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The Fact of a Rumor: Anthony Trollope's *The Eustace Diamonds*

AYELET BEN-YISHAI

*A*NTHONY TROLLOPE'S 1872 novel *The Eustace Diamonds* is famously filled with legal plots and subplots, most prominently the story of the Eustace diamonds themselves. The £10,000 necklace is stolen (or allegedly stolen) three different times in the course of the novel: by Lizzie Eustace (née Greystock) from the Eustace family, by Lizzie from herself, and finally by Lizzie's maid from Lizzie. At the same time, the novel is crucially and critically obsessed with facts. The plot hinges on one all-important fact—whether or not Sir Florian Eustace, already dead at the outset of the story, gave his wife the diamonds as a gift—and on the fact that this fact is inaccessible to everyone in the story but Lizzie. The narrator repeatedly returns to this point, insisting on the centrality of facts, or lack thereof, to the plot of the novel. So much assertion might lead readers to become wary and wonder: what exactly is a fact? How does it relate to the legal plot of the novel? To what end is it deployed in this *fictional* narrative? These questions become even more pointed when we observe that, while facts are in contention within the story (that is, the characters cannot determine what the facts are), the narrator does not share these epistemological limitations,

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and, as a result, neither do the readers. They know that Sir Florian did not give Lizzie the diamonds to keep; those who know the fiction also know the facts.

My reading of *The Eustace Diamonds* shows how the highly conventional form of Trollope's realist narration exposes the premises of its own epistemological conventions. While the story of the diamonds is full of murky and indeterminate facts, its narratorial discourse is unequivocal and indisputable, faithfully ascribing to the conventions of realist narration. The pointed incongruence between the factual uncertainty in the diegesis and the epistemological certainty that makes up its discourse opens up a productive inquiry into the production of facts in Trollope's novel. Moreover, it is precisely the conventionality of this novel's narrative discourse that enables it to reflect and comment on realism more generally.¹

The realist novel's reflection on its own epistemological conventions is dramatized with particular force in *The Eustace Diamonds*. Close scrutiny reveals several different processes of fact-making, both legal and nonlegal. While the legal processes in the novel are clearly central in determining its facts (much as facts are central to determining the outcome of its legal processes), the facts are also created and determined by other, nonlegal, processes such as rumor, gossip, and the regulation of propriety. At first glance, the novel seems to espouse the widely held opinion that facts in the law and facts in the social realm have very little in common. In the law, it would seem that facts preexist their discovery, a process that is (or at least should be) empirical; facts of this order would be objective, unequivocal, and reliable. In comparison, the facts determined in the social realm tend to be regarded as communal: fabricated and created (rather than revealed) by the community. As a consequence, one tends to view them as intersubjective, volatile, and unreliable. Yet the novel's preoccupation with the

¹ See George Levine, *The Realistic Imagination: English Fiction from Frankenstein to Lady Chatterley* (Chicago: Univ. of Chicago Press, 1981). Michael McKeon, in his history of realism, sees "realism" as a series of "realisms," each subsequent transparency rendering those before it opaque (see McKeon, "Realism," in *Theory of the Novel: A Historical Approach*, ed. McKeon [Baltimore: Johns Hopkins Univ. Press, 2000], p. 589). Thanks to Jonathan H. Grossman, Irene Tucker, and especially Catherine Rottenburg for their invaluable help with this essay.

facts of the law, on the one hand, and those of rumor and social knowledge, on the other hand, are not as distinct as they may initially seem. The neat division whereby legal facts belong to the realm of the empirical and the facts of rumor belong to the communal does not hold. When we scratch the surface of almost any empirical and legal fact in the novel, we discover the traces and residues of a communal endeavor.

The present discussion thus joins recent scholarship on the epistemology of realist fiction by investigating the role of facts in the creation of fiction. Recent histories of the novel largely agree that realist plots and characters are constructed in accordance with secular empirical rules.² The governing principle of these rules is probability, which Michael McKeon has identified as the “central premise” of realism (“Realism,” p. 588). For McKeon the move to realist probability was a move away from the earlier form of realism, associated with what he calls “facticity,” ostensibly a more direct correspondence between text and world. My analysis of *The Eustace Diamonds*, however, complicates this understanding by showing how facticity and probability appear to be less distinct and more mutually implicated in the realist novel than they have hitherto been regarded. Robert Newsom’s and Irene Tucker’s work on probability has already done much to refine the concept of fictional probability.³ Building on Tucker’s understanding of probability as a self-conscious reflection of the empirical, I argue in this essay that the ostensibly empirical epistemology of fictional probability is also a communal one. I contend that the secular empirical rules of realism are not as stable—or as empirical—as we have come to think of them. Moreover, the realist novels themselves—and here, as case in point, *The Eustace Diamonds*—can be read as a comment on and critique of the epistemological conventions that structure them.

At the same time, these conclusions also challenge prevalent assumptions in nineteenth-century law and literature

² See Pam Morris, *Realism* (London and New York: Routledge, 2003), p. 3. Morris appears to rely on Levine, *Realistic Imagination*, p. 18.

³ See Newsom, *A Likely Story: Probability and Play in Fiction* (New Brunswick, N.J.: Rutgers Univ. Press, 1988); and Tucker, *A Probable State: The Novel, the Contract, and the Jews* (Chicago: Univ. of Chicago Press, 2000).

scholarship by showing how literary realism has drawn on the law not only to ground its famously empirical discourse, but also (and perhaps counterintuitively) to anchor the novels' truth in a communal endeavor.⁴ In this essay I draw attention to some of the often overlooked nonempirical and nonpositivist aspects of legal and literary convergences. While Victorian legal consciousness was undoubtedly largely empiricist and, as Alexander Welsh, Jan-Melissa Schramm, and Jonathan H. Grossman show, had great influence on the realist novel,⁵ I contend that both the law and the literature of the period had another mode of being truthful—a communal one. Residues of older, collective modes of legal reasoning—fundamental to the idea of a common law—still held epistemological sway, even when cloaked in empiricist rhetoric. I thus bring out the communal aspects of legal and realist narratives, rather than the empirical ones that have largely been the focus of Victorian scholarship to date.⁶ In stressing the challenge of the communal to the empirical, I argue, *The Eustace Diamonds* engages in and problematizes the production of fact, as well as the positive-law tradition from which this concept emerged. Through its engagement with facts, the novel thus calls into question not only conventions of realist narration common to novels of the

⁴ In his influential *Strong Representations: Narrative and Circumstantial Evidence in England* (Baltimore: Johns Hopkins Univ. Press, 1992), Alexander Welsh argues that the main form of evidence and narrative—the “strongest” form of representation of reality—in the late eighteenth and nineteenth centuries was a move away from confession and witnessing to a narrative account of circumstantial evidence. He shows that this move was common to law (the criminal trial) and literature (the realist novel), as well as to religious and scientific discourses. These representations, maintains Welsh, appear to make the facts “speak for themselves.”

⁵ See Welsh, *Strong Representations*; Schramm, *Testimony and Advocacy in Victorian Law, Literature, and Theology* (Cambridge: Cambridge Univ. Press, 2000); and Grossman, *The Art of Alibi: English Law Courts and the Novel* (Baltimore: Johns Hopkins Univ. Press, 2002).

⁶ A notable exception is Christine L. Krueger, who in historicizing narrative jurisprudence recognizes the interdependence rather than the estrangement of “the rational and the aesthetic, scientific and sentimental.” Locating their separation in Benthamite legal positivism, Krueger asks: “How is it that we have come to see storytelling and legal reasoning as mutually exclusive, so much so that a whole movement now devotes itself to reconnecting them?” (Christine L. Krueger, “Victorian Narrative Jurisprudence,” in *Law and Literature*, ed. Michael Freeman and Andrew D. E. Lewis [New York: Oxford Univ. Press, 1999], p. 452).

period, but also conventions of positive law, the prevailing legal culture of the Victorian period.



The choice of Trollope's fiction for my exploration of this topic is additionally motivated both by his status as one of Victorian realism's most prolific (if not always highly regarded) practitioners and by his well-documented preoccupation with the law. Many of his novels, from *The Warden* (1855) to *The Way We Live Now* (1875) and, most famously, *Orley Farm* (1862), involve legal plots and themes. Moreover, as R. D. McMaster argues, law structures Trollope's understanding of English life: "The law is a sort of skeleton underlying it, giving it shape, allowing for possibilities of action and setting limitations."⁷ The "it" of this statement might refer not only to English life but also to the genre of realist fiction. This is especially apparent in *The Eustace Diamonds*, in which Trollope's use of the law undergirds the very conception of the truth of fiction. As Walter M. Kendrick has noted, this novel's preoccupation with the law, and with the truth and lies of its characters and narrator, is equaled by its concern with the truth of fiction.⁸ Further, matters of fact, law, truth, and fiction are mutually constitutive in this novel. My discussion of truth *in* fiction and the truth *of* fiction thus focuses on the production of facts—legal and nonlegal—in and by the novel. Thus, my inquiry into Trollope's novel, rather than focusing on the convoluted intersections of property and sexual exchange, or, for that matter, on the criminal aspect of the plot, stresses the alignments and realignments of the characters around these legal issues.⁹ *The*

⁷ McMaster, *Trollope and the Law* (London: Macmillan, 1986), p. 11.

⁸ See Kendrick, "The Eustace Diamonds: The Truth of Trollope's Fiction," *ELH*, 46 (1979), 154.

⁹ The closely related issue of property and sexual exchange has been extensively discussed in William A. Cohen, *Sex Scandal: The Private Parts of Victorian Fiction* (Durham, N.C.: Duke Univ. Press, 1996); Tim Dolin, *Mistress of the House: Women of Property in the Victorian Novel* (Aldershot: Ashgate, 1997); Andrew H. Miller, *Novels behind Glass: Commodity Culture and Victorian Narrative* (Cambridge: Cambridge Univ. Press, 1995); Jeff Nunokawa, *The Afterlife of Property: Domestic Security and the Victorian Novel* (Princeton: Princeton Univ. Press, 1994); and Kathy Alexis Psomiades, "Heterosexual

Eustace Diamonds serves as an example to reconsider just how empirical the rules governing realist form really were. And because of the intimate connection between empiricism and positive law, this reconsideration also manages to unsettle the apparent hegemony of positive law in the nineteenth century.

The opening sentence of *The Eustace Diamonds* sets up not only the novel's tone, but also its mode of establishing facts:

It was admitted by all her friends, and also by her enemies,—who were in truth the more numerous and active body of the two,—that Lizzie Greystock had done very well with herself.¹⁰

The first and seemingly most important thing that the reader is to learn about Lizzie is what others think—or, more precisely, say—about her. The truthfulness of the opening statement—that she has done very well with herself—is corroborated by the fact that both camps, her friends as well as her enemies, are in agreement, though they would seem to be of opposing opinions about Lizzie herself. Moreover, this statement is not immediately contradicted by the narrator, as one might expect from the way in which the opening sentence is set up. Rather, it is elaborated, thus confirming its truth-value. If anything, the novel's opening affirms its investment in rumor as a way of arriving at truth. Augmenting this point is the use of the passive voice, which gives precedence to the fact of the rumor over the action of its fabrication. Through consensus, rumor becomes fact—not the rumor of a fact, but the fact of a rumor. The main action in the novel is gossip, and the narrator already assures us that even gossip “makes true.” The truth, however, is not about Lizzie Eustace, but about the opinions of others (friends and enemies) about her. The truth about Lizzie is what others say about her, and that she has more enemies than friends. This “truth” is also borne out by the begrudging tone of the sentence, and is supported by its legal rhetoric: the verb

Exchange and Other Victorian Fictions: *The Eustace Diamonds* and Victorian Anthropology,” *Novel: A Forum on Fiction*, 33 (1999), 93–118.

¹⁰ Anthony Trollope, *The Eustace Diamonds*, ed. W. J. McCormack, 2 vols. in 1 (New York: Oxford Univ. Press, 1983), I, 1. Further references are to this edition and appear in the text.

“admitted” is used to convey the opinion—or lack of denial—of both Lizzie’s friends and her enemies.

Later in the novel, the narrator pauses again in order to reflect on the dissemination of falsehood in society when he introduces Lady Glencora Palliser and her friend Madame Max Goesler:

The general belief which often seizes upon the world in regard to some special falsehood is very surprising. Everybody on a sudden adopts an idea that some particular man is over head and ears in debt, so that he can hardly leave his house for fear of the bailiffs;—or that some ill-fated woman is cruelly-used by her husband;—or that some eldest son has ruined his father; whereas the man doesn’t owe a shilling, the woman never hears a harsh word from her lord, and the eldest son in question has never succeeded in obtaining a shilling beyond his allowance. (*Eustace Diamonds*, I, 152)

Several things are of note in this passage. First, the scope of belief in this opinion is “general” and held by “everybody” in the “world.” The second is the surprising swiftness with which the falsehood spreads—the belief “seizes” “on a sudden.” Here the narrator does not mention dissemination at all. One minute the fact is not there, and the next, everybody has accepted it as truth. Further, the narrator’s examples are not of gossip that merely embellishes a core truth, but of gossip of pure invention, such as “the man doesn’t owe a shilling.” The passage discusses the creation of new facts that seize “upon the world” and that directly contradict the empirical truth supplied by the narrator in no less definite terms.

The Eustace Diamonds makes frequent references to facts; the term is central to both the plot and the rhetoric of the novel. Yet there are actually two different orders of fact in the novel, produced by competing epistemologies: one is empirical, and the other is determined communally. *The Eustace Diamonds* stages and represents, through gossip, a mélange of understandings: an empirical, positive, objective understanding of fact (which is more contemporary), intertwined with an older, communal, intersubjective one. The facts relied on by most characters in this story are not of an empiricist order. In-

stead, they stem from a shared knowledge that assumes a finite knowable community with shared values and interpretive strategies.¹¹ While the narrator and the characters all use the word “fact” in the modern sense, the traces and residues of its older communal meaning destabilize the efficacy and clarity of its more contemporary use. Although the characters disagree about whether or not Lizzie or others were at fault, these disagreements reveal their accord concerning what is right and wrong, what values should be upheld, and, most important, what “truth” is most socially and politically desirable.



The history of the jury trial reveals that, contrary to our contemporary understanding of facts as objective and empirical, facts were once considered to be products of a communal effort, closer to gossip than we might have expected.¹² A “matter of fact” was an *issue* placed before a jury and concerned the performance, by a particular person, of a particular act or set of acts: “Fact’ in the legal context . . . did not mean an established truth but an alleged act whose occurrence was in contention.”¹³ To date, scholars of the Victorian period have largely overlooked the legal origins of fact. By far the most influential account of facts in the Victorian period is Mary Poovey’s *The History of the Modern Fact*. While Poovey does admit the availability of other competing histories, the location of her inquiry within the “sciences of wealth and society” privileges economic theory and practice in the history of the modern fact.¹⁴ As a result, Poovey’s work obscures not only other

¹¹ This is the case with most novels, of course, but it becomes strikingly apparent in *The Eustace Diamonds* because of its thematic and formal obsession with facts and gossip. Indeed, this characteristic feature of the realistic novel enables us to extrapolate from this specific novel to a more general comment on the genre itself.

¹² Our contemporary understanding of facts as empirical and objective does not, of course, rule out our understanding of them as social constructs, as are empiricism and objectivity in themselves.

¹³ Barbara J. Shapiro, *A Culture of Fact: England, 1550–1720* (Ithaca: Cornell Univ. Press, 2000), p. 11.

¹⁴ See Mary Poovey, *A History of the Modern Fact: Problems of Knowledge in the Sciences of Wealth and Society* (Chicago: Univ. of Chicago Press, 1998), p. xiii.

histories, but also our ability to understand the various epistemologies at work in the creation of facts and even in our definition of the modern fact itself. In my view, *The Eustace Diamonds* engages a legal rather than economic history of fact, one that traces the emergence of fact as an epistemological category to the distinction between fact and law. It is more than just a metaphor to liken those gossiping about Lizzie Eustace to a jury. The history of fact is closely related to the law and the jury system; as Marianne Constable argues, “the jury constitutes a practice in which matters of community membership, truth, and law are inextricably intertwined.”¹⁵

In order to understand the common and communal nature of facts in *The Eustace Diamonds*, we must first examine the origins of the fact/law distinction and its importance to understanding the pragmatic circulation of facts in the novel. In the following passage, this distinction is played out in Lord Fawn’s proposal to Lizzie:

He had at least been very honest in the description he had given of his own circumstances to the lady whom he intended to marry. He had told her the exact truth; and though she, with all her cleverness, had not been able to realise the facts when related to her so suddenly, still enough had been said to make it quite clear that, when details of business should hereafter be discussed in a less hurried manner, he would be able to say that he had explained all his circumstances before he had made his offer. (*Eustace Diamonds*, I, 74–75)

Lord Fawn has been “honest”—that is, he has “told her the exact truth.” Since “the facts” have been related to her in a hurried manner, however, Lizzie cannot quite “realise” them or understand their meaning, which requires comprehending their implications as opposed to simple knowledge. Yet the narrator goes on to say that neither Lord Fawn’s situation nor Lizzie’s understanding of it is of any importance or relevance. What matters is not the details but their having been told, thus warding off any future claim or complaint of fraud. In other

¹⁵ Constable, *The Law of the Other: The Mixed Jury and Changing Conceptions of Citizenship, Law, and Knowledge* (Chicago: Univ. of Chicago Press, 1994), p. 1.

words, Lord Fawn's concern lies not in divulging the true state of his affairs to Lizzie, but in creating a certain legal situation in the event that it is needed. Fawn's disclosure is not a matter of fact, but a matter of law. Or rather, the pertinent facts are not what facts he had told her (the content of his statement) but the fact that he had told her; the importance rests not in what has been said but in the legal situation created by its having been said in a certain place and manner.¹⁶

The legal origin of fact lies in the Romano-canon legal distinction between matters of law and matters of fact. As Barbara Shapiro notes, *Factum* "implied human actions or events in which human beings participated that might be known even if not directly observed at the time of adjudication" (*A Culture of Fact*, p. 9). In his history of the English trial jury, Thomas Andrew Green shows how, as the foundations for the common law were set in the thirteenth century, juries came to dominate the judicial process; the facts were to be determined by lay jurors ("twelve good men and true") and the law by professional judges. The trial jurors gave their verdict in open court, based on their prior knowledge; the medieval jury was thus considered "self-informing."¹⁷ The distinction between fact and law is far from a simple proposition. In her article "Facing Facts in Legal Interpretation," Kim Lane Scheppele argues that "law and fact are mutually constituting—not simply hard to tell apart."¹⁸ Moreover, as I show below, the distinction between fact and law is not in itself tied to an empiricist epistemology, and the legal modes of establishing appropriate belief were not always as empirical as we have learned to think of them. Green argues that until Tudor times, the jury was the source of the evidence put before the court rather than its evaluator. The ability of jury members to know the facts rested on their status in the community. In her investigation into what she calls the

¹⁶ Unfortunately for Lord Fawn, he protects himself from the wrong legal event. Because he later wants to go back on his offer of marriage, the actual legal event that he should have safeguarded himself against was a binding marriage proposal, not improper disclosure.

¹⁷ See Thomas Andrew Green, *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury, 1200–1800* (Chicago: Univ. of Chicago Press, 1985), pp. 11–16.

¹⁸ Scheppele, "Facing Facts in Legal Interpretation," *Representations*, no. 30 (1990), 62.

legal culture of fact, Barbara Shapiro concurs, underscoring the fact that the members of the self-informing jury were “selected locally because they were expected to bring some prior knowledge of the facts and/or the litigants to the trial” (*A Culture of Fact*, p. 11). Shapiro goes on to say: “The law adopted an epistemology that put great faith both in witness observers and in jurors as ‘judges of fact’” (p. 13). And as Scheppele demonstrates, residues of this kind of faith are still part of the jury system today: “Even though juries are instructed on the law on point, they are expected to use also their general knowledge of how things work in the world” (“Facing Facts,” p. 62). This intermingling of epistemologies is crucial to an understanding of the convoluted production of facts in *The Eustace Diamonds*.

Shapiro shows how lay participation of common-law jurors in England played a significant role in the broad cultural diffusion of the concept of fact. Moreover, the dissemination of the concept of fact within the wider culture, and the creation of a culture of fact, coincided with the rise of empiricism as the primary mode of truth-determining in the law, as well as with the advancement of the natural sciences. Shapiro writes:

By the end of the seventeenth century the epistemological thinking characteristic of legal fact finding came to pervade English thought and culture. Legal modes of establishing appropriate belief played a larger role in the development of truth-establishing practices than has hitherto been recognized. (*A Culture of Fact*, p. 33)

With the advent of positive law in the late eighteenth and nineteenth centuries, the intrinsic connection between facts, empiricism, and law was already taken for granted.

Positive law, the pervading legal consciousness of the nineteenth century whose principal proponents were Jeremy Bentham and John Austin, recognizes only and all law that has been posited by a human authority, thus excluding from consideration any recourse to origins that are nonhuman, such as natural law’s appeal to moral, religious, or ethical foundations. Positive law is intrinsically tied to empiricism, because the answer to the question “what is the law?” is an empirical matter. The law itself thus becomes an empirical question rather than

an ethical or moral one. Positive law, or legal positivism, and the jurisprudential debates that it generated must therefore be strictly differentiated from Comtean positivism, which has been much discussed by Victorian literary critics recently.

Despite the unquestioned hegemony of positive law in legal thought and doctrine in the nineteenth century, however, residues of nonpositive and nonempirical legal processes were still extant. The fixation on facts in *The Eustace Diamonds* exposes the residues of communal processes lurking even in positive-law accounts of fact, thus offering up a genealogy of fact-making to challenge these accounts.

Just how this challenge might work is suggested in Marianne Constable's account of the now long-gone legal custom of the "mixed jury," which ties the jury's knowledge of communal customs, the parties, and the particular situation in a case to the construction of a truth of community:

jurors gave evidence to each other in inquests conducted by other community members (and later before the king, or in the assizes of novel disseisin). . . . Their task was to speak the truth ("ver-dict") at a time before truth referred to propositions of "fact" and before law was relegated to a question of "values."

Even with the coming of "royal justice," such bodies for a time continued to speak the truth of the community. Although they might not explicitly *decide* what to do, what they said remained in some sense the law, or the truth of the community. (*Law of the Other*, p. 16)

Constable uses "fact" to imply propositional knowledge: an impartial, objective approach to a verifiable truth. This is the way in which the term is commonly used today, and as it is often used in Trollope's novel. Most of the characters in the narrative, however, while understanding fact as propositional (a statement that affirms or denies something), in effect determine the facts on which they base their opinions through a practice of communal knowledge—otherwise known as gossip.¹⁹

¹⁹ Green suggests: "The rumors and suspicions that circulated in the wake of a felony became the governing perceptions of the truth of the matter" (*Verdict According to Conscience*, p. 17).

Although *The Eustace Diamonds* supports Shapiro's argument about the dissemination of the concept of fact and its centrality to nineteenth-century English thought and culture, it also shows us that what Shapiro calls a "culture of fact" is far from homogenous or uniform. More often than not, the understanding of fact in Trollope's novel is closer to the word's original meaning—an event in contention—than it is to the prevailing nineteenth-century understanding of fact as an empirical, positive truth. The messier the processes of fact-making are in *The Eustace Diamonds*, the more the stability of fact and its attendant discourses are called into question. Bearing in mind Shapiro's broader argument that "the concept 'fact' that emerged in the legal arena . . . played a key role in the development of English empiricism" (*A Culture of Fact*, p. 3), we can view Trollope's novel as critiquing, or at least unsettling, the apparent preeminence of empiricism and positive law in the nineteenth century.



Given the predominance of empiricism and positive law in nineteenth-century Britain, one might have assumed that novels of the period would value empirical and objective facts over ones determined by communal knowledge. A close analysis of the dissemination of facts within *The Eustace Diamonds*, however, reveals—as I have already hinted above—that this is not the case. Rather, the empirical conception of fact is undermined and challenged by the older, communal one. Nowhere is this more evident than in the convoluted problematics of gossip and propriety as they are played out in Trollope's narrative.

Long considered trivial and unimportant as well as unethical and dangerous, gossip has been reevaluated in recent years as an inevitable and important function of social and cultural life. Legal, social, feminist, and philosophical theorists, as well as literary critics, have undertaken to give gossip due consideration, but critics disagree about its valence and function.²⁰

²⁰ See the essays collected in *Good Gossip*, ed. Robert F. Goodman and Aaron Ben-Ze'ev (Lawrence: Univ. Press of Kansas, 1994).

Some scholars, especially those considering the association of gossip with female characters, recognize that it can also have a subversive aspect.²¹

In his discussion of novelistic gossip, Ross Chambers moves from gossip as theme in the novel to gossip as the structuring element of its narrative form. He takes “the thematic gossiping in each novel as *mise en abyme de l'énonciation* and hence as an indicator of the communicational situation each work presupposes”; further, he writes, the novels’ “own self-referential apparatus asks us to think what they have in common with gossip, even though we may determine in due course that they transcend this model.”²² For Chambers—as for me—these novels that thematize knowing through gossip are also concerned more generally with narrative as a mode of knowing. Chambers identifies two functions of gossip. In the first, gossip is a means by which social groups constitute themselves and verify and maintain their cohesion. In the second, gossip functions to identify scandal, and in this way serves the group’s need to explore its system of values: “what constitutes ‘scandal’ for a given group is a very significant indicator allowing the group to keep a check on its own, presumably evolving, *doxa*” (“Gossip and the Novel,” p. 213). Gossip determines both who forms part of the group and what is the group’s ideological agenda. These functions of gossip (in real life as in its fictional

²¹ For Patricia Meyer Spacks gossip enables the inclusion of voices on the outskirts of the patriarchal order, most prominently those of women (see Spacks, *Gossip* [New York: Alfred A. Knopf, 1985]). For Jan B. Gordon it facilitates the inclusion of a subversive oral culture to challenge the hegemonic, written one (see Gordon, *Gossip and Subversion in Nineteenth-Century British Fiction: Echo's Economies* [New York: St. Martin's Press, 1996]). Casey Finch and Peter Bowen see gossip as a controlling mode of narrative surveillance and remain “unconvinced . . . that gossip has any . . . subversive or deconstructive effect. For gossip, so far from pitting itself against authoritative norms, always operates to reinforce them” (Casey Finch and Peter Bowen, “‘The Tittle-Tattle of Highbury’: Gossip and the Free Indirect Style in *Emma*,” *Representations*, no. 31 [1990], 16, n. 5). While I tend to agree with Finch and Bowen’s stance, I focus on analysis of gossip’s structure and the way it can serve diverse ideologies, often at the same time.

²² Ross Chambers, “Gossip and the Novel: Knowing Narrative and Narrative Knowing in Balzac, Mme de Lafayette and Proust,” *Australian Journal of French Studies*, 23 (1986), 213. Glynn-Ellen Fischelli notes a similar phenomenon in her discussion of legal rhetoric in *Orley Farm*: “Trollope interweaves the thematic content of discussion with the ways in which it is handled” (Fischelli, “The Language of Law and Love: Anthony Trollope’s *Orley Farm*,” *ELH*, 61 [1994], 640).

depiction) make it useful for the novelist. Most crucially for my argument here, Chambers further maintains that gossip displays a certain knowingness that constitutes “another branch of ‘opinion’: not the *doxa* that constitutes a received value-system, but that recognition of what ‘makes sense’ that defines the basis of a plausibly put together narrative” (“Gossip and the Novel,” p. 214). Understood in this way, gossip is a structure of meaning-making; it not only exhibits the cultural capital of knowing things, but also performs the ability to deploy this knowledge in a plausible, convincing, and desirable way.

With this in mind, we return to Trollope’s novel. While Lizzie is the person embroiled in the legal plot, the novel focuses on the metaphorical jury: her few friends and numerous enemies. It is they who are the “active body,” they who perform the action at the heart of the plot, and they who determine the facts. Gossip here is thus far from idle or irrelevant. The alliances that are made through gossip, and the values that are rejected or upheld, are the factors that determine both the plot of the novel and Lizzie’s fate. If, as I have said, the action that propels the plot and constitutes the characters is gossip, then *The Eustace Diamonds* represents a process of representation; it is much less concerned with what happened than with what people say about what happened. And indeed, when, toward the end of the novel, Lizzie is finally brought to trial, it is not for theft but for committing perjury, an offense of talking rather than doing.

Though *The Eustace Diamonds* is the third of the Palliser Novels, it is unique in that its plot does not affect the lives of the Pallisers themselves; they function in the novel purely as spectator-commentators. The role of gossip is thus fully realized in the Pallisers, most notably in Lady Glencora, the Duke of Omnium, and Madame Max Goesler. Moreover, since their own lives are not affected by the goings-on in the novel, their function as active spectators becomes even more accentuated. Of course, they do become involved in the plot, for they cannot do otherwise. Spectatorship, like gossip, *is* action; as gossips they influence the plot.

The novel ends as it begins: with what everyone says about Lizzie. After the last turn of events in Lizzie’s plot is recounted,

the narrator returns to the buzz of gossip that surrounds these events. The last chapter of the novel is entitled "What was said about it all at Matching," and—insofar as the fact of a rumor is concerned—it is instructive to track how the characters debate the theft of the diamonds in the following lengthy excerpt:

The affairs of our heroine were again discussed that evening, in another part of the Priory. They were in the billiard-room in the evening, and Mr. Bonteen was inveighing against the inadequacy of the law as it had been brought to bear against the sinners who, between them, had succeeded in making away with the Eustace diamonds. "It was a most unworthy conclusion to such a plot," he said. "It always happens that they catch the small fry, and let the large fish escape."

"Whom did you specially want to catch?" asked Lady Glencora.

"Lady Eustace, and Lord George de Bruce Carruthers,—as he calls himself."

"I quite agree with you, Mr. Bonteen, that it would be very nice to send the brother of a marquis to Botany Bay or wherever they go now; and that it would do a deal of good to have the widow of a baronet locked up in the Penitentiary; but you see, if they didn't happen to be guilty, it would be almost a shame to punish them for the sake of the example."

"They *ought* to have been guilty," said Barrington Erle.

"They *were* guilty," protested Mr. Bonteen.

Mr. Palliser was enjoying ten minutes of recreation before he went back to his letters. "I can't say that I attended to the case very closely," he observed, "and perhaps, therefore, I am not entitled to speak about it."

"If people only spoke about what they attended to, how very little there would be to say,—eh, Mr. Bonteen?" This observation came, of course, from Lady Glencora.

"But as far as I could hear," continued Mr. Palliser, "Lord George Carruthers cannot possibly have had anything to do with it. It was a stupid mistake on the part of the police."

"I'm not quite so sure, Mr. Palliser," said Bonteen.

"I know Coldfoot told me so." Now Sir Harry Coldfoot was at this time Secretary of State for the Home affairs, and in a matter of such importance of course had an opinion of his own.

"We all know that he had money dealings with Benjamin, the Jew," said Mrs. Bonteen.

“Why didn’t he come forward as a witness when he was summoned?” asked Mr. Bonteen triumphantly. “And as for the woman, does anybody mean to say that she should not have been indicted for perjury?”

“The woman, as you are pleased to call her, is my particular friend,” said Lady Glencora. When Lady Glencora made any such statement as this,—and she often did make such statements, no one dared to answer her. It was understood that Lady Glencora was not to be snubbed, though she was very much given to snubbing others. She had attained this position for herself by a mixture of beauty, rank, wealth, and courage;—but the courage had, of the four, been her greatest mainstay.

Then Lord Chiltern, who was playing billiards with Barrington Erle, rapt his cue down on the floor, and made a speech. “I never was so sick of anything in my life as I am of Lady Eustace. People have talked about her now for the last six months.”

“Only three months, Lord Chiltern,” said Lady Glencora, in a tone of rebuke. (*Eustace Diamonds*, II, 373–75; emphasis added)

In her last retort to Lord Chiltern, Lady Glencora trumps all attempts by the members of the party to convict Lizzie Eustace and Lord George Carruthers. If they cannot determine accurately how long they have been talking about her, then they cannot possibly know what she actually did. And indeed, in the course of these exchanges, each and every member of the party reveals his bias and interestedness in the outcome of the case. Mr. Palliser, Chancellor of the Exchequer and future Duke of Omnium, appeals to governmental authority and invokes the Secretary of State for the Home Affairs as his measure of truth. Barrington Erle’s insistence that the pair ought to have been guilty exposes his class and narrative prejudices: their conviction would have made a better or more gratifying story. His performance of what we might term his interested disinterestedness shows him to be above it all; the Eustace case is but an entertaining scandal that has no material consequence in his world. Moreover, his appeal to narrative plausibility in the form of “ought” relegates the case to the realm of fiction, or of entertainment.

Mr. Bonteen’s (correct) protestation that Lizzie Eustace and Lord Carruthers “*were* guilty” seems plaintive, an insistence

on a measure of truthfulness that has no place in this conversation. Mr. Bonteen thus reveals his peripheral social status as the lowest-ranked member—socially and politically—of the Matching party. By showing his interest and investment in the actual outcome of the case and the real events of which it is made, he underscores his own marginality. Moreover, and despite his appeal to a different ontological level of truth, Mr. Bonteen also exposes his own bias and interestedness. Lady Glencora is quick to call him on his desire to see the aristocracy punished, obliquely yet firmly reminding him in whose company and home he utters these words.

In fact, in this gossip session, as in others in the novel, Lady Glencora always has the upper hand and final word. While debunking everyone else's opinion as inconclusive, she does not say a word regarding the trial itself. Intuiting what really matters in this conversation, she is careful to point out what each of the parties has at stake in the exchange, and to remind those present that what signifies is one's alliances: "The woman . . . is my particular friend."²³ Most important, Lady Glencora's views are not accepted and respected because of their inherent rightness or even because of their superior plausibility or entertainment value. One knows that by snubbing Lady Glencora, one risks not only being marginalized in the group, but also losing the concrete social and political capital of Matching Priory as a result. In short, her views are accepted because they are the most desirable—not in themselves, but for the social and political payoff that adopting them earns. It is worth noting that the "Lizzieite" camp is largely made up of Conservatives, while the Liberals are for the most part "Anti-Lizzieites." This makes the support of Glencora Palliser, wife of one of the highest-ranking Liberals, crucial to Lizzie's campaign.

Recasting the conversation in terms of the critical debates on gossip, we see how the people in this group define themselves and redraw their lines of affiliation by confirming their

²³ Lady Glencora takes up Lizzie Eustace seemingly out of boredom and contrariness. It seems to me, however, that the future Duchess, long the subject of gossip herself, uses her current power, stemming from her "beauty, rank, wealth, and courage" to avenge—if symbolically—her own subordination at the hands of gossip and propriety. See Anthony Trollope, *Can You Forgive Her?* (1864).

power relations, affirming their ethical and social values and, most noticeably, reflecting on the way in which these values are determined. All of these activities make up the rules of this discursive mode that we generally call gossip. For when all about Lizzie is said and done, it is the Pallisers and their cohort who have the last word. In this novel they are described and constituted by and through the way in which they relate to the Eustace affair, or more specifically, by the way in which they relate the affair to one another and to themselves. Lady Glencora, in the novel's penultimate paragraph, says: "I call that woman a perfect God-send. What should we have done without her?" (*Eustace Diamonds*, II, 375). Patricia Meyer Spacks argues that this question can be rephrased as, "What should we have *talked about* without her?" (*Gossip*, p. 190). I have shown that, in talking about Lizzie, the members of the Matching Priory set establish their alliances and social identities. Or, to rephrase Lady Glencora's remark about Lizzie one more time, "How would we have known who we are without her?" In terms of the fact/law distinction, Trollope still concedes the distinction between empirical facts (the readers know what happened) and communal ones—and he shows how the communal facts trump the empirical facts, thus complicating the perceived dominant influence of positive law on realist novels.



Having shown how both gossip and legal facts are determined through communal processes, I now move on to make the corresponding claim that propriety is also a measure and indicator of a communal ideology, constitutive of the very community that determines its rules. Much of what is considered proper is confirmed and reinforced through gossip. What might be less obvious, however, is how in *The Eustace Diamonds* propriety joins gossip in engaging the problematic of facts and in further relating it to the question of fiction.

When Lord Fawn awkwardly proposes marriage to Lizzie Eustace, his biggest mistake is assuming that he and Lizzie share a sense of propriety. He assumes a certain standard of behavior on Lizzie's part: he supposes that she might renege on

her consent when she realizes how poor he is (which he would consider proper behavior), but, at the same time, he could not anticipate that she would ever be accused of anything as improper as stealing her late husband's family jewels. Lizzie, of course, proceeds to behave improperly. She both steals the diamonds and wants to hold on to the engagement. Lizzie stupefies this orderly world by flouting expectations, and the legal situation that she creates is thus one that could never be foreseen by the more proper members of society. By improperly recontextualizing the "facts," Lizzie also relativizes them, undermining their unequivocal stability.²⁴ John Eustace's comment that Lizzie "would make an excellent lawyer" (*Eustace Diamonds*, II, 302) reflects her ability to recontextualize moral or legal dilemmas in ways advantageous to her. Unlike all of the other characters in the novel (except for Lady Glencora), Lizzie recognizes the truth of community as the powerful yet pliable force that it is.

Mr. Camperdown, the lawyer, is Lizzie's foil and nemesis. While neither he nor Lizzie is a member of the aristocracy, both of them owe their livelihood and identity to their relationships with its members. Lizzie marries Sir Florian Eustace and, after his death, is engaged to Lord Fawn; Camperdown is family lawyer to both the Eustaces and the Fawns. Despite the seemingly closer connection implied by marriage, however, Lizzie always remains an outsider, while Camperdown is almost a de facto member of the family: "Mr. Camperdown was a gentleman of about sixty, who had been lawyer to Sir Florian's father, and whose father had been lawyer to Sir Florian's grandfather. His connection with the property and with the family was of a nature to allow him to take almost any liberty with the Eustaces" (*Eustace Diamonds*, I, 36–37). As the narrator implies, Camperdown's connection to the Eustace family is through his role in the preservation of their property, accentuating the historical, social, and etymological connection between property and pro-

²⁴ Walter Kendrick argues that Lizzie is and remains ignorant: "though Trollope probably learned something about the law from writing *The Eustace Diamonds*, and though the reader may learn something from reading it, Lizzie learns nothing at all" (*The Eustace Diamonds: The Truth of Trollope's Fiction*, p. 137). I contend that she actually learns a great deal.

priety. In his discussion of Camperdown, R. D. McMaster shows how “Trollope agrees with [Edmund] Burke in seeing a spiritual congruity between the descent of entailed property, the life of the nation, and the idea of society” (*Trollope and the Law*, p. 76). Utterly successful in his role of family lawyer, Camperdown both comes to signify definitive propriety for his clients and personifies truth and authority, as the narrator explains:

That Mr. Camperdown should be in the wrong in such a matter was an idea which never occurred to Lord Fawn. There is no form of belief stronger than that which the ordinary English gentleman has in the discretion and honesty of his own family lawyer. What his lawyer tells him to do, he does. What his lawyer tells him to sign, he signs. (*Eustace Diamonds*, I, 91)

Unfortunately, this lawyer is often wrong. Lord Fawn’s belief that Camperdown is always right does not stem from his ability or past experience, and it is not even based on their real relationship. Rather, as McMaster notes, Camperdown’s “devotion is more than a matter of long connection” (*Trollope and the Law*, p. 78). It is a matter of status and propriety. In a relationship such as this, a lawyer could never be wrong; the option is simply not within Fawn’s horizon of possibility. It is interesting that the honesty of such a lawyer is coupled with discretion. As the gentleman’s agent in the public world, the lawyer is relied on for his discretion, for the careful regulation of what must be exposed to the public and what should remain concealed. The narrator, however, implies that this reliance can go too far, to the point of identification between lawyer and law. At one point Lord Fawn tells Frank Greystock, the up-and-coming young lawyer, gentleman, and conservative politician: “I go by what Camperdown tells me.” Frank quickly responds:

“Mr. Camperdown is a very excellent attorney, and a most respectable man. . . . I have nothing on earth to say against Mr. Camperdown. But Mr. Camperdown isn’t the law and the prophets, nor yet can we allow him to be judge and jury in such a case as this.” (*Eustace Diamonds*, I, 146)

Lord Fawn reacts in horror: “Surely, Mr. Greystock, you wouldn’t wish it to go before a jury.” English gentlemen trust their

lawyers—and their lawyers’ discretion—to prevent their matters from going before juries. Juries in this case represent the realm of the public, a dangerous, unknown place for the likes of Lord Fawn, who cannot make sense of a world that does not partake of his understanding and practice of propriety. This larger public is unpredictable because it does not share the same cultural and social horizons or behave according to the values of his smaller world.²⁵ In the case of Lord Fawn, the logic of positive law is turned on its head. He prefers the jury of his real peers (in both senses of the word) exercising the internalized and nebulous authority of propriety over that of a jury examining “facts” in an ostensibly objective manner. The promise of impartiality offered by the jury trial is threatening to Lord Fawn, who much prefers to remain a part of his knowable community.

It is significant—and ironic—that in order to protect and preserve his vision of propriety, Camperdown behaves illegally. In his zealotry to protect the Eustace estate and property from the plunder and impropriety of Lizzie, he acts against the express orders of John Eustace, Sir Florian’s brother and executor, as the narrator describes:

When therefore John Eustace, in regard to those diamonds, had pleaded that the heir in his long minority would obtain ample means of buying more diamonds, and of suggesting that the plunder for the sake of tranquillity should be allowed, Mr. Camperdown took upon himself to say that he’d “be——if he’d put up with it!” (*Eustace Diamonds*, I, 37)

²⁵ Marianne Constable contrasts the principle of “personal law” to that of positive law. In personal law, “the judgment of a person must be according to the law or customs of that person’s community; such judgment must be by those with knowledge of those customs or—what amounts to the same thing—by those who share in those customs and belong to the same community” (*Law of the Other*, p. 25). With the advent of positive law, however, the link between that claimant and the jurors that would replace the “countryman bond” was that of impartiality: “in the nineteenth century, citizenship or lineage became matters of statutory definition, and impartiality, which had provided a reason *not* to distinguish *among* aliens, could not simultaneously serve to distinguish *between* aliens and natives, either for the purpose of claiming or of serving on the mixed jury” (*Law of the Other*, p. 128). As a result, Constable notes a strange inversion: “where once all were insiders of communities who knew their own law, all are now observers of a world that posits truth of fact” (p. 147). While in Constable’s analysis the communal serves as an important, if forgotten, alternative to positivism, however, Trollope in *The Eustace Diamonds* seems to side with the positivist approach.

Secure in his social and fiscal powers, John Eustace is willing to forgo the diamonds for the sake of “tranquillity.” Camperdown’s entire social standing, however, is invested in the link between propriety and property; it makes him indispensable to these great families. In a letter, he informs Frank Greystock: “we have been instructed by the executor of the late Sir Florian Eustace to file a bill in Chancery against the widow, Lady Eustace, for the recovery of valuable diamonds” (*Eustace Diamonds*, I, 278–79). Here, quite simply, Camperdown is lying: John Eustace has not instructed him to file the bill, but in fact has explicitly instructed him not to do so.

It is most fitting that the legal question that is the nexus of these conflicts between Lizzie Eustace and Camperdown is one of heirlooms, whose legal status is also a hybrid of positive law and the older law of custom. In denying Lizzie’s right to the diamonds, which she (untruthfully) claims were given to her by her late husband, Camperdown wishes to claim the necklace as an heirloom, and therefore nontransferable. The idea of the heirloom itself entails ideas of custom and of the inalienability of property from personhood (thus the Eustace diamonds must always belong to a Eustace). Camperdown—a shrewd man in business but not very knowledgeable in the law—turns to Mr. Dove, the learned legal counsel, for his opinion.²⁶ The law of heirlooms, as Dove explains, is a recognition and validation of custom by positive law (recognizing this custom as part of the positive law) and thus a containment of these two seemingly incongruous legal philosophies. Mr. Dove remarks: “The Law, which, in general, concerns itself with our property or

²⁶ Camperdown’s search for legal advice curiously echoes Trollope’s. After having been harshly criticized for mistakes in his representation of the law in *Orley Farm*, Trollope famously sought legal counsel for the complicated legal plot(s) of *The Eustace Diamonds*. And indeed, while questioning the accuracy of Mr. Dove’s opinion and providing a comprehensive analysis of Victorian property law, and specifically of entails and heirlooms, Alan Roth argues that *The Eustace Diamonds* is not only an entertaining tale but also “the greatest property law hypothetical ever” (Roth, “He Thought He Was Right (But Wasn’t): Property Law in Anthony Trollope’s *The Eustace Diamonds*,” *Stanford Law Review*, 44 [1992], 879). For an analysis of Victorian contract law through *The Eustace Diamonds*, see Simon Gardner, “Trashing with Trollope: A Deconstruction of the Postal Rules in Contract,” *Oxford Journal of Legal Studies*, 12 (1992), 170–94.

lives and our liberties, has in this matter bowed gracefully to the spirit of chivalry and has lent its aid to romance" (*Eustace Diamonds*, I, 259). The laws of heirlooms are not meant to protect property for its own sake, but only as it represents "time-honoured dignity" and honor, which are, by implication, beyond the positive-law concerns of "property or lives, and . . . liberties." As the preservers of this time-honored dignity, these laws cannot be used "to settle a simple dirty question of money, which, with ordinary prudence, the rich man should himself have settled before he died" (*Eustace Diamonds*, I, 259). The true culprit of this sorry state of affairs, as described by Mr. Dove, is the late Sir Florian Eustace, who behaved without "prudence," and hence improperly for a gentleman of his stature, in not specifying the fate of the diamonds in his will. But this, the novel implies, is only the last of a series of improprieties committed by Sir Florian, beginning with his very marriage to Lizzie and continuing through his generous gifts and liberal settlement to her after his death. In fact, it is precisely this impropriety that Camperdown is trying so desperately to correct. It is ironic that Camperdown, who has tried to invoke the chivalric notion of heirlooms in the name of propriety, is ultimately associated with the "dirty," "simple" question of money. The result of this analysis is that Lizzie is the one allied with chivalry, dignity, and honor.

Moreover, Camperdown uses the law to pursue Lizzie Eustace precisely because she breaks the laws of propriety, not because she has legally stolen the diamonds. What Camperdown cannot reconcile himself to is the impropriety of Lizzie's retention of the diamonds. In his world, where law works in the service of propriety, whatever upholds the dignity of a great family is just and hence should be legal. As a result, Lizzie's improper actions are by necessity also illegal; to him any other option is unfathomable. Lizzie realizes how Camperdown's legal mind works because she is able to differentiate between facts that are empirical and those established by public opinion—and whether or not those facts can be proven. Most crucially, she is also able to extrapolate a similar differentiation in the law:

Of what was wrong and what was right she had a distinct notion. She knew well enough that she was endeavouring to steal the Eustace diamonds; but she did not in the least know what power there might be in the law to prevent, or to punish her for the intended theft. She knew well that the thing was not really her own; but there were, as she thought, so many points in her favour, that she felt it to be a cruelty that any one should grudge her the plunder. (*Eustace Diamonds*, I, 55)

Almost everyone in the novel thinks that Lizzie is trying to steal the diamonds, but they also recognize that this attempted theft cannot be proven. Since the reader knows the facts posited by the narrator (namely, that Lizzie is indeed trying to steal the diamonds), the empirical truth *of* the novel is aligned not with the legal truth *in* the novel but rather with its gossip and propriety. What is unjust in the novel is, *in fact*, illegal. The conventions of fiction—that the facts supplied by the novel are always true—place truth with the facts created by gossip and propriety, not with those of the law. (To be sure, narrators can be unreliable, but their unreliability exists only if their narrative can be measured against the “real” facts supplied by the novel.)

The question then becomes one of spin—the narrative in which the events will be couched. This observation brings us back to the action of this novel, that of “talking about” as the primary mode of determining facts. For the most part, the characters—though not the readers—have no empirical ways of verifying the facts. Lizzie Eustace puts it best, in her characteristically simple yet insightful manner: “But [the necklace] was [given to me.] Who can know but I myself, when no one else was present?” (*Eustace Diamonds*, I, 238). Her remark succinctly sums up the shift from the empirical to the communal. The empirical fact being unavailable, the manner of determining facts is intersubjective, or communal, as the prevailing fact will depend on the number and quality of people who adopt a certain story. Lizzie’s strength is in her ability to change the terms of the debate and to create a different factual situation from the same events, and subsequently to make her narrative the most socially desirable and effective one.

The true proponent of positive law in the novel is the learned Mr. Dove, whom the narrator describes:

Mr. Thomas Dove . . . was a counsel learned in the law. He was a counsel so learned in the law, that there was no question within the limits of an attorney's capability of putting to him, that he could not answer with the aid of his books. . . . *When Mr. Dove had once been positive, no man on earth was more positive.* It behoved him, therefore, to be right when he was positive. (*Eustace Diamonds*, I, 225; emphasis added)

Dove's knowledge is unequivocally book knowledge. He is not interested in the commonality of the common law, but only in those elements—statutes or judicial opinions—that have been inscribed in the books and have therefore become part of positive law. Dove's opinions can therefore be proved right or wrong; they are empirically verifiable. Even though he shares Camperdown's disdain of Lizzie Eustace and her actions, he cannot and will not let that fact influence his legal assessment. The "Turtle Dove," as he is sarcastically referred to by his colleagues, is described as almost inhuman in his adherence to the letter of the law and in his obsession with being in the right.

In conclusion, the confrontation between Lizzie Eustace and Camperdown is not a neat representation of a clash between two approaches to determining facts, empiricist and communal. Rather, it is through this clash that the inextricable traces of the communal approach in the empirical are made evident. Since an empiricist approach does not work for the purpose of Lizzie or Camperdown, and since both will do anything to serve their purposes, they both rely on a communal approach. The differences lie in their understanding of this commonality. Along with Lord Fawn, Camperdown relies on a static understanding of community, a more conservative approach that sees the common as stable, unchanging in its values and its members (or at least in its type of members). In contrast, Lizzie knows that the common is unstable and that the common law, based as it is on commonality, has an ability to shift its dogmas and communities, much like gossip. In this understanding, "fact" is less an empirical object and more

of a process of creating. One could playfully say that Camperdown's approach is one that predates empiricism, while Lizzie's is of a more postempiricist variety. These are also the differences that would make Lizzie a far better lawyer than Camperdown.

As we have seen, the excited and intricate debate over Lizzie Eustace's conduct and its consequences is carried out in genteel (and less genteel) parlors, gardens, and dining rooms as well as in newspapers, lawyers' offices, pawn shops, courts of law, and the corridors of parliament. The public debate, as well as the actions taken as a result, portrays a society obsessed not with truth itself, but with who is aligned with what is communally perceived as truth. The "truth" in which one believes—the set of facts on which one draws to form an opinion—aligns the believer with one community or another. In turn, the self-same opinion works to establish or to confirm a set of people as a group. Most of the action in *The Eustace Diamonds* stems from this impetus: the desire to belong to an elite governing group. This desire requires the ability to recognize the prevailing truth at the same time that it is being shaped.



Moving from facts in the novel to the fact of the novel, I now return to the argument that the work of narration in *The Eustace Diamonds* is also best understood as a mode of fact-making, one that is ruled by the probable. Earlier I argued that the moment that best exposes the communal within the empirical is signaled when Lizzie Eustace says: "But [the necklace] was [given to me.] Who can know but I myself, when no one else was present?" The empirical fact being unavailable here, the manner of determining facts is intersubjective, or communal, as the prevailing fact will depend on the number and quality of people who adopt a certain story. I now add that this moment also marks the transition to the realm of fiction. In Lizzie's experience of the drama, she is not really stealing the diamonds, or not exactly. In Lizzie's eyes, Sir Florian could have given her the diamonds, and probably should have given her the diamonds. Had that been the case, what right would all

those people have to deny her rightful ownership of them? That she knows that her late husband did not actually give them to her becomes a small, almost marginal fact in light of the injustice that she feels she faces. But it is the inaccessibility of this fact—no one was in the room when Sir Florian Eustace allegedly gave his wife the diamonds—that enables the realm of fiction (signaled in Lizzie’s logic by what could have been, would have been, should have been) to take over.

In his reading of Aristotle’s *Rhetoric*, Robert Newsom remarks that “probabilities come up in the context of the discussion of how one argues when there are *no* witnesses to speak for or against a point” (*A Likely Story*, p. 23). Lizzie’s fabrication exemplifies, if ironically, the paradox of truthful fiction. In this paradox the probable—what could have been—takes precedence over what had actually happened, because in fiction what actually happened is by definition unavailable. The probable, as those elaborating on Aristotelian theories of fictionality and verisimilitude have repeatedly shown, is the mode through which fiction is truthful. Through probability’s ostensible reliance on empirical experience—that is, on a statistically verifiable state of affairs (e.g., what certain kinds of people are likely to do in a certain kind of situation)—fictionality has been closely linked to an empiricist epistemology.

In her discussion of probability and liberalism, however, Irene Tucker opens a way to reconsider the link between empiricism and probability. She argues that probabilistic knowledge is not static but rather a structure of knowing that extends through time: “knowing is a process with its own causality, and the distinction between knowing and doing, between epistemology and ontology, becomes less and less sustainable” (*A Probable State*, p. 26). Moreover, it is “the condition within which individual [liberal] subjects act and imagine their relations to one another” (p. 26). Tucker writes: “I understand the concept of ‘probability’ to describe not only a mode of knowledge—a bow toward empiricism—but a set of attitudes regarding the possibility and conditions of knowledge. . . . Probability acts as a self-conscious reflection on the empirical” (*A Probable State*, p. 28). Taking up this opening, I conclude this essay by looking at the nature of realist narration, arguing that the

probable of the realist novel is also indebted to a communal as well as an empiricist epistemology.²⁷

While the narrator in *The Eustace Diamonds* mocks both Lord Fawn's and Camperdown's antiquated and misplaced senses of propriety, he himself sides with propriety. This bias is evident not only in the content of the narrator's remarks, but also in the work of narration as a whole. The novel's own horizon of possibility is limited by an understanding of what is proper, and interpolates the reader into this shared sense of propriety. As in the diegesis, propriety here is at the same time an objective, probable state of affairs and a communal one, produced through a repeated mutual affirmation by narrator and readers. While Trollope's story abounds with uncertainties and conjectures, its discourse does not; the narrator and the implied reader do not share the characters' dilemmas or anxieties. For them there is only one right answer or one "true" choice. Through his countless asides to the reader, the narrator creates yet another sphere of communal truth, another jury that stands in judgment over the novel's characters.

Walter Kendrick elaborates on the relationship forged between the reader and narrator vis-à-vis the narrator's truthfulness:

the characters must somehow make their way through . . . a maze of lies, counterlies, half-truths, and whole-cloth fabrications. The reader has an easier time of it, since he can rely on the narrator to sift out true from false for his benefit. Yet the reader's enterprise is more complex than the characters', because in addition to following their strategies he must also follow those of the narrator. It hardly helps matters that what the narrator writes is always true. (*The Eustace Diamonds: The Truth of Trollope's Fiction*, p. 141)

It is of crucial importance that what the narrator writes is always true in two ways, the first enabling the second. First, our narra-

²⁷ Robert Newsom notes the communal nature of Aristotle's probable: he describes it as "having a kind of not merely anonymous but collective authorship" and "being, in effect, communal property"; "what is probable is known by the generality of mankind or by common sense to be true" (*A Likely Story*, pp. 24–25).

tor is always correct in the facts that he imparts in the diegesis; he is an exemplarily reliable narrator. Second, and more complexly, this reliability moves almost imperceptibly from his recitation of the facts in the story to the worldview that he espouses through his telling of the story. In other words, that the narrator is always truthful is part of his strategy for imparting an ideology of fiction. Much like gossip, the meeting of horizons of the novel and its implied readers is reifying. The reader is interpolated into the doxa imparted by the novel, and the novel's horizon is presented as the only one probable and, as a result, possible. Moreover, the narrative posits its own horizon as inevitable as well as desirable. Just as Lady Glencora's worldview is desirable not because of what it is but because of the social payoffs that it affords, so too does the novel posit its facts.

These facts, however, are not proven by the narrative—their fictional status makes them impossible to prove—but rest yet again on status and on realistic convention. As I have demonstrated in my discussion of jurymen in the early common law and of the gossipers surrounding Lizzie Eustace in the novel, the determination of fact and truth resides less in the statement than in the quality and quantity of those individuals who state it. The reliability of the narrator's claims for truth depends, on the one hand, on his structural role of realistic narrator and, on the other hand, on an apparently stable system of morality that he shares with his implied readers. The two—not coincidentally—support each other and reify the (moral and literary/structural) assumptions on which they rest. The jury of implied readers can determine “the facts” not because they are empirically proven to them—being fictional, they cannot be proven—but because they answer to a certain set of expectations, both literary and nonliterary. The ostensibly empiricist epistemology of the probable is thus also communal, created by an ongoing negotiation between the narrator and reader.



In her analysis of Trollope's writing, Coral Lansbury shows how Trollope's experience as a civil servant, and especially as a writer of reports, trained him in the legal

tradition of John Frederick Archbold. Archbold's treatise on legal reasoning served as a model for civil service procedures, requiring information that was "certain, positive and true."²⁸ Trollope's narratorial rhetoric espouses a stable, positive, factual universe; the narrator's discourse assumes an inherently knowable, empirically verifiable state of events. The facts in *The Eustace Diamonds* (i.e., those supplied by the narrator to the reader), however, are not those gained through an empirical epistemology but those that correspond to the novel's sense of propriety. The "real" truth is that Lizzie steals the diamonds and that her behavior is not only improper but, in fact, criminal. Trollope thus creates identifications between truth and propriety, privileging the forces of propriety. In Trollope's fictional world, the real facts are unknowable to most of the characters, and as a result the improper prevails and Lizzie has the upper hand. But for the reader, for whom the facts are not in dispute, the alliance between propriety and facts is complete, imperceptibly making the proper almost inherently true. The facts *of* the novel (though not the facts *in* the novel) tacitly support the equation of impropriety with dishonesty. The final irony is that it is the fiction in this novel that is strictly factual; the facts are only verifiable to the readers, those who recognize them as fiction. While the truth *in* fiction (the truth in the story) is elusive, indeterminate and indeterminable, the truth *of* realist fiction (the truth of its discourse) is unequivocal.

In sum, we can see that, as opposed to the more radical inquiry into the production of facts that is staged in the story and through its characters, the discourse between the narrator and his implied readers is one in which facts are stable and opinions are based on intrinsic morality and conservative—and unchanging—values, thus establishing an absolute mode of truth as opposed to the more open, relativistic one of the novel itself. In creating *The Eustace Diamonds*, Trollope thus employs an empiricist discourse, but he creates a communal order of truth. The conventions of fiction require that readers trust the implied author and the narrator if he or she is presented as reli-

²⁸ See Lansbury, *The Reasonable Man: Trollope's Legal Fiction* (Princeton: Princeton Univ. Press, 1981), p. 90.

able; the fictional facts posited by the novel are always true. But in the novel before us, where so many facts are unstable, where the processes of fact-making are so murky, where the very concept of fact is called into question, one cannot help reconsider the truth of its narrative discourse. Since the narrator is supremely reliable, the erosion of the status of facts in the novel do not reflect on him, but on the conventions of fictional facts in novelistic discourse. The problematics of legal and nonlegal fact-making in *The Eustace Diamonds* ends up being a reflection on fictionality itself as well as on the principles of positive law.

Does the unequivocal fact-determination of the narrative quash the more radical challenge to fact-making in the novel? Or does the *mélange* ultimately subvert the rigid, conservative narrative structure? Arguments could be made on both sides. I circumvent this question and leave open the analysis itself, in order to look at the way in which these conceptions of fact work together to create, and problematize, fiction. The tension between the radical examination of fact-making and its conservative foreclosing—as brought out by the inextricability of the empiricist and the communal in the narrative structure of this novel—is thus better left unresolved. In this precariously balanced state, it has the potential to reveal the work of fiction and the production of fact in and of the Victorian novel.

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ABSTRACT

Ayelet Ben-Yishai, “The Fact of a Rumor: Anthony Trollope’s *The Eustace Diamonds*” (pp. 88–120)

This essay joins recent scholarship on the epistemology of realist fiction by investigating the role of facts in the creation of fiction. Close scrutiny of Anthony Trollope’s *The Eustace Diamonds* (1872) reveals several different processes of fact-making: legal ones as well as nonlegal communal endeavors such as rumor, gossip, and the regulation of propriety. The neat division whereby legal facts belong to the realm of the empirical and the facts of rumor belong to the communal does not hold in the novel, however: underneath the surface of almost any empirical and legal fact are traces and residues of a communal endeavor. The instability of facts and fact-making in the novel prompts a reconsideration of the epistemology of realist form and of novelistic probability: just how are fictional facts determined? Building on Irene Tucker’s understanding of probability as a self-conscious reflection of the empirical, the essay argues that the ostensi-

bly empirical epistemology of fictional probability is also a communal one. Moreover, the secular empirical rules of realism are not as stable—or empirical—as we have come to understand them. In the legal realm, this epistemological reconsideration shows how literary realism has drawn on the law not only to ground its famously empirical discourse but also to anchor novelistic truth in a communal endeavor. *The Eustace Diamonds* thus problematizes not only the production of fact in the novel but also the empiricist, positive-law tradition from which this concept emerged.

Keywords: Anthony Trollope; *The Eustace Diamonds*; Law and Literature; Positive Law; Fictional Probability