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Thomas Dixon

On Boxing Day 1856, a 10-month-old baby boy died in painful, violent convulsions. He had consumed a fatal dose of laudanum, administered to him in his bottle, mixed with milk and sugar. The baby's mother confessed that she was the poisoner and explained her reason: she was convinced she was guilty of some terrible sin for which she would soon be hanged and she 'thought it better that her child should be sent to God, who would take care of it for her'. When the case came to trial in Liverpool in 1859, the jury acquitted the woman, Agnes Bradley, on the grounds of insanity. The presiding judge was Sir James Shaw Willes, and it was reported that during the trial, and especially while the details of the baby's death were being described, 'the learned Judge became painfully affected, so much so, that at one time he buried his face in his note-book and shed tears and seemed almost unable to proceed with the evidence'.¹

In Salisbury, six years later, Willes was again in tears, when he presided over the murder trial of Constance Kent. This was the infamous and mysterious case in which a young boy had been brutally murdered in his home in the village of Road, Wiltshire.² Constance Kent, the boy's half-sister, was standing trial. The proceedings were intense and dramatic but very brief, the whole trial not lasting more than 10 minutes. The accused, now a woman of 21, had recently confessed to the crime, and a medical expert, Dr J.C. Bucknill, had advised that there was no basis for a plea of insanity. All that remained was for Willes to pass the sentence of death by hanging. He assumed the black cap 'amidst the most profound silence' and passed sentence, commenting on the cruelty displayed by the girl, and on the 'feelings of jealousy and anger' that had motivated her. These passions, Willes told the defendant, had been allowed 'to work in your breast until they at last assumed over you the influence and power of the Evil One'. At this point in his speech, Willes 'bent forward and wept for some few seconds'. Having temporarily regained himself, Willes pressed on, commenting that it lay with the Queen alone to decide whether clemency should be granted on the grounds of Constance Kent's youth at the time. Reports noted that 'the learned Judge here again wept, and the solemn words of his sentence were almost inaudible'.³

1. *The Times*, 28 March 1859, p. 11.

2. Kate Summerscale, *The Suspicions of Mr Whicher, or The Murder at Road Hill House* (London: Bloomsbury, 2009), especially pp. 248–54.

3. *Birmingham Daily Post*, 22 July 1865, p. 2; *Bristol Mercury*, 22 July 1865, p. 8; *Caledonian Mercury*, 22 July 1865, p. 3.

Born in Cork in 1814, the son of a physician, James Shaw Willes was educated in Dublin, and moved to London in 1837. When a judicial vacancy arose in 1855, the Lord Chief Justice recommended Willes for the position as being not only 'an admirable lawyer' but also possessing 'delightful manners and a well-regulated mind'.⁴ Willes was known for his prodigious intellect, for showing mercy in criminal cases, and for his tendency to be moved to tears. His appearance and manner were sometimes an occasion for comment, for example when he wore white kid gloves while taking down notes of evidence.⁵ He was said to be 'one of the gentlest of men' and 'no sportsman': he never allowed a loaded gun to be brought into court except by a properly qualified person, and on the assurance that it could not possibly go off.⁶ Judging from the small number of his private letters that survive, Willes also had a literary and poetic sensibility. In 1867 he wrote to his friend and colleague John Duke Coleridge, who had been Constance Kent's counsel in 1865, thanking him for the loan of a volume of Keats. The volume, Willes wrote, would be accompanying him on his imminent journey to Spain to visit Alicante and Valencia, including a pilgrimage to the birthplace of El Cid and a visit to the famous palm grove of Elche.⁷ A frequent traveller in Spain and Italy, Willes perhaps shed a quiet tear over the 'Ode on Melancholy' (1819) as he gazed upon the Mediterranean, even following Keats's advice in that poem: 'when the melancholy fit shall fall/ Sudden from heaven like a weeping cloud/ ... / Then glut thy sorrow on a morning rose/ Or on the rainbow of the salt sand-wave'.⁸ At various stages of his life, Willes suffered from heart disease, gout and insomnia. He died at his home in Watford in 1872.⁹

There has not yet been any systematic study of the causes, occasions and significance of Victorian tears, nor of the Victorians' own theories of weeping.¹⁰ The present essay makes a start in that direction by constructing a microhistory of some

4. R.F.V. Heuston, 'James Shaw Willes', *Northern Ireland Legal Quarterly*, 16 (1965), 193–214 (p. 200).

5. *Pall Mall Gazette*, 11 October 1872, p. 6.

6. *Trewman's Exeter Flying Post*, 9 October 1872, p. 8.

7. Willes to J.D. Coleridge, 25 September 1867; Coleridge Papers; British Library MS Add.86317. Reproduced by kind permission of the British Library.

8. John Keats, 'Ode on Melancholy', in Keats, *The Complete Poems*, ed. by John Barnard, 5th edn (Harmondsworth: Penguin, 2003), p. 349.

9. The fullest source on Willes is Heuston, 'James Shaw Willes'. See also: A.W.B. Simpson, 'Willes, Sir James Shaw (1814–1872)', in *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004); online edn, January 2008 <<http://0-www.oxforddnb.com.catalogue.ulrls.lon.ac.uk/view/article/29442>> [accessed 18 October 2010].

10. Important partial exceptions are a 1974 lecture by Philip Collins, published as *From Manly Tear to Stiff Upper Lip: The Victorians and Pathos* (Wellington, New Zealand: Victoria University Press, n.d.); and Paul White, 'Darwin Wept: Science and the Sentimental Subject', in New Agenda on 'Sentimentality', *Journal of Victorian Culture*, 16.2 (2011), 195–213. On the history of crying more broadly, key works are Anne Vincent-Buffault, *The History of Tears: Sensibility and Sentimentality in France* (Basingstoke: Macmillan, 1991); Tom Lutz, *Crying: The Natural and Cultural History of Tears* (New York: Norton, 1999); James Elkins, *Pictures and Tears: A History of People who Have Cried in Front of Paintings* (New York: Routledge, 2001).

tearful episodes in the career of James Shaw Willes, using them to explore Victorian tears more broadly, including their moral, medical and metaphysical meanings. The mismatch between our expectations of austere authoritarianism in a Victorian judge and Willes's weeping suggest that here is a subject which may repay closer study, revealing those opaque systems of meaning, partially obscured by historical misremembering, which constitute the quarry of the microhistorian.¹¹ The present study accordingly takes what might be described as an anthropological approach to the tears of Mr Justice Willes, seeking immersion in the mid-Victorian thought-worlds, public rituals, social relationships and cultural resources through which tears were produced, witnessed, and interpreted. Despite the confidence of some that tears were transparent 'natural signs', in fact their potential meanings were many, and sometimes obscure. To the extent that we can recover their significance, it is by reconnecting them with the philosophical, scientific, medical and theological theories of tears that were current in the mid-Victorian period.

Established scholarly ways of thinking about crying in Victorian culture tend to assume that the domain of tearfulness maps more or less exactly onto the domain of the 'sentimental' or sometimes the 'emotional'. These are both well-established subject areas in Victorian studies.¹² What I attempt here is to think about the history of tears in their own right, rather than primarily as expressions of emotion or evidence of sentimentality. Looking at the significance and function of tears in this way allows us to appreciate that a tear is not only, in the words of William Blake, 'an intellectual thing' but also a social thing, and very often a religious thing too.¹³

11. Robert Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* (London: Allen Lane, 1984).

12. Fred Kaplan, *Sacred Tears: Sentimentality in Victorian Literature* (Princeton: Princeton University Press, 1987); Gesa Stedman, *Stemming the Torrent: Expression and Control in the Victorian Discourses on Emotion, 1830–1872* (Aldershot: Ashgate, 2002); Carolyn Burdett, 'Introduction' to New Agenda on 'Sentimentality', *Journal of Victorian Culture*, 16.2 (2011), 187–94. A special issue of *19: Interdisciplinary Studies in the Long Nineteenth Century* in 2007 was devoted to 'Rethinking Victorian Sentimentality'; especially relevant to the topic of Victorian weeping are: Nicola Bown, 'Introduction: Crying over Little Nell', *19: Interdisciplinary Studies in the Long Nineteenth Century*, no. 4 (2007) <<http://19.bbk.ac.uk/index.php/19/article/viewFile/453/313>>; and Sally Ledger, "'Don't be so melodramatic!'" Dickens and the Affective Mode', *19: Interdisciplinary Studies in the Long Nineteenth Century*, no. 4 (2007) <<http://19.bbk.ac.uk/index.php/19/article/viewFile/456/316>> [both accessed 18 October 2010]. Useful overviews of recent developments in the history of emotions include Jan Plamper, 'The History of Emotions: An Interview with William Reddy, Barbara Rosenwein, and Peter Stearns', *History and Theory*, 49 (2010), 237–65; Peter N. Stearns, 'History of Emotions: Issues of Change and Impact', in *Handbook of Emotions*, ed. by Michael Lewis, Jeanette M. Haviland-Jones and Lisa Feldman Barrett, 3rd edn (New York: Guilford Press, 2008), pp. 17–31; Barbara H. Rosenwein, 'Worrying about Emotions in History', *American Historical Review*, 107.3 (2002), 821–45 <<http://www.historycooperative.org/journals/ahr/107.3/ahr0302000821.html> [accessed 18 October 2010].

13. A particularly helpful philosophical inquiry into the meanings of tears is the title essay of Jerome Neu's *A Tear is an Intellectual Thing: The Meanings of Emotion* (Oxford: Oxford University Press, 2000), pp. 14–40.

Weeping is a complex public act. Tears mediate social relationships, and their meanings are determined by the beliefs of both the weeper and their audience. These facts can be lost sight of if tears are automatically annexed to preconceived categories of 'sentiment' or 'emotion'.

This is not to deny that the Victorians themselves saw connections between tears, sensibility and emotion. They certainly did, and were well-versed in the tearful traditions of eighteenth-century novel-writing and novel-reading exemplified by Laurence Sterne and Henry Mackenzie, for whom tears, whether of their characters or their readers, were signs of sympathy and sensibility. Mackenzie's *Man of Feeling* (1771) was perhaps the most famously tearful contribution to the genre.¹⁴ Charles Dickens's death scenes are the most obvious example of the literature of tearful sensibility as it re-emerged in the Victorian period.¹⁵ Even Oscar Wilde, who had famously taken a stab at weepy Dickensians with the comment that one must have a heart of stone to read the death of Little Nell without laughing, was not averse to tears.¹⁶ Wilde had tears in his eyes as he told his young sons the story of 'The Selfish Giant' (1888), explaining to them 'that really beautiful things always made him cry'.¹⁷ In the story itself, the little boy's tear-filled eyes prevented him from seeing the giant approaching him. The link between reading and crying, then, like the link between tears and sentimentalism, is quite familiar territory. The weeping of Justice Willes, on the other hand, allows us to approach the history of tears from less familiar angles, asking about their meanings in courtroom, clinic, church and chapel, and to go back to, but also beyond the Darwinian idea of weeping as an expression of emotion.

I. Secretions and signs

A tear on its own means nothing. It must be connected with a face, a body, a medical history, a personal narrative, a social situation, a psychological theory, in short a

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14. Kaplan and Burdett both reflect explicitly on the relationship between Victorian and eighteenth-century forms of sentiment. See also John Mullan, *Sentiment and Sociability: The Language of Feeling in the Eighteenth Century* (Oxford: Clarendon Press, 1988); and Marie Banfield, 'From Sentiment to Sentimentality: A Nineteenth-Century Lexicographical Search', 19: *Interdisciplinary Studies in the Long Nineteenth Century*, no. 4 (2007) <<http://19.bbk.ac.uk/index.php/19/article/viewFile/459/319>>. On Mackenzie's *The Man of Feeling* in particular, see Maureen Harkin, 'Introduction', to Henry Mackenzie, *The Man of Feeling* (Peterborough, Ontario: Broadview Press, 2005), pp. 9–38; and, on tears and sympathy in that work: Ildiko Csengei, "'I Will Not Weep": Reading through the Tears of Henry Mackenzie's *Man of Feeling*', *Modern Language Review*, 103 (2008), 952–68.
 15. Bown and Ledger both analyse Dickens's ability to elicit sentimental tears. Kaplan, *Sacred Tears*, p. 71, quotes from an account by Jane Frith of a public reading by Dickens, where she saw 'everyone in the hall in floods of tears', but did not feel moved to join in. Collins, in *Manly Tear* (pp. 5–7), gives examples of Thackeray, Eliot, Tennyson and Clough, as well as Dickens, all of whom were moved to tears by reading their own work.
 16. Richard Ellmann, *Oscar Wilde* (London: Hamish Hamilton, 1987), p. 441.
 17. Vyvyan Holland, quoted in Jarlath Killeen, *The Fairy Tales of Oscar Wilde* (Aldershot: Ashgate, 2007), p. 61.

cultural complex which can transform it from a secretion into a sign – but a sign of what? For scientific and medical writers in the nineteenth century, tears were considered signs sometimes of primitivism and pathology, sometimes of civilization and health. Depending on which authorities one consulted, the tears of a middle-aged professional man like Justice Willes could be interpreted as signs of nervous exhaustion, overwork and bodily derangement or of a sympathetic moral sensibility and healthily functioning emotions.

We might today be inclined to take it for granted that the tears of Mr Justice Willes were expressions of emotion. Weeping, sobbing, screaming and the secretion of tears were indeed among the bodily gestures discussed by Charles Darwin in *The Expression of the Emotions in Man and Animals* (1872). Earlier theorists had interpreted bodily gestures such as weeping differently, however. For them they were ‘natural signs’ of ‘passions’, ‘dispositions’, ‘affections’, and ‘sentiments’, including ‘sympathy’. The influential Scottish philosopher Thomas Reid gave a definitive statement of this set of ideas in his 1788 *Essays on the Active Powers of Man*:

The involuntary signs of the passions and dispositions of the mind, in the voice, features, and action, are a part of the human constitution which deserves admiration. The signification of those signs is known to all men by nature, and previous to all experience. They are so many openings into the souls of our fellow-men, by which their sentiments become visible to the eye.¹⁸

Tears only became ‘expressions’ of ‘emotions’ during the nineteenth century.¹⁹ Even then, they continued to be expressions additionally of thoughts and of sensations. Not only, then, did crying not necessarily express a particular emotion such as grief or sorrow; it did not necessarily express any emotion at all. This point is further confirmed by a close reading of Darwin’s own book on the subject.

With the publication of Darwin’s *Expression*, the scientific study of expression in general and weeping in particular entered a new phase.²⁰ Darwinian expressions of emotion were not thought of as God-given ‘natural signs’, but rather as inherited habits that had become detached from their original purposes. The emphasis for Darwin shifted away from signification and towards physiology. Darwin’s ‘philosophy of weeping’, as one newspaper reviewer called it, suggested that tears rolling down the face were an involuntary remnant of a complex inherited habit, which had once been useful to our ancestors, when screaming in their infancy, but which now survived despite no

18. Thomas Reid, *Essays on the Active Powers of Man* (Edinburgh: Bell, 1788), p. 191.

19. Thomas Dixon, *From Passions to Emotions: The Creation of a Secular Psychological Category* (Cambridge: Cambridge University Press, 2003); Thomas Dixon, ‘Patients and Passions: Languages of Medicine and Emotion, 1789–1850’, in *Medicine, Emotion and Disease, 1700–1950*, ed. by Fay Bound Alberti (Basingstoke: Palgrave Macmillan, 2006), pp. 22–52; Thomas Dixon, ‘Revolted Passions’, *Modern Theology*, 27 (2011), 298–312.

20. Dixon, *Passions to Emotions*, pp. 159–79; Paul White, ‘Darwin’s Emotions: The Scientific Self and the Sentiment of Objectivity’, *Isis*, 100 (2009), 811–26; Gregory Radick, ‘Darwin’s Puzzling Expression’, *Comptes Rendus Biologies*, 333 (2010), 181–87; Tiffany Watt-Smith, ‘Darwin’s Flinch: Sensation Theatre and Scientific Looking in 1872’, *Journal of Victorian Culture*, 15.1 (2010), 101–18; White, ‘Darwin Wept’.

longer serving its original purpose for adults in the modern world.²¹ According to Darwin's evolutionary scenario, muscles around the eyes had originally been contracted to protect the eyeballs from damage during a screaming fit, 'at first consciously and at last habitually'. The resulting pressure on the surface of the eye would simultaneously have stimulated the lachrymal glands, producing tears. Finally, the power of association would have connected these movements with any state of mental suffering, so that now, whether they wished it or not, Victorian ladies and gentlemen might find their thoughts and emotions betrayed by their tears which, Darwin concluded, had in the modern age become 'incidental' and 'purposeless'.²² Seen this way, they were indeed, as Tennyson had put it, 'idle tears'.²³

Darwin wrote that weeping was observed in monkeys and elephants; that it was common in infants and the insane; and that it was more prevalent among women than men. Drawing comparisons between different races and nationalities, Darwin reported that 'savages weep copiously from very slight causes', giving the example of a New Zealand chief who had 'cried like a child because the sailors spoilt his favourite cloak by powdering it with flour'.²⁴ Henry Maudsley had also endorsed the view that in 'children and savages' emotions were 'readily manifested in outward display'.²⁵ Darwin added an example from his own experience: 'I saw in Tierra del Fuego a native who had lately lost a brother, and who alternately cried with hysterical violence, and laughed heartily at anything which amused him'. Darwin observed variation even among the 'civilized nations of Europe': 'Englishmen rarely cry, except under the pressure of the acutest grief; whereas in some parts of the Continent the men shed tears much more readily and freely'.²⁶ One reviewer of Darwin's book mentioned that public expressions of violent grief of the kind witnessed in 'savage nations' were 'not altogether extinct in Ireland', although, by implication, they were not witnessed in England.²⁷ The Englishman showed restraint, but it was not always easy. 'I have myself felt', Darwin confessed, 'and have observed in other grown-up persons, that when tears are restrained with difficulty, as in reading a pathetic story, it is almost impossible to prevent the various muscles, which with young children are brought into strong action during their screaming-fits, from slightly twitching and trembling'.²⁸

21. *The Graphic*, 16 November 1872, pp. 462–3.

22. Charles Darwin, *The Expression of the Emotions in Man and Animals* (London: John Murray, 1872), pp. 176–77.

23. 'Tears, Idle Tears', first published as part of *The Princess: A Medley* (London: Edward Moxon, 1847), was from the outset one of Tennyson's most popular lyrics. On the history of interpretations of the poem, see Henry Kozicki, 'Tennyson's "Tears, Idle Tears": The Case for Violet', *Victorian Poetry*, 24 (1986), 99–113.

24. Darwin, *Expression*, p. 155.

25. Henry Maudsley, *The Physiology and Pathology of Mind*, 2nd edn (London: Macmillan, 1868), pp. 158–59, quoted in Alison M. Pearn, "'This Excellent Observer ...': The Correspondence between Charles Darwin and James Crichton-Browne, 1869–75", *History of Psychiatry*, 21 (2010), 160–75 (p. 163).

26. Darwin, *Expression*, p. 155.

27. *The Graphic*, 16 November 1872, pp. 462–63.

28. Darwin, *Expression*, p. 153.

This simple hierarchy, ranging from the copious weeping of the uncivilized at the bottom to the lachrymal continence of the twitching and trembling English gentleman at the top, was not the only anthropological model on offer to Victorian readers, however. The physicians John C. Bucknill and Daniel Hack Tuke offered a diametrically opposite view in their *Manual of Psychological Medicine*, stating that both intellect and emotions were more highly developed among the civilized peoples of Europe and North America, to the extent that these people, unlike the lower races, lived in a constant state of 'intoxication of the emotions':

There is an acuteness of sensibility, a susceptibility of the emotions, an intense activity of the feelings, which would seem to be peculiar to highly civilized life. The observation has, indeed, been made, that savage nations never shed tears, and rarely ever laugh.

As a result of this acute sensibility, civilized peoples were more prone not only to weeping and laughter, but also to forms of insanity arising from intensity of emotion.²⁹ Depending on which of the scientific authorities one believed, then, Sir James Shaw Willes's sobbing might have been a sign either of relative primitivism, perhaps a sign that his Irish ancestry had prevented his reaching the level of restraint manifested by Englishmen, or alternatively of his possession of an acuteness of sensibility which demonstrated his membership of the highest echelons of Western civilization, but which might endanger his health.

That tears could express thoughts as well as emotions was made clear in an engaging autobiographical scene narrated in Darwin's book on expression. The incident took place in a railway carriage, where Darwin was idly observing the old lady opposite. She had a placid expression, but as Darwin watched her, the corners of her mouth became slightly turned down, by the action of the muscles known as the *depressores anguli oris* (depressors of the corner of the mouth). Just as Darwin thought to himself how meaningless such apparent expressions could be, the woman's eyes 'suddenly became suffused with tears almost to overflowing, and her whole countenance fell'. There could be no doubt, Darwin thought, what these tears revealed, namely that 'some painful recollection, perhaps that of a long-lost child, was passing through her mind'. The lachrymal glands were 'less under the control of the will than the facial muscles' and tears could thus be unconsciously produced either by 'some melancholy thought' or by 'transitory emotions' as they passed through the brain.³⁰

So, when Mr Justice Willes wept over the painful death of Agnes Bradley's little boy, or sobbed while sentencing Constance Kent to be 'hanged by the neck until her body was dead', what was being made visible by his tears? If Darwin had been in court on either occasion, he might have been able to predict the moment at which Willes was going to burst into tears by studying his *depressores anguli oris*, but he might not have been the most helpful guide on the question of what exactly this bodily expression was expressing. For all his care over the details of physiology and

29. John Charles Bucknill and Daniel Hack Tuke, *A Manual of Psychological Medicine*, 2nd edn (London: John Churchill, 1862), pp. 36–37.

30. Darwin, *Expression*, pp. 195–97.

behaviour involved, Darwin's writing on this subject, including his account of the old lady on the train, betrayed a certain metaphysical imprecision. Sometimes he wrote of tears as expressing 'thoughts' or 'recollections', sometimes 'emotions', sometimes painful 'sensations'. Here again Darwin's account echoed Tennyson's, for whom tears could express both emotion and thought: both 'some divine despair' and 'thinking of the days that are no more'.³¹ In his *The Physiology of Mind*, Henry Maudsley similarly saw the bodily secretion of tears as expressive potentially of either a 'depressing passion' or 'a sympathetic idea'. For Maudsley, both thoughts and emotions could 'increase, lessen, or alter a secretion' such as tears or saliva.³²

Tears may have been 'natural signs' but the process of signification was neither natural nor transparent. Depending on their means of production and context of interpretation, tears could signify almost any mental state: a sensation (individual or collective), a thought, or an emotion. As Darwin himself pointed out, they could be brought about 'under the most opposite emotions, and under no emotion at all'.³³ Perhaps Justice Willes felt grief when he wept in court, but perhaps his tears meant something else, something more specific either to him or to the rituals of the courtroom. In order to get closer to that meaning, therefore, we need to look at Willes as a representative not only of his species but also of his profession.

II. Crying in court

Abraham Solomon's painting *Waiting for the Verdict* (1857) captured pictorially the social stratifications of Victorian justice.³⁴ The picture is composed of three levels: in the foreground a prisoner's tearful family wait for the verdict; a few steps higher, bewigged barristers mill outside the courtroom; finally, placed far above them all, glimpsed in his splendid robes, sits the almighty judge. The eye is led on a trajectory of ascending education, affluence, finery, power and bodily containment. The working-class father has his head in his hands, the mother's eyes brim with tears, the wife's brows are contracted, her eyes swollen, almost bruised. The judge is too distant for his face to be read, but he and the barristers strike bodily attitudes of upright composure that contrast with the dishevelled collapse of the prisoner's family. Solomon's painting thus suggested a contrast between the grief, suffering, and tears of working people, their expressions of grief and despair, and the faceless, indifferent operations of the legal system.

Weeping has always been a kind of performance and Victorian courtrooms provided a theatrical context for the tears of defendants, their families, lawyers, jurors

31. Tennyson, 'Tears, Idle Tears', in *The Princess*, in Tennyson, *The Poems*, ed. by Christopher Ricks, 2nd edn, 3 vols (Harlow: Longman, 1987), II, 232–33.

32. Henry Maudsley, *The Physiology of Mind* (London: Macmillan, 1876), pp. 300, 384–85.

33. Darwin, *Expression*, p. 163.

34. The image is held in the Tate Collection and can be viewed online <<http://www.tate.org.uk/servlet/ViewWork?cgroupid=999999961&workid=13624&searchid=10830>>. See also *Solomon: A Family of Painters* (London: Inner London Education Authority, 1985), the catalogue of an exhibition held at the Geffrye Museum, London, 8 November–31 December, 1985.

and the public. These tears functioned in different ways. A prisoner might weep in sorrow, repentance, fear, or self-pity; a barrister would occasionally adorn a burst of theatrical oratory with a flow of tears; and the eyes of the jury and public gallery could communicate the success of these performances by weeping in sympathy. In some particularly charged capital trials heard in front of Willes, such as that of a young man called Henry Carter in 1863 and the famous Constance Kent case two years later, almost everyone involved seems to have been in tears, the whole courtroom vibrating with sensation and sympathy.

On making her appearance in the dock in July 1865, it was reportedly observable (despite the fact that she wore a black veil over her face), that Constance Kent 'had been crying very much'. When asked repeatedly by Justice Willes whether she wished to plead guilty, 'the tremulous vibration of her veil showed that she was deeply agitated'. When Willes wept during sentencing, referring to Kent's passions of jealousy and anger, the accused faintly uttered a denial of this interpretation: 'Not jealousy'. Seeing Willes's tears, she was 'forsaken by the extraordinary fortitude which had throughout characterised her demeanour, and she wept audibly'. Finally, Kent 'recovered her self-possession', listening 'with stoical indifference' to the rest of her sentence, before leaving the dock 'with a firm step'.³⁵ That image of the court reporters straining to discern on the prisoner's face, beneath her tremulous black veil, signs of passion, agitation, fortitude, self-possession or stoical indifference, captures perfectly the perplexities involved in trying to ascribe meanings to tears.

It was not just Kent and Willes who wept at that trial. According to one later account, the speech delivered by Constance Kent's counsel, John Duke Coleridge, had been 'punctuated with sobs'.³⁶ The newspapers at the time agreed that 'the jury were in tears', as was 'the greater part of the public'.³⁷ One report went further still: 'The jury and everyone in Court were visibly affected'.³⁸ But what mental affection had thus been made visible? Why was everyone crying? This question is made all the more pointed by the fact that no-one could reasonably have supposed that the sentence of death by hanging, tearfully pronounced by Justice Willes, would be carried out. The prisoner's voluntary confession, combined with her youth and sex, made it certain that the capital sentence would be commuted, which indeed it was within a few days, to a sentence of penal servitude for life.³⁹ So, if not over the imminent doom of this young woman, why was everyone crying? Were they moved by the terribleness of the crime, or by the catharsis of a dramatic confession of guilt? In cases like this one, it seems to have been the ritual power of the occasion itself, and its dramatization of narratives of sinfulness, justice and death as much as any psychologically identifiable

35. *The Bristol Mercury*, 22 July 1865, p. 8.

36. Charles Kingston, *The Judges and the Judged* (London: John Lane, 1926), p. 256.

37. *Wiltshire and Somerset Journal*, quoted in June Sturrock, 'Murder, Gender, and Popular Fiction by Women in the 1860s: Braddon, Oliphant, Yonge', in *Victorian Crime, Madness and Sensation*, ed. by Andrew Maunder and Grace Moore (Aldershot: Ashgate, 2004), pp. 73–88 (p. 78).

38. *Caledonian Mercury*, 22 July 1865, p. 3.

39. *The Dundee Courier and Argus*, Saturday, 22 July 1865, p. 3; *Birmingham Daily Post*, 27 July 1865, pp. 4, 8; *The Pall Mall Gazette*, 27 July 1865, p. 5.

emotional response, which was productive of tears. The ambiguity of these courtroom tears undermines the idea of weeping as an easily legible 'natural sign', one of those 'openings into the souls of our fellow-men' through which, as Thomas Reid had thought, 'their sentiments become visible to the eye'.⁴⁰

In other cases, the tears were more legible, operating as visible tokens of sympathy. The case of Henry Carter, heard by Judge Willes in Birmingham in 1863, involved a sympathetic prisoner and much public weeping. Carter was an apparently respectable young man on trial for the murder of his sweetheart, a seventeen-year-old girl called Alice Hinkley. Carter put on a good performance. It started with his walking 'firmly' into the dock and pleading not guilty in 'an unfaltering voice'; and ended four hours later, after the jury returned its guilty verdict, with his firmness dissolving away. Sinking down into his seat, Carter 'burst into tears, and sobbed bitterly'. In anticipation of the passing of sentence, 'a hush of sympathy thrilled through the Court'. There was, according to the *Birmingham Daily Post*, 'a silence so deep, so unbroken, so impressive, that it seemed as if the pulsation in every breast had been momentarily arrested'. Everyone in the courtroom seemed united by a 'universal sympathy' as 'every eye turned towards the dock'. Carter was 'pale, feeble, tottering, almost fainting, every nerve shaken with a mental agony' as he heard Justice Willes pronounce the death sentence 'in a trembling voice'. 'Many of the ladies in the galleries, too,' the report concluded, 'touched probably by the prisoner's youth and position, were greatly affected.'⁴¹ The prisoner, the judge, and the ladies in the gallery: united by a universal sympathy that became audible in silence and visible through tears.

For the most part, as suggested visually in *Waiting for the Verdict*, the judge embodied containment and calm, detached from the groans, sighs and tears of the prisoners, but that is not to say that he was expected to be always entirely unmoved. One newspaper correspondent writing in 1850 thought it quite usual for a humane judge to 'shed tears of genuine sorrow' in sentencing a murderer to a 'deserved but violent death'.⁴² Nineteenth-century newspaper reports suggest that such tears were relatively rarely shed from the bench and were generally thought worthy of comment, but that they were more common in the first than the second half of the century. While weeping judges became virtually extinct after the mid-Victorian period, their precursors can be traced back to eighteenth-century Edinburgh.⁴³

40. Reid, *Essays*, p. 191.

41. *Birmingham Daily Post*, 30 March 1863, p. 3, and 7 April 1863, p. 3.

42. This was in a Dublin newspaper, *Freeman's Journal and Daily Commercial Advertiser*, 12 April 1850, p. 3. A few years earlier a Dublin case was reported involving a girl who had been seduced, had miscarried, and whose family had forcibly removed her from the house of her seducer: 'the learned Judge shed tears, and many present were deeply affected'; *Standard*, 7 October 1844, p. 3.

43. See also Collins, *Manly Tear*, which supports this suggestion of a change of tone, and a move away from the culture of sentimentality from the 1860s onwards. On the importance of Edinburgh in the history of theories of emotions, see Dixon, 'Patients and Passions'.

Mackenzie, author of *The Man of Feeling*, had himself been a practising lawyer, along with several other Edinburgh figures of his and the following generation. Thomas Erskine, who was made Lord Chancellor in 1806, had previously earned a reputation for tearful and histrionic advocacy in his defence of political radicals in the 1790s, including Thomas Paine and Thomas Hardy, appealing to the feelings of juries, and quoting liberally from the scriptures.⁴⁴ In 1820 Erskine and Henry Brougham both spoke in the House of Lords in defence of Queen Caroline. Brougham's speech was so powerful that Erskine 'rushed out of the chamber in tears'.⁴⁵ Brougham was, along with Francis Jeffrey, Henry Cockburn and others, part of the circle who founded the *Edinburgh Review*. Cockburn went on to become an advocate and judge, and was renowned for winning round juries by pleading 'in Scots and, at times, in tears'.⁴⁶ Jeffrey, who likewise made the journey from literature to law, becoming a judge in 1834, was also, at least in private, as prone to tears as any of this group. Towards the end of his life, it was the writing of his friend Charles Dickens that particularly moved him. In 1847 Jeffrey wrote to Dickens, of the latest instalment of *Dombey and Son*, 'I have so cried and sobbed over it last night, and again this morning; and felt my heart purified by those tears, and blessed and loved you for making me shed them'.⁴⁷

In other words, weeping judges were by no means unheard of and their tearful displays were generally, although not always, reported with sympathy by the press. In 1855, in one of the first cases in which Willes sat as a judge, three bankers were convicted of fraud, and the presiding judge and the prosecutor were both reported to have been moved to tears. *Punch* could not 'see the necessity for all this sentimental snivelling' over such a case when 'there is a great deal more to cry about, more matter for sympathy and commiseration in nine cases out of ten at the Old Bailey, than in the case of these dishonest Bankers', declaring they would have 'rejoiced to say that the Prosecutor and the Judge had "done their duty like men," if unfortunately they had not laid themselves open to the charge of having done their duty like women'.⁴⁸

44. David Lemmings, 'Erskine, Thomas, first Baron Erskine (1750–1823)', in *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004); online edn, January 2008 <<http://0-www.oxforddnb.com.catalogue.ulrls.lon.ac.uk/view/article/8873>> [accessed 18 October 2010].

45. Michael Lobban, 'Brougham, Henry Peter, First Baron Brougham and Vaux (1778–1868)', in *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004); online edn, January 2008, <<http://0-www.oxforddnb.com.catalogue.ulrls.lon.ac.uk/view/article/3581>> [accessed 19 October 2010].

46. Karl Miller, 'Cockburn, Henry, Lord Cockburn (1779–1854)', *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004); online edn, October 2005 <<http://0-www.oxforddnb.com.catalogue.ulrls.lon.ac.uk/view/article/5771>> [accessed 19 October 2010].

47. Jeffrey to Dickens, 31 January 1847; Henry Cockburn, *Life of Lord Jeffrey: With a Selection from His Correspondence*, 2nd edn, 2 vols (Edinburgh: Adam and Charles Black, 1852), II, 406; Philip Collins, ed., *Charles Dickens: The Critical Heritage* (London: Routledge, 2001), p. 217; see also Ledger, 'Don't Be So Melodramatic'.

48. 'A Touching Scene at the Old Bailey', *Punch*, 10 November 1855, p. 185.

After Willes's death, comments were made about his own manliness, or lack of it. Obituaries were unified in their praise of Willes's gentle, kind and compassionate nature. One referred to his 'kind and almost womanly disposition'.⁴⁹ Another asserted that Willes had been 'a woman in everything but his head'.⁵⁰ John Duke Coleridge's father, also a judge, wrote of Willes in his private diary: 'He was a consummate lawyer, and a great jurist, a man of much general reading, and of great ability, damaged, perhaps, a little by over-refinement and subtlety and some little want of manliness and simplicity.'⁵¹

With his white kid gloves and his love of poetry, his refinement of manners, his compassion, his sensibility, his tears, James Shaw Willes was undoubtedly a man of feeling, but by the 1860s and 1870s, the man of feeling had had his day, even in an updated Victorian guise. A reporter of the Constance Kent trial in 1865, referring to Willes's weeping, commented that he had 'rarely, if ever, seen a judge so deeply affected, even on occasions like the present'.⁵² An 1873 article in the *Atlantic Monthly* marvelled that Lord Jeffrey had ever sobbed so over little Nell and Paul Dombey, asking 'Does any peer of the realm now shed tears for their fate?' The author of the same article doubted that Dickens's famous readings of his works would now elicit tears so readily among 'literary company'.⁵³ An 1882 newspaper article suggested that it was only among the uncultivated that the theatre now provided an occasion for tears. While 'our forefathers delighted in plays that were full of tears', such 'weeping plays' did not appeal to the fashionable members of modern audiences: 'It is not difficult to move pit and gallery to tears; but stall and box occupants are less easily worked upon.'⁵⁴ The taste for weeping judges seemed to be going the same way as the taste for weeping novels and weeping plays. Willes was not the only weeping judge of the nineteenth century, but he was one of the last, and his performances risked appearing out of date and over the top. In this context, Willes's tears could make him seem not only womanly but, in Coleridge's word, 'damaged'.⁵⁵ Perhaps it occurred to others too that Willes's tears were signs not so much of moral sensibility as of mental disorder or bodily disease. What would medical experts have thought?

III. Unhealthy body, unhealthy mind

It was a skill of the physician, as well as of the philosopher and the newspaper reporter, to read the signs of the body. Expressions such as sighing or weeping were bodily words, anatomical homonyms, bearing different medical meanings depending

49. *The Times*, 4 October 1872, p. 8.

50. *Trewman's Exeter Flying Post*, 9 October 1872, p. 8.

51. Coleridge, *Life and Correspondence*, I, 252.

52. *Bristol Mercury*, 22 July 1865, p. 8.

53. E.P. Whipple, writing in the *Atlantic Monthly*, February 1873, p. 238, quoted in Collins, *Manly Tear*, p. 14.

54. *The Era*, 8 April 1882, p. 14.

55. Coleridge, *Life and Correspondence*, I, 252.

on their causes and contexts.⁵⁶ Bucknill and Tuke summarized the relevance of tears to medical prognosis in their *Manual of Psychological Medicine*:

A copious flow of tears is often a very good sign, but must not be confounded with the emotional sensibility which indicates deep-seated disease of the nerve centres. These are as distinct as the rush of the mountain torrent after the removal of some obstruction, and the stream caused by the bursting of a water pipe.⁵⁷

It was a medical commonplace that tears were often a good sign. Henry Maudsley wrote that 'sorrow is soon discharged by passionate wailing and weeping', and that without an outlet in tears, powerful emotions could 'act upon the internal viscera and derange their functions'.⁵⁸ On the other hand, he warned of cases when uncontrollable weeping could bring about 'serious systematic disturbance, affecting principally the heart and circulation' and risked wasting valuable emotional energy, which would be better retained 'within the sphere of intellectual life', fuelling 'effective volition' rather than 'useless wailing'. The best 'remedies for the tearful', according to Benjamin Ward Richardson, included 'change of scene, mental diversion, and outdoor life'. Alcohol, 'the mother of sorrow' was to be avoided by the pathologically weepy on all accounts, but 'an opiate judiciously prescribed is often the sovereign remedy'.⁵⁹ It is possible that Willes's physician gave him the same advice. Willes made several trips to Mediterranean countries, as well as enjoying fishing trips at home and, during at least one period of his life, dosing himself with opiate.⁶⁰

The disease of which weeping was most likely to be a symptom was *melancholia*. Although some claimed that 'insane persons do not shed tears', the majority tended to the opposite conclusion.⁶¹ Charles Darwin reported that the insane 'notoriously give way to all their emotions' and 'weep disproportionately on the occurrence of any real cause of grief'. Dr C.B. Radcliffe, in his Croonian Lectures for 1873, listed uncontrolled crying as one of the leading symptoms of 'hysterical, hypochondriacal, or nervous' patients.⁶² Weeping could be a symptom of any of the major forms of

56. Maudsley, *Physiology* (1876), pp. 388–89; Bell, *Essays* (1824), pp. vii–xvii; see also Ludmilla Jordanova, 'The Art and Science of Seeing in Medicine: Physiognomy 1780–1820', in *Medicine and the Five Senses*, ed. by William Bynum and Roy Porter (Cambridge: Cambridge University Press, 1993), pp. 122–33.

57. John Charles Bucknill and Daniel Hack Tuke, *A Manual of Psychological Medicine*, 4th edn (London: J. and A. Churchill, 1879), p. 140.

58. Maudsley, *Physiology* (1876), pp. 386–87.

59. Maudsley, *Physiology* (1876), pp. 386–87; 'Tears Idle Tears', *Pall Mall Gazette*, 21 January 1892, p. 3. The *Pall Mall* piece on tears summarized an article published in *The Asclepiad*, a medical and scientific periodical written by Benjamin Ward Richardson.

60. Willes made a passing remark in signing off an undated letter to John D. Coleridge: 'I shall duly swallow the opiate'; the same letter mentioned Willes's love of fishing. British Library Manuscripts, Coleridge Papers, Letters to John Duke Coleridge, Add.86317. Reproduced by kind permission of the British Library.

61. 'Tears Idle Tears', *Pall Mall Gazette*, 21 January 1892, p. 3.

62. C.B. Radcliffe, 'Croonian Lecture on Mind, Brain, and Spinal Cord. Lecture II', *British Medical Journal*, 5 April 1873, pp. 361–62.

insanity, but Darwin stated, on the authority of Dr James Crichton-Browne, that 'nothing is more characteristic of simple melancholia, even in the male sex, than a tendency to weep on the slightest occasions, or from no cause'.⁶³ Simple melancholia was a mental disease characterized by overwhelming gloom, but unaccompanied by any disorder of the intellect, such as delusions. Henry Maudsley explained that it was particularly prevalent in puberty, leading to an 'abandonment to poetry of a gloomy Byronic kind, or to indulgence in indefinite religious feelings'. This sort of 'fanciful and quasi-hysterical melancholia' was especially common in young women, who found themselves subject to periods of depression and 'paroxysms of apparently causeless weeping'.⁶⁴ The most plausible medical diagnosis for an over-sensitive and tearful individual, such as James Shaw Willes, would have been that he suffered from simple melancholy. The combination of morbid feminine emotion with masculine intellectual health implied by a diagnosis of *melancholia simplex* would have tallied with the idea that Willes was a 'woman in everything but his head'.⁶⁵

Those forms of insanity variously conceived as 'emotional', 'affective', or 'moral', of which *melancholia* was an example, had an unstable legal status. The 'McNaughton Rules', laid down by the House of Lords in 1843, stated that a defendant in a criminal case may only be found insane if they were suffering from a defect of reason.⁶⁶ So, in the case of Agnes Bradley, who poisoned her baby, for instance, it was her delusional beliefs about her great sin and her imminent punishment for it, rather than her emotional excitement, which allowed the jury to return a verdict of insanity. There were other similar cases of tearful and delusional criminals.⁶⁷ In these cases, uncontrolled tears could be taken as signs of insanity, but not of the form of insanity with which they were most commonly associated, *melancholia simplex*, since such a condition failed to satisfy the McNaughton demand for intellectual deficiency. It had to be shown that tears were signs not of the disordered emotions themselves but of a diseased and weakened intellect which lacked the power to restrain the emotions, before a prisoner could be acquitted of a crime on the grounds of insanity.

A Victorian physician seeking to diagnose a tearful melancholic could have recourse to a range of bodily as well as intellectual or affective causes. For a man of Willes's age and profession, among the most likely underlying causes of emotional insanity would have been gout, heart disease, or nervous exhaustion: organic diseases whose mental symptoms were vague and multiple, including irritability, poor

63. Darwin, *Expression*, p. 155.

64. Henry Maudsley, 'Gulstonian Lectures on the Relations Between Body and Mind, and Between Mental and Other Disorders of the Nervous System. Delivered at the Royal College of Physicians in 1870. Lecture III, Part I', *The Lancet*, 28 May 1870, p. 760. I am grateful to Åsa Jansson for directing me to Maudsley's and others' accounts of affective insanity.

65. *Trewman's Exeter Flying Post*, 9 October 1872, p. 8.

66. John C. Bucknill, 'Correspondence on the Theory of Emotional Insanity', *Journal of Mental Science* 20 (1874), pp. 484–86. See also Dixon, 'Patients and Passions'.

67. Such were the cases of Henry Bloomfield and Henry Dodwell; see *Morning Post*, 6 August 1858, p. 6 (Bloomfield) and *The Bristol Mercury and Daily Post*, 23 February 1878, p. 8 (Dodwell). Dodwell was ultimately incarcerated in Broadmoor as a criminal lunatic. I am grateful to Jade Shepherd for drawing the Dodwell case to my attention.

memory and attention, excessive emotion, anxiety and insomnia. They were also syndromes that were considered to be diseases of modern civilization, brought on by the increasing speed and competition of life, diseases for the age of Darwinism and railways. James Shaw Willes suffered from all of them.⁶⁸ Gout, heart disease and nervous exhaustion were conditions which were frequently diagnosed but the treatment of which was not straightforward. Water cures, special tonics, changes of diet, and the perennial medical standby, a change of scene, were frequently prescribed and frequently unsuccessful.⁶⁹

Disease states, like emotions, could be either expressed or suppressed, and with different medical consequences. Suppressed gout was an intriguing new form of the 'patrician malady', which had been so graphically imagined by James Gillray as a vicious little devil plunging his teeth into a gentleman's angrily bulbous toe.⁷⁰ The Victorian period saw gout going underground. The well-known version of the disease was expressed in periodic bouts of intense and entirely observable, bodily pain. 'Suppressed gout', by contrast, was known only indirectly, and especially by its effect on the mind. In the seventeenth century, Thomas Sydenham, himself a sufferer from gout, had already noted the mental aspects of that disease, stating that the gouty patient was the continual victim of fear, anxiety and other passions. Melancholy, Sydenham stated, was 'the inseparable companion of gout'.⁷¹ In the nineteenth century, cases of 'Gouty Insanity' were marked by 'symptoms of unfounded dread, especially on awakening from sleep early in the morning'.⁷²

While inflammatory gout had been a disease of the old aristocracy, suppressed gout plagued the new cultural and intellectual elites, counting Samuel Taylor Coleridge, Alfred Tennyson, Charles Darwin and Benjamin Disraeli among its sufferers, as well as James Shaw Willes.⁷³ By the early twentieth century 'suppressed gout' was no longer in fashion and medical authorities complained of its unscientific nature.⁷⁴ Even in its mid-Victorian heyday not everyone was convinced by the diagnosis. Joseph Hooker wrote to his friend Charles Darwin in 1865:

68. *Hertfordshire Mercury*, 5 October 1872; *Medical Times and Gazette*, 12 October 1872, p. 412; *The Times*, 14 October 1872, p. 6; *The Lancet*, 12 October 1872, p. 536. James C. Dickinson, *Suppressed Gout: Its Dangers, Varieties and Treatment* (London: Ballière, Tindall and Cox, 1873), pp. 12–13.

69. On the medical and cultural meanings of the heart and heart disease, its diagnosis and treatment, see Fay Bound Alberti, *Matters of the Heart: History, Medicine, Emotion* (Oxford: Oxford University Press, 2010), especially pp. 91–96, 133–36. See also Kirstie Blair, *Victorian Poetry and the Culture of the Heart* (Oxford: Clarendon Press, 2006). On nervous exhaustion see, for instance, Walter Tyrrell, *Nervous Exhaustion: Its Causes, Outcomes, and Treatment* (London: Kegan Paul Trench, Trübner, 1891).

70. James Gillray, *The Gout* (London: H. Humphrey, 14 May 1799).

71. Quoted in Bucknill and Tuke, *Manual*, p. 380.

72. Bucknill and Tuke, *Manual*, p. 382.

73. Roy Porter and G.S. Rousseau, *Gout: The Patrician Malady* (New Haven, CT and London: Yale University Press, 1998), pp. 155–70. On Disraeli: *The Times*, 30 March 1881, p. 7. On Willes: *Morning Post*, 4 October 1872, p. 5. See also Bill Bynum, 'Irregular Gout', *The Lancet*, 9 September 2000, p. 948.

74. *British Medical Journal*, 3 August 1907, p. 251; *The Lancet*, 30 January 1937, p. 287.

What the devil is this 'suppressed Gout'? upon which Doctors fasten every ill they cannot name. If it is *suppressed* how do they know it is gout? if it is apparent, why the Devil do they call it suppressed? I hate the use of cant terms to cloak ignorance.⁷⁵

Along with the physical symptoms associated by Victorian physicians with suppressed gout (flatulence, constipation, dull complexion and unhealthy skin), the most frequent mental symptoms were melancholy and depression, which were 'generally found to be more intense early in the morning, on first waking; indeed such patients usually wake very early, and lie brooding over their miseries'. Finally, gouty insanity often took a religious form, and could be intensified by delusions or hallucinations, such as seeing 'the Evil One' in person, or having visions of dead bodies and flames.⁷⁶ It is religious ideas that provide a final, and crucial, part of the context within which Willes's tears were produced and interpreted.

IV. 'The Evil One'

Weeping had a strong biblical pedigree that was well known to church- and chapel-goers in Victorian Britain. The bible offered templates for crying at one's own sinfulness, lamenting over the evils of the whole world, shedding tears of ecstasy or dread in response to God or the Devil, and weeping in pity and compassion. Old Testament texts abounded in which prophets and psalmists wept over the sinfulness of their generation, as in the phrase from the book of Jeremiah: 'Oh that my head were waters, and mine eyes a fountain of tears, that I might weep day and night for the slain of the daughter of my people!' (Jeremiah 9: 1). The gospels recount that Jesus wept before raising Lazarus, and when lamenting over Jerusalem, and that Peter wept bitterly after denying Jesus three times. Victorian clergymen preached sermons on biblical texts about crying, some of which were collected into whole books on the subject.⁷⁷

Preachers of an evangelical persuasion went still further, producing and eliciting tears, as well as theorising over them. Geraldine Hooper's revivalist preaching in the 1860s was one notable example.⁷⁸ Tears of devotional awe could be called forth in less expected contexts. Charles Kingsley was moved to tears when he visited the Crystal Palace in 1851, commenting that it was like entering a sacred place. Queen Victoria also recorded that the Great Exhibition called forth religious feelings: 'Truly it was astonishing, a fairy scene. Many cried, and all felt touched and impressed with

75. J.D. Hooker to Charles Darwin, 8–18 January 1865, Letter 4743; accessed online at the *Darwin Correspondence Project* <<http://www.darwinproject.ac.uk/entry-4743>>. In 1883 a reviewer in *The Lancet* complained, in terms similar to Hooker's, of 'the English fashion of ascribing inexplicable ailments to suppressed gout'; *The Lancet*, 30 June 1883, p. 1127.

76. Tyrrell, pp. 19–20, 75.

77. W. Frith, *Tears of the Pilgrims in the Sunlight of Heaven*, rev. edn (London: Elliot Stock, 1869); T.D. Harford Battersby, *The Tears of Christ: A Sermon* (Keswick: Thomas Mayson, 1871); J.H. Fry, *Tears: Ten Sermons* (London: Skeffington and Son, 1893).

78. Mrs Grattan Guinness, 'She Spoke of Him': *Being Recollections of the Loving Labours and Early Death of the Late Mrs Henry Dening* (Bristol: W. Mack, n.d.), pp. 4, 14, 15.

devotional feelings.⁷⁹ The connection between religion and weeping was reinforced by reports of convicted murderers who confessed their guilt prayerfully and tearfully when coaxed to do so by prison chaplains during the minutes, hours, or days before their execution.⁸⁰

The Bradley infanticide case in Liverpool in 1859, during which Willes wept so much that he had to bury his face in his notebook, revealed some of his own theological notions.⁸¹ Bradley was convinced she had ‘committed some dreadful sin, and was expecting daily to be hanged’ and so thought it better that her child should be ‘sent to God, who would take care of it for her’. Bradley’s ‘low and desponding’ state was described by the medical witnesses as a case of ‘melancholy monomania, or religious madness, which wholly overpowered her reason’. Willes, once he had dried his eyes, instructed the jury that in this case the ‘unfortunate lady’ in question had previously treated her children ‘with all natural affection and attachment’ and had only become a murderess ‘under a delusion that her soul must be lost’, a delusion that he concurred with the medical witnesses in describing as ‘religious madness’. Willes’s direction to the jury combined this medical evidence with his own theological view: ‘it would, of course, be impious in man to punish any human being labouring under an affliction caused by the will of Almighty God’. In this metaphysically complex interpretation of the crime, Willes suggested that Bradley’s act of murder was to be treated with mercy on the grounds that it was caused by a form of madness, willed by God, and characterized by religious delusion. The jury acquitted Agnes Bradley on the ground of insanity, and she was returned to Rainhill

79. Kingsley and Victoria both quoted in Collins, *Manly Tear*, p. 2.

80. In April 1851, Levi Harwood and Samuel Jones were hanged in front of Horsemonger Lane Gaol for the murder of a clergyman. The ‘stoical indifference’ of Harwood eventually gave way, under the influence of the chaplain and the prison governor, to confession, tears, and reconciliation with his fellow-prisoner; *The Lady’s Newspaper*, 19 April 1851, p. 217. In 1856, the Reverend John Davis of Newgate Gaol reported a case of a murderer whose true repentance for his crime was authenticated by weeping: ‘the tears streaming down his face indicated the intensity of his feelings’; *Leicester Chronicle*, 14 February 1857, p. 1. In 1861, William Williams was hanged in front of a vast crowd at Brecon and ‘burst into a passionate flood of tears, which the exhortation of the Rev. Mr Price could not allay’; *Daily News*, 24 April 1861, p. 6. An 1862 broadside includes an image of Robert Cooper with the prison chaplain at Newgate in tearful prayers in the days before his hanging; ‘Life, Trial, Confession & Execution of R. Cooper’, *John Johnson Collection* online database <<http://johnjohnson.chadwyck.co.uk/>>. Edward Müller, who had stoically affirmed his innocence during his trial, prayed tearfully with a Lutheran minister in the days before his execution, and finally confessed to the same minister with his final breath; ‘the reverend divine who was with him was moved to tears’; *Daily News*, 15 November 1864; *Dundee Courier and Argus*, 15 November 1864.

81. Willes’s tears over Agnes Bradley are mentioned by Christine L. Krueger, ‘Literary Defenses and Medical Prosecutions: Representing Infanticide in Nineteenth-Century Britain’, *Victorian Studies*, 40 (1997), 271–94, p. 275 as an example of the ‘sentimental’ response to infanticide cases. On the broader cultural significance of child murder, see Josephine McDonagh, *Child Murder and British Culture, 1720–1900* (Cambridge: Cambridge University Press, 2003).

Asylum, Liverpool, where she had already been held for over two years, since the killing of her child.⁸²

Willes's theological turn of mind was also evident in the comments he made in sentencing prisoners, which went beyond the formulaic conclusion to the death sentence, 'And may God have mercy upon your soul!' In passing the death sentence on Constance Kent, Willes had adopted the theological explanation that the murderer had allowed feelings of jealousy and anger 'to work in your breast until they at last assumed over you the influence and power of the Evil One'.⁸³ It was at this moment, at the mention of the power of the Devil, that Willes bent forward and wept. In the case of Henry Carter, Willes also invoked moral and theological views about the passions when passing the death sentence. Speaking 'in a trembling voice', he commented that this was not the first case, 'in which love has been turned into jealousy and hatred, and the object of a man's affections has become the victim of his evil passions'. Addressing Carter, who was sobbing bitterly in response to the verdict, Willes said: 'I must implore you to prepare to meet your God, and by sincere repentance and prayer to obtain his pardon before you die for the awful sin you have committed'.⁸⁴ In another case, Willes, with his 'feelings deeply affected', told John Jeffrey, who had murdered his son, that 'passions of jealousy and of revenge' had worked upon him 'until you permitted the wicked suggestion to enter into your mind that you should take away the life of your child'. Willes told Jeffrey he could 'expect no mercy in this world' and so implored him 'in a spirit of compassion to spend the remaining days of your life in asking forgiveness of Almighty God, placing your reliance upon the merits of that Saviour by whom alone you can hope to escape punishment hereafter'.⁸⁵ 'Evil passions', 'wicked suggestion' and 'awful sin' were long-established moral and theological categories, which, for others among Willes's contemporaries, were gradually being displaced by secular and medical ideas such as 'emotional excitement' and 'moral insanity'.⁸⁶ Where Willes saw the power and influence of the Devil, Darwin saw the power and influence of our ape ancestry. In one of his notebooks Darwin had written: 'Our descent, then, is the origin of our evil passions!! The Devil under form of Baboon is our grandfather!'⁸⁷

Even if we cannot read too much into Willes's own forays into theology while sentencing, given the pervasiveness of biblical notions in shaping Victorian life, it is certainly necessary to understand the Christian significance of tears when thinking about the meaning of his weeping. With this in mind, Willes's tears can be read as enactments of two biblical traditions: lamentation over the power of sin and Satan in the world; and compassionate tears in the spirit of St Paul's injunction to 'weep with them that weep' (Romans 12: 15).

82. *The Times*, 28 March 1859, p. 11.

83. *Birmingham Daily Post*, 22 July 1865, p. 2.

84. *Birmingham Daily Post*, 30 March 1863, p. 3.

85. *The Times*, 21 September 1866, p. 9.

86. See note 24, above.

87. Paul H. Barrett, Peter J. Gautrey, Sandra Herbert, David Kohn, and Sidney Smith, eds, *Charles Darwin's Notebooks, 1836–1844: Geology, Transmutation of Species, Metaphysical Enquiries* (Cambridge: Cambridge University Press, 1987), pp. 549–50.

V. No more crying

The Victorian theology of tears could depict both weeping and the end of weeping as divinely ordained. On the evening of Sunday 15 December 1861, the day after the death of Prince Albert, the preacher at the University Church in Cambridge prayed ‘that He who has bidden the tears of the Queen and her family to flow, and their hearts to mourn, will gently dry their tears, and in His own time and due measure assuage their sorrow with the words of His dear son, “Let not your hearts be troubled”’.⁸⁸ A favourite biblical text for funeral sermons came from the book of Revelation: ‘And God shall wipe away all tears from their eyes; and there shall be no more death, neither sorrow, nor crying, neither shall there be any more pain: for the former things are passed away’ (Revelation 21: 4). A popular pamphlet for children by the Revd J.C. Ryle, first published in 1859 entitled *No More Crying*, explained that crying, like suffering, sorrow and pain, had come into the world through sin, but that: ‘There can be no crying in heaven because there is nothing that can cause grief’.⁸⁹ The idea that death brought an end to pain, sorrow and crying was also expressed in the press commentary on the hanging of young Henry Carter, whose bitter sobs in the courtroom had moved many to tears. Commenting on the speed of the punishment, the newspaper stated that ‘the shock is momentary, and sensibility is destroyed on the instant’.⁹⁰

By 1872, Sir James Shaw Willes had suffered his share of pain and sorrow, as well as crying. His marriage was unhappy and childless. He lived as a bachelor until the age of 42, sharing lodgings with his brother, also a lawyer. When he was made a judge, however, Willes was threatened with a law-suit for breach of promise on the basis of a youthful attachment to a young woman in Cork.⁹¹ He married Helen Jennings in May 1856 and set up home with her in central London. A few months into the marriage, the household was struck by tragedy when the wife of his coachman killed herself by drinking laudanum.⁹² In 1863 Willes was devastated by the death of his brother and told friends that he would never be able to recover from it. As he grew older his health deteriorated and he was troubled by his gout and his heart.

After 1865 Willes withdrew from social life and from his marriage, and took up solitary residence in a secluded house called Otterspool in Hertfordshire, where he

88. The preacher was Reverend C.D. Marsden; see coverage of Prince Albert’s death in *The Morning Post*, 16 December 1861, pp. 4–5.

89. J.C. Ryle, *No More Crying: An Address to Children*, Twentieth Thousand (London: Wertheim, Macinstosh and Hunt, n.d.), p. 10.

90. *Birmingham Daily Post*, 7 April 1863, p. 3.

91. On breach of promise, including reference to Willes’s own case, see Ginger S. Frost, *Promises Broken: Courtship, Class, and Gender in Victorian England* (Charlottesville: University Press of Virginia, 1995), p. 152. The story about breach of promise in Willes’s case surfaced immediately after his death: *Freeman’s Journal* (Dublin), 10 October 1872, p. 3 reported the story as published in England in the *Daily Telegraph*. Subsequently the same paper (*Freeman’s Journal*), 18 November 1872, p. 3, carried a short paragraph denying the story. See also W.D.I. Foulkes, *A Generation of Judges, by their Reporter* (London: S. Low, Marston, Searle and Rivington, 1886), p. 64.

92. *The Morning Chronicle*, 6 November 1856, p. 7.

fished for trout, walked his dogs and read German literature. It was said that his books were his only companions.⁹³ Otterspool was described as gloomy, forbidding and overwhelmingly silent. One newspaper evoked the gothic atmosphere of the place:

The rooks wheel in their restless flight among the topmost branches of the elms in the avenue, and their dismal cawing is the only sound that disturbs the silence. A broad sheet of water – motionless, tideless, and smooth as glass – stretches away through the park, and adds to the feeling of loneliness.⁹⁴

Troubled by the strain of his work, Willes found the northern circuit of the summer of 1872 particularly gruelling, concluding with two weeks at the Liverpool Assizes in August, where the 57 criminal cases he heard included seven charges of murder, two of attempted murder, seven of manslaughter, two of concealment of birth, two of bigamy, six of felonious assault, and two of felonious shooting.⁹⁵ Three Irish labourers were accused of killing one of their fellow workmen by kicking him in the stomach and throat. Willes acquitted one of the three, and sentenced another to five years' penal servitude. The third had already committed suicide in prison.⁹⁶

Willes returned to Otterspool complaining of exhaustion and insomnia, saying he only wished to sleep; that he would sleep for a fortnight, if only he could. His clerk, Mr Barnes, was surprised by the judge's forgetful and distracted demeanour at this time, and noted a 'peculiar glossiness in his eye'. Willes had been home for a fortnight but had not slept. Barnes later recalled:

I noticed that he looked terribly miserable and depressed. He complained that he was tired and sleepy. I said to him, 'Have you had bad news?' He said, 'Why?' I said, 'You look so depressed and miserable, worse than ever I saw you in my life.' He said nothing, but turned round, and I observed a tear in his eye.

With that, Willes walked hurriedly away. The following morning at about seven o'clock, Barnes heard a loud bang and a scream coming from the judge's bedroom. Rushing to the scene, he found Sir James Shaw Willes on the sofa, breathing his last, his eyes three-quarters open, a revolver lying by his knee. He was fifty-eight years old.⁹⁷

Dr A.T. Brett told the inquest that Justice Willes had shot himself in the heart. Brett further stated that the judge's suppressed gout had affected both his heart and his brain. The inquest jury returned as their verdict that Willes had shot himself with a pistol, not being at the time of sound mind. The local newspaper summarized the inquest's findings:

93. *Trewman's Exeter Flying Post*, 9 October 1872, p. 8.

94. *Freeman's Journal*, 7 October 1872, p. 3. On Willes's personal and family life, including his final years at Otterspool, see Heuston, 'James Shaw Willes'.

95. *Lancaster Gazette and General Advertiser*, 17 August 1872, p. 1.

96. *Leeds Mercury*, 15 August 1872, p. 8.

97. As reported in many newspapers, including *The Standard*, 4 October 1872, p. 3; *Pall Mall Gazette*, 4 October 1872; *Illustrated Police News*, 12 October 1872.

it is abundantly proved that he committed the fatal act in a moment of temporary aberration of intellect resulting from physical prostration and suffering, and great mental depression, the effects of overwork on a constitution enfeebled by disease.⁹⁸

Or, as another newspaper put it, his gout had been 'driven into his system' and 'flying to his head' it had impelled him 'to a deed which none but a madman would have committed'.⁹⁹ According to yet another, 'Sir James Willes raised his hand against his own life in a temporary aberration of reason, brought on by acute pain, acting upon a system enfeebled by disease and lowered by a pressure of work'; it was 'not only charitable and reasonable to hope, but impossible to doubt' that Willes had been driven 'by the impulse of a disordered brain'.¹⁰⁰ There were other explanations too, but always focussing on Willes's bodily disorders as root cause. For *The Lancet*, the case drew attention to the scandalously poor quality of the air in courtrooms, due to lack of proper ventilation, which could lead to cerebral malnutrition and insanity in a frame, such as that of Justice Willes, already weakened by strain and illness.¹⁰¹

The inquest, and associated press reports, offered an excess of mental and bodily explanations for Willes's simple act, a copious flow of causal stories: intellectual aberration, overwork, exhaustion, insomnia, physical pain, mental suffering, an unhappy marriage, a weak constitution, gout, suppressed gout, flying gout, heart disease, softening of the brain, cerebral malnutrition, too much brain work, nervous exhaustion and poor ventilation in the law courts. Other, simpler interpretations were largely overlooked. Perhaps Willes was of sound mind but was overwhelmed by a melancholic disgust for life. Or perhaps theological ideas lay behind Willes's final act. He might have feared that the power and influence of the 'Evil One' were working within his breast, or that he was suffering from a divinely willed mental affliction. The task of the inquest, however, was posthumously to preserve the judge's reputation, and the most effective tool for the task was medical jargon.¹⁰² The finding of temporary insanity, backed up with a jumble of associated diagnoses relating to Willes's internal organs, especially his heart and brain, established the required discontinuity between the tearful and yet sane Mr Justice Willes, and the man who had committed 'a deed which none but a madman would have committed'. All that these two men now shared was a diseased body and its medical history; the rational mind of the former had been destroyed by the sudden physiological decline of the latter. In other words, the coroner's jury had to be given

98. *Hertfordshire Mercury*, 5 October 1872. Hertfordshire Archives and Local Studies Centre.

99. *The Standard*, 4 October 1872, p. 4.

100. *Daily News*, 4 October 1872, p. 5.

101. Bad ventilation of the law courts, resulting in the breathing of bad air with insufficient oxygen, when under mental strain, leading to cerebral malnutrition was suggested as a contributing factor by *The Lancet*, 12 October 1872, p. 536; 19 October 1872, p. 572; 5 July 1873, p. 22. See also *Daily News*, 11 October 1872, p. 3.

102. W. Wynn Westcott, *Suicide: Its History, Literature, Jurisprudence, Causation and Prevention* (London: H.K. Lewis, 1885), p. 45.

medical materials with which to concoct their quite inevitable verdict of temporary insanity.¹⁰³

In Willes's case, then, as in all cases of the respectably suicidal who were deemed to have temporarily lost their minds, the exclusion by the Book of Common Prayer from burial rites of those who had 'laid violent hands upon themselves' could be set aside. The church could borrow the medical verdict of the coroner's court in order to cleanse suicides of the stain of mortal sin.¹⁰⁴ Accordingly, at 2pm on Monday 7 October 1872, at Brompton Cemetery, a funeral service took place for James Shaw Willes. There were half a dozen or so mourners, including Mr Barnes the clerk. The chaplain read the service by the graveside: 'Man that is born of woman hath but a short time to live, and is full of misery. He cometh up, and is cut down, like a flower.' The papers reported that the small group at the graveside seemed 'overwhelmed with grief'.¹⁰⁵ As the mourners threw handfuls of earth on top of Willes's coffin, the chaplain continued to read from the prayer book of the 'sure and certain hope of the Resurrection to eternal life, through our Lord Jesus Christ; who shall change our vile body, that it may be like unto his glorious body' (Book of Common Prayer).

An 1858 pamphlet of advice to mourners published by the Society for Promoting Christian Knowledge explained that the burial service was principally based on the portions of scripture that related to the doctrine of the resurrection. What other doctrine, the pamphlet asked, could be 'so well calculated to dry the mourner's tears?'¹⁰⁶ Perhaps such teaching did dry the tears of those who stood beside his grave, but we might doubt Willes himself would have wished to be woken from his sleep. An article on suicide in *The Lancet* in 1884 suggested that, in most cases, the suicide took his life from the rational desire to escape from 'heart-breaking and brain-tearing' misery, and in the 'hope or belief that dying is sleep, or eternal oblivion'.¹⁰⁷ One newspaper similarly suggested as the motive for Willes's suicide the 'desire to be done with life, with all its wear and tear and worry and pain, and to be at rest'.¹⁰⁸ He only wished to sleep.

Oscar Wilde used to tell a story about imagined encounters between Christ and those he had healed, later published as 'The Doer of Good'. W.B. Yeats considered this 'the most beautiful fairy-story in the world', and it is an appropriate place to end this account of the tears of James Shaw Willes, encapsulating as it does a spirit of tearful lamentation over the sinfulness of the world and a desire for

103. Several papers compared the Willes case with other recent suicides: *Daily News*, 4 October 1872, pp. 4–5; *Penny Illustrated Paper*, 12 October 1872, p. 226; *Lancaster Gazette*, 12 October 1872, p. 2; *The Times*, 14 October 1872, p. 6.

104. See Westcott, *Suicide*, pp. 43–50.

105. *Freeman's Journal* (Dublin), 8 October 1872, p. 3; *Hampshire Telegraph and Sussex Chronicle*, 12 October 1872, p. 4.

106. Quoted in Pat Jalland, *Death in the Victorian Family* (Oxford: Oxford University Press, 1996), p. 216.

107. Quoted in Westcott, *Suicide*, p. 120; Westcott also wrote about insomnia as a cause of suicide, p. 136. In 1892, Henry Maudsley discussed similar cases: 'Suicide in Simple Melancholy', *Medical Magazine*, 1 (1892), 45–57.

108. *Trewman's Exeter Flying Post*, 9 October 1872, p. 8.

eternal oblivion.¹⁰⁹ Finding a hedonistic young man with roses in his hair seated at a feast, the Christ figure in Wilde's story asks 'Why do you live like this?' The young man, turning and recognizing him, replies, 'But I was a leper once, and you healed me, How else should I live?' Next there is a man whose eyes, 'bright with lust', linger on a beautiful woman with painted face and bejewelled feet: 'Why do you look at this woman in such wise?' The young man turning and recognizing him, replies, 'But I was blind once, and you gave me sight. At what else should I look?' The woman is also challenged, 'Is there no other way in which to walk save the way of sin?' She replies laughingly, 'But you forgave me my sins, and the way is a pleasant way'.

And He passed out of the city.

And when He had passed out of the city He saw seated by the roadside a young man who was weeping.

And He went towards him and touched the long locks of his hair and said to him, 'Why are you weeping?'

And the young man looked up and recognised Him and made answer, 'But I was dead once and you raised me from the dead. What else should I do but weep?'¹¹⁰

Both in Wilde's parable and in the life of Mr Justice Willes, weeping is best understood not as a mere expression of emotion, but rather as an embodied attitude, a sign of pity, and an act of lamentation; in short, as an intellectual, social, and religious performance. The tears of James Shaw Willes, shed in the courtroom and, on the last night of his life, in his own home, constituted just such a performance. More than secretions, and more than signs, his tears enacted and obscurely revealed a complex set of cognitive and cultural responses to his world.

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109. F.A.C. Wilson, *Yeats's Iconography* (London: Methuen, 1969), p. 174.

110. Oscar Wilde, *Complete Shorter Fiction*, ed. by Ian Small (London: Penguin, 2003), pp. 244–45.