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The Imperial Anxieties of a Nineteenth-Century Bigamy Case

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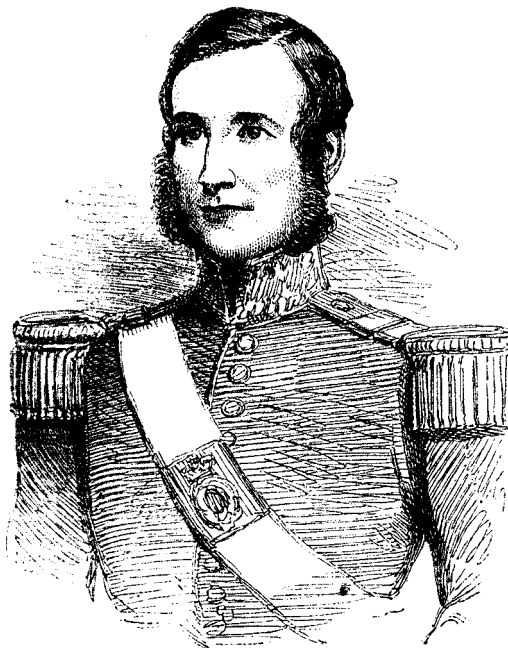
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Courtesy of the director and librarian, John Rylands University Library of Manchester.

Fig. 1. Portrait of Theresa Longworth.



Courtesy of the director and librarian, John Rylands University Library of Manchester.

Fig. 2. Major Yelverton.



Courtesy of the director and librarian, John Rylands
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Fig. 3. Major Yelverton's First Thoughts of Dishonour.

The Imperial Anxieties of a Nineteenth-Century Bigamy Case by Rebecca Gill

'A man might have a wife in each of the three kingdoms although polygamy was not permitted.'

James Whiteside, QC, MP, House of Commons, 1862

In late February 1861 the Dublin Court of Common Pleas sat to consider a case of bigamy brought by an English woman against a member of the Irish gentry. Bigamy trials were not uncommon, yet the case of *Thelwell v. Yelverton* was of sufficient piquancy to induce elite Dublin society to fight for a seat in the public gallery.¹ At a time when legislative reform and a new ethnography of marriage were challenging the sanctity of monogamous matrimony, a British aristocrat with multiple wives had significant cultural purchase to command audiences beyond the courtroom. Extensive newspaper reports of the trial exposed the threat posed by a 'secret' spouse to the security of the Victorian domestic ideal, inspiring sensation novelists to thrill their readers with the attendant perils of illegitimacy and lost inheritances. In a series of protracted twists, the case eventually came to be heard by jurists in three of the kingdom's capitals, in the process exposing the distinctions between Irish, Scottish and English marriage law on which the case turned. James Whiteside MP, barrister at the Irish trial, only joked in

suggesting that, 'a man, instead of being comforted by one wife, might have the advantages of having three wives – one in England, one in Ireland and one in Scotland', nevertheless, his sarcasm revealed profound fears over the security of the monogamous union.²

The case rested on establishing whether ceremonies gone through during the romantic liaison of Maria Theresa Longworth (or Yelverton) and the defendant, the Honourable William Charles Yelverton, heir to the Irish Avonmore estates and a Brevet-Major in the Royal Artillery, constituted a valid marriage.³ Defendant and pursuer had first met in 1852 on the cross-Channel steamer on which Theresa, the daughter of a Manchester manufacturer, was returning from her French convent education. The two maintained an amorous correspondence and the relationship blossomed when the pair met again during the Crimean War when Yelverton was stationed at Sevastopol and Theresa was a nurse with the French Sisters of Charity. They then resumed their romance in Edinburgh where Yelverton was billeted. According to the prosecution, this culminated in the couple marrying by a clandestine exchange of vows; the Major denied that, maintaining that the pair had indulged only in illicit sexual relations with no thought to marriage. Defending her reputation, Theresa swore that she had remained chaste after the 'Scottish' marriage until they had celebrated Catholic nuptials whilst on a trip to Ireland. The Major alleged that this ceremony amounted merely to a Catholic blessing for their affair, procured to ease Theresa's conscience.

The couple proceeded to live as man and wife, sharing a room on a visit to Theresa's friends Mr and Mrs Thelwell and then living together in France, until Yelverton's recall to his unit in April 1858. Theresa, now apparently pregnant, sent to Ireland for her marriage certificate.⁴ Mr Mooney, the officiating priest, obliged, but forged the names of two witnesses. Theresa returned to Edinburgh to join Yelverton, who unsuccessfully encouraged her to emigrate to New Zealand, promising he would follow. It then emerged that on 28 June 1858 Yelverton had publicly married Mrs Emma Forbes, an Edinburgh widow, already pregnant with the first of Yelverton's two sons.

Theresa launched proceedings against Yelverton in the Scottish courts on the grounds of bigamy. Yelverton instituted a counter-suit of 'declaration of freedom and putting to silence', which the Court of Session combined in one action.⁵ Meanwhile, Theresa instigated proceedings for restitution of conjugal rights in the new Court for Divorce and Matrimonial Causes, but this was thrown out for lack of jurisdiction. The Major had Irish residency and Theresa, as his wife, had no domicile of her own. In a ruling which foreshadowed much of the later controversy surrounding the case, it was decided that for the purpose of the question of the jurisdiction of the Court, 'Ireland and Scotland are to be deemed foreign countries'.⁶

Theresa now turned her attention to the Irish courts. In a clever legal

manoeuvre, Theresa's friend Thelwell acted as a 'stalking horse'. He accused Yelverton of failing to honour a debt accrued by Theresa when she had lodged with him. Prevented in law from entering a contract in her own right, a married woman's arrears passed to her husband. In trying to establish Yelverton's liability for the debt, the prosecution sought recognition of his status as Theresa's husband by default. This arrangement also enabled Theresa to appear in court as a witness and thereby bypass impediments which prevented a wife from testifying against her husband. Yelverton's defence argued that no valid marriage existed: the Scottish ceremony was a fabrication, and the Irish nuptials were nullified by the civil law that prevented a Catholic priest performing 'mixed' marriages between a Protestant and a Catholic.

Expert witnesses testified to the marriage law in Scotland and Ireland. To a fascinated public they demonstrated discrepancies in law and custom between each of the three kingdoms. In England, Lord Hardwicke's Act of 1753 decreed all marriages (Jews and Quakers excepted) had to be celebrated by an Anglican clergyman and required, under penalty of nullity, the publication of banns, a licence, witnesses, and registration. In 1836, marriage by a registrar without recourse to a spiritual authority was sanctioned. In Ireland these laws extended to members of the Established Church, but excluded Protestant Dissenters and Catholics. Catholic marriages were regulated under Canon Law by the decree known as 'Tametsi' (1563).⁷ The officiating priest had to ensure that the parties were practising Catholics of at least one year's standing, that witnesses were present and that it was recorded in the parish register. Technically, 'Tametsi' only applied if both parties were Catholic, however, the priest was also bound by civil legislation passed in 1745 which forbade the marriage of a Catholic and a Protestant by a Catholic priest, rendering such a marriage void and the priest guilty of felony.

In Scotland, civil marriage law was based on Roman Catholic Canon Law prior to 'Tametsi'. Thus the requirement of publicity was absent in Scotland, but, in practice, most marriages in Scotland were 'regular' in that they were performed publicly by a member of the clergy after due publication of banns. Yet three forms of clandestine marriage were equally recognized: evidence of a private exchange of vows; sexual relations following a promise of marriage; and cohabitation as man and wife, known as 'habit and repute'.⁸ Thus while English law privileged publicity and state regulation, Irish Catholic law instituted the independent rights of the Church over sacramental matrimony, and Scottish customs considered marriage to be a natural contract between two consenting parties and as such immune from state intervention.

Theoretically, therefore, with regard to the Yelverton case, the laws of Scotland and Ireland would uphold the clandestine nuptials and the Catholic service respectively. Without documentary evidence, however, the onus was on Theresa to establish that such ceremonies had in fact taken

place.⁹ Circumstantial evidence was presented in the form of the pair's love-letters, but incomplete and making no direct allusion to marriage, these were open to interpretation.¹⁰ Theresa thus relied on convincing the jury with her performance in court. This was not necessarily to her disadvantage. Theresa was a consummate public speaker, able to captivate her audience with her poised charm and apparent sincerity. Transcripts of the trial reveal a cultured, articulate speaker with the confidence and wit to fence with defence lawyers.¹¹

Lacking paper evidence the prosecution appealed to social convention. Theresa's counsel, Mr Whiteside QC, addressed the jury in florid, melodramatic fashion. He depicted Theresa as an archetypal innocent 'heroine' torn asunder from her lawful husband, who, he argued, had only married Mrs Forbes on pain of losing his inheritance:

You cannot restore her to the husband she adored or the happiness she enjoyed; you cannot give colour to that faded cheek, nor lustre to that eye which has been dimmed by many a tear; you cannot relieve the sorrows of her bursting heart; but you may restore her to her place in society.¹²

Whiteside made numerous reference to Theresa's convent education and her work assisting the French Sisters of Charity, calling on the jury to '[t]race her conduct up from the time she sat within the walls of the convent until she comes to this box to tell the story of her multitudinous sorrow'.¹³ Repeated association between Theresa and the Catholic Church won her strategic favour in the courtroom of a predominantly Catholic country and no doubt also with the five Catholics on the jury.

The defence case rested on an alternative scenario, but one based no less on an appeal to social and literary convention. Yelverton was characterized as a heartless seducer, willing to compromise Theresa's virtue, but unwilling to marry someone lacking money or rank. The Dublin press labelled him 'every inch a roué'.¹⁴ The upper-class profligate was a familiar stock-type of popular fiction. Anna Clark has identified 'bourgeois heroines struggling with aristocratic villains' in chapbooks, sentimental and gothic novels and ballads of seduction such as 'Undaunted Mary' and 'The Squire and the Milkmaid'.¹⁵ Yelverton's more *outré* statements met with jeers from the public gallery, especially his claim to have attempted Theresa's virtue whilst she was dressed in her Sisters of Charity robes. His moral culpability was his strongest defence against the alleged Scottish marriage – for, his defence claimed, if he had managed to make a mistress out of Theresa, why marry someone without rank?

In addition, fellow soldiers in Yelverton's regiment were called to attest to his Protestant faith, which, if proved, would nullify the Irish nuptials. The prosecution countered by calling Father Mooney, the officiating priest at the Irish service, but he only cast further doubt on the Major's faith, testifying,

rather confusingly, that Yelverton had declared himself a 'Protestant Catholic' before the ceremony.¹⁶

Theresa, meanwhile, was portrayed as an adventuress, complying with Yelverton's wishes in order to secure marriage to a member of the gentry. Immoral French sentimental novels, had, the defence argued, corrupted her and inspired her to recreate their plot lines in real life:

During the last ten to twenty years – just when this young woman was likely to have books of amusement put in her hands – the French press has teemed with novels . . . in which one would suppose the whole effort of the authors was to turn everything glorious in our nature into contempt and derision . . . There is always a danger of young people . . . having their minds tainted by books of this description . . . in the novels to which I have referred, the cause of truth between man and woman in their relation to each other, is the thing that is most discountenanced and ridiculed.¹⁷

On 5 March, after a ten-day trial, the jury were charged with deciding whether the Scottish or Irish marriages were valid. They were advised that if either marriage could be proved good then Theresa would be ruled Yelverton's lawful wife. His marriage to Mrs Forbes would be rendered invalid and their children illegitimate. Despite any documentary evidence attesting to the Scottish nuptials, and the doubt surrounding the Major's supposed Catholicism at the time of the Irish service, the jury found in favour of both marriages. Theresa's protestations of 'wounded innocence' had met with considerable sympathy, while it would appear that Yelverton had succeeded only too well in persuading the jury of his debauchery: the public gallery, journalists, and most probably the jury, were unwilling to distinguish his moral from his legal guilt. Whether legal rather than poetic justice was attained was open to question.¹⁸

Success in the Irish courts by no means confirmed Theresa's identity as Yelverton's wife. The Irish court had sat to consider the case of a disputed debt – the question of Theresa and Yelverton's marital status, technically incidental, was established 'in fact' only, not 'in law'. In November 1861 the civil action launched in Edinburgh came to court. As *The Times* remarked 'it is a mere question of time when an English Yelverton case will become the subject of public curiosity, Miss Longworth will be able to boast that her *status* has been a bone of contention between the Courts of the three kingdoms'.¹⁹ The public had not long to wait. In July 1862 the Lord Ordinary of the Outer House of the Court of Session in Edinburgh pronounced that the court, 'Finds that the said pursuer has not instructed that she is the wife of the said defender'.²⁰ Theresa responded by successfully appealing to the Inner Court of Session in November 1862, which overturned the decision of the lower court. Yelverton in turn took the case on appeal to the House of Lords, the highest court of appeal in the land. In

July 1864, the Law Lords ruled in favour of the Major, finding, after studying the pair's love-letters for any mention of marriage, that insufficient evidence existed to establish a Scottish ceremony, and that Yelverton 'born and bred a Protestant' could not be married by a 'Popish priest', thereby invalidating the Irish nuptials.²¹ The ruling in the Edinburgh Courts was reversed and the Major cleared of bigamy.²²

* * *

The Yelverton case piqued fears over the security of the monogamous union at a time when changes in marriage legislation and interest in alternative matrimonial practices in the colonies were leading to debate over the very nature of marriage. These fears secured for bigamy multiple audiences outside the courtroom, including journalists, the novel-reading public and legislators. The sacramental nature of marriage as an indissoluble union of man and wife in the person of the husband 'instituted of God in paradise' had been legally challenged in 1857 by the Matrimonial Causes Act which permitted divorce in secular courts on grounds of adultery.²³ This instituted an era of marriage-law reform that gradually eroded its patriarchal and sacramental character.²⁴ During the four years that the Yelverton case was in court, parliament debated two pieces of marriage legislation. Firstly, the Marriage Registration (Ireland) Bill, which sought the registration of all marriages in Ireland, and secondly, The Marriage (Ireland) Bill, which proposed that all nonconformist marriages be placed on the same footing as those of Presbyterians, Quakers and Jews, with Catholics excepted.²⁵ Although relatively limited, these proposals touched on two controversial issues: firstly, to what extent marriage was a sacrament, and to what extent a civil institution open to state intervention (in the form of registration); and secondly, the privileged position of the Established Church in matrimonial law.

Concurrent with these legislative debates was an increased awareness of the alternative marriage customs practised in the empire, which contributed to doubt over the universality and 'naturalness' of the monogamous union. This knowledge derived from literatures of exploration and observation in the colonies and elsewhere: missionary accounts, travel chronicles and anthropological 'science'. Missionaries detailed the 'heathen' marriage practices of their subjects and attempted to convert them to Christian practices through religious enlightenment and legislative reform.²⁶ Marriage was also a prominent theme in contemporary travel literature. Authors detailed the 'exotic' matrimonial practices of their subjects for both the edification and amusement of their readers, smug in the assurance that their own customs were superior.

Particularly popular were voyeuristic accounts of the Oriental harem and life in the Mormon community, which stimulated a salacious interest in multiple marriages.²⁷ Marriage practices in the ex-colonies of North America came under special scrutiny as commentators struggled to reconcile the Mormon practice of polygamy with a Christian people supposedly

at the forefront of civilization. As travel writer Jules Remy inquired, '[w]ho would have thought such a pretension possible at an epoch of brilliant civilization, when all well ordered societies regard polygamy as ... barbarous?'²⁸ Engaging anthropological terminology, authors depicted Mormon customs as a degenerative throwback, or as one writer put it, 'a step back into barbarism'.²⁹ William Hepworth Dixon, editor of the *Athenaeum*, devoted six chapters of his American travelogue to the 'debauchery' of Mormon marriage practices, which he claimed included a 'return' to incest.³⁰ Of particular concern, however, were the 'civilized' Europeans who appeared to have been 'corrupted' by contact with alternative forms of marriage in the ex-colonies. Hepworth Dixon described the spectacle of white men 'going native':

A big chief prides himself on having plenty of wives; and the white men, who have come to live among these Utes, Cheyennes, Arappahoes, and Kiowas, whether they began as trappers, guides, interpreters, or hunters, have almost always fallen into the Indian way of living ... [and are] all polygamists.³¹

Ronald Hyam has detailed how, in the early days of empire, British men took wives from the colonized population or adopted their marriage customs, and in some cases were actually encouraged to do so by their employers in order to promote good colonial relations.³² Yet by the time of the Yelverton trial, the growing influence of Evangelicalism in the 1830s and '40s and the development of 'scientific' racism following colonial rebellion in the 1850s gave authority to increasing proscriptions on matrimonial practices between colonizer and colonized, and fortified imperial hierarchies based on differences in race and gender relations. Thus the figure of a colonial administrator with a wife (or wives) from the colonized population became less common and increasingly subversive.

The comments of one travel writer are, however, particularly interesting. Theresa, deprived of Yelverton's wealth, turned to her dramatic and literary talents to support herself. She became by turns novelist, elocution teacher, public speaker, journalist, and intrepid travel writer. Her travelogues fed off the fascination with marriage customs to which her own trial had contributed. In 1874 she published an account of an American journey which included a visit to Salt Lake City, where the Mormon practice of taking multiple wives had a particular resonance. She expressed a rare esteem for marriage practices that protected 'cast off' women, sympathetically recording the staunch justification offered by the English wife of a polygamous Mormon elder: 'the fact of the versatility of men's affections is tacitly admitted the world over, but we are the only people (in Europe she meant) who protect the woman under its effects'.³³

The Yelverton case coincided with the development of a new ethnography of marriage that represented matrimonial practices as a key index of

civilization. During the 1860s anthropologists, influenced by Darwin, attempted to demonstrate the evolution of marriage customs from 'primitive' promiscuity to 'civilized' monogamy.³⁴ Polygamy amongst the 'savage' peoples of the empire was construed as a 'survival' from a primitive age. Marriage customs such as polygamy or polyandry were no longer characterized as aberrant forms of the universal 'God given' monogamous union, but as representative of the degree of social organization attained at different developmental stages.

Scottish lawyer John McLennan was the author of the most influential ethnographic study of matrimony. Writing in the *North British Review* he defended his country's legislature in the wake of the Yelverton case, arguing that the informality of Scottish law protected people married in good faith, whereas the technicalities of English law could render such a marriage void: 'the "barbarous" rule of ascertaining the fact of consent by any available proof, leads in practice to an incomparably greater degree of certainty'.³⁵

His subsequent *Primitive Marriage* (1865) outlined in detail his theory of evolution from promiscuity and polyandry to polygamy and 'ideas' of kinship, paternity, and sexual morality.³⁶ Although McLennan did not define marriage, 'marriage proper', as George Stocking observes,

meant Victorian marriage. Its purpose was to control human (and especially female) sexuality, so that there might be "certainty of male parentage." Its critical diagnostic features were "the appropriation of women to particular men" and the "conception of conjugal fidelity".³⁷

Yet McLennan also argued that, placed in 'corrupting' environments, the 'civilized' British male would take multiple partners, and that no inherent, God-given principle existed to prevent 'barbarism' at home:

Savages are unrestrained by any sense of delicacy from a copartnery in sexual enjoyments; and indeed, in the civilised state, the sin of great cities shows that there are no natural restraints sufficient to hold men back from grosser copartneries.³⁸

Social anthropologists thus undermined the conception of the Victorian matrimonial ideal as the hallowed apex of creation. Furthermore, as McLennan suggested, the 'British' were not 'innately' monogamous, and different levels of civilization existed within the domestic empire itself. In certain environments, be they the 'great cities' at home, or the colonized lands explored by travel writers, 'degenerate' Europeans practised 'savage' matrimonial customs. Thus, colonial literatures of marriage did not simply shape metropolitan perceptions of empire; experiences of empire, even secondhand ones, also shaped perceptions of gender relations in the metropole. For, as John MacKenzie observes, '[t]he colonial cultural experience had mutually modifying effects'.³⁹ At the same time, however,

anthropologists continued to justify the superiority of the monogamous union by positioning it as an evolutionary goal.⁴⁰ This in turn underwrote the authority of the 'British' rule of law, and justified attempts to legislate for peoples practising 'barbaric' gender relations, whether in the domestic or the wider empire.

* * *

With the variety of marriage customs a subject of both popular travel literature and learned speculation, bigamy could command an immediate reading public. The Yelverton case appeared in a number of different genres. Novelists, journalists, pornographers and pamphleteers were all quick to identify the lurid potential of a tale of multiple spouses, and the dramatic threat that bigamy posed to legitimacy and familial wealth. 'Bigamy novels' became a stalwart of sensation fiction. Jeanne Fahnestock has found that the incidence of 'bigamy novels' peaked between 1862 and 1865 (dates which correspond with the Yelverton case), with an annual average of thirteen such novels between these dates.⁴¹ Authors drew on newspaper accounts of the trial to create fictional representations of the case, giving credence to their apparently fantastical tales with a grounding in 'fact'. Thinly-disguised fictionalizations of the case included Cyrus Redding's *A Wife and Not a Wife* (1867) and J. R. O'Flanagan's *Gentle Blood, or the Secret Marriage* (1861).⁴² Perhaps the most remarkable, however, was Theresa's own literary debut, the autobiographical *Martyrs to Circumstance*.⁴³ To the consternation of reviewers, Theresa's knowing self-characterization as an archetypal melodramatic heroine cast doubt on the sincerity of her courtroom appearance. As the *Athenaeum* remarked, '*Martyrs to Circumstance* seemed to show that the public had been mistaken about Mrs Yelverton – she was hardly the ingénue she had so convincingly presented herself as'.⁴⁴

The audiences for the different forms in which the Yelverton case appeared, whether in public courtroom, newspaper, pamphlet or novel, were carefully delineated. Elite Dublin society crowded the court, including numbers of 'respectable' women for whom a scandalous court case provided a legitimate form of entertainment. Reports also indicate that women eagerly read the latest instalment of the case in the daily press. Yet both the presiding judge and newspaper correspondents censored the case for their female audiences. The Lord Justice instructed ladies to vacate the court whenever the sexual details of the affair were discussed. Similarly, *The Times* deemed these details 'unfit for publication'.⁴⁵ However, as one journalist wryly suggested, female spectators were not always willing to accord with definitions of feminine propriety: '[a]s usual there was a great number of ladies in the galleries. The Chief Justice ordered them to retire. Either they were reluctant to do so, or the crowd in the passages rendered it for the moment impossible'.⁴⁶ For a male audience, George Vickers, a Holywell Street purveyor of pornography and sensation fiction, published

a penny pamphlet with all the 'revelations, incidents and details specially reported'.⁴⁷

However, whilst it was perfectly respectable for a woman to attend a bigamy trial, an interest in fictionalized accounts of bigamy was considered morally suspect. Women were welcome in the courtroom for the educative and morally-edifying experience it supposedly provided (even if, in practice, this was a pretext for salacious enjoyment). In court, and in press reports, the legal and journalistic professions placed bigamy in a moral and legal compass, assuming the role of 'moral chaperones' for their female audience by censoring any potentially titillating details and guiding their appropriate response. A court case involved the collective reiteration of moral values through the participation of the audience. The censorious heckling of a Major Yelverton figure (and the insertion of these boos and hisses in press reports for a wider audience) firmly established a public morality of marriage. On the same 'educative' grounds, it would have also been acceptable for a woman to learn of polygamy in a 'factual' travel book. The private perusal of a 'bigamy novel', however, which unlike a court case or travelogue was overtly chosen for its promise of sensation, provided no such moral guidance. Indeed, it was argued that the exposure of 'unformed' female minds to fictionalized bigamy was morally corrupting. A reviewer of Mrs Braddon's popular bigamy novel, *Lady Audley's Secret* (1862), expressed the anxiety that 'into uncontaminated minds [it] will instil false views of human conduct'.⁴⁸

Moreover, as is suggested by accusations that Theresa had acted out the plot lines of sensation novels, commentators feared that fictionalized crime inspired copycat offences. As the critic J. Mansel opined: '[i]f a scandal of more than usual piquancy occurs in high life . . . the sensationalist is immediately at hand to weave the incident into a thrilling tale', promoting a 'widespread corruption, of which they are both the effect and the cause; called into existence to supply the cravings of a diseased appetite'.⁴⁹

Bigamy in the courtroom might produce a collective thrill of moral outrage; bigamy in the novel aroused an illicit thrill of sensation: a titillating and potentially 'corrupting' voyeuristic insight into alternative marriage practices unmediated by moral guardians in the press or courthouse.

* * *

Bigamy also secured an audience at the heart of the imperial legislature. The Yelverton case had prompted McLennan to assert the superiority of the informality of Scottish law, and Irish commentators followed suit with a defence of Irish legal customs and religious practices. For metropolitan observers, however, the case demonstrated disparities between Scottish, Irish and English legislation which undercut the principle of a 'British' rule of law. Engaging language usually reserved for the wider colonies, English critics expressed anxiety over the possible corruption of English civilization by the 'barbaric' matrimonial customs of the domestic empire, which in turn

left the metropole vulnerable to corruption through contact with practices in the wider empire. These legislative disparities also undermined the notion of a coherent 'British' civilization on which ethnographies of marriage were so confidently based. Thus the spectacle of a bigamous British aristocrat generated fears for the security of the monogamous union within the United Kingdom, but it also threatened to subvert the positioning of a 'British' civilization at the apex of an evolutionary hierarchy, and hence the British authority to legislate for and attempt to 'civilize' marriage practices in the wider colonies.

From the start, press interest in the Yelverton case was not merely limited to a salacious fascination with a private romance made public (good copy though this was). Journalists from the Irish nationalist and English establishment press were quick to frame the case as a parable of imperial morality. Whiteside's strategic stress on Theresa's devout Catholicism met with a ready reception in the Dublin press, which represented the case as an allegory of unjust colonial rule and religious persecution. The nationalist-leaning *Freeman's Journal* represented Theresa as an honorary Irish woman, the victim not only of Yelverton's attempts on her Catholic virtue, but of exploitation at the hands of a corrupt imperial power:

We have endeavoured to put the legal points in a brief compass. The plea in fact amounts to this – that any young Protestant libertine may pretend to any young and beautiful Catholic woman that he has become a Catholic, marry her as a Catholic, and at the end of the month, or of a year, or of three, cast her off and proclaim the confiding woman, who in the purity of her heart and before God, became his wife, was in law and in fact his mistress, the victim of brutal lust and of the more brutal code that abets his villainy.⁵⁰

Theresa's victory in court was construed as a moral victory for Irish justice and the Catholic Church. This was celebrated in the lines of a contemporary broadside ballad, 'The Grand Triumph of Mrs Yelverton':

Long live the judge and jury, who this lady did befriend,
According to the Irish laws they brought a verdict home,
And they proved the marriage lawful in the Holy Church of Rome.⁵¹

The case thus became an analogy for the 'victimized' position of the Catholic Church and Irish nation in the hands of both the Protestant ascendancy and 'unjust' imperial rule. Irish nationalists were, at the time of the trial, angered by the privileged position of the minority Established Church, which the state continued to endow and control, and at the Government's failure to honour the promises of the 1800 Union to provide state provision for the Catholic Church. Marriage was a particular sensitive issue at this time, for the Catholic Church was in dispute with many

European governments over official adoption of Civil Codes and the denial of the sacramental base of marriage. Irish nationalists were also vexed by the land question, for the Irish farmer had no legal rights over the land and was bound to an 'alien' landlord class.⁵²

Somewhat paradoxically, therefore, (English) Theresa was adopted as an honorary Irishwoman, while (Irish) Yelverton was vilified as a token embodiment of English colonial rule. Yet this illustrates how representations of national and imperial identities which rely on opposition to a 'real or imagined' other can never be absolute.⁵³ 'Irishness' and 'Englishness' were not neatly-defined categories, for example many Irish lived in England and many English Catholics felt an affinity with Ireland. However, expressions of nationality, especially in a populist nationalist press, operate at a symbolic level. Thus Theresa, became a symbol of Irish subjection owing to her modest class origins and imperilled Catholicism, in opposition to Yelverton, who as a Protestant member of a royal regiment and heir to Irish estates, came to symbolize the 'alien' landlord class and wider colonial iniquities.

At the core of the metropolitan establishment, *The Times* also followed the case. The story was gleefully unfolded in daily instalments that recalled a serialized novel. All traces of a religious subtext were eradicated, however, even when reports were lifted directly from the *Freeman's Journal*. Nevertheless, *The Times* created its own imperial morality tale. It vilified not just the Major, but also the 'substandard' Scottish and Irish legislation, which, it argued, had abetted his wicked schemes – and covertly suggested the extension of the English rule of law to the domestic empire:

Had anything like an intelligible principle or even a rule of equal justice, pervaded this part of our jurisprudence, we may be assured that this odious case would never have taken its present shape . . . is it not a disgrace that our legal system in two parts of the Empire of Great Britain should leave the most important of contracts a matter entirely incapable of definition . . . and should thereby offer an obvious premium to fraud, crime and perfidious villainy in the most responsible of social engagements.⁵⁴

Following the verdict in favour of Yelverton in the lower Edinburgh court, *The Times* renewed its attacks on Irish legislature, vilifying not merely its marriage law, but its whole system of jurisprudence. It argued that the scenes in the Dublin court demonstrated the dangers that unfettered Irish romanticism and nationalism posed to justice in the colony, accusing the legal system of operating 'mob justice' in order to advance a political agenda. Scottish jurisprudence, previously denounced alongside the Irish as a 'disgrace', was briefly rehabilitated for the purpose of providing a contrast with Irish 'sentimentality'. The 'breadth of view' of the Edinburgh court was set against the 'roar of an Irish mob and the claptraps of an Irish court', and a presiding judge who was,

[L]ess mindful of his office than of his nationality [and whose style of] . . . address was the exact antithesis of the dispassionate style which we associate with judicial expositions, and less excusable than Mr Whiteside's declamation. Now that the fever fit of unworthy excitement is over, these great luminaries of the law must feel rather ashamed that they lost their heads in so bad a cause for the sake of heightening the interest of a melodramatic scene.⁵⁵

However, when the initial Scottish ruling was overturned on appeal, *The Times* extended its criticism to the Scottish, whose marriage laws were assailed, in language usually directed at the wider empire, as 'so barbarous, so unchristian, and so contrary to all natural justice'.⁵⁶

Responding to these attacks in the House of Commons, Irish MPs denounced the overturning of the Irish verdict in the Scottish courts. Whiteside, defending both his professional reputation and the Irish system of personal testimony, argued that only after assessment of witnesses' appearance and manner under examination could truth be established. It was much easier to sustain fabrications on paper than in person:

In Ireland the witnesses in the Yelverton case were examined *vivâ voce* in open court . . . in Scotland . . . those witnesses were never seen by the Judge, and yet he came to the opposite conclusion at which the jury arrived who did see the witnesses . . . It was a case of great hardship to the unfortunate subject of this anomalous jurisprudence. In Ireland she was entitled to support as the wife of this gentleman, and in Scotland she was no wife at all.⁵⁷

His colleague, Mr J. P. Hennessy (King's County), defending the Irish law, considered it an outrage that:

[I]n any part of the United Kingdom two adult persons should be able to come into a place of public worship, kneel down at the altar of God, make solemn vows on such a solemn subject as matrimony . . . and that such a ceremony should be called into question . . . by a Scotch judge.⁵⁸

Such criticisms inspired calls for a wholesale scrutiny of the United Kingdom's marriage laws, and hampered attempts to introduce the rather limited reforms proposed in the Marriage (Ireland) and Registration (Ireland) Bills. Arguments were made to extend the scope of both Bills to tackle the issues of Catholic discrimination under existing law, and to establish the relationship between state and church in the celebration of marriage.⁵⁹ The situation was exacerbated by Whiteside's presence in the House, fresh from his success in the Irish courts. He supported calls to appoint an inquiry to investigate marriage in the whole of the British Isles, arguing with typical rhetorical wit that it was essential to establish how 'a

man might have a wife in each of the three kingdoms though polygamy was not permitted'.⁶⁰ In 1865, the Government responded to this agitation by appointing a Royal Commission to investigate marriage law in the three kingdoms.

Metropolitan journalists framed these calls for reform as an imperial imperative, necessary to ensure the suppression of 'barbarism' in the peripheries and protect English civilization from corruption. Engaging anthropological terminology to authorize their case, they popularized the new ethnography of marriage for a new audience. Articles in the periodical press placed the marriage laws of the three kingdoms into historical perspective, tracing their evolution from ancient times to the present. In doing so they demonstrated the development of English marriage into a civil institution with the passing of Lord Hardwicke's Act (1753), and contrasted the 'barbarity' of Scottish and Irish practices which existed as 'survivals' from the time of the Reformation.

As the *Cornhill Magazine* opined in 1867, '[t]he Yelverton case having again appeared in the House of Lords, naturally draws attention to the anomalous condition of the Marriage Law of the Three Kingdoms'. Whereas, '[t]he Scottish people have, with their wonted tenacity, adhered to the ancient system' of sacramental matrimony, the adoption of civil law by the English attests to their superiority, for, 'in civilized countries [marriage] has the sanction of religion superadded'.⁶¹

The *British Quarterly Review* warned that 'barbarism' at the Celtic peripheries threatened the morality of the whole empire:

So far as regards Imperial interests, that jurisprudence is faulty in the extreme, and requires a large and rational reform, which, while protecting marriage in England by a law founded on common sense, exposes marriage in Scotland and Ireland to the influence of a barbarous system, productive of many unfortunate results, and actually allows that system to affect all English subjects who are brought within it.⁶²

In addition to fears over contamination from 'barbaric' practices within the domestic empire, observers warned that the lack of a unified and coherent law of matrimony also rendered the metropole vulnerable to 'corrupting' contact with the marriage practices of the empire and elsewhere:

[P]olygamy has burst out, not among the Mormons only, but among the ruder Americans who are in contact with polygamic Indians . . . Evidently it is on American soil that the battle of old and new morality will be most actively fought; but in time of transition the most sacred virtues are not safe here, unless . . . everything overstrained or unjust in existing institutions be removed.⁶³

Fraser's Magazine derided the Scottish and Irish marriage laws as 'barbarous and antiquated', and argued that 'the English marriage law should, with a very few trivial modifications, be introduced through the empire, especially as no other reform would secure the advantage of a uniform system'. It counselled the Legislature 'to treat this question with a view solely to Imperial interests, without heeding local prejudice or party clamour in Scotland or Ireland'.⁶⁴

Meanwhile, the Royal Commission was giving due attention to the Yelverton case and hearing evidence pertaining to marriage in each of the three kingdoms. Charged with establishing the principles of a sound marriage law and issuing recommendations, the Commission was forced to consider to what degree marriage should be a private matter between individuals and their Church, and to what degree a civil institution and a province of state. This issue had obvious implications for the independence of treasured national customs and the influence of the Catholic Church. In an article in the *Contemporary Review*, a Scottish advisor to the Commission objected to the Commission's composition, arguing that the national and legal background of the commissioners predetermined the consideration of the issue as one of civil law:

The members comprise eight Englishmen to three Scotchmen, and three Irishmen . . . whose natural prejudices may be assumed to be in favour of that law to which they have been habituated . . . the fact that eleven out of the whole fourteen are lawyers must have bid us pause before accepting the conclusions of such a body . . . Lawyers, as such, have no peculiar right, and no special competence, to prescribe the marriage law for the community . . . marriage is a social, not a legal question.⁶⁵

The Commissioners favoured the adoption in all three kingdoms of a marriage law modelled on France's *Code Civil*. For the Catholic Church, already engaged in a dispute with a number of Continental governments over civil-marriage legislation, the idea of ceding any authority over marriage to the state was untenable. Irish Catholic clergy were particularly averse to being made officers of government for the purposes of marriage for, as Erickson and McCarthy note, unlike French law:

[t]he laws of England and Scotland made provision for the civil effects of marriage while at the same time preserving the privileged position of the Anglican and Presbyterian churches in those respective countries.⁶⁶

As Bishop Moriarty remarked in his evidence to the Commission on behalf of the Irish Catholic Church:

It may fairly be asked how it is that, in France and other Catholic countries, the clergy submit to such a law . . . I answer that the question of the

clergy in those countries is very different from ours; they have civil rights; they are connected with the State . . . With us the case is altogether different; as ecclesiastics we have no civil rights, our existence is ignored by the law. We see our rights as well as our property transferred to others, and consequently there is no reason why we should yield to a law which should prejudice our spiritual jurisdiction.⁶⁷

In their final report, however, the Commission shied away from recommending the adoption of a completely secular civil code.⁶⁸ Instead, they suggested that, while marriage should be public and registered to secure against clandestinity, it should be celebrated by a practising clergyman of any Church, who would be duly certified and 'under the control and surveillance of the State'.⁶⁹ As commissioner Sir Roundell Palmer MP explained:

While admitting the simplicity of the [Continental] system the Commissioners . . . [believed they could bypass public outcry and still] attain their object by making every religious minister, of whatever denomination, a civil officer, for the purpose of seeing that the requirements of the law are satisfied, and of reporting to the registrar that the marriage has been solemnized.⁷⁰

As a result of the Commission, two pieces of legislation were enacted to reform the marriage laws of Ireland and Scotland. Despite the Commission's recommendations for a wholesale reform that would bring all of the United Kingdom under one marriage law, English laws pertaining to the celebration of marriage were for the moment left intact.⁷¹ The Matrimonial Causes and Marriage Law (Ireland) Amendment Act, 1870, made publicity, registration and witnessing necessary for all religions. It also made provision for all matrimonial cases to be tried in the new secular Court for Matrimonial Causes, where previously these cases had been under the jurisdiction of the Ecclesiastical Courts, and removed the penalty attached to the celebration of mixed marriages by a Catholic priest.⁷² Thus whilst this Act encroached on the Church's control of the sacrament of marriage, it did remove discrimination against specific denominations. The Marriage Notice (Scotland) Act, 1878, sought to prevent clandestine marriages through enforcing due publicity and registration of marriage by a clergyman or registrar. Marriage in the British Isles now had a unified basis in civil law, which banned informal matrimony and made the clergy officers of state.

* * *

The legislative consequences of the Yelverton case ensured that the possibility of entering a bigamous marriage through discrepancies in Scottish, English and Irish law had now been forestalled and marriage in the British Isles placed on an increasingly civil basis. The potentially subversive

spectacle of a British aristocrat with multiple wives made securing a metropolitan 'British' rule of law an imperative, not simply to prevent 'barbarism' at home, but to preserve the notion of a superior 'British civilization'. Interest in the case had been piqued by the popularity of contemporary missionary, travel and anthropological literatures of marriage which threatened the 'naturalness' of the Victorian monogamous ideal. 'Bigamy novels', whose tales of alternative marriage practices were blamed for corrupting their female readership, were further feared to imperil morality. Yet at the same time, by positioning English marriage practices as an evolutionary goal, English commentators could draw upon the new ethnography of marriage to authorize calls for the extension of English customs to the rest of the domestic empire. Thus the subsequent changes in Irish and Scottish law secured the imperial anxieties of metropolitan observers by replacing independent national and religious customs with unified 'English/ British' practices in the name of 'civilizing' the Celtic peripheries.

NOTES AND REFERENCES

I would like to thank Julie Gottlieb, Rebecca Spang and Bertrand Taithe for their helpful comments on various drafts of this article.

1 John Gillis has found that after the Hardwicke Act of 1753, which made an 'irregular' marriage more difficult, secular divorce and common-law remarriage were common, especially as a proper divorce was impossible for most people. A spouse who cohabited with another partner was said to be 'on lease'. Bigamy charges were only brought if one of the parties reneged on this arrangement, however, as Gillis has shown, juries tended to be lenient. John Gillis, *For Better, For Worse: British Marriages, 1600 to the Present*, Oxford, 1985. According to the 1868 report of the Royal Commission on the Laws of Marriage, 884 cases of bigamy were tried between 1853 and 1863. These were typically afforded a perfunctory paragraph in the press and at the time of the Yelverton trial usually involved migrant workers, such as railway workers, whose communal working practices may have made them more visible and detection easier. The Yelverton case, however, received a disproportionate level of press attention, commanding 'special supplements' in the Dublin newspapers, and daily coverage in *The Times* and *Manchester Guardian*. The fact that the case involved members of the upper classes presumably added to its appeal.

2 James Whiteside (Dublin University), *Hansard*, 14 May 1861, vol. 162, Third Series, col. 2,062.

3 I follow press reports and refer to the pursuer simply as 'Theresa'.

4 Theresa maintained that she had fallen pregnant while in France, but then miscarried; the defence dismissed this as a ruse to obtain a marriage certificate and trap Yelverton.

5 For all official documents relating to the Scottish hearing, including the couple's love letters, see *Record and Proposed Issue, in the Co-Joined Action for Declaration of Marriage for MARIA THERESA LONGWORTH or YELVERTON and Declaration and Putting to Silence for WILLIAM CHARLES YELVERTON, First Division of the Court of Session, 1859–1864*, National Archive of Scotland, CS46/1867/8/73.

6 *Law Times Reports*, Vol. I, New Series, (Nov. 1859 – March 1860), p. 196.

7 This decree was passed at the twenty-fourth session, on marriage, of the Council of Trent (1545–1563). It was known as 'Tametsi' (Latin for however), because that was its opening word.

8 For details of the marriage law see Arvel Erickson and Fr. John McCarthy's legal reading of the case, 'The Yelverton Case: Civil Legislation and Marriage', *Victorian Studies* 14, March 1971.

9 The Irish marriage certificate was discounted owing to the forgery.

10 The prosecution also called a series of chambermaids to testify whether Theresa and Yelverton had shared a bed on their holiday in Ireland before the Catholic ceremony. Much to her advantage, they failed to make a positive identification when faced with Theresa in court. After the trial, it emerged that Theresa had sent a 'look-a-like' to Ireland to speak with these witnesses and confuse them over her real appearance.

11 Almost complete transcripts of the trial were published in contemporary penny pamphlets in each of the three kingdoms. See for example, Anon., *Court of Common Pleas Ireland, Report of the Trial in the Case of Thelwell v. Yelverton before the Chief Justice*, Dublin, 1861.

12 *The Times*, 5 March 1861. Historians have frequently noted the correspondences between courthouse and theatre. There were many legal precedents for the use of melodramatic convention to win over a jury. See for example Caroline Norton's courtroom performance, analysed in Mary Poovey, *Uneven Developments: the Ideological Work of Gender in Mid-Victorian England*, London, 1989. See also Shani D'Cruze, *Crimes of Outrage: Sex Violence and Victorian Working Women*, London, 1998, and Katherine Fischer Taylor, *In the Theatre of Criminal Justice*, New Jersey, 1993.

13 *The Times*, 5 March 1861.

14 *Freeman's Journal*, 2 March 1861.

15 Anna Clark, 'The Politics of Seduction in English Popular Culture 1748–1848', in *The Progress of Romance: the Politics of Popular Fiction*, ed. Jean Radford, London, 1986, p. 50. For the pervasiveness of the 'cad' in nineteenth-century journalism and literature see Angus McLaren, *The Trials of Masculinity: Policing Sexual Boundaries, 1870–1930*, Chicago, 1997. The pictures accompanying this piece are taken from George Vickers's pamphlet and appear to have been recycled from the publisher's existing stock of woodcuttings. This was common practice, but it reveals that Theresa and Yelverton succeeded in finding recognition for their performances as generic 'types', literally interchangeable with existing representations of the 'virtuous heroine' and 'debauched profligate'. Anon., *The Yelverton Marriage Case, Thelwell v Yelverton, comprising an authentic and unabridged account of the most extraordinary trial in Modern Times with all its revelations, incidents and details specially reported*, London, 1861.

16 *The Times*, 5 March 1861.

17 Anon., *The Yelverton Marriage Case*, p. 58. The defence were no doubt making oblique reference to Flaubert's recent prosecution for the alleged immorality of *Madame Bovary*, whose eponymous novel-reading heroine sought romance outside marriage.

18 Yelverton appealed the verdict, but the judges' split decision effectively upheld the lower court's ruling, *The Times*, 9 July 1862.

19 *The Times*, 10 July 1862. Original italics.

20 *Cases Decided in the Court of Session*, vol. I, 3rd Series (1863), p. 164, Quoted in Erickson and McCarthy, 'The Yelverton Case', p. 283.

21 *The Times* reported the ruling in full on 29 July 1864.

22 Effectively the case was now closed: Theresa did enter a desperate petition to the Court of Session in Edinburgh on the basis of new evidence, but the case was dismissed.

23 The rite of the Book of Common Prayer was the only legal form of marriage in England until 1836 (excepting Jews and Quakers). Divorce could only be granted by special Act of Parliament prior to the 1857 Act, which stipulated that for a woman to seek divorce, adultery plus a further aggravation such as sodomy had to be proved. See G. W. Stocking, *Victorian Anthropology*, London, 1987, pp. 197–201.

24 After changes in the law in 1870, 1882 and 1893 a wife was placed on the same legal footing as a single woman in regard to property. In 1891 it was established that a husband could not legally detain his wife in his house. Yet although marriage was substantially more equitable by the end of the nineteenth century, the patriarchal nature of marriage was still open to reform: it was not until the early 1990s that test cases established that rape could occur within marriage.

25 The Marriage Registration (Ireland) Bill proposed to oblige couples to notify the registrar on marriage, thereby ensuring Catholic priests were not made officers of state. The Marriages (Ireland) Bill sought to remove discriminations against nonconformists such as Baptists and Wesleyans, who were obliged to be married by a registrar rather than a clergyman and had to send notice to the Poor House.

26 In particular, missionaries both informed and actively contributed to successful national campaigns for intervention in Indian marriage practices, including the banning of *sati* (1829)

and the regulation of the age of marriage and consent (1860). See essays by Himani Bannerji and Clare Midgley in *Gender and Imperialism*, ed. Clare Midgley, Manchester, 1998.

27 The harem was also a popular subject of pornography. See Judy Mabro, *Veiled Half Truths: Western Travellers' Perceptions of Middle Eastern Women*, London, 1991, and Asli Cirakman, *From the 'Terror of the World' to the 'Sick Man of Europe': European Images of Ottoman Empire and Society from the Sixteenth Century to the Nineteenth*, Oxford, 2002.

28 Jules Remy, *Journey to Salt Lake City*, London, 1861, p. 85.

29 John Hyde, *Mormonism; its Leaders and Designs*, New York, 1857, p. 23.

30 William Hepworth Dixon, *New America*, London, 1867, p. 306.

31 Dixon, *New America*, p. 306.

32 Ronald Hyam, *Empire and Sexuality: The British Experience*, Manchester, 1990. William Dalrymple has found that one in three wills written by East India Company employees between 1780 and 1785 left possessions to one or more Indian wife, or Anglo-Indian offspring, but that this fell to one in six by 1830, and by the mid nineteenth century was all but unheard of: William Dalrymple, 'White Mischief', *The Guardian*, 9 December 2002, see also his *The White Mughals: Love and Betrayal in Eighteenth Century India*, London, 2002.

33 Theresa Yelverton (Viscountess Avonmore), *Teresina Peregrina; or, Fifty Thousand Miles Round the World*, London, 1874, p. 14. Before ending her days as a journalist in South Africa, Theresa was embroiled in yet more scandal. Passing herself off as Viscountess Avonmore, she invented an acquaintance with Empress Eugénie of France in an attempt to accompany the Empress on a pilgrimage to her son's grave in Zululand. Intending to write an account of the trip, Theresa was barred access to the Empress's party and derided in the South African press, who had learnt of her true identity. Major Yelverton meanwhile, suspended from the army, passed into relative obscurity with Mrs Forbes. See Brian Roberts, *Ladies of the Veld*, London, 1965.

34 No evidence substantiated these claims. Anthropologists merely took Victorian monogamous practices as an ideal and extrapolated to reach its opposite. As Stocking observes, 'a mélange of ethnocentrically evaluated departures from the Victorian cultural norm served as proof', Stocking, *Victorian Anthropology*, p. 202.

35 John Ferguson McLennan, 'Marriage and Divorce – the Laws of England and Scotland', *North British Review* 35, 1861, p. 198.

36 John F. McLennan, *Primitive Marriage: an Inquiry into the Origin of the Form of Capture in Marriage Ceremonies*, Edinburgh, 1865. McLennan's theory achieved a broad consensus within the discipline, although some anthropologists disputed the primacy of matriarchy. See Stocking, *Victorian Anthropology*, p. 204.

37 Stocking, *Victorian Anthropology*, p. 202.

38 McLennan, *Primitive Marriage*, p. 69. Quoted in Stocking, *Victorian Anthropology*, p. 202.

39 John M. MacKenzie, *Orientalism: History, Theory and the Arts*, Manchester, 1995, p. 12.

40 See Elizabeth Fee, 'The Sexual Politics of Victorian Social Anthropology', in *Clio's Consciousness Raised: New Perspectives on the History of Women*, ed. Mary S. Hartman and Lois Banner, London, 1974, p. 91.

41 Jeanne Fahnestock, 'Bigamy: the Rise and Fall of a Convention', *Nineteenth-Century Fiction* 36: 1, June 1981, p. 55.

42 Cyrus Redding, *A Wife and Not a Wife*, London, 1867; J. R. O'Flanagan, *Gentle Blood, or the Secret Marriage*, Dublin, 1861. Wilkie Collins, *Man and Wife* (1870; Oxford, 1999), was also inspired by the Yelverton case. It features a man able to rid himself of a wife on the pretext of the invalidity of their 'Irish' marriage.

43 Mrs Hon. Yelverton (Viscountess Avonmore), *Martyrs to Circumstance*, London, 1861.

44 Quoted in Duncan Crow's own melodramatic retelling of the case, *Theresa: the Story of the Yelverton Case*, London, 1966, p. 235.

45 *The Times*, 2 March 1861.

46 *The Times*, 2 March 1861.

47 Anon., *The Yelverton Marriage Case*. For the Holywell Street milieu, see Lynda Nead, *Victorian Babylon: People, Streets and Images in Nineteenth-Century London*, London, 2000, p. 176.

48 Anon., 'Sensation Novelists: Mrs Braddon', *North British Review*, 1862, p. 186.

49 J. Mansel, 'Sensation Novels', *Quarterly Review*, 113, 1863, p. 489.

50 *Freeman's Journal*, 25 February 1861.

51 *The Grand Triumph of Mrs Yelverton*, Poetic Broad-sides, Nos. 93–183, British Library.

52 Edmund Curtis, *A History of Ireland*, London, 1936, pp. 356, 372. The Irish Church was finally disestablished in 1869.

53 For an analysis of the necessity of oppositional 'others' for the definition of national identity, see Linda Colley, 'Britishness and Otherness: an Argument', *Journal of British Studies* 31: 4, October 1992, p. 207.

54 *The Times*, 5 March 1861.

55 *The Times*, 8, 10 July 1862.

56 *The Times*, 22 Dec. 1862.

57 James Whiteside, *Hansard*, 4 Aug. 1862, vol. 168, Third Series, cols 1,201–2.

58 *The Times*, 6 Aug. 1862.

59 Both these Bills passed in 1863, despite considerable reservations over their limited scope.

60 James Whiteside, *Hansard*, 4 August 1862, vol. 168, Third Series, col. 1,200.

61 Anon., 'The Marriage Laws of the Three Kingdoms', *Cornhill Magazine* 16, 1867, pp. 432, 436.

62 Anon., untitled review article, *British Quarterly Review* 34, 1861, p. 140.

63 Anon., 'Marriage Laws', *Fraser's Magazine* 76, 1867, p. 169.

64 W. O'Connor, 'A Few Words on the Marriage Law of the Empire', *Fraser's Magazine* 65, 1862, pp. 58, 57, 53.

65 John B. Kinnear, 'The Marriage Laws of England and Scotland', *Contemporary Review* 7, 1868, p. 208.

66 Erickson and McCarthy, 'The Yelverton Case', p. 291.

67 Quoted in Anon., 'The Marriage Law of the Empire', *Edinburgh Review* 130, 1869, p. 286.

68 Royal Commission on the Laws of Marriage [4059], *Report on the State and Operation of Laws in force in the United Kingdom with respect to constitution and proof of the Contract of Marriages and registration and other means of preserving evidences and also marriages of European British Subjects in India and colonies in Foreign Countries*, Parliamentary Papers 32, 1868.

69 Anon., 'The Marriage Law of the Empire', *Edinburgh Review*, p. 289. Marriages could still be contracted in registry offices if preferred.

70 Sir Roundell Palmer (Richmond), *Hansard*, 6 August 1869, vol. 198, Third Series, col. 1404.

71 Although the English marriage ceremony remained unchanged, reform of some of women's rights within marriage did take place, beginning with the Married Women's Property Act (1870).

72 The Court for Matrimonial Causes had been founded under the Irish Church Act (1869), which had disestablished the Irish Church and thus ended official discrimination against the Catholic Church.