Quiet testimony: the ethical impulse of silence in Emerson, Douglass, Melville, and James

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QUIET TESTIMONY:
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IN EMERSON, DOUGLASS, MELVILLE, AND JAMES

by

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Abstract

*Quiet Testimony:*

_The Ethical Impulse of Silence in Emerson, Douglass, Melville and James_

This project proposes that Ralph Waldo Emerson, Frederick Douglass, Herman Melville and Henry James invoke silence in order to make evident, if not audible, the oppression of slaves and the absence of the dead. Challenging the opposition between advocacy and quietism that has largely structured scholarship on nineteenth-century American literature, I argue that these writers produce testimony by engaging voicelessness in their texts. In effect, their work revises the idea that testimony consists in a first-person report of past events. *Quiet Testimony* consequently suggests that, in signal American texts, political claims may not be explicitly argumentative, a testifying subject bears a broken relationship to his past self, history stands to be accurately read in the archive's silences, and figurative language conveys truth even in the context of fiction. These radical implications develop through the pursuit of the particular philosophical, legal, and literary thinking that traverses American writing in the 1800s. The study thus works to offer a broadly informative and transdisciplinary theory of testimony that unmistakably emerges from the specific conditions in which the nation's first canonical writers composed.
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This project owes much of its value to those who have helped me to think, to read, to write, and to listen.

I wish to especially thank my parents, who made my education their priority, and my sisters, who are never too quiet and who are always tremendously supportive. Eduardo Cadava found my work beautiful before I did and has been unstintingly generous with his time. David Wills has been alternately encouraging and critical, depending on what I (and my manuscript) most needed. Branka Arsić let me grow from her student to her colleague. David Parry continues to show me where the "flying perfect" is. And Reuben gave me attentive company, as well as a warm lap through cold Albany winters.
Introduction. Rethinking Testimony, Reading Silence

Overview

If the idea that nineteenth-century American literature writers find themselves concerned with silence has been accepted by generations of scholars, the premise that silence relates to writing rather than contradicts it, and that such silence might be integral rather than oppositional to the voice that metonymizes American democracy, has been at best largely overlooked and at worst discarded as irreverent. It is the purpose of this dissertation to argue that signal works of Ralph Waldo Emerson, Frederick Douglass, Herman Melville, and Henry James conceive of just such a premise. In their varied approaches to one shared question—What does it mean to speak in such a way that obligates others to perceive a new truth?—these four writers jointly suggest that testifying demands recourse to silence, or more precisely, the expression of silence. In allying the ostensibly official role of testimony to the possibility that it occurs without voice, their conception deflects the common association of the political with intentional argument, instead proposing that it is an ethical moment of acknowledging silence that sets in motion and ultimately delivers political change.

The distinction that nineteenth-century American literature has, from its inauguration into canonicity, unwaveringly held is that it emerged to break a silence. F.O. Matthiessen claimed that the works published around 1850 gave American expression its as yet unassumed voice: the texts demonstrate "America's way of producing a renaissance, by coming to its first maturity and affirming its rightful heritage in the whole expanse of art and culture" (vii). Irving Howe similarly traces the effort to "recreate the still uncreated American, to make new the new republic" founded upon "promises so
"great as hardly to be named" (20). The speaking of or to such promises, in Susan Howe's more contemporary reading, not only breaks but incorporates the silence upon which it is premised: "It's the stutter in American literature," she writes, "that interests me. I hear the stutter as a sounding of uncertainty [. . .] We were expelled from the Garden of the Mythology of the American Frontier. The drama's done. We are in the wilderness. We have come onto the stage stammering" (181).

The "stutter" or "stammer" that the latter Howe notes has been observed in monographic studies of Emerson, Melville, and James, although rarely without reference to the more certain speech that their silence is understood to obscure. Silences are read, that is, less as the "sounding of uncertainty" than as the definite sound of an avoidance, evasion, or negativity. Hence Matthiessen's designation of Emerson's "recurrent mistiness" (26), but also the earlier Howe's formulation of Emerson's perceived political apathy: "his sense of 'sharing' extended far more readily to the universe at large than to particular men and women" (43), as well as Barbara Packer's blunter indication that Emerson's work "was of little immediate use to reformers who wanted to feed the hungry or free the slave" (399). Emerson withheld speech for a good portion of his career, as Len Gougeon's chapter "The Silent Years" pithily puts it, regardless of his publication of essays and lectures, because he had yet to speak to the anti-slavery cause.

Melville, too, is understood as transfixed by the silence that represents his struggle "to say more than he knows how to say" (Kael 400) or that he will be paid to say (Olsen 7-8). What he could have written, but never did, appears in such readings as represented by Pierre's struggle to complete his book or Bartleby's articulating only his preference not to. While the lack thus perceived as Melville's failure is rarely framed as explicitly political, he is hardly known for making clear public proposals. "He verges too
closely on quietism," Maurice Lee asserts in a recent essay. "After all his
epistemological puzzling, what sustainable models survive the Pequod, the San
Dominick, or the Fidèle? What precisely ought Pierre, Israel Potter, or the narrator of
'Bartleby, the Scrivener' to do?" (397).

Finally, Henry James is regarded as demonstrating, alternately, perversity
(Matthiessen, James Family 338) and the origins or modernism (Rubery 367) through his
devotion to objects and experiences that elude articulation: "the vacant, the void, the
blank, and the dead" (Auchard 3). Although the dead might be a subject for political
engagement, readings of Henry James rarely contextualize his work as so concerned.
Mark Seltzer claims that James is commonly read as never emerging from his "silent
years": James, "we are told, was never tempted by the political and always resisted the
exercise of power" (13).

This pattern of noticing silence only to immediately assert it as indicative of
absence overlooks, in my view, the very premise on which it is founded. If one can write
about silence, it is not completely extricable from language. Silence cannot be
maintained as speech's opposite, or even as the unsaid, when it is appears as a principle
element of a given text. And if that is the case, then silence need not be antithetical—it
might even be essential—to political expression. In fact, it is precisely such a
combination of silence and speech that distinguishes Frederick Douglass's memory of his
first address at an anti-slavery convention, that initial pronouncement that launched his
public career. "My speech on this occasion is about the only one I ever made, of which I
do not remember a single connected sentence," he recalls in My Bondage and My
Freedom. "It was with the utmost difficulty that I could stand erect or that I could
command and articulate two words without hesitation and stammering" (364). Douglass,
whose three autobiographies, volumes of speeches, and years of newspaper publishing exempt him from charges of quietism, nonetheless begins his work of writing with the very "stammer" that was said to mark his more canonical and privileged contemporaries. And if Douglass, who was as near to the political realm as Emerson, Melville, or James could be construed as distant from it, wagers that "I am not sure that my embarrassment was not the most effective part of my speech, if speech it could be called" (364), then the risk I take is not unprecedented. I want to investigate, namely, how silence appears insistently in nineteenth-century writing not as a rejection of politics but as an attempt to engage its foundations as ethical impulses. What makes Douglass's stammer "effective" might be extended to the work Emerson, Melville, and James—if political effectiveness can be held in suspension long enough to subtly redefine it.

Hence while Douglass might initially seem out of place in the group of writers that I consider, his usually eloquent and explicit testimonial writings allow me to contextualize the more implicit theorization of testimony that appears in Emerson, Melville, and James, and to insist that all the texts I discuss may be understood, like Douglass's, to "effect" crucial change. Further, while James might seem unrelated by both time period and subject matter to Emerson, Douglass, and Melville, whom I associate with the politics of slavery, his engagement with their ideas signifies that the confluence of testimony and silence resonates as an American inheritance beyond a specific historical struggle. However, my investment is not exclusively in remarking upon the political aspects of seemingly apolitical writing. Recent decades have seen scholars assert the significance of Emerson's anti-slavery texts, read Melville's theory of the worker, or propose James's involvement in his age's insistence on power, and I am not interested in reprising their claims with analogies to Douglass.\(^1\) Rather, I seek to build
upon those now established assumptions by exploring the particular relationship among silence, text, and responsibility that develops a theory of testimony in key American texts. I argue that Emerson's "Address on the Emancipation," Douglass's "What to the Slave is the Fourth of July?" Melville's *Benito Cereno*, and James's *The Wings of the Dove* together conceptualize testimony as interrupting the coherent communication on which it is ostensibly premised. These texts propose that when silence is expressed—via a literary paradox, a pause, a gap, or an uncertainty—it signifies a becoming aware of an ethical obligation beyond the self, of a responsibility to those who have no voice but that also could not adequately lay claim to borrowing one's own.

What I call "quiet testimony" names this idea: that silence, articulated in text, may testify to what remains otherwise unsaid. In regarding testimony as oriented around an ethical engagement, the idea offers an alternative to testimony as it is conceived in the courtroom, archive, or in everyday discourse, where it is vocal, authorized, individual but generally applicable, and devoted primarily to providing information. At the same time, "quiet testimony" may be conceived as supplementing as much as replacing these more common definitions, by marking the element of testimonial expression that particularizes it as testimony, as "effective" with regard to its bearing witness, rather than its providing of report.

As I will explain in the remainder of this introduction, quiet testimony as a construct owes its contours to the experiences of life, writing and politics in the American nineteenth century. Slavery undergirded the new nation's devotion to liberty—economically, practically, and conceptually—and its ubiquitousness fostered an air of complacency toward its horror. Thus the political work of distinguishing it as a crucial issue, demanding more urgent eradication than, for instance, the drinking of alcohol, was
a matter of producing testimony, in both the ordinary and quiet sense of the term. What it meant for an American to be heard was, similarly, vexed by the government's continued sanctioning of the country's most powerless inhabitants, for instance with the 1850 Fugitive Slave Law, which made explicit the often-practiced assumption that slaves were incompetent to testify. Yet until the end of the century American law in general was in a profoundly "creative" (Friedman 71), rather undisciplined phase, which resulted in a pliability and openness that inherently challenged even such unjust sanctions. Finally, the development of technologies that could present increasingly accurate representations of distant realities—from Morse code to the telegraph to news-magazines to the photograph—promised the replacement of testimony with evidence, even as it also seemed to leave behind the individual experiences that made such technologies worth disseminating.

Yet the conception of quiet testimony born of the American nineteenth century responds, as well, to the concerns of contemporary theories of testimony, many of which are contextualized as post-Holocaust. By placing my analysis in conversation with these more recent writings, and with the historical situation that constituted their provenance, I hope to demonstrate the relevance of pre-1900 American writing to a problem that is generally understood as European and modern. At the same time, I wish to develop the distinctions between earlier American experiences of slavery and death and later European ones of the Third Reich and systematic genocide; it is my contention that these differences amount to suggesting quiet testimony as a specifically American inheritance—which should not preclude its study with regard to other tragedies so much as insist upon its relevance and significance for scholars more locally oriented.
The Imperative of Testimony in the Nineteenth Century

The first three chapters of the dissertation, on Emerson, Douglass, and Melville, engage testifying to slavery as a problem that Emerson would formulate in this way: if a northern man "would not so much part with his ice-cream, to save [slaves] from rapine and manacles" (8), then what kind of language possibly effects such relinquishing? In other words, since "nobody tasted blood" in the sugar (20), how can one who has tasted blood impose on others a similar experience—not through gruesome cooking, but in speech or writing?

These questions did not belong exclusively to the writers I am treating. The anti-slavery movement, in fact, agreed with Emerson, Douglass, and Melville: for all concerned, testimony was needed. Yet what the movement meant by testimony was generally circumscribed by the dissemination of information; one changed another's mind by providing him or her with new and compelling facts. The texts that Emerson studied, for instance, before delivering the speech that asked the questions above, proposed that making the public aware of the conditions of slavery would effect its eradication. By describing his own growing disturbance at "the nature of the evil" (13), and narrating the horrors that served as evidence for the British parliament's hearings, Thomas Clarkson's *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade by the British Parliament* provided not only a historical account, but a strategy for American activists demanding abolition not only of the trade but the practice. Developing such a model, James Thome and Horace Kimball's *Emancipation in the West Indies: A Six Month's Tour in Antigua, Barbadoes, and Jamaica, in the Year 1837* records "facts and testimony" on the effects of British emancipation in order to
demonstrate to their American audience, via their sponsor (the American Anti-Slavery Society), that "IMMEDIATE" freeing of the slaves would result in a peaceful, more productive, and increasingly civilized society (vi). Facts and testimony are actually nearly synonymous in Thome and Kimball's work; the authors anticipate each possible quarrel with immediate emancipation with a proposition to the contrary and then provide pages of documentation, personal statements, and official reports in order to prove their claim "beyond the power of dispute or cavil" (vi).

Emerson delivers his address commemorating British emancipation thirty-six years after the publication of Clarkson's book, and six years after Thome and Kimball's—as well as five after the similarly premised *American Slavery As It Is: Testimony of a Thousand Witnesses*—statistics which begin to describe the deficiency of those texts' methods. If testifying were strictly a matter of providing "facts and testimony"—hundreds and hundreds of pages of it—then Americans should already have been tasting blood in the sugar by the time Emerson gave his speech. The movement continued, nonetheless, to produce works that similarly explained why ice cream was not worth the whippings. Even Frederick Douglass's first narrative was to have the effect, as William Lloyd Garrison put it, of providing the new and, importantly, incontrovertible evidence that would finally convince the masses, who, "profoundly ignorant of the nature of slavery [. . .] are stubbornly incredulous whenever they read or listen to any recital of the cruelties which are daily inflicted on its victims" (8). Garrison held that, insofar as Douglass had written the text by himself, and "frankly disclosed the place of his birth" as well as other details of his life, the narrative would convert the incredulous to the educated (9). Nine years later, Harriet Beecher Stowe would publish a more wide-ranging work that was yet similarly grounded in first-hand experience and research, *A
Key to Uncle Tom's Cabin, the originally printed subtitle of which reveals the author's method: "Presenting the Original Facts and Documents Upon Which the Story Is Founded, Together with Corroborative Statements Verifying the Truth of the Work."

Stowe was responding to doubt over the accuracy of the fictional yet realistic events of her novel, a response that Douglass also faced following the publication of his text. And although Douglass is frequently cited as praising Stowe's books, his initial approach to his vicious readers was considerably less earnest than hers: in responding to a Maryland slaveholder's quarrel with the Narrative's depiction of his neighbors, Douglass "beg[s] Mr. Thompson to accept my thanks for his full, free and unsolicited testimony, in regard to my identity" (92). Douglass continues almost excessively: "You have done a piece of anti-slavery work, which no anti-slavery man could do [. . .] You, sir, have relieved me [. . .] This is excellent [. . .] Do allow me, once more, to thank you for this triumphant vindication of the truth of my statements [. . .] to show you how highly I value your testimony, I will inform you that I am now publishing a second edition" (92-93). In spite of the thickness of the sarcasm—or with a debt to it—Douglass recognizes that a man who offered evidence to disprove his own narrative ends up solidifying the very sequence of events he attempted to contest. It is not only one who is unsympathetic to the cause who does such good work for it; it is one whose language means despite his own intention. In other words, the same literary play that allows Douglass to respond to his challenger in the form of a thank-you note is what he observes as significant when he reads Thompson as testifying. The work that language does exclusive of its speaker's intended meaning is the part that testifies effectively, that does the ultimate "piece of anti-slavery work."
Six years later, in 1852, Douglass reprises this impulse with far less delight, asking more seriously, but again with recourse to literary expression—"scorching irony," "biting ridicule," and "withering sarcasm" (371)—why the testimony of his narrative and his continued presentation of evidence and reason have not done more to shift the complacency of the citizens of New York. "What, then, remains to be argued?" he asks. "Would you have me argue that man is entitled to liberty? that he is the rightful owner of his body? You have already declared it. Must I argue the wrongfulness of slavery? Is that a question for Republicans? Is it to be settled by the rules of logic and argumentation, as a matter beset with great difficulty, involving the doubtful application of the principle of justice, hard to be understood?" (370). Douglass's answers with an emphatic no: "The time for such argument is past," and demands that logic be replaced with irony that more aptly delivers a condemnation of nation's "revolting barbarity and shameless hypocrisy" (371).

Melville's conceptualization of a testimony beyond informative fact is less obviously oppositional to an existing body of work than Douglass's or Emerson's, but like those writers, he undertakes in Benito Cereno to write a "true history" (89) that exceeds the official record of a deposition. Perhaps encapsulating the attitudes of his 1855 readers in the character of Amasa Delano, a prejudiced but not entirely stupid Yankee sailor, Melville centers his short novel around the point at which the American realizes his entanglement with the violent, murderous power of the slave-trade. Believing that he has been assisting a Spanish slave-transporting ship in trouble, Delano has instead been participating in a ruse developed by the slaves themselves after they revolted and killed most of the ship's crew, and he would likely have been killed himself, for supplies that would assist their return to Senegal, if not for his "revelation." It is after hours of
attempts to identify the oddity that pervades behavior on board that, at once, "across the long-benighted mind of Captain Delano, a flash of revelation swept, illuminating in unanticipated clearness, his host's whole mysterious demeanor, with every enigmatic event of the day, as well as the entire past voyage of the San Dominick" (85). For Melville, as for Emerson and Douglass, such flashes of revelation are not forcibly produced. Melville proposes that they are the effect of events that appear enigmatic and strange, that always seem to exceed the significance that may be readily attributed to them. Although his moment of crystallized illumination follows the slave leader's obvious wielding of a knife, Delano's struggle to make sense of the hints that persist without disclosing, his meditations on what is absent from the narrative he confronts, constitutes his actual apprehension of their deadly historical import.

This conclusion resonates with Emerson's ultimate pronouncement on the subject of political revelations, which appears in his essay "Spiritual Laws" and describes the evolution of one's commitments: "The epochs of our life are not in the visible facts of our choice of a calling, our marriage, our acquisition of an office, and the like, but in a silent thought by the way-side as we walk; in a thought which revises our entire manner of life, and says,—'Thus hast thou done, but it were better thus.' And all our after years, like menials, serve and wait on this, and, according to their ability, execute its will" (321). Emerson's delivery of an address on British emancipation proposes to turn his audience members to a new, anti-slavery epoch of their lives, but such work turns out to depend upon his ability to offer them "a silent thought by the way-side," or some expression that will, as they walk home, whisper the revision that results in the detection of blood in the taste of sugar.
In sum, Emerson, Douglass, and Melville collectively conceive of testimony as producing a shift of political obligation, but as a result neither of verifiable spoken statements issued by one person in order to convince another nor any deployment of power. The shift consists instead in the ceding of the powerful claims of the self—the one who enjoys ice cream and prefers not to taste blood in his sugar—for the ethical demands of the suffering of others. This distinction explains why these writers trust none of the presumptions on which the more common definition of testimony relies: not the idea of a continuous self who can access and successfully articulate his past experience; nor the ability of language to transparently or directly represent the experience of witnessing; nor the value of official sources of authorization and corroboration for establishing the truth. Such conventional premises treat testimony as information to be collected and deployed, rather than as unexpected insight that redirects one's hitherto undisturbed identity. To highlight the writers' respective alternatives: Douglass compiles a series of speaking positions throughout his autobiographies and more famous lectures, exposing their disjunction through his invocation of irony rather than reconciling them into one coherent, evolved identity. Emerson insists that once a silent thought testifies to someone, it becomes so irrevocably part of his self that he cannot isolate it to speak with the objectivity that a plea or account would necessitate. And Melville repeatedly makes reference to the insufficiency of the certified record, which always neglects the voices of the disempowered and which presumes completeness in spite of that and other uninterrogated or unverifiable experience.

My reading of quiet testimony thus amounts to tracking how slavery may be addressed, or drawn attention to, without bounded subjects, representative language, or historical authority. In other words, the project considers how slavery may be spoken for
without, precisely, being spoken for. In addition to requiring attention to literary language—Douglass's irony, Emerson's abstractions, and Melville's play with narrative—the concept demands attention to gaps, pauses, and vacancies within the text as indicative of the points wherein "louder" testimony, the testimony of knowledge production, fails. The silences that are issued point at once to the occurrence of the ethical shift, which orients the self from a powerful speaker to an obliged witness, and to the impossibility of using language to directly transmit such a transfer of responsibility. This is not to say that the silences figure a departure from the register of language—they depart, rather, from the idea that reporting on an event is equivalent to testifying to its ethical demand. Nor do the silences I refer to demonstrate the presence of an otherwise unspeakable traumatic experience. Such a reading would still have to suppose that the purpose of testimony is to render an event, to communicate it, and that some events are ineffable while others may be easily expressed. But the idea of quiet testimony is meant to mark the testimonial as distinct from both a transfer of knowledge via language and from its limit case, wherein no knowledge exists to be passed on. It designates instead a call of responsibility, iterated as the call of language to its ostensible other, silence. Just as the obligation of Emerson or Melville may be noted even when it is not explicitly stated, the silence to which quiet testimony refers sustains a legibility in spite of the words that figure it.

It is for this reason that I use the term quiet rather than silent to modify the conception of testimony I am engaging. In classical Latin, two terms mean "to be silent": sileo and taceo (Barthes 21). The first term refers to "a sort of timeless virginity of things," a silence of nature and the divine that is "outside speech" (22). The second refers to not speaking or saying nothing; "to hold one's peace," and is therefore a silence
"inside" speech ("taceo"). It is from this latter word that the English "tacit" is derived; yet because that term connotes today "understood" or "inferred" rather than the earlier "saying nothing," it seems to posit a successful communication that is not quite apt for my purposes. I turn, then, to "quiet," derived from the Latin quiesco, which similarly relates silence to speech; it means to "keep quiet" or "abstain from" or "make a pause in speaking" ("quiesco"). The secondary meanings of quiesco are also particularly relevant: as an adverb, it may refer to a passivity: "to suffer or allow quietly, to peaceably permit a thing to be done" and even "taking no part in war...neutral." Invoking both a silence that is integral rather than antithetical to expression in language, then, and the subject that allows his concern to be so spoken, "quiet" modifies the active element of testimony without annulling its expressive potential.

Throughout this dissertation, I am necessarily involved in process of recognizing—and recording—silence as quiet and, further, quiet as testimony. The implications of such a task are two-fold: first, it emphasizes that quiet testimony retains a textuality through which it is read, rather than experienced as a mystical or prophetic transference. Emerson's offering may be a thought by the way-side, but it is a thought that says something—something unspecified, to be sure, "thus" rather than blood, but the formulation comprises articulation rather than more general inspiration or influence. The second implication speaks to the relevance and legibility of nineteenth-century quiet testimony beyond its originally intended audience. If I can read, again, not the precise content but the existence of the testimony that Emerson is uttering, then despite its association with silence, quiet testimony remains recorded and available beyond its initial delivery. Although an archive of quiet testimony would pervert the very idea of the
archive, consisting of gaps or pauses rather than information, quiet testimony cannot be
dismissed as a completely ahistorical type of writing.

In making legible the obligations of the past, quiet testimony approaches its
loftiest, but perhaps also its most crucial, sense—the proposal that what is omitted from
the archive nonetheless continues to speak. Such omissions not only comprise the
experiences or obligations of Emerson, Douglass and Melville; they point as well to the
never-to-be-written testimonies of slavery's most abused victims—those who died
without reading or writing, without birth or death certificates or burial plots. This is not
to say that the writers on whom I focus directly manifest the unspoken testimonies of the
as-yet-unknown dead, but that the process of recognizing past silences as subsisting—as,
simply, recognizable—suggests a way of being responsible to those archival absences. In
fact, becoming oriented to what is not said about the past, rather than what is, already
figures the inclusion of absent voices in the very idea of history. We may not be able to
reconstruct the voices of slavery's victims; but we may become aware of that fact as
insisting upon acknowledgment, and as perhaps shifting one's political obligations toward
those who are not speaking rather than those who do.

Extending my argument in the direction of this possibility, after chapters on
Emerson, Douglass, and Melville, I read James's *The Wings of the Dove* to conclude the
dissertation. I regard that text as concerned with preserving quiet testimony in the face of
representative technologies that increasingly promise to render it obsolete. Widely
circulating newspapers and periodicals, telegrams and, most pressingly, photographs
seem to provide mechanisms for the unheard, unknown, or uncertain to be represented
and publicized. As America, as well as Europe, moves from the middle of the nineteenth
century to its end, the sense that there are masses of people who have not been accounted
for, or who die obscurely, without record or notice, drastically diminishes. James insists, however, that the premise of reproducing life through camera or text eradicates rather than delivers the testimony it seems to promise. Inheriting from his American predecessors an investment in testimony that expresses and obligates rather than communicates, James records the death of his character, Milly Theale, as preserved insofar as it fails to be explicitly or perfectly rendered, as preserved insofar as it maintains a legible silence that commands the attention of her mourners—and his readers. Again, this is not to say that the death becomes a tragedy beyond language, but that the possibility of archiving it—to which James is committed—depends upon a departure from the archive's very precepts.

Engaging Contemporary Theories of Testimony

I extend my period of reference to the approach of the twentieth century, in part, in order to consider the relationship of quiet testimony to the historical event that has produced the most extensive body of writing on the subject of bearing witness: the events generally referred to as the Holocaust or, metonymically, Auschwitz. I want to assert that the conditions and concepts surrounding slavery were distinct from those deployed in Nazi Germany. As Chapter 2, on Frederick Douglass, demonstrates, motivation for testifying to the experience of slavery inheres not in the nightmare recorded by Primo Levi: that the records of the mass destruction of a people would be destroyed and their narrative obliterated from history. Not only was slavery frequently remarked upon for being a peculiarly open practice, but not having records at all was a hallmark of its system: there were no ID-cards, no meticulously numbered tattoos. If the practice of branding or scarring was horrific in itself, it remains important to recognize
that these marks were meant not to track the life and death of the individual but to
determine the extent of property and to showcase the threat of violence. This distinction
means that the "era of the witness," as Annette Wieviorka terms the current specifically
post-Holocaust moment, wherein the "newly recognized identity of the survivor" is "to be
the bearer of history" (88), provides a context for theorizing testimony that does not
necessarily apply to the American legacy of slavery.

At the same time, Levi's oft-quoted formulation of the Auschwitz witness's
paradox does resonate with the concerns of Douglass's writing, as well as that of
Emerson, Melville and James: "we, the survivors, are not the true witnesses [. . .] We
survivors are not only an exiguous but also an anomalous minority: we are those who by
their prevarications or abilities or good luck did not touch bottom. Those who did so,
those who saw the Gorgon, have not returned to tell about it or have returned mute, but
they are the 'Muslims,' the submerged, the complete witnesses, the ones whose deposition
would have a general significance" (84-85). Testifying by an assumed "proxy" (84)
haunts Levi because it supposes that his narrative exists not only in the place but at the
expense of "the complete witnesses," even as it is read as generally significant and,
perhaps more dangerously, emblematic. A similar impulse may be traced in the poetry of
Paul Celan, who formulates the isolation of the survivor's voice: "No one / bears witness
for the / witness" (261), and suggests "the witness" as "the only one who can bear
witness" (Sovereignties 67) and who nonetheless does not succeed in delivering the
complete account. In both cases, the text that is available as a text of witness claims itself
to be first, insufficient and incomplete, and second, writing or voice that replaces the
absence of voice that more accurately represents the tragedy to which it testifies. As
Giorgio Agamben reads Levi, "the value of testimony lies essentially in what it lacks"
(34), or lies in the "lacuna" (33) that names the fact that testimony "means that language, in order to bear witness, must give way to non-language in order to show the impossibility of bearing witness" (39). For Agamben, the witness's speech must refer to the silence of the "complete witness" who cannot speak, must signify the absence that "would have a general significance." In other words, those who "have returned mute" must not be given voice, but must be acknowledged and, perhaps impossibly but urgently, heard.

Agamben's response to the paradox he names relies upon his positing a "zone of indistinction" (120) that may be understood to interrupt the supposed single identities of the "complete witness" and the one who has survived to speak. It is precisely when the survivor's voice "speaks without truly having anything to say of its own" that he testifies, for it is then that the silence of the dead takes his place, becoming a subject—but only for long enough to expose the dissolution of subjectivity that such an exchange between human and inhuman implies (120). In his words,

Testimony takes place where the speechless one makes the speaking one speak and where the one who speaks bears the impossibility of speaking in his own speech, such that the silent and the speaking, the inhuman and the human enter into a zone of indistinction in which it is impossible to establish the position of the subject, to identify the 'imagined substance' of the 'I' and, along with it, the true witness. (120)

Agamben's pursuit of testimony as a way "to listen to what is unsaid" (14) and, specifically, to follow how the unsaid arrives within what seems to be speech without being converted into narration undoubtedly influences my approach to discerning quiet testimony. His proposal that the speechless can "make the speaking one speak" without being appropriated by the identity and the concerns of the living—that the "making"
therefore is a matter of "desubjectification" (121) rather than ventriloquism—in particular relates to the reorienting impulse that I find silence within text to signify.

Although it may seem anachronistic to posit the intimacy of quiet testimony and studies such as Agamben's, the nineteenth-century writers I read anticipate the contours of the contemporary problem insofar as they posit testimony as an ethical concern. In recognizing and insisting on silence within their texts, Emerson, Douglass, Melville, and James record a disturbance in the voice of the speaking subject, the one that asserts itself in order to be transcribed and preserved. And such disturbance or constraint is due not to the accumulation of information—for such possession would signal the fortification rather than the interruption of subjectivity—but the act of confronting the fact of someone or something else as a self rather than an object. Crucially, this ethical framing of testimony means that it remains heterogeneous to communication, the successful transfer of content: the "what," the narrative of testimony belongs to the register of individual subjects learning about, or becoming acquainted with, others as objects. The quietly testimonial moment, instead, consists pointedly in the fact of confrontation that produces an ethical difference. While narratives or information may cause such a shift, the shift itself is what is worth thinking as testimonial, as changing people and truth.

In order to describe testimony as an ethical concern, I borrow from the language and thinking of Emmanuel Levinas, who distinguishes between what is "said," which belongs to the register of information, communication, and archive, and "the saying," which names language as that which "break[s] the continuity of being or of history" (Totality 195). Levinas's "saying" comes close to Agamben's reference to testimony's reliance on "non-language," as both reorient speech away from assimilable content and toward the signification of what resists summary (Totality 206-207, Otherwise 49). This
restricted meaning is precisely what allows Levinas to conclude *Otherwise Than Being* by proposing that "saying" indicates the act of witness: "Of itself saying is witness, whatever be the ulterior destiny into which it enters through the said in a system of words" (147), or again, "saying is witness; it is saying without the said, a sign given to the other" (150). This definition allows me frame as ethical the elements of testimony that resist placement in a "system of words": Emerson's insistence that testimony is a constant performance; Douglass's fugitive relationship to his own subjectivity; Melville's meditation on the impossible testimony of the slave; and James's approach and withdrawal from precise description.

While Levinas's books are devoted to philosophizing ethics rather than primarily theorizing testimony, they also respond to the legacy of Nazi aggression; *Otherwise Than Being* is dedicated "To the memory of those who were closest among the six million assassinated by the National Socialists, and of the millions on millions of all confessions and all nations, victims of the same hatred of the other man, the same anti-semitism." Accordingly, the impulse of Levinas's contribution may be understood thus: if the combined force of nationalist propaganda, military strength, and meticulous record-keeping that made the Nazi experiment significantly successful relies fundamentally upon the reinforcement of identity at the expense of otherness, then reorienting philosophy around ethics may preclude similar horrors, on both large and small scales.

Nineteenth-century writing concerns a related reaction to an institutionalized horror—it is not an extreme stretch to consider slavery in the service of liberty a machine of modern nationalism gone wrong. Yet it is crucial to recognize that the earlier texts do so without Nazism as an inevitable alternative. Emerson, Douglass, Melville, and James provide us with a thinking of ethical testimony that is not oppositional to Auschwitz and
therefore not reactive to its threat. They offer, then, a glimpse of testimony that is already in retreat from the precepts that would make its wide-scale study necessary, that turns to project a world that learns to listen to quiet so that, perhaps, it will not have to be mourned. Such thinking, which today is so unusual that it must be considered "new," serves both as an inheritance and a direction for the future, proposing a testimony that is oriented toward silence without requiring the millions silenced by genocide to motivate its ethical claim.

Quiet Testimony, Chapter by Chapter

Each chapter of the dissertation is meant to develop one aspect of quiet testimony in order to present its contours and the demands it makes on practices of reading and analysis. The progression through which I have organized the text is both chronological and formal. Of the key texts I examine, Emerson's "Address on the Emancipation" is the earliest (1844), followed by Douglass's "What to the Slave is the Fourth of July?" (1852), Melville's Benito Cereno (1855) and James's The Wings of the Dove (1901). Certainly, the first three circumscribe the midpoint of the century, yet I refer to additional texts within each chapter that provide the dissertation with a wider span. Emerson's lecture on George Fox, to which I pay close attention, was delivered in 1835; Douglass's constitutionalist period is my main concern, and his writings thereof extend through 1862, although I examine as well his third 1882 autobiography. I am focused on what are referred to as Melville's "late works" in prose, which span 1852-1857 (the short period of which is important to my argument about his prolific output of texts dealing with silence). Finally, to approach James's late novel, I refer primarily to one short story, "The Friends of the Friends" (1896) as well as certain others from that decade and his earlier
The Portrait of a Lady (1881). This summary means to demonstrate that quiet testimony may be understood to draw upon the impulses of, at least, the latter seventy years of the nineteenth century, even though the idea is most generously articulated at the mid- and late-points I identify.

The formal organization of the dissertation aims to explore how quiet testimony evolves from a genre closely associated with more common testimonial forms, the political address, to a genre that presents complications for the theorizing of truthful speech: the fictional narrative. In Part I, I track Emerson's departure from his testimonial source-texts to posit his "silent thought by the way-side" alternative, as well as Douglass's mode of multiplying the positions from which he addresses the law rather than isolating a single continuous and legitimized voice. These two chapters jointly work to disturb the premise that testimonial speech uses language to represent the events with which it is concerned.

For Emerson, representation fails because it assumes experience as an object in relation to one's subjectivity. In the thinking of his essays, the logic of collection or appropriation assumed by such a view misapprehends man; he is rather "a method, a progressive arrangement; a selecting principle, gathering his like to him, wherever he goes" ("Spiritual Laws" 311). Thus Emerson never "has" a new idea or obligation: like "the loadstone among splinters of steel" (312), he is part of an attraction between would-be self and object—one so mutual that he cannot recuperate its occurrence by explaining why he has so grown or developed. As a result, speaking by objectifying his most intimate obligations is impossible. Yet Emerson insists that the total and evolving self, like "every fact in nature," is always exerting its influence, "publish[ing] itself," and, explicitly, "offer[ing] its testimony" (318). Thus testimony turns out to be a constant
occurrence, one which expresses what matters to a person whether he or she intends to inform or not. The consequences of such a theory earn Emerson the designation "quietist"—"if you sit still, if you sleep, you show it" (318), he writes, which counters, even as it explains, the tendency to read the relatively few number of anti-slavery writings as demonstrating his reluctance to participate in politics.

Hence Emerson's anti-slavery testimony in his "Address on the Emancipation" consists not in a recitation of horrors but in the fact of his engagement with horror: not in his presentation of brutal scenes, but in his refusal to assume that the brutality that touched him may be detached and mobilized to convert his audience members. What will obligate the audience members depends upon the images to which they are susceptible, and those images might appear and "intrude," as he puts it (23), upon them at any time. Thus Emerson's seemingly detached opening claim emphasizes that, in testifying, he will not claim to convince: "In this cause, no man's weakness is any prejudice; it has a thousand sons; if one man cannot speak, ten others can; and whether by the wisdom of its friends, or the folly of its adversaries; by speech and by silence; by doing and by omitting to do, it goes forward" (7). It may not be the "poor black men" (23) from Massachusetts ships kidnapped and enslaved in South Carolina, an image which Emerson introduces, that ultimately make the movement "go forward": it may be something he says that seems to be unrelated, or something that he does not say to all, that triggers an obligation in those who face him. He will have testified—he cannot help but testify—regardless of the political change his speech does or does not effect.

Emerson's detachment of the term testimony from the objectification of experience by a speaking subject suggests that no piece of information ever warrants the designation. Anything collected and deployed—whether "facts and testimony" or
archived speeches—are evidence of ideas that withstood detachment. To discern a person's obligations, then, or his articulation of the truth, would consist instead in reading what his speech never represents. Such a project may not be practical if one is after historical information, but it usefully sketches the approach with which one tracks quiet testimony: susceptible to the unsaid not as the said's opposite, but as the site where the most crucial saying may take place.

Douglass's intervention may seem more difficult to discern, both because his body of writing often undertakes to bear witness in a reportorial manner and insofar as he engaged in legal debate and argumentation in order to demonstrate the viability of his claims. Following Douglass's shift in alliance from the Garrisonians to the constitutionalists, especially, his writing often earnestly approaches and carefully reads legal documents, an effort which would seem contrary to the precepts of quiet testimony that suggest a departure from lawful speech and archival documentation. Yet what I note in this chapter is the profound untenability of Douglass's apparent addition, in this period, of yet another position from which he speaks: he is not only identifying as a slave, runaway, fugitive, speaker, writer, publisher and activist, but also as a legal scholar—a role which, importantly, he has no authorized claim to assume. I use this observation to read Douglass's mid-career work against criticism that understands his identity as an evolving one, instead suggesting that he speaks at various moments from various affiliations. These multiple positions cannot be added into a single summary one because they often contradict each other, so that it is in the incoherence generated by his many invocations of "I" that his unusual and changing self comes to be represented in testimonial speech. In the Fourth of July address, specifically, he aims to speak at once "identified with the American bondman" (368) and as a "representative" sufficiently
removed to have the power to do so (367) and as a reader of the constitution as a
"glorious liberty document" (385). His several tones throughout the address, as well as
his recourse to literary devices such as irony, work to manifest a paradoxical conjunction
that might generate support where more direct testimony has failed to effect change.
Quiet testimony, as that which produces an ethical reorientation, for Douglass signifies
speech that does not require the representation of the self through an "I" that assumes
legitimate, logical continuity.

As I devote several sections of Chapter 2 to arguing, this aspect of quiet testimony
was not exclusively Douglass's proposal; in fact, the law that he faced in the 1850s and
1860s did not require the authorized speaking subject in the manner that more
contemporary studies of testimony have come to assume. While quiet testimony might
seem to contest the very premise of legal testimony, this is only the case if the law is
assumed to insist on knowing who addresses it at any given time and to devote itself to
systematizing collected information so that it operates with the force of an archive. Yet
such a context is explicitly distinct from that in which Douglass argued for the
Constitution. American law in the mid-nineteenth century was in its most creative, least
organized period (Gilmore 9). It was just beginning to entertain the principle of
identification as one according to which it might operate, and was therefore not yet
devoted to recognizing, documenting, and authorizing its inhabitants. The law as it was
practiced is thus different from the idea of the law that is often assumed to underwrite
testimony, for which consistency must be demonstrated. As Derrida formulates that
conceptual law, it structurally demands a constant and single identity of the speaker of
testimony, regardless of the passage of time, for the one who swears to the tell the truth
must not differ from the one who then enacts the telling. One effectively "commit[s]
oneself not to be affected by time, to remain the same at moment B, whatever may happen, as the one who swears previously, at moment A. This sublating negation of time is the very essence of fidelity, of the oath, and of sworn faith. The essence of the truth of the Law" (Without 173). Yet this summary of the law's expectation is to some extent inapplicable to Douglass's testimonies that take the form of legal addresses. For, in practice, the lowercase-l law with which he wrangled was less concerned with maintaining identity from moment A to B—was, indeed, less concerned with asserting itself as protecting origin and truth and oath—than the conceptual Law that Derrida invokes. Douglass exploited this condition to testify before the law without having to arrange to speak, as Kafka would have it, "Before the Law."

I raise this distinction in order to accurately contextualize Douglass's anti-slavery efforts, but also to suggest that the juridical premise to which testimony as a general concept seems always to refer is neither constant nor monolithic. While Derrida's affiliation of testimony with the public act of trial and sworn oath importantly establishes the stakes of truthfulness and self-presentation that attend the term, one does not always testify before the same Law. Douglass, as well as the other writers with whom I am concerned, partake of testimony's relationship to certain, insistent, inarguable truth, but what would seem his perversion of the law's precepts actually makes clear its paradoxical reliance on authority and failure to fix the means for legally authoring one's own identity. By suggesting, then, that the association between testimony and the law is one that actually holds—that need not be completely subverted—in the figuration of quiet testimony, Chapter 2 implicitly considers how the concept bears upon the thinking of democratic speech. Understood not as the inclusion of many silenced voices, but as the vocalization of aspects of self that are necessarily silenced when a testimonial "I" is
spoken, quiet testimony may gesture toward the possibility of a juridically recognized, and yet ethically inclined, idea of American testimony still to be fully realized and yet a veritable historical inheritance.

If Part I primarily theorizes a speech that testifies without representing the object, image, or person to which it is obliged, Part II considers how such a premise can nonetheless be deployed in writing that relies upon the representative: Melville's *Benito Cereno* and James's *The Wings of the Dove*. Both texts insist on a relationship between the fictional work and the actual circumstances to which it is indebted; for Melville, the proposed correlation is evident through his incorporation of a historical source text as well as his repeated promise to disclose the truth of the events he narrates. For James, the preface to the novel as well as the work itself is concerned with how the text "attests" to the situation it crafts through the deployment of proof and evidence ("Preface" 1299). The language of truth and deposition and the references to "official Spanish documents" (738) and uniformed authorities definitively situate *Benito Cereno* in relation to the past it imagines, revises and perverts; similarly, the desire for proof and the presence of a portrait that "was the image" (135) of the main character are far from accidental in the context of James's insistence on novel-writing as the practice of looking for and illustrating the truth ("Art" 47).

If these two texts declare themselves engaged with representing the truth, however, they also refuse the assumption that such representation demands the precise images or transparently referential language from which Emerson and Douglass turn away. Melville's text begins by describing a seascape: "Everything was mute and calm; everything gray" (673), and muteness develops throughout the short novel as the term that indicates its approach to writing history. It promises, in both individual scenes and
its premise, to deliver the "best account" (682); but its proliferation of details and
documentation systematically refers to information and meaning withheld. The text, in
other words, is continuously expected to speak directly and is instead mute. Yet rather
than read such obstruction as indicating the incompleteness of its appropriation of
history, I understand muteness to suggest that the history it is after is one that stubbornly
remains silent, that has no voice with which it may be made to speak. What it means to
write about the slave trade and the acts of violence it fosters entails, for Melville, the
construction of a silence that represents, precisely, the undocumented "true history" of so
many kidnapped, oppressed and murdered. Thus instead of signifying the absence of
testimony, muteness itself testifies. Of course, this is to say that muteness testifies as
quiet testimony: not by presenting information, but in marking for the reader the
inaccessibility of the past that demands her attention.

Melville's engagement with quiet testimony serves, then, to disturb the line
separating fiction from testimony. If it is to silence that his writing testifies, then his aim
is not an object that would stand to be authorized or clarified with reference to the official
and accurate. And if text cannot be made to certify muteness as historically relevant,
then the iteration of muteness in fictional text is indistinguishable from its demarcation in
an archival volume. What determines muteness as testimony, in either case, is the
reader's orientation toward it as an ethical claim on her subjectivity.

The interrelationship between history, silence, fiction and testimony has often
been noted in scholarly writing, but the practice of reading fictional silence as testifying
to history has been less frequently demonstrated, and it is in this capacity that my third
chapter contributes to testimony theory. Shoshana Felman's assessment of Paul de Man's
career, which is introduced with an analysis of *Moby-Dick*, concludes with the possibility
that "the original, or history, has been given not a voice that redeems it from its muteness and says it properly, but the power to address us in its very silence" (164). The writing of history, in her analysis, may be directed away from making the unwritten past speak and toward a confrontation with its very gaps and absences. Similarly, one of Derrida's studies of Paul Celan's poetry ends by reading the latter's claim in "The Meridian," "But the poem does speak!" as an assertion of what speaks in spite of not speaking: "It speaks to the other by keeping quiet, keeping something quiet from him. In keeping quiet, in keeping silent, it still addresses" (Sovereignties 96). The quiet that the poem keeps may be considered with regard to Derrida's earlier study of Blanchot, in which "the possibility of literary fiction haunts so-called truthful, responsible, serious, real testimony as its proper possibility" (Demeure 72), because the premise of such "real testimony" depends upon the uniqueness of the speaker and therefore the unforeseen and unconfirmable nature of his speech (39-41). In other words, what testimony exists to deliver must be nullified by its communication, so that it equally provides for or even necessitates the appearance of a fiction and of silence.

By directing my analysis of Melville with the question of how to read the silence that permeates his late works, I start with Felman's and Derrida's conclusions and proceed to consider how they inform a practice of reading. If testimony addresses us in silence, then the first task of all must be a consideration of what it means to read silence as such. Since silence is generally perceived as a background against which reading takes place, but also because it intimates an absence of sound that the reading of text inherently denies, the challenge is to attend to silence without replacing or converting it to voice. As I express the paradox in Chapter 3, one must undertake to read silence without silencing silence. I find that Melville's text gestures toward a possible model for such
reading, in the unlikely persona of Captain Amasa Delano. Famous for his failure to register the seriousness of the slave trade, infamous for his racial prejudice, Delano, in one signal moment, feels "rising a dreamy inquietude, like that of one who alone on the prairie feels unrest from the repose of the noon" (705). It is not only in noting the occurrence of "silence" or "muteness," but having his "leisurely observation" (704) interrupted by "disquietude" signifying repose, indicating the presence of silence, that he confronts without overwriting what testifies only quietly. The self that knows and apprehends and claims is disturbed by the awareness of the ground of silence upon which he does so. This may mean that, in writing a story that culminates with the muteness of a slave rebel who does not even exist as an individual historical being, Melville yet bears witness to the slave trade; it may also formulate how the present-day reader responds to the millions of other slaves whose names history has failed to record.

It is with this conclusion that the dissertation moves to consider, finally, *The Wings of the Dove*, wherein quiet testimony appears without reference to slavery. If silence is understood to testify via a practice of reading, then cultivating an awareness of its presence in text is a task more urgent than discovering the specific historical sites wherein it is most concentrated. Indeed, as the century approaches its close, a proliferation of representative technologies—especially the photograph—will begin to insist that, once portraits and instant communication provide records of common life, silences of the past are a thing of the past. Yet, as the shadow discourse of the dissertation, grappling with the aftermath of Auschwitz, attests, silences of the past are not obliterated in the twentieth century; they are virtually manufactured. Thus the end of the nineteenth century signifies the point at which it becomes at once increasingly pressing and increasingly difficult to read quiet testimony, for one's attention must be
turned to what remains quiet despite the expectation that modernity allows for experience to be recorded or brought to voice. One must learn to read against the propaganda that advertises the common life in order to glimpse the everyday silences it overwrites.

James serves as a bridge between theories of slave testimony and of post-Holocaust testimony, then, but that is to say that his writing does not coincide with any mass tragedy. It is precisely for this reason, however, that it remains relevant, for *The Wings of the Dove* considers how quiet testimony may be perceived when "muteness" is not the signal word in the text; indeed, when "proof" is. Departing from criticism that insists on James's fascination with the unrepresentable, I argue that James is invested in representing precisely the images and situations he drafts for his stories. "To represent and illustrate the past, the actions of men" is the "task" of both novelist and historian, as he puts it in his essay "The Art of Fiction" (47), and *The Wings of the Dove* as well as the similarly plotted "The Friends of the Friends" echo this assertion by revolving around discourses of verifiability and confirmation. In the shorter text, the death of the signal female character is rendered with a descriptive image that, exactly repeated throughout the narration, amounts to a textual photographic proof—perfect and literal. Yet such perfection collapses the verisimilitude it seems to promise, for the death ceases to be represented and instead consists in an endlessly repeated, always identical presentation. It is in order to maintain the semblance of the combination of the original and the representation, then, that Milly's death in *The Wings of the Dove* is described with reference to reproducible images that remain incomplete. Her death is "proven" by the novelist precisely insofar as the evidence that he might deliver—the perfect rendering—is exposed as interrupted by the language that maintains the image as a representation.

Thus I read the narration of Milly's confrontation of her supposed double, the Bronzino
portrait—"And she was dead, dead, dead. Milly recognised her exactly in words that had nothing to do with her. 'I shall never be better than this'" (137)—as purposely inserting an obscure irrelevance where an exact recognition was supposed to take place. James endows the photographic images of the text with quietly inexact writing in order to make them truthfully evident.

By suggesting that quiet testimony retains its relevance even in the domain of the photographic image, the chapter on James insists on the premise that largely drives the analysis of his predecessors: quiet testimony describes an ethical reorientation that requires engagement with a text's literary elements. At the simplest level, this engagement consists in divorcing the experience or idea the testimony is supposed to articulate from the articulation itself, in recognizing that "testimony" refers to text rather than to a past unmediated by present language. To go further, as my discussion of Melville insists, regarding testimony as a textual entity allows for the consideration of its unwritten elements: engaging testimony as literature also demands engaging the manifestation of silence in text. And when understood as taceo or quiesco, such manifestations refer to the conditions of expression, both the appearance of silence within speech and the silent ground from which speech arises. The silence between words or within narrative development always signifies the fact that words are only delivered at the expense of silence and that silence waits, massively, and is only occasionally interrupted, converted, or translated by speech. The quiet in Melville's or James's writing signifies, then, not only within their circumscribed plots but to the silence they must overwrite—the real and threatening silences to which their fiction ostensibly cannot respond. This is to say that it is the very literary element of quiet testimony that permits it to retain its relationship to the events of the past, to hover as representative text.
The proposal that emerges through my reading of Melville's Amasa Delano, that the reader bears witness by following his perception of his surroundings, may, then, perhaps be broadened. If reading quiet testimony amounts to regarding the significance of silence as a perpetual underwriter, then it requires that the reader turn away from the narrative or argument that she deliberately confronts and toward the silence that it both manifests and denies. In other words, it requires a reorientation of the reader and one that, if we consider Derrida's response to Levinas in *The Gift of Death*, is ethical in content. To propose ethics as a "first philosophy," Levinas divides the "same," the self that wants to totalize the world on its own behalf, from the "other," who forbids that possibility through his extreme, irreducible and absolute alterity (*Totality* 39). An ethical subjectivity is one that constantly puts the other before the same, to the extent that the other's being takes the place of and even substitutes for the self, who thereby becomes dependent upon him (*Otherwise* 103-105). Levinas's structure depends upon an ultimate other whose existence underwrites the possibility of absolute alterity and to whom, therefore, every "other" other refers: God. Yet for Derrida, "Every other (one) is every (bit) other" (69): ethics is a matter of constant obligation, but without transcendence; God does not trump the other others. As a result, every gesture of response or responsibility toward one is a rejection of another as other and therefore as demanding: if with regard to one set of obligations, "I am perhaps fulfilling my duty," it is only because "I am sacrificing and betraying at every moment all my other obligations: my obligations to the other others whom I know or don't know, the billions of my fellows (without mentioning the animals that are even more other than my fellows) who are dying of starvation of sickness" (69). This means that the reading of a text—even an explicitly testimonial narrative like Douglass's, even a meditation on ethics like Derrida's—always
entails the betrayal of another set of words or, to emphasize what is "even more other" than other words, silence. By confronting that silence, the reader experiences an ethical reorientation, which means that she not only reads the testimonial text; it testifies to her. And in her return from silence to text (and in the movement back again), that experience becomes quietly legible in the testimony that she delivers, as Emerson would have it, with every step and breath.

My point here is that the testimonial value of the texts I consider is in no way limited to the nineteenth-century context in which they were produced. The past, if anything, becomes more and more silent as it passes; contemporary readers may not be in a position to vote to abolish slavery, but it is by no means irrelevant for them to consider in what the realization that to do so was necessary consisted. It is, rather, urgent, both because new and equally grave issues occupy America and the world at any moment and because such realization must constantly take place in order to approximate a historicizing of America. Understanding what the American nineteenth century not only meant but continues to mean—understanding how we inherit and remain responsive to its concerns—entails a relationship to its texts that does not solely seek to appropriate their knowledge. It involves reading the past as arriving to one presently, and as one continues to progress to the future; as a "coming," as Emerson has it in "Circles," in which "every moment is new" and "the coming only is sacred" (413). I draw here from Eduardo Cadava's approach to history in his reading of Emerson: "To write history—which, for Emerson, means to make history—is therefore not to represent a past or present presence. It is to trace the transitive movement that, belonging to what we call the past or the present, prevents either one from ever being present to itself: since it is always unsettled, since it always flees from itself" (9). To write history, to make history, and, I believe,
read history demands the tracing of the moment that leaves itself to become meaningful as others bear witness to it. Fleeing the static or photographic present, as James conceived it, what is historical arrives, unsettled, to meet the reader who is equally unsettled by its appearance, who encounters the newness of what was supposed to be past.

The act of bearing witness to quiet testimony may thus appear excessively local: consisting in an ethical reorientation, it is nevertheless confined to the individual scholar or reader who undergoes a shift in the snug privacy of her own domain. Yet I would suggest, finally, that such a shift signifies at the very least a signal political gesture, and, at the most, a calling into question of all but the revolutionary impulse that generated the republican experiment of America. As Marianne Constable makes clear in her recent book *Just Silences*, the liberal theory underwriting the modern state understands "law as social control and [speech as] correlative to power, by emphasizing the citizen who speaks rather than the language with which s/he does so" (56). Such an approach regards democracy as a form of government in which citizens "function to some degree as their own officials or rulers. They are minisoereigns, entitled to speak, and demanding of voice" (57). Democracy allows, in short, the citizenry to use its voices take the place of the sovereign whose "declarations or commands" were law (56). Following that assumption,

Within the current democratic politics of voice [. . .] silence is almost always taken up as an absence of power, as an issue to be raised on behalf of the less powerful to contest their marginalization, exclusion, or domination. Silence in this context marks those who have not been properly heard, who are not listened to, or who have yet to come into their own voices. (59)
Silence ends up widely considered a political absence that voice must be issued to rectify. Silence may even mark, in this generalized view, the failure of democracy to work, to allow its citizens the right of expression.

The gesture of Emerson, Douglass, Melville, and James, however, takes precisely the opposite perspective: they do not see silence as indicating failure or requiring eradication. As individuals who have voice in the most literal sense of the term—they speak to audiences or write and are published—they invite silence to show how it both supports and disturbs the texts that they produce. Figuring a turn from the minisovereign to the listener, or, more aptly, from the minisovereign to the speaker whose voice does not exist to obscure silence but, rather, thanks to it, quiet testimony effectively counters the ideal of the minisovereign itself. If those who are recognized as America's speakers do not deploy language as oppositional to silence, those who would be unrecognized cease to be stripped of articulate power. What the traditionally "unheard" become is beyond the scope of this dissertation; Douglass names such revolutionary thinking as belonging to madmen ("Fourth of July" 362). Ultimately, though, my movement from testimony as explicitly political speech to literary expression that results in ethical reorientation should be understood to return to the political field. The reader, the student, or the scholar who bears witness to quiet testimony performs a radical act from the point of view of contemporary democracy. Meeting nineteenth century American literature in the present and insisting that what it has to say is that it does so quietly, she gives her voice to Emerson, Douglass, Melville and James—or, if such a thing is possible, she gives her silence to theirs.
Chapter 1. Emerson's Anti-Slavery Testimony as a Politics of Quiet

A silent fight without warcry or triumphant brag, then, is the new abolition of New England sifting the thronging ranks of the champions, the speakers, the poets, the editors, the subscribers, the givers, & reducing the armies to a handful of just men & women. (Journals 128)

From the beginning of his career as a lecturer, Emerson was branded a quietist; and even those scholars who, more recently, have attempted to expose his investment in politics have had to contend with statements such as the epigraph above. The line from Emerson's journal appears amid preparation for his first major address for the abolitionist movement. It recommends that those whom he was expected to inspire become silent, trading speeches for work—a move which he expects will reduce rather than expand the numbers committed to the cause. This suggestion was not ultimately included in address he delivered, but many sentences surrounding it were, in slightly amended forms. The persistence of such thoughts which, if not explicitly quietist, are nonetheless not committed to the politics of speaking in which he was engaged have been construed as the fading remains of Emerson's commitment to individual morality rather than institutional movements.

To read such sentiments as the residue of reluctance, however, fails to attend to the specificity with which they revise the opposition to speak or not to speak. The "silent fight without warcry" strategy follows a related inquiry: "Does he not do more to abolish Slavery who works all day steadily in his garden, than he who goes to the abolition meeting & makes a speech?" (126). Both remarks demand that abolitionists become independent of slave labor, but both also demand that abolitionists stop making speeches. Combined with the opening of Emerson's final version of the address, which declaims the import of his own speech, these statements work not to justify his previous silence but to
figure a silence worth speaking about. In imagining a speech in complicity with silence, Emerson is not abandoning silence but bringing it with him, bringing it to the movement as his own verbal offering.

In contrast to the abolitionists whom he seems to have joined, Emerson's commitment to opposing slavery was focused on producing altered individuals, but, perhaps more crucially, it was focused on the hopelessness of employing speech to affect individual moral change. This was not, I want to suggest, merely because political rallies were distasteful to Emerson's idea of reform or because he found those devoted to "causes" "the worst of bores & canters" (120). Rather, at stake in his continued inclusion of silence in his political speeches is a pointed proposal of what it means to witness and to testify—a proposal that explains and responds to the partisan's but also the reformer's enigma of how to change another's mind, of how to produce "moral suasion" (AS xi).6 The enigma consists in a thinking of silence, for Emerson, because what one unchanged mind needs to hear can never be anticipated or guaranteed delivery by a stump speaker. Politics is not the work of a quietist, that is to say, but it is the work of one who thinks about what happens in the quiet in which a mind reveals itself to be changed.

Read with an attitude toward discovering this theory, the points of reluctance to speak or to act become systematic articulations that include and expand overlapping references to silence and to testimony throughout Emerson's oeuvre. When testimony appears in earlier addresses and the First-Series essays, for instance, it never refers to a speech that effects judicial change or alters the historical archive; rarely does it even connote a public declaration.

What Emerson means by testimony is, instead, a speech that could be coincident with an act of gardening, even a silent act of gardening. He generally uses it to refer to
an everyday act of self-expression, one that is truthful but not authorized, as in this example from "The American Scholar": "What a testimony,—full of grandeur, full of pity, is borne to the demands of his own nature, by the poor clansman, the poor partisan, who rejoices in the glory of his chief" (E 66). The clansman here testifies to his state of being inglorious by rejoicing in the glory of another. No one can argue with the clansman's testimony, but no one especially calls for it either. His testimony is not private, for it is on display, but it is not generated for a specific public cause, and neither does it consist of a directed speech aimed to convince. Emerson thus makes of testimony something that is offered unreservedly, that is certainly truthful, but that cannot be proved as such and, indeed, may frequently be missed.

With this sense of testimony in mind, I want to suggest a reading of the term as it articulates common activity (such as the clansman's), but also as it speak to an interrelationship between everyday, political speech, and the quiet in which much may be missed and much may be understood. The "silent fight without warcry" is not a relapse but a thoughtful investment in what it was that brought Emerson himself to notice the rejoicing of the poor clansman—or the humanity of the slave.

Testimonies as Facts

At first glance, the address that Emerson makes to commemorate the tenth anniversary of British emancipation—especially the final version, not the draft paragraphs in the journal—would seem a poor place to begin to argue for a quiet testimony. As the first talk that Emerson delivers for "the cause" (Antislavery 7-8), it has been hailed as marking a shift from his general antislavery position to a specifically abolitionist one (Gougeon 85). This assessment has been made, no doubt, because the
speech contains concrete descriptions of the horrors of slavery, condemnations of elected officials, and Emerson's claim that he is haunted by what still exists in America when it has been eradicated in Britain: proclamations in line with the most vocal abolitionist platforms.

Further, Emerson's address is steeped in testimonies that were anything but quiet. He had read in preparation texts highlighting testimonies, deliberately labeled as such, to "the moderation of the negroes" upon their emancipation, and he declared that he had "never read anything in history more touching" (AS 15). The text was meant to be touching, and more than that: published by the American Anti-Slavery Society in 1838, James Thome and Horace Kimball's *Emancipation in the West Indies: A Six Month's Tour in Antigua, Barbadoes, and Jamaica, in the Year 1837* set out to "conclusively prove" the success of emancipation in the British colonies (iii). That Emerson was touched, in fact, may almost have been incidental to the structure and stated purpose of the book, which intended foremost to convert American slaveholders by an appeal to their "reason" rather than their hearts: "We present the work to our countrymen who yet hold slaves," reads the introduction, "with the utmost confidence that its perusal will not leave in their minds a doubt, either of the duty or perfect safety of immediate emancipation, however it may fail to persuade their hearts—which God grant it may not!" (vi).

Thome and Kimball's text is instructive not only for the information it made available to Emerson, but for the assumptions it makes about what testimony is and how it is to be employed. That testimony exists to be employed at all is an approach that, I will argue, Emerson resists; but for Thome and Kimball—as in most common-sense uses of the term—testimony is useful for what it may prove. While the book is never
advertised as a legal document, Thome and Kimball offer their text as a lawyer would his brief, adopting the conventions of the courtroom in order to establish a historical reality. If the argument "wins," the earnest writers seem to propose, American slavery should be revoked with the ultimate authority of a Supreme Court judge. That such an action could be immediately effected obviously seems unlikely in retrospect (and may have in 1838 as well: William Channing finds the motto "Immediate Emancipation" an "error" in the Abolitionist platform [Slavery 154]), but the subject of Thome and Kimball's research would have lent support to such an assumption, since the execution of the British law progressed more rapidly than had been expected—and since, as they found three years following its passage, "So complete and thorough has been the change in public opinion, that it would be now disreputable to speak against emancipation" (136-7).  

8 It is thus with the expectation of inarguable conviction that Thome and Kimball present their testimonial method: "the delegates [authors] rest nothing of importance on their own unattested observation. At every point they are fortified by the statements of responsible persons in the islands, whose names, when not forbidden, they have taken the liberty to use in behalf of humanity" (v).

The fortifying statements are included as evidence—not subjective accounts, but information bolstering claims made against the perpetuation of the slave system. Thome and Kimball promise at the outset of the work that their research establishes several points that are "beyond the power of dispute or cavil" precisely because of the collection of testimonies that support them:

1 That the act of IMMEDIATE EMANCIPATION in Antigua, was not attended with any disorder whatever.
2 That the emancipated slaves have readily, faithfully, and efficiently worked for wages from the first.
3 That wherever there has been any disturbance in the working of the apprenticeship, it has been invariably by the fault of the masters, or of the officers charged with the execution of the ‘Abolition Act.’

4 That the prejudice of caste is fast disappearing in the emancipated islands.

5 That the apprenticeship was not sought for by the planters as a preparation for freedom.

6 That no such preparation was needed.

7 That the planters who have fairly made the ‘experiment,’ now greatly prefer the new system to the old.

8 That the emancipated people are perceptibly rising in the scale of civilization, morals, and religion. (vi)

The remainder of the text operates under a generalizing logic: a proposition is formulated and then "proven" with "evidence" that is occasionally a document or listing of statistics but most often consists of individual statements. At the heart of the book is a section on Antigua titled "Facts and Testimony" that contains, among other blocks of text, the description of the events on that island on the first of August, 1834 that Emerson quotes in his speech. As Emerson notes, that material proved exceptionally popular for extraction—he promises "not to repeat to [his audience] the well-known paragraph...quoted in every newspaper" and given "additional fame" in William Channing's Emancipation, and cites instead a later passage (AS 15-16).9

Most of the text collected under "Facts and Testimony" is less narrative than the quotable passages suggest. Within Emerson's quotation is the line "We were told that the dress of the negroes on that occasion was uncommonly simple and modest" (AS 16), the tone and structure of which—"We were told..."—is much more representative of the majority of extracts included. Emerson's text downplays that evidentiary attitude. Not only does it not adopt the end of the passage in Thome and Kimball's book, which concludes by noting, "The testimony of the planters corresponds fully with that of the missionaries" (148), but Emerson slightly revises his last sentence to drop the tone of
reportage. Whereas Thome and Kimball write that, "We were also informed by the
planters and missionaries in every part of the island that there was not a single dance
known of, either day or night, nor so much as a fiddle played" (147), Emerson
summarizes, "Throughout the island, there was not a single dance known of, either day or
night, nor so much as a fiddle played" (AS 16).

Emerson's revision may appear slight, but it is in fact indicative of how Thome
and Kimball's heavy lifting of the burden of proof at times makes their text so abundantly
evidence-laden that it becomes less touching than informative. The pair of writers never
seem disingenuous—if anything, an excess of ingenuousness often makes them seem
naive—but with its inclusion of quote after quote, collected from everyone from the
Speaker of the Assembly to a "Mr. Favey of Lavincount's estate" (171), the text begins to
betray the fact that exhaustion will not directly effect conviction.

Its design for "proving" the positive effects of emancipation in the "Facts and
Testimony" section reveals its shortcoming. The propositions on which the section
focuses are abbreviated as follows in the book's table of contents:

IMMEDIATE ABOLITION—an immense change in the condition of the Slave;
Adopted from Political and Pecuniary considerations [rather than religious ones];
Went into operation peaceably; gave additional support to Persons and Property;
Is regarded by all as a great blessing to the Island; Free, cheaper than Slave labor;
More work done and better since the Emancipation; Freemen more easily
managed than slaves; The Emancipated more Trustworthy than when Slaves;
They appreciate and reverence Law; They stay at home and mind their own
business; Are less ‘Insolent’ than when Slaves; Gratitude a strong trait of their
character; Emancipation has elevated them; It has raised the price of Real Estate,
given new life to Trade and to all kinds of business; Wrought a total change in the
views of the Planters; Weakened Prejudice against Color; The discussions
preceding Emancipation restrained Masters from cruelties. (viii)

This amalgamation of subjective ideas—the degree to which slaves are trustworthy or
racial prejudice has weakened—and measurable results—the price of Real Estate—is
separated, numbered, restated, qualified, and supported with evidence in the main text; thus the eleventh reads, "The experiment in Antigua proves that emancipated slaves can appreciate law" (172) and includes testimony that is "pointed and emphatic; and it comes from one whose official business it is to know the things whereof he here affirms. We have presented not merely the opinions of Mr W.[ickham, the superintendent of police], relative to the subordination of the emancipated negroes in Antigua, but likewise the facts [a table of police offenses] upon which he founded his opinion" (181-2).

By the time one approaches this eleventh proposition, however, even a document so potentially inarguable as a police blotter loses its authority amongst the statements from random planters meant to respectively establish that emancipation is a great blessing to the island. This is not to suggest that the planters should not be granted the authority to report their condition; rather, the failure of Thome and Kimball's text to distinguish among the variety of, precisely, facts and testimony ends up rendering the two categories equivalent and, for that reason, less individually meaningful. Facts as they were reported prior to the publication of their book were obviously insufficient to make the case that Thome and Kimball undertook; yet if such a case required testimony, it was because testimony offered another type of argument, one that was less effective for demonstrating measurable results but could portray the culture and sentiments on the islands. Once the two types of "statements" overlap indiscriminately, however, the amount of evidence obscures the value of the latter—the new perspectives, feelings, and attitudes that could have meant something radical, that could have touched American readers. The potential answer to the question in Emerson's other main source text, Thomas Clarkson's *The History of the Rise, Progress, and Accomplishment of the Abolition of the Slave Trade by
the British Parliament, "Do the moral feelings of those persons [slaveholders] escape without injury, whose hearts are hardened?" (1.19) is lost among tables and accounts.

When Emerson is moved to consolidate his quotation of the events of August 1, 1834, he makes Thome and Kimball's testimony a little more narrative, a little less evidentiary; pointed and truthful, certainly, but not obsessed with its own authorization. Thus while it is possible to read Emerson as following their general approach to the material—having read facts and testimonies designed to convince the reader that they may be generalized into principles on which emancipation is to be effected, he reifies those facts and testimonies, draws out the principles underlying them, and presents the package as an argument for emancipation—I want to propose an opposite argument. What Emerson found in Thome and Kimball's text, I would suggest, were facts that touched him; but what he found, as well, was that his being touched was accidental: unintended by the authors and the result of a dynamic that their approach could not have anticipated.

Testimony without Witness

Recurring throughout the "Address" is Emerson's insistence that the cause of abolitionism, because it is "the sentiment of Right," "the voice of the universe," "goes forward" (AS 33 and 7). This is a sensible thesis for Emerson to be disseminating, as it hopefully suggests that commemorating emancipation achieved in another country means something more than memorializing a foreign struggle. If the sentiment of right goes forward, then the emancipatory impulse that is being recalled in 1844 as having happened in 1834 may be understood to be still underway, to have crossed the Atlantic and to be generating a similarly praiseworthy outcome in America.
Yet what appears counterintuitive about this repeated idea—especially to anyone reading Clarkson or Thome and Kimball—is that the going forward seems to happen whether or not someone actively participates in it. It is never due to any one individual, or even to an collection of individuals, that the sentiment of right takes hold. In at least five instances, what would seem to be the crucial point at which someone testifying to slavery effects action against it is instead formulated as something that happens without any specific speaker.¹⁰ For instance, Emerson greets his audience by noting the fact that he comes "from other studies, and without the smallest claim to be a special laborer in this work of humanity," and by declaring the importance of what is to follow:

In this cause, no man's weakness is any prejudice; it has a thousand sons; if one man cannot speak, ten others can; and whether by the wisdom of its friends, or by the folly of its adversaries; by speech and by silence; by doing and by omitting to do, it goes forward. Therefore I will speak,—or, not I, but the might of liberty in my weakness. (AS 7)

This is not a particularly promising introduction. Rather than asserting that his own bodily presence and contribution will advance the movement that they are gathered to support, Emerson claims that the movement will advance regardless of his involvement. He is weak because of his background and newness to the subject, but, he seems to suggest, he is no weaker than anyone else who might address the group, for what speaks in any case is not "I" but "the might of liberty."

Instead of vesting himself with the power to make liberty and the sentiment of right go forward, Emerson literally asserts that it is liberty itself, the sentiment itself that goes forward. Yet if this is the case, if "by speech and by silence; by doing and by omitting to do, it goes forward," then why should Emerson speak? Why should anyone, that is to say, address the emancipation, if emancipation is mobilized without anyone addressing it?
This perhaps states the case too boldly, for Emerson's speech does contain references to those who speak of slavery and who instruct and change sentiment through their speaking. Still, even in those cases, it is never a direct speech act that builds the antislavery cause. After narrating the atrocities that a witness to slavery might behold, he remarks,

Well, so it happened; a good man or woman, a country-boy or girl, it would so fall out, once in a while saw these injuries, and had the indiscretion to tell of them. The horrid story ran and flew; the winds blew it all over the world...It became plain to all men, the more this business was looked into, that the crimes and cruelties of the slave-traders and slave-owners could not be overstated. (AS 10)

The point I am trying to make here is that it is "the horrid story" which runs and flies; "the winds" that blow it all over the world and that work to make it "plain to all men"—not the pronouncement of the "good man or woman." If the witness is crucial here for beginning a chain through which slavery is publicized, her "indiscreet" testimony becomes valuable on its own, as if the words of witness become mobilized without the witness herself.

Hence Emerson is not claiming that testifying against slavery is useless; but neither is he definitively connecting the witness who testifies to the testimony that ultimately engages the public. Testimony seems to work, for Emerson, almost despite the witness. He accords a tremendous power to testimony, even as he refuses any single individual's control over that power. Thus when he proposes, "Language must be raked, the secrets of slaughter-houses and infamous holes that cannot front the day, must be ransacked, to tell what negro-slavery has been" (AS 9), it is not only unclear who will do the raking and ransacking, but whether such actions may be purposefully undertaken by any individual, even as they "must" be done.
In the context of Emerson's other writings, however, primarily his essay "Spiritual Laws," this seeming discrepancy is expanded to propose the potential of a testimony that is not beholden to the witness's recounted experience. Further, as will become clear, it is precisely because testimony is not founded upon the first-person speaking subject that it has the potential to initiate change through fundamental shifts in thinking. It is not to emphasize his own weakness, then, or to subtly undermine the movement, that Emerson insists on abolitionism going forward without him or his own particular effort to rake language; it is in the service of articulating a much broader and more radical politics, the impulse of which will not cease with a single emancipatory victory.

Testimony without Oath

Emerson's early lecture on George Fox introduces the concerns that would frame his thinking about testimony in "Spiritual Laws" and other later writings. Emerson's reading of the Quakers emphasizes at once their refusal to swear before the law and their insistence on private and inward experiences of God. As Emerson understands the import of the first tenet, "[Fox] and his friends first pointed the attention of men to the mischief of extrajudicial oaths, and to the ethical question of the expediency of an oath" (EL 182). In Emerson's summary, Fox refused to take the oath that would allow him to testify before the court, a decision of some consequence as he was repeatedly put on trial and jailed for his heretical views (EL 178).

While Emerson's account is not inaccurate, and while his combination of the terms "mischief" and "ethics" productively describes Fox's actions regarding judicial oaths, his lecture does not deliberately explain the Quaker position and therefore fails to make clear how the "extrajudicial oath" is a concept broadly relevant to his other
writings. For instance, what Emerson characterizes as an issue mischievous to ethics was
to Fox a matter of religious doctrine. "The Sufficiency of Truth Speaking" is named as
such in William Penn's 1694 Preface to The Journal of George Fox, which Emerson at
least consulted for the preparation of his lecture. As the premise is summarized there,
Quakers are "under the Tye and Bond of Truth in themselves," so that "there was both no
Necessity for an Oath, and it would be a Reproach to their Christian Veracity to Assure
their Truth by such an Extraordinary way of Speaking." The reproach derives from a rigid
adherence to Matthew 5:34, in which Jesus is quoted as saying, "I say unto you, Swear
not at all," an admonition that has been more liberally read as a prohibition of profane
swearing that yet permits the "I do solemnly swear" of the courtroom.

In Fox's journal as well as in Sewell's The History of the Rise, Progress and
Increase of the People Called Quakers, which appears to be Emerson's main source for
the lecture, Fox's refusal to take courtroom oaths is repeatedly dramatized as proof of his
devotion. His performance in 1664 before the judge in Lancaster is entertaining, and
certainly casts him as mischievous. The judge appears as a flustered straight-man to
Fox's persistent challenges, which are at once indisputable and inadmissible by the court.
For instance, as recorded in the Journal, after Fox's initial declaration of his position on
swearing, he begins to address his interrogator:11

G.F.: Dost thou own the King?
Judge: Yes, I own the King.

G.F.: Then why dost not thou own his speeches and declarations concerning
tender conscience? (to which he replied nothing; but I said), it is in obedience to
Christ, the saviour of the world, and the judge of the world, before whose
judgement seat all must be brought that I do not swear, and I am a man of a tender
conscience.
And then the judge stood up.
Judge: I will not be afraid of thee, George Fox...
<Then he was moved and looked angrily at me.>

Judge: Sirrah, will you take the oath?

G.F.: I am none of thy sirrahs, I am no sirrah, I am a Christian. Art thou a judge and sits there and gives names to prisoners? It does not become either thy gray hairs or thy office. Thou ought not to give names to prisoners. (467-468).

The account of the trial in Sewell's account (though not in the journal) ends with the dramatic instance of Fox's declaration of the hypocrisy of his being given "a book to swear on, that commanded him not to swear at all,"—"How chance ye do not imprison the book for saying so?" he asks—a point noted by the public as an argument "so singular, that it was spread all over the country, as a by-word" (2.107).

The discussions against oath-taking cited in Sewell's history provide a more detailed analysis of their position than Fox's dramatized self-defense or Emerson's summarizing account make clear. Although the sensationalist retelling of Fox's Lancaster trial seems to end in his refusal to testify, the petition the Quakers offered to Parliament in 1694 on the subject makes quite another point. The Quakers want to be "relieved" of oath-taking not in order to remove themselves from judicial life entirely; on the contrary, they argue that the relief will allow them to more fully participate in the judicial process (2.513-14). Because the court cannot proceed without their oath, they assert, they are constrained from offering testimony for themselves and others: they want to be relieved of the oath in order that they might testify (2.514). As the petition puts it, "It may therefore be humbly offered, that it is not the interest of the government to refuse them relief," a proposition supported by the many instances in which it would behoove the court to collect Quaker testimony: "For the frequent suits that are brought against the Quakers," but also with regard to the possibility that they might witness "unnatural
deaths," "trespass or felony, &c" (2.514). In other words, the oath obscures the possibility of Quaker testimony, but the Quakers by no means want to refrain from testifying.

Thus that the Quakers maintain an obligation to testify to the truth without first swearing to the truthfulness of their speech is perhaps more precisely what Emerson identifies as an ethical issue. Testimony, in the Quaker sense of the word, is divorced from the connotation of authorized speech, but it is not for that reason expected to be any less "useful" (2.514), as the Quakers insist, to the court of law. This is perhaps what Emerson meant by classifying the Quakers' opposition as to "extrajudicial" oaths: since their speech towards justice is tied and bound to the truth, any certification of its veracity is "extra." Similarly, because the oath does not assure the progress of the witness's testimony but is, on the contrary, "extra" to the just speech that will follow, the oath diverts its would-be speaker from the truth, producing an "inexpedient" formulation for truth-telling.

Emerson's qualifications thus depend on the position that Quaker testimony is both truthful and aimed at establishing justice, regardless of any qualifying preface it may carry. And it is via this definition that the word "testimony" applies, in Quaker nomenclature, alternatively to the juridical sense and to a declaration bearing witness to an internal experience of God. In both senses, what is emphasized in the texts consulted by Emerson is the power of testimony to declare, convince, and stand as truth with nothing but more testimony to bolster its efficacy. Penn's preface, for instance, is preceded by the testimonies (labeled as such) of Margaret Fox, George's late wife (i-ix); of "some of the Author's Relations" (x-xi); and of "Friends in the Ministry" (xi-xv); and still Penn does not commence before mentioning that "many other Testimonies from divers Counties and Friends concerning George Fox, and his Great Service for the Truth
are sent up to London, which cannot conveniently be printed with the Journal, lest they should swell it to Bigg" (sic; xvii). These testimonies are not meant to certify the journal that follows, but to establish each writer's singular encounter with the way that Fox lived and "hath finished his Course, and his Testimony" (ix), as Margaret Fox puts it: they speak to their truthful experience of his truthful experience, amplifying but not authorizing the doctrine he followed.

Thus while The "Lord's Supper" Sermon makes it clear that Emerson would not stake an entire ethics on a single religious verse, his appreciation for Fox is consistent with his other works to the extent that it emphasizes a writing of experience focused on what he calls in Nature "an original relation to the universe" (E 7). Indeed, in a mischievous Fox-like move, Emerson's appreciation ends up taking Quakerism to the logical conclusion that yet unravels its very premise. For Emerson exposes that the unauthorized originality it demands is (perhaps fundamentally) at odds with its insistence on the literality of Matthew.

Emerson's lecture also subtly rewrites the sense in which the word of God is revealed to Fox. He makes it so that Fox's realization that God would speak not in churches or through ministers leads him to "[fall] to listening to himself only" (EL 169), whereas Fox in his journal more deliberately attributes what he hears to Christ (11-12). Emerson emphasizes the revelations as occurring "in orchards, in lonesome places, and by the wayside" (170), while the unexpected sites for listening are not qualified as such or, beyond their initial mention in the context of Fox's early development, given much attention in either the Journal or Sewell's History.

These emendations, which begin to sketch the "self" proposed in "Self-Reliance" but also the everyday availability of new truths as suggested in "The American Scholar,"
"Spiritual Laws" and "Circles," are emblematized in Emerson's reading of what the writings on Fox themselves testify to:

All [of Fox's doctrines] are symbols or parables of the fact that an infallible Adviser dwells in every heart very silently, very peacefully, not obtruding his counsel, but to the ear sharpened by faith these intimations become words of fate, not one falls to the ground. What is made known to us by this Teacher is attended by a conviction which the opinions of all mankind could not shake and which the opinions of all mankind could not confirm. (EL 172)

Through this passage, Emerson encapsulates as overlapping what Fox and his historians qualify separately: the testimony that is truthful but not authorized and the way that such testimony is inspired or "made known to us" through a listening to something simultaneously within and beyond the self (or "heart"). The testimony is "unshakable" in its origins to the precise degree that it is "unconfirmable" by mankind; and so not only are the Quakers shown to have introduced the particular ethical question of the unverified statement, the expediency of the oath, but their entire doctrine testifies to the ever-evolving ethics that must establish and revise the limitations of the truth it holds. They need no longer hold onto Matthew, the Emerson of "Circles" seems to be suggesting, once they understand the profundity of the single statement he attributes to Jesus. And yet, the testimony by which Fox understood that statement, and by which his followers understood him, is not any less "shakable" for its ability to stand revision—or Emerson's own rewriting. Because it never demanded authorization, the statement, as well as its reiteration, holds its own truth and could stand as such, even in a court of law.

The stakes of Emerson's reading of Fox are thus high insofar as his attention to both the oath and the lonesome place ends up disturbing the borders of the court and religion as official repositories of truth. Testimony may happen before, during, and after
a court appearance or a sermon; and if it comes from the Adviser it is unshakably true each time: on the record is as true as off.

Everyday Advisers

By the time Emerson writes "Spiritual Laws," he no longer attends to the issue of the oath, or even the legal system in general, but his very title and subject still expand the ideas of testimony he began to sketch in the Fox lecture. The laws that traverse the borders of legality and religion, that are plural and progressive but in which one can place one's faith, are what attract his attention in the First-Series Essay.

To understand "Spiritual Laws" as an essay about testimony, one must abandon the relationship between testimony and law as Thome and Kimball model it. For them, and as the term appears in juridical contexts today, testimony brings forth the state of things that was not known to the law so that it can formulate (in the case of Congressional hearings) or exercise (in the case of a criminal trial) itself accordingly. For Emerson, however, testimony brings forth the state of things in order that one may discern the spiritual laws from which they issue. Spiritual laws underlie the state of things, in contrast to juridical law that operates by responding to or controlling it. Thus these laws are ubiquitous and surrounding—"we are begirt" with them (E 306)—and, even as they resist summation, they share the primary characteristic of testifying.

An individual spiritual law may be discerned and articulated, and Emerson notes certain examples in the course of the essay: things fall (E 308); "Each man has his own vocation" (E 310); "The man may teach by doing, and not otherwise" (E 316). Yet because the central spirituality of the laws resides in their refusing orchestration, summation, and permanence—because it is their complementary and progressively
infinite nature that allows them to change rather than withstand change—anything he articulates stands to be rearticulated: "The simplicity of nature is not that which may be easily read, but is inexhaustible. The last analysis can no wise be made" (E 308). That the simplicity of nature may be read at all, indeed inexhaustibly read, and that any analysis may be made, appears to be the overarching spiritual law that girds the more particular spiritual laws. Even Emerson's provisional naming of the laws quoted above attends to the primary fact that they may be discerned: with regard to things falling, he adds that we may "draw a lesson from nature"; each man's vocation is a matter of heeding a "calling" and silent invitation; to teach is to give by bringing the pupil "into the same state or principle in which you are." The content of the law, then, is at as important as the fact that the law gives itself to be read.

This giving itself to be read means that every law obeys the law of testifying, as formulated toward the end of the essay. "These," he writes of all the laws he has heretofore described,

are the demonstrations in a few particulars of the genius of nature; they show the direction of the stream. But the stream is blood; every drop is alive. Truth has not single victories; all things are its organs,—not only dust and stones, but errors and lies. The laws of disease, physicians say, are as beautiful as the laws of health. Our philosophy is affirmative, and readily accepts the testimony of negative facts, as every shadow points to the sun. By a divine necessity, every fact in nature is constrained to offer its testimony. (318)

The phrase "every fact in nature" connotes that it is established truths, natural laws, and by extension spiritual laws, that testify, as has heretofore been suggested. Yet because "all things" are said to speak these truths—"not only dust and stones, but errors and lies"—"every fact" also seems to refer to all things in general. A fact, for Emerson, could be anything (a law of disease) or anywhere (a shadow); but his facts, unlike Thome and Kimball's, are exhaustive not because he presents too many of them but because they are
too all-encompassing to be amassed; and they testify not in order to convince but because they are divinely constrained to do so.

To say that every fact testifies may seem to be a colloquialism which demands no more attention than a note in passing: it is common to mention that x testifies to y in the sense that, for example, a falling apple testifies to the the law of gravity, such that the "evidence" never asks for further consideration. Yet because every fact testifies by divine necessity and as the organ of truth, each one demands more than passing notice. Once read, the truth is read, and so one cannot turn away; one is obliged to it. Although it may be recognized in a context that appears to be inconsequential—that is, at least, not invested with any institutional authority—the testimony of "every fact" is as demanding of one's attention and loyalty as any that would be publicly mandated.

Thus Emerson's primary revision of his idea from the Early Lecture consists in expanding what Fox experienced in an orchard (which allowed him to argue with the judge) to develop the proposition that all things—the orchard, itself, included—testify. Emerson deliberately formulates the alternative to the Quaker's quasi-institutional anti-institutionalism, circumventing lawful systems altogether not by arguing with them but by asserting that truth proceeds, unanticipated yet with its own "infallible" logic, from everyday life.

His sense of everyday life is pointedly expansive: including even "errors and lies," it surpasses Fox's lonely places. One must not turn away from the orchard, but neither may one pass an error or a lie without becoming obliged to the truth that speaks through it. Whether such truth would be corrective of the error or lie or endemic to its very falseness is unclear. Yet that confusion seems to suggest a third alternative: a sense of truthfulness derived not from an established correct or incorrect, true or false, but with
the distinctive individuality of "every fact." Such truthfulness would be inherent to the speaking object, which may be assigned the title "dust" or "stone," "error" or "lie," but which calls out its truth to the listener regardless of—even in defiance of—its proper name.

In invoking a lie as an organ of truth, as even divinely constrained to be such an organ, Emerson opposes not only the logic of institutional certification and the church but that, indeed, of a righteous and true God. What is divinely authorized is not any particular thinking of divinity; what is divinely authorized is that error and lie speak with the same assurance as dust and stones—which is to suggest that the bodies that have become dust, the stones that have witnessed the past, have only as much godly authority as the claim of the heretic. Once divinity defines the uncontrollable production of massively multiple, even competing or contradictory, truths, it becomes impossible to maintain an image of God as invested only in one strain of truth—as committed, for instance, to the specific precepts of Christianity, but also, more broadly, to a goodness established by its opposition to evil, a faithfulness rooted in its opposition to atheism. God authorizes that all these are facts, that each facet speaks the truth, not that any speak to or for what might be considered "His" truth.

This sentiment appears in a different form in "Self-Reliance": "Good and bad are but names very readily transferable to that or this" (E 262). But this means that it is not only difficult but hopeless to collect any facts and propose that they speak for—that they could convince anyone else of—what is good. Whereas Thome and Kimball rely upon facts to prove "beyond dispute" the good of emancipation, Emerson implicitly proposes that a fact only ever proves itself, that there is no one truth that is not dependent upon the truth that includes all things as its organs. "Good and bad" consist in a secondary
naming, "readily transferable" to the primary production of truth in "every drop" of the stream of nature. If a political platform is good, that is to say, its good is not proven by testimony; the fact that it testifies is its goodness.

Thus it becomes difficult to weigh the argument of any political platform against any other; but as, again, all things are the organs of truth, the production of testimony is not limited by arguments about politics or religion. If Emerson already seemed to problematize the distinction between listening to the self and listening to God speaking to the self, the listening dynamic is further complicated once not only God-in-the-orchard but the orchard itself and even a lie defaming God is understood to testify. That these three things (but also all things) testify gives one no clear site from which to derive unshakable conviction—or, rather, it offers an endless and conflicting array of sites to which one is tied and bound to recognize the truth. Indeed, to follow Emerson completely means that it must be not only that to which he draws our attention that is by his logic testifying (for example, the orchard); it is even the things that we commonly do not regard at all, or that we disregard, to which we are obligated.

Thus Emerson once again draws our attention to the realm of the common and everyday, as he did in "The American Scholar," but in "Spiritual Laws" it is in order to demonstrate that it is always and unceasingly the everyday that, in fact, does the drawing. The everyday is ultimately not only worthy of study; it commands our sharpened ears, it makes us responsible to it. "What would we really know the meaning of?" he asks in the earlier address:
The meal in the firkin; the milk in the pan; the ballad in the street; the news of the boat; the glance of the eye; the form and gait of the body;—show me the ultimate reason of these matters; show me the sublime premise of the highest spiritual cause lurking, as always it does lurk in these suburbs and extremities of nature; let me see every trifle bristling with the polarity that ranges it instantly on an eternal law.... (E 69)

What Emerson asks to be shown is what is in "Spiritual Laws" always showing, showing before and beyond any request from the scholar. The scholar can no longer approach the milk as an object for his study; as the later essay emphasizes, the testimonial aspect of everyday life makes the observer its object: man, he writes, "is like one of those booms which are set out from the shore on rivers to catch driftwood, or like the loadstone amongst splinters of steel. Those facts, words, persons, which dwell in his memory without his being able to say why, remain, because they have a relation to him not less real for being as yet unapprehended" (E 312). In other words, he does not set out to choose what will testify to him; rather he collects them without being able to explain their significance. He and they are constrained, drawn to each other, which means that neither can appropriately be designated the object or subject of the other.

When Emerson explains that, "A man is a method, a progressive arrangement; a selecting principle, gathering his like to him, wherever he goes" (E 311), he effectively makes of man the combination of subject and object as they are drawn to each other. A man is not the witness who then becomes attracted to a testifying fact; he is that principle of attraction. And as he is attracted to and by additional facts, he gathers them to him, so that they and he are only a single mass insofar as it is one that continues to gather, progressively arranging itself. In short, anything that would be his object instead becomes part of him as soon as it commands his attention.
Testimony without Object

Emerson's claim is thus that there can be no clear distinction between the subject of testimony and the object of testimony. In contrast to most of the more recent philosophical writings on the subject, Emerson suggests that a witness may never be isolated as a seeing or speaking subject from the testimony that objectifies and then subjectifies him.13

But this means, too, that man as a principle of attraction is at the same time a fact of nature that is "by a divine necessity...constrained to offer its testimony." Like the dust and stones, errors and lies, "A man passes for that he is worth. What he is engraves itself on his face, on his form, on his fortunes, in letters of light. Concealment avails him nothing; boasting nothing. There is confession in the glances of our eyes; in our smiles; in salutations; and the grasp of hands" (E 319). A man cannot help but confess what he is, which is all that he has witnessed.

Testimony is not only happening all around him, then, in the milk and the shadows, but he is always testifying to what he has become by virtue of having become obliged to a certain series of things. Witnessing and testifying is a continuous process that entails nothing less than becoming oneself as an infinitely becoming being. When a fact testifies, the man cannot help but follow and testify to its spiritual law because he has become, himself, an embodiment of that testifying law. This is what Fox made visible: he would not swear to anything but his belief because he could not resist the call to which he had become obligated. In this way, all human change, especially changes in thinking or sentiment, may be understood to result from atestimonial encounter; one's way of
being shifts always because a testifying fact has enabled a progression to which one in turn testifies.

Still, that testifying fact will not stand to be isolated or objectified. Man never testifies to a single past encounter; no one witnessed experience is available to be recounted, because he always testifies to the shifting whole of what he is worth, what he is. One may have been the witness of many things to which one now testifies without apprehending that one is doing so. As Emerson explains the structure in "Intellect":

If you gather apples in the sunshine, or make hay, or hoe corn, and then retire within doors, and shut your eyes, and press them with your hand, you shall still see apples hanging in the bright light, with boughs and leaves thereto, or the tasselled grass, or the corn-flags, and this for five or six hours afterwards. There lie the impressions on the retentive organ, though you knew it not. So lies the whole series of natural images with which your life has made you acquainted in your memory, though you know it not, and a thrill of passion flashes light on their dark chamber, and the active power seizes instantly the fit image, as the word of its momentary thought. (E 421)

What would be spoken or imagined is derived not from a deliberate arrangement of previous experiences, but in an unexpected and unpredictable "thrill of passion" that draws from past impressions that may yet remain unknown. Indeed, elsewhere it is suggested that even the "seizing" happens without one's knowledge: "Human character evermore publishes itself...if you sit still, if you sleep, you show it" (E 318). Regardless of whether anyone is there to watch, regardless of whether a man is even conscious, all of that to which he is obliged is being "seized" and "published."

Thus speaking, seizing, and publishing may happen outside of willful verbal discourse—which begs the question of whether testimony may happen at all within verbal discourse. Once testimony is not an object spoken by a subject, once it is, rather, the very being of a subjectivity based on a practice of witnessing, what it means to speak "as a witness"—willfully and as a knowing and purposeful subject—is thrown into
question. To make speech bear the substance of one's becoming would mean attempting to control all of the change that has happened precisely because one's will has been overrun.

This challenge has been implicitly considered by scholars who have focused on the component of passivity that the Emersonian subject necessarily involves.\textsuperscript{15} Stanley Cavell, in particular, writes in his reading of "Self-Reliance" about our inability to speak to what is demanded and self-published by speech itself: "with each word we utter we emit stipulations, agreements we do not know and do not want to know we have entered, agreements we were always in, that were in effect before our participation in them" (72). For Cavell, speaking verbally is delimited not by the will but by the relation to language to which we are obliged, even when the will is unaware of such obligation.

Considered in the context of testimony, Cavell's comment suggests that if we do not know all of the obligations our speaking entails, we may fail to speak of the very obligations to which we are indebted. Or, rather, we will always emit them, but they may not, by virtue of being emitted instead of proposed, end up as part of a deliberate account or official record. Those archived words may be—indeed must be—to some extent beside the point of our greatest obligations.

That there is no object of testimony thus means that testimony does not exist as any discrete retrievable object; it does not consist of a statement, idea, or piece of information which could be isolated from the subject-object or witness-testimony amalgamation that continuously evolves. But it also means that one cannot speak with the object, with the purpose, of testifying.

What this amounts to is perhaps Emerson's most radical position regarding testimony: testimony is not about some thing (object) that would be said; it consists in a
saying that eludes both reference and verification. What the milk in the pan has to say is never proposed in Emerson's thinking: that it says is what is repeatedly emphasized, to the extent that the "eternal law" it lets Emerson see is the very fact of its saying. In other words, what testimony communicates is not only less important than the communion that it occasions; testimony only communicates by occasioning communion.16

This emphasis explains the apparently paradoxical claim, "What attracts my attention shall have it, as I will go to the man who knocks at my door, whilst a thousand persons, as worthy, go by it, to whom I give no regard" (E 312). What compels the man to knock at the door is what compels me to notice it as a knock that asks for a response: Emerson wants to note not what the person at the threshold has to say, but the fact that he will arrive. Of course, it may be that the two men subsequently discuss the elements of their attraction, or even that one relates those details to a third party. Yet such discourse cannot be understood as equivalent to the testimonial moment, for it objectifies in hindsight a moment of inexplicable obligation. What is said of the encounter, in other words, will never be what leads to becoming—or, if it is, then that encounter, in turn, will be what escapes objectification.

In the final analysis, the content of Emersonian testimony is fundamentally the event of its taking place. What it has to say is that it has something to say. And what is testimonial is always the recognition that something else is testifying in such a way that demands one's absolute attention and initiates a process of becoming.

Not Representational, but Representative

A saying proclaiming its own saying emblematizes a theory of speaking without objectifying that is figured throughout Emerson's oeuvre. For instance, in Nature, "nature
is already, in its forms and tendencies, describing its own design" (7): what is described is not any object, but its own design, which is a design of self-description. Or, similarly, in "The Poet,"

the poet names the thing because he sees it, or comes one step nearer to it than any other. This expression, or naming, is not art, but a second nature, grown out of the first, as a leaf out of a tree...nature does all things by her own hands, and does not leave another to baptise her, but baptises herself; and this through the metamorphosis again. (E 457)

Nature's nature is self-expression, self-baptizing, that may be repeated or imitated by the work of the poet; this work, again, does not require explanation or interpretation—nature does not leave another to baptise her—but is the practice of expressing what gives itself to be recognized. The poet does not give names to nature, but "names the thing because he sees it," is able to engage in naming because he has witnessed it and it has become part of him.

Finally, in "Goethe, or, the Writer," a summary that echoes much of what has been said heretofore, "Every act of the man inscribes itself in the memories of his fellows, and in his own manners and face. The air is full of sounds; the sky, of tokens; the ground is all memoranda and signatures; and every object covered over with hints, which speak to the intelligent" is followed by the statement, "In nature, this self-registration is incessant, and the narrative is the print of the seal" (E 746). The registration is not a registration of anything but the self that registers, and what is to be read of it, the narrative, is only a print of that sealing fact. If the writer can cast his report in a "new and finer form" of the print, he nonetheless does so by virtue of the same self-registering seal: "Whatever can be thought can be spoken, and still rises for utterance...it waits and works, until, at last, it moulds them to its perfect will, and is articulated" (E 747). The thought is not formed or developed but rises, waits, works, and finally articulates itself.
One way to summarize these analogous claims would be to say that what
testifies—or describes itself, or baptises itself, or registers itself, for these are all related
in their execution—does not do so by representing, either itself or anything else. There is
no testimonial content, that is to say, if content is taken to mean that which represents
something or which is represented. But any such insistence on content testimony
assumes, first, that an experience of the past may be objectified as an experience and,
second, that it may be translated into a speech of the present without being substantially
transformed.

For Emerson, on the contrary, there is no experience of the past—of having
witnessed—that does not immediately become part of the witness, so there can be no
objectification of the event that would allow it to be represented. Once testimony takes
place, it no longer exists to be "taken"; or, testimony is defined by not being
representational.

When things describe, baptise, or register themselves, that is to say, the process
inherently includes what was witnessed in the past, because those elements have become
part of the "self" that self-describes, self-baptizes, and self-registers. As Emerson puts it
in "Experience," and as Cavell has emphasized, experiences are not there to be caught
and to become represented objects: this is the "evanescence and lubricity of all objects,
which lets them slip through our fingers then when we clutch hardest" (E 473). Yet this
is because, without clutching them, the objects to which we bear witness have already
fallen into our being: "[I]nevitably does the universe wear our color, and every object
fall successively into the subject itself. The subject exists, the subject enlarges; all things
sooner or later fall into place. As I am, so I see" (E 489). And as I see, for the purposes
of this argument, so I testify, without having anything to say.17
As with the knocker at Emerson's door, this does not mean that verbal speech never accompanies testimony. But because the testimonial experience cannot be represented in speech, speech cannot be made to effectuate testimony: the change produced through testimony is not dependent upon a deliberate utterance but is located in the alteration of the relation between two facts of nature. The only way to truthfully address such alteration, then, is not to address it. As Emerson puts it in "Intellect," "the moment we cease to report, and attempt to correct and contrive, it is not truth" (E 419). Reporting here seems to be synonymous with self-registering, so that it is in attempting to intentionally register that the truth is lost.

I should note here that this not-having can actually be considered representative, although not representational in the sense of a subject representing of an object. For Emerson uses the word "representative" in his first chapter of Representative Men in a way that is in line with this depiction of testimony. About the representative man, he writes that,

the constituency determines the vote of the representative. He is not only representative, but participant. Like can only be known by like. The reason why he knows about them is, that he is of them; he has just come out of nature, or from being a part of that thing...Their quality makes his career; and he can variously publish their virtues, because they compose him. Man, made of the dust of the world, does not forget his origin; and all that is yet inanimate will one day speak and reason. (E 619)

In other words, the representative man speaks representatively, not by actively representing something he knows, but by himself being part of that thing and therefore its representative. This does not seem to mean that he speaks on its behalf or by proxy, for that would entail a separation and objectification of something that simultaneously constitutes him and in which he participates. Rather, since "Truth has not single victories; all things are its organs," his mouth or pen becomes the momentary
representative organ for that which is not discretely his nor separate from him. He does not represent the inanimate as an object so much as, in speaking, reveal it to be his constituency and therefore provide an opportunity for it to find its way into speech.\textsuperscript{18}

Seeing with Eyes, or a Theory of Wincing

Testimony that is in this way representative is, then, constant and ubiquitous, but for that reason it seems to elide the possibility of a report of witness that is occasional or specifically oriented. If one cannot help but testify—if testifying is an aspect of what one is—then there is no purposeful testimony and no testimony is delimited by a single past encounter. Such a theory would not be problematic for a world full of Foxes, but it is as difficult as the early Quaker's to align with the ideas of testimony that govern its usage in nineteenth-century law and, by extension, in the antislavery movement.

The use of testimony in the movement reflects its deployment in the legal realm, where the state only asks to testify those whose voices it is willing to be constrained to hear—in 1844, Native Americans and slaves are generally excluded. While Massachusetts state law had long foiled the expectations of the 1793 Fugitive Slave Law by allowing alleged slaves to testify to their identity in court (and while an 1843 state law forbid state officials from jailing fugitive or suspected fugitive slaves), the presentation of and advocacy for slave testimony was still a cornerstone of the abolitionist movement when Emerson gave his anniversary address.\textsuperscript{19}

Even if Emerson never had to testify in court, then, he was expected to use his power as a citizen who could testify to speak on behalf of the millions of oppressed slaves who could not. By bringing forth the horror of their experience and the reports that, if given the chance, they could be valuable citizens, he could both empower them by
speaking in their stead and demonstrate that when accorded the power of legal speech, they would use it responsibly. To some extent, Emerson does employ these techniques; in addition to his quotation of Thome and Kimball's sketch of how the "day was like a sabbath" following Antiguan emancipation (AS 16), he evokes images from Clarkson's History:

If we saw the whip applied to old men, to tender women; and, undeniably, though I shrink to say so,—pregnant women set in the treadmill for refusing to work, when, not they, but the eternal law of animal nature refused to work;—if we saw men’s backs flayed with cowhides, and ‘hot rum poured on, superinduced with brine or pickle, rubbed in with a cornhusk, in the scorching heat of the sun’;—if we saw the runaways hunted with blood-hounds into swamps and hills; and, in cases of passion, a planter throwing his negro into a copper of boiling cane-juice;—if we saw these things with eyes, we too should wince. They are not pleasant sights. (AS 10)

Yet it is revealing that Emerson writes that "if we saw these things with eyes, we too should wince." One would expect a stronger reaction than wincing in response to the violence depicted: a sense of anger, at least, if not an outcry. Still, as an involuntary movement of repulsion, the wince seems to signal a bodily change that would leave the seer, the witness, in an affected state that might lead to an outcry.

Further, though, his use of the conditional throughout this early paragraph in the address works to expand, rather than contract, the distance between his audience members at the site of these atrocities: he underlines that if the citizens of Concord seem to imagine their occurrence, they do not see them "with eyes." Thus even if the wince were eventually to produce an outcry, he implies that there is yet no wince amongst their group.

In insisting that his audience does not see the scenes of slavery, Emerson is not denying that they exist; he is pointing out that they have only arrived as sketches, as representations. What his audience sees is not the witness—the old men, the "tender" and
pregnant women—but the results of an outsider's attempt to appropriate a scene of torture for the edification of those who seem to have the political power to have such torture outlawed. Such representations, Emerson seems to say, if edifying, will not produce the visceral physical effect that would signify the people's being changed: they have not seen them with eyes, they will not wince.

At the same time, Emerson offers later in the piece an account of a seeing that seems to have made him wince. In the midst of his research on the success of British emancipation, he finds himself confronting the perpetuation of slavery in America:

Forgive me, fellow citizens, if I own to you, that in the last few days that my attention has been occupied with this history, I have not been able to read a page of it, without the most painful comparisons...I could not keep my imagination on those agreeable figures, for other images that intruded on me. I could not see the great vision of the patriots and senators who have adopted the slave's cause:—they turned their backs on me. No: I see other pictures—of mean men: I see very poor, very ill-clothed, very ignorant men, not surrounded by happy friends,—to be plain,—poor black men of obscure employment as mariners, cooks, stewards, in ships, yet citizens of this our Commonwealth of Massachusetts,—freeborn as we,—whom the slave-laws of the States of South Carolina, Georgia, and Louisiana, have arrested in the vessels in which they visited those ports, and shut up in jails so long as the vessel remained in port, with the stringent addition, that if the shipmaster fails to pay the costs of this official arrest, and the board in jail, these citizens are to be sold for slaves, to pay that expense. This man, these men, I see, and no law to save them. (AS 24)

What is striking about this seeing, in contrast to the seeing that is without eyes, is that it does not result from any particular text, from any one person's account. Rather, these men "intruded" on Emerson and seem to have made him see quite starkly their helplessness. This framing is in keeping with the repeated formulations of testimony in which it is not the witness but the testimony itself that is subjectified as producing a widespread change of attitude: just as "The horrid story ran and flew; the winds blew it all over the world," these men, without intermediary and regardless of Emerson's research, have lodged themselves in his mind's eye.
The two accounts of seeing emblematize the theory of testimony outlined above, for it is not the act of representation but the surprising and self-altering act of witness, the one that refuses control of the will, that makes Emerson wince, that changes his being from one who has not confronted slavery to one who has. In the first instance, he controls the images with quotation and with the hypothetical; in the second, he cannot help but see, and see again, "poor black men" who are victims not even of the plantation but of the policy and culture of an unemancipated country. These men haunt him and bring him to demand not sympathy but redress: "If such a damnable outrage can be committed on the person of a citizen with impunity, let the Governor break the broad seal of the State...If the State has no power to defend its own shipping, because it has delegated that power to the Federal Government, has it no representation in the Federal Government?" (AS 24).

The problem, however, with Emerson's account of his own wincing is that it is precisely an account of his own wincing. It is nothing other than a representation for his audience: an image that he sees with eyes, but not one that they do. It speaks to his experience of witness, that is to say—the "poor black men" have testified to him, have been attended to by him and have become a necessary aspect of his subjectivity—but as speech that recounts that experience it does not testify to his audience. Or rather, it might, for someone in the audience might also find herself so intruded, but Emerson cannot guarantee or even attempt to mobilize the dissemination of a testimony that must subvert the will of its witness.

And here lies what might be considered the practical paradox of Emersonian testimony: he cannot testify to what testified to him. He can only represent his
experience, record an account, and therefore offer something no better than the representational account of another. He cannot make his audience see with eyes.

This is not to say that his audience will not be affected by his speech, or even that it will not testify to them, but to say that Emerson cannot guarantee such effects in advance and, moreover, that it would be impossible to locate those testimonial moments within the text of the speech. It might be that, walking home from the lecture, the image of a pregnant woman set in the treadmill for refusing to work "intrudes" upon someone, so that he sees it and winces. Or it might be the phrase that "The sugar they raised was excellent: nobody tasted blood in it" that intrudes (AS 20), or a combination of ideas, none of which can be distinguished because they are no longer objects to be considered but aspects of a subjectivity propelling itself against injustice.

The empowerment, then, which was assumed to be the effect of using testimony towards abolition, is foreign to Emerson's mode of speaking. He cannot empower someone he has not seen, and he is without power—indeed, he is indebted for power—in relation to one he has. For him, testimony is not a way of deploying power because it is a speech that, if powerful, is so to the extent that it cannot be controlled or authorized. Thus not only would he not equate legal testimony with political power; he even goes so far as to locate the former British slaves' power in their susceptibility to a new idea, to intellect, and to moral genius and not to their willful actions of speech (AS 32).

No wonder, then, that Emerson's contemporaries and many of his critics thought and think him a quietist. His theory of testimony resists a politics that links power with voice and, moreover, resists the principle that testimony may be purposefully shared. Still, this in itself must be understood as a politics, a politics of absolute fidelity to what one witnesses. For Emerson must not be assumed to give up on testifying to his audience,
because he believes precisely that he is (his) testimony. His character, having been
changed by the visions of slavery intruding upon him, "evermore publishes itself," and is
engraved "on his face, on his form, on his fortunes." He is himself a testimony to what
he has become, to his responsibility for the "poor black men," and it is because of this
shift and not in spite of it that he cannot willfully make others know its magnitude even
as he is constantly beholden to it and unwittingly offering it for their knowledge. Or,
rather, he writes as if he would make others know it, knowing all the time that it will not
be due to his representational act but to something he cannot predict that his audience
will experience an analogous sense of responsibility.

Implicit in this attitude is the idea that Emerson could be speaking about anything
else and would still be testifying to his anti-slavery stance. "Spiritual Laws," in this
sense, must be acknowledged to be as much about slavery as any of his activist speeches,
and he notes as much toward the end of the former essay:

The poor mind does not seem to itself to be any thing, unless it have an outside
badge,—some Gentoo diet, or Quaker coat, or Calvinistic prayer-meeting, or
philanthropic society, or a great donation, or a high office, or, any how, some wild
contrasting action to testify that he is somewhat. The rich mind lies in the sun and
sleeps, and is nature. To think is to act. (E 322)

It would only be portraying his own mind as poor if Emerson believed that what he has
witnessed and what he in turn feels motivated toward advocating politically required a
public address on the emancipation. Seemingly scandalously, he could say it just as well
sleeping in the sun, for any thought would be expressed and legible, and would therefore
be an act as well as have the potential to put further action in motion. Indeed, he could
perhaps say it better sleeping in the sun, for in that case there would only be his character
publishing itself, with no other narrative to distract a potential witness.
Quietism Revisited

Thus there is certainly a quietist element of Emerson's philosophy, but, far from rendering him thereby apolitical, his quieter moments are those in which his political commitment speaks the most loudly. They function as a dissemination of character unburdened by representational technologies—which is not to say that it does not speak, but that its speech speaks itself, being representative of the fact that it is and how it has been rather than what it has seen and heard.

Further, that Emerson testifies most profoundly sleeping in the sun is of a piece with his suggestions that, in general, the saying of testimony requires no voice. The act of witness may just as easily occur in what seems to be a silence. In addition to his formulation of the self testifying acting or sitting or sleeping, in glances, smiles, and the grasp of hands—all of which may take place without a word—Emerson characterizes the Adviser to whom Fox was bound as dwelling "in every heart very silently, very peacefully, not obtruding his counsel." This description is concurrent with the Quaker principle that as God's presence "is in the silence," only speech inspired by silence should contribute to religious worship (Fox). Emerson notes that Fox's view of silent meetings "is peculiar" (EL 181).

Yet if he distrusted silence for religious meetings, he reiterates throughout his works the idea that one becomes a witness, beholden to that which testifies, in silence.20 This silence may be situational: the milk in the pan, for instance, is not said to volunteer its meaning in any vocal way; nor do the dust and stones that are the organs of Truth scream for one's attention. Or they may be silences that are unattached to any single
object but that nonetheless produce in their listener a new sense of truth and responsibility, a new constituent. The latter is articulated in "Spiritual Laws":

    The epochs of our life are not in the visible facts of our choice of a calling, our marriage, our acquisition of an office, and the like, but in a silent thought by the way-side as we walk; in a thought which revises our entire manner of life, and says,—"Thus has thou done, but it were better thus.' And all our after years, like menials, serve and wait on this, and, according to their ability, execute its will. (E 320-321)

The life-changing moment is pointedly one of listening to the truth without having expected it and without any power or desire to resist it; in fact, it is all that one comes to "serve and wait on." It is an absolute obligation that binds one to the unanticipated "silent thought," the testimony of which one will become representative, even as it comes from no organ, vocal or otherwise, in particular.

    It is crucial to note that the silent thought is not explicitly that of the walker; it is characterized not as possessed but happened upon, and, indeed, happened upon while one is in motion. It is as if the thought is delivered in silence, then, but also as if the silence delivers the thought, as if the silence keeps its thoughts and offers them, by divine constraint, to the walker who is attracted to hearing them. Further, it is only that walker who will hear something specific in the alternatives of "thus" and "thus" that signify past and future ways of being; Emerson is sure of the method of delivery, but the content of the message is only meaningful to the one meant to receive it.

    That the silent thought is characterized as saying is not for Emerson contradictory. Elsewhere he suggests that the silence is not broken by speech, but that a certain attunement allows one to discern language within what never ceases to be silence. For example, in the George Fox lecture, the "Adviser dwells in every heart very silently, very peacefully," and does not break this silence and peace in order to advise: "but to the ear
sharpened by faith these intimations become words of fate, not one falls to the ground.'

While this formulation seems to approximate prophecy, as it would have for Fox,
Emerson's attention to such speaking silences elsewhere preserves its obligatory status
without the religious implication.

In "The Poet," "The path of things is silent" and the question is "Will they suffer a
speaker to go with them?" (E 459). To go with silent things is not to translate their
silence into speech, to bring them out of silence, but to attend to their silence in a
complementary mode: "A spy they will not suffer; a lover, a poet, is the transcedency
of their own nature,—him they will suffer. The condition of true naming, on the poet's
part, is his resigning himself to the divine aura which breathes through forms, and
accompanying that" (E 459). Through this resignation to breath, the poet quite literally
accompanies the silence of things even when he speaks; indeed, this is what it means to
name something truly, to let it baptise itself, in the section of the essay quoted above.

Hence the testimony that has been explicated heretofore is not only characterized
by its evasion of authority; its appearance everywhere and constantly among the things of
everyday life; its dissolution of the will that would witness it; its being representative as a
witness rather than representational of an experience; and its refusal to withstand
objectification. This testimony, which demands a new way of thinking and being to
which one is obligated as to all truths, most often occurs in and through silence.

There does not seem to be, for Emerson, a silence that would not have the
potential to be testimonial. Yet the particular constellation of characteristics that give rise
to the association of silence and testimony warrant a specific designation. They form the
initial contours of what I will call here and in the chapters that follow quiet testimony.
Quiet, from the Latin root *quiesco*, modifies silence by referring to a pause within
language, a silence that is never divorced from speech. It is also associated with rest and stillness, and, more specifically, a way of being that "peaceably permits a thing to be done" ("Quiesco"). This second sense of the word suggests a pause that allows something to come forth, to execute itself. By using the term quiet, I aim to evoke not only the absence of sound in which testimony may occur, but its manifestation as obligatory, if not representational speech, as well as the aspect of passivity entailed in responding to it.

Emerson attends to these nuances of meaning (even if unintentionally) in an 1841 letter to Margaret Fuller that juxtaposes the quiet in which one writes to the silence which is read as an absence of writing:

I should gladly have written to you on my journey if I had alighted anywhere on an inkstand and a quiet half-hour; but these are not the gifts of stage roads & small ocean-steamboats; so with many friendly thoughts cast southward to Newport by way of ventilation & perfume to our dull carting & boating, I finished my transits in silence. (L 259)

There was no quiet half-hour that would have permitted composition, and so he was forced to remain silent: quiet is associated with writing and speaking, whereas silence is the state of things when he has not written.

Yet even that silence, Emerson insists in other letters to Fuller, as well as to Caroline Sturgis, is to be read more quietly: not as his withholding of sentiment but as a testament to a friendship that, in the terms outlined above, has testified to him and therefore will not permit itself to be objectified in direct writing. In an 1840 letter to the former that seems to respond to her accusation that he is "cold or unkind," he writes that, "It may do for others but it is not for me to bring the relation to speech...I talk to my hobby & will join you in harnessing & driving him, & recite to you his virtues all day—but ask me what I think of you & me,—and I am put to confusion" (L 236). But he is clear that this is not because he does not think of "you & me," but because she is always
testifying to him and will never rest as a topic of discourse: "You say you understand me wholly. You cannot communicate yourself to me. I hear the words sometimes but remain a stranger to your state of mind" (L 237). Elsewhere he asks that she treat him "always as a mute, not ungrateful though now incommunicable" (L 235).

These letters, composed around the time of his writing the essays of the First Series, draw out explicitly the problem implicit in an argument for reading quiet testimony as political. For if his best friends cannot tell the difference between icy silence and quiet testimony, how can one expect an audience of strangers at the Women's Antislavery Society of Concord to do so? How can any reader of Emerson's work discern the quiet testimony in what may just as easily be ignored as disinterested silence?

As suggested in his letter to Fuller, Emerson is willingly to take the risk that quiet testimony will not always be recognized. He prefers, in that writing, to explain why he does not speak rather than comforting her with speech or even attempting to translate his silence into the positive ideas he has of her: the letter in its entirety has a mournful tone because he cannot say anything other than the fact that he cannot say what she expects him to. If the choice is between treating what testifies to him as an object to be represented and denying that testimony as a topic for discourse, Emerson chooses the latter. He does so not in order to reject what is most meaningful for him, but because its meaning resides in its relation to what is not willfully expressed in speech.

Emerson's quiet testimony must not be confused an with approach to testimony that renders certain crucial things unspeakable in the sense of their being beyond language or ineffable. For he is not lamenting what cannot be represented, and what thereby exists only in the negative spaces of language. On the contrary, he is attached to the positive value of what is never directly said but always tacitly expressed. It is the
silent saying moments, the quiet testimonies, that one must cultivate and respect not
because they make one feel what is too magnificent for language but because their speech
resists the subject-object opposition, the difference between the witness and his
testimony. Nothing is objectified when a glance confesses; no one possesses the silent
thought.

This is how one must read Emerson's lines in "Intellect" that contrast eloquence
with a non-speaking that is nonetheless loved, a distinction that he makes by contrasting
Socrates, who speaks but also "defers" to Lysis and Menexenus, who do not speak:

Because a true and natural man contains and is the same truth which an eloquent
man articulates: but in the eloquent man, because he can articulate it, it seems
something the less to reside, and he turns to these silent beautiful with the more
inclination and respect. The ancient sentence said, Let us be silent, for so are the
gods. (E 426)
The eloquent man is actually at a disadvantage because his articulation of the truth makes
it seem less truthful. He thus turns to those who are "true and natural," and not articulate,
who are silent and beautiful and revered precisely because they do not put into words the
truth that they contain. Emerson himself might be understood to engage in his writings in
a perpetual turning of this type, insofar as what he articulates as truth is so often the fact
that truth articulates itself and therefore does so in the silences that subsist around and
outside of what he states.

The Unsilenceable Truth: Speaking as Raking

The foregoing has aimed in part to account for why Emerson claims not to lecture
in the emancipation address: the speaker is "not I, but the might of liberty in my
weakness." Because liberty has made its case to him, he can only be weak before it, and
can only promise to deliver its cause in the mode of a weakness that refuses to control,
precisely, its liberty. Emerson himself is quiet throughout his speech, permitting liberty to testify just as those who witness the atrocities of slavery are mentioned only to be slighted in favor of the traveling of the testimony itself. What he says is far less important than the weakness before liberty that publishes itself, quietly, for his audience to read. His recounting of what he has seen with and without eyes offers less to his audience than this distinction and the fact that it cannot be cultivated because the act of witness is always an intruding one.

For it is not in the willful act of imagining that slavery will testify to the women of Concord; they will only be brought to wincing by that which draws them, by that which, as it were, knocks on the doors of their consciences and makes them weak before liberty, or weak in their apprehension of it even as strong in being subsequently sustained by it. And although Emerson uses representational language and speaks predominantly of the cause, his rhetoric reveals his unwillingness to count on such eloquence to effect concrete change. Instead, at the conclusion of his speech, "The sentiment of Right, once very low and indistinct, but ever more articulate, because it is the voice of the universe, pronounces Freedom. The Power that built this fabric of things affirms it in the heart; and in the history of the First of August, has made a sign to the ages, of his will" (AS 33). Emerson makes room for a speaking of Freedom that, if his quiet testimony is registered, or if it is found without him, will grow to reach increasingly more susceptible ears.

It should be clear by now that it is only through some registration of quiet testimony that Emerson would hope to effect a shift in any one of his listeners, whose own shifting would then testify quietly to another, and so on until abolitionism is not a movement but a way of being for a majority who literally cannot be, cannot imagine otherwise. This is not a macropolitical or even activist-oriented politics of changing one
mind at a time, since it never knows how that one mind is to be changed. Yet it is how Emerson believes politics to happen and, again, he is more willing to put his faith in the shifts that will occur without his anticipating them, because Right pronounces Freedom, than in any that would result from a plotted campaign.

It is with these broad conclusions in mind that I wish to return to a key phrase from the emancipation address: "Language must be raked, the secrets of slaughter-houses and infamous holes that cannot front the day, must be ransacked, to tell what negro-slavery has been." I pointed out earlier that no particular subject is called upon to do the raking and ransacking. But now I would ask as well: to what end is language being raked? If telling what negro-slavery has been only undermines what it is and continues to be, it would hardly seem to be an act worth advocating.

Cavell writes about this line in his reading of "Fate" and claims that it serves as an "an announcement, in a polemical context...of what cannot be undertaken polemically" (210). In other words, Emerson calls for an action to be performed on language, raking, which he cannot undertake so long as he is performing an argument which, if torn up or loosened, would lose its coherence. Raking, for Cavell, would produce the effect of the shift in thinking I have referred to above: to rake is "to let the fact of [words] rouse our mind to activity, to turn it to the air" (210). Cavell points out, too, that the raking of language and of coherent thought would end up raking its speaker and its listeners, turning them from solid objects to opened, unsettled beings. If only such disorientation would allow slavery to become evident, the line stands in for what the remainder of the speech cannot do, but would need to do, to effectively mobilize the audience's response: to force them to become other, to bear witness. Cavell figures this gesture towards a raking that cannot be undertaken in speech even as it is what that speech aims to signify
as "a struggle between possession and dispossession, between speech and silence, between the unspeakable and the unsilenceable" (211).

It is this last pair that seems most pertinent here. If, following Cavell, raking language entails transforming language and its listener into something that no longer has objectifying power, the phrase is a call for a quiet testimony that would take the place of transferrable information: the "telling" of what slavery had been would only happen in the impossibility of any recounting. Thus slavery is cast as being unspeakable, but again, not because it has a magnitude too great for language; it is unspeakable because to speak it would be to speak as one raked and with raked language: it would be to speak a turning into the air. And yet: the speech that is a turning into the air does happen; it is unsilenceable, even as it is quiet.

This is because there is no quiet testimony that cannot nonetheless be read. It may not be read; it may be ignored. But it is discernible because it registers itself in language, because it is a mode of silence that is at the same time a mode of speaking. Indeed, each silence that has heretofore been noted—from Fox's silently dwelling Adviser to the milk in the pan; from the thought by the way-side to Fuller's waiting upon a letter—is a registered, an unsilenceable, silence that has crossed a threshold into speech. A raking of language effects this crossing, which does not mean that it trades speech for silence or silence for speech, but that it exposes the speech that silence carries under cover of being merely air. It indicates a loosening of oneself and one's speech that releases any grip one might have on the object of witness and allows its testimony, the shared testimony, to come forth. It is the turn from eloquence to "these silent beautiful," and the trace of that turn that subsists in speech.
The resulting speech—the speaking silence, the quiet testimony—can no longer be identified with the individual body who appears to deliver it, for its delivery issues only on condition of that body's being raked. This is why quiet testimony carries the movement forward without a trail of witnesses: their bearing witness is contingent upon their having been raked; and so the testimony does not claim a voice for itself even as it functions to claim the voices of others, to let liberty speak for weakness. Each of Emerson's phrases that lack a person in the subject position—"the horrid story ran and flew; the winds blew it all over the world"; "absurdities would still come flashing out" (AS 21); "it was masters revolting from their mastery" (AS 26)—are evidence of the raking that allows quiet testimonies to come to voice.

Thus the phase may be understood to mean in another way. Language must be raked if one is to tell, as in recount, what slavery has been, as Cavell suggests. But language must be raked, too, if one is to tell, as in discern, what slavery has been. Emerson's audience—and now I include myself, as a present-day reader, in this group—can only read what slavery has been because language has been raked. Not because he personally has raked language, for if there is evidence of such raking on the page it is the evidence, too, of the dissolution of his agency; but precisely insofar as he who would call for raking is found to be himself raked. We can tell what slavery has been because of the scars it leaves on Emerson as a speaker to it and on his text as a testimony of it: "I might well hesitate...but I shall not apologize for my weakness." These scars promise that slavery has and will testify; and that the power of quiet testimony to silence one voice in exchange for the unsilenceable truth is, indeed, something to which one may look forward.
It is the possibility of ever more raking, then, of the silence we have not even begun to anticipate coming to speech, that we may hope for and that we may hope an attentiveness to quiet testimony will prepare us to receive. Quiet testimony says that quiet testimony is; and once that message is heard, there can only be more quiet to hear, to witness, and to let speak.

While it hardly makes sense to speak of the efficacy of quiet testimony, then, it is equally absurd to dismiss it as part of an apolitical quietist stance. Emerson is advocating quiet, is calling for the raking of language, not in order to sign up members on the bandwagon of silence, but because it introduces the possibility of a language that accepts absolute responsibility for that which testifies even as that very commitment becomes legible. He is advocating an acceptance of that responsibility—and if his audience reads that message in his own quiet testimony, then they will become witnesses not only to the cause of slavery but to other injustices that seek a field of vision on which to intrude. The intrusion may lead them to address others, to tell what they have seen—but it will have been, and it will always be, quiet testimony that sets their speech in motion, and it will be only as quiet testimony that it will be witnessed.

Of course, quiet testimony may still go unnoticed, or ignored—and of course, it has. But it waits, patiently, for the one who reads it, who witnesses it not as absence but as quiet; who stands and waits on it, executing its will as the most responsible of representatives.
Chapter 2. Frederick Douglass's Fugitive Speech: Reading Legal Address before Legal Identity

Frederick Douglass is the figure that at once most and least obviously warrants inclusion in this study: unlike Emerson, there is no doubt that he devoted his career to testifying to the injustice of slavery and advocating for its abolition--but it is that very unequivocal reputation that seems to make his relationship to quiet testimony questionable. His relevance, however, to an important extent results from the length and breadth of his anti-slavery career, to the sheer amount of time and words that he poured into expressing what amounts to a relatively direct claim: America needs to abolish slavery. This statement warranted three autobiographies, a weekly newspaper, and hundreds of speeches because no individual piece of writing or address managed to make that claim testify sufficiently--to shift the obligations of American citizens, as Emerson would have it, so that they could not live without supporting and effecting abolition. Thus the sheer volume of Douglass's "loud" testimony speaks to the ineffectiveness of that genre's premise, that argumentative convincing supported by facts and first-hand evidence produces change.

Still, the trajectory of Douglass's career would seem to suggest that he never seriously confronted the degree of impotence in his work: in fact, his self-establishment as a publisher, and as an independent entity from Garrison and his movement, coincides with his adopting a constitutionalist approach to abolition and accordingly, an increasingly methodic, legalistic style of argument. Yet it is at that point, precisely, that I understand his work to contribute to the idea of quiet testimony. When he makes the shift from addressing his own experience to addressing the law, Douglass does not cease
testifying, but he reveals the inadequacy of the supposedly single voice with which he
does so. More specifically, as he takes on another capacity in which to serve as a
witness, that of the legal scholar and citizen, his writings expose the impossibility of
rendering the series of varied and often contradictory positions he occupies as one
assimilating and totalized witness. Instead, he testifies at one moment as a fugitive, at
another as an advocate, and at another as a would-be lawyer, and he does not explain his
shifting "I" because compiling his multiple positions into one identity would mean
belying the very variety that enables him to produce his particular, always-changing
testimony. If Douglass does not talk about silence, then, he signifies that testimony is
never produced via the transparent representation of the witness's self, and his work
therefore demands a reading of the incoherence of the witness's "I," its failure to serve as
a logical communicative medium. Such incoherence speaks only in the suspension of the
grammatical and literal levels of language, in the suspension of testimony "loud and
clear."

A second reason that I engage Douglass's legal addresses is that they allow me to
position quiet testimony in relation to the law, which, by all accounts thus far, should not
be able to hear or acknowledge it. The law only admits testimony when the information
it would bear is useful; it must be authorized in advance; and its delivery is preceded by
an oath. Quiet testimony clearly accords to none of these premises. Yet what I find in
comparing the incoherence in Douglass's legal addresses with the law at which they were
directed (if not as official testimonies, then certainly in the manner or spirit of testifying)
is a perhaps unexpected confluence of approach. Nineteenth-century American law had
pretensions of officiousness, of course, but it was also profoundly disorganized—even
incoherent—and in no domain more so than with regard to the broad question of identity.
In three key realms in which Douglass's speech resonated—common law, southern slave law, and criminal law—principles of identity were being debated against a uniquely American incoherence, against a desire for as-necessary adaptation, and against a transatlantic interest in expanding the scope of courtroom testimony; against a legal system that was, in the final analysis, focused upon governing its subjects rather than recognizing them. Thus I propose, after examining the 1854 case of alleged fugitive Anthony Burns, that there is a potential match: the law that Douglass engaged may just have been one that could have heard him. Whether such listening actually took place, whether Douglass's performances were in this way "effective" testimonies, I cannot establish, but it seems to me worth investigating the possibility of a law that could hear and could possibly be moved by quiet testimony.

Moving from Outside to Legal Grounding

Douglass's announcement in May 1851 that he had shifted his position on the constitutionality of slavery coincides with his appropriation of a discourse of legal terms and metaphors. Whereas his Garrisonian years were characterized by generalized attacks on civic morality and a commitment to "pleading the cause of my brethren" (Narrative 96), his determination that the principles of the Constitution were worth advocating generated a more specific litigious rhetoric. He claims knowledge of the process of juridical decisions with reference to "well established rules of legal interpretation" ("Change" 173); he maintains an opinion on the access guaranteed by the representative republic, which is "that every American citizen has a right to form an opinion of the constitution" ("July" 385); and he schematizes how federal legislation is to be analyzed: "the only practical course is that which finds the intention of those who adopted the
Constitution in the Constitution itself" ("For or Against").\textsuperscript{21} These references draw attention to the implicit assumption of Douglass's shift to constitutionalism, which is that he has the right to make it, and to make them: to exercise a potential citizenship and to speak as a legal authority. Such a disputed premise had not been necessary as long as Douglass abstained from institutional engagement, but was fundamental once he engaged the anti-slavery debate on legal ground. The fact that it was necessary, of course, did little to ameliorate its tenuousness: Douglass was daily aware that his self-elected citizenship was widely contested,\textsuperscript{22} and it would become even more so when Judge Taney explicitly denied it in the 1864 \textit{Scott v. Sanford} decision. If history would eventually offer Douglass the security of the Fourteenth Amendment (at least until 1883, when the Supreme Court denied that such legislation could guarantee that blacks were treated as citizens\textsuperscript{23}), his anti-slavery career knew no such underwriting: his speeches and writings petition the law from a profoundly insecure position.

Scholarship on Douglass has consistently attended to the shifting subject positions from which he writes, especially as these accompanied iterations of his autobiography—for the \textit{Narrative of the Life of Frederick Douglass, an American Slave}, he is a fugitive in need of authentication; in \textit{My Bondage and My Freedom} his freedom has been purchased and he has established a newspaper; by the time he writes \textit{Life and Times of Frederick Douglass} he has been a U.S. Marshall and, for the later section, minister resident to Haiti. Each of these positions reflect a distinct legal status, but, as Priscilla Wald suggests, the adoption of increasing rights and privileges never seems to discount Douglass's previous abjection: "No conversion, he suggests, is ever complete" (99). Yet the very idea of a conversion or metamorphosis (99) implies an exchange of one identity for another, a
paradigm which, if not completed in Douglass's case, still relies upon the idea that
discrete, at least temporarily secure identities exist to be inhabited or rejected.

When Douglass addresses the legal system that classified him, however, he
reveals how imperfect its classifications were: not only in announcing that it was
hypocritical for a liberty-loving country to enslave millions, but in demonstrating that
such hypocrisy did not prevent him from escaping, interpreting the Constitution, and
lecturing about liberty to packed northern halls. In fact, his decision to advocate
abolitionism from a constitutionalist perspective, while ostensibly mandating a structured
and precise set of arguments, resulted in texts that persistently call attention to the
incoherence that describes his speaking identity. This incoherence signifies more than a
confusion about where Douglass fits or how complete his conversion is: it reflects how
establishing himself in the confines of the law meant discovering the uncertainty with
which that law bordered that self. Douglass's incoherent identity is not, therefore, an
aberration to be resolved or even to be marked as an ambiguity among more stable
positions: it demands consideration from a perspective that does not presuppose that he
moved among identities as certain and enclosing entities.

Given the vehemence and precision with which Douglass ultimately embraced
constitutionalism, it seems at first that he was purposely exchanging the unsettled
position of a Garrisonian moralist for deterministic legal grounds. When allied with the
Garrisonians, Douglass believed with their leader that, "The only innocent and effectual
course to be pursued is for Massachusetts—for the entire North—to sunder this blood-
stained Union" ("The following resolutions"). Garrison's thesis was on the one hand
devoted to a rigorous respect for the value of national law and on the other morally
convinced that the one Americans had was useless. Participating in political action
sanctioned by national law meant accepting the flawed compact between the north and the south that permitted at once slavery and the action. Hence the Garrisonians devoted themselves to moral suasion rather than political engagement; their approval of the latter, indeed, only extended to the gesture of resignation that was recommended not only for citizens but judges, parties, and representatives.

The premise that slavery was a legal crime thus meant, somewhat counter-intuitively, that it had to be fought on extralegal grounds. Since fighting legally meant constraining oneself to a law that held an amoral institution at its center, moral integrity could only attend to one who denied his obligation to participate. The act of recusing would leave the nation without its citizenry and would, at the same time, prepare the ground for a legal thought more properly oriented around freedom.

Douglass rejected Garrisonian ideology for the position that the Constitution was "a permanent liberty document" ("For or Against"). Gerrit Smith, William Goodell, and others read the principles of the Declaration of Independence and the Constitution as wrongly construed to support institutionalized slavery: what they actually called for was a properly egalitarian republic; slaveholding was an aberration to be excised. Douglass would simplify the constitutionalists' logic in July of 1851: "There is, to our mind, every reason to believe that the framers of the Constitution intended that it should permanently protect the freedom of every human being in the U.S." ("For or Against")—and if the framers did not so intend, Douglass argued, the document could, and must, nonetheless be construed according to its specific language, which omitted "slavery" and granted rights. Wholesale trashing of the federal government was not necessary, which Douglass found a great relief for the disempowered and long-suffering slave ("Movement" 325); legal reform could do the job.
The illegality of slavery was the constitutionalists' counter-claim to the Garrisonians' insistence on its permissibility; Douglass, for instance, emphasizes that slavery "never was lawful, and never can be made so" ("Change" 174). Advocating within the system of the law meant proceeding on premises of liberty which, when realized more completely, would necessarily exclude the possibility of slavery. Nonetheless, Douglass's arguments seem to require recourse to the same legal/extralegal divide instituted by the Garrisonians, for he often delineates slavery as extralegal, outside the realm of the law, rather than simply illegal, against the law. Whereas Garrison and Phillips attempted to put themselves outside of the law, Douglass marks that space as slavery's. For example, opposing those who maintain that slavery must be of legal origin, since "nature" knows no slavery, he states, "It is not true that slavery cannot exist without being established by positive law. On the contrary, the instance cannot be shown where a law was ever made establishing slavery, where the relation of master and slave did not previously exist. The law is always an after-coming consideration" ("Kansas-Nebraska" 551-52). In reading the law as uncontaminated by human enslavement, Douglass maintains the idea of a border between the law and what surrounds it. The signal difference is that after 1851 he employs that border to keep himself squarely inside legal discourse.25

It has been argued that this position inside the legal realm still involved external support, because Douglass's approach to positive law was invested with the idea of a higher-law, or natural-law, authority. Gregg Crane argues, for instance, that in order to read himself into the Constitution, Douglass dismisses historical evidence to the contrary and to provide instead an originary will for "national moral consensus" (111) that would entail the "mutability" (107) of its framing document. Of course, Douglass promotes his
inclusion in a humanity granted by a divine creator, and his constitutional logic undoubtedly requires reference to this granting. Yet it is crucial to recognize that Douglass's rhetoric foregrounds the Constitution as a formulaic document rather than as a moral instrument. If Douglass needed to exclude certain pieces of evidence in order to make his arguments, he still wants to construct them in terms of the production of evidence.

His post-1851 lectures appear as self-contained critiques that can rely exclusively upon positive-law logic to make claims about the government and his citizenship within it. In 1860, for instance, he specifically opposes the idea that moral interpretation can be used to overwrite the law:

[The Constitution] is no vague, indefinite, floating, unsubstantial, ideal something, coloured according to any man's fancy, now a weasel, now a whale, and now nothing. On the contrary, it is a plainly written document...it should be borne in mind that the mere text, and only the text, and not any commentaries or creeds written by those who wished to give the text a meaning apart from its plain reading, was adopted as the Constitution of the United States. (381)

Douglass finds himself, accordingly, qualified to contribute to constitutional debate on the basis of "the mere text": "I claim to be an American citizen," he states in 1854, according to the logic of the law: "The constitution knows but two classes: Firstly, citizens, and secondly, aliens. I am not an alien; and I am, therefore, a citizen. I am moreover a free citizen. Free, thank God not only by the law of the State in which I was born and brought [bought?] but free by the laws of nature" ("Kansas-Nebraska" 540). If the laws of nature make him free, it is, at least rhetorically, as a secondary support, for the laws of the Constitution and Maryland form the primary substance of his claim. Similarly, in 1853, he introduces as "testimony, upon which we found our claim to be American citizens," documents attesting to the necessity of black soldiers during the
Revolution and in more recent battles, insisting that "There is...no flaw in the evidence" ("Claims" 269). The evidence is such as would be valid in any American court of law, without reference to divinity or morality.

These statements display Douglass's confidence in a constitutionalism that is not explicitly underwritten by higher law. His seeming security in his right to make that argument, however, does not preclude his awareness of how heavily it is contested. Douglass may have been naively optimistic—after reading the conclusion of his Life and Times, one cannot help but think he would have been surprised if not shocked by the need for a civil rights movement in the mid-twentieth century—but he acknowledged repeatedly that his "claim to be an American citizen" did not guarantee that he would be treated as one. As early as his first post-Narrative trip to Great Britain, he was refused a passport for travel to France (Life 1014), and he would detail similar such exclusions in his Garrisonian period.27 But references to the tenuousness of his legal entitlement are visible post-1851 as well; for instance, his admission that, "Every inch of ground occupied by the colored man in this country is sternly disputed. At the ballot box and at the altar—in the church and in the State—he is deemed an intruder" ("Kansas-Nebraska" 539). Further, because he insisted that slavery was not granted by American positive law, he in effect implied that slaves were citizens—since they were not defined as aliens—a suggestion that was nowhere supported by popular practice. Indeed, one of the reasons Douglass cites for his constitutional turn is its practicality; the idea that "a population of slaves, without arms, without means of concern, and without leisure, is more than a match for double its number, educated, accustomed to rule, and in every way prepared for warfare"—in short, that slaves could act as responsible if revolutionary citizens—is "plainly absurd" ("Movement" 325).
The contemporaneous combination of Douglass's seemingly unequivocal constitutional claims and his pronouncements of its practical foils expose how his self-establishment on legal ground entailed the admission an unstable legal self. According to his method of "plain reading," he may have proved his inclusion; but the constituents who did not need "plain reading" in order to participate in legal amendment and reform were not necessarily invested in such hermeneutics. Moreover, his approach was actually far from plain, for it assumed his own citizenship while arguing that such an assumption had yet to be recognized. In other words, because he sought an admission of the illegality of slavery, assuming his own freedom failed to alter the wide-scale mistake that enabled the institution, even as it attempted to make such misapplication visible. If "the theory upon which a course of action rested moved him less than the means by which it could be reached," as his biographer has proposed (Quarles 75), Douglass nonetheless presented himself as a type of theoretical experiment that, if and when granted, could produce a definitively democratic course of action.

This conditional approach to legal testimony, and the vacillations it required of its subject, are nowhere more evident than in the speech Douglass delivered in Rochester on July 5, 1852, "What to the Slave is the Fourth of July?". While the speech is generally noted for its vitriolic demonstration of the hypocrisy of America's legacy of liberty, it closes with earnest constitutional criticism characteristic of his appeals from the same decade. The vitriol is not meant, then, to place Douglass outside of American law, as it might have two years earlier; rather, it describes the anomaly of legal address that simultaneously depends on, and depends on excluding, the exclusion of its speaker.

Douglass opens the address with humility, and while it may seem false in light of the inhumanity of which he will basically accuse his audience, his point that "the distance
between this platform and the slave plantation, from which I escaped, is considerable" (360) highlights the awkwardness of his position. He narrates the radical, even "mad" (362) impetus of the Declaration of Independence, but he does so only as one whose history, and whose own radical madness, denies his authority to do so. As he explains, recognizing the outlandishness of the founding fathers is crucial to understanding the import of the anniversary: "To say now that America was right, and England wrong, is exceedingly easy...To side with the right, against the wrong, with the weak against the strong, and with the oppressed against the oppressor! here lies the merit, and the one which, of all others, seems unfashionable in our day" (361-62). The merit of siding with the right would seem to entail, for the white citizens of Rochester, defecting from the glory of strength to revolutionize the meaning of American liberty. It would require that madness and weakness be vested with the authority to rewrite their national inheritance, that one whose speech essentially came from the slave plantation be provided with the means to overwrite the fourth of July. Yet Douglass has been writing, publishing, and lecturing for several years at this point, and it seems clear to him that the moment of revision is not likely to coincide with one of national celebration. He therefore puts at stake the falseness of the authority he has been given: "Fellow-citizens, pardon me, allow me to ask, why am I called upon to speak here to-day?" (367).

Unwilling to foster a self-congratulatory national impulse (366), but equally unwilling to make the well-known case for the extension of American privileges to those held as slaves, Douglass concedes to speak only from the position that he has not been able to appropriate: that of the "fellow-citizen." Yet he explicitly does not do so by imagining that he has appropriated it; rather, he speaks from his own inability. He maintains, for instance,
...where all is plain there is nothing to be argued. What point in the anti-slavery creed would you have me argue? On what branch of the subject do the people of this country need light? Must I undertake to prove that the slave is a man? That point is conceded already. Nobody doubts it. The slaveholders themselves acknowledge it in the enactment of laws for their government. (369)

Refusing to argue for his manhood, he instead speaks at once as a man (since nobody doubts that fact) and as one who is not recognized as such (since the issue would not need to be mentioned if it was not, on some level, doubted in the extreme).

Douglass emphasizes his paradoxical speaking identity in the most striking images of the speech, where he proposes to express what must issue from such a role:

At a time like this, scorching irony, not convincing argument, is needed. O! had I the ability, and could I reach the nation's ear, I would, to-day, pour out a fiery stream of biting ridicule, blasting reproach, withering sarcasm, and stern rebuke. For it is not light that is needed, but fire; it is not the gentle shower, but thunder. We need the storm, the whirlwind, and the earthquake. (371)

In insisting that he does not reach the nation's ear—that such an approach remains conditional—Douglass states only the type of testimony he might deliver, not the exact words he would make it hear. Yet the point is that the words it needs to hear are those which would forgo clear meaning and denotation for disconcerting rhetoric. The rhetorical gestures named—especially scorching irony, biting ridicule, and withering sarcasm—rely upon words that can be taken in more than one way, and thus throw into question the integrity of the speaker. Douglass wants to pronounce this uncertainty, this question about his right to speak, for it is only in hearing such irresolvable ambiguity that he can testify to what it is like to stand on the fourth of July, "identified with the American bondman, making his wrongs mine" (368). The identification cannot take place, because it would mean giving up his ability to demonstrate the absurdity of the identity of the slave as existing at all in the American republic.
The fourth of July thus seems to be for the slave an occasion for declaring the impossibility of his declaring independence. And it is on such an occasion, and as such a declaration, that Douglass turns to interpret the law. The transition is far from seamless, and may be the evidence of his similarly sudden shift from extralegal orator to constitutionalist. Yet regardless of Douglass's intentions or his psychological state at the time of his writing (an exclusion that the constitutionalist Douglass, at least, would have supported29), the speech's combination of ironic vitriol and earnest legal appeal exposes a crucial disjunction in the pursuit of lawful address. On the one hand, the law requires an undisturbed and confident "I" to make such statements as Douglass does: "I scout the idea that the question of the constitutionality, or unconstitutionality of slavery, is not a question for the people. I hold that every American citizen has a right to form an opinion of the constitution, and to propagate that opinion, and to use all the honorable means to make his opinion the prevailing one" (385). On the other hand, Douglass's entire foregoing speech has made it clear that he is in no position to scout constitutionality, that his holding an opinion cannot be subscribed to unless one realizes his exclusion from the object he claims to read. But the point he ends up making is that his disturbed identity somehow does warrant his legally arguing. Pouring irony into the nation's ear is not equivalent to advocating for constitutional amendment; but Douglass cannot take advantage of the latter without confronting the need for the former, and so it is with and as such a bifurcated speaker that Douglass performs for Rochester.

In what follows, I will assert that Douglass's paradoxical approach was possible and at least potentially effective as testimony because mid-nineteenth-century American laws, especially those governing speech and testimony, had not yet coalesced into the identity-based regulations that marked the twentieth century and continue to describe our
national structures of discipline. This is not to argue that Douglass's performance was a criticism of an identity-politics model of political or legal speech. Rather, it predated that model for connecting subjectivity to voice. It may ultimately offer an alternative to conceiving political identity both within literary studies and without; but the anachronistic assignment of Douglass as participating in such an arena would only preemptively exclude that radical meaning.

Legal Incoherence and Legal Identity

Throughout the mid-nineteenth century, legal scholars, lawyers and judges were engaged in debate that turned upon conflicts between coherence and incoherence, identity and creativity. In three major realms within which Douglass might be contextualized—common law, southern slave law, and courtroom procedure—clear delineation of identity was a concept that did not yet mark the law of the land; it was in contest with a fluidity and disorganization characteristic of the development of the American legal system. And although the debates in each realm were bounded by particular concerns, they overflowed their boundaries; as the case of Anthony Burns will demonstrate, before the evolution of identity as a legal principle, the determination of its meaning remained unidentified—or, as Richard Henry Dana would put it, "matter of opinion" (Burns 407).

1. The Common Law Codification Debate

Having adopted a common law system as well as inherited a set of common law judgments from England, practitioners of law in the early part of the nineteenth century were concerned with assessing America's dependence on or independence from the British system and its medieval heritage. Towards the middle of the century, however, legal minds were more likely to focus on what, exactly, existed to be associated or
dissociated—what the American common law could be said to comprise. Such a
definition was itself of relatively recent vintage: "The idea that there should or could be
such a thing as a generalized theory of the common law dates from the second half of the
between 1765 and 1769] had no predecessors" (Gilmore 3). Because what characterizes
a common law system, as opposed to a civil law system, is in part its lack of discrete
codes and its reliance instead upon judgments determined by assessments of previous acts
of judgment, codification of such acts and the laws undergirding them had not been a
priority. But American judges sometimes included British cases in their assessments and
sometimes did not (a particularly Anglophobic period followed the War of 1812 [Gilmore
22]); sometimes grounded their decisions in historical conceptions of juridical acts and
sometimes, as Oliver Wendell Holmes maintained, adjusted the principle to comport with
modern experience: "The reason which gave rise to the rule has been forgotten, and
ingenious minds set themselves to inquire how it is to be accounted for. Some ground of
policy is thought of, which seems to explain it and to reconcile it with the present state of
things; and then the rule adapts itself to the new reasons which have been found for it,
and enters on a new career" (6).

The resulting incoherence of American law was not only due to common law
structure, then, but to the fact that the very process of reference upon which it relied was
still being processed, was still becoming a definitive process. The Constitution provided
for such process to be determined by the courts—so how that document's specific and
innovative principles were to find their way into judicial decision was, necessarily, left to
its practitioners to determine.
As lawyer and politician Robert Rantoul tells it, such an open-ended system protected the pre-modern origins of the common law—"The Common Law sprang from the dark ages; the fountain of justice is the throne of the Deity" (317)—by permitting judges to act as prophets. In the absence of codification, Rantoul claimed, "No man can tell what the Common Law is; therefore it is not law: for a law is a rule of action; but a rule which is unknown can govern no man's conduct" (318). He explained the extent to which the law was unknown with the following rough, but still startling, statistic: "In forty per cent of the cases carried up to a higher court, for a considerable term of years, terminating not long ago, the judgment was reversed" (318). Until the legal procedure became a systematized institution, Rantoul argued, judicial activism would constitute its rule and undermine its status as law.

Rantoul's 1836 treatise demands that what he portrays as a juridical free-for-all be replaced by a law that had a coherent identity and that operated via principles of identity: one case could be determined to have at stake an issue identical to one previous, and could be judged accordingly. Yet it was not until the 1880s that legal practitioners turned unequivocally to a scientific model for their discipline, instituting principles of observation and determination that would allow for minute facts to be compiled into universal truths. Further, especially in recent years, what Rantoul bemoans as hopelessly disorganized has been appreciated as a period unsurpassed in legal creativity (Friedman 71), innovation (Horwitz 1), and "open-endedness" (Gilmore 27). Titled a "golden age" (Haar) and an "age of discovery" (Gilmore), the mid-nineteenth century may have been unprincipled, but that meant that the law was able to think new principles, to formulate ideas that precisely disregarded the shadows of the Dark Ages. If the law was not yet common, and if individual judges exercised considerable power as a result, they did so in
a way that was almost excessively democratic, to the point that they could each become autocratic. Judges could assess cases without immediately matching them to a previously existing principle, and the law necessarily followed.

The years preceding codification were marked, then, by a legal context debating the alternate values of predictable decision and uncertain invention. At this most basic level, the idea that the law and the judges assessing it had to be identical to a code—to precedent and to their own pasts—had not yet become essential to American practice. In effect, the law itself was without a single identity with which it was definitively organized, and its practitioners did not believe that its execution required the holistic extension of such a principle.

2. Southern Slave Law's Lack of the Slave

In terms of southern slave law, the fact of slave identity was central, but its legal meaning was not established as a centralizing principle. Thomas Morris's major study, *Southern Slavery and the Law*, argues that the idea that southern law was a monolithic entity devoted to oppressing the slave was to some extent a construction of northern abolitionist rhetoric (57); the sense that slavery "had to have some precise legal contours" (41), or that there existed a "discrete collection of laws that we can identify as specific to slaves and that we can call the law of slavery" (2), is, in his analysis, simply erroneous (41). What governed slaveholders and slaves, rather, was a combination of property laws that were applied to slaves and criminal statues that defined appropriate behavior and punishment for the benefit of those who held them as property. No law was devoted to outlining the contours of the slave's humanity or the privileges that did or did not attend to it. Regulations that attended to slave status, such as the South Carolina provision
quoted as Harriet Beecher Stowe's answer to "What is Slavery?"—"Slaves shall be
deemed, sold, taken, reputed, and adjudged in law, to be chattel personal and in the hands
of their owners and possessors, and their executors, administrators, and assigns, to all
intents, constructions and purposes whatsoever" (Stowe 132)—existed in order to clarify
that slaves were not real estate and subject to the inheritance laws governing immovable
goods: they were chattel personal and could be sold at whim. While such laws
undoubtedly affected the life of the slave, they defined no premise from which the slave's
potential personhood or citizenship could be argued: as Morris explains, "a slave had no
*legal* interest in whether he or she was defined as a chattel personal or a piece of real
estate as far as *status* was concerned" (65). The distinction bore no "moral dimension"
(80), for it already supposed its object as a thing rather than a person.

To this extent, Douglass was right to insist on the illegality of slavery, for
southern law was not devoted to providing for slavery so much as regulating it. In fact,
Daniel Webster, who was so derided for his support of the Fugitive Slave Law, had
actually proposed for that act an amendment which, by requiring the slaveholding
claimant to prove that slavery existed in the state from which the alleged fugitive was
said to originate, may have effectually ended up nullifying its reach.30 When the point is
argued following Webster's resignation, James Mason of Virginia, the original author of
the act, exposes the potential loophole: if the amendment means "that proof shall be
brought that slavery is established by existing laws, it is impossible to comply with the
requisition, for no such proof can be produced, I apprehend, in any of the slave States. I
am not aware that there is a single State in which the institution is established by positive
law" (1584). Douglass wishes to make the same point in order to establish slavery's
illegality, and quotes what at first seems like Mason's outrageous admission but was actually a simple statement of fact 31.

Of course, legal presumptions had to exist to determine who was a slave and who was not, for in the event that a slave was a perpetrator, victim, or witness of a crime, the privilege of due process would not be extended. Yet Morris emphasizes that, indeed, presumption, rather than code, guided such determinations: "in the widest sense a white could not be a slave, a person of color could be, a black presumptively was, and those who fell between a white and quadroon might be, but the evidentiary presumption of liberty was in their favor. The standard was not precise and in individual cases might be absurd" (29). Further, as he points out, distinguishing between a black and one who fell between a white and a quadroon became in the courts a matter of observation rather than legal definition; while parentage was considered to the extent that it was documented, it fell to judges to assess identity based on physical features and characteristics (26-27).

It is crucial to note that, while biologically grounded racial assumptions drove these assessments, they were not the purview of codified law but of the judges' exercise of the common law. "It may seem odd," Morris states, "but the only effort to define a 'negro' in statutory law was in the Virginia code of 1849" (22). If it does seem odd, it is no doubt because, despite resonance with the principles of racial division underlying ethnically based regimes in the twentieth century, the antebellum American south did not approach the governance of slaves as dependent upon identifying them legally. Its laws were centered upon protecting slaveholders' property, which meant that, for instance, as the fear of insurrection increased, slaves were increasingly granted the right to testify against fellow slaves (232-37), but the fact of their initial exclusion was assumed and not dictated. By contrast, the Nazis depended upon the Nuremberg laws to initiate their
pursuit of a pure Aryan race by establishing that, "A citizen of the Reich may be only one who is of German or kindred blood...Only the citizen of the Reich may enjoy full political rights in consonance with the provisions of the laws." While southern states in practice separated those who seemed not to have "kindred blood," blood did not form the beginning or the principle of the law: identity was something to be assessed along the way, as it was convenient to property holders.

This difference is perhaps most evident in the Senate discussions preceding the passage of the Fugitive Slave Law, which, orchestrated by slaveholding interests, operated largely upon slave-state assumptions. Discussions of the alleged fugitive's rights centered upon whether he was what, rather than whom, the claimant proposed. Thus Robert Winthrop, who replaced Webster, attempts to foreground the question of "whether he is a fugitive at all," but what he means by this is "whether he belongs or owes service to anybody? It must always be a question whether such person be your slave, or whether he be our freeman" (Congressional 1585).

The possibility of one who is free being wrongly taken as a fugitive arises, but only briefly, and again, not as a matter of mistaken identity: Joseph Underwood of Kentucky proposes to rectify the issue by requiring that the record of escape be made in the county from which the flight had taken place, so that fraud would be discouraged. With such a record, he argues—a "description giving the character of the slave, whether male or female, his or her age, and appearance, and color, and all necessary particulars"—a commissioner's duty would be "Nothing but to decide the question of identity," a task assumed to be so direct that a jury would be unnecessary (1586). The idea that such description, if locally produced, could be falsified, modified, or in any way would not be sufficient for identifying a person seems never to occur to the senators.
That the slave was who he or she claimed or was claimed to be was simply not the primary concern for the lawmakers, from both free and slave states, who were scheming to determine the alleged fugitive's rights.

3. Testimony and Witness Competency in the Courtroom

The third legal area that bears upon my assessment of Douglass's speech concerns courtroom procedure—more specifically, debates about whether a defendant in a criminal trial had the right to testify. While prior to the sixteenth century, the accused in a criminal or civil case in Britain was allowed to plead his own case, between the sixteenth and the nineteenth centuries the defendant in a criminal case was permitted neither to plead, nor to be represented by counsel, nor to testify on his own behalf (Popper 454-55). This exclusion from testifying, which became common law practice in the United States, was based upon the defendant's interest in the outcome of the case: as Robert Popper explains, "It was considered certain that the defendant's fear of punishment, whether he was guilty or innocent, would cause him to perjure himself, and to avoid this, he was not allowed to testify" (456). Jeremy Bentham's 1827 *Rationale of Judicial Evidence* began to argue that such a premise made impossible the presumption of innocence promised by the system, and Maine Chief Justice John Appleton took up the cause in the United States. In 1864 Appleton converted the Maine legislature to his cause (Rifkin 258), and on March 16, 1878, the United States Congress followed suit for federal cases (Rifkin 259), although it was not until the end of the century that all the states, excepting Georgia, established similar statues (Popper 464). It is important to note just how late this shift took place: when the fourteenth amendment was ratified in 1868, extending due process of law to all persons born or naturalized in the United States, only Maine,
Massachusetts, and Connecticut would have considered the right to testify on one's own behalf as an aspect of such a guarantee.

At stake in the debates that Bentham and Appleton introduced was not only the presumption of the defendant's innocence but, in some sense, the very mechanism of presumption. Because allowing the defendant to speak introduced the possibility of perjury, the proposed reform shifted attention onto the many ways in which one's speech may not adequately represent one's actions. Whereas "keep[ing] the accused silent" (459) de-emphasized his presence in favor of the evidence brought against him, at least in theory, letting him testify shifted the attention of judge and jury onto how he himself performed a type of evidence that may or may not correlate to the actions that he truly did or did not commit. Hence Bentham's question that seems to argue for an innocent man speaking innocently—"Does it follow, because there is a motive of some sort prompting a man to lie, that for that reason he will lie?" (Bentham)—ended up introducing a variety of situations: the man who is not lying, but is so nervous as to appear so; the man who is not lying and not nervous, but for this reason suspected; the man who is lying, but does not seem to be so precisely because he is a guilty criminal, an "old and practiced dissembler" (Bishop 705). Each of these permutations complicated the identity of the defendant, who no longer existed as a single entity that could be presumed from the start; he was split into a being who had acted and a being whose own presumptions informed how he spoke about his actions.

Appleton was well aware that the legislation he favored would result in interpretation rather than presumption becoming key to the judicial process. While the defendant's testimony was excluded as a matter of competency—his interest made him incompetent—Appleton aimed to shift the qualification of witnesses from a pre-judgment
to an assessment that took into account, but did not rest upon, his position. Having undertaken to present the legal profession and the public with his own shortened and simplified version of Bentham's study, he put forth the following conclusions: "All persons, without exception, who, having any of the organs of sense, can perceive, and perceiving can make known their perceptions to others, should be received and examined as witnesses. Objections may be made to the credit, but never to the competency of witnesses" (iii). Appleton's critics did not often grasp this fundamental shift from competency to credit, and argued as if a witness could not be competent under new legislation because of the enormous pressure put upon him. But Appleton's point was that being able to speak and perceive rendered one competent. Liars were, by his definition, competent, and that was not the problem of the liar but the problem of the jurors required to determine the existence and value of the lie. That the defendant's identity was a precariously shaped entity about which one could not be sure—even if one had to be sure—was accepted and foregrounded by the legislation that Appleton initiated.

Anthony Burns's Unidentified Speech

Hence at the moment in American legal history when Douglass determined "to study with some care not only the just and proper rules of legal interpretation, but the origin, design, nature, rights, powers, and duties of civil governments, and also the relations which human beings sustain to it" (Life 705), he took as his object a law that was engaged, itself, with determining the essential limitations of justice and propriety, of its rights and powers. This process amounted to one of identification, but also of discerning how identity as a principle governed both its operation and its relation to its subjects. Common law did not require judges to maintain a consistent identity of
decision-making; southern slave law operated without establishing its most subjected subjects; Appleton's legislation promoted the ambiguity of a witness who was interested and yet under oath. In effect, the law was in these three contexts engaged in assessing the degree to which it wanted its subjects to be consistently identifiable, in possession of an inarguable identity.

This discussion meant, crucially, that a subject was not required to possess an inarguable identity in order to receive the benefit or submit to the wrath of the law. Neither judge nor slave nor defendant was expected to maintain a single identity. It was indeed the fact that incoherence was permitted or even taken for granted that prompted the movement towards less flexible codification, and that imagined that slaves were lying and worthless except when they testified about plans for insurrection; similarly, Appleton only sought to make part of courtroom procedure the uncertainty that common law knew existed had therefore attempted to silence. This uncertainty and its potential trouble was, broadly speaking, being noticed; but it was not yet being eradicated on a wide institutional scale.

Douglass thus could speak as a legal scholar, a witness to slavery, or a defendant (against, for instance, charges of treason\(^1\)), not only without first making apparent his biographical right to do so, but without confining himself to any of these single roles. If American law failed to foreground the difference between a slave and a fugitive and a free black, then Douglass did not need to claim that any of these potential identities authorized him to speak as their representative. He could speak, not only from "contradictory roles" (Sundquist 90) but as a supposed contradiction.

This is not to assert that common law, southern slave law, and courtroom procedure were evolving from and to the same logical arguments. Despite the general
commonality that underlies these three realms, their individual reasons for struggling with identity and incoherence were particular. Practitioners of common law were invested in defining their modernity and beginning to craft the law into a science; slaveholders guaranteed their right to maintain their property with the assumption that blacks were childish and irrelevant, as well as essentially "mendacious" (Cobb 233); and Appleton was attempting to comport contemporary epistemology with a practice of justice. Slaves were not prohibited from testifying because they were likened to criminal defendants and might perjure themselves, but because the system disregarded their speech as irrelevant in order to protect itself. As abolitionist William Goodell pointed out, "The power to testify against their owners and overseers would imply the right of protection from assaults by them" (303-304). To break the silence of the slave was to argue with the racial prejudices of slaveholders and to tell, as Goodell put it, "the hitherto unimagined secrets of the Bastile [sic]" (304); to break the silence of the defendant was to argue with three hundred years of common law proceedings.

Precisely because these two silences were being broken in a legal climate characterized by experimentation and development, however, they occasionally seemed to overlap. The underlying open-endedness that made each realm's contest between identity and incoherence possible meant that things were allowed to break, with the damage, as it were, being assessed afterwards. In the case of Anthony Burns, who was brought to court as an alleged fugitive in Boston in 1854, for instance, his speech broke a silence, but the law was not sure exactly whose. That his trial ultimately revolved around the question of his identity indicates how answering that question was becoming a pressing concern—but also how the law's approach to that issue was marked by a logic of opinion rather than knowledge, uncertainty rather than guarantee.
Although often referred to as a trial, the case of Anthony Burns was not one, strictly speaking, for the final form of the 1850 Fugitive Slave Law specifically mandated a "summary manner" of determination without the presence of a jury. Commissioners appointed in every state ultimately held a responsibility close to Underwood's vision: they assessed the records provided by the claimant to decide whether the alleged fugitive in fact owed labor. Again, what was generally presumed to be at stake was whether someone residing in a free state would be understood as in debt, or whether his residence could render him free and therefore outside the economy of slave labor. Commissioners were paid according to their decisions: as Douglass would assertively put it in his fourth of July speech, "An American Judge Gets Ten Dollars for Every Victim He Consigns to Slavery, and Five, when he fails to do so" (375). Arguing that state assumptions of freedom invalidated the category of the fugitive thus meant arguing not only with the Constitution and the Supreme Court, but with the commissioner's expected salary.

Because the law was so heavily weighted toward the interests of slaveholders (and because Webster had supported it), outrage in Massachusetts generally responded to the assault on states' rights and to the premise that serving the federal government entailed serving slavery. As Thoreau would put it, the problem was "slavery in Massachusetts," a state of affairs that should never have been realized among citizens dedicated to liberty. Thoreau was right to declaim the value of a local government that served national interests its constituency thought unjust. But what had arrived in Massachusetts with the Burns case as well was the question of what amounted to the Fugitive Slave Law's brief requirement of identification: "proof...of the identity of the person whose service or labor is claimed." Douglass's summary of the law in his newspaper seems to have anticipated
the centrality of this issue—"A black man may be carried away without any reference to a jury," he wrote. "It is only necessary to claim him, and that some villain should swear to his identity" ("Fugitive" 208)—and the case of Anthony Burns would determine the degree to which his assessment was true.

The Fugitive Slave Law comported so poorly with the history of American federal legislation that its contours were still being assessed in 1854. Commissioner Loring, for instance, informs the prisoner at the outset of the Burns case that he was entitled to counsel (Boston Slave Riot 349), when the law makes no such provision and would seem, from its general tone, to outlaw such assistance. The prisoner ends up represented by Richard Henry Dana and Charles Ellis, the latter of whom points out that the case "involves novel questions of law" and entails a procedure "without a single one of the countless provisions with which the law so carefully surrounds every tribunal that is to sit in judgment, according to its position, for the preservation of its purity and the protection of innocence" (BSR 391). Uncertain as to whether they are to draw on the regulations of due process, recent decisions regarding southern slave law, Massachusetts state protections, or ancient Roman principles, Dana and Ellis invoke each of these at times, compiling a defense that reads as decentralized, although it is no more so the law to which it responds.

In fact, one of Dana's points in his closing argument is that the trial in which they are participating has been alternately—and irreconcilably—governed by the sixth section of the Fugitive Slave Law, which mandates the summary proceeding as it is to be executed in a free state (where seizure of the alleged fugitive is followed by a summary proceeding) and by the tenth section, which explains the procedure for commissioners in slave states (where the fact of a person having been enslaved and having escaped is
demonstrated through records; s/he is then to be seized). The claimant, Charles Suttle, and his friend who had hired Burns, William Brent, had arrived with and presented Virginia records that seemed to attest to the fact of Burns's birth, that his family were slaves owned by Suttle, and that Burns had previously attempted escape. But Dana contends that such records could only be taken as conclusive if the trial were happening in Virginia; in Massachusetts, it is rather the claimant's obligation to prove that the seizure was warranted and that the seized man is the one whose name is therein recorded.

Suttle's counsel demonstrates neither, according to Dana; but his defense primarily aims to introduce doubt as to the likelihood that the alleged fugitive bears the identity with which he is charged. He argues that the prisoner cannot be understood as identical to the man who owes service for two reasons: first, he does not physically match the description the Virginia record issues; and second, Suttle claims that his slave had escaped several weeks after the prisoner was known to be living and working in Boston. Dana's analysis of Suttle's record is almost humorously minute, but it clearly offers evidence on the basis of which Loring could have guaranteed his freedom:

The record does not show to which of the great primal divisions of the human race the fugitive belongs. It might as well have omitted the sex of the fugitive. It says he has a scar on one of his cheeks. The prisoner has, on his right cheek, a brand or burn nearly as wide as the palm of a man's hand. It says he has a scar on his right hand. A scar! The prisoner's hand is broken, and a bone stands out from the back of it, a hump an inch high, and it hangs almost useless from the wrist, with a huge scar or gash covering half its surface. Now, Sir, this broken hand, with this hump of bone in the midst, is the most noticeable thing possible in the identifying of a slave...Now, it is extraordinary, Sir, that neither the record nor Mr. Brent say anything about the most noticeable thing in the man. (406)

Some of Dana's nine witnesses emphasize that they recognize the prisoner as identical to the man they had known because of his extraordinary defect. Yet Dana's particular argument for their credibility rests less on their exactitude (the lead witness is
black, which is parenthetically noted in the court records, and the defense allows for prejudices of mendacity) than the combination of their several impressions. His thesis is that identification cannot be certified by professed knowledge: "Identification," he claims, "is matter of opinion. Opinion is influenced by the temper, and motive, and frame of mind" (407). Arguing that the current political context is nothing if not influential, Dana asserts, "No man could be more liable to bias than a Virginian, testifying in Massachusetts, at this moment, on such an issue, with every powerful and controlling motive on earth enlisted for success" (407).

Of course, Dana's own witnesses could be biased as well, yet he argues that as a group they are more likely to provide an image that approaches correct identification precisely because of their different perspectives:

On a question of identity, numbers are every thing. One man may mistake, by accident, by design or bias. His sight may be poor, his observation imperfect, his opportunities slight, his recollection of faces not vivid. But if six or eight men agree on identity, the evidence has more than six or eight times the force of one man's opinion. Each man has his own mode and means and habit of observation and recollection. One observes one thing, and another another thing. One makes this combination and association, and another that. One sees him in one light or expression, another a tone, another the gait, another the gesture. Now if a considerable number of these independent observers combine upon the same man, the chances of mistake are lessened to an indefinite degree. What other man could answer so many conditions, presented in so various ways. On the point of time and place, too, each of those witnesses is an independent observer. These are not links in one chain, each depending on another. They are separate rays, from separate sources, settling on one point. (409)

Identity is only ever composite, Dana suggests: it is never more (certain) than a matter of opinion. What the Fugitive Slave Law intends in calling for establishment of "the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed" is therefore impossible, for what is understood as grounded proof can never exceed a combination of several biased opinions. These do not
become more certain through an exponential principle—one individual's sight does not assure another of his own sight. Instead, what amounts to a positive identification is the process through which, as "separate rays, from separate sources," each individual view asserts a single possible identity, and their combination describes the contours of "one point."

In his final decision, Loring seems to agree with Dana that, if he is determined to follow the Fugitive Slave Law rather than oppose it, his primary responsibility is to assess the prisoner's identity. Loring counters Dana's premise that makes identity a matter of opinion, though, asserting, "In every case of disputed identity there is one person whose knowledge is perfect and positive, and whose evidence is not within the reach of error, and that is the person whose identity is questioned, and such evidence this case affords" (425). What Loring refers to is a conversation that allegedly took place between the prisoner, Suttle, and Brent the night of the former's arrest, and which was overheard by prison guard Caleb Page. The conversation opened with the prisoner's greeting—"How do you do, Master Charles?" "How do you do, Master William?"—and touched upon some other points that would seem to verify Suttle's claim that the man who spoke was his own escaped slave. For Loring, the prisoner's statements amounted to satisfying him "beyond a reasonable doubt of the identity of the respondent with the Anthony Burns named in the record" (425).

In understanding the prisoner's remarks as an affirmation of his identity, Loring performs a sort of legal acrobatics, for he trusts him as one who has "perfect and positive" knowledge only for long enough to condemn him as a slave without the right to knowledge, let alone the profession of it. While such an excursion into extralegal territory likely had precedent in the southern courts, the discussion that initially admits
the dialogue to the Burns case reveals the other legal principles that could be applied to understand and either include or prohibit it. Following Brent's reference to the dialogue, Ellis first objects under the sixth section of the Fugitive Slave Law, which provides that "In no trial or hearing under this act shall the testimony of [the] alleged fugitive be admitted in evidence." Ellis takes up the logic of the inadmissibility of slave testimony, based on property security and supported by racial prejudice, in order to protect his client from incriminating himself—which amounts, nonetheless, to an incrimination insofar as it follows the law's supposition that the allegation of fugitive status should be conclusive. Counsel for the claimant, Seth Thomas, counters that the prisoner's "admissions and confessions were a very different thing from testimony," but he does so on grounds that explicitly do not underlie the Fugitive Slave Law: "he not being privileged to testify, as he was a party in the suit—the defendant" (387). Drawing upon the common law prohibition against a defendant serving as a witness for himself, Thomas mistakenly asserts that it applies here: mistakenly, because the point of the law is to establish summary proceedings rather than trials and commissioners rather than judges. The prisoner is not a criminal defendant, nor is he a party in a civil suit, which is why Ellis argues that the law has no clear procedural precedent.

Loring generally follows Thomas (which is, after all, largely what he is paid to do), finding that "the word 'testimony,' in the law, must be regarded as referring to evidence given by a witness, and not to confessions or admissions" (387). Yet as Ellis points out in his closing argument, if the prisoner's speech is understood as the confession or admission of a slave, precedent exists for disregarding it precisely because a slave cannot be expected to speak without interrupting his knowledge, such as it exists, in favor of meeting his master's expectations. In the 1830 North Carolina case of State v. Charity,
Judge Ruffin had written, "The master has an almost unlimited control over the body and mind of his slave. His confessions are made, not from a love of truth, not from a sense of duty, not to speak a falsehood but to please his master" (393-4; see also Morris 242). Ruffin's decision essentially denies that a slave's speech is coincident with his identity, a conclusion that Loring must ignore in order to rest his own conclusion on the alleged statements of the prisoner.

Although Loring's decision professes the possibility of a "perfect and positive" knowledge of identity, then, the entire case that he oversees—from Dana's thesis of opinion to the suppositions of the Fugitive Slave Law itself—demonstrates that there can be no consistent governing identity attached to the prisoner. He is supposed to have been in Virginia and in Boston from the 1st through the 24th of March; he is supposed to have politely conversed with the man who would enslave him as to his own ungratefulness in escaping; he is thereby supposed as a rational being who is sufficiently self-possessed to identify a slave—much as Commissioner Loring was. The multiple positions he occupies throughout the case prove at once that Dana and Loring are both correct—the Fugitive Slave Law's business is ultimately with the determination of identity—to the extent that their ideas are irreconcilable: for Loring's single judicial opinion must bear more weight than the variety of opinions Dana asserts is necessary for judgment.

The tension between the law's assertion of identity and the inconsistency with which identity is lived forms the crux of the text of the Anthony Burns trial. The law (as in the court: Loring) must confront the falsity of the law's (as in the Fugitive Slave Law's) premise in order for it to be executed. In the final analysis, the law must confess its own incoherent identity if it is to impose a coherence upon others' confessions, others' identities.
Douglass as a Fugitive Orator

The fugitive status of the prisoner in the Anthony Burns case thus turns out to signify more than the fact that he is alleged to be Anthony Burns, fugitive from labor. For the duration of the trial, before he is sentenced, he is a fugitive from legal identity: at once presumed a slave and a freeman, a defendant and a victim. But even once he has been condemned to the identity of "Anthony Burns," it is only via the excursive logic that allows him to determine his own identity for and before the law. Walking to the ship that would return him to Virginia—escorted by federal militia amid the thousands who had come to watch and mourn—39—he had been made to coincide with the person of Anthony Burns by exposing the law's absence of a consistent structure for identifying its subjects. He is in this sense a fugitive from legal justice, not because he has run away from it but because he escapes or retreats from its grasp.40 Justice, at least as Dana sees its possibility for its client, could have been delivered if identity, itself, was understood as opinion, as fugitive rather than independently verifiable. When that possibility is rejected, but no consistently logical mechanism for identifying him is used in its place, the legal system indicates the presence of an abyss where it was to perform summarily, and the prisoner falls into it.

When Douglass escapes from Baltimore and became a fugitive, he takes advantage of a similar gap in the institutions that monitored identity, using it, as it were, to climb out where Burns had dropped in. Just as Fugitive Slave Law necessitated assessment of identity, but could not provide for accuracy beyond the human fallibility that presumably had originally allowed slaves to become fugitives, Douglass narrates how cards and passes were mandated for travel in the south and to the north but were
subject to forgery. Their possession, he insists, could be regarded as more important than
whether they correctly identified their possessor. "My means of escape were provided
for me by the very men who were making laws to hold and bind me more securely in
slavery," he explains in Life and Times of Frederick Douglass:

It was the custom in the State of Maryland to require of the free colored people to
have what were called free papers. This instrument they were required to renew
very often, and by charging a fee for this writing, considerable sums from time to
time were collected by the State. In these papers the name, age, color, height and
form of the free man were described, together with any scars or other marks upon
his person which would assist in his identification. This device of slaveholding
ingenuity, like other devices of wickedness, in some measure defeated itself—
since more than one man could be found to answer the same general description.
Hence many slaves could escape by personating the owner of one set of papers.
(643)

While the papers Douglass obtained "called for a man much darker than myself" (644),
"The merest glance at the paper satisfied [the conductor], and he took my fare and went
on about his business" (645).

What enabled Douglass to impersonate a sailor, as he narrates it, was an
identification-based system that was not yet underpinned by a completely pro-
identification philosophy and had not yet perfected the means for institutional execution.
Douglass saw this gap, and understood that the tenuousness of the system in some sense
guaranteed the escape against which it was predicated. He could speak as if he belonged
to Isaac Roll's papers, and deploy that belonging to remove himself from the very apex
of the principle of belonging, chattel slavery.

Of course, such removal is in no way final—Douglass is terrified in New York,
must change his name in New Bedford, and employs himself there as an unskilled laborer
because of racial prejudice. Yet when he begins to form his anti-slavery agenda as a
legal critique, he continues to express the ambiguity of a law that was oriented toward
identification but had not yet provided the definitions that would secure its success. He speaks with the sense that he needs to be recognized as belonging somewhere, but only in order to announce the absence of a legal terrain that would identify his ground. Douglass bears no papers that can last through his enumeration of the escape that needs to happen, and while he seems finally to have been granted the "occasion to write my own pass" (44), exactly what he is passing as or towards has not yet been determined by those who require it.

It is because of this legal ambiguity, I would suggest, that Douglass testifies by evoking untenable positions from which he writes.\textsuperscript{41} The identity from which he "hold[s] that every American citizen has a right to form an opinion of the constitution" is one of a victim who has suffered national crimes—and who would therefore require the state to prosecute his injury; a defendant responding to threats that he is "an enemy of the nation who dares to make those wrongs the subject of public discourse" (383); a witness with the power to draw thousands to listen to him; and a being who would, twelve years later in the Dred Scott decision, be excluded from the very polity that he claims authorizes his interest in it. The law he addresses could (and would) alternately place him in all of these single slots; which means that he is aiming to protect the values of a system that requires his mutability. In this sense, each of his legal addresses resembles the speech of the prisoner at the Anthony Burns trial, for many are attentive to what he says, but he holds no guarantee as to the terms by which his voice is heard.\textsuperscript{42}

When this mutability is noted in Douglass scholarship, it is almost exclusively from the perspective that he passes among discrete identities that alternately assure him a hearing. He is said to appropriate "the image of a self-made man" (Zafar 113), to perform as "a racial spokesman" (Moses 79), or to initiate a new type of constitutional
theorist (Schrader 85). While he is not said to inhabit any of these identities exclusively, the idea that any fits him misses the possibility that he did not require their bounded offerings. Similarly, arguments for his creation of an as-yet-unknown legal entity not only presume the existence of the free black citizen before he existed, but more basically assert an identity when the lack more aptly describes Douglass's position. Douglass is read as "asserting himself as a man, that is, as a speaking and writing subject" (Fishkin 192), but the fact that his "speaking and writing" were outstanding, were not systematically attached to a manhood, is the far more radical and yet historical situation.

Even when attending to his "implausibly" (Sundquist 92) composite positions or the "inconsistency" (Castronovo 200) on which Douglass's writing insists, scholars tend to assume that he troubles available roles rather than reading the roles, themselves, as fugitives, as matters of opinion. For instance, Wald figures him as "neither citizen nor alien" (14), but she still relies upon dichotomized structures to narrate his ambiguity. In another register, Jeannine DeLombard focuses on Douglass's turn to address the law, yet her argument that it consists in his "efforts to cultivate a distinctly black advocacy—based in, but no longer authorized by, his well-known testimonial narrative" (145) misses the fact that it is when he is unbehind to a "distinctly black" or even conventionally "testimonial" identity that his critique resonates.

Indeed, this is what is at stake in his use of irony in the fourth of July speech: irony demonstrates the irrelevance of coherent identity for testifying about the law's injustice. The destabilization occasioned by irony amounts to more than a statement that may be variously understood: in putting the two possible meanings in contest without offering a reconcilable significance, it destroys the possibility of reading for an identity of significance. If irony "presupposes two orders which are in contrast with one another and
in whose contrast lies whatever value the form can generate" (Culler 187), then an ironic statement comes to mean not by selecting one or the other of its alternative readings, but because its duality expresses precisely that impossibility. For example, following the execution of the verdict in the Anthony Burns case, Douglass exclaims in his newspaper:

"How sweet to the ear and heart of every true American are the shrieks of Anthony Burns, as the American eagle sends his remorseless beak and bloody talons into him!!" ("Anthony" 281). The statement depends upon one register of meaning wherein American nationalism equals slaveholding, and another wherein American liberty should never be deployed in bloody oppression. But it is explicitly because the two irreconcilably conflict that the violence of the statement resonates: the shriek of Anthony Burns should be the outraged shriek of America, but it cannot be so because America has determined to make him shriek and thereby to disqualify him as a spokesperson for the meaning of the American eagle. Someone is shrieking, someone who is not a "true American," even as the statement depends upon acknowledging that there is an alternative true American who shrinks with horror—or perhaps shrieks himself—at the sound.

But if there are two true Americans, then there are no true Americans; or America means truly only when its shriek is apprehended as issuing from the instability of national law. Douglass's irony resonates as it both indictst such instability and expresses its possibility. While the prisoner alleged to be Anthony Burns was condemned to slavery by a legal system that could manipulate his right to speak, the fact that his speech occurs and demands debate indicates the law's essential openness to radically unauthorized voice. If such voice entails the risk that its bearer will be determined a fugitive, it also exploits the possibility of a fugitive identity, one that always retreats from the law. As
soon as the prisoner is assigned the identity of "Anthony Burns," such possibility collapses—the American eagle turns blood-thirsty. But as long as Douglass maintains the ironic rhetoric of fugitive speech, such an identification cannot definitively be made.

Douglass's speech thus implicitly disturbs not only the (arguably already) disturbed law, but the categories by which we as scholars identify a voice as either heard or silenced. Understood simply as the introduction of speech where none existed, a silence is broken when Douglass learns to read, narrates his life, or engages in politics. Yet understood in the light of the fugitive speech I am suggesting characterizes these textual acts, silence describes the moment of suspension required for Douglass's voice to reach its listener. Strictly speaking, no one speaks in that moment because the production of voice is contingent upon its not being identified. And if no one speaks, no one may be silenced, even if the words of the voice are subsequently used to condemn the body from which it emanated.

Like the prisoner in the Anthony Burns trial, then, Douglass speaks before the law can determine how he ought to. Yet while Dana names the court's admission of the speech "the height of cruelty" (387), it is the same mechanism of suspension, of hearing a voice before knowing whether and how it should be regulated, that allows Douglass to avoid being silenced based on a presumption of coherence both within his identity and within the law that assesses it. If there is no immediate, prefatory act of identification, I am arguing, silence understood as censorship cedes its meaning to silence understood as the potential of seemingly incoherent, revolutionary thought. Such thought may subsequently be suppressed, but it is always too late to deny it according to the unauthorized status of its speaker.
Fugitive Democracy before the Archive

Douglass's address of the law thus expresses a system that does not yet rely upon technologies and politics of identity to govern. The system is certainly moving in that direction: as Gilmore narrates it, "[f]rom the 1820s until the Civil War, American lawyers lived with the idea that the common law not only could but probably would be codified" (27); rules of segregation would come to divide the south by race; and the defendant's speech, if present, would be manipulated or reconstrued according to local prejudice. But none of the extreme form these eventualities would take were known to Douglass at the time of his writing and speaking, and he therefore provides a glimpse of an alternative institutionality that may have developed differently.

I am not suggesting that Douglass's motivation was to provide such a glimpse; clearly he remained throughout his life devoted to the eradication of slavery and its legacy. Yet even in his post-Civil War activism, he does not anticipate the crystallization of a what Charles Mills calls a "racial polity" (134) that would continue to oppress blacks for generations. As Douglass narrates in Life and Times, he meets the end of the war with a sense that his work is complete and his advocacy henceforth unnecessary:

My great and exceeding joy over these stupendous achievements, especially over the abolition of slavery (which had been the deepest desire and the greatest labor of my life), was slightly tinged with a feeling of sadness. I felt that I had reached the end of the noblest and best part of my life; my school was broken up, my church disbanded, and the beloved congregation dispersed, never to come together again. The anti-slavery platform had performed its work, and my voice was no longer needed. (811)

Even as he details the continuance both of his career and racial prejudice, he never abandons the tone of "exceeding joy over these stupendous achievements": it is as if he believes that the evolution from slave to freed person is necessary slow but not essentially
impossible, that transformation happens, that identities are tossed off so as to complete
the dream of all men being created equal.

Mills analyzes Douglass's optimism as naive, and he is correct to assert that the
promise of equality was never, as Taney observed in his Dred Scott decision, conceived
as broadly inclusive or egalitarian: Douglass "failed to fully recognize this structure
itself, to realize how deeply race and racial self-interest had entered into the creation of
the polity and its citizens' identities, so that he would later underestimate, and be
astonished by, the extent of white resistance to racial equality" (128). Still, if
assumptions about race unequivocally underlay American law and its (white) citizens'
self-conceptions, the law as Douglass confronted it did not explicitly regulate its polity
according to rigorous procedures of identification. What he failed to recognize were the
theories that could be mobilized towards exclusion, segregation, and lynching, not the
fact that the law in its practice was identity-based.

In this sense, Douglass expressed a law that could be deployed democratically,
because if its impetus aimed to conserve the white race, its organization had not yet
achieved that reality. That procedure would only be perfected under the Nazi occupation
of Europe, when rules of blood, color-coded patches worn on clothing, photographed
identity cards and passports, and tattooed arms became the rule. Slavery did not operate
equivalently; given the transcripts of the Senate hearings on the Fugitive Slave Law, even
if the technology of photography had advanced in 1850 to where it would be in 1884,
when prints on paper rather than glass were made possible, it does not seem certain that it
would have been thought advantageous to create a photo-ID for every slave. Yet Mills's
implicit point is that it might have. Indeed, perhaps what is most remarkable about the
institution, from a twenty-first-century perspective, is the fact that it never arrived at such
an organization. Legally identifying its victims did not seem necessary: Douglass, as he
remarks in each of his autobiographies, has "no accurate knowledge of my age" because
"no authentic record containing it" seems to exist (Narrative 15).

By contrast, maintaining meticulous records that could be destroyed was a
hallmark of Nazism, as was the insistence that the history of its victims would be
suppressed. Such a threat haunted the prisoners of Auschwitz, according to Primo Levi,
in the form of a dream about returning to one's family:

It is an intense pleasure, physical, inexpressible, to be at home, among friendly
people and to have so many things to recount: but I cannot help noticing that my
listeners do not follow me. In fact, they are completely indifferent: they speak
confusedly of other things among themselves, as if I was not there...Why is the
pain of every day translated so constantly into our dreams, in the ever-repeated
scene of the unlistened-to story? (Survival 60)

Levi's career in some sense recorded this dream, recounting "so many things" only to
need to do so again: the epigraph to his last work, The Drowned and the Saved, is from
Coleridge's "The Rime of the Ancient Mariner": "Since then, at an uncertain hour, / That
agony returns, / And till my ghastly tale is told / This heart within me burns."

Douglass also wrote several versions of his life, but he never introduces them as a
response to Levi's problem, a threat from his master that his story would be obliterated by
the powers of the world. No archive against which Douglass's narrative would be
discounted existed; there was no fear among slaveholders that they had to maintain
exclusive control over the narrativization of the institution to the world. And those who
had perpetrated its cruelty were hardly treated as war prisoners who might go into
hiding—Douglass's description of his visit to his original plantation as signaling "a new
dispensation of justice, kindness, and human brotherhood" (Life and Times 884) takes to
the extreme Hannah Arendt's idea of "the banality of evil." Stowe remarked on slavery's
peculiar openness in *The Key to Uncle Tom's Cabin*: Even as "Slavery dreads exposure,"
"The wonder is that, knowing it *so well*, [slaveholders] do not more skillfully manage
their affairs. It is surprising that they allow such fiendish advertisements to find their
way into their public journals—permit such bloody enactments to stain their statute
books—and, publicly, commit such shocking atrocities as fill the pages of the *Thousand
Witnesses,*' and swell the [present] volume" (249).

To say that in the nineteenth-century American law was not yet devoted to
legislating identity is to say that it was nonetheless approaching (and no doubt still is) the
logic of Nazism. But it is vital to recognize that Douglass's writing was produced before
that inevitability was clear. To analyze his work in terms of the identities he was
assigned or imagined himself appropriating is to correlate the American tragedy of
slavery to the European tragedy of Auschwitz in precisely the way that they differed.
Douglass's heart doesn't burn to tell his tale, as Levi's did; his lack of a birth certificate
granted him the right to speak as a fugitive, and to address American legal discourse in an
ironic—but also particularly free and democratic—way.

Douglass's standing before the law was not equivalent to Kafka's: there was no
door just for Douglass; the twisty passages surrounding a clerk's desk did not
conceptually exist until the 1880s. The law does not need to shout, as the doorkeeper
does at the conclusion to Kafka's parable: "No one else could ever be admitted here,
since this gate was made only for you. I am now going to shut it" (4). This is because
the law is still listening, and it does not yet know to whom.
Chapter 3. Inquietude Rising: Bearing Witness to Benito Cereno's Muteness

If Emerson's reputation has withstood—or been founded upon—charges of quietism, summaries of Melville's career have been no less attached to variants of the designation. Whereas the term is meant to indict Emerson politically, however, Melville's "silent years" refer to the last decades of his life, in which his writings became increasingly unnoticed by the public—to the extent that his death in 1891 was marked as notable for alerting the public that "such a man had lived so long" (Stedman 222). In recent years, the texts that followed Moby-Dick—those collected in The Piazza Tales as well as Pierre, The Confidence-Man, and Billy Budd—have certainly commanded critical attention, yet the association between the time of their writing and Melville's lack of voice has stuck.

Melville's actual voice seems to have been heard publicly only in limited amounts once he retired from lecturing in 1859 and began to work full time as an outdoor customs inspector in 1866. His rate of publication dropped off steeply as well: from nine novels and almost twenty short pieces brought out between 1846 and 1857 to three books of poetry afterwards. No journal from this period exists, and Melville, never a prolific letter-writer, did not fill his time away from the pier with a newfound interest in correspondence. He devoted some of it to Billy Budd, but the manuscript was not conclusively finished, nor are attending notes available to contextualize it as a project. Although this lack of written materials becomes most evident after the publication of The Confidence-Man (1857), not Moby-Dick (1851), Melville's publishing career has historically been understood to "trail off" with the works of the six years spanning the two, in light of the poor critical reception that met, and then ignored, the texts of that
period. Less writing is presumed to overlap with, or be equivalent to, the "lesser" writing of his collected prose.

Melville's most recent biographer does not assume that Melville expired after *Moby-Dick*, yet the title of his final chapter reprises that sentiment as it was framed by the author's earliest biographer. In 1921, Raymond Weaver's conclusion was "The Long Quietus"; in 2005, Andrew Delbanco's was "The Quiet End." Delbanco attends far more diligently than his predecessor to the composition of *Clarel* in the 1870s, but in both cases, the amount that one can say about one whose saying has dropped off is blatantly minimal: the last thirty years of Melville's life in both texts receive no more than one-sixth the page space dedicated to his first forty. The persistence of this version of Melville's life attests, perhaps, to the way the canonization of the man has shifted less than the scholarly regard for the whole of his works. More importantly, however, it highlights the difficulty of writing about a silence of the past.

Whether there was, or is, more to say about the second half of Melville's life is not my direct concern here. The focus of this chapter is the constellation of questions elicited by the above references to "quiet," the word that at once invokes a largely unrecorded past and condemns it to a brief remark. Is there a writing that could account for the length of those "quiet" years and narrate, not the events they comprised but the substance of the "quiet" that characterizes them? Would such a writing be anything more than a list of synonyms associated with silence? What does it mean to write truthfully about a quality, and a history, that eludes articulation? It is my contention that it is not accidental that these questions wind up in the purview of Melville's biographers: I want to suggest that they are embedded in Melville's texts, in particular those considered his late works. If Emerson's challenge was to write a quiet testimony that would not
represent an act of witness, if Douglass's was to testify to the law without representing himself, Melville's is to maintain in representational narrative an image of the quiet testimony that, engaging but also eluding the law, he both reads and offers.

Revisiting whispers

From the time of his death until the publication of the first biographies, Melville's reputation depended on his early travel novels to the extent that it existed at all in public consciousness. But the "astonishing revival of interest in Herman Melville in the 1920's which rescued him from oblivion" (Zimmerman iii) drew attention to Moby-Dick only to dismiss most of the texts that followed it. The close of Weaver's penultimate chapter set the stage for the valuation of Melville's career throughout that revival. Summarizing Pierre as "an apologia of Melville's own defeat" (343), Israel Potter as underappreciated (347), certain of The Piazza Tales as showing "the last glow of Melville's literary glamour, the final momentary brightness of the embers before they sank into blackness and ash," The Confidence-Man as a "posthumous work," and the subsequent poetry as having fallen into "total oblivion," he explains: "in his old age he was again to turn to prose: but before Melville was half through his mortal life his signal literary achievement was done. The rest, if not silence, was whisper" (348). "Not silence," says Weaver, but not worthy of much attention, either. Bartleby, which has recently been the subject of so many diverse critical studies, does not warrant mention as a last bright ember and figures only in quotation as an epigraph —or epitaph—for the last chapter.

Melville's "whisper," which accounts for some 1500 pages of prose, refers for Weaver mainly to work unworthy of being read aloud. His transparently biographical reading of Pierre, however, begins to connect the silence of the "sinking embers" with
the treatment of silence in that text. "In the winding ambiguities of Pierre," he writes, "Melville attempts to reveal...that from a great depth of thought and feeling below the level of awareness, long silent hands are ever reaching out, urging us to whims of the blood and tensions of the nerves, whose origins we never suspect" (341). Without detailing where one might find the "long silent hands"—Isabel's pauses as she relates her autobiography, Plinlimmon's reserve, and Pierre's anxiety over completing his book come to mind—Weaver notes that Melville has not simply failed to continue to write, but has written about a struggle (for Weaver it must be Melville's own struggle) between intentional speech and silence.

The other members of the 1920's revival would increasingly note the prevalence of silence in the "whispered" works, always, like Weaver, with the intent of using them to allegorize the second half of Melville's life. In 1926, John Freeman goes further in associating Bartleby with Melville's end: the story renders "Melville's own isolation and gathering silence" upon his move to Manhattan insofar as "[s]omething unbearable peers out of the story to wring the heart of the reader, as the simpler episodes of the life of a mute forlorn innocent are unfolded—type of all the ineffectual, the wounded, and unwanted" (48). A few pages later Melville has become that type: "sunk to the depth of the obscure, mute, unpublished throng" (68). Lewis Mumford's closing focus in his final chapter, "The Flowering Aloe" (the plant is said to bloom only every 100 years), is Billy Budd, the meaning of which is "so obvious that one shrinks from underlining it" (356): "At last [Melville] was reconciled. He accepted the situation as a tragic necessity; and to meet that tragedy bravely was to find peace, the ultimate peace of resignation, even in an incongruous world" (357). Choked by the long silent hands, sunk to the depths of
muteness, finding peace in resignation: Melville's quiet end was an end that talked about being quiet.

These critics implicitly notice the peculiarity of Melville's late works: many, many words, paragraphs, and scenes are devoted to silence, muteness, and resignation. The lack of voice to which the texts refer is therefore not a complete lack of voice; but neither is it quite a whisper, for the texts do not contain toned-down speech so much as meditations on how not speaking nonetheless becomes discernible in speech and in writing. The early biographers miss this essential distinction. By associating Pierre's or Bartleby's or Billy Budd's muteness with that of their author, Weaver, Freeman, and Mumford ignore the fact that the characters are, precisely, authored by him. Melville wasn't mute and unpublished, as Bartleby was: we know this because he was writing and publishing *Bartleby*. In other words, by virtue of being written, Melville's textual representations of silence cannot be equivalent to silence itself, biographical or otherwise—they must always refer to a manifestation of silence-in-writing.

To assert the equivalency, that Billy Budd's silence was Melville's, is to propose that Melville was writing that he was not writing. As it has taken hold in the popular imagination, Melville was "not writing" because what he wanted to say would not be critically received, would not be published, and would not earn him an income for his family. This "not writing" is at once the tragedy of his work after *Moby-Dick* and what makes him an American hero: "Melville is not a civilized, European writer; he is our greatest writer because he is the American primitive struggling to say more than he knows how to say, struggling to say more than he knows" (Kael 400). But such a thesis is critically oblivious to the writing that inspired it. The 1500 pages, many of which are devoted to a thinking of silence, are not considered as characterization, as narrative, and
as philosophy: they are disregarded except as a journal entry declaring writer's block and poverty.

I do not mean to belittle the importance of material comforts for thoughtful composition—the "silent grass-growing mood in which a man *ought* always to compose," as Melville himself puts it (L 128). I want to suggest, though, that if Melville did not always have the mood in which one *ought* to compose, he had many moods in which he nonetheless composed, and the results of those moods offer much to consider about the nature of silence and what it means to write (about) silences. If those offerings, in turn, would help us to understand the scant evidentiary work that attends directly to the end of his life, so be it; but they deserve, first and foremost, to be allowed to help us understand the texts to which they are central.

To Write Silence without Silencing Silence

The biographer's practice of translating many years of unpublished and therefore unknown thinking with a short chapter on "quiet" exposes the difficulty of reading and subsequently writing about silence or a lack of speech. Considered as an absence, or a negative background, against which speech and sound come into relief, silence seems less like a subject in itself than incidental punctuation separating meatier substances. To track it as a concept in itself, however, necessitates that one regard through articulated text a dimension of language that remains unarticulated. Recognizing silence as silence requires an attunement to words that convey space and pause in between words. This practice is, at times, blatantly called for as one peruses Melville's journal: in the record of his sea-journey from England to America in 1860, for instance, June 11th merits a paragraph and June 20th a shorter paragraph, but June 12th only: "Came out to day in
light clothes" (132). What happened on the rest of June 12th, but also in between the 12th and the 20th, registers as a gap which one might name a silence, insofar as Melville leaves that text unwritten.

In the case of Melville's late prose, similar gaps exist within certain works: the chapter, no longer than those meant to describe the occurrences of a few hours, entitled "Forty-five Years" in Israel Potter (606), or the "—Enough." that breaks off the narrator's conversation with Marianna and the scene of his visit to her in The Piazza (634). But there are also silences that are less visible as textual breaks because they are rendered in narrative. Bartleby's preference not to interrupts "reasonable" speech and marks an unknowable history (645). It is a mute stranger who initiates the text of The Confidence-Man by writing on a slate. And the text that will become the focus of this chapter, Benito Cereno, comprises the search for a history that is at once repeatedly told and fails to come to light; the narration sets out to stop its gaps but always concludes by marking its inability to conclude.

Attunement to these silences are, however, only part of the problem. To produce a reading of silence is to write about it; to write about it is to replace its existence as a pause between words with words rather than pause. The trouble with language as a representative technology is acutely evident here, for not only does the word replace the thing, but the word replaces the thing which is the non-word. Years of lost words become a brief chapter; the insistence of Bartleby never lasts more than thirty pages. There is a degree to which writing about silence, even as silence, always silences silence.

The alternative to marking silence as legible usually takes the form of marking it as illegible: as ineffably beyond any linguistic rendering. John Middleton Murry's 1924 review of Melville's later works (it appeared after Weaver's biography but before
Freeman's and Mumford's) remarks that what is regarded as the "silence till the end" "is occupied by Melville's poetry" (433). Although Murry is uninterested in analyzing *Clarel*—"It would be futile to criticize Melville's poem in detail"—he does propose, "The silence of a great writer needs to be listened to. If he has proved his genius, then his silence is an utterance, and one of no less moment than his speech" (433). Yet "listening," to Murry, means marking the silent utterance as unutterable, as even unthinkable: "something was at the back of his mind, haunting him, and this something he could not utter. If we handle the clues carefully we may reach a point from which we too may catch a glimpse of it; but then, by the nature of things, we shall be unable to utter what we see" (433). In the final analysis, Murry's method respects Melville's silence no more than Weaver's; naming silence "unutterable" turns away from its insistence to be recognized in a written form, and therefore silences it as well.

To choose between these two methods is therefore not to solve the fundamental difficulty of offering a reading of silence. And yet one cannot stop at the point of becoming attuned to silences in writing, for once silence has been recognized as present, a failure to record it would again be an act of silencing. What is called for is a practice of witnessing silence that would also give itself to bearing witness: an approach to reading that would not immediately produce an over-writing (as in Weaver's case) or an under-writing (as in Murry's), but that would devote itself to manifesting the meaning of the silence that motivated it and that it therefore continues to encounter.

The Silence of History, the Silence of Slavery

If I have implicitly identified the challenge of bearing witness to silence as belonging to Melville's readers and critics, I want to propose now that it belongs, first and
foremost, to Melville's texts. The silence that one reads in, for example, *Benito Cereno* is the result of an encounter between silence and writing that occurred on Melville's desk. But this is not to say that Melville was representing his own struggle to write: it is simply to assert that the texts confront the difficulties and possibilities involved in recording silences that demand to be written.

It is to begin to claim, too, that silences issuing from the past present a particular set of demands and require, in turn, particular attention. Melville's life is not at all the only one for which a paucity of biographical material exists; in comparison with the lives of most mid-nineteenth-century Americans, his "impenetrable" "black years" are remarkably well-documented (Delbanco 244). And to include in that group of "undocumented" people who lived on American soil slaves and immigrants only emphasizes the degree to which our national history is, at the commonest level and despite archives of statistics and official transactions, a history of silences, of now silent beings and their now silent lives.

These historical silences are generally so silent that, unless notice is called to them as I have just done, they tend to be overlooked completely. It is thus a strategy of certain research projects to "give voice" to the past, either by amassing recorded testimonies—as, for example, the Works Progress Administration did in its 1930s interviews—or recovering the diaries of unknowns, or reading "significant and underscored omissions" and "startling contradictions" of our national literature as referring to those devalued by master narratives (Morrison 6). But the project of this chapter is not to bring past silences to speak in the present so much as to recognize past silences that are still, presently—insistently—silent. I am concerned with how silences of the past cannot be identified with specific oppressed subjects, how they subsist beyond
the substitution of individual stories and how, despite this seeming ubiquity and formlessness, they oblige one living in the present to become responsible for what they withhold: the experience of disregarded suffering. Reading Melville, one finds that is precisely because silences of the past exceed their assignation to imagined translations that they continue to press for present response.

*Benito Cereno* thus provides an apt focus for this chapter, for it is a text centered on history, and the reading and writing of history, without lending itself to patently biographical criticism. The short novel garnered significant critical attention in 1928 when Harold Scudder declared that, reading Amasa Delano's *A Narrative of Voyages and Travels in the Northern and Southern Hemispheres* for quite another purpose, "I discovered the interesting fact that in Chapter XVIII of Captain Delano's book Melville found his story ready made. He merely rewrote this Chapter including a portion of one of the legal documents there appended, suppressing a few items, and making some small additions" (502). In 1805, American Captain Amasa Delano boarded a ship in which would-be slave cargo was holding the colonial Spanish captain Benito Cereno hostage with the plan of returning to Senegal. Delano published the ship log of his experience, added his own narration, and included several of the legal declarations produced at the trial once the Americans had gained control of the Spanish ship; he also added correspondence attesting to his bravery and the raw, as Delano saw it, deal proposed by Cereno once he was vindicated.

Scudder's linking of Melville's text to Delano's set the direction for critical assessments of *Benito Cereno* throughout the mid-twentieth century, most of which tried almost obsessively to connect, dissociate, or otherwise determine details in the two narratives. Even once scholars began to read Melville's novel in terms of broader
political concerns or more complex sets of historical referents, Scudder's impulse to correlate the novel to "real" sources continued to hold enormous sway. In his overview introduction to the 1992 Critical Essays on Herman Melville's "Benito Cereno," Robert Burkholder claims that "the reader is implicitly pointed toward an inquiry into the circumstances of Melville's time and the genuine and possible sources for the story that may inform the tensions and gaps that beckon the reader into the text" (4, emphasis mine), a claim that seems at best difficult to substantiate and at worst indicative of an inability to see beyond or around Scudder's shadow.

Such shadowed readings proliferate in part because none is conclusive, and none is conclusive in part because the inconclusivity of historical sources is Melville's subject. The story that he "found...ready made" was a compilation of variously authored writings attesting to a series of events and collected under the general title "A Narrative": Delano's "original" already reads as a rewriting insofar as it gathers several accounts. To subsequently "merely rew[i]te this Chapter" would have required, on Melville's part, discerning its principal elements within and among its varying parts—and occasionally contradictory bits of information—as well as determining the narrative importance of the appended legal documents—which, not incidentally, he did not simply reprint, but reconceived in accordance with his work as a whole. Even if Scudder's pronouncement of correspondence is accepted as bedrock, the text that Melville chose to revise was one that already exposed the difficulty of tracking the divergence between the real events as they occurred and the writing that later recorded them.

By using most of the names and the general plot outline suggested by Delano's text, Benito Cereno affirms its indebtedness, but it also asks whether one belongs to history and the other to fiction—and whether the two may be separated at all. Once
"Benito Cereno" refers alternatively to a short novel, a character, and a captain who was in St. Maria in 1805, the naming of one instantly produces echoes of the others, so that a single correlation between the name and a "true" or "real-life" referent is impossible to assert. And if the name "Benito Cereno" cannot be isolated, then how is one to isolate the words of a sentence, paragraph, or passage—many of which appear in both texts—as meaning primarily through one or the other context? The lines dividing fact from narrative, real events from imagined ones, and legal depositions from subjective (and potentially insane) rantings are, through this overlap, brought into question in the writing of Melville's text. As a result, any critical attempt to affirm the degree to which fiction reinscribes or diverges from history is preemptively doomed.

Another key reason to situate this chapter around Benito Cereno is that the impossibility of separating fiction from history highlights, rather than mitigates, the text's engagement with the politics of responding to the past. Although setting out to authenticate Benito Cereno might induce vertigo, the alternations of guilt and innocence, violence and passivity attributed to the characters produce the sense that everyone involved in the text is responsible for and responding to the very serious horror that is the essence of the slave trade. The ethical inadequacy that marks each character's response—from Delano's cheery forgetfulness to Cereno's brooding resignation to Babo's bloody revolt—serves to highlight the ungainliness of a moral wrong that both grounds and exceeds the text. The kidnappings and murders that formed the backbone of the chattel system are the implicit referent of any discussion of the text's writing or rewriting of the past.

More specifically, although historical events cannot fully explain the ambiguities of Benito Cereno's narrative and narration, the case of the Amistad in 1841 and the
passage of the Fugitive Slave Law in 1850 certainly seem to have been influential in the 1855 composition of the text. While the story of the Amistad contains "extraordinary parallels" (Karcher 211) to the setting and details of Delano's narrative and Melville's, the inability of the Massachusetts native to emancipate anyone echoes the bind of the Fugitive Slave Law for the progressive but Constitution-bound northern state. Both events turned upon the right of the slave to testify, too, if in opposite directions: in the case of the Amistad, the Africans were distinguished from cargo and recognized as defendants; with the passage of the Fugitive Slave Law, a slave was expressly forbidden from testifying for himself (even to his own identity) in a court of law. These contrary impulses resonate with Babo's seeming refusal to speak before his own trial and the fainting that precludes Cereno from legally identifying his opponent.

Yet the scenes in Melville's text neither directly voice nor aggressively criticize the concerns of either historical event on the question of the slave's right to testify. For the slave to stop speaking without explanation departs from the question of the slave's right to testify; and for the slave ship's captain to refuse to identify the slave demonstrates similarly a ceding, instead of a seizing, of the power of speech. Turning the issue of slave testimony slightly askance, these instances do not engage the legal decisions so much as the silences to which the law necessarily reacts. The fact of slave testimony being recognized in the case of the Amistad or forbidden under the Fugitive Slave Act not only attests to the production or prohibition of legal speech; it marks the slave's testimony as up-untill and at-this-moment silent, a text of suffering that has yet to be articulated and archived as part of an available record. Every effort to define slave testimony is at the same time the recognition of this silence, which has attended to the entire history of the slave trade. When Babo and Cereno are silent before their interrogators, they invoke
silence as the ground for, rather than the alternative to, official testimonies of the oppressive past.

This silence is not the absence of speech—of course slaves spoke throughout their ordeal. But nor is this silence merely the omission of slave speech from the public record, for making slave speech "legal" would hardly repair years of unrecognized suffering, would hardly un-silence it. Rather, the silence underlying the very issue of slave testimony speaks to the truth of slave suffering and to the possibility of such a truth becoming iterated, at the same time as it resists the attempt to collect and convert it to a deliberate account of redress. Such an elusive silence is the text's "historical referent" as much as Delano's narrative, and it is a referent for the present as well: the silence mediates still the unboundable horrors of the chattel system.

It is this silence of the past that, I am suggesting, crossed Melville's desk and demanded from his pen the challenge facing his critics today: to witness a past silence without over- or underwriting it. What _Benito Cereno_ turns on is not the correspondence of political history with fiction, but the politics of writing a historical silence that at once refuses to be fictionalized and insists on presenting itself to the writer's imagination.52

How Much Muteness; How Many Mutes?

_Benito Cereno_ proceeds in three sections of diminishing length. The first and longest takes place on the "lawless and lonely" island of St. Maria, off the coast of Chile (673). It focuses on Amasa Delano's attempt to understand the strangeness aboard the Spanish _San Dominick_ and concludes when, realizing that the slaves have revolted and are holding their would-be captain hostage, Delano enlists his crew in a violent take-over of the ship. The second presents Benito Cereno's deposition from the "investigation"
undertaken at Lima that results in capital sentences for the slaves (738). The final section narrates a conversation between Delano and Cereno on the boat passage between Chile and Peru and describes the bloody end of Babo, the leader of the slaves, as well as the more subdued end of Cereno.

The third section, which Scudder perhaps meant to include in noting Melville's "small additions," departs significantly from the structure of the "real-life" Delano's chapter 18, which foregrounds his recollections and concludes with documentation. Melville's narrator explains the reason for the reprised narration: "Hitherto the nature of this narrative, besides rendering the intricacies in the beginning unavoidable, has more or less required that many things, instead of being set down in the order of occurrence, should be retrospectively, or irregularly given; this last is the case with the following passages, which will conclude the account" (753). Although the passages do "conclude the account" insofar as the text ends three pages later, the "more or less," "many things," and "irregularly given" comprise more inconclusiveness than the text finally answers. One dialogic exchange is rendered in detail, but others are "passed over," and the "some months" between the trial and Babo's execution, and then the "three months" between Babo's execution and Cereno's death, are given a single paragraph (755).

This revealed insufficiency or incompleteness of narration is symptomatic of the writing of history in Melville's late works; it resonates, although in a more serious tone, with the declaration in Pierre that there are "various conflicting modes of writing history," but two main ones: time-driven synchrony or narrative-driven diachrony. Pierre's narrator elects "neither of these; I am careless of either; both are well enough in their way; I write precisely as I please" (286), and Benito Cereno's narrator similarly does not fulfill the method that he foregrounds. Yet in the shorter novel, the simultaneous
demand for and departure from (historical) conclusion marks a dynamic that motivates not only the text as a whole and the three sections in general, but almost each local scene or passage.

The first section is largely driven by Delano's belief that, no matter how "unusual" the scene before him (677) or how "half-lunatic" Cereno seemed (680), with regard to the history of the San Dominick, "The best account would, doubtless, be given by the captain" (682). This sentiment generates plot for fifty pages in part because Delano refuses to see the reversal before him of a presumed racial hierarchy, but also, importantly, because Cereno never fulfills "the best account" promised by his authoritative position. He falters, he chokes, he whispers, he faints, he cringes—perhaps the most characteristic description is that a "sort of cadaverous sullenness" marks his demeanor and interrupts his responses to Delano's repeated questions (729). And he is no more affirmative in his transcribed deposition, which is described as a raving and concludes with his not being able to "give account" of all the previous events due to brokenness "in body and mind" (752).

In other words, the story progresses, but progresses by halting, due to variously named silences attributed to Cereno. This is also to say that the story comprises silences as much as it comprises narration—or that its silences and its narration are interdependent. Their overlap is perhaps most evident in the text's recurring use of the term "mute": placed as an adjective or noun, the word says that narration is warranted but that there is a limit to what will be disclosed. It is invoked with remarkable frequency: the "Everything was mute..." of the third paragraph may actually be taken literally, to the extent that muteness will mark the behavior or the demeanor of almost all of the characters (673).
The text's emphasis on muteness reveals its twin imperatives: to give account and to account for that which it cannot give, that which remains silent. While every text leaves some things unsaid, *Benito Cereno* is unique for delivering *as narrative* what is nonetheless withheld. Muteness means precisely lacking in speech or refraining from speech: in a mirror image of the way that discussions of slave testimony marked the silence they sought to confront, the designation "mute" refers to the assumption that speech would or could happen and announces that it does not. Speechless, not speaking, refusing to speak: these synonyms for muteness expose that the term only means in the domain of speech, but as the element that fails to perform by a logic of articulation. Muteness simultaneously invokes and interrupts the dialogic: muteness is recognizable as a refraining from response only in the context wherein such response is warranted.

The meaning of such a withholding, especially across the eleven instances of the term throughout the text, remains nonetheless particularly unexposed. If muteness opposes itself to the meaning delivered by a deliberate string of words, it will not be explained very well by a deliberate string of words. Yet preserving its opposition severely constrains the potential for muteness to signify beyond, or more specifically than, refraining or withholding. To frame the issue differently, does any single use of the term mean distinctly from any other, or do they all mean only as a disinclination to response?

At stake in this inquiry is not only understanding the multiplicity of "mutes" throughout the text, but assessing how the muteness in *Benito Cereno* is grounded in a historical and political situation at the least different from, and at the most more urgently requiring response than, that of *The Confidence-Man* or *Bartleby*. If muteness cannot be read as pointedly expressive, then its invocation in a story about slavery is still not
"about" anything but muteness. To make muteness testimonial to the horrific referent of slave suffering would require not only the contextualization necessary in any act of close reading, but a reassessment of the expectation that text explains experiences that it follows. If the muteness of the text is instead regarded as primarily partaking of and disturbing responsiveness and responsibility, it would not describe any particular event, but it would express the obligations posed by reading a past horror unvocalized and yet insistently textual.

What muteness may testify to has most often been engaged in terms of Babo's ceasing to speak once he has been captured by Delano. Yet Babo's muteness exceeds the novel's final paragraphs. Further, the issue of undelivered or muted testimony is not the exclusive property of Babo or even of the slaves as a group: muteness affects the characters to the extent that it affects the text as a whole, and thus foregrounds its significance not only as the problem of a victim but the problem of rendering any urgent testimony to the past.

Muteness on the Table

Because Babo is revealed to have orchestrated what Delano pursues as a mystery, he has been classified as "a playwright and poet" (Adler 92) and even "the text's real author" (Kamuf 185). Yet authority may only be attributed to Babo in an abstract sense of orchestration, since the statements that he utters often devalue himself and the narration of his actions emphasizes their meek or mute delivery. If Babo is the text's author, then we do not have access to the text that he "wrote" except as it has been transcribed by a narrator more often following Delano than Babo himself. We don't have "his" history so much as the white man's experience of the history in which he intervened.
But Babo's writing may partake of a logic other than that of authorship: the text may not contain his intentional deposition, but its narration of him begins to attend to the question of how muteness comes to speak of past suffering. The most deliberate early remark linking Babo to muteness is subtle, for it is not the man but his hand that is so described. When Cereno and Delano are seated for a lunch (in which a plan to poison the latter, it will later be revealed, is considered and abandoned), Babo as servant encourages the ever faltering Cereno:

Soon, [Cereno's] manner became still more reserved. The effort was vain to seek to draw him into social talk. Gnawed by his spleenistic mood he sat twitching his beard, while to little purpose the hand of his servant, mute as that on the wall, slowly pushed over the canary. (724-25)

Although it is placed without emphasis in the middle of the sentence, the phrase "mute as that on the wall" resonates for two reasons. In the first place, just a page earlier, the same action has been narrated without reference to muteness: Cereno starts and stares, but stares at "vacancy. For nothing was to be seen but the hand of his servant pushing the Canary over towards him" (723). The added quality of muteness insists in the second instance, but again, because it is in the nature of muteness to withhold, exactly how the gesture is modified is unclear.

In the second place, though, the hand's being mute "as that on the wall" refers immediately to another text which begins to contextualize and qualify what Babo's hand isn't saying. In the Book of Daniel, a scene ensues wherein there is much drinking and carousing of the king Belshazzar and his men when, "In the same hour came forth fingers of a man's hand, and wrote over against the candlestick upon the plaister of the wall of the king's palace: and the king saw the part of the hand that wrote. Then the king's countenance was changed, and his thoughts troubled him," because he could not read the
writing of the apparition (701). Daniel is called upon as a prophet who interprets what baffles others, and he reads in the text a warning to Belshazzar that the days of his kingdom are numbered. The prophecy is borne out during the night when the king is slain and another adopts his land.

If Babo's hand is as mute as that on the wall, then what Melville seems to mean by mute is not without speech but without speech that may readily be interpreted. Delano is unable to decipher Babo's control over the situation in which he finds himself, and so Babo's writing, in the sense of orchestrating or prophesying authorship, goes unheeded (and perhaps, as I suggested above, inaccessible even to his modern readers). But the reference is more complicated than that: Melville's phrasing does not make "mute" refer to writing, either Babo's or that of the biblical apparition. It is only Babo's hand, which makes a gesture but does not spell anything out, that is said to be as mute as the hand that does spell something out. The muteness of the hand, it would seem, is not dependent on the legibility of the writing; it is precisely the hand that, in Melville's version, retains an unspoken or unspeaking quality.

The catchphrase that more commonly refers to the biblical verse does not make this distinction: when one speaks of the "writing [or sometimes handwriting] on the wall," it is the writing that is emphasized as an ominous prophecy—one that has come to be read. In emphasizing the hand, Melville leaves its counterpart, the writing, purposefully unsaid and yet for this reason notable: he mutes, in effect, writing, or he gestures toward a sense in which writing might be more mute than he can say. There is no writing on the wall (or the table) in Melville's version: but we are aware of that, and perhaps that is the point.
Why Hands Do Not Speak

To pursue each of these textual oddities—Babo's mute hand and the text so muted as to be unmentioned—will be to approach what it means to witness testimonial muteness. But the pursuit will require detours, or rather "bypaths" and "divergences" that will turn out not to be tangential (Billy Budd 1365), through several other of Melville's works published after Moby-Dick. The figuration of the hand, for instance, echoes widely. Hands would seem, rather uninterestingly, as a rule to be mute: they do not have vocal cords; they may write but they do not speak and usually are not understood to have anything to say in themselves. Yet when Melville mutes a hand, he points to the way that hands are, in fact, assumed to transcribe and be responsible for the delivery of an author's thoughts. Bestowing upon hands a separate register of meaning—only sometimes captured by a legitimate sign language—Melville's deployment of muteness deliberately severs the connection between the writing body and the text written for others to receive.

The extent to which hands are commonly assigned responsibility for writing becomes immediately evident when its caveat is expressed in Pierre. Plotinus Plinlimmon is characterized as originating the "Chronometricals and Horologicals" pamphlet: Pierre is said to have read "a treatise of his" in the stage coach on the way to the city. But he specifically cannot be imagined as having physically written the text: in addition to his other eccentricities,

He never was known to work with his hands; never to write with his hands (he would not even write a letter); he never was known to open a book. There were no books in his chamber. Nevertheless, some day or other he must have read books, but that time seemed gone now; as for the sleazy works that went under his name, they were nothing more than his verbal things, taken down at random, and bunglingly methodized by his young disciples. (339)
"Verbal things" in "sleazy works" refers rather inauspiciously to the text in which Pierre "vitally believed" to the extent that he searched for it, was haunted by Plinlimmon's face, and, as the narrator suggests, was even unconsciously yet intimately driven by its cryptic message (340-43). Yet the passage does not belittle the pamphlet so much as separate the thinking figure and his hands from the influential text: the name on it is his, but he remands himself from composing; the works are not his progeny but the record of random musings. When Plinlimmon is after this description still said to be the pamphlet's "author," what is suggested is an idea of authorship independent of the manual act of composition.

A similar point is made in an 1851 letter that Melville sent to Hawthorne. Closing characteristically with an apology, Melville notes: "This is a long letter, but you are not at all bound to answer it. Possibly, if you do answer it, and direct it to Herman Melville, you will missend it—for the very fingers that now guide this pen are not precisely the same that just took it up and put it on this paper" (Letters 143). The fingers are Melville's, but neither they nor he are consistently identical to the text that is signed Melville: so that the name, coming by return post, would fail to reach the fingers that originally recorded it. The fingers are, the sentence suggests, no longer responsible for what they articulated.

It is important to note that irresponsibility lies with fingers, rather than an idealized creative force. Melville separates the author from the text not via a trope of mind exceeding body but of body exceeding text. Authorship is less a function of disembodied genius than the physical expression of thoughts that continue independent of their formulation in words or on paper.
Hands do speak, in their own way: Melville's works contain several references to gestures, often manual, that may be regarded and acted upon, especially in *Benito Cereno*. The speaking of hands, however, occupies a register distinct from that of written text and thus may not be immediately or determinately translated to that other mode. The hand, the body, cannot respond directly to the writing that it nevertheless inscribed.

The clearest image of this distinction emerges in the first chapter of *The Confidence-Man*, in which "A mute goes aboard a boat on the Mississippi." In the opening pages of the chapter, the mute's muteness is not emphasized so much as his strangeness: "From the shrugged shoulders, titters, whispers, wonderings of the crowd, it was plain that he was, in the extremest sense of the word, a stranger" (841). The strangeness is not explicitly correlated with muteness, perhaps because it is his function to write—a detail that again confirms the possibility, for Melville, of separating a body identified as mute from writing it may produce. What he writes is, however, doubly not "his," for he offers on a slate a series of quotations about charity from 1 Corinthians: "Charity thinketh no evil," and then "Charity suffereth long, and is kind," "Charity endureth all things," "Charity believeth all things," and finally "Charity never faileth" (842-43).

The chapter's conclusion marks explicitly that the mute's body and hands cannot take responsibility for the text that appears on the slate. The mute is walking away from his impromptu soapbox, when suddenly,

he was hailed from behind by two porters carrying a large trunk; but as the summons, though loud, was without effect, they accidentally or otherwise swung their burden against him, nearly overthrowing him; when, by a quick start, a peculiar inarticulate moan, and a pathetic telegraphing of his fingers, he involuntarily betrayed that he was not alone dumb, but also deaf. (844)
The point here is not only that the mute is characterized by not responding to the verbal summons, but that his response to being nearly overthrown is a display of speech in a register unintelligible, except as a signifier of deafness and dumbness, to those around him. What his fingers say is telegraphic but only legible as "pathetic"; his moan sounds but as "inarticulate." These emissions are a kind of bodily speech that appears completely separate from the writing that occupied the main section of the chapter. And as Melville's earlier letter to Hawthorne put it, one cannot ask (no character does, and neither may the reader) the pathetically telegraphing fingers to answer for the deliberate articulations of charity they made available.

_The Confidence-Man_ illustrates that, for Melville, hands are mute not because they are inert or non-communicative: hands are mute because they are a text distinct from, and without the ability to respond to or for, the written characters that they are used to form. By virtue of this non-responsiveness, all hands are as mute as "that on the wall"; but then the hand on the wall is as mute as any other hand—no matter how much it writes, no matter how interpretable (or not) its writing.

Hand without a Testimony

If Babo's hand is thus as mute as Plinlimmon's, and the stranger's aboard the Fidèle, and even that of Melville himself, then no hand is entitled to the claim of writing responsibly, for every hand responds to its body rather than for the text that it inscribes. Yet Babo's disconnection seems more urgent than the others' insofar as he produces no text at all. While their writing is foregrounded and their muteness emphasized after the presentation of text, Babo's muteness is declared in the absence of any text from which he would subsequently be disinheritied.
The text that Babo would have authored, in the context of *Benito Cereno*, is his deposition: the narrative that would account for his life prior to internment on the ship, his direction of the uprising, and his observations of the deluded Delano. The absence of these experiences, in particular the violence that readers can assume him to have suffered but are never offered explicitly, has been noted as complicating the appropriateness of Babo's vengeful actions. Babo's deposition, of course, would have been unelicited by the Spanish court of law overseeing his case in, as Melville sets the tale, 1799, and no record of official speech by Babo is included in Amasa Delano's *A Narrative of Voyages and Travels*.... In one register, then, Babo's extreme muteness may be read as an accurate if unfortunate representation of historical (at the time of Melville's writing, present-day) limitations on slave testimony.

Yet in another register, the naming of Babo's mute hand in the absence of any deposition for which it may have signed marks the text's overall concern with the impossibility of archiving truthful accounts of past suffering. Babo's testimony may be legally inadmissible, but the experiences of other slaves still find their way into the extracted court documents that Delano and Melville present: in Melville's text, for example, the abandoned plot to poison Delano "is known and believed, because the negroes have said it" (749). What is missing is not exactly their side of the story, but the opportunity to contribute more than corroborating evidence and facts: to narrate a "what happened" that begins and ends with their own individual first-person declarations.

However, if the potential of such accurate testimony is implicitly contested by Melville's consistent muting of hands—the hand that signs for one's identity would instantly be irresponsible for such a signature; the hand on the bible could not speak for a truthful commitment—the deposition included in *Benito Cereno* explicitly denies the
likelihood that a body's legal promise amounts to a truthful relation. The signature upon
Benito Cereno's deposition immediately follows the paragraph declaring both that he is
"broken in body and mind" and that he "signed with his honor" (752); but can such a
signature be considered much more honorable than the unprofessed and yet inferred legal
identity of Babo, who does not testify and whom is never identified by Cereno? 57
Especially in introducing the deposition as including "some things which could never
have happened" (things which, not so incidentally, are not specified as such) and which
the court would have rejected had it not been for other sailors' confirming "several of the
strangest particulars," the text does not characterize Cereno as certifying so much as
sabotaging his responsibility for the official record (739).

Babo's hand might be mute because he is forbidden from swearing "to tell the
whole truth," but Cereno's hand seems, typically, just as impotent. Even with access to
the courts and a writing instrument, Cereno cannot make the text "his," cannot make it
see the truth from his point of view. 58 This is to suggest that the free indirect discourse of
the first section of Benito Cereno is not abandoned when it replaces dramatic narrative
with legal document. 59 Text is followed by more text, the implied "I" of the somewhat
omniscient narrator ceding seamlessly (for there is no line or otherwise bordering mark in
the novel) to the "I, Don Jose de Abos... Do certify and declare, as much as is requisite in
law, that, in the criminal cause commenced the twenty-fourth of the month of September,
in the year seventeen hundred and ninety-nine, against the negroes of the ship San
Dominick, the following declaration before me was made" (739). The text is Don Jose's,
is Cereno's, is Delano's, but insofar as none fully commands what follows his I, all are
dispossessed. Each character has a claim on the text as his deposition—except that none
is able to lay his hands on it.
Benito Cereno suggests that a hand no more represents a piece of writing than a signatory does his deposition. If Babo has written anything of value—if his hand is mute with regard to a testimony we still might read—then it is neither as author nor as deponent that he should be regarded. As Paul Downes explains, it is possible "[t]o claim that the third-person, omniscient narrative voice of Benito Cereno belongs as much to the African revolutionary, Babo, as it does to either Herman Melville or Amasa Delano[,]...as the figure who stands outside of and beyond the Euro-Americans knowing all that they know and more" (480). But to add Babo to the roster of characters who simultaneously claim and are dispossessed from the narrative requires a shift in what it means to tell the story: Babo's is a "speechless authority" allied less with control than its loss. "To claim a narrative voice for Babo, after all," Downes continues, "is to claim a voice from beyond the grave, or, what is the same thing, to claim language's relationship to death" (482).

Babo never writes his name and never speaks in his own voice—which demands not that we imagine it for him, infer his story, or read his statement between the lines. What the relationship between language and death demands is that narrating suffering be disconnected from the assumption that one ever owns one's testimony.

The muteness of Babo's hand attests to the fact that (his) written testimony does not originate in his body. As Downes suggests, this means that the text as a whole may testify without speaking in his voice, without his signature. In its reprisals of muteness, it may respond to the pursuit of Babo's response and responsibility.

What Text Does Not Say

This direction requires once again contextualization of the concerns of Benito Cereno with Melville's other late works. In each of those cases, the hand's
inarticulateness seemed opposed to the articulate text. His characterization of the mute author—identified with a body that continually changes, that expresses itself physically, and that thus never quite speaks with the language in which it is obliged to write—implicitly delineates a written text that outlasts him: unable to keep pace with its author's body, the text holds a certain permanence. It is markedly not mute because, unlike the unresponsive hand, it speaks in a generally intelligible language. Presumably, the hand leaves the text to speak for itself.

In other words, if the author's hand is mute, as I have been arguing, because it cannot be held responsible for what it writes, then Melville seems to leave responsibility for the text with the text. Permanent to some degree, as Melville imagines even his letter to Hawthorne is, text can answer for itself even when its author cannot: hence Plinlimmon's lasting effect and Pierre's wish to revisit the pamphlet; Melville's anticipation of a return letter; and the mute's epigraph-like inscriptions, which set the stage for the novel that follows.

Yet if text is permanently, unchangeably legible, if it may be approached and reread long after the hand that inscribed it has disappeared in muteness, then this means that the text bears its own characteristic of non-responsiveness or irresponsibility. Text may be reconstrued or reinterpreted, as with the writing on the wall; but the writing can never amend or qualify, can never add to or subtract from, the words that it comprises. One cannot demand from text any more than from a hand that it explain itself and be granted a plausible commentary. Once text is written (or spoken), it becomes, in its own way, mute.

To demonstrate at once the simplicity and uncanniness of this proposition, consider Melville's most famous opening line. While many have theorized the way one is
addressed by the imperative to "Call me Ishmael," it seems equally urgent to ask what it means to respond by meeting the imperative, by calling Ishmael Ishmael. Under what circumstances does a reader call a character—not name him, or refer to him in scholarship, but call him as a textual entity to initiate a dialogic exchange? And what, even more crucially, would such a call effect? Ishmael exists as "Ishmael": not a being who could respond "yes?" to a reader's inquiry, but as a text that cannot break from its own narration to meet the dialogic obligation of response. As soon as Melville writes "Call me Ishmael," and as soon as we read the line, Ishmael becomes one who cannot easily be called, who is fixed in print and narrative and grammar: which is another way of saying that he becomes, to a significant extent, mute.

To write (to speak) is thus to finalize and to silence: to stop speaking as much as to start speaking. With every word added, possibilities are closed off, and the text becomes more and more conclusive, less and less able to respond to the changing body that determines or follows its form. This is precisely the difficulty that brings Pierre to turmoil when finances demand that he begin to print his unfinished novel:

and thus was added still another tribulation; because the printed pages now dictated to the following manuscript, and said to all subsequent thoughts and inventions of Pierre—Thus and thus; so and so; else an ill match. Therefore, was his book already limited, bound over, and committed to imperfection, even before it had come to any confirmed form or conclusion at all. (392)

The text is limited and committed because it cannot offer anything but a "match" with what has gone before: the early "thus" and "so" cannot respond to what follows their iteration, and so what follows must respond to them. Pierre's writing can only continue the process of finishing the ideas that were engaged in finishing as soon as they were begun. Writing his book amounts to finalizing its muteness: "For the more and the more that he wrote, and the deeper and the deeper that he dived, Pierre saw the everlasting
elusiveness of Truth; the universal lurking insincerity of even the greatest and purest written thoughts" (393). Writing more means bringing into relief the Truth that he is not writing, that is being sacrificed for "thus" and "so" matching. Insincerity is not a matter of the inadequate representation of the ineffable, but of the impossibility of simultaneous fidelity to the changing body and to grammatical and narrative structure. As Melville puts it earlier in *Pierre*, the only truthful texts progress imperfectly as "mutilated stumps"—cutting themselves off before they set down "thus," like hands so mute they are unrecognizable as hands (169).

The increasing muteness of the text is structural, for approaching conclusion necessitates gives up possibility in favor of finality. But it is not, for Melville, exclusively so: one may trace as well the content of sentences, chapters, and novels that begin with expression, dialogue, and responsiveness and move towards inarticulation. The performance of *The Confidence-Man*'s mute begins with an empty placard, but the very first sentence inscribed upon it leaves its lasting and constraining mark: "The word charity, as originally traced, remained throughout uneffaced, not unlike the left-hand numeral of a printed date, otherwise left for convenience in blank" (843). Once "charity" has been given five opportunities to bring a thought to completion, the text's mute is exhausted, which means that the text's muteness is articulated: the text acknowledges its inability to account for its progress when its character offers nothing more than the inarticulate moan and pathetic telegraphing of his fingers.

Muteness is contagious, that is to say, on more than one level: if an author's hand is mute, so is his text; but as his text writes towards muteness, it is only a matter of time before the entirety closes in silence. For Melville, silence is neither one topic among many about which one might write, nor a meditation on his lack of cash flow. Writing
means writing silence, means becoming mute, and so his "late works" are only the arrival at the devastating yet necessary import of this dynamic.

Of Honeycombs and Coffins

The consequences of what Downes calls Babo's "speechless authority" now come into relief, for if Babo's testimony subsists in the text of *Benito Cereno*, then it subsists in a text that at every moment becomes more and more mute, decreasing rather than increasing the possibility of finding within it a speech that addresses what has gone before. The text can "match" past iterations, but it cannot reconfigure itself according to present or future developments and so it is bound, like Cereno's deposition, to fill in only the least interesting blanks.

As with *The Confidence-Man*, the approach to muteness may be tracked not only in the narrative's structural delivery—as I pointed out earlier, concluding information is repeatedly promised and exchanged for evasiveness—but in individual sections as well as sentences. Cereno's deposition is an appropriate example, for as he relates his account, the document increasingly references things for which it cannot account and about which it will be mute. Rather than ending with Delano's defense of the *San Dominick* and its remaining crew and cargo, Cereno's closing lines not only expose the insufficiency of what he has related but introduce the possibility of much that could be related but will not be: "for all the events, befalling through so long a time, during which the ship was in the hands of the negro Babo, he cannot here give account; but...what he has said is the most substantial of what occurs to him at present, and is the truth under the oath which he has taken" (752). What else?, the reader wants to, but cannot, "call" to Cereno, for one has
the sense that the meaning of his faltering and coughing and fainting is in those words that he/the text refuses to form.

Even more locally, at the level of the paragraph, the description of Babo as mute from the moment of his capture approaches an explanation but breaks off when accounting becomes conjecture:

As for the black—whose brain, not body, had schemed and led the revolt, with the plot—his slight frame, inadequate to that which it held, had at once yielded to the superior muscular strength of his captor, in the boat. Seeing all was over, he uttered no sound, and could not be forced to. His aspect seemed to say, since I cannot do deeds, I will not speak words. (755)

That he "could not be forced to" utter a sound is an end in itself, a coming to muteness that literally leaves no further room for interrogation. When the text attempts to read further what it means, it must submit to the conjectural—"His aspect seemed to say"—and replace the gesture of the body with words that, in the final analysis, rephrase the fact of its muteness rather than denote its purpose.

To reprise the significance of the muted writing that was assumed to, but did not, follow Babo's hand, passages that appear to offer testimonial writing systematically approach muteness rather than intentional articulation. What begins as muteness—Babo's hand, Cerenos body, Babo's head—resists exposition not only because the physical figure severs itself from text but because the text as such cannot write its way out of muteness: it is constrained only and continuously to write its way into muteness and more muteness. It says, and says often, that there is more muteness than even that which it amplifies, but such gestures, like faint echoes, die without determining where such muteness originates. Yet it would be nonsense to expect the text to announce the source of its muteness, "for," as Melville puts it in Pierre, "how can a man get a Voice out of Silence?" (245).
What remains for the reader, I want to suggest, is not to get a voice out of silence but to find one's way in to the silence that, as the text's only means of expression, is its testimony to all that it has encountered. If the text will not respond, answer, or qualify the meaning of its muteness except in terms (and structures) of its inevitability, then the reader's task is not to ask it to. The reader's quest for the text's testimony must not become an interrogation for a deposition, for like Benito Cereno, *Benito Cereno* makes a poor deponent. At the same time, like Benito Cereno, *Benito Cereno* is a witness worth bearing witness to, for, without responding to inquiries for information, it lets its reader know of the muteness that always remains to be said.

Witnessing as a practice of reading entails tracking muteness as it becomes more finally mute, but this is not a tautological exercise so much as a response to text that is limited in the degree to which it may respond to itself. It cannot explain or authenticate itself, which means the reader cannot follow it in order to arrive at the "true" event that inspired it. But if the truth of that event resonates in silence because it is the departure of words for muteness, then the reader may always witness the pain of a text prevented by its own experience from speaking. This is not to say that all texts are equally painful: that the mute in *The Confidence-Man* requires a contemporary political response identical to that of the characters in *Benito Cereno*. Yet it is to point out that contextualizing the referent of the slave trade with a variety of other fictional plots, as I have done throughout this chapter, yields the conclusion that one cannot ask the horrors of history to speak, to deliver themselves, solely because they "really happened." It is precisely because writing of "real history" is subject to the same silencing trajectory as any fictional invention that the witnessing of all textual muteness, of textual muteness as such, must be taken seriously.
In fact, I hope to have made evident that the urgency of bearing witness to a text such as *Benito Cereno* resides to no insignificant extent with the layers of muteness that seem to suffocate the suffering that one knows through history, through fact and deposition, to have existed. To distinguish among instances of muteness, to acknowledge Babo as a different kind of mute than *The Confidence-Man*'s opening stranger, means sounding for an original experience that is only available as a faint, or more likely failed, echo. To bear witness in this sense involves responding, with one's own mute body and in one's own mute writing, to what cannot be arrived at or translated and yet will not allow one to rest with the feeling that it is over, irrelevant, that it—end of story—happened.

One witnesses with the inevitable and unending sense that a text about slavery threatens, in its muteness and in its language, death at every moment—the death of the fragile, mute testimony that barely comes to iteration, but also the death of a reader irresponsible for the censored history of his country. The act of reading, of moving through the text, is described as just such a threat in the final section of *Benito Cereno*. Cereno is explaining "how hard it had been to enact the part forced on [him] by Babo":

And as God lives, Don Amasa, I know not whether desire for my own safety alone could have nerved me to that leap into your boat, had it not been for the thought that, did you, unenlightened, return to your ship, you, my best friend, with all who might be with you, stolen upon, that night, in your hammocks, would never in the world have wakened again. Do but think how you walked this deck, how you sat in this cabin, every inch of ground mined into honeycombs under you. Had I dropped the least hint, made the least advance towards an understanding between us, death, explosive death—yours as mine—would have ended the scene. (753)

Every "walk" into someone else's "plot," which is to say every reading of history and every walk through a country traversed by various manipulative histories, covers a ground "mined into honeycombs" beneath. What constitutes the deathly mine is the very
space of the honeycomb, its multiple sections marking an unending succession of mute rooms, of quiet testimonies. The text, the archive, the ground cannot drop the least hint, but in remaining mute it leaves the reader to feel the muteness supporting him. To miss the muteness is to be murdered in the night, to lose the chance to read responsively and responsibly.

Which means, in a way, that the text does drop a hint: without meaning to, without diverging from its approach toward silence, the text offers an awareness of the danger of the mines that is also the opportunity to listen to what is not being said. Delano lives to see another day because, despite Céreno's best efforts to save them both (and despite the fact that he was acting with a dagger placed against his side), he, together with his even-less-motivated-to-disclose captors, somehow lets Delano know that the scene he sees before him differs from the rationalizations with which he interprets them. Delano is hardly a great American hero and he certainly relies upon racist tropes, but I take issue with characterizations of him as a "bad reader" whose understanding is "inadequate."

He may not know what has happened, and his ignorance may be due to his bigoted beliefs, but he consistently recognizes and responds to the muteness all around him. In one instance, his response takes the shape of regarding as a possible hint even the smallest inarticulate gestures: "Finding that the Spaniard now stood silent and reserved, as if involuntarily, or purposely giving hint that his guest's proximity was inconvenient just then, Captain Delano, unwilling to appear uncivil even to incivility itself, made some trivial remark and moved off; again and again turning over in his mind the mysterious demeanor of Don Benito Céreno" (697).

Delano is attuned to the unsaid without attempting to overcome its mystery by translating inconclusiveness to conclusion (over-writing the silence) or dismissing it as
unknowable (under-writing the silence). Instead, he walks upon the honeycomb-mines because he is always somewhere between these two extremes, attracted to and arrested by "secret sign[s]," "enigmas and portents," "phantoms" (752), and "imperfect gesture" (706). Delano is quite a decent witness in the end, or rather not in the end, when he arms his crew with cutlasses to subdue the slaves, but up until the end: all the while that he is responding to muteness, saving himself and Céreno and the Spanish crew and the slaves by suspending them all from having to speak the truth.

I will therefore close this chapter with a passage about Delano, since he models a responsiveness to quiet that, without asking it to come to voice, acknowledges and exposes the fact that it is there. If the Delano characterized by those instances were to write a biography about the end of Melville's life, his use of the word quiet would not translate to a speaking of the end, but a rising of what does not end, what will not be resigned, what means, like Melville's texts, slowly and unceasingly against the written pages that contain it. It might be called "The Quiet End" but it would be a meditation on "inquietude," Melville's name for the feeling of mute testimony reaching a responsive body. Here is the passage, which appears at about the midpoint of Delano's time aboard the San Dominick, and includes that term:
To change the scene, as well as to please himself with a leisurely observation of the coming boat, stepping over into the mizzenchains he clambered his way into the starboard quarter-gallery...As his foot pressed the half-damp, half-dry seamosses matting the place, and a chance phantom cats-paw—an islet of breeze, unheralded, unfollowed—as this ghostly cats-paw came fanning his cheek, as his glance fell upon the row of small, round dead-lights, all closed like coppered eyes of the coffined, and the state-cabin door, once connecting with the gallery, even as the dead-lights had once looked out upon it, but now calked fast like a sarcophagus lid, to a purple-black, tarred-over panel, threshold, and post; and he bethought himself of the time, when that state-cabin and this state-balcony had heard the voices of the Spanish king's officers and the forms of the Lima viceroy's daughters had perhaps leaned where he stood—as these and other images flitted through his mind, as the cats-paw through the calm, gradually he felt rising a dreamy inquietude, like that of one who alone on the prairie feels unrest from the repose of the noon. (704-705)

It is the very quiet that makes Delano uneasy, the very quiet that gives rise to inquietude.

The text, the testimony, before him is so mute that it nearly suffocates him. And as that "unrest from the repose of the noon," the "dreamy inquietude" rises involuntarily in the leisure-seeking Delano, he bears witness to the horrors of the imperialist history he seems not to recall in attempting to understand his situation. The "ghostly cats-paw" refers to a breeze, but, as a type of prehensile front appendage, ends up acting analogously to Babo's mute hand: it signifies but does not speak for coffins, dead-lights, a sarcophagus and in turn the nation, the actions of which ravaged without burying those transported as cargo, those who sailed the ship, and those who killed its sailors. It manifests all of these terrors while remaining mute as a ghost: it lets Delano sense without knowing that the quiet testifying to him holds life, his and others, in the balance.

"Everything was mute and calm; everything gray" is how Melville begins Benito Cereno. It is up to his readers to witness how everything is mute still.
Chapter 4. Exactly Unrecognizable: The Quiet Image in The Wings of the Dove

Concluding this project through a reading of Henry James is at once an apt and risky gesture. Apt, because the term "quiet" is an essential part of James's vocabulary, and it signifies an evident privacy close to the idea of quiet testimony I have been sketching. In the 1888 version of *The Aspern Papers*, for example, the narrator excuses his and his editor's surprise at Juliana's existence with reference to her unlikely quietude: "[I]t was a revelation to us that it was possible to keep so quiet as that in the latter half of the nineteenth-century—the age of newspapers and telegrams and photographs and interviewers" (56). "So quiet as that" refers not to a complete obliteration—"she had not hidden herself away in an undiscoverable hole; she had boldly settled down in a city of exhibition" (56)—but to a carefully construed perpetuation beneath the forces of unrelenting celebrity publicity; it is possible to approach one who is so quiet, but, as the narrator learns, it is difficult to discover or ultimately identify the significance of a life so meticulously de-emphasized.63

As my example begins to demonstrate, however, James's body of work remains distinct from the texts that I have analyzed of Emerson, Douglass, and Melville insofar as slavery, the discourse of history, and American politics seem pointedly absent. In Mark Seltzer's words, James is a "novelist who, we are told, was never tempted by the political" (13); if Emerson and even Melville have been accused as quietists,64 the critical case that James was so as well has seemed so obvious as to be not worth making.

Yet I turn to James in part because his work brings together—it seems to have inherited—several of the conceptual points sketched by those whom I read as his American predecessors. The idea that everyday life is the space of testimony and life-
altering decisions, ethically demanding even when not easily explicable, seems to be one of James's, like Emerson's, precepts. The impossibility of maintaining a discrete speaking identity, often manifested through his confidence in intersubjective consciousness, is one way that James follows Douglass. Finally, the refusal to tell stories by direct narration—his brother William called his avoidance "perverse" (Matthiessen 338)—connects James's vision of the realist novel to Melville's approach to the recording of history.

The other reason I insist on reading James is that he raises the stakes of these inheritances by asking, precisely, how it is possible to keep quiet as the nineteenth century passes its midpoint and reaches its conclusion. The reference texts for Emerson, Douglass, and Melville were hardly "newspapers and telegrams and photographs"—even if these existed in their day, what concerned the earlier writers were more conventional records: George Fox's 1694 journal; a book-compendium of research on slavery in the Caribbean; the Constitution of the United States; Amasa Delano's 1817 autobiography. As I have demonstrated, these works were not without their ambiguities, and Emerson, Douglass, and Melville brought to the fore the uncertainty with which they relayed history. Yet introducing the inaccuracy of transcription and positing the extent of its implications are two separate undertakings. James's work seems to allow that quiet testimony resides at the core of the ethical transactions that make life and writing meaningful. But he also exposes the difficulty of maintaining such a delicate core in the context of proliferating representative technologies. Once these technologies become everyday texts, they introduce the promise of absolute certainty, of objective testimony. Almost immediately, however, it becomes clear that a telegram leaves out as much information as it delivers, or that a photograph is limited by its frame and exposure.
time. Hence the very productions that to a certain extent capture reality end up revealing how much truth was still liable to escape their purview. As a result, verifying what is real and true becomes a task split between the domain of increasingly definitive proof and the realm of uncertain, intuitive belief. "Quiet" becomes allied with silence, truth, spirituality, nature, and "testimony" circulates in terms of courtroom, archive, science, fact. Keeping quiet, then, begins to depart from its association with language and edges toward an act that rejects human communication completely.

Yet this simplistic splitting, for James, does not hold. Certainly, his texts demand recourse to a realm of information that constitutes the unspeakable or not-to-be-articulated. At the edges of this realm, however—where appear the quieter figures of "hanging fire," abstract dialogue, and "pronouns without antecedents" (Rivkin 98)—are facts and ideas that lend themselves, narratively, to the logic of proof and substantiation. James's quiet references thereby distinguish themselves from ineffable silences, for they are invested with his devotion to accuracy and to truthful illustration and representation. And his engagement with the evolving world of proof—"newspapers and telegrams and photographs"—insists that it include a dimension of quiet to maintain truthfully the images it so convincingly offers. In what follows, I wish to suggest such writing crystallizes what quiet testimony must be as America grows out of the era of slavery and into the era not only of Civil but of World War.

The marking of history with war is far from accidental, for I wish to assert that James's theorizing of quiet testimony marks his ostensibly fictional, apolitical novels' engagement with the question that will be centrally political throughout the twentieth century: how can the image be employed and manipulated to galvanize support for a single, unwavering, world-dominating version of the truth? It is during James's career
that this question begins to be raised and that, accordingly, the line separating verifiable fact from fiction, reality from manufactured realism—especially with regard to the photograph's promise to the contrary—begins to bleed. And it is out of such figurative "bleeding" that millions will be attacked, wounded and killed. If James holds back, that is to say, from finally depicting the images he is most invested in delivering, it may signify an ethical response to the potential power of the propagandist's political image. If that is the case, then James's novels share a signal testimonial value with Emerson's antislavery "Address," Douglass's "What to Slave is the Fourth of July?" and Melville's *Benito Cereno*.

A New Take on the Unrepresentable

In approaching quiet in James's work in terms of the evidentiary, rather than as a manifestation of the ineffable, I depart from previous criticism on James's silences. While, unlike Melville, James's investment in silence hardly escaped his critics, the later author seems to me too quickly figured as attracted by negativity: by absence, by the inscrutable, by the unrepresentable. In the only book-length study on the subject, for instance, John Auchard's *Silence in Henry James: The Heritage of Symbolism and Decadence*, silence is read as "exceptionally powerful in the novels" (8), but its potency derives from its registration as a force opposite to the positive potential of expression and language: it indicates "nihilism," "the vacant, the void, the blank, and the dead" (3), and ultimately "anti-language" and "incommunicability" (8). While Auchard seems especially susceptible to finding silences everywhere and reading them all as signifying identically—whether "over tea or over abysses" (8)—the tendency to understand James's work as repeatedly signaling a generalized incommunicability is quite common. In
Tzvetan Todorov's analysis, "The Jamesian narrative is always based on the quest for an absolute and absent cause," and "the secret of Jamesian narrative is precisely the existence of the absence of an essential secret, of something not named, of an absent and super-powerful force which sets the whole present machinery of the narrative in motion" (145). In other words, James neglects to name things over tea because his stories surround and depend upon an abyss wherein things cannot be named. More recently, Matthew Rubery understands James's shying away from "explicit speech" (365) as allied with his production of "the subtle, demanding reading experience that would come to be recognized as modernist difficulty" (367).

Positing James as primarily invested in that which resists reading, however, summarizes too quickly the literature of a man who reread, revised, and composed illustrative, explanatory prefaces for over twenty volumes of his published works. One glance at the prefaces reveals that James's interest in silence cannot be entirely explained by an attraction to negativity, inscrutability, or difficulty: the texts minutely describe how successfully the writer recorded the impressions, images, and scenes that initially inspired him. The ideas he offers therein are iterated in terms overwhelmingly positive, as is his sense of the kind of task that representative writing is. From the first preface, to Roderick Hudson: "The art of representation bristles with questions the very terms of which are difficult to apply and to appreciate; but whatever makes it arduous makes it, for our refreshment, infinite, causes the practice of it, with experience, to spread around us in a widening, not in a narrowing circle" (1039). The idea that the art of representation is endless, but in a "refreshing" rather than terrifying way, seems, to me at least, to belie the critic's tendency to associate any vague term with a proclaimed commitment to an overall principle of unreadability.
Further, it often seems imprecise, not to mention ridiculous, to associate the silences "over tea" with the impending abyss. For example, in *The Ambassadors*, Lambert Strether refuses to disclose to Maria Gostrey which "small, trivial, rather ridiculous object of the commonest domestic use" the Newsome factory produces (97). Although "her desire for the information dropped and her attitude to the question converted itself into a positive cultivation of ignorance" (98), Miss Gostrey's "cultivation of ignorance" does not amount to a meditation on the abyss; rather, "She could treat the little nameless object as indeed unnameable—she could make their abstention enormously definite" (98). In other words, the "unnameable" is neither negative nor unapproachable; it is "enormously definite," an "object" to be used rather than a hole where an object should be.

This is not to say that "the little nameless object" is solidly knowable: we are told only that it is not to be equated with clothes-pins, baking powder, or shoe-polish (97). I wish to begin to sketch, however, how James's texts strain the representative function of language rather than compulsively employ it toward negativity. If Strether remains silent on the subject of Wollett's productions, and if this silence resonates with the similar refusal of Chad and Madame de Vionnet and Little Bilham to disclose the affair at the novel's center, these silences do not all participate in an identical crisis of reference. They do, however, test the degree to which silence can leave as unnamed what persists as "enormously definite."

*The Wings of the Dove* raises the stakes of the contest between silence and definition, for along with its interest in friendships, engagements, touring European cities, and what it takes to leave one's love—all of which resemble the concerns of *The Ambassadors*—the later novel 70 is primarily organized around its heroine's death. James
introduces Milly Theale as a woman "whose clothes were remarkably black even for robes of mourning, which was the meaning they expressed" (77), and the remainder of the novel revolves around her becoming one who elicits the mourning of others. Death has therefore been read as the novel's central and ubiquitous conceptual investment; if it would seem silly to ally the Newsome's item of manufacture to an encroaching ineffable, critics have made analogous assumptions about the omissions within The Wings of the Dove with considerably more gravity. Each silence in The Wings of the Dove, each indefinite phrasing, has been construed as raising the question of how one represents the paradigmatically elusive subject of death, especially as James does not document the condition of Milly's last days or offer a deathbed scene. Indeed, the novel seems to have become the principal one through which investigations of representation are made, not because it contains more or less silence than James's other major works, but because it contextualizes its silences with the most extreme end of articulation.

The most influential studies of The Wings of the Dove accordingly understand the novel to demonstrate the inaccessibility of death to the living (Krook 213) or language's lack of access to the experience of death. Laurence Holland asserts that the novel's failure to deliver explicit images reflect its investment in a life, and a death, that it must fail to produce. In his reading, James's "contortions of expressive movement" figure the impossibility of capturing the inspiration that drives the novel: "it acts as if its vision lay within the presence but beyond the reach of language: as if its horrors were unspeakable horrors and its beauties too beautiful for words" (320). It is in the interest of manifesting, if not delivering, this quality of unspeakability that the text is so often obscure.

Peter Brooks's reading of The Wings of the Dove treats Milly's death as paradigmatically melodramatic, which means for him that its obscurity may be
semanticized (78) to understand its significance. What the novel leaves unspoken, in other words, is an opportunity for discovering meaning. Brooks thereby refines Holland's predilection to convert contorted text to inarticulate silence. Yet if the novel's silence can be read as a language, Brooks nonetheless concludes that what it has to say is that some things remain beyond the reach of direct speech. "It is merely logical that the most 'abysmal' meanings are figured through the trope of muteness," Brooks writes, "for this provides the ultimate approach to recognitions that are so delicate, obscure, submerged that they cannot be embodied in direct statements but only gestured toward" (178).

James needs the term "abyss" because he is committed to figuring the difficulty of articulating ideas that seem to stretch or subvert, rather than fit, the bounds of denotation. Hence the idea that silence speaks, for Brooks, turns out to mean something quite close to the presumption that it does not, for in both cases the text represents an impotence.

More recent criticism has rejected the idea that James indicates the challenge of representing an extreme vision that strains common habits of speech. Instead, the terms of psychoanalysis have been mobilized to propose that James's abysses concern the writer's response to a fundamentally unrepresentable reality. For Kenneth Reinhard, the very premise of Milly is an ever-withdrawing object, and so in describing her death as well as her life James can only convey "the truth of Milly's absence," not "offer any representational consolation for it" (119). Milly signifies what remains wholly other, an ungraspable concept, which in Reinhard's reading explains the text's emphasis on inscrutable descriptions. Echoing this idea, Sigi Jottkandt has proposed that the novel's central question is "What is the ethical response to the unrepresentable?" a term by which she includes not only Milly's death but the broader "relationship of language to the unspeakable trauma" (45). It is in order to maintain this relationship that Jottkandt reads
James as shrinking from direct images; language fails to represent traumas, both great and small, in order to protect itself from the overwhelming dissolution an accurate vision would produce. In sum, for Reinhard and Jottkandt, as for Holland and Brooks, James needs the abyss in order to demonstrate the impossibility of the premise of representation on which his novels nonetheless rely.

I do not argue with the idea that "abyss" is a central term in James's late novels—"Lord, what abysses!" (Ambassadors 98) might in fact be a nice summary of some of their dialogic exchanges—but in what follows I will assert that James's engagement in the work of representation is by no means entirely explained by a desire to offer language's void. While I read the writing of Milly's death as The Wings of the Dove's key challenge, the idea that it serves to fundamentally figure the ineffable seems to me not quite to belong to James. If the text is aware that language does not assure communication, it is equally cognizant of the fact that representation does, to an important extent, work. This is not to say that James believes that a word transparently offers its referent, or that a speaker determines how he or she is to be understood, but his novel is certainly invested in conveying through text an accurate impression of the world. He harbors a concern for the solid, evidentiary, testimonial. Together with the novel, the preface to The Wings of the Dove as well as "The Art of Fiction" demonstrate that the ability of language to successfully signify something is as crucially relevant to him as the fact that it is also difficult to do so. In my analysis, The Wings of the Dove pursues how an idea of death can be made to meet James's criteria of the accurately represented: not how the image evades the page, but how it reaches it.

The preface to The Wings of the Dove considers this very process of development. James acknowledges the distance between the "image" or the "picture" (1287) from
which the novel originated and its final form: "to retrace the [first imagined] way at
present is, alas, more than anything else, but to make the gaps and the lapses, to miss, one
by one, the intentions that, with the best will in the world, were not to fructify" (1294).
Yet what is startling is that the mournful "alas" exists simultaneously with the image of
the actual novel as, precisely, actual: not a sinking failure but a physical bridge: "yet the
bridge spans the stream, after the fact, in apparently complete independence of these
properties, the principal grace of the original design. They were an illusion for their
necessary hour; but the span itself, whether of a single arch or of many, seems by the
oddest chance in the world to be a reality" (1295). As J. Hillis Miller points out, although
the exchange among design, illusion, and span may seem implausible, James's point is,
unmistakably, "that the substitute is usable. It bears weight. The reader can get from
here to there across it [. . .] [T]his foundationless bridge serves its purpose" (164).

James's sense that his text, although not a manifestation of an original idea, still
conducts the reader somewhere that she could not have approached without it, is for
Miller connected to James's self-proclaimed "historic" approach to his work throughout
the prefaces (158-159). In that of The Golden Bowl, James regards his work "[a]s the
historian of the matter sees and speaks" (1329), treating the explicit "history" of his work
(1332-33), and asserting that it, like history, bears minute assessment of its plausibility.
Yet the proposed coincidence between the work of the fiction writer and the historian is
even more explicitly theorized in "The Art of Fiction." In that earlier essay, James
asserts, "The only reason for the existence of a novel is that it does attempt to represent
life" (46), and any apology to the contrary belies the sense in which "the novel is history"
(46):
It implies that the novelist is less occupied in looking for the truth (the truth, of course I mean, that he assumes, the premises that we must grant him, whatever they be), than the historian, and in doing so it deprives him at a stroke of all his standing-room. To represent and illustrate the past, the actions of men, is the task of either writer, and the only difference that I can see is, in proportion as he succeeds, to the honour of the novelist, consisting as it does in his having more difficulty collecting his evidence, which is so far from being purely literary. (46-47)

It is clear that James is not confused about the distinction between the historian and the novelist, for the latter must be "granted" "the truth [. . .] that he assumes," while there is no such grace for the former. Nonetheless, it is striking that the task of both writers consists in collecting evidence, evidence which in the novelist's case is "so far from being purely literary." The "purely literary" appears to connote in this context a world wholly imaginary, without a real-world referent, one which would be a relevant if not determinate aspect of the novelist's trade. Despite this literary dimension, however, James insists that the novelist's work is still to seek the truth and represent the past through the collection and display of evidence, or, as it will often be called in The Wings of the Dove, "proof."

James never disregards the act of imagination, of seeing and re-vising, particular to literary writing. Both his essays and his fictions, as well as his notebook entries, are replete with instances of trying out an idea in order to "see" it and assess whether it spans the stream, as it were, or bears revision, an act that constitutes a certain approach to history but that also allows for the subsequent alterations in reference (the resitution of the bridge) that history may not. 71 It is with this literariness, then—impure as it may be—that the novelist still converges with the precepts of the historian; it is as a writer of fiction that he is nonetheless devoted to the invocation and establishment of the parameters of verification for "the truth."
A Series of Proofs

What does it mean to insist that the fictional be subject to principles of verification? While *The Wings of the Dove* on the one hand seems to work precisely insofar as certain elements of the plot cannot be verified—the nature of Milly's illness, for example; whether Milly suspects that Kate returns Densher's love before Lord Mark informs her; the content of that latter as well as several other key interviews; and of course the scene of Milly's death—the text seems, on the other hand, preoccupied with the process of determining what can be understood as factual. Balancing its attraction to the unsaid, then, is an equal admiration for how the said comes to be established as such, how it is "proven" for the purposes of the narrative. That the said be correlated to facts of the "real world," "outside" the novel is never proposed: in question is not an interest in establishing that a scientific disease explains the trajectory of Milly's health or discerning what, as it were, Milly knew. But in order for the characters to function in a world wherein things are not always named, recourse to proof essentially establishes how they understand the truth of their situations. Even when such truth amounts to a complex lie, it remains important to discern the extent to which its contours may be proven—may be, as Densher puts it, "converted from a luminous conception into an historic truth" (312).

Indeed, the key silences that set the novel's plot in motion are circumscribed by their establishment as, in Maria Gostrey's words, "enormously definite." If the text relies on these silences, that is to say, it is self-aware of the particular information it omits, and it allows its characters to reason their actions according to the evidence and proof they can collect about these things that they do not know. The characters accordingly discuss what appears to be absent as if it were positively actual, not as if they were subject to
abysmal forces that threaten their ability to act at all. For instance, one of the novel's first assertions that certain things will remain unsaid is the description of Kate's father, Lionel Croy, as having "marks of what they called the 'unspeakable' in him" (28). These marks extend in two directions: first, Croy systematically conceals his actions, his health, and his future plans: "He might be ill and it might suit you to know it, but no contact with him, for this, could ever be straight enough. Just so he even might die, but Kate fairly wondered on what evidence of his own she would some day have to believe it" (23). Although Kate acknowledges that he never offers information in a form "straight enough," she concerns herself with what would, therefore, constitute evidence of the extreme situation of his death. She does not reason, then, that because he is a liar any evidence he offers must be disregarded; rather, she wants to preserve the workings of the concept of evidence despite the limitations her father places upon it.

Kate meticulously documents her collection of evidence with regard to the other dimension of her father's connection to the unspeakable: the content of his actions that brought the family dishonor (55). While Densher assumes that the actions were terrible but known—unspeakable for their badness but not impossible to pronounce—Kate assures him that she is unable to disclose what they were: "I don't know—and I don't want to. I only know that years and years ago—when I was about fifteen—something or other happened that made him impossible" (56). Despite Kate's not knowing what the something was, however, she explains to Densher that she translated the family's general silence on the subject, and her sister's sudden apprehension that "Papa has done something wicked" (56), into her certainty that he had acted shamefully. When her mother tells her, "If you hear anything against your father—anything I mean except that he's odious and vile—remember it's perfectly false," Kate understands her utterance as a
confirmation that an "anything" exists: "That was the way I knew it was true, though I recall my saying to her then that I of course knew it wasn't" (57). Kate continues to assert her knowledge:

No one has so much as breathed to me. That has been a part of the silence, the silence that surrounds him, the silence that, for the world, has washed him out. He doesn't exist for people. And yet I'm as sure as ever. In fact, though I know no more than I did then, I'm more sure. And that,' she wound up, 'is what I sit here and tell you about my own father. If you don't call it proof of confidence I don't know what will satisfy you. (57)

Kate's certainty overrides Densher's journalistic conclusion: "It's so vague that what am I to think but that you may very well be mistaken?" (57). In fact, the vagueness traces for her the contours of her father's past, in part because it verifies the degree to which his infamy has demanded public discretion, but also because the silence seems, over time, to crystallize the literally "unspeakable" as a definite force.

As the novel develops further its signal circumstances—Kate's desire to marry Densher in spite of her aunt's objection and their poverty; Milly's encroaching illness; Milly's initial lack of awareness of her friend's relationship with Densher, followed by her certainty that some involvement exists; Milly's own understated interest in the man; Kate's idea that Densher make love to Milly and, upon her death, inherit her fortune—the process of converting withheld information into proof will be complicated, but it will not be abandoned. Milly's invitation to Kate to accompany her on her first visit to the doctor, Sir Luke Strett, responds to Kate's silence on the subject of Densher: "She had wanted to prove to herself that she didn't horribly blame her friend for any reserve" (142). Yet Milly's approach is to "prove" her lack of blame by initiating Kate into her own pact of silence about her failing health—about which "we won't talk, precisely" (141)—so that the two silences are combined as unspeakable subjects, an amalgamation Milly
understands as perfect: "what better proof could there be than this quite special confidence?" (142).

Milly does not habitually manufacture such proofs; after her visit to the doctor, for example, her logic is closer to that of Kate's, outlined above, insofar as she "thought and thought as she put together the proofs that it was as one of the weak that he was treating her," even as her "proofs" consist in the fact that "he hadn't after all pronounced her anything" (154). Yet the fact that Milly is motivated by her friend's reserve to procure reserve on her own behalf introduces the dangerous situation in which Milly fails to confront the lie that will kill her because she is invested in protecting the truth about her health. In other words, once one silence "proves" the acceptability of another, a lie by omission may be just as easily read as a proof of "quite special confidence."

As the novel progresses, Densher understands that this is the opportunity that Milly has left open to him: as long as he does not indicate that he is aware of her illness, he need not make evident the misperception that he is perpetuating, and his silence will be understood to certify their intimacy. Hence when Milly says to him that she'd "do anything for Kate" (232), he wants to assure her that he agrees without exposing how far he has gone for his betrothed, and therefore, "The proof of the truth in question was precisely in his silence; resisting the impulse to break out was what he was doing for Kate" (233). By not explaining the "anything" that he is presently doing for Kate, Densher proves that "anything," an act that is only possible because his silence is read by Milly as obliging rather than avoiding her: "Strange enough therefore was it that he could go too far—if it was too far—without being false [. . .] The silence, if prolonged but an instant, might even have given him a sense of her waiting to see what he would do" (233).
It is concurrent with his taking advantage of Milly's willingness to wait, however, that Densher begins to become concerned about the ever-widening realm of silent proofs that allows him to do so. He is a journalist, after all, and it is he who will insist that transactions taking place under the sign of "proof" be separated from those in which "pure historic truth" might "suffer a slight strain" (292). Aiming to halt the certification of reserve that, he senses, impedes and falsifies rather than yields the intimacy it promises, Densher forces the novel to produce Kate's explicit invitation—"If you want things named you must name them"—and his own disturbing response: "Since she's to die I'm to marry her?" (308). Densher's register of proof consists in obvious enunciation, and it insists as well on acts with verifiable historical consequences. What he "call[s] proof," as Kate discovers, is "Your doing something for me" (293), a something that amounts to the loss of her virginity. Although he proposes the act as remuneration for his attention to Milly, Densher later asserts that he ought to offer Kate an action similarly concrete: "since we talk of proofs—I want to give you one. I've wanted to let you see—and in preference even to myself—something I feel as sacred" (393), Milly's final letter to him. Insofar as Kate's "doing something" remains to a certain degree hidden, Densher's offering of the letter aims to qualify their relation as even more emphatically established; sharing the text, he seems to imagine, will reverse the sharing of the unspeakable and will prove their intimacy without the threat of omission, reserve, or lie.

But the novel, it seems, cannot present this last, clear proof, this final naming of names. Kate throws the letter into the fire, and Densher devotes himself to the fact that he "should never, never know what had been in Milly's letter" (398). Instead of reading the shared text he sought, Densher can only listen to its lost possibility:
it was like the sacrifice of something sentient and throbbing, something that, for
the spiritual ear, might have been audible as a faint far wail. This was the sound
he cherished when alone in the stillness of his rooms. He sought and guarded the
stillness, so that it might prevail there till the inevitable sounds of life, once more,
comparatively coarse and harsh, should smother and deaden it—doubtless by the
same process with which they would officiously heal the ache in his soul that was
somehow one with it. It moreover deepened the sacred hush that he couldn't
complain. (398-99)

Although the destroyed letter resonates as a "sound," it fails to articulate Milly's last
response to Densher's reserve on the subject of his engagement, so that if the "faint far
wail" is not quite silent, it functions much like the silences that, earlier in the novel,
proved one's commitment. In other words, Milly's dying wish, the meaning she gave to
her death, is converted into an image of quiet—or of a disquieting quiet, not unlike the
sound apprehended by Captain Delano on the deck of the San Dominick.

The question generated by this last failed proof demands consideration as the
endpoint of a progression toward increasingly historical proofs: why does the novel turn
away from completing its sequence with a perfectly rendered proof of Milly's dying
thoughts? In the trajectory I have traced, the text's key elements become more and more
explicitly rendered as the plot progresses, until, with only a handful of pages remaining,
its final image portrays a nearly illegible sound. To insist that the "faint far wail"
crystallizes "language's failure to completely represent the whole" (Jottkanndt 84) begs the
question of why language fails when James's criticism, and his novel up to this point,
insist that the text only succeeds to the extent that language—even "the unspeakable"—
does represent the whole.

One approach to this question divorces information connected to Milly's death
from the trajectory of proofs; in Sharon Cameron's argument, for example, death exists
on a conceptual register precisely oppositional to that of the proof: "[D]eath is the test
case for the power which James assigns to thinking. Death is the one subject about which there is nothing to think. Death has no assimilable content" (158). Yet as Cameron points out in a footnote, James's response to his cousin Minny Temple's death utilizes metaphors of concreteness: "She lives as a steady unfaltering luminary in the mind rather than as a flickering wasting earth-stifled lamp," he writes to William, "[... ] her image will preside in my intellect, in fact, as a sort of measure and standard of brightness and repose" (Matthiessen 262). Minny has become more steady and more bright in her death, even as James next dismisses his figurations as still too indirect in the face of death's finality: "While I sit spinning my sentences, she is dead: and I suppose it is partly to defend myself from too direct a sense of her death that I indulge in this fruitless attempt to transmute it from a hard fact to a soft idea" (262). If James's ideas are too soft, it is, crucially, because he wishes to shield himself—not because the event holds such magnitude or otherness that he cannot write it as a "hard fact." Indeed, he labels his indulgence in images a "fruitless attempt" to make that hard fact any softer, which is to say that the writing is no more than a diversion from the concrete reality that insists on its sole accuracy. James's problem is not that he cannot represent the death, but that he cannot, in spite of his delicacy, not represent the death. He berates himself for picturing obliquely what nonetheless remains "steady" and "unfaltering."

While James's personal letter may seem an unreliable source upon which to stake an argument about the representation of death in his novel, several of his shorter tales are focused on providing a "hard" image of the dead. "The Altar of the Dead" (1895), for instance, traces how George Stransom resolves to "do something" for the dead, who "were there in their simplified intensified essence, their conscious absence and expressive patience, as personally there as if they had only been stricken dumb" ("Altar"). "John
Delavoy" (1898) turns on a portrait of the eponymous dead writer, "the only representation of the sort in existence" ("John"). "The Turn of the Screw" (1898) offers minutely rendered pictures of the dead servants and closes as Miles's heart stops beating. And in "The Friends of the Friends" (1896), which constitutes a shadow-story for The Wings of the Dove and which I will analyze in detail below, a woman dies by appearing as a perfect representation, a complete image. None of these tales figure death as essentially unrepresentable. All of them, indeed, extend the logic by which Kate converts her father's unspeakable actions into silent proofs, insofar as they convert the ostensibly absent dead into images which, if not always entirely informative or credible, undoubtedly circumscribe entities that "make themselves felt in life" (Lewis 46). Yet in "The Friends of the Friends," the logic by which Densher insists on increasingly historic proofs is also taken to its furthest extreme. The text that results suggests how The Wings of the Dove may be read as retreating from its final image of death—not in order to offer it as unrepresentable, but in order to maintain it as representable, as part of the spectrum of evidence and proof that the Jamesian novel comprises.

"Simple and scrupulous black"

Although James does not seem to have acknowledged the similarities between "The Friends of the Friends" and The Wings of the Dove, his notebook entries sketching the two stories date from the same general period, 1894-1896, and contain several common impulses: the idea of a love affair complicated by the intrusion of death, the possibility of deception, the triangle composed of two women already in relation who also relate intimately to a single man. It is the idea of being "faithful to the image of the dead" (Edel and Powers 103) that, however, most precisely expresses the stories'
similarity. Whereas James's emphasis in sketching *The Wings of the Dove* is on "some young creature [. . .] who, at 20, on the threshold of a life that has seemed boundless, is suddenly condemned to death" (102), and for "The Friends of the Friends" on "the idea of *Too late*—of some friendship or passion or bond—some affection long desired and waited for, that is formed too late?—I mean too late in life altogether" (112), both entries are ultimately concerned with the possibility of devotion to one who can no longer participate in a mutual relation. Hence the text focused on the novel hypothesizes a situation that aptly describes the ultimate gesture of the tale: "'Give it to her and let her die'—that strikes me as sufficiently second-rate. Doesn't a greater prettiness, as well as a better chance for a story, abide in her being already too ill for that, and in his being able merely to show her some delicacy of kindness, let her think that they might have loved each other *ad infinitum* (if it hadn't been too late)" (103).

"Too late" will become "after death" in both texts, which significantly complicates what it means to "show her some delicacy of kindness." Yet such exhibition still seems to drive the concluding sections of each work: in *The Wings of the Dove*, via Densher's cultivation of the "faint far wail" of Milly's unread letter, and in "The Friends of the Friends," as I will explain, via the male character's continuing to "see" the one for whom he was too late even after she was dead, perhaps to the extent that he later commits suicide in order to be with her. What seems to be at stake in each case, for James, is not only the demonstration of how one proves his devotion to the dead, but how that dead referent continues to signify, and how the other, live woman involved collects evidence of her unexpected rival's existence. In other words, James is not invested in establishing abstractions that will gesture toward the negativity of death, but in offering "the image of
the dead" that sensibly functions, that renders death in text with such precision that it
breaks up marriages—and ultimately narratives.

"The Friends of the Friends" is narrated by a woman with two friends, referred to
only as He and She, the former of whom she will engage herself to in Chapter III. The
tale begins with her recommendation that the two friends should meet, for they have
shared "a strange adventure" (184) in their youth: "she had had a vision of one of her
parents at the moment of death"—she comes to be known as "the one, you know, who
saw her father's ghost" (185)—and, "As for him, dear man, he had seen his mother's—so
there you are!" (185). This premise comes to be considered only initial, however, as the
two are discovered to have much more in common—"the same ideas and tricks and
tastes"—and one "great sameness": "their rare perversity in regard to being
photographed. They were the only persons ever heard of who had never been 'taken' and
who had a passionate objection to it. They just wouldn't be—no, not for anything one
could say" (189).

The plot hinges upon the narrator sabotaging a plan for their meeting that seems
likely to succeed: the narrator, in fact, had arranged it especially at her home, but
"grow[s] nervous" (190): "It wasn't jealousy—it just was the dread of jealousy" (192).
The She character comes, dressed for the mourning of her ex-husband, and has the
chance, through the photograph, to come "nearer than she had ever done to seeing him"
(191); the He character is delayed through a pretense. The narrator is later overcome
with guilt, confesses to her fiancé, and travels the next morning to apologize to her friend,
whereupon she discovers that the woman had died the previous night. What emerges,
however, is that, after leaving the narrator's home the previous evening, the He character
had returned to his office and seen the She character: "She came just to see me. She
came—after what had passed at your home—so that we should, nevertheless, at last meet" (199). While the engaged couple cannot absolutely determine whether the friend would have had time to make such a detour and arrive home at the time of her death, because her appearance was a silent one—"She said nothing," the He character reports, "She only looked at me as I looked at her" (200)—He believes that she had made him her last action on earth, while the narrator comes to insist that he had seen, and ultimately continues to see, a ghost, as he had, years ago, his mother's.

"The Friends of the Friends" at first seems typical of James's ghost stories insofar as the woman's appearance has consequences that may be, but need not be, explained through reference to the supernatural. Yet the She character's image is concretized such that, if it does not prove her ghostliness or reality, it does determine the extent to which one character's vision can be offered, within the confines of fiction, as evidence to another. When the She character appears at the narrator's home for the meeting that will not take place, the narrator notices that, "she wore mourning—no great depths of crape, but simple and scrupulous black. She had in her bonnet three small black feathers. She carried a little muff of astrachan" (194). Later, when the narrator tries to ascertain exactly what her fiance has seen, her inquiry as to how the She character was dressed yields a nearly identical response: "In mourning, my own dear. No great depths of crape, but simple and scrupulous black. She had in her bonnet three small black feathers. She carried a little muff of astrachan" (203). While it has been remarked that James's characters all sound somewhat alike, this particular duplication is to my knowledge unprecedented. It suggests that the image seen by the narrator and that seen by her fiance was exactly the same, and more than that: it suggests that the image warrants no
distinction of personal vocabulary, that it exists only insofar as it may be referred to in the single formulation of those words.

If there can be no difference in the two iterations, then the She character cannot be understood to appear as an image that is subsequently described. Rather, she appears only as, or always already as, the particular lines that mark her dress. The She character is, then, a single image that yet has no first, primary appearance, no "original"; she is the same every time, which is to say a copy every time. In other words, the She character appears to both of her witnesses as a photograph: as a representation that promises to document a singular occurrence, but, in allowing such occurrence to be endlessly reproduced, makes of the singularity a relative irrelevance. She has not been taken, as she feared; she has been transformed. As a result, the other characters have only a photograph, and although each wants to argue for the distinction of his or her visit, the evidence they share prohibits such a possibility.

That she appears as a photograph does not constitute the text's judgement on the question of her death in the terms that the two characters are debating it: was she alive or dead? Rather, the photographic appearance suggests that as soon as the image appears as one that may be absolutely shared, exchanged without variation, the image becomes at once monstrously powerful and terrifyingly passive, for the identical reason that it cannot be "taken" except in the single sense in which it exists. It can neither be displaced nor overwritten nor argued with nor resurrected, which means that it is at the same time too alive and too dead.

The engaged couple of "The Friends of the Friends" thus seem to share a proof never extended to the several couplings of *The Wings of the Dove*. For the characters of the tale, however, the perfect communication that would seem to promise confidentiality
instead disturbs it irreparably. As soon as they exchange a verbal version of photographic proof, the general language that they share becomes a particular phrasing to which they are both tied, and neither can make his or her personal experience available to the other as anything but that one image. Hence for the narrator her own experience was life and her fiancé's was death; while for him, "It was life—it was life!" (204), another repetition that fails to make real the "original" image it wants to express. The narrator, sensing the He character's continued devotion to the dead woman's image, breaks off the engagement and, upon his death six years later, "distinctly read an intention, the mark of his own hidden hand. It was the result of a long necessity, of an unquenchable desire. To say exactly what I mean, it was a response to an irresistible call" (211). Saying exactly what one means is precisely the premise that has been denied in "The Friends of the Friends," denied because of the image's literally irresistible call to which one can only ever respond with absolute fidelity.

In accomplishing the perfect proof, a construction of evidence with which not even a historian could argue, James destroys his lovers' potential marriage. But he also exposes exactly how far the novelist must depart from "being purely literary" in collecting his evidence. For while a pure literariness might seem aptly to describe the presumably imagined but "unspeakable" proofs deployed in The Wings of the Dove, "The Friends of the Friends" is the work that takes literary evidence to its furthest, purest extreme: language becomes in that text ideal image, without any "original" or "real" reference point beyond it. The effect of such purity is the loss of the representational on which James's argument for fiction is based. Without representation and illustration of "the past, the actions of men," the novelist loses his occupation of "looking for the truth," which means that it is only when language is, simultaneously, at its most evidentiary and
most literary that it resembles a drive toward negativity. Crucially, however, there is no original negativity that the novelist is aiming to offer; the emptiness consists entirely in the two dimensions of the photograph or the printed page, and it is in the absolute perfection of signification, rather than an admission of signification's impossible principle, that the difficulty of the novelist's task arises.

"The Friends of the Friends" may therefore be understood to reframe the impetus toward proof in *The Wings of the Dove*. That the novel seemed to turn away from the presentation of Milly's death as its culminating proof may in fact be the means through which the text preserves the concepts of both death and proof. Placing silence in proof's space functions to maintain the novel as documentary insofar as representational.

If *The Wings of the Dove* raises a question about the ethics of representation, then, it is not Jottkandl's—"What is the ethical response to the unrepresentable?" (45)—but precisely the opposite: What is the ethical response to the representable? In the context of "The Friends of the Friends," what might be termed "the unrepresentable," the unchanging photographic image, bears no ethical response insofar as it bears no response at all: it consists only of repetition, the absence of representation rather than the offering of the abyss. The representable, on the contrary, is where the novelist's investment in "looking for the truth" lies, and it poses an ethical question because it demands a fidelity, a mechanism of proof, that yet falls short of a complete and immediate, a photographic, recognition. To show the truth too exactly entails losing the truth one was to show; but to show only the possibility of loss is to refuse the art of the novel.
Matcham's Match

A novelist's evidence, to risk a mixed metaphor, must be for James more silent than photographic—but of course not so silent that the representational impulse is obstructed by language that is too vague, offering only an abyss instead of "the actions of men." But what does it mean to write a story that is more silent than photographic, or that balances silence and photograph in an accurate insofar as imperfect proof? In *The Wings of the Dove*, the several references to proof form a trajectory through which images of reality become increasingly verified until they return to an iteration of meaning through silence. Yet the novel also offers scenes more explicitly focused on the presentation of an image that approaches the promise of photographic exactitude yet hangs back from accomplishing a completely recognizable picture. Two key examples suggest Milly contemplating death in such a way that avoids the collapse that marked such consideration in "The Friends of the Friends."

The first example I offer actually occurs later in the novel, but its import is somewhat more circumscribed and therefore presents a more appropriate introduction. Waiting to see Sir Luke Strett on her first visit to him, Milly considers her future in reference to his wall of mementos:

She should become intimate with the great bronze clock and mantel-ornaments, conspicuously presented in gratitude and long ago; she should be as one of the circle of eminent contemporaries, photographed, engraved, signatured, and in particular framed and glazed, who made up the rest of the decoration, and made up as well so much of the human comfort; and while she thought of all the clean truths, unfringed, unfingered, that the listening stillness, strained into pauses and waits, would again and again, for years, have kept distinct, she also wondered what she would eventually decide to present in gratitude. (146)

The last clause contextualizes Milly's survey of the scene; she considers how an object will ultimately, presumably after her death, represent herself. The implication that Milly
must discover just the appropriate gift, as well as the items—clock, ornaments, and portraits—that prompt her thinking tend undoubtedly toward the concrete: all of the objects under consideration are substantial, solid tokens. Yet the most explicit image the text offers is clouded by the generalities with which it does so: there is the possibility that Milly will become a photograph, but no description of the images, within the noted frames, she would thereby accompany. The "eminent contemporaries" are "photographed, engraved, signed, and in particular framed and glazed," adjectives which fail to make evident the faces or bodies that have been so captured. Hence if Milly's death is imagined as potentially represented by one of these pictures, it becomes an object without a subject, an image of absence, or, in a synesthetic move of James's own, of silence, framed: the "listening stillness" preserves as a glaze that holds "all the clean truths" suspended in its "pauses and waits." The text does not imply that the truth amounts to silence—that clean truths are equivalent to pauses—but it does figure the former as dependent upon the latter as a condition. "Unfringed, unfingered," it is if the truths have been kept thanks to apparently empty specimen jars filled instead with silence.

This preliminary imagining of Milly's death resonates with the representation of her memory that will occur in the stead of Densher's realization of the perfect proof.}

What he cherishes similarly appears as a concrete "it" that bears no description but "something that, for the spiritual ear, might have been audible as a faint far wail": "Then he took it out of its sacred corner and its soft wrappings; he undid them one by one, handling them, handling it, as a father, baffled and tender, might handle a maimed child" (398). What Densher unwraps, what he discloses from its "frame," just approaches an image—the maimed child—but it does so only in an adverbial analogy, describing his
handling rather than his object, and quickly shifting to a metaphor of silence: "He sought and guarded the stillness, so that it might prevail there till the inevitable sounds of life, once more, comparatively coarse and harsh, should smother and deaden it" (398). If Milly's death has become, for Densher rather than Sir Luke, a "present of gratitude," it is as a clean truth, suspended in silence, that he is trying desperately to keep in its framed and glazed state.

But this perhaps helps to explain how Densher's ceaseless search for proof goes wrong, for he attempts to maintain the idea of Milly's unread letter as a perfect image, as an object threatened by "the inevitable sounds of life" rather than preserved in "the listening stillness, strained in pauses and waits." He memorializes her death as a sound to be "cherished," an aural photograph that repeats, always, the same note and which must not be permitted to fade or vary. By contrast, what Milly perceived in the doctor's office was kept by the inevitable everyday silence and was "unfingered": never wrapped nor unwrapped. Milly's picture of her death remains an incomplete image, whereas Densher seems to desire the appearance of death-as-photograph that marked "The Friends of the Friends."

My second key scene does not contain a photograph but has been far more widely considered as an indicator of Milly's, or James's, vision of death: the viewing of the Bronzino at Matcham. I want to argue, however, that the text to a crucial extent denies the portrait's legibility, and that it offers a linguistic rendering of the impossibility of reproducing the image that exactly opposes the duplicated speech of "The Friends of the Friends." That the image fails to be reproduced does not mean that it is unrepresentable—the failure, rather, is necessary because the portrait is itself a representation, and representing it again threatens complicity with the photographic
repetition that ultimately denies the representative function of fiction. It is in order to halt such a duplication that Milly utters the words she does upon seeing the portrait, and that the novel clarifies how death may be preserved in a silence that nonetheless serves the writing of a fictional past.

The idea that Milly "was the image of the wonderful Bronzino" is framed as a proposition from Lord Mark for which she requires "some evidence" (135). The portrait's first mention thus establishes a relationship of reproduction wherein Milly reflects what is already assumed to be a reflection: the portrait is an image, and she an image of that image. The evidence that Mark is eager to supply is the portrait itself, but since he sets out to prove to Milly that she is an image, the encounter is framed by the supposition that she can serve at once as arbiter and object, the person assessing the likeness and the person embodying the likeness. The position in which he places her is thus dual, but it is not solely that of a double. When Milly actually confronts the portrait, her body repeats the dual positioning that yet resists duplication: "she found herself, for the first moment, looking at the mysterious portrait through tears. Perhaps it was her tears that made it just then so strange and fair—as wonderful as he had said" (137). As Cameron points out, the tears "appear not quite to be generated by [the portrait]. In fact, they are themselves looked at by Milly [. . .] as a vision in their own right" (127). If the tears serve as a "vision," or an image, in their own right, they divide Milly's eyes analogously to the way Mark has divided Milly: into objects that both see and contain an object to be seen. Yet tears are also, by nature, glassy and reflective; they produce an effect of glazing the eyes even as they are hypothesized to glaze the portrait by making it seem "so strange and fair." The text thus divides Milly's eyes once more, as they become what is "in particular framed and glazed" even as they frame and glaze the portrait.
These divisions anticipate the failure of Milly to coincide with the portrait even before that image is described for the reader. As soon as she is engaged in a process of "being" the image, she ceases to bear static observation; assumed to be an object reflected, she becomes as well a reflective medium, a subject who thinks. But the tears also insist that she becomes a reflective medium in the sense that she becomes a body that reflects what is before her and thereby threatens to dissolve the identity of the self that was previously supposed. Thus when the text finally describes the portrait, the effect is not as if Milly were looking at a mirror but as if she herself were the mirror, showing her audience an object that may displace but does not repeat her:

Perhaps it was her tears that made it just then so strange and fair—as wonderful as he had said: the face of a young woman, all splendidly drawn, down to the hands, and splendidly dressed; a face almost livid in hue, yet handsome in sadness and crowned with a mass of hair, rolled back and high, that must, before fading with time, have had a family resemblance to her own. The lady in question, at all events, with her slightly Michael-angelesque squareness, her eyes of other days, her full red lips, her long neck, her recorded jewels, her brocaded and wasted reds, was a very great personage—only unaccompanied by a joy. And she was dead, dead, dead. (137)

This image of the "dead, dead, dead" stands in remarkable opposition to that of the "The Friends of the Friends," where the She character was only visible as a reproduction with no original. Here, James draws attention to the fact that the portrait is a representation: it is "all splendidly drawn"; her jewels are "recorded"; she was "a very great personage."

Yet James also draws attention to the fact that his text is a representation of that representation—not, as Lord Mark may have liked, because it doubles the portrait but, following Milly's division without duplication, because it reflects without repeating it.

This is why it is not clear whether it is the hair or the brushstrokes meant to portray the hair that have "fad[ed] with time," or whether the "eyes of other days" belong to the woman who sat for the painter or to the canvas that currently offers her, or whether
the "wasted reds" have a lost fortune or centuries of humidity exposure to blame. The ambiguity only arises insofar as it demonstrates that the narration is involved in an act of representation—an act that doubles rather than repeats the act of representation that is the portrait itself. If the text is expected, like Milly, to both be and to provide the evidence of Matcham's match—to show the painting and to show its coincidence with its character—then it becomes, like her, a reflective medium that yet makes evident its own architecture of reflection.

What is at stake for Milly is also what is at stake for the novel: if she becomes an image, she becomes "dead, dead, dead": the triplicate indicates the fact that she becomes a single entity that will only suffer reproduction, not an "original" with the ability to reflect and mirror. By the same token, if the novel fails to exhibit its representational function, it collapses into a photograph that can only repeat death—"dead, dead, dead"—rather than making death something worth reading about. The object "dies" in the photographic text not only because the image "takes," in the sense of "The Friends of the Friends," and replaces life with a static, immortal moment in time, but because it ceases to be subject to articulation once it has been perfectly captured. The meaning of photographic text may be subject to debate within the context of the story, as in the case of the engaged couple's arguing over whether the image they shared was life or death. But the novel cannot refine its vision, cannot engage in re-vision, once it has crystallized its object in a representation so precise as to seem like life—or death—itself.

Of course, the danger of replication does not mean that the novelist gives up the project of representation to offer only abysses. Nor does it mean that the novel only represents imperfectly because its object is unrepresentable. The problem with death is that it lends itself too readily to the representational image that kills it—dead becomes
"dead, dead, dead" with every photograph; the novelist has only to present an image with unwavering accuracy to refuse it its representational existence and to make it part of an irredeemable past. It is in this context that incorporating silence into the photograph becomes a tactic as much as a trope, because the exposure of death amounts to an articulate illustration that stops just short of the words that could complete it. The silence represents exactly by refusing to represent exactly.

Indeed, this is precisely the gesture that the text makes on Milly's behalf, that it uses to enable the life of both character and novel. What follows the assessment that "she was dead, dead, dead" attempts to convert the photographic insistence into a more silent articulation: "Milly recognized her exactly in words that had nothing to do with her. 'I shall never be better than this'" (137). The idea that "Milly recognized her exactly" approaches a perfect, and therefore perfectly murderous, representation; it is as if Milly has had the experience of the couple in "The Friends of the Friends" of beholding an image about which there can be no mistake. The phrase thereby veers dangerously close to losing the representational distance that separated Milly—and the text—from the portrait it includes. But because Milly's exact recognition takes place "in words that had nothing to do with her," she averts the end of her fictional predecessor. If the words have nothing to do with her, then they do not create of her a photograph: they work to recognize, and to recognize exactly, but not to replicate. They instead deliver an image that is overtly made out of text and that includes, as a result, the ambiguities of that representational medium. The very fact that the the second "her" seems to refer to the woman in the portrait raises the question of whether it more precisely refers to the woman who sat for the portrait or the figure who is portrayed there, not to mention the possibility that "her" could also refer, grammatically, to Milly. The text is silent as to
which reading provides the exact recognition it promises—and this is how it recognizes exactly without collapsing into one two-dimensional image the view of Milly, and of the portrait, and of death, it offers.

That single sentence thus summarizes the shift that occurs between "The Friends of the Friends" and *The Wings of the Dove*: a move from an exact recognition to the realization that such exactitude, accomplished in words, must remain inexact if it is to be valuable. The shift resounds beyond these closely linked works, however. A detail from Jonathan Freedman's reading of the ending of *The Portrait of a Lady*, for instance, provides an almost analogous formulation. For Freedman, James's refusal of "the consolation of closure" functions as a silence that "reminds the reader of the values that Osmond's aestheticism ignores: a respect for the mysterious otherness of human beings [. . .] [T]his gesture acknowledges Isabel's ability to transcend any one vision that tries to fix or define her—even the author's own ostensibly omniscient vision" (165). Isabel's transcendence, in his reading, amounts to her finally moving "beyond the narrative frame" in which the entire preceding novel—the "portrait"—had enclosed her (165): she exits the text but seems to keeps going, and thus requires that the reader recognize her as turning away from the words of the text. Freedman refers for a description of the effect to "a phrase James added to Isabel's final vision of Madame Merle in the New York edition—'like suddenly, and rather awfully, seeing a painted picture move.'" (165).

It is this citation that requires further context, for "seeing a painted picture move" turns out to figure an idea quite close to the recognition via irrelevance I attribute to Milly. The line is not quite that of Isabel's final vision; it describes Isabel's first glimpse of Madame Merle at the occasion of their last meeting. Isabel is waiting to see Pansy at the convent before traveling to Gardencourt:
The portress returned at the end of some five minutes, ushering in another person. Isabel got up, expecting to see one of the ladies of the sisterhood, but to her extreme surprise found herself confronted with Madame Merle. The effect was strange, for Madame Merle was already so present to her vision that her appearance in the flesh was like suddenly, and rather awfully, seeing a painted picture move. Isabel had been thinking all day of her falsity, her audacity, her ability, her probable suffering; and these dark things seemed to flash with a sudden light as she entered the room. Her being there at all had the character of ugly evidence, of handwritings, of profaned relics, of grim things produced in court. It made Isabel feel faint; if it had been necessary to speak on the spot she would have been quite unable (456).

The passage's movement from picture to evidence to silence is by now familiar. It remains remarkable, nonetheless, that what produces "the character of ugly evidence" is the incomplete correlation between Isabel's ugly image of Madame Merle and the woman's appearance at the convent. Isabel's image is not confirmed by Merle's person; if that had been the case, then the effect would not have been that of seeing a painted picture move, but that of seeing the movement of thought become a painted picture. In fact, in the first printing of The Portrait of a Lady, this was precisely what took place: "The effect was strange," in the earlier version, "for Madame Merle was already so present to her vision that her appearance in the flesh was a sort of reduplication" (cited in Norton edition 571). "Reduplication" resonates more easily with "ugly evidence" and "grim things produced in court," yet James's revision maintains the latter listing in spite of his exchange of what is affirmed for what is unsettled. The revision proves to be another version of the impulse I have been arguing is key to The Wings of the Dove: the proof that enables one to exactly recognize is not a stable repeating image but one that eludes the grasp of the reader, that seems to have "nothing to do" with the object it was to deliver.

One further version is worth mentioning. In Joan Richardson's analysis of The Ambassadors, she insists on the novel's resemblance to Hans Holbein's painting of the
same name, which was titled and rehung in London's National Gallery prior to but roughly contemporaneous with James's completion of his novel. The painting's use of anamorphosis provides, in her reading, a pictorial trope for which James discovers "linguistic analogues" (155): "Holbein's anamorphically blurred image in the foreground of his *Ambassadors* displayed, with an ironic skill James would have recognized, the epitome of pictorial representational possibility offered by the cumulative knowledge of the painter's moment [. . .] *The Ambassadors* epitomized the possibility of linguistic representation for and of James's time" (154). The latter possibility requires that the reader lose perspective on the novel as a whole in order to gain a purchase on individual sentences (156). As a result, the relationship between the novel and its images is strained, and each impression fails to deliver, discernible only as "an undeveloped photograph, a 'brown blot,' hang[ing] suspended, like Holbein's skull" (174). These impressions approach the epitome of representation—approach evidence, approach proof—through distortion, through their non-coincidence with the remainder of the text. They may even move, but Richardson crucially revises Freedman's account with her set of metaphors: impressions in *The Ambassadors* do not leave the frame, as he argued about Isabel Archer—they instead stay as a hanging, presumably framable if undeveloped photograph. The evidence is in the text; but it takes a skewed eye to view the intended picture, and the picture may turn out, in the end, not to be the vision one had assumed.

The Witness Turns Away

Writing images that are more silent than photographic thus accounts for how the novelist offers his "original design"; but again, and crucially, it also describes James's approach to what he calls in "The Art of Fiction" "the truth." It is in the service of
delivering information on which one can rely that the writer compromises completion with silence. This means that James's method of representation is a matter of bearing faithful witness: it is in order to testify that he reports with a silence that necessarily disturbs the accuracy of the report. Thus when James writes in his preface that "Milly's situation ceases at a given moment to be 'renderable'" except by the other characters (1299), the cessation must be understood as in the service of the rendering it ostensibly occludes. If the narrator is not up for the task, it is only because the narrator is so completely obligated to it.

The idea that such a paradox is a matter of testifying is James's own, as he continues to pursue it in the preface: "It is as if, for [the aspects that cease to be renderable] the impersonal plate—in other words the poor author's comparatively cold affirmation or thin guarantee—had felt itself a figure of attestation at once too gross and too bloodless, likely to affect us as an abuse of privilege when not as an abuse of knowledge" (1299). He seems here to indicate that, in certain circumstances, the author's direct observation of his characters would have a certain indecency from which he turns away by leaving the work to other characters. Yet the metaphor must be parsed carefully. Without the hyphenated interjection, "the impersonal plate," which invokes the medium upon which a photograph is collected, is named "a figure of attestation": the plate is a mode of testifying, of showing grossly and bloodlessly, without censorship, whatever it is placed before. But James implicitly personalizes this "plate" by adding that it is "in other words" the author's "cold affirmation or thin guarantee": it is the oath of personal truthfulness as well as the impersonal testimony that the oath would presumably secure. The contradiction suggests that there is no impersonal testimony, no image unaccompanied by an individual statement of witness.78
The metaphor contains another ambiguous detail, though, for the idea that the impersonal plate does not perform its function would seem to contradict its very essence. Although several different materials were employed at the turn of the century for photographic plates, neither silver nor glass nor paper nor film is intelligible as a plate except insofar as it collects, indiscriminately, the light passing through the scene before it. Indeed, the plate would seem to be more accurately figured several pages later, where the author's impression is described as corroborated by its subsequent display elsewhere:

There is an hour of evening, on the alpine height, at which it becomes the last importance that our young woman should testify eminently in [the direction of the portentous]. But as I was to find it long since of a blest wisdom that no expense should be incurred or met, in any corner of picture of mine, without some concrete image of the account kept of it, that is of its being organically re-economised, so under that dispensation Mrs. Stringham has to register the transaction. (1302)

Milly's portentous testimony is presumably offered via the author. But he feels that such an attestation, even if it shows up in his "picture," must be additionally "registered" in a "concrete image." In other words, the affirmation has now become the purview of Mrs. Stringham, and it has become necessary in the form of the production of an image that concretely reproduces the appearance of the picture: the plate collects the portrait, but it requires a "reflector" to actualize it (1298). Thus James seems to shift the import of his metaphors, from the idea that testimony relies on a single witness who simultaneously offers an affirmation to the suggestion that an individual's testimony is affirmed only when an additional witness corroborates it.

If we are to follow James's distinctions without disregarding them as contradictions, then perhaps there are some images for which the author abdicates responsibility, but that therefore come to be articulated by the constraints of the text and its other characters. The text would in that case affirm as truth what its author leaves out,
and would do so through the provision of a "concrete image." That is, the text would perform the scientifically impossible: it would produce a print even when the author removed the plate that was to collect the impression. Such a dynamic would mean that, even as James says, "heaven forbid we should 'know' anything more of our ravaged sister than what Densher darkly pieces together" (1299), the pieces available produce a representation that attests what it cannot allow to be known.

In this line of thinking, Milly's death would not be a concept that fails to be offered because the author finds it too gross or bloodless to engage in representation, but a photograph that the text delivers as the other characters affirm what the author refuses to say. What would be starkly clear, in that case, what would have the import of inarguable proof, is the second-hand report, offered twice by Susan Stringham and repeated, also twice, by Densher: "She has turned her face to the wall" (331, 333, 357, 359). As Reinhard notes, it is "like a painting reversed" that the phrase figures Milly (130), and it is one that is subject to a replication reminiscent of "The Friends of the Friends." The image of an image reversed becomes the novel's textual photograph. In this case, however, it is not as a perfect representation that closes representation; rather, it is as the representation of the silence that the author's turn away has introduced. In "The Friends of the Friends," the back of photo of the He character contains his address; in the later text, the image reversed bears no information and is for that reason a more truthful proof of the dying it represents.

Seeing "This"

It is with the sense that silence testifies for the image it leaves incomplete that I turn, finally, to the words that recognize exactly the portrait with which they have nothing
to do: "I shall never be better than this." While none of the words is unambiguous, the "this" seems to most strain the sentence's significance. Milly follows her utterance with an explanation to Lord Mark: "I mean that everything this afternoon has been too beautiful, and that perhaps everything together will never be so right again. I'm very glad therefore you've been a part of it" (137). Yet because the lines are preceded with the note "He hadn't understood," it is not clear whether Milly means to help him to understand—in which case, what she had meant was that she will never surpass the "rightness" of her afternoon at Matcham—or to protect her meaning by offering him a flattering and plausible sentiment. As the words of recognition are preceded by the remark: "And she was dead, dead, dead," the sense of Milly having reached some sort of apex seems to refer to her mortality and impending illness as much as to her experience of an English Lord's estate.

Although Julie Rivkin does not analyze the Bronzino scene, her examination of how the novel's interest in copying exposes the excess and the difference incurred with every supposed replication is relevant here. As Rivkin notes, the text does not deploy "pronouns without antecedent" by accident (98): they refer, in her reading, to the impossibility of recuperating meaning that was promised. Thus if Milly "recognized her exactly in words that had nothing to do with her," the reader anticipates a sentence offering exactitude even if it appears in the form of irrelevance. Yet when the sentence offered ends with a pregnant but inscrutable "this," the economy of signification is revealed as uncontrollable, "general" rather than "restricted" (Rivkin 85). The pronoun denies the possibility of a perfect match.

In the terms that I have used throughout this chapter, then, "this" is a mark of silence that represents precisely by refusing to name. "This" is what the reader must see
as the image that has challenged the author's testimonial plate and that becomes framed by Lord Mark's hearing and mishearing of the signal remark. And "I shall never be better than this" must be seen, as well, as the novel's expression of its own testimonial capability. No "I" of the novel, no voice of the text, can be better than—more perfectly articulate, more exactly indicative than—"this," for its figures of attestation depend upon the photographic precision of its own silence.

This may be why James's notebook entries, especially his sketches for "The Friends of the Friends" and The Wings of the Dove, repeatedly suggest that there is no better articulation of the premise of a fiction than "I see this." "Seeing" is James's verb of choice for his experience of apprehending his works as particular entities: he struggles in his early thoughts for The Wings of the Dove with an "anecdote, which, I don't, by the way, at all yet see" (104, emphasis in original) but which he will—a few days later, "I think I see something good in that solution—it seems dimly to come to me. I think I see the thing beginning with the 2 girls" (105); that idea will be filled out following the remark, "Voyons un peu" (106). It is as if the text first exists as a blurry "little picture" (103) that James continues to look at until it resolves itself into an image that he can clearly see. But the process of "looking" amounts to that of recording possibilities and questioning whether they are visible; an idea is worth developing, or an idea develops the picture, only when he finally sees it. Thus several months later, "I seem to see in it something compact, charpenté, living, touching, amusing," and so he attempts to make that "seem" into a more definite vision: "Voyons, voyons: may I not instantly sit down to a little close, clear, full scenario of it?" (115).

James never does write the sketch that he proposes, because he comes upon the idea that what he has learned from the "tragic experience" of his failed plays is, indeed,
"the divine principle of the Scenario" (115). Approximately one year later, however, he will test that divine principle explicitly with a scenario of "The Friends of the Friends" (152). The story is broken down as a list by chapter and number of pages at the end of the entry, and the bulk of the foregoing text sketches more broadly the succession of events. For instance, "Voyons, voyons," he characteristically writes:

Say the narrator with her impulse of reparation (having TOLD her fiancé)—confessed to him—in the p.m., as I stated it just now: say she goes ALONE to Richmond. She does this in the a.m. of the next day. She finds her friend has died that night. She goes home, with the wonder of it; and there befalls the still greater wonder of her interview with him in the afternoon. He tells her his marvelous experience of that evening—how, on going home, he has found her there. BUT that only comes out—is shaken out—in the secousse—of my announcement that she's dead—that she died at 10 o'clock that evening. Ten o'clock.—the stupefaction, the dismay, the question of the hour, etc. I see this—I see this: I needn't detail it here. I see what has (to his sense) happened—how she hadn't spoken, etc.—has visibly only come to see him, to let him see her. (153)

What is extraordinary about James's remark in this passage is not only the way he "sees" a broadly referential "this" but the way he records that fact twice and follows it with a statement of exemption: "I needn't detail it here." "I see this" is repeated, as if it he must emphasize that he has finally arrived at a picture, but the repetition seems to show no image. It only affirms the fact that something is seen, something that, instead of bearing details like the rest of the entry, is so visible that it is excused from further record. In other words, James seems to see what he is to write so well that he need not write it.

Since the notebook entry is a preparation for the writing of the story, though, the idea that the visibility of "this" is archived in the note "I needn't detail it here" raises the question of whether "this" is ever detailed. If James subsequently constructs the "subdivisions," "fractions," and "series" through which the story will unfold (154), then is "this" left out from the final version, because it isn't part of that precise numbering, or is it the overall image of the text, so insistently visible that it becomes a sort of figure in the
carpet? Insofar as "this" appears, in the sketch, at the point when the, as I have argued, photographic image of the She character appears to the He character, the answer might be yes on both counts: "this" is left out insofar as it becomes an image that erases its own ostensible representational function, but in doing so "this" expresses the conceptual possibilities of the text's concerns: death and vision and the considerable business of witnessing.

Now, as Miller notes, the work of determining what James saw, and how what he saw is present in his text, is both a major concern of the prefaces and a rather specious endeavor. The "this" that James saw is not an object that may be recollected and assessed; not only because it remains a "this" without definite antecedent but because it refers "to an entire world to which James alone has access, but which he has not invented, except in the sense of discovering it" (162). James finds "this," and writes with more or less accuracy about it, and even though it continues to exist apart from his writing, it does so only for him: no reader can compare the skill of the representation. Thus it is actually "impossible to know whether James has invented or discovered that world [. . . ] since no criteria exist for distinguishing between the one and the other. The evidence, that is, the words on the page, would be exactly the same in either case" (162). In other words, yes, James testifies to something that he sees, but that testimony only serves to show the difficulty of distinguishing testimony from fiction.

Yet I want to argue, to close this chapter and this dissertation, that the process of representing what one sees is equally urgent whether it is in the service of fiction or history. James may be said to bear witness to "this" to the extent that his words are the same as those that a courtroom witness would use to testify to his experience, but that is because the work of witness is in the two cases almost identical.\textsuperscript{81} Whether what the
speaker sees has really happened in a reconstitutable past is irrelevant, for no witness is
ever called except in order to provide a singular testimony of an individual (if
generalizable) past experience. Thus no witness's referent exists except in the way that
James's vision does, as a sight that may either have been invented or discovered through
the earnestly reconstructive "I" (or eye). That collaborative evidence will be deployed in
the courtroom or the history text to assess the witness's testimony is beside the point that
the witness's act is to try to be faithful in words to the "this" that he sees.

Hence if James suggests that the work of witnessing shall never be better than
"this," it is perhaps worth thinking that no attempt to "represent and illustrate the past"
testifies ethically except when it makes silence an aspect of its image. The historian's
task is easier than the novelist's only because it does not recognize that the limit of the
"purely literary" is identical to the boundaries of the purely evidentiary: a photograph
that represents so perfectly it destroys the original experience.

This is to say, too, that any deployment of an image as if it spoke for itself, as if it
represented an inarguable truth, fails to be a figure of attestation—fails to be an act of
witness, fails to be testimonial. Nazi propagandist photos—one thinks of Leni
Riefenstahl's films—do not testify because they imagine a reality that does not exist in
Germany, but also because they speak one message with absolute clarity. The Reich is
the antecedent for any potentially dangling pronoun, for any persistently detected silence.

By the same token, any testimonial text—even one that aims to expose the horrors
of the Nazi regime—that speaks without its own reference to silence, its own quiet
dimension, in fact solidifies the propagandist aim instead of offering a single
(unconfirmable) act of witness. It may do so in the interest of proof, in the interest of
using for good technology that can document concretely what was once only glimpsed or
imagined in the mind's eye. But James's point at the close of his career was that testimony is ultimately destroyed by such an alliance; it subsists, for both fiction and history, only insofar as it departs from the exact recognition that is increasingly expected of it. That is the truth of "this": there is no testimony that is not quiet testimony.
Notes

1. I mention here, in brief, the explicitly political readings to which I refer, each of which importantly counters the myth that nineteenth-century American writing was apolitical or only involved in democracy in the broadest sense of voicing citizens' concerns. On Emerson, see Len Gougeon's *Virtue's Hero: Emerson, Anti-slavery, and Reform* and T. Gregory Garvey, ed., *The Emerson Dilemma: Essays on Emerson and Social Reform*. On Melville, C.L.R. James's *Mariners, Renegades, and Castaways: Herman Melville and the World We Live In* is crucial; Eyal Peretz's *Literature, Disaster, and the Enigma of Power: A Reading of Moby-Dick* is also useful. Mark Seltzer's *Henry James and the Art of Power* is to my knowledge the first study of James that contextualizes his writing with turn-of-the-century political discourse. Another set of scholars engage the political more implicitly, or by way of theses that pursue allied concepts, and have been influential in my crafting of this project. I am especially indebted to the thinking in Stanley Cavell's *Emerson's Transcendental Etudes*; Eduardo Cadava's *Emerson and the Climates of History*; Branka Arsić's *Passive Constitutions, or 7 ½ Times Bartleby*; and J. Hillis Miller's *Literature as Conduct: Speech Acts in Henry James*.

2. A word is owed here to the fact that while I do not draw from the psychoanalytic discourse of trauma studies, my conclusions are often motivated by questions similar to those that arise in that field. Cathy Caruth's *Unclaimed Experience: Trauma, Narrative, and History*, especially, thinks about how experiences that have ostensibly left no witness may be transmitted through language without being translated or understood (106-107). However, it does not seem to me that the writers I engage make use of quiet testimony as a response to a trauma. For Emerson and Douglass, for example, the turn away from the powerful "I" appears as the result of a shift in a continuously changing subjectivity, rather than of a single or multiple destabilizing experiences. With regard to Melville and James, quiet testimony ends up signifying beyond the bounds of particular traumas or analyzed subjects: I explore, in the first case, the relationship of all writing to muteness, and, in the second, that of fiction to representation.

3. Agamben's explanation of the etymology of "Holocaust" and its association with sacrifice is pointed and thorough (30-31), and I take his point. I have used the term post-Holocaust, however, with regard to the body of work produced on the subject that generally inherits and necessarily invokes that unfortunate naming.

4. Influential brandings of Emerson as a "quietist" include F.O. Matthiessen's understanding that Emerson "conceived of the heart in such pure isolation that his speculations now seem remote from violent actuality" (181) and Barbara Packer's summary: "Transcendentalism was of little immediate use to reformers who wanted to feed the hungry or free the slave; indeed, the quietism the movement fostered and the self-absorption it encouraged favored existing institutions" (399). Among those who are currently invested in reading a more political Emerson are Branka Arsić, Eduardo Cadava, Sharon Cameron, Stanley Cavell, and Kenneth Dauber.
5. Len Gougeon proposes that until 1844, Emerson's politics revolved around a commitment to individuality and a distrust of institutions; his acceptance of the invitation to speak in Concord that August marked a relenting: "It must have seemed to Emerson at this critical time that the emphasis on universal reform and individual action, which he favored, had so far failed not only to diminish slavery but even to contain it...Perhaps because of this acute concern...Emerson put aside his reservations [and agreed to speak]" (Antislavery xxvii). See also Gougeon's discussion of the address as marking the end to Emerson's "Silent Years" in Virtue's Hero (41-85).

6. Here and elsewhere material from Emerson's Antislavery Writings will be cited "AS"; essays published in the Library of America's Emerson: Essays and Poems, "E"; lectures from The Early Lectures of Ralph Waldo Emerson Volume 1, "EL"; letters from The Selected Letters of Ralph Waldo Emerson, "L."

7. The clumsy full title of this speech as it was published is "An Address Delivered in the Court-House in Concord, Massachusetts, on 1st August, 1844, on the Anniversary of the Emancipation of the Negroes in the British West Indies." It will hereafter be referred to as the emancipation address, or simply the address.

8. As Emerson points out in his address, intentions for gradual emancipation by apprenticing former slaves to plantations were prematurely abandoned, so that all British slaves were freed by August 1, 1838; see pages 14-18. Note also Thome and Kimball's fifth, sixth, and seventh points on the superfluity of the apprentice system.

9. The passage footnoted by Channing, which narrates the calm with which the slaves greeted the strokes of midnight on the first of August, is far more dramatically rendered than the summary paragraph included by Emerson (Channing 109; Thome 145-146). Emerson's slightly amended quotation at once dramatizes the drier testimony and intervenes in what qualifies the passage (and the text as a whole) as testimonial.

10. At least five instances of this depersonalized phrasing, for reference purposes: "Therefore I will speak,—or, not I, but the might of liberty in my weakness" (AS 7); "The horrid story ran and flew; the winds blew it all over the world...The more it was searched, the more shocking anecdotes came up,—things not to be spoken" (10); "Every horrid fact became known" (13); "these absurdities would still come flashing out,—these absurdities of a demand for justice, a generosity for the weak and oppressed" (21); "Here was no prodigy, no fabulous hero, no Trojan horse, no bloody war, but all was achieved by plain means of plain men, working not under a leader, but under a sentiment...It was the masters revolting from their mastery" (26); "The sentiment of right, once very low and indistinct, but ever more articulate, because it is the voice of the universe, pronounces Freedom" (33).

11. Sewell's account differs somewhat; although most likely based on the journal, the latter history is rendered in narration (2.101-2.107) and the dialogue occurs in a different sequence. According to Nickalls's 1952 edition of the journal, both are based on the manuscript of Fox's examination as recorded by the court (466).
12. It is worth noting that Packer frames the contention in Unitarianism at the time of the "Lord's Supper Sermon" as an issue of certifying spiritual testimony (337-340). As she puts it in a reading consistent with the above discussion of the George Fox lecture, for Emerson, unlike others who spoke from the Unitarian pulpit, "one witness to spiritual truth was enough, and its radiance made all external aids superfluous" (438).

13. For example, Shoshana Felman's Testimony and Jacques Derrida's Demeure are both radical in their own right, but neither does away with the distinction between the speaker of testimony and the object witnessed in the direct way that Emerson does. Giorgio Agamben's Remnants of Auschwitz: The Witness and the Archive, which insists on desubjectification as a major principle, does not approach Emerson's thinking of the consequences of a deobjectified testimony for everyday life.

14. Here and throughout this essay's references to experience and "Experience," I am in agreement with Sharon Cameron's suggestion: "Throughout the essay the complaint seems to be that you can endure loss but not suffer it; you can gain wisdom but not experience the gain because at any given moment you are oblivious to what you are experiencing...You can know and you can have, but you cannot know what you have" ("Grief" 23).

15. Eduardo Cadava makes the point that Emerson is indebted for his speaking to a world that is "in need of being read" (95). Cameron suggests that understanding Emerson's "Over-soul" "is a matter of not-willing, of seeing what we are when the will stops executing its claims" ("Abandonment" 10). In line with this structure of a subject obliged, see: Kenneth Dauber's emphasis of Emerson's ability "to see the possibilities of others seeing as well" (239); Russell Goodman's noting of the receptive and creative aspects of the reader (645); and Donald Pease's interest in interconnectivity: "A spiritual law establishes indissoluble connections between thoughts and things, individuals and the self, actions and their principles...It never stops making connections between an individual's experiences and his understanding of them" (215-6).

16. This discussion is informed by Emmanuel Levinas's distinction between the saying and the said, especially as it appears in his closing discussion of the witness in Otherwise Than Being (140-152). One way to differentiate Levinas's philosophy from Emerson's would be to say that the divine, rather than "every fact," is constrained to testify, largely through other people rather than all things.

17. This idea is articulated also in "Fate": "The secret of the world is, the tie between person and event. Person makes event, and event person...events grow on the same stem with persons; are sub-persons" (E 789).

18. This analysis of what it means to be representative of course bears on America's representative system of government. Rather than expect that structure to work most effectively through proxy speech, Emerson seems to suggest, elected politicians must understand themselves to speak as comprising their constituency and participating in it rather than speaking in its stead and acting in a separate sphere of government. In the words that close this essay, he asks them to let the people's quiet testimony come to the fore.
19. The issue of slave testimony would become even more pressing following the 1850 passage of the Fugitive Slave Law. Even in his address following that action, however, Emerson is less engaged with promoting the testimony of the oppressed than he is focused on the irresponsibility with which those who have the right to speak in the name of the law—namely, Daniel Webster—misconstrue the nature of their testimonial oaths: the law's passage showed "that men would not stick to what they had said: that the resolutions of public bodies, and the pledges never so often given and put on record, of public men,—would not bind them" (AS 75).

20. The credo of silent meetings is not given particular attention in Fox's Journal or Sewell's History, which may explain Emerson's lack of engagement with their potential value.

21. These parenthetical references which do not use the first word of the text to which they refer will be used throughout: "For or Against": "Is the United States Constitution For or Against Slavery!"; "July": "What to the Slave is the Fourth of July?..."; "Kansas-Nebraska": "Slavery, Freedom, and the Kansas-Nebraska Act..."; "Movement": "The Anti-Slavery Movement...."

22. Douglass notes, for instance, in a chapter in My Bondage and My Freedom entitled "Various Incidents," how abolitionists exhibited their prejudices even as they "were nobly struggling against it" (393), of his many battles in railroad cars and inns (393-397) and how "The children at the north had all been educated to believe that if they were bad, the old black man—not the old devil—would get them" (393).

23. Douglass reacts to this decision in Life and Times, the third part, chapter vi: "The Supreme Court Decision."

24. Robert Cover's explanation of the Garrisonian position in relation to higher and positive law is especially cogent; see chapter nine, "Formal Assumptions of the Antislavery Forces."

25. In this sense, I disagree with Houston Baker's assertion that Douglass initiates a genealogy of "extralegal" writing by black Americans (10, 14), for I find that it is in matching the law's incoherent expectations for his identity, rather than defying them, that he expresses an idea of justice. See chapter two, "Black Culture, White Judgment: Patterns of Justice in the Black Narrative."

26. See, for example, "The Anti-Slavery Movement," delivered in the Winter of 1855 and included as an appendix to My Bondage and My Freedom: "It is beyond the power of slavery to annihilate affinities recognized and established by the Almighty. The slave is bound to mankind by the powerful and inextricable net-work of human brotherhood" (329).

28. That the constitutional appeal following the vitriolic criticism has been
downplayed is evidenced by the editorial decision to cut the latter section completely in
the Norton Critical Edition of the *Narrative*. Priscilla Wald, however, foregrounds the
bifurcated aspect of the speech by exploring it as a "conversion-in-process" (89).

29. As he put it in "Is the United States Constitution For or Against Slavery!" in July
1851: "[Ho]w are we to know now, or a century hence, what were the motives and
intentions of the various parties to the Constitution of the U.S.?...From every view of this
subject we are convinced that the only practical course is that which finds the intention of
those who adopted the Constitution in the Constitution itself."

30. Webster's amendment, which was introduced after his resignation by William
Dayton of New Jersey, also called for a jury hearing at the location of seizure should the
alleged fugitive "deny that he owes service to the claimant...and after being duly
cautioned as to the solemnities and consequences of an oath, shall swear to the same"
(*Congressional 1583*). It thus granted the alleged fugitive the right to testify and the
potential for a jury trial (assuring him something equivalent to a writ of *habeas corpus*)
as well as the loophole explained above.

31. The quotation appears in "Slavery, Freedom, and the Kansas-Nebraska Act: an

32. For this misunderstanding, see especially Bishop, pages 705-706. It is evidence
of Bishop's particular lack of discernment that he mourns the loss of, and argues for,
competency statutes several years after the legislation for which Appleton advocated had
been widely passed; but, as Popper notes, his response is historically representative.

33. As quoted below, in the fourth of July speech, Douglass responds to this reception
of anti-slavery agitation: "you shed tears over fallen Hungary...but, in regard to the ten
thousand wrongs of the American slave, you would enforce the strictest silence, and
would hail him as an enemy of the nation who dares to make those wrongs the subject of
public discourse!" (383).

34. See George Fitzhugh's "Sociology for the South", which argues that slavery
provides a necessary protection for those naturally "foreign" from "civilization" (54):
"The master increases the provision for the family as the family increases in number and
helplessness. It is a beautiful example of communism" (59). See also Cobb, 229.

35. Rantoul's criticism is particularly representative here, for he approaches the law as
a strict legal practitioner rather than an anti-slavery advocate (he is a Democratic
representative to Congress at the time), but reaches a conclusion similar to Douglass's:
the Fugitive Slave Law is unconstitutional. Rantoul finds that, because "All
presumptions of law are in favor of liberty," an idea "older than Christianity itself" (13), a
law that presumes the existence of slave status is unlawful. Yet he also notes that due
process is afforded by common law in civil cases regarding property worth more than
twenty dollars, which would demand a jury hearing in the case of a fugitive slave. The
fact that his rigorous legal study locates two routes for the unconstitutionality perhaps is
symptomatic of the law's absence of a definition for slave identity; if the slave were
defined within the Constitution (or if, as he desired, common law applying to slaves was
codified), it might have been clear that the issue was either one of presumption or of property.

36. In *Prigg v. Pennsylvania* (1842), the Supreme Court had essentially, though not particularly directly, found personal liberty laws (which northern states had used to assure jury trials for alleged fugitives) unconstitutional. Following that decision, Massachusetts Supreme Court Justice Lemuel Shaw denied procedure that would have allowed for a jury's determination of the identity of George Latimer "apparently on the ground that even initiation of such a process would constitute an infringement upon an exclusive federal domain" (Cover 169).

37. Throughout this chapter, I have referred to the man seized in Boston and condemned to slavery in the Anthony Burns case as the prisoner, rather than as Anthony Burns. Although he would adopt that identity after being returned (and after being bought, a year later, and resettling in the north), my argument rests on the idea that he is neither slave nor freed person throughout his hearing. To call him "Anthony Burns" is to miss how central the question of his identity is to Loring's decision. Albert von Frank notes that those involved in the case did not know how to refer to him; his self-elected counsel, especially, did not want to presume him a fugitive, regardless of the name to which he answered: "Not surprisingly, there was a...linguistic dispute over the wording to be used in reference to Burns, the man (or thing) whose past and future status now lay open to official, enforceable determination" (133). Von Frank cites Dana's personal papers: "I notice that the counsel for the prosecution is a little at a loss to know what to call him. Sometimes he calls him the person at the bar. Where did he learn to call him a person? Not from his client...I call him the prisoner" (133); I take my cue from there.

38. Dana's assessment of the novelty of the case, as narrated in his closing statement, is significantly harsher: "Section 10 of the Fugitive Slave Law [which regulates summary procedures executed in the slave state from which the alleged fugitive escaped] provides a certain mode of proceeding, anomalous, in violation of all rules of common law, common right, and common reason, a proceeding that has not its precedent, so far as I can learn, in the legislation of any Christian nation, therefore to be strictly construed, and not to be availed unless strictly followed" (*BSR* 409).

39. Von Frank's description of the procession is detailed and evocative (203-219).

40. The *Oxford English Dictionary* cites Emerson's "Ode to Beauty" for this sense of the word: "Thou eternal fugitive./Hovering over all that live" (1121).

41. I refer here not only to Douglass's acts of legal address, but to instances in his autobiographies that, as Sundquist and Wald have noted, describe a paradoxical or shifting location from which he narrates. These include his placement both within and without "the circle" of "apparently incoherent [slave] songs" (*Narrative* 23-25); his desire to speak as a fugitive but not as one identified only by that status—the "brand new fact"—the first one out" (*My Bondage and My Freedom* 366); his argument that attempts to invalidate the testimony of his first book did him the favor of authenticating it (see Thompson's [*Letter from a Former Slaveholder*] and Douglass's reply); and his self-quotation. His most famous remark in this category refers to "the blood-stained gate, the
entrance to the hell of slavery" (*Narrative* 18): watching his Aunt Hester (later Esther) being whipped is described as "the first of a long series of outrages, of which I was doomed to be a witness and a participant" (18). The dual position of witness and participant, with the attending ambiguity of which describes the current stance of the narrator, evokes pointedly the dislocated, ironic voice of his later lectures.

42. David Van Leer comes to a similar conclusion about Douglass's inability to authenticate a writing that essentially addresses his authenticity. Regarding Douglass's first autobiography, he argues, "Not only does the success of that narrative as literary statement undermine its believability as a historical document, it inevitably distances Douglass from the self he authenticates: The personal story validates the politician by establishing the existence of a self from which, by definition, he has 'escaped'" (128). It is pertinent to my argument below that Van Leer identifies such an "epistemological paradox" (128) as ironic: "[H]is telling of this untellability becomes the ironic proof that in his inability to tell he formerly was a slave" (130).

43. To offer just one famous example that would again involve Massachusetts in debate: the 1927 criminal trial of Ferdinando Nicola Sacco and Bartolomeo Vanzetti resulted in their executions, despite the alibis they presented in their testimonies; the case has been widely considered the unjust product of anti-immigrant and anti-anarchist public (and legal) sentiment.

44. From Taney's decision in *Scott v. Sanford*: "[The framers of the Declaration of Independence] perfectly understood the meaning of the language they used, and how it would be understood by others, and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which, by common consent, had been excluded from civilized Governments and the family of nations, and doomed to slavery. They spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. " (410).

45. Weaver uses "quietus" also to refer to Lemuel Shaw's handy dismissal of the many of the property debts Melville owed to him, yet that connotation only awkwardly merits the adjective "long," and so the title seems more to designate a retreat from novel-writing.

46. *Benito Cereno* is not completely exempt from the widespread critical trend of reading any tortured character of representative of Melville's under-appreciation by the press; see, for example, Max Putzel: "Don Benito is cut from the whole cloth. One feels Melville is seeking to excuse him, to plead for him, to expiate his sins, to be his attorney in the face of universal calumny" (205).

47. The contortions that such scholarship put itself through is exemplified by Robert Cochran's two-page article in *American Literature* in 1976, which explains the uselessness of attempting to derive the significance of Babo's name: "all of this debate is unnecessary...Babo, it turns out, is the first person identified, in *Delano's account*, as the leader of the revolt" (228). Previous scholars (including Scudder) were so focused on matching "Babo" to some essential darkness that they had missed the name's placement in the very source document from which their pursuits had originated.
48. One obvious contradiction, explicable perhaps by the idea that Amasa Delano was trying very hard, in his own narration, to portray himself as a hero, is his declaration, "I was alone with [Cereno and the slaves], or rather on board by myself, for three or four hours, during the absence of my boat, at which time the ship drifted out with the current three leagues from my own, when the breeze sprung up from the southeast" (324). Twenty pages later, Delano's midshipman Nathaniel Luther claims in his sworn deposition that he "went with his captain, Amasa Delano, to the ship Tryal, as soon as she appeared at the point of the island...and remained with him on board of her, until she cast anchor" (345).

49. It is worth noting here that "Benito Cereno" is no more stable a signifier in Delano's text than it is in Melville's. Despite the fact that Delano includes the official documents with the spelling Melville adopts for his title character, Delano's own narrative of the events insists on referring to "Don Bonito Sereno." A special thanks to Martin Gaspar for pointing out that this spelling means, very loosely and somewhat connivingly translated, "pretty quiet."

50. See, on reading the text in terms of the Amistad case, Carolyn Karcher, "The Riddle of the Sphinx: Melville's "Benito Cereno" and the Amistad Case"; on the relevance of the Fugitive Slave Law, Brook Thomas, Cross-examinations of law and literature: Cooper, Hawthorne, Stowe, and Melville.

51. The 1850 Fugitive Slave Law federally outlawed the right of a slave to claim his or her own identity or to participate in a jury trial. Prior to this "compromise," northern states had established personal liberty laws that allowed accused fugitive slaves the rights to jury and appeal, thereby subverting the constitutional expectation that pursued slaves would be immediately returned as property.

52. As will become clear by the conclusion of this chapter, the issue of reading or writing a historical silence is in no way limited to Melville or the nineteenth century, even though I would argue that Melville's contemporary readers necessarily respond to and are thus responsible for those contained in his work. Several discussions of the Holocaust, for instance, center around the problem of unavailable testimony; see especially, Levi, The Drowned and the Saved, and Agamben, Remnants of Auschwitz: The Witness and the Archive, and Derrida, Sovereignties in Question on the poetry of Paul Celan. The insights in these texts are certainly relevant to incidents of violence and war (especially, in the context of this argument, those for which America remains responsible) in the 21st century.

53. Delano's portrayal not as a naive and generous American, but as an enactment of the bias and ignorance endemic to the white racial mindset, is most convincingly presented by Karcher in Shadow over the Promised Land and Peggy Kamuf.

54. Of course, Melville's most famous speaking hand is Billy Budd's. Curiously, his fist does not fit into the tropes of muteness outlined here. While my examples point to hands which speak in a separate register from written or spoken text, his is said to replace and therefore speak as a mouth: "Could I have used my tongue I would not have struck him. But he fouly lied to my face and in presence of my captain, and I had to say
something, and I could only say it with a blow, God help me!" (150). That the hand is held accountable for the otherwise absent text might be read as an attempt to reclaim the author's intentionality and responsibility for his speech or writing. Yet because the hand is fatal, that alternative registers as no more favorable: to take responsibility, rather to admit one never can (as Babo's character ends up suggesting), is still to be sentenced to death.

55. The Confidence-Man will be quoted frequently in the discussion that follows since its concerns often dovetail with Benito Cereno's. Although the former text is not directed at a single political concern the way the latter is, insofar as both turn on what it means to read for the truth and act generously in one's assessment of others, they relate jointly to receiving and responding to historical testimony. For more detailed treatments of The Confidence-Man alongside readings of Benito Cereno, see Dryden and Kamuf.

56. Richard Ray shows how the absence of an accounting of Babo's history made it possible for early critics to read him simply as a manifestation of evil violence.

57. Of course, no character's proper signature exists in either text: Cereno's is signified by his name appearing in capital letters, which does not wholly distinguish it from other instances of its iteration throughout the novel. Unlike Delano, Melville chooses not to attempt to represent graphically the STAMP attesting to the "faithful translation of the depositions" (Delano 332), for that would perhaps have made his points about representing history through document too heavy-handed.

58. Edgar Dryden makes this point: "The documents...prove to be 'disappointing sequels' [Pierre 169], for while they give the factual history of the ship's voyage, they raise more questions than they answer...While the extracts clear up [the context of certain events], they make no attempt to deal with the questions of meaning and motive. In fact, the naivete and shallowness implicit in the language of the documents underscores the irony present in the fact that the Negroes, who are regarded as cargo along with 'thirty cases of hardware,' reverse the relationship between master and slave" (202). Cereno's Spanish provenance offers him no authority over the valid or meaningful production of his own testimonial narrative.

59. Kamuf tracks the difficulty of assigning authority in the context of the text's free indirect discourse: "[W]e must ask: Who is speaking? Who is offering up these unreliable tropes and eliciting trust in their sure value?" (194). Her linking of the reader's uncertainty to Delano's is, from my perspective, authoritative in establishing the degree to which Benito Cereno questions what it means to assess and read a complex historical text.

60. Most recently, Eyal Peretz's valuable discussion gives much attention to Moby-Dick's imperative that its reader act as a witness, but figures the reader as testifying beyond the text (through his life) rather than "calling" back to it.

61. Emerson makes a similar point in "Nominalist and Realist," where moods signify the changing dimensions of the body: "If we could have any security against moods!...I am always insincere, as always knowing there are other moods" (586).
62. The first quotation is from Kamuf (186); the second is from Allen Guttmann, who compares Delano to Starbuck (45).

63. In the New York Edition of The Aspern Papers, the two sentences prior to the one quoted were retained: "We exhausted in the course of months our wonder that we had not found her out sooner, and the substance of our explanation was that she had kept so quiet. The poor lady on the whole had had reason for doing so" (48). The phrase "to keep so quiet as that" was, however, altered, perhaps to clarify rather than repeat the "kept so quiet": "But it was a revelation to us that self-effacement on such a scale had been possible in the latter half of the nineteenth century—the age of newspapers and telegrams and photographs and interviewers" (48). The idea of self-effacement resonates with Juliana's veiled face; it connotes that keeping quiet is a matter of having a face that remains out of reach of the public picturing of it. This connection between quiet and effacement will be developed, along different but related lines, through my analysis of The Wings of the Dove.

64. The remark about Emerson has been noted in the first chapter; on Melville, see Maurice Lee's summary: "[H]e verges too closely on quietism. After all his epistemological puzzling, what sustainable political models survive the Pequod, the San Dominick, or the Fidèle? What precisely ought Pierre, Israel Potter, or the narrator of 'Bartleby, the Scrivener' to do?" (397).

65. Dismay over the impossibility of generating portraits with Daguerre's eighteen-minute technique led to the following proposal in the French journal Le Charivari: "You want to make a portrait of your wife. You fix her head in a temporary iron collar to get the indispensable immobility. . ." (Newhall 21).

66. See Menand's narration of this conflict between empirical science and religious belief, especially as it affects the development of philosophical discourse in America.

67. While Walt Whitman would famously write, "The real war will never get in the books" (778), the Civil War was the first American conflict to be witnessed and archived through photographs: Matthew Brady, especially, offered "inestimable chronicles of this tempestuous conflict" with more than seven thousand negatives taken by himself and his affiliates (Newhall 68). These images were all static or staged, as the possibility of exposures brief enough to guarantee action shots was just being investigated (Newhall 83-84), and most Americans viewed only engravings of the photographs that were reproduced in local newspapers (Faust 11). Yet the promise that technology could "get" the war recorded with an ever-increasing degree of verisimilitude had already been held out, and would continue to entice the public through the newsreels of World War II, television coverage of the Vietnam War, twenty-four hour video of the Persian Gulf conflict, and "embedded" reporting in the United States's 2001 invasion of Afghanistan. Part of my argument here is that Whitman's claim still holds despite these technological "advances"; more precisely, the quiet testimony of the unknown dead or inarticulate victims demands our attention with greater and greater urgency the more the media insists it can convert every story into a voiced report. Quiet testimony is that which, fundamentally, does not withstand such translation and so must always be read in a literary register rather than gathered as historical information. Media coverage does not
make quiet testimony more or less available; it obscures the relevance of the concept, which makes the reader's obligation to discern it, in my view, more pressing.

68. Almost as soon as photographs become mainstream, they are doctored toward propagandist purposes; see, for instance, *The Perfect Medium: Photography and the Occult* (New Haven: Yale UP, 2005).

69. A comparison between James's unnameable little object and Samuel Beckett's *The Unnameable* highlights how the former's investment in silence is not as a trope for the difficulty of all signification, as it tends to be for the latter. Beckett: "The fact would only seem to be, if in my situation one may speak of facts, not only that I shall have to speak of things of which I cannot speak, but also, which is even more interesting, but also that I, which is if possible even more interesting, that I shall have to, I forget, no matter. And at the same time I am obliged to speak. I shall never be silent. Never" (291).

70. *The Wings of the Dove* was published in 1902, before *The Ambassadors* (1903), but James had completed *The Ambassadors* manuscript (in 1901) before seriously attending to *The Wings of the Dove*.

71. I am thinking here of the examples listed below (under the heading "Seeing 'this'"), but one could also pursue James's summary, in the preface to *The Golden Bowl*, of his process of revision as seeing again (1332): "I saw therefore what I saw, and what these numerous pages record, I trust, with clearness" (1334). See also Miller's analysis of the narration of *The Wings of the Dove*: "It is, once more, an example of that particular form of speech act called bearing witness: 'I give you my word of honor I saw this'' (161).

72. Resemblance between the texts immediately responding to the "real-life" death of Minny Temple and the proposed novel devoted to Milly Theale has been noted throughout criticism of *The Wings of the Dove* and Jamesian biography; see Brooks 179 and Matthiessen 263. My interest here is not in the similarity of the two characters but in how James represents, and considers his own representation of, death as an event.

73. This selection of texts is partial and meant to be representative; I include "The Altar of the Dead" and "John Delavoy" to demonstrate that the picturing of death is not limited to James's more familiar ghost tales.

74. See also Matthiessen and Murdock's note on the similarities between the two texts, pages 244-245.

75. See Lewis's thesis that Henry James's ghosts appear as a concern that William would have judged pragmatic: "The ghosts are 'real' not in their provable or disprovable existence outside the minds of the characters who encounter them, but precisely in their having an effect on those characters" (42).

76. The repetition to which I refer is distinct from the instance in which one character "quotes" another; for example when Densher follows Susan Stringham in describing Milly as having "turned her face to the wall" (see page 37, above). There is one example of the rarer kind that I have identified in *The Wings of the Dove*: when Milly first asks
Kate to accompany her to Sir Luke Strett's (her proof of confidence), Kate asks, "What in the world is the matter with you?" (141). Densher repeats the question almost verbatim to Kate, even as the text seems wholly unaware of the coincidence: "What in the world's the matter with her?" (212). The "matter" with Milly, as my analysis below suggests, is threatened by the same premise of duplication that describes the death of the She character in "The Friends of the Friends."

77. See Cameron; I don't quite agree that "Milly's picture of herself after death [. . .] is triumphantly realized in Densher's fetishized conception of Milly," but what follows to some degree answers Cameron's subsequent question: "But why should Densher's image of Milly at the novel's end be at once treated as a picture (something he is shown looking at) and also be as if intentionally veiled from our view?" (151).

78. For a discussion of how the photograph was perceived as an automatic or impersonal work, see Michaels, 217-224.

79. James appears to offer here a response to the problem formulated years later by Celan: "No one bears witness for the witness" (261). In his fictional realm, the characters bear witness on behalf and instead of the impersonal but primary narrator-witness. The comparison may seem irreverent insofar as Susan Stringham is hardly a victim of the Nazi camps, but both writers are concerned with how an ostensibly personal impression becomes a matter of public testimony, and with, moreover, how text represents the event it would seem to obscure. To briefly formulate James's thinking in the preface according to Celan's concerns, then, one might say that the poem bears witness for what the poet cannot—an idea not completely foreign to Celan's own wording in "The Meridian": "Yet the poem does speak!" (408). See, on these and related issues in Celan, Derrida and Lacoue-Labarthe.

80. Apparently, James did write a synopsis elsewhere, but he subsequently destroyed it "after concluding that he could not—or would not—treat his subject with an eye toward satisfying the constraints and requirements of conventional twelve-part magazine publication" ("Notes" 407).

81. See above quote from Miller, note nine.
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