

“SO HERE IS A PLOT TO RUIN ME”:

Legal and Literary Forms of Female Consent in the Marriage Plots of *Pamela* and *Mansfield Park*

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*trigger warning: discussions of rape, sexual assault

Much has been written about the literary conventions of the marriage plot, a common narrative in literature that originated in the mid-eighteenth century and focuses on the courtship between a heroine and her suitor. However less has been written about this plot’s relationship to the law—specifically to eighteenth and nineteenth-century legal notions of consent and marital autonomy. My project attempts to bridge this gap. I turn to legal doctrines and court cases about marriage and sexual assault to examine representations of consent in eighteenth and nineteenth-century British literature, specifically in the marriage plot of Samuel Richardson’s *Pamela* (1740) and Jane Austen’s *Mansfield Park* (1814). A legal analysis reveals that legal frameworks of the time positioned consent in exclusive and negative terms; everything but a verbal, witnessed expression of refusal became consensual. Meanwhile, literature provided a more imaginative landscape in which authorship and plot complicated the notion of a refusal and gestured instead toward a vision of affirmative consent. *Pamela* reveals that consent and refusal can be constructed in silence—and that the absence of verbal refusal does not constitute consent. *Mansfield Park* demonstrates that marriage can be both a state of desire and a condition in which a woman’s consent becomes incorporated into her husband. Ultimately, a legal and literary analysis of consent highlights the importance of authorship—questions of consent can be viewed as investigations of who controls the “plot,” whether that is the plot of a work of literature or the plot of a courtroom.

The Reshaping of Consent, An Introduction

In 1768, Sarah Woodcock stood in front of a jury of men and asked them to believe that she had been raped. She had brought a charge of rape against notorious “self-styled Libertine” Frederick Calvert, a Baron of Baltimore, and two female accessories, Elizabeth Griffinburg and Ann Harvey.¹ In her testimony, Woodcock claimed that with the assistance of the two women, Calvert had kidnapped her from her shop in London and taken her to his estate. At his estate, Calvert repeatedly declared his infatuation with her, while imprisoning her in his home and sexually assaulting her.² After hours of testimony and evidence from Woodcock, Calvert, and a series of people who had seen Woodcock in Calvert’s company, the judge Mr. Baron Smythe gave his final instructions to the jury. Standing before the jury of men, having spent the past three hours summarizing the evidence of the case, Mr. Baron Smythe made one final statement about rape:

It is a crime which in its nature can only be proved by the woman on whom it is committed; for she only can tell whether she consented or no; it is, as my Lord observes, very easy to be made, and hard to be disproved;³ and the defence can only be collected from circumstances; from these you must judge whether her evidence is or is not to be believed.⁴

Smythe’s words summarize the paradox of female consent in the eyes of the law. His statement is one of direct contradiction—the crime can only be proved by the woman “on whom it is committed” for only she “can tell whether she consented or no” and yet, the entire structure of the rape trial is predicated upon the disbelief of a woman’s refusal.⁵ Thus, at the same time as Symthe asserts a woman’s knowledge of her consent as the most credible piece of evidence, he positions female consent as inherently unreliable. Her evidence “is or is not to be believed,” and after only an hour of deliberation, the jury determined Woodcock was not to be believed. In the eyes of the law, Woodcock had consented to her kidnapper.

The trial of Sarah Woodcock reshaped her consent, replacing her refusal with acquiescence at the same moment as it claimed that she alone possessed unique knowledge of her consent. This reflects the particular shape of consent in rape law, which Frances Ferguson analyzes in her exploration of rape law as an investigation of a state of mind, not of a physical act. She writes, “because sexual intercourse is not in itself legally culpable, evidence of penetration is necessary but not sufficient to establish criminal intent. The crime, that is, only becomes a crime on the level of mental states. The victim’s nonconsent revalues the shape of the act of intercourse.”⁶ Thus, in the case of Frederick Calvert, the jury was not determining the existence of a sexual encounter, but rather the status of Woodcock’s mind—her consent—during this encounter. Ferguson’s analysis underscores this distinction, and she argues that “Rape, that is, dramatizes a problematic about the relationship between the body and the mind.”⁷

I am interested in the way that Ferguson’s analysis of the body and mind may also apply to marriage law of the eighteenth and nineteenth centuries. In this time period, rape and marriage harbored a close relationship.

1 Rebecca Frances King, “Rape in England 1600-1800: Trials, Narratives and the Question of Consent,” (Masters thesis, Durham University, 1998), 109, etheses.dur.ac.uk/4844/.

2 Trial of Frederick Calvert, Esq; Baron of Baltimore, in the Kingdom of Ireland, for a rape on the body of Sarah Woodcock; and of El. Griffinburg, & A. Harvey, otherwise Darby, as accessories before the fact. For procuring, aiding and abetting him in committing the said rape (London: Mein & Fleeming, 1768), 15, Evans Early American Imprint Collection, quod.lib.umich.edu/e/evans/N08537.0001.001/1:2?rgn=div1;view=fulltext.

3 In saying “it is, as my Lord observes, very easy to be made, and hard to be disproved,” Symthe refers to the infamous caution by English legal thinker Sir Matthew Hale that rape is “an accusation easily to be made and hard to be proved, and harder to be defended by the party accused.”

4 Trial of Frederick Calvert, 141.

5 While, this project focuses on infringements upon women’s consent, and the law of the time constructs rape as a crime committed upon women, I would like to acknowledge that throughout history, including the time period that this project explores, men and nonbinary people have been subject to sexual violence and rape. The category of “rape victim” or “rape survivor” is not an inherently female one.

6 Frances Ferguson, “Rape and the Rise of the Novel,” *Representations*, no. 20 (1987): 88-112. <https://doi.org/0.2307/2928503>. <https://doi.org/10.2307/2928503>

7 Ferguson, “Rape and the Rise of the Novel,” 99.

Women's physical resistance was understood as a common facet of courtship⁸ and a promise of marriage could retroactively transform rape into consensual intercourse, as was seen in court cases in which men followed acts of sexual assault with promises of marriage.⁹ Further, marriage held the ability to bridge the body and mind by uniting one's verbal and mental consent to marriage with the physical performance of that marriage. This concept of verbal consent constituting the act of marriage would later be identified as one of the key examples of a performative utterance; in his description of the performative utterance, J. L. Austin writes, "One of our examples was, for instance, the utterance 'I do' (take this woman to be my lawful wedded wife), as uttered in the course of a marriage ceremony. Here we should say that in saying these words we are *doing* something—namely, marrying, rather than *reporting* something, namely *that* we are marrying."¹⁰

However, in the eighteenth and nineteenth centuries, verbal consent to marriage performed more than a marital union. Instead, this rhetorical act reshaped a woman's future consent by transforming her sexual consent into a state of permanent compliance. As I will discuss later, betrothed couples could agree to be married in the future, *per verba de future*, meaning that their promise of marriage would only become legitimate upon future sexual intercourse¹¹ and marital rape was deemed legally impossible since the contract of marriage demanded that a wife had "given herself up" to her husband in a way that was irrevocable.¹² The legal impossibility of a husband raping his wife meant that marital consent dictated a sexual consent that was irrevocable and predetermined. Just as rape law simultaneously affirmed a woman's ability to assert claims of (non)consent¹³ and overrode this ability by prescribing normative boundaries of sexual conduct, marriage law represented both a woman's capacity to create a consensual union and her legal subjugation to another's will.

My project uses these legal frameworks of female consent to analyze marriage plots in eighteenth and nineteenth-century literature, specifically Samuel Richardson's *Pamela* (1740) and Jane Austen's *Mansfield Park* (1814). These novels represent female consent through the process of courtship, and although fictional, these texts reflect the demands placed upon real women to assert their consent and create equitable partnerships despite their positions in the margins of legal authority and autonomy. Approaching these novels with both literary and legal close readings allow us to develop a richer understanding of these novels' historical contexts and consider how different systems of interpretation may yield diverse conceptions of consent. In *Pamela*, I will examine the young servant Pamela's attempts to understand her relationship with her employer Mr. B through the lens of force, a key element of rape law. In *Mansfield Park*, I will approach Fanny Price's relationship with her family estate Mansfield (and her relatives who reside there) as both a relationship of refusal and an incorporation which reflects eighteenth and nineteenth-century marriage law's determination that the "legal existence of a woman is suspended during marriage, or at least incorporated and consolidated into that of the husband."¹⁴ This approach reveals that the conventions of fiction may provide diverse ways of understanding consent, whether by highlighting the construct of authorship or by emphasizing the multiplicity of perspective, a complexity that must be minimized in the law's aim to declare a single verdict.

An alternative reading of consent relies on shifting one's point of view. Feminist legal scholar Catharine A. MacKinnon writes that, "A feminist distinction between rape and intercourse, to hazard a beginning approach,

8 Katie Barclay, "From Rape to Marriage: Questions of Consent in Eighteenth-Century Britain," in *Interpreting Sexual Violence, 1660-1800*, ed. Anne Greenfield (London: Pickering & Chatto, 2013), 39.

9 See Frances Ferguson's analysis of the history of marriage retroactively transforming a sexual violation into a consensual act in Ancient Hebrew and Saxon law: "Marriage recasts rape, so that marriage is a misunderstanding corrected, or a rape rightly understood" (92). This practice also dates to the Bible, as seen in Deuteronomy 22: 28-29.

10 J. L. Austin, "How to Do Things With Words," in *The William James Lectures delivered at Harvard University*, ed. J. O. Urmson (Oxford: Oxford University Press, 1962), 12-13.

11 Rebecca Probert, "The Impact of the Marriage Act of 1753: Was It Really 'A Most Cruel Law for the Fair Sex'?" *Eighteenth-Century Studies* 38, no. 2 (2005): 247.

12 Sir Matthew Hale, *Historia Placitorum Coronae: The History of the Pleas of the Crown*, (Philadelphia: R.H. Small, 1847), 636, HathiTrust Digital Library, hdl.handle.net/2027/uc2.ark:/13960/t5t72j285.

13 Throughout this work, I will use the term "(non)consent" to refer to the capacity to assert either affirmative consent or nonconsent.

14 William Blackstone, *Commentaries on the Laws of England: A Reprint of the first edition (published 1765-69) with supplement*, (London: Dawson's of Pall Mall, 1966), 430, HathiTrust Digital Library, hdl.handle.net/2027/uc1.31822006929293.

lies instead in the *meaning* of the act from women’s point of view.”¹⁵ In turning to novels which feature female protagonists, we turn to an imagined space in which the woman’s point of view is the prioritized text, the narrative authority, and the basis of the novel’s “meaning.” Unlike the courtroom, in which the woman’s body is transformed into a text upon which judgment is rendered, the literary text prioritizes her interiority, allowing us to imagine new interpretative possibilities in the spaces left by legal doctrine.

The Status of Marriage in Eighteenth and Nineteenth Century-Britain

What does it mean to be married? For those in eighteenth-century Britain, the answer was far from settled. Largely unregulated by formal law, marriages assumed various forms. Although most marriages conformed to British common law, occurring in front of witnesses and in churches, clandestine marriages—in which couples married in secrecy and priests performed marriages for cash—ran rampant.¹⁶ Marriage was debated in social writing and Parliament alike. Lord Hardwicke caused immense controversy in 1753 when he introduced the bill “An Act for the Better Preventing of Clandestine Marriage,” later titled The Marriage Act of 1753, which required all marriages be officiated by a clergyman in an Anglican ceremony after the purchase of a license or calling of bans.¹⁷ Opponents warned that formalizing marriage through a legal registration process would increase the number of jilted women, while others argued that a formal law was necessary to lower the number of young couples eloping, often against their parents’ wishes.¹⁸

These objections reflected a deep uncertainty over the changing rhetorical function of marriage. Prior to the Marriage Act of 1753, marriage was rooted in verbal contract.¹⁹ Rebecca Probert writes, “If the parties exchanged consent to marry in the present tense—*per verba de praesenti*—the marriage was constituted. If they agreed to marry at some point in the future—*per verba de future*—the marriage came into effect if the parties subsequently had sexual intercourse, as this was deemed to represent their present consent to marriage.”²⁰ This emphasis on verb tense is indicative of the importance that rhetorical consent carried in the marriage contract. Without formal legal registration or even witnesses, the very utterance of consent could become the foundation of a marital union. Writing in 1753, churchman Henry Stebbing echoed this vision of marriage:

The first question then will be, what it is that creates the married State, or which constitutes the marriage Contract? And I answer...it is THAT FAITH by which the Man and Woman bind themselves to each other to live together as Man and Wife. The Law of Nature prescribes no particular Form in which this Contract shall be made; but in what Words, and under what Circumstances soever it be made and whether with Witnesses or without; the State of Marriage arises immediately upon it, binding the Consciences of both Parties, especially if Consummation follow.²¹

Although Stebbing claims that the law of nature does not prescribe a particular form of marriage, he immediately follows this assertion by emphasizing the significance of words. “With witnesses or without” and regardless of

15 Catharine A. MacKinnon, “Feminism, Marxism, Method and the State: Towards Feminist Jurisprudence,” *Signs: Journal of Women in Culture and Society* 8, no. 4 (1983): 651-652, www.jstor.org/stable/3173687.

16 Lisa O’Connell, *The Origins of the English Marriage Plot: Literature, Politics, and Religion in the Eighteenth Century* (Cambridge: Cambridge University Press, 2019), 10.

17 Probert, “The Impact of the Marriage Act of 1753,” 247.

18 David Lemmings, “Marriage and the Law in the Eighteenth Century: Hardwicke’s Marriage Act of 1753,” *The Historical Journal* 39, no. 2 (1996): 339-360.

19 Although Rebecca Probert notes the importance of the verbal contract (*per verba de praesenti*), she argues that legal scholars have mistakenly overattributed the importance of this contract in marriages prior to 1753. In *Marriage Law and Practice in the Long Eighteenth Century A Reassessment* (2009), Probert points out that a ceremony in front of a clergyman was still considered by many to be an essential part of the marital union and proves that much of the time, marital contracts were not considered equivalent to formal marriages. See Chapter 2 “The misunderstood contract *per verba de praesenti*,” p. 21-68.

20 Probert, “The Impact of the Marriage Act of 1753,” 247.

21 Henry Stebbing, *An Enquiry into the Force and Operation of the Annuling Clauses in a late Act for the Better Preventing of Clandestine Marriages*, (London: M. Cooper, 1754), 5-6, digital.library.lse.ac.uk/objects/lse:dov654ceg.

circumstance, it is the couple's words that will bind them in the state of marriage.²² Thus, the eighteenth-century attempt to legislate marriage meant formalizing more than ceremony. It would require legislating speech itself.

Therefore, with the passage of the Marriage Act of 1753, the rhetorical utterance of marital consent was further transformed into a site of legal significance and contestation. This was especially important because of the interdependent relationship between marital consent and sexual consent. The two were often understood as synonyms—a woman's sexual consent might be predicated on a suitor's verbal promise of marriage, for instance. Even linguistic features could be indications of sexual consent. Couples who agreed to marry in the future (*per verba de future*) were also indirectly consenting to sexual interactions which had not yet occurred, since their marital promise implied future consummation. Thus, in marriage, verbal and sexual consent were impossibly intertwined. If marriage was constituted through speech, the couples' future sexual encounters became immediately consensual by way of the present verb; if marriage was constituted through a sexual act, that act was automatically consensual by way of the previously uttered future verb tense.

Thus, while critics such as O'Connell argue that the Marriage Act of 1753 shifted the focus of marriage from consent to ceremony,²³ I argue that the Act emphasized married women's consent as irrevocable through formalizing marriage, and thereby marital consent, in statute. Each ceremony and license registered not just a new couple, but a new binding consent. Further, the Act joined a legal body of writing that emphasized this construction of marital consent. In his highly influential 1736 legal treatise, Sir Matthew Hale outlines the impossibility of marital rape. He writes, "the husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given herself up in this kind unto her husband which she cannot retract."²⁴ Hale's argument demonstrates that marriage harbored the ability to reshape sexual consent, transforming it into a permanent state of acquiescence.

However, one of the few areas in which a woman *could* exercise agency over her consent was directly before marriage, in her refusal or acceptance of a proposal. Although women of the eighteenth and nineteenth centuries were subject to immense external pressure surrounding marriage—financial stability or parental wishes, for instance—conduct writing of the time proposed that women had the power to refuse suitors, and that said refusal should be respected. In his influential conduct book first published in 1774, John Gregory writes, "If he brings you to an explanation, give him a polite, but resolute and decisive answer. In whatever way you convey your sentiments to him, if he is a man of spirit and delicacy, he will give you no further trouble, nor apply to your friends for their intercession."²⁵

Gregory's words suggest that the most desirable suitor is one who can respect nonconsent, forming a strange model of courtship in which a woman could only measure a suitor's worth by judging his reaction to her initial refusal.²⁶ Further, Gregory describes this refusal as a uniquely female right, describing refusal as "the undoubted privilege of her sex, the privilege of refusing."²⁷ This description of refusal as a female privilege constructs marital nonconsent in exclusively feminine terms, while inversely positioning males as incapable of nondesire. Of course, Gregory's words are also influenced by the presumed impossibility of a woman proposing. In fact, the complete passage from Gregory's book expresses his disapproval of any gentleman who "purposely declines to make his addresses, till such time as he thinks himself perfectly sure of her consent. This at bottom is intended to force a woman to give up the undoubted privilege of her sex, the privilege of refusing."²⁸ Thus, Gregory's words demonstrate the strange paradox of marriage proposals in the eighteenth and nineteenth centuries. Although women were permitted to refuse proposals, proper conduct forbade them from revealing the status of

22 It is also important to note that Stebbing emphasizes faith as another potential foundation of the marriage contract alongside words. This demonstrates the ambiguity of the source of the marriage contract and state which positioned, at times interchangeably, sexual intercourse, faith, and verbal contract all as potential foundations of marriage.

23 O'Connell, *The Origins of the English Marriage Plot*, 38.

24 Hale, *The History of the Pleas of the Crown*, 636.

25 John Gregory, *A Father's Legacy to His Daughters: With a Biographical Sketch of the Author* (Boston: J.B. Dow., 1834), 47, HathiTrust Digital Library, hdl.handle.net/2027/wu.89045889292.

26 Thank you to Anne-Lise François for suggesting this concept that a suitor's worth was partially dependent upon his reaction to a refusal, creating a strange courtship interplay in which a woman might refuse a proposal in order to measure her suitor's conduct, before eventually accepting.

27 Gregory, *A Father's Legacy*, 47.

28 Gregory, *A Father's Legacy*, 47.

their consent before a suitor proposed, and from expressing desire before marriage at all. Yet, most improper of all was the man who attempted to determine a woman’s consent before proposing. Thus, in courtships, women occupied precarious positions—discouraged to directly demonstrate consent but permitted to graciously refuse.²⁹

Thus, the prominence of the eighteenth and early nineteenth-century marriage plot functions as a literary and legal phenomenon. The novel’s focus on courtship was made possible by the role of refusal in the courtship process; courtship provided a space in which women could exercise a right to refuse that they often did not receive in legal doctrines. As politicians debated the correct form of marriage and courts attempted to determine what constituted a sexual violation, women’s consent was reshaped by the shifting legal and social boundaries of consensual/nonconsensual actions. Pamela’s reluctance to enter a clandestine marriage with Mr. B and Fanny Price’s refusal to marry a man whom she cannot respect demonstrate their anxiety over entering a status in which their consent ceases to exist. For, as women exercised their right to refuse a proposal, they asserted their consent as their own.

Language of Consent: Constructing a Definition of Consent in Rape Law and Literature

At the same time as British law was establishing marriage statutes, it was constructing an informal legal definition of consent through legal treatises and court cases on sexual abuse and rape. The legal parameters of rape were murky and unstable; the legal definition of consent was even less explicit. Consent was generally taken to be synonymous with agreement, but Samuel Johnson’s *Dictionary of the English Language* offered multiple senses of consent: a formal agreement (“concord, agreement, accord”), a shared mental state (“to be of the same mind” and “unity of opinion”), or a process of giving in (“the act of yielding,” “to admit”).³⁰ Court cases reflected this multiplicity. Juries diverged on what actions might constitute adequate nonconsent, with some determining that nonconsent had to assume the form of a verbal scream and others asserting that nonconsent was void if the victim was not chaste, creating an entire category of women deemed to be “unrapable.”

Legal doctrine both reflected and encouraged these discrepancies. In the same treatise in which he declared marital rape impossible, Sir Hale issued another notorious statement about rape, one so influential it “has been quoted by virtually every legal writer who has discussed rape,” and remained in court instructions until the 1970s.³¹ Hale warned that rape is “an accusation easily to be made and hard to be proved, and harder to be defended by the party accused.”³² Of course, Hale’s fear that men would be unjustly convicted for rape was accurate neither then nor now; between 1700 and 1799, only forty-five people were convicted of rape in London’s Old Bailey Court.³³ Hale’s statement and the low number of rape convictions demonstrate an uneasy disbelief of rape victims—and an even hazier agreement of consent.

Part of the ambiguity surrounding consent stemmed from the fact that British law constructed consent *retrospectively*. Any legal claim of rape or sexual violation meant that consent would need to be determined after the interaction. In fact, in most cases, jurors did not have to determine if a sexual encounter had occurred, only if said act had coincided with an assertion of consent. For instance, in 1747, John Hunter was accused of raping the ten-year-old Grace Pitts. Since the age of consent for girls was ten years old, Hunter narrowly escaped being prosecuted for statutory rape.³⁴ Instead, the court ordered the jury to determine if Pitts had adequately asserted her consent. In these instructions to the jury, the court emphasized that rape must include *force* and determined that

29 This privilege was impacted by one’s class standing, with higher class women having the ability to choose more freely between marital partners due to reduced economic pressures. See Joan Perkin’s discussion of upper-class British women’s marital freedoms in *Women and Marriage in Nineteenth-Century England* (1989).

30 Samuel Johnson, “Page View, Page 452,” in *A Dictionary of the English Language: A Digital Edition of the 1755 Classic* by Samuel Johnson, ed. Brandi Besalke, <https://johnsonsdictionaryonline.com/page-view/?i=452>.

31 Camille LeGrand, “Rape and Rape Laws: Sexism in Society and Law,” *California Law Review* 61, no. 3 (1973): 932.

32 Hale, *The History of the Pleas of the Crown*, 634.

33 Gregory Durston, *Victims and Viragos: Metropolitan Women, Crime and the Eighteenth Century Justice System* (Bury St. Edmunds: Arima, 2007), 172.

34 Julie Gammon, “Researching Sexual Violence, 1660-1800: A Critical Analysis.” in *Interpreting Sexual Violence, 1660-1880*, ed. Anne Greenfield (London: Pickering & Chatto, 2013), 20.

“Delusion and Deceit that is not Force, there is in some Measure the Consent of the Will.”³⁵ Despite Pitts’ age, her vulnerable position, and her clear (from a modern lens) exploitation, the jury acquitted Hunter, determining that since there was no evidence Pitts had cried out in resistance, the act could not have been adequately forced. Since her assertion of nonconsent and her actions had not aligned properly in the eyes of the law—much as the jury in Sarah Woodcock’s case determined that her actions did not sufficiently support her claim of rape—Pitts must have consented.

The case of Grace Pitts serves as an example of consent being constituted in the courtroom. As Sarah Toulalan writes in her analysis of the case, “Lack of understanding of what she was consenting to, which denied a child of any meaningful agency to her actions, was thus not recognized by early modern courts as legally removing her ability to act as an independent agent capable of giving or withholding consent.”^{36,37} In labeling encounters as consensual or nonconsensual (or in Pitts case, in labeling rape as a consensual encounter), British law established the parameters of female consent. Grace Pitt’s “consensual” encounter determined that consent was not necessarily, as Samuel Johnson determined, “of the same mind.” Instead, female consent was *presumed*; nonconsent had to be asserted in the most violent and obvious of ways.

Definitions of rape emphasized that the act was a violation of chastity and virtue—Samuel Johnson defines rape as the “violent defloration of chastity.”³⁸ Thus, consent was also predicated on the victim’s chastity. For a court to recognize her violation, a woman had to assert her virginity. This is reflected by numerous court cases in which accusations of rape were immediately dismissed upon the presentation of “evidence” that the victim was not chaste. For instance, when Mary Hunt, a woman who was known to have lived with multiple men, attempted to prosecute her attacker, the judge dismissed her claims by mockingly arguing that she must not have been shocked to see the man pull down his britches.³⁹ Indeed, for nearly half of the rape trials at London’s Old Bailey court in the eighteenth century, disputing the victim’s virtuous reputation resulted in an acquittal of the accused rapist.⁴⁰ In these cases, the victim’s past behavior—or even simply community members’ testimonies about her past behavior—rendered her consent void.

These legal writings provided a framework of female consent that literature could both endorse and challenge. The emerging form of the novel supplied something that rape law could not: subjectivity. Julie Gammon writes, “Historians continue to wrestle with the contradiction that existed in the eighteenth century between the centrality of the victim’s testimony that emerged in the trial process and the requisite need for female silence as an indication of modesty and veracity, and how this restricted and shaped the story she was able to tell.”⁴¹ The novel provides an imagined space in which these contradictions between female silence and testimony, modesty and assertion, can be worked through and reexamined. In *Pamela* and *Mansfield Park*, readers examine representations of (non)consent that did not reside neatly in legal parameters of the time and approach female interiority as the prioritized text.

“I Long to See the Particulars of Your Plot”: Strategic Consent and Authorship in *Pamela*

Samuel Richardson’s *Pamela* is heralded as one of the first instances of the British novel and of the marriage plot.⁴² Written in an epistolary format, the novel revolves around Pamela—a young servant girl so virtuous that

35 Sarah Toulalan, “Child Sexual Abuse in Late Seventeenth and Eighteenth-Century London.” in *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750–1914*, ed. Nigel Goose and Katrina Honeyman (Abingdon: Routledge, 2016), 37.

36 Toulalan, “Child Sexual Abuse,” 37.

37 “Lack of understanding” was arguably considered as adequate grounds for rape in statutory cases involving girls under the age of ten, since they were considered universally too young to consent. However, without this age-based protection, “lack of understanding” was removed as a factor of nonconsent.

38 Johnson, “Page View, Page 1637,” <https://johnsonsdictionaryonline.com/page-view/?i=1637>.

39 Anna Clark, *Women’s Silence, Men’s Violence: Sexual Assault In England, 1770-1845* (London: Pandora, 1987), 56, <hdl-handle-net.libproxy.berkeley.edu/2027/heb.04354>.

40 Clark, *Women’s Silence*, 57.

41 Gammon, “Researching Sexual Violence,” 18.

42 Ian Watt, *The Rise of the Novel: Studies in Defoe, Richardson, and Fielding* (Berkeley: University of California Press, 1957), 135.

the novel’s full title reads *Pamela; or, Virtue Rewarded*—and her attempts to resist the sexual advances of her employer Mr. B. Both Pamela and the novel condemn Mr. B’s inappropriate behavior; in one instance, Pamela writes to her parents that Mr. B is a “base, wicked, treacherous gentleman...Black-hearted wretch!”⁴³ Yet after a series of attempted rapes, sexual assaults, and even a kidnapping, Pamela finds herself falling in love with Mr. B and swiftly into marriage.

Mr. B’s redemption from attempted rapist to husband is notable both in that it demonstrates that violations of consent could be potentially redeemable (at least for men of high-class status) and in that it positions Pamela as capable of enacting real change in Mr. B—and her marital life. Thus, although much of the novel features Mr. B violating her consent, Pamela is paradoxically the agent who impacts change, constructing a relationship and husband whom she can finally consent to. This had led some scholars to approach *Pamela* from a feminist perspective. For instance, in *Desire and Domestic Fiction*, Nancy Armstrong argues that Pamela’s authority is ultimately respected despite her lower-class status, providing a new vision of female subjectivity.⁴⁴ While *Pamela* may not necessarily be a feminist text, I argue that it is certainly a deeply female one. The novel addresses concerns specific to eighteenth-century women: chastity, navigating responses to courtship, and the status of “wife.”⁴⁵ Yet, these issues are presented as legitimate and serious; the marriage plot *is* the novel’s plot. Pamela’s refusals and assertions of consent reflect the shifting legal parameters of consent and demonstrate that her consent must be rhetorically negotiated within competing bounds of servitude and deference.

To a modern reader, Mr. B’s behavior is repugnant and irredeemable, a clear example of sexual assault—although unlike Richardson’s popular novel *Clarissa*, there is no definitive rape in the text. Mr. B kisses Pamela without her consent multiple times, sends her to be imprisoned in an estate, hides in her bedroom to seize her, and physically restrains her, turning her “black and blue.”⁴⁶ Twenty-first century readers may cringe in horror, as I certainly did, reading Pamela’s hopeful wishes that she will be returned safely to her parents, all the while knowing that her future lies in marriage to her attacker. Yet, it is important to place *Pamela* in dialogue with the legal definitions of rape and consent of the time—not to enact a kind of historical revision of Mr. B’s actions, but instead to understand how the novel attempts to insert itself into eighteenth-century dialogues of consent, virtue, and marriage.

At the time of *Pamela*’s publication, rape was considered a terrible crime, and yet most rape court cases found in favor of the accused rapist. This strange combination of public horror over rape and deep disbelief that alleged victims had adequately expressed their nonconsent created narrow definitions of rape. As Anne Greenfield writes in her introduction to *Interpreting Sexual Violence, 1660-1800*:

In order for a sex act to be understood as rape, it had to take a specific form (for example, heterosexual penetrating), between specific sorts of people (for example, a chaste woman usually of equal or higher social status to her assailant) and accusations had to be made at specific times and in specific ways (usually within twenty-four hours of the sex act). Complicating scenarios that make it difficult for twenty-first-century thinkers to agree upon a definition of ‘rape’ (such as when a victim changes her mind midway through the sex act) would have troubled no one during the Restoration and eighteenth century.⁴⁷

Thus, since nonconsent was associated with the crime of rape, inappropriate sexual behavior that existed outside of this narrow definition of rape occupied a murky ground, typically labeled as consensual. Complicating matters further was the construction of courtship as a seduction, and in some cases, even a “rape” of a woman’s mind. As Anna Clark writes in her analysis of sexual violence in the nineteenth century, physical violence was embedded

43 Samuel Richardson, *Pamela* (Oxford: Oxford University Press, 2001), 88.

44 Nancy Armstrong, *Desire and Domestic Fiction* (Oxford: Oxford University Press, 2009), 13.

45 It should not be overlooked that these concerns were specific not just to eighteenth-century women, but to white eighteenth-century women, a distinction that will be further examined later in this project. For those who were not white, the idea of consent was far more complex. As Dror Wahrman (2004) writes, the mid-eighteenth century to early nineteenth-century (and onwards) was also a time period of racialization in which “race was gradually and haltingly reconceptualized as an essential and immutable category, stamped on the individual” which also positioned white womanhood as a symbol of European superiority and morality (127).

46 Richardson, *Pamela*, 57.

47 Anne Greenfield, *Interpreting Sexual Violence, 1660-1800* (London: Pickering & Chatto, 2013).

in the processes of courtship.⁴⁸ Katie Barclay extends this further, writing, “The construction of female consent as a form of resistance created a context where ‘force’ was a requisite part of courtship.”⁴⁹ Thus, whereas Mr. B’s actions may read as abuse to the modern reader, Richardson’s audience widely interpreted Mr. B’s actions toward Pamela as a passionate, albeit inappropriate, courtship. For instance, Pamela writes about a troubling encounter between herself and Mr. B:

He then took me in his Arms, and presently push’d me from him. Mrs. Jervis said he, take the little Witch from me; I can neither bear, nor forbear her! (Strange Words these!)—But stay you shan’t go!—Yet begone!—No, come back again...I was going however, and he stept after me, and took hold of my Arm, and brought me in again: I am sure he made my Arm black and blue; for the Marks are upon it still.⁵⁰

Here, Pamela’s arm becomes a physical imprint of Mr. B’s inner romantic turmoil while simultaneously demonstrating her uneasy social position—she does not consent, and yet, as Mr. B’s servant, she must go and come as he demands. In this perverse courtship, Pamela is therefore subject to multiple “forces:” literal physical violence and the social force of class subjugation.

Throughout the novel, Pamela repeatedly attempts to quantify Mr. B’s forcefulness, echoing the legal requirement that violations of consent must occur “by force.” For instance, as she attempts to resist Mr. B’s kiss, Pamela writes, “And saying so, he offer’d to take me on his Knee, with some Force.”⁵¹ Pamela also questions Mr. B’s assertion that he will not force her into sex, asking, “Besides, Mrs. Jervis, if he really intends to offer no *Force*, What does that mean?—While you say he can’t help liking me, for Love it cannot be!—Does not it imply, that he hopes to ruin me by my own *Consent*?”⁵² Here, Pamela thoughtfully questions the transformation of her consent in the presence of force, determining that if Mr. B really attempts to “offer no Force” he will need to obtain her consent through deception. This statement complicates the categories of force and consent, suggesting that one can also be ruined through the procurement of consent. In this realization, Pamela acknowledges that Mr. B’s promise to avoid forcing her into sexual intercourse does not constitute a promise of marriage; instead, if she consents sexually, she will lose her viability as a marital prospect since she will no longer be virtuous. Thus, due to Pamela’s marginalized class status—Mr. B could easily abandon her after consummation without much consequence—sexual consent and marital consent become divorced. The performative promise of the verbal contract is unfulfilled because Pamela cannot “force” Mr. B to transform the promise of a union into a marriage. Later she echoes this language, thinking, “So here is a Plot to ruin me, and by my own Consent too!”⁵³ In this instance, Pamela realizes that her consent is not entirely her own. Instead, she is subject to various “plots”—both Mr. B’s nefarious plans to procure her virtue and the novel’s marriage plot itself.

Mr. B also adopts this language of force, but in doing so, he places himself outside of legal ramification. As he grasps Pamela in his arms, Mr. B tells her that she is “oblig’d to yield to a Force you cannot withstand”⁵⁴ This statement invokes the definition of “yielding” as a form of consent, arguing that Pamela is unable to “forfeit” her innocence because she cannot adequately resist Mr. B’s demands. Therefore, Mr. B’s language both acknowledges his actions as a violation (he compares their interactions to the legendary tale of Lucretia’s rape) and determines that Pamela is blameless in this violation precisely because she is unable to assert her refusal. “Who ever blamed Lucretia, but the Ravisher only?” argues Mr. B, supplementing his physical advance with a rhetorical argument, “And I am content to take all the Blame upon me.”⁵⁵ Of course, the blame placed upon Mr. B is minimal. In fact, the text aligns Mr. B with the normative force of the law; he is a justice of peace in their county.⁵⁶ Mr. B’s ironic alignment with the judiciary critiques the moral discrepancies within the British class system, but it also places

48 Clark, *Women’s Silence*, 83.

49 Barclay, “From Rape to Marriage,” 39.

50 Richardson, *Pamela*, 57.

51 Richardson, 31.

52 Richardson, 42.

53 Richardson, 225.

54 Richardson, 32.

55 Richardson, 32.

56 Richardson, 178.

Pamela outside of legal redress. For instance, as she considers a possible escape, Pamela notes that Mr. B is inescapable: “For I am sure I can safely swear the Peace against him: But, alas! he is greater than any Constable, and is a Justice himself; such a Justice, deliver me from!”⁵⁷

Marginalized by her class and legal status, Pamela finds her authority to exercise consent in her nearly inhuman commitment to chastity. Her unshakeable virtue leads the novel’s plot and conflict; if she had not resisted Mr. B’s actions, the book could have ended in thirty pages. Yet, her extreme virtue—she declares that she would rather be dead than unchaste⁵⁸ and informs Mrs. Jewkes that “For to rob a Person of her Virtue, is worse than cutting her Throat”⁵⁹—creates both a plot structure and a moral framework in which readers can view Pamela as a virtuous narrator, despite her low-class background. Much of the sexual abuse in Britain during this time occurred between employers and servants, creating strange dynamics in which victims were unable to leave their attackers due to financial or housing constraints.⁶⁰ Indeed, Pamela’s class status dispossesses her of the female “privilege” of refusal that Gregory outlines in his conduct writing. There is no sense of propriety that compels Mr. B to respect Pamela’s refusals. Instead, Pamela’s virtue is her only protection.⁶¹ Given the legal emphasis on rape as a violation of chastity, Pamela’s commitment to her moral virtue emphasizes that her will can be violated.

Since she is dispossessed of legal recourse, Pamela exercises her consent through rhetorical strategy. For instance, she writes to Mr. B that to “shew my Obedience to your Commands, (for you know, my dear Parents, I might as well make a Merit of my Compliance, when my Refusal would stand me in no stead) I will consent to both; and to everything else, that you shall be pleas’d to injoin.”⁶² This is an example of Pamela’s strategic consent—without her aside to her parents, her statement presents unmediated consent to Mr. B’s wishes. Yet, Pamela’s parenthetical insertion demonstrates tactical consent; she offers compliance to smaller demands so that her future refusals may harbor more significance. Thus, Pamela’s consent balances competing interests and demands. “If I refused to obey him in little Matters, my Refusal in greater would have the less Weight” she writes,⁶³ arguing that by fulfilling her domestic duties as a servant, she is able to assert her nonconsent to a potential sham marriage more forcefully.

Therefore, Pamela’s consent blends multiple definitions of consent, employing private refusal, expressed agreement, and strategic yielding. The constructed nature of her consent is revealed through and made possible by Richardson’s use of the epistolary form: Pamela’s consent occurs both on the level of the —in actions and dialogue—and through her interiority, mainly in her letter writing. Despite her status as a servant, Pamela is markedly exceptional in directly refusing Mr. B; she repeatedly admonishes him, in one instance crying out “I said, Let me alone! I will tell you, if you was a King, and said to me as you have done, that you are no Gentleman: And I won’t stay to be used thus!”⁶⁴ However, her letters provide a form through which Pamela can also silently construct her consent retrospectively, shaping a private narrative. For example, when Mr. B first approaches her, Pamela does not cry out in resistance—therefore, in the legal definition of consent established by the Grace Pitts case, she has consented. However, her writing about the encounter provides a more nuanced exploration of consent. She writes: “So benumb’d with Terror, that I sunk down, not in a Fit, and yet not myself; and I found myself in his Arms, quite void of Strength, and he kissed me two or three times, as if he would have eaten me.”⁶⁵

57 Richardson, 60.

58 Richardson, 32.

59 Richardson, 110.

60 Interestingly, the plot of Pamela mirrors the trial of Colonel Charteris in 1730 for the rape of his servant-maid Anne Bond. Like Mr. B, Charteris repeatedly attempted to procure Bond’s sexual consent through bribery and coercion, before finally resorting to assault. However, unlike Mr. B, Charteris was found guilty in court, although he was later pardoned. Charteris’ conviction demonstrates that it was not impossible for those in positions of power to be found guilty of rape of servants, although it was still highly unusual. Anne Bond’s success was largely due to her virtuous character which was supported by the testimony of several upper-class former employers (in contrast, Charteris had a notorious reputation as a rakish libertine) and her immediate charge of rape (Simpson 2004, 33-34).

61 Pamela’s focus on virtue has also been identified as a function of the novel’s use of the tropes of conduct writing. Nancy Armstrong (2009) writes that Richardson “deployed the strategies of conduct-book literature within fiction, and he contained the strategies of the most deleterious fiction—a tale of seduction—within the framework of conduct writing” (109).

62 Richardson, 207.

63 Richardson, 238.

64 Richardson, 69.

65 Richardson, 23.

Thus, while Pamela's action does not align with the prescribed action of nonconsent—she is silent and void of physical resistance—her authorship of the event demonstrates her unspoken nonconsent. Pamela writes that Mr. B's actions cause her to lose herself; that is, to lose her ability to refuse. This language is repeated after the assault, when Pamela flees the room and speaks to Mr. B through a closed door, saying that his advance has caused her to “forget myself.”⁶⁶ It is only through the process of writing about the event that Pamela locates herself once more.

In fact, much of Pamela's consent surfaces in parentheticals or written insertions in her letters. When Mr. B. suggests that Pamela should be ashamed to see him, she thinks, “I ashamed to see you! Thought I: Very pretty indeed!—But I said nothing.”⁶⁷ Pamela's ability to verbalize her (non)consent is affected by her class status, even in social situations. As Mr. B's visitors inspect her appearance, she writes, “I know what I could have said, if I durst. But they are Ladies—and Ladies may say anything.”⁶⁸ Since Pamela cannot verbally respond to the women, parentheticals become her rhetorical device in which she may also “say anything.” As Mr. B discusses his high reputation, Pamela's disagreement appears in a silent insertion: “for my Reputation's so well known (mighty fine, thought I!) that I care not what any body writes or says of me.”⁶⁹ Even Pamela's silent nonconsent is occasionally relegated to parentheses; she writes, “No, my Girl, said he, and kissed me (much against my Will; for his very Breath was now Poison to me!).”⁷⁰ At times, these parentheticals reveal Pamela's uncertainty about the status of her consent. After Mr. B's attempted assault causes her to faint, Richardson writes, “When I think of my Danger, and the Freedoms he actually took, tho' I believe Mrs. Jervis saved me from worse, and she says she did, (tho' what can I think, who was in a Fit, and knew nothing of the Matter?).”⁷¹ Here, the uncertainty of Pamela's will—Does her unconsciousness create the conditions of consent? Is a violation of will still a violation if it happens without the victim's knowledge?—is placed in doubtful parentheticals, much as questions of consciousness and consent were sidelined legally.

Thus, the battle over Pamela's consent is often a rhetorical one. Even Mr. B's attempts to kiss Pamela are preceded by his attempt to subordinate her linguistically. Before grasping her, Mr. B interrupts Pamela's attempts to speak:

I had rather, if it would not displease you, wait upon Lady Davers, *because*—

I was proceeding; and he said a little hastily—*Because* you're a little Fool, and know not what's good for yourself.⁷²

The text uses italics to emphasize Mr. B's attempt to assume authority over Pamela's speech. This desire to control both her body and her language also surfaces in Mr. B's theft of Pamela's letters. From the start of the novel, Mr. B is troubled by Pamela's writing, commenting that, “That girl is always scribbling; methinks she might find something else to do.”⁷³ His frustration with Pamela's “scribblings” leads him to attempt to gain access to her interior world by forcing John to give him all of her letters so that he may read them first.⁷⁴ When Pamela uses her letters to oppose Mr. B's statements about his conduct, Mr. B intervenes and prevents three letters from being delivered to Pamela's parents. These repeated attempts to limit Pamela's writing demonstrate that Pamela's authorship is not just dangerous because it could damage Mr. B's reputation—although the harm that a servant girl's letters about her master would create would most likely be minimal—but also in its potential for self-creation. Through the very format of the letter, Pamela can position herself. For instance, in response to Mr. B addressing her as his “dearest Pamela,” she signs her letter “Your greatly oppressed unhappy Servant,” reminding Mr. B of her forced subordination.⁷⁵

As Pamela continues to seek refuge in the written word, her rhetorical agency becomes intertwined with

66 Richardson, 23.

67 Richardson, 34.

68 Richardson, 53.

69 Richardson, 72-73.

70 Richardson, 87.

71 Richardson, 63.

72 Richardson, 23.

73 Richardson, 26.

74 Richardson, 119.

75 Richardson, 139.

her consent to marriage—and thus, a sexual relationship with Mr. B. After Mr. B attempts to steal her letters, Pamela begins stitching them in her undergarments, aligning her rhetorical and sexual agency. In fact, one of Mr. B’s most sexual advances is not a sexual advance at all, but rather a threat to strip Pamela in order to read the letters in her undergarments.⁷⁶ Significantly, Mr. B’s eventual reformation occurs only when he is *allowed* access to Pamela’s rhetoric. Despite originally attempting to suppress her writing, he eventually begs Pamela to let him read her letters, saying “But you will greatly oblige me, to shew me, voluntarily, what you have written. I long to see the Particulars of your Plot.”⁷⁷ On one hand, this statement is indicative of the uneasy nature of consent between a master and servant—Mr. B orders Pamela to fulfill an action, but demands that this action occur “voluntarily.” However, Mr. B’s interest in Pamela’s “plot” represents a shift from his earlier attempts to control her letter-writing and schemes, during which Pamela thinks morosely, “I saw all my Plot cut out; and so was forc’d to say the less.”⁷⁸ Armstrong writes that this move toward Pamela’s self-representation revises the relationship between Pamela and Mr. B:

‘Words’ are indeed all Pamela has to exert against the coercion of rank and a large fortune, but her ‘words’ prove the more powerful for being the only power she has. The more Mr. B persists in his attempts to possess her, the more he subjects his behavior to Pamela’s view, and the deeper she penetrates into the heart of the dominant culture to appropriate its material as the stuff of her own subjectivity.⁷⁹

Armstrong’s argument that Pamela can appropriate the “material” of the dominant culture suggests that Pamela’s authorship forms not only the basis for her self-representation, but also the mechanism through which Mr. B becomes subjected to *her*. By asking to read “the particulars of her plot,” Mr. B shows that he has come to understand that Pamela has a subjectivity of her own.

Thus, the struggle over consent in *Pamela* can be read as a struggle over *plot*. There are multiple “plots” in *Pamela*: Mr. B’s repeated ploys to persuade Pamela to agree to sham marriages and sexual advances, Pamela’s scheme to escape captivity, the narrative plot that Pamela’s letters construct in opposition to Mr. B, and, of course, the novel’s marriage plot itself. Both Pamela and Mr. B attempt to assert their respective plots as objective truth. For instance, when Mr. B reads Pamela’s letters, he angrily exclaims that she and Mr. Williams have exchanged romantic messages. Pamela responds by critiquing this interpretation—“Well Sir, said I, that is your comment; but it does not appear so in the Text.”⁸⁰ In this response, Pamela names her letters as a definitive text that cannot be reshaped by Mr. B’s reading. Pamela repeatedly demonstrates that she is consciously crafting plot through her writing. As she writes to her parents, she notes, “Well, my Story surely would furnish out a surprising kind of Novel, if it was to be well-told,” demonstrating both Richardson’s humor and Pamela’s self-aware fashioning of her own narrative.⁸¹

The only element of plot that Pamela appears somewhat unconscious of is the revelation of her true feelings for Mr. B. Eventually, her insistence that she detests Mr. B begins to give way to a series of puzzled realizations: “Why can’t I hate him?”⁸², “What could be the Matter with me, I wonder!—I felt something so strange, and my Heart was so lumpish!”⁸³, and finally, “I know not how it came, nor when it began; but creep, creep it has, like a Thief, upon me; and before I knew what was the Matter, it looked like Love.”⁸⁴ This shift from refusal to consent arises as a convention of the marriage plot, much as it was embedded in rituals of courtship. Yet, Pamela’s realization that she has feelings for Mr. B occurs, one might say, without her conscious consent. Instead, her consent to Mr. B is a function of the larger plot, one in which Pamela is subject to the overarching force of the romance plot. Thus, while O’Connell argues that *Pamela* represents the “bold replacement of seduction with

76 Richardson, 235.

77 Richardson, 231.

78 Richardson, 106.

79 Armstrong, *Desire and Domestic Fiction*, 119.

80 Richardson, 230.

81 Richardson, 258.

82 Richardson, 196.

83 Richardson, 244.

84 Richardson, 248.

marriage,”⁸⁵ I argue that *Pamela* does not replace seduction, but instead formalizes marriage as a seduction that transforms one’s will in the name of affection.

Ultimately, Pamela’s refusals paradoxically form the basis of the novel’s plot and her eventual marriage to Mr. B. Through her nonconsent, Pamela demonstrates her worth as a wife; it is the performance of her chastity that leads Mr. B to cease his sexual advances and turn to a marriage proposal instead. This paradox formed the basis of *Pamela*’s explosive response, with a significant portion of Richardson’s audience arguing that Pamela was not a virtuous victim at all, but a conniving creature who persuades Mr. B into marriage. After all, Pamela’s eventual marriage to Mr. B does not just result in affection, but in economic security—in their marriage settlement,⁸⁶ Mr. B. provides her with “two hundred guineas a year...for your own use, and of which I expect no account”—a hefty “reward” for her virtue.⁸⁷ This reading was so prominent that it eventually led to *Shamela*, Henry Fielding’s mocking parody of *Pamela* that portrays Pamela as a conniving seductress. In my view, *Shamela* and the polarized public reaction to *Pamela* are indicative of the strange relationship between refusal and consent in eighteenth-century marriage and the epistolary format itself, which demands that Pamela be constantly, and self-consciously, writing her story.

While the epistolary format allows for the possibility of self-representation, it also demands that Pamela constantly record any discrepancies between her expressed behavior and interior consent, highlighting the unstable relationship between one’s state of mind and one’s behavior.⁸⁸ This discrepancy leads to the portrayal of Pamela as a potentially doubled character, with “Pamela” representing the virtuous maiden who refuses Mr. B and “Shamela” symbolizing the schemer whose refusal is merely intended as a deferred acceptance. As John Dussinger writes, “the ambiguity of Pamela is found principally in her double function as writer and character, as spectator and performer.”^{89,90} Thus, the epistolary format challenges Pamela’s representations of consent at the same moment as it provides rich spaces of authorship—as the text’s sole perspective, Pamela must constantly perform her consent for not only Mr. B, but the novel’s readers themselves.

Shifting into a New Century: Consensual Marriage in the Early Nineteenth Century

Between the publication of Samuel Richardson’s *Pamela* in 1740 and Jane Austen’s *Mansfield Park* in 1814, Mary Wollstonecraft published *A Vindication on the Rights of Woman* and English jurist Jeremy Bentham began to argue for legal reforms that could establish a utilitarian code of law and secure more rights for women.⁹¹ These publications reflected a new understanding of marriage—one that challenged wives’ potential, and oftentimes legally endorsed, marginalization. Writing in 1789, Bentham argued for the necessity of divorce and proposed that divorces could provide legal relief for marital mistreatment and abuse.⁹² He describes a marriage in which only one party consents as a condition “not to be distinguished from pure slavery,” suggesting that the wife “must be the slave of the husband.”⁹³ In *A Vindication on the Rights of Woman*, Wollstonecraft adopts similar language. She warns against the dangers of authoritarian control over women as both children and spouses, writing “thus taught slavishly to submit to their parents, [women] are prepared for the slavery of marriage.”⁹⁴ For Wollstonecraft,

85 O’Connell, *The Origins of the English Marriage Plot*, 93.

86 I will discuss marriage settlements in the following section but will note here that Pamela can access a marriage settlement, which is essentially a contracted allowance between husband to wife, due to Mr. B’s upper-class status, as settlements required compensated legal advice.

87 Richardson, 391.

88 Thank you to Anne-Lise François for directing my attention to this facet of the epistolary form.

89 John Dussinger, “What Pamela Knew: An Interpretation,” *The Journal of English and Germanic Philology* 69, no. 3 (1970): 168, www.jstor.org/stable/27705884.

90 In “What Pamela Knew: An Interpretation,” Dussinger notes that this claim is influenced by A. M. Kearney’s writing on Pamela’s ambiguity in “Richardson’s Pamela: The Aesthetic Case.”

91 Miriam Williford, “Bentham on the Rights of Women,” *Journal of the History of Ideas* 36, no. 1 (1975):168, <https://doi.org/10.2307/2709019>.

92 Miriam Williford, “Bentham on the Rights of Women,” 171.

93 Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (Kitchener: Batoche Books 1999), 204, ProQuest Ebook.

94 Mary Wollstonecraft, *Vindication of the Rights of Woman, With Strictures On Political And Moral Subject* (London: T. Fisher, 1891), 232, HathiTrust Digital Library. <https://hdl.handle.net/2027/pst.000005820184>.

marriage in its contemporary iteration represented confinement; her work outlines the ways in which women were removed from public spaces, such as political engagement and education, and placed into private marriages.⁹⁵

Wollstonecraft and Bentham’s descriptions of marriage as a state of potential servitude emphasize the period’s reevaluation of the marriage state. Whereas seventeenth-century subjects often married to accommodate their parents and communities, marriages in the later eighteenth century and nineteenth century became rooted in individual choices about marriageability.⁹⁶ This shift was heavily influenced by the emergence of Lockean thought. If people were autonomous beings with the right to happiness, as Locke argued, shouldn’t they be able to choose romantic partners who would add to their private well-being? This rise of “consensual marriage” was thereby influenced by new perspectives about personal liberty and individualism. As Wendy Jones writes, “consensual married love, with its emphasis on the individual’s significance, identity, and right to self-fulfillment, articulates the very characteristics that liberal theory grants to its citizen-subjects.”⁹⁷

However, individualism was not the only factor at play. By the end of the eighteenth century, English society had accepted a new notion of marriage: to marry for affection was not just permissible, but ethically correct.⁹⁸ Conduct writing of the time encouraged young women to consider affection when consenting to marriage; in the same conduct piece in which he outlines the possibility of a woman’s refusal, John Gregory writes:

In short, I am of opinion, that a married state, if entered into from proper motives of esteem and affection, will be the happiest for yourselves, make you most respectable in the eyes of the world, and the most useful members of society. But I confess, I am not enough of a patriot to wish you to marry for the good of the public: I wish you to marry for no other reason but to make yourselves happier...Heaven forbid you should ever relinquish the ease and independence of a single life, to become the slaves of a fool or a tyrant’s caprice.⁹⁹

Gregory’s writing, originally published in 1774, demonstrates multiple facets of late eighteenth-century consensual marriage. He asserts that affection is not only a desirable foundation for marriage but a “proper one,” while his caution against marrying “for the good of the public” reflects the evolution of marriage from a public action to a private choice, even for women. Gregory also invokes slavery, just as Wollstonecraft and Bentham will decades later. For these writers, marriage could serve as a marker of affirmative consent or a state of forced bondage.

While the growing consciousness of consensual marriage emphasized the possibility of choice, it also revealed that not all women were able to access these new liberties. Individual choices about marriage had to be negotiated within competing spheres of economic, familial, and gendered duties, and only upper-class white women could truly access any form of marital “freedom.” Historian Joan Perkins notes this distinction by emphasizing legal avenues that were available only to wealthy women, since they required expensive counsel. She writes that with the assistance of lawyers, upper-class women could establish marriage settlements that provided allowances for wives and could access equity, an informal system of law outside of Common Law which allowed third parties to create trusts in married women’s names.¹⁰⁰ Perkins illustrates that “upper-class Englishwomen were not defenceless as wives. They were protected by their own system of law.”^{101,102} However, for those who could not create “their own system of law,” the potential of consensual marriage remained unfulfilled, hampered by economic restraint.

Further, the promise of Lockean individualism was not extended to all. Talia Schaffer notes that Lockean thought requires us “to imagine someone who is not rational, not free, not equal, not independent, the kind of

95 Wollstonecraft, *Vindication on the Rights of Women*, 273.

96 Talia Schaffer, *Romance’s Rival: Familiar Marriage in Victorian Fiction* (Oxford: Oxford University Press, 2016), 52.

97 Wendy Jones, *Consensual Fictions: Women, Liberalism, and the English Novel* (Toronto: University of Toronto Press, 2005), 4-5.

98 Jones, *Consensual Fictions*, 24.

99 Gregory, *A Father’s Legacy*, 53.

100 Joan Perkins, *Women and Marriage in Nineteenth-Century England* (Michigan: Lyceum Books Inc., 1989), 71.

101 Perkins, *Women and Marriage*, 65.

102 I would qualify Perkin’s argument here by noting that this “protection” was not complete; even wealthy, white women were still hampered by political and legal restraints, such as not having legal rights over their children or being able to participate fully in Common Law.

shadow persona against whom the liberal agent can be defined.”¹⁰³ Schaffer suggests that these shadow personas were often women, especially poor and nonwhite women. This is reflected in Wollstonecraft, Bentham, and Gregory’s references to slavery—in invoking slavery as a metaphor for unhappy marriages, they ignore the reality of British slavery and colonialism, which conceptually supported Lockean individualism by creating and subjugating those “shadow personas” who were disposed of autonomous, independent choices.¹⁰⁴ For those who were not white, and especially for those who were enslaved, the terms of marital consent—the right to refuse, the legally obligated fulfillment of a verbal contract—would have been alien. Just as the virtue that Pamela clung to was made possible only through her white womanhood, the rise of consensual marriage was only accessible to those whom law and white society recognized as people.

Therefore, changing social attitudes about marriage did not reinvent the marriage state in the early nineteenth century, as critics such as Lawrence Stone have suggested. Instead, the adoption of a new social definition of marriage existed in tension with stagnant laws, anxiety around proper marital conduct, and economic inequalities for women. Despite any growing social consciousness of women’s inequality, the early nineteenth century relied upon the eighteenth-century legal doctrines of rape law and marriage, and consent continued to be defined in narrow terms. Thus, I argue that married women—and especially lower-class, nonwhite married women—composed a unique group of “shadow personas,” even as their freedom to choose marriage partners increased. Married women were not free, equal, or independent in the law. Until 1839, even wealthy married women had no legal rights over their own children and possessed little legal right to own property until the passage of the Married Property Act in 1882.¹⁰⁵ Writing in 1765, William Blackstone describes the legal status of wives in his treatise, *Commentaries on the Laws of England*, one of the most influential works of English common law: “The husband and wife are one person in law; that is, the very being, or legal existence of a woman is suspended during marriage, or at least incorporated and consolidated into that of the husband, under whose wing, protection and cover she performs everything.”¹⁰⁶ Legally speaking, women disappeared into marriage. This explains why in 1811, a woman attempting to obtain a divorce from her husband was told by the judge that “nothing short of actual terror and violence will support this action.”¹⁰⁷ Since women were legally “consolidated” into their husbands, they found little legal recourse to leave unhappy marriages. This dispossession reshaped married women’s consent—it mattered little if a woman consented to the present state of her marriage, only that at one point, she had agreed to be married.

Even Bentham’s liberal attitudes toward women’s emancipation could not reimagine marriage as a state of exact equality. In the same text in which he decries nonconsensual marriage, he argues that a marriage cannot survive if both parties have equal power, writing:

Now it is only on one side that powers can be: for suppose them on both sides, and they destroy one another. The question is then, In which of the parties these powers shall be lodged? we have shown, that on the principle of utility they ought to be lodged in the husband. The powers then which subsist being lodged in the husband, the next question is, Shall the interest of one party only, or of both, be consulted in the exercise of them? it is evident, that on the principle of utility the interests of both ought alike to be consulted: since in two persons taken together, more happiness is producible than in one. This being the case, it is manifest, that the legal relation which the husband will bear to the wife will be a complex one: compounded of that of master and that of guardian.¹⁰⁸

Bentham employs a Lockean rationale, arguing that to produce marital happiness, “the interests of both ought

103 Schaffer, *Romance’s Rival*, 53.

104 Here I connect Lockean individualism to slavery since becoming an “individual” who could experience affection and gain a more equitable marriage depended on differentiating oneself from an enslaved, racialized person. However, I also draw this connection because Locke’s concepts of property and ownership oftentimes supported unequal power relations. For instance, Eileen H. Richardson and Bryan S. Turner (2002) note that “the theory of liberal individualism presupposed the continuity of class relations and the exploitation of the labour power of servants and subordinates” (33).

105 Perkins, *Women and Marriage*, 107.

106 Blackstone, *Commentaries on the Laws of England*, 430.

107 William Green, *The English Reports*, Volume 130 (Edinburgh: William Green & Sons, 1912), 462.

108 Bentham, *An Introduction to the Principles of Morals and Legislation*, 204.

alike to be consulted.” His use of “alike” gestures at an egalitarian vision of marriage, in which wives’ interests are both significant and equally consulted. However, Bentham’s view of marriage is limited by the normative force of law; he cannot imagine a marriage state outside of the relationship prescribed by Blackstone two decades before. Bentham takes it as an indisputable principle that a marriage of equals will be destructive, and although he identifies the peculiar legal relationship between husband and wife—one in which a husband becomes both “master and that of guardian”—he accepts this dynamic as fact. Thus, while social norms around marriage began to evolve, women were still placed in subordinate positions to their husbands in the law.

This framework provided conflicting messages for young women searching for suitors. To marry for solely romantic reasons was still discouraged, and while some couples chose companionate affection,¹⁰⁹ others prioritized economic security in a partner. However, the tension between evolving social views of marriage and women’s marginalized legal status provided a compelling landscape in which authors could insert fictional marriages. Schaffer writes, “Consensual marriage meant that people needed to think for themselves about the kind of future they wanted. One might pick a spouse who offered financial guarantees rather than emotional pleasures, or one might pick an alliance with a politically powerful clan rather than a personally attractive suitor, but it was, crucially, an individual decision.”¹¹⁰

Able to access comparatively more choices than ever before, women in the early nineteenth century searched for guidance on how to determine suitable partners and establish the correct balance between affection and propriety. They sought clarity on how to appropriately offer refusals and acceptances to proposals, as well as employ refusals as deferred acceptances. For these readers, the marriage plot provided a crucial imaginative space in which they could witness different models of marriage and determine their own path.

Jane Austen’s Reimagining of the Marriage Plot: What Free Indirect Discourse Means for Representing Consent

As social conceptions of marriage shifted, so did the marriage plot. By the early nineteenth century, the marriage plot was becoming a defining feature of the English novel and expanding into new hands, namely the hands of female writers. Women writers such as Jane Austen, Frances Burney, and Gretna Green spurred a lasting transformation of this plot, creating novels that were “primarily concerned with courtship (rather than ceremony per se) as a vexed arena of female subjectivity and agency.”¹¹¹ In this emerging form of the marriage plot, the courtship, not the marriage itself, functioned as the defining plot. In *Pamela*, Pamela’s marriage to Mr. B occurs nearly halfway through the novel. But in these new iterations of the English novel, the marriage ceremony was nearly an afterthought. Instead, it was the proposal scene that represented the novel’s culmination, the ultimate expression of affirmative consent.

In this shifting context, Jane Austen emerged as the master of the marriage plot. Austen’s importance to the history of the English novel has been formally established by literary scholars; in *The Rise of the Novel*, Ian Watt identifies Austen’s work as the moment in which “the full maturity of the genre itself” came into being.¹¹² With Austen, the novel becomes heavily stylized and submerged in irony, wit, and interplay. Austen employed, revised, and reimagined the literary conventions established by Richardson and Fielding. Her works move beyond the epistolary format, and her characters assume an enduring realism—and indeed, personality—that previous authors could not achieve. As Thomas Keymer writes, “It is commonplace of literary history that Austen’s breakthrough achievement was to unite the divergent narrative techniques of Richardson and Fielding into a flexible heterodiegetic mode that could also convey the intimacy of homodiegetic introspection.”¹¹³ Austen’s

109 The term “companionate affection” refers to marital affection that is also rational, as opposed to merely romantic. A. C. Grayling (2003) defines this term in *Meditations for the Humanist*: “companionate love does not exclude sexual love, but its premises and aims are very different. It is about the shared project of what is in effect a small business—which is what a home, a household, is” (68).

110 Schaffer, *Romance’s Rival*, 56.

111 O’Connell, *The Origins of the English Marriage Plot*, 190.

112 Watt, *The Rise of the Novel*, 296.

113 Thomas Keymer, “Narrative,” in *The Cambridge Companion to Pride and Prejudice*, ed. Janet Todd (Cambridge: Cambridge University Press, 2013), 7-8.

innovation was a new mode of narration, one that allowed mobility between an overarching narrative voice and individual characters' interiorities.

This new approach depended on reimagining the narrative role outside of the epistolary format. After all, by the end of the eighteenth century, nearly half of all the novels published were in epistolary format.¹¹⁴ However, by *Mansfield Park's* publication, Austen was using letters as simply one of many narrative devices. Instead, she employed a different narrative mode: free indirect discourse. Austen's use of free indirect discourse altered the shape of the novel and transformed the subjectivity of the characters. By including both characters' intimate interiority and the omniscient, mobile voice of a narrator (who could also function as sort of "character" herself with a distinctive voice), Austen provides an ironic distance between thought and reality. Keymer identifies some of the key characteristics of free indirect discourse as:

...an absence or suspension of reporting clauses (he said that/she thought that), and the anomalous presence within third-person, past-tense discourse of linguistic features indicating a character's perspective and voice: features such as proximal deictics (now here/tomorrow instead of then/there/the next day); temporally backshifted exclamations ('How differently did every thing appear in which he was concerned' (P&P, p. 229)); exclamatory questions ...; unshifted modals...; syntactical informalities and fragments...; character-specific locutions or intonations.¹¹⁵

Keymer demonstrates that the breadth of techniques at play in Austen's work allows her to move deftly between a multiplicity of perspectives, confusing the boundaries between objective observation and subjective experience, individual affect, and ironic distance. This approach, as Watt suggests, combines internal and external approaches to portraying character.¹¹⁶ Yet, it also directs the reader to, as Keymer writes, "undertake, like [the heroine], an effort of enquiry and discovery."¹¹⁷

However, this move from the epistolary format into free indirect style may also open new possibilities for representing consent. Whereas the epistolary format demands that the heroine's representations of (non) consent also function as a performance, free indirect discourse uses the spaces between actions, interpretation, and interiority to create layered representations of consent. Through free indirect discourse, Austen is able to underscore the occasional discrepancies between Fanny's external actions and internal (non)consent. However, unlike Pamela, Fanny does not fall prey to the demands of self-representation. Instead, the issue of articulation can be played with from multiple perspectives—while Fanny cannot (and indeed has no wish to) articulate her desire herself, the narrator can illuminate that desire for the reader, while also demonstrating the ironic distance between the status of Fanny's consent and other characters' assumptions of her will. As Anne-Lise François writes, "Free indirect style and third-person narration in general have special pertinence to the problem of thoughts and wishes that cannot withstand the work of articulation, because they leave in question the protagonist's relationship to the thought and speech acts attributed to her and assume no necessary connection between stated and lived experience."¹¹⁸ For instance, in *Mansfield Park*, we witness Henry Crawford's pursuit of Fanny from multiple angles. Austen mediates between other characters' assumptions that Fanny will consent to Crawford's proposal, Fanny's inner horror and nonconsent, and the physical scene or "the imprint" of her nonconsent which remains without full articulation—Sir Thomas "saw her lips formed into a no, though the sound was inarticulate."¹¹⁹ Through this interplay, Austen's heavily stylized irony assumes a new effect: demonstrating that the problem of consent often rests in the difficulty of becoming, as Samuel Johnson writes, "of the same mind."¹²⁰

It is exactly this multiplicity that makes Austen so tricky to analyze. So much literary criticism has been

114 Keymer, "Narrative," 3.

115 Keymer, "Narrative," 10.

116 Watt, *The Rise of the Novel*, 297.

117 Keymer, 10.

118 Anne-Lise François, *Open Secrets: The Literature of Uncounted Experience* (Palo Alto: Stanford University Press 2008), 225.

119 Jane Austen, *Mansfield Park* (London: Macmillan and co, 1901), 284, HathiTrust Digital Library, <https://hdl.handle.net/2027/uc1.31210010283222>.

120 Johnson, "Page View, Page 452."

written about Jane Austen that it may seem there are multiple, distinct Austens floating about in the canon—the conservative writer committed to upholding normative values (Duckworth, *The Improvement of the Estate: A Study of Jane Austen’s Novels*); the secretly subversive woman invested in articulating female confinement (Gilbert and Gubar, *The Madwoman in the Attic*); the precise and neutral recorder of a shifting social and political world (Williams, *The Country and the City*). Austen’s work seems particularly primed to create a field of tension, disagreement, and engagement. As Massimiliano Morini writes in his study of Austen’s narrative techniques, “It comes as no surprise, of course, that Austen’s novels generate opposing interpretations: all great literature is supposed to do so...What is at once interesting and baffling is that these opposing reads appear to be equally justified, that there is ample textual material in Austen’s novels to support them both.”¹²¹ Given Austen’s ability to encourage multiple interpretations, the degree to which Austen is subversive, or rather, if she is subversive at all, remains without a critical consensus.

I am less interested in offering an assessment of the degree to which Austen may be subversive than I am in analyzing her relationship to the language of consent and the subversive possibilities that free indirect discourse creates for representing consent in language. Austen’s work engages in a critical legal landscape. As courts wrestled with an unstable definition of consent and legal thinkers pondered how much legal autonomy women should be afforded, Austen’s work provided a medium in which women’s refusals and declarations of affirmative consent could be constructed, analyzed, and asserted as truth. While some have critiqued Austen’s focus on the domestic—Edward Fitzgerald wrote “She is capital as far as she goes: but she never goes out of the Parlour”¹²²—I argue that by employing a domestic framework, Austen is able to illuminate all that happens “in the Parlour,” that is, the struggles over consent that occur within women’s domestic daily life and the rituals of courtship.

“He saw Her Lips Formed into a No, Though the Sound was Inarticulate”: Refusal through Retreat in Mansfield Park

Of all Austen’s novels, *Mansfield Park* (1814) may have the most in common with *Pamela*. Fanny Price is not a servant, but like Pamela, she occupies a marginalized position, the lower-class relative of the wealthy Bertram family who lives in the attic, “not far from the girls and close by the housemaids.”¹²³ Like Pamela, Fanny is virtuous, sometimes exceedingly so, and by the end of both novels, both heroines enact change on others through their unflinching morality. However, in *Pamela*, the threat of seduction is overt. Pamela finds her virtue under siege repeatedly, and sexual assaults occur repeatedly. In *Mansfield Park*, sexual violation is relegated to the sidelines. There is still the threat of seduction and ruin—suitor Henry Crawford’s inappropriate advances, the play that Fanny recoils from—but it occurs in the margins, oftentimes cloaked in metaphor. There is no explicit scene of sexual ruin, and indeed no scenes of sex at all.

This is not to say that consent in *Mansfield Park* is completely divorced from the issues of sex; sexual consent, as I have discussed earlier, was embedded in marital consent. However, Fanny does not need to actively defend her honor against sexual attacks as Pamela must. Instead, Fanny must navigate familial attachment, unwanted marital advances, and repressed emotional desire. Her attempts to balance these constraints demonstrate her desire for an affectionate marriage that will secure individual happiness—she refuses to marry someone she feels no affection for, despite her marginalized status in her household. However, Fanny’s consent ultimately proves unstable—at times subversive; at others, reshaped by her family members—reflecting the difficulty of asserting marital (non)consent under economic and social pressure.

Fanny’s consent is noticeably absent from the start of the novel. In fact, the narrator does not begin with Fanny at all, but rather with the story of her mother’s marriage and the marriages of her aunts. *Mansfield Park* opens on the Bertrams:

121 Massimiliano Morini, *Jane Austen’s Narrative Techniques: A Stylistic and Pragmatic Analysis* (Surrey: Ashgate Publishing Limited, 2009), 16.

122 I found this quote in Sandra Gilbert and Susan Gubar’s *The Madwoman in the Attic: The Woman Writer and the Nineteenth-Century Literary Imagination*, where it is cited as a footnote in John Halperin’s “Jane Austen’s Nineteenth-Century Critics,” *The Letters of Edward Fitzgerald*, vol. 2, London, 1984, p. 131.

123 Austen, *Mansfield Park*, 7.

About thirty years ago, Miss Maria Ward, of Huntingdon, with only seven thousand pounds, had the good luck to captivate Sir Thomas Bertram, of Mansfield Park, in the country of Northampton, and to be thereby raised to the rank of a baronet's lady, with all the comforts and consequences of an handsome house and large income.¹²⁴

The narrator immediately associates marriage with economic capital, and while Maria Ward's monetary capital is slim, she is able to use her sexual and romantic capital to "captivate" both Sir Thomas's affection and his "handsome house and large income." Thus, from the start of the novel, the marriage market is established, however ironically, as a mechanism of improvement in which women could acquire good fortune or, in the case of Fanny's mother, secure their own misfortune. There is irony in the narrator's statement of course; it is unlikely that Maria Ward was simply a beneficiary of "good luck," but rather, she had, like most other nineteenth-century women, deliberately performed her eligibility as a suitable match for Sir Thomas. Thus, Austen's description of marriage both adopts the language of romance ("captivation," "luck") and uncloaks the economic realities of marriage—it is not mere luck which has positioned Maria Ward in the position of economic (and also, inherently racialized) privilege, but a system in which even individual choices about familial partnerships are tied to capital.

Fanny appears in this framework of familial and economic duties through Mrs. Norris' suggestion that the Bertrams, her aunt and uncle, assume care over her. Fanny's vulnerability is the direct result of her mother's undesirable marriage match, and her class status erases her consent. She is not consulted about being removed from her family home; instead, other characters assume her consent. Mrs. Norris implores Sir Thomas to improve Fanny's chances, saying, "introduce her properly into the world, and ten to one but she has the means of settling well, without further expense to anybody," suggesting that Fanny's prospects at Mansfield will be improved, transforming her beyond economic burden.¹²⁵ This demonstrates what Alistair Duckworth identifies as the motif of improvement which pervades *Mansfield Park*, both in the literal improvement of the estate and in the social and moral improvement of the characters.¹²⁶ Since moving to Mansfield would provide Fanny with upward mobility, the Bertrams cannot envision a world in which Fanny would *not* consent to this removal—and later in the text, to Henry Crawford's proposal. For the Bertrams, soliciting Fanny's consent would be redundant and unnecessary; the narrative of improvement, and of Lockean individualism, requires that one must always consent to be "improved."¹²⁷

Other scholars have drawn connections between Fanny's removal from her home and the relations of colonialism and slavery which underwrite the text. Moira Ferguson writes, "A marginalized, near-despised family, the Prices lose one of their own to accommodate Mrs. Norris' need to appear charitable [...] The expropriated Fanny Price hails from the milieu of transgressors who always signify the target of their activities: kidnapped and captive slaves."¹²⁸ Although I hesitate to draw such a direct comparison between Fanny and enslaved people of the time (Fanny's access to social and economic mobility cannot be extracted from her whiteness), I agree that her removal from her home limits her agency by dispossessing her of her consent.

Fanny's marginalization occurs in both the plot and the novel's narrative structure. The narrator describes Fanny's arrival at Mansfield, her appearance, and her family members' reactions before finally introducing Fanny's sentiments: "Her feelings were very acute, and too little understood to be properly attended to. Nobody

124 Austen, 1.

125 Austen, 4.

126 Alistair Duckworth, *The Improvement of The Estate: A Study of Jane Austen's Novels* (Baltimore: John Hopkins Press, 1971), 38.

127 Anne-Lise François (2008) adds to this argument in *Open Secrets* by connecting the agricultural definition of improvement and the history of enclosure to the text's doubled improvement: "Her double rescue—first at the hands of Mrs. Norris and Sir Thomas from her impoverished family, then at the hands of the narrative from the neglect of these very patrons—recalls the more specific, agricultural sense of 'improvement'—the turning of land to better account, the reclamation of waste, or unoccupied land by enclosing it and bringing it into cultivation (OED)—a sense, of course, particularly relevant to the most visible and dramatic manifestation of the progress of agrarian capitalism during the eighteenth century—the movement of enclosure that continued through the century's close" (238).

128 Moira Ferguson, "Mansfield Park: Slavery, Colonialism, and Gender," *Oxford Literary Review* 13, no. ½ (1991): 122, www.jstor.org/stable/43973713.

meant to be unkind, but nobody put themselves out of their way to secure her comfort.”¹²⁹ Just as the Bertrams pay little attention to Fanny’s feelings, the narrator originally marginalizes Fanny’s interiority before finally introducing her inner turmoil. Outside of the narrator’s careful attention, Fanny’s terror and sorrow are regarded as unimportant. Fanny is accepted by her relatives only when her consent proves malleable. Her cousin Edmund encourages his sisters that Fanny is “good-natured enough;”¹³⁰ they find her an acceptable associate due to her “obliging, yielding temper”¹³¹; and Lady Bertram grows to appreciate Fanny because she is “very handy and quick in carrying messages, and fetching what she wanted.”¹³²

As the text continues, Fanny repeatedly disappears from the main narrative, as if temporarily forgotten. After the introduction of the Crawfords, the narrator moves between the perspective of Mary and Henry, the Grants, and the Bertrams, before finally asking “And Fanny, what was *she* doing and thinking all this while and what was *her* opinion of the new-comers?...she paid her tribute of admiration to Miss Crawford’s beauty; but as she still continued to think Mr. Crawford very plain...she never mentioned *him*.”¹³³ Here, the narrative interrupts the characters’ disinterest in Fanny by drawing attention to its own tactics—the narrator has marginalized Fanny as the other characters have, but in reminding the reader of this exclusion, begins to illuminate her interiority.

Fanny’s attempts to establish her consent despite her subjugated position can be seen most clearly in her refusals to acquiesce to her relatives’ demands and to accept the rakish Henry Crawford’s proposal. The text largely represents Fanny’s consent through her refusals; that is, her assertions of negative consent. When her cousins implore her to participate in *Lovers’ Vow*, Fanny refuses. “But still Fanny hung back,” writes Austen, “She could not endure the idea of it.”¹³⁴ Fanny’s determination to “hang back” from the play and the novel’s actions demonstrate her resistance to forces of coercion. Even when Fanny is finally forced to perform, the text protects her innocence by returning Sir Thomas to Mansfield Park before the play can take place.¹³⁵ Similarly, when she faces a proposal from Henry Crawford, Fanny refuses by attempting to retreat from the plot. Fanny recognizes her limited ability to escape Henry; she thinks “she would much rather not have been asked by him again so very soon...But it was not to be avoided.”¹³⁶ However, when Henry asks Fanny to marry him, she attempts to flee. “I must go away,” she responds in agitation, “I cannot bear it.”¹³⁷ Fanny escapes to her room, and when she is compelled to return, she refuses to speak. “She was more silent than ever,” writes Austen, demonstrating that Fanny has begun asserting her refusal through the absence of affirmative consent, and indeed any sound at all.¹³⁸ When Fanny repeats her refusal to Sir Thomas, she finds herself in silence once more. After explaining that she does not wish to marry Henry Crawford, the narrator reports that Fanny “could say no more; her breath was almost gone.”¹³⁹ The text then moves from Fanny’s silence and interior dread (“she did feel almost ashamed of herself”)¹⁴⁰ to Sir Thomas’s eyes: “He saw her lips formed into a no, though the sound was inarticulate, but her face was like scarlet.”¹⁴¹

Austen’s attention to Fanny’s inarticulate resistance, which moves from speech to merely the silent shape of a word, draws attention to Fanny’s inability to fully assert her refusal. Yet, in retreating from articulation, Fanny demonstrates a greater resistance not only to Henry Crawford, but to the demand that a woman’s consent must assume a particular form to be recognized as legitimate. Fanny’s wish that “to a man like her uncle, so discerning, so honourable, so good, the simple acknowledgement of settled dislike on her side, would have been sufficient” gestures to her hope that the existence of her nonconsent could be adequate refusal itself. This invokes the construction of consent in the courtroom, in which women’s assertions of nonconsent were judged against

129 Austen, 11.

130 Austen, 14.

131 Austen, 14.

132 Austen, 16.

133 Austen, 41-42.

134 Austen, 152.

135 Austen, 154.

136 Austen, 250.

137 Austen, 273.

138 Austen, 275.

139 Austen, 238.

140 Austen, 284.

141 Austen, 284-285.

legal parameters of articulation. Although Fanny is not in a courtroom, she stands before a force of male authority and is placed in the position of proving her nonconsent, since her knowledge of her own nonconsent is not sufficient “evidence.”¹⁴² As François writes about Fanny: “she would like to be taken at her word, but this is just what she doesn’t have to give.”¹⁴³

While the text demonstrates Fanny’s resistance, it also reveals how Fanny’s consent is reshaped when she is forced to “yield” to social pressure. When Fanny is finally coerced into participating in the play, the narrator proclaims that “she must yield.”¹⁴⁴ Later in the text as Fanny tries to refuse Mary Crawford’s necklace before the ball, the same language appears. Austen writes, “Fanny found herself obliged to yield, that she might not be accused of pride or indifference, or some other littleness; and having with modest reluctance given her consent, proceeded to make the selection.”¹⁴⁵ Here, Fanny’s coerced consent moves her previous reluctance to the past tense. The force to which Fanny yields is largely social; she fears being labeled with undesirable attributes and facing the wrath of her family. However, the text demonstrates the enormity of this social pressure. When Fanny’s wishes are once more denied, Austen writes, “she was so totally unused to have her pleasure consulted, or to have anything take place at all in the way she could desire, that she was more disposed to wonder and rejoice in having carried her point so far, than to repine at the counteraction which followed.”¹⁴⁶ Fanny’s consciousness has been shaped by her subjugated position, and she cannot envision a world in which her demands are met with agreement. The text quickly follows this with another reminder of Sir Thomas’s importance as Mansfield’s patriarch. The narrator notes, “Shortly afterwards, Sir Thomas was again interfering a little with her inclination, by advising her to go immediately to bed. ‘Advise’ was his word, but it was the advice of absolute power.”¹⁴⁷ By acknowledging that Sir Thomas’s power is “absolute,” the text demonstrates the irony of his use of “advise” and emphasizes that he is not just the head of the family, but the master of the estate through legal and economic means.

Further, Fanny’s submission to Sir Thomas is connected to her potential marital submission. The narrator suggests that Sir Thomas’s command is meant to demonstrate Fanny’s marital viability, saying “In thus sending her away, Sir Thomas perhaps might not be thinking merely of her health...he might mean to recommend her as a wife by showing her persuadableness.”¹⁴⁸ For Sir Thomas, Fanny’s worth as a potential wife is connected to the malleability of her consent.¹⁴⁹ This reasoning demonstrates Mary Wollstonecraft’s caution that parental domination could lead to unequal marriages. As Fanny defers to one legal master, she demonstrates that she might be persuaded to submit to another.

Of course, Fanny is not persuaded into marriage with Henry Crawford. Instead, the text offers multiple models of marriage before ultimately presenting the union between Fanny and Edmund as the only appropriate option. Through these proposals and marriages, *Mansfield Park* reflects the period’s uncertainty over the best form of marriage.¹⁵⁰ The novel’s marriages vacillate between economic and romantic priorities, and each extreme is presented as highly dangerous. Maria Bertram repeatedly represents the wrong modes of marriage. At first, she conflates marital consent with economic gain. The narrator describes Maria’s thought process as she considers marriage to Mr. Rushworth: “as a marriage with Mr. Rushworth would give her the enjoyment of a larger income than her father’s, as well as ensure her the house in town, which was now a prime object, it became by the same rule of moral obligation, her evident duty to marry Mr. Rushworth if she could.”¹⁵¹ This version of marriage

142 This also relates to Julie Gammon’s point, referenced at the start of this project, that women had to grapple with the contradiction between the need for verbal testimony and “the requisite need for female silence as an indication of modesty and veracity” (18).

143 Anne-Lise François, *Open Secrets*, 254.

144 Austen, 154.

145 Austen, 231-232.

146 Austen, 254.

147 Austen, 254.

148 Austen, 254.

149 Of course, Fanny’s consent is not as malleable as he presumes, as he shortly discovers in her refusal to Henry Crawford’s proposal.

150 See Talia Schaffer’s analysis of the two-suitor model of marriage in *Romance’s Rival* (2016), which describes that many novels used the marriage plot to propose two alternative models of marriage, one rooted in the irresponsible, dangerous romance, and the other in secure, familial affection.

151 Austen, 32.

creates a complex vision of marital consent—Maria evaluates a relationship with Rushworth as an option, not a requirement, but she also views this marriage as an “obligation.” However, Maria’s overreliance on economic factors in courtship earns her the text’s reproach.

Similarly, Mary Crawford’s interest in Tom Bertram is portrayed as distastefully economic. Mary finds “almost every thing in his favour: a park, a real park five miles round, a spacious modern-built house, so well placed...and wanting only to be completely new furnished—pleasant sisters, a quiet mother, and an agreeable man himself—” relegating her suitor into dashes.¹⁵² By the end of the novel, Maria’s elopement with Henry Crawford represents the opposite danger: a marriage only for romance, not reason. Thus, Edmund and Fanny’s relationship provides the most stable vision of marriage by combining the economic realities of marriage—their union allows Fanny to continue living at Mansfield Park and secures the estate’s fortune — with companionate affection.

In many ways, Edmund and Fanny’s relationship offers an alternative to the coercion between Pamela and Mr. B. Edmund listens to Fanny, frequently protects her wishes when she is mistreated by the rest of the family, and eventually marries her for affection, not sexual fulfillment. However, while their union represents a more equitable marriage, reading Edmund and Fanny’s relationship as ideal clouds Edmund’s nuanced attempts to coerce Fanny. I argue that Edmund actively attempts to reshape Fanny’s opinions and occasionally her consent. Edmund frequently solicits her advice only to persuade her to his viewpoint. For instance, when Edmund asks Fanny about her opinion of Miss Crawford, a strange dialogue occurs. With additional text removed so that the conversation is just Fanny and Edmund’s opinions, the conversation reads:

Edmund: “Well Fanny, and how do you like Miss Crawford now?”

Fanny: “Very well—very much...”

Edmund: “But was there nothing in her conversation that struck you, Fanny as not quite right?”

Fanny: “Oh yes, she ought not to have spoken of her uncle as she did...”

Edmund: “I thought you would be struck.”

Fanny: “Do not you think...that this impropriety is a reflection itself upon Mrs. Crawford, as her niece has been entirely brought up by her?”

Edmund: “That is a fair remark. Yes, we must suppose the faults of the niece to have been those of the aunt.”

Edmund: “[Miss Crawford] is perfectly feminine, except in the instances we have been speaking of. There she cannot be justified. I am glad you saw it all as I did.”¹⁵³

By confidently declaring that he is content “you saw it all as I did,” Edmund erases Fanny’s disagreement and her influence on him—after all, Fanny has not only disagreed with Edmund in the conversation, but persuaded *him* that Miss Crawford’s blunders may be the result of upbringing, not disposition. Austen follows this exchange with a comment from the narrator: “Having formed her mind and gained her affections, he had a good chance of her thinking like him.”¹⁵⁴ This statement demonstrates Edmund’s confidence in his influence over Fanny, but the narrative distance between the reader and Edmund allows for a level of skepticism as well—the reader may be left wondering just how great Edmund’s chance of truly “forming” Fanny actually is.

Edmund’s attempts to “form” Fanny continue throughout the novel. When Fanny raises her suspicions over Henry Crawford’s attachment to Maria, Edmund dismisses her, saying “Crawford has too much sense to stay here if he found himself in any danger from Maria; and I am not at all afraid for her.”¹⁵⁵ In response, Fanny quickly attempts to correct her thinking: “Fanny supposed she must have been mistaken, and meant to think differently in future.”¹⁵⁶ Even when Edmund expressly solicits Fanny’s opinion, he engages in a rhetorical attack against her beliefs. When faced with the dilemma about *Lovers’ Vow*, Edmund approaches Fanny, saying “I want to consult—I want your opinion.”¹⁵⁷ However, Edmund quickly follows this request by procuring Fanny’s acquiescence. He

152 Austen, 41.

153 Austen, 56-57.

154 Austen, 57.

155 Austen, 104.

156 Austen, 104.

157 Austen, 137.

asks, “Do not you see it in the same light?”¹⁵⁸ before asserting, “There is but one thing to be done, Fanny.”¹⁵⁹ Their conversation occurs without narrative mediation, leaving the reader to observe Edmund’s repeated attempts to usurp Fanny’s speech. For instance, when Fanny pauses, Edmund replaces her speech with his own. “No,” says Fanny, “not immediately—but—.”¹⁶⁰ Edmund interrupts quickly, “But what? I see your judgement is not with me. Think it a little over. . . Does it not strike you so, Fanny? You hesitate?”¹⁶¹ Here, Edmund’s interruption is intended to elicit Fanny’s opinion—as opposed to Mr. B’s disparaging interruptions of Pamela’s speech which replace her words with his judgement¹⁶²—but his words also reveal his inability to accept Fanny’s reserved hesitation and his desire to fill her silences with his speech.

Later in the novel, Edmund also tries to persuade Fanny to accept Henry’s proposal. Unlike Mr. B’s approach to Pamela, Edmund does not force Fanny into submission, recognizing the limits of his ability to reshape her consent. Instead, he assumes that her refusal is a mere deferral of acceptance. Edmund informs Fanny that “though I may not be able to persuade you into different feelings, you will be persuaded into them, I trust.”¹⁶³ Edmund’s faith that Fanny will inevitably consent to Henry demonstrates his belief that Fanny’s consent is temporary and indefinite, making Edmund and Henry briefly, and strikingly, alike. After all, Henry also believes that he will be able to reshape Fanny’s refusal into consent, thinking, “he should be able in time to make those feelings what he wished.”¹⁶⁴ Here, both male suitors demonstrate their interest in forming Fanny and taking ownership of her marital status, affection, and consent. However while Henry positions himself as the subject of the sentence—“*he*” will “make” Fanny into what “*he* wishes—Edmund simply suggests that Fanny “will be persuaded.” Edmund’s ambiguity about the source of this persuasion gestures towards his faith in the motif of improvement—just as some readers of the time may have assumed that Fanny’s consent would indeed be reshaped by the force of upward mobility, Edmund cannot envision a world in which Fanny resists Henry Crawford’s economic and social standing.¹⁶⁵

Fanny’s reluctance to fulfill Henry and Edmund’s prediction, as well as her retreat from the proposal itself, can be read as a form of agency. Fanny’s reticence harbors a powerful effect on plot, actively removing her from plots that she opposes and reshaping the novel’s courtship plot to one between Fanny and Edmund. By fleeing from Henry Crawford’s proposal, a proposal the rest of the characters presume her consent to, Fanny demonstrates that she alone can determine her consent. Edmund’s certainty that Fanny will be persuaded into romantic feelings for Henry Crawford becomes rebuked by the novel itself; it is not Fanny who will be “persuaded into them” but Edmund himself.¹⁶⁶ In fact, while Edmund ends the novel convinced of his ability to “form” Fanny, it is Fanny who has formed their marriage by retreating from other alternatives, much like Pamela eventually forms her marriage to Mr. B by refusing all other substitutes of a virtuous, legally recognized marriage. Thus, despite other characters’ attempts to mold Fanny’s interiority and oblige her to “yield,” Fanny’s response comes in an uncharacteristically sharp denial, spoken (in true Fanny form) in private: “Edmund, you do not know *me*.”¹⁶⁷ In this assertion, Fanny refuses the narrative of improvement and the force of “forming,” asserting that her consent remains known exclusively by herself.

158 Austen, 138.

159 Austen, 139.

160 Austen, 138.

161 Austen, 138.

162 For example, see this exchange from Pamela (mentioned previously): “I had rather, if it would not displease you, wait upon Lady Davers, because—. I was proceeding; and he said a little hastily—Because you’re a little Fool, and know not what’s good for yourself” (Richardson 2001, 23).

163 Austen, 316.

164 Austen, 293.

165 It is also important to note that Edmund believes in Fanny’s power to reshape and “form” Henry, saying that Crawford “will make you happy, Fanny, I know he will make you happy; but you will make him every thing” (316).

166 Austen, 316.

167 Austen, 384.

Thus, Edmund and Fanny’s marriage creates a complex resolution to *Mansfield Park*.¹⁶⁸ On one hand, Fanny’s speedy marriage to Edmund represents the externalization of her true desire. She has spent the novel deeply, and secretly, in love with Edmund, and their union moves her repressed desire from subtext to the central plot.¹⁶⁹ In this interpretation, Fanny and Edmund’s marriage can be read as a culmination in which Fanny’s unarticulated desire finally becomes pronounced, moving her consent past absence and silence into action. Yet, the potential triumph of their marriage is undermined by the narrator’s account of it. As noted previously, nineteenth-century marriage plots often positioned the proposal scene as the peak of the novel. Yet, Fanny and Edmund’s blossoming relationship, courtship, and proposal occur outside of the novel’s description, and in the space of a few pages. Instead, the narrator adopts a self-consciously humorous tone, asking the reader to accept the terms of this new arrangement: “I only entreat everybody to believe that exactly at the time when it was quite natural that it should be so, and not a week earlier, Edmund did cease to care about Miss Crawford, and became as anxious to marry Fanny as Fanny herself could desire.”¹⁷⁰

Edmund’s sudden interest in Fanny is described as a mirror to Fanny’s wishes, but his desire for marriage is based once more in his ability to form Fanny to his liking. As he considers this new arrangement, Edmund thinks,

Loving, guiding, protecting [Fanny], as he had been doing ever since her being ten years old, her mind in so great a degree formed by his care, and her comfort depending on his kindness, and object to him of such close and peculiar interest...what was there now to add, but that he should learn to prefer soft light eyes to sparkling dark ones?¹⁷¹

Even in marriage, Edmund cannot envision Fanny as an independent subject, only an “object of interest.” Further, the narrator’s reference to the presumed ease with which Edmund teaches himself to substitute “soft light eyes” for “sparkling dark ones” speaks to the constructed nature of this union—Edmund is not drawn to Fanny because of a sudden revelation of her romantic potential, and indeed, their marriage can be read as decidedly “unromantic.” Even Sir Thomas’s delight at their union employs the language of economic attainment; Austen writes that he “realized a great acquisition in the promise of Fanny for a daughter.”¹⁷² Here, Fanny’s marriage becomes tied to her incorporation into Mansfield. As she becomes legally incorporated into Edmund’s legal identity—doctrine demanded that the “legal existence of a woman is suspended during marriage, or at least incorporated and consolidated into that of the husband”¹⁷³—she is also incorporated into Sir Thomas, the patriarch of Mansfield Park.

Thus, as *Mansfield Park* attempts to resolve competing modes of marital fulfillment, the text both endorses Fanny’s desire and undermines her subversive potential. The marriage between Edmund and Fanny bridges several marital ideals, containing “affection and comfort,” individual “happiness of the married cousins...as secure as earthly happiness can be,” and “the acquisition of Mansfield.”¹⁷⁴ Yet, through her marriage, Fanny’s previous resistance to Sir Thomas’s authoritarianism disappears and her individual voice is removed once more from the text. Originally, Fanny’s introduction to Mansfield is regarded with fear—Sir Thomas worries that Fanny will

168 The end of *Mansfield Park* is heavily discussed among critics, many of whom identify the marriage between Edmund and Fanny as a conservative or static end that promotes the enclosed, nuclear family (see Claudia Johnson’s *Jane Austen: Women, Politics, and the Novel* (1988) and Paula Marantz Cohen’s “Stabilizing the Family System at *Mansfield Park*” (1987)). A growing scholarship engages with the incestuous nature of this marriage, suggesting that there may be something more constricting or perhaps even pathological underlying Fanny’s desire to remain at Mansfield (see Johanna Smith’s work “My Only Sister Now”: Incest In “*Mansfield Park*” (1987).

169 See D. A. Miller’s analysis of Austen’s heroines’ inability to express their romantic desire before a “positive engagement” and confirmation of reciprocal feeling. Miller writes, “the heroine must always be risking the humiliation of public exposure: of openly responding to a love interest that may not truly exist, or of announcing one of her own that does not prove reciprocal” (Miller 2003, 104).

170 Austen, 426.

171 Austen, 426.

172 Austen, 428.

173 Blackstone, *Commentaries on the Laws of England*, 430.

174 Austen, 428-429.

upset the social order of the plantation through marriage, thinking of “cousins in love, etc.”¹⁷⁵ and then wonders “how to preserve in the minds of my *daughters* the consciousness of what they are, without making them think too lowly of their cousin; and how, without depressing her spirits too far, to make her remember she is not a *Miss Bertram*.”¹⁷⁶ Her family members’ intense anxiety over Fanny’s arrival may have originally demonstrated Fanny’s ability to upset domestic life at Mansfield and even reshape her cousins’ consciousness of “what they are.” Yet, by the end of the novel, Sir Thomas welcomes Fanny’s inclusion, not because she has altered her family members’ consciousness, but because she has accepted Mansfield. As Fanny rejects her original home and declares “Portsmouth was Portsmouth; Mansfield was home,”¹⁷⁷ the subversive potential that she embodied at the start of the novel remains unfulfilled. In this shift, the dissatisfaction that Fanny does not feel becomes shifted to the reader, whose expectations have been foiled by the narrator.¹⁷⁸ Instead, as Fanny offers her consent to Mansfield and Edmund, she demonstrates that for women of the early nineteenth century, marriage could represent both an expression of affirmative consent and the loss of autonomy.

Imagining New Possibilities for Affirmative Consent, A Conclusion

In a legal framework in which marriage demanded the incorporation of a woman’s identity into that of her husband and female consent was determined in courtrooms ruled only by men, Pamela and Fanny strategically demonstrate their consent by asserting their refusal within the bounds of deference and servitude. They refuse to enter marital unions they cannot consent to, and in doing so, they narrowly avoid being placed outside the law. If Pamela had agreed to a clandestine marriage with Mr. B, she would have been unable to access the protections of a legally recognized marriage, while Fanny avoids being married to Henry Crawford, who subjects Maria to legal and social ruin. Further, the two characters develop new modes through which they assert their consent and will. Pamela turns to letter writing to construct her consent, while Fanny creates a private, individual world within the dominion of Mansfield in which she is not subject to the pressure of being publicly examined.

Ultimately, the heroines’ attempts to assert their refusal become interwoven with struggles over plot. Pamela and Fanny must resist other characters’ plots and the novel’s plot itself, which marches them toward marriages they do not desire. Pamela’s letters offer an alternative record of events, refusing to acquiesce to Mr. B’s plot and his view of Pamela as a secondary, pre-determined character. When Fanny’s refusals are ignored and subject to pressure, she retreats from the plot altogether, disappearing from the spatial world of Mansfield and refusing through silence, qualified disagreement (statements such as “not immediately”), and absence.¹⁷⁹ These tactics represent new ways of representing refusal, ones that do not always align with the prescribed legal definitions of nonconsent that demand physical, verbal resistance and rely on the presence of sympathetic witnesses. By resisting others’ plots, Fanny and Pamela construct their own. In both *Pamela* and *Mansfield Park*, the heroines’ refusals form the structure of the marriage plot, creating a paradox in which their eventual consent is made possible only through their initial refusals. Thus, these texts demonstrate the interplay between refusal and acceptance: despite other characters’ attempts to revalue their nonconsent, Pamela and Fanny ultimately create their own narratives.

These novels begin to gesture toward a new vision of consent, that of *affirmative* consent. During the eighteenth and nineteenth centuries, consent was defined primarily through its violation. All forms of conduct that fell outside the narrow legal parameter of rape—defined by force, violence, and penetration—were not rape, and thus, were automatically consensual. While modern definitions of consent emphasize one’s capacity to make an autonomous and affirmative choice,¹⁸⁰ this language of legal consent was not available to women of the eighteenth and nineteenth centuries. Instead, the notion of feminine affirmative consent was incompatible with the structure of law and with a society that forbade direct expressions of feminine desire. However, in the space of the novel,

175 Austen, 3.

176 Austen, 7.

177 Austen, 389.

178 Anne-Lise François, *Open Secrets*, 221.

179 Austen, 138.

180 The modern definition of consent in Britain, as defined by Section 74 of The Sexual Offences Act 2003 is: “a person consents if he agrees by choice, and has the freedom and capacity to make that choice.”

readers could discover nuanced representations of female will and desire. By demonstrating the complexity of relationships outside the neatly defined boundaries of rapist or husband, coercer or friend, these novels suggest that consent is not simply the absence of refusal, but instead the deliberate choice to enter a union.

Consent remains a deeply important and unsettled question in law, social practice, and literature. It is my hope that this project demonstrates not only the way that literature can provide imaginative spaces in which we may consider alternate forms of consent and refusal, but that it also draws attention to the lasting impact of a history of disbelief and legal dismissal of women. Despite Sarah Woodcock’s repeated assertions that she did not consent to Frederick Calvert, the testimony of others was deemed more believable and legitimate than her experience. Although much has changed around the way we conceptualize consent theoretically, courtrooms and public discourse may sometimes employ the same tactics and restrictive perspectives of legal doctrine centuries in the past. My completion of this project coincided with my reading of Chanel Miller’s memoir *Know My Name*, which details her experiences after being sexually assaulted in 2015 by Stanford student Brock Turner while she was unconscious. As I read through eighteenth-century courtroom transcripts, I was reminded of Miller’s words:

When a woman is assaulted, one of the first questions people ask is *Did you say no?* This question assumes that the answer was always yes, and that it is her job to revoke the agreement. To defuse the bomb she was given. But why are they allowed to touch us until we physically fight them off? Why is the door open until we have to slam it shut?¹⁸¹

Miller writes in 2019, but her profound sadness and fury over the status of female consent stems from centuries of literature, doctrine, and statute that have asserted that a woman’s consent is impermanent, malleable, and oftentimes, not her own to determine. Miller’s words, these novels, and this project hopefully serve as a reminder that consent can be constructed affirmatively—not through the absence of refusal, but through the expression of will.

“I was unaware he had the power to erase my testimony without moving a finger,” writes Miller as she describes listening to the defense strike part of her testimony from the record in her first day in court.¹⁸² As I wrote this conclusion, I found myself at times slipping into the role of writer and “shaper” of testimony, viewing Sarah Woodcock’s trial in 1768 as simply a case study of consent. From the position of literary writer and reader, a role that calls upon us to locate patterns and illuminate symbolic significance, it can be tempting to view Sarah Woodcock as a metaphor, merely a guiding framework opening and closing this project. But Miller’s account of her contemporary experience in the courtroom reminds me anew that Sarah Woodcock was a real person. She stood before a jury and was not heard. I try to imagine what she felt standing before these men. I try to imagine the words that she said or didn’t say, what was potentially struck from the record and what part of her speech remains.

Fiction is not divorced from reality. Instead, fiction draws attention to the construction of plot, reminding us that even courtroom transcripts may function as narratives in which certain plots are prioritized over others. As Fanny and Pamela attempt to shape their consent, they form their own plots, demonstrating that consent is more than an expressed “yes” or “no”; it is the ability to shape what happens to oneself.

181 Chanel Miller, *Know My Name: A Memoir* (New York: Penguin Random House, 2019) 83.

182 Miller, *Know My Name*, 112.

Bibliography

- Armstrong, Nancy. *Desire and Domestic Fiction: A Political History of the Novel*. Oxford: Oxford University Press, 2009.
- Austen, Jane. *Mansfield Park*. London: Macmillan and co, 1901. <https://hdl.handle.net/2027/uc1.31210010283222>.
- Austin, J. L. "How to Do Things With Words." In *The William James Lectures delivered at Harvard University*, edited by J. O. Urmson, 1-163. Oxford: Oxford University Press, 1962.
- Barclay, Katie. "From Rape to Marriage: Questions of Consent in Eighteenth-Century Britain." In *Interpreting Sexual Violence, 1660-1800*, edited by Anne Greenfield, 35-55. London: Pickering & Chatto, 2013.
- Bentham, Jeremy. *An Introduction to the Principles of Morals and Legislation*. Kitchener: Batoche Books, 1999. ProQuest Ebrary.
- Blackstone, William. *Commentaries on the Laws of England: A Reprint of the first edition (published 1765-69) with supplement*. London: Dawsons of Pall Mall, 1966. HathiTrust Digital Library, <https://hdl.handle.net/2027/uc1.31822006929293>.
- Clark, Anna. *Women's Silence, Men's Violence: Sexual Assault In England, 1770-1845*. London: Pandora, 1987. hdl-handle-net.libproxy.berkeley.edu/2027/heb.04354.
- Cohen, Paula Marantz. "Stabilizing the Family System at *Mansfield Park*." *ELH* 54, no. 3 (1987): 669–693. www.jstor.org/stable/2873226.
- Duckworth, Alistair. *The Improvement of The Estate a Study of Jane Austen's Novels*. Baltimore: John Hopkins Press, 1971.
- Durston, Gregory. *Victims and Viragos: Metropolitan Women, Crime and the Eighteenth Century Justice System*. Bury St. Edmunds: Arima, 2007.
- Dussinger, John A. "What Pamela Knew: An Interpretation." *The Journal of English and Germanic Philology* 69, no. 3 (1970): 377–393. www.jstor.org/stable/27705884.
- Ferguson, Frances. "Rape and the Rise of the Novel." *Representations*, no. 20 (1987): 88-112. <https://doi.org/0.2307/2928503>.
- Ferguson, Moira. "*Mansfield Park*: Slavery, Colonialism, and Gender." *Oxford Literary Review* 13, no. ½ (1991): 118-139. www.jstor.org/stable/43973713.
- François, Anne-Lise. *Open Secrets: The Literature of Uncounted Experience*. Palo Alto: Stanford University Press, 2008.
- Gammon, Julie. "Researching Sexual Violence, 1660-1800: A Critical Analysis." In *Interpreting Sexual Violence, 1660-1880*, edited by Anne Greenfield, 13-22. London: Pickering & Chatto, 2013.
- Gilbert, Sandra and Susan Gubar. *The Madwoman in the Attic: The Woman Writer and the Nineteenth-Century Literary Imagination*. New Haven: Yale University Press, 2020. www.jstor.org/stable/j.ctvxkn74x.

- Grayling, A. C. *Meditations for the Humanist: Ethics for a Secular Age*. Oxford: Oxford University Press, 2003.
- Green, William. *The English Reports, Volume 130*. Edinburgh: William Green & Sons, 1912.
- Greenfield, Anne. *Interpreting Sexual Violence, 1660-1880*. London: Pickering & Chatto, 2013.
- Gregory, John. *A Father's Legacy to His Daughters: With a Biographical Sketch of the Author*. Boston: J.B. Dow, 1834. HathiTrust Digital Library, <https://hdl.handle.net/2027/wu.89045889292>.
- Hale, Matthew, Sir. *Historia Placitorum Coronae: The History of the Pleas of the Crown*. Philadelphia: R.H. Small, 1847. HathiTrust Digital Library, <https://hdl.handle.net/2027/uc2.ark:/13960/t5t72j285>.
- Johnson, Claudia. *Jane Austen: Women, Politics, and the Novel*. Chicago: University of Chicago Press, 1988.
- Johnson, Samuel. *A Dictionary of the English Language: A Digital Edition of the 1755 Classic by Samuel Johnson*, edited by Brandi Besalke. <https://johnsonsdictionaryonline.com/page-view/&i=452>.
- Jones, Wendy. *Consensual Fictions: Women, Liberalism, and the English Novel*. Toronto: University of Toronto Press, 2005.
- Kearney, A. M. “Richardson’s *Pamela*: The Aesthetic Case.” In *Samuel Richardson*, edited by John Carroll, 279-299. New Jersey: Prentice Hall, 1969.
- Keymer, Thomas. “Narrative.” In *The Cambridge Companion to Pride and Prejudice*, edited by Janet Todd, 1-14. Cambridge: Cambridge University Press, 2013.
- King, Rebecca Frances. “Rape in England 1600-1800: Trials, Narratives and the Question of Consent.” Masters thesis, Durham University, 1998. etheses.dur.ac.uk/4844/.
- LeGrand, Camille. “Rape and Rape Laws: Sexism in Society and Law.” *California Law Review* 61, no. 3 (1973): 919-941.
- Lemmings, David. “Marriage and the Law in the Eighteenth Century: Hardwicke’s Marriage Act of 1753.” *The Historical Journal* 39, no. 2 (1996): 339-360.
- MacKinnon, Catharine A. “Feminism, Marxism, Method and the State: Towards Feminist Jurisprudence.” *Signs: Journal of Women in Culture and Society* 8, vol. 4 (1983): 635-658. www.jstor.org/stable/3173687.
- Miller, Chanel. *Know My Name: A Memoir*. New York: Penguin Random House, 2019.
- Miller, D. A.. *Jane Austen, or The Secret of Style*. Princeton: Princeton University Press, 2003.
- Morini, Massimiliano. *Jane Austen’s Narrative Techniques: A Stylistic and Pragmatic Analysis*. Surrey: Ashgate Publishing Limited, 2009.
- O’Connell, Lisa. *The Origins of the English Marriage Plot: Literature, Politics, and Religion in the Eighteenth Century*. Cambridge: Cambridge University Press, 2019.
- Perkins, Joan. *Women and Marriage in Nineteenth-Century England*. Michigan: Lyceum Books Inc, 1989.

- Probert, Rebecca. *Marriage Law and Practice in the Long Eighteenth Century: A Reassessment*. Cambridge: Cambridge University Press, 2009.
- Probert, Rebecca. "The Impact of the Marriage Act of 1753: Was It Really 'A Most Cruel Law for the Fair Sex'?" *Eighteenth-Century Studies* 38, no. 2 (2005): 247-262.
- Richardson, Eileen and Bryan Turner. "Bodies as Property from Slavery to DNA." In *Body Lorde and Laws: Essays on Law and the Human Body*, edited by Andrew Bainham, Shelley Day Sclater, and Martin Richards, 29-42. London: Bloomsbury, 2002.
- Richardson, Samuel. *Pamela*. Oxford: Oxford University Press, 2001.
- Schaffer, Talia. *Romance's Rival: Familiar Marriage in Victorian Fiction*. Oxford: Oxford University Press, 2016.
- Simpson, Anthony. "Popular Perceptions of Rape as a Capital Crime in Eighteenth-Century England: The Press and the Trial of Francis Charteris in the Old Bailey, February 1730." *Law and History Review* 22, no. 1 (2004): 27-44. www.jstor.org/stable/4141665.
- Smith, Johanna M. "'My Only Sister Now': Incest In *Mansfield Park*." *Studies in the Novel* 19, no. 1 (1987): 1-15. www.jstor.org/stable/29532464.
- Stebbing, Henry. *An Enquiry into the Force and Operation of the Annuling Clauses in a late Act for the Better Preventing of Clandestine Marriages*. London: M. Cooper, 1754. LSE Digital Library, <https://digital.library.lse.ac.uk/objects/lse:dov654ceg>.
- Stone, Lawrence. *The Family, Sex And Marriage In England, 1500-1800*. San Francisco: Harper & Row, 1977. *ACLS Humanities E-Book*, <https://hdl-handle-net.libproxy.berkeley.edu/2027/heh.01414>.
- Toulalan, Sarah. "Child Sexual Abuse in Late Seventeenth and Eighteenth-Century London." In *Childhood and Child Labour in Industrial England: Diversity and Agency, 1750-1914*, edited by Nigel Goose and Katrina Honeyman, 23-44. Abingdon: Routledge, 2016.
- Trial of Frederick Calvert, Esq; Baron of Baltimore, in the Kingdom of Ireland, for a rape on the body of Sarah Woodcock; and of El. Griffinburg, & A. Harvey, otherwise Darby, as accessaries before the fact. For procuring, aiding and abetting him in committing the said rape*. London: Mein & Fleeming, 1768. Evans Early American Imprint Collection, <https://quod.lib.umich.edu/e/evans/N08537.0001.001/1:2?rgn=div1;view=fulltext>.
- Wahrman, Dror. *The Making of the Modern Self: Identity and Culture in Eighteenth-Century England*. New Haven: Yale University Press, 2004. www.jstor.org/stable/j.ctt1npwg5.
- Watt, Ian. *The Rise of the Novel: Studies in Defoe, Richardson, and Fielding*. Berkeley: University of California Press, 1957.
- Williams, Raymond. *The Country and the City*. New York: Oxford University Press, 1973.
- Williford, Miriam. "Bentham on the Rights of Women." *Journal of the History of Ideas* 36, no. 1 (1975): 67-176. <https://doi.org/10.2307/2709019>.
- Wollstonecraft, Mary. *Vindication of the Rights of Woman, With Strictures On Political And Moral Subject*.

London: T. Fisher, 1891. HathiTrust Digital Library, <https://hdl.handle.net/2027/pst.000005820184>.