**Chapter note 3: Law**

Chapter 3: *law* is the briefest of our six chapters; it consists of manuscripts from six folders, Deps. c.606/3, b.227/2(b), c.532/2, b.214/8, c.532/8, and c.607/6; the documents are taken from Duke reel 13. Mary Shelley’s account of Godwin’s role in the political trials in Scotland and London in 1793 and 1794, in Dep. c.606/3, is the longest sequence in MWS holograph script of *Life of William Godwin*, and makes up the greater part of this chapter.

The Bodleian rubric for Dep. c.606/3 is:


Certain of these leaves [pages 64, [64v], 86, [86v], 87, 102, 103], consisting of MWS transcriptions of Godwin’s letters and journal entries on topics unconnected with the trials of 1793 and 1794, are presented in our Chapter 2: *politics*, as are a group of numbered pages from Dep. c.532/8, on the same ‘wove paper of bluish tint’, that were probably displaced from folder c.606/3 at some stage. See chapter note 2: *politics*.

In his account of the political trials of 1793 and 1794, Charles Kegan Paul (1876) quotes almost the whole of MWS script c.606/3, under the subheading ‘Mrs Shelley’s Notes’ (CKP i 124-7, 128-35). Godwin’s letter of 23 January 1794 to Joseph Gerrald is given in Paul i 125-28. Paul’s diligence in collating these papers has undoubtedly helped to hold the materials in MWS handwriting together, but not the letters from Godwin, and letters to Godwin from Thomas Holcroft, Joseph Gerrald and others, which have been detached and transferred to other folders. And although Mary Shelley’s narrative of the trials is substantially preserved in folder c.606/3, there are baffling gaps in pagination according to the rubric. Happily, we have located three letters with pages numbered in MWS style and in sequence with her commentary in Dep. c.606/3. These three are: Godwin’s letter to the press signed ‘Valerius’ in b.227/2(b) numbered 97-100) inclusive; Godwin’s letter to Joseph Gerrald in c.532/2 numbered 112) -115) inclusive; and the original, plus a copy, of Gerrald’s letter to Godwin in b.214/8, numbered 118) -119).

No watermarks are identified on the paper of Dep. c.606/3.

Two handwritings are identified in this chapter, Mary Shelley’s (MWS) and William Godwin’s (Godwin). A letter from Joseph Gerrald in Newgate prison to Godwin, in Joseph Gerrald’s handwriting, together with an undated copy of it, is foldered in
Abinger Dep. b.214/8, and our text is from this latter copy, in an unidentified hand, numbered in MWS style 118 (119), in sequence with MWS commentary. The endnotes indicate significant variants between our copy-text and the original letter. The Latin verse quoted from Horace’s Odes was a source of many of the errors made by whoever copied out the original. In his discussion of this letter, St Clair (C134-5) provides a clue to its description of a tropical paradise—Gerrald was expecting to be transported to Freetown in Sierra Leone, not to Port Jackson, New South Wales. Coincidentally, a learned joke shared with Godwin, referring to Mrs Elizabeth Inchbald as ‘the Lalage of Hart Street’, ‘sweetly laughing’, presumably eluded Mary Shelley’s notice.

We have presented in this chapter 3: law a single page document from Dep. c.532/8, MWS script on watermark Joynson 1839 papier satine, unnumbered, with the heading ‘note’. This treats of Dr Oliver’s trial and execution for murder, and we have included it in this chapter 3: law for its topical relevance to Dr Samuel Parr and the law courts. This ‘note’ has at some stage been pinned to other papers in the folder c.532/8, covering Mary Shelley’s comments on Dr Parr’s daughter, Sarah-Anne (Mrs Wynne) at the time of Godwin’s marriage and later. With this exception, MWS script on 1839 watermark paper in c.532/8 is to be found in our chapter 5: women. The MWS ‘note’ refers to a letter (‘the above letter’) written by Samuel Parr about the trial of Dr Oliver, but no MS of this letter has been so far located in the folders. Mary Shelley is possibly referring to a letter of Parr’s published in one or both of two biographies of Samuel Parr cited by her: William Field, Memoirs of the Life, Writings and Opinions of the Rev Samuel Parr, LLD (2 vols.; London, 1828); John Johnstone, The Works of Samuel Parr ...With Memoirs of his Life and Writings (8 vols.; London, 1828). Our chapter 2: politics presents MWS script on undated paper in c.532/8 about Godwin’s relationship and correspondence with Parr.

We have not been able to locate Godwin’s letter of 9 October 1794 from Hatton to Thomas Holcroft’s daughter, Fanny, nor Holcroft’s reply from Newgate on 10 October. The MWS sequence of pages c.606/3: 127) [127v] [128v] 128) 129) does not appear to have left space for them. They are cited in the endnotes to this chapter 3: law with acknowledgments to William St Clair who indicates the MS originals in Abinger Deps. c.531 and c.515 respectively (C129, and n3, n4).

Skirving, labelled the ‘Scottish Martyrs’ or ‘Scottish Reformers’, though only two were Scots-born.

The absence of watermarks on the papers of c.606/3 curtails speculation as to the date of Mary Shelley’s composition of this, our third chapter, but it is evident that she was well into the task by now and handles her materials with confidence. For the Scottish radicals she diversifies her historical narrative with contemporary letters. In her account of the 1794 London Treason Trials of twelve accused men, she stages Godwin’s day-by-day dealings with the crisis, and sets a concise paraphrase of his pamphlet *Cursory Strictures* into a vital process of composition—Godwin striding about his London rooms, dictating to James Marshall, as if on his feet in court while his friends stand in the dock, charged with capital offenses. This imaginative scenario positions Godwin’s private tutelage of herself alongside his public advocacy of uncorrupted law, so that the rather awkward moves noted elsewhere in MWS script between ‘my father’ and ‘Mr Godwin’ achieve a better fit in this chapter.

Godwin’s role by proxy in the 1793 Scottish trials for sedition leads into the second section of MWS narrative in c.606/3, on the West Indian-born barrister and radical, Joseph Gerrald. It draws on Gerrald’s relationship with the Anglican clergyman and his former headmaster, Rev. Dr Samuel Parr, and on Parr’s with Godwin. Gerrald was author of a pamphlet, *A Convention the Only Means of Saving us from Ruin: In a Letter, Addressed to the People of England*, published at the radical press of Daniel Isaac Eaton in 1793, the year before Eaton published Godwin’s *Cursory Strictures* in pamphlet format. Though Gerrald’s pamphlet is not mentioned by title in Godwin’s letter to Gerrald before his trial (c.532/2), nor in MWS commentary, the fact that Gerrald is a published author raises the stakes in his defense for both Godwin and Mary Shelley, as proponents of liberal ideas and a free press.

Gerrald’s official role as delegate from the London Corresponding Society to the British Convention in Edinburgh in November 1793 led to a warrant for his arrest on a charge of sedition. Like his Scottish colleague and fellow-organiser Thomas Muir of Huntershill, who had already been sentenced to fourteen years’ convict transportation in August 1793, Gerrald was urged by a group of friends to flee the court’s jurisdiction abroad, but returned voluntarily to Scotland to face trial and defend himself and the cause of reform. The Scottish legal system differed from the English in regard to the statute of 25 Edward III (of England Ireland and Wales) defining the capital offense of High Treason. There was no right of appeal under Scottish law: and the Act of Union of 1707 had failed to codify the ancient penalty of banishment. In 1793 the British penal
system of transportation to the infant colony of New South Wales was still in its initial chaotic stages. In October 1794, the junior barrister at the London Treason Trials, Thomas Erskine, himself a Scot, successfully argued on these grounds in defense of his clients, and there was an attempt in 1795 to invoke similar arguments retrospectively, to prevent Gerrald’s transportation. But Gerrald’s was an isolated case unable to penetrate the solidarity of the Pitt-Dundas government’s regime in Scotland.

It was in this crisis of Gerrald’s cause, when he had decided to return to Scotland in January 1794, that Godwin came forward with a piece of writing of the mixed mode that we have already seen in chapter 2: politics, an ‘open’ or ‘public’ letter, like those to Richard Brinsley Sheridan in 1791 and Thomas Erskine in 1792. Godwin’s mentorial letter to Gerrald (c.532/2) is modelled on classical Ciceronian lines and resonant with the tones of Milton’s Samson Agonistes, a hero for English dissenters. He urges Gerrald to seize the initiative and not allow any other man’s words to come between him and his destiny, confident that sincerity lends eloquence to a just cause that must not and will not be withstood. There is a hollow irony in such advice at such a juncture. Godwin deploys the open rhetoric of the agora while remaining under close cover of the schoolmaster. At this date Godwin and Parr had not yet fallen out over politics and MWS script draws them into parallel over Gerrald’s cause, even as she takes the opportunity to differentiate Parr’s parsonical intervention in the case of the convicted murderer Oliver (c.532/8), from Godwin’s principled opposition to political persecution.

Gerrald’s trial that followed was a travesty of justice, as MWS script (c.606/3: 116) states: ‘Those who presided over this trial did not hesitate to prejudge his case’. MWS script confirms Godwin’s attachment to the primacy of literary culture as a commonwealth of values. Gerrald, all the more in ‘supposing that he acted from principle, & that his motives were pure’, met a martyr’s fate.

In her commentary on the political trials, MWS script recapitulates the central importance of Godwin’s commitment to political justice, the formative influence he assigned to moral pedagogy, and (with a side-glance at Mary Shelley’s own affective ties to Scotland) the desirability of amalgamating Scottish independence with southern liberalism. Here, MWS script shows the influence of Walter Scott’s Waverley novels. In 1831 Godwin himself had paid tribute to Scott in the Advertisement to the Standard Novels reissue of his St Leon: A Tale of the Sixteenth Century (first published 1799), and, as with the other new introductions to their old novels, written by Mary Shelley and Godwin in the 1830s, their critical positions are closely aligned. Occasionally in the
MWS script c.606/3 we catch an echo of Mary Shelley the young Shelleyan, characteristically warm on behalf of a reformed state and a socially just politics. This is quickly subduced to a reflection of English contemporary standards, a Scotland then measured against an England now (under the young Victoria), to the advantage of the latter.

Godwin’s advice to Gerrald to dispense with a barrister and conduct his own defense at the Edinburgh High Court of Justiciary in March 1794 proved ruinous, but was not without Scotch precedent. Launching the First Scottish Convention in Edinburgh’s Lawnmarket, in December 1792, Thomas Muir, younger, of Huntershill, had inflamed the authorities by reading aloud an Address from the Society of United Irishmen to the Delegates for Promoting a Reform in Scotland. Notwithstanding the legality under Scottish civil law of invoking a popular convention, warrants were issued against the convenors, and Muir was forced to flee to France, but returned to face the music and his trial for sedition took place before the Justice-Clerk Lord Braxfield on 30 August 1793. Muir defended himself, refusing Henry Erskine’s offer to act for him. Lord Advocate Robert Dundas prosecuted1 Muir was found guilty and sentenced to fourteen years’ transportation. At his trial for sedition in Perth the same month the clergymen Thomas Fyshe Palmer was sentenced to seven years’ transportation, and like Muir, was moved to the Woolwich prison barges to await his passage.

Godwin’s pseudonymous public (but probably never published) letter, written in March 1794 and signed ‘Valerius’ (b.227/2(b)), protesting on behalf of Muir and Palmer in the Hulks, is introduced in the first pages of narrative (MWS script c.606/3: 96), displacing it from its date of writing (March), before she presents Godwin’s private letter to Gerrald (written in January). This is yet another reminder that Mary Shelley’s historical narratives take little account of material occasions of writing or publication. Caleb Williams was published in May, 1794, and Godwin went on a visit to his friends in Norfolk, ‘his native country’ (MWS script c.532/8). This journey is reported in MWS script as a high watermark, with Godwin rejoicing in the ‘purely English style’ of the Author of Caleb Williams.

Caleb Williams was published in May - it raised the reputation of the author to the highest pitch - those who had no taste for ‘political disquisition’, or who did not agree in the tenets of Political Justice, were

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1Kenneth Logue, Popular Disturbances in Scotland 1780-1835 (Edinburgh: John Donald, 1979), 14, n17, citing Howell’s State Trials, xxiii, 117 et seq.
carried away by the engrossing interest, the elevated feeling and dignified yet purely English style of the novel. Its reputation became European. In this country its influence extended into every grade of society. Those in the lower grades saw their cause espoused, & their oppressions forcibly & eloquently delineated - while the higher rank acknowledged & felt the nobleness, sensibility & errors of Falkland with the deepest sympathy. (c.532/8: 120)

This passage is presented in our chapter 2: politics in its place in a long sequence of MWS script, mainly on the topic of Political Justice. It is taken from Dep. c.532/8, but as the endnotes to chapter 2: politics point out, it is written on ‘wove paper of bluish tint’ similar to the papers in Dep. c.606/3, the MWS narrative of the Treason Trials which forms this chapter 3: law. Re-citing it here in its contemporary context, the period when Godwin wrote and published it, and the historical date, May 1794, which heads MWS narrative of events immediate to its publication, allows us to gauge its rhetorical displacement of actual current events, Gerrald’s wretched incarceration, Muir’s and Palmer’s imminent transportation, into a moving figment of Godwin’s heroic authorhood, a paper and ink battle reflected on the walls.

‘... their cause espoused, & their oppressions forcibly & eloquently delineated’, mimes courtroom advocacy, like Thomas Muir’s, or parliamentary grievance debates, like William Adam’s, both of these named in MWS narrative in c.606/3. While the novel’s influence is pervasive of all classes of society, its subtlest effects on ‘sympathy’ are felt by the ‘higher rank’, those whose education has refined their sensibility and enabled them to recognise that the high born Falkland, with all his ‘errors’, is one of themselves. A distaste for ‘political disquisition’ (what Keats had termed ‘a palpable design on the reader’), and disagreement with ‘the tenets of Political Justice’ are positive qualifications for the ideal reader of Caleb Williams.

This passage engages by reminiscence the debate at the close of 1790 between Mary Wollstonecraft’s Vindication of the Rights of Men, and Edmund Burke’s Reflections on the Revolution in France, on the symbolic politics of chivalry. MWS script has repeatedly stressed Godwin’s admiration of Burke, and there is some warrant in Godwin’s textual corpus for her emphasis on Burke’s elevation of English national unity when fronting Europe, and the platooning (if not indeed the dragooning) of the lower classes into having their ‘cause espoused’ by those more educated than themselves.
In October 1794, Godwin left London to enjoy a brief respite at Hatton, Samuel Parr’s Warwickshire parsonage (c.606/3: 127)). But the holiday was dramatically interrupted by news of Thomas Holcroft’s detention in London. St Clair quotes from Godwin’s papers: ‘In the Morning Chronicle of 7 October just arrived [on 9 October] from London, it was reported that a grand jury had found “true bills” against twelve of the arrested informers on a capital charge of high treason under the 1351 [25 Edward III] Act, and that the name of Thomas Holcroft had been added to the list of those charged’. (C129 n3, quoting c.531).

After learning of the arrest of his close associates in the Society for Constitutional Information and the London Corresponding Society, and the imminent issue of a warrant for his own arrest, Holcroft published a statement in the London press and voluntarily presented himself to the authorities at Hicks Hall, Clerkenwell. Hazlitt’s Memoirs of Holcroft outlines the crisis that developed after Holcroft’s letter to the Editor of the Morning Post was published on 1 October 1794: ‘The see-saw of contradictory reports continued for some days. A daily paper asserted, and as it professed, with authority, that the rumour of Mr Holcroft’s being included in the indictment was absolutely false; and a friend, who had determined (should it prove true) to give him every aid in his power, quitted town the very day before the bill was returned’ (Howe 145). This friend was, of course, Godwin.

This striking incident launches the main portion of MWS narrative, the progress of two court proceedings against twelve men on charges of High Treason or ‘encompassing the death of the King’, the definition of this capital crime by the Statute of 25 Edward III. The first hearing empanelled a Grand Jury of twelve citizens, and the trial proper began after the Chief Justice Lord Eyre handed down his Charge to the Grand Jury to ‘find a true Bill’, that is, instructed them that the defendants had a prima facie case to answer.

Godwin’s pamphlet, Cursory Strictures on the Charge delivered by Lord Chief Justice Eyre to the Grand Jury was published anonymously in the liberal newspaper Morning Chronicle, on 21 October 1794, and subsequently appeared in pamphlet form. It caused a stir and earned political and judicial disapproval, but it put new heart into the civil libertarian cause. Godwin’s authorship remained close guarded even when conjecture attributed authorship of Cursory Strictures to the barrister Felix Vaughan and others, but he gradually let his friends into the secret, including as one anecdote has it, a grateful Horne Tooke.
In our chapter 6: *writing*, one of Godwin’s letters in 1798 to Harriet Lee refers with pride to his pamphlet:

> For myself I have devoted myself for the happiness of my species; I have published various writings in circumstances of great danger, one an attack upon the judge by whom I expected Horne Tooke, Holcroft & other of my friends to be hanged; a publication that appeared but a few days before their trial, & which is supposed by them to have eminently contributed to save their lives. (b.228/4)

After witnesses had been called in two trials, and the defendants acquitted, judicial procedures were abridged. Thomas Hardy and John Thelwall being acquitted, John Horne Tooke’s trial was curtailed, and he too was acquitted on 22 November.

Thomas Holcroft, the next in line, was able to step down without interrogation, on Monday 1 December 1794. But according to his biographer William Hazlitt, Holcroft hardly felt the ‘general joy’, since he was refused the right to address the court and clear his name. The consequent pain of mind provoked him to publish two protest pamphlets in 1795 (Howe 151-2). The first of these pamphlets, *A Narrative of Facts*, used the print medium to compensate for being silenced in court. The second, titled *Letter to the Hon. William Windham*, denounced official connivance at press vilification of the so-called ‘acquitted felons’, casting a permanent slur on the name of men who had been found ‘Not guilty’ of a capital charge in the highest court of the land. In her script c.606/3 Mary Shelley precedes her account of the 1794 Treason Trials with a commentary on the unwisdom of Holcroft’s political activities, during Godwin’s struggle to defend ‘the cause of the accused traitors’ (c.606/3: [137v]). And in 1: *literature*, MWS script comments that Holcroft ‘carried [liberal principles] to excess ... and was tried for life as a traitor for his enthusiasm for the objects of the French Revolution’ (c.606/1: 113).

Godwin’s role in securing acquittals at the London trials makes the jubilant climax of Mary Shelley’s narrative, despite the debacle of Gerrald’s trial and the cruel fatalities of the transportation system. One omission in MWS account is the name and fame of the barrister Thomas Erskine, led by senior counsel Vicary Gibbs, who successfully

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defended Thomas Hardy and Horne Tooke in the trials that went to the jury (Howe, 147, 292). It seems that she devised her account of the 1794 trials to turn upon a single heroic figure—William Godwin. She was perhaps the less inclined to give credit to Erskine’s advocacy after reading what Godwin had anonymously conveyed to Erskine after his failure to secure an acquittal for Tom Paine in December 1792. We presented this letter in 2: politics, in its contemporary context. Here is part of what Godwin wrote then:

You stated it as one of the great privileges of the English constitution, that every man arraigned of any crime was enabled to secure himself an advocate to plead his cause. You claimed considerable credit upon that occasion for having persevered through every obstacle in the assertion of this privilege. It is my particular intention to controvert the reasonings of this part of your speech. You will perhaps be surprised to hear it affirmed, that you had a considerable share in procuring the verdict of guilty against your client. (b.227/2(b): 36-37)

This private-public letter, private because Erskine cannot trace the writer (or not without difficulty), and public because it enunciates a principle of public policy, was written at nearly the same time as the publication (February 1793), of Political Justice. Godwin flexes his forensic professionalism but devalues Erskine’s, and privileges eloquence which subjectively believes what it professes. Godwin’s letter to Gerrald (c.532/2), almost exactly one year later modifies this argument, only to make it more absolute.

Where Erskine in December 1792 should have defended Paine’s untrammelled right to publish his ideas (and not tried to defend the ideas in his book), Gerrald in January 1794 is exhorted to defend himself without a lawyer, and to appeal to no legal principle, save the right of a free-born Englishman to be ‘whole [him]self’. This scouts representation (re-presentation), of one man’s ‘cause’ by another man’s ‘voice’. Yet paradoxically it makes every instantiation of truth to belief (sincerity) representative of all others: ‘You represent us all’. The universal standing of the individual speech act places Godwin’s present writing—the letter conveying these sentiments—in a liminal space, present-absent to Gerrald’s extreme danger, present in experienced time but not in embodied space, thanks to the fluent resilements of the written line. This compares with the techne of the “open” letter, such as the letter to Sheridan in April 1791, which precisely commissions an audience with a man in power, and in parliamentary power of voice at that, to be the agent at remove of what Godwin the writer authorises.
Let me quote here from the paraphrase of the 1791 letter in MWS script c.606/2 (in 2: politics)

Had you rather be indebted to [sic] your eminence to the caprice of monarchs, than to the voice of a whole nation, accumulating its gratitude on the head of the general benefactor? Had you rather have the nominal profession of power, with your hands free for the purposes of corruption, but chained up from the exertion of every virtuous effort; than have the real profession of power; able to make every act of your administration a blessing to Britain, to Europe & to mankind?

Each of these letters, to Sheridan, Erskine, Gerrald, brings in question the relative power in and on the world of the writer and his addressee. What binds them in expressive self-consistency is the privilege (and ascetic self-abridgment) of the writer, not to act or suffer beyond the text.

Shelley rounds off her account of the year of trials 1793-1794 with a document in b.227/2(b), numbered in sequence with her script in c.606/3. This is the draft of a letter (discreetly unsigned), written after the trials by Godwin to Lord Chief Justice Eyre, to claim authorship of Cursory Strictures, and to instruct the judge on principles of the law, as Eyre himself had ex officio instructed the Grand Jury. Godwin’s pedagogical stance is never more explicit than in this letter.

A historical footnote to MWS account seems in order: the trials of Robert Watt and David Downie for High Treason were conducted in Edinburgh over the same months August-October 1794 as the London trials, and brought down guilty verdicts and death sentences for both men, though Downie’s sentence was subsequently commuted to transportation. This coincidence of ordeals does not enter into Godwin’s manuscript archive, nor the MWS narrative, though her remarks about the severity of the Scottish courts gesture in the direction of these grim events. An account of the Watt and Downie trials in John Barrell’s recent study, Imagining the King’s Death (Oxford, 2000), sheds new light on the complex web of political and historical ties between Scottish and English justice systems.

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*documents attached to chapter 3: law:
Duke reel 13, a draft or copy of ‘Letter VII’, an unsigned note dated 18 Sep[tember] 1794, from Godwin to John Thelwall in Newgate, identified by St Clair (C127, n1) in Dep. c.511.
Duke reel 13, an 1835 letter to Godwin from Muir, Gowans & Co, Glasgow publishers, requesting permission to publish his letter to Gerrald in 1794 in their forthcoming The Trial of Joseph Gerrald, before the High Court of Justiciary, at Edinburgh, on the 13th and 14th of March, 1794, for Sedition; with an Original Memoir, and Notes (Glasgow, 1835). Reprinted in Pamela Clemit ed. Lives of the Great Romantics, iii, i ‘Godwin’ (London: Pickering & Chatto, 1999), 121-125. Godwin’s letter as published in Clemit 1999 is dated ‘W. Godwin/Jan. 29, 1794’. Godwin himself may have changed the date on the copy he sent to the publishers from the c.532/2 MS version ‘Jany 23 1794’.

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