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Richardson, Property, and the Virtuous Female

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I am submitting herewith a thesis written by Audrey Evelyn Tinkham entitled "Richardson, Property, and the Virtuous Female." I have examined the final electronic copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in English.

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Misty G. Anderson
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Dean of Graduate Studies

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**RICHARDSON, PROPERTY LAW,
AND THE VIRTUOUS FEMALE**

A Thesis
Presented for the
Master of Arts
Degree
The University of Tennessee, Knoxville

Audrey Evelyn Tinkham
May 2002

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DEDICATION

For JCS
In Memoriam

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ABSTRACT

This thesis explores the literary, legal, economic, and cultural mechanisms at work in the eighteenth century formulation of feminine gender ideology as it pertains to the negotiation of settlements for married women's separate property. Within a feminist-historicist critical framework, fictional narratives of the eighteenth-century reveal a tension between economically-motivated self-interest and an ideology of sentiment, a tension that is related to the modern reluctance to discuss prenuptial agreements. The marriage contract itself as interpreted by eighteenth-century social theorists allows and encourages the creation of gendered spheres of activity and distinctly gendered behavioral models. The eighteenth century's distinctive configuration of these models is closely tied to the rise of Britain's commercial economy and its increasing reliance on paper currency and speculative forms of investment. The cultural ideology of gender roles is also engaged in a reciprocal relationship with the law so that changes in married women's separate property laws are seen to be implicated in and influenced by the production of fictional narratives such as Samuel Richardson's epistolary novels, *Pamela* and *Clarissa*. This thesis outlines women's legal status in marriage and the laws regulating marriage, along with the legal remedies available to women who were in a position to protect their individual property rights upon marriage. Allusions to those laws in *Pamela* and *Clarissa* provide a framework for Richardson's formulation of the ideally virtuous female, a gender ideal that is implicated in a cultural association between economically-motivated self-interest and an absence of virtuous sensibility.

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CHAPTER 1: INTRODUCTION

Prenuptial agreements in contemporary American society present an ideological puzzle of sorts. Regardless of education, socioeconomic status, ethnicity, or even gender, a young person contemplating marriage is not likely to engage fondly in talk of prenuptial contracts or even to suffer the mention of the subject without a shudder, a sigh, perhaps a bitter protestation that “true love” surely does not reside in the individual who puts economic interests ahead of—or even alongside of—matters of the heart. Prenuptial agreements are thus stigmatized in our society to the detriment of those who persuade themselves or allow themselves to be persuaded that the affective bond with a future spouse must not be tainted by lucre nor jinxed by the mere suggestion that some event may part them—and their fortunes—before death. This stigma is perhaps a result of the direct association of prenuptial agreements with divorce, which is still considered by some to be an irrefutable indication of profound personal failure of will, identity, and humanity. Oddly enough, the precursors to modern prenuptial agreements, or “marriage settlements,” evolved in Britain in the eighteenth century when divorce was almost unheard of, highly scandalous, and obtained only by a few members of the aristocracy via parliamentary decree (Stone, *Broken* 11). Marriage settlements were common, indeed even indispensable for many in the days when marriage *literally* meant “until death do us part.” So how did the contemporary “prenup” become synonymous with divorce, greed, mercenary self-interest, and cynicism toward romantic love? What is the relationship between the cultural stigma of prenuptial agreements and the laws that recognize them?

To what extent does cultural awareness of the practice of family law and the judicial interpretation of prenuptial agreements affect individuals' willingness to enter into them? My thesis examines this complex issue using a framework of feminist-historicist critical theory to analyze the literary, legal, economic, cultural ideological, and philosophical mechanisms at work in the eighteenth century that laid the foundation for a series of changes in the law. These changes gave rise both to modern judicial guidelines for property distribution in marriage and to contemporary notions of the institution of marriage itself.

Beginning in the late seventeenth century, an ideology of sentiment strongly discouraged women's economically-motivated behavior during courtship. I assert that this ideology of sentiment at work in the eighteenth century still functions within a pattern of experience in the twenty-first. In order to frame that ideology and its implications for the modern sexual contract, my thesis will examine legal documents and literary works of nonfiction, as well as two highly influential eighteenth-century epistolary novels: Samuel Richardson's *Pamela* (1740) and *Clarissa* (1747-8). This thesis contributes to existing scholarship in the field of eighteenth-century novels, law, gender ideology, and economy by tracing the specific relationship between sentiment, property ownership, and the law in Richardson's novels. I argue that the increasingly popular fictional narratives of the period crystallize cultural assumptions about the relationship between love and money, assumptions that were reflected in the laws of the period. The model of virtuous femininity portrayed in Richardson's popular novels was taken up and refined by novels such as Frances Burney's *Evelina* (1778), novels that further demonstrate the degree to

which an ideology of feminine sentiment and sensibility rendered less efficacious the legal remedies available to women for their economic security.

THE NATURE OF CONTRACT

Contract undergirds the Western concept of marriage and its conventions. Marriage is a special kind of contract. The modern marriage contract signifies a two-fold bond between the parties, one affective and one legal. For many people, the affective aspect of the contract is formally declared by taking certain vows as prescribed by a particular religious doctrine. For many others, marriage vows are composed by the bride and groom entirely without regard for religion. In either case, the terms of the affective relationship (or bargain) between the parties is mutually agreed upon (otherwise they cannot be said to have a contract). The legal prong of the contract, the prong licensed and sealed by the state, governs the parties only when a dispute arises, such as divorce, the establishment of parentage, the custody of minor children, and the division of property, all of which are matters to be adjudicated in a court of law. The general shape of the marriage contract in eighteenth-century Britain was similar to the present-day marriage contract, with the notable exception that eighteenth-century marriage ceremonies always involved religion, at least ostensibly. The difference that fundamentally distinguishes contemporary and Early Modern marriage contracts concerns the legal status of the bride. Modern wives are recognized as legal entities separate from their husbands; eighteenth-century wives were not.

In modern society, husbands and wives are on equal footing under the law as regards their ability to form binding contracts before, during, and after marriage. Paradoxically, in the Early Modern period, when a woman entered into a marriage contract, she lost her ability to make other contracts. As Blackstone phrases it in his *Commentaries on the Laws of England*,

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: Under whose wing, protection, and *cover*, she performs every thing; and is therefore called in our law-french a *feme-covert*; is said to be *covert-baron*, or under the protection and influence of her husband, her *baron*, or lord; and her condition during her marriage is called her *coverture*. (1: 430, underlining added)

So, by Blackstone's definition, the term *feme-covert* refers to a legal non-entity. Yet unlike many other legal scholars, Blackstone defines the marriage contract as a contract like any other (Pateman 155), which presupposes two entities capable of contracting with each other: "Our law considers marriage in no other light than as a civil contract" (1: 421).¹ Furthermore, he makes a point of insisting that the marriage contract must follow all the proper formalities of, for example, contracts between a buyer and a seller: "[T]he law treats it [marriage] as it does all other contracts; allowing it to be good and valid in

¹ On the spiritual aspects of the marriage contract, Blackstone notes that "The *holiness* of the matrimonial state is left entirely to the ecclesiastical law: the temporal courts not having jurisdiction to consider unlawful marriages as a sin, but merely as a civil inconvenience. The punishment, therefore, or annulling, of incestuous or other unscriptural marriages, is the province of the spiritual courts; which act *pro salute animae* [for the safety of the soul]" (421).

all cases, where the parties at the time of making it were, in the first place, *willing* to contract; secondly, *able* to contract; and, lastly, actually *did* contract, in the proper forms and solemnities required by law” (1: 421). As Carole Pateman points out in *The Sexual Contract*, however, marriage in the eighteenth century was *not* a contract like any other, since English law had then presupposed fundamental differences in status between men and women that were written into the terms of the contract itself. Many legal authorities have acknowledged the innate differences between the marriage contract and other types of contracts; for example, in *A Treatise on the Law of the Domestic Relations* (1874), J. Schouler argues that “we are then to consider marriage, not as a contract in the ordinary acceptance of the term, but as a contract *sui generis*, if indeed it be a contract at all; as an agreement to enter into a solemn relation which imposes its own terms” (qtd. in Pateman 155).² That is, the terms of the contract are non-negotiable; the legal boundaries of the marital relationship are defined by the laws governing it, not by the parties themselves. According to Pateman, Blackstone’s paradoxical formulation of women’s role in marriage contracts is shared by classic contract theorists, who assume “that women both are, and are not, able to enter contracts A married woman lacks a civil existence so she could not have made a contract with her husband” (156). Thus the concept of “civil identity” also underlies the marriage contract because one’s membership in civil society determines whether one has the ability to contract.

Eighteenth-century social contract theory as the basis of “civil identity” was primarily based on the philosophical formulations of Thomas Hobbes and John Locke,

² J. Schouler, *A Treatise on the Law of the Domestic Relations*, 2nd ed., pt. II (Boston: Little Brown and Co., 1874) 23.

both of whose influential ideas concerning contract contain self-contradicting positions on women's status as individuals. Contract theory both arose from and contributed to new conceptions of relations between self and society and of society itself. As Nancy Armstrong points out in *Desire and Domestic Fiction*, "In Enlightenment discourse . . . the contract acquired new status. It provided the trope of enlightenment that organized narratives of individual growth and development" (30). And as John Zomchick emphasizes in *Family and the Law in Eighteenth-Century Fiction*, "An important—if not the most important—framework for the development of new forms of social intercourse is the idea of contract in English law and society. This is the formal interrelation of needs and rights" (26). In *Leviathan*, Hobbes theorizes this interrelation of needs and rights, arguing that individuals in a state of nature are necessarily at war with each other in a vicious struggle to protect themselves and to acquire and maintain the materials they need to survive (70). A state of war or anarchy continues until the disparate individuals come to a consensus about this "formal interrelation of needs and rights"; each individual sacrifices certain personal freedoms in exchange for the protection provided by a sovereign power who both promulgates and enforces laws under which each individual must be subject.³

Hobbes' radical theory of contract appears to assume equality amongst all individuals, regardless of gender. In a state of nature, anyone who can conquer another individual can have dominion over that individual; thus, according to Hobbes' theory, a

³ "This is more than Consent or Concord; it is a reall Unitie of them all, in one and the same Person, made by Covenant of every man with every man, in such manner, as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner.* This done, the Multitude so united in one Person, is called a COMMON-WEALTH, in latine CIVITAS" (Hobbes 95).

woman could have dominion over a man or vice versa. As Hobbes explains, dominion can be acquired in two ways: “By Generation, and by Conquest. The right of Dominion by Generation, is that, which the Parent hath over his Children” (110); dominion acquired by conquest is “the Dominion of the Master over his Servant” (111). Although Hobbes refers to the right of generation in a civil state as “Paternal,” he does not limit that right to fathers in a state of nature, in which state the right of generation can be either maternal or determined by contract between the two parents:

[T]here be alwayes two that are equally Parents: the Dominion therefore over the Child, should belong equally to both; and he be equally subject to both, which is impossible; for no man can obey two Masters. And whereas some have attributed the Dominion to the Man onely, as being of the more excellent Sex; they misreckon in it. For there is not alwayes that difference of strength, or prudence between the man and the woman, as that the right can be determined without War (110-11)

Hobbes’ paradoxical illusion of gender equality dissolves, however, when the state of nature morphs into a civil state or “common-wealth.” In the commonwealth, civil law steps in to establish the right of dominion by generation as “Paternal” rather than maternal; in determining parental dominion over a child, Hobbes explains that civil law favors the father “because for the most part Common-wealths have been erected by the Fathers, not by the Mothers of families” (110). Hobbes’ concentrates on precedent without explaining or justifying the seminal dominion-deciding event. Similarly, whereas the institution of marriage does not exist in a state of nature, civil society establishes the law of matrimony which likewise grants dominion to males. Elsewhere Hobbes states

that “in all cities, . . . constituted of *fathers*, not *mothers*, governing their families, the domestical command belongs to the man; and such a contract, if it be made according to the civil laws, is called matrimony” (Pateman 48).⁴ Pateman glosses Hobbes’ mystification of the “natural” subjection of women in marriage as follows:

Men have no need forcibly to overpower women when the civil law upholds their patriarchal political right through the marriage contract [T]here is only one way in which women, who have the same status as free and equal individuals in the state of nature as men, can be excluded from participation in the social contract. And they must be excluded if the contract is to be sealed; rational, free and equal women would not agree to a pact that subordinated women to men in civil society. The assumption must be made that, by the time the social contract is made, all the women in the natural condition have been conquered by men and are now their subjects (48-9)

The core of Hobbes' theory thus rests on a fantasy of male conquest. In *Leviathan*, the gender inequality of the marriage contract is resolved by simply making women disappear from the family unit, which Hobbes defines as consisting of "a man and his children; or of a man and his servants; or of a man, and his children, and servants together: wherein the Father or Master is the Sovereign" (113).

Locke’s *Second Treatise of Government* contains a similar gap in logic concerning married women’s legal status. While my next section explores in depth the

⁴ Quoting T. Hobbes, *Philosophical Rudiments Concerning Government and Society* (the English version of *De Cive*), in *The English Works of Thomas Hobbes of Malmesbury*, vol. 2 (Germany, Scientia Verlag

eighteenth-century polarization of activity into distinct categories of economic and domestic, public and private, male and female, a brief discussion of those categories here will illustrate Locke's failure to provide a rational philosophical explanation for women's legal incapacity in marriage. Locke's philosophy in large part established the political rationale for the partitioning of society into rigidly defined public and private realms. Locke attempts to rectify the paradox of women's role in the marriage contract by relegating women to a "private" or domestic sphere as if it naturally belonged to them and they to it. In eighteenth-century ideology, the public-economic-male (civil) sphere and the private-domestic-female (natural) sphere come to be opposed, with each sphere being defined by the other's absence. Locke picks up the mystification of women's subjection in Hobbes and reproduces it as a founding condition of civil society. In Locke's formulation "*Of Political or Civil Society*," he establishes his claim that "conjugal society" is distinct from "political society":

The *first Society* was between Man and Wife, which gave beginning to that between Parents and Children; to which, in time, that between Master and Servant came to be added: And though all these might, and commonly did meet together, and make up but one Family, wherein the Master or Mistress of it had some sort of Rule proper to a Family; each of these, or all together came short of *Political Society* (II, §§ 77, 337)

Locke goes on to explain that "*Conjugal Society* is made by a voluntary Compact between Man and Woman" (II, §§ 77, 337, underlining added). In this *voluntary* compact (contract), the two parties will occasionally disagree; "it therefore being necessary, that

Aalen, 1966) 116.

the last Determination, *i.e.* the Rule, should be placed somewhere, it naturally falls to the Man's share, as the abler and the stronger" (II, §§ 77, 337).⁵ The "natural" assignment of rule to the male is not a foregone conclusion, as Locke suggests. His contemporary Mary Astell was quick to exclaim that if strength of mind were predicated on strength of body, then "'tis only for some odd Accidents which Philosophers have not yet thought worth while to enquire into, that the sturdiest Porter is not the wisest Man!" (qtd. in Pateman 94).⁶ Similarly to Hobbes, Locke imagines that women in a state of nature are already "naturally" subordinate to men and on this basis never enter into the social contract.

Concerning the formation of civil society, Locke describes political authority as arising from the consent of sons to be ruled by their fathers in exchange for paternal protection, and "[t]hus the natural *Fathers of Families*, by an insensible change, became the *politick Monarchs* of them too: And as they chanced to live long, and leave able, and worthy Heirs, for several Successions, or otherwise; So they laid the Foundations of Hereditary, or Elective Kingdoms" (II, §§ 77, 336). The mother's role in this power transfer is curiously absent, however, as Pateman points out: "Locke says nothing about the place of the mother in the father's transmogrification into a monarch, yet she must be a member of the family or there could be no sons" (93). Pateman argues that the nature of the original contract between male and female assumes that the female's subjection is "natural," that the original political right is "a man's right to have sexual access to a woman's body so that he could become a father" (95); thus

⁵ The same secular argument is still at work in the Promise Keepers' justification of male dominance in marriage.

⁶ Mary Astell, *Some Reflections Upon Marriage* (New York: Source Book P, 1970; from the 4th ed. of 1730) 107.

Locke's first husband, like Adam, must have exercised conjugal right over his wife before he became a father. The "original" political right or government was, therefore, not paternal but conjugal. Locke had no need to mention the wife when her husband became the family's monarch. Her subjection to his rule had *already* been secured through an earlier agreement. (93)

In this way, when Locke explains his theory of the social contract, or how the public (civil) sphere comes into existence, the function of women in society has already been quietly confined to the private (domestic) sphere and so the question of whether women are "individuals" and have individual rights in a civil society need not be addressed. Again, Pateman situates Locke's transition between paternal and political in terms of an opposition between public and private:

During the genesis of civil society, the sphere of natural subjection is separated out as the non-political sphere Sex-right or conjugal right, the original political right, then becomes completely hidden. The concealment was so beautifully executed that contemporary political theorists and activists can "forget" that the private sphere also contains—and has its genesis in—a contractual relationship between two adults. (93-4)

As Pateman argues, the "contract" aspect of matrimony is made to disappear by these philosophers as they provide a seamless transition from the relationship between two free and equal "individuals" in a state of nature, to the relationship between husband and wife in a civil society wherein the wife's subordination is "natural" and therefore

unquestioned. The “naturalness” of this arrangement became so thoroughly ingrained in Western culture that, although it has been substantially redressed by the law, it has clung tenaciously to otherwise shifting marital ideology and is still apparent, particularly in present-day political economy, churches, media images, and gender ideology.

Throughout the eighteenth century and into the nineteenth, contract theory continued to evolve, gaining ascendancy in the new commercial economy and underpinning ideas about both the public and the private spheres. The philosophies of Hobbes, Locke, and others theorized individualism in the late seventeenth century, establishing the grounds on which political equality was possible among all (male) property owners. As many historians have demonstrated, the eighteenth century also saw remarkable changes in relationships within the nuclear family, changes that led to what Lawrence Stone optimistically dubs the "companionate marriage."⁷ According to Susan Moller Okin, familial relationships prior to the mid-seventeenth and eighteenth century were characterized by economic or pragmatic considerations and by low "affect or psychological commitment" ("Women" 73). Family members were not "sharply separated from the outside world of the community, and did not place much value on privacy" (73). During the course of the eighteenth century, the ideology of family life came to embrace "domestic privacy and psychological intensity and intimacy" (74). Many historians have argued that this ideological change represented a decline in patriarchy, that the "companionate marriage" allowed for a more egalitarian relationship between women and men. As Okin points out, however, the philosophies of Rousseau,

Kant, Hegel, and others—the philosophies that provided the ideological foundation for the new model of family as an insular and affection-based unit—actually reinforced patriarchy simply by establishing different and more effective rationales for denying women status as political subjects. As Okin points out, "The justification of women's place by 'natural hierarchy' had been shaken by the birth of liberal individualism—the idealized sentimental family provided a useful alternative" by establishing the notion that women were *fundamentally* "guided by their feelings, and especially by their attachment to their husbands and children While women were no longer commonly perceived as occupying a position somewhere between men and beasts in the great chain of being, the pedestal on which 'the angel in the house' was placed was a no less confining construct" (87, 88). Fictional narratives contributed to this construct of sentiment and "sensitivity" by creating heroines whose behavior was guided by the overarching principles of domesticity as the "natural" female domain. The realm of domesticity came to be defined—in novels and in cultural ideology—alongside and in antithetical terms of the domain of Britain's rapidly changing economy, terms that affected women's relationship to the law, as well.

POLITICAL ECONOMY AND THE NOVEL

The development of contract ideology in the late-seventeenth and eighteenth centuries was tied inextricably to the emergence of commercial economy, as was the idea of civil and political identity. Economic growth and expansion were enabled by

⁷ E.g., Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (New York: Harper and Row, 1977); Edward Shorter, *The Making of Modern Family* (New York: Basic Books, 1975); and

developments in commercial contracts and the agreed-upon exchange values which made them viable. As James Thompson explains in *Models of Value*, the processes by which currency, having its inherent value in precious metal, was transformed into capital provoked a revolution in the concept of value, one that is related to the emergence of separate (gendered) spheres of activity. Using Marx's formulation of "money in process," Thompson contends that the eighteenth-century transformation of money into capital, alongside the introduction of "various and disturbing new forms of paper money" provoked a crisis in value:

What is it and where is it located—in the signifier, in its referent, or in some signifying process that occurs in the act of exchange? . . . Gradual consensus over the nature of value emerges as political economy comes to describe the movement of capital, and thus the very process of capitalism . . . Furthermore, by the process of ideological contradiction, the private sphere and domesticity come to be written or represented in antithetical terms of stability. (18)

As both capitalist ideology and the novel as a literary form took shape in the late seventeenth and eighteenth centuries, each informed the other through a dialectic of exchange value and subjectivity. The private-domestic sphere represented in narrative fiction came to stand for the absence of stability in the financial marketplace of value.

As fiscal policy and economic discourse developed to accommodate and reflect the burgeoning commercial economy, a parallel discourse emerged from which the civil realm of political economy was excluded; the "private sphere" was created as a domestic

Randolph Trumbach, *The Rise of the Egalitarian Family* (New York: Academic Press, 1978).

haven in which consumers could comfortably enjoy the fruits of their labor. This domestic haven was both the subject and the object of its own new literary form, the novel. As Thompson goes on to explain,

That financial modeling and fashion modeling are rarely conceptualized together, but rather are seen as wholly incommensurate activities, one largely male and the other largely female, has a great deal to do with the eighteenth-century partition of discourses appropriate to economic men and domestic women—the separation of spheres. In this historical period, finance and romance become dialectically related, so that the presence of one calls on the palpable absence of the other. (3)

The construction of a new feminine (domestic) model was achieved in part as a result of the eighteenth-century novel's reliance upon the “palpable absence” of women from their male counterparts' public, economic sphere. As Thompson goes on to point out, “Such narratives are motored by a kind of compensatory sentimentalization; as civil society becomes represented as increasingly competitive and antisocial, social bonds are miniaturized and preserved in the domestic sphere” (26). Thus in *Clarissa*, Richardson's heroine refuses to litigate with her father—not because she has no right under the law, but rather because doing so would transgress the recognized boundaries of her feminine gender role, namely her duty to her father. In this way the cultural work performed by novels “in redefining femininity and domesticity and in inaugurating the doctrine of separate spheres is tied to the imaginary” (Thompson 12). The immense popularity and lasting appeal of Richardson's novels—novels specifically intended as role models for his female readership—bespeak the power of his appeal to the imagination of his

specifically “domestic” audience. But as Thompson also notes, the lines of demarcation between public and private spheres are “ideological and therefore largely invisible,” so they are most apparent through moments in which their boundaries threaten to be transgressed and in “the consequent reaction to and containment of such transgression,” such as the “presence of financial exchange in the discourse of domesticity which constitutes the novel” (24). For example, as a fictional model of the feminine ideal, Clarissa’s attitude toward her pecuniary quandary indicates the extent to which expectations for gendered behavior were a function of economic ideology.

The potential transgression of these gender-specific spheres was a locus of tension in fictional accounts of courtship and marriage contract negotiations. As Catherine Ingrassia points out in *Authorship, Commerce, and Gender in Early Eighteenth-Century England*, women quickly learned how to use capital in the growing commercial economy of the period, and their ability to interact in the new economic world rested largely on contractual devices auxiliary to the marriage contract. In the late-seventeenth and eighteenth centuries contracts were developed which enabled a married woman to possess property and, by extension, a civil identity separate from her husband’s. These “marriage settlements,” analogous to commercial contracts, also allowed women to engage in certain competitive practices which eventually proved troublesome to England’s social order. For example, as detailed in chapter two, marriage settlements came to include contracts for “pin money,” which provided women with periodic cash allowances, allowing them to invest in speculative ventures and accumulate their own personal wealth. Women’s competitive practices in the marketplace were not sanctioned, however, by the prevailing male-centered social ideology whose founding premise

excluded women from civil society and, along with it, the public transactional space of the new commercial economy. According to Ingrassia, “The figure of the female investor . . . created apprehension about the erosion of always tenuous cultural distinctions The hierarchical categories of class, property, and even gender potentially suffered a fundamental instability” (140). Women’s incursions into the realm of political economy challenged the notion that they were “naturally” excluded from civil society. If women could function as parties to the social contract *in fact*, perhaps the ideological foundations which held that they could not participate *in theory* were not as rock-solid as they seemed. The threat presented by women's economic activity was stated succinctly in 1867 by Helen Taylor, who argued that, "since women are permitted to hold property they should also be permitted to exercise all the rights which, by our laws, the possession of property brings with it," those same rights which "flow naturally from the existing laws and institutions of the country" (3).

As women began to assert themselves in the volatile arena of capital during this period, patriarchal culture appears to have countered by creating mechanisms to contain the female subject, superimposing models of gendered behavior onto spaces of activity and specifically calling into question the suitability of female economic activity, including litigation. Richardson's influential model of ideal feminine conduct goes so far as to suggest that these non-feminine domains are not even appropriate conversational matter for women, and his model was absorbed and refined by later novelists. In *Evelina*, for example, Burney's ultra-feminine heroine is appropriately shocked into silence by the crude and greedy Madame Duval's incursion into a distinctly non-feminine space; when the virago announces her plan to "prove [Evelina's] birthright, and to claim, by law, the

inheritance of [her] real family," Evelina writes that "It would be impossible for me to express my extreme consternation, when she thus unfolded her scheme. My surprise and terror were equally great. I could say nothing; I heard her with a silence which I had not the power to break" (166). Dumbfounded silence figures critically into Richardson's texts, as well, at moments when his heroines are faced with the prospect of money and marriage.

This fashionable feminine silence, as I shall argue later in detail, was rather inconvenient for women when the necessity to negotiate marriage settlements arose. As Misty Anderson points out, female playwrights of the period seized upon the paradoxical position of wives in relation to capital, where it was played out on stage:

The mobility of property through contracts and the immobility of property through inheritance are opposing economic forces that animate marriage contracts, where women are both parties to and the condition of the transfer of wealth in marriage. The more women are perceived as conduits, the less their individual will or identity matters, but women who can articulate their position as parties to contract also have a basis for legal subjectivity, domestic authority, and an alternative erotics of mutuality. (112)

Whereas the comedies of female playwrights exposed the sexual politics inherent in the perception of women's relationship to property, the novels in this study demonstrate a trend toward disguising sexual politics and economic interests, reinforcing real property rights as the exclusive domain of males, and subtly outlining a model of feminine behavior that precluded women's economic activity outside the domestic sphere.

Richardson's heroines are intelligent, sensitive women who are powerful in their ability to negotiate the dynamics of courtship and social mores. In both *Pamela* and *Clarissa*, however, each heroine is presented with a legal dilemma in which her opportunity to engage in transactions requires her to disguise or otherwise de-emphasize her interest in property and material wealth; in both cases, her ability to do so is inextricably connected to her qualification as a “truly virtuous female”—properly feminine, and, by definition, passive when in danger of appearing to be interested in personal financial gain. Through their focus on courtship and marriage, these novels are sensitive recorders of the forces constructing and regulating female subjectivity in the period. By creating a feminine ideal in which a certain kind of passivity and dependence defined “virtuous love,” eighteenth-century cultural ideology broadened the chasm between gender roles, creating distinctive and abiding models of behavior which effectively discouraged women from negotiating for separate property and which allowed men to maintain control over the flow of capital.

LAW, LITERATURE, AND SUBJECTIVITY

The contracts regulating commercial exchange and marriage are themselves regulated by law. Thus the manner in which the law conceives of individual rights in contract, and in turn the manner in which individuals conceive of the law, is important in discussing fictional narratives that rely on contract law for a structural backdrop. Recent scholarship in the field of law and literature has focused on the nature of the relationship between cultural ideology, fiction, and jurisprudence. Zomchick, for example, is concerned with the manner in which eighteenth-century fiction incorporates juridical

discourse as a model of rationality according to which an individual's fragmented identity can be ordered. As Zomchick explains, the "juridical subject" is simultaneously a member of both civil society (public) and of the family (private). In order to successfully navigate these oppositional spheres, an individual must avoid being dominated in the transactional marketplace of civil society and must prevent those market forces from invading the private sphere (xii-xiii). In doing so, the individual internalizes the juridical discourse of civil society as a means of providing a coherent, stable identity. Zomchick argues that private conscience and public law merge to create subjective individualism, which is also a condition of the rapid commercial expansion of the period. Law and cultural ideology inform each other, so that "the law—both as it is represented in and as its principles inform [some] eighteenth-century novels—provides the content and the form for what Mikhail Bakhtin calls an internally persuasive speech that enables a subject to constitute herself as an ethically sound and coherent individual" (29). Zomchick further points out the similarities between the ordering function of Blackstone's landmark *Commentaries* and the narrative innovations of eighteenth-century novelists, both of which envisioned the law as an expression of rationality in a period of social transformation. As Zomchick explains, Blackstone's formulation of the law

is both personal and social. Involving both reason and sentiment in its deliberations, it becomes in effect the master science, at once a design for living and the ultimate hermeneutic tool. Such a version of the law appears in [certain novels] Its ideological function is to fix the individual in a settled pattern of behavior and fit the subject for the enjoyment of rational happiness. (29)

Because the eighteenth-century novel often equates “rational happiness” with “domestic happiness” predicated on a landed estate (with a tidy bank account thrown in for good measure), marriage is frequently an important aspect of the plot, if not its denouement. Accordingly, marriage contracts are featured frequently in novels such as *Tom Jones* and *The Vicar of Wakefield*, and their treatment in highly popular epistolary narratives of the period is the primary focus of this thesis. In their depictions of courtship and marriage, however, women's happiness (or unhappiness) does not always appear to be rational, at least not by today's standards. Pamela's rapturous and speedy marriage to a man who has repeatedly abused and belittled her provides one example. Richardson's depiction of courtship and marriage in this case appropriately mirrors the logical fissures underlying the eighteenth-century spin on the marriage contract itself.

Zomchick's theory is useful to my argument because it provides an account of the reciprocity between the "outward" order provided by law and the "inward" order of subjectivity through imagination, which incorporates legal discourse. Yet while the law orders individuals, in turn cultural ideology orders the law. The relationship between the two is dramatized in novels such as *Clarissa*, wherein the law and its instruments feature as a mechanism by which a model of outward behavior is propounded through the "internal" development of its characters. I argue that these novels' treatment of courtship, marriage contracts, and other legal issues in relation to their limning of the gradually diminishing category of acceptable behaviors for women is implicated in a reduced capacity for women to negotiate settlements and thus utilize the legal remedies available to them, and, less directly, in the modern reticence toward prenuptial agreements. Thus these novels are, in a sense, discursive mechanisms whereby the patriarchal cultural

assumptions surrounding married women's separate property laws can be explored and discussed in terms of their influence on modern culture.

CHAPTER 2: PROPERTY LAW AND THE ENGLISH FEME

The institution of marriage changed significantly over the course of the eighteenth century in Britain, both socially and legally. This chapter outlines women's legal status in marriage, the laws governing the transfer of wealth through marriage, as well as the legal remedies available to women who sought to protect their individual property rights in marriage. Changes in the law during this period included an initial liberal trend, granting women increased agency in the creation and management of their separate estates in marriage. Later, more conservative rulings established a precedent that would not be overturned until the twentieth century, one that gradually undermined women's property rights, returning women to a more vulnerable economic position in society. These later rulings can be seen as an expression of ideological changes toward women as economic agents whose increased activity in the public realm of finance amounted to a threat of social instability.

Ascertaining the degree to which women's experience as legal subjects shapes their historical relegation to "domesticity" is the aim of my questions about the ideological motivation for certain changes in the law. As Stephen Parker points out, "The family generally is, of course, a major site of women's oppression but . . . it is marriage and its ideological economic and legal consequences that articulates the oppressive elements" (7). Innovations in eighteenth-century devices for the creation of married women's separate property, while providing a tangible increase in economic security and power for many women, were helpful only insofar as women were able to utilize them.

Thus the significance of individual laws and of legislative history is inseparable from the cultural ideological forces impinging upon people's lived experience. Accordingly, this chapter is also concerned with some of the specific circumstances a woman might have faced when arranging for her separate property, as well as ideological trends surrounding the legal issues.

Susan Staves has conducted important recent scholarship in the field of eighteenth-century British property law (*Married Women's Separate Property in England, 1660-1833*). Her primary concern is with the relationship between patriarchal attitudes toward women as economic agents and the evolution of marriage settlements and property laws governing that agency. According to Staves, the common-law provision for women's economic security was gradually replaced by married women's separate property laws based on contract ideology which, in theory, gave women a new element of power over their own economic affairs. As long as a woman could negotiate a fair marriage settlement for herself, she would be at least as financially secure, perhaps even more so, as she had been under the system of dower. Thus, regulated by a seemingly neutral market logic, marriage comes under the heading of a generalized contract (the commercial contract). The same social forces that reacted negatively toward women's activity in the public zone of exchange, however, were also threatened by women's bargaining power in the marriage transaction. As Staves points out, by the beginning of the nineteenth century, "the courts retreated from contract ideology in this field and reimposed . . . deeper patriarchal structures" (4). Staves defines patriarchy as "a form of social organization in which fathers appear as political and legal actors, acting publicly for themselves and as representatives of the women and children subordinated to them

and dependent upon them in families” (4). Thus the common law of primogeniture was predicated upon the economic dependence of married women, and the relatively liberal legal precedents set in this field in the early decades of the eighteenth century were ultimately undermined by the century’s prevailing patriarchal ideology. I argue specifically that Richardson's novels *Pamela* and *Clarissa* contributed to the achievement of an ideological model of femininity in which passivity with respect to economic issues was a distinctive feature, a passivity that discouraged women from negotiating contracts for the preservation of their separate property in marriage. Novels provide evidence of the assimilation of new laws into subjective consciousness, and, conversely, Richardson's widely read novels contributed to the ideological setting in which the law continued to change. Fictional narrative worked to make domesticity the "natural" habitat for women, a private shelter in which negotiations for a *feme covert's* separate property was not an appropriate topic for ladies' polite conversation. Thus while married women's separate property laws provided women with avenues for amassing their own wealth, cultural ideology hampered women's overall ability to make use of the myriad legal remedies available to them, remedies by which they had the potential for equitable economic status in marriage and substantial security in widowhood.

DOWRY AND DOWER

Throughout the eighteenth century, when a couple married, the bride customarily brought a dowry, or portion, to the union. A woman’s portion might vary from as little as £10 to as much as £10,000 or more, depending on her socioeconomic status, and may

have included real property settled on her by a relative. As Cornish and Clark observe, "a dowry set a value upon a daughter in a market eager for rewarding alliances" (129). A bride's dowry was sometimes negotiated by her father with the groom's father, but as Amy Louise Erickson contends, this was by no means always the case: "In wealthy families mothers were actively involved in negotiating their daughters' marriage; in ordinary families the daughters were likely to do it themselves" (96). In many wealthy families, however, such as the Harlowes of *Clarissa*, the bride's dowry clearly was negotiated by the bride's father or other male relatives;⁸ *Clarissa* thus allows an elite ideology to function as an imaginative model for other class groups. Dowry negotiations were crucial to the conglomeration of fortunes and were therefore an important element in the transfer and accumulation of wealth from one generation to the next.

As Erickson also points out, "At some level, a bride's portion was not merely a nest egg for the new household—it was a token of her character, and thus of her sexual honour" (95). Several types of charitable practices provided dowries for poor young women so that they could marry, their unspoken assumption being that "without dowries poor women would be unable to marry and therefore forced into prostitution" (95). The custom of a bride's dowry was thus deeply implicated in cultural assumptions about women and their relationship to money; the larger a woman's dowry, the more "chaste" she was and therefore more desirable as a bride, an idea Richardson makes much of in *Pamela*. Chastity thus signifies an alternative economy in which sexual purity is a marker of value that replaces the material. In advice manuals such as Edward Ward's *Female*

⁸ According to Erickson, "Where both a [wealthy] bride's parents were still living it might be assumed that her father made the arrangements," though exceptions did exist in which mothers or other relatives

Policy Detected (1695), young men are admonished to "[b]e sure of her Portion, though you take her Vertue upon Credit; but he that takes both upon Trust, may find, when too late, he hath neither to trust to" (5).

Upon marriage, an adult woman's legal status changed from *feme sole*, in which she could legally own, control, and alienate real and personal property, to that of *feme covert*, in which the use and benefit of all her real property, as well as the full possession of all her personal property, transferred to her husband. A husband was therefore at a decided advantage over his wife in terms of capital outlay decisions. A wife was legally dependent upon her husband for the economic maintenance of herself and her children, including food, lodging, medicine, clothing, furniture, household goods, and anything else requisite to well-being or customary living standards.⁹ Moreover, a *feme sole* lost ownership of her chattels upon marriage; according to *Baron and Feme*, a legal treatise concerning husbands and wives, published in 1700, "Marriage is an absolute gift of Chattels Personal in Possession in her own Right whether the husband survive the wife or not" (53). Nor did she regain ownership of the chattels she brought to the marriage after her husband's death: "If the wife have Goods and take an Husband, the husband dies, the Executors of the husband shall have the Goods" (55). She retained ownership of personal goods such as clothing when she married, yet after her husband's death she was allowed

arranged the settlement (93).

⁹ Courts took a matter-of-fact stance on the husband's control of marital property. In one case cited in *Baron and Feme*, a wife "purloyned" her husband's money and, investing it through a third-party male, used it to purchase her own land. The husband's executors sued for the return of the money after his death, but the Chancellor declared that "he would not relieve the Heir or Executor (nor the Husband himself if he were alive) for he sat not there to relieve Fools or Buzzards, who could not keep their Money from their wives" (67).

to keep "no more Apparel than is convenient" (65). At common law, then, a wife was not in a good financial position if her husband was not an able and caring provider.

Upon her husband's death, at common law a widow was entitled to dower, a portion equivalent to one-third of the real property her husband had owned during their marriage.¹⁰ Dower was an important means of establishing the economic security of widows and minor children. By the eighteenth century, however, the system of dower had become so eroded that a woman could no longer comfortably rely on it as a means of securing her wellbeing after her husband's demise. According to Staves, "Dower was even in 1700 barrable in so many different ways and was apparently so often successfully barred . . . that it seems symptomatic of the general archaism of eighteenth-century legal learning that so much is said about [judicial decisions concerning] dower" (*Married* 28). The system of dower was undermined to a large degree by an alternative form of marital property arrangement for women, that of jointure. Upon or during marriage, a woman could opt for jointure instead of dower, which had apparently become customary by the early sixteenth century (Erickson 25). Jointure differed from dower in that it "generally took the form of an annuity arising from a rent charge on specified lands" (25).¹¹ That is to say, jointure typically provided widows with monetary benefits only, the amount of which was subject to negotiation, whereas dower provided women with the control and use of a fixed percentage of real property and its proceeds. Moreover, in theory, dower was the equivalent of what is now referred to as "forced shares"; in other words, a

¹⁰ Her fee interest in any real property she owned once again came under her control, providing her husband had not alienated the land during her coverture; although a husband could not alienate his wife's land without her permission, evidence suggests that some wives were "kissed or kicked" out of their property (Staves, *Married* 135).

husband could do nothing on his own “to defeat or to lessen” the wife’s entitlement to her life estate (Staves, *Married* 30).¹² Jointure, on the other hand, existed as a contract recognized solely by equity courts, not by common law courts, and thus did not provide the same kind of "default" protection as the older common law provision for dower.

Thus the system of dower in Britain was gradually commingled with a system of legal devices based on contract ideology which shifted the burden of ensuring a wife’s long-term economic stability away from the law of property onto the law of contract. Jointure was an increasingly popular alternative to dower, especially for middle- and upper-class women. Under the new contract ideology of marriage, unless a woman could appeal to friends or family members for monetary support, the only recourse she could secure against the possibility of her husband’s inability or unwillingness to provide for her and her children was to enter into a contract specifically for that purpose with her husband at the time of their marriage. Thus her ability to negotiate marriage settlements was vitally important to her future welfare. Lady Mary Wortley Montague, for example, eloped with her husband against her father's express wishes and without a dowry or a marriage settlement of any kind (Halsband 10-28). After their marriage, her husband "became casual or neglectful," not returning her letters or providing her with sufficient money; on one occasion, "Before she finally heard from him she had lain ill in bed for

¹¹ According to Cornish and Clark, "the regular rate of jointure was an annuity of one-tenth her dowry" (129).

¹² One notable exception to this otherwise accurate observation is set forth in *The Lawes Resolutions of Womens Rights*: “He that hath a notable grudge against his wife, and would be sure to delude her hope of Dower, hath a direct way Hee needs doe no more but imagine, compasse, and conspire some detestable renowned treason of the old stampe The Law was in the late dayes of Littleton and Parkins that every attainer of murther or felonie done by the Baron, was an ouster of dower to the wife” (152).

four days with a prodigiously swollen face, which had to be lanced, and she had been in the utmost need of money" (Halsband 30).¹³

CONTRACTS FOR MARRIED WOMEN'S SEPARATE PROPERTY

Contracts for a wife's "separate estate" in England date back to about 1620 (Stone, *Family* 331). As Okin explains, after the Reformation "there was a considerable change in the relative value of realty and personalty, due to a vast increase in the nation's moveable wealth. In order to preserve family estates, the fortunes of daughters came increasingly to consist of personal rather than real property" ("Patriarchy" 125-26). In other words, because families often entailed their real property on their sons in order to preserve their estates in the male line, their daughters' portions consisted of chattels. During the same period, the custom of arranged marriages was gradually being altered in that daughters were permitted to have more say in the choice of their spouses. Okin argues that in light of these developments, "the fathers of daughters would have considered it more necessary than before to ensure, by means of marriage settlements and trustees, that their daughters' fortunes were not appropriated by their [extravagant] husbands and lost to their families of origin forever" (126). Thus, as Okin suggests, Stone's claim that changes in married women's separate property laws in the eighteenth century were a consequence of the "rise of the companionate marriage" is not necessarily accurate (Stone, *Family* 325). Rather, they were more likely the result of a rising need to

¹³ See Lady Mary Wortley Montague, *Letters and Works*, ed. Lord Wharncliffe, 3rd ed. rev. by W. Moy Thomas, vol. 1 (1861), 198-9.

protect the property interests of families by overseeing the welfare of married women, widows, and children.

According to Staves, in theory, a wife's separate estate was preserved by creating a trust for her separate property, prior to her marriage, that protected her property from her husband's control and from his creditors (*Married* 133). The trust also protected her estate from her own family's attempts to control it. A wife's separate property was handled by trustees because they could litigate on her behalf and because most lawyers "supposed male trustees would manage it better and because the contract could then be thought of as between the husband and the trustees with the wife as a sort of third-party beneficiary" (*Married* 133). Another type of pecuniary safeguard for women was to contract for "pin money," which was a relatively common practice by the mid-eighteenth century. Pin money consisted of "payments under a contract by a husband to a wife during coverture of a set annual sum" (*Married* 132-33). Eighteenth-century laws concerning pin money are themselves evidence that women were not always adequately provided for in marriage and that men sometimes sought to exempt themselves from their duties as providers. Pin money was customarily used for clothing, tips to servants, extra expenses, and for "insurance" in the event a husband should "prove so stingy as to be unwilling to support her at an appropriate level, should the husband lose his assets, or should the marriage prove so unhappy that the couple separated" (*Married* 144). Contracts for pin money could also stipulate large sums of money: "By the mid-nineteenth century pin-money had dwindled to its present meaning of 'a small sum of money for incidental minor expenses', but in the early modern period pin-money could

consist of very large sums: £50, £300 or even £1000 p.a.” (Erickson 103). Pin money, especially its "insurance" function, was regarded by Richardson and other conservative gentlemen as a usurpation of husbands' authority in marriage. As Richardson himself stated, “[P]in money . . . makes a wife independent, and destroys love, by putting it out of a man’s power to lay any obligation upon her, that might engage gratitude, and kindle affection” (qtd. in Staves, *Married* 159).¹⁵ Thus in *Pamela*, B allows his new bride £200 p.a. as her "own private Charity," but he is under no contractual obligation to pay it to her; ironically, he kindly explains that her allowance "is very short of that Proportion of my substance, which, as my dearest Wife, you have a Right to" (306). B's language reveals his sensitivity to the nature of the financial obligation he places on his wife when he states that her "kind acceptance . . . repays the Benefit, with Interest, and leaves [him] under Obligation to [her] Goodness" (306). Thus his "obligation" to her is of a sentimental nature, whereas her obligation to him is concretely economic.

When a groom and his family engaged in settlement negotiations with the bride and her family, they did so because they had an economic interest in establishing the bride's jointure. When a bride opted for jointure over dower, equity courts frequently "permitted jointures of considerably less value than the corresponding estates in dower to bar dower" (Staves, *Married* 160). Thus when marriage negotiations involved the bride and her family, occasioned by her or her family's desire to preserve her separate property during her coverture, she and her family did have some bargaining power in the arrangements. That bargaining power was culturally undermined, however, by social

¹⁴ From an essay for Samuel Johnson's *Rambler* no. 97. *The Yale Edition of the Works of Samuel Johnson: The Rambler*, ed. W. J. Bate and Albrecht Strauss, vol. 2 (New Haven: Yale UP, 1969) 158.

critics like Richardson who deemed women's separate property a hindrance to the "proper" relationship between husband and wife. As Staves argues, "Contemporary complaint about settlements which make 'a wife independent' displaces responsibility onto women's 'demands' and masks the dynastic motives and the interests of husbands' families in these settlements" (*Married* 160). Thus an eighteenth-century bride faced not only a baffling, androcentric legal system, but the potential censure of her community as well, if she were to negotiate her own marriage settlement. The burden was squarely on her shoulders if she had no family members who were qualified to perform the task on her behalf, which is the intentional case with Pamela, who demonstrates a feminine awareness of the indelicacy of such negotiations. By the time *Evelina* was published in 1778, feminine gender ideology had come to exclude from young ladies' conversational repertoire even the appearance of knowledge about marriage settlements; as Evelina herself recalls, "He would then have spoken of *settlements*, but I assured him, I was almost ignorant even of the word" (411).

EARLY TRENDS IN PRECEDENT

According to Staves, case law over the course of the late seventeenth and eighteenth century reveals that courts at first took a liberal turn in their rulings on cases concerning married women's separate property, supporting a contract ideology of marriage which, when interpreted favorably for women, amounted to an improvement in their ability to control property. As Staves explains, in the early period of contract

¹⁵ Samuel Johnson, *Rambler* no. 97, in *The Yale Edition of the Works of Samuel Johnson: The Rambler*, ed. W. J. Bate and Albrecht Strauss, vol. 2 (New Haven: Yale UP, 1969) 158.

development, the law took "an increased interest in curbing the exercise of authority by fathers and, especially, husbands. Ignoring the common-law tradition that made a feme covert incapable of making a contract either with her husband or a stranger, the temporal courts involved themselves in a long series of cases that violated these principles" (*Players* 159-60). One of the liberal legal trends included the decision to regard a married woman as a *feme sole* with respect to her separate property. For example, in *Milles v. Wikes* (1694), the court held that a wife was entitled to bequeath the savings from her pin money if she died prior to her husband, and she could alienate (transfer ownership of) them if she survived him (*Staves, Married* 148). Similarly, in *Gore v. Knight* (1705), the court ruled that a wife could stipulate in her marriage contract the right to dispose of her separate property, in which case "all that she dies possessed of it to be taken to be her separate Estate, or the produce of it, unless the contrary can be made appear, and as she has a Power over the Principal, so she may dispose of the Produce or Interest" (qtd. in *Staves, Married* 148). And in *Wilson v. Pack* (1710), the court ruled that "where the Wife has a *separate Allowance made before marriage, and buys Jewels with the Money* arising thereout, *they will not be Assets liable to the Husband's Debts*" (qtd. in *Staves, Married* 148-9).

Around the turn of the nineteenth century, however, the courts appear to have gradually reverted to patriarchal structures which undermined women's advancement under the new contract ideology, developing "idiosyncratic rules" to controvert their earlier rulings (*Staves, Married* 161, 175). Staves argues that "the alternative historical development of idiosyncratic rules for pin money and other forms of married women's separate property was one reason why married women's property did not then lead to

married women's power" (*Married* 161). As Staves makes clear, law changes over time with new precedents, mirroring the prevailing cultural ideology as internalized by its officers and its subjects. Statutory law, and even the application and interpretation of common law, is fluid and reflects as much as it guides juridical subjectivity. The records of parliamentary decisions sometimes reflect the degree to which the function of the law is construed (or misconstrued) according to the subjective interpretations of the debating members. Changes in the common-law right of dower are somewhat analogous to changes in the law concerning voting rights. For example, as Thomas Anstey demonstrates in his scathing review of the British House of Commons' juridical methodology, women were never at common law denied parliamentary franchise. Rather, they were denied the right to vote by the enactment of statutes "by a House . . . determined to judge of the qualification of its own electors, without any reference to law or to lawyers or to any rule, but its own supposed good" (24-5). Anstey argues that the disenfranchisement of women was initially promulgated by Lord Coke, whose "unscrupulous practice" was the suppression or falsification of records "whenever popular right was in question, or prerogative to be defended" (5). Likewise, according to Anstey, Parliament's "monstrous absurdities of judicature" and the use of "[a]rbitrary jurisdiction," particularly in the House of Commons, amounted to the "entire suppression of the 'common right' of inhabitancy suffrage, in all but two or three constituencies" (43, 37). Thus women were "legally" denied their common-law right of parliamentary representation in addition to the denial of their right to own and control any substantial property under coverture, rights which would not be properly granted until the Married Women's Property Act of 1882 was passed (Mallett 175) and the women's franchise

movement was finally fully successful with the enactment of the Equal Franchise Bill of 1928 (otherwise known as the "flapper vote") (Cornish and Clark 83, n. 23).

Richardson's first two novels participate in the eighteenth-century dialogue of law, commerce, and individualism that underlay these trends in legal precedent. As Zomchick points out, "narrative entails fortunes and misfortunes on particular kinds of social behavior and constructs the juridical subject, whose destiny it is to negotiate the demands and satisfactions of civil society and family, searching for an often elusive compromise between necessity and freedom" (31). Pamela and Clarissa are juridical subjects whose actions are guided by an overarching desire to "return home," to flee from the coldly calculating behavior of their male counterparts who are already "at home" in the public (male) domain of contract negotiation. The law, particularly married women's separate property law, worked alongside and through the eighteenth-century novel to refine the categories of domestic woman and economic man. Staves envisions an overarching trend in the law in which judicial decisions progressed gradually from liberal to conservative over the course of the eighteenth century. She makes a strong case for the premise that legal precedent gradually retreated from its initial liberal gesture toward granting substantial economic autonomy to married women. Even in light of the possibility that Staves' analysis might overstate the likelihood of this trend, the cultural ideology at work in limiting women's ability to take advantage of married women's separate property laws was in itself powerful enough to discourage married women's economic autonomy. Fictional narratives provided an ideological model of domestic bliss in which women did not need economic autonomy; indeed, according to Richardson's model, a woman who desires economic autonomy cannot be a "real" woman at all.

CHAPTER 3: "I COULD NOT SPEAK, MIGHT I HAVE HAD THE WORLD": PAMELA'S MODEL CONDUCT

Although common law and statutory provisions for married women's separate property provided legal recourse to women in the eighteenth century, marriage settlements were extremely unpopular with "gentleman moralists" such as Richardson, mainly because they did not seem to provide as much social control over women as had previously existed (Staves, *Married* 158, 134). From a patriarchal standpoint, contracts for married women's separate property "gave the husband and wife separate interests (the wife could sue the husband on the contract), allowed the wife to make independent judgments about expenditure" and, perhaps more importantly, "made the husband's payments to the wife seem to depend on her right rather than on his generosity, thus, it was said, not inspiring appropriate wifely gratitude" (Staves, *Married* 158). A highly effective campaign of propaganda was produced on the topic of marriage settlements, both to denounce the practice of creating separate property contracts for married women and to cultivate a behavioral ideal for women which would necessarily preclude their seeking such contracts. Much of this propaganda took the form of conduct books, highly popular didactic literature designed to provide instruction in moral and secular matters, with an emphasis on household economy and domestic matters in general; the propaganda would come to employ fictional narrative, as well.

CONDUCT BOOKS

As one of the first of a new literary and cultural phenomenon known as the “novel,” *Pamela* spoke to an audience which had been thoroughly primed for its message through a series of popular conduct books. Richardson was familiar with the tradition of conduct books and advice manuals, having printed many of them himself. For example, in 1727 he printed Daniel Defoe’s *The New Family Instructor*, and in 1729 he printed the first section of Defoe’s *Religious Courtship: Being Historical Discourses, on the Necessity of Marrying Religious Husbands and Wives Only*, in which a father is outraged at his daughter’s unwillingness to marry according to his wishes (Backsheider 32-3, 38). Richardson’s own works exhibit many similarities to Defoe’s attitudes toward filial duty. As Paula R. Backsheider points out, “Both Richardson’s and Defoe’s fathers are outraged that the commandment, 'Honour thy Father,' is not sufficient in itself to assure their daughters’ compliance” (33). Richardson was concerned with creating fictional characters who embodied his value system, characters who would take root in a reader’s imagination, engaging the reader in an internal, self-correcting dialogue that would produce behavior according to the models set forth in his novels. Richardson understood that conduct books would be much more effective at producing the desired behavior if they were presented as dramatizations of “real” scenarios with which the reader could relate through imagination.

Richardson was particularly interested in providing a proper model for “feminine” behavior, and he wrote in the tradition of numerous conduct books and works of advice

for women that sought to establish a specific configuration of features "as the only appropriate object for men at all levels of society to want for a wife" (Armstrong, "Rise" 96). As Kathleen M. Davies has demonstrated, conduct books were overwhelmingly preoccupied with justifying women's inferior status in the marital relationship, going so far as to use women's subordination under the law as "a further proof of their *natural* disabilities" (63, 65, emphasis added). These conduct books proliferated rapidly beginning in the last two decades of the seventeenth century, and they held out a new promise to women that behavior could, on its own, act as a qualifier of superior social status, making them

desirable to men of a superior rank and in fact more desirable than women who had only their own rank and fortune to recommend them. The curriculum aimed at producing a woman whose value resided chiefly in her femaleness rather than in traditional signs of status, a woman who possessed psychological depth rather than a physically attractive surface, one who, in other words, excelled in the qualities that differentiated her from the male. (Armstrong, *Desire* 19-20)

The particularly "female" features a young eighteenth-century woman required in order to snare a good husband are enumerated in *The Whole Duty of a Woman: Or a Guide to the Female Sex. From the Age of Sixteen to Sixty, &c.*, by "a Lady," which reads much like a plot summary for *Pamela*. Published in 1707 and again in 1739, this book specifically sets forth the "Duty of Virgins" and promises to provide instructions in "the whole Art of Love." According to this conduct book, the features a husband expected in a wife include, first and foremost, *Chastity*, which must be preserved in the mind as well as in the body;

young ladies were cautioned to shun the slippery slope of sexual fantasies, "For between the State of *Pure Unspotted Virginit*y, and *Prostitution*, there are not many Intermedial Steps" (32-3). The second most important feature is "OBEDIENCE," because "there will occur so many particular occasions of Submission" when she will need to defer to the better judgment of those in whose custody she resides (36). She is also admonished to restrict her conversation to matters "of our own sex"; to acquire "those Ornamental Improvements which become your Quality" such as writing, needlework, music, and other "feminine" pursuits; and most emphatically she is told to master "the Art of *Oeconomy*, or the Managing of Houshold Affairs" which is "the most proper Feminine Business, from which neither Wealth nor Greatness can totally absolve you" (34-5). She must distinguish herself by these and many other features, most of which are intended to ensure her chastity, or she must suffer the fate of those "*Superannuated Virgins*" who are regarded as "*the most Calamitous Creature[s] in Nature*": for the youthful age span in which a virgin can expect to be married constitutes the "Critical Instant that must either Confirm or Blast the Hopes of all succeeding Seasons, without a very wonderful Providence" (35, 38-9). Young ladies such as Pamela who are of "a lower degree of Virgins," yet who have as much claim to marriage "as any of the Highest, or Middle-Rank," are advised to fend off seducers rigorously, for when men seeking illicit sex "find themselves opposed by *Vertue* and *Modesty*, it insensibly ensnares them, many times into a *Love Passion*; and compells them to *Admire*, what before, could they have *Debauched*, they would have *Detested*; and change their *Lawless Love*, into a *Lawful Marriage*" (64). Not surprisingly, however, this meticulously detailed instruction manual jumps straight from chaste virginit

marriage contract itself, beyond the cryptic advice to "consider the change before you enter upon it; think how to live, and live happily; *And so shall your Wedding Day be a Day of Joy indeed*" (64). As Helen Taylor observed in 1831 on women's paradoxical position in negotiating the marriage contract, "Marriage is the only contract ever heard of, of which a necessary condition in the contracting parties, was that one should be entirely ignorant of the nature and terms of the contract. For owing to the voting of chastity as the greatest virtue of women, the fact that a woman knew what she undertook would be considered just reason for preventing her undertaking it" ("Harriet Taylor," n. 1).

Conduct books quite effectively propounded the polarization of male and female roles, which produced "a culture divided into the respective domains of domestic woman and economic man" (Armstrong, "Rise" 97). Thus an important aim in the doctrine of conduct books was to define an "appropriate" relationship between women and money. Women were instructed to exclude topics of conversation that were not suitably "feminine," topics like sex, legal issues, and contracts for the distribution of property. Paradoxically, if a woman was to secure a successful marriage contract, "she therefore had to lack the competitive desires and the worldly ambitions that consequently belonged—as if by some natural principle—to the male" (97). She could not appear to be interested in financial gain, especially and precisely when it would most behoove her to do so—at the time of her marriage. In *Pamela*, the heroine's economically subordinate status to the "hero" sets up a slightly different set of parameters in which the heroine is seen to enact a bourgeois ideal of "virtue rewarded."

PAMELA

Pamela takes conduct books a step further by couching the instruction of this feminine ideology in terms of romantic fiction, thereby creating a more powerful medium for its cultural indoctrination. Eaves and Kimpel explain that Richardson's novel, originally conceived as *Familiar Letters*, was published anonymously with great success under the pretense that the letters were genuine (vi). His novel was so well received as a model for feminine virtue that it was recommended by one preacher from his pulpit (vi). Harth notes that "*Pamela's* extraordinary success is a good indicator of the ideological strength of virtuous love It has been suggested that the novel held appeal for women of all social ranks" ("Virtue" 147). Richardson fully intended the ideals set forth in his novels to be taken seriously as models for proper behavior, evidence of which is his publication, fifteen years after *Pamela*, of a volume of *Moral and Instructive Sentiments, Maxims, Cautions, and Reflexions* which were drawn from his three novels. *Pamela*, and other novels of its kind, were highly effective in their agenda of feminine passivity with regard to property rights; as Armstrong argues, fiction is "both the document and the agent of cultural history" ("Rise" 23). Furthermore, as Staves notes, evidence exists that "such propaganda had an effect and that even among those upper-class women who were allowed and who allowed themselves to participate in discussions of their marriage settlements some were reluctant to ask for or even to accept pin money" (*Married* 160). This verbal reluctance became a requisite feature of the model female who, according to

Richardson's ideology of sentiment, could not express an interest in money to her future husband without casting doubt on her chastity.

Pamela exemplifies the possibility of class mobility in the new commercial economy of the late-seventeenth and eighteenth century. In this sense, the bourgeois ideology of sentiment at work in *Pamela* and *Clarissa* is predicated on a double standard that subtly illustrates the mutual exclusivity of feminine virtue and male economic prowess. Pamela's rise from the servant class to the upper gentry inverts the scenario in which footmen eloped with wealthy heiresses, an increasingly popular scenario that Lord Hardwicke's Marriage Act would later greatly abate, much to Richardson's approval. Yet the virtuous and genteel Clarissa would never elope with a suitor beneath her social rank nor, indeed, beneath her moral standards. Pamela's virtue entitles her to marry above her social station, and in that sense it transcends class; Clarissa's virtue also transcends class in that it is fulfilled through her selfless divestment of the material wealth associated with her upper-class status. Thus both heroines embody the new social capital of feminine virtue that, according to Richardson, was available to women of all ranks. Ironically, however, as B explains, "a Man ennobles the Woman he takes, be she *who* she will; and adopts her into his own Rank, be it *what* it will: But a Woman, tho' ever so nobly born, debases herself by a mean Marriage, and descends from her own Rank, to his she stoops to" (349). B's observation thus reveals the economic limitations of this model of virtue; a woman's "virtue" may entitle her to move up the ranks of class and social status, but neither her money nor her name could enable her to raise her husband's social rank because she forfeits both upon marriage. Her relationship to money must always be

passive; therefore she can never wield the kind of economic and political power as her male counterparts.

Pamela embodies a feminine virtue that ultimately reinforces the economic disadvantage of women in a patriarchal culture and extends that disadvantage by depicting it as a feminine ideal (Sussman 93). Pamela embodies an ideology of sentiment in which a woman's virtue depends on her qualifications as a *feme covert*. In accordance with the legal formulation that all women "are either married or to be married" (*Treatise* 1), Pamela must demonstrate her readiness to fulfill the psychological and physical conditions necessary for her role as a virtuous bride, a role that paradoxically requires her to possess acumen in matters of domestic economy but to shun the appearance of economic self-interest when it does not relate directly to her performance of virtuous wifely duties. Pamela must prove herself a worthy bride for B, both in her ability to manage an upper-class household's economy and in her purity of mind and body, but she must shrink from B's money in the courtship/negotiation phase of their relationship in order to demonstrate that she possesses the social capital of feminine virtue.

She must also protect her chastity, both from B's advances and from the danger of lurid associations between sex and money. Richardson creates a situation in which Pamela cannot discuss money with B without casting doubt upon her virtue. For example, when B presents Pamela with the articles of his offer to make her his mistress, she steadfastly refuses to accept his terms on the grounds that her virtue is not to be bought with material wealth. His articles appear very similar to those one might find detailed in a marriage contract: They offer to entail real property to her consisting of land "which brings in 250 *l. per Annum*, clear of all Deductions"; he intends her to have the property

for the remainder of her life and her children's lives, "to Perpetuity"; even though he states that he will "directly" make over to her the property, he also states that it will be immediately put into the possession of her father, "in Trust for these purposes" and "for his Care and Management" (165). The verbiage of this article is patterned on a marriage contract which establishes separate property held in trust for a wife for the purpose of her economic stability. Additionally, he offers her fine clothing and jewelry, along with "other Gratuities"; these provisions were typically provided through the stipulation of pin money. By couching a contract for illicit sex in terms of a legitimate marriage contract with stipulations for the economic protection of a wife, Richardson forms an association between women of loose morals and women who are interested in money. From this point forward, Pamela cannot make any acceptable mention of her future interest in B's wealth because to do so would suggest that she is morally corrupt and self-serving; she would be aligning herself with the role of a prostitute—as in Fielding's *Shamela*. Ironically, almost the exact same settlement is perfectly acceptable within their marriage because her position as a bride places her firmly within the confines of the private sphere, out of the public bargaining space of sex for money.

In her reply to his terms, Pamela is quick to make the leap from B's masculine space of contract negotiation to a representation of herself as a commodity in the bargain, but as an object of value that can circulate only in the private sphere of domesticity, sanctified by marriage. She states that she will have none of his fancy jewels, because "to lose the best Jewel, my Virtue, would be poorly recompensed by those you propose to give me" (166). Indeed, Pamela is quite assertive when it comes to protecting and marketing her only allowable feminine commodity, chastity, in which any potential

legitimate husband would have an interest. In doing so, she slips out of an economy of materiality and into an economy of sexual purity in which she can bargain on her own terms within the private sphere. The stakes are high for Pamela where her chastity is concerned, and her replies to B's articles show her to be well attuned to the sexual and class politics involved in their negotiations. Although she claims in response to B's Article VII that she has "not once dared to look so high" as marriage to him (166), she belies this claim in her response to his Article I, in which she admits that he is "the only one [she] could honour more than another" as a husband (165). Clearly Pamela thinks of marrying B and of the economic rewards such a marriage would entail for her, yet the discourse of virtuous femininity requires the subtle pretense of disinterest in money and sex, combined with a fierce moral disdain for B's profligacy; just as the conduct books advise, the more forcefully she rejects him, the more irresistible her "purity" will be to him. By remaining pure, she can affect his moral conversion and thus secure a "lawful" marriage. Accordingly, despite the illicit content of B's quasi-marriage proposal, Pamela must satisfy Article I, in which he requires her to convince him that she does not prefer the parson to himself (164). First, she must repudiate any suggestion that she has invited the parson to court her if she is to maintain the irrefutability of her sexual purity, and second, she must discourage any idea that the lowly parson is a suitable husband for her; both conditions being met, she qualifies as a legitimate object in the marital bargain with the genteel B.

Pamela disavows any interest in the parson by claiming that she would rather remain single (and celibate) than marry, yet she declares a preference for—and by extension a desire for—the man who seeks her "everlasting Dishonour" (165). The

alleged desire to live an unmarried life is alike for Pamela and Clarissa a means of enhancing the perceived value of her sexual purity by placing it at risk. For Richardson, a woman as a *feme sole* represented a constant invitation to male sexual predators and, in some cases, to her own sexual misconduct (*Letters* 203). Pamela's often-repeated preference for the single life is calculated to convey an ostensible lack of interest in sex, insofar as a *feme sole's* chastity is predicated on such a lack of interest, but it also plays on the suggestion of an inevitable sexual predation from which she must be rescued—the same predation B acts out in his "attempts" to rape her. After B proposes "real" marriage to her, she reflects that "had I made my Escape, which was so often my chief Point of View . . . I had escaped the Blessings now before me, and fallen, perhaps headlong, into the Miseries I would have avoided!" (261). Pamela's later marriage to her former attacker signifies the magnitude of her "well-try'd Virtue" in taming B, whose dual role as both predator and savior thus illustrates the paradoxical necessity for Pamela to marry as a "natural" refuge both from and to male sexuality (283).

Though Pamela recognizes the economic value of her chastity, appearing to barter over it in "real" marriage contract negotiations would be ghastly. Not only would it smack of prostitution (in Richardson's scenario), it would appear to cast doubt on the sanctity of the union. The awkwardness or stigma of negotiating a marriage contract lies in the suggestion that true, "virtuous" love is not present where economic interests appear to motivate the bargain. Pamela's "ideal" sexuality is both a concrete and an abstract condition that represents a quandary for the *feme sole*; her chastity underlies her feminine bargaining power, yet her intrusion into the male territory of commercial contract negotiation and strict settlement would represent a breach of her feminine gender role

and, metaphorically, would besmirch her sexual purity. Shades of *Shamela* must be strategically avoided. In Pamela's case, the system of dower would automatically afford her security upon B's death, obviating her need to negotiate the economic terms of her marriage. Under the contract ideology of marriage, however, as filtered through Richardson's conservative view, Pamela's authority as a negotiator is predicated on her resignation of that authority in accordance with the virtuous female model of passivity and dependence.

As Richardson observes on the topic of marriage settlements, "Those young women are happiest, whose friends, consulting their inclinations, take the trouble of settling nuptial preliminaries for them Yet are young women too fond of being their own mistresses The young woman who takes upon herself the disposal of her person, lays a heavy task upon her circumspection" (*Collection* 380). Accordingly, Richardson's *Pamela* depicts a heroine who personifies the myriad characteristics of the "new" domestic female, a woman who can be morally strong and insistent, but who understands and embraces the "natural" limits of her power. Pamela's position as a member of a lower class than B's allows Richardson to disperse a new model of patriarchy to a broad (middle-class) audience, but it is also a mechanism by which Pamela's attitudes and behavior toward money can mask themselves as a function of her subordinate class status. One might argue that her family is in no position to negotiate with a man of B's rank, nor does Pamela have anything to offer B in the way of a dowry; therefore she has no right to ask him to enter into contracts and establish trusts to ensure her future security. Materially, Pamela has nothing to lose and everything to gain from a marriage to B. This argument might work if the text is viewed merely as a rags-to-riches

story, but Richardson intended the novel as a model for virtuous female behavior regardless of socioeconomic status (Armstrong, *Desire* 113). Richardson carefully constructs Pamela as a person whose virtue *entitles* her to marry above her station and to be as financially successful as any female social superior; her virtue qualifies her as a member of the upper gentry. She therefore has just as much right prudently to plan a secure future for herself and her children as Lady Davers or any noblewoman of fortune would have. However, Pamela's model of conduct implies that a virtuous woman, noble or otherwise, should be demure and defer to the male prerogative for making economic decisions. In fact, because Pamela upstages Lady Davers by behaving in a more "genteel" manner than her social superior, clearly Richardson's domestic ideal would have upper-class women strive to behave as Pamela does, thus dispelling the older ideology of "high birth" as a fixed indicator of worth and merit. As Armstrong points out, the novel helped to create "a cultural fantasy [that] held forth the promise that individuals could realize a new and more fundamental identity and thus free themselves of the status distinctions organizing the old society" (*Desire* 98). As Lady Davers herself finally admits, Pamela "deserve[s] the Praises of all our Sex" (372). Thus, according to Richardson, contemporary women who were in a position to protect their interests through the pursuit of marriage contracts should instead defer to others the actual task of negotiating. In Pamela's case, she has no one to whom she can defer, so she is simply struck dumb when faced with the issue of her legitimate future interest in B's money.

Once virtuous love prevails and B succumbs, in Lovelace's terms, to the "hymeneal shackles" (*Clarissa* 412-13), he behaves appropriately by creating Pamela's separate property for her without her prior knowledge. The prospect of B's death and her

future interest in his property renders her absolutely speechless: "I was so touch'd with this mournful Instance of his excessive Goodness to me, and the Thoughts necessarily flowing from the solemn Occasion, that I was unable to speak, and at last reliev'd my Mind by a violent Fit of weeping" (404). When B explains the trust he has created for Pamela, he asks only that, after his death, she refrain from marrying the Parson because it might look "as if she had marry'd a Man for his *Estate*, when she had rather have had *another*, had it not been for *that*" (404-5). Here Pamela must convince B once again that she has no desire for the Parson and, more importantly, that she has married B for love rather than for money. As with Anna Nicole Smith, the question of Pamela's motive in marrying a wealthy man makes her an easy target, as Fielding and others have gleefully demonstrated. Thus in her response to B's request, Pamela's sentimental virtue does not permit her to vocalize frankly her sincere love for him or her profound aversion to the idea of his death because his death is inextricably related to his money, which inevitably strikes her silent:

I could not speak, might I have had the World Grief still choaked up the Passage of my Words Oh! What a poor thing is human Life in its best Enjoyments!—subjected to *imaginary* Evils, when it has no *real* ones to disturb it! and that can be made as effectually unhappy by its Apprehension of remote Contingencies, as if it was struggling with the Pangs of a present Distress! (405-6)

Once she has an opportunity to record—not speak of—the idea of her own property or the likelihood that she might outlive B, which would occasion her need for property, she eschews the mere contemplation of such “*imaginary* Evils” or “remote Contingencies” as

those. Death is hardly an imaginary evil even in the twenty-first century, much less in the eighteenth. Yet Pamela must not contemplate B's death or her own money with any real candor, because to do so would be contrary to the ideology of feminine virtue predicated on the absence of economic self-interest.

Ironically, while Pamela's virtue necessarily includes strength of character, sagacity, and even forcefulness, she does not bring those characteristics to bear on the economic aspect of the marital bargain prior to marriage, even though, or perhaps because, they clearly identify her as an intelligent woman who would have been quite capable of negotiating a contract. Once she and B are married, she can manage B's money because as a *feme covert* operating within the private-domestic sphere, money no longer represents a threat to her chastity or to her feminine virtue. Quite the contrary—she must demonstrate her aptitude for domestic economy in order to qualify as a virtuous married female, an aptitude that I argue is submerged into the "other" economy of female chastity during the marriage negotiation. The change in Pamela's relationship to property once she and B are married points toward the beneficent, communally oriented economic function of the model woman. When B metes out her promised allowance of £50 per quarter, he notes that the money is to be used at her own discretion, so long as it is used "in such a way, as shall derive a Blessing upon us all" (382). He also expresses appreciation for the charitable practices she has heretofore cultivated that demonstrate the stamp of fiduciary responsibility desirable in a genteel woman: "For she was my Mother's Almoner, and shall be mine, and her own too" (382). Even in Pamela's exercise of *noblesse oblige*, however, she must look for B's "Nod of Assent" before she makes a gift (382).

In *Pamela*, Richardson set about to establish himself as a prominent authority on gender roles in marriage and the marriage contract itself, ideas of which he clearly approved. He applauded women as having free will, yet he endorsed their absolute subjection to their husbands' authority. Integrating these characteristics, Richardson's model female realizes the eighteenth-century expectation that a woman possess both pious fortitude and complaisance in her behavior toward her husband; that is, she was supposed to *want* to please him through submission to his will, even when she disagreed with him on some point (Osland 491). Her "free will" was thus a "natural" expression of (pious) submission to male authority as an extension of divine authority. Again, this "feminine" characteristic was thoroughly naturalized, an attitude expressed by Thomas Gisborne's *An Inquiry into the Duties of the Female Sex*, in which he attributes this happy circumstance of nature to a providential design:

Providence, designing from the beginning, that the manner of life to be adopted by women should in many respects ultimately depend, not so much on their own deliberate choice, as on the determination, or at least on the interest and convenience of the parent, of the husband, or of some other near connection; has implanted in them a remarkable tendency to conform to the wishes and example of those for whom they feel a warmth of regard, and even of all those with whom they are in familiar habits of intercourse. (qtd. in Osland 508, n. 21)

This expectation of feminine complaisance is nicely illustrated by B's instructions to Pamela on his schema for a happy marriage. Shortly *after* their nuptials and after he has set forth the financial terms of the marriage settlement, he further sets forth his terms

and conditions for the affective portion of their (his) marriage contract. She must continuously convince him that she prefers him above any other man, and to accomplish this she must “have lessen’d, not aggravated, my Failings; she must have borne with my Imperfections; she must have watch’d and study’d my Temper; and if ever she had any Points to carry, any Desire of overcoming, it must have been by Sweetness and Complaisance” (367). Thus her virtue as a wife must morph into the opposite of the “virtue” for which he ostensibly marries her: that of one who stridently asserts her own moral authority when she has good reason to believe herself in the right. Here the sexual politics involved in the marriage transaction is revealed, exposing the economic value and thus the bargaining power of Pamela’s “jewel.” Defending her chastity places her on high moral ground from which she can disagree with B on "large points" and be justified in doing so. Once he legally possesses her, though, her bargaining power changes from an iron lever to a lace handkerchief; she must resort to subtle manipulation if she is to “carry a point,” always allowing him to imagine that he is the agent of authority. Moreover, as B’s dutiful wife, she must *willingly* subvert her will to his; otherwise she cannot be said to be genuinely complaisant. Thus she must conquer her own will and conform it to his, even when she is inclined to disagree with him. As Dianne Osland points out, “Complaisance retains at least the illusion of free will, for if a woman *desires* to please then there can be no question of compulsion in serving her husband’s will—whether or not she is allowed much choice in the matter” (500). B tells Pamela that he could never have married a woman of his own social rank because they are "used to have [their] Will in every thing" (367); Pamela will be a suitable wife for B because once she has played her trump card and thus proven her "virtue," she will henceforth yield to B's

authority. Lest Richardson's readers should have any doubt as to his meaning, Pamela glosses it in her later enumeration of B's terms and conditions: "That if she would overcome it must be by Sweetness and Complaisance; *that is, by yielding, he means, no doubt*" (370). Ironically, Pamela understands perfectly B's terms and conditions and what they signify in terms of her behavior, yet her witty and sometimes humorous critique of them in her restatement shows that her authority in the marriage arises from her passivity. She humors herself with the idea that she only allows B to imagine that he calls the shots, and at the same time she provides him (as he later reads her letters) with the titillating knowledge that he has a spunky wife who will offer just enough resistance to his male authority for his exercise of it to be satisfying for him. Pamela can have authority in their marriage, but it must be manifestly passive; otherwise, Pamela would not be transgressing the boundaries of virtuous femininity.

Yet Pamela is not always so passive as to undermine her plausibility as a free moral agent. B again insists that even if he "was not always right, that yet she would bear with me, if she saw me set upon it" (368). Pamela twice admits in her enumeration that B's terms and conditions seem unfair. She writes, "*This is a little hard, as the Case may be! . . . I wonder whether poor Miss Sally Godfrey be living or dead!*" Pamela clearly objects to B's double sexual standard, but her acceptance of it amounts to an endorsement of cultural attitudes tolerant of male sexual impropriety, as well as extant marriage laws that allowed men to obtain a divorce on the grounds of adultery but that denied any such right to women (Olsen 44, 48).¹⁶ Halifax tells his daughter that when her husband

¹⁶ According to Olsen, "Women could not sue for divorce themselves, nor was a husband's adultery grounds for divorce" (44). "The woman is at fault if she commits adultery, if her husband commits

commits adultery, she should remember that "next to the danger of *committing* the Fault your self, the greatest is that of *seeing* it in your *Husband*" (35). Rather than leveling accusations at him, she should "Be assur'd, that in these Cases your *Discretion* and *Silence* will be the most *prevailing Reproof*. An *affected ignorance*, which is seldom a *Vertue*, is a great one here" (37). Pamela's frequent wondering about Sally Godfrey belies her outward passivity toward B's past indiscretion, yet her acceptance of Sally's child exemplifies the "model" female behavior of turning an ever-blind eye to her husband's sexual misconduct. Pamela's reference to Sally Godfrey also points toward the unpleasant fate of unmarried women who give in to seduction, a fate Pamela herself might have suffered had she not clung to her "virtue" (Sussman 97-8). In the case of Sally Godfrey, the loss of her "virtue" results in her physical banishment and confinement to a lower socioeconomic status, whereas Pamela's arrival at the alter with her "virtue" intact is accompanied by a big economic payoff. Richardson thoughtfully provides an example of the potential perils of female sexuality in order to enhance Pamela's moral superiority and to underscore his vision of marriage as women's "natural" destiny; those women who did not marry, by choice or otherwise, were somehow "unnatural" and morally inferior.

Pamela goes on to object to B's demand that she not "shew Reluctance, Uneasiness, or Doubt, to oblige him; and that too at half a Word; and must not be told twice to do one thing"; she wonders whether "*there [will] be some Occassions, when this may be a little dispens'd with?*" She particularly objects to his demand that she not interfere even when he is "*set upon a wrong Thing,*" exclaiming, "*Good-sirs! I don't*

adultery, or if she leaves him because he committed adultery Plenty of prominent men openly kept mistresses and supported whole families of illegitimate children. Some wives were mortally offended but

know what to say to this!—It looks a little hard, methinks!—This would bear a smart Debate, I fancy, in a Parliament of Women” (371). Yet even as she envisions women in the male role of law-givers, she concedes to B's terms. Halifax depicts such a vision of a female court of appeal, one where "some *Wives* might resort and plead *specially*. And . . . they might have *Relief*, and obtain a *Mitigation* in their own particular, of a *Sentence* which was given generally against *Woman kind*" (30). But as he points out, such a court can never be more than a fantasy because "the *Institution of Marriage* is too sacred to admit a *Liberty of objecting* to it . . . [I]t is safer some *Injustice* should be *conniv'd* at in a very few Instances" than for a wife to publicly challenge the peculiarities of a sacred institution (31-2). The irony here is that women's private-domestic domain is regulated by marriage, which is a publicly sanctioned and regulated institution. Thus even her authority within the home always stops just short of challenging the negative aspects of her marriage because going further would constitute an intrusion into the public realm.

Richardson successfully diverts attention away from women's desires, from the question of how women might achieve happiness and what might constitute a good marriage for them, providing instead a "happy ending" predicated on a woman's exemplary passivity, self-sacrifice, and subordination. *Pamela's* popularity reflects both its relevance to eighteenth-century culture and the receptivity of its contemporary audience in terms of the novel's alignment with patriarchal ideology. Yet the novel is still relevant to modern life, paralleling as it does the sexual politics of a longstanding tradition of heterosexual marriage. As Harth notes, "Viewed today, Pamela and B.'s

kept silent" (48). Richardson's own advice to wives on this topic is that "[t]he Wife, by infidelity, may do more injury to the Husband than the Husband can to the wife" (*Collection* 139).

relationship seems to foreshadow the sexual politics of modern love. Their marriage unites a dominant and subordinate class in the tacit marital contract of male power and female dependency” (153). Even present-day readers are "thoroughly enchanted by narratives in which a woman’s virtue alone overcomes sexual aggression and transforms male desire into middle class love, the stuff that modern families are made of” (Armstrong, *Desire* 6).¹⁷ This binary opposition of male and female is the foundation for the "companionate marriage," which would come to be seen by a majority of young men and women in the eighteenth century as the "ideal" relationship between husbands and wives. Richardson's fiction brings conduct books to life, giving them a new power as media for the dissemination of patriarchal ideology.¹⁸ In *Pamela*, sentiment is apparently—and intentionally—superior to financial security as an incentive for marriage. Thus Richardson's subtitle *Virtue Rewarded* refers more to Pamela's fulfillment through pious love and marriage by effecting B's moral conversion than to her rise from penury, though her class advancement is not a coincidence. Rather, it is a powerful appeal to readers' sense of the narrative possibilities in their own lives and of the magnitude of the potential rewards—spiritual (explicit) and material (implicit)—resulting from the internalization of virtuous conduct which accommodates the reconciliation of public and private

¹⁷ According to Robert Mayer, "Recent studies have shown that twentieth-century novel-readers have continued to value novels for the 'applications' they find in them. Janice Radway, for example, studying the presentation of 'serious fiction' by the editors of the newsletter of the Book-of-the-Month Club to club members, argues that 'serious' novels 'function for Club members in a way similar to the many self-help manuals, advice books, and reference volumes that make up the majority of the Club's alternate list'" (237).

¹⁸ Richardson observed that without the fictional narrative medium, *Pamela's* conduct message would be "consider'd only as a dry Collection of Morals, and Sermonising Instructions that will be more benefit to a Reader, found in other Authors: and must neither Entertain or Divert" (*Letters* 45).

CHAPTER 4: "TAKE MY ESTATE, SIR": CLARISSA, OR THE CHASTE PROPRIETRESS

In *Clarissa* the political, economic, and sentimental stakes are much higher than in *Pamela*. Clarissa's dilemmas all revolve around the grounds on which she can base decisions on sentiment, on the degree to which she can assert her will as a juridical subject and economic agent while still exemplifying feminine virtue. In *Clarissa*, a member of the upper gentry is matched with a member of the aristocracy, which addresses more directly than does *Pamela* the political and economic concerns of Britain's ruling class in the mid-eighteenth century, and the novel provided a general readership with a means of identifying Pamela's classless markers of virtue in an upper-class heroine, thus reinforcing the universal applicability of those markers and providing more extensive narrative possibilities.

LORD HARDWICKE'S MARRIAGE ACT AND COMMERCIAL ECONOMY

By the beginning of the eighteenth century, the idea that marriage might be based on mutual affection was popular at least among the generation approaching a marriageable age (Stone, *Family* 272). Central to the new idea of the "companionate marriage," as well as to the laws regulating marriage itself, was the notion of class mobility in a developing capitalist economy. If marriage could be justified based on a subjective rationale such as "sentiment," then a person could aspire to marry outside his or her social station. Under this ideology, "love" transcended class boundaries; indeed, it

effectively opened up the cash flow from upper-class to middle- and lower-class families through the marriage market, which created a problem for fathers of sentimental young ladies who were so taken with notions of passion and romance that they could be persuaded to marry contrary to their fathers' wishes. As Erica Harth points out, the eighteenth-century idea of marrying for love is inseparable from a societal need to regulate both sexual relations and the flow of capital involved in the new commercialism of the period. The Hardwicke Act set about to do just that:¹⁹

Capital cut across the lines of status, blurring social distinctions. In this ability it was very much like love. Theoretically, anyone could make a fortune, just as, theoretically, anyone could be a love object. Debaters of the Hardwicke Act perceived that at the juncture of these two anarchic principles lay marriage, the key to England's social future. In the social complex of marriage, property, and money, love functioned as an instrument of control. (15)

A primary purpose of the Hardwicke Act, which required parental consent for the marriage of minors, was to prevent the undesirable loss of familial wealth through marriages across class lines (*Parliamentary History* 3).²⁰ Because the negotiation of marriage contracts was a vital tool for channeling capital from one generation of men to the next, "over-sexed" young women had to be prevented from eloping with "ambitious" lower-class men, thereby thwarting any plans a family might have had for a more favorable economic alliance. Thus, although "marrying for love" was a key element of

¹⁹ Lord Hardwicke's Marriage Act was originally presented to parliament in May 1753 as the Clandestine Marriage Bill and was enacted as Stat. 26 Geo. II. c. 33 (*Parliamentary History* 15: 2-86.)

the companionate marriage ideal, strict control over the property transferred through women in marriage was still vitally important to families and to Britain's fledgling capitalist economy.

As Mary Vermillion has observed, Richardson was actively engaged in the popular discussion surrounding the Parliamentary battle over contemporary marriage practices as they related to the ability of Britain's landed elite to retain control over their dynasties. *Clarissa* was published five years prior to the passage of the Hardwicke Act, when the formalities of marriage varied widely depending on the circumstances or exigencies in which the bride and groom found themselves. "Proper" marriages required a couple either to publish banns, by which their proposed marriage was announced for three consecutive Sundays at their parish church, or to obtain a license from their bishop with an official state seal. The license was relatively expensive for working-class people, and the calling of banns was bitterly resented as an invasion of privacy (R. L. Brown 124). Informal marriages or "spousals" were commonplace among working-class people; these performative verbal marriage contracts were recognized by ecclesiastical law but not by common law. In addition, Fleet Street hosted a booming trade in clandestine marriages, which were recognized by both church and state and were quick and inexpensive, costing on average only 7s 6d and allowing the couple to avoid footing the bill for entertainment, the stamp duty on the marriage certificate, and the cost of calling the banns (R. L. Brown 124). Although they were performed outside church by clergymen imprisoned for debt, they were recognized by both church and state as valid

²⁰ As Mr. Attorney General Ryder put it, "How often have we known a rich heiress carried off by a man of low birth, or perhaps by an infamous sharper?" (*Parliamentary History* 15: 3).

marriages. The secrecy they provided appealed to "a servant afraid of dismissal, an heir or heiress afraid of being disinherited, a bigamist in danger of being found out, or a widow in danger of losing a portion of her previous husband's estate" (Olsen 41).

The Hardwicke Act abolished spousals and clandestine marriages by requiring all valid marriages to take place in church with either the publication of banns or the purchase of an official license. Furthermore, the Act required parental consent for any marriage involving a party under the age of twenty-one, a requirement favored fondly by Richardson (Vermillion 395). As Lisa O'Connell puts it, "the marriage ceremony now became a practical reiteration of governmental regulations that bound citizens to the state, and to a modern English regime of heteronormative culture" (68). Opponents of the Act objected that it would place too large a burden on the working-class population whose ability to marry relied on the low cost afforded by a Fleet Street ceremony; bastardy rates might explode because couples would not be able to afford the solemnities of marriage.²¹ Opponents also strongly objected on the grounds that the ruling class was monopolizing the bulk of society's wealth and thus hampering the development of the economy by arranging marriages between their own members. The Harlowes' willingness to sacrifice Clarissa in a deal to conglomerate family fortunes illustrates this practice. Conversely, proponents of the Hardwicke Act sought to eliminate clandestine marriages in part because of the complicated lawsuits arising from their instability in court. While they were recognized as legally binding, they first had to be proven to have taken place, which more often than not was impossible and resulted in their frequent repudiation. They also

²¹ Proponents "would have preferred to restrict the clause demanding parental consent to persons of 'fortune and rank', but recognized that 'this is impossible in this country'" (Stone, *Family* 36).

fostered the practice of "sham-marriages" the sort of which Pamela is so mortally afraid. Another factor in their undesirability was that the government missed out on the stamp duties imposed on marriage licenses and certificates (R. L. Brown 134). The most important factor, however, as previously noted, was the desirability of preventing wealthy heiresses from carrying their fortunes away from the landed elite.²²

The effect of the Hardwicke Act upon English culture cannot be overstated; as Lawrence Stone writes in *Uncertain Unions*, prior to the Act's passage, "Demand for secret private marriages was so intense among all classes of society that it flooded in like a rising tide, seeping into the cracks and crannies of the precarious sea-wall of legislation, ecclesiastical court prosecutions, and punishment" (30).²³ Richardson was well aware of the rise in clandestine marriages, having worked as a printer and reporter for the House of Commons from 1733 to 1769; he saw many bills concerning clandestine marriage come in and out of his print shop while he was writing *Clarissa* (Vermillion 396). Moreover, according to Vermillion, his development of *Clarissa's* plot was calculated in part to influence the Parliamentary debate of the Hardwicke Act. He had ties to Hardwicke's eldest son, Philip Yorke, whose London home he visited in 1750 to discuss the development of *Sir Charles Gradison* (397, n. 6), and he "boasted that his epistolary discussion of *Clarissa* with Hester Mulso (later Chapone) 'obtained the notice of those

²² According to A. S. Turberville, particularly bitter opposition came from Henry Fox, "the future Lord Holland, the father of Charles James Fox, who felt very keenly on the subject, having himself contracted a runaway marriage with a daughter of the second Duke of Richmond" (229).

²³ Roger Lee Brown reports that between 1694 and the passage of Hardwicke's Marriage Act, "between two and three hundred thousand marriage were solemnized within the Fleet Prison and its rules. Other but lesser marriage centres in London included such places as Alexander Keith's May-Fair Chapel, the Southwark Mint, and the area within the rules of the King's Bench Prison. In the provinces there were centres at Dale Abbey and Peak Forest Chapel in Derbyshire, and Tetbury in Gloucestershire. There is also considerable evidence that clandestine marriages were solemnized by many parochial clergy throughout the country" (117).

who brought in and carried through a bill [the Hardwicke Act], which should, by national law, establish the parental authority" (396). In light of Richardson's status as a middle-class tradesman, his chumminess with this upper-class member of Parliament underscores his political commitment to patriarchal forms of inheritance and his active interest in the passage of the Hardwicke Act as a mechanism by which traditional, conservative values might be fortified. Ironically, Richardson promoted the same conservative social ideology that, in the case of the Hardwicke Act, sought to insulate and consolidate upper-class wealth by preventing marriage across class lines, thus preventing tradesmen such as Richardson from amassing economic and political power by cashing in on the marriage market.

Richardson is not merely sensitive to the patriarchal undesirability of fortunes being lost through marriage across class lines, however; he is also and more importantly concerned with the grounds for requiring parental consent in marriage and with a model of feminine virtue which motivates daughters' filial duty, thereby making dynastic wealth easier to channel through arranged marriages without the loss incurred through clandestine marriages.²⁴ In *Clarissa*, Richardson's compelling fictional narrative embodies a powerful gender ideology which could rectify the social "ills" addressed by Hardwicke's Act, but in a much more insidious and effective manner. By revealing the

²⁴ As previously noted, Richardson objected to married women's separate property agreements on the grounds that they undermined the husband's authority in marriage. He also disliked the bargaining process itself, as evidenced by his own negotiations for his eldest daughter Mary in 1757, as Zomchick notes: "Richardson thought that his parental authority had been circumvented by the clandestine courtship between his daughter and her suitor, undertaken with the collusion of Richardson's wife. As important was his distaste for the almost exclusively financial nature of his interactions with the son-in-law. Richardson was so disillusioned by the negotiations that he allowed his executors only to see his reflections on it. They were instructed to prevent his son-in-law from acquiring still more of Richardson's property at his death" (70, n. 41).

interiority of his heroine's "virtuous" subjective development, by invoking the power of sentiment, Richardson seeks to "compel" marriageable young women to behave according to a model commensurate with their parents' wishes and with the law soon to be enacted. Certainly Richardson warns wealthy landowners against forcing their daughters into marriages to men with whom they share no affective bond; at the same time, however, Richardson creates a model of feminine virtue which would render parental coercion unnecessary. Richardson's dialectic of sentiment and filial duty works by emphasizing the dangers inherent on each side. His novel reinforces patriarchal hegemony by defining the terms according to an ideology of sentiment upon which dynastic interests can appropriately be served. By portraying the Harlowes as caricatures of corrupt and greedy mercenaries who abuse familial authority in their pursuit of wealth and status, he proposes in contrast a sentimental ideology through which the same ends of accumulation can be achieved without the appearance of moral failure. Conversely, by portraying Clarissa as a paragon of female virtue whose perfection is achieved only through her resolution to die rather than assert her status as a civil subject, Richardson delineates an ideal of feminine behavior predicated on the renunciation of self-will and self-interest whenever their assertion would constitute individual female authority.

CLARISSA

Richardson saw himself as a public advisor. He shared his novels with a coterie of female readers as he wrote them, sometimes taking their suggestions for plot development, and he paid close attention to the reception of his work upon publication.

"The great advice encyclopedia that is *Clarissa*" follows *Pamela* in the same advisory capacity and is in part motivated by reader responses to his first novel (Cope 21). Eighteenth-century readers reacted to *Pamela* with biting cynicism, publishing *Anti-Pamela* and similar novels that depicted the heroine as a calculating, greedy virago who uses her overt sexuality to manipulate circumstances according to her own selfish interests. As Scott Paul Gordon has recently argued, Richardson's intention was to depict a model of virtue who was genuinely uninterested in self-aggrandizement. Gordon points out that *Pamela*'s critics were grounded in the philosophical tradition of Bernard Mandeville and others who "construe the profession of 'virtue' as a mask strategically adopted to further one's interest" (476), and Pamela's lower-class status gives her an "improvement" motive that might make her conduct seem economically self-interested. With *Clarissa*, Richardson was determined to make his point more forcefully than he had in *Pamela*. By focusing on a wealthy heiress in his second novel, he demonstrates more overtly his concern with the need for women to be uninterested in property ownership as a condition of feminine virtue. I argue specifically that by Richardson's standard of virtuous feminine conduct, any economically motivated self-interested behavior is necessarily bad, so "virtuous" women by definition could not articulate the desire to manage or possess their own property (apart from looking after their husbands' interest, as in *Pamela II*), nor could they appear to be interested in their own marriage settlements, as previously noted.

As J. G. A. Pocock has observed, a major key to eighteenth-century social thought resides in its debate between "a conception of property which stresses possession and civic virtue with one which stresses exchange and the civilisation of the passions" (115).

Under the former concept of proprietorship, which follows the classical model of the basis of male virtue, "The citizen possessed property in order to be autonomous and autonomy was necessary for him to develop virtue or goodness as an actor within the political, social and natural realm or order" (103). Under the latter concept, brought on by the financial revolution, "property had become not only mobile but speculative: what one owned was promises" (113). The emergence of paper credit and new forms of exchange stimulated social anxiety about the source and definition of virtue. As Pocock notes, a clear relation exists between the epistemological uncertainty accompanying speculative politics and economics, and the existence of "so many moral and philosophical writings on the conversion of passion into reason and of rational egoism into socially desirable behaviour" (113). Amid all this social economic angst, with women investing their pin money in the stock market and even purchasing their own property under coverture, women's economic activity represented an increasing threat of instability to patriarchal structures of inheritance and dynasty. An ideological motive thus existed to establish the criteria for an appropriate relationship between women and property (both real and personal), through a rigidly articulated emphasis on sentimental domesticity and feminine virtue.

As noted in chapter two, the size of women's dowries had for centuries been associated with their sexual purity at the moment they figured as objects of exchange. When women initiate their own transactions outside the sanctions of marriage and the domestic realm, becoming the agents of exchange in the male-oriented realm of political economy, their chastity is rendered suspect, and they are transmogrified into figures that threaten to destabilize the concept of masculinity as it is defined by the public space of

economic activity. The rake Belton, for instance, becomes an "emaciated carcase" (612) and dies tragically once his "rapacious" mistress Thomasine's selfish economic aggression and cuckoldry has unmanned him (1187). Here Richardson is careful to depict the consequences of a woman's improper relationship with money, and he directly relates Thomasine's seizure of Belton's estate to her sexual impurity. Thus, according to the sentimental feminine ideal, the appellation "chaste proprietress" in reference to a feme sole is an oxymoron. As Belton laments, "A man may *keep a woman . . .* but *not his estate!*" (612). Belford further points out that a prime incentive for marriage is that a wife "has the same family interest with her husband . . . and if she made a private purse, which we are told by the anti-matrimonialists, all wives love to do, and has children, it goes all into the same family at the long run" (613), and thereby furthering the dynastic interest of the Hardwicke Act proponents.

The only way in which an eighteenth-century woman had a civil identity—and civic virtue—was as a feme sole. Yet under the prevailing ideology, all women were either married or about to be married, so unmarried women were not fulfilling their "natural" roles. Thus in order for a woman to achieve virtue, she had to be married, which necessarily meant that she did not have civic virtue. Instead, feminine virtue was measured according to an ideology of sentiment that emphasized internal qualities or "morals" by which a woman's behavior was governed. In a letter to Sarah Chapone, Richardson declares, "Women are safest when dependent" (203). He strongly disapproved of women who sought their "independence," either by choosing to remain single or to reside alone. According to Richardson, heiresses were particularly susceptible to their inherently unstable passions and to the greed of suitors; he asks

Whether Locks, Bars, Parents, Guardians, indulgent or not indulgent, can keep many of the [female] Sex from the most violent and disgraceful Rashness? I cannot, but in very few Cases, allow, that a Woman, tho' not perhaps indiscreet, is safest in her own Keeping, if she have a Fortune considerable enough to be a Temptation to the Hungry, the Indigent, the Presuming of our Sex. (*Letters* 203)

Richardson's *Clarissa* embodies a model of female virtue that seeks to establish women as "properly" feminine through their passivity with regard to property ownership, the antithesis of classical male virtue. In *Clarissa's* case, female virtue also corresponds to legal incapacitation. Just as women's status as civil subjects is "suspended" during marriage, *Clarissa's* juridical subjectivity is suspended and compromised through her self-denial as a property owner. Her retreat from the public realm of the law and her self-willed death occasions her apotheosis as *feme supreme*, a status impossible to achieve by women who sought their "independence."

The concepts of property ownership and moral virtue are inextricably opposed in *Clarissa*. *Clarissa's* problems begin with her grandfather's will, in which he leaves specific property to her that had been *purchased* by him during his lifetime and is not part of his patrilineal estate; the clauses in his will pertaining to *Clarissa* begin with the observation that the property earmarked for *Clarissa* is "principally of my own raising" (53). The common law of inheritance differed with respect to property purchased and property entailed through strict settlement; according to *A Treatise of Feme Coverts: Or, The Lady's Law*, "There is a great Difference between Land purchased by him that died seised, and Lands descended to the same Person; for the first may go to the Heir on the

Father's Side, and for Default of such to the Heir on the Side of the Mother; but Lands descended must always go to the Heirs of the Blood of the first Purchasor" (3). This distinction is important because the Harlowes depart from contemporary custom in their strong belief that Clarissa's inheritance should become part of their family estate and thus remain in the male line (Vermillion 401). Presumably if Clarissa's grandfather had bequeathed her a portion of his property that clearly belonged to the family estate, the Harlowes would have been justified in their objections to her owning it, and the will would have been legally ineffective. Assuming Grandfather Harlowe's bequest was legitimately outside the boundaries of the patrilineal estate, he would have been legally justified in gifting the property to his granddaughter. Richardson suggests, however, that he may have behaved inappropriately, legally and otherwise, by making Clarissa "independent." Even though a feme sole could own property by law, Richardson argues, doing so only invited problems for herself and her family.

Clarissa, originally entitled *The Lady's Legacy*, shows Richardson to have been knowledgeable of property and inheritance laws, and he builds them into the plot in order to demonstrate the unsuitability of feminine "nature" to assume a civil subjectivity in lieu of a patriarchal subjectivity. The inheritance is the initial source of the rift between Clarissa and her siblings; they are scandalized by the idea of Clarissa's new "independence" and by the favor they perceive has been shown to her in preference to them. Even her extended family takes issue with her inheritance, attributing it to the grandfather's senility and contending that they ought to have it for themselves. Her Uncle Antony blusters, "But pray, is not this estate *our* estate, as we may say? Have we not *all* an interest in it, and a prior right, if right were to have taken place? And was it more than

a good old man's dotage . . . that gave it you before us all?" (155). Moreover, Grandfather Harlowe suggests that he anticipated this familial strife as a result of the bequest; his will warns the rest of the family not to "impugn or contest the following bequests and dispositions in favour of my said granddaughter Clarissa" (53). He also casts some doubt on the legal validity of his legacy to Clarissa, demanding that the family not "suffer [it] to be controverted or disputed on any pretence whatsoever" even though it might "not be strictly conformable to law, or the forms thereof" (53-4). Clarissa's legacy is problematic because it vests in her an economic agency that threatens to counteract her interest as an agent of dynastic patriarchy. Clarissa is thus valued as a potential guarantor of the family's collective good (through her marriage to the wealthy Solmes) rather than as an individual economic agent (through her control of her separate estate, which could then be carried away from the male line of descent).

Richardson builds this intricacy of inheritance law into his plot to illustrate the egregious greed of the Harlowes and thereby the acceptable limits of parental authority. The Harlowes' greed is so greatly exaggerated that their behavior can be easily labeled as morally wrong, which encourages readers to build their own model of moderate, caring authority by negative example. Richardson thus argues for the parents' right of veto over a child's choice in marriage, rather than for the parents' right to compel their child to marry against his or her wishes. Yet he also argues for the child's right of veto in cases where a parent's choice of spouse is untenable for the child; the Harlowes are clearly misguided in their overbearing attempt to coerce Clarissa to marry the odious and ill-chosen Solmes, and she is justified in refusing him. However, Richardson is careful to point out that the Harlowes would have stopped short of physically forcing the nuptials

on her. After Clarissa runs away, Mrs. Hervey admits to her that Harlowes had resolved to give way to her refusal of Solmes: "If you had *held* your aversion, it would have been complied with" (503). Thus hindsight teaches Clarissa that, but for her rash behavior in running away with Lovelace, her situation at home would have been resolved eventually, and her public disgrace could have been avoided.

Similarly to her parents, Clarissa is guilty of misconduct through which Richardson sought to provide a negative example. His later publication of *Morals and Instructive Sentiments* testifies to his vision of virtuous conduct, lest his readers misinterpret his intentions in writing the novel. Clarissa does provide a "positive" model for young ladies, but her failings are more important than her "virtues" in considering Richardson's position on the Hardwicke Act as it concerned parental authority. Clarissa's missteps are primarily a factor of her inexperience, which is understandable and forgivable in a person of Clarissa's tender age, as Richardson strategically emphasizes. Young marriageable ladies of Clarissa's vast fortune and high social standing are inclined to passionate behavior just as much as other young ladies, and they sometimes take it upon themselves to defy their parents and make their own decisions. Accordingly, Clarissa's missteps provide a fictional account of the issues under debate in the Clandestine Marriage Bill, providing "evidence" of the need for legally fortified parental authority. So long as clandestine marriages were recognized as legally valid, "parental authority" lacked the concrete power to prevent children's elopement. Lovelace brings to light this scarecrow of authority by prevailing upon Clarissa to escape with him. Despite all her claims of duty to her father, she allows an infamous rake to remove her from her father's custody.

While urging Clarissa to defy her parents by running away from home, Lovelace clearly states his intention to marry Clarissa. She reports that he "again" makes "[s]ettlements to [her] own will . . . Lord M. and both his aunts to be guaranties of his honour and justice" (325). As far as Clarissa is concerned, Lovelace wants to marry her, and she believes that marriage to him is a viable option. Advising her friend on how to respond to Lovelace's proposals, Anna Howe points out that Clarissa can either "put [herself] into the protection of Lord M. and the ladies of his family," or, if she is "absolutely resolved against Solmes," she can "meet and marry Lovelace directly" (332). Anna additionally proposes that Clarissa might "live single," which would involve going "privately to London" without letting Lovelace or anyone else know where she is; there she could safely await the return of her cousin Morden, who would assist her to resume control of her property, where she could live as an independent feme sole (330). Clarissa rejects Anna's bold proposal, even though she knows that taking refuge with Lovelace's family is tantamount to accepting his marriage proposal. Again, as Anna Howe observes,

Your quitting your father's house, and throwing yourself into the protection of a family, however honourable, that has a man in it whose person, parts, declarations and pretensions will be thought to have engaged your warmest esteem! . . . For your reputation-sake, therefore, as well as to prevent mischief, you must either live single or have Lovelace. (330)

In other words, if Clarissa goes with Lovelace under any pretense or circumstances, she will have to marry him, and fairly soon, if she is to avoid public disgrace. If the Hardwicke Act had already been passed when Richardson wrote the novel, the plot would thus be at a dead end because marrying Lovelace would not be a legitimate, viable option

for Clarissa. Her parents would never consent to her marriage to Lovelace, and she would never run away with him in the full knowledge that it would irreparably destroy her reputation. Clarissa's correspondence with Anna suggests that the *idea* of marrying Lovelace is never far from Clarissa's mind, regardless whether she relishes the prospect.

Richardson also emphasizes Clarissa's youthful inexperience as it relates to her self-knowledge. Richardson's investment in parental authority was grounded in the sincere belief that a young woman would be better off if she chose a mate based on the recommendations of her wiser elders, rather than on her own inclinations arising from the folly of passion. Clarissa's earlier fatal mistake is that she dissembles with herself about her feelings for Lovelace. Arabella is not far from the truth in her assessment of Clarissa's "well-acted indifference" (46). Clarissa agrees to correspond with Lovelace, a "known libertine,"²⁵ and then she fails to halt the correspondence once his letters become "passionate," reasoning that "as I had not written to him at all, but upon a subject so general, I thought it was but right to let what he wrote upon one so particular pass off as if I never had seen it" (48). She further claims that she cannot expose his intimate letters because "I was not then at liberty, from the approbation his letters met with, to break off the correspondence without assigning the true reason for doing so" (48). Once James pronounces Lovelace to be unsuitable, Clarissa puts in a good word for Lovelace: "[N]ow and then, indeed, when I observed that their vehemence carried them beyond all bounds of probability, I thought it but justice to put in a word for him" (49). Her family interprets this as her predisposition toward Lovelace, and for good reason. Her family members

²⁵ According to Richardson, "The woman who will correspond with a known Libertine, indirectly defies him to do his worst" (*Collection* 87).

repeatedly accuse her of “having a prepossession in his favor that [she] would not own,” which is an accurate assessment of her feelings toward Lovelace (49). Clarissa does not intend to deceive her family, but she is not forthcoming with herself. When Anna Howe inquires as to Clarissa's feelings of "love" for Lovelace, she hits the mark: "Surely you are not afraid to trust *yourself* with a secret of this nature" (174). Clarissa objects to Lovelace on the grounds that he is a rake, but she indicates that if he were to "reform," she would marry him.

Through Clarissa's inexperience and subsequent mishaps, Richardson depicts his vision of the plight of women who are not adequately protected from the worldly influence of the public sphere, regardless whether they choose to embrace it or whether they are forced into it by circumstances beyond their control. Richardson sincerely believed that women were ill suited for activity outside the domestic space, that they required vigilant sheltering from (male) predatory forces in the public sphere. Once Clarissa has "eloped" with Lovelace, she must spend the rest of her life demonstrating that she has learned from her mistakes, thereby proving her virtue; as she admits, her "discretion, which had been so cried up, was found wanting when it came to be weighed in an equal balance" (1375). The remainder of the novel recounts her repentance for the sins of youthful folly, and through her letters her readers witness her transformation and redemption as she internalizes the lesson of humility, in which her display of aversion to property is an important key. As with Pamela and Mr. B, Clarissa's success in converting the libertine Belford is due in large part to her quintessentially feminine virtue, but here that virtue is manifest more dramatically through her elaborate ritual of suffering after she is raped. Not coincidentally, Belford, Richardson's male model of “virtuous

masculinity,” ends up being the executor of her estate. As part of her carefully staged death, Clarissa finally is able to divest herself of her property once she finds a male counterpart who is virtuous enough to honor her “will.” Just as Clarissa embodies the domestic female model in which women can be only the vessels for the transfer of material wealth, Belford embodies the economic male model in which men must possess material wealth and manage it capably as a condition of their masculinity.

Clarissa exhibits human frailty, which makes her character more believable than the monomaniacal Pamela. By imbuing his heroine with the capacity for error, Richardson raises the stakes of his argument in *Pamela*: in *Clarissa*, we see an alternate version of Sally Godfrey, a version in which the heroine falls victim to male sexuality, and rather than consenting to be physically transported to escape the mortification associated with the loss of her chastity (and perhaps pregnancy), she is "transported" to heaven through death by sheer willpower, thereby establishing her henceforth irrefutable virtue and precluding any necessity for her to assert any economic or legal agency. Significantly, throughout the novel, one aspect of Clarissa's character remains constant. She refuses to "litigate" with her father, remaining rigid in her duty to him, and her insistence on this point is a condition of her martyrdom: "I am determined not to litigate with my papa, let what will be the consequences to myself" (134). As an infant feme sole, Clarissa cannot "aliene [her] lands, nor do any legal act, nor make a deed, nor indeed any manner of contract, that will bind [her]" (Blackstone 1: 453). An exception to this rule allows her to legally entrust the management of her estate to her father, yet she is still the lawful owner of it. In order for Clarissa to take possession of her property, she would have to appeal to a friend or relative, such as her cousin Morden, who acts as a trustee on

her behalf, to petition the chancery court to transfer the management of her estate away from her father and back into her own hands. Thus when Anna urges her to "RESUME," she refers to an action at equity that would allow Clarissa to assume her status as a civil subject over against her status as a daughter whose first duty is to her father (134). Instead, Clarissa repeatedly attempts to divest herself of her property, offering to use whatever means at her disposal to "make over to my papa, to my uncles, or even to my brother, all I am intitled to by my grandfather's will" and that "what the *law* would not establish, my *resolution* should" (197). Clarissa's refusal to assert herself as a civil subject through property ownership is thus a dramatization of Richardson's vision of filial duty as an indispensable characteristic of feminine virtue. Clarissa demonstrates her confidence in asserting her will where it demonstrates her filial duty, but not where it will constitute her civil identity. Her refusal to take possession of her real property signals her submission and devotion to her father, and it registers her sensitivity to the impropriety—in Richardson's view—of a single woman living "independent" and controlling her own property. She later offers to give her estate to Solmes, declaring, "Take my estate, sir, with all my heart . . . only leave me *myself*" (319). As Laura Hinton observes, Clarissa's offer to Solmes demonstrates the impossibility of an autonomous female self as political subject: "Clarissa separates herself from the estate while retaining its proprietary self-image. The estate, enveloped by the law, signals that the autonomous female subject does not legally exist" (297). Moreover, Clarissa must avoid the mere *appearance* of being interested in owning property or of asserting her right to live singly; she reflects that "I am now afraid of being thought to have a wish to enjoy that independence to which his will has entitled me" (56). Clarissa further acknowledges the importance of her

appearance as a "natural" female, tacitly admitting that her assertion as a civil subject would constitute an impermissible breach of conduct and would disqualify her from the marriage market: "Lovelace himself would hardly think me worth addressing, were he to know *this* [the intention to litigate] to be my resolution" (134). In other words, a woman so crass as to openly express material self-interest at a moment when the law technically supports her right to do so could not even expect to marry a vile libertine. Ultimately Clarissa must die in order to fully divest herself of her property and her civil subjectivity in her quest for feminine virtue.

Terry Eagleton has argued that Clarissa's death is "a ritual of deliberate disengagement from patriarchal and class society" (73), but the religious experience in which Clarissa's death is framed corresponds to a distinctly patriarchal model of redemption. Clarissa longs to return to her family home, but after she loses her chastity, she determines to go to her divine "father's house" (1233). Her death is staged in terms of a marriage, which fulfills her "natural" destiny as a bride. She readily embraces the idea of a divine "wedding," proclaiming her "*supreme love*" and declaring that "never bride was so ready as I am. My wedding garments are bought . . . the easiest, the *happiest* suit, that ever bridal maiden wore" (1338-9). Finally, her casket is carried by "six maidens" in a pathetic parody of the wedding ceremony (1398). The rape of Clarissa robs her of her "jewel" of chastity, but her death transforms her into "so rich a jewel" (1400). Thus, in a sense, Clarissa's chastity is restored through death and divine redemption, translating the economics of marriage and chastity into an abstract, divine schema. The possibility of Clarissa's civil subjectivity must be abandoned entirely so that she becomes a "nothing" because the alternative "offers something less interesting than the death she will stage"

(Schor 107). Her refusal of Alexander Wyrley's sincere offer of marriage emphasizes the value of her compromised chastity in terms of feminine virtue: once she has lost it, she can never be a pure bride to any but her "blessed REDEEMER" (1420). In her eyes, the loss of her chastity undermines the validity of Clarissa's self; she must withdraw from the marriage market and hence—for the ideal woman—from the land of the living. The novel's resolution, invested heavily in pathos as it is, confirms and reinforces a model of patriarchy in which a woman's chastity is equated to her legitimacy as a person. The fact that Clarissa is able to will herself to die because she has been raped speaks to an ideology in which a woman's virtue is ostensibly located in her piety and intellect but is in fact closely tied to her chastity as a viable commodity. While Clarissa resists commodification in her desire to remain single, in order to fulfill this desire she must experience a "religious" death and thus "marry" after all. As in *Pamela*, Clarissa's "jewel" derives its value from the expectation that it will be cashiered only through the pious and state-sanctioned process of marriage and childbearing. Once Clarissa's opportunity to fulfill her "natural" earthly function is removed, she must remove to another domain for consummation.

The law holds out a promise for Clarissa which is at once empowering and enervating: she cannot "litigate" with her father, nor can she prosecute Lovelace, because doing so would constitute a threat to the same model of authority from which she derives her (illusory) power. Clarissa's religious devotion parallels her capitulation to a cultural ideology that denies her status as a juridical subject: she embraces "that religious rectitude . . . which has taught her rather to choose to be a sufferer than an aggressor!" (1307). As Eagleton and many other critics have argued, we may choose to read *Clarissa*

as a harsh indictment of the laws and social customs of its time. While *Clarissa* may represent a de facto critique of the eighteenth century's legal basis for gender inequality, however, it was not necessarily interpreted as such by Richardson's readership, nor was it intended as such by Richardson. Eagleton argues that although Pamela and Clarissa were "fictional" characters, "nothing could be more insistently real than the ideological practices to which they gave rise By turning his 'imaginative' products into real social processes, deploying fiction to organize new social relations, Richardson converted the still indeterminate status of the novel to effective ideological use" (17). On this point I agree, but I argue that the "ideological use" of Richardson's novels is realized in an insidious and destructive model of feminine gender that strengthened conservative, patriarchal values for many generations of readers.

CHAPTER 5: CONCLUSION

Richardson's novels *Pamela* and *Clarissa* contributed to the achievement of an ideological model of femininity in which passivity with respect to economic issues was a distinctive feature, a passivity that undermined women's ability to negotiate contracts for the preservation of their separate property in marriage. Richardson set the standard for a great tradition of fiction that reflected and stimulated ideological changes in attitudes towards gender roles, individualism, political economy, and the institution of marriage. While the overtly didactic messages in *Pamela* and *Clarissa* may seem trite to present-day readers, these novels still convey relevant lessons concerning the tension between sentiment and economic self-interest. Clarissa expresses the sincerity of her love for her family by surrendering her property rights, just as she spends all her allowance from her father on those less fortunate than she. She repeatedly tries to divest herself of her property to prove her virtue, her devotion to the principles of a noble and generous spirit. In this sense, Richardson's ideology of sentiment is predicated on selflessness, on a willingness to sacrifice oneself, or at least one's property, for the good of others. Analogously, "true love" à la Richardson's novels is devoid of corporeal passion, of the desire for self-gratification. Instead, the proof of ideal love is manifest in a selfless surrender to a higher power. Pamela ultimately surrenders to B in exchange for his marriage vow and (somewhat dubious) moral conversion, and Clarissa surrenders to a rapturous religious death for the sake of her thwarted sense of duty to her father. Although Belford and Mr. B surrender to their heroines in the end, their surrender is

ultimately to a higher power than any person could ever wield over them. Belford and B surrender to the self-inscribed moral (and legal) code of noble humanity that Richardson painstakingly exemplifies in the actions of his eponymous heroines. Thus Pamela's and Clarissa's virtue, while it carries distinct lessons for females, is gender non-specific in many aspects. These heroines provide a model of self-regulation that is intended to produce behavior conducive to Richardson's idea of a happy, well-adjusted, pious, upstanding British citizen who adheres to societal mores. Thus *Pamela's* subtitle *Virtue Rewarded* can apply to Mr. B's good fortune in marrying the exemplary Pamela as a result of his surrender to her code of conduct, a surrender that also carries its own psychological and behavioral reward of "rational happiness" for the juridical subject.

Cultural ideology has certainly changed since the eighteenth century, but in some respects it has retained notions of sentiment that can turn marriage into a dangerous venture. Pamela's reluctance to consider B's death or the need for her own property reflects a fetishism of marriage as a refuge of everlasting happiness that still lurks in modern consciousness. For example, one World Wide Web site offering do-it-yourself prenuptial agreement kits offers the following advice for spouses-to-be:

The idea of a premarital agreement is not popular with many people (very much like a will). None of us likes to think about divorce and death. But the sad reality is that we have to, in order to make sure the security we've created and the property we've accumulated is divided according to our wishes. A premarital agreement involves deep emotional and logical issues. You need to . . . let your spouse-to-be know that such an agreement

would give both of you protection and advantage (in a fair and equitable manner) *should* divorce or death occur. ("Discussing," emphasis added)

The "sad reality" alluded to here is much like Pamela's "*imaginary* Evils" and "remote Contingencies"; the language of this advice, despite its pragmatic intent, must still make room for the (un)consciously cherished hope that neither divorce nor death will ever occur for the individual reader. With the divorce rate at about fifty percent, divorce is, in fact, at least half as certain to occur as death. The verbiage of this advice suggests that prospective spouses are reluctant to discuss prenuptial agreements primarily because doing so forces them to admit to themselves and to each other the possibility that they will divorce, but surely most people are already aware that divorce is a highly popular contemporary alternative to living in an unhappy marriage. The real discomfort lies in discussing the issue with the prospective spouse where the "property we've accumulated" is concerned. Many modern individuals, especially women, still feel that frank discussion with a future spouse about the preservation of separate property casts doubt on the sincerity of their affective bond.

This doubt is complicit with the Richardsonian idea of surrender that has its place in modern notions of sentiment, notions that complicate the distinction between the affective and legal bonds of marriage. Modern readers of *Pamela* and *Clarissa* can easily identify and cull out the old patriarchal attitudes toward women and marriage depicted in these novels, but the subtler elements of Richardson's ideology of sentiment still carries a powerful message about how legal rights can become distorted into social stigmas through cultural ideology. Women no longer surrender their individual property rights upon marriage, but the *idea*, at least, of the surrender of property as a marker of good

faith and selfless love is still present, for some, in the contemplation of matrimonial bliss. Those who are reluctant to enter into prenuptial agreements with their future spouses risk unnecessary financial hardship, regardless whether they possess substantial assets at the time of their marriage. In most states allowing no-fault divorce, the laws regulating property distribution upon divorce are now gender-neutral. However, numerous studies have shown that no-fault divorce laws and gender-neutrality in property distribution have resulted in greater impoverishment of women upon divorce than when gender was a factor in property distribution (Garrison 119). On the other hand, divorce courts sometimes award wives large portions of their husbands' estates (and vice versa) to which they would not be entitled if the couple had entered into a valid prenuptial agreement. In most cases, then, neither women nor men can comfortably rely on law courts to protect their personal economic assets to their satisfaction in cases of dispute over property distribution upon divorce. In this sense, prenuptial agreements are very much like contracts for the preservation of married women's separate property in the eighteenth century. While the need to avoid aspersions on one's chastity is not a plausible factor in the modern American woman's reluctance to discuss prenuptial agreements, the need to avoid economically motivated self-interested behavior toward one's future spouse is still present as a residual tension between *Shamela*-esque greed and the kind of trust and (blindly) innocent happiness associated with Richardsonian surrender.

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