356).

It is a central observation in this study that the very nature of the 'battle' in the courtroom as determined by the common law tradition has a built-in story and suspense potential absent from the systems of justice prevailing in civil law countries. The difference is conventionally seen as one of adversarial, or accusatorial, as against an inquisitorial process. The former kind is 'not a process to necessarily discover the truth of what happened but one to

test the strength of the case against an accused' (Wilson et al. 2014: 35). In some civil law countries there is a special judge function, sometimes in English termed the magisterial function, by which it is within the responsibilities of the bench to see to the carrying through of an investigation and prepare it for the court, a function in other countries given over to the prosecutor's office:

> The adversarial process is often compared with the inquisitorial process practised in mainland European criminal justice systems, where responsibility for a criminal case is assumed by an investigating magistrate. The magistrate plays a much more active role in a case, unlike under the English model where the judge is largely passive, relying on the parties to present a case and certainly has no role in the investigation of a case. (Wilson et al. 2014: 35)

The judge who is eventually to preside over the court proceedings of the trial in the inquisitorial process, though, in most countries has no function or responsibilities during the preparation of the case. During the trial the judge is supposed to see to it that the law is followed, not to make the law, and so is not particularly prominent during courtroom proceedings. But when the case comes to the courtroom in common law countries, judges are given, and actually enjoy, much leeway in their conducting of the trial process. Also the status of the judge, because of the independent power invested in the bench, marks common law cultures from civil law ones. American author Scott Turow has the narrator who functioned as counsel in the court case he is now recollecting as a senior judge muse on the attractions of the bench: 'like many legal scholars, [he] had longed for the bench and the chance to make the law that he'd spent years studying' (Turow 1999: 79). The passivity mentioned by Wilson et al. in the common law courts should not be mistaken for a lack of power wielded by the bench. As the judge in Robert Traver's *Anatomy of a Murder* instructs the jury:

> 'Ladies and gentlemen,' he began, 'under our law you are the sole triers of the facts, but I am the sole giver of the law. You will take your law not from the Sunday supplements, not from your favorite cops-and-robbers programs on television, not from the family almanac, not even from the attorneys in this case, but solely from me.' (Traver 1958: 414)

The present-day trial practice in common law cultures, relying on the matter being fought out within the courtroom, with a presiding and rather

omnipotent judge and two also very vocal adversarial advocates, all in front of a jury of the accused's peers, is a role-functional set-up feeding immediately into the energy-economy pattern of most narratives. As suggested above, proceedings in the common-law-derived processes of criminal law have an inherent story potential, notably the polishing of a conflict into a deep shine and, due to the necessary prolongation of the careful hearing of evidence, for example, and a building up of suspense only often resolved with a whiplash effect, with the passing of the sentence. This explains why legal thrillers so frequently resort to step-by-step, apparently verbatim, rendering of the 'actual' courtroom proceedings.

Narrative drama of this kind is if not wholly absent then at least rather subdued in countries relying on the civil law tradition. In the cases in which the court has a function in the crime fiction of such countries, it is either as a rather anonymous entity, only necessary when it comes to judges' decisions about search or phone-tapping warrants or decisions to remand suspects in prison, or in the person of the investigating judge or public prosecutor looming in the background.

Verisimilitude and authenticity are mandatory in crime fiction, to a far greater extent than in the average realist piece of prose fiction. Even though elements may be invented, great pains are taken by the author to persuade the reader of the real-world validity of such elements. Courtroom proceedings in themselves constitute drama and suspense, so there is no need to interfere with the plot progression. Staple devices for the creator of legal thrillers, when the action is taken inside the court, are the methodical breaking down of the evidence presented by the opposition and the introduction of startling new evidence. Against that background it cannot come as a surprise that critical interest has primarily been on the extent to which the genre can be said to simulate real court proceedings: how far does this or that story reflect this or that real trial? Similarly, from the fiction angle, the closeness of the imagined train of events is often used to criticize current court principles and practices. In particular, writers of legal thrillers have been interested in the differences between the technicalities of the practice of law and its effects on the individual, whether guilty or not guilty. When capital punishment is involved, with the irreversibility of the sentence after it has been carried out, the court with its many fine points of law and reliance on the varied talents of its officers may sometimes find itself in the dock.

The present study is carried out not as an examination and analysis of legal matters as the subject matter of narrative fiction generally, but as an examination and analysis of the interaction of legal matters and narrative

concerns in the kind of fiction usually known as legal thrillers. The study focuses on what happens when highly serious and complex legal issues are rendered into the formats favoured by the kind of narrative fiction which, in structural and thematic respects, must be seen as formulaic or generic fiction, which, in terms of effect relies on the building up of suspense and which, in terms of its appeal, enjoys a mass reading audience craving for entertainment. This does not exclude interest in matters of a social, economic, psychological, or any other nature. On the contrary, the genre is often used as a vehicle to discuss such issues. But it also means that such issues are dealt with in a narrative framework of a consolidated formulaic kind and with a high degree of alignment between the conventions relating to legal matters and the way they appear in the fictional narrative.

There is mutual dependence between the mass audience reception and the formulaic or generic quality of the format. Without going into a debate about the proverbial egg and chicken, it may be assumed that what sells in the market creates a demand for more of the same. Mass audience fiction responds generically to the cravings of its readers, successfully offering variations and new departures only when readers indicate, by their buying of books, that they like them. Once instituted and successful, such innovations become part of the formula, expected to be offered accordingly. This is Darwin's observation of the survival of the fittest as applied to the production of literature and the book market. An essential part of the nature of the legal thriller is its thriller quality, which simply means an offering of an exciting story, whose excitement is a function of its affective potential and structurally engineered suspense. The thriller quality is one shared by much literature with market success and it is part and parcel of the poetics of such literature, including the legal thriller.

The particular attraction of the legal thriller for many readers is, arguably, in the highly formal re-enactment of events seemingly sorted out already by the police investigation and now ready for critical review and final decision in the courtroom. Whereas the pattern of criminal investigation is the reconstruction of events as they really took place, the court procedure involves presenting these events in the perspective of rules that apply in the relatively rational and dispassionate atmosphere of the courtroom. Two fascinating elements stand out in this process of taking crime from its committal to the sentencing of its perpetrator.

One is the set-up, so similar in many ways to literary drama known from the theatre, or epic or narrative prose fiction. It is not as if courtroom procedures borrow from literature, rather it is a question of literature and

courtroom procedure leaning on similar kinds of dynamic: the confined space and coherent time span associated with the Aristotelean 'rules' of tragedy (courtroom, sequestered jury and limited number of days allowed for the work of the court on a particular case); narrators and narratees (lawyers and judges on the one side, the courtroom (and reading) audience on the other); conflict (confrontational courtroom negotiations); a cast with traditional and easily identifiable roles (judge, lawyers, witnesses, jury, court officers, audience); and plot build-up towards culmination and resolution (argument and the passing of sentence), to name the most striking features. The interrelations of the literary and legal in the courtroom set-up are seen clearly in such statements as 'Juries want a murder trial to resemble a TV show' (Parker 1994: 291), or 'Almost instantly she was plunged back into the melodrama being enacted in the courtroom' (Wilhelm 1995: 247). When the judge after the termination of the case in Robert Traver's *Anatomy of a Murder* enlightens the protagonist lawyer on his fascination for murder trials, he refers to the literary, if only to demonstrate the much more forceful nature of courtroom dynamics:

> The Judge paused and looked up. 'Here's the part. Now listen to this. "The field is a most interesting one. It so far supersedes and renders inconsequential both stage and screen productions, and the best products of the novelists, by sheer force of accumulated actual experience, as to make outpourings of the imagination pale and wilt by factual contrast . . .. Whenever there is a jury trial there is neighbourhood interest, reputations at stake, serious liability, and often even future life involved."' (Traver 1958: 245–6)

The other fascination element is the proximity of the courtroom dynamics to a formal game. Erle Stanley Gardner surely hits the nail on the head with the observation that the 'courtroom was packed with spectators who appreciated the importance of the legal battle that was about to take place' (Gardner 1953: 185). The battle here is the kind of battle with onlookers, that is, a formal battle, like ancient Roman amphitheatre gladiator performances or medieval jousts. Again Robert Traver's old wise judge is worth listening to, with his echoes of Gardner's 'battle' in his 'drama' and 'pageant':

> The Judge glanced at me keenly and smiled. 'I have a confession to make, young man,' he said, his pipe finally lit. 'I am a rabid fan of murder trials, a fan just as hopeless in my way as those hordes of panting and painted harpies out

> there who are jamming our sessions. I am endlessly fascinated by the raw drama of a murder trial, of the defendant fighting so inarticulately for his freedom—his is the drama of understatement—, of the opposing counsel—those masters of overstatement, flamboyantly fighting for victory, for reputation, for more clients, for political advancement, for God knows what—, of the weathervane jury swaying this way and that, of the judge himself trying his damnedest to guess right and at the same time preserve a measure of decorum.' He paused. 'Yes, a murder trial is a fascinating pageant.' (Traver 1958: 245)

Whereas the detective looks out for cause and effect in a rational framework, the rationality of the courtroom is one of playing by formal rules laid down by the law. This means that failing to play by the rules in a court of law may result in losing the game, irrespective of the rights and wrongs of the issues involved. This exerts a tremendous fascination for both the addressees in the real or fictional courtroom and the readers of legal fiction: will the counsel succeed in finding the loophole that determines the case? The crux of the matter in most legal thrillers or film/TV courtroom dramas is the extent to which the jury can be brought to doubt the prosecution's case and so force the judge to acquit. Once this is recognized as the goal, justice and law must be separated: a defendant may be guilty in fact but if he cannot be proved guilty, he must be let go. This is why a brief dialogue like the following is so central to legal thrillers: '"Did he do it?" The question surprised him, coming from an attorney' (Darden and Lochte 2002: 216).

So, this study is concerned with the legal thriller as the meeting place of a kind of subject matter greatly appreciated by lots of readers—legal issues—presented in, and appreciable as, aesthetic formats sharing conventions with other kinds of literature relying on drama, excitement and suspense. Consequently, the study does not attempt to see the law 'behind' the text, but takes a look at the law in a particular kind of text, whose enjoyment by masses of readers is part of its aesthetics.

This volume is divided into seven chapters and a conclusion. Chapter 2 provides an overview and discussion of the relationship between law and literature, reviewing such work as has been done to pair legal studies with literary ones, together with its purposes and effects. It reviews the work done on courtroom drama, most of which has been on the screen versions of the genre, naturally making it part of the media focus of cultural studies. Chapter 3 traces the origins of the legal thriller from its foundations to the golden era of pulp fiction around 1900. The chapter also focuses on Erle

Stanley Gardner who, it must be said, pioneered and consolidated the genre in the USA producing a steady flow of Perry Mason stories before, during and after the Second World War, forming reader expectations accordingly.

In the post-war decades three strong novels featuring the American courtroom and its activities were written—Herman Wouk's *The Caine Mutiny* (1951), Robert Traver's *Anatomy of a Murder* (1958), and Harper Lee's *To Kill a Mockingbird* (1960). In all of them the law and its application is at the centre of what are, otherwise, three very different novels with very different aims, but held together by a legal framework and a strong reliance on suspense, therefore qualifying as legal thrillers. Chapter 4 examines these three titles all of which coincided with the massive success of the more formulaic work by Gardner.

Chapter 5 shifts attention to the British scene. With fewer titles in the category of legal thriller to discuss compared to its American relation, there is nevertheless a solid tradition for dealing with legal matters in the form of fictional narrative, continued, if somewhat irregularly and erratically, to the present day. The American legal thriller really came of age in the 1980s, when titles were turned out in great numbers. After a general introduction to this time of generic upsurge in Chap. 6, the next is devoted to recent American legal thrillers written by female authors. As the genre has been able to accommodate all kinds of conflict, gender tension is one which appears both in the courtroom and in the private lives of the dramatis personae. The male side of the genre is taken up in Chap. 8. Common to both chapters is a keen interest in the ways that the generic framework is utilized both with regard to the aesthetic goal of suspense and to the discussion of issues of central interest to legal principles and social and other concerns.

The Conclusion notes the virtual absence of the genre outside Anglophone common law countries. What is not there cannot be the subject for presentation and discussion, of course, but it may be well worth the effort to reflect on the relations between other crime fiction varieties and the legal thriller in various non-common law environments.

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CHAPTER 2

Law and Literature: Legal Thrillers

As law is an inevitable part of everyday life, from minor traffic offences to corporate takeovers involving lots of money and thousands of jobs, it naturally appears in the fictional universes of drama, novels and short stories. But narrative fiction or drama with more or less law in it is not necessarily of the nature of legal thrillers. The thriller element is one of structure, not of substance. It has to do with the way a story is made to unfold, keeping the reader on tenterhooks. Narrative fiction invariably has a modicum of structural suspense, in that the urge to learn more about events and characters is part and parcel of the literary experience of storytelling. In generic fiction given to suspense, such as police procedurals and legal thrillers, the suspense structure basically informs narrative procedure and is a substantial part of its reading fascination.

Legal matters appear in numerous literary works without making them into legal fiction as such, or anything like a legal thriller. Nick Carraway's musings on the legally doubtful nature of Jay Gatsby's income is part of Scott Fitzgerald's famous novel, but its presence hardly makes the reader feel involved with a work in which legal elements provide its driving force. Matters to do with legacies and the proper—that is, legally valid—sorting out of financial possibilities, as we see in, for instance, Charlotte Brontë's *Jane Eyre*, or as the ever-present marriage-cum-finances background to Jane Austen's novels of manners, is something quite different from making the workings of the law into the primary energy of a plot and the driving motivation of the characters.

L.O. Sauerberg, *The Legal Thriller from Gardner to Grisham*,
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In the legal thriller, the machinery of the law has pride of place in a narrative structured by suspense elements. It provides the plot with its momentum and it motivates the characters' actions. The built-in suspense potential of legal procedures—what will be the outcome of the court hearings?—fits, however, extremely well with the aesthetics of narrative suspense dynamics.

Law and Literature

The perspective of this study is the legal thriller considered as a subgenre of crime fiction, which, in turn, is a subgenre of narrative fiction, and in the print, not the screen (film or television) version. As a category of thriller, it is structurally characterized by a high degree of generic uniformity and, in terms of consumption, a phenomenon of the mass market rather than of the more fastidious consumer niches of 'high culture'. Insofar as literature has come to the attention of legal scholars and professionals, and become a teeming field of academic interest and research, it has tended, though, to be in the capacity not of its mass-market manifestation but by way of a number of literary works from, as it were, the literary canon.

The extent to which the law and literature complex has become entrenched in the American academic and teaching environment is witnessed by the anthology *Teaching Law and Literature*, compiled and published under the auspices of the Modern Language Association of America (Sarat et al. 2011). Acknowledging the fact that law and literature was by then well established as a research field, its way into the classroom was to be facilitated. The anthology is divided into three parts: 'Theory and History of the Movement', 'Model Courses', and 'Texts'. One of the pioneers of the law and literature research movement, James Boyd White, is given the privilege of the introductory essay, which is very much an account of his own way of launching the movement in the early 1970s, reacting against a view of the law as something rigoristic and rule-ridden:

> The world of law—I speak especially of American law—is thus not a world of authoritarian clarity, not a world in which a system works itself out automatically, but a world of deep uncertainty and openness, of tension and conflict and argument, a world where reasons do not harmonize but oppose one another. This means that it is a world of learning and invention, where a great premium is placed on one's ability to make sense of an immense body of material as it bears on a particular case (White 2011: 34).

White felt that he could bring his philological experience to bear constructively on the law:

> Much to my surprise, then, my literary training was of real and practical value both in the study of law and, later on, in the practice of law. I was used to close reading of texts; used to seeing in one composition or expression a range of possible meanings; used to arguing for one reading as dominant, against the reality of other possibilities; and, perhaps, above all, used to seeing both in written and oral expressions performances of mind and imagination that could be done well or badly. In other words, there was from the beginning a natural point of connection for me between these two forms of activity and life, the reading of literary texts and the practices of law. (White 2011: 35)

Richard A. Posner in his monumental and thought-provoking treatise *Law and Literature* (first published 1988 and a revised version ten years later in 1998) regrets not pursuing his topic into the area of mass culture, which he here refers to as film and television media: 'No discussion of law in popular culture would be complete without examining the depiction of law in movies and television dramas; but to attempt this would extend this book unduly' (Posner 1998: 4). He then sticks to issues of law and jurisprudence in the established literary canon, shy of the formulaic mode of the legal thriller. But the organization of Posner's treatise is very helpful in the way that it places the law and literature complex into four categories that seem to exhaust the possibilities of approach:

1. Imaginative literature about law generally ('works of literature that are in some sense "about" law, broadly defined to include natural law and revenge—normative systems that are parallel to positive law and influence it.' (Posner 1998: 5))
2. The legal text—enactment, statute, or constitution—considered from a literary-critical angle ('Legislative enactments that become the subjects of celebrated or controversial judicial decisions are often deeply ambiguous texts, as are many works of imaginative literature.' (Posner 1998: 5)).
3. The reading of law texts as politically motivated texts ('shifting the emphasis in legal scholarship—any legal scholarship, however remote the subject may seem from literature—from analysis to narrative and metaphor.' (Posner 1998: 6).
4. Literature as subject to legal controls ('several topics in the regulation of literature by law.' (Posner 1998: 6))

According to Posner, one should be wary of not stretching interdisciplinarity of the fields of law and literature further than the 'disciplines' may essentially tolerate:

> Law and literature have significant commonalities and intersections, but the differences are important. Law is a system of control as well as a body of texts, and its operation is illuminated by the social sciences and judged by ethical criteria. Literature is an art, and the best methods for interpreting and evaluating it are aesthetic (Posner 1998: 7).

Stanley Fish in his review essay 'Don't Know Much About the Middle Ages: Posner on Law and Literature' (1989; originally appearing in *Yale Law Journal*) intervenes in the debate on parallelisms between literary and legal texts by supporting Posner's view of the non-transferability of a literary-critical reading, but on grounds different from those upheld by Posner. White's position is that the kind of attention one gives to literary texts, especially the close-reading anatomies offered by the techniques of the New Criticism, may be productively applied to legal texts, as they may be considered to offer the same kind of complexity as literary texts. Fish, then, agrees with Posner to the extent that 'Literary and legal interpretation are distinct, and the skills they separately require are not readily convertible' (Fish 1989: 294). But whereas the difference for Posner is in the way that a legal text requires consideration of intention, and that a literary text calls for any interpretation that renders the text meaningful, this view is challenged by Fish claiming intention to be operative in the case of all texts. This battleground is well known from debates about the principles of the New Criticism—compare, for instance, Hirsch on meaning and significance or Wimsatt and Beardsley on the intentional fallacy. Fish's argument is that intention is always present, this being in the very nature of linguistic utterance: '*Words are intelligible only within the assumption of some context of intentional production*, [...] Meanings are not embedded in words but emerge and are perspicuous in the light of background conditions of intelligibility' (Fish 1989: 295 (Fish's italics)). To make a long argument short and simple, Fish's point against Posner's distinction between the reading of a law text requiring considerations of intention and the reading of literary text not requiring such considerations, is that intentionality, in the widest sense of the word and commensurate with Fish's notion of interpretive communities, is always present and should always be taken into account.

Since White, Posner and Fish there has been a growing literature on law and literature, which has served to extend the mapping of the textual field but can hardly be said to have widened the theoretical scope or added substantially to the points made. In his *Law and Literature: Possibilities and Perspectives* (1995), Ian Ward distinguishes between 'law in literature' and 'law as literature'. The former comprises the kind of literature which presents legal issues as subject matter or themes, from which the legal scholar may profit, since literature provides a fuller existential picture than just law paragraphs. The latter implies, in the way suggested by White, that the legal text is approached with the tools of literary readings, serving the same purpose as the former. Helle Porsdam in her *Legally Speaking: Contemporary American Culture and the Law* (1999) covers similar ground, but with a special focus on the American predilection for legal intervention. Porsdam, in contrast to most of those writing on this subject, includes popular culture in her highly informed study. It may be subject to debate if Tom Wolfe's *The Bonfire of the Vanities* comes under the heading of popular culture, but a bestseller it certainly was, and it has the basic characteristics of an effective thriller. Porsdam also has chapters on Scott Turow, The People's Court and Sara Paretsky.

Whereas Porsdam only touches lightly on the feminist agenda, Maria Aristodemou in her *Law & Literature: Journeys from Her to Eternity* (2000) shifts the focus to a wholly feminist and social-constructivist platform. Refreshingly, she reviews apparently accepted truth, also subscribed to by Ian Ward, that familiarity with literature will widen the existential horizon of lawyers, based on another accepted truth, namely that the reading of literature makes for general human improvement. Aristodemou argues, following Fish to some extent, that any text that is a culturally conditioned artefact should be read in context:

> In short, the law and literature critic participates, no less than any other critic, in her share of hermeneutic violence and the Nietzschean will to power. Both law and literature are social institutions situated in a culture that constitutes them as distinct discourses at the same time as it is constituted by them (Aristodemou 2000: 7).

To some extent Kieran Dolin in his *A Critical Introduction to Law and Literature* (2007) hearkens the advice of Fish and Aristodemou to seek specific intentions and contexts in his historically informed, interdisciplinary survey of the interaction of border challenging of literature ('creative

freedom' (Dolin 2007: 211)) and the regulation enhancing of law ('social safety' (Dolin 2007: 211)). After chapters on topics as varied as 'Renaissance humanism and the new culture of contract' to 'Rumpole in Africa: law and literature in post-colonial society', Dolin in his conclusion holds up the concerted effort of the Irish poet Eavan Boland and the former Irish President Mary Robinson on the occasion of the latter's presidential inauguration to combine a political and social vision based on the rule of law—feminist issues and national progress—with the literary imagination and verbal instrument: 'The friendship between Robinson and Boland is a compelling contemporary instance of both the vitality and the potential of the interdisciplinary dialogue between law and literature.' (Dolin 2007: 212)

The debate about the status of the legal text in comparison with the literary text in terms of their interpretation, as voiced by White, Posner and Fish only applies to the legal thriller in the way that it is an aesthetically conditioned verbal artefact meant to reflect legal dynamics, especially courtroom proceedings, and which frequently makes use of the kind of scrutiny that lawyers give to legal texts and points for the plot to reach a satisfactory end. The legal thriller seldom offers the verbal and conceptual intricacies that White finds a literary-critical treatment helpful to illuminate. The intentionality energizing a legal thriller is the same we find with any other kind of fictional narrative and which is best described in aesthetic terms, including its nature of formula fiction with a large reading audience appreciating this very formula. Any legal interpretations of points are subject to considerations of plot progression and adhere to the needs of such and not, in principle, to any legal correctness. Historians, of course, know that using literature as source material is at best problematic, at worst downright detrimental for historical exactitude. But in the case of the legal thriller, the law profession background of by far the majority of the authors guarantees the authenticity of the legal framework and background, however invented the plots and characters. In practice, though, the legal thriller, written in most cases by legal professionals, does offer 'correct' insights into the legal world, but this is of secondary importance to the primary importance of the aesthetic intention.

This approach to the legal thriller would authenticate it as a literary genre in many periods and settings. However, it is imperative to appreciate the present day, highly popular legal thriller's standing as a product, after decades of maturing and honing, and coming into its own with the mass printing and distribution of books. It enjoys particular success in cultures

with an already well-developed legal background and legal systems that enhance the aesthetic characteristics of this kind of literature.

In their compilation of legal stories *Trial and Error: An Oxford Anthology of Legal Stories* (1998)—also containing excerpts from longer texts and texts of a historiographical rather than a fictional nature—Fred R. Shapiro and Jane Garry make the point that a professionally disproportionate number of law-trained people have made their names as authors, many of them entering the canon of literature. They further make the point that

> Since ancient times law has found its way into literature as the backdrop against which human beings wrestle with a vast array of moral, psychological, and political issues. Transgressions ranging in scale from the organized horror of the Holocaust to the breaking of a wedding troth have been presented before formal legal bodies in the pursuit of justice. The law court is the forum in which intensely private actions and motives are subjected to public scrutiny; it is a stage upon which past deeds enacted in the grip of fear, sexual passion, or rage—or just in cold blood—are reconstructed in order to arrive at the truth of what happened and to ensure that justice is done (Shapiro and Garry 1998: viii).

The editors of the *Oxford Anthology* acknowledge the fact of the law and literature complex as part of literary studies but also as part of the syllabus taught in law schools. Not only do so many authors have a legal background, and not only are legal actions a process where human relationships can be viewed, as it were, in the raw, but the scrutiny of the legal text for implications and interpretations in the individual case shares a lot of common ground with literary studies. The editors of the anthology made their selection, unlike predecessors in the anthology format, by choosing texts 'focused squarely on legal institutions, legal rules, or legal actors', rather than including texts 'broadly relating to crime and punishment, morality, psychological guilt, or divine justice' (Shapiro and Garry 1998: ix). They also decided to concentrate on 'English-language works', their argument running:

> The English-speaking nations share not only a language and a literary tradition, but also the tradition of common law. A collection embracing literature from Continental Europe or beyond would require a great deal more explication of the legal systems involved, and would risk losing its intelligibility in a welter of different cultures and legal regimes. American and English writers predominate here, but stories from Scotland, Ireland, South Africa, and Australia are also included. (Shapiro and Garry 1998: ix)

The point about non-Anglophone nations not sharing in the common law tradition is indeed also the central assumption of the present study, but not so much because of the confusion stemming from a 'welter of different cultures and legal regimes', but, more positively, because the common law tradition carries with it a potential highly commensurable with compelling narrative structure. But with the global dissemination of media-borne popular culture locally or nationally, derived motifs and topoi quickly turn into universally shared ones and become indices of genre rather than being conditioned and determined by origin; they are signifiers no longer closely attached to signifieds (in the language of structuralism), but free-floating ones. In the case of the legal thriller this means not that the legal thriller in its US/UK version is applied to other settings, in which indeed it would be felt to be foreign, but that readers worldwide have been made to appreciate the framework within which the legal drama is acted out.

To those working in a non-Anglophone legal environment, the common law culture presents a not always quite clear-cut picture. But the really interesting inference to be made is the extent to which common law may account for the special favour of the law as the background and thematic preferences of the authors in the English-speaking world. An essential part of the justification of the present study is to throw light on how this works well in hand with an aesthetic purpose.

From a vantage point of jurisprudence Posner, as we have seen, excludes the usage of legal matters and motifs in his treatment of the law and literature complex in popular formats in books and on the screen as something that would extend his treatise unduly (Posner 1998: 4). In their selection of material for the Oxford anthology, Shapiro and Garry also implicitly draw a line between the law and literature complex in canonical literature, the kind of literature that appears on university curricula, and the popular literary exponents of legal matters: 'Outside the academy, the success of John Grisham, Scott Turow, and other authors of "legal thrillers" attest to the considerable interest in law-related fiction among general readers.' (Shapiro and Garry 1998: viii)

In the present study it is exactly this extra-academic part of the literary spectrum which will hold pride of place. It does so according to the simple but basic assumption that it is precisely by continuing to buy the books of writers like Grisham and Turow that the reading audience demonstrates its response to the legal drama genre.

Legal Thrillers: Short and Long Formats

Like the detective story, of which the legal thriller may be considered a sister genre sharing focus on crime and the organization of narrative structure with a view to building suspense, the legal thriller has a double-format literary history, with short story and novel complementing one another.

As applies to crime fiction generally, there seems to be an especially close relationship between subject matter and literary form with sharp and focused plotting as the central requirement also in the legal thriller. Crime fiction has a twin development as both novel and short story, but the need for the short story to end in a sudden twist has made it a perfect vehicle for subject matter depending on concealment—and sudden revelation. The novel form can add to this elementary plot requirement a lot of padding—elaborating on character, environment and so on—but the eventual turn of the tables is still mandatory for the genre to work satisfactorily.

It seems the rule rather than the exception that prose fiction writers practice their craft in both the short and the long formats. This practice also seems to apply in the case of legal thrillers. Short stories have often been written expressly for magazine publication—if there are enough of them, the writer or the writer's publisher can organize their arrangement in a collection. There are collections about legal matters written by the same author, from Herbert Lloyd's *A Lawyer's Secret* (1896) to Lowell B. Komie's prolific output, collected in and added to in consecutive editions from *The Judge's Chambers* (1983) (according to the flap note the first and only publication of fiction published by the American Bar Association) to *A Lawyer's Notes* (2008). But, surely, the short format is traditionally suited to a multi-author volume, in which different writers contribute stories with a similar theme.

The first collections of legal narratives, most of them with their origin in reality but then developed into miniature, anecdotal, literary forms, were the four volumes by the permanent junior at the London Inns of Court, Theobald Matthew, also known as 'Theo', or just 'O'. Combining the sense of the anecdotal with a fine eye as a caricaturist the volumes, comprising material printed elsewhere, were first published between 1926 and 1932, with the four collections finally amalgamated into one volume which was reprinted until 1985. The charming, quite short, short stories or anecdotes all end with a suitable moral viewpoint, invariably puncturing the charged atmosphere in the courtroom with a kindly ironic twist.

Albert Blaustein, a distinguished lawyer and professor of law at Rutgers University compiled a collection published in 1954, *Fiction Goes to Court: Favorite Stories of Lawyers and the Law Selected by Famous Lawyers*, consisting of short stories from the end of the nineteenth century to the time of publication. The special feature of Blaustein's collection is the principle of selection: he had famous lawyers, as the cover puts it, select their favourite stories. The present-day reader notes with special interest the appearance among the selected contributors of such names as Adlai E. Stevenson, Richard M. Nixon,Oscar Hammerstein 2nd and Erle Stanley Gardner, the last being the only one to also have one of his own stories represented.

John Welcome, pseudonym of the Oxford-educated lawyer John Needham Huggard Brennan, both wrote thrillers and non-fiction works (mostly on horse racing) and compiled anthologies on various subjects, among them hunting, motoring, the secret service, legal matters and gambling. His *Best Legal Stories* from 1962 represents, in contrast or addition to Blaustein's volume, mostly texts of British origin dating back to Dickens. Welcome observes that the intricacies of the law makes it extremely difficult for those who, like Anthony Trollope in his trial scene in *Orley Farm*, demonstrate a blatant lack of legal knowledge in writing incorrectly about legal matters: this is, we may add with a nod to Aristotle, not quite the same as not being able to write convincingly about such matters, although Welcome does not seem to think so (Welcome 1962: 10). The father of the two female lawyers featured in Henry Cecil's *Daughters in Law*, himself a distinguished judge, makes exactly this point to his wife-to-be, an author of crime fiction regularly getting the technical side of law issues wrong, but nevertheless able to hold the attention of her reader. Stating as a fact that 'few lawyers write fiction and few laymen when they write about the law do so convincingly' (Welcome 1962: 10), and in his next breath noting about increasingly prominent legal fiction authors that 'Michael Gilbert is a practising solicitor and Henry Cecil was a practising barrister for many years' (Welcome 1962: 10), Welcome only demonstrates that he was compiling his anthology before the upsurge of the popularity of the genre among authors (most of them lawyers) and readers about a quarter of a century later.

A basic characteristic of legal fiction, according to Welcome, is the down-to-earthness of the handling of legal matters:

> Lawyers, take them as a whole, are not intellectuals. Birkenhead's recreations were hunting, yachting and good living; the first Lord Russell of Killowen had a passion for racing which led him in the end into the purple of the Jockey

> Club; Patrick Hastings loved the theatre, but it was the theatre of Agate and Rattigan, not of Anouilh, Brecht and John Osborne. These, therefore, are not stories to excite the interest of the intelligentsia. The lawyers here represented deal, as they do in their profession, with the basic facts of human nature—so do the laymen (Welcome 1962: 11).

Writers and readers of legal fiction and legal thrillers after the turn of the millennium may take exception to this, realizing that the genre has indeed been providing wholesome as well as sophisticated food for both intelligentsia and laymen alike.

If a handful of anthologies can be said to provide a basis for statistical significance, then the fact that about half of those listed here include Agatha Christie's 'Witness for the Prosecution' must make that particular story from 1925 into one of the texts considered seminal to the genre. In A. K. Adams' 1966 anthology *Favorite Trial Stories* it appears among a mostly American-derived selection of trial scenes, also including some, like the ones featuring Lincoln and the case of Sacco and Vanzetti, based on authentic court cases.

Sometimes, the criterion of matter for the courtroom or lawyer's chambers may be tenuous indeed. This is the case with Peter Haining's selection of crime stories with the common theme of food. When *Murder on the Menu* (1991) figures in Terry White's comprehensive bibliography *Justice Denoted*, it is on the strength of Michael Gilbert's 'A Case for Gourmets'. Gilbert's series character Detective Inspector Patrick Petrella is present in a magistrate's court on duty in a case of stolen goods. Waiting for his case to come up he overhears both a rather humorous exchange between an elderly lady with her own views on train tickets and the magistrate, and a case of a man having been caught while tearing down a railway poster in an Underground station. Petrella's case and that of the man violating the poster are brought to bear on one another, but the justification of White's inclusion must be in the light it throws on the court on the lowest rung of the English judicial system. Here we see Mr Whitcomb, the South Borough Stipendiary Magistrate, meting out justice in a very humane way. A magistrate's court is hardly the place for brilliant legal speeches by highly paid counsel or dramatic exchanges involving life, large property and death. All the same it is the law incarnate as it appears to many people in the more trivial matters of daily business.

Two magisterial volumes containing stories with legal themes, including excerpts from novels, appeared in 1995 and 1998, respectively. The first,

Law in Literature: Legal Themes in Short Stories, compiled and annotated by Elizabeth Villiers Gemmette, is an attempt to present literary legal texts in a systematic fashion, divided into five main sections—'Establishing Laws', 'The Judicial System', 'Punishment', 'Criminal Matters', and 'Civil Matters'—each section further subdivided according to judicial criteria. Gemmette's anthology, which has a companion volume on legal themes in drama, came into being in response to an anthologist's need (trained in both literature and law) to teach jurisprudence courses that recognized the similarities between the way we treat literature and legal texts. From her survey published in 1989—'Law and Literature: An Unnecessarily Suspect Class in the Liberal Art Component of the Law School Curriculum'—it appears that 38 of the 135 US law schools responding to her questionnaire (175 having been invited) take on the relationship for the following three reasons:

> (1) To bring about the configuration of law and letters by exposing the student to grand literary style; (2) to teach the student to read a text critically; (3) to bring together in the student a balance between Rationalism and Romanticism—a balance between the head and the heart, a balance between the Dionysian and the Apollonian forces (Gemmette 1995: xii).

Gemmette concludes her preface by asking: 'Isn't the whole of human experience told by way of stories whether in the courtroom or on the pages of a book?' (Gemmette 1995: xv).

A somewhat less constructivist stance is taken by the compilers of the second volume, *Trial and Error: An Oxford Anthology of Legal Stories* (1998), Fred R. Shapiro and Jane Garry, who offer, under the authoritative imprint of Oxford University Press,

> [T]hirty-two of the most outstanding English-language stories treating the human dimension of the law: individuals caught up in the legal system as practitioners, participants, and sometimes victims. Peopling these pages are lawyers, criminal defendants, litigants, clients, judges, police officers, jurors, and witnesses. The selections range topically over criminal law, law enforcement, military justice, international law, civil rights, property, wills and estates, contract, marriage, divorce and custody, abortion, and the legal profession (Shapiro and Garry 1998: viii).

The editors do not, unlike Gemmette, categorize texts according to the topics set out above, but, like Adams, include excerpts from larger textual

wholes, and from non-fiction as well. They also make the point, which is indeed a major driving force in much legal fiction, including legal thrillers, that

> African Americans and women may have especially ample reason to criticize the legal system, but a critical and satirical perspective toward law animates the majorities of stories included here. Many of the writers direct a reformer's zeal at specific injustices within the system; some come close to condemning the law as a whole. In the writing of literary artists, criticism of law can take a sharp and potent form. It was a novelist, not a politician or a legal scholar, who penned the timeless comment: 'the majestic equality of the law . . . forbids the rich as well as the poor to sleep under bridges, beg in the streets, and to steal bread' (Anatole France) (Shapiro and Garry 1998: x–xi).

Also from 1998 is William Bernhardt's *Legal Briefs: Stories by Today's Best Thriller Writers*. The contributions to this volume were commissioned by the editor. As nine of the eleven stories have 1998 as their copyright date, and as all eleven authors, including the editor, have legal backgrounds, the anthology may be taken as a fairly good indicator of the concerns in the legal area capable of and worthy of transformation into a narrative fictional environment. Bernardt's own answer to the question about the continued popularity of legal novels ('thriller' is used in the anthology's title and on the flap text) is that

> Our world is more complex than it has ever been, and people are still looking for answers, for solutions. There will always be some who seek to understand the machinery of our society, the wheels and cogs that turn behind the scenes, and who believe that lawyers have the inside scoop on these secrets. Indeed, many believe that lawyers are the ones cranking the gears, and thus are the only ones who can make the wheels turn for them, who can set things right. As long as this is true, people will be interested in novels that, at least for the welcome respite of a few hours, make them believe that justice is still possible (Bernhardt 1998: xii).

Despite the many fine legal narratives in the short or excerpted formats, however, the legal thriller is usually written and enjoyed in the longer format of the novel. Whereas the short format favours the surprising ending, quick solution, or even twist in the tail, the longer format is ideally suited to follow the often quite detailed and prolonged negotiations in court. Also the intricacies that led to a case being brought to court often demand attention

at some length. The novel format, as in the case of other crime fiction, is the contemporary rule, with the short story the exception.

Law in Popular Culture: Legal Thriller and Courtroom Drama

Critical Views: Print

Although there are scattered remarks on the legal thriller in the critical literature, the formation of a cross-disciplinary law and literature research field did not emerge until the 1990s. The beginnings of genre awareness are seen in the mid-1950s, in Albert P. Blaustein's *Fiction Goes to Court* from 1954. The back cover of the paperback draws attention to the fact that the compiler of the anthology is a lawyer and Professor of Law at Rutgers University, and that the famous lawyers having chosen the stories include 'three candidates for President of the United States, two legal scholars, two Supreme Court Justices, and three who left the bar for literature and the theatre'. To a twenty-first-century audience two selectors stand out: Richard M. Nixon, who chose 'The Dog Andrew' by Arthur Train, and Adlai E. Stevenson, whose choice was 'Board of Inland Revenue v. Haddock: The Negotiable Cow' by A. P. Herbert. Blaustein's anthology offers both an overview of pre-1950s legal matter stories and identifies, through its focus, a literary manifestation beginning to be generically 'aware' as a genre with extensively popular outreach.

As monumental as Posner's *Law and Literature* (1988 and revised 1998) in matters of law and literature generally and addressing canonical, not popular, literature specifically, is Terry White's *Justice Denoted: The Legal Thriller in American, British, and Continental Courtroom Literature* (2003). The compiler and editor offers a brief introduction to the genre after a foreword by the trial lawyer and writer Michael A. Kahn and three and a half pages of epigraphs. The compilation is followed by a Supplemental Bibliography (criteria for which not noted, though), and a bibliography of relevant background material in the domain of generic legal fiction. The work is a compilation of 1,842 titles in the category of legal thriller, throwing the net rather wide, from Dickens onwards, and then, a hundred pages squeezed in before the title and author indexes, three appendices offering a highly useful 'Lawyers' Lexicon', a section on 'Series Characters' which facilitates overall orientation, and 'Craft Notes', the latter offering a unique opportunity

for the assessment of similitudes and dissimilitudes according to a set a standard questions put to writers of legal thrillers. The editor informs the reader about his procedure:

> Among the novelists (often both practicing attorneys and writers) who returned a survey form with commentary, the following were chosen for their commentary on the craft of writing fiction or on the distinctions they drew between courtroom justice in fiction and in fact. The second part consists of a sampling of trial attorneys, and again, as is the case here, many are distinguished in both fields (White 2003: 481).

White's compilation is an invaluable tool for anyone interested in the law and literature field, both the amateur looking for inspiration and for the literary/legal critic needing solid grounding for research issues. The compilation promises titles from American, British and Continental fiction. The student of the genre, by systematically noting the titles falling into each of the three geographical categories, is unsurprised by the fact that by far the bulk is American, considerably less British, and only a handful Continental, that is, European. This state of affairs quite sustains the assumption that the genre predominantly belongs to the American nation, a country relying so much on legal regulation for the well-being of its body politic.

Critical Views: Screen (Film and Television)

The narrative format and conventions of the legal thriller lend themselves readily to film and television. Known in the USA as courtroom drama the intermedial dynamics of book–screen tie-in has been cultivated extensively, but also many films and television shows have been based on scripts originally for the screen. The Perry Mason series stands out among extremely popular television shows based on legal thrillers in book format, while the intricate problems of a diversity of legal branches and specialisations are presented in the series *L. A. Law* and *Law and Order*. The potential for integrating with the staple diets of soap opera and situation comedy are exploited in series like *Ally McBeal* and *Judging Amy*. A counter-crossing infotainment phenomenon symptomatic of both the pervasiveness of the sense of the law and its reflection in the more or less fictionalizing formats of the media was *The People's Court* running from 1981 to 1993, featuring the retired judge Joseph A. Wapner. Dealing with real cases presented voluntarily by litigants before his fictional but nonetheless efficacious court, the

syndicated television series reveals, as Helle Porsdam observes, that the 'subtext of *The People's Court* was a highly interesting discussion about the role of the legal system, moral values, and preferred behavior in modern, pluralistic, and law-permeated America' (Porsdam 1999: 91).

Real-life court trials are immediately suited for live broadcast. In the words of Steve Martini's wry Paul Madriani, writing in a fictional context, but addressing the state of reality,

> While I have no brief one way or the other for air time, there is a dynamic to television that tends to favor the defense, particularly with an elected prosecutor like Kline. In the glitz of television lights our man is likely to throw out the manual of orderly prosecution. As a result, the state has a burgeoning record of botched high-profile cases, dead-bang winners which have been lost or juries hung because a D.A. couldn't keep his eye on the ball, or started chasing media curves pitched by the defense. There are witnesses who will make up any story and stand in line to perjure themselves for their fifteen minutes of fame. And there are judges who will permit this. It is the dawning of the age of stupidity (Martini 1996: 244–5).

The legal thriller in its printed format is excellently suited for immediate transformation into courtroom drama. The plot line determined by the gradual building up towards the culmination of the last-minute turning of the tables or the judge and/or jury passing sentence after hearing the evidence of the parties is a basic plot dynamic. But the courtroom location and set-up is in itself a gift of a set for film or television. Its confined space, traditional arrangement of seats indicating opposition and confrontation, even the built-in facility for a 'live' audience, are factors that almost beg for filming. Lots of legal thrillers are born as scripts for film and television, even in a few cases for traditional theatre (e.g. Terence Rattigan's *The Winslow Boy* (1946)). Even more are novels rendered directly or adapted into the vision and sound media. Arguably, most people immediately think of cinema when the talk is on legal thrillers. As a consequence most of the criticism of and research on legal thrillers from a popular fiction perspective of has dealt with the genre in either a film studies or, more comprehensively, a cultural studies framework. It is characteristic of the situation that *Law and Popular Culture: A Course Book* (2013) by Michael Asimow and Shannon Mader and the conference proceedings anthology *Law and Popular Culture: International Perspectives*, edited by Asimow et al. (2014), seem to take it for granted that popular culture is synonymous with screen

media, although the borderline between image and print is somewhat blurred: 'All of us swim in a sea of film, television shows, books, songs, advertisements, and numerous other imaginative texts' (Asimow and Mader 2013: xii) The course book then proceeds to analyse twelve films and one television show, giving, it is true, pertinent information about print origins of the films when applicable.

With a similar approach we find the authors of *Reel Justice: The Courtroom Goes to the Movies* (1996), Paul Bergman and Michael Asimow, both professors of law at UCLA School of Law in Los Angeles (Bergman specializing in trial advocacy and evidence, Asimow in administrative law, taxation and contracts (appended note on authors)) confidently open their study with an invited piece from a real-life law professional:

> Scratch almost any lawyer and you'll find a movie buff. That's no coincidence, for the moviemaker's art is not all that different from the lawyer's—especially the courtroom advocate's. Both must capture, in a very short space, a slice of human existence, and make the audience see the story from their particular perspective. Both have to know which facts to include and which ones to leave out; when to appeal to emotion and when to reason; what to spoon-feed the audience and what to make them work out for themselves; when to do the expected and the unexpected; when to script and when to improvise.
>
> It's not surprising, then, that lawyers and trials are a perennial subject of moviemaking. (from Foreword in Bergman and Asimow 1996: xi, by Judge Alex Kozinski)

And the authors themselves add:

> Audiences have an enduring love affair with trial movies. One reason why trial stories work so well is that they provide the drama of one-on-one confrontations—attorney versus witness, attorney versus opposing counsel, attorney versus judge, attorney versus client. And trial movies have a built-in suspense factor. When the judge says, 'Ladies and gentlemen of the jury, have you reached a verdict?' we never know whether this mysterious group of twelve strangers will send the defendants to the chair or let them walk out of the courtroom to freedom.
>
> Another reason for the popularity of trial movies is that producers are smart enough not to make movies about the usual grist of the trial court mill, such as slip-and-fall cases or speeding tickets. Instead memorable movie trials feature eternally fascinating themes such as murder, treachery, and sex—the same topics that Will Shakespeare used to capture his audiences' imaginations a few centuries ago.

> Trial movies can also present controversial legal and moral issues in a sugarcoated package that we swallow with pleasure. Would you rather read another book about capital punishment or see it up close and personal in *I Want to Live*? Browse a treatise on war crimes or see *Judgment at Nuremberg*? Debate whether a quadriplegic has the right to die or watch *Whose Life Is It Anyway*? (Bergman and Asimow 1996: xvii).

Of course, all the arguments to watch a trial movie could serve also as arguments for reading the printed texts of legal thrillers, but undoubtedly there is a certain appeal in the drama-enhancing techniques of film photography, such as intimate and brutally revealing close-ups.

Bergman and Asimow's way of going about trial movies is to list sixty-nine of them, representative of the genre, each of them broken down into a plot summary ('Story'), comments on the kinds of legal issue at stake ('Legal Analysis') and finally, comments on any relations to real-life implications ('Trial Briefs'). Each film is prefaced by the production data—director, producer, etc.—and a rating—one to four gavels (!) and falls into one of eight groups: 'The Story You are About to See Is True . . .,' 'Men in Uniform', 'The Lighter Side of Lawsuits', 'Heroic Lawyers and Clients', 'Don't Become Too Attached to Your Client', 'It's Nothing but a Bunch of Circumstantial Evidence', 'Unusual Judges and Jurors' and 'Dollars and Sense'. The search for any one title is facilitated by three indexes—title, number of gavels and topic. The study in this way combines the selective video guide with solid analysis of relevant legal contexts. Read from cover to cover, uninviting as such a procedure may seem but rewarding nonetheless, the book provides a sound foundation of legal fact for a fictional representation format.

An example of the kind of critical study of law and film leaning to a 'grand narrative' position is David A. Black's *Law in Film: Resonance and Representation* (1999), where the discourse patterns of legal and film 'narrative' are comparable, indeed, at one level, quite similar:

> Film and law are two of our most prolific and important narrative regimes. While there is more to their interaction than what is on the screen, a useful starting point is the observation that film *indefatigably* represents law. Thus, as a phenomenon of potential interest to a narrative theorist, film about law is doubly determined, precisely because it is, at one and the same time, both film (one narrative regime) and about law (another) (Black 1999: 1).

It is precisely this law-as-narrative approach which has served as the premise for not only studies of literature and film that reflect legal discourse and

procedure, but also the other way round; that is, for law studies to look for parallels in the hermeneutics of literary/film texts, on the basis of the 'governance of legal and filmic practice by the received rules of narrative construction and of the role of narrativity itself as a kind of cultural and cognitive hub among whose spokes we may count the textual products of both film and law.' (Black 1999: 13)

As screen media seem to attract most of the interest of popular culture studies, it is refreshing to see essays on the novel–film tie-in in the 2001 publication *Law and Film*. Peter Robson presents a study on the film adaptation of John Grisham's legal thrillers in his 'Adapting the Modern Law Novel: Filming John Grisham', and Phil Meyer on 'Why a Jury Trial is More Like a Movie than a Novel'. Both share with Black (1999) the view of narrative as the common denominator.

Arguably the most ambitious and also politically aware cross-disciplinary approach to cinematic representations of legal matters is the second and enlarged 2010 edition of *Film and the Law* by Steve Greenfield, Guy Osborn and Peter Robson. Covering the ground of law and film studies meticulously and systematically, the authors work on the assumption that

> There seems likely to continue to be a continued debate about the most appropriate focus for scholarship. Whilst none of us is so arrogant as to think that one way is the only true path, there is nonetheless an understandable resentment at others 'passing off' as law and film scholarship something we deem to be trivial, opaque or irrelevant. As we have indicated previously, we have not sought to hide our perspective on the purpose of law and film for us. We continue to hold the view that for us the principal interest lies in uncovering the ideology of film. We do recognise that for others, other goals inform their practice. For us, though, law and film is part of the ongoing struggle against oppression rather than some exercise in aesthetic scholasticism (Greenfield et al. 2010: vii–viii).

Marlyn Robinson's opening of her short account of the history of legal thrillers points to the proceedings of the court room and the nature of narrative:

> 'Whoever tells the best story, wins the case.' To many Americans, this modern maxim embodies the pivotal role of the lawyer: control of the narrative. Whether drafting a contract or laying out evidence in a courtroom, the lawyer's ability to manipulate language determines the outcome of the client's case. Many would argue that the law's language, arcane procedures, rules and

> conventions are purposely made mysterious by its practitioners. What could be more natural than for lawyers and legal stories to have been instrumental in the creation of the mystery novel, and particularly, the subgenre legal thriller? (Robinson 1998).

By centring on courtroom procedures the legal thriller moves the emphasis of crime and its processing from the events of detection (which constitute whodunnits relying on investigators, private or public), to the circumstances under which justice is argued and meted out. It also shifts the perspective from the non-professional environment of investigators to the legal profession with its specialised personnel of judges and lawyers. Not of the least importance from a literary perspective, it replaces the action of pre-court investigation with rhetoric. But, in most cases, the plot of a legal thriller pivots on the sudden and surprising turn which parallels the investigator's breakthrough in the field in the whodunnit.

Since the legal thriller relies on the dialectics of court procedure for its narrative progression, focus is naturally on the verbal presentation of cases, involving witnesses, evidence rendered verbally, and on argumentation. The detection of crime is either finalized and has been put into reports, or, in so far as it is still going on, it has to pass into the courtroom via the counsel for prosecution or defence. The courtroom and its conventions constitute the narrative bottleneck through which everything must pass.

Related structurally to the legal thriller is the police procedural. This subspecies of crime fiction is concerned only with preparing a case prior to taking it forward to prosecution. The business is with the crime and all sorts of material evidence. But it shares with the legal thriller dealing with crime in a publicly sanctioned institutionalized context, and also the reliance on a collective effort within a pre-established paradigm of detection, which parallels the gradual unveiling and documentation of crime in the courtroom. The progression of detection in the police procedural, like the proceedings in court, lends patterns easily transformed into narrative structures. Admittedly, there is much more room for discourse manoeuvre in the police procedural, which, in turn, is less free than the private-eye subgenre where the protagonist often makes a point of his being able to act with no strings attached whatsoever.

Another sibling of the legal thriller is the political thriller, in the manifestation of a critique of muckraking domestic politics rather than dealing with international political relations. This is a thematic, not a structural sharing, as the critique may be contained within the structural conventions

of the legal thriller. Since the law is the common ground of American civic life, it is the natural field for presenting social and other problems which are made visible by the crises implied by law suits and criminal cases.

That there is an energetic and very varied interest in not only the legal thriller but also all possible combinations of law and literature and the media and culture generally is in ample evidence from the very comprehensive bibliography, including legal poetry at https://tarltonapps.law.utexas.edu/exhibits/lpop/documents/bibliography_2011.pdf. A genre-historical survey is offered by Marlyn Robinson at https://tarltonapps.law.utexas.edu/exhibits/lpop/documents/history_legal_thriller.pdf, which will provide the interested student with a wealth of critical comment on the genre.

Some Observations on Genre Aesthetics

The subject of the present treatise is not law and literature in general, but the crime fiction subgenre of the legal thriller. This means focus not on works of literature generally with legal themes or elements, but on a kind of fiction characterized by crime fiction's reliance on a narrative structure that takes the story from a state of uncertainty to certainty in the form of the solution of a crime, and which enjoys a high degree of the formulaic in its composition. Crime fiction has a mass readership and it must be assumed that readers are well aware of what to expect from their preferred reading matter, a kind of expectation which surely contributes to keeping the subgenre within a certain framework. For the generic specialization of the legal thriller this formula of crime investigation ending with the solution of the crime means that the substantial crime-solving process takes place during the court proceedings, and that the end point is conviction or acquittal. In contrast to the police procedural, which dominates the genre and the market, the legal thriller takes over when the police have concluded their criminal investigations. In principle the court proceedings act exclusively on the case as presented by the police, but the proceedings may necessitate and call for supplementary investigations during the process. When a case is in the hands of the court, the focus shifts from the investigative and forensic methods of crime solution employed by the police and turns to the technicalities of courtroom proceedings, which may differ according to national and cultural traditions.

Legal thrillers differ structurally. At one end there is the regular courtroom drama, in which the essentials of the plot take place before the bench. At the other end is the kind of story hinged upon some affinity with the

agents of the legal world, such as the lawyer acting as crime investigator, virtually competing with the professional private eye, or the innocent bystander drawn involuntarily into criminal matters. At either end of this spectrum, and all the way in between, there are numerous reminders of the actuality of the genre in day-to-day, real world existence. As we realize when reading almost any fictional matter, which most readers would feel has features which set it apart from real life through its reliance on melodramatic effects (in the case of crime fiction generally), there are timely reminders in the text to prove just the opposite, that it is not reality.

Also, the legal thriller regularly displays a metafictional awareness to the effect, arguably, of assuring the reader that the individual text being read is just as, or even more 'real' than what has become consolidated as so many set or stereotyped forms. In the crime fiction family, of which the legal thriller may be considered a member, what, as a rule, is omitted or just mentioned in passing, is all the tedious work involved in crime investigation. What the reader is allowed to witness are the highlights, as it were, that is, when the monotonous routines can show results. If not compressed in this way, the door-to-door questioning or the lab procedures would take up the bulk of the space and make author and reader yawn with boredom. However, this urge to ignore or tone down non-dramatic but nonetheless necessary and, in the long run, essential work routines has the effect of subtracting from the representation of the experience of reality without which crime fiction, including legal thrillers, would lose a considerable part of its rationale, since that rationale is lodged in the author–work–reader 'contract' of being let into the machine room with the professionals. In Michael A. Kahn's *Bearing Witness* the 'reality-effect enhancer', if we may call the reminder that, appears twice, once in connection with Rachel Gold's opening statement to the jury:

> I moved back toward the jury box. 'Evidence in a real trial,' I explained, 'isn't like evidence in those courtroom dramas on TV. In the real world, evidence arrives in bits and pieces. That's because witnesses can only testify to what *they* witnessed, and no one person ever witnesses the whole story.' I shrugged. 'In a real courtroom, you sometimes hear the end of the story first, and you don't hear the beginning until the last day of the trial. It can be confusing unless you have a blueprint' (Kahn 2003: 221).

Later on this reality-effect enhancer is again mobilized when Gold finds it opportune to explain the complicated nature of 'hearsay' in a trial. This

prolonged explanation is needed to justify the ensuing replaying of the tape-recorded interview that will turn the tables on the defendant:

> For fans of courtroom drama, no scene is more familiar that that of opposing counsel leaping to his feet to declare, 'Objection! Hearsay.' But for the trial lawyer in a real courtroom, as opposed to the one on the silver screen, no doctrine is more tangled and frustrating (Kahn 2003: 263).

Already Erle Stanley Gardner made use of such a reality enhancer in an exchange between Perry Mason and Della Street: '"You can't imagine a woman being that obvious, being that naïve, and being that stupid. Anyone who reads the newspapers, goes to the movies, or reads a detective story would know that those methods were just too crude to pay off"' (Gardner 1945: 92). Also to this point is Steve Martini when he has an expert witness explain: '"When's the last time you saw prints lifted off a handgun?" he says. He laughs at this. "Something from the movies. All they get in real life are smudges"' (Martini 1996: 205). And two examples from *The Last Defense* by Christopher Darden and Dick Lochte: 'When he returned to the counsel table, Eddie Baraca whispered, "Proof? Who the hell you think you are, the black Perry Mason?"' (Darden and Lochte 2002: 264) and 'Mercer grinned. "My co-counsel asked me if I thought I was the black Perry Mason. He may have had something there. I'm gonna put that old boy in the witness box and Perry Mason the hell out of him".' (Darden and Lochte 2002: 318)

With these qualifications made and bearing in mind publishers' assurances that the fiction we are reading is not really like all the other fiction but the genuine article, we shall look first at the history of the genre and then at some representative works of contemporary origin.

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CHAPTER 3

The Beginnings of a Success Story: Pulp Magazines and Legal Thrillers

The Early Period

Historical sources are often, and sometimes flippantly, referred to as the forerunners of present-day popular literature. Like most other fiction with a popular appeal the modern legal thriller, as one species of crime fiction, had its material genesis in the rapidly developing mass-market print and distribution technology around 1900, and was generically related to other narratives featuring crime stories, with the private investigator dominating at the time. The genre of the legal thriller grew out of the crime story adapting itself to the demands of a mass-market audience which fully matured only in the second and third decades of the twentieth century. The legal thriller in its present-day appearance is very much fiction relying rather rigidly on a set generic pattern, in the sense of a huge range of narratives of near identical structure and subject matter, with enough similarity to each other to gratify expectations of familiarity and enough difference to generate continued interest to devotees of the genre.

The pre-history of the genre, if we indeed allow that term, can be traced back to ancient Biblical and Roman sources. The first appearance of legal machinery in action would, arguably, be Old Testament King Solomon acting in the capacity of investigative judge. We also have a formidable public prosecutor in Cicero of Ancient Rome—the district attorney (DA) of Rome County!— raging against what today would be called enemies of the state—corrupt administrators abusing their offices of trust for private gain. And then there are the old Chinese tales about investigative

L.O. Sauerberg, *The Legal Thriller from Gardner to Grisham*,
DOI 10.1057/978-1-137-40730-6_3

judges Dee Jendijeh and Pao Cheng, showing proto-elements of the later full-grown genres.

Lawyers have appeared regularly in literature in English literature since Chaucer's Man of Law from the *Canterbury Tales*. Judges especially, with wide-ranging authority, appeared often in the early English novel of the eighteenth century, when the legal system was not yet in place for the distribution of roles between the judiciary, prosecution and defence. Daniel Defoe's Moll Flanders of the eponymously titled novel comes to mind, as she awaits trial and is eventually brought before a judge with no defence other than a clergyman who had taken a liking to her.

Throughout the nineteenth century court reports had been popular reading, as exemplified by the early career of British novelist Charles Dickens, who as a young man reported on cases from the London courts. Dickens showed an interest in courts and lawyers in his later novelistic work, but as part of a broader social critique not hinged particularly on this aspect of society administration. In terms of literary history the investigator, in public employ as in the case of Edgar Allan Poe's Inspector Dupin, or self-employed as in the case of Arthur Conan Doyle's Sherlock Holmes, is more of a generalist than a legalist. Although Holmes had a more than working knowledge of jurisprudence (as he had of an astounding number of other, as a rule, quite esoteric things), fictional investigators of fictional crime typically celebrate their triumphs before the court machinery takes over, the legal system's sentencing of criminals an affirmation of what the detectives have already brought out in the open. The courtroom, however, is just where legal thrillers make their distinctive generic mark, both as a very concrete physical space and, hence, as a literary topos. It is within the fixed framework of court proceedings that criminal cases are not only wrapped up but also, and more importantly, examined, frequently to the effect of completely upsetting expectations of routine business.

Among the more bizarre representations of activities in a court of law is the Circe episode in Chapter 15 of James Joyce's *Ulysses*. This chapter puts a much abused Leopold Bloom before the bench as a phase in a nightmarish sequence probably reflecting the cuckolded man's general state of anguish and feelings of guilt in a heavily sex-saturated context. Arguably, there are echoes in this literary burlesque of the then recent trials and ordeals of Oscar Wilde, to which the nightmarish tribulations of Mr Bloom may have borne some degree of resemblance, since Wilde suffered a fatal change in role from plaintiff to defendant quite worthy of dramatic literary emulation.

The huge success of Erle Stanley Gardner (1889–1970) is no doubt a combination of the persistent pursuit of courtroom realism and the creation of a legal defence cum detection team that the reading public quickly began to appreciate and from which they expected only small variations on familiar themes. But there were forerunners, such as Warren Warner (1807–77), whose *The Experiences of a Barrister* (1852) was reprinted in both the USA and the UK several times before being renamed *The Lawyer-Detective* in 1884. Melville Davisson Post (1869–1930) was a prolific writer of popular books with more than two hundred titles to his name, including regular detective fiction. Post was best known in his lifetime and later for his historical detective fiction featuring Uncle Abner, arguably the character that introduced that particular sub-genre. Post's *The Strange Schemes of Randolph Mason* (1896) has the unscrupulous services of the eponymous lawyer as its main dynamic. Equally unscrupulous is the lawyer in *The Confessions of Artemus Quibble* (1911) by Arthur Train (1875–1945). But Train shifted his tracks into the wholly sympathetic, cheroot chain-smoking Ephraim Tutt, who began appearing from 1920.

Not much is in the accessible files on Harry M. Klingsberg (no dates on record). Klingsberg, a contemporary of Gardner, seems to have been active as a provider of light fiction to the weeklies (the short story 'Dangerous Gift' from 8 August 1959, in *The Saturday Evening Post*, may be retrieved from the internet) and he also appears as the scriptwriter responsible for one of the 30-minute stories—'The Case for the State' (1955)—of the 91-episode-long *Schlitz Playhouse of Stars* (1951–9).

Klingsberg's *Doowinkle, D. A.* (1940) is a collection of episodes in a loosely structured novel kept together by the legal exploits of the assistant district attorney John Doowinkle. The inconspicuous looks of the lawyer remind his opponents and audience more of a feeble bookkeeper type until they see him in action in court, which the flap hype sums up exhaustively:

> The diffident little man whom everybody had begun to pity, would reveal such knowledge of human nature and the intricacies of the law, such familiarity with the names and habits of gangsters, would so dramatically and convincingly break down his witnesses, that those who had begun feeling sorry for him would be left squirming in their seats.

It is also from the flap that the reader is asked to think of Mr Tutt's last case, whereas Gardner is left unmentioned.

Klingsberg's legal antihero who in the courtrooms turns into a hero proper is an avid amateur astronomer, which lends a tellingly contrasting perspective to his otherwise quite earthly work, but is also in some instances of direct and very practical inspiration to him. In the court where Doowinkle does legal battle the atmosphere is generally quite relaxed with a judge who may sometimes find it somewhat difficult to keep order among those turning up to watch the show. It is an atmosphere associated with a circus rather than with a place of the most serious forensic activities. When Doowinkle makes his entry in the second incident of this series of episodes, he is an unknown entity. The atmosphere at the start of this particular case is full of both informality and a certain disrespect on the part of the audience, but indicates precisely the nature of what is expected to take place as entertainment rather than highly serious proceedings:

> John faced the bench. 'Your Honor, I apologize for the delay. The State is ready.'
> A ripple of whispers ran through the court. A tipstaff called: 'Silence, please!'
> At the press table, a reporter turned to a colleague. 'Who's that?'
> 'Doo—uh—Doowinkle. Desk man. Tries small cases sometimes.'
> A reporter wrote: 'Babe in the woods.'
> Judge Rowan said, 'Well, let us get started.'
> The hum of disappointment swelled, but nobody stood up. They had come to see a battle of gladiators; they might as well stay for the slaughter of the innocent. (Klingsberg 1940: 42)

Indeed, the babe in the woods turns out to be a mighty gladiator and the audience reacts accordingly: 'A complete hush came over the courtroom. Spectators bent forward; reporters poised their pencils.' (Klingsberg 1940: 57)

The plot of this episode of Klingsberg's episodic novel hinges on a legal technicality, the application of which is made to coincide with the time proven efficient narrative ploy of peripeteia, or the sudden turning of tables prior to the final settlement of the plot. In this case it is the cunning application of the '*nolle prosequi*' (*nol. pros.*: the prosecution's decision to drop charges) by the assistant district attorney that sways the case. By this smart tactical device Doowinkle lures the defendant into a position where his immediate relief at being let off the hook changes into fear when it dawns upon him that he must now appear as a witness in the State's attempt to incriminate some of the bigger fish in the criminal pond. Whenever Klingsberg's Doowinkle triumphs in court, it is invariably by application of such fine points of law.

Historical Legal Thrillers

As there are historical novels, we also have historical legal thrillers. Arguably, the most prominent among authors of such retrospective narratives is Robert Hans van Gulik (1910–67). Van Gulik was a Dutch expert on Dutch Indies law and matters Indonesian. He was a sinologist and a diplomat, whose linguistic and cultural knowledge of the East was quite unique for a Westerner. Having worked for the Dutch Foreign Service since 1935, ending his career as the Dutch ambassador to Japan, he also cultivated his interest in Chinese literature. This led him to the anonymous eighteenth-century novel *Dee Goong An*, which describes three interwoven cases of crime detection conducted by the seventh-century judge and criminal investigator Dee, who lived in the period of the Tang Dynasty. Van Gulik translated the Chinese novel into English and had it published in 1949 in Tokyo, where he was posted as a diplomat. The work on Judge Dee spurred Gulik on to start a series modelled on the translated work but purely fictional. *The Chinese Maze Murders* were published in Japanese in 1951 and in Chinese in 1953, followed by *The Chinese Bell Murders* and *The Chinese Lake Murders*, also appearing in Japanese and Chinese before van Gulik arranged for English versions of his novels from 1957. The Judge Dee novels subsequent to the first three were published in English before they were translated into Japanese and Chinese.

Gulik wrote a preface for his translation of the anonymous Judge Dee novel, which outlines the characteristics of the Chinese novel generally and the tradition of Chinese detective fiction specifically. The Chinese judge, who is a kind of civil servant in a highly developed state bureaucracy, has wide powers and functions both as investigator and judge, and is additionally responsible for sentencing. There is no court arrangement with prosecution and defence in the modern Western sense. The judge may command the help of specially trusted, personal agents in his investigation, and a degree of defence may be mounted by clerks inferior in the court system, as long as they know their place. The judge may order the application of torture with a view to the extraction of a confession needed to close the case. Most of the investigation proceedings take place in the judge's court and much depends on the judge's discretion and his common sense.

Both the novelist Henry Fielding (1707–54) and his half-brother John (1721–80) worked as magistrates in eighteenth-century London. Between them, they can lay claim to the beginnings of modern police work, with the setting up of a police force, the first of its kind, known as the Bow Street

Runners, and a record of criminals, in addition to many other innovative initiatives to do with crime, punishment and rehabilitation. The legal exploits of John Fielding, blinded in a navy accident when he was a young man, have been fictionalized in a number of novels by American writer Bruce Cook, writing his Fielding novels under the pen name of Bruce Alexander.

The Case of Erle Stanley Gardner

Howard Haycraft published *Murder for Pleasure: The Life and Times of the Detective Story* in 1939 (that is, just after the golden age of the genre), one of the first literary histories written on the detective story (the forerunner term for what we now prefer to call crime fiction). It fails to note the work of Erle Stanley Gardner as forming a distinct sub-genre niche. In his chapter on 'America: 1930—' Haycraft pays no attention to any legal thriller features of the professional lawyer's effort to put a fictitious but lifelike lawyer into the role of criminal investigator:

> The largest numerical field in the American as in the British detective story during these years has been, inevitably, the routine or straightaway police novel (whether the hero be professional or amateur) of the purely entertainment school. King of the 'time-killers' among American writers today, at least if sales are a criterion, is Erle Stanley Gardner (1889–) with his frenetic PERRY MASON and DOUGLAS SELBY stories. There is at least a little of Hammett in the Gardner method, but there is more of the author's own background of years spent in writing for the 'pulps.' With no pretensions to literary style, but with a solid understanding of 'action' fiction, the Gardner yarns are a sure two-hour cure for anybody's boredom. (Haycraft 1939: 217–18)

In Haycraft's 1946 collection of essays on what he now has chosen to designate differently in the manner of the American terminological tradition, *The Art of the Mystery Story: A Collection of Critical Essays*, Gardner begins to be a generic household name, but still as someone erring from the mainstream rather than as the creator of a new generic branch. Joseph Wood Krutch, in an essay originally published in the *Nation* in late 1944, admits that before he set himself the task of reading methodically through the genre—reading 150 volumes in twelve months—to him 'Erle Stanley Gardner wrote in vain (under two different names) his five or six novels per annum' (Haycraft 1946: 179). Taking up the thread from an earlier *Nation*

essay by Louise Bogan, who claimed that the 'essential element was an element of dread which corresponds to a nameless sense of apprehension characteristic of men living in our insecure civilization' (Haycraft 1946: 181), Krutch claims that dread may indeed be absent in many detective stories. Krutch finds that

> If, for example, Mrs. Eberhart, Mr. Hammett, and Mr. Chandler frighten their readers, and if Mr. Gardner manages usually to combine two formulas by personally involving his lawyer-detective in dangerous adventures, many other of the most successful writers—S.S. Van Dine, Mr. Queen, Miss Sayers, Mrs. Christie, and Miss Allingham, for example—usually either employ dread as a very minor element in their effect or, by avoiding it completely, make the detective story one of the most detached and soothing of narratives. (Haycraft 1946: 182)

That the attention of the time was very much on the nature of the detective story as a mystery narrative feeding plot-wise on clues, is apparent from Marie F. Rodell's manual for the potential writer of mystery stories from 1943, *Mystery Fiction: Theory & Technique*, the chapter on clues reprinted in Haycraft's anthology. Rodell's attention is wholly on Gardner's handling of the plot rather than on any generic considerations:

> The bizarre clue, the exact opposite of the trite clue, is a potential source of delight and bafflement to the reader, but it must be handled with care. Erle Stanley Gardner is perhaps the greatest master of this technique; he has used even so apparently unpromising a thing as the length of a canary's claws (*The Case of The Lame Canary*); but the neophyte along this path must be careful to follow Mr. Gardner's footsteps not only in the oddness of his clues, but also in the careful logic which explains them and gives them a function in the solution as important as their oddness warrants. (Haycraft 1946: 268)

Dread or not, we begin here to glimpse an awareness of legal thriller genre features.

Detective or mystery story, the emphasis during and immediately after its golden age was on its nature as a riddle with, ideally, the reader being given sufficient clues to enable her or him to solve the crime on a footing shared with the investigator. But soon the issues of the genre were found to be a fitting framework for dealing with such questions as realistic prose fiction traditionally embraced. At the same time there had already been a lively intermedial traffic between printed text and audiovisual representations.

The movies were quick to catch the possibilities of the genre format, which also proved popular for radio. In Haycraft's anthology one of the all-round practitioners of the genre Ken Crossen—mystery writer, editor, critic, radio director and producer—reflects on special problems with the genre when it comes to radio shows. Interesting for the present purpose is it to note that at the time chosen, a week in late November 1945, 'Every day, 365 days a year, four and one-half mystery and detective stories are broadcast to the American radio audience' (Haycraft 1946: 304). At this time, the Perry Mason narratives had a fixed place on the programme. In the media-platform flexibility of the digital age, when as often as not it makes no sense to talk in terms of originals and copies, of essences and derivatives, it is of interest to note that this American media equilibrist was well on his way to accepting that different media provide different production difficulties but also opportunities:

> Of the thirty-one shows currently on the air, twelve star detectives who originally appeared in books, and two shows specialize in adaptations of the 'best' of the published mysteries, yet readers of those books would be hard put to recognize their favorites after the face-lifting routine of radio. Certainly, the Perry Mason fan, after hearing that show over CBS, will dig feverishly through his Erle Stanley Gardner books to find the source of this ether mutation. (Haycraft 1946: 304)

Erle Stanley Gardner must be credited as the writer who pioneered the American legal thriller and probably set the pattern for the genre worldwide. Self-educated in jurisprudence he passed the Californian Bar Exam in 1911 and started to practise law. To compensate for lack of work and the trivia of the legal business he began to contribute whodunnits to the widely distributed and popular low-priced pulp magazines specializing in sensational narrative (the name coming from the wood pulp turned into coarse and cheap paper). Like any efficient and market-aware writer-tradesman Gardner did not put all his eggs just into the Perry Mason basket, but introduced another lawyer-protagonist, Dough Selby, in *The D. A. Calls It Murder* (1937). Under the pseudonym of A. A. Fair he pursued a more comic vein in stories of ex-lawyer Donald Lamb, humorously paired off with the rather mannish Berta Cool. Under various other pen names—Kyle Corning, Charles M. Green, Carleton Kendrake, Charles J. Kenny, Les Tillray, and Robert Parr—his output of stories was prodigious from the start. What put Gardner on the map was the series of more than eighty titles

with the defence lawyer Perry Mason in the lead, which started in 1933 with *The Case of the Velvet Claws* and *The Case of the Sulky Girl*. The Perry Mason stories, resulting in hugely successful cinema films and TV series, are based on legal action in and out of the courtroom, centring on murder and reported in dialogue with only spare and then uninventive description. Mason is regularly helped by his faithful secretary Della Street and cunning private investigator Paul Drake, and is always hard up against various representatives from the DA's office. Retiring from law practice in 1933, Gardner retained a link with actual cases through his charitable initiative, the institution *The Court of Last Resort*, which looked into alleged miscarriages of justice.

Gardner commenced his writing career with contributions to pulp magazine *Black Mask* and with the kind of story that put an emphasis on action, hence Gardner referring to them as 'action mystery stories'. In his essay 'The Case of the Early Beginning' in Haycraft's 1946 anthology, Gardner traces the roots of this development out of the less violent kind of mystery till then still the norm. Phil Cody, editor of *Black Mask*, told Gardner that he saw great possibilities for this variety of the mystery story:

> But I doubt if even Phil Cody appreciated the full extent to which this type of story was destined to change the reading habits of mystery fans. He did, however, confide to me that he used Daly, Hammett, and Gardner as the backbone of the magazine and intended to continue to do so. (Haycraft 1946: 204)

Gardner in his effort to trace the beginnings of the action *type* of story makes an effort for it not to be confused with the *style* of the hard-boiled approach:

> Personally, I think it is a mistake to confuse the so called 'hard-boiled' type of detective story with the action type of detective story. For very apparent reasons, the hard-boiled story is almost invariably told in the format of the action story: but the action story is not necessarily the hard-boiled story. In fact, there is some evidence indicating that the so called hard-boiled story may be losing in popularity while the action detective story is gaining in popularity. (Haycraft 1946: 205–6)

It is well worth bearing in mind that Gardner produced his legal investigator characters against the background of the by then new and genre-invigorating action story, rather than as something following its own new course. *The Thrilling Detective Web Site* sums up his prodigious writing efforts:

> The fact is, before he'd even written a single novel, Gardner was one of America's most successful writers. He was truly the king of the pulps, writing millions and millions of words, cranking out a steady barrage of characters in everything from *Black Mask* to *Argosy*. Most of his stories dealt with one side or the other of the law (and often, both). A contemporary of Carroll John Daly and Dashiell Hammett, Gardner had the longest run of any author in *Black Mask*, and wrote more stories for the magazine (more than a few under pseudonyms) than any other author. In fact, he probably created more characters, particularly continuing characters, for the magazine than any one else. (*The Thrilling Detective Web Site*)

Gardner had first tried his hand on a lawyer character, Ken Corning ('And like Mason, at least at first, Corning took a decidedly hands-on approach to investigation' (*The Thrilling Detective Web Site*)), in six short stories published in *Black Mask* between November 1932 and August 1933, before he attempted the larger novel format for this kind of character.

In the remainder of this chapter, three Perry Mason novels will be considered; the first in the series, *The Case of the Velvet Claws* (1933), and two from subsequent decades, *The Case of the Half-Wakened Wife* (1945), and *The Case of the Green-Eyed Sister* (1953). The point is not to show any development of plot structure, since this remains virtually unchanged throughout Gardner's long series, hinged invariably on Mason's ingrained sense of justice by trial by jury, for which he will 'use everything I can in order to get an acquittal' (Gardner 1963: 158–9). But what will be demonstrated are the dynamics between the fixed story elements and their interaction based (1) partly on the need for a livelihood: '"I'll protect you," he said, "just as long as you pay cash"' (Gardner 1963: 45); (2) partly on legal curiosity: '"But," Della Street went on, "he's always interested in cases where there is an apparent injustice"' (Gardner 1945: 14); and (3) partly on idealism ('Who's your client?' she asked sharply. / 'Technically, I suppose it's Sylvia Atwood, but actually I think we're representing the cause of justice' (Gardner 1953: 138).

There can be no doubt that the tenacity of the Mason plot based on his legal skill and the framework of the novels have influenced both the genre and the popular view of the American legal system to a degree that no other individual effort in the genre can boast.

Three Cases

The typical Erle Stanley Gardner legal thriller plot featuring Perry Mason with Della Street and Paul Drake is for Mason to be hired to look into some problem usually involving financial transactions of a delicate nature, and also of such a nature as to result in fatal altercations among those behind the transaction. Mason usually gets himself entangled to the point where the police take a serious negative interest in him. After preliminary investigations and puzzling inquiries Mason ends up in the courtroom, where he brilliantly demonstrates what is really up and down in the case. However, the dynamics of the courtroom scene, which usually takes up a third to half of the narrative, effectively pervades the whole narrative, as Mason likes to perform his investigations as if they were so many cross-examinations of a witness on the stand, and as his conversations with clients, witnesses, colleagues and suspects are arranged round some point of law pointed out with total textbook recall by the formidable lawyer. Gardner's debt to the clichés of pulp fiction comes through first and foremost in the sparse and striking description of characters and settings, in which the parallels to the gumshoe whodunnit started by Dashiell Hammett are quite obvious. The pulp-fiction heritage is also visible in the dialogue with its smart turns of phrases and tendency towards one-liners, such as this typical example: ' "I hate murders before breakfast" ' (Gardner 1963: 119).

The Case of the Velvet Claws

The Case of the Velvet Claws (1933) is the exception to the Gardner rule of eventually introducing the courtroom, but otherwise it constitutes the 'boilerplate from which very little would change over the decades' (White 2003: 152). The absence of this forensic setting does not prevent Mason from conducting his investigation as if he were facing the DA, the judge and the jury. Combining the talents of a private investigator—a role shared with Paul Drake from the very start—with a pragmatically attuned legal mind Mason sets out to help a damsel in distress, in this first case the distress caused by her being in the wrong place with the wrong person and afraid that a gossip paper is going to disclose the infelicitous facts. Mason is to act as a broker or go-between to pay off the editor before a virtuous reputation and a political career are ruined.

Gardner makes sure what kind of man Mason is right from the opening paragraphs:

> Perry Mason sat at the big desk. There was about him the attitude of one who is waiting. His face in repose was like the face of a chess player who is studying the board. That face seldom changed expression. Only the eyes changed expression. He gave the impression of being a thinker and a fighter, a man who could just work with infinite patience to jockey an adversary into just the right position, and then finish him with one terrific punch. (Gardner 1963: 5)

When asked by his client in the first novel about what he does, Mason 'snapped out two words at her. "I fight!" ' (Gardner 1963: 7) Mason enjoys the addition of an almost epic epithet since the author seems fond of referring to Mason's hands as a synecdoche of the complete man: 'His hand was well formed, long and tapering, yet the fingers seemed filled with competent strength. It seemed the hand could have a grip of crushing force should the occasion arise' (Gardner 1963: 9), a hand with 'long, capable fingers' (Gardner 1963: 22).

There is little development from this initial characterization, although the writer of *The Thrilling Detective Web Site* attributes the sensing of a degree of softening in the character to 'make him more palatable to the editors of *Saturday Evening Post*, a market he [Gardner] was eager to crack'. Serialization of the novels from the 1950s in more 'respectable' channels of publication than *Black Mask* required an adjustment to the market of which Gardner was ever a keen and eager reader.

Also, Mason's secretary Della Street, tripling as personal assistant and occasional gumshoe, is drawn once and for all with few but precise strokes: 'Della was slim of figure, steady of eye; a young woman of approximately twenty-seven, who gave the impression of watching life with keenly appreciative eyes and seeing far below the surface' (Gardner 1963: 5–6). The reader later learns that she has come down in the world due to an unfortunate financial speculation by her family. That this should be so makes her just as socially acceptable as many of the rich clients that Mason's office serves. But like her famous colleague Miss Moneypenny, created as the eternally rejected secretary to James Bond by Ian Fleming, she is the ever faithful, mildly flirtatious but hardly ageing confidante and support for her employer over almost forty years.

The introductory characterization of the Mason team is completed with the first appearance of Paul Drake, the private investigator working regularly for Mason. Drake is a 'tall man, with drooping shoulders and a head that was thrust forward on a long neck [...] He regarded Della Street with protruding glassy eyes that held a perpetual expression of droll humor'

(Gardner 1963: 17). With his appearance a team with shared resources of considerable energy but with Mason as the unrivalled—*primus inter pares*—combination of brawn and brain is established.

Characterization generally sticks to simple features familiar to readers of pulp magazines and reiterated with a constancy known from epic epithets. Women are invariably described—and judged—by their looks, and the looks defined, as in this passage which could be the formula for the ensuing numerous works, by bodily shape, facial complexion, and choice of clothes: 'She had a well-curved figure, which was displayed to advantage; a perfectly expressionless face; expensive garments, and just the faintest suggestion of too much make-up about her. She was beautiful in a certain full-blown manner' (Gardner 1963: 31). If men in the Gardner universe are valued by power to act, women are valued by degree of bodily curvature.

If Mason is invariably tempted by intriguing cases, he is loyal to his clients only to the extent that he is not being used by them for schemes of their own, which, alas, is very frequently the case. When Mason begins to smell a rat, his loyalty is to his own safety and well-being and the degree of truth that he considers it necessary for those involved, including the police, to know. The ethical universe of the Mason saga is the both simple and complex one of integrity versus dishonesty. Both may be encountered among the high and the low, but, as is the well-known lesson of Milton's Satan versus God and Christ, there is the more to be got out of evil than of good, in a literary perspective. Dishonest characters cover the social range of simple tricksters who will steal what you have in your pocket, to corporate and political corruption. Gardner, whose own rags-to-riches history made him sensitive to basic human qualities, always had a keen sense of both financial and moral fraud. Harrison Burke, the politician whose name will remain unsullied if Mason is able to handle his client's case successfully in the first novel, is marked as a self-serving and cunning hypocrite, whose duplicity in the Gardner universe is certain to end up in deserved nemesis:

> Harrison was a tall man who cultivated an air of distinction. His record in Congress had been mediocre, but he had identified himself as 'The Friend of the People' by sponsoring legislation which a clique of politicians pushed through the house, knowing that it would never pass the upper body, or, if it did, that it would promptly be vetoed by the President.
>
> He was planning his campaign for the Senate by adroitly seeking to interest the more substantial class of citizens and impress them with the fact that he was, at heart, conservative. He was trying to do this without in any way

> sacrificing his following among the common people, or his reputation as being a friend of the people. (Gardner 1963: 47)

Gardner, whose voice is clearly that of the narrator here, also has one of the minor characters spell out what weighs on the positive scale of values in his characterization of another minor character: 'The man had wonderful intellectual capacity. He had the ability to see through people and to penetrate sham and hypocrisy' (Gardner 1963: 80).

The Case of the Velvet Claws sets the mood and kind of plot intrigue for the many novels to follow, although the courtroom space/topos is only introduced later. But the ploy of having Mason conduct his cases by partly resorting to finer points of law and partly pushing towards some kind of crisis by provoking and challenging his opponent(s)—quite often the good ones first retaining Mason turn out to be the bad ones eventually opposing him—is founded in the first novel. There is quite a lot of the Western hero in Mason, which comes to the fore in his not shirking away from brutality if the situation merits setting the record straight according to his moral code without involving the laborious legal apparatus of the courts.

The Case of the Half-Wakened Wife

Mason's office by 1945, as it appears in *The Case of the Half-Wakened Wife* (1945) has had a personnel addition since the first novel. Mr Jackson is a legal nerd, who personifies the very principle of common law by always looking for precedence: '"However, the law is a very exact science. There is always a remedy, if one knows where to hunt for it"' (Gardner 1945: 21). Along with this walking law library Mason also seems to have cultivated the agility with which he categorizes any potential transactions, criminal or not, in legal concepts and terms. He is ever so quick when it comes to firing a barrage of fine points of the law, both as attack and in self-defence:

> 'All right,' Mason said, 'and the minute you do that, I'm going to sue to set aside the lease on the ground of fraud. I'm going to sue you for slander of title. I'm going to look into the question of whether the lease was signed on the strength of false representations.' (Gardner 1945: 27)

The task to be handled in *The Case of the Half-Wakened Wife* is one which is within the expertise of Mr Jackson: it revolves around leased land rights (a potential for oil) after the sale of a property, provided the money for the lease has been paid by a certain time. Although the problem may seem well

within the kind of corporate law that Mason eschews, the personal issues involved persuade him to take the case.

The Case of the Half-Wakened Wife is one of those American novels written at a time when the USA was involved in a world war but with no mention made of the fact in the text. Gardner's fictional universe is invariably rather insulated West Coast American and invariably to do with events relating to the sprawling metropolis of Los Angeles. Downtown areas have their own abundance of mean streets, but getting out from the city does not offer rural comfort. The 'wilderness' of the river landscape, where Mason and company are taken on a pleasure yacht, turns into a nightmare with murky waters and darkness vying to distress most the dramatis personae.

The Case of the Green-Eyed Sister

In *The Case of the Green-Eyed Sister* (1953), Gardner takes the opportunity to thank Ralph Turner, a pioneer in what he calls Police Science. The importance of the scientific approach to especially legal medicine are borne out by the plot and action of this novel, in which the outcome is hinged on the properly undertaken medical assessment of post-mortem analysis and the study of audio-tape technology. The latter, however, is not necessarily of any use as evidence unless properly founded on the law, as Mason in the trial makes abundantly and impressively clear (Gardner 1953: 237–8) to the young and eager prosecutor, who objects that no one needs to practice law, whereupon Mason drily remarks: ' "Someone does" ' (Gardner 1953: 239). The accusation often levelled at Gardner, his inability to invent lifelike or interesting characters, is countered here in the character of one Mr Brogan, a man who could walk right into a Dickens universe.

Twenty years after having appeared for the first time, Mason has grown even more adept at wielding the foil of fine points of law. He is also keen to give wise advice of a more existential kind to a person bent on living life spontaneously: '"A person has to prepare himself. You have to lay a foundation for life. The time you spend in study is an investment, as good as money in the bank"' (Gardner 1953: 87–8). The legal fencing matches seem to have increased in number and substance with the lawyer's ageing. His insistence on playing by strict legal rules has of course never been in question, but from time to time his clients have shown a certain impatience with all this legal 'show-off'. On a particularly fine point of law, which his client considers too technical to serve her well, Mason takes the opportunity to lecture her on the need for legal technicalities:

> 'You have to have technicalities if you're going to have law,' Mason said. 'The minute you lay down a line of demarcation between right and wrong you are necessarily going to have borderline cases. Go down to the border between Mexico and the United States. Stand two inches on this side of the border and you're in the United States. Stand two inches on the other side and you're in Mexico and subject to the laws of Mexico. That means moving four inches puts you under an entirely different set of laws. [...] The lawyer sees legal boundaries just as clearly and can readily comprehend the distinction between being barely on one side of the line and barely on the other.' (Gardner 1953: 63–4)

In this novel, Mason decides not to notify the police about the identity of the real perpetrator of the crime for two reasons. First, his brief was to represent someone not involved in the crime and second, he wants to dissuade one of the dishonest parties from committing any further criminal acts as she will probably be exonerated in due course. As Mason puts it, quite untypically: ' "There is such a thing as poetic justice" ' (Gardner 1953: 272).

Indeed, poetic justice coincides invariably and has the upper hand in Gardner's fictional universes. Where legal justice cannot or is not allowed to triumph, Mason effectively sees to it that justice is served, although sometimes by means of his own rather than of the court's devising. There is a constant drive in Gardner's Mason novels for meting out justice according to the law of the land. Mason insists time and again on legal rules and points. Most often his superiority simply rests on his being more familiar with the law than his opponent(s). But when the law does not suffice, Mason never hesitates in taking additional action.

When the Perry Mason series stopped after Gardner's death in 1970 (apart from a few posthumous publications in the early years of the decade), the series had been running at a steady pace for almost forty years. Other writers of legal thrillers, as we shall see in Chapter 4, had been active alongside Gardner, but it is hardly an exaggeration to suggest that Gardner enjoyed both an aesthetic and a trade monopoly for such a long time that his prodigious output provided a decisive model for the genre in legal thrillers that followed and was firmly established in the collective mind of the reading audience. Of course it also, if we adopt the concept from Harold Bloom, made for considerable 'anxiety of influence' in the generation of legal thriller writers following Gardner. The anxiety surely coincided with the cultural upheaval from the late 1960s onwards, with American

self-awareness increasingly tempered by issues of ethnicity and gender, ready-made, as it were, to become conflict dynamics in legal thrillers.

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CHAPTER 4

American Post-Second World War Thrill and Ethics Trials

From the start in 1933, Erle Stanley Gardner's Perry Mason appeared regularly in no less than eighty-two titles over the next forty years, the last two stories, *The Case of the Fenced-In Woman* and *The Case of the Postponed Murder* posthumously after Gardner's death, in 1972 and 1973 respectively. With Gardner's combination of mystery story and courtroom drama, featuring Mason as sleuth as well as attorney, a pattern was consolidated, even further entrenched by the extremely popular TV series, starring Raymond Burr. The series ran from 1957 to 1966, and Burr reappeared in a revival of the original tales, from 1985 to the actor's death in 1993. In between, during the 1970s, a series with another cast proved a failure. It is not too much to state that the legal thriller from its beginnings until the 1970s was synonymous with Gardner's impressively prodigious output, reinforced in the TV era by the extremely popular Perry Mason TV series.

No doubt the ideal compatibility of the courtroom setting and the improving standards of television series studio settings, combined with a general mass audience movement from book to TV screen, helped a major media platform shift. Now that the legal thriller was in the process of being tied closely in with the small screen, the initiative was with the Hollywood and networks production teams. However, it also meant, arguably, that writers saw new possibilities in sticking to the print medium. Or more to the point, older possibilities, since what happened to written and printed legal thrillers in the post-Gardner era was a mobilization of what narrative prose fiction is better at than the fifty-minute television episode. Whereas the TV format necessarily has to show and demonstrate in dialogue and action what

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is going on, the novel has a power of flexible verbal reflection, bordering on a disquisition or essay in the manner of legal deliberation, the efficient deployment of which of course depends on the novelist's ability to align such passages with the narrative flow of the individual story. In the hands of less talented writers, this is a feature that sticks out awkwardly as clumsy info dumps, but in the hands of able ones it is an organic part of the progression, lending an analytical depth and a perspective hard to achieve in the screen formats. This reinvigoration of the legal thriller as novel rather than the series fiction into which Gardner had made the genre is seen from the 1980s onwards.

While Gardner was thriving in California, and his Perry Mason was becoming a household name nationwide, indeed globally, new contributions to the genre were being attempted elsewhere. There was Eleazar Lipsky (1911–93), who focused on small-time criminals and their legal handlers in stories from the New York criminal underworld (*Kiss of Death*, 1948), based on his own experience as a Manhattan public prosecutor. In Kentucky the father of pioneer feminist whodunnit writer Sue Grafton, Cornelius Grafton (1909–82), undertook fictional forays into the legal side of criminal events in the South just before the war (*The Rat Began to Gnaw the Rope*, 1944). In the immediate post-Second World War period, three legal thrillers with a distinctly 'novelistic' quality were written and published, one of them to become an all-time bestseller. Herman Wouk's *The Caine Mutiny* (1951) had its roots in the not yet very distant war; Robert Traver's *Anatomy of a Murder* (1958) also contains echoes of that war—it even has an intertextual/intermedial reference to Wouk's 'Captain Queeg and his famous ball bearings' (Traver 1958: 285)—and its new world order sequel, the Korean War. Harper Lee's *To Kill a Mockingbird* (1960) looks at events in the Deep South during the 1930s, but with topical affinity to the 1950s reforming demographics of a USA being overhauled by the civil rights movement. These three are all legal thrillers to the extent that legal action and courtroom surroundings constitute plot and setting, but they cannot be said to be generic or formulaic fiction in any more than a very loose sense of the concept.

Herman Wouk, *The Caine Mutiny* (1951)

Herman Wouk (1915–2016) published a novel in 1951, first and foremost addressing the trauma of the Second World War in terms of a deceptively simple moral dilemma: whether to obey a commanding officer under all

circumstances. *The Caine Mutiny* was not written as a legal thriller, but for all practical purposes Wouk avails himself of the genre format. The first part dramatizes mutiny on board a naval ship in the thick of war. To his fellow officers, the executive officer Steven Maryk, communications officer Thomas Keefer, a writer in civilian life, and Willie Keith, a socially privileged man about town before signing up for the Navy in order to avoid the Army, the behaviour of the captain during a crisis seems irresponsible and possibly only explainable due to an incapacitating stress, which to them justifies their relieving him of his command by force. When the case subsequently is given over to a court martial, what seemed a natural decision under pressure gets enmeshed in considerations that involve legal niceties and courtroom histrionics, but is not really concluded until after the end of the actual court proceedings.

The situation leading up to the mutiny is about the time that the USS *Caine* lost contact with the rest of the fleet during the exceedingly inclement weather conditions of a typhoon in December 1944 east of the Philippines. Captain Queeg insists on keeping on the fleet course, although it is impossible to ascertain any likely change of instructions as the radio does not work. The captain seems to be in the state of panic: 'The captain's voice was faint, almost whispering. He was looking glassily ahead' (Wouk 1951: 338). The helmsman is in a dilemma—if he follows the orders of the captain, to steer the given fleet course, the vessel may fall prey to the force of the typhoon, whereas the instructions from Lieutenant Maryk, the executive officer, are diametrically opposite, leading, it seems, to a comparatively stabler situation:

> Butting and plunging, the *Caine* was a riding ship again. Willie felt the normal vibrations of the engines, the rhythm of seaworthiness in the pitching, coming up from the deck into the bones of his feet. Outside the pilothouse there was only the whitish darkness of the spray and the dismal whine of the wind, going up and down in shivery glissandos.
>
> 'We're not in trouble,' said Queeg. 'Come left to 180.'
>
> 'Steady as you go!' Maryk said at the same instant. The helmsman looked around from one officer to another, his eyes popping in panic. 'Do as I say!' shouted the executive officer. He turned to the OOD [officer on deck]. 'Willie, note the time.' He strode to the captain's side and saluted. 'Captain, I'm sorry, sir, you're a sick man. I am temporarily relieving you of this ship, under Article 184 of *Navy Regulations*.' (Wouk 1951: 339)

The mutiny is the culmination of the officers' growing dissatisfaction with Captain Queeg, whose behaviour has been rather erratic and irregular on a

number of points. Still, navy discipline applies, and it requires the combination of the typhoon and the officers' shared sense of imminent danger to lead to the extreme measure of relieving the captain of his command.

Of the five hundred pages of the novel, about one hundred are devoted to the court martial. Here the focus is on Lieutenant Greenwald, a naval pilot with a lawyer background. He is asked to conduct the defence of Lieutenant Maryk, an unenviable task:

> 'Lieutenant Greenwald, nobody can compel you to defend these birds,' said the legal officer. 'But you seem to be pretty hot on principles, to hear you talk. I think you've talked yourself into defending Maryk. Eight officers, including four legal specialists, have ducked the case. I haven't heard anybody except you give him a chance of getting off. The first requirement for a good counsel is confidence in his case. I trust you believe in the principle that the worst criminal is entitled to the best defense?' (Wouk 1951: 352)

When it comes to the trial, the charge is not mutiny, which would have been 'hard to prove' (Wouk 1951: 380), but instead a charge under 'Conduct to the Prejudice of Good Order and Discipline' (Wouk 1951: 380), under which the prosecution stands a better chance of winning their case. Lieutenant Maryk, having served for a long time under Captain Queeg, has kept a notebook—'his so-called medical log' (Wouk 1951: 381)—recording what he considers the insane behaviour of the ship's leading officer. Against this there are doctors' reports to the effect that the captain is a 'sane, normal, intelligent man' (Wouk 1951: 380). But Lieutenant Greenwald nonetheless builds his defence on demonstrations of incidents, both prior to the 'mutiny' and afterwards, which leave an impression of the captain as mentally unstable, even getting the doctors to admit uncertainty about their findings. The defence counsel's final plea manages to be loyal to the captain while at the same time introducing reservations about him:

> He emphasized that both psychiatrists had admitted, in one form of words or another, that Queeg was sick. And he repeated over and over that it was up to the court, who knew the sea, to decide whether or not the sickness of Queeg was bad enough to incapacitate him. He referred briefly and apologetically to Queeg's behavior in court—his evasiveness, incoherence, changing stories, and inability to stop speaking—as further unfortunate evidence of his mental illness. He said very little about Maryk. It was all Queeg, Queeg, Queeg. (Wouk 1951: 442–3)

Even though Lieutenant Maryk is acquitted after the tribunal's lengthy deliberations, the case is sent on in the system for review, which is the equivalent of the prosecution's appeal. But Lieutenant Greenwald is far from proud of his victory, as he makes plain at the celebratory dinner on the publication of the novel that Thomas Keefer, one of the officers of the *Caine*, wrote on the strength of his war experiences. The drunken Greenwald proposes a toast, which turns out to be vitrionically ironic. He starts out by referring to his own Jewish background and the fact of the Nazi genocide in Europe, making his relatives into soap, as he bluntly puts it. The war was conducted by the US armed services relying on regulars like Captain Queeg, looked down upon by the academic elite: '"Of course, we figured in those days, only fools go into armed service. Bad pay, no millionaire future, and you can't call your mind or body your own"' (Wouk 1951: 446). About his own contribution, Greenwald feels ashamed:

> 'I got you off by phony legal tricks—by making clowns out of Queeg and a Freudian psychiatrist—which was like shooting two tuna fish in a barrel—and by 'pealing very unethically and irrelevantly to the pride of the Navy. Did everything but whistle *Anchors Aweigh*.' (Wouk 1951: 447)

As the pilot–lawyer sees it and drunkenly communicates with a lack of inhibitions, the whole matter is one of an ethical nature, and in a manner quite different from the legal issues of the court martial:

> 'See, while I was studying law 'n' old Keefer here was writing his play for the Theatre Guild, and Willie here was on the playing fields of Prinshton, all that time these birds we call regulars—these stuffy, stupid Prussians, in the navy and the Army—were manning guns. Course they weren't doing it to save my mom from Hitler, they were doing it for dough, like everybody else does what they do. Question is, in the last analysis—last analysis—*what* do you do for dough? Old Yellowstain [Queeg], for dough, was standing guard on this fat, dumb and happy country of ours. Meantime me, I was advancing my little free non-Prussian life for dough.' (Wouk 1951: 446)

So the reason Greenwald decided to go for Captain Queeg was to exonerate Lieutenant Maryk, since it was the novelist Thomas Keefer who had been stirring things up, out of arrogance and self-importance:

> 'I defended Steve because I found out the wrong guy was on trial. Only way I could defend him was to sink Queeg for you. I'm sore that I was pushed into

> that spot, and ashamed of what I did, and thass why I'm drunk. Queeg deserved better at my hands. I owed him a favour, don't you see? He stopped Hermann Goering from washing his fat behind with my mother.' (Wouk 1951: 448)

The Caine Mutiny demonstrates with almost pedagogical clarity how what starts out as the processing (in the context of a court martial) of an allegedly criminal act soon entails deliberations to do with the rights and obligations of the individual. In this way Wouk's novel puts focus on core values in American society.

The court martial of those responsible for relieving Captain Queeg of his duties in mid-sea due to their mistrust of his ability to command the vessel at a critical time forms the penultimate section of the narrative. Before that we have what amounts to another American novel of the Second World War—it is to the point that it replaced James Jones' *From Here to Eternity* on the *New York Times* bestseller list—with lively descriptions of the war in the Pacific. All of it, concluding in the 'mutiny', serves as the facts, as seen and lived by the dramatis personae, to be reviewed during the ensuing court martial. Lieutenant Barney Greenwald, a lawyer in civil life, defends successfully those responsible for the mutiny, although in his own opinion they are guilty. The case ends with the acquittal of the accused, but the general unpleasantness of the situation is underscored by both the captain and the mutineers being de facto down-ranked. As a final, ironic twist, those reviewing the court martial higher up in the naval hierarchy, eventually overturn the first decision. But the last word neither rehabilitates Captain Queeg nor punishes the mutineers. Willie gets both a medal for valour and a reprimand.

Wouk's novel demonstrates the difference between the way events are experienced at the brunt of battle, literally so here, and in more tempered retrospect. In this way it sets up the situation of any event later on reviewed legally, with the messy nature of reality contrasted by the comparatively clear hindsight of the law. Also, the lengthy descriptions of the characters and their motivations show a complicated reality difficult to fit into legal categories. Most importantly, however, from the perspectives of the quality and narrative build-up of the legal thriller, it demonstrates how a competent lawyer may present his case (regardless of whether he is convinced of guilt or innocence), to demonstrate that justice is a product of legalistic argument and rhetorical acumen rather than a rationally balanced view of things.

The two different findings from the court martial and the review about Captain Queeg's alleged failure to cope competently with the situation,

justifying the 'mutiny' against him, do not really establish a genuine contradiction or indicate disagreement—rather they serve to underscore the possibility of extricating oneself from a tricky legal situation. Lieutenant Barney Greenwald is in no doubt about the rights and wrongs, nor is Lieutenant Willie Keith any longer when he receives the decision and reprimand from the Chief of Naval Personnel, with which he silently concurs (Wouk 1951: 486). Two issues are then left. One is about what was felt to be happening in the midst of events, of which there is a kind of valid personal or private truth rather than deliberately considered facts. The other is the way a case can be shifted and presented by a competent lawyer.

Robert Traver, *Anatomy of a Murder* (1958)

Robert Traver is the pseudonym of John D. Voelker (1903–91), a former judge of the Michigan Supreme Court. His *Anatomy of a Murder*, published in 1958, is a courtroom drama classic. Released in 1959 as a film by Otto Preminger with James Stewart in the lead, the novel is based on an actual crime in Upper Michigan. The case seems straightforward, as Lieutenant Frederick Manion confesses to the deliberate killing of the man who raped his wife. Defence attorney Paul Biegler seems landed with the comparatively simple job of finding mitigating circumstances to partly exonerate the killer, whose crime was witnessed by several people. But as the case proceeds, there turns out to be much more to it than meets the eye.

Robert Traver's legal thriller adheres to the pattern of balancing courtroom procedures with life outside the austere premises, but its high points occur before the jury. With the court technicalities in perfect order and the legal rhetoric in full flourish, the story unfolds against a background of harmonious, provincial America, as the opening paragraph testifies. Against this pastoral background the crime is a most unwelcome disturbance, but the judicial system is up to handling it.

Like Wouk's novel, Traver's is divided into pre-trial and trial sections, with even the chapter division starting from scratch in 'Part Two'. But unlike Wouk's story, the pre-trial events unfold after the crime was committed, with the defence attorney Paul Biegler's being hired for and preparing the case.

Biegler is a 40-year-old descendant of German immigrants who founded a brewery in Upper Michigan. He is a sportsman, keen on trout fishing and suspicious of the emerging ecological changes in the area following the iron-mining industry's encroachment upon virgin land. Job-wise he is in a slump,

having been ousted from ten years in office as the local DA and now trying to set up practice as a private lawyer. He lost the last election to his opponent for office, a young and inexperienced lawyer known and admired for his college football and war effort, whereas Biegler's record in that respect is more modest, he having been categorized as a 4F, that is found unfit for military service on account of a chronic condition after a near-fatal pneumonia attack. Afraid of running to seed in the small town of Chippewa he has decided to run for the US Congress, but is also opposed by the candidacy of the newly elected district attorney. So things look somewhat bleak when he is called by the wife of a man held for murder. He is the unfortunate couple's second choice, as it turns out, with the area's legendary defence attorney out of the game for the present because of illness.

The case is rather straightforward, as there is no doubt that Lieutenant Frederick Manion killed a hotel owner, apparently in cold blood. Biegler is hesitant. The case seems a certain loser, something a lawyer striving for recognition would not want on his record. But he is much tempted by the apparent impossibility of the case, and not least by the charming persuasion of the lieutenant's stunning wife Laura. The clinch comes in the form of the decision to argue the case on the basis of momentary insanity, an 'irresistible impulse', which is a defence allowed under Michigan law—the only northern state to do so.

Having decided to take on the case, and having conferred with his old friend and colleague Parnell McCarthy, a lawyer drowning his own misfortunes with alcohol, he sets up a team with his secretary Maida and McCarthy. His new assistant goes sober the moment he believers that the learned, shrewd and upright lawyer is on the scent of the apparently impossible case. The combination of charmingly resourceful independent secretary and old friend and colleague legal assistant is a set-up similar to what we have in Perry Mason working with Della Street and Paul Drake. But in Traver's novel there is a plot line centring on the life of McCarthy, whom tragic events of the past have forced to his present deplorable situation, but who blossoms with the challenges of the new case and the trust invested in him, finally making him a partner with Biegler on an equal footing. McCarthy, though, has a double function for the main plot. He is both the helper, whose services and cunning are much needed during the trial, and he is the confidant and foil to Biegler. In conversations and exchanges of opinion the two lawyers cover a lot of legal ground regarding the progress of the plot and what the reader needs to know, that is, discreetly furnished info dumps.

Countering the triangle of Biegler, McCarthy and Maida we find the DA, Mitchell Lodwick. With suitable poetic justice Traver makes him much inferior to both Biegler and the case in hand, and he has an experienced assistant seconded to him from Lower Michigan, Claude Dancer, who is quick to take the lead in what proves eventually to be a major court case. The confrontation between the two men is, of course, a professional one of trial adversity. But it is at the same time Biegler representing North Michigan as the true frontier America against Dancer the urban man, and hence, in accordance with widespread American values, honesty versus deviousness.

To rule over the court proceedings a judge has to be fetched from South Michigan, as the much respected regular judge for the area is down with illness. With the power exercised by an American judge, his arrival is awaited with some trepidation by the defence. But Judge Weaver turns out to be the epitome of the good American judge. When Biegler takes leave of the judge after the ending of the case, what he sees is this:

> The Judge appeared in the tall doorway of chambers in his street clothes and topcoat, wearing his large square-set, frayed fedora hat and carrying his scuffed and swollen briefcase. As he stood there, silent and thoughtful, he looked like a granite personification of Law. (Traver 1958: 431)

Prior to his exit the judge has demonstrated to the full the virtues of judgeship: authority, knowledge, flexibility, humour, considerable verbal resources, and, not least, humility before the law.

The upshot of the case, the momentary insanity, has from the very start of events enjoyed a dubious status. The stratagem comes up after prolonged advising of the defendant on his rights and possibilities. Biegler is fully aware of his obligations as a defending lawyer. He describes to the lieutenant what the law recognizes as defence pleas in a case in which the killer has confessed to a murder. Beating about the bush for some time, the seed is sown by the defence lawyer explaining to his client:

> 'You see, lieutenant,' I went on, 'it's not the *act* of killing a man that makes it murder; it is the circumstances, the time, and the state of mind of purpose which induced the act.' I paused, and could almost hear my old Crimes professor, J. B. 'Jabby' White, droning this out in law school nearly twenty years before. It was amazing how the old stuff stuck. (Traver 1958: 37)

When Biegler mentions as the last of these circumstances insanity, a careful dance round this begins, the lawyer pretending the information about circumstance comes from his client, the client sounding out the lawyer as to what exactly is needed and seeming to act in good faith all the time. Having agreed on attempting a line of defence pleading irresistible impulse, there is also the added circumstance of the alleged rape by the hotel owner of the lieutenant's wife. The lieutenant would be justified at least to have gone to 'grab' the felon, that is to make a civil arrest. With those things beginning to form a pattern as a workable defence, Biegler sets out to acquire substantial medical backing, while at the same time the fabricated nature of the defendant's momentary insanity hovers over the case as something uneasily shared by the defence team and the reader, and highly suspected by the prosecution. Perhaps it is only poetic, if not legal, justice that in the end Biegler is cheated of his fee.

With the knowledge of the manufactured insanity, the trial for Biegler becomes a battle to save his client by working the plea to the utmost, while for the reader the trial is a showcase of the way a case is taken through trial given the existence of certain propositions. In that way, *Anatomy of a Murder* is exactly what the title imports, an anatomy in the sense of cutting up to lay bare. What we are allowed to witness is the working of American law, both from the perspective of principles and trial proceedings, often with an ironic twist, as here, where McCarthy is commenting on the contradiction of electing law officers:

> 'How,' he once asked me, 'how in the name of the blessed saints can you expect a man to turn around and arrest the very people who elect him and keep him in office? It's contrary to human nature and our rare "good" sheriffs are political freaks whose lot is swift and total political oblivion. We don't *want* good sheriffs. How could we when the only qualification we ask for in a sheriff is that he be twenty-one?' Parnell had paused and rolled his eyes. 'And, merciful Heaven, we get what we ask for, that we richly do—they're invariably twenty-one . . .' (Traver 1958: 34)

Or here, where Biegler lectures his client on what the lieutenant sees as just the law looking like a prime ass:

> the law—and only the law—is what keeps our society from bursting apart at the seams, from becoming a snarling jungle. While the law is not perfect, God knows, no other human system has yet been found for governing men except violence. The law is society's safety valve, its most painless way to achieve

> social catharsis; any other way lies anarchy. [. . .] The very slowness of the law, its massive impersonality, its insistence upon proceeding according to settled procedures and ancient rules—all this tends to cool and bank the fires of passion and violence and replace them with order and reason. [. . .] What's more, all our fine Magna Chartas and constitutions and bills of right and all the rest would be nothing but a lot of archaic and high-flown rhetoric if we could not and did not at all times have the *law* to buttress them, to interpret them, to breathe meaning and force and life into them. Lofty abstractions about individual liberty and justice do not enforce themselves. These things must be reforged in men's hearts every day. And they are reforged by the law, for every jury trial in the land is a small daily miracle of democracy in action. (Traver 1958: 63)

The narrative progresses slowly, with full and lengthy attention given to courtroom dialectics ('Trials are never fast, except on TV, where drab reality must ever yield to the more pressing reality of peddling the sponsor's nostrums' (Traver 1958: 231)), and with the summations of the case by prosecution and defence and judge's jury instructions in minute detail.

What makes Traver's novel into something 'novelistic' are primarily the way the location is made to interact with the legal plot and the portraits drawn of Biegler and McCarthy. What goes into all this is in excess of the purely needful for the plot and offers an aesthetic experience ranging beyond what one gets from an average suspense narrative. That the author with Dr Johnsonian latitude allows for verbal dexterity mainly through Biegler, McCarthy and the Judge only adds to the aesthetic quality.

Harper Lee, *To Kill a Mockingbird* (1960)

Nelle Harper Lee (1926–2016) made one of the most important literary contributions to the civil rights movement in her *To Kill a Mockingbird* (1960; filmed 1962 with Gregory Peck). The novel deals centrally with racial relations in the South during the Depression. The function of the court proceedings is to highlight the discrepancy between the ideals of American law and the realities of a society weighed down by history and continued prejudice. The court, though, is where all the unspoken is made to come out. Tragically, the ideal notion of equal justice for all is not allowed to triumph, but attention is called to the American legal machinery as a construction never any stronger than the people elected or appointed to serve it.

The upright stand of Atticus Finch suffered some damage when the hitherto unknown prequel of the famous novel, *Go Set a Watchman*, was released for publication fifty-five years after *To Kill a Mockingbird*, in 2015. But although to some readers the integrity of the lawyer was somewhat compromised by the elderly Finch's siding with his fellow townspeople in defence of the Southern way of life in the face of the beginnings of the civil rights movement, *Mockingbird* still stands as a monument to the importance of the rule of law against social anarchy.

To Kill a Mockingbird is only partly a legal thriller, in the sense of a narrative hinged on legal matters for it to progress. What keeps it together is the device of the maturing process of the widowed Atticus Finch's daughter Jean Louise Finch—nicknamed Scout—in a rather rambling, Huckleberry Finn-like quasi-picaresque narrative representing her experiences from her own limited and limiting point of view. With her brother Jem she explores a world which she only partly understands, but gradually begins to acknowledge with its many 'forbidden' phenomena. It is into this *Bildungs*- or coming of age novel context that the trial of an African-American man for the alleged rape of a white woman is a real eye-opener for the narrator.

The trial takes up about the last third of the novel, with Scout and Jem watching it with neither permission nor blessing from the adults. The gravity of the situation caused by the alleged rape is only partly realized by the children, but fully by the reader, when they overhear an exchange of words between a lynching party and their father, who has sensed the danger and stands vigil outside the county jail. Finch manages to talk the men out of their grim intentions, but his shaken state afterwards is taken in by the only partly understanding narrator.

From a perspective of legal thriller aesthetics Harper's novel fits into the mould with the courtroom stage set for proceedings recognizable from real life as well as the screen and printed American courtroom drama established by the early 1960s. According to Scout, her father's dismay with criminal law has probably to do with his having to defend a couple of hillbilly types unable to realize what was best for themselves:

> They persisted in pleading Not Guilty to first-degree murder, so there was nothing my father could do for his clients except be present at their departure, an occasion that was probably the beginning of my father's profound distaste for the practice of criminal law. (Lee 1974: 11)

Finch is very much an insider in the life of his locality, but frowned upon by many because he takes on lawsuits for 'niggers and trash' (Lee 1974: 109). When he explains to his daughter that he has taken on Tom Robinson's case for reasons of his own conscience she thinks he must be wrong since so many disbelieve the accused man. One cannot help feeling, though, that when Finch explains what is in the word 'nigger-lover' (Lee 1974: 114) by suggesting that it is only a word of abuse like so many other ones without any real meaning and only reflects on the user's ignorance, he is either deliberately skirting an issue he considers too complicated or disturbing for his children or refusing to face a situation of profound import.

The Finch family being part of the local 'gentry', from the moment Scout hears about the case against Robinson she feels that there may be a less than clear-cut situation (even though she is not quite aware of the nature of rape), since the alleged victim's family, the Ewells, are notorious white trash. Also, when sitting in clandestinely on the trial, the child notices peculiarities, such as clothes or mannerisms, rather than demonstrates an understanding of the proceedings, with occasional rationalizations from the grown-up narrator, such as the observation on the judge, a 'man learned in the law, and although he seemed to take his job casually, in reality he kept a firm grip on any proceedings that came before him' (Lee 1974: 168). The trial takes its course and arrives at the expected verdict of guilty, since it would be unheard of for a jury, presumably all white ('Sunburned, lanky, they seemed to be all farmers' (Lee 1974: 168)) to pass any other verdict on an African-American man suspected of raping a white woman.

Many of the courtroom ploys well known from the legal thriller are also used in Lee's narrative. The reader notices, among them, the way that Finch hammers home the fact that the sheriff failed to call a doctor when he was alerted by the girl's father. The repetition of this fact is formally frowned on by the judge, but the extended communication between bar and bench about it ensures its being noted by the jury. Also, the verbal fencing between defence and prosecution, with the prosecutor's racial prejudice coming constantly to the fore, follows the set pattern. But perhaps the most conspicuously generic trait is the way that Finch actually demonstrates the unlikelihood of Robinson's touching the woman and the likelihood of her own father having struck his daughter by analysing as simple a thing as the difference between being right-handed or left-handed.

The summing up of the case by Finch is partly a plea to believe in the testimony of the defendant, to the effect that he was manipulated by the young woman but withstood her erotic advances, partly an appeal to the jury

to see the defendant as a human being ('"You know the truth, and the truth is this: some Negroes lie, some Negroes are immoral, some Negro men are not to be trusted around women—black or white. But this is a truth that applies to the human race and to no particular race of men"' (Lee 1974: 208–9)), and partly political. When Finch comes to this third plank in his defence platform, he takes the opportunity to criticize the Yankees for abusing Thomas Jefferson's declaration of general human equality, as for instance in the educational system. But whereas the reader might have expected observations on the segregated school system of the South, Finch sidesteps this issue and instead points to inherent intellectual unequal capacities:

> 'We know that all men are not created equal in the sense that some people would have us believe—some people are smarter than others, some people have more opportunity because they are born with it, some men make more money than others, some ladies make better cakes than others—some people are born gifted beyond the normal scope of most men.' (Lee 1974: 209)

This, however, leads to Finch, in the conclusion of his summing up, starting with the usual admonition to find guilty only if feeling the accusation has been proved beyond all reasonable doubt (Lee 1974: 207), and then praising the court as the place where the best possible equality is practised:

> 'But there is one way in this country in which all men are created equal—there is one institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J. P. court in the land, or this honourable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levellers, and in our courts all men are created equal.
>
> 'I'm no idealist to believe firmly in the integrity of our courts and in the jury system—that is no ideal to me, it is a living, working reality. Gentlemen, a court is no better than each man of you sitting before me on this jury. A court is only as sound as its jury, and a jury is only as sound as the men who make it up. I am confident that you gentlemen will review without passion the evidence you have heard, come to a decision, and restore the defendant to his family. In the name of God, do your duty.' (Lee 1974: 209–10)

After the jury's verdict Robinson is sent to a prison farm pending his appeal. When he tries to escape, he is summarily shot by the prison guards. Before

this happens and gives to the narrative a quick and 'clean' ending of this major incident in the young children's lives, there is a long discussion between Finch and his son Jem on the nature of the jury system, especially the way it functions in a small community in the American South. Juries here are composed of strangers to the local community, so as to avoid local conflicts of interest; they consist entirely of men, women being excluded by law; and, it goes without saying, no African Americans are allowed either. Finch expresses his opinion that in the case of capital offences, rape being one such in Alabama in 1935, it should not be possible to pass a death sentence unless there were witnesses to corroborate the guilt, circumstantial evidence being insufficient to convict. When Finch tries to explain to his children why the jury did not acquit Robinson, he gives them a lecture not on the law but on the peculiar culture of the South: '"There's something in our world that makes men lose their heads—they couldn't be fair if they tried. In our courts, when it's a white man's word against a black man's, the white man always wins. They're ugly, but those are the facts of life"' (Lee 1974: 224). With the benefit of hindsight coming from writing this in the late 1950s, the author can have Finch gloomily add: '"There's nothing more sickening to me than a low-grade white man who'll take advantage of a Negro's ignorance. Don't fool yourselves—it's all adding up, and one of these days we're going to pay the bill for it. I hope it's not in your children's time"' (Lee 1974: 225).

Harper Lee's novel is not a regular legal thriller, but a story of coming of age, of growing from innocence to experience, with an ugly court case serving the function of yielding the unpleasant but necessary existential, political, psychological and social lesson of insights into the adult world. It is a kind of insight, we know after the publication of *Go Set a Watchman*, which was well received by Scout, to the extent that when she returns home to Alabama twenty years on in that novel written earlier, her eyes are wide open enough to take in a dysfunctional society defending itself by some mysterious, out-dated feudal and racist code.

Before the Crowding of the Courtroom

Around the time Harper Lee published her *To Kill a Mockingbird* in 1960, she was helping (and subsequently quite ungallantly unacknowledged), her childhood friend and writing colleague Truman Capote (1924–84) research the quadruple murders on a small farm in Kansas by two men released on parole from Kansas State Penitentiary.

Capote's *In Cold Blood* (1966), generally hailed as a ground-breaking venture into non-fiction fiction coinciding with the new wave of New Journalism, emerged through the author's scrupulous assembly of all the various elements from the time that Capote learned about the crime and began to follow the investigation closely. The documentation, which spans the time prior to the committing of the crime, through its investigation and trial, to the execution of the killers, is meticulously accumulated, but presented by conventional novelistic traits. So this true crime story is a study of the criminal mind and behaviour (the two killers were declared sane enough to stand trial), a detective story insofar as the investigation is like a police procedural, and a legal thriller, covering the trial in every detail. But where the police procedural usually stops before leaving matters to counsel, judge and jury, and where the legal thriller usually stops short of prison commitment or execution, Capote is with the condemned men also at the execution and describes the grim event in shocking detail.

If a great many American legal thrillers end by sending the person found guilty of a capital offence to death row and eventual death, very few follow through to this end. The description of capital punishment, in the various forms resorted to in the USA, is seldom found in American fiction. E. L. Doctorow's *The Book of Daniel* (1971) and Robert Coover's *The Public Burning* (1977), both about the trial and execution of Ethel and Julius Rosenberg for high treason, and thus legal thrillers up to a point, are rather conspicuous in this respect.

William J. Coughlin (1929–92) applied his work experience as a defense counsel and judge in Detroit to the writing of fiction, starting with *The Widow Wondered Why* in 1966. Coughlin is especially known for his series hero Charley Sloan in *Shadow of a Doubt* in 1991. Sloan is on the verge of total disintegration from alcohol when an apparently impossible case requires his dormant talents. George Vincent Higgins (1939–99) combined careers as journalist, writer, lawyer and college academic at Boston College and Boston University. Having received his law degree from Boston College in 1967, he worked for the prosecution in Massachusetts and later, in 1973, he went into private practice. He was counsel for Eldridge Cleaver. In his deliberately rough-hewn-style fiction Higgins likes to see a case from the perspective of the accused, such as in *The Friends of Eddie Coyle* (1972), *The Digger's Game* (1973) and *Cogan's Trade* (1974). In his stories about the Boston criminal lawyer, Jerry Kennedy, he adopts the more conventional legal thriller format: *Kennedy for the Defense* (1980), *Penance for Jerry Kennedy* (1985) and *Defending Billy Ryan* (1992).

At the start of the 1990s the legal thriller was well consolidated with familiar elements and with Erle Stanley Gardner's Perry Mason series as the overall generic model. But at the same time the rather rigorous format was seen also as a great opportunity for harbouring all kinds of issues, ranging from purely psychological ordeals to social, racial and gender criticism. The success of the genre in the early 1990s was so great that William Gaddis, enjoying the reputation of being an American writers' writer with his explorations of postmodernist awareness and guiding it into narrative, saw fit to write a kind of anti-legal fiction narrative. *A Frolic of His Own* (1994) is a wildly sprawling novel, in which one lawsuit follows after another, none of them ever concluded in any satisfactory way. With Gaddis satirically showcasing an America running amok and firing off lawsuits in all directions, the legal thriller in its generically consolidated form might question the ways of American justice in individual cases. But the booming of the genre was more than ever based on a belief in the rule of law in its American manifestation as the great common denominator in a nation which was in this period increasingly seeing itself reflected in the metaphor of the salad bowl and no longer the melting pot.

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CHAPTER 5

Genteel Jurisprudence: The British Scene

The Beginnings of the British Legal Thriller

Courts and lawyers date back a long time in British literary history. Chaucer describes legal matters in the 'The Man of Law's Tale' and 'The Reeve's Tale.' Stretching the point perhaps too far, the Anglo-Saxon *Chronicle* and the *Domesday Book* may be said to contain information of legal importance. Courts crop up regularly in the new genre of the novel as part of its accommodation of everyday reality. The ever resourceful thief and prostitute Moll Flanders (Defoe's novel of the same name dates from 1722, with its plot anachronistically set three quarters of a century earlier) barely survives the gallows after court proceedings. Since then we may observe the presence of law, lawyers and courts in the novel in a proportion matching real life. Dickens had a keen and sceptical ear and an eye for the legal profession since he earned his writer's spurs as a court reporter. Lawyers and legal matters feature in his work as part of the hurly-burly of everyday business. An early literary effort probing the possibilities of a legal fiction format with lawyers in the leading roles is Herbert Lloyd's *A Lawyer's Secret* (1896) featuring Mr Kershaw, a solicitor practising in Burley in Hampshire.

Reportedly (see la Cour and Mogensen 1969: 33), in 1914 G. K. Chesterton staged a trial of John Jasper from Dickens' unfinished *The Mystery of Edwin Drood* (1870) featuring famous writers, including George Bernard Shaw as jury foreman. Jasper was found guilty. From the same year is G. K. Chesterton's short story 'The Man in the Passage'

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from *The Wisdom of Father Brown* (1914) featuring legal elements. Agatha Christie's 'Witness for the Prosecution', first published as 'Traitor Hands' in *Flynn's Weekly* in 1925, and then under the title it has been known under since its publication in her story collection *The Hound of Death* (1933), is arguably the first narrative to make use of proceedings in a British court as fully integral to the investigation of a crime.

In British crime fiction the courtroom was introduced by Gerald Bullett (1893–1958) and Cyril Hare, pseudonym of Arthur Alexander Gordon Clark (1900–1958). Bullett's venture into legal fiction was with the aptly titled *The Jury* in 1935. Belonging to the literary end of crime fiction with in-depth and sophisticatedly interlocking studies of characters and their backgrounds, both of those centrally involved in the murder trial and in those of the jury, Bullett's description of the court procedure reads deliberately like an unedited transcription. Cyril Hare drew on his background as a barrister for many of his nine novels and thirty-eight stories which he started writing in the 1930s, before being appointed county court judge in Surrey in 1950, having completed war-time service in various legal capacities. One of his most admired novels is *Tragedy at Law* from 1942, introducing barrister Francis Pettigrew and, arguably, consolidating the legal thriller as a viable genre in England.

The Legal Background

Both the historical and present-day reality of legal matters in England and Wales, but not to the same extent in Scotland, is common law:

> The English law and judicial system differs markedly from that prevailing over most of the European continent. While continental law is generally based on written codes deriving ultimately from Roman law, English law is based on common law, assumed to be the immemorial but uncodified law of the English people, and declared by judges in court cases. Thus the law is essentially contained in decisions on past cases which are binding on subsequent cases of a similar nature. Although judges are theoretically only declaring the law, they can in effect make new law, particularly when new circumstances arise. However, statute law is supreme over common law, so the law made by Parliament (and effectively by the government) overrides judge-made case law. (Leach et al. 2011: 252)

In British crime fiction the bench and bar were introduced by Gerald Bullett and Raymond Postgate (1896–1971), and consolidated by Hare/Clark and Henry Cecil (pseudonym of Henry Cecil Leon (1902–76)). When Bullett wrote and published his legal thriller *The Jury* in the mid-1930s, he did so with reference to a legal institution which had barely changed for centuries. The picturesque apparel of the servants of justice in Britain in its present form with wigs and robes dates from the seventeenth century and has remained virtually unchanged since then (https://legal.edeandravenscroft.co.uk/EvolutionOfLegalDress.aspx). A present-day textbook on political science explains why this must be so:

> Laws are among the most important expressions of state power, and thus both courts and judges are among its most visible public symbols. In the language of Walter Bagehot [...] the courts perform important 'dignified' functions. Many apparently trivial aspects of the courts and judges, especially of the highest courts, are designed for symbolic effect: the historical practice of wearing arcane outfits (wigs, gowns); the use of specialized language and procedures; the construction of impressive buildings to house courts—all these perform the function of 'dignifying' the power of the state expressed in law. (Moran 2011: 403)

Also, the physical framework of court work, with the peculiar seating system and the dock for the accused is of ancient standing. The reliance to a great extent on common, not constitutional or statute, law has grown out of centuries of reliance on legal decisions of the past. The division of the English legal profession into two tiers, solicitors and barristers, each with their allotted areas of practice, is age-old. Henry Cecil in his *Daughters in Law* (1961) has the surly character of the law-sceptical Major muse on judges, barristers and solicitors, starting off with the bench: 'Sarcastic, sadistic, sententious devils' (Cecil 1963: 14), then barristers who are deemed to be almost as bad as judges: 'At any rate they had in their favour that they were paid to be offensive, while judges were not. But the licence they were given to insult witnesses—it was intolerable' (Cecil 1963: 14). And finally solicitors: 'Just as bad. Not only did they feed the barristers with the ammunition with which to carry out their noisome practices in Court, but, if you consulted them alone on some perfectly ordinary subject, they would take half an hour to tell that the situation was rather obscure' (Cecil 1963: 14). In stories requiring the reader to understand the intricacies of such technical matters as the law, the author may either, as in the case of the

Major's comments on judges, barristers and solicitors, rely on a character as the mouthpiece of factual information or he may surface as narrator. This is what Cecil does when the need arises to explain the nature of the registrar of a County Court:

> A County Court registrar has judicial and administrative duties. He is responsible for the entire administration of the Court, but his judicial work takes up the greater part of his time. He tries small cases, and most applications in the course of a case, before it comes on for hearing by the judge, are made to the registrar. (Cecil 1963: 123)

When an occasion arises for the judge to take over from the registrar in the Major's case, the narrator finds it opportune to comment on the special set-up of the court organization in England. The comment deserves quotation in full, beginning with the particular quality of silence on the bench:

> In countries where there is a separate profession of judges and they are not selected from advocates, it is natural that the average judge should by training have that particular quality. But in a country such as England, were every judge has been an advocate, often an outstanding one, it is perhaps rather surprising that so many of them are able to keep silent from the moment they get on the Bench. Up till that moment they have been accustomed to intervene whenever a chink in their opponent's armour appeared, and one would have supposed that this so conditioned them into a readiness to intervene that they would be unable to shake off the habit. One would not have expected the fact that they no longer cared which side won to be enough to prevent them from asking a question when, for example, they heard counsel cross-examining a witness in an inept manner. At the Bar *they* would have made mincemeat of the witness—whereas he is almost being let off altogether. One would have expected them to be unable to resist using their professional skill on the witness. It is quite true that, when both sides have asked all the questions which they wish to ask, a judge may ask a few very important pertinent questions, but it is a little surprising that the average judge is prepared to wait to do this. He is not like the ambitious schoolboy who, knowing the answer to a question, cannot refrain from putting up an eager hand, or even saying: 'Please, sir, I know, sir.' (Cecil 1963: 130–1)

Anthony Sampson in his first twenty-first-century study in his series of anatomies of the power structures of contemporary Britain *Who Runs This Place* (2004) makes the following observation on recruitment to the bench:

> The transformation of a barrister into a judge is the most extraordinary of all professional promotions, like a tadpole becoming a frog. The competitive and talkative advocate who thrives on one-sided arguments is changed overnight into the silent figure of authority whose duty is to discover the truth and reach a balanced judgment. Watching the changing of roles, it is hard to remember that they have been played by the same person. Yet the best judges combine the sharpness of mind which comes from their training as advocates with a dedication to the principles of justice which comes with their new profession. They have retained their reputation much more thoroughly than civil servants or cabinet ministers, they have a more evident intellectual grasp and they show an independence from political pressures which impresses foreigners—few judges are identified with political parties. (Sampson 2004: 183)

Since the 1930s, when the British branch of the legal thriller may be said to have taken off, the British legal system has not changed radically, but two developments have modernized, as it were, the practical handling of British law. One is the setting up of the Crown Prosecution Service (CPS), in operation from 1986; the other is the institution of the Supreme Court of the United Kingdom, starting work in 2009.

The latter may be said to be the pragmatic recognition of the situation of the House of Lords when acting as the highest court in Britain. The Law Lords had for a long time constituted a de facto supreme court, with peerages given to distinguished British lawyers (in practice an appointment to the highest court in the country). Like supreme courts in other countries, the work of the Supreme Court of the United Kingdom concerns cases of principle and others relating to decisions made by lower courts, so its role, like that of the House of Lords formerly, is hardly of the kind to comply directly with the narrative suspense needs of legal thrillers.

The Supreme Court of the United Kingdom is, as the designation implies, the highest court of the kingdom, with the restriction that the highest court for criminal cases is the highest Scottish court. This state of affairs reflects the composition of the United Kingdom—comprising England, Wales, Scotland and Northern Ireland, there are marked internal differences for historical reasons, one being that which separates English and Scottish law. However, common to English, Welsh and Scottish criminal procedure is the distinction between minor and major offenses, the latter requiring juries, in England of twelve people, in Scotland of fifteen people, the former being summarily tried by magistrates or a sheriff respectively. But

there is a deeper rift also between the law systems of England and Wales, and Scotland, due to two circumstances:

> Scottish law, by contrast with that of England, is, like continental European law, influenced by Roman law and involves distinctive principles and practice and a separate system of administration. Although Scottish law, like English law, remains bound by the sovereignty of Westminster parliament, the devolution of legislative powers to the new Scottish Parliament has already led to some further significant divergences between English and Scottish law, and these differences seem likely to become more marked over time. (Leach et al. 2011: 251–2)

The setting up of the CPS required the foundation of an independent agency responsible for prosecution, an activity up till then carried out in practice by the police. In principle, however, there is an unfortunate overlap between the police as crime investigators and as crime prosecutors and this has resulted in the police instructing private lawyers to act for the prosecution. With the 1985 Prosecution of Offences Act the police and the prosecution are defined as different organizations:

> Perhaps the single most important feature to notice about the CPS is that it does not investigate crime. In taking decisions about a case, the CPS lawyer will obviously liaise closely with the police but he should be independent of them and, in the last resort, must act on his own view of what should be done, not on the police's. (Sprack 2012: 69)

It was the intention also to set up a pool of 'in-house' prosecutors to replace the traditional system of private lawyers acting for the prosecution (King's Counsel (KC) and Queen's Counsel (QC)—informally, 'silks'), in this way approaching the systems in use in most European countries and the USA. However, 'In practice, difficulty in recruiting staff and the sheer volume of work have meant that some of the advocacy is still delegated to solicitors or barristers in private practice who act as agents for the CPS' (Sprack 2012: 69).

Surely, the clashing of two ego-endowed and rhetorically gifted silks in the strained atmosphere of the courtroom is one of the attractions of the British legal thriller. With the CPS reform not affecting the manner of carrying out a case at court, the development seems to be directed towards the US situation rather than the civil-law derived court practices of continental Europe. According to Anthony Sampson, though, there seems still at

the turn of the millennium to be work for private lawyers acting on both sides in courts. Sampson notes that the number of lawyers in Britain is on its way to eventually matching that of the USA, with one lawyer for every 480 of the British population, compared to the American figure of 300 (Sampson 2004: 174). Although most money in the private law profession comes from handling corporate clients, solicitors have profited from state-financed legal aid, with barristers—by Sampson's reckoning having risen from a mere 2,000 in 1960 to 13,601 in 2002 (excluding Scotland), of whom 1,145 were QCs in 2002, 900 of them working in London (Sampson 2004: 178–9)—profiting increasingly from the new focus on human rights cases.

A Genre Getting into Its Stride

It is well worth taking a closer look at Agatha Christie's pioneering legal thriller short story, since it contains right from the start a great many of the recurring elements in the genre from the period.

Mr Leonard Vole, a thirty-three-year-old and not very well off gentleman, suddenly finds himself the protégé of the elderly Miss Emily French after helping her escape being run over by a bus on busy Oxford Street. Miss French, brutally murdered after having for some time offered hospitality to and financial trust in her saviour, leaves Mr Vole the prime suspect, not least on account of his turning out as the beneficiary of the elderly lady's will, a classic quandary in crime fiction. He had both motive and opportunity to do away with Miss French. His solicitor, Mr Mayherne, has confidence in Mr Vole's protestations of innocence but knows it will be difficult to persuade a jury when the case seems so open and shut. Mr Vole refers to his wife for his alibi. But Romaine Heilger, a foreign lady and an actress from Vienna, as the solicitor learns from her, is only the common-law wife of Mr Vole, since she is unable to divorce her husband, who is locked up in a madhouse. But that state of affairs, she claims, has turned out to her advantage, since she has come to dislike Mr Vole so much as to deny him the alibi he claims. Mr Mayherne accepts an offer from a strange old woman to sell him letters that show Romaine to be in love with another man, a new relationship which will profit from the conviction of Mr Vole. When the letters are read in court by the defending counsel, Romaine breaks down and admits her perjury. Her husband goes free, but the solicitor suddenly recognizes a gesture shared by Romaine Heilger and the old lady who offered him the letters.

Romaine, an actress from Austria, knows well that a loyal wife's support of a suspected murderer's alibi probably will not impress a jury and stages instead the kind of melodrama—alienated wife in collusion with a disreputable and violent man—which will swing the jury in favour of the betrayed 'husband'. But, as the solicitor learns in the very last sentence of the story, the resourceful Romaine knows her husband to be guilty.

The very attentive reader recording and appreciating seemingly insignificant bits and pieces of trivial information may have seen through the duplicity well before the solicitor realizes how they were all taken in by the clever couple. The plot depends on the way a case is processed in a British court of law, with the solicitor doing all the preliminary work, including the gathering of evidence, and then the KC pleading in front of the jury, his task being to demonstrate a sufficient degree of reasonable doubt to acquit the accused, and preferably, as it happens here, to ruin totally the case for the prosecution in the process of the verbal infight. The plot also depends on the legal point that once acquitted, a person cannot be accused of the same crime again.

The plot focuses on the solicitor and his enquiries. The roles are distributed clearly between solicitor and barrister, with the latter appearing only sporadically, mentioned first as the 'famous KC who was engaged for the defence' (Craig 1990: 236), then briefly in the thoughts of the solicitor to whom he is 'Sir Charles' (Craig 1990: 239), and then, in court and histrionically, 'Formidable and ponderous, counsel for the defence arose' (Craig 1990: 240). Sir Charles finally 'called his few witnesses, the prisoner himself went into the box and told his story in a manly straightforward manner, unshaken by the cross-examination' (Craig 1990: 241), after which he exits from the story altogether, leaving the stage to the judge whose 'summing up was not wholly favourable to the prisoner' (Craig 1990: 241). This distribution of roles, with investigating solicitor, rhetorically capable barrister and judge having a fairly wide scope for advising the jury, is the reality of British court proceedings and also a very effective distribution of roles for the plot and suspense build-up. In this story, the judicial apparatus, including a jury only mentioned when it passes the verdict of not guilty, and indeed the accused himself, are opposed in an aura of English legal rationality to the imaginative resources of the foreign 'intruder', who, by breaking the rules of legal fair play, is able to upset the legal system. Not only does Agatha Christie present a finely constructed story, she also makes sure that the victory gained by lies and charade is seen through by the collusion of a non-British citizen and a 'gold-digging'

Englishman only pretending but not really living up to, the standards of gentlemanly behaviour.

Gerald Bullett (1893–1958) was a versatile writer of novels and short stories, embracing fiction directed at mature as well as young readers and addressing subjects from both the real world and from the supernatural dimension. Authoring also essays, poetry and criticism, for the *Times Literary Supplement* among other publications, Bullett worked as an independent writer from his university years at Jesus College in Cambridge, doing his stint of Second World War work for the BBC. His poems were collected and published by the distinguished English philologist and historian of ideas E. M. W. Tillyard in 1959.

Bullett's novel *The Jury* enjoys the status of the first modern novel-length work of legal fiction by a British writer. The plot turns on Roderick William Strood, a very promising young architect, accused of murdering his wife, the motive being his infatuation with a woman he met during a stay in Heidelberg in Germany, the musician Elizabeth. Pleading not guilty Strood does not, however, do very much to clear himself in front of the jury, but relies on his counsel and witnesses. Found not guilty by the jury's sense of reasonable doubt in the case although all the circumstantial evidence points at him, he goes free. As the reader learns on the last page, though, there's one combination of elements not explored during the trial which made the husband a murderer. Although the last twist of the plot is admirably ingenious, it is the gradual elucidation of the personalities of the members of the jury that really matters in this thriller.

In the same vein of highlighting the members of the jury is Raymond Postgate's *Verdict of Twelve* (1940). A convinced left-winger with roots in the British Communist Party (he was one of its founding members in 1920), Postgate was interested in social dynamics and left the organization only two years later disagreeing with the leadership on ties to Moscow. In the same way as Sjöwall and Wahlöö wrote their ten-volume police procedural *The Story of a Crime* (1965–75) deliberately using a popular genre to harness a Marxist communication project, Postgate, brother of Margaret Cole and brother-in-law of G. D. H Cole (fellow socialist activists and crime-fiction authors), turned his attention to the crime novel, which was enjoying immense contemporary popularity in its so-called golden age.

Most crime fiction of the interwar period focused on the riddle element, making many such novels into rather barren exercises in logic. But Postgate saw the possibility of redirecting focus onto the agents of the plot in terms of social conditions forming character. His legal thriller presents a woman

accused of the murder of her underage nephew, the motive for her alleged crime being her position of the then only living person to receive a large legacy from his estate. Although there is both opportunity and motive, the case is far from clear. The defence argues for benefit of the doubt, a position that an initially divided jury eventually arrives at. How the events really unfolded are revealed by the now acquitted woman to her counsel on the way back to the hotel after the case in court. However, Postgate's real concern is with what makes the different role-players in the courtroom tick and how far this may be traced to their social histories and situations.

If both Bullett and Postgate use the legal thriller variety of the crime novel to probe social and psychological conditions, the tradition in the English novel for the morals of manners is also seen to begin to emerge. Cyril Hare's (county court judge Arthur Alexander Gordon Clark) novel *Tragedy at Law* from 1942 is set during the six months between October 1939, just after the outbreak of the Second World War, and April 1940. The story features the judge of assize Sir William Hereward Barber, known unofficially as 'the Shaver', and the barrister Francis Pettigrew. The plot revolves around pressures mounting on the judge—he has received a series of threats to his person and has injured a man while driving his car on a wet evening to a hotel from the mess of the assize, not having given any thoughts to his invalid car insurance. The events of the assizes presided over by the judge serve, plot-wise, to make it quite clear that the judge's wife Hilda, with whom Pettigrew has been in love for a very long time, actually acts as the judge's case analyst and prompter thanks to her bar qualifications. She had been admitted to the Bar before her marriage to Barber, but 'like many other women barristers she had never succeeded in acquiring a practice. Without any exceptional influence behind her she had been unable to overcome the prejudice which has kept the Bar an essentially masculine profession' (Hare 1965: 65–6).

Tragedy at Law is partly a detective story, with the police in the shape of Inspector Mallett first investigating the threats against the judge and, eventually, his violent death; and partly a legal thriller, depending on its plot dynamics turning on a very nice point of law relating to the specialty of Hilda, the limitation of actions ('"Limitation of actions was always a subject that interested me and I made particular study of it"' (Hare 1965: 153)), and the precedence power of common law. The narrator obviously knows well and respects the various instruments of law. The pervasive irony is directed not at these but at the various human foibles and vanities it may give rise to, such as the judge's deep regret on his arriving in the assize town

and, due to war strictures, not being welcomed by trumpeters. But as the events develop, there are implications of a Greek tragedy in the judge's hubris of ignoring insurance and neglecting the traffic code. The nemesis striking makes him end up as a victim rather than a laughing stock.

Cyril Hare's famous detective cum legal story sets forth features of English law practice which have become part of the usual fare of repeated background information, such as the peculiarities of the appointment of English judges by which eminent barristers are socially promoted but financially—relatively, that is—impoverished, as reflected here in Hilda's reaction: 'It was agreeable to be announced at parties as "Lady Barber", but slightly less so to be compelled to greet her hostess in a frock that had already done duty for half a season' (Hare 1965: 67). Also, the independence of English judges is emphasized: 'The whole system of English Justice depends on the immunity and security of those who administer it' (Hare 1965: 157). Although, in this particular case and at this particular point in the plot development the immunity and security are rather abused, a reaction on Barber's part explained by the threats against his job. Technical and social aspects of both criminal and civil court procedures are dealt with in detail, ranging from the nature of the assize judge's entourage to the jealousy of the less privileged members of the Bar.

Edgar Lustgarten (1907–78) also followed as career as a barrister before he turned his knowledge and experience into both fictional and non-fictional writing about the law as well as pioneering various shows related to law for the BBC. *A Case to Answer* (1947) was his first legal suspense story. It is the story of a man, Arthur Groom, wrongly convicted of murder on circumstantial evidence, a conviction that a timely intercession from an informed party of the public would have prevented. The story opens and closes, after the execution of Groom, with a man slipping out of a door in a dark passage in Soho, a prelude to a succession of murders and a failure of justice. *A Case to Answer* plays a variation on the unresolved Jack the Ripper murders in nineteenth-century East London. The action takes place within the criminal court, with the questioning of witnesses, cross-examination and concluding speeches by the counsel interrupted by privileged reader glimpses into the circumstances of the murder. In comparison with Bullett and Postgate the action hinges on the court procedure and not on the social and psychological aspects of the jury members. Lustgarten's message centres on the precarious nature of circumstantial evidence which may be presented in such a way that the broad public, represented by a jury, may find it generally prejudicial. In the hands of as

competent a lawyer as Solicitor-General, Sir Charles Latimer Morton, KC, such circumstantial evidence can be brought to bear with enough gravity to swing a jury, very likely already predisposed against the accused, who has failed miserably as a respectable husband and a father in favour of his infatuation with a Soho prostitute.

In Cyril Hare's *Tragedy at Law* the main plot is energized by the threatening of Judge Barber, the investigation of which is handed over to the police. Combining genuine legal procedures with crime fiction featuring a policeman or private detective as investigating agent is both a feature which has its model in real life and one that is efficient for fictional narrative purposes. Michael Gilbert's (1912–2006), *Smallbone Deceased* (1950) is a regular police procedural. A death in the offices of a London solicitor's firm are investigated by the police, with the legal aspects being part of the setting, whereas Gilbert's *Death has Deep Roots* (1951) about the trial of a Frenchwoman for the murder of her lover alternates between courtroom scenes and investigative procedures.

Michael Gilbert, combining his creative writing with his work as a lawyer—Raymond Chandler was one of his clients—is known as a crime-fiction writer who likes to probe and interweave the various generic strands of suspense fiction. From roughly the same period, Edward Grierson (1914–75) attempts to create a subgenre model, the inverted detective story. In this kind of story the identity of the culprit is clear from the start, but the suspense element depends on what will eventually happen to him. In *Reputation for a Song* (1952) a son stands accused of having slayed his father. His defence counsel successfully follows a tactic of persuading the jury that the death was due to self-defence. But, as the story unfolds in and out of court, the reader learns about a family life set up along the lines of an Oedipus drama, with a mother increasingly estranged from a husband whom she considers less than exciting, and a son on whom she dotes and manages to bring over to her position.

Henry Cecil Leon (1902–76) was the real name behind the pen names of Henry Cecil and Clifford Maxwell. Leon had practised at the bar since the mid-1920s and by the time that he joined the Army Officers' Emergency Reserve on the outbreak of the Second World War in 1939, had built a successful law practice. After demobilisation in August 1945—he was awarded a Military Cross in 1942 for his bravery at El Alamein—he worked for four years as a barrister, before deciding to give up this career to devote more time to his by then cancer-suffering wife Lettice, who died soon after in 1950. He applied for and was given a county court judgeship in 1949.

The extra spare time he gained and the income he lost—barristers working harder, longer hours, and earning more than judges—made an attempt at professionalizing his hobby of story-telling a natural option.

The tales he had told his fellow soldiers on the long voyage to the Middle East had been collected and published in 1948 (cf. Cecil 1975). Having tried out various things, including stories of the law in novels following this early publication Cecil only had modest success. It was not until he decided to do for the law what the English surgeon and anaesthetist Richard Gordon (1921–) had quite recently done for medicine with his highly successful *Doctor in the House* from 1952 that he found both his remunerative and idiosyncratic niche. Three months after the publication of the first book in the light-veined but solidly legally learned series about litigation in the UK, *Brothers in Law* in 1955, Cecil's commercial success was established and the verbal play on the 'in-law' had become a by-word both in legal circles and among the reading, and soon after, the film- and TV-watching public.

Cecil's series *Daughters in Law* from 1961 is a good illustration of how the combination of melodrama cum farce and the close succession of legal points can serve to more the story forward. Add to that a considerable gift both for realism and for caricature, and you have what constitutes the essentials of a Henry Cecil variety of legal thriller. In *Daughters in Law* Major Claude Buttonstep (retd.) has a sorry family history of unsuccessful litigation. So unsuccessful, indeed, that he has inherited and honed a deep distrust of everything to do with the law. As he wryly observes: '"The architect leaves you with a house, the accountant with a balance sheet, the doctor with a new tummy: all the lawyers leave you with is a bill of costs. They're parasites"' (Cecil 1963: 31).

So, when his two sons, Digby a chartered accountant and John a farmer, fall for two sisters, both of them lawyers, Prunella a barrister and Jane a solicitor, the Major is far from amused. At the advice of the daughters' father, a distinguished judge, a scheme is hatched to the effect of making Prunella and Jane come to the rescue of the Major in his hour of legal need. That hour comes when he is forced to sue a newcomer to the village, who has borrowed his lawnmower but refuses to give it back. At the end it all turns out to be a practical joke sprung by the Major's sons, who have hired an actor to act as the rather difficult newcomer, Trotter. This, of course, never reaches the ear of the Major, who after strenuous days in the county court in the case of *Buttonstep v. Trotter*, is given full satisfaction and, consecutively, is able to give his blessing to the double marriage, which now means the addition of two clever lawyers to the family. As the

Major admits: 'Perhaps the law wasn't such a bad fellow after all' (Cecil 1963: 195).

The case at the county court before the registrar starts only after an extended exchange of letters between the lawyers involved, and after some introductory comments on the careers of Prunella and Jane. This is 1960 and the law was still by and large a male domain. Much of the negotiation in the court is taken up with the contributions of the counsel for the defendant, Mr Larpent. This character gives the author ample opportunity for caricaturing sycophancy as a feature germane to the procedural lawyer's profession. The author has a field day with Mr Larpent's circumstantial and self-effacing verbosity, as here demonstrated at a late stage in the court proceedings:

> 'I'm so extremely sorry, your Honour. I do apologize. I thought my learned friend had some objection to make. If I at any time misstate the facts or do anything I should not—and I hope your Honour knows me well enough to be sure that I should never do such a thing on purpose—I should welcome an intervention by my learned friend to put me right—we are all fallible, your Honour, at least I certainly am—and I do not suggest that some interventions cannot properly be made.' (Cecil 1963: 145)

Now, of course, caricature requires exaggeration, but there can be no doubt that the fictitious Mr Larpent is not at all times perfectly aware of where matters stand and what his strategy and tactics are. Behind the unctuous words there is an ever-alert intelligence. Both his judicial acumen and the importance of fine legal points for the procedure in court and hence for the plot machinery, is brought out in the counsel's invitation to make a distinction which puts his client's somewhat erratic behaviour in a better light:

> 'O, your Honour is, if I may say so, so always perfectly right. But I have, I respectfully hope, demonstrated that a *mere* failure does not necessarily constitute a refusal. It is, in my very respectful submission, for the plaintiff to prove that the particular failure in this case did constitute a refusal. The only admission recorded by the learned registrar was a failure.' (Cecil 1963: 139)

Cecil's entertaining novel, featuring female counsel ever ready to bow to the mistrust of people like the Major—Jane: 'I can understand people for not liking us. We're terribly expensive, we sometimes take an awful time to produce very little result, and we make mistakes' (Cecil 1963: 22)—has the advantage that this particular genre enjoys so much, of having an author

fully qualified also in his professional capacity as a lawyer. But the narrator fully acknowledges the difference between fact and fiction when it comes to the point of narrative efficiency, if we can trust Prunella and Jane's father as the narrator's loyal mouthpiece. The judge married late in life, and then a writer of detective stories. When he lets on that there are plenty of legal mistakes in her stories, he comments amicably:

> 'Why d'*you* mind?' he asked. '*I* didn't mind in the least. They were rattling good stories and the fact that both counsel in your last book would probably have been disbarred for unprofessional behaviour and the solicitors struck off the Rolls didn't spoil it for me in the least. I was interested in the plot and the professional details could go hang as far as I was concerned. Why shouldn't you call it a witness *stand* if you want to? After all, the witness stands there, and it isn't a box as it has no lid. Though on the whole it wouldn't be a bad idea to have a lid for some witnesses.' (Cecil 1963: 35)

Like so many other writers of legal thrillers with a professional lawyer's background, there is also in this story of a banal event taken to absurd extremes room for exercising criticism of parts of the law where the author takes the profession to task. In an imagined sequence where a judge known for his reliance on legal technicalities goes to Purgatory, he is interrogated by an unseen voice about his conduct on the bench and must answer the following reproach: '"Do you know how much harm you did in your Court by deciding cases according to pure technicalities and by not helping people to comply with the technicalities and so to have their cases decided on the merits?"' (Cecil 1963: 134). This compares well with what H. R. F. Keating says about Cecil in his entry on him in the *Oxford Dictionary of National Biography*: 'He instituted an unofficial welfare officer system to help litigants after trial; thanks largely to his instigation, debtors faced with prison were obligatorily informed of their rights, and such imprisonment was at once cut by half.'

Henry Cecil's legal series started in 1955. By that time another series had been running for some time, featuring a lawyer who had worked his way from the Bar into public administration. Lewis Eliot is the provincial boy modelled on the author himself, making good in C. P. Snow's *Strangers and Brothers* eleven-volume series which started in 1940 and ended in 1970. *The Affair* (1960), the eighth in the series, takes place in London and Cambridge starting in September 1953. As a college fellow and a lawyer Eliot is called upon to advise his former colleagues in a case of a young

scientist dismissed on suspicion of research misconduct. Snow's novel, like the other ten in the series, is hardly a legal thriller, even by the broadest possible definition, centring, like the rest, on the dynamics of power games in public and in private. But in the enclosed college world, which is just like a court, proceedings to test the tenability of the serious allegation are very similar to conducting a case in court, with witnesses, cross-examination and counsel for either side. As usual in a C. P. Snow novel, there is a lot to be learned about what goes on in the give and take in the corridors of power, also when they are, to an outsider's view, idyllically academic.

John Mortimer, Frances Fyfield, Tim Vicary and M. R. Hall

Writers of legal thrillers from the time of Gerald Bullett and up to the 1980s wrote within a long-standing institutional tradition that began to introduce changes only recently, those being the doing away with of capital punishment only in 1965; the creation of an organized prosecution organization, the CPS, to supplement and direct a system relying on private counsel and barristers on both the prosecuting and defending sides in 1986; and the formation of a British Supreme Court as recently as 2009.

Perhaps the all-time best-known fictional English lawyer is Horace Rumpole who, despite his getting on in years and his gaining of experience by force of his controversial views, his preference for seedy clients and his lack of ambition, remains a junior counsel in his London chamber of barristers. The creator of hen-pecked, plonk-swilling, literature-loving Rumpole, who applies his legal competence within the short story format and the occasional novel, and who was so brilliantly cast for television by Australian actor Leo McKern, was John Mortimer (1923–2009), himself a barrister noted for his freedom of speech and obscenity cases and regarded as a highly successful writer of novels and stage and television drama.

Created in the mid-1970s for the TV stage, Rumpole seems frozen in his sixties as a disillusioned servant of the English criminal court. Married to Hilda—'She who must be obeyed' has become a household phrase—the daughter of the law aristocracy, Rumpole at home is never allowed to forget the consequences of his total indifference to social ambition, which otherwise seems to empower the energy field all around him. This matter is aggravated even more by the fact that his son has decided to follow a successful legal career in Florida.

Rumpole is quick to see through vanity and pretence among his peers, and equally quick to spot the point where he may put in his lever for those he is hired to defend. Accepting briefs from small-time lawbreakers, who very often seem as though they have been taken out of the London slums of Charles Dickens' novels, Rumpole has a certain sympathy for those who try to eke out an existence by making a fast and not quite honest quid. His head at chambers, Sam Bollard QC, has a theory which he shares over tea in a tearoom with the father of a young woman presently working with Rumpole: '"Perhaps it's mixing with the criminal classes, but Rumpole seems somewhat lacking in a sense of sin"' (Mortimer 1988: 475). That Mortimer's Rumpole short stories and novels emerged from scripts for TV serials is plain from the prominence of dialogue, and a dialogue at that which is in the great tradition of English stage repartee from restoration drama to George Bernard Shaw and Oscar Wilde.

Among recent additions to the English variety of the legal thriller are the novels of Frances Fyfield (1948–). With a degree in English and also trained as a solicitor she has worked for the London Metropolitan Police (Scotland Yard) and as public prosecutor in the employ of the British CPS. Her work and private life experiences found their way into her first crime novel, *A Question of Guilt* (1988), featuring Crown Prosecutor Helen West in problematic professional and amorous intercourse with Detective Superintendent Geoffrey Bailey.

Whereas Rumpole is a well-entrenched conservative when it comes to gender questions, not infrequently pouring acid scorn on representatives of the female sex, Fyfield has introduced the feminist agenda, already a stock element in the contemporary private investigator and police procedural whodunnit, to the English legal profession in its parallel fictional world. Her Helen West novels, featuring a heroine working hard in cases of family and relationship troubles and invariably investing her own life and integrity to the breaking point, started with *A Question of Guilt* and was wrapped up in 1996 with *Without Consent*. Like so many other crime series starting in the print medium, TV studios took an interest in her work in an age of insatiable hunger for crime as mass entertainment.

Tim Vicary started his series of legal thrillers with *A Game of Proof*, subtitled *A Mother's Fight to Defend Her Son* in 2004, then under the pseudonym of Megan Stark, and in 2011 followed up with *A Fatal Verdict*, subtitled *A Sister's Revenge* and *Bold Counsel*, subtitled *No-One Hides Forever*. Vicary explains his motivation for taking up the legal thriller format:

> Why did I decide to write some legal thrillers? Well, I did indeed enjoy American novels by John Grisham, Scott Turow and others, and thought I would like to have a go at the same thing. I was attracted to the courtroom drama of course, and although I am not a lawyer I had visited British courts quite often. One thing that attracted me is the scope this genre gives for uncertainty and ambiguity; you can find this in detective novels too I suppose but the traditional detective novel—Agatha Christie's Poirot for example—has the brilliant detective solving everything at the end, often with a gratuitous confession, and although lots of readers expect this and find it very satisfying I think it is more interesting, and realistic, if the version put forward by the detective or police is rigorously tested, as it would be in court, by someone putting the other side of the case, this putting the reader in the position of the jury. Imagine how different Agatha Christie's books would have been if Hercule Poirot had been challenged by a clever defence lawyer!
>
> There is also the challenge of portraying the role of the barrister—Sarah Newby in my case—who may frequently be in the position of defending someone whom she does not like or necessarily believe—as we see when she defends Gary Harker in *A Game of Proof*. Barristers are frequently asked how could you do this? In Sarah's case there are two answers: firstly the cynical one that it's all a game, and her career depends on winning as often as she can; and the more principled one that every person charged with a crime, however repulsive they may be, deserves a good defence.
>
> Anyways, truth is not always clear cut. In *A Game of Proof* Sarah doesn't know whether Gary is guilty of rape until long after the trial is over; it's quite possible that the jury have got it wrong and set a guilty man free. In *A Fatal Verdict*, it also appears that the jury have got it wrong in David Kidd's trial, with disastrous consequences. And surely in many real trials it's just like this: the jury have decided on the evidence presented, and apply the concept of 'reasonable doubt'—they're not 100% certain. Maybe sometimes the police are corrupt or just incompetent—their version of events can be tested, as Poirot never was, by a committed lawyer from the other side. (From private correspondence with author)

Vicary's series is situated in York, with excursions to other Midlands and North-East locations, where briefs take Sarah Newby, a late-starting barrister at the end of her fourth decade. Vicary has created a double helix type of story around Sarah's private and professional lives. The reason for her late start in the law trade was her teenage pregnancy and marriage. Getting rid of her charming but increasingly violent young husband, finding help to care for her son, Simon, and meeting a protective new husband-to-be while trying to get the education she missed, Sarah is able to get through the

hoops of a legal education, the Bar exams, and finally settle down in York, depending on a kind solicitor to get her the briefs that barristers depend on for their living, without which a 'young barrister becomes simply a highly qualified member of the unemployed' (Vicary 2013: 13).

So Sarah Newby, a highly qualified and ambitious lawyer, works the routines of criminal justice, waiting for the bigger cases that may result in her achieving the much-coveted silk gown and the right to put QC after her name. Whereas Sarah's private life is deeply entangled with her time-consuming job, this is the part of the story that readily engages the reader with its loads of everyday trivia and the ups and downs of married and family life. But when we follow Sarah who, dressed in black leather and anonymity-bestowing visored helmet, uses her 500cc Kawasaki motorcycle to regularly put distance between concerns at home and at court, into her chambers and the courts, the basis for empathy changes somewhat. The scene that Sarah is getting used to and has come to really like, with its traditions and its celebration of clear, rational procedures, is also one which few people know first-hand, but which they have heard a lot about. So, shifting the dynamics of fascination from a ready identification with private life to the awe of the courtroom, Sarah and her narrator have to explain the current ins and outs of the British legal system.

In this setting which many foreign observers may find both outdated and bizarre, with its gowns, wigs and strange language, the focus is squarely on what can and cannot be done in the process of a British criminal trial. It is all, as the title of Vicary's first novel has it, a game of proof, based on the evidence at hand and allowed by the judge presiding. Sarah has to put all her resources behind her effort for professional recognition. Against her, on the professional front, she has both her gender and her less than privileged background and general lack of *savoir faire* in the generally opulent legal environment she has become part of by meritocratic effort. On the private front, her role management as hard-working woman, mother and wife outshines her equally ambitious, but socially less advantageously positioned head-teacher husband, adding to her often somewhat precarious situation.

Clearly, there is inspiration from American-style legal thrillers in the way that the lawyer, here the barrister, has to combine courtroom tactics with extra-courtroom investigatory activities. On the American connection Vicary observes:

> You ask about the contrast between British and American legal models. One advantage American writers appear to have is the concept of the 'trial lawyer'

> who follows the whole case through from start to finish, from the moment the client first appears in his office, does all the research and preparation, and then presents the case in court. Here we have solicitors who do most of the preparatory work, and barristers who do the advocacy and may only start to really focus on the case a day or so before, if that. So for example in *A Fatal Verdict* Sarah Newby clumsily tries to reassure Kathryn Walters by saying 'don't worry, I've read all the papers over the weekend'. (From private correspondence with author)

With Rumpole carrying out the work of a male barrister in the London courts, Helen West acting as Crown Prosecutor, Sarah Newby carving out a precarious existence as a female and meritocratically derived presence in an almost entirely male environment and in provincial York at that, M. R. Hall's Jenny Cooper works in Bristol as coroner.

Like Sarah Newby, Jenny Cooper is a woman with a past, in the sense that they both have skeletons in their cupboards. Sarah's fast youth, early pregnancy and marriage was a bog which it really required stamina to get out of, the result being a mature person almost pathologically aware of the self-disciplinary effort it requires to stay where she has arrived. As for Jenny Cooper, we are given her background as a busy and respected family lawyer, and on the private side she is married to a successful surgeon and has a son. When we see Jenny as coroner in Bristol, she is divorced, sees her son only occasionally, and suffers from drug and alcohol abuse. Furthermore, her role as coroner makes for frequent difficulties with the police, the public and the media.

Jenny keeps referring to her personal history. In *The Redeemed* (2011), the fifth novel in the series, she sums up her life:

> Before her 'episode', the formal beginning of which she marked as the day she dried up and broke down in the middle of a family court hearing, she had been a well-respected lawyer running an entire local government department. Colleagues told her she could have applied to any of the big London law firm specializing in millionaire divorces and negotiated a six-figure salary with prospects for an equity partnership. By the time she was forty-five she could have been earning more than David and heading for a place at the top of her field.
>
> Instead she was a local coroner making just enough to get by, and surviving on ever-increasing doses of anti-anxiety medication. Ignoring Dr Allen's warnings, she had been taking double doses for most of the past week and was still starting at shadows and imaginary phantoms. (Hall 2013: 186–7)

We keep getting references to Jenny's shift of tracks throughout the series. An event which contributed to her changing fortunes was an incident recalled by her when narrowly escaping crashing into a tractor on her way to work one morning, related in Hall's short story prequel to the series, 'The Innocent' (2012). The date, 7 September, was the exact ten-year anniversary of her receiving the news of the suicide of a teenage girl placed by her order in family care. Jenny was targeted by all those wanting to shed responsibility for the tragedy as a professional who had overstepped boundaries by giving the girl her telephone number and telling her to call if there were problems. Exonerated of any responsibility for the suicide at the coroner's inquest, which, in the deft hands of the author, turns from a situation of bleak prospects for Jenny to the opposite, the event nonetheless contributed to her later breakdown. A job which initially was 'fearlessly to examine the circumstances of unnatural deaths and deliver solid answers' (Hall 2012: 1), turned out, though, to mediate between life and death: 'she had found herself in one of the very few professions outside the priesthood that straddled the divide between life and death' (Hall 2012: 1).

Jenny Cooper, recuperating from but often relapsing into the situation of a 'burned out family lawyer struggling with acute anxiety and surviving on tranquilizers' (Hall 2012: 2), is very much aware of the special function of the English coroner. She has cause to remind colleagues used to working in criminal and civil law institutions and members of the public not really cognisant of this special task of this function, as when she corrects her superior from London: '"With respect, Ms Cramer, that is a matter in my discretion. And the Crown Court is not a superior tribunal. It has an entirely separate function"' (Hall 2013: 111). On one of the first occasions that she was in a coroner's court she found herself as a key witness on the brink of being turned into the accused in the events unfolding in 'The Innocent':

> She had visited a coroner's court once or twice during her career, but always as a lawyer with no personal stake in the proceedings. Only now she was a potential focus of investigation did she appreciate the full implications of the procedure. A coroner was not a judge who weighed competing cases, but an inquisitor who asked whatever questions he or she wished in pursuit of truth: the how, why, when and where of an unnatural death. His inquiry wasn't focused, like that of the police, on criminality; he would, if he was any good, root out all the background facts to establish why a young girl stepped off a platform into the path of an oncoming train. His task was to explain the cause of death in a simple verdict, but the implications of a verdict could be vast. A

> coroner like Bolter would turn over every stone, unafraid of reducing reputations to dust. (Hall 2012: 31–2)

In *The Redeemed* these differences within the British legal system are reiterated when need be, and that is fairly often. Jenny herself sums up her job responsibility when she muses on the difference between carrying out her hearings in a regular courtroom and elsewhere, which seems more usual, given the lesser priority of the coroner's business than the day-to-day flow of crime that puts pressure on the local courtroom facilities:

> On the rare occasions on which she held an inquest in a dedicated court rather than the draughty, far-flung village halls to which she was normally consigned, she had mixed feelings about her elevated status. A coroner wasn't like a judge arbitrating from on high, she was a judicial officer with a role, unique in the British justice system, of asking whatever questions were required to determine the true facts of an unnatural death. Drawing the truth out of a witness was best achieved through striking up a rapport, which was far harder in a space designed to inspire fear and awe. (Hall 2013: 92)

In British legal fiction and thrillers the collective appearance of counsel as a tightly knit professional group with clear rank demarcations projected in the behaviour and looks of the lawyers has become a literary and film and television topos. Hall's description, seen though Jenny's eyes, is worth quoting in full:

> No fewer than eight lawyers were spread across the two rows of tables ranged opposite Jenny's. The most senior of them, Fraser Knight QC, rose to make the formal introductions. A tall man with elegant features and an aristocratic bearing, he had earned a formidable reputation representing the Ministry of Defence in a succession of awkward inquests involving the deaths of badly equipped British soldiers in Afghanistan. An eloquent advocate whose deadliest weapons were studied charm and feigned deference, he greeted her with a courtly no and declared that he represented the Chief Constable of Bristol and Avon police. Two further members of his team sat behind him: junior counsel and a young instructing solicitor. Representing Kenneth Donaldson was Ruth Markham, a solicitor from Collett Abrahams, one of the oldest and most prestigious firms in Bristol, though one noted for its expertise in will and probate rather than coroners' inquests. In her late thirties, expensively dressed and with a slender figure of which she was evidently very proud, she exuded confidence. In a team of one, Ruth Markham gave the impression of being more than able to cope alone. Decency and the Mission Church of God were

> jointly represented by a pugnacious rising star of the criminal bar, Christopher Sullivan. Good-looking in a slightly rough-hewn way, and supported by Ed Prince and two further junior solicitors armed with laptops and imposing piles of textbooks, Jenny recognized Sullivan from a recent article in the *Law Society Gazette*. Tipped to become the youngest Queen's Counsel of his generation, Sullivan had battled his way up from tough working-class roots in Bradford to a Cambridge scholarship. But rather than turning his skill into millions at the commercial bar, he had chosen criminal law and become a notoriously fearless prosecutor. The pundits said he was certain to make a move into politics before he was forty.
>
> It was an impressive array of legal talent and the nods and smiles they exchanged told Jenny that despite representing different clients they were united in wanting the same result, and quickly. Her suspicions were confirmed when, as Alison swore in the eight jurors who had been chosen by lot from a pool of fourteen, the lawyers huddled and whispered to one another, as if finalizing battle plans. (Hall 2013: 188–90)

In the midst of such formidable judicial firepower, and furthermore pressed politically for a convenient solution to her case, it is indeed hard for Jenny to live up to her conviction that '"Fearless independence is my legal duty"' (Hall 2013: 230).

Although not a legal thriller in the strictly generic sense of the term, is Ian McEwan's *The Children Act* from 2014. The Family Division courtroom of middle-aged and childless High Court Judge Fiona Maye is the arena of a conflict between seemingly rational and irrational forces. A seventeen-year-old boy is in hospital being treated for cancer and needs blood transfusions. He is, as are his parents, a member of Jehovah's Witnesses and may not receive the blood needed for him to survive. The hospital wants to force through its proposed treatment by court order and the decision will have to be Judge Maye's. During the otherwise quite impersonal court proceedings she and the boy, against Judge Maye's better judgement, form a kind of emotional bond. Maye can blame her weakness on the fact that her so far comfortable and loving life with her husband, a professor of ancient history, is suddenly facing ruin and she is somewhat emotionally unstable.

Ian McEwan uses the London High Court as a symbol of stability and deliberate action against which the parallel revolts of religiously determined decisions and a husband wishing for less security and more spontaneous life are aberrations. The case of the sick boy, who in the course of the novel's action turns eighteen and with that coming of age no longer depends on his parents but can make decisions for himself, is of a kind which can be debated

from different angles, with the courtroom the scene of a moral rather than a legal conflict. Still, the court, with its traditions and status, is made to play an important role, if here of existential rather than legal import.

Measured against transatlantic genre activity the British contribution appears quantitatively modest, although the tradition of the British genre is well consolidated and contemporary writing styles are varied enough to merit audience interest. Perhaps the time-honoured professional two-tier structure with solicitors and barristers acts as an impediment to a smooth plot development. When compared to the USA, however, the major difference in the legal cultures between the two nations is highly noticeable. The law in the UK is considered the last resort in whatever conflict, civil or criminal, is taking place, but in the USA it is part of everyday social intercourse, as it were. In Britain, I would suggest, there is a barrier between the populace at large and its courts—an aristocratic self-relying system, as it were—but in America the practising of an elective system makes a place in the legal profession just another kind of public office—democratic in comparison.

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CHAPTER 6

See You in Court (1). The American Genre Explosion from the Late 1980s

By far the majority of contemporary legal thrillers, printed or televised, originate in and concern the American way of life. Two respected law professionals, also authors of one of the much used law-school textbooks, describe this as follows:

> American society is very much preoccupied with law. We have an elaborate system to make and enforce the law. A large professional class is engaged in the practice of law. Numerous academic institutions are devoted to teaching the law. There are thousands of publications dedicated to legal education, research, and advocacy. Our mass media and popular culture reflect the social preoccupation with law, in that we are exposed to a steady barrage of books, films, newspaper articles, television shows, and web sites dealing with the law. (Scheb and Scheb II 2010: 49)

American court cases, whether real or fictitious, yield ample opportunity for drama, passion, and histrionics. This can be accounted for by (1) a mixture of an ingrained sense of law as an essential society dynamic taking direct democracy into legal as well as legislative and administrative spaces, (2) a strong belief since independence of the expediency of the law to settle conflicts of all kinds, (3) a legal tradition adopted from Britain based on common law, and (4) an accusatorial court culture and the traditional insistence on trial by jury. The investigation of crime in the real American world does not necessarily stop before the beginning of court proceedings—the court and its agents operate in tandem with or, just as likely, in

L.O. Sauerberg, *The Legal Thriller from Gardner to Grisham*,
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opposition to police officers, a possibility that can be much enhanced when it comes to the fictional treatment of legal thrillers.

There can hardly be any doubt that the law—state and federal—is the glue that binds together the otherwise extremely heterogeneous American nation. The interpretation of the constitution by the Supreme Court allows a system of checks on commercial activities, preventing private enterprise from potentially running amok, and safeguarding the rights of individuals—the law looms large in American awareness, both public and private. When an author's writing preference is for prosecutions through the DA's office, the antagonist is often organized or corporate crime, or an individual criminal, most often in the shape of a murderer. Here the law and the courtroom guarantee societal order against lawlessness. When the preference is with defence, focus is often on the carelessness or the cynicism of the publicly employed officers of justice, or on the willingness to sacrifice the individual accused of a crime for better statistics or re-election. But the genre is used as a platform for a great many different issues, all with a bearing on the law. John Grisham, for instance, generally has a sharp eye for the greediness of the legal profession. Michael Crichton, in *Disclosure* (1994), deals with the issue of political correctness in cases of sexual harassment, demonstrating the potential damage of legislation well-intentioned in its outset, but perhaps having unforeseen effects. This is also showcased in the mainstream novels *Bonfire of the Vanities* (1987) by Tom Wolfe and *A Human Stain* (2000) by Philip Roth, both of which also contain a focus on legal concerns.

Among the most commercially successful types of genre fiction the legal thriller has been constantly on the American bestseller lists since the mid-1980s. Outstanding authors like John Grisham, Scott Turow and Brad Meltzer are certain to attract huge interest when they use the courtroom or the lawyers' offices as exciting settings for events where life and property are at stake, but also, and certainly not to be ignored, as catalysts for casting critical glances at society at large. The breadth of the genre of the legal thriller, from a perspective of issues adopted and positions taken, is demonstrated by the gendered approach of such writers as Lia Matera, who presented her heroine Willa Jansson first in *Where Lawyers Fear to Tread* in 1987. African-American perspectives are provided by writer-lawyers like Christopher Darden and Linda McKeever Bullard. Contemporary issues of American ethnicity or gender are in themselves perfectly well suited for legal action and often appear as strong determinants when conflicts and crimes are taken to court. The legal thriller has a capacity for reflecting and

modelling the structure and substance of clashes and crises that the oppositional nature of American entrepreneurial society presents in particular. Arguably it does so even better than other varieties of the mystery genre, whose provenance as subspecies is well-established in American fiction: the hardboiled (noir) detective story, the police procedural, and feminist and ecologically aware crime fiction.

American Law Characteristics

American law grew out of English common law with the emigration across the Atlantic, away from both religious intolerance and from arbitrary legal visitation by royal prerogative. But in two respects there are historically prompted differences between UK and US law. One is the existence of a written constitution with amendments, which sets out the general principles of American rule of law. Another, related to the existence of a central constitution, is the side by side existence of federal and state law. Pertinent to the particular concerns of individual legal thrillers is the dominance of state law, as pointed out by René David and John E. C. Brierley:

> The average American lawyer has as much, if not more, to do with the law of his own state than with federal law. All those subjects forming what is called *lawyers' law*—family law, succession, contract, torts, the conflicts of laws, criminal law, judicial organization and procedure—are still within state legislative jurisdiction. Federal law, through a broad interpretation, has however enlarged federal power such that it may oblige the respect for a number of fundamental principles and thus may exceptionally touch on such areas by prohibiting discrimination based on colour, or religion, imposing certain fair commercial practices, controlling unfair labour conditions, guaranteeing the healthful and non-toxic nature of certain products or simplifying the enforcement of one state's judicial decisions in another and so on. All these matters are unquestionably important but the subjects of traditional concern are still to be found within the law of each of the states and, it should be noted, between states there may very well be, and indeed there often is, considerable difference. (David and Brierley 1978: 380–1)

When David and Brierley posed the question 'Is there a national, that is to say single, common law for all the states of the Union or is there a common law linked to the sovereignty of each individual state, and thus a distinct common law for each of the states?' (David and Brierley 1978: 382), they answered it in the following pragmatic manner: 'as a matter of fact, there is

not much difference between 50 uniformly *conceived* laws and a single law which would be, in the breadth of its application, a federal law' (David and Brierley 1978: 387).

But the problem of the extent to which federation and states share in the same kind of common law is different from the problem of the balance between common-law rule and civil-law rule:

> The United States has remained a common law country in the sense that it retained the concepts, the means of legal reasoning and the theory of sources such as these are generally understood in England. American law nonetheless has a special place in the world-wide common law system because, much more than any other law within the family, it has a number of rather original characteristics; and these same characteristics are those which very often link it to the Romano-German family to which, at one moment in its history, it experienced a certain attraction. (David and Brierley 1978: 373)

Thirty-six years further on, in 2014, H. Patrick Glenn could suggest that 'Legislation in the U.S.A. has also assumed civilian proportions and often receives civilian treatment. Codes of civil procedure and criminal law exist in many states; California, the largest state, has a civil code' (Glenn 2014: 263). Again, pertinent to the matter in hand, which relates to the way legal matters are transformed into attention-enhancing fictional narrative, is the scope given to the individual efforts of those who have the power to move a case; that is, counsel for prosecution and defence, and the judge, all acting before a jury. Glenn states that 'Even adversarial procedure is now declining in importance' (Glenn 2014: 263), and the ' "case-management" judge has emerged, drawing closer to the civilian judge's management of procedure (le juge de la mise en état)' (Glenn 2014: 263). But there is still the common-law tradition of independent judges at federal level (Glenn 2014: 264), and the digitized information culture has enabled the instant referencing of precedence, so that the sheer stacks of old cases is no longer an impediment to the rule of law, which has previously provided supporters of civil law with a strong, practical argument.

As in English legal thrillers, the adversarial system in a courtroom presided over omnipotently by an independent and potentially powerful judge and with a jury to impress with evidence and argument, is a theatre stage packed with potential action. Judges and juries act in similar fashions in England and America, but there are differences when it comes to counsel, although these may be hard to pinpoint as such during court activities.

In England the difference between instructing and instructed lawyers, solicitors and barristers, means that the proceeding advocate will be at a certain remove from the client in question. If the Crown Prosecution Service has hired a barrister, a QC, to represent the state, both client and police are at a certain distance from where the court action happens. Within the English system there are strong notions of compatibility, of what a lawyer can and cannot do in a legal profession conscious of conflict of interest cases. But 'North American professions have been less strictly defined (something about the needs of the frontier, most explanations go) and the notion of incompatibility is almost entirely unknown' (Glenn 2014: 281). With the regulation of interests safeguarded by the individually acting English barrister the freely roaming American lawyer has found it expedient to enter into large law firms, 'with the result that the lawyer in North America is now subject to structural loyalties (those of the large firm) which are not always consistent with the obligation of loyalty to the client' (Glenn 2014: 282).

If there may be potential loyalty problems in the relationship between lawyer and client on the defence side in a criminal case in the USA, originating in the business orientation of the large law firm, the most conspicuous difference between the two national systems on the prosecution side may be seen in the American resort to plea bargaining, 'giving the prosecutor discretion to charge a lesser offense or call for a lighter sentence if the defendant agrees to plead guilty' (Merryman 1985: 130). Having its roots in common-law traditions, plea bargaining is not excluded in civil-law regimes, but the possibility seems much more used in America than in England: 'Most criminal cases are resolved by guilty pleas, which are often obtained through plea bargaining' (Scheb and Scheb II 2010: 48) and:

> In addition to permitting a substantial conservation of prosecutorial and judicial resources, plea bargaining provides a means by which, through mutual concession, the parties may obtain a prompt resolution of criminal proceedings. The plea bargain, or negotiated sentence, avoids the delay and uncertainties of trial and appeal and permits swift and certain punishment of law violators with a sentence tailored to the circumstances of the case at hand. The Supreme Court has clearly upheld the practice of plea bargaining. (Scheb and Scheb II 2010: 359)

It is worth mentioning this peculiarity of American criminal law, since possibility for trade-off plays quite a role also in the plot possibilities of

American legal thrillers. Also of common appearance in American legal fiction is the phenomenon of bail. The ability to stay out of jail in exchange for a financial guarantee offered as security gives an added range of action with a defendant being at large while the case is being prepared. The particular link between the American legal world with its courtrooms, attorneys, judges, prisons, plea bargaining and bail as the background reality of narrative fiction has, according to American legal thriller writer William Bernhardt, contributed to the assumption that

> The American public has come to perceive the courtroom not as a place where truth emerges but where disputes are resolved, usually according to the talents of the lawyers. It is this sense of grayness, this absence of clear-cut lines of right and wrong, that has made many legal novels [...] so popular. And it is also what has made the public opinions of lawyers so dismal. (Bernhardt 1998: viii)

At the same time Bernardt notes the popularity of the stories written and presented by his fellow lawyer-writers, and he attributes the success of the genre to four things. First, the growing complexity and lessening of traditional cultural ties—family, church, etc.—have led to the solution of disputes by professional conflict brokers, lawyers. Second, there is the related issue of the formation of national values:

> Courts have been called upon to resolve disputes of moral or even religious significance—abortion rights, sexual harassment, discrimination based upon race or gender or sexual preference. Previous generations would have said such issues were inappropriate for judicial treatment; today the courts have the final word. As the influence of other social institutions has faded, courtrooms have filled the gap. Is it any wonder people are curious about the inner workings of the judiciary, when so many critical questions are decided there? (Bernhardt 1998: ix)

Third, Bernhardt claims that the growth of government in an American liberal society needs interaction on a scale and at a level requiring the professionalism of lawyers. Fourth, through their literary platforms legal thrillers are a welcome window for a citizen as reader to look through to see a world not only consisting of the dry stuff of law but fully created living beings in the characters.

The drama in an American court of law, hence its aesthetic potential, is based on the adversarial system, and on that system being a direct

confrontation between counsel. An American trial has the opposing sides putting their cases before a judge and/or a jury, depending on the kind of court dealt with. The counsel may be assisted, but the one representing the people via the DA's office, and the other representing the defendant, are two antagonists clashing in the arena for the favour of judge and/or jury—the traditional, basic stuff of conflict to energize literary dynamics. Given the career pattern of American law officers, the prosecutor will often be young and display the dedication of someone with her or his ideals from law school still intact. If older, there is still the dedication, but frequently also considerable cynicism. This is, at any rate, how it appears in the fiction. On the other side, with the defence, the counsel as a rule has put years in the DA's office behind them and has launched a lucrative career in private practice. That is, if we are dealing with clients who can afford the substantial fees of such lawyers. If not, the unfortunate clients have to rely on less successful appointed public defenders or the distracted attention of successful lawyers working *pro bono*. Again, this is how things are often made to appear in fiction, but as the fiction is written by professionals, it is surely not too far from the truth.

The judge and the jury each have their well-defined functions in court. The jury is a passive entity. It has to listen carefully to the arguments of the lawyer and heed the judge's advice and instructions. But whenever a jury is present, it must be impressed. In the fiction, again, considerable histrionic talent goes into the counsel performing before the jury as if it were a theatrical audience. A common ploy, seen in much of the fiction, probably also reflecting courtroom practice, is for the counsel to overstep the limits of what may be said, leaving a statement, question or accusation hanging in the air, no matter the judge's order to have it stricken from the record. But the jury presents possibilities for drama, conflict, or tension, not so much during the trial proceedings but firstly at the preliminary phase with the selection of members (which may give cause for drama within the drama), and secondly at the very end, indeed furnishing the culmination of both court action and plot with the communication to the judge of the jury's verdict. Although there are legal thrillers letting the reader in on the sequestered jury's negotiations, it is much more usual to stay with the rest of the court and wait for its appearance.

Judges under the American system seem to enjoy more freedom in their conducting of cases than elsewhere. The 'objection'—'sustained'—'overruled' dynamic, for example, is an integrated part of the proceedings, which gives to the judge the final say in courtroom skirmishes. The judge is

also an active party with timely, sometimes tactical, calls for breaks, sidebar conferences with counsel or conferences in chambers. The judge in American legal thrillers is invariably a much respected person, the stable and authoritative centre around which the court conducts its business.

What follows in Chapters 7 and 8 is the analysis and discussion of the interaction between legal facts and aesthetic requirements in a handful of legal thrillers from the time of the great upsurge of the genre from the mid-1980s, produced by writers born between the mid-1940s and the mid-1960s. The handful is not in any way intended to present an exhaustive overview of the genre. That would, anyway, be an impossible task given the enormous number of American legal thriller novelists and the even more prodigious number of titles. Nor is any effort being made to single out the best, whatever that may mean—quality in literature is both an absolute and a relative judgement. A purely chronological order of the titles selected for study would indeed have been a neutral way of showing examples of what has been written and published over the period. The order of study of the titles selected might also have followed various other taxonomies, but the one selected is a division by gender and within that a chronology not of authors by age but by year of publication of title selected. The intention is to illuminate what particular literary or aesthetic characteristics might be said to deal centrally with gender in a literary field reflecting the population at large as its potential clientele, and a profession with, in principle, equal opportunity and a growing proportion of women lawyers. The genre's popularity has flourished in the number of titles being published and the size of its following along with increasing female representation and activity in both real life and literature, so it is only natural to look for and focus on gender traits in the genre generally and in literary work by women especially.

According to statistics provided by the American Bar Association, of the more than 1.3 million licensed lawyers counted in 2015, two thirds (65 per cent) are male and one third (35 per cent) female. Compared with the figures from 2000, the male professional population is down by 7 per cent, the female up by the corresponding figure. Terry White's compilation of legal thriller writers (White 2003) shows that out of approximately 1,200 authors named, about 1,000 are American. Of these around 100 are female. The figure should be taken with a considerable grain of salt, as White's count generally errs on the side of generosity, meaning that his generic domain is a very inclusive one in which crime fiction with just a fraction of legal elements qualifies as a legal thriller. Sue Grafton and Sara Paretsky, for

instance, are included for the titles in which trial sequences are part of the action, although neither author enjoys a reputation as a writer of legal thrillers (although they certainly compose private-investigator fiction of a very high standard which also breaks new ground gender-wise).

Although there is a notable history of both male and female authors of legal thrillers before the 1980s, White's compilation yields data that of the approximately 100 female writers about a quarter were active before the 1980s, leaving three-quarters active from the 1980s onwards. As this upsurge seems a shared trait for both the history of male and female writers, it is hardly attributable to the raised gender awareness that started with second-wave feminism. That said, legal thrillers written by women since the 1980s demonstrate, along with crime fiction written by authors such as Grafton and Paretsky, a heightened awareness both of women being a gender minority in a traditionally male profession and women having to fight for recognition. There is also the issue of connecting strictly legal agendas with wider societal issues as well as private and family affairs. In other words, there seems to be a tendency for the female legal thriller to take up issues beyond the concerns of the courtroom or, in the language of literary criticism, it moves from formulaic generic fiction into the much broader category of the contemporary American realistic mainstream novel.

If gender is one area contested in much contemporary American literature, ethnicity is another. Of traditional standing are the status and possibilities of Jewish-American and African-American citizens generally in the USA and their appearance as officers of the law in the fiction. Of more recent appearance is the Hispanic-American population segment. According to the 'Lawyer Demographics' of the American Bar Association (2016), from the figures available, that is for 2000 and 2010, the 'White, not Hispanic' percentage of licensed lawyers are, respectively, 89 per cent and 88 per cent. The 'Black, not Hispanic' figures are, respectively, 4 per cent and 5 per cent, and 'Hispanic', respectively, 3 per cent and 4 per cent.

In the titles to be examined in Chapters 7 and 8, gender is both a matter of prejudice and a matter of debate, something applying to all parties often in courtrooms—to law officers, plaintiffs and defendants alike. Along with other social, political and cultural issues in the USA around the time of the last millennium and the beginning of the new, gender is an issue of an extremely real nature but also one that refuses to be seen in isolation from many other likewise important subjects. Its treatment in literature, in the legal thriller, of course profits from imaginative projections. The testing grounds of so much legal thriller narrative fiction offer both deep soundings

into the sentiments at large in reality and experiment with solutions to problems growing out of such sentiments. In the time period covered in the next two chapters, from the mid-1980s to the mid-2000s, it will be seen that the Perry Mason way of approaching American reality may be longed for with nostalgia by some readers. But the novels singled out for attention here face squarely a contemporary American reality in which borders have been debated widely and new ones drawn or are in the process of being drawn. The courtroom is a microcosm of society, with the conflicts treated according to traditional and time-proven choreographies. In the USA the courtroom is indeed very frequently the space for defining American values. What goes on here and in relation to it means that problems are pared down to essentials, emotionally and intellectually, just the way that literature is generally approached.

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CHAPTER 7

See You in Court (2). The American Genre Explosion from the Late 1980s: The Women

It is not as if female authors of American novels featuring legal matters and lawyers is a very recent literary development, coinciding with the upsurge of the genre in the 1980s. Of the approximately 100 American female authors listed by Terry White (2003), 25 of them were active before then. But there is a difference in the approach to the matter in hand, a difference constituted, arguably, by a development from gender issues treated in a traditional manner to more or less emphatically gendered works of fiction. The lack of any sense of legal thriller generic format at the time when Erle Stanley Gardner was beginning to make headway is telling in the advice that the marketing trade magazine *Kirkus Review* offered booksellers in connection with Mary Bickel's (d.1975) *Brassbound* in 1934: 'The publishers are excited about it, and putting plenty of push behind it. Sell as you sell Mary Roberts Rinehart and Frances Noyes Hart, on the basis of its being a good story, rather than a mystery thriller' (*Kirkus Reviews* 1934). There is meagre information available on the life of Bickel, but a web site for New York State Skaneateles, the location where Mrs Bickel lived with her husband from 1947–57, lists the author among the famous people to have made it their home. In an entry on the site in 2009 the chronicler notes some facts about *Brassbound*, whose generic designation is probably a rationalization long after the fact:

> In 1934, Mrs. Bickel submitted her first manuscript, a courtroom mystery about a woman on trial for murdering her fiancé, to *Liberty* magazine's first novel contest. The novel was entitled *Brassbound*, and it won, topping more

L.O. Sauerberg, *The Legal Thriller from Gardner to Grisham*,
DOI 10.1057/978-1-137-40730-6_7

> than 6,000 other entries. Mrs. Bickel saw it serialized in *Liberty* in June, pocketed a $10,000 prize, and was published in hardcover. (Skaneateles. The Character and Characters of a Lakeside Village 2009)

However, that there was potential for a feminist agenda at the time of the genesis of the modern genre is apparent from the fact that another provider of entertainment in crime-fiction format, Margaret Culkin Banning (1891–1982), went for a legal topic. Among the 36 novels that this early women's rights spokeswoman wrote and published was *The Iron Will* (1936), a '*Bildungsroman* featuring a youth, iron mining and a trial in Minnesota that consumes the entire 239-page novel' (White 2003: 23). Mrs Banning must surely have seen the potential for legal thriller genre feminist awareness already then.

In what follows, a limited but, arguably, representative number of legal thrillers written by American female authors have been selected for critical attention, with particular focus on the way the genre accommodates explicit or implicit feminist issues, but at the same time with a general focus on the way these works of fiction transform the realities of legal domains into generic fiction. The selection has been made on the premise of the representational value of the works selected. But all of them are predicated upon the principle that Anne Tolstoi Wallach has her protagonist remind a legal friend of: '"Leonard, I'm not a woman judge. I'm a judge, remember?"' (Wallach 1998: 74). That this may be a far from accepted principle is reflected in the wry, Raymond Chandleresque male comment on Linda Fairstein's protagonist's attempt to boost morale on behalf of her own sex:

> 'Calm down, buddy. Women fly combat missions now. Think of them, think of Meryl Streep—you know, Karen Blixen—in *Out of Africa*, think of Sally Ride, the astronaut, think . . .'
> 'The only one *I* can think of is Amelia Earhart, and the last I heard, blondie, she still hasn't landed'
>
> (Fairstein 2007: 77)

The fictional universes invented by the authors are, like fictional universes in all generic fiction, a product partly of the realities behind the fiction and the reality of a comparatively consolidated generic awareness shared by reading audience and author. But in the case of the legal thriller oriented according to a gender-attentive perspective, there is the extra twist of accommodating a traditionally male domain into one in which not only is there a growing presence of women but also more generally gender-related issues are opened up as well.

Lia Matera, *Where Lawyers Fear to Tread: A Willa Jansson Mystery* (1987).

The title of Lia Matera's 1987 legal thriller, *Where Lawyers Fear to Tread*, set during the Reagan administration and at the very beginning of the AIDS scare, slightly rephrases neo-classical English poet Alexander Pope's famous line but omits the corollary of fools rushing in where more circumspect people ('angels') hesitate to enter ('fear to tread').

The lawyers in this thriller are of the academic variety, law students and their professors in a small Californian law school north of San Francisco, 'not a top ten law school' (Matera 1991: 196). The story combines the whodunnit structure of the regular mystery story with traits—setting and academic jealousies mainly—from the campus novel and is energized by dynamics originating in legal matters. Matera's story takes 'Nancy Drew'—the narrator-protagonist teased as such good-humouredly by a fellow student as the incarnation of the popular teenage series heroine—from middle-class and middle-American suburbia via the Summer of Love to the somewhat unlikely hippie clone in that most traditional and conservative environment of the law school. When the police fail to make headway in their enquiries about the murder of the recently appointed editor-in-chief (EiC) of the *Malhousie Law Review*, Willa Jansson decides to contribute with her own mostly unsolicited efforts. From her new position as the next EiC—elected democratically by her peers but not without some, indeed rather severe, jealous misgivings from a few of them—she has access to both the student body and the faculty.

From a generic legal thriller perspective the story is less interesting for the mystery it unrolls almost to the tune of a mystery genre travesty than it is for the light it throws on the particular role played by the uniquely American phenomenon of the student-run law review. But Matera not only showcases this particular activity, she also seems to highly enjoy deflating a kind of enterprise usually treated with awe. The pot-smoking and blatantly promiscuous, herpes-suffering Willa with her parents still engaged actively in peace corps and related voluntary work has gained professional respect from the quality of her academic work, so she can afford to question and criticize the established career system, since she is so good at the basic academic stuff herself, and charming to boot.

Throughout bordering on travesty and farce, the insights offered by this legal thriller on the early-phase selection of the fittest are well worth noting. The very introduction hammers home the central point:

> Law schools don't have football teams, they have law reviews. Law reviews may look like large paperbacks, but they are arenas. Legal scholars maul each other in polite footnotes, students scrimmage and connive for editorial positions, and the intellectual bloodlust of law professors is appeased, rah rah. (Matera 1991: 1)

And career-wise there is no way around it but to secure a place among the best in one's year and combine it with editorial experience:

> If you don't want to work in Puyallup, Washington, or Lawton, Oklahoma, if you want to work in a big city law firm, if you want a decent salary, if you want a job in a government agency or a hip organization like the American Civil Liberties Union, you'd better be in the top ten percent of your class, and you'd better be on the law review. And if you're not at Harvard, Yale, or Stanford Law, it's best to be editor-in–chief. (Matera 1991: 1)

Willa has no illusions about either the professional usefulness of a law review article or the artificially stilted language of jurisprudence with its predilection for phrases with a rhetorical effect rather than a strictly practical legal application. When facing the pile of articles submitted to the review for which she has become EiC, she ponders drily on the purely career-instrumental justification of the articles written and submitted by tenure-tracking junior academics, and she cynically remarks that 'The law of averages should guarantee that a few of these will be publishable, but I guess the good articles all ended up at *Harvard Law Review*. They certainly didn't make it to my desk' (Matera 1991: 15). Her cynicism extends to the fate of the articles rejected by the editors. Realizing that articles submitted to a law review based in a small and less than glamorous law school are not likely to be circulated much further, they may still come in useful for the top ten students, who are also editors, as so much junk out of which still useful parts may be recycled into new life for ambitious law students who will of course not downright plagiarize but may well 'pillage the footnotes for topic ideas' (Matera 1991: 17).

Matera's legal thriller teaches the reader a lot about the interface between academic and practical law, from the enormous financial distance between the successful torts litigator to his, in comparison, poor cousin, the law professor, and to the pecking order of the judicial community, as in this observation on the relative standings of academics and active attorneys: 'They treated her husband with the exaggerated deference law professors

always display toward lawyers who have proven their virility in the courtroom' (Matera 1991: 84).

Matera's legal thriller highlights both gender issues in law school and the competitive dynamics of legal ambition. Matera formulates explicitly the career requirements that resound in much legal-thriller fiction: '"Top ten percent and law review," that's the magic phrase' (Matera 1991: 1) in an atmosphere of long Summer-of-Love echoes.

To have the narrative perspective and, with it the sympathy investment by the reader inclined from the familiar collegiate perspective—a fellow lawyer experiences and tells the legal story—to someone recruited from a radical background and seeing herself as a latter-day hippie is indeed to turn the tables on the legal establishment and the respect, indeed awe, with which it is usually treated in the legal thriller. One might complain of Willa eating her cake and still having it. After all, she is perfectly capable of landing (and will perhaps one fine day) one of the top-notch jobs of which she is so contemptuous. Be that as it may, the satire of Matera's legal thriller functions very well to illuminate not only the ridiculous ambitions and pretensions of academia, but also the courtroom, the police and the political world as laughing-stocks. She also, quite impressively, manages more subtly to ricochet back on the narrator's own flaws and makes allowance for the fact of the world being more complex than she makes it out to be. The growing understanding between Willa and the detective on the case of the multiple murders at the law school, Sergeant Surgelato (!), is evidence of a more deeply resonating narrative than it sets out to be.

Nancy Taylor Rosenberg, *Mitigating Circumstances* (1993)

Nancy Taylor Rosenberg's *Mitigating Circumstances* opens with an 'appetizer' in the form of the conclusion of a murder trial. This sets the scene and indicates the mood instantly, although the reader senses that the case being closed by the judge passing sentence is hardly part of the plot to evolve. But two elements are striking all the same—one with immediate impact when noted, and one with a bearing on the major theme of human degradation and depravity that runs through the whole narrative.

The element with immediate impact is the observation that the 'female prosecutor's voice echoed in the empty courtroom as she made her closing argument' (Rosenberg 1994: 1). Perhaps it would be more striking had the

reader learned explicitly that the prosecutor's gender was male. But in this, as in so many other job functions where women are laboriously attempting to gain footholds on a par with men, the male gender is still the default position, as it were, with a need to spell out deviance from the neutral, unmarked male 'prosecutor' by adding the gender information. It seems unlikely for the term 'prosecutrix' to gain general recognition and broad usage.

Rosenberg's legal thriller, which is set during the George H. W. Bush administration and has the Rodney King case running, as it were, in the background, indeed makes a central point of this gender consciousness, both as the particular vulnerability of females exposed to sheer muscular force and emotional bluntness of the raping male, and in the way that the perspective throughout the story inclines towards the narrator's distinctly gendered awareness. This ranges from the physically gender-exclusive experience of 'perspirations trickled between her breasts' (Rosenberg 1994: 2) to the narrator's pervasive qualms of conscience about combining a lawyer's career with motherhood.

When the story begins, 36-year-old Lily Forrester is on the point of taking up a new position in the Oxnard County District Attorney's office in charge of the Sex Crimes Division, which is likely to take her eventually to the 'black-robed seat on the bench' (Rosenberg 1994: 3) But it is not as if she is keen on the insights that her job so far have offered, nor on what is likely to come up in the future:

> Even after eight years as an assistant district attorney, she still let the vermin she prosecuted get to her, touch that exposed wire leading to her nervous system. Sparks were flying all around her, inside her. Reaching her office, she took the file and threw it with every ounce of strength she had against the glass window, watching as the contents spilled out and tumbled to various resting places all over the new commercial-grade carpet. The same names, the same faces, kept reappearing. The system was spitting them back out like rotten pieces of meat viler than when first digested. She thought of the guillotine, wondering if it had rally been barbaric. They certainly didn't reoffend. (Rosenberg 1994: 2–3)

It is this anger which is channelled into a decision to take matters into her own hands when she and her daughter Shana have been made the victims of rape at knife point. Realizing that the legal system is not likely ever to identify or find the perpetrator of this crime, she acts on a hunch and

manages to shoot the man and get away undiscovered. Ironically, it turns out that the man shot by Lily is the wrong man, but actually one with a criminal record even viler than that of the rapist.

When the investigation closes in on her, she decides to confess to the murder, both to her lover Richard, in whom Lily, disillusioned with her present malfunctioning marriage, is beginning to invest her future, and to the policeman in charge of the investigation, Detective Sergeant Bruce Cunningham. Luckily for Lily, Cunningham, who is fed up with the inhumanity of the big city and wants to go back to Omaha where he hails from, refuses to take her confession and instead makes the evidence disappear. Cunningham is convinced that some kind of justice has been meted out despite the mistaken identities. Taking the law into one's own hands is both understandable and forgivable, especially seen through the eyes of the police officer used to the frontier ethics of his native Nebraska, which contrast starkly with what he has been witnessing during his time in Oxnard, both among police colleagues and criminals:

> In Omaha, things were different. People were friendly and honest—basic hardworking Midwestern folks. Cops were cops. They weren't thieves or killers or brutal, out-of-control animals. They were good guys. Nothing more, nothing less. Everyone in the department worked toward the same goals and assisted each other whenever they could. Here in Oxnard, he'd seen officers spend longer trying to kiss off a case to another officer than it would take to simply handle the fucking thing themselves. That was the kind of mentality he was surrounded by here in California. (Rosenberg 1994: 117)

And in the perspective of the riots caused by the Rodney King incident, matters have gone from bad to worse:

> Because of a few L. A. cops, and a population that was morally bankrupt, half the city had been burned down in the riots, and thousands of people were homeless and out of work. Shit like this didn't happen in Omaha. There was crime, but what was going on around here was madness, moral decay, the end of the line. People were becoming desperate. They had no heroes, nor warriors, no protectors, no one left to draw the line. When the cops didn't even know who the good guys were anymore, it was a sad day to be sure. (Rosenberg 1994: 184)

On his way to take the confession that Lily has just phoned him about, the anger in Cunningham grows to apocalyptic dimensions in his car

monologue: '"There are no ethics anymore," he said. "Presidents commit crimes and lie, preachers steal and fornicate, fathers murder their own children—children murder their parents"' (Rosenberg 1994: 350). It is in this vengeance-is-mine mood that he encounters Lily and refuses to accept her confession. First taking her out to the scene of a brutal gangland killing to demonstrate that his convictions about big-city depravity are justified, Cunningham takes it upon himself to represent justice and God alike:

> 'I am the law. Do you hear me? I'm the one who lives and breathes it. Not the judges in their high benches too far from it even to smell it. I'm the one who gets shot at. The one who has to inhale the rotting flesh of the society we live in. I'm the one who comes when people call, when they're robbed or beaten or raped. I have every right to make this decision. Every right.'
>
> Beads of sweat fell from his forehead like salty rain onto Lily's upturned face. 'Justice,' he said, spitting out the words. 'How can the interest of justice be served by trying you for avenging your child, by locking you up, by leaving your daughter so badly damaged she'll never recover?' He suddenly dropped his hold on Lily and stepped back. Her arms fell to her side, her mouth trembling. 'There is a God, lady, and He lives down here in the gutter with the likes of me.' (Rosenberg 1994: 356)

How morally right and justified this frontier judgement may sound, it is of course something that a legally founded society cannot accept. In the fictional universe of the legal thriller, in which reality is depicted, sentiments are uttered, and aesthetic cravings are satisfied, the reader will have to find some kind of compromise between the demands of the real world and the make-believe of the story components, including the moral judgement which the reader is so easily persuaded to accept. This comes here in the form of the nemesis following Lily's hubris. Lily chooses to punish herself by giving up the career she has been dreaming of, although she justifies to herself the unfortunate chain of events: '. . . she decided that she might have shot the wrong man, but in the long run, she had shot the one who deserved to die' (Rosenberg 1994: 337). Also, she quits the coveted job in the DA's office in favour of one with a much lower profile as an appeal case researcher, buried in an archive all day. The relationship with Richard, on his way to the bench, will have to be given time. Even if not outwardly compromised, his knowledge of her guilt will be a strong psychological impediment to their future relationship, although the ending promises a new start.

Barbara Parker, *Suspicion of Innocence* (1994)

California leads in the choice of settings for American legal thrillers. With the southerner Barbara Parker, who has university degrees in history and fine arts in addition to the law degree that qualified her for work as a prosecutor, events in *Suspicion of Innocence* from 1994 take place in Florida. Here we find Gail Connor as a hardworking woman in one of Miami's respected law firms, pitted, in the nature of legal matters, against strong opponents bent on winning their cases, but also, somewhat ambiguously though, against a traditional gender agenda and, to boot, a superficially traditional well-off Southern but, underneath the social veneer, very much dysfunctional family background that she is keen on leaving behind her.

If this narrative is read as a legal thriller, the focus is on all the legal mechanisms which take us from point to point in a multi-stringed plot, in which the central string is the murder of Gail's sister. Gail finds herself accused of the murder as she is the one with the most obvious motive, since she profits from the death of a sister she has so openly kept at a distance. If read as general fiction against a backdrop of the Southern fictional tradition, this is a story about skeletons in the family cupboards and a society in which Hispanics, especially those of Cuban extraction, play the part of the 'other' usually given to African-Americans.

The working woman aspect comes out in the close analysis of time-logging, the staple diet background information in the majority of legal thrillers focusing on lawyers in private practice:

> No one who expected to make partner at Hartwell, Black and Robineau would stop at forty hours. The truly creative might log fifteen billable hours from eight in the morning to five in the afternoon, five days a week, and grab another ten or so on the weekends. If you couldn't cut it, you would be gone. Sooner or later, they would make it known to you: find another job. (Parker 1994: 50)

Another essential feature of legal thrillers, both British and American, is the relationship between judge and lawyer. In both countries it may be a severe step down the salary ladder to accept a judgeship, but there seems to be a qualitative difference that makes the step worth taking. In this thriller Gail's uncle Ben is a former judge and now a lawyer in private practice. Gail thinks about his comments on his latest change of jobs as far from covering the truth:

> Ben had said that if he'd known private practice was this good, he'd have left the bench years ago. Gail often wondered whom he was trying to convince. She knew he had enjoyed his position on the circuit court. Now he was just one more late-middle-aged attorney in a firm of them. (Parker 1994: 126–7)

Gail is an up-and-coming attorney, with the right family connections, which are left discreetly un-referred to by her no doubt envious colleagues since she is indeed hard-working. She is still not a partner in the law firm housed on the fourteenth and fifteenth floors of a downtown 1930s building, the interior decoration of which does not at all resemble the functionalist style of that decade, but rather something that could have quite incongruously been 'lifted from an English manor house: deep leather furniture, landscape paintings, a polished staircase curving to the upper floor' (Parker 1994: 50), complete with an English-style butler. But she has her sights set on partnership despite the far from promising statistics: 'There were eleven women attorneys out of sixty-seven, not a bad ratio for a crusty old firm like this one. But only two women partners. Gail intended to be the third' (Parker 1994: 57–8). And one of those two female partners, Maxine Canady, has a formidable profile: 'once an editor of the *Harvard Law Review* and now full partner and specialist in taxation' (Parker 1994: 118).

The demographic composition of Florida influences the plot—a long-standing Hispanic population segment, relatively recent developments in the state following in the wake of events in Cuba, remnants of an indigenous population and recent scars from 'civil disturbances and immigration' (Parker 1994: 71) in the 1980s combine to play their part. Crime strikes close to home when Jimmy Panther of the almost extinct Miccosukee tribe finds the dead body of Gail's sister while guiding an airboat full of tourists though the shallows of the Everglades. At the time of the discovery Gail is busily engaged in a civil case about housebuilding. Her gendered sensibilities are promptly alerted when she meets her court opponent Anthony Quintana, with blatantly male and female gazes competing amongst the exchange of civilities: 'The dark brown eyes moved quickly over her face, taking inventory. No matter how good the manners, Gail was certain the sexuality could never be bleached out of a Latin male. She couldn't complain. They were exquisite creatures to look at' (Parker 1994: 14–15).

The family background that Gail so much wants to put a distance to is summed up in this morning's recall of last night's festivities:

> She had lain awake until nearly three a.m. reliving her mother's birthday party Saturday night. It could have been scripted by Tennessee Williams and badly overacted by the cast of a small-town dinner theater. Her mother pretending she wasn't really fifty-seven. Her sister Renee as the drunken little bitch, falling out of her tank top. And Gail's husband, Dave, playing the brooding son-in-law, making an ass of himself. Gail couldn't decide where she fit in, except as a reluctant audience, a witness to this tedious melodrama. (Parker 1994: 16–17)

There is more than a little self-hatred in Gail's hard words, as both she and the reader will appreciate during the investigation of her sister's murder—the extent to Gail's suppressed jealousy of her sister has energized her own existential decision-making, including those relating to her career.

Gail's property case takes her into narrow legal straits, when a way out is suggested by her overseeing partner. This involves exploiting her family relations and places her in the kind of ethical dilemma which structurally resembles that of the police procedural, when the superior officer wants something done but at the same time wants to dissociate from involvement should the initiative fail. When Gail instinctively reacts by opposing the scheme of connecting two cases, she is if not rebuked then at least led by hand by her senior colleague who suggests that '"There are ways to be subtle"' (Parker 1994: 121). The point is of course not to spell it out that Gail must be very pragmatic:

> 'You know, Gail, as attorneys we're all going to get into difficult situations. That's what we get paid for, isn't it? To be able to handle them. And we can't resort to abstractions to make the decisions for us. We have to rely on experience in the real world as well as on our inner belief. Do you follow?' (Parker 1994: 122)

Gail knows she will have to accept this interpretation of legal ethics if she is going to have a chance to make partner.

Gail is attracted to her opposing counsel, with his good looks and his background of a scholarship to Columbia Law School, from the moment they meet (Parker 1994: 229). In addition to the importance of the sexual dynamics for the narrative, there is also potential for theme-structuring in the fact that he is a criminal lawyer while Gail's speciality is business law. Anthony likes the relative speed and clarity of his criminal cases, but he will not accept Gail's suggestion that guilt is an easy matter to handle in such cases. As he argues, '"And besides, who can draw a clean line between guilt

and innocence? Even in a criminal trial the result is often a guess. In life, everyone is guilty of something"' (Parker 1994: 143).

Parker's legal thriller is teeming with conflicts, in and out of courtroom and lawyers' chambers. In a literary perspective it bears some resemblance to the tradition in Southern literature for exposing what families or clans have made into a habit of concealing. Especially prominent here, besides Gail's troubled relationship with husband and daughter, is sibling jealousy between sisters and a strained mother–daughter relationship. Outside of the family circle there are conflicting political and social issues to do with ethnicity, represented by a Native American searching for his roots and Cuban refugees adapting to both legal and illegal aspects of Florida society, all of this sensed through Gail's lawyer's mind, always alert to power games, in anything from business transactions to sexual relations.

Kate Wilhelm, *The Best Defense* (1994)

Kate Wilhelm belongs to that very tiny group of writers of legal thrillers with no professional background in law. As a very prolific writer she has, in addition to her legal thrillers featuring Barbara Holloway, won a distinguished reputation as a writer of science fiction and as a writers' writer with her workshops and literary mentor activities in the American north-west. Her stories about Barbara Holloway are set in her own home town of Eugene in Oregon.

Barbara, as she appears for the second time in *The Best Defense*, is a 38-year-old lawyer who could have enjoyed a protected and financially rewarding career in her father, Frank's, much-respected law firm. But both father and daughter are recently bereaved of their loved ones; Frank of his wife and Barbara of her fiancé—for both the wounds are still smarting. Barbara has chosen to devote considerable energy to *pro bono* legal work as a so-called 'storefront lawyer', setting up 'office' in a restaurant in one of the poorer neighbourhoods of suburban Eugene. The self-appointed job as voluntary social worker is wearing Barbara out, but to her it is chiefly self-therapy against the still acutely felt trauma: 'She had found that if she worked, the grief receded; lately she believed it had changed to something else, but it was there, it was there' (Wilhelm 1995: 21).

Tempting his daughter to take a lucrative copyright case and so getting her back from the storefront to the chambers, there is opportunity for a comment on the difference between Californian Hollywood and Oregon

Eugene. In Frank's mind, Barbara knows, his 'office consisted of upright attorneys; in Hollywood they were shysters' (Wilhelm 1995: 63). Frank tempts her even further, spelling out the quintessential judicial function invested in the US Supreme Court:

> 'Oh, it's an experience, I can tell you. A real thrill, especially if you win. But even if you don't win. Just being there. Knowing you're appealing to the highest court, knowing that every damn lawyer in the country will be following what you're doing, the possibility that you'll make history, be in the textbooks, it's a rare privilege, Bobby.' (Wilhelm 1995: 86).

The plot of *The Best Defense* is fairly simple in that it traces the trial of a mother accused of killing her own child, with Barbara able to turn the tables at the last minute in the courtroom, and with parallel action in pursuit of a related criminal matter going on in the judge's chambers. The courtroom scenes begin one third into the narrative and constitute the framework of what follows, from Barbara's opening 'Speaking quietly, she stressed the fact that the burden of proof was on the state' (Wilhelm 1995: 175) to dramatic ending with a non-guilty verdict. The plot sustains a narrative which explores, on the one hand, Barbara and her father's coping with their personal problems and, on the other, the dynamics of the American pro-life movement, which receives short shrift in this particular case as the façade of a criminal drug-dealing organization. Linking the courtroom drama and the personal matters there is the character of the court-appointed public defender, the greenhorn lawyer William Spassero, whose incompetence fires the energy of Barbara but who also promises, despite its initial unlikelihood, to be of personal romantic use to her.

Barbara is asked to step in for the indifferent public defender by the sister of the woman hospitalized suffering from severe burns and accused of having left her child to the flames when the house functioning as a safe haven for threatened women and their children catches fire. Barbara only learns about the case after the sister of the defendant, Paul Kennerman, has told her that she is despairing of the approach and behaviour of the appointed public defender, who only seems interested in speeding up the pending trial by having her plead guilty. Barbara's response to her new client's inquiry about the obligations of a public defender's duty to work to the best of his abilities for the defendant also functions as the kind of info dump which is needed whenever professional or technical matters have to be communicated to the reader:

> Barbara nodded. 'He does. All that means is that when a defendant can't afford to hire an attorney, under the law the court has to appoint one. And that attorney is required to treat his client exactly the way he would any other client. He'll do the best he can for her. The court will be watching to see that he does.' (Wilhelm 1995: 10)

Barbara is experienced enough to see through what sounds like just so much reading aloud from a manual for defendants. She is also aware of the difference in the cost of hiring a private attorney from what the state is willing to invest into the public defence, which will run to 'thirty to forty thousand for the defense of a murder case' (Wilhelm 1995: 29) (Barbara ends up by accepting to help for fifty dollars paid as retainer by the defendant's sister! (Wilhelm 1995: 38)). When Barbara goes to court to watch public defender Spassero in action, she sees a large, good-looking blond man, expensively dressed and rhetorically fluent. Her own conclusions from his looks and court behaviour prompt her in her initially somewhat hesitant willingness to take over the defence:

> Ambitious, her father had said, and she understood exactly. Spassero looked like a young man putting in time enough to get some headlines, to get a lot of trial experience quickly, maybe even make a name for himself in court, and then he would become the golden-haired lad of a prestigious firm, or maybe run for office. Senator, she thought. He wouldn't aim for less. He would want the Paula Kennerman case over and done with as swiftly as possible, forgotten as swiftly as possible. Representing a defendant accused of murdering her child would not do him any good at all, even if his office had forced him to take the case. Defending the indefensible left a blot. (Wilhelm 1995: 25–6)

Motivated both by the irresponsible attitude on the part of the public defender, by the sorry plight of the defendant and by what to her seems a growing tendency for juries to follow the arguments of the prosecution, she decides to take on the case, although she had meant to leave this kind of work out of frustration from trying to persuade juries that 'more and more seemed to believe that the state was the final authority, that more and more accepted as probably true enough whatever the state claimed' (Wilhelm 1995: 30). When leaving the law firm to do storefront counselling, she also put behind herself her growing frustration about a system in which the power to oppose the state in capital offences would, quite literally, be invested in a lawyer clever enough to tilt the balance in favour of the defendant: 'She had dropped out, railing at a system that pitted the power

of the state against an accused person who might luck into a decent attorney or might not. Luck of the the draw. Win a few, lose a few, and what's the score?' (Wilhelm 1995: 82). However, she has not been able to resist practising law ('she had become the shark again, just like that, overnight devolution back to the briny' (Wilhelm 1995: 82)), but now in a purely advisory capacity, and to the needy at that, so she did not have to 'hurt anyone, did not have to play the merciless game in court' (Wilhelm 1995: 83). Not, that is, until the trial of the alleged child killer, which appeals both to her sense of justice and to her competitive urge.

Barbara soon finds out that she is up against formidable powers not only in the form of the state and its prosecutors but also, and surely more threatening, in the form of the expression of public sentiment which makes the Tea Party seem like, well, a tea party, in the words in which Barbara instructs her student researchers: '"They are far-right publications; some are the religious right, others not, but they're all right of Attila the Hun"' (Wilhelm 1995: 135). The Hodgson family, neighbours to the burnt-down haven for threatened women and mothers, are the publishers of a newspaper that gives voice to all kinds of prejudice. In the words of one of her colleagues: '"You know what they say, homophobia, hatred of all government, misogyny, you name it, might be bad, even evil, but it's not a crime. Not yet. The Dodgsons have perfected every aspect of voicing hatred for the other"' (Wilhelm 1995: 70). There is poetic if not real justice in the eventual disclosure of the activities of the Hodgsons as fronting for a drug gang trading medication to provoke abortions.

Carolyn Wheat, *Fresh Kills* (1995)

If a sense of literary tradition and convention built into the text is among the features that distinguish what the book trade likes to designate 'literary fiction' from 'popular fiction' or 'mass fiction', then Carolyn Wheat's *Fresh Kills* would qualify as the former, partly because of the many more or less hidden, scattered intermedial and intertextual references, among them two acknowledged lines of poetry by e. e. cummings. But other factors also account for this, such as the pervasive sense of gothic mood lifted from frequently mentioned Edgar Allan Poe, for which the swamplands of Staten Island serve as an appropriate background, and also because of American noir-like one-liners such as: 'Marla greeted the child with a "Hi, Lisa" in a voice so patently artificial you could have put it in coffee and not gained a pound' (Wheat 1996: 15).

Wheat's legal thriller starts *in medias res*, when lawyer Cass Jameson, coming from Midwest Ohio and now working in Brooklyn, is searching the swamps with a police party for the body of the young woman she represents in an adoption case which has taken an unexpected turn. It all started when Cass was led into temptation by fellow lawyer Marla Hennessey, an old law-school acquaintance, to take an apparently quite easy adoption case. Cass is recovering from a case in which she thought she was able to protect children from a mother not up to the usual standards of motherhood care. The mother's killing of her children left Cass at an emotional impasse and partly professional, partly existential despair. Marla has been doing adoption cases for well-off clients 'buying' babies without adoption agency fuss from young mothers or mothers-to-be who want to get rid of an unwanted burden. Marla's offer to Cass, when they meet in court on a day looking very bleak for Cass, is for her to act as a pregnant young woman's representative, as the judge, for obvious but commercially counter-productive reasons, is not going to let Marla represent both sides in the transaction. It is made by Marla to sound like a routine move, and in her present low state Cass is easy to lure into the scheme, which Marla seems to have worked to perfection.

Cass' weakness, professionally seen, is that she is emotionally too much into her clients. The tragedy with the dead children she blames on her own need to care: 'By understanding them. By seeing them as people, not monsters, no matter what they've done. By finding the whole story, the one that appears between the lines of the official records. By listening instead of talking' (Wheat 1996: 10). This is exactly the kind of motivation which gets her into trouble when the adoption scheme turns out differently from what Marla had planned.

As Cass is introduced by Marla into her unofficial-adoption business, what she learns goes against all her inherent sense of right and wrong. But Cass is again taken in by appearances. She instinctively sympathizes with the young (and in all other respects than sexuality) innocent victim of an unwanted pregnancy against the adopting parents, the New York counterpart of the Californian rags-to-riches tycoon, the intellectually inclined well-off creative set living in what amounts to Brooklyn echoes of smart London town house mews.

Fresh Kills—'kill' is an old Dutch word for the swamps of Staten Island as the reader is told (Wheat 1996: 1)—is a story about the qualms of conscience of a caring attorney, who learns in the process and in the hard way about deceptive first impressions. It is also a demonstration of the clash between the need to keep a professional distance and the urge for emotional

involvement. It is a story that sets that demonstration off against a background of an anarchic adoption business working according to the market law of demand and supply.

In the course of the story the reader learns along with Cass, who once chose abortion and still feels bad about it, about the goings-on in the American adoption business. Shocked by Marla's imposition of legally invalid 'contracts' on young women impressed with all the legal paperwork and ignorant of most things, including such things as law and rights, Cass is further informed by her social worker friend and helper Mickey Dechter about the general state of affairs in this area:

> 'Do you realize,' she began, fixing me with earnest eyes, 'that adoption agencies in the U. S. discriminate in ways the local McDonald's would get sued for? That in an adoption it's not only permissible but required to classify people on the basis of race, age, religion?' (Wheat 1996: 39)

Mickey Dechter, herself eight-and-a-half-months pregnant, is very eager to impress the situation on Cass, with Wheat deftly using Mickey in her helper's plot function as an info dump source. Cass and the reader learn in a couple of pages about the emphasis on same-race adoptions, the favourable financial and caring circumstances to do with 'natural' reproduction, including fertility treatment, in addition to adoption within a 'white' context with all the implications of the 'right age, the right religion, live in the right place, and have lots of money' (Wheat 1996: 41). This is compared to the private market cynicism of private adoption where all the unfortunate mother 'gets is a desperate older couple waving money in her face. She gets whipsawed between society's supposed belief in adoption and its vilification of a mother who gives up her baby' (Wheat 1996: 41).

Mickey's anger is directed at a system which allows, directly and indirectly, for discrimination on social, racial and religious grounds when 'natural' reproduction is impossible, giving priority to white babies and leaving the others alone:

> 'I can't help but think of all the babies I used to see when I worked the BCW,' she went on, naming her first employer, the Bureau of Child Welfare, the agency responsible for all the unwanted and abused babies born to people unable to care for them. 'How can we continue to let those babies rot in foster homes while at the same time we reward white parents for making babies by the most artificial means?' (Wheat 1996: 42–3)

But even though both authorities and future adopting parents may wish this state of affairs away, there is still a lot of illusion even when the adoptions are conducted within regulated formats. Cass drily observes on the situation when she is caught up between conflicting interests and is herself a prey of the mass media as one involved in the baby trade:

> Even my limited experience in the world of adoption had taught me that adoptive parents cherish a fond hope that the father of their unborn child is a nuclear physicist with a yen for teenagers. If they can't have a graduate-student mom who had a brief but passionate fling with a professor, they can at least dream of a birth father who isn't serving time. And burying the true father in a list of innocuous possibilities was a very good way of letting the adopters conjure up a fantasy of teen love between basically good kids who made a mistake. (Wheat 1996: 165–6)

Only very little of Wheat's legal thriller is set in court, but the whole narrative by the former defense attorney with the Legal Aid Society in Brooklyn, New York is suffused with legal points of orientation, which serve as the far from perfect but then still stable markers in social and private circumstances.

Linda Fairstein, *Final Jeopardy* (1996)

Linda Fairstein is one of those authors of legal thrillers whose professional background is used directly in the fictional universe of their suspense narratives. She served for thirty years in the office of the New York County District Attorney as Chief of the Sex Crimes Prosecution Unit. Assistant District Attorney Alexandra Cooper in *Final Jeopardy* (1996) must therefore be assumed to act in an environment in which both the general lines and the details are authentic. This also explains why the story is padded with many incidents and details that build both working conditions and mood of the unit:

> Six years earlier, Battaglia had promoted me to the position of Chief of the Sex Crimes Prosecution Unit in the Manhattan D.A.'s Office. I supervised the investigation and prosecution of all cases of sexual assault reported in the county, as well as the more sensitive, bizarre cases like stalkers. The unit had been the first of its kind in the country and we prided ourselves in doing innovative work to better the plight of women who had long been denied justice in the courtrooms when victimized in these traumatic cases. (Fairstein 2007: 12–13)

Alex planned a conventional career after law school, with a handful of years spent in the DA's office, qualifying her for legal work in the lucrative and prestigious private sector:

> But, like the overwhelming number of young lawyers on the staff, I fell in love with the challenge of the work—trying complicated felony cases to juries, working around the clock with cops in station houses and at crime scenes, and generally being on the side of the angels in the endless battles against violent crime in the big city. (Fairstein 2007: 10)

The modest material working conditions at her office, with 576 assistant DAs in the office, of which 25 work under Alex, stand in stark contrast to her private circumstances. Like Barbara Parker's Gail Connor and Kate Wilhelm's Barbara Holloway, Fairstein's Alex is comfortably off, living partly on private means derived from her father's success in medicine (he patented an artificial heart valve). She enjoys both a well-situated apartment in New York and a second home in Martha's Vineyard. It is in that exclusive place that the action of the plot starts, with the reporting of Alex's death at her Vineyard home. Fortunately for her, it is a case of mistaken identity, since the dead woman is her friend, the Hollywood screen actress Isabella Lascar, to whom Alex had lent her house for some privacy from the public eye.

The main plot of solving the Isabella's murder case is accompanied by two side plots. One is Alex's cooperation with a freelance reporter over an article on Alex and her work in the *USA Lawyer's Digest* which eventually merges with the main plot. The other concerns Alex's love life, which also undergoes radical change as details about Isabella's life are divulged during the murder investigation (Alex shares with Kate Wilhelm's heroine Barbara Holloway the traumatic experience of a deeply loved one dying suddenly and tragically).

While an important dynamic in the story is exactly an instance of the 'more sensitive, bizarre cases like stalkers', the major thematic import of the thriller is to highlight the legal attention that sex crimes have been receiving at the time of writing the book. Police officer Mike, who is protecting Alex on orders from the DA is also a good personal friend—they both share a cult devotion to the TV programme *Jeopardy*—and enjoys a narratological status as the confidant needed for the protagonist to pass info dump information. On the point of leaving her for the night, Alex explains the progress in sex-crimes prosecution to him:

> 'You know what I love about this? Most women who survive a sexual assault come to the criminal justice system not expecting any kind of justice will be done. They doubt that the rapist will be caught, and both fiction and made-for-TV movies have taught them that even if he is, he'll never be convicted. It's great to be part of changing that, of making the system work in these cases, of putting these bastards away. And it's so new. Twenty years ago we had laws in this country that literally said that the testimony of a woman in a rape case was not enough evidence to convict her attacker. It was the only crime on the books like that. Imagine, *your* guys could be found guilty just on circumstantial evidence, but a woman was not competent to be an eyewitness to her own rape. It's very exhilarating to be part of these victories.' (Fairstein 2007: 67)

The author manoeuvres Alex into a position of demonstrating the conservatism even in high and authoritative places when it comes to rape. Alex is arguing a rape case before a judge who is sceptical generally about rape as a serious crime. When the judge asks her to differentiate between different 'degrees' of rape, she explodes after having heard the judge pronounce:

> 'Well, then, you'll have to agree, Miss Cooper, that this girl is so retarded that she really can't understand what happened to her, isn't that so? It's not as if it happened to you or my daughter? You'd know what it was all about now, wouldn't you? She can't absorb what happened to her, she can't even explain it to us.' (Fairstein 2007: 237)

It is especially ironic to the plot, of course deliberately so seen from the author's perspective, that the latest development in the complex field of sex offences is stalking. Another law enforcement professional, Special Agent Luther Waldron, is the addressee of another brief lecture by Alex:

> 'Back when Battaglia asked me to take over the Sex Crimes Unit, he used to joke that my professional territory was everything between the knees and the neck. That covered most of what I did. But with the increase in stalking cases and harassment that all of us in law enforcement began to see in the late eighties—by phone, by mail, by computer, and by physical menacing—we didn't know what to do with them. Once the psychiatric experts started to work with us it was obvious that a lot of the cases involved domestic relationships that had broken up and lovers who had been jilted, so the D.A. thought our unit was a natural home for many of them. They're usually crimes with complex motivations and victims who need especially sensitive treatment. In that sense, they're very much like sex offences.' (Fairstein 2007: 101)

The introduction of an unstable mind is always a problematic element in a thriller, since it seems almost like cheating to present a character to all practical effects functioning normally, only to turn out very different at the end to force a solution. Admittedly, Fairstein does warn the reader in the form of un-contextualized letters and statements, which the reader is looking for 'slots' to clarify. In this novel stalking holds centre stage, one of the more challenging problems for a police force and a court of law system to deal with, given the devious nature of such activity. Fairstein manages to compel the reader's attention to the implications of this unpleasant, often dangerous behaviour in her novel, which is, in addition, the one in this selection in which its narrator and protagonist enjoy the creature comforts of a materially agreeable life.

Anne Tolstoi Wallach, *Trials* (1996)

Anne Tolstoi Wallach is another exception to the rule that authors of legal thrillers are from the legal profession, but she seems to have listened well when her husband, New York Supreme Court Judge Richard W. Wallach, unloaded after a busy day in court and chambers. Herself with a successful career in advertising—ending up as a vice president of a major US public relations firm—she committed to paper her experiences of being a woman in a man's world in her first novel *Women's Work* in 1981, followed by *Private Scores* in 1986. The first is about career and gender, the second about a cynically elitist private school.

Her third work of fiction, *Trials*—she has also published on the history of paper dolls—is a legal thriller through and through, although also touching on the personal and intimate circumstances of the dramatis personae. Interesting for the present study are the various issues of judges' careers with a focus on opportunities for women; the quandary of gay persons, made more acute at a time of AIDS; and of the demographics of New York law in terms of not only the established White Anglo-Saxon Protestant (WASP)–Jewish rivalry, but also from more recent immigration, here the Hispanic-American element. All of this is wrapped up in personal issue contexts at the fore in most mainstream novels, that is, love and money.

The case to be heard at the New York Supreme Court is one of contested custody. Six-year-old Caitlin has recently lost her father, an eccentric but extremely rich homosexual painter, John California. Having lost her mother shortly after her birth, she has been raised by her father and his gay partner, Tom D'Arcy, a former ballet star. As Tom is no blood relation, Caitlin

would be given over to a relative, should there be one. California has an elder sister, well off by marriage, but they have not been in touch since an altercation between them in his teens—but she wants custody nonetheless. A custody court case is held without a jury, so it is up to the judge to decide in the best interests of the child: '"Custody cases come down from the English ecclesiastical courts. Juries only sat to advise. Judges decided alone"' (Wallach 1998: 29).

This is a kind of case which is bound to stir feelings both in the courtroom and outside, and no judge is eager to take it. Pax Peyton Ford, 49 years old, has just been passed over for a promotion. She is known as a very stable and highly skilled judge. She also knows that her future promotion to the Appellate Court will depend on how she handles this case. Also on the short list for promotion on which she appears is her junior colleague, 35-year-old Rosa Macario, a Puerto Rican from the Hispanic-American community. Her mother served Pax's family as a maid, and Pax, her senior by about 15 years and the latest in a generation of well-off family judges, took an interest in her daughter and supported her through all the obstacles towards a law degree from a respectable school. Now they are not only colleagues, but also competitors for promotion.

Pax accepts the case, well aware of its highly sensitive nature, both for the persons directly involved and for a public divided on the question of gay rights. When Pax lost her husband a few years previously, she discovered that he had been very discreetly gay throughout their marriage. Quite apart from her personal feelings, this fact also places her in ethical jeopardy as the judge in this particular case. Ethical problems soar when she learns that the man she has just started a relationship with, 59-year-old Leonard Scholer, the father-in-law of her son, is a partner in the law firm that has accepted the custody case on the part of the litigant, Tom D'Arcy. As Pax is not prepared to yield, Scholer decides to stay put.

When the case starts in court, there is drama from the beginning, with one of the spectators throwing a puff cake at Tom D'Arcy. Later on the disturbance in the court reaches unacceptable levels. But before that, not only has the case proceeded through one unpleasantness after another, but the private lives of those involved have also been shaken in various ways. As the narrative shifts between the different perspectives of those involved, the reader receives often conflicting impressions or views. Scholer's function for the plot does not have anything to do with the trial as such, since he retreats from it, but as the catalyst that transforms the mentor–pupil relationship

between Pax and Rosa into the much more dramatic one of the two women vying for his love.

The narrative serves to sustain gender and ethnic agendas while entertaining an intricate love story at the same time. The ploy of having two very different women, one WASP, well-off, middle-aged and decidedly cool, the other Puerto Rican, comparatively poor, young and emotionally flamboyant, echoes, if ever so faintly, the madonna–whore polarity and with it lawyer Scholer's erotic dilemma, and mounting rivalry and social jealousy on the part of Rosa. The relationships energize a plot driven primarily by the custody trial.

When Pax is summoned to her superior's office she is afraid that there is something wrong with her involvement in a committee to oversee divorces lawyers and prevent any foul play by taking advantage of 'women clients at their most vulnerable' (Wallach 1998: 15). Her superior is a man who 'came from the days when judging was a boys' club, kept himself surrounded, bulwarked by men when he made announcements, ate in the lunchroom, came to judicial parties' (Wallach 1998: 15). Pax is very much aware that in the long perspective, women judges are a recent development: 'We've only had about fifty years. No wonder they're still getting used to us' (Wallach 1998: 15). Pax is very much on her toes when it comes to gender issues in the legal world, but she tolerates her superior trespassing on the new unwritten politically correct rules when he addresses her as 'Honey' and refers to their secretaries as 'girls' (Wallach 1998: 29), since he is both her superior and holds her future in his hands, and also represents the older, pre- politically correct system.

But far graver issues are at stake when the Manhattan Superior Court is compared with Rosa's Bronx Criminal Court. Tending to her mother wounded by stray gunshots in a dangerous neighbourhood she responds in her thoughts to the nurse's observation that at her hospital they are used to far more serious things: 'You should know what I hear in my courtroom, machete attacks, scalded babies, homosexual rape' (Wallach 1998: 35). Her workplace is the 'Bronx Criminal Court, bottom of the barrel, worst of the worst. Not like Pax in a downtown courtroom, hearing civil cases, white-collar crimes' (Wallach 1998: 35). Stamped socially by her ethnic background Rosa finds it hard also to short-circuit gender issues in her effort to win professional recognition. The husband of the defendant has found a lucrative niche in writing about the law and lawyers in a trade newspaper. He is quite cynical about most of the problems that he encounters. He has decided to back Rosa, since she is going to be used as the representative for

the growing community of Hispanic-American lawyers, and since he is starting a Spanish-language version of his newspaper. As he tells his wife, '"In 1970 only sixteen percent of New York was Hispanic. By 1990, more than twenty-four percent. Puerto Ricans, Dominicans, Mexicans, Cubans, Salvadorans, they multiply like daffodils"' (Wallach 1998:112). Rosa's potential to break ethnic patterns in pursuit of the American dream is obvious to the market-conscious entrepreneur, but so are the difficulties that she will face because of her gender:

> 'She's very young, very ambitious, like all the judges, but she's really got something. Up from the barrio, out of the projects, the whole story. We ran an interview with her last month, she made quite a speech about how the same qualities are perceived differently in male and female judges. A man is tough, a woman tyrannical. He's reserved, she's indecisive. A man gets to court late, they assume he's busy with other legal problems; a woman comes late and they think she was at Bloomingdale's. Everyone sees the woman first, and only then the judge.' (Wallach 1998: 110)

For her part, Rosa has decided to play the ethnic card for all it is worth: 'Judges couldn't be all white, all male anymore. Minority people should see minority judges, court personnel. Every court in the land was changing to meet that need, even the U. S. Supreme Court. *Esta okay*. She couldn't look more Latina tonight if she danced a fandango' (Wallach 1998: 304). As Scholer points out to Rosa, American ethnics are dynamic, not static. His own experience of being a Jewish-American lawyer and having trouble getting inside the New York legal establishment when he was young in the 1960s is not the model for what is needed now, when the metaphor is no longer that of the melting pot but of the salad bowl:

> 'We all did it,' he was saying, leaning closer. 'Jewish boys took elocution at City College, manners lessons at the movies. We changed our names from long to short, bought Brooks Brothers suits that faded us into our firms. Now WASPs talk Yiddish in every law office, you hear it in every theater, movie, network TV show. Even judges are letting Yiddish take over from Latin, even our Arkansas president, a Japanese-American like Lance Ito, uses words like maven, megillah. Rosa, you were ethnic as hell in college, all these groups, petitions, sit-ins. Why not now?' (Wallach 1998: 207–8)

But, despite the ethnicity and gender agendas, Wallach's novel also hammers home the orthodox wisdom of American law, although one of the

more cynical characters, the proprietor of the law newspaper, is assigned a basic dogma to utter in conversation with Pax's son, a Columbia law student: "'You probably still think a trial is a search for truth. Whereas it's a search for *provable* truth, quite a different thing'" (Wallach 1998: 334).

Besides some state-of-the-art, lively and believable courtroom drama in Wallach's contribution, her legal thriller crosses gender with ethnicity and in that process demonstrates the inter-reliance of social demographics and sex/gender problems. The legal system is supposed to rise above such matters, but they intrude as demonstrated in Wallach's fictional universe and it will have to reconsider its assumed objectivity and neutrality.

Linda McKeever Bullard, *Shades of Justice* (1998)

In Linda McKeever Bullard's *Shades of Justice* (1998), Gwenlyn Parrish is an African-American lawyer in private practice in Houston, Texas, with ambitions to become a judge and, eventually, feeling the spite of adversity, to run for district attorney. To that end she cultivates friendships with those who have the power to arrange for convenient career paths. The African-American community in Houston is a state within a state, living in symbiosis with the white population, a symbiosis requiring a tightrope balance while playing on racist prejudice. Kwame, Gwenlyn's divorced husband and father of 15-year-old Ashleigh Lee, over whom Gwenlyn has custody, belongs to the politically radical part of the local African-American population—'I wanted nice things. Kwame wanted revolution' (Bullard 1998: 32). While Kwame was married to Gwenlyn, he was known as Phillip Parrish, but after his shift into politics he has changed his name to Kwame Nkrumah El'Kasid.

Gwenlyn is very close to fulfilling her ambition, but is passed over in the eleventh hour. An alternative appointment has been deemed more expedient in the current local political climate. Gwenlyn is desperate. A judgeship would mean job security for a time and better and more regular remuneration than the erratic income from the small law firm. In addition, it will give her the much desired respect that she considers herself worthy of as an able lawyer, relying on a professional record starting off with 'working on law review and graduating in the top ten percent of my class' (Bullard 1998: 36–7), and a chance to score some social points for the African-American community in racist Texas.

The chance for better and more regular income comes when the daughter of Willie, the most influential politician in the African-American community, known for his pragmatic opinions, takes over many of his functions

on her father's sudden death, and asks Gwenlyn to become her personal assistant. When the manner of the death is disputed by the radical wing of the African-American community, Gwenlyn is appointed special attorney. Taking the matter to court proves to be something of a hornet's nest, eventually turning the tables on some of those close to Gwenlyn, who can only be kept at bay by Gwenlyn threatening to go public with certain privileged information in her possession. Gwenlyn's final triumph is not, however, altogether persuasive, since it works only by underestimating the intelligence of her former friends: 'I hang up and take out the tape—the key to their "prison." Good thing neither Willette nor Michael ever practiced law. They'd know it's inadmissible in a criminal case' (Bullard 1998: 324).

Gwenlyn oversteps one of the unwritten rules in both the white and the African-American communities when she marries an affluent white lawyer and businessman, a matrimonial bond much tested by her former lover's insistence on his 'right' to carry on, since she has crossed the racial line. Also, Gwenlyn is still attracted not only to him and also to her former husband, but has trouble handling a third man and, to boot, a teenage daughter on her way into doubtful company. But even if there is a lot of courtroom drama and a plot hinged on this final fine legal point, and also much focus on the tribulations of Gwenlyn's private life (not least her love life) *Shades of Justice* exerts its main interest by the outspokenness of the narrator on racial issues, a degree of outspokenness far beyond politically correct boundaries, and only feasible since the author is a member of the ethnic community herself.

The kind of racial tension in force in the Houston social dynamic is summed up in Gwenlyn's appraisal of her situation as first vice president of the Black Female Lawyers Association, of which she is going to be the next president: 'We're the highly educated, responsible niggers. Indeed, I personally plan to ascend to my judgeship from my presidency by proving that to the white folks. I'm a good black' (Bullard 1998: 13). Fully realizing the need for a low profile to achieve her professional desire, she is likewise thoroughly aware of the risk of venturing into a mixed marriage:

> I'm marrying a white man in the heart of the deepest South, which is what Houston is as far as race relations are concerned, like all the Gulf cities—New Orleans, Biloxi, Mobile. Even at this late date, white folks expect you to know your place, and no one here leads you to believe you're standing anywhere but at the end of the line. (Bullard 1998: 52)

Gwenlyn comes through as fairly disillusioned regarding the mindset of Dirk, her new husband:

> though he claims to love me, the same cannot be said for his feelings for my people. Not that he'd ever admit to disliking blacks. It just comes out. For one thing, he's a registered Republican in a state where being in the Grand Old Party is tantamount to saying you hate niggers. (Bullard 1998: 23)

Gwenlyn is also quick to assess Dirk's supposed attitude to a man like the recently deceased Willie: 'Dirk never liked Willie, considering him the equivalent of the old plantation straw boss, the slave who oversaw the slaves for the massa. Of course, being from the South himself, Dirk understands the absolute necessity for such blacks to exist.' (Bullard 1998: 44). But there are also interracial codes which Dirk does not master, as when he calls Gwenlyn 'honey' to her annoyance: 'Honey. Why can't he call me baby? Honey is for white women' (Bullard 1998: 59).

Shades of Justice is a legal thriller using the basic scaffolding of the genre to enable the narrator to articulate energetically and emotionally her experiences of and views on racial relations in the South. It also uses these energies and emotions to throw doubt on the notion of an equal legal system for all Americans. In one of her frequent spouts of anger, having felt provoked by what she feels as Dirk's patronizing attitude towards her, she explodes:

> I hop out of bed now, assuming the black woman's fighting stance: back swayed, fists balled at hips, neck jutting like a chicken. 'Wait just a goddamn minute. It's easy for you to talk shit about what black lawyers should be doing. You *have* money. Your people have all the law firms, which you make sure stay white. You get corporate clients and humongous retainers. You get the judgeships, the clerkships, and all the government jobs. You practice law in the twenty-first century, and we're dinosaurs. Nobody got my degree for me but me. *I* worked my ass off for three goddamn years, and *I* sweated the bar exam. I don't owe anybody anything.'
>
> He shakes his head. 'You're wrong, honey.'
>
> 'No, you're white.' (Bullard 1998: 87–8)

There is much anger in Gwenlyn's reactions both here and elsewhere. Some of it is part of her competitive personality, some of it gender-conditioned and some of it caused by the generally racist atmosphere in the Houston described. There is, though, a pervasive bitterness not so easily escaped

from: 'Probably because in our heart of hearts, we know none of us, no matter how successful, is ever immune to the capriciousness white people call justice' (Bullard 1998: 56).

Bullard's novel is a legal thriller in the sense that the courtroom and the work of lawyers and judges constitute the sources of narrative energy. Bullard's achievement, besides a plot bubbling with contagious, restless vigour, is not only that she focuses on both latent and transparent racism in the South, a theme already well-established in US society and its literature, but also, and arguably more impressive since it seems to open up issues rarely discussed, rivalry and jealousy within the African-American community. To reveal and throw light on such matters requires a license for speaking up which only a person belonging to the community has. Through Gwenlyn, Bullard seems, if not exactly to enjoy this licence, at least to make full use of it.

Bonnie MacDougal, *Out of Order* (1999)

Bonnie MacDougal's third legal thriller has an attorney from private practice as its protagonist and makes use of the courtroom for tableaux coinciding with peaks in the plot line. Otherwise the thematic concerns are with two conflicting realities, one forensic and one private, centring on the lead character's private and professional involvements. In the end both catch up with a sideline of murder cum rape, but for most of the story are completely unattached to any strands of the plot complex.

Campbell Smith is a young lawyer in a Philadelphia law firm which has just merged with one in Wilmington, Delaware. Also, she has recently, and very discreetly, married Doug Alexander, one of the partners of the Delaware firm. On being introduced to the legal community in Wilmington at a party held in honour of the newlyweds by US Senator Ramsay, she learns, to her amazement and dismay that preparations have been made for her husband to run for the one place in the House of Representatives allotted to Delaware. The party is as much a launching of Doug's new political career as it is the wedding celebrations of himself and his bride. And the environment is indeed a powerful one, as info-dumped matter-of-factly well into the story:

> He represented ALJA—the American Lawyers for Justice Association—which made millions of dollars in campaign donations. In 1996, ALJA contributed $2.5 million to the President alone, which was more than all the retirees,

> doctors, teachers, civil servants, and media and entertainment people combined. *Including* Geffen and Spielberg. Little wonder people called the ALJA America's third political party. (MacDougal 2000: 142)

Coinciding with the party is the disappearance of the senator and his wife's adopted teenage son, Trey, abducted by his natural father. Campbell, whose specialty is the hunting down of assets ('Executing on judgments, and trading assets the defendant might have stashed away' (MacDougal 2000: 5)), although her official domain is family law, is asked by the senator to make discreet inquiries as to the whereabouts of Trey and his father. This is the beginning of a story in which the family-drama plot revolves around parent–child loyalties against a background of campaign dynamics. This kind of personal relationship ethic is a far from welcome element in the building up of the credibility of the social background of a budding politician.

As it turns out, Campbell, like the Ramsays, has a personal history that she prefers to keep in the dark and which, should it come out (as it eventually does) is the ruin of political hopes for anyone related to her. It is also a personal background which explains the resourcefulness of the young lawyer, a resourcefulness bordering on the criminal in the way that Campbell is ready to use any means to acquire the information that she needs. Furthermore, it is a personal background which makes for a high degree of empathy with Trey and his forcefully estranged father.

While the personal circumstances and history of Campbell are slowly divulged, her husband's campaign begins to take off with all the paraphernalia that goes into American-style politics, with spin (represented by the agent hired expressly for this purpose, Meredith Winters (!)), forming a great part of the campaign, whose other leg is the need for continuous fundraising.

MacDougal's legal thriller, which is one of the first in the genre to make extended reference to the use of information-age technology like online searches, emails and so on, constantly plays off legal issues for its plot to progress and also presents Campbell as an able courtroom presence. The link to domestic politics is made by way of the role played by the private branch of the legal community for the support of a candidate in alignment with interests serving businesses in the long perspective.

There is just a touch of ancient Greek tragedy in the way that flaws, in the sense of acts beyond human control, are what set the chain of unfortunate events in motion. The author makes her protagonist the mouthpiece of this quite early, also throwing light on the title of the thriller:

> She sank down on the broken springs of the old sofa. There had to be some mistake. Doug was a good worker bee in the Party hive, but he wasn't the stuff a candidate was made of. He was a real estate lawyer, quiet in his ways and content with a back-room practice. Yes, he was charming, but only because he was so self-effacing. He wasn't one of those glad-handing show-boaters who always craved the limelight. Besides, wasn't there some order to these things? First school board, then city council, then the state legislature? Doug had never run for anything, except, occasionally, the train. (MacDougal 2000: 18)

Also, the way that the Ramsays try to put a deceptive front on dysfunctional family relations is a kind of existential insult. If the Ramsays' daughter had not died, things would not only have been different, but also right: 'She was Cynthia, the Ramsays' daughter, who'd grown up with Doug and who would have been the one on his arm tonight if there were any kind of natural order to the world' (Macdougal 2000: 23). In a way, everything in MacDougal's thriller is pivoted on things being out of order, hubristically made to fit despite what should have been, and consequently suffering the punishment of nemesis.

The courtroom tableaux are a two-stage series, first with the natural father indicted for kidnapping his son, then with the natural father himself initiating a lawsuit for custody of the boy. The first case is followed from the sidelines by Campbell. However, in the second, Campbell is made to represent the party whom she is emotionally against but under obligation to because of her loyalty to her husband and his political interests, and also because doing otherwise would place her own motives and situation under scrutiny. In this particular courtroom setup there is also an echo of a David v. Goliath confrontation which requires presence of mind to meet with a strong opponent. Campbell's opponent, Bruce Benjamin, is cast as the alpha male of litigation, as observed by Campbell already during the first trial:

> He was a tall man, tan and gray in a well-cut suit, and she could see why people said what they did about him. From fifty feet away he gave off an aura of power and aggression so strong it was almost an aroma. She read once that male trial lawyers had testosterone levels thirty percent higher than the general population. If so, Benjamin had to be a textbook example. He was a combative grandstander, a notorious scorched-earth practitioner, but the kind with substance behind his show. The kind that other lawyers dreaded. (MacDougal 2000: 246)

The courtroom and lawyer activities are not only a background to this story of tragic personal fates and cynical political campaigning but also, and

perhaps primarily, represent the presence of the checks and balances that serve to keep things in well-regulated order. It is the well-regulated reality in contrast to politics, where 'Image is reality' (MacDougal 2000: 178) according to the pragmatic observation of Campbell's college friend Nathan, who has decided to enter politics in the entourage of a hopefully successful candidate to secure the public office that his African-American background would make it difficult to attain on professionals merits alone. Even in this case of 'natural' and 'unnatural' parents the law is the safeguard of the commonsensical order of things. When the judge remarks, '"A petition for custody filed by a nonparent against the parents. Then it turns out the nonparent is really the parent, and the parents are the nonparents. It's all out of order, isn't it?"' Campbell replies: '"Not in the eyes of the law"' (MacDougal 2000: 318).

MacDougal's legal thriller divides its interest between the related world of law and politics, which in an American context seem so much more interrelated. The pecking order in those intertwined worlds is the subject of a brief exchange between the protagonist and a representative of the political universe early on in the novel:

> '"What is it that you do in Washington?" Cam asked.
> "Oh, I'm afraid I'm the lowest sort of life."
> "A lawyer?"
> "No, you have to go lower still, even below politician."
> "Oh. You're a lobbyist."
> "Smart girl," he said with a good-natured smile.'
>
> (MacDougal 2000: 64–5)

Be that as it may, with a legal thriller like MacDougal's the genre also demonstrates its potential for probing into the most vital parts of the American body politic.

Concluding Observations

One of the major differences between reality and the fictional universes and plots of the novel is that literature allows for the kind of projection or wish fulfilment that would be difficult to achieve in the real world.

Crime fiction, including the legal thriller, has as its premise that crime does not pay, that those who break the law will be found out and punished according to the seriousness of their crime. For this to function in a fictional

narrative, the plot must be devised in such a way as to facilitate that sense of an ending. It requires first and foremost a concise narrative geared to what is important to the plot. All the loose ends and interacting strands forming existential contexts will have to be simplified accordingly. But if reduction and simplification are necessary for the plots of crime fiction to live up to what is required by the genre and expected by the reader, there is also the possibility of including and discussing themes and possibilities that are truly fictional, that reflect no current situation in real life.

Being traditionally a world of white males, the American law profession is only gradually opening up to women and to non-white American communities. The legal thriller in the works selected above, all authored by women and most of them with first-hand knowledge of the law profession, not only fulfils demands for suspense and excitement, but also offers scenarios in which women's lives and experiences in the law profession are presented with great insight and imagination. More importantly, though, they present female life as more comprehensive and inclusive than that of the male. Legal thrillers written by women may be considered negatively as having a tendency to broaden out, to take in issues which are tangential to the central plot. A more positive consideration would praise them for offering a reflection of reality which is never very orderly or neat. When gender issues are crossed with debates on ethnicity, contemporary American reality is really put under the microscope.

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CHAPTER 8

See You in Court (3). The American Genre Explosion from the Late 1980s: The Men

Both the American legal trade and the narrative fiction of the legal thriller based on it are male dominated, as figures from the American Bar Association and counts and calculations from Terry White's compilation respectively demonstrate. As far as the reading audience is concerned, one source of statistics shows that 47 per cent of all books read by survey respondents in July 2015 were 'mystery, thriller, and crime' (Statista: The Statistics Portal). Another source concludes that 68 per cent of mystery readers are female (Sisters in Crime (SinC) and PubTrack Consumer 2010: 10). However, before anything is read into such statistics, a generic breakdown should be critically scrutinized. In the SinC survey, a distinction is made between 'espionage', 'mystery', 'fiction' and 'romance' (2010: 7ff.), a breakdown which places the legal thriller in the mystery category. The inclusion of authors like John Grisham and Michael Connelly confirm the fact that legal thrillers are part of the mystery section, but the full list ranges very broadly indeed, from Agatha Christie to James Patterson to Dean Koontz (2010: 32). The internet site LitRejections breaks down narrative spectrum generically into 'crime', 'thriller', 'mystery' and 'suspense', with the legal thriller not in the mystery category, but as part of the thriller genre generally (LitRejections 2016).

With neither statisticians nor literary critics able to agree on the definitions of genres, it is hard to assess the exact make-up of the reading audience of legal thrillers. Be that as it may, the regular appearance of authors of legal thrillers on the bestseller lists at any rate indicates very strongly the general popularity of the genre and, as demonstrated in this and previous chapters, the

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genre covers quite a lot of ground from almost pure intellectual cerebration to bloody action, so there is ample opportunity to satisfy reader preferences.

As in the case of legal thrillers written by (and for?) women, there is a literary history of male authors leading up to the explosion of the genre in the 1980s (see Chapter 4), but here, of course, Erle Stanley Gardner was the dominant name from the 1930s to the 1970s, when his last Perry Mason novels were published. In the lawyer's office with Mr Mason supported by the ever competent personal assistant Della Street and the handyman cum private detective Paul Drake, gender and social roles were traditionally distributed and reflected social structure in Middle America during the period. Whereas the female legal thriller shows an awareness of changing gender roles, coinciding with changing attitudes to ethnicity, issues of this kind are not seen to the same degree in the forefront of American legal thrillers written by men. Still, as this chapter will show, the social and ethnic/demographic concerns here also display an almost seismographic sensitivity regarding social change of the period.

Michael Nava, *Goldenboy* (1988)

Michael Nava (1954–) is a Californian lawyer with roots in the gay community, a circumstance he has turned into his legal thriller series of seven novels centred on gay lawyer Henry Rios, who made his appearance in *The Little Death* in 1986 and bowed out in *Rag and Bone* in 2001. Sharing atmosphere with the hardboiled whodunnit, Nava's Henry Rios stories constitute an increasingly complex character exploration of the protagonist set on taking upon himself the defence of underprivileged people from the margins of society.

Michael Nava's 1988 *Goldenboy* may be said structurally to blend the courtroom format with the existential quest of the noir or hardboiled tradition. Gay defence lawyer Henry Rios, thirty-six-years old and an alcoholic, acts both as counsel in the courtroom and as self-appointed sleuth striving to get to the bottom of a murder case not satisfactorily resolved by the court's ruling to dismiss when the defendant lies in coma after a suicide attempt. Rios takes on the apparently open-and-shut case when his former associate in the gay rights movement, Larry Ross, asks him to. The defendant, Jim Pears, who was seized literally red-handed, pleads not guilty and is on the point of being abandoned by the public defender on the grounds of conflict between counsel and client—Pears' parents have also decided not to support a son showing gay inclinations. Ross argues that it takes the

empathy of a gay lawyer to understand the situation: ' "You can't expect a straight lawyer to understand the pressure of being in the closet that would drive someone to kill" ' (Nava 2003: 9).

Nava via Rios tells two intertwined stories. One is about the Californian gay community fighting for their civil rights at the same time as AIDS begins to be a decisive factor of gay life, with Rios both investing in a new love relationship after a tragic loss and witnessing the decline of his AIDS-stricken friend Ross. The other is the investigation of the murder, which takes Rios from the courtroom into the Chandleresque mean streets of Los Angeles, in which issues of sexual orientation are the keys to a case with both criminal and sexual agendas. Ross sees his hope of Rios successfully defending Jim Pears, whom he considers guilty of the crime of which he is accused, as compensation for his own impending death at a time when the gay community is suffering doubly for both general prejudice and the AIDS plague: ' "My clients are movie stars. Having a gay lawyer is considered amusing in that set but a leper is a different matter" ' (Nava 2003: 17).

The reason for the public defender's surrendering of the case is that she finds it impossible to defend on a plea of not guilty. With all the evidence pointing towards the guilt of Jim Pears, the best the defence can do is to plead for mitigating circumstances. When the judge—'Patricia Ryan was a tall black woman whose handsome face was set in a faintly amused expression' (Nava 2003: 32)—decides to allow Rios to take over, he is placed in a situation where he will have to take on a court trial rather than a jury trial, an amendment by the prosecution to seek the death penalty, and general anti-gay prejudice in and out of court.

When Rios faces the press after his first day on the case, he starts from scratch, as it were, when he responds to a journalist's reference to the strength of the evidence: ' "Strong is not good enough," I said, "it has to be," and I repeated the ancient charge to the jury, "beyond a reasonable doubt and to a moral certainty. I expect to show that it's not" ' (Nava 2003: 40). Rios is going to make the gay issue an essential part of the trial:

> 'Larry Ross sees Jim as a victim of bigotry against gays,' I said. 'That's what he wants to put on trial.'
> 'I don't see how that changes the evidence.'
> 'Agreed. But it might change the way the jury looks at the evidence.'
> (Nava 2003: 42)

With the help of his hired private investigator—'Freeman Vidor was a thin black man' (Nava 2003: 51)—Rios eventually succeeds in identifying the real murderer, but only after dramatic interludes involving more deaths.

Goldenboy exhibits the courtroom mechanics of a legal thriller, but inverts the usual polarization of the individual against the high and mighty to the supplementary polarization of discriminated minorities against mainstream, that is sexually and racially prejudiced, America. Ross puts his finger on the exact sore spot when he utters: ' "They hate us, Henry, and they'd just as soon we all died" ' (Nava 2003: 15). Even a judge is not immune to this state of affairs, as observed by Sharon Hart, the public defender who gave up on the case: ' "Judges are elected, too, and if you're black and a woman someone's always gunning for you" ' (Nava 2003: 88).

Nava lands his *Goldenboy* on a note that pays tribute to the noir/hardboiled tradition featuring the femme fatale, but with the twist of adding an additional gendered dynamic:

> Now I let myself think about Rennie. She had played me for a fool with consummate skill. It was a flawless performance. Her task had been formidable: the seduction of a gay man. Since sex, the most direct avenue, was closed to her, she had had to resort to other methods. But she was a brilliant actress, keenly observant of the emotional states of those around her and capable of seemingly profound empathy. She understood me immediately from our first meeting when she told me I had the face of a man who felt too much. A born do-gooder. A rescuer. All she had to do was play a lady in distress. (Nava 2003: 199)

Michael Nava belongs to the category of writers who use their chosen mass-read genre for the purpose of furthering a viewpoint or, in this case, a cause.

Steve Martini, *The Judge* (1995)

Steve (Steven Paul) Martini (1946–) introduced his series hero Paul Madriani in *Compelling Evidence* in 1992. At that time he had already tried his hand at fiction with *The Simeon Chamber* in 1987. Martini has a background as both a journalist specializing in legal affairs and, having completed his law degree, as an attorney in private practice and in various legal capacities in the Californian judiciary. Martini is one of those writers of legal thrillers who make the most of the technicalities and fine points of law,

something obviously appealing to the audience as his string of bestselling novels demonstrates.

The Judge from 1995, at a time before political correctness (Martini 1996: 193), is a story that presents a surprising crime plot which unfolds as a formal trial procedure with a critical bearing on social and civic issues.

Paul Madriani is retained as defence counsel for a low-ranking policeman accused of having fiddled police union finances as part of a scheme set up by union boss Phil Mendel, and as a service to Lenore Goya, an old friend and colleague, now in the DA's office. Madriani's wife has died recently, leaving him with their daughter Sarah. Madriani and Goya, herself recently divorced with two daughters on her hands, are ready for a new relationship, with Madriani eager to please Goya. But the case is somewhat tainted, not only because there seems to be no doubt about the financial irregularities that the policeman is entangled in, but also, and all the more to the annoyance of Madriani, because the judge, Armando Acosta, is a difficult official at the best of times:

> Armando Acosta would have excelled in another age; scenes of some dimly lit stone cavern with iron shackles pinioned to the walls. Visions of flickering torches, the odor of lard thick in the air—as black-hooded men, hairy and barrel-chested, scurry about with implements of pain, employed at his command. The 'Coconut' is a man with bad timing. He missed his calling with the passing of the Inquisition. (Martini 1996: 5)

What seems to be a concerted effort by the DA's office and the police results in the judge being arrested for soliciting a prostitute. He was trapped by a wired decoy, the enticing Brittany Hall, a police science major student eager to start a career with the force. Things begin to really escalate when Ms Hall is found murdered in the vicinity of her home. The tryst with the judge and his name in Ms Hall's calendar is enough in the way of circumstantial evidence to put the judge in the dock, accused of murder. As the increasingly heated disagreement between Goya and the DA Coleman Kline ('political handmaiden of the county supervisors' (Martini 1996: 3)) has led to the firing of Goya just before the reporting of the murder, she insists in her fury on taking Madriani on an excursion to Ms Hall's home to look for evidence. At the best of times an ill-advised thing to do, the excursion becomes downright incriminating when Madriani finds himself with his pragmatic associate Harry Hinds on the defence team for the judge, led by Goya and, after her standing down from the trial on a technical legal

point raised by Kline, with Madriani left as the sole defence attorney. Although neither the case nor the judge are to Madriani's liking, he chooses to accept the job of defending him, showing the attorney's basic sense of decency despite his general disillusionment:

> There are a universe of reasons why I could condemn this man: his short temper, his bias from the bench which is legend, his hypocrisy toward others who have found themselves where he is now—all are bases upon which I could easily and without question burn this devil–but not for a sin he did not commit. (Martini 1996: 247)

In a trial where the motive seems blurred although the opportunity existed, the reluctant Madriani is up against a DA with his sights firmly set on the opportunities of elected office, hence his need to emerge as a brave man, not scared of bringing to justice even one of those elected to mete it out. To preside over the trial a judge has been called in from the outside, Justice Harland Radovich with a reputation as a rather bucolic character, seen through Madriani's eyes with condescension tempered with a nod at basic American values:

> Harland Radovich is from the mountainous counties to the north, a place presided over by a dormant volcano and a three-judge court, where cattle ranching and open farming are still a way of life. [. . .] He is ageless, [. . .] He sports cowboy boots and a ruddy out-of-doors look with a straight Oklahoma hairdo including cowlick and forelock like the spiraling ends on a cob of corn. He makes no pretence of being a legal scholar, but seems imbued with a certain innate common sense that for some reason we normally attribute to a closeness with the earth. (Martini 1996: 151)

As the tables are fortunately—and unsurprisingly to genre-attuned readers—turned in the final hour so that justice is served, the whole trial showcases a courtroom culture where every trick is used to impress the jury, with the prosecution attempting to convince jurors of guilt beyond reasonable doubt; with the defence working from the opposite side to weaken the prosecutor's arguments; and with the judge arbitrating between nice legal points, so that the question of actual guilt tends to disappear under a thick cover of legal technicalities.

With love and family stories running in parallel with both the crime investigation carried out by the defence in fierce competition with the

unforthcoming police and the results of the investigation taken into the courtroom proceedings, *The Judge* demonstrates dynamic American courtroom culture. Frequent cries of 'Objection' and 'Hearsay' are countered by just as many 'Objection overruled' and 'Objection sustained'. There are declarations of conflict of interests, 'aid and comfort', 'discovery', 'waiver of preliminary hearing', 'prejudice', 'voir dire', 'adverse interest' and 'take the Fifth', heated moments necessitating the bench to call counsel to sidebar or chambers conferences, the jury being requested to ignore the last statement but having nonetheless taken it in, and so on. Also included is an opening speech constructed in the grand rhetorical style reminiscent of oratorical feats depending on repeated phrases along the lines of Shakespeare's Mark Anthony (Martini 1996: 277–80), including a sly intertextual reference to the proverbial genre murder weapon ('the victim came to suffer the so-called blunt force trauma that killed her' (Martini 1996: 277). Indeed, Martini's legal thriller is one of those which functions as a virtual legal manual from which those unfamiliar with American law and law courts may learn a lot. It also uses the trial procedure to call attention to issues of vulnerability in the American body political when ideally strong democratic measures are abused by the citizens, in this case quasi-criminal labour unions, semi-corrupt judges, corrupt police officers, demagogic public servants, a spoils system ruled by money and a legal system hinged as much on technicalities as on substance.

High on Martini's list of those things which, despite their planning for the best may turn out differently, is the office of the judge. Madriani is rejected by Justice Acosta, who is known as a judge to pronounce 'arbitrary administrative edicts' (Martini 1996: 11), and who is not above playing the ethnic card of his Hispanic background from the bench when it is useful ('Acosta is interested in things ethnic in the same way as a parasite is interested in its host' (Martini 1996: 11)). In the eyes of Madriani, he is a 'confirmation of the fact that the judiciary is still the one place in our system where authority can be abused with virtual immunity' (Martini 1996: 6). The case that Madriani and the judge are involved in is deeply enmeshed in city politics, which in turn depend on democratic elections, as a very condensed paragraph right at the outset of the story makes clear:

> The city had levelled charges of police corruption, something they would no doubt swiftly drop if the union found a quick cure for the blue flu; a rash of cops calling in sick. Acosta for his part is currying favor with the power structure, other politicians who can, if he does the right thing, give him

> cover in an election—or if he loses, a cush appointment to some city job that doesn't need doing.
>
> The Coconut is out to break the police union. They have endorsed his opponent in the up-coming election and are busy funneling vast sums of money to their candidate of choice. (Martini 1996: 6–7)

Opposition to the judge is mounting from the police not only because he is siding with the 'power structure' but also because he is known for having been lenient in the cases brought before him by the vice squad in exchange for money or services. These are the kind of services for which he is set up by the police decoy and for whose murder he is subsequently accused. Added to this is the traditional notion on the part of the police that 'Judges are corrupt, but the DA sits on that little milking stool just to the right hand of God, where he can reach all the tits and tubes of the justice system. The ultimate good guy. One of their own' (Martini 1996: 14).

The self-confessed 'committed political agnostic' (Martini 1996: 362) Madriani favours sharply honed sardonic phrases such as, 'I can see that the single volume of the Penal Code Radovich carries is two years out of date. The judge no doubt operates on the theory that like fine wine, new pronouncements of the legislature should mellow awhile before their fruits are tasted' (Martini 1996: 219). Or, 'The presumption of innocence is an intellectual exercise not subscribed to by the common man' (Martini 1996: 274). Or, at a fundraising dinner: 'There are more names being dropped here than paratroopers on D-Day, enough bullshit to fertilize Kew Gardens for a decade' (Martini 1996: 363). Or, 'It is the problem with lying. You tend to forget which portion of the lie you told to which audience' (Martini 1996: 500).

Steve Martini's *The Judge* covers a lot of legal ground as well as the social implications of courtroom matters. It manages to uphold the basic principles of American justice at the same time as Madriani is the spokesman for a disillusioned view of it wielding both justice and power in Capital City in Capital County, not far from San Francisco. His respect for the bench is limited: 'If there's anything more sanctimonious than a reformed hooker, it is a lawyer turned judge' (Martini 1996: 65). But a well-conducted trial, in which luck is carefully anticipated, ends on a note of fulfilment familiar from the poetic justice prevalent in many literary texts. Madriani can offer the concluding comfort: 'All debts are now paid, questions answered, the story full circle—poetry in motion' (Martini 1996: 536).

Brad Meltzer, *The Tenth Justice* (1997)

Brad Meltzer (1970–) is a versatile writer with both TV and graphical novel experience. He graduated from Columbia Law School. His jurisprudence shows clearly in his first legal thriller, *The Tenth Justice* (1997) and *Dead Even* (1999). From *The First Counsel* (2001) Meltzer has veered away from the beaten path of the legal thriller and moved into the field of the political thriller, a genre he is familiar with from his work for television.

The title *The Tenth Justice* is from the welcome address by Reed Hughes of the clerk's office to nine new Supreme Court clerks assigned to service the nine Supreme Court justices. They have the best possible academic backgrounds and have been selected from thousands of applicants. The welcoming pep talk centres on the power, importance and influence of the US Supreme Court: 'For over two hundred years, the Supreme Court has steered our country through our greatest controversies. Congress may pass the laws, and the president may sign the laws, but it's the Supreme Court that decides the law' (Meltzer 1997: 4). Although Hughes ironically suggests that the egos of the new clerks hardly need extra boosting, he nonetheless ends his address with some bravado by stating: 'But your influence, the power you hold, makes you the tenth justice' (Meltzer 1997: 4). No wonder that Ben Addison feels both honoured and intimidated by the prospect of the coming year on Capitol Hill in the chambers of Justice Hollis.

The plot of Meltzer's novel is hinged on the ethical demands consequent upon the power of the highest court of the United States. When the ambitious but somewhat immature and inexperienced Ben is tricked into an indiscretion revealing the likely decision of the court, which he is cognizant of but, it may be superfluous to note, is not supposed to share with outsiders, he needs all the help that he can get from his friends, in this case his three roommates Nathan, Eric, and Ober, and Lisa, his clerk colleague, to salvage his career.

Ben's career prospects are indeed daunting. After Columbia and Yale Law School and subsequent time clerking for a judge on the Washington DC circuit, a year as clerk at the Supreme Court and a past history of being a summer associate with one of the largest law firms in the capital, Ben is certain to succeed professionally once his clerking year is over. With that future career in the balance due to the revelation of his role in influencing a major business deal, Ben has to be wary of his every step, not least because

the first indiscretion is used in an attempt to blackmail him systematically into repeated indiscretions.

The plot thickens as some of his friends turn out to have their own agendas abusing the trust that Ben has placed in them. When the pressure mounts from the blackmailer Rick, who falsely passed himself off as a former Supreme Court clerk offering a new recruit helpful assistance, Ben tries to play his own scheme, but eventually decides to see if he can strike a deal with the proper authorities. Reflecting the American legal usage of plea bargaining, Ben promises to help trap the blackmailer on the condition that his own slate is wiped clean.

Until the last moment Ben hopes for his employer's understanding and forgiveness, but here, of course, two interests collide. One is the literary consideration that redemption would be required for a happy ending. The other is the purely legal/ethical matter that demands satisfaction for wrongdoing. When confronting Justice Hollis, Ben argues that he has been promised immunity from criminal charges and a clean record sheet, even with a commendation in the offing. But Hollis stands firm: ' "Theoretically, you may be innocent, but you still violated the Code of Ethics of this Court. I have no choice but to let you go" ' (Meltzer 1997: 396). However, a compromise between the craving for literary justice and the simultaneous demand that legal ethics are upheld is brought about by Ben's being offered a job with the US Attorney's Office. He thus jumps a queue of many well-qualified applicants, and actually realizes his future professional—and, perhaps, youthfully idealistic—dreams, as he discussed with Lisa when they first met.

Although Meltzer's legal thriller reads like the TV series *Friends* for much of time, it offers valuable information about the workings of the US Supreme Court, with numerous procedural technicalities. These cover the point when a case enters the system, follow during its deliberation with analysis and drafts prepared by the Court's many highly skilled lawyers servicing the court, continue in the justices' deliberations and voting and, finally, influence public announcements, usually in the midst of strong media attention. This is a court which does not often figure in most legal thrillers, which prefer courtrooms where cases are actually argued, dramatically and in accordance with well-proven affective literary patterns, by counsel. Meltzer's novel also casts informative light on the parts of the legal profession associated with the American capital, notably the large and sprawling law firms, whose success is directly measured by the pay and perks of their employees and, not to be ignored, the amount of hours they can afford to invest in *pro bono* work, effectively giving income back to the community.

Dudley W. Buffa, *The Defence* (1998)

Dudley W. Buffa's (1940–) working experience comes from his teaching of sociology and practice of law in Oregon. His legal crusader is Portland-based defence attorney Joseph Antonelli, who first appeared in *The Defence* (1998).

The Defence showcases a lawyer perfectly well aware that the question of guilt has a moral and a judicial perspective. The difference is expressed in shocking paradox: 'I never once gave a thought to what I knew had really happened to the girl. It was not my business. I was a lawyer, sworn to do everything I could for my client. After all, the law is an honorable profession' (Buffa 1998: 76). As a defence lawyer, Joseph Antonelli of Portland, Oregon, operates on the basis of the latter. He has cynically realized that the 'prosecution, sworn to do justice, is not supposed to convict the innocent—I spent a career doing everything I could to stop them from convicting the guilty' (Buffa 1998: 3).

In the framework of the aesthetic issues that inform the present study it is of interest to note that the motivation which spurred Antonelli onto his successful career were impressions from the big screen:

> I used to sit in the darkness of a movie theatre and watch, mesmerized, while a lawyer tried to save the life of a thoroughly decent man or woman with a passionate appeal to a jury of twelve honest and thoughtful citizens. The defendant was always innocent, the proof against him overwhelming, the key witness for the prosecution a liar, the defense attorney idealistic, underpaid, and lucky beyond measure. The verdict was always in doubt but never really in question. The innocent could never be convicted, not in America, not in 1949, when they still made movies in black and white. (Buffa 1998: 3–4)

For the young Antonelli the goal was not to serve the law but to rise socially by the law. His father's work as a physician was work in private, whereas he 'wanted to perform where I could be seen, admired, and even envied. I wanted to be a courtroom lawyer who won famous cases' (Buffa 1998: 3).

So Antonelli, whose court appearance manner inspires confidence in judges and juries, is not used to losing cases, not even the ones that by right he should have lost. When meeting with Judge Leopold Rifkin on the request of the judge, the preamble for the matter that the judge wishes to take up with him is a short dialogue on the topic of Antonelli winning, as the judge sees it, too many cases. When the judge suggests to Antonelli that he

should be concerned with guilt and justice, Antonelli replies that it is ‘ “not my job to worry about it. The prosecution has to prove its case. The defendant doesn’t have to prove anything” ’ (Buffa 1998: 5). Judge Rifkin, whose mentor function is greatly appreciated by Antonelli, goes on in Socratic fashion to plumb the depths of the defence lawyer’s conscience. Not only is the relationship between the two men that of the mentor and the ephebe, but also Plato’s account of the relationship between Socrates and the young Alcibiades is brought to bear on the present situation generally and on Antonelli’s knack with juries especially as an erotic quality in the sense of passion for something:

> ‘You see,’ he said finally, ‘that is what Socrates saw in Alcibiades, that and a tremendous intelligence. The problem, of course, was that Alcibiades was too much in love with what he wanted others to think about him to love the pursuit of wisdom. He was so much in love with his own ambition that nothing else—not even his own country—meant anything to him.’
>
> ‘And that, Joseph, is why I worry. You want it all. And, so far at least, you have gotten what you wanted. How old are you now? Barely forty. And already you are more successful than any lawyer around here. Success can ruin you, if you are not careful.’ (Buffa 1998: 9)

The judge’s ensuing appeal is for Antonelli to take on a court-appointed case. Rifkin wants a very good lawyer to deal with a very difficult defendant, who has scared off those previously appointed to defend his alleged threatening and rape of his twelve-year-old stepdaughter. The judge’s implication is that he is to lose the case, in the process teaching Antonelli the humility that will save him from the classically schooled judge’s diagnosis of hubris.

The Socratic dialogue is repeated with some variations and deeper resonance during the dinner party next Saturday at Judge Rifkin’s. Again the judge attempts to distinguish between guilt and the justice meted out by courts. When asked by the judge, ‘ “If a criminal avoids conviction for his crimes, then is he more likely or less likely to learn how to correct his mistakes?” ’ (Buffa 1998:27), Antonelli hesitantly has to agree that it is likely. This is then followed up by, ‘ “So if you wish to serve the best interest of your client, and if you know he is guilty, you should then do everything you can to make sure he is convicted so he can receive the appropriate correction?” ’ (Buffa 1998: 27). Having thus placed Antonelli in the sorry plight of the loser in a Socratic dialogue, the judge is suddenly short-circuited by one of the other guests, Gwendolyn Gilliland-O’Rourke, who

challenges the dilemma: ' "You don't seriously mean to suggest that prosecutors should start deciding who is innocent and defense lawyers should start deciding who is guilty!" ' (Buffa 1998: 27). After the judge points out that juries have moved from a position, in the time of Dr Johnson as he learnedly recalls, when they knew the persons they were judging, to a position now when a jury is supposed to consist of people emphatically not cognizant of the defendant, the guest retorts:

> 'The truth is much more likely to come out through the adversarial system than through some arrangement in which everyone decides for themselves what is justice and what is not! Especially,' she could not help adding, 'when justice is defined as having the defendant's lawyer do whatever he can to get him convicted!' (Buffa 1998: 28)

Antonelli eventually does what he is supposed to do and what he is so good at. He gets the defendant off on technicalities, and by that effort considers the matter is closed, despite the judge's implicit admonition to have the case concluded differently. But it is not the end of the story. It is, rather, a continuation of the interpersonal relationship dynamic already started and playing out over the following years between the wise, old judge and the Casanova-like defence attorney, who with a string of one-night stands behind him finally falls for a beautiful paralegal assistant.

Issues of law and morals are pivotal to Buffa's *The Defense*. Central is the legal principle of the defendant being not guilty of the prosecution's indictment as long as the prosecution is unable to prove guilt beyond reasonable doubt and, having done what is possible in that direction, as long as the jury cannot accept that this may be the case. This basic point of law is repeated throughout the story. Antonelli's brilliant record of getting his defendants free of the charges against them by casting doubt on the prosecution's certainty is countered by more intuitively based determinations about innocence and guilt. In counterpoint to the legally justified goings-on in the courtroom—Antonelli's final remark is 'There was an old movie I wanted to watch. It was the kind I had always liked. Everything was in black and white' (Buffa 1998: 309)—are all the greyscale events and incidents on the side, as it were. These things include both Judge Rifkin withholding information about his involvement with central persons in the crimes under review and, finally, Antonelli's less than lawful suborning of a witness, an act of perjury hardly legally redeemable however morally worthy the cause. It is quite telling that the black-and-white experience is brought to the screen with its

fictional narratives, whereas reality has taught Antonelli the lesson of grey areas:

> For at least the third time in the last three years I began Melville's *Billy Budd*. Leopold Rifkin had given it to me. I could not get enough of it. Every case I had tried had taught me something about the moral ambiguity that surrounded every rigid tenet of the law. Nothing was ever as clean or clear-cut as the law, especially the criminal law, presumed. The law drew a hard, fast distinction between guilt and innocence, but if I learned nothing else in twenty years of practice, I had learned there were as many shades of innocence as there were degrees of guilt. (Buffa 1998: 119)

The race issue is noted almost in passing, with the three central lawyers, Judge Rifkin, public prosecutor (later judge) Horace Woolner, and Antonelli, and the Portland, Oregon, population represented by the jury not really aware of American ethnic diversity as a problem, although, of course, the bare mentioning of it as a non-problem attracts attention to it:

> Speaking from notes and using a blackboard to illustrate his points, Woolner began his opening statement. He stood there, pointer in hand, speaking softly and without indignation. He was a black man addressing an all-white jury, and no one noticed. In his presence, race had become irrelevancy, as little noticed as the color of someone's hair or the shade of their lipstick. He had defied American prejudice and grabbed at least a part of the American dream, and without ever thinking about it, every member of the jury knew it. (Buffa 1998: 73)

This observation on Antonelli's part makes the prior racist outburst of the defendant on learning that the prosecutor is African-American, signify a socially determined attitude to race and ethnicity, and dated at that. All the same, prosecutor Woolner has his bit of fun embarrassing a newly appointed female judge by, quite falsely, countering her observation on the rare presence of a female among the court personnel with the story of his mother doing cleaning chores in the courtroom for a lifetime.

On a more professional legal level the reader has a glimpse both of the structure of the court hierarchy and of the dynamics of building and maintaining a law firm. The latter is seen through the critical eyes of Antonelli, who acts as a kind of sideline sceptic but nonetheless contributes massively as a partner of a law firm bent on empire-building with a premium on all the perks to be obtained from big-business litigation. The former allows a respectful glimpse of structure from the level of the state court to

the federal district court: 'Federal judges were smart, tough, and ran their courtrooms the way Captain Bligh ran his ship. There was no latitude for error' (Buffa 1998: 136). There is also a brief illumination of the system in American law for having a crime tried by the criminal court and, irrespective of the outcome of that trial, also as a civil case. The plot function of the scene is the opportunity to introduce the beautiful paralegal assistant, Alexandra, soon to be Antonelli's love and also, which he learns only too late, to be the pivot of the last part of the plot. Apart from this, the tableau gives Antonelli a chance to tease his colleagues by implying the greed of the legal profession. One of the partners is advising a client 'acquitted on criminal charges and ... now about to enter the endless labyrinth of civil litigation. He might have been better off had he just pled guilty and gone to prison' (Buffa 1998: 156). The main difference between the two kinds of trial amounts to the status of the burden of proof:

> 'As I'm sure Mr. Antonelli has told you, the burden of proof is considerably different in a civil case than it is in a criminal case. The prosecution had to prove guilt beyond a reasonable doubt. Obviously, they weren't able to do that. But your nurse Mrs. Asher has now brought suit against you for sexual assault. She doesn't have to prove it beyond a reasonable doubt. She just has to convince a jury by a preponderance of the evidence. If the jury believes she has evidence that is slightly better than yours, she wins.' (Buffa 1998: 157)

Although both Antonelli and Woolner agree on the cynical nature of the practice of law with winners and losers in a ' "system of justice that treats lawyers as starts and the victim and defendant as nothing more than bit players" ' (Buffa 1998: 201), there is the added dimension of the law as a career step to high public office. This is where Gwendolyn Gilliland-O'Rourke enters the plot again, now as newly elected DA, bent on furthering her career towards governor by having some important scalps in her belt. The murder case involving a respected state judge is just what she needs. Having learnt (in the introduction to this section) about her belief in the blessings of the adversarial system and her contempt of any moral considerations interfering with the smooth machinery of the law, she actually upholds Antonelli's convictions when he is growing increasingly sceptical about them. Although the narrator finds fault with her on a class/regional basis—'In the voice that betrayed the condescension of her eastern education' (Buffa 1998: 204)—not helped by the author giving her a name indicating an Anglo-Irish background, hyphenated at that to provide an

echo of English upper-middle class, the hubris-committing woman is doomed in the context of this story.

The hypertext, as it were, of Buffa's *The Defense* is provided by the role of Socrates taken on by Judge Rifkin. Mentor to both Antonelli and Woolner, independent due to his extreme personal wealth, and steeped in literary learning, he keeps the younger men on their toes with regard to ethical issues in a series of talks reminding the reader of Plato's dialogues. Eventually, like the Socrates of ancient Greek history, the judge ends up in a position like the one of Socrates accused of leading astray the youth of Athens. And as in the case of Socrates, a cup of self-administered poison ends his life. The legacy of Judge Rifkin, as far as this novel goes, is not to mistake the justice meted out in courtrooms for ultimate truth, but always to have some compassionate consideration for the individual peculiarities of those finding themselves in the dock.

Scott Turow, *Personal Injuries* (1999)

Scott Turow (1949–) sets an ideal pattern for a writer of legal thrillers, combining an active career in law practice and legal-committee work with his writing, which always reflects the legal problems of contemporary America. A graduate from Amherst College and a past lecturer at Stanford in creative writing, he entered Harvard Law School from which he received his Juris Doctor degree in 1978. At that time he had written and published his first book, about first-year law students, *One L* (1977), and had gained employment in the US Attorney's office in Chicago. With *Presumed Innocent* in 1987 Turow placed the legal thriller firmly on the literary map. *Ultimate Punishment: A Lawyer's Reflections on Dealing with the Death Penalty* (2003) has a bearing on Turow's committee work for the Governor of Illinois. As an active lawyer in a Chicago law firm Turow conducts *pro bono* cases while maintaining his commitment to writing.

Personal Injuries from 1999 is set in a Midwest city, Kindle County, that could be Chicago, beginning in 1992, when the 'pundits had finally stopped predicting that Ross Perot was going to be the next president of the United States, and the terms "dot" and "com" had not yet been introduced to one another' (Turow 1999: 3).

The FBI has got wind of corrupt judges, especially Presiding Judge Brendan Tuohey, in a lower court, Common Law Claims Division, who take bribes from lawyers for decisions and settlements favouring large damages. The federal police put pressure on a lawyer, Robbie Feaver, who

has pocketed fees without advising the tax authorities, to stage fake trials to compromise the bent judges. The story about Robbie's enforced cooperation with the police authorities, is formidably headed by Stan Sennett, the United States Attorney, with his 'ninety-two assistants and several hundred cases to supervise' (Turow 1999: 7), a dedication growing out of a heartfelt wish to protect helpless individuals against corporate America and, not least, assisted by the able and attractive agent Evon Miller. The tale is related by George Mason, a respectable and well-off private practice lawyer ('twenty-five years in practice' (Turow 1999: 289)), who is hired to protect the rights of Robbie against the FBI, and only takes on the case reluctantly because of its obvious irregularities. But out of a sense of inferiority compared with Sennett's devotion to the rights of the weak, Mason decides to come along:

> Like my father, he was a person of rigor, of standards, a purist, who believed powerfully—and uncompromisingly—in the wide gulf between evil and good. As a boy, Stan had briefly been a seminarian preparing to enter the priesthood of the Greek Orthodox Church, and I always sensed that in his mind—as in my dad's—law and God were not far apart. Yet, unlike my father, Stan had the fiber to recognize that in this world good things do not happen by accident. I realized now that a piece of me had always seen Stan as the man I might have been were I more determined to be a loyal son.
>
> So I knew I'd have no peace with myself if I turned away from Robbie Feaver. I remembered the lines from Robert Frost about the road not taken. And then, like the poet, turned to follow Robbie and Sennett down that unfamiliar path. (Turow 1999: 29)

As the story unfolds, we hear about ethics and practice in American courts of law, about lawyers handing out business cards in emergency wards, about judges who, as politically elected, find it hard to disengage themselves from the political machine once in office, and about sheer personal ambition. But first and foremost this a moral story of holding on to basic, and basically American, ideals, both generally (as described in Mason's meditation above) and with respect to the application of the law.

The first ethical matter to be dealt with before the trap can be mounted, is for the decoy arrangement to pass muster once Robbie has been disclosed as a felon. The arrangement of the operation, codenamed 'Petros' after Sennett's unfortunate uncle, is accepted by the federal Undercover Operations Review Committee only when the cases set up are fake ones, and the lawyer is closely watched by the police—this is where Evon Miller comes

in. There is a quandary in allowing criminal undertakings to take place, although the expectation of beneficial gains in the long run could be viewed as a variation on the plea bargaining system so widely accepted in the US system. In this case the guarantees are that no one is going to suffer financially or personally from the scheme, and that Robbie technically is acting in collusion with the authorities. Throughout the operation Sennett must repeatedly ask for judges' permissions to install listening devices and other surveillance equipment, thus ensuring that legal processes are upheld fully.

If conflicts about such matters as clandestine surveillance may arise between immediate, pragmatic considerations of expediency versus the safeguarding of individual rights as guaranteed by the Constitution and Bill of Rights, there are here similar problems evident between local and federal authority law-enforcement personnel, as in a tableau with local police officers facing FBI agents:

> It was the usual thing, Evon figured, the Bureau and the locals. The agents frequently viewed the cops—less educated, more intuitive, and lower paid—as slugs, often embittered ones, because many had failed the Bureau's qualifying tests. The cops tended to see the Bureau types as pansies who knew more about filling out paperwork than dealing with real crime. (Turow 1999: 334)

With Mason telling his story in retrospect, from his position as judge of the Appellate Court, to which he was elected as a candidate 'whose independence was not open to doubt' (Turow 1999: 398), in the aftermath of Sennett's crusade to frame the bent judges, the lesson learnt by the narrator is lodged in the very schism of how far you can go in the pursuit of justice without sacrificing the principles you are trying to uphold. As Mason learns only very late in the day, his client and he himself have been double-crossed by the United States Attorney, which leads him to muse:

> In many respects, I still regard Stan Sennett as a great man. A great public man. He believed in the right things. And if improving the world is the measure of a human's ultimate worth, he will forever be deemed a better person than I am. His commitment to vanquish wrong and restore justice was as powerful as Superman's. Yet military strategists will tell you about replication, an inviolate principle which says that organizations which oppose each other tend, over time, to become alike. In that light, it was no surprise that fighting evil, as Stan put it, tempted him to evil. But if self-respect couldn't restrain his crudest appetites, his zeal and his ambition, when they led him into darkness, why, at least, didn't he at least feel some obligation to me? It was a

> sad conclusion after a couple of decades to find he lacked even a minimal desire to preserve our friendship, especially when it might have preserved his decency as well. (Turow 1999: 383–4)

In Turow's novel justice prevails only partially. Many of the corrupt judges are revealed, but the most exalted among them, the Presiding Judge, cannot be indicted because of a point of law—the recording of a surveillance tape had never been approved by Robbie Feaver, who was murdered on the eve of the court proceedings for which his cooperation with the United States Attorney and the FBI was crucial.

As a legal thriller, Turow's *Personal Injuries* offers a suspenseful narrative hinged on legal principles and technicalities. But it also fully demonstrates the conflicts and paradoxes inherent in and caused by the law. Furthermore, taking full advantage of the broad and analytical scope of the genre of the novel, it gives the author free rein to construct characters so that their plot function becomes truly convincing. Terry White notes what he calls the quintessential Turow in his realization that

> human beings can never claim to achieve or know justice, can never in fact understand the darker machinations of the human heart. Perhaps it is hyperbole to call him the Dostoevsky of legal fiction in our time, but he is a serious novelist who scours the consciences of his characters across the abrasive surfaces of their lives. (White 2003: 377)

Indeed, Turow demonstrates fully both the philosophical and instructive potential of popular crime fiction.

Michael A. Kahn, *Bearing Witness* (2000)

Michael A. Kahn (1952–) is a busy St Louis-based practising lawyer who has also found time to transfer his legal competence into a series of legal thrillers featuring attorney Rachel Gold, thus crossing the gender line in his choice of protagonist. Introduced in *Grave Designs* in 1988, Gold quickly tired of the large law firm and set up her own office, the base of law practice that frequently takes her right into the centres of dramatic action. *Bearing Witness* from 2000 develops from a relatively simple age discrimination lawsuit to what the narrator terms a 'Jurassic Park Blue Plate Special', which is even more unwieldy than an

> Elephant Orgy—one of those massive, complicated cases that lumber along for years, featuring an entourage of gray corporate plaintiffs and defendants shuffling through interminable pre-trial proceedings, occasionally mounting one another, and all the while generating astounding quantities of legal fees. (Kahn 2003: 13)

Staging the regular David v. Goliath battle between the lonely but justified and determined lawyer against the legal money-fixated batteries of the large law firms representing big business, Kahn probes an aspect of comparatively recent American history comfortably repressed from public memory.

The setting of *Bearing Witness* is St Louis, Missouri, with the focus, through the agency of Rachel Gold and her family and friends, on the Jewish community. Using the popular narrative ploy of presenting two story lines that eventually merge, an unpleasant past is made to meet with an equally unpleasant present:

> I was trying to unravel an American Nazi connection dating back fifty years while Jonathan was trying to unravel a different Nazi connection right here in the present. [...] My mother's family had died in the Holocaust. 'Never again' was the motto of those who insisted that we never forget the lessons of that terrible moment in history. Yet here we were, more than half a century later, and the grand march of progress had delivered up a modern version of the same old monsters. What a dismal parallel. Were we just Time's captives, running nowhere forever on ancient treadmills? (Kahn 2003: 162)

What begins as Gold's acceptance to represent one of her mother's friends for what seems a banal case of age discrimination in employment relations, turns, through the plaintiff's whistle-blowing, into a case about rigged bidding by the plaintiff's firm in an allegedly long history of systematic conspiracy for public works contracts. Gold manages to have the case tried on a *qui tam* basis. This means that the United States, as the harmed party, allows a litigant to attempt to recover the lost money:

> The *qui tam* action entered this country in a statute enacted at the height of the Civil War in response to allegations of fraud and price gouging by unscrupulous contractors. The goal was to encourage whistle-blowers by giving ordinary citizens the chance to share in the bounty. In more recent years, Congress turbo-charged the statute by adding treble damages and a bigger slice of the pie (up to 30 percent) for the successful *qui tam* relator. (Kahn 2003: 61)

No wonder that Gold is awe-struck and scared by the scale of what she has started. The paperwork ahead is of astounding proportions and can only be handled thanks to the general access to computer power, which, at the time of the action in the late 1990s, is well on its way to being indispensable.

While Gold, with the help of a law professor friend and a handful of his students, prepares for 'that rarest of litigation weapons, a lethal juggernaut known to few within the law and even fewer outside' (Kahn 2003: 60), her fiancé Jonathan Wolf, a successful defence attorney and a Jew with orthodox convictions, has been asked to act as a special assistant attorney general to look into the affairs of a white supremacist organization known as the 'Spider' and its head, one self-styled Bishop Kurt Robb. As Gold digs her way into the history of the bid-rigging conspiracy, a connection to Nazi Germany begins to emerge. The main defendant, Conrad Beckman, one of St Louis' most influential businessmen, turns out to have his roots in the German-American Bund, an organization trying to ease the way for Nazi sympathies in the USA. He has even tried to emulate Nazi 'culture' by actively harassing and harming Jews in America. The economic basis for his and his friends' post-Second World War firms is the dental gold from Jews killed in the Nazi extermination camps during the war. As Gold is able to unravel the bid-rigging conspiracy and its connection with war crimes and crimes against humanity, the rug is pulled from under the feet of the neo-Nazi white supremacist organization as well. Gold wins the *qui tam* action to the tune of staggering damages. Moreover, she is able to cleanse the body politic of a nasty load of guilt.

The butt of Bishop Kurt Robb's Nazi-inspired hate speech is the Jewish-American population segment. Kahn demonstrates against the stupidly prejudiced views of the populist demagogue, by describing both the diversity of the Jewish community members and, especially, their firm sense of American citizenship while upholding cultural ties with their origins—Gold's favourite exclamation is the Yiddish 'Oy'. On entering the country club premises of her opponent law firm's leading lawyer, Gold muses:

> Briarcliff is the most exclusive Jewish country club in St. Louis. It is thus a place where my people—victims of prejudice and exclusion since the time of Abraham—can inflict those despicable practices upon their own kind. Indeed, for years, one of the basic requisites for membership was the purity of one's Germanic ancestry—a macabre standard for a people nearly exterminated by those of pure Germanic ancestry. Briarcliff is a world of affectation so somber as to be silly—a place where you can stroll through the Great Hall, a kitsch homage to King Arthur, and as you pass beneath the rows of heavy flags

> emblazoned with English heraldry, you can almost forget (almost) that your family coat of arms is, at best, a gefilte fish rampant on a field of chopped liver. (Kahn 2003: 127–8)

Gold's opponent in court is the thirty-eight-year old African-American defence attorney Kimberley Howard, whose racial relations and loyalties as such are not made to bear on the case. The elegant woman appears in the role of a highly skilled and efficient lawyer, having made her career on a par with and by the same means as her male colleagues, and just as bent on winning her case as her opponent. Presiding over the case is a third woman, like both Rachel Gold and Kimberley Howard a person who has earned her present position as US District Court Judge by talent and hard work, her beauty, like that of her two female colleagues at court, accidental, but, all the same, due to the author's male gaze?

Giving attention to a murky chapter in American history and to present-day extremist political practices, Kahn's legal thriller bears out the genre's predilection for favouring the individual against the system. It is, of course, easy to vindicate such value distribution in a fictional text, where everything can be achieved by a few key touches. As such, the genre links up with both ancient mythological material and the 'texts'—book and film—of current American culture. On the one hand the dream of many aspiring law students, on the other the large law firm is seldom cast in a positive light. Nor is that the case in Kahn's fiction. Corporate America is represented by massed lawyers, and the preferred tactics against the individual litigant are followed by Kimberley Howard: 'Her goal was to use her client's substantial economic resources to grind me into the ground' (Kahn 2003: 37). Gold views with distaste her opponent's troops, noting one of the assisting lawyers:

> I studied his smug face. He was a typical product of the big firm litigation department—that macho subculture most closely akin to a street gang, except that his gang carries notebook computers and Dictaphones instead of knives and guns. I knew the type. After all, I'd come of age within a big firm litigation department. We were the guerillas, the SWAT teams of the law. Although there are few battlefields more stylized and bloodless than a courtroom, you'd never know that from the jargon of the big firm litigator. You don't simply 'win' a motion to compel, you 'blow the other side out of the water.' You don't ask a witness difficult questions at a deposition, you 'drill a new asshole.' You don't reject a low settlement offer, you 'piss all over it.' It's a weird warrior cult where men with soft hands and tasseled shoes swagger into court as if they were wearing battle fatigues and ammo belts. (Kahn 2003: 38)

Also, the discourse practice of lawyers from large firms receives ironic treatment:

> In exchange for all this, Ruth would sign an ironclad covenant not to sue Eagle Engineering or Rhodes & Monroe for 'any act or omission, whether known or unknown, occurring or alleged to have occurred at any place or at any time from the beginning of the universe until today.' Such was the belt-and-suspenders approach of a corporate lawyer. (Kahn 2003: 93–4)

If imaginative literature is the place to compensate for the nature of an often extremely harsh reality, Kahn's *Bearing Witness* does so emphatically. It purges the nation of what, to liberal-minded people at least, are excesses not to be tolerated either politically or ethically. Threats against a sense of common decency are threats against the American model, as words spoken by a relative of a policeman investigating the murders of American Jews about the time of the Second World War confirm: ' "My father was a proud American, Ms. Gold. It was at the crux of his identity. His patriotism was a prime motivation for his decision to become a policeman. He believed it was his duty to stand guard over the American Dream" ' (Kahn 2003: 228). This is completely opposite to the perspective offered to Gold by the irate leading lawyer of the defendant:

> 'You're trying to turn this into a crusade—some lofty battle between good and evil. Well, it's not what it is. It's just a lawsuit, young lady—an ordinary commercial lawsuit, and one of dubious merits at that. I suggest you get off your white charger and start considering your client's best interests.' (Kahn 2003: 272)

In the literary imagination, a lawyer like Rachel Gold is indeed a knight on a white horse fighting for good against evil.

Christopher Darden and Dick Lochte, *The Last Defense* (2002)

Christopher Darden (1956–) was with the DA's office during the trial of O. J. Simpson. He left in 1995 to teach law at various Californian universities, until in 1999 he established his own firm of attorneys. With his *In Contempt* (co-written with Jess Walter, 1996) he offered his version of the (in)famous trial of the football player. From 1999 he has collaborated with

mystery writer and critic Dick Lochte in legal thrillers beginning with *The Trials of Nikki Hill* in 1999.

The Last Defense takes on squarely American race issues in terms of the African-American culture of the West Coast. Lurking in the immediate background are the riots of downtown Los Angeles over the previous fifty years with bonds linking those whose friendships were 'formed in the fires of the Watts riots' (Darden and Lochte 2002: 38). In a slightly longer perspective, the foundation of the Carter and Hansborough law firm is presented, seventy years before the turn of the millennium, by the two Howard University Law School graduates Cordelu Wellington Hansborough II and Robert Hires Carter. The two members of the 1932 graduating class decided to move west to seek the presumably more tolerant mood of the then still open border conscious West. Hansborough had chosen Howard over Harvard (the latter advised by his father and grandfather) to fight for equality from the inside, as it were, whereas Carter's reason for the same law school was based on two things: (1) not having to take on racial bigots as well as time- and energy-consuming studies and (2) a penchant for equally time- and energy-consuming partying. The firm started out in criminal law:

> For over four decades, Carter and Hansborough maintained a narrow profit margin defending black men and women charged with criminal offences. But times and basic philosophies eventually changed. The founding fathers moved on to the big courtroom in the sky. The firm prospered and grew into one of the most financially successful in the western United States, thanks primarily to the micromanagement of the founders' oldest sons. (Darden and Lochte 2002: 12)

Still catering exclusively to the African-American community, the firm has a policy of taking on promising young lawyers, giving them two years of practical law, demanding from them '280 billable hours per month' (Darden and Lochte 2002: 16) and then sending them on into the world to start their own businesses with a loan from Hansborough and Carter, paid back by a percentage of fees earned.

Mercer Early is one of these young lawyers. At the opening of the novel he is defending a drug dealer, whom he manages to get off the hook by a lucky stroke of randomly acquired evidence. This is a feat that the leading partners are far from happy with, since it incriminates a white police officer, Claude Burris, for perjury, and the firms stands to gain a lot from work for

the City, specifically the Los Angeles Police Department. When the drug dealer is found dead not long afterwards, having fallen to the ground from his apartment, there are indications that the police officer may have visited the acquitted criminal to seek a form of private justice. When Mercer Early is requested to take on the defence of Burris, now the defendant in a capital murder case, he does so only reluctantly, pressed by the white policeman's African-American mistress, who blackmails Mercer with knowledge of an incident from his past in Alabama, making him vulnerable as the result. Motivated partly by the blackmail threat, partly by his belief in the innocence of the defendant, he must listen to Carter's refusal to allow the firm to take on the case. Mercer has just reminded Carter of his own idealism to the effect that even a terrorist like Tim McVeigh deserves a defence:

> 'Son, here's your lesson for today. First, like any man, McVeigh had a right to counsel. But not to counsel of his choice. Understand? And second, that's my daddy's name and my name on the front door. I will not have it sullied by our association with this maggot of a cop. Claude Burris is the latest in a long line of thugs who have used a badge to terrorize our community for years. I cannot in good conscience deny him the right to counsel. But happily I will deny him this firm's counsel.' (Darden and Lochte 2002: 147)

The reversal in the leading partners' attitude only comes with their turn to be blackmailed. Actually, they are in double jeopardy, with pressure from the Mayor's office and a City contract in the balance, and with incriminating material from Detective Lionel Mingus, a policeman from Internal Affairs supporting Mercer. His material, proving illicit connections between Bench and law firm in the first many lean years of the firm's existence, is not brought to bear on the situation since the request from the Mayor's office comes just in the nick of time. The murder trial turns, after much adversity, to the advantage of Mercer and only when he has come up with the notion of what has given the novel its title: ' "It's what an old law professor of mine called the Last Defense. When nothing else works, you shake the jury's belief in the client's guilt by throwing them a surprise suspect who looks just as guilty" ' (Darden and Lochte 2002: 320). Even so, the last defence successfully mounted by Mercer leaves many loose ends, which requires poetic rather than courtroom justice to deal with to the satisfaction of those hungering for things to be wrapped up tidily.

Very little, if anything at all, is neat in this story of ambition, greed, skeletons in the cupboard, questionable courtroom ethics and racial issues.

The transracial trial where Mercer finds himself defending a corrupt white policeman is authoritatively presided over, but not quite controlled by Judge Temperance Land, who has a rough time brokering between counsel throwing mud at one another. Mercer is not driven by idealism, but has a very much pragmatic sense of things: 'What Mercer had been fighting for was something quite different—he'd been fighting for a win. Winners advance. Losers take a step back. Simple as that' (Darden and Lochte 2002: 9). For all its *pro bono* community-serving work Hansborough and Carter has, as nearly demonstrated to the leading partners, a tainted past and a present-day agenda where justice and expediency merge, in the words of one of the partners: ' "Law is a business. We are as much a business as Microsoft or General Electric. Sometimes, we win in the courtroom but lose in the boardroom because winning is bad for business" ' (Darden and Lochte 2002: 20).

Mercer's sensibilities are tuned towards a social reality always capable of opening up a gulf beneath people, as happened to his mother: 'She'd let life beat her. No goddam way would he allow that to happen to him' (Darden and Lochte 2002: 25). They are also sensitive to the predicaments of race, so that racial issues are always in the offing: 'It might have been one old friend fixing another's messed-up neckwear, but the gesture struck Mercer as patronizing—the big boss white man patting the darkie on the head' (Darden and Lochte 2002: 39). While the events of this narrative forcefully educate Mercer in the realities of criminal law and civil–political enterprise, Darden's ethno-racial background allows the characters a possibility of airing prejudice one way or another with impunity from political correctness. This is seen early on when Claude Burris appears as a police witness in the first trial and on being asked about the reaction of a neighbour of the drug dealer, says: ' "Nice lady. Elderly Ne . . . African American" ' (Darden and Lochte 2002: 5). Later, Mercer despairs of courting Vanessa, a young fellow lawyer and daughter of one of the leading partners, saying: ' "May be that I wasn't worthy to be a member of that goddammed bourgie Negro family of yours?" ' (Darden and Lochte 2002: 39). That racial issues are more complex than any, literally speaking, black-and-white situation, is borne out by Lionel Mingus, the alcoholic police officer demoted for irresponsible behaviour—as it turns out eventually set up by hostile agents—musing on his own looks:

> As a boy, he was often teased by other coloreds about the darkness of his skin. Blackie. Darkie. Midnight. Shoeshine. He's heard them all. Jokes, too, of

> course. The fact that they came from members of his own race instead of some redneck crackers didn't do much to ease the pain. The first time he met his third grade teacher, Mrs. Hall (aka "Hot Miz Hall"), she'd remarked that he was "blacker than black. Baby, you so black you're blue-black. And you shiny, too." Back then, such things hurt. Back then, light skin was in; dark skin was out. Times had changed. But Mingus had a long memory. [...] Shifty-looking, huh? He knew what it was. The thing about his skin being so black. Even brown old ladies distrusted the black. (Darden and Lochte 2002: 45 and 114)

And then there is the old colonial saying, reversed by the femme fatale of the narrative: ' "Hell, all them white girls look alike," Redd said, grinning' (Darden and Lochte 2002: 47). The racial carte blanche also extends to the characterization of the white officers in the Los Angeles Port Authority Police Department, who are invariably known by the contemptuous name of 'rednecks'.

That racial and social issues are entangled comes to the fore when the jury has to be selected. In the *pro bono* case involving two brothers with a Hispanic background, Mercer lets on what seems to be public knowledge:

> In most cases, DAs and defense lawyers choose different kinds of jurors. The DAs prefer white males from the suburbs, jurors who live in fear of crime and minority criminals and who would leap to convict a big Mexican charged with beating a man half to death with a brick. Defense lawyers normally look for minority jurors who view the police with suspicion. (Darden and Lochte 2002: 64)

If the composition of the jury is about probing for racial and social loyalties and biases, then the dynamics of the trial concern the American variety of possibilities (plea bargaining) and some absurd consequences of safeguarding individual rights. These seem to be the justification for Darden and Lochte to allow Mercer to go through his *pro bono* interlude and take the disorder case, during which the witness reverses his testimony and exposes himself as the guilty party after learning about double jeopardy which makes him immune from any further prosecution.

Plotwise, *The Last Defense* is a legal thriller, staging no less than three trials in a row, the first leading directly into the third, with the second, Mercer's *pro bono* defence of two brothers tried for disorder, serving as an interlude with the function of highlighting some aspects of American law meant for the protection of the individual but capable also of leading to

absurd consequences. Thematically, this legal thriller is about the clash of black and white America, with, refreshingly, the legal perspective given to African-Americans. There are all kinds of people on a sliding scale from good to bad, but in the African-American community portrayed in the novel, white Los Angeles is represented first and foremost by its white police officers, whose racial prejudice is worn on their sleeves. References to the white part of the metropolis are very few indeed, and then with heavy stigmatization: ' "San Marino, hun?" Mingus smiled. It was a lily white upscale suburb twenty minutes away from downtown L.A. that had served for many years as the national headquarters of the John Birch Society' (Darden and Lochte 2002: 328). One or two other references to the white community imply the Aryan Brotherhood. But, at rock bottom, the novel is about basic American values and the efforts required to clear the muck from the stable. In the words of Lionel Mingus: ' "Damn, Mercer, we did good this time, you know it? We beat city hall, dumped a mayor, took a couple of bad guys off the boulevard. Can't ask for more than that" ' (Darden and Lochte 2002: 359).

John Grisham, *The Last Juror* (2004)

Since his breakthrough with *The Firm* in 1991, John Grisham (1955–) has delivered a book with clockwork regularity, most of them legal thrillers. *The Firm* was his second novel. The first one, *A Time to Kill*, was published in 1988. The story about an outraged father's retaliation against his daughter's rapists was written after Grisham had graduated from the University of Mississippi School of Law in 1981 and was working in a general law practice. Between 1983 and 1990 he was also a representative in the state legislature.

John Grisham's legal thrillers have enjoyed massive popularity, in both book and movie formats. His distinction as a writer rests on a firm sense of community, which comes out in his thrillers in the form of lawyers caught between conscience and the more or less cynical demands of the law/politics complex combined with personal greed and other human vices. His literary output also includes non-generic fiction (e.g. *A Painted House*, 2001) and non-fiction (*The Innocent Man*, 2006) about the South, where Grisham has homes.

With *The Last Juror* Grisham attempts to bridge what some critics see as the abyss between generic fiction and the novel proper. But since the domain of the mainstream realist novel has always been morals in the

broadest sense of the term, the legal thriller is surely in its very nature part of this domain. As in his former novels featuring trials and courtrooms, the main concern of the author is to point to weaknesses and shortcomings in the American legal system compared to general American ideals and standards of life. One might suggest that Grisham is very much in the muckraking tradition, with his legal thrillers being unpleasant but necessary probings into the American political and social body.

In *The Last Juror* the scene is set in the South in the 1970s. Willie Traynor is a failed journalism student from Memphis, Tennessee, who has spent five years studying at Syracuse University in the New York area, but is now back in the South with a job at a local newspaper, *Ford County Times*, in the small town of Clanton, Ford County. The area is Grisham's version of William Faulkner's fictitious Yoknapatawpha County. The newspaper, which in 1967 pioneered obituaries of African-American citizens, thus deviating from its steady all-white course, is close to bankruptcy, but with private loans Willie buys it and hopes to bring it back on track with its daily fare of small local events given front-page coverage. However, realizing that this is not enough, he senses that a more sensational angle must be provided. This comes with the rape and murder of a young mother, witnessed by her two children. The murderer is seized, literally red-handed: 'It was a wonderfully sensational story and I saw it as my golden moment. Sure I went for the shock, for the sensational, for the bloodstains. Sure it was yellow journalism, but what did I care?' (Grisham 2004: 36). A quick trial ending in a death sentence is what Willie expects. But he is disappointed. The rapist and murderer is part of a network of influential people in the community:

> In fact, not a single Padgitt had ever been arrested. A hundred years of moonshining, stealing, gunrunning, gambling, counterfeiting, whoring, bribing, even killing, and eventually drug manufacturing, and not a single arrest. They were smart people, careful, deliberate, patient with their schemes. (Grisham 2004: 26)

The trial starts with a negotiation for bail, which is determined by the judge to be practically impossible. The coverage of the unusually comfortable conditions for the accused in the local jail by the newspaper is followed by the hearing for a change of venue, on the defence attorney's claim that the local newspaper coverage is creating a hostile mood. The selection of the jury, as very often in the American variety of legal thriller, receives much attention. In Ford County at the time the demographics make it even

trickier. When Willie speaks to a local African-American lady about her lack of willingness to do jury service, and she refers to the Bible—‘ “Judge not, that ye be not judged” ’ (Grisham 2004: 111)—the newspaper owner points out to her: ‘ “But if everyone followed that verse of Scripture, our entire judicial system would fail, wouldn’t it?” ’ (Grisham 2004: 111). For this trial the jury will be selected from a potential one hundred jurors. Half way into the narrative it is possible to arrive at the jury’s verdict on the two counts of rape and capital murder, on both of which the jury finds the defendant guilty. But when it comes to the decision between capital punishment and prison for life, the jury cannot decide and is sent home, leaving the judge the only alternative of the life sentence.

With the trial for the rape and murder having been decided at the local court, except for one dramatic event engineered by a schizophrenic man dissatisfied with the verdict, the case is out of the hands of the county and its newspaper. Willie uses his paper to keep a critical eye on the authorities in and out of court during the trial, and also engages in other social and political issues of the time, not least the civil rights movement with its attempt to apply the anti-segregation rulings of the Supreme Court in Southern practice:

> Because of my preachy opposition to the war in Vietnam, I would always be considered a radical liberal. And I did little to diminish this reputation. As the paper grew and the profits increased, and as a direct result my skin got thicker, I editorialized more and more. I railed against closed meetings held by the city council and the county Board of Supervisors. I sued to get access to public records. I spent one year bitching about the almost complete lack of zoning and land-use management in the county, and when Bargain City came to town I said way too much. I ridiculed the states’s campaign finance laws, which were designed to allow rich people to elect their favorites. And when Danny Padgitt was set free, I unloaded on the parole system. (Grisham 2004: 326)

Seventy pages after the first verdict and many local events, including elections for public office, the local impact of the Vietnam War, and attempts to put anti-segregation into practice, Willie learns that the verdict is made to stand by the Mississippi Supreme Court. But seven years after the conviction Willie learns that Padgitt enjoys great liberty at the state penitentiary. He decides to write about this situation in his newspaper. Matters get worse when Willie learns that Padgitt is up for a parole hearing. He manages to thwart the committee, but after another year a fresh parole hearing lets

Padgitt out of prison, having served only eight years of his life sentence. When members of the jury that convicted him begin to be shot by a sniper, Padgitt not unexpectedly turns out to be the killer, and he ultimately is given both legal and poetic justice when produced in court for the bail hearings on his arrest.

The Last Juror is a legal thriller that takes advantage of a hindsight view of the South at a troubled time, with the Vietnam War and racial issues testing the strength of the American body politic. Grisham records an awareness of the not yet healed wounds from the Civil War and the widespread sense of the South having been given a rotten deal ever since:

> I marveled once again at the backwardness of Mississippi. I could see a criminal defendant, especially a black one, facing a jury and expecting a fair trial, wearing jail garb designed to be spotted from half a mile away. 'Still fightin' the War,' was a slogan I'd heard several times in Ford County. There was a frustrating resistance to change, especially where crime and punishment were concerned. (Grisham 2004: 47)

But it is also a rags-to-riches story, demonstrating the ongoing validity of the American Dream. Last, but not least, and this is where the author's heart is felt pounding, it is a defence and recognition of the best sides of the American local community, with its legacy of human relationships marked by caring, respect, generosity and a high level of tolerance.

Concluding Observations

It would be wrong to suggest that the legal thriller of the period here addressed and in the hands of the male writers selected veered decisively away from the path beaten by their forerunners, notably Erle Stanley Gardner. The courtroom battles are still fought with considerable masculine power. The same ploys are resorted to, to impress jury and judge. But certain things have changed since Perry Mason, Della Street and Paul Drake held sway among readers of the genre. The new focus on gender and ethnic issues is certainly visible also here. Perry Mason perhaps demonstrated the superiority of the American citizen who either possessed or had access to a resourceful and smart lawyer. He or she could mobilize those resources and either win a case or have the power to see to it that the matter was concluded in a way aligned with accepted legal principles. But the next

generation of legal thriller presents a qualitatively different kind of legal person.

Mason worked in the rugged remnants of a frontier spirit. Now that the Mason persona has been discontinued, the fictional universe of the legal thriller has accommodated a greater range of characters, representing existential and legal experience of a more individual and socially committed kind. That the framework of the legal thriller has been able to do this shows not only the adaptability of the genre but also the great extent to which American society allows itself to be reflected in legal terms.

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CHAPTER 9

Conclusions: In and Beyond the Anglo-American Courts of Fact and Fiction

As the figures in Terry White's compilation *Justice Denoted* (2003) make perfectly plain, by far the largest production of legal fiction, including legal thrillers, is to be found in the United States, followed, but very far behind, by the United Kingdom. Further, much further behind comes the rest of the world (see Chapter 1). Of the non-Anglo-American titles, however, it turns out that most of them bear hardly any resemblance to what we might regard as a modern legal thriller. They are contributions to what many in the book trade term 'literary fiction', that is non-formulaic or non-generic fiction with, for example, existential, psychological and social concerns, which make use of legal matters for that purpose, as a background or framework. The Swiss author Friedrich Dürrenmatt's *The Judge and his Hangman* from 1950 is one such title that comes to mind. Of course, White's casting of the net on an English-language basis furthermore becomes less reliable when English translations are not readily to hand. There are likely to be more titles around in the genre in non-translated form. Be that as it may, there are no indications that pockets of legal thriller writing traditions exist undiscovered and, anyway, a few more titles would not change much of the general picture with its Anglo-American dominance.

The division of the world into an Anglophone region in which the legal thriller thrives and a non-Anglophone region where it is virtually non-existent mirrors the division of the world into those legal systems relying, although not exclusively, on a common law tradition and those that do not. There seems to be a direct connection between the dynamic need for constant 'law making' in terms of looking for precedents and

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acting on them, and relying on fixed statutes allowing for only minimal variations in interpretation and application. The common law tradition has brought about a trial system with a strongly adversarial system, where cases are argued in the courtroom for and against the defendant, whereas the civil law system has vested considerable authority in the prosecution as a part of the investigatory process, leaving courtroom procedure as an opportunity for far less adversarial action.

There can be no doubt that the natural drama of adversarial action is something highly welcomed by fictional narrative which relies on exciting events and suspense for its appeal. America leads Britain as the producer of legal thrillers due not only to the adversarial system but also, and perhaps even more relevantly, because of the strongly democratic element in US law. The fact that many officers of the law—leading policemen, DAs and judges—are elected rather than appointed, places them in the public eye as part of the ongoing politics, even if such elected officers appear a long way down on the ballot tickets. The mobility of those with a legal background between the 'civil service' and the political arena chimes with the considerable interest in public life which is such a dominant characteristic of American literature generally. In that perspective there is a seamless transition between the American social novel and the more generically rigoristic legal thriller. American legal thriller writer Steve Martini has his protagonist in *The Judge* comment somewhat cynically on the flexibility of the American system:

> As a repository of your tax dollars, the public prosecutor's office of any large metropolitan area of this country is likely to be the one place where you get your money's worth. Here are the young overworked lawyers putting in the equivalent of most people's average work week on any single day. Some, the Future Moralists of American, are careerists out to cleanse corruption and decay from our times, law and order zealots who view every issue in monochrome, black or white. Others, more pragmatic, are simply paying their dues, cutting their teeth in court before selling out to one of the high-tones silk stocking firms where crime wears a white collar and is often perpetrated over lunch in some private club. (Martini 1996: 28)

Countries bordering the northern shores of the Mediterranean—Spain (and Portugal), France and Italy—have legal systems very much alike when it comes to criminal prosecution. Those in central Europe, which were part of the Communist world from the end of the Second World War to 1989, have

a mixed legal history, due to the tumultuous political events of the twentieth century. Germany is a particular case, as it developed an increasing range of democratic processes to distance itself from the Nazi era. For that purpose a special court to review perspectives of the constitution, the German Federal Constitution Law Court was established ('Bundesverfassungsgericht'). In the Nordic countries there is a shared reliance on central constitutions, but criminal codes and procedures in criminal cases differ somewhat (although not markedly) between Finland, Sweden, Norway (with Svalbard), Denmark (with Greenland and the Faroe Islands) and Iceland.

While all the European countries mentioned above have a lively traffic in crime fiction, the law and its officers have not risen in importance to match those in American and British literature. Broadly speaking, the court, judges and lawyers only appear once the police have done their work, and that means after the last page of a Nordic Noir police procedural has been turned. Only very, very seldom does a court of law form the setting of the central events of the justice process. When a national legal system has a court officer as part of the investigating agency, a judge for example, he or she will appear in the action. Also, in most countries, including the United States and Britain, a judge's permission is required to allow the searching of homes or the monitoring of telephones. So a judge's order is one of the knots tied on the thread of the plot, but usually with the judge and the courtroom never really stirring from the wings of the stage.

For the conduct of criminal law cases in non-common law cultures the principles of civil law apply. This means a trial based on inquisitorial, not accusatorial, approach, with a judge representing the Law and as such safeguarding legal procedures and points, rather than making them or interfering with them, as in common law cultures. It is also characteristic of the law cultures in most of these countries that the administrative complex forming the legal profession is divided sharply into specific and not easily interchangeable career paths. Trial laywers do not eventually become judges, although career path shifts are possible, such as from academic life to the bench, or from the bar to the bench (but seldom the other way round, from bench to bar), or from bench to academic life.

Another issue, of increasing significance in Europe, is the law passed by the European Union, designed to filter into the member countries' own legal systems and override them if there is a disparity. But this is very much a matter between the European Court and the individual member states' governments, and is not yet regarded as having had an impact on the writing of legal thrillers. However, European police cooperation is a new plot

possibility and action profile available to crime-fiction writers, such as the departure into Europol by the Swedish crime-fiction author Arne Dahl.

In contemporary Nordic crime fiction we look in vain for decidedly legal thrillers, although the output of Nordic Noir titles is prodigious (see for example, Forshaw 2012). When lawyers and courts are introduced it is usually only when a judge's order is needed to search a home or monitor telephone communication. Occasionally there may be a lawyer present during police interrogations. Types popularly represented include a hurriedly appointed counsel for the defence, unfamiliar with the case; or a personal lawyer representing the accused, usually familiar with all the tricks of the trade and often linked to the criminal element of the plot. If in the former group, interrogating police usually just ignore the lawyer; if in the latter, police typically show annoyance at having their procedures upset by some fine point of the law.

In present-day Nordic Noir crime fiction, officers of the law may be said to occupy two functions: the first is the very practical aspect of being part of the judicial system, with focus on judges and prosecutors during the investigation of crimes. Nordic Noir crime fiction usually ends the individual narrative with the solution of the crime, and leaves the offender to the court system's machinery beyond the back cover of the book. The role given to the court during investigations is for the judge to issue court orders for house searches, telephone tapping, and the like. Occasionally there may be a need to hold a suspect in custody, and then it is the duty of the court to decide on the substance of the police claims for the extension of custody beyond the habeas corpus rights of the Nordic constitutions.

The other function has really nothing to do with the court and its officers as such, but with the social roles usually enjoyed by lawyers in private, indeed often lucrative practice, and with civil servants enjoying the comforts of their salary grades. As comparatively well-off individuals and as representatives of the power entrusted to them by the public or state, they are often taken to represent the 'establishment', which, along with other powerful social groups such as business people, politicians and the intelligence services, is frequently the target of criticism by the explicit or implicit narrators of the individual crime-fiction narratives.

The structural model of the police procedural, by far the dominant type of crime fiction not only in the Nordic countries but also in the rest of the world, usually operates with a division of labour among the police which not only reflects the reality of the organizational hierarchy but is also used to valorize specific societal functions. In the police procedural the perspective

is almost always the one of the investigating officer, the protagonist having a middle rank in the force, above the uniformed staff but below the administrative head of the station. Very often we find, squeezed in between the field-oriented protagonist and the head of the station a senior officer, who is office-bound but loyal to the protagonist, acting as a liaison both up and down the system. In the realities reflected by Nordic Noir, the head of the station is traditionally a civil servant with an academic background in law, who is also the chief prosecutor and leader of the local prosecuting team, sharing his or her legal academic training with the judge and the defence lawyer. The protagonist, however, and his senior colleague just above him, are usually not persons with any academic background, but will typically have entered a police training school with a vocational/apprentice past, sometimes supplemented by national military service. In other words, a mistrust of traditional standing between town and gown sustains the character depending on pure rank.

Keeping this in mind it is not so surprising that an article anthology, *Law and Justice in Literature, Film and the Theater: Nordic Perspectives* (Simonsen 2013), has no articles on law and crime fiction, despite the fact that Nordic Noir, celebrated only the year before by Barry Forshaw in his *Death in a Cold Climate: A Guide to Scandinavian Crime Fiction*, goes completely unmentioned. It is not for any lack of crime-fiction titles over recent years in the Nordic countries either (in print or on film/TV) that the legal aspect is absent—just think of eminently exportable Stieg Larsson. The less conspicuous presence of the courtroom—for example, no dramatic jury selections, no bail negotiations, no plea bargaining—is replaced by rules to be adhered to by judge, and defence and prosecution attorneys, all leaving less scope for the dramatic and histrionic, which is, after all, the very backbone of legal thrillers.

Nordic Noir, or less dramatically, Scandinavian crime fiction, as it is appreciated by both readers and TV audiences globally, grew out of the new life breathed into the by then rather petrified genteel mystery story, represented by Swedish crime writer Maria Lang, in Maj Sjöwall and Per Wahlöö's ten-volume series *Novel about a Crime* (1965–75). That the crime in question was a not a specific one but rather the allegedly capitalist grip on everything even in the declared social solidarity of Swedish welfare society, is to some extent a symptom of the radicalized period around 1968. The two authors actually planned the series to hook readers on conventional mystery plots and then to move on to increasingly political 'consciousness-raising' issues, in the terms of the period, as the series developed. But both

the admittedly ground-breaking series and its many successors, subscribing more or less to the social critique agenda of the ten-volume crime-fiction series, remain firmly entrenched in their police investigation domain.

Although Nordic Noir has developed into a kind of fiction in which the police investigation touches upon all sorts of public and privates lives, this never extends to the courtroom where cases are heard and sentences passed. This can be seen in the fact that the lawyer, who is not just an official in the prosecutor's office defining the borderlines of police authority, is present as a representative of a legal profession associated with greed, hedonism and exploitation. One may think of the lawyer Nils Erik Bjurman, who becomes the legal guardian of Lisbeth Salander in Stieg Larsson's *Millennium Trilogy*, and who is savagely punished by Salander after having taken nasty advantage of his trusted position. Another example from Sweden would be the two-volume story of the defence attorney Martin Benner in Kristina Ohlson's *Lotus Blues* (2014) and *Mios Blues* (2015). In this two-phase story Martin Benner's profession only serves to establish him as a person whose natural propensity, in combination with a considerable measure of selfishness and cynicism, is for his chosen legal trade which has made him financially independent and able to satisfy his expensive tastes. Even though his choice of profession turns out to be in line with his former occupation as an American police officer, there is no trace in the two novels of the courtroom activities that established him financially and won him a reputation as a successful defence lawyer.

Kristina Ohlson's own background as a political scientist and security adviser for the Swedish police perhaps explains an interest only remotely to do with law and the courtroom. Jens Lapidus, another Swedish writer, and this one with a background as a defence attorney, has not really used this experience for the legal thriller format, except for the narrator's profession in the first story 'Filmen' ('The Film') in the short story collection *Mor Prøvede* (2012; *Mother Tried*). Even in that the core issue is the confrontation between a defence lawyer loyal to his duties and his client, and not any protracted court action.

If the situation regarding legal thrillers in Swedish crime fiction can best be described as one of an almost total lack, the position in the other Nordic countries is not really any different. In Norway, the lawyer and writer Chris Tvedt started out with five titles about the Bergen lawyer Mikael Brenne, introduced in *Rimelig tvil* (*Reasonable Doubt*) in 2005. In Tvedt's sixth novel he was replaced by the police investigator Edvard Matre, but is kept in store for possibly more new legally tinted adventures in the future, enjoying

a minor role in the cast. It must be said, however, that even Mikael Brenne functions more as an investigator than a legal officer in these first five works of crime fiction.

Legal literature, if not the legal thriller as such, had an outstanding exponent writing in Danish. Thorstein Christian Thorsteinsson (1889–1972) was a Danish lawyer, active at the bar and a great connoisseur of both Danish and foreign legal cultures. He contributed to both the legal journals and the national press essays on legal matters especially concerning Britain, America and France. Between 1941 and 1968 he wrote and published seven collections of these essays in book format with the running title *Fra fremmede retssale* (*From Foreign Courts of Law*), in which he recounted famous and intriguing court cases, supplemented by two special studies of the case against Joan of Arc and the Dreyfus affair in *To franske retssager* (*Two French Court Cases*) in 1970.

For the centenary anniversary Festschrift of the Danish Judges' Association in 2000, judge Peter Garde contributed a long essay entitled 'Dommeren I skønlitteraturen' ('The Judge in Belles Lettres'). An extended, book-length version was published in 2007, *Dommerens litteraturhistorie* (*The Literary History of the Judge*). It is a unique piece of legal and literary scholarship, whose tie, however, with any kind of legal thriller is non-existent.

Danish crime fiction shares many of its characteristics with that of Sweden, with its tendency to use the criminal act as the catalyst for a more general dissection of a welfare society with a great many skeletons in its cupboards. But, as in the hands of Swedish colleagues, law matters are resolutely left to the state-employed public prosecutors working discreetly behind the demarcating lines of police work, only visible when consulted by the police for advice concerning the possibility of upholding a 'remand in custody' direction from the judge. In the Danish context, it is up to a judge to determine if there is sufficient evidence to keep a suspect in custody for up to twenty-four hours pending inquiries. This may, from time to time, create a certain level of stress among the investigating policemen, but translates in the literary context into general tension and suspense rather than into extended courtroom drama.

The European part of the Mediterranean area has a judicial system rooted in the Roman Law tradition, that is with a reliance on centrally formulated legal principles and on judges invested with the power of the state to see to the upholding—not the making—of the law, and with trial dynamics based on the inquisitorial rather than the adversarial principle. This means that countries like France, Italy, Spain and Portugal have legal systems in which

the bench has an active function in the investigation of crimes, with certain judges appointed as investigative judges.

In the Belgian author Georges Simenon's stories of Paris policeman Maigret there is always such an authority breathing down the neck of the investigators, but that this person is very often also a pain in the same part of the body is a fact very apparent in Pierre Lemaitre's crime fiction—'roman policier'—centred on police investigator Camille Verhoeven. While Verhoeven has an excellent working relationship, actually quite unheard of in the genre, with his immediate superior, police commissar le Guen, based on a sensible division of labour and personal mutual respect and liking, the same cannot be said for the relations to the presiding judge, Vidard. This vain, arrogant and supercilious man has his eyes firmly directed towards the furtherance of his own career and shuns with great alacrity all that may stand in his way.

Having historical ties with the Mediterranean, Latin America shares the same system of inquisitorial courts of law. This is seen in Santiago Rondagliolo's *Abril Rojo* (*Red April*) from 2006. In a story from Peru, which reminds the reader of the continent's predilection for magical realism, Félix Chacaltana Saldívar, the prosecutor invested to a certain extent with a judge's authority, is worried by the charred remains of a body. To the dismay of local authorities he insists on pursuing a suspicion-arousing case that takes him into the domain of the terrorist or freedom-fighting guerilla organization the Shining Path. The conscientious prosecutor defends the legal rudiments of a nation based on the rule of law against both corruption and terrorism—the author has lived in exile in Barcelona since 2000—even if that means his own ruin. The novel is hardly a legal thriller, though. It plainly has no wish to be thought of as such, since the novel format with the character of the prosecutor is meant as an earnest, not to say despairing, political critique of the author's native country in the hands of forces threatening to turn it into mere crime-controlled anarchy.

Israeli law is generally common law with an admixture of various kinds of religious law and elements from foreign legal systems. It also respects the statutes passed by the Knesset, the Israeli legislative assembly, but there is no central constitution. Like other authors outside America and Britain with a legal background, Liad Shoham prefers to set his crime fiction not in the courtroom but in the field, as it were, with the female police officer Anat Nachmias in charge of criminal investigations that take her and her colleagues into less-advertised aspects of Israel. In *Asylum City* (2012) the spotlight is on human smuggling and an underground economy related to immigration issues, whereas in *Blood Oranges* (2014) it is on the mafia-like

networks regulating neighbourhoods by a patronage system from the time of the settlement during the Second World War. The hand of the lawyer is visible, though, in the knowledge of the seamier sides of Israeli public life and in the pervasive sense of the wish for rule of law in all aspects of the nation's public life.

British and, especially, American legal thrillers have proved popular far beyond the borders of their countries of origin. Readers and television and movie audiences all over the world have become familiar with the court procedures of strong adversarial trial systems. Also, the genre in the hands of its many highly professional legal practitioners has resulted in not only the churning out of a huge number of generic-fiction clones, but very often an in-depth probing of the body politic and its myriad of historical and current social, political, legal, gender and ethnic issues.

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