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“IN LAW HUSBAND AND WIFE ARE ONE PERSON, AND THE HUSBAND IS THAT  
PERSON”: MARRIAGE LAWS IN EIGHTEENTH-CENTURY BRITISH FICTION

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## ABSTRACT

Eighteenth-century British inheritance laws mandated married women be subsumed under the legal identity of their husbands. As such, they were unable to own or manage property, independently engage in business, or carry out any kind of legal action against another person or in defense of themselves. Within this constrictive legal and economic context, authors engaged with these laws in fiction by portraying how these laws impacted female characters and their marriages. I consider three such novels in this study: Jane Austen's *Pride and Prejudice* and *Sense and Sensibility*, and the anonymously written *The Woman of Colour*. The two authors of these works portray the effects of these laws on the lives of women differently. While Austen suggests that laws regarding marriage and inheritance need not disadvantage a woman seeking an advantageous marriage, the author of *The Woman of Colour* indicates that the laws are dangerous and disenfranchising for women.

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## Introduction

The marriage and inheritance laws of eighteenth-century Britain kept property and economic power out of the hands of married women. Legislation such as Hardwicke's Marriage Act of 1753 allowed parents to strictly control whom their children married and therefore regulate the allocation of their property. Women were also often kept from inheriting family land by legal arrangements that retained property in the hands of male relatives, because upon their marriage, women would lose ownership of family land. Marriage was primarily about the transfer of property and keeping wealth within the family, especially through male primogeniture. After marriage, under the common law practice of coverture, women's legal and economic identities were entirely enveloped by that of their husbands and the couple legally became one person. Married women were not able to own or manage their own properties; rather, everything they owned became the property of their husbands and therefore his to control. These policies were further reinforced by cultural norms in British society. Women were expected to sculpt their identities to make themselves more marriageable, and upon marriage conform their personal interests to their husbands' preferences. Attitudes within British society purported coverture as protection for women, expecting that their male relatives would act in their best interests, therefore eliminating the need for women to have legal independence.

Within the contexts created by these laws, authors often used fiction to make statements about the marriage laws. I examine works of two authors who arrive at different conclusions about how these laws acted upon women during courtship and marriage. Jane Austen wrote two novels in which her female protagonists navigate the legal structures and social attitudes

regarding marriage. While she represents marriage laws as unfair toward women, Austen ultimately suggests that these laws make no real impact on women, as her female characters all marry well despite their legal and economic disadvantages. Moreover, Austen emphasizes marriage as a financial arrangement that determines women's socioeconomic statuses, implying that despite any unfairness in marriage laws, women have little other choice but to marry and marry well. In one of her earliest novels, *Sense and Sensibility*, Austen makes some criticisms of marriage laws in place in Britain, but writes women who deftly overcome the challenges presented by these laws to achieve profitable marriages. In *Pride and Prejudice*, written two years later, Austen is even less critical of the unfair patriarchal system and frankly portrays marriage as a business arrangement—the only way in which women can make money.

Unlike Austen's novels, *The Woman of Colour*, written by an anonymous author, contains direct criticisms of marriage laws and demonstrates the effect of these laws on women. In this novel, the heroine falls victim to the patriarchal forces of British law when the provisions of her father's will force her into marriage, which fails. Despite this, she is able to triumph over the laws by labeling herself a widow, establishing her own financial security, and leaving England altogether, moving back to Jamaica where she lives independently and without male protection. Unlike Austen's work, this novel goes beyond the protagonist's marriage to undermine the prevailing assumption that marriage is the end of women's troubles, and to suggest that the legal structures in place are harmful to women.

In both cases, the authors embed social critiques in their fiction. An analysis of this fiction is worthwhile as we consider modern gender inequalities and their historical and legal roots.

## Chapter 1 Coverture: Erasure of Female Identity

As eighteenth-century judge Sir William Blackstone first stated, “In law husband and wife are one person, and the husband is that person.” This sentiment was central to the legal system of coverture, a common law practice that developed in the middle ages and persevered for centuries. Under coverture, married women had no legal identity separate from their husbands’. Much debate has ensued over the origins of the adoption of women under their husband’s legal identity. Some historians have hypothesized that the law reflected the sacramental view of marriage in the medieval church, in which two people became one flesh and a husband had dominion over his wife (in this instance, the control over her body and her property). Others have suggested that common law reflected the realities of the economic and social positions of women in the middle ages, a system in which husbands profited through the guardianship of their wives and their wives’ property.<sup>i</sup> Regardless of its origins, coverture imposed severe economic restrictions on women until the passage of the Married Women’s Property Act in 1870. Under coverture, a woman could form no economic contracts in her own name, and any and all of her wealth legally became the property of her husband. So complete was the control a husband had over his wife’s property, that a couple could not even make a gift to each other after marriage; by marrying, a woman had already turned over all of her property to her husband, and because a woman could own nothing separate from her husband, a husband could not give something to his wife for her sole possession.<sup>ii</sup>

Upon marriage, women lost their legal identity, and their husbands became their agents in legal procedures. This was especially difficult for women who wanted to carry out business or trade separate from their husbands. If a woman was a member of any business partnership or

union of workers, that partnership was dissolved upon her marriage, and she was prohibited from entering such a partnership after marriage, as her husband owned her property and she was unable to make legal contracts in her own name. Married women could only conduct business separate from their husbands if they had his permission, and then he had to forfeit his legal rights to her business. Because a woman had no real legal identity, the husband of a businesswoman would be liable for her business debts and contracts in her place. Moreover, a husband and wife could not enter into contracts together, or pursue any legal action against each other, such as breach of contract, since legally they were the same person. In any kind of legal proceeding, husbands and wives were not compelled to testify against each other, as one could not be compelled to testify against himself.<sup>iii</sup>

Women were not completely without legal protection against their husbands, but their lack of legal identity left them without much legal recourse against a spouse. Married women had protection in the case of assault or battery: if her husband threatened or attempted to do her harm, a woman could prosecute her husband or apply for a court order to her husband to keep the peace, a process called “swearing the peace.”<sup>iv</sup> Otherwise, women were often left without a legal solution to other problems in marriage. As the law assumed men to be the arbiters of family property, it also assumed that husbands were breadwinners who supported their wives and children, but there were no effective legal means through which women could seek financial support from irresponsible husbands. In 1834, the Poor Relief Act altered the Poor Law that had existed since 1601 to finally recognize a husband’s liability to support his wife. Under this law, wives could receive a loan from the guardians of the act for which her husband would be held responsible, but the guardians were in charge of whether or not to administer that loan, and could refuse it at any time. Women whose husbands neglected or refused to support them were



prevented from legitimately supporting themselves and their children by the problems posed by their lack of legal identity and economic agency.<sup>v</sup>

Social views of female economic agency reflected these restrictive policies. Female economic agency was seen as a largely destructive force. Sexual propriety went hand in hand with economic probity in the literature of the economic revolution, and unrestrained economic authority in women was associated with unhindered sexuality. Many authorities agreed that the immorality resulting from female economic agency threatened the autonomy of the family unit and thus the very fabric of society.<sup>vi</sup> The legal literature of the time also supported coverture, even claiming that a woman was privileged under coverture, because she was protected under the wing of her husband, a “femme-covert.”<sup>vii</sup> According to this myth of privilege, a woman was believed to enjoy several benefits under coverture. For instance, women had the ability to impose obligations upon their husbands. Women were enabled to make purchases on behalf of her husband for which he was ultimately fiscally responsible.

Many authorities also believed that under coverture women were able to avoid or mitigate punishment. Because women were believed to be one with their husbands, they could not be prosecuted for crimes committed with their husbands as they were believed to be under his coercion. Women were also protected from suits or imprisonment regarding debts because they were legally incapable of making transactions themselves.<sup>viii</sup> Furthermore, many men purported that women did not need equal legal or economic rights. One prevalent ideal in eighteenth century Britain that supported the legal system of coverture was benevolent paternalism. This idea suggested that because women had well intentioned male relatives who could care for them, they did not need increased legal rights. Married and unmarried women alike in this system were believed, by nature, to need oversight and protection. Thus, they should

not own property, enter into legal or business contracts, maintain custody over the children, or earn money—all for their own good.<sup>ix</sup>

Although women were suppressed economically and legally under coverture, coverture was not simply the removal of identity. Certain exceptions allowed women to overcome the restrictions imposed under coverture and obtain some form of legal or economic agency. Women were able to maintain control over some possessions after marriage, as different forms of property had different meanings under common law. Any moveable property owned by a woman before her marriage (such as money, furniture, livestock, and stocks) was at her husband's disposal after their marriage. As such, he could give it away or sell it as he desired, and even will it away after his death. Paraphernalia (personal property of a woman such as clothing, jewelry, and other personal adornments) also became the property of her husband, with the only restriction being that he was unable to will it away after his death. When she became a widow, the woman regained her property.<sup>x</sup> A woman could retain ownership of "real" property, such as immovable property like housing or land, but she was unable to control it: she could not sell, rent, or manage it without her husband's consent. Any rents earned from a woman's property became her husband's money. Therefore, even when a husband promised to leave a wife's property untouched, her family had motivation to invest in real property, as a woman was more likely to be able to maintain some wealth that way. Estates and land could revert back to a widow upon her husband's death, or could go to an heir.<sup>xi</sup>

Women were able to achieve economic power outside of property ownership. In fact, married women became integral components of Britain's financial markets and handled their assets with expertise and wisdom, despite their lack of legal agency. Married women became active consumers, and their spending stimulated the economic growth, urbanization, and

industrialization associated with the eighteenth and nineteenth centuries.<sup>xii</sup> One such way women overcame coverture was through the Common Law of Necessaries, which allowed a woman to make purchases of necessary materials for her husband. Officially, necessary materials included food and household supplies appropriate to his social status. However, the law of necessaries was so widely accepted that merchants rarely questioned purchases made by a married woman who lived with her husband. In fact, the law still applied even if a wife was publicly adulterous, if her husband had turned her out, or if she had fled to escape his violence.<sup>xiii</sup> If a husband wanted to prohibit his wife from making purchases under his name and protection, he had to publicly declare that his wife was no longer under his credit.<sup>xiv</sup>

The ability to make purchases on behalf of her husband greatly expanded a wife's economic capabilities; women were able to establish their own credit status, reputation, and social and economic networks. Some London women even organized secret networks of supply and trade, because they opposed being subject to their husbands.<sup>xv</sup> Moreover, the purchases made by married women on behalf of their husbands were not always "necessary." The variety of household goods increased, and women soon found themselves able to make more extravagant, luxurious purchases under this law. While this expanded women's purchasing power, it also encouraged the stereotyping of women as irresponsible and frivolous spenders. It is also important to note that while women were officially acting as agents of their husbands when they engaged in such transactions, they did not necessarily feel a sense of emotional or financial dependence on their husbands. Women were still able to provide money and labor and feel as though they contributed even if they were legally dependent on their husbands. Wives were also able to provide knowledge and aid in business endeavors, especially by paying husbands' debts and receiving payments.<sup>xvi</sup> The law of necessaries provided women a chance to

evade the constrictions of coverture and become essential components of a flourishing marketplace, though it certainly was not the only method through which women could maintain financial agency.

The separate estate was another way in which a married woman could maintain independent control over assets separate from her husband. The separate estate was the sole form of property married women could legally own before statutory acts granted married women expanded property rights in the late nineteenth century. Separate estates could be established by fathers and other family members, the Court of Chancery (an equity court), or even by women themselves. Most trusts were established as part of a marriage contract to protect a wife's property rights under the system of coverture.<sup>xvii</sup> Because this money was a trust, a woman did not legally own it, and therefore it was not a violation of property laws: the trustee was the legal owner, while the woman held an equitable title.<sup>xviii</sup> Separate estates provided women with many practical benefits: they supplied financial support if one needed to escape an abusive husband, allowed women to act as creditors to their husbands and recover money borrowed or charged to their separate estates, and they allowed wives to have divergent economic interests from their husbands.

## Chapter 2 Hardwicke's Marriage Act of 1753 and Inheritance Laws

Hardwicke's Marriage Act of 1753 or "The Act for the better preventing of clandestine marriages" had a profound impact on marriage in the eighteenth and nineteenth centuries. In the early eighteenth century, marriage laws in England were confusing and contradictory, especially those that involved the criteria for establishing a marriage as legitimate. Canon and church law surviving since the twelfth century stated that a verbal exchange of consent between two parties of age (fourteen for men, twelve for women) and of sound mind before witnesses was a legitimate marriage. Over time, due to pressure from powerful families, the state introduced laws that required a parish ceremony with witnesses and public readings of banns. However, until 1753, the verbal contract was all that was legally required for a marriage to be legitimate. Respect for church laws and hesitation on the part of many lawyers to contradict it allowed many clandestine marriages to take place. Clandestine marriages were those that took place privately and without the readings of banns, usually still in front of a clergyman.<sup>xix</sup> Clandestine marriages occurred mostly among the poor, but they became common among members of the elite and upper classes, when children desired to marry someone against their parents' wishes. Clandestine marriages had several undesirable consequences. Social inferiors and courtesans could marry children of elite without fear of annulment, and many people could engage in bigamy, intentionally or unintentionally, due to the ambiguity of the laws.<sup>xx</sup>

Named for Lord Hardwicke, a lawyer and politician, Hardwicke's Marriage Act established as the only legal form of marriage in England a ceremony performed according to the Common Book of Prayer in a chapel or church after the publication of banns or the purchase of a

marriage license. It also required documentation of the legitimacy of the marriage, in the form of registration with signatures of the parties, the minister, and the two witnesses. Any marriage performed without meeting these criteria was declared null and void. The official objective of the act when it was first proposed was to protect the young members of the upper class from marriages in which their fortunes and property would be shared with an undeserving spouse. Indeed, the rhetoric supporting the act focused on infamous cases of heirs and heiresses seduced by “bawds” or “strumpets.” In reality, most clandestine marriages in the upper class occurred between heirs or heiresses and someone who was poor but still respectable or wealthy but still socially inferior.<sup>xxi</sup>

The act was extremely divisive. Those advocating for the bill saw it as a legal extension of paternal authority over children and estate, a way to make sure that fathers who knew best for their children were able to legally enforce their paternal care, a kind of “affective patriarchy.”<sup>xxii</sup> Opponents of the act declared it a complicated a rigid measure that only served to severely restrict individuals’ choice in marriage and reinforce parental control over minors and therefore over property allocation.<sup>xxiii</sup> They also claimed that it went too far in protecting the interests of elite families over the individual. Because it made verbal contracts to enter into marriage insufficient to constitute a marriage contract, men were able to seduce young women by promising them marriage, and then abandon them when they became pregnant. Before this act, women in this situation would have been able to make an appeal to the ecclesiastical courts and claim that the man had an obligation to follow through with his verbal contract. The act destroyed this remedy. Opponents thus claimed that the erosion of the power of the ecclesiastical courts and laws would leave women defenseless, while supporters of the law claimed that the knowledge that a promise of marriage was worthless would make women less likely to engage in

premarital affairs. Ultimately, The Marriage Act of 1753 restricted the choices of young men and women who wished to marry by strengthening parental control over marriages. Furthermore, the restrictions essentially assigned control over marriage arrangements exclusively to fathers or male relatives. By taking away the protections for women under ecclesiastical law and assigning more importance to familial financial interests than to individuals' wishes, the act severely limited the freedom and choices that were available to women in marriage.

British inheritance laws further limited women's options by allowing male family members to maintain control over family land and preventing women from inheriting estates. Inheritance laws existing since the medieval era allowed women to inherit land, but landowners were able to keep estates in the hands of male heirs through legal avenues. If a married woman were to inherit property, it would become her husband's property to control until she was widowed. This practice lasted until the nineteenth century, but the fact remained that women could, and did, inherit. From 1540 to 1780, however, landowners cut the rate of female succession down to one-third less than that expected through common law.<sup>xxiv</sup> By the eighteenth century, new legal developments allowed landowners to sidestep female inheritance entirely, favoring collateral male heirs, instead. One such arrangement was the strict settlement, which allowed for estate planning at marriage. With a strict settlement, families could plan the allocation of estates when the integrity of the estate and the aristocratic imperative for inheritance in the patriline were of primary interest to them.<sup>xxv</sup> Heiresses were not to succeed except as a last resort; women's portions were determined before their births and were calculated with the interests of the patriline in mind.<sup>xxvi</sup> In fact, in all strict settlements reached before 1740, more than three quarters of settlements arranged for the collateral male, the closest male relative, to inherit before a daughter.<sup>xxvii</sup>

The entail also represented a move against female inheritance. Originally, entails were meant to be a way for fathers to allocate land to daughters and younger sons during their lifetimes. The land would be granted to children upon their marriage with the grant being conditional upon the marriage producing heirs (usually male). However, because entails could specify the gender of those to be taken under it, women could be left out entirely. Moreover, because entails were perpetual, women could be rejected in favor of any male in the settlor's descendants.<sup>xxviii</sup> The strict settlement and the entail were not the only tools used to prevent female inheritance, but they were noticeably effective in keeping family property in the hands of male heirs.

This change in the number of instances of female inheritance reflects a growing prejudice against heiresses in Britain during this time. While this prejudice is often passed off as remaining from the military obligations tied to land in feudal times, there are other explanations for the attitudes against heiresses. One such reason is a changing view of blood. Landowners began to see women as the end of a bloodline, because they married into other families. Therefore, passing the estate on to a woman was equivalent to allowing the estate to leave the family. Moreover, succession laws lasting from the twelfth century mandated that in the absence of a male heir, multiple female heirs must inherit equally, meaning estates were divided among them rather than staying intact within one male heir.<sup>xxix</sup> In addition to the legal structures that made heiresses undesirable, social attitudes about women asserted that men were superior, more reasonable, and more intelligent than women—therefore more deserving of inheritance.<sup>xxx</sup> Because of these factors, the number of heiresses in Britain declined, and estates were mostly passed through the patriline, even to distant male relatives rather than daughters.



### Chapter 3 The Marriage Plot

By the end of the eighteenth century, the idea of a companionate marriage became popular among the upper classes. The shift in the consideration of affection as a proper basis for marriage was most likely influenced by two economic changes: the shift to wage labor inheritance that made children less dependent on family money in estates, and the proliferation of Enlightenment ideals that supported the pursuit of happiness.<sup>xxxix</sup> The social and legal situation did not reflect this shift, however, and marriage remained a primarily financial arrangement. Arranged marriages remained common even after the idea of affective marriage took hold, and the tension between the two concepts were exacerbated by growing class and political strain. Hardwicke's Marriage Act of 1753 was seen as an upper class attempt to tighten parental control over marriages for socioeconomic reasons and limit love matches. The decline in genteel and domestic industry work for women made marriage much more important. A lack of alternative options left upper and middle-class women two choices: marriage, or life as a dependent of their fathers or other male relative. Lower class women did not experience the same pressure to stay out of the workforce, but the pay disparity between men and women was also an impetus for lower class women to marry.<sup>xxxix</sup> As the necessity to get married increased, so did apprehension about securing a marriage. The emergence of conduct books in the eighteenth century reflect a general anxiety about marriage, as they advise readers how to navigate courtship, select a spouse, and behave as husbands and wives.<sup>xxxix</sup> The rise of the conventional marriage plot and fiction focused on marriage reflected this societal preoccupation with marriage.

Marriage plots naturalized marriage, a cultural institution, and normalized heterosexual gender roles. The conventional marriage plot in literature shaped cultural expectations of marriage and family. In fact, scholars assert that narratives about marriage have shaped ideas about love and family across modern societies so immensely that their legacies still exist today.<sup>xxxiv</sup> These novels introduce the concept of “happily ever after” in which conflict is associated with courtship and resolution with marriage. This idea became normalized, and people soon saw this construction as natural. Consequently, deviation from this standard marriage plot became deviation from the norm.<sup>xxxv</sup> Parallel to the economic and political pressures to marry, fiction depicted marriage as a virtually essential life event for women, the culmination of their maturation. The rise in marriage plots coincided with the increase of stigmatization of unmarried women and the use of terms like “spinster” “old maid” or “redundant woman.” As the latter term suggests, if a woman was not part of a marriage plot, she was superfluous and unnecessary.<sup>xxxvi</sup>

The authors considered in this study make opposing statements about marriage laws in their fiction. These statements are the result of employ different methods to accomplish this end. Both authors’ plots revolve closely around marriage, but they differ in the kinds of marriage plots they portray. In both *Sense and Sensibility* and *Pride and Prejudice*, Austen uses canonical marriage plots in which the bulk of the conflict and action of characters is composed of women’s pursuit of marriage. These novels focus on the courtship between a man and a woman, emphasizing the perspective of the woman. The couple overcomes trials and obstacles placed in their paths, including conflict, misunderstanding, and tension, which all threaten to disrupt the relationship.<sup>xxxvii</sup> At the end of these plots, female characters are rewarded for their trials and efforts throughout the courtship process with companionate marriages. These plots emphasize the importance of the choices women make regarding marriage, since the choice of husband

ultimately determined a woman's social, economic, and personal future. A woman's marriage publicly marks her attainment of maturity. This choice is also irreversible. In a marriage plot novel, marriage to an appropriate man at the end symbolizes the heroine's moral character and worth, as she has essentially proved herself worthy of regard through an advantageous marriage.<sup>xxxviii</sup> From canonical marriage plots, readers learn that marriage means social stability and the attainment of adulthood. Because these plots also end at the altar, readers never see the everyday life in the marriage, presumably because that is not of interest to audiences. Therefore, marriage is a woman's story. Even though one of the primary goals of the institution of marriage is to create a family in which children are reared, these novels do not depict their characters as parents, focusing instead on the relationship between husband and wife.<sup>xxxix</sup> The drive to get married is the drive to achieve a female destiny and become a heroine.<sup>xl</sup>

The author of *A Woman of Colour* goes beyond the wedding, unlike other writers who employ the marriage plot. In so doing, the author critiques not only the typical marriage plot but also imposition of familial interests that can be realized in marriage. In changing the conventional marriage plot in this way, the author is able to revise the possibilities for biracial colonized women like Olivia Fairfield.<sup>xli</sup> *The Woman of Colour* instead employs a "comparative marriage plot" to demonstrate the diversity of marriage and courtship throughout the Atlantic world.<sup>xlii</sup> Comparative marriage plots allow for a different, yet equally critical awareness of the narrow options women are granted within the actual, sociopolitical context of England and the entire British Atlantic world. It is important to keep in mind the role of the colony of Jamaica in this novel, as British identity expanded in the eighteenth century to include a colonial identity based on culture and economic development. Olivia Fairfield seeks a companionate marriage with her cousin Augustus. Likewise, women in other contemporary colonial novels seek

marriages based on mutual interests and shared cultural reference points, rather than for purely economic reasons.<sup>xliii</sup> Because Olivia's marriage fails, this novel also employs a failed marriage plot. In these less popular narratives, the marriage does not occur at the end of the novel, but earlier in the narrative or even predates the story. Marriage in this case is the source of tension and conflict, rather than the solution, and these plots display the disintegration of a marriage rather than the integration of two individuals.<sup>xliv</sup> It is important to keep in mind the conventional portrayals of marriage in fiction as we consider the statements made about marriage by the authors in this study.

#### Chapter 4 Austen: An Acceptance of the Status Quo

I consider two novels by Jane Austen, *Sense and Sensibility* and *Pride and Prejudice*, in which she suggests that the current marriage laws, though indeed unfair to women, are ultimately no disadvantage to women. In both novels, the main female characters are financially disadvantaged due to the fault or carelessness of their male relatives. Their lack of fortune makes it harder for them to secure financially advantageous marriages; and yet, marriage is the only way in which they can improve their economic situation. Thus, Austen does indeed identify the flaws in the system that force women to rely on men for economic stability, but her characters work within the system, simply sidestepping the problems created and successfully securing advantageous marriages. The message conveyed by Austen is that marriage laws are essentially moot, and women need not fall victim to them.

Austen identifies in both of her novels the patriarchal structures in place and the dangers they pose for women, especially the rigidity of English law regarding women's economic rights and male control over finances. In *Sense and Sensibility*, The Dashwood sisters and their mother are placed at the mercy of their half-brother, John, and his generosity when their uncle dies, followed by their father. John promises his father that he will ensure the women are well-provided for when he receives the estate. However, the lack of any formal legal arrangement means that the amount of money the women need to survive is entirely up to John's discretion. As he decides to keep the money for his own son, the women live in relative poverty, a circumstance that further damages the sisters' abilities to secure profitable marriages. The novel opens immediately with a detailed description of the Dashwood estate and the legal situation that leads to the Dashwood women's poverty. Immediately, Austen encourages readers to sympathize

with the women and feel the unfairness of such an arrangement. Even Mr. Dashwood, the father of the young Dashwood women, would rather the estate had been left to his wife and daughters than to his son, as in traditional primogeniture. The arrangement of the estate leaves Mr. Dashwood with no means to support his wife and daughters, whom he is by law, assumed to support and protect financially: “It was secured, in such a way, as to leave to himself no power of providing for those who were most dear to him, and who most needed a provision by any charge on the estate, or by sale of its valuable woods”<sup>xlv</sup> (3). Austen’s detailed, intricate explanation of the Dashwood family finances that occurs before any dialogue or action is an early indicator of the novel’s frank portrayal of the economic and legal conditions for women. These conditions in turn impact women’s ability to marry well and therefore ensure future financial security.

The irony present in Austen’s novel is that a system supposedly designed to protect women ensnares and restricts the Dashwood women. Austen’s descriptions of property transfer imply that enforcing patriarchal and familial values erodes the rights of women. The laws governing inheritance allow family members to privilege male heirs over female heirs in Austen’s novels as they actually did in eighteenth-century Britain. Austen undercuts the idea of benevolent paternalism at several other points in her novel. As the inheritor of the estate and the sole male relative of the Dashwood women, John Dashwood must determine how he should apportion the estate to support his stepmother and sisters, in accordance with his promise to his father, who calls on benevolent paternalism in asking him to care for the women.<sup>xlvi</sup> In a famously comic scene, his wife is able to completely subvert his existing—although weak—intentions to support his female family members. She accomplishes this by arguing that the funds should be preserved to be passed along to their son. She also claims that the Dashwood sisters will eventually marry and the money given to them will disappear and become the

property of their husbands. However, the reader is well aware that this lack of money makes the Dashwoods much less likely to secure advantageous and financially secure marriages. John Dashwood eventually relinquishes the idea that as a male family member he needs to care for his female relatives. He instead keeps the money for himself and his son: “and he finally resolved, that it would be absolutely unnecessary, if not highly indecorous, to do more for the widow and children of his father, than such kind of neighbourly acts his wife pointed out” (8).

Through this exaggerated and humorous scene, Austen is able to expose the underlying motive of most eighteenth- and nineteenth-century legal decisions: to keep the family estate intact and in the possession of male heirs, no matter the detriment to female relatives. She also demonstrates the dangers of benevolent paternalism, showing that affection from male relatives is scant protection for the financial interests of women.<sup>xlvii</sup> As a result of this system, the Dashwood women are at an extreme financial disadvantage, because the value of women for marriage lies in their possession of money.<sup>xlviii</sup> For instance, Marianne’s lack of financial protection from any male relative limits the chance that Willoughby considers marrying her.<sup>xlix</sup> Despite her other attractive qualities, Marianne’s value comes down to her financial worth, and Willoughby’s only reservation is her lack of personal fortune. Elinor and Marianne both possess desirable connections, manners, and accomplishments for marriage, but their lack of money reduces their value.

Like the Dashwood women in *Sense and Sensibility*, the Bennet sisters in *Pride and Prejudice* are unable to inherit the estate owned by their father and are therefore required to marry for financial security. While the conditions of the Bennet property are not divulged in as much detail as the Dashwood estate, Austen does provide the reader with a brief and practical review of the legal arrangement: “Mr. Bennet’s property consisted almost entirely in an estate of

two thousand a-year, which, unfortunately for his daughters, was entailed in default of heirs male, on a distant relation; and their mother's fortune, though ample for her situation in life, could ill but supply the deficiency of his" (214). In this case, the "entail" on the Bennet estate is actually an irreversible strict settlement, one that ensures the family property remain in the hands of male heirs. Mrs. Bennet constantly bemoans the "entail" that leaves her daughters destitute: "she continued to rail bitterly against the cruelty of settling an estate away from a family of five daughters, in favour of a man whom nobody cared anything about" (233). Jane and Elizabeth attempt to explain the permanent nature of such an arrangement to their mother, to no avail. By showing the Bennet sisters' understanding and acceptance of the entail, Austen lays out the unfairness of the arrangement but also presents it as an unavoidable reality. The Bennets, like the Dashwoods, are at a disadvantage in securing marriages due to their lack of fortunes. Darcy tells Elizabeth that one reason for his interference in Bingley's and Jane's marriage was her lack of fortune. He adds that he himself had reservations about Elizabeth's lower status: "Could you expect me to rejoice in the inferiority of your connections? To congratulate myself on the hope of relations, whose condition in life is so decidedly below my own?" (302) While the Bennet sisters lack of fortune is initially a deterrent for their wealthy suitors, they nonetheless secure advantageous marriages to them, indicating that the circumstances truly did not disadvantage them.

Indeed, despite their lack of financial power that initially impacts their marriage prospects, the women in *Pride and Prejudice* and *Sense and Sensibility* do not appear to be victims of economic restriction. Austen never allows her readers to believe that a woman's lack of economic privilege must result in powerlessness. In fact, women often seem to be in more control than men. Male characters such as Mr. Collins and Sir Lucas readily submit to the wills



of their benefactresses, and most of the marriage proposals recorded in the novel, including Mr. Collins's and Darcy's original proposals to Elizabeth, are rejected by women.<sup>1</sup> Austen often portrays male characters as sometimes bumbling and foolish, as in the case of Mr. Collins: "Mr. Collins was not a sensible man, and the deficiency of nature had been but little assisted by education or society" (237). Moreover, some male characters in *Pride and Prejudice* use their wealth and independence unwisely: Austen implies that Mr. Bennet's poor investments in the past led to his unhappy domestic life portrayed in the novel, and Wickham's imprudence forces him to marry Lydia, a woman with no fortune. By making her female characters realistic and rational, Austen leads the reader to accept their search for marriage is merely a financial reality. In *Sense and Sensibility*, Austen's female characters are also in many ways superior to their male counterparts. Marianne and Elinor are not equal to their husbands in fortune, yet the two sisters are equal, or superior to, than their male partners in artistic or intellectual accomplishments. Edward Ferrars, whom Elinor marries, appreciates Elinor's drawings, but according to Marianne, "he knows nothing of the matter" (10). Edward engages with the Dashwood women in other intellectual ways as well, such as reading and discussing Cowper with them. Edward's lack of an occupation—or even an activity about which he is passionate to occupy his time—distinguishes him unfavorably from the busy, accomplished Dashwood women. Colonel Brandon, who eventually marries Marianne, sincerely respects her musical talents, for which she is genuinely appreciative.<sup>11</sup>

In addition to making her female characters personally worthy of their husbands, Austen suggests that the financial barriers between her heroines and their husbands are ultimately irrelevant. Mr. Collins's proposal to Elizabeth is offered purely in financial terms. He describes her financial limitations and therefore limited marriage opportunities:

It does not appear to me that my hand is unworthy your acceptance, or that the establishment I can offer would be any other than highly desirable. My situation in life, my connections with the family of De Bourgh, and my relationship to your own, are circumstances highly in my favour; and you should take it into further consideration that in spite of your manifold attractions, it is by no means certain that another offer of marriage may ever be made you. Your portion is unhappily so small that it will in all likelihood undo the effects of your loveliness and amiable qualifications. (258)

If Elizabeth were truly limited by her financial situation, she should be swayed by this reasonable argument. Since she is not, Austen leads us to believe that even with a situation such as Elizabeth's women can be more particular in their choice of a husband. Darcy's proposal too, is suffused with language suggesting that Elizabeth's economic status is a disadvantage for her. While he does not tell her that marriage to him would be advantageous to her, the reader is well aware of this reality. Again, Elizabeth's refusal of a proposal indicates that her pride and dislike of the man are more important than the financial benefits that acceptance of his proposal would bring.

In Austen's novels, marriage is above all a financial arrangement. She presents the financial aspect of marriage as reasonable and necessary, and much more salient to women, as men need not marry to make money. The first two lines of *Pride and Prejudice* address this tension. The first indicates men's ability to possess fortune, and the second implies women's obligation to be wanted or needed by these men as a wife: "However little known the feelings or views of such a man may be on his first entering a neighborhood, this truth is so well fixed in the minds of the surrounding families, that he is considered as the rightful property of some one or

another of their daughters” (201). So focused are the characters on marriage as a means to achieve economic security, that little else is necessary to know about a man other than his financial status. Such is the case of Mr. Bingley, whom Mrs. Bennet hopes will marry one of her daughters before learning anything else about him. By uncomplainingly establishing this societal condition in the opening of the novel, Austen seems to accept the gender-based division of power and money.<sup>iii</sup> Austen encourages the reader to accept this condition, reinforcing the rationality of the female characters’ need to marry. Women’s need to marry is not an indication of oppression but rather the most efficient way for women to achieve financial and social security.

Austen in *Pride and Prejudice* makes no criticism of the financial inequality between women and men although the novel documents men’s ability to access financial independence through work, education, or inheritance, while women can only achieve financial security through marriage.<sup>iii</sup> Instead, Austen accepts that it is only through marriage that women can become financially stable and increase their social standing. For Austen’s women, marriage is the end of all troubles.<sup>iv</sup> Money itself is not sufficient to establish a woman in a desirable social circumstance. A man with money, not money alone, is necessary for securing an advantageous social position. Without a man, a woman can only turn to friends or family for financial support before she is forced to earn her own living, a possibility grimly portrayed in Austen’s novels.<sup>iv</sup> A single woman with money has independence, but independence is neither preferred nor sought after in *Pride and Prejudice*. Marriage, then, becomes the primary way a woman can make a living and the central concern of the women in *Pride and Prejudice*. A comment made by Mr. Darcy, though in jest, suggests just how central a place marriage holds in women’s minds: “A lady’s imagination is very rapid; it jumps from admiration to love, from love to matrimony in a

moment.”<sup>lvi</sup> While the two marriages central to the novel, Jane’s and Elizabeth’s, are based on love, Austen also shows her readers a marriage based on pure practicality: Charlotte and Mr. Collins. Charlotte’s thoughts on marriage demonstrate her practical approach: “I am not romantic you know. I never was. I ask only a comfortable home; and considering Mr. Collins’s character, connections, and situation in life, I am convinced that my chance of happiness with him is as fair, as most people can boast on entering the marriage state” (263). Charlotte considers her marriage as one examines the details of a business arrangement, which, as Austen makes clear, is what marriage is.

In *Pride and Prejudice*, marriage is inherently intertwined with money. Even Elizabeth, whose more romantic, idealized view of marriage differs from Charlotte’s, exhibits an association between love, marriage, and property. Notably, Elizabeth begins to first appreciate Mr. Darcy while visiting Pemberley, his magnificent estate.<sup>lvii</sup> Elizabeth reflects that the fine taste of the home reflects Mr. Darcy, and she hears glowing accounts of his character from the housekeeper. For Elizabeth in this moment, Darcy and his material wealth are not separate, and examining Darcy’s physical possessions allows her to judge the man himself. While admiring the physical estate, she considers that she could have been its owner: “‘And of this place,’ thought she, ‘I might have been its mistress! With these rooms I might now have been familiarly acquainted! Instead of viewing them as a stranger, I might have rejoiced in them as my own.’” (328). Elizabeth conceptualizes her marriage to Darcy as sharing his property and ownership of his fine estate, rather than imagining serving as his partner or sharing a domestic life with him. Austen’s depiction of marriage as a financial endeavor is clear. She establishes this connection in the very first line of the novel: “It is a truth universally acknowledged, that a single man in possession of a good fortune, must be in want of a wife” (200). Throughout *Pride and*

*Prejudice*, love and money are intricately intertwined, and Austen does not judge or condemn such a view of marriage.

Austen supports this view of marriage by attributing rational intelligence to her characters and portraying them as capable despite their economic suppression. The women in *Pride and Prejudice* fit perfectly in their spaces in society. Austen's characters do not break societal molds. Instead, Austen focuses on the day-to-day reality of her characters in her novels. These women do not question the rules that dominate their society; rather, they work within them, shaping their lives to land a husband to save them from dreaded spinsterhood. Austen's characters fit so closely into the fabrics of their societies that the smallest unexpected action can be read as defiance or deviance from the norm.<sup>lviii</sup> Elizabeth Bennet's trek across a muddy field to see her ill sister, for example, is often cited as an example of feminism; yet, Austen makes it clear that Elizabeth chose to do this not out of rebellion against strict social constrictions, but simply because it was the fastest, most logical way to get to her sister Jane.<sup>lix</sup> Austen's emphasizes practicality, common sense, and useful education for her female characters.<sup>lx</sup> Her emotional or impractical characters—such as Mrs. Bennet with her dramatics and Marianne Dashwood with her desperately imploring letters to Willoughby—emphasize the favorable qualities of reason and rationality in characters like Elizabeth Bennet and Elinor Dashwood. Readers identify with rational characters like Elizabeth and Elinor, which reinforces Austen's acceptance of the social order.

Austen's unapologetic portrayal of marriage as a business transaction is consistent with the legal conditions of the time. Austen is acutely conscious of the importance of marriage in securing financial stability. Her portrayal of marriage as a financial necessity rather than a force of oppression indicates that the marriage laws in place in eighteenth-century Britain need not

disadvantage women. She references legal tools with which married women could achieve some economic independence, such as the law of necessities and the separate estate. Austen refers directly to the separate estate in *Pride and Prejudice*, when Mrs. Bennet is rejoicing over Elizabeth's engagement to Darcy: "What pin-money, what jewels, what carriages you will have!" (400). Pin money was one early modern form of the separate estate through which married women could own money independently from their husband. The separate estate was the sole form of property that married women could hold independently until statutory enactments granted married women more property rights later in the nineteenth century.<sup>lxi</sup> The fact that Mrs. Bennet is excited about Elizabeth's marriage to a wealthy man because it may result in her obtaining her own property indicates the possibility for individual expression and financial independence even within the strict legal conditions of the time.

Even though women are dependent on marriage for financial and social security, Austen does not imply that the search for a husband completely defines a woman's experience.<sup>lxii</sup> While the Dashwood sisters expect that they will marry, as all women were expected to marry, both women pursue their respective passions to achieve their own self-fulfillment, rather than to increase their appeal to prospective husbands. Marianne's passion for reading leads her to interrogate Willoughby about his literature preferences, but not so that she can mold hers to his. Rather, she speaks so passionately about her own opinions "with such a rapturous delight, that any young man of five and twenty must have been insensible indeed, not to become an immediate convert to the excellence of such works, however disregarded before" (24). Here Marianne speaks freely of her own preferences, and it is implied that Willoughby ought to conform to her tastes, a reversal of expected behavior. Likewise, Elinor excels at painting, almost to a professional level. Her sister asserts that Elinor's screens should be valued for their

artistic merit, not because they show that Elinor would make an accomplished and worthy bride.<sup>.lxiii</sup> Austen suggests that to relinquish their individual artistic ambitions in order to be more marriageable would be beneath the Dashwood women, and is unnecessary for women to do to secure an advantageous marriage.

In both novels, Austen constructs a model of marriage in which women need not erase their individual identities. This surrender of identity, generally considered necessary to domestic tranquility, is foregone in favor of mutual encouragement and support. The marriages of Elinor and Marianne seem to succeed in this sort of equality. This success occurs in spite of the laws that would impede the Dashwood women from achieving these marriages; in other words, these structures are obviously present throughout the novel, but her heroines manage to skirt around them to reach marital happiness.<sup>.lxiv</sup> While women are dependent on male relatives for economic and legal security, female autonomy is still possible within the domestic sphere.

## Chapter 5 *The Woman of Colour*: A Critique of British Patriarchy

The author of *The Woman of Colour* takes a defiant stance against the marriage laws. This novel follows an unconventional marriage plot and reveals the detrimental effects that British marriage and inheritance laws can have on women. The author demonstrates the ideologies inherent in these laws, most obviously benevolent paternalism, and the complications that can arise from patriarchal structures that limit the rights of women. Unlike Austen's novels, which end in tidy, advantageous marriages, the marriage that takes place in *The Woman of Colour* is based on a provision in a will that forces the heroine to marry her cousin in order to gain the financial benefits of her father's estate. The novel's plot continues past the wedding, showing the devastating failure of the marriage. In this novel, marriage is not the end of women's problems, but rather the source of them. Moreover, the author demonstrates that inheritance laws that prohibit women from independently owning land and force them to rely on male relatives for economic support endanger women, because the men they need to depend on are often unreliable or unable to take care of them. Ultimately, the author advocates for an alternate independence for women outside of British marriage laws and even outside of Britain entirely, as the heroine leaves the metropole to return to her native Jamaica.

The author of *The Woman of Colour* criticizes patriarchal structures and benevolent paternalism by illustrating the failure of the heroine's marriage. Benevolent paternalism is an important concept in this novel, as it not only refers to the power of male relatives to care for their female dependents, but also to the relationship between white British colonizers and Jamaican slaves. The supposed benevolence of white owners toward their slaves became a



justification for not freeing them. Olivia Fairfield is completely devoted and obedient to her father despite the fact that he enslaved, impregnated, and then refused to marry her mother. She is also defensive of his owning slaves, bolstering the idea of benevolent paternalism and validating his failure to free his slaves:

My father saw the sensibility of my disposition; he saw that it was daily wounded, at witnessing the wrongs of my fellow-beings; his wishes, and his principles, would have led him to reform abuses, but his health was daily declining, and he could not give the tone of morals to an island...he contented himself, therefore, with seeing that slaves on his estate were well kept and fed, and treated with humanity...lxv

Just as Olivia is willing to defend the benevolence of her father as a slave owner, she is also willing to comply with his will as her benevolent male relative. She sees his desire for her to marry her cousin as a way for her to escape Jamaica, where she is forced to watch her “fellow-beings” in slavery, though he is one reason she witnesses this. She sees his forcing her into marriage as an effort to protect her and her feelings: “I see the generous intention of my father’s will; I see that he meant at once to secure his child a proper protector in a husband, and to place her far from scenes which were daily hurting her sensibility and the pride of human nature!” (55). She is so determined to obey her father that she ignores the stirrings of her “rebellious and repining heart” that wishes to bring religion to Jamaican slaves rather than marry her cousin (57). The ideology of benevolent paternalism prompts her to overrule her feelings and to appreciate her father’s efforts to provide her with a male protector as a husband.

Olivia’s submission subtly reveals the author’s criticisms of patriarchy. While Olivia complies with her father’s will in action, she feels that she is being forced to enter into an

environment that will not accept her. On the voyage, she considers her position a humiliating one: “My heart revolts, it shrinks within me, as every day draws me nearer to the scene of my trial... I must appear in so very humiliating a situation when I reach England!” (59). Olivia also describes England as “a land of strangers who would despise and insult me” (61). Not only does her father’s will cast Olivia into misery and a racist environment, it also places her in extreme financial danger. Like in many legal arrangements regarding inheritance in eighteenth-century Britain, Olivia herself is unable to inherit her father’s fortune. This is consistent with the overall decline of heiresses in the eighteenth century, when women were rejected in favor of a collateral male heir. In Olivia’s case, she can only gain her father’s fortune if she marries her cousin, Augustus. If Augustus refuses to marry her, her father’s fortune will pass onto Augustus’s brother, on whom Olivia would have to rely for financial support. While other characters such as Mrs. Honeywood see the injustice of this “strange and unheard of clause,” Olivia continues to defend her father and comply with his wishes, despite her doubts and unhappiness (60). Even though Olivia does everything necessary to follow her father’s instructions and reap the benefits of his estate, her marriage crumbles. She is left without access to her father’s money, as according to its terms the money passes to her uncle. Here, the novel demonstrates the dangers to women posed by inheritance laws that expose women to poverty. The author demonstrates that arrangements like that of Olivia’s father will only further perpetuate repression. The stipulation in her father’s will was supposed to protect his daughter from the racial and sexual oppression that Caribbean women experienced. Yet by linking her to a white man who has economic control over her, he instead reinforces racial and sexual oppression.<sup>1xvi</sup>

Olivia’s failed marriage reveals criticisms of patriarchal structures. She complies completely with the provisions of her father’s will, as is expected of her; yet, her marriage fails

because of her husband's clandestine first marriage. The actions of the two men who are legally meant to protect and support Olivia under the idea of benevolent paternalism actually make her a sort of fallen woman whose marriage is illegal. She is relegated to a status similar to a concubine, as her mother was for her father. The parallels between Olivia's situation and that of her enslaved mother criticize the failings of the supposedly benevolent British laws that would protect women, as men in this novel abuse their partners' trust. Olivia has no legal tie to Augustus, even though she acted in the way her paternal guardian desired and married him; in this novel, even an apparently legal marriage arranged by a male relative is not enough to secure women with ensured financial support. Augustus, in hiding his first marriage from Olivia, risks her happiness and fails to be a protective, benevolent husband. Olivia's father demonstrates a similar hypocrisy, as he would not marry Olivia's mother, his slave, but he still dictated his daughter's marriage choice and therefore subjected her to white male control.<sup>lxvii</sup> In both cases, the male characters make mistakes that disadvantage women they are supposed to protect. When Olivia refuses to remarry after her marriage to Augustus and instead proclaims herself a widow, this is an act of defiance against these structures. She does not rely on a male relative for money, and she leaves England, the source of these structures, altogether. By returning to Jamaica as a self-proclaimed widow, Olivia is able to control her own circumstances, live free of male control, and reject Britain itself as the source of her legal troubles.

In addition to criticizing British inheritance laws and patriarchy, the author of *The Woman of Colour* undercuts the view of marriage presented by Austen, in which marriage is the solution and the end goal for women. In this novel, Olivia's marriage takes her away from her home, intensifies her legal troubles, and leaves her alone and destitute in Britain until she reclaims her identity. Although Olivia complies with the provisions of her father's will and

marries her cousin Augustus, this marriage to a man who might be repulsed by her biracial heritage is a cruel legacy from her father and a source of great misery for Olivia, who expresses anxiety over his feelings for her for much of the novel.

Unlike Austen, whose novels conclude in marriage, the author of *The Woman of Colour* extends the novel after the marriage. Throughout the novel, Olivia's actions demonstrate her virtuousness and humility, qualities that readers would acknowledge make her deserving of an advantageous and happy marriage. Even before she meets him, she worries that her cousin will not love her or want to marry her, despite her attraction to him. She confides to her correspondent, "I think my cousin is a singularly prepossessing young man,--most probably his opinion of your dear Olivia is quite the reverse" (72). Olivia puts the question to Augustus himself before their marriage:

Oh, Mr. Merton, think how much misery will be spared to us, if you refuse the proffered terms. *You* have the power of doing so. A tame acquiescence to the will of my father, will secure to you the enjoyment of *his* fortune, certainly; but can it secure your happiness, if it is to unite you to an object, for whom you feel no regard. (92)

Olivia demonstrates an enlightened view of marriage in which affection is more important than financial arrangements. Despite this advanced view of marriage, Olivia acknowledges that fortune is an important consideration and, for many, compelling enough to enter into a loveless marriage. Moreover, she points out the inequalities present in the relationship between her and her cousin—that Augustus alone has the ability to refuse to marry her, while she has no such rights. Her concern for Augustus's happiness over her own further demonstrates her virtue. In another display of her moral superiority, Olivia patiently explains race to the young George Merton in religious terms even though his mother is unrelentingly rude to Olivia: "The same God

that made *you* made me,' continued I, 'the poor black woman—the whole world—and every creature in it!" (79). Because readers are convinced of Olivia's moral worthiness throughout the novel, it stands to reason that she should be rewarded with marriage, as similar characters in contemporary novels, like Austen's, would be.

Olivia is not granted the traditional reward of marriage and domestic felicity, however. Olivia's disrupted marriage and her personal loss serve as critiques of the idea that marriage is the end of all trouble for women. The wedding of Olivia and Augustus is not portrayed as a happy occasion; on the contrary, it is accompanied by omens: "At the moment when I felt the hand of Augustus, a flash of vivid lightning came from the window over the altar; it was followed by a loud and tremendous peal of thunder" (95). This occasion is marked by apparent regret on the part of Augustus. As Olivia describes it:

I looked towards him, an icy paleness, overspread his features—he leaned against the rails of the altar—his brow was rumped—his hair stood erect!—a deep sigh issued from his bosom!—Yes, my friend it is too true,—for it pierced into the inmost recesses of the heart of his *wife!*...The remembrance will *never* be erased from it,—it was something so awful, so singular.... how terror-stricken must I then have stood, if I had borne about with me the weight of some unacknowledged crime, at the moment when I had united my fate with that of my unsuspecting husband! (95)

Here Olivia sees marriage as the uniting of her fate with Augustus' fate, and therefore, any crimes she may have committed become his to pay for. This sentiment is in keeping with the legal situation of women, who, if they carried any financial debts or committed any crime, transferred that responsibility to their husbands upon marriage. However, the novel reverses this

dynamic, since it is Augustus who commits a crime against Olivia by hiding his clandestine marriage and unintentionally committing bigamy.

Though Olivia is undoubtedly a victim of the legal situation of her era she finally manages to find independence and an identity outside of marriage by declaring herself a widow. As a widow, she can assert her respectability and domesticity despite the loss of her marriage and therefore claim and alter the typical role of the domestic heroine.<sup>lxviii</sup> She symbolically kills her husband and determines the terms of her own experience. She frees herself from the position of mistress and the unequal partnership of marriage. Barred from a companionate marriage, Olivia chooses to remain single.<sup>lxix</sup> By proclaiming herself a widow, Olivia declares her freedom, as her failed marriage seems to have taught her that no person should be lord over another, a critique especially poignant from the daughter of a slave. Olivia by the end of the novel creates her own domestic existence independent of marriage, and she moves beyond the confines of the traditional conclusions to women's plots—either marriage or death. She can from this point on make her own decisions without the influence of her white relatives, and she returns to Jamaica to devote herself to charitable racial-uplift projects and share her unique kind of domesticity.<sup>lxx</sup> Olivia's choice to live in a state outside of marriage and not in pursuit of marriage suggests that in this novel, unlike Austen's novels, marriage is the problem, rather than the solution.

## Conclusion

Jane Austen and the anonymous author of *The Woman of Colour* portray eighteenth century British marriage laws and the patriarchal structures they created differently. Austen presents these laws as easily overcome impediments to advantageous marriages. Austen's characters work within the social and legal constraints placed on them and are rewarded at the end with marriage. While Austen does not disguise the unfair legal situation the laws create for women, her female characters are not depicted as victims of the laws, nor do they need to triumph over them. Rather, the women in *Pride and Prejudice* and *Sense and Sensibility* sidestep the obstacles placed in front of them by their economic situations and are rewarded with marriage. Marriage in Austen's novels is the end of troubles, the solution to the female characters' financial difficulties. Moreover, most of the marriages of Austen's female characters are based on mutual affection and respect, despite Austen's acknowledgement that marriage was primarily a financial arrangement reached by parents. While Austen's women do not defy the conditions placed upon them, they manage to retain their individual identities and achieve some sort of independence, even if it is only in the domestic space. Austen's novels, therefore, could be read as instructions for young women in courtship and in marriage, indicating that marriage laws need not prohibit a young woman from achieving a secure marriage no matter her financial status.

The author of *The Woman of Colour* more directly criticizes British patriarchal society by creating a heroine so compliant with her father's wishes that she enters into a marriage doomed to fail. This author does not conclude the novel with a marriage, suggesting that marriage is not the solution to a woman's problems as indicated by Austen. Rather, the author shows the reader the dangers created by marriage and inheritance laws as well as benevolent paternalism. Olivia's

decision to remain unmarried at the end of the novel is a flouting of the conventional marriage plot and an indication that women are more empowered outside of marriage. By declaring herself a widow, Olivia dictates the terms of her own economic and legal existence, as widows had the right to regain legal ownership of some personal goods they had brought into the marriage; in other words, widows had more economic rights than married women. By leaving England, the sources of the laws and patriarchal power structure, and moving back to Jamaica Olivia becomes a different kind of domestic heroine at the end of the novel.

While both authors create female characters who carve out happy and secure domestic spaces within the constrictive system that was British law, they differ in their portrayal of how those laws affect and disadvantage women. While the characters created by both authors triumph over British laws, they differ in how much they suffer as a result of the laws. Austen's characters are rarely challenged by their financial situations, while Olivia from *The Woman of Colour* endures the humiliating and painful destruction of her marriage. The differences between the two authors' works suggest they had different views of marriage laws and the impact they had on women's lives. The depiction of these different experiences in fiction is worth consideration in light of modern gender inequality, which likely stems from these historical and legal roots.



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## Notes

- i Lee Holcombe. *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England*. (Toronto: University of Toronto Press, 1928), 19.
- ii Holcombe 18.
- iii Holcombe 28-9.
- iv Holcombe 30.
- v Holcombe 31.
- vi Margot Finn, "Women, Consumption and Coverture in England, c. 1760-1860," *The Historical Journal* 39 (1996), 703.
- vii Joanne Bailey. "Favoured or Oppressed? Married Women, Property, and Coverture in England, 1660-1800," *Continuity and Change*, 17, no. 3 (2002), 351.
- viii Bailey 352.
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lx Jennifer Golightly. *The Family, Marriage, and Radicalism in British Women's Novels of the 1790s: Public Affection and Private Affliction* (New Jersey: Bucknell University Press, 2011), 112.

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lxvi Adams-Campbell 97.

lxvii Adams-Campbell 110.

lxviii Adams-Campbell 98.

lxix Adams-Campbell 109.

lxx Adams-Campbell 111.

## Academic Vita of Caitlin Conway

### EDUCATION

#### **The Pennsylvania State University**

*Schreyer Honors College*

Bachelor of Arts (B.A.) in English; B.A. in Political Science

**May 2020**

*University Park, PA*

#### **London Theatre Study Tour**

Honors Program with focus on observing culture politically,  
*Kingdom* ethically, and philosophically through live performance art

**May 2018**

*London, United*

### WORK EXPERIENCE

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#### **Penn State Committee for Early Modern Studies**

**August 2019-May 2020**

*Intern*

*University Park, PA*

- Works with University and faculty speakers to create promotional material for academic events
- Manages communication and advertisements for events, maintains website and social media

#### **The Family Justice Center**

**May-August 2019**

*Volunteer/Court Intern*

*Buffalo, NY*

- Answered domestic violence hotline, interacted with clients, attorneys and police officials
- Assisted Domestic Violence Advocate at Erie County Family Court in maintaining communication with clients regarding their cases and attended clients' court appearances

#### **Hon. Amy Martoche, Buffalo City Court**

**June 2018**

*Intern*

*Buffalo, NY*

- Reported directly to Judge Martoche and worked closely with other judges and attorneys at the city, county, and federal levels to understand procedures of various levels of the justice system
- Researched and observed cases at Buffalo City Court, Erie County Court, Buffalo Family Court, and the United States District Court for the Western District of New York

#### **Brothers of Mercy, Montabaur Heights Apartments**

**May 2017 – September 2019**

*Dining Staff*

*Clarence, NY*

- Waited tables in dining hall at an apartment building for retired seniors and participated in community events for the residents

#### **Challenger Baseball League**

**June 2012 – July 2018**

*Assistant*

*Amherst, NY*

- Worked as aide for dozens of disabled children and young adults in baseball league
- Fostered supportive, collaborative environment in which individuals with disabilities can safely engage in teamwork and healthy physical activity

### LEADERSHIP EXPERIENCE

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#### **Paterno Fellows Program, College of the Liberal Arts**

**December 2017 – Present**

*Paterno Fellow*

*University Park, PA*

- Participates in rigorous honors program including advanced academic coursework, thesis, study abroad, internship, ethics study, and a commitment to leadership and service



- Cultivates strengths in leadership and ethical reasoning, develops global perspective through additional course work and study abroad programs, and pursues independent research

**Penn State Mock Trial Association**

**August 2016 – Present**

*Captain (Since Apr. 2018).*

*University Park, PA*

- Assigns roles for mock trials and evaluates team members to refine opening and closing speeches, direct and cross examinations, or witness portrayal to enhance competitive success at tournaments
- Coordinates practices and oversees traveling logistics of teams for tournaments

*Team Selector (Since Apr. 2018)*

- Collects information about members' competitive success to place them on teams according to ability

*Tournament Director (Apr. 2018-2019)*

- Managed and organized three competitive tournaments held at Penn State that hosted over twenty-five teams from collegiate mock trial programs across the country
- Oversaw tournament staff consisting of dozens of students and worked closely with university officials and representatives from the American Mock Trial Association to host tournaments

*Judging and Alumni Coordinator (Apr. 2017-2018)*

- Established relationships with legal professionals such as attorneys, judges, and professors and maintained connections with alumni across the country
- Assisted in the organization of three tournaments hosted by the organization, recruited up to fifty judges for each tournament, and managed the communication with judges during tournaments by heading meetings and educational seminars