

# The Realism of the Balance Sheet: Value Assessments Between the Debtors Act and *The Picture of Dorian Gray*

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## Abstract

This essay examines English parliamentary debates about consumers' financial means in the context of the 1869 Debtors Act, which oversaw working-class imprisonment for debt. Debates reveal a shift in the financial epistemology favored by participants, from a view of means based on what I term social credit, to a view of means based on a balance-sheet paradigm. The rise and naturalization of the balance-sheet paradigm was both interrogated and challenged by one of the era's most controversial texts, Oscar Wilde's *The Picture of Dorian Gray*. I rely on the novel to examine the deep implications of the shift for the history of consumption, and to recall the drama it involved.

## I. Calculating Consumers

The 1869 Debtors Act declared the abolition of imprisonment for debt.<sup>1</sup> As Victorians soon realized, however, it perpetuated imprisonment for the working classes under a contempt-of-court construction. Section 5 of the Act, entitled “Saving of power of committal for small debts,” was the crucial one. Imprisonment could be ordered, it said, if “the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same.”<sup>2</sup> Limited to small debts, imprisonment became a county-courts story. These courts heard thousands of suits every day and annually issued hundreds of thousands of commitment orders against working-class consumers.<sup>3</sup> Having “means” and refusing or neglecting to pay implied a fault which justified the harsh response. The assessment of means, however, was an open question. Gauging the correct

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<sup>1</sup> An Act for the Abolition of Imprisonment for Debt, for the Punishment of Fraudulent Debtors, and for Other Purposes, (1869) 32 & 33 Vict. c. 62.

<sup>2</sup> Id. s. 5.

<sup>3</sup> The limit was £50. For the role of county courts in small debt adjudication and figures, see Patrick Polden, *A History of the County Court, 1846-1971* (1999).

financial standing of consumers became a problem in the decades which followed the Act as the singularity of imprisonment of the working classes came under scrutiny.

This essay reads discussions in three parliamentary committees which examined the Debtors Act within forty years of its enactment as a debate about financial epistemology, that is, about what constitutes knowledge of financial realities. It shows how an earlier view of financial means, described as a *social credit paradigm*, which implicitly relied on a consumer's potential access to credit to determine the existence of means, came to be seen as incorrect, and was displaced by a *balance-sheet paradigm* which ignored relational potentialities and instead examined assets against liabilities.

I read this legal history together with one of the era's most debated texts, Oscar Wilde's *The Picture of Dorian Gray*.<sup>4</sup> The analysis contains particular gains, not only for a rereading of the novel, but for legal understandings. The dilemma between value paradigms was thrown into sharp relief by *Dorian Gray*, which, I argue, exposed the deep conceptual tensions that plagued legal debates. No less crucially, *Dorian Gray* contained a shrewd criticism of the emergent acceptance of the balance-sheet view as a matter of epistemological correctness. While balance-sheet thinking was becoming obvious in legal thinking, *Dorian Gray* associated it with the fantastic—the enigmatically changing picture of Dorian Gray, and unsettled the acceptance of balancing as a matter of simple factuality. The resonance was felt in the scandal *Dorian Gray* provoked; if we are willing to view that scandal as part of the socio-historical context surrounding legal debates it can offer a sense of the dramatic epistemological leap that was taking place in law. To slightly abstract on Jean-Christophe Agnew's argument of almost thirty years ago, when violence and antipathy are visited on art, to understand them we will do well to observe art's exploratory force in relation to market representations.<sup>5</sup> The leap in law concerning questions of economic value can only seem to have been unheeded if we fail to expand our purview.

The implications of the analysis involve two contexts. One is the history and theory of calculative paradigms. Anthropologists and sociologists have countered the classical critical assumption that calculation erodes culture by examining “the representationally complex nature of calculations” and their varying forms.<sup>6</sup> The shift described here confirms their critique. The shift represented an increasing ambition to capture all relevant realities in a clear calculation, but, as I elaborate, was neither a linear addition of data, nor a move from an absence to a presence of calculation. It demands a more nuanced approach which assesses the historical terms of different forms of calculation with their culturally-diverse meanings, and sees the move between them as an epistemological break.

A second context is the relation between calculative paradigms and market-oriented thinking in the context of consumption. Historians like Margot Finn and Michael

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<sup>4</sup> Oscar Wilde, *The Picture of Dorian Gray* (Joseph Bristow ed., 2006) (1891).

<sup>5</sup> Jean Christoph Agnew, *Worlds Apart: The Market and the Theater in Anglo-American Thought, 1550-1750* (1986).

<sup>6</sup> Nigel Dodd, *The Social Life of Money* 297 (2014).

Lobban have treated the balance-sheet paradigm as a moral economy infused with equitable ideas which militated against the harsh market rule of freedom of contract.<sup>7</sup> As shown below, in the context of the Debtors Act, because the balance sheet took nonjudgment debts into account it could indeed keep consumers out of prison despite their failure to pay legally valid debts. Historically too, the balance-sheet view was supported by defenders of the working classes. The other side of the same coin was a dislike of the social credit paradigm. As *The Times* noted, it could rarely be proved that a debtor was without money, property *or* credit,<sup>8</sup> and consumers could therefore little resist imprisonment. Yet, from a broader perspective, it is unclear that social credit was a harsh market rule. The balance-sheet view contained far-reaching implications for market consciousness. As I show, it construed consumers as individualized financial entities, knowable, conceptually isolated, and assuming a present-ness—in ways previously inapplicable to the millions of people who joined expanding circles of consumption. For a long time the working classes were the outliers of an expanding consumer market. Economic historians often recognize that these classes' participation in consumer markets made the so-called consumer revolution. No less crucial than the economic barrier, however, was the conceptual barrier: economic agency depends on systems of meaning; extensions of the *logic* of a consumer market toward the working classes were therefore important. The dilemma of means of pay was one process of extension through which legal players gradually learned to view these consumers, for better and worse, as modern financial agents.

The process of turning consumers into moderns, I shall note in passing, also involved a reimagining of the legal system itself as removed from the economy.

## II. Consumers' Means

The dilemma about the assessment of means under the Debtors Act was set within a broader socio-legislative environment. In 1861 the British parliament formally abolished the distinction between traders and nontraders in bankruptcy law.<sup>9</sup> The implication was that insolvent debtors whose debts were large enough, whether commercial or private, could benefit from discharge through bankruptcy. This development seemed to reject the position that spending consumers were culpable in a way that traders were not,<sup>10</sup> a view famously articulated by Blackstone who argued that “indulgence to debtors” would encourage “prodigality and extravagance.”<sup>11</sup> As one commentator put it, “The presumption

<sup>7</sup> Margot Finn, *The Character of Credit* pt. III & passim (2003); Michael Lobban, *Consumer Credit and Debt*, in 12 *The Oxford History of the Laws of England* 838 (William Cornish et al. eds., 2010).

<sup>8</sup> May 6, 1873, cited in Gerry R. Rubin, *Law, Poverty and Imprisonment for Debt*, in *Law, Economy, and Society, 1750-1914*, at 241, 257-58 (Gerry R. Rubin & David Sugarman eds., 1984).

<sup>9</sup> Bankruptcy Act, (1861) 24 & 25 Vict. c. 134, s. 69.

<sup>10</sup> Markham Lester, *Victorian Insolvency* ch. 3 (1995).

<sup>11</sup> 2 William Blackstone, *Commentaries on the Laws of England* 473 (1766). It was a contested view: a long history of charities to consumer debtors challenged its premises, and received formal visibility in 1861. Finn, *supra* note 7, at 128.

that insolvency is criminal is no longer allowed.”<sup>12</sup> A further advance in this process of leveling views of (non)culpability between traders and consumers was almost concurrent with the Debtors Act: in 1869 an earlier categorization of bankrupts according to their level of fault was abandoned.<sup>13</sup> Now, bankruptcy, unavailable for working-class consumers<sup>14</sup> proceeded by taking account of all of a debtor’s assets and liabilities, balance-sheet-like. This conceptual option was in the background of discussions about the assessment of means under the Debtors Act.

More broadly, accounting was coming into its own in the same years. During the first three quarters of the century, instruction in accounting was not regularly available, and manuals were outdated and obscure; in the 1870s began the rise of professional accounting, with the London Institute of Accounting established in 1870 and the Institute of Chartered Accountants in England and Wales in 1880.<sup>15</sup> The accountant’s balance sheet in particular was epitomized in financial journalism as a morally efficacious instrument which did not need to resort to narrative devices.<sup>16</sup> George Rae’s celebration of the balance sheet in his treatise on banking practices not only hailed the device (which he discussed in relation to businessmen in particular), but explicitly contrasted it with information on a debtor’s means emerging from social perceptions, or as he described it, “that most unreliable of authorities—everybody.”<sup>17</sup> Don’t count on a man’s referees, said Rae in a chapter entitled “The Testimony of the Balance Sheet”; the only authentic evidence offering exact knowledge was the balance sheet.

In this atmosphere, the dilemma between social credit and balance sheet in the Debtors Act played out.

### III. Social Credit

Social credit was the paradigm actually operative in county courts, as the sociological reality of judgment summonses exposes. Two systemic elements clarify the workings of social credit. First, courts did not seek a full assets/liabilities account. Most thorny was the liabilities side. As one judge described the problem,

An order is made by a Court that a man shall pay 10s.; he owes his doctor a sovereign, he owes his butcher 30s. If he does not pay his doctor he can pay that 10s., or if he does not pay the butcher, he can pay the 10s. Has he had means to pay that debt?<sup>18</sup>

<sup>12</sup> Editorial, *The Times*, Apr. 2, 1869, at 7, 7.

<sup>13</sup> Barbara Weiss, *The Hell of the English* ch. 2 (1986).

<sup>14</sup> For two main reasons: first, bankruptcy applied to debts exceeding £50; second, bankruptcy costs were prohibitive.

<sup>15</sup> Mary Poovey, *Writing About Finance in Victorian England: Disclosure and Secrecy in the Culture of Investment*, in *Victorian Investments* 39, 48 (Nancy Henry & Cannon Schmitt eds., 2009).

<sup>16</sup> *Id.* at 47.

<sup>17</sup> George Rae, *The Country Banker* 7 (1920) (1885).

<sup>18</sup> Select Committee on Debtors (Imprisonment), Report, 1909, H.C. 239, q. 2087 (U.K.) [hereinafter 1909].

Depends whether or not you took nonjudgment debts into account. However judges formulated answers, the systemic fact was that debtors' other debts were not part of the assessment of means. A court would hear tens to hundreds of cases a day, each for fleeting moments; "the whole thing was done in a rather hurried way."<sup>19</sup> Almost invariably hearings were in the absence of the debtor or anyone on his behalf. Debtors could not afford to come to court; they risked not only the day's wages but the job itself. Judges therefore relied heavily on the creditor's evidence about the debtor's means.

The main question in courts' practice was the debtor's income.<sup>20</sup> The creditor's evidence was often his sworn statement about the debtor's employment, or a statement that the debtor had said that he had means of payment.<sup>21</sup> These would sometimes be supplemented by judges' knowledge of typical wages in various industries,<sup>22</sup> and other sources of information when available, such as employer certificates. Judges would often also be informed about family dependents. The roles of intuition and status markers were central.<sup>23</sup> Rules of evidence, furthermore, lifted formal limitations and gave leeway to judges to hear any evidence they saw fit, as section 5 put it, "Proof of the means of the person making default may be given in such manner as the court thinks just," exacerbating the conceptual flexibility of "means to pay."<sup>24</sup> Nonjudgment debts, and certainly those incurred in symbolic consumption exceeding the family's perceived needs, were not considered. Creditors had no interest in proving other liabilities. Debt collectors, meanwhile, were unhelpful even on a suspiciously positive account:

[They are] wonderfully honest and careful about their evidence generally, notwithstanding that their interest is to get the debt in. They tell you that they ascertain his wages are so and so, and, so far as they have ascertained, what his family is; but they cannot tell you whether he has any other obligations or what other debts he has.<sup>25</sup>

On the basis of rough information about income from interested parties, and some idea about family dependents, judges issued hundreds of thousands of commitment orders a year. "All these things sound rather curious to anyone who is accustomed to the regular proceedings and leisurely proceedings of a Court; but where you have the enor-

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<sup>19</sup> *Id.* q. 924. Many witnesses mentioned one to three minutes.

<sup>20</sup> Other assets were mostly out of the question for workmen with little property. In principle unearned funds too could be means, but that too was insignificant. *Ex parte Koster (In re Park)*, (1885) 14 Q.B.D. 597.

<sup>21</sup> *E.g.*, Select Committee on Imprisonment for Debt, Report, 1873, H.C. 238, q. 376 (U.K.) [hereinafter 1873].

<sup>22</sup> *E.g.*, *id.* q. 5419.

<sup>23</sup> This was true in higher courts as well, *e.g.*, *McIntosh v. Simpkins*, [1901] 1 Q.B. 487 (judges expressing willingness to accept a plaintiff's affidavit stating the value of the house in which the debtor resided and that he had a business as proof of means to pay).

<sup>24</sup> Inconsistencies in evidence accepted in various courts were a persistent complaint. See, *e.g.*, 1909, *supra* note 18, at xxiv. Evidence flexibility was part of a number of legal institutional designs which made county courts attractive for small debt collection.

<sup>25</sup> 1909, *supra* note 18, q. 4260.

mous mass of work which you have in County Courts, of course these things are done no doubt with greater haste.”<sup>26</sup>

Critics have argued that courts were punishing the poor for being poor, that is, that they wielded state power against persons with no means to pay. This critique, however, assumes a particular view of financial means, namely, a balance-sheet view. Courts were actually proceeding on another view which cannot be appreciated without attending to a second systemic element of the Act’s adjudication.

Most debtors paid their debt following the commitment order. A relatively small proportion of debtors subjected to commitment orders were actually imprisoned, and of those imprisoned, significant portions never completed their term. Jerry Rubin has examined the figures which speak to the gap between orders and actual committals (though with significant variance between courts). In 1906, for instance, there were 217,889 orders, yet 12,014 debtors actually imprisoned—about 5.5%. As Rubin notes, at some points one could show that less than 1% of debtors in all courts were imprisoned, and of those imprisoned less than 10% stayed their full term.<sup>27</sup> While the numbers who suffered imprisonment were themselves significant, from a systemic perspective it is important to appreciate the proportions, not in order to justify the system<sup>28</sup> but in order to understand the logic of its operation.

Debtors threatened with prison time did everything they could to obtain new credit and pay the judgment debt, whether from traders, loan societies, lenders, pawnbrokers, clubs, or circles of friends and family, and mostly succeeded. “In such emergencies some one paid for me,” reveals one famous debtor the common experience.<sup>29</sup> In fact, creditors often used committal orders issued and then suspended with their consent to enforce repayment in small installments under threat. Courts, in other words, were putting effective pressure on the economic system to recirculate consumer credit. Judges were well aware of these realities. They habitually suspended orders and relied on the temporal gap to induce payment.<sup>30</sup> Judge Bradbury, for instance, ordered bailiffs who executed commitment warrants that “[w]hen a debtor is arrested notice should at once be given to his wife, or other relatives, and she should be told that if there is any chance of payment being made, the debtor will be kept in the Borough gaol until the next morning,” a proce-

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<sup>26</sup> *Id.* q. 929.

<sup>27</sup> Rubin, *supra* note 8, at 286. Examples from specific courts for various years brought before committees are numerous. There were variations in proportions among courts, see, e.g., 1873, *supra* note 21, q. 4092; the gap also widened increasingly over the period, Rubin, *supra* note 8, Table B; yet, gaps were significant throughout; at its lowest, about a quarter of commitment orders materialized. See further discussion in Lester, *supra* note 10, at 117-18.

<sup>28</sup> As some Victorians were doing, e.g., “But if 9,000 plaintiffs were reduced to 109 cases of imprisonment, of which 83 persons paid before the time expired, does not that prove that extremely little hardship is inflicted even on the debtor?—I think so.” 1873, *supra* note 21, q. 2814 (discussing the court of Nottingham in 1872).

<sup>29</sup> Anthony Trollope, *An Autobiography* 43 (1947) (1883).

<sup>30</sup> 1909, *supra* note 18, q. 1828 (expanding use of suspension).

dures said to have been “a gigantic success.”<sup>31</sup> Similarly, judges often made decisions on a theory of optimal incentives; many of them described a search for the effective terms of imprisonment and suspension of orders which would induce debtors to pay.<sup>32</sup> When the prison commissioners worsened prisoners’ lives under the 1899 prison rules they too reasoned that their “rigorous” treatment would lead to smaller numbers coming into prisons.<sup>33</sup> Creditors, for their part, asserted their rationality and claimed they would not proceed unless they thought they could get repayment.<sup>34</sup> Higher courts too heard that “when . . . committed for the whole six weeks they [judgment debtors] moved heaven and earth among their friends to get the funds and pay.”<sup>35</sup> More generally, the “screw theory” of the Act, which acknowledged its function in “screwing” money out of debtors, was a prominent element of legal discourse.

The full systemic picture tells us that county courts viewed consumer debtors as having means to pay not because their assets exceeded or even matched their liabilities, but rather on the assumption that they had access to credit. The assumption was not often articulated, while the fact that consumers found means “at the gaol door”<sup>36</sup> was taken by many as indication that courts assessed means correctly.<sup>37</sup> Consumers’ embeddedness in networks which offered credit, both market and nonmarket, was part of the financial reality which made up the epistemological outlook actually operative in a system having to decide daily whether consumers had or had not the means to pay their creditors. The social credit paradigm assessed the financial standing of consumers by dispersing value among those potentially willing to ascribe it, envisioning consumption on credit as a social process dependent on ongoing support of relational networks. “It is a kind of chain. We are all links.”<sup>38</sup>

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<sup>31</sup> *Id.* q. 407.

<sup>32</sup> E.g., “I generally commit for 10 days, because I think 10 days will bring the money, if anything will do it.” 1873, *supra* note 21, q. 392; qq. 5061-72 (40 days; 10 days do not deter); q. 5721 (14 days enough).

<sup>33</sup> Lester, *supra* note 10, at 119-20.

<sup>34</sup> E.g., Select Committee of the House of Lords on the Debtors Act, Report, 1893, H.L. 156 (U.K.), app. G at 231 (letter by travelling trader Henry Weston) [hereinafter 1893]; 1909, *supra* note 18, q. 3591.

<sup>35</sup> *Stonor v. Fowle*, [1887] H.L.(E.) 20, 28-29 (Lord Bramwell).

<sup>36</sup> 1873, *supra* note 21, q. 4016.

<sup>37</sup> E.g., 1873, *supra* note 21, qq. 4058-60 (the Birmingham county court bailiff making the claim); 1893, *supra* note 34, app. A at 191 (memorandum from Judge Wilmot, stating, “It is obvious that, if out of the many debtors against whom judgment summonses were issued . . . little more than half stood out the issue of warrants, and out of those who did so more than 11 in every 12 paid rather than be imprisoned, the vast majority . . . could have paid . . .”); 1909, *supra* note 18, q. 2339 (“Would you be inclined to agree . . . that . . . nowadays they [judges] are only wrong in one-thirteenth [of cases], because only one-thirteenth go to prison?”); 1909, *supra* note 18, at 379 (letter on behalf of the Committee of the Association of County Court Registrars: “The number of debtors who serve their full term may roughly be regarded as the measure of the failure of the Courts to punish only those who can pay . . .”).

<sup>38</sup> 1909, *supra* note 18, q. 1167 (trade association representative explaining the indispensability of credit).

The social credit paradigm is a description of the system's logic which resolves one of the era's governing paradoxes: The single argument in favor of imprisonment which remained almost axiomatic throughout the era, as Markham Lester notes,<sup>39</sup> was that in the absence of property, workmen's bodies were the security needed to give them credit.<sup>40</sup> However, if "means to pay" represented some hidden property or cash,<sup>41</sup> the argument was false. The one way to take it seriously is with the social credit paradigm. If access to credit was means to pay, one could argue that imprisonment was the single security offered to creditors, and still argue that commitment orders were only issued against consumer-debtors with means.

#### IV. Balance Sheet

From a balance-sheet perspective, if the liabilities of a person exceeded his assets he had no means to pay. When the system operated on the basis of social credit, the potentiality of relational networks was considered part of financial realities while workmen's balance of assets to liabilities was not examined; to reject the former and accept the latter required a shift in epistemological views.

The rise of the balance-sheet view in legal thinking about working-class consumers involved two conceptual moves. One was an express "outing" and then rejection of social credit as means. The other was an embrace of balancing, which in county courts' practice meant an acceptance that debts, and not only assets (however roughly assessed), had to be computed to determine a consumer's financial standing. These were two sides of the same coin, or, more appropriately, of the same prison wall: each move was associated with a focus on one side. The outside was the prevalent phenomenon of debtors who never went behind bars following an order to commit them. If you focused on them, you tended to concentrate on their sources of repayment, a point which led to discussions, and eventually rejection of social credit. The inside, which often caught the popular imagination, was the plight of prisoners whose very imprisonment was an indication of systemic mistake in the assessment of means: they were "wholly unable to pay."<sup>42</sup> If you focused on imprisoned debtors you tended to worry about the disregard of other debts in the assessment of their means.

Before recounting the process of rise and naturalization of the balance-sheet paradigm, the conceptual implications of the two alternative paradigms beyond the immediate problem of imprisonment need clarification. I therefore turn to *The Picture of Dorian Gray*.

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<sup>39</sup> Lester, *supra* note 10, at 121.

<sup>40</sup> Observe that the argument is secularized and contains nothing from the discourse of sin and guilt associated with consumer debt.

<sup>41</sup> Or even an informal attachment of wages as some commentators were complaining.

<sup>42</sup> "Appellant," *Imprisonment for Debt*, 3 *Humane Rev.* 109, 113 (1903). The writer was addressing the difference in one year between 124,000 orders and 4,600 imprisonments in fact, and worried about the totally desolate persons who were locked up.



## V. Means and Value

“[W]hich Dorian? The one who is pouring out tea for us, or the one in the picture?’ . . . The painter bit his lip and walked over, cup in hand, to the picture. ‘I shall stay with the real Dorian,’ he said.”<sup>43</sup>

Quick reminder: *Dorian Gray*’s plot tells of a young and beautiful aristocrat who wishes that his portrait, rather than him, would bear the marks of time. The wish is fulfilled, and the portrait begins to change as Dorian accrues sins and years, while Dorian remains physically unchanged. He hides it, murders the painter Basil Hallward after showing him the portrait’s disfigurement, and finally slashes the portrait only to find his own death “withered, wrinkled, and loathsome of visage.”<sup>44</sup> The novel provoked famous debates on the relation of life to art, and ethics to aesthetics. Intimately tied with these tensions were two different formulas of worthiness, two ways to read Dorian, as the quotation suggests.

One reading points to the “living” Dorian, and the social credit he enjoys in various circles, from the opium dens to the aristocracy. His popularity is overwhelming to the end, an immense deference despite growing misgivings. Viewed from this social perspective, Dorian is a fund of wealth.

*Dorian Gray*’s representations of Dorian’s popularity are strikingly close to the social credit paradigm. Jeff Nunokawa observes the dynamic of diffusion in the novel, in which Dorian’s admirers become de-individualized, an adoring “everybody.”<sup>45</sup> This diffuse support enables and preserves, note, everything that has been considered important about Dorian’s representation—dandyism, aestheticism, decadence, or what have you—just as social credit in the context of the Debtors Act underwrote an entire system and cannot possibly be reduced to mere mistake. The structure of diffusion, furthermore, calls attention away from the specifics of any particular social relation Dorian has, towards the general pattern, and so underlines the story of popularity as a *form* of value assessment. Dorian’s popularity is structured on the essence of social processes, the fact of processes being more important than any specific content.

The alternative way to evaluate Dorian is through the hidden picture, “the terrible portrait whose changing features showed him the real degradation of his life.”<sup>46</sup> The picture registers Dorian’s accumulating sins, and, balancing them against his initial beautiful benevolent innocence, says that Dorian is worthless, a minus, a terrifying self.<sup>47</sup>

Dorian’s picture, a balance of moral assets and liabilities, is strikingly resonant with the balance-sheet paradigm. Audrey Jaffe notes that what matters in the picture is

<sup>43</sup> Wilde, *supra* note 4, at 28.

<sup>44</sup> *Id.* at 188.

<sup>45</sup> Jeff Nunokawa, Homosexual Desire and the Effacement of the Self in *The Picture of Dorian Gray*, 49 *Am. Imago* 311, 317 (1992).

<sup>46</sup> Wilde, *supra* note 4, at 119.

<sup>47</sup> Observe that figures who threaten Dorian’s social value (Jim Vane, Alan Cambell, Basil, prostitutes), end in obscurity, their threats actually or metaphorically buried. These representations maintain the two alternative forms of value separate. As I later argue, obscurity, or ignorance, was constitutive of social credit.

not the type of action committed, but rather the amount; the picture displays accumulation.<sup>48</sup> Like the structure of diffusion of Dorian's social credit, here the structure of accumulation underlines the abstract significance of the picture as a *form* of evaluation. The picture creates a common register, just as numbers do on a balance sheet, to offer a bottom line—a present statement of worth.

You might wish to interject that *Dorian Gray* explored not financial value (means) but human value more broadly. Yet, the move between them was repeatedly enacted in the text<sup>49</sup> and more crucially by it, through its core plot structure: the two alternative readings of Dorian's value depended on a tension with questions of commodification. On the one hand we have the inanimation of a human—Dorian's frozen body, on the other the animation of an object—Dorian's painting. While the former serves to explore the problem of value under a condition of complete surrender to social processes in which Dorian is little differentiated from “the wanton luxury and gorgeous splendor”<sup>50</sup> surrounding him, the picture assesses value in shelter from the exigencies of the market which would turn it into a commodity.<sup>51</sup> The move from financial to human value, in other words, is thin, as moral judgments involved in debates about working class consumers' means similarly revealed.<sup>52</sup> *Dorian Gray* therefore illuminates the legal dilemma.

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<sup>48</sup> Audrey Jaffe, *Embodying Culture: Dorian's Wish*, in *Aesthetic Subjects* 295 (Pamela Matthews & David McWhirter eds., 2003).

<sup>49</sup> One example is the scene of Dorian's visit to Lord Henry. Dorian finds Lady Henry at home, and she recommends her parties to him: “I can't afford orchids, but I spare no expense in foreigners. They make one's rooms look so picturesque.” When Lord Henry arrives late he apologizes and explains that he has been negotiating the price of old brocade, complicating his wife's crude commodification: “Nowadays people know the price of everything and the value of nothing.” An awkward silence follows, which the text relates only by way of already passing it, replicating Lady Henry's habits: “I am afraid I must be going,” exclaimed Lady Henry, breaking an awkward silence with her silly sudden laugh.” Yet that silence, itself atypical in Lord Henry's provocative fast-moving dialogues, invites attention to the set of questions just provoked: how to tell commodities and persons apart, how to price, how to value. Wilde, *supra* note 4, at 41-42.

<sup>50</sup> *Id.* at 120.

<sup>51</sup> Dorian hides the picture in the schoolroom following Basil's intent to send it to Georges Petit, the French art dealer. *Id.* ch. 9. The conceptual move between financial value and human value is a broad philosophical question. For a discussion of Benjamin's treatment of it see Dodd, *supra* note 6, at 142-49 (“Capitalism, Debt and Religion”). Agnew observed the relation of balance-sheet thought to views on moral value in Puritanism, Agnew, *supra* note 5, at 142. For a history of the relation of economic representations to efforts to understand broader human impulses in the nineteenth century see Audrey Jaffe, *The Affective Life of the Average Man* (2010). For the historical association of budgeting in particular with intrinsic moral worth in late nineteenth century see Anat Rosenberg, *Making Consumer Capitalism Through Law* (unpublished manuscript) (on file with author). On the other side of the ocean perhaps nothing is better than listening to Patten, America's most influential economist of capitalist abundance and consumption of the same era: “The fundamental change separating industrial nations from their primitive predecessors is the rise of budgetary concepts and the resulting recomposition of economic and social values.” Simon Patten, *The Reconstruction of Economic Theory* 57 (1912).

<sup>52</sup> The main thrust of histories is indeed the prejudicial moral evaluation of working classes. Rubin for instance argues that it explains continued imprisonment. Rubin, *supra* note 8.

The doubleness of Dorian's value in the text was equally present in evaluations of the novel itself.<sup>53</sup> On one reading, the novel had a moral import, popularly evaluated as negative. As Wilde's son described it, "[t]he ostensible objection was that it was prurient, immoral, vicious, coarse, and crude."<sup>54</sup> This view, like Dorian's picture, focalizes meaning through the object of evaluation to provide a bottom line. On another, propagated by Wilde, the book (or art) merely reflected to readers their own minds and did not have an innate essence. In 1890 he replied to a critic: "What Dorian Gray's sins are no one knows. He who finds them has brought them."<sup>55</sup> In the 1891 preface he famously suggested that "[t]he highest as the lowest form of criticism is a mode of autobiography."<sup>56</sup> This is a social vision which, like Dorian's popularity, disperses meaning among participants rather than locates a focal point which registers vices and virtues.

The two perspectives in *Dorian Gray* capture the most crucial differences between the competing epistemologies of value in assessments of means, which offered alternative social imaginations.

First, conceptual isolation. Dorian's picture is literally isolated from the world, locked up. It offers a graphic image of the methodological detachment of value assessment from ongoing relations under the balance-sheet view. A balance sheet is arguably inherently relational—not just in representing contractual relations but also in that each liability would necessarily appear (as asset) on another person's balance—yet the remarkable achievement of its mechanism is in producing an individualized statement which can represent each person *on his own*, just like the picture which, in itself, behind a screen, tells Dorian's value. The individualized statement, furthermore, excluded potentialities—social networks potentially available to an individual. Social credit was the inversion: it denied conceptual isolation and instead assumed that value was embedded in the potentiality of relational networks, as the dependence of Dorian's lifestyle on diffuse social support clarifies. Value was not just deferred to relationships, but dispersed, with no focal point which captured its entirety.

Note the consciousness of knowability. Dorian's picture revealed in minute details his value, every event turned into a line in his depiction. Dorian's amazement at this inescapability of nuance clarifies the ambition behind the balance sheet view to form a full picture in which nothing deemed relevant for a person's financial standing escaped calculation. Social credit, while representing a calculation, acknowledged fuzziness. Dorian's social credit is not fully knowable, an element of un-telling how and how much Dorian enjoys being central to its meaning. It captures the dominant experience of working-class debt litigation under the social credit paradigm: there was no knowing exactly how much a debtor could pay until pressure was actually exerted through his social circles.

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<sup>53</sup> And arguably led to a doubleness of versions, the first one published in 1890 in the American *Lippincott's Monthly Magazine*, the revision, in response to critiques, in 1891.

<sup>54</sup> Vyvyan Holland, *Oscar Wilde and His World* 70 (1960).

<sup>55</sup> Oscar Wilde: *Art and Morality* (Stuart Mason ed., 2010).

<sup>56</sup> Wilde, *supra* note 4, at 3.

The experience of temporality altered. Dorian's picture came into being as a wish against the passage of time. This logic also informed the picture's form of representation: it offered Dorian's present value at any given moment.<sup>57</sup> This is an artistic representation of the imposition of present-ness by the balance-sheet mechanism. The balance sheet represents experience as discrete present moments. This point requires clarification. Commentators on the balance sheet have often recognized that it is a way of making the future present, hence imposing above all an awareness of the future and a commitment to it. The Victorian critic Walter Bagehot, for instance, described the balance sheet as a way of living "in the future," incessantly thinking, as the capitalist must, how commitments will be paid; this, in turn, encourages prudence and saving rather than living in the moment.<sup>58</sup> While this is true, the crucial point about the balance sheet is the way the future is presentiated, to borrow Ian MacNeil's terms;<sup>59</sup> the point is legibility in the present of future unknowns. Social credit, by contrast, could only unfold through time; its existence at any moment was less meaningful than both the fact that it had been given before, and the question of its availability in the future—hence the success of Dorian's social life, and of the system of debt collection, and hence the sense of uncertainty about the stability of the evaluations underwriting them. Of course, there was nothing certain about obligations represented in a balance sheet, or indeed in the meaning of Dorian's deeds as they are represented in his picture. Dorian himself wonders about the over-determination of the picture, "There was no reason that the future should be so full of shame," he thinks.<sup>60</sup> His wonder exposes the non-obviousness of the choice to accept the balance sheet as a form of present knowledge.

All of these elements speak to alterative perceptions of value. A related angle of the shift between them, which I mention but cannot develop here further, was the place of the system of evaluation itself. The balance-sheet view purported to reflect a complex set of relationships from the outside as it were, a point represented in the picture's existence at a remove from fictional events, in the form of a magnificent register. It clarifies the conception of a balance-sheet account of means as an *external* statement about a debtor's finances. Under social credit, by contrast, evaluation was constitutive of value in the most immediate and undeniable sense. Dorian's popularity depends on spreading admiration (captured metaphorically in the first admirer, Basil, who initiates the processes after literally exposing Dorian to the world), pointing to the processes by which each legal decision about means was constitutive of the means' existence through the pressures it exerted on credit systems. Opting for balance sheet was a symbolic assumption of distance of the legal system from the economy.

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<sup>57</sup> The freezing of time explains the significance of the fact that no one is ever present when the picture actually undergoes its transformations, hence it is always seen as motionless, as noted in Caroline Levine, *The Serious Pleasures of Suspense* 197-98 (2003).

<sup>58</sup> Walter Bagehot, *Economic Studies* 173-74 (1880).

<sup>59</sup> Ian MacNeil, *Restatement (Second) of Contracts and Presentiation*, 60 *Va. L. Rev.* 589 (1974).

<sup>60</sup> Wilde, *supra* note 4, at 104.

## VI. Balance Sheet Naturalized

In many readings of *Dorian Gray*, the fictional society's views have not been treated as epistemologically meaningful; instead, Dorian's *true* value has been located in his picture. Assessments of the novel's moral import tend in that direction, as this statement suggests: "[T]hose who pollute their souls destroy themselves, *even if society fails* to detect their guilt and punish their transgressions."<sup>61</sup> The plot seems to support this reading. Dorian's intensifying need to be near the picture, until "[a]fter a few years he could not endure to be long out of England," encourages a unification of views. The ultimate seal is often associated with the ending. Dorian's attempt to destroy the picture is impossible; he is it, and his natural corpse bears the marks of ultimate worthlessness. The reading of a restoration of moral order, which confirms the assessment represented in the picture, was paradoxically encouraged by Wilde who, during the heated debates about his novel, found unlikely allies in Christian commentators who saw an ethical import to the story.<sup>62</sup> Readings of *Dorian Gray* as a condemnation of Victorian double standards likewise point to Dorian's picture as the single (if denied) truth.<sup>63</sup> Outside the search for moral import, the critical tendency to read *Dorian Gray* as a parable of a divided self (after, for instance, Stevenson's *Jekyll and Hyde*, to mention one favorite comparison), reiterates the same pressure toward unity; the self is a single after all. Similarly, claims about displacements of desire in the novel assume a denial of an essence of fictional selves which is to be recovered; displacement, a structure close to dispersal of value among multiple social participants, is assumed to be problematic.<sup>64</sup> The same is true of Marxist readings of the novel's structure as commodity fetishism. From this perspective, only a unification of positions—the social credit with the portrait's balancing—can reinstate a correct understanding of the social relations at work in *Dorian Gray*; otherwise Dorian's social position is mere fetish.<sup>65</sup> Here too the profoundness of alternatives, the irreducible doubleness of perspectives, is underplayed, as one of them turns out to be little but misperception.

These readings align with a similar move in legal thinking from social credit to the balance-sheet view, which began to seem like the only correct view. The following discussion traces this historical process before turning again to *Dorian Gray* to recover its fragility.

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<sup>61</sup> Nicholas Ruddick, *The Fantastic Fiction of the Fin de Siècle*, in *The Cambridge Companion to the Fin de Siècle* 189, 196 (Gail Marshall ed., 2007).

<sup>62</sup> See Wilde's responses to critics, reproduced in Wilde, *supra* note 55 (but Wilde also complained that the novel's moral was an artistic error, *Letter to St. James's Gazette*, June 26, 1890, *id.*). Some readers, however, found the ending unconvincing, "out of the picture" as one anonymous review claimed. *Daily Chronicle*, June 30, 1890, at 7, reprinted in *Oscar Wilde: The Critical Heritage* 72, 73 (Karl Beckson ed., 1970).

<sup>63</sup> E.g., Holland's analysis, *supra* note 54.

<sup>64</sup> E.g., Ed Cohen, *Writing Gone Wilde: Homoerotic Desire in the Closet of Representation*, 102 *PMLA* 801 (1987); Levine, *supra* note 57, at ch. 9.

<sup>65</sup> Moyra Haslett, *Marxist Literary and Cultural Theory* 246-53 (2000).

Hostility to the Debtors Act as class law was loud.<sup>66</sup> The looming image was the difference between bankruptcy available for the upper classes, which brought an end to indebtedness, and the Debtors Act governing working-class consumer debts, which kept debts alive while threatening consumers' freedom. Within forty years three committees examined the Act: a House of Commons committee in 1873; a House of Lords committee in 1893, and another Commons committee in 1909. In terms of recommendations, the 1873 committee was the most critical toward imprisonment, 1893 the most supportive, with the 1909 committee somewhere in between; none brought an end to imprisonment. All of this is well documented, and of less concern here; I am instead interested in the naturalization of the balance sheet through two conceptual moves—outing and rejection of social credit, and an emergent insistence on an assets/liabilities account. This was a significant historical development occurring while participants in debates were busy making other plans. The following discussion takes 1873 as a starting point and traces dominant attitudes involved in the process of naturalization of the balance-sheet paradigm, concurrently observing the twin moves involved.

The 1873 committee sought an abolition of imprisonment, but the central role of social credit in operating the Debtors Act was little examined. When social credit was addressed, it was framed as means “found in a fictitious manner.”<sup>67</sup> This framing tapped a popular discourse of the late decades of the nineteenth century which suspected social credit but was not yet ready to fully reject it. One writer to *The Times*, B.T. Williams, sounded typical claims: he complained about working class plight and called for abolishing imprisonment which ruined poor families. Those who managed to stay out of prison were using credit which was means, but “most mischievous” means, argued Williams quoting Lord Bramwell. The critique was that living on credit backed by imprisonment was expensive and risky, but not that courts were wrong in assessing means in such cases. Put simply, the logic of complaint here accepted the epistemology of social credit, even while viewing it as a bad reality.<sup>68</sup>

At first blush, the committee's position on the other side of the coin—that of demanding an assets/liabilities account (which translated in practice into a demand that other debts be considered)—seems clearer. The report argued that “the mode of procedure on judgment summonses does not ensure sufficient evidence of the means of payment of the debtor, *especially with regard to his indebtedness to other creditors*,”<sup>69</sup> and that a proper procedure would include “a full and true account of *all* debts.”<sup>70</sup> However, these

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<sup>66</sup> See generally Paul Johnson, *Creditors, Debtors, and the Law in Victorian and Edwardian England*, in *Private Law and Social Inequality in the Industrial Age* 485 (Willibald Steinmetz ed., 2000).

<sup>67</sup> 1873, *supra* note 21, q. 3916 (Samuel Leech, solicitor and opponent of imprisonment, explaining how debtors managed to stay out of prison); see also *id.* q. 5347, where a judge distinguishes payments by other family members who come to the rescue from new formal loans, regarding the latter as “only taking money out of one pocket and putting it into another,” and so circumscribes the notion of social credit to the family circle.

<sup>68</sup> *Commitments for Non-Payment of Debts*, *The Times*, July 11, 1882, at 4.

<sup>69</sup> 1873, *supra* note 21, at viii-ix.

<sup>70</sup> *Id.* at ix.

statements were limited, just like the critique of social credit. The committee was impressed by settlements of accounts in bankruptcy. The missing element in judgment summonses—other debts—became visible through the comparison. This point requires emphasis because it was another thing to seek a balance-sheet account of means in the absence of an arrangement with all creditors. Without other creditors as parties to the procedure, when litigation remains *vis-à-vis* a single party (as the case continued to be), a full assets/liabilities account was not an obvious element of proceedings. Not only did the question of forming a full account of debts receive limited discussion in the 1873 hearings, its epistemological necessity in judgment summonses was far from clear.<sup>71</sup> Embracing the balance sheet required a more abstract epistemological commitment which emerged only gradually.

While attempts to abolish imprisonment failed, in 1883 Section 122 of Chamberlin's Bankruptcy Act<sup>72</sup> introduced administration orders for small debtors (up to £50 indebtedness), partly analogous to bankruptcies. Chamberlin's declared purpose was class equality, in line with the criticism of the 1873 committee.<sup>73</sup> The reform was considered by many a failure,<sup>74</sup> and crucially retained imprisonment—the salient dividing line between large and small debtors – upon failure to pay any installment under an administration order.<sup>75</sup> The 1893 committee thus operated with the inefficacy of Section 122 in background. At the same time, the discussion of means could no longer be colored by an imagined comparison to bankruptcy, because such a scheme was now available. The question of computing total liabilities in order to assess a consumer's financial standing *outside* an arrangement with creditors now had to be considered as a form of abstract truth.

Or maybe you could just evade claims that without a full account of debts means could not be assessed. A dominant form of evasion turned to questions of creditor prioritization. Some judges testifying in the 1893 (as well as the 1909) hearings suggested that judgment debts had priority over nonjudgment ones, therefore the latter should not be part of the assessment of means. This position seemed to make sense in light of the (theoretical) option to use Section 122;<sup>76</sup> there was now a formal legal route which assumed equality among creditors, hence inequality in litigation under the Debtors Act appeared less arbitrary. Observe that this position responds to the question of assessing means from the perspective of supplier-creditors' interests, not their debtors. In doing so, it evades rather than answers the claim that means were incorrectly as-

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<sup>71</sup> E.g., *id.* q. 2117.

<sup>72</sup> 47 & 46 Vict. c. 52. The Act shifted power to the Board of Trade in the administration of bankruptcies.

<sup>73</sup> Edward A. Parry, *The Law and the Poor* 119-24 (2004) (1914).

<sup>74</sup> Among the reasons for this evaluation, the system depended on judges' initiative; it was costly, and so discouraged settlements; and was procedurally inefficient. The critique about attaching future earnings (as opposed to bankruptcy which often operated by distributing existing property and clearing the bankrupt's future) also remained cogent. E.g., 1909, *supra* note 18, qq. 2605, 4316.

<sup>75</sup> 47 & 46 Vict. c. 52, s. 122(6).

<sup>76</sup> E.g., 1893, *supra* note 34, q. 945.

sessed, because it “forgets” that the need to assess means has something to do with the imprisoned debtor’s culpability.<sup>77</sup>

A different evasion did focus on debtors, but refused to view other debts as abstract financial obligations. For instance, Judge Selfe told the 1893 committee that he would take account of other debts if informed about them (itself unusual because defendants were absent), but insisted that debtors mostly mentioned other debts as an excuse, while paying nothing at all. This position did not assume that debts were necessary for understanding a person’s financial standing; instead, debts were relevant for Selfe only as *events* when debtors *actually* repaid them. In 1909 other judges too revealed the same logic.<sup>78</sup>

Evasion tells us that the balance-sheet view was resisted, but, at the same time, resistance had no theory: it was left with a self-inflicted ignorance.

Ignorance equally depended on not knowing about social credit. Lord Thring of the 1893 committee sought a principled position: “the justice or injustice of this procedure depends upon the ability or the competence of the judge to discover that the man whom he sends to prison can, *without trenching upon the resources of relatives or friends, himself pay the instalment?*” “Yes,” said Judge Edge.<sup>79</sup> Judges agreed, when pushed in this manner, that borrowed money was not means to pay, but they resisted the implications by professing ignorance: they claimed that they did not know where money came from, and that even if it came from new loans that did not indicate that the debtor had no money of his own:

Lord Thring: “[A] man is put into prison by means of the screw system; he gets his relations to get him out of prison; that does not show at all that he has the means to pay?”

Judge Chalmers: “No, neither one way nor the other.”<sup>80</sup>

These evasions allowed the 1893 committee to form a dialogue with the criticism, vocal in the wake of failure to abolish imprisonment, that repaying one debt with another was no achievement, and still conclude that imprisonment “has a great effect upon debtors in inducing them to pay,” as proven by the small proportions of debtors who actually went to prison and the even smaller proportions of those imprisoned who remained “all their time.”

We could read the 1893 position as simple cruelty which served the interests of commercial creditors. From an epistemological perspective, however, it reveals something deeper: un-knowing was a structural element of social credit. *Dorian Gray* represented this point forcefully. The diffusion of Dorian’s popularity means that the novel never lets any single link in the social chain which sustains Dorian become too meaningful, too known. Readers are ignorant about the details of Dorian’s success,<sup>81</sup> but they know he keeps go-

<sup>77</sup> For 1909 examples, see 1909, *supra* note 18, qq. 1833-34, 2087, 2377.

<sup>78</sup> *Id.* qq. 2378-79; *id.* at 344 (letter from Judge Dodd).

<sup>79</sup> 1893, *supra* note 34, q. 1440.

<sup>80</sup> *Id.* q. 610. For additional distinctions between sources of money (borrowed or owned), see, e.g., *id.* qq. 1246, 1321. Judge Digby professed similar ignorance later, see 1909, *supra* note 18, qq. 1020-22; see also *id.* qq. 2803-06.

<sup>81</sup> Or failures, *supra* note 55.



ing. Like judges, it is all readers can know: a person's means are potentialities belonging to many persons and contexts, and therefore resist a present unified account. The important point is that the system works, and so nothing more needs to be known.

And yet, in facing the absence of theory, and in seeking justifications for the practice of social credit, the balance-sheet view already made headways, threatening to show itself to the world like Dorian's hidden picture. Rejection of social credit therefore dominated over evasion in the 1909 committee.

In 1909 the committee was split on the question of imprisonment and approved its report with a slight majority.<sup>82</sup> The final (majority) report supported imprisonment for debts incurred for necessities.<sup>83</sup> A particular imagery informed the discussion as the report moved from the legitimacy of working-class consumer credit to that of imprisonment: a balancing between debt and income. The imaginary starting point was a workman at his first day on the job, needing the "necessaries of life," but not yet entitled to a salary. Such a man must have credit. The trader, in turn, if he is careful in his inquiries extends credit "with due regard to the future potential ability of the workman to earn wages."<sup>84</sup> The report viewed the annually increasing gap between warrants of commitment and actual imprisonments in county courts as proof that creditors were indeed more and more careful in giving credit.<sup>85</sup> On this reading of court realities, the whole systemic logic had been from the start a balance-sheet one, and reflected cycles of credit which relied on matching cycles of income, not on new credit. The argument was flawed in contemplating a single rather than multiple credit relations, and even more deeply in imagining a cycle of loan and repayment in which a workman was balanced on payday. Its efforts reveal that social credit could no longer be tolerated, while balancing (the periodically-balanced consumer) became dominant.

*Contra* the majority, the minority argued that the gap between warrants and actual commitments was bridged by the consumer "begging it [money] from his relatives and friends, or by borrowing it from a moneylender."<sup>86</sup> *Contra* defenses of the system as an effective mechanism of enforcement, the minority said, "It seems to us that *if the people who have to pay to keep the debtors out [of] prison are not the debtors themselves . . . the system stands self-condemned.*"<sup>87</sup> While disagreeing with the majority on the correct account of the Act's his-

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<sup>82</sup> The report passed six-to-five, with three members absent.

<sup>83</sup> See Rosenberg, *supra* note 51.

<sup>84</sup> 1909, *supra* note 18, s. 8.

<sup>85</sup> *Id.* s. 20.

<sup>86</sup> *Id.* at xiii.

<sup>87</sup> The minority also addressed the balance-sheet view directly, though it assumed that terminologically the term "means to pay" excluded a review of other debts: "proof of the debtor's means without proof of the debtor's liabilities amounts to nothing." *Id.* at xv. While this emphatic position was an attack on the majority's faith in the legal framework, it only diverged from the majority position on factual—not conceptual—assumptions. The majority's justification was equally committed to a balance-sheet story; imaginary, yet conceptually conforming.

torical operation, these reports converged in recognizing that social credit was illegitimate; just for that reason the majority construed its imaginary workman.

The 1909 minutes of evidence reveal the process which led to these conforming positions. The committee repeatedly asked witnesses about the gap between commitment orders and imprisonments, and wondered whether the fact that a debtor paid before imprisonment was “conclusive evidence that the committal order had been rightly made”<sup>88</sup>—that is, that the court assessed means correctly. This focus led to questions about the source of the money, and forced participants to contemplate the difference between repayment enabled by new credit, and repayment derived from wages. Witnesses delegitimized social credit. While some still professed ignorance as to the source of money as in 1893, many others acknowledged the role of new credit in a manner which undermined the system’s operation.

One more nail in the social credit coffin was the emergent suggestion that it could not be valid because it was extended under illegitimate pressure, a “*blackmailing* of friends and relations of the debtor.”<sup>89</sup> In a world gradually learning that money has no color, this framing was one legitimate way, backed by Victorian contract theory, to tell moneys apart.

Concurrently with a clearer rejection of social credit, the conceptual significance of forming a balance-sheet account emerged foremost in a positivist discourse of truth which became salient. Asked about the relevance of other debts to assessments of means, 1909 witnesses treated it as a matter of getting “at the *real* circumstances of the debtor’s position.”<sup>90</sup> In administration orders, unlike judgment summonses proceedings, it was argued, “we *know* then *all* about the man.”<sup>91</sup> Not knowing balance-sheet-like, particularly not knowing about other debts, was framed as a problem of information, either absent or unreliable, which undercut the ability of judges to make decisions.<sup>92</sup> Indeed, once conceded as epistemologically correct, witnesses frankly suggested that if this knowledge were acted on imprisonment would disappear because the assessment “would practically exclude every working man in the country.”<sup>93</sup> There were reasons, involving normative policy no less than class prejudice, for bounding off knowledge. These reasons have received analytic attention. What has gone unnoticed, however, is the shift in epistemological views. The significance of fact-talk was not its operative implications, which remained dormant, but its framing of a highly contested outlook on financial realities as simply, well, realistic. Sixty years later, the committee which finally brought imprisonment to an end could unhesitatingly say that proceeding in judgment summons without “ascertaining what property, assets, earning and means he [debtor] has . . . and

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<sup>88</sup> Id. q. 4048.

<sup>89</sup> Id. q. 1880; see also q. 3315.

<sup>90</sup> Id. q. 2029; see also q. 2511.

<sup>91</sup> Id. q. 2284.

<sup>92</sup> E.g., id. qq. 4264, 168 (appendices).

<sup>93</sup> Id. q. 3966.

what are his financial commitments” was “a singularly *speculative* method of enforcement.”<sup>94</sup> The discourse of truth naturalized and neutralized the balance-sheet view and created a common sense of knowledge which had long been resisted, evaded, and, in truth, unclear.

## VII. Balance Sheet Denaturalized

The emergence of the balance-sheet paradigm in debates about the regulation of working-class consumer credit has not been previously examined, and might appear to have been a process so subdued that it has skipped attention. However, if we broaden our historical perspective and bring into view the social scandal provoked by *Dorian Gray*, the historical drama of the epistemological shift reappears.

Why did *Dorian Gray* scandalize readers? Historical explanations often point to the novel’s homoeroticism, its challenges to common morality, and its estrangement from middle-class ideals. I suggest, however, that whatever the readers’ moral discomfort, the problem lay most crucially in the disconnect the novel created between their sense of morality and realism. To see this point, observe first that the value paradigm represented in Dorian’s picture as a balance of virtues and vices—or assets and liabilities—was the view that realist reading conventions would lead readers to accept as correct. A reader trained in Victorian literary realism would be inclined to trust the account which tells her that Dorian is depraved and worthless, because that account is supported by the narrator, or total narrative. Fictional characters—like Dorian’s society—are always more ignorant than the totalizing outlook. Because Victorians were constituted to read in this manner (as we are), they would be inclined to view the picture as the true register of Dorian’s value.

And here lay the problem. To be correct, readers must accept the fantastic picture.<sup>95</sup> *Dorian Gray* scandalized readers because it undermined the association between the balance-sheet view of value and fact talk. Instead, the balance-sheet view was associated with the opposite of objective truth: the supernatural banished by Victorians. Readers disposed to decry Dorian’s worthlessness (and the depraving effects of his story) found themselves unanchored from realism, an exasperating experience.

*Dorian Gray* undermined the balance sheet as a neutral procedure of value assessment through an assault on the cultural form which grounded the age’s sense of reality.<sup>96</sup> Its conflation of truth and the fantastic at the level of structure, furthermore, was paralleled in content and was therefore directly accessible. *Dorian Gray* continually pricked

<sup>94</sup> 1968-69 Cmnd. 3909 Report of the Committee on the Enforcement of Judgment Debts, s. 296.

<sup>95</sup> Shelton Waldrep, *The Aesthetic Realism of Oscar Wilde’s Dorian Gray*, 29 *Stud. Literary Imagination* 103 (1996) (arguing that the portrait moves from idealism to realism).

<sup>96</sup> For Anne Wharton’s contemporaneous account of the novel as a “revulsion from realism” see the reproduction in Oscar Wilde, *supra* note 55. See also Riquelme’s insightful analysis of the multiple doublings in *Dorian Gray* as active denial of realistic readings. John Paul Riquelme, *Oscar Wilde’s Aesthetic Gothic: Walter Pater, Dark Enlightenment, and The Picture of Dorian Gray*, 46 *Mod. Fiction Stud.* 609 (2000); and see Levine’s analysis of the real-image gap opened by *Dorian Gray* as a challenge to realism’s temporal structure. Levine, *supra* note 64.

readers, reminding them of the epistemological problem they were facing while invoking the positivist talk of the age: “[H]e found himself at first gazing at the portrait with a feeling of almost *scientific* interest. That such a change should have taken place was *incredible* to him. And yet it was *a fact*.”<sup>97</sup> The same experience overwhelms Basil Hallward, the painter: “It was some foul parody, some infamous ignoble satire. He had never done that. Still, it was his own picture.”<sup>98</sup> Then again, should you be inclined to go along and accept the picture, the text again puts you off balance: “It was the *imagination* that made each crime bear its misshapen brood. In the common world *of fact* the wicked were not punished, nor the good rewarded.”<sup>99</sup> Overall, *Dorian Gray* exacted a painful price from readers who reduced the doubleness of value paradigms it contained and naturalized one; it would not let readers tie together their favored view of value as bottom line of balancing centered on the self, and an objectivist epistemology. As Jerusha McComack argues in reflecting on Wilde’s bitter end, he condemned himself by challenging the very status of truth itself.<sup>100</sup>

This literary move and the attention it attracted illuminate a legal process previously unexamined, and invite the reading I have offered of an epistemological break. The search for breaks of this kind has become more familiar as historians recently began to recover how modern economic representations of reality became commonsensical. *Dorian Gray*’s power was in forming a scathing critique as this was happening. Contemporaries’ responses allow today a glimpse at the stakes of the epistemological leap. While the novel was condemned as a reproduction of old myths, the scandal was of its own time and place, and was deeply felt for its resonance with broader dilemmas of Victorian value. The outrage which broke when *Dorian Gray* forced late Victorians to reflect on their epistemology(ies) shows us how deeply art and the real interact, and how unsure law’s place is in between.

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<sup>97</sup> Wilde, *supra* note 4, at 82.

<sup>98</sup> *Id.* at 131.

<sup>99</sup> *Id.* at 168.

<sup>100</sup> Jerusha McComack, *Wilde’s Fiction(s)*, in *The Cambridge Companion to Oscar Wilde* 96, 99 (Peter Raby ed., 1997). To be sure, the social credit account is no less fantastic in the text, not least because of *Dorian*’s unnatural looks. *Dorian Gray* would have no vision naturalized, but rather insisted on the constructionist and imaginative status of any conception of value.