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The "Equivocal Spirit" of Law: Property,  
Agency and the Contract in the English Jacobin Novel

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October 1995

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the  
requirements for the degree of Doctor of Philosophy.

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ISBN 0-612-08117-6

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*In memory of Ruth Neufeld*

## ABSTRACT

In the 1790s, the English Jacobin novelists became vital participants in the fiery debates over natural and civil rights. Energized by the success of the American Revolution and inspired by the calls for *l'égalité, la liberté, la sûreté* and *la propriété* in France, the Jacobin authors contributed their narratives to the British campaigns for reform of parliament and extension of the franchise. In this dissertation, I argue that the Jacobin novel furnishes crucial insights into the development of a theory of juridical rights in the late eighteenth century. Working in the early modern traditions of contract theory, writers such as Thomas Holcroft, Mary Wollstonecraft and William Godwin embraced the concept of inalienable natural rights. In their novels, they identified the critical role property played in determining the individual's relationship to the law, and they celebrated the emergence of a new kind of citizen distinguished by economic independence, inalienable rights and political agency. But they also offered an important critique of contractarian thought. The Jacobins' narratives revealed the exclusion of certain segments of the population from participation in government formed by contract. Their analyses of the origins of political authority and the constitution of the legal subject render the Jacobin novel a critical component of the history of juridical rights.

## RÉSUMÉ

Dans les années 1790, les romanciers jacobins anglais ont très largement alimenté la vive polémique sur les droits naturels et civils. Galvanisés par le succès de la révolution américaine et inspirés par les revendications d'égalité, de liberté, de sûreté et de propriété en France, les auteurs jacobins se sont fait le relai des campagnes pour la réforme du parlement britannique et l'extension du droit de vote. Dans cette thèse, je montre que le roman jacobin jette une lumière essentielle sur l'évolution de la théorie des droits juridiques à la fin du XVIII<sup>e</sup> siècle. Fidèles à la tradition moderne primitive de la théorie démocratique, les auteurs comme Thomas Holcroft, Mary Wollstonecraft et William Godwin abordent dans leurs oeuvres le concept des droits naturels inaliénables. Dans leurs romans, ils soulignent le rôle essentiel que joue la propriété dans les rapports que chacun entretient avec la loi et célèbrent la naissance d'une nouvelle catégorie de citoyens économiquement indépendants, investis de droits inaliénables et pouvant exercer leur libre-arbitre politique. Ils font également une critique fondamentale de la pensée démocratique. Les romanciers jacobins dépeignent en effet l'exclusion de certaines couches de la population de la gestion des affaires de l'État démocratique. Leur analyse des origines de l'autorité politique et de la constitution du sujet juridique font du roman jacobin un volet essentiel de l'histoire des droits juridiques.

## ACKNOWLEDGEMENTS

I wish to thank my dissertation supervisor, Professor David Hensley, for his astute and thoughtful guidance, example of scholarly excellence and exceptionally careful reading. I will always be grateful for his active and unwavering support throughout my doctoral studies, his quick spirit of generosity, his devoted friendship and his lively sense of humor (so important in the final days of writing). I also wish to thank the members of my dissertation committee and my oral defense examiners: Professor Michael Bristol for his years of encouragement, inspiration, sound advice and New Jersey parables; Professor Mette Hjort for her enthusiasm, directness, clarity, and guidance in political theory and literature; Professor Ian Balfour for his detailed and thoughtful comments; Professor James Tully for his reassurances and direction in matters of political philosophy. I greatly appreciate the time they have all taken to read this dissertation.

Professors Leanore Lieblein, Gary Wihl, Bill Walker and Christopher Heppner have all been generous in their support as well. I thank them for valuable intellectual and professional counsel and for concerned and timely guidance about financial aid and teaching opportunities. Both the Frances Burney Project and the Clarissa Project at McGill have given me welcome research experience and much needed employment. I am particularly indebted to the McGill Graduate Faculty for the assistance of the Principal's Dissertation Fellowship that enabled me to complete this thesis.

Other colleagues and friends have contributed to the genesis and development of my dissertation. I am grateful to Professor Alex Gold of Harvard University for first introducing me to the Jacobins; to Professor Michael McKeon of Rutgers University for his early guidance in the study of eighteenth-century history and literature; to Professors Richard Cash and Parker Shipton of Harvard University for reading and commenting on drafts of various dissertation chapters as well as articles and conference papers derived from this research. Librarians at Harvard's Houghton, Widener and Schlesinger libraries

have helped me to locate indispensable eighteenth-century texts, reviews and pamphlets. In addition, I wish to acknowledge the participants of the "Eighteenth-Century" and "Law and Literature" seminars at the Harvard Center for Literary and Cultural Studies for challenging me to define the terms of my interdisciplinary research.

Numerous friends have given me moral and intellectual support. I owe special thanks to my McGill classmates Genice Ngg, Stephen Bruhm, Josephine Shannon, and Jan Tao for meals, conversation, and pep talks; to Stewart Cooke, Ruth Neufeld, Xianmei Shen, Bill Donoghue, Noreen Bider and Dawn Morgan for their sustaining friendship; to Richard "Bite-the-Bullet" Drake for all of his phone calls to check on "the beast"; and to Joanne Durham, Kirsten Russell and Jonathon Simon for exhorting me to "keep my eyes on the prize."

My final thanks go to my family, whose confidence in me has been the most essential support of all. Their optimistic good will, understanding and generosity are worthy of Holcroft's best ideals.



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## Introduction

*If justice be not the interest of a government,  
the interest of that government will be its  
justice.*

*James Harrington*

When Algernon Sidney wrote in 1698 that the law and its intentional meaning are "purely human ordinances," he struck a chord of both crisis and opportunity that persisted into (and beyond) the last decade of the eighteenth century.<sup>1</sup> The law, decidedly separate from a divine legitimation, had become noted for its ambiguity, malleability and abuse. "Laws that are perplexed, intricate, tedious and voluminous," James Harrington wrote, "leave the greatest arbitrary power to the judge or judiciary; and raining snares on the people, make the most corrupt government." Likewise, "[t]hat law which leaves the least arbitrary power to the judge or judicatory is the most perfect law."<sup>2</sup> The eighteenth century, which according to David Lieberman and E. P. Thompson was "England's century of law," was also a time of juridical redefinition and clarification.<sup>3</sup> Conspicuous in the texts of Edmund Burke, Mary Wollstonecraft, James Mackintosh and Thomas Paine--some of the principal contributors to the debates over natural and civil rights in the 1790s--is the sense that they stood at a pivotal moment in history, that the concept of English "rights" originally contained in the Magna Carta of 1215 and most recently revised in the Declaration of Right, 1689, could once again be reconstituted as it had been in the American Bill of Rights, 1789, and the French *Déclaration des droits de l'homme et du citoyen* of 1791. The English Jacobin novel, I intend to argue here, narrativizes the attempt to recover, in a concept of individual inalienable rights, the integrity lost in the division between divine and secular law. In the process, the texts elucidate the implications of the person's relationship to legal institutions and remind us of those excluded from the political advancements of contractarians.

Published in the volatile decade of the 1790s, the "English Jacobin" novel received its appellation from opponents of British reform efforts.<sup>4</sup> The self-proclaimed "Anti-

Jacobin" movement was led by some of the more vociferous enemies of the Revolution in France and of parliamentary reform in England: George Canning, George Ellis, William Gifford, James Gillray and John Hookham Frere. Hoping to exacerbate British fears of French invasion (and thereby stem the tide of changes within Britain), they associated such writers as Thomas Holcroft, Mary Wollstonecraft, and William Godwin with the French Jacobins, who were held responsible for the most barbarous acts of the Revolution. Despite their explicit endorsement of reform over revolution and of peaceful rather than violent change, the so-called "English Jacobins" continued to be accused of acting with seditious intent because they embraced the notions of individual rights, the citizen as a self-determining entity and government as a contract. The Jacobin attitude toward revolution was actually quite censorious. Nearly all of the radical writers spoke on behalf of gradual reform and spurned the violence of massive upheaval. William Godwin, in his Enquiry Concerning Political Justice (1793), stresses that his philosophy of improvement, which relies heavily on intellectual inquiry, is antithetical to coercion and tumultuous insurrections. One imagines that Godwin envisioned the transformations of society from the vantage point of a quiet study. "We have seen," Godwin explains,

under the heads of resistance, revolution, associations and tyrannicide, that nothing is more to be deprecated than violence and a headlong zeal, that everything may be trusted to the tranquil and wholesome progress of knowledge, and that the office of the enlightened friend of political justice, for the most part, consists in this only, a vigilant and perpetual endeavor to assist the progress.<sup>5</sup>

Similarly, when Mary Wollstonecraft travelled to France in December of 1792 to observe the Revolution firsthand, she found herself utterly unnerved by the bloodbath she witnessed. In her Historical and Moral View of the Origin and Progress of the French Revolution; and the Effect It Has Produced in Europe (1794), she recorded her personal

reactions amidst observations and commentary on revolutionary events. Deeply disturbed by the violence, Wollstonecraft concluded that the misery of France was attributable to "the folly or art of men, who have spurred the people on too fast, tearing up prejudices by the root, which they should have permitted to die gradually away." Moreover, she decided that "the revolution of states ought to be gradual; for during violent or material changes, it is not so much the wisdom of measures, as the popularity they acquire by being adapted to the foibles of the great body of the community, which gives them success."<sup>6</sup>

In spite of the disavowals of revolution, the Anti-Jacobin movement continued its vicious attacks on Godwin, Wollstonecraft and others who supported the French Revolution in its early days, and on those who continued to advocate changes in the English Parliament and an extension of the franchise. "Jacobinism" is boldly cited in the prospectus to The Anti-Jacobin; or Weekly Examiner, a periodical devoted to saving Britain from the French *philosophes*, as the culprit responsible for seditious activities tending to destroy the family and thus throw into anarchy the source of social roles and the means of transferring property: "Of all these and the like principles, -- in one word, of JACOBINISM in all its shapes, and in all its degrees, political and moral, public and private, whether as it openly threatens the subversion of States, or gradually saps the foundations of domestic happiness, We are avowed, determined, and irreconcilable enemies."<sup>7</sup> The "subversions of States," mentioned in the prospectus, remained the primary interest of Anti-Jacobins. Yet the emphasis on "foundations of domestic happiness" points to their more visible concern for the status of the family. Many of the charges they aimed at radical novelists centered on their unsympathetic depictions of the British family. In the name of morality, Christian duty and national security, Anti-Jacobins endeavored to preserve familial structures. They were working, however, in an expressly political tradition--that of formal patriarchalism--and their interests were not only political but also legal and economic. For the Anti-Jacobins, private affairs were of public concern because private obedience and domestic order were

essential to public peace and the fostering of loyal subjecthood. The reciprocal support between devotion to a father and veneration of a king was thought to be necessary for the stability of the family, the most basic unit of society, and the community at large.<sup>8</sup> The gradual reform process in which Godwin, Wollstonecraft and their fellow Jacobins were participating was the progressive move away from the subjecthood of patriarchy toward citizenship in a social contract.<sup>9</sup>

Anti-Jacobin writings themselves reveal that the title "English Jacobin" is a red-herring. The fear they express is not so much of French infiltration as it is of reform efforts within Britain. An essay on "The Rise, Progress, and Effects of Jacobinism" in The Anti-Jacobin Review and Magazine is a case in point. The text begins with a discussion of the French Revolution but quickly shifts its focus to "the model of political perfection" among British radicals; the topic of the essay, one quickly realizes, is not French infiltration but internal British politics. "Their [British radical's] writings, for many years," the author argues with a tone of exasperation,

shewed that what they held up as the model of political perfection, bore no resemblance to this constitution. They had attacked its establishments, they had attacked its principles, they had taken their plans of polity from their own visionary fancies, and not from experience. They conceived that the French doctrines coincided with their own ideas on *the origin of civil and religious liberty, and the first principles of government*. They opened in praises of the new order of things. From them and their votaries, whether preachers, pamphleteers, club haranguers or book-makers, came the first systematic exertions in favour of the French revolution.<sup>10</sup>

The French doctrines, however, did not merely "coincide" with the English. The theories of individual rights that fueled the French Revolution had been brewing in English political thought for centuries, and the events in France were arguably the result of English

controversies and developments, rather than vice versa. The Dissenters--Dr. Richard Price, Dr. Joseph Priestley, Dr. Andrew Kippis--were the immediate and local threat. The Anti-Jacobin affiliation of Dissenters with the revolutionary turbulence of France simply appealed to British fears, intensified xenophobia and disguised the real source of animosity. Dr. Price, in his famous sermon "A Discourse on the love of our country," argued that English principles derived from the Glorious Revolution were the catalysts for the American and French Revolutions.<sup>11</sup> The marquis d'Argenson, much earlier, confessed the same when he wrote of France in 1751 that "there is a philosophical wind blowing toward us from England in favor of free, anti-monarchical government. . . it is entering minds and one knows how opinion governs the world."<sup>12</sup> And William Fox in his pamphlet, The Interest of Great Britain Respecting the French War, noted the heightening of international concern when English ideas were adopted on the continent, particularly in France.

It is not the principles themselves, but it is those principles becoming *French*, which constitutes the danger; while they were confined to this foggy island, while they were locked up in a language almost unknown on the continent, the monarchs of Europe were either strangers to their existence, or fearless of their effects. But when these principles are adopted by a nation, situated in the midst of happy, despotic monarchies; by a nation whose language is the universal language of Europe; and whose writers, by their genius, their wit, their learning, and their taste, had almost monopolized the literature of Europe; then it was that these principles excited their alarm, and threatened danger.<sup>13</sup>

Far from being the fallout of the French Revolution, the movement toward a recognition of inalienable rights in the social contract in Britain was a gradual one, and it was well under way by the time the Bastille fell and the dialogue of rights became a fevered public debate.

Because "English Jacobin" was a derogatory and ideologically inaccurate term,

some twentieth-century scholars have turned to other labels such as "social protest," "radical," "revolutionary," and "doctrinal" to describe the progressive novels of the 1790s.<sup>14</sup> I have chosen, however, to continue to use "English Jacobin" because it is a customary and therefore recognizable term for a particular body of work, the coherence of which I wish to underscore. In addition, less precise terms such as "social protest" or "doctrinal" do not specify the political bent of the texts. There were a number of other politically oriented novels in the 1790s, such as those of the Anti-Jacobins, that would qualify as protest novels or didactic narratives, but they had very different doctrinal agendas.

The parameters of the "English Jacobin Novel" are difficult to define because even within the ranks of progressive writers there was a diversity of political thought. There are, however, some identifiable characteristics that comprise the novel's contribution to the discourse on individual rights and the law. The Jacobin novel narrativized what was to become the "new relationship" between the citizen and juridical institutions. As the legislative component of government moved to center stage, the Jacobins began to consider the composition of individual rights and to make claims about those which are inalienable. Jacobin writings, particularly those of Wollstonecraft and Godwin, severely attack specific British legislation but exalt the presence of law in terms of *rights* (including the right of private judgement) as the saving grace of the social contract. Some Jacobin novels foreground visions of a utopian community; others, give austere analysis of the social, political and economic inequities of British society in the late eighteenth century. But each mode of protest emphasizes self-determination and "agency." Property in "goods" and in "persons" is a common thematic and ideological denominator of the Jacobin novel—one that was an especially threatening topic because it became all too clear, once these concepts were explored in narratives, that the notion of property stemming from Locke and Harrington could mean a potential expansion of the franchise and a redistribution

of wealth. Furthermore, the Jacobin narrative revealed that the right of property was a necessary condition for reaping the benefits of "civil society"--defined by Edmund Burke as the society of men characterized solely by civil liberties. In the eyes of the Jacobins and other contractarians, the recognition of natural rights that the individual retains when entering into civil society locates the source of political authority in the citizenry and renders the voting public "legislators" rather than subjects or victims of the law.

The impact of the Jacobin novelists on the transformation of the body politic did not end with its support of the autonomous individual as the new citizen. The Jacobin novelists examined the darker side of what Mary Wollstonecraft called "the iron hand of property," particularly as it burdened and obstructed women and the propertyless.<sup>15</sup> Despite their endorsement of the individual, the Jacobins' enthusiasm for the "rights of man" and for government by contract was checked by their acknowledgement that not everyone was considered a free, rational agent qualified to enter into a binding agreement. As the boundaries of the citizen were being reinterpreted, women and the economically dependent were being confined to a private sphere and excluded from participating in civil contracts. This phenomenon was to inform Jacobin fiction as powerfully as its support of inalienable rights. The earlier Jacobin novels bask in an optimism about the creation of egalitarian societies. Yet their confident idealism soon gives way, in later texts, to the harsher realities of the mechanics and limitations of change. Deeper reflections on the composition of the new citizen reveal the dilemma created by the need for property.

There are a number of novels in and around the 1790s that are identifiably "Jacobin" on ideological grounds. I found it necessary, therefore, to be highly selective in my choice of texts for this study. The novels I have chosen are, with the exception of Elizabeth Inchbald's Nature and Art (1796), the best known pieces of Jacobin fiction. I hope they will thus be familiar to readers. I also decided on these particular narratives because as a group they offer an especially lucid picture of the development of a theory of



rights and the impact of those rights on the individual's interaction with the law. Both Robert Bage and Thomas Holcroft wrote other novels that would pertain to the present subject, most notably, Bage's Man As He Is (1792) and Holcroft's Adventures of Hugh Trevor (1794-97). For the most part, however, these two novels corroborate the philosophical premises entertained in Hermesprong; or, Man As He Is Not (1796) and Anna St. Ives (1792), and to investigate the subtle divergences they offer would require a larger forum than this dissertation provides. There are, in addition, a number of other Jacobin texts by women, such as Charlotte Smith's Desmond (1792) and Helen Maria Williams's Julia (1790), that I have not included in my discussion of women and political agency. The sheer number of appropriate narratives by women has prevented me from covering them all; hence I chose those texts that most directly address the "rights of man" campaign. I have excluded certain domestic novels, such as Maria Edgeworth's Belinda (1801) and Elizabeth Inchbald's A Simple Story (1791), because the topic of domestic fiction is a large one that has recently received a good deal of attention and continues to be adeptly explored by others.<sup>16</sup> I have included Inchbald's much lesser known Nature and Art because it is the text in which she portrays her image of the new citizen. I have also limited my study of Godwin's fiction to Things As They Are; or, the Adventures of Caleb Williams (1794) because it is such a rich and controversial text. I believe it betrays, more than any of his other novels, a central paradox of the Jacobins' endorsement of inalienable rights: a simultaneous awareness of the need for individual rights and of the compromises being made in contract theory. Caleb Williams also provides a crucial example of the intersection of class and gender that was so important to the Jacobin vision.

In the first chapter of this dissertation, I relate the Jacobin novel to recent theories concerning the relationship between law and literature. While Jacobin fiction has been vastly neglected by such interdisciplinary efforts, it affords an important instance of a text stretching the boundaries of its genre. The authors themselves were astutely self-

conscious in their use of the novel for the exploration of political philosophy, and they discussed their aims in numerous prefaces and reviews. In my first chapter, I also consider the frequent oversight of Jacobin fiction in studies of the origins and development of the novel. Most examinations of the sources of the novel such as Ian Watt's The Rise of the Novel, Michael McKeon's Origins of the English Novel, 1600-1740 and J. Paul Hunter's Before Novels are simply addressing considerably earlier texts. However, the connections that Watt and Hunter draw to narratives of the later eighteenth and early nineteenth centuries tend to focus on the work of more canonical figures like Frances Burney or Jane Austen. Nancy Armstrong's investigation of the politics of domestic fiction also neglects the Jacobin novel, which could supply important thoughts on the alliance between the public and private spheres. Although she claims that one of her main concerns is "with the rhetorical operation of the contract as it passed into the British domestic novel," she does not draw on the conservative or progressive texts of the 1790s that would provide her with a mine of information. Lennard Davis's study of ideology and fiction, Resisting Novels, likewise makes no mention of the Jacobin novel, and Marshall Brown's Preromanticism only once mentions Godwin's Caleb Williams.

In Chapter Two, I examine the debate over natural and civil rights in the 1790s as the socio-political and juridical environment in which the Jacobin novel was written. It is to this debate that I argue the Jacobin novel made a crucial contribution. It challenged ideas about the extension of the franchise (particularly concessions that meant abandoning hopes of universal suffrage), and it revealed, in a most startling and convincing manner, the pivotal asset of self-governance. The chapter begins with a brief examination of seventeenth-century English origins of the debate and an investigation of the concept of rights as it was discussed in essays by Sir Robert Filmer, John Locke, Algernon Sidney and James Harrington. The notion of inalienable rights--that is, certain liberties that one does not surrender when entering into civil society--begins to take on its present-day definition in

seventeenth-century discourse. Also in this period, the foundations of reform, revolt, and constitutional amendments by subsequent generations were laid. By the end of the eighteenth century, in the dialogues between Burke, Paine, Wollstonecraft and Mackintosh, the earlier conflicts of the family, the individual and the state resurface, and the definition of rights that has persisted begins to coalesce.

Chapter Three is an investigation of the Jacobins' vision of the "new citizen." Rooted in the tradition of sentimentalism, the novelists celebrate the figure of the propertied (especially in terms of ownership of one's own person), self-governing, empowered member of the commonwealth. In most cases, as in Robert Bage's Hermesprong and Inchbald's Nature and Art, the glorified character is a man. Thomas Holcroft, however, offers a couple as the image of the caretakers of the new community. Anna and Frank, in Anna St. Ives, match each other in physical strength, intelligence, commitment and courage; together they conquer the traditional pitfalls of the young and usher in a new age in which the obstacles of class, gender and familial status are surmounted. The novels I discuss in this chapter are among the most optimistic of the Jacobin texts, and they most clearly indicate the extraordinary sense of human potential that was a pervasive, though very short-lived, conviction early in the 1790s.

Chapter Four considers the impact of the "rights of man" campaign on women. In disputes over the franchise, universal suffrage was regarded by a small number of contractarians as appropriate to a society organized by agreement; it seems to have been suggested by Colonel Thomas Rainborough in the Putney Debates, 1647-49,<sup>17</sup> and it was briefly raised as a viable possibility in negotiations by the Constituent Assembly in France in 1791.<sup>18</sup> Yet, in the end, women and other economic dependents were unequivocally excluded from the franchise. They were deemed intellectually impressionable and physically vulnerable to those who maintained control over their lives; therefore, they were denied certain civil and natural rights. An investigation of the primary philosophical texts

on individual rights and the contract, by Locke, Sidney and Rousseau, discloses the early exclusion of women from political advancements. The novels of Hays, Wollstonecraft and Edgeworth consider the fate of exclusion and identify the ability to claim agency as the key to the entrance of the public domain.

In Chapter 5, I look closely at William Godwin's Caleb Williams. Godwin's novel is the most riveting Jacobin illustration of why society must undergo a transformation, why "things as they are" are unbearable. The character Caleb functions as both a servant and a wife; he therefore represents the struggles of a financially dependent man and a financially and legally dependent woman. In a single figure, Godwin reveals the dilemmas faced by one who is "owned" by another and as a result is subjected to the ultimate consequence of a complete loss of self. The law conspires to oppress and destroy while private judgment is overruled by the authority of legal institutions. Issues of proprietorship are once again at the heart of the narrative, but Godwin also takes us into the realm of emotion to show how passion conspires with political oppression. Caleb's passions--his curiosity, loyalty and love--are his downfall. His emotional entanglements prevent him from seeing clearly and using his reason to free himself from the clutches of his possessive master. Caleb's life as an outlaw and his ultimate loss of self justify the kinds of reform Godwin advocates in Political Justice. Caleb's demise, however, also reveals problems in the current direction of contract theory. The figure who was meant to depict "man as he is but should not be" came closer to illustrating "man as he is and continued to be." The isolated, intense, tragic Caleb was easily transformed into the brooding, self-contained figure of Romanticism.

There are a number of terms in my socio-political discussion that it would perhaps be helpful to define for the sake of clarity. "Contract" is a particularly ambiguous word in seventeenth- and eighteenth-century writing because it was used by both sides on the issue of the origin of political authority. "Contractarians" or "contract theorists" were those who believed political authority to be derived from agreement or consent of the people.

"Royalists" or "absolutists" also recognized a compact, but it was between monarchs and subjects. Edmund Burke frequently used "contract" in his Reflections on the Revolution in France (1790), but his was a very specific reference to a covenant derived from the Magna Carta and the English constitution, which spans successive ages and binds each generation to the wishes of the previous ones. One of the most important differences between Burke's contract and that of Thomas Paine, for example, is that Paine's governmental compact is subject to reevaluation and renegotiation by each generation, whereas Burke's is tied to prescription. "Democracy" is a closely related term that was sometimes used to indicate subversive activity or an interest in overthrowing the British government. In its purest sense, democracy means government by the people, either directly or through representation. But I use it sparingly in reference to Jacobin philosophy because the Jacobin authors give little indication of just how they envisaged the mechanics of government by the people.

"Republicanism" is another label that was occasionally used in regard to the Jacobins. Meaning government by law, republicanism was established in contrast to monarchy and indicates the predominance of the legislative in government. This is perhaps the most accurate term to describe the form of government imagined by contractarians because it emphasizes citizen participation, social obligations and the common good. "Inalienable rights" are those liberties that the individual does not surrender when entering into civil society, such as the right to self-governance, intellectual inquiry and political reform. "Natural rights" are those that one holds in a state of nature; some are given up and some retained when one forms a community with others. "Civil rights" are the protections of law. They exist only within civil society, and they frequently refer to the preservation of property in "goods" and the "person." "Civil society" refers to the formal organization of a nation; it is contradistinguished from a state of nature and subjecthood. The "franchise" denotes the rights of citizenship, participation in the public sphere and

voting privileges. The "public sphere" designates that realm of society that involves public participation, whereas the "private sphere" is a place characterized by passivity; in the private domain, which I argue is the site of women and servants, one is subjected to the decisions of the public and the political but one cannot participate in making those policies.

Finally, in undertaking an analysis of the English Jacobin novel in its legal and political contexts, I assume that interdisciplinary study is a worthwhile endeavor. While my readings in legal history and political theory have taught me to respect the unique demands of those disciplines, this research has also enabled me to read the novels with some understanding of their historically specific intellectual and institutional settings. The overtly political fiction of the Jacobins, which stretches the generic boundaries of the novel, surely demands a contextualized reading. Ironically, the Jacobin authors themselves challenged the autonomy of the literary text even while trying to delimit the borders of the individual. The Jacobins thought of their novels as a contribution to the debate over natural and civil rights and as an instrument for bringing about reform. If government was invading every facet of life, as the Jacobins believed it did, then government was inevitably and rightly in their novels. An understanding of their discussion of political authority--its origins and its manifestation in law--is indispensable to comprehending the Jacobin novel and its cultural function; likewise, knowledge of the Jacobin novel is necessary to understanding the evolution of the contract and recognizing the role of property in obtaining political agency in society.

## Notes

1. Algernon Sidney, Discourses Concerning Government (London: John Toland, 1698; Indianapolis: Liberty Classics, 1990), 104.
2. James Harrington, A System of Politics, in The Political Works of James Harrington, ed. J. G. A. Pocock (Cambridge: Cambridge University Press, 1977), 850.
3. David Lieberman, The Province of Legislation Determined (Cambridge: Cambridge University Press, 1989), 1. E. P. Thompson, Customs in Common (New York: The New Press, 1993), 34. See also, Elizabeth Mensch, "The History of Mainstream Legal Thought," in The Politics of Law: A Progressive Critique, ed. David Kairys (New York: Pantheon Press, 1982), 19, 21.
4. Gary Kelly, The English Jacobin Novel, 1780-1805 (Oxford: Clarendon Press, 1976), 7.
5. William Godwin, Enquiry Concerning Political Justice, 3rd ed. (London: Printed for G. G. and J. Robinson, 1798; Harmondsworth: Penguin Books, 1985), 335.
6. Mary Wollstonecraft, An Historical and Moral View of the Origin and Progress of the French Revolution and the Effect it Has Produced in Europe (London, 1794), 337, 335. The historical information Wollstonecraft provided in this text was challenged by The British Critic as being "lifted" from the New Annual Register for 1791. Indeed, the journal provides convincing evidence by comparing excerpts from both. See The British Critic 6 (July 1795), 29-30 and Virginia Sapiro, A Vindication of Political Virtue (Chicago: University of Chicago Press, 1992), 33-34.
7. The Anti-Jacobin; or Weekly Examiner, 5th ed. (London: Printed for J. Hatchard, 1803), 1:7.
8. Gordon J. Schochet, Patriarchalism in Political Thought (London: Basil Blackwell, 1975).
9. I use the term "progressive" to describe citizenship as defined by a social contract because such a definition of citizenship was considered a great step toward reform in the

1790s. Some of the most recent scholarship on the contract, such as Carole Pateman's, has elucidated the patriarchal structures that endure in contract theory. Yet other analyses, such as Nancy Armstrong's Desire and Domestic Fiction tend to underestimate the extent to which the support of government by consent was a radical position. I think it is sometimes important to assess "progressiveness" in its immediate context and temporarily forgo the gift of hindsight.

10. The Anti-Jacobin Review and Magazine 3 (May 1799), 93.

11. Dr. Richard Price, "A discourse on the love of our country" (London: Woodstock Books, 1992), 50.

12. Quoted in Carl B. Cone, Burke and the Nature of Politics: The Age of the French Revolution (Louisville: University of Kentucky Press, 1964), 301.

13. Quoted in Seamus Deane, The French Revolution and Enlightenment in England, 1789-1832 (Cambridge: Harvard University Press, 1988), 162-63.

14. I frequently borrow Michael McKeon's term, "progressive narrative," to refer to the Jacobin novel because they challenge the constructions of status. See Michael McKeon, The Origins of the English Novel, 1600-1740 (Baltimore: Johns Hopkins University Press, 1987).

15. Mary Wollstonecraft, A Vindication of the Rights of Men, (London: J. Johnson, 1790; Gainesville: Scholars' Facsimiles & Reprints, 1960), 50.

16. See Nancy Armstrong, Desire and Domestic Fiction (New York: Oxford University Press, 1987); Gillian Brown, Domestic Individualism (Berkeley: University of California Press, 1990); Elizabeth Kowaleski-Wallace, Their Fathers' Daughters (New York: Oxford University Press, 1991). For more on the domestic and Jacobin women, see Eleanor Ty, Unsex'd Revolutionaries (Toronto: University of Toronto Press, 1993), 46-47; Gary Kelly, Women, Writing, and Revolution, 1790-1827 (Oxford: Clarendon Press, 1993).



17. I write that Rainborough "seems to" have argued for universal suffrage because there has been much dispute over whether the following statement of his from the Putney Debates is an endorsement of universal suffrage: "the poorest he that is in England hath a life to live, as the greatest he; and therefore . . . every man that is to live under a government ought first by his own consent to put himself under that government."

Puritanism and Liberty, ed. A. S. P. Woodhouse (London: J. M. Dent & Sons, 1992), 53.

18. Olwen H. Hufton, Women and the Limits of Citizenship in the French Revolution (Toronto: University of Toronto Press, 1992), 3-4.

## Chapter One

### Narrativizing the Legal Subject

*That men may know wisdom and instruction,  
understand words of insight,  
receive instruction in wise dealing,  
righteousness, justice, and equity . . .  
Proverbs 1:2-3*

English Jacobin novelist Thomas Holcroft was indicted for high treason in 1794, along with bookseller Thomas Hardy, philologist Horne Tooke, lecturer John Thelwall and eight others. As a member of the radical Society for Constitutional Information, he had advocated Parliamentary reform and a democratic process of change that was meant to reflect "the wish of the nation." Yet the charges he faced were of the gravest kind: an incitement to war and conspiracies against the life of the King. The Treason Trials constituted a watershed moment for the intellectual community of British reformers because it was the severest act of government repression to date and it pointed to intensifying fears of French infiltration of all kinds--from direct military invasion to the growing influence of the *philosophes*. By this time in France, the revolution had taken a violent turn, the armed forces had invaded Belgium and the reign of Great Terror had begun. The English Jacobins, although they did not promote revolution on British soil, did add their voices to the French cries for *des droits naturels et imprescriptibles de l'homme: l'égalité, la liberté, la sûreté and la propriété*.<sup>1</sup> Consequently, they became a public target for censorious measures.

Holcroft was acquitted before his case went to trial; however, the experience of being charged with treason and confined in Newgate prison for eight months had a profoundly sobering effect on him. He had observed, firsthand, the acrobatics of interpretation in attempts to turn hearsay and contradictory information into evidence of treason. The maneuvers Holcroft witnessed caused him to question the ability of juridical institutions to mete out justice, and they stirred in him resonating concerns about what he

called the "equivocal spirit of law."<sup>2</sup> Holcroft begged for the chance to be heard in court-- to explain the tenor of his politics, swear his commitment to pacifism and announce the liberating discovery that "the political institutes of all nations essentially influence the morals and the happiness of the people."<sup>3</sup> But the Lord Chief Justice refused his request, and Holcroft remained deeply disturbed by his enforced silence in the courtroom. Stymied by juridical authority at every turn, Holcroft looked to other forms of discourse for expression and chose the narrative. He told his story in letters to his accusers, among whom were Sir John Scot, Lord Chief Justice Eyre and Mr. Serjeant Adair; he published an account of the trial, "A Narrative of Facts, relating to a Prosecution for High Treason"; and he exposed the depth and complexity of his anguish in a novel, Memoirs of Bryan Perdue (1805).<sup>4</sup>

Holcroft's alternative means of communicating his defense and his displeasure with the court's proceedings reveal the crucial role narrative played at a key juncture in the development of a theory of rights. While literary critics have long observed the didactic intent of Jacobin fiction and have noted its support of the "rights of man" doctrine, the extent of the novels' contribution to defining the legal subject and the enfranchised citizen in socio-political discourse has been only scantily addressed. Yet the Jacobins' portrait of the politically empowered hero, their explorations into the nuances of the place of women in the social contract and their disclosures of the contingency of property on political agency tells an important story about the evolution of rights different from that of legal, political and philosophical texts. Their fiction also comprised an important example of the novel's social purpose. In the debate over what constituted a natural and a civil right, the Jacobin novel functioned as a mediator and articulated some of the most radical thinking about the legal subject and the extent of enfranchisement. Aware of itself as a means not only of instruction but also of political and moral inquiry, the Jacobin novel worked to prepare the people for citizenship and the responsibilities of legal subjecthood by attempting

to reposition the individual in civil society and change the figure of the body politic.

In the interdisciplinary study of law and literature, Jacobin fiction has been oddly neglected.<sup>5</sup> The overtly political Jacobin novels, while they do not necessarily foreground the lawyer as a character,<sup>6</sup> do address the formation of perhaps the most fundamental underpinning of law since the early modern period--the contractual relationship between the individual and the state. The omission of the Jacobin novel can in part be attributed to the law and literature movement's emphasis on canonical texts. Many of the field's pre-eminent scholars--James Boyd White, Richard Posner, Brook Thomas, Richard Weisberg--explore the works of Shakespeare, Kleist, Dickens and Kafka, to make observations about legal subject matter in literature and, conversely, about the rhetoric of law. Richard Posner and Richard Weisberg make no apologies for focusing on "the Great Books." Both acknowledge the canon debate yet argue that classics continue to provide the best source of material for understanding the connections between law and narrative. Richard Posner accepts the tests of time and universality for determining "great literature" and then contends that it is this enduring body of narrative that addresses "the permanent and general aspects of human nature and institutions." Hence, such writing is an especially reliable record for the study of human development.<sup>7</sup> Richard Weisberg, speaking on behalf of the law and literature movement, offers a vehement defense against claims that feminist issues have been overlooked amid the attention paid to canonical texts.<sup>8</sup> He asserts that the great books include significant insights into issues of women and oppressed minorities, and he does not think "the case has been made for Law and Literature's abandoning the canon just because some feminists insist we do so." Furthermore, he has "not been convinced that there exist any better sources of *radical* understanding" than the works of such recognized authors as Camus, Dostoevsky, and Melville.<sup>9</sup>

Even those within law and literature studies who are interested in the impact of

gender, class and race on what Weisberg refers to as "our culture's two most central narrative endeavors" frequently refer to canonical texts.<sup>10</sup> They have, however, sought out marginalized voices and laid the groundwork for further study of noncanonical works and their cultural contributions. Robert Cover, Martha Minow, Robin West and James Boyd White have all looked to the intersection of law and literature to examine exclusions from legal constructs of power and to elucidate the processes of critique and rebellion. Robert Cover has presented narrative as the method by which law obtains meaning and as a key to figuring out how transformations in the normative world occur. Martha Minow has considered the points of conflict between "insiders' stories" and "outsiders' stories"--that is, the series of dilemmas that emerge when postmodernism meets the struggles of minority and female activists who find notions of identity crumbling just at the time when they seek to assert the value of their own unique perspectives. Robin West has addressed the moral authority of law and has proposed using the methodologies of the humanities for criticizing the law from a moral point of view. And James Boyd White has posited "translation" as the paradigm for an interdisciplinary approach to the discourses of law and literature. All these investigations into the role of narrative in legal thought offer multiple reasons why texts such as the Jacobin novels, which have never been (and in all likelihood will never be) considered among the "great books" but do provide alternative stories, should be included in investigations of how to read the law in modern culture.

Robert Cover discerns a most intimate relationship between law and literature. In the opening paragraph of his now often cited essay "Nomos and Narrative," he declares that "[n]o set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning." "Every prescription," he continues, "is insistent in its demand to be located in discourse--to be supplied with history and destiny, beginning and end, explanation and purpose. And every narrative is insistent in its demand for its prescriptive point, its moral."<sup>11</sup> The conjoined nature of law and literature, according to

Cover, allows for the coexistence of socially organized precepts, including the broadest principles of law (what one might call "universalist virtues") and the alternative narratives that act--must act--against those precepts. Deviations from established norms have a critical function in providing the catalyst for transformations while also absorbing and reflecting adjustments to historical developments. These adjustments are embedded in narrative codes that are the domains of what is, what should be and what might be. Narrative codes both work in and embody the *nomos*, defined by Cover as "a present world constituted by a system of tension between reality and vision," and they offer an integration of observations on current social constructs and visions of potential evolutions.<sup>12</sup> Narrative, therefore, provides a paradigm for the study of transformations that occur when a developing event or "state of affairs" encounters the "force field" of the normative. It also "imbue[s]" precepts with "rich significance," and, because it is "uncontrolled," it invites the inclusive metaphor of Babel--clarified by Cover as "a multiplicity of coherent systems" rather than a chaotic conglomeration of nonsense.<sup>13</sup>

Martha Minow's presentation of the "insiders' story" is a variation on Cover's normative force field.<sup>14</sup> As she ambitiously provides an overview of how the law came to take its central place in modern culture--what she calls a "tall person's topic" because of the broad perspective it entails--Minow defines the prevailing schools of juridical thought as the privileged narratives of academics and scholars. Whether the story is formalism's defense of a law that is neutral, autonomous and rational, law and economics' interest in cost-benefit analyses, or the critical legal studies movement's conclusion that the law's emphasis on rights fosters alienation, it is the tale of an insider. When one takes the position of a marginalized person such as a poor black woman whose future depends on courageous activism, the stories change. Legal formalism is the monolithic institution that has long kept her outside the mainstream of employment, education and health care. Legal decisions based on a cost-benefit analysis are not likely to address what concerns her as

one of the most disadvantaged. And the apprehension that a concept of "rights" promotes an isolated individuality seems luxurious to one who has fought for the civil rights that would legally guarantee voting privileges and access to previously segregated institutions. Minow attempts to bring the insiders' and outsiders' stories together, which means "recognizing that law is a set of practices and institutions situated within more than one narrative of human history and more than one social experience."<sup>15</sup> If we abandon our reliance on originating abstract universal principles, she argues, and instead follow an inductive method of reasoning that begins with concrete and local situations, our approach to the law will more directly address human experience. The law, furthermore, will be seen to provide "multiple languages and institutions" and a "terrain" on which struggles may be played out.

Robin West strikes a similar chord of concern about listening to and addressing human experience when she explores contemporary efforts to evaluate legislative processes. Driven by the "critical dilemma" of how it is possible for us to "criticize law from a moral point of view, given the influence of law itself over our moral beliefs," she posits the methodologies of the humanities, "writing, reading, and responding to narrative texts," as one solution.<sup>16</sup> Since attempts by legal positivists and members of the critical legal studies movement to separate law and morality have not successfully allowed for a process of critique that is free of our moral assumptions about the law, it remains for narrative to be a partially independent authority. Narratives, she contends, record the manner in which we "tell each other about the substance of our lives," query our legal goals and ask whether or not the law reflects "our best understanding" of human needs and aspirations.<sup>17</sup> While West also works with canonical texts such as Kafka's The Trial and Mark Twain's Pudd'nhead Wilson, she notes the importance of consulting noncanonical texts to glean a more complete story. When one analyzes slavery in the novel, for example, one must consider Toni Morrison's Beloved along with Twain's Huckleberry Finn.

The entire project, however, of considering narratives in relation to the law--West refers to this as "narrative jurisprudence"--is one of revealing the "heretofore silenced experiences."<sup>18</sup> It is a means of expanding the critical base, increasing the number of voices speaking of their own humanity, and gaining alternative perspectives on what is a moral or good society in order to arrive at a more coherent cultural critique.

Another significant component of West's argument is her attack on postmodernism's insistence on contingent meaning. Not surprisingly, interest in the interpretive nature of law and the rhetoric of judicial opinions grew as postmodern critique began to take hold in literary studies. Questioning the meaning of texts has obvious implications for legal discourse, particularly because the language of the law is so clearly performative. While not denying the impact of social constructs on the way we think about and perceive such cultural functions as the law, West expresses the concern that contingency theory will render the law immune to reproach and will quiet the voices that are just beginning to speak. "If the legal text has no meaning," West argues, "neither it nor its authors can be blamed or praised for the good or ill they do. Radical indeterminacy, in other words, curiously insulates *law itself* from criticism." As the focus moves from specific legislation to the community that "dictates" the law's meaning, the law becomes "utterly innocent because utterly impotent," and since our own criticism of the law is a product of the dominant interpretive community, legal reform is dangerously stymied. In addition, the deconstruction of the self in postmodern theory contains very real hazards for those members of our communities who are the most vulnerable. Like Minow, West warns that "the denial of subjectivity, the dismissal of experience, and the reduction of the self to a vessel for the interests and ends of others is a familiar experience of the profoundly disempowered--be she slave, rape victim, abused spouse, abused child, or exploited worker."<sup>19</sup> The relation of the self to the community is a political one, and a weak self has traditionally meant susceptibility to severe forms of domination. Ironically (or quite



purposefully), the postmodern questioning of the self came at a time when the typically disempowered, such as African-Americans and women, began to make legal and political claims based on the value of their own identities to move toward recognition and liberation.

James Boyd White's declaration that "an act of language is an action in the world" points to the social responsibility shared by legal systems and literary studies--a joint obligation which is the inevitable conclusion of Cover's, Minow's, West's, and so many other theories about the relationship between law and literature.<sup>20</sup> White's work on law and literature has most recently culminated in Justice as Translation. After examining law as a language that creates meaning in The Legal Imagination and language as a law dependent on its "precedent" of a "linguistic inheritance" in When Words Lose Their Meaning, White considers the ethical and political qualities of language and law in his latest book. For White, "translation" offers the paradigm for ways of talking about the integration of two branches of intellectual endeavor as well as a way of operating in the world that is inclusive rather than separatist. Translation, he explains, "forces us to respect the other--the other language, the other person, the other text--yet it nonetheless requires us to assert ourselves, and our own languages, in relation to it. It requires us to create a frame that includes both self and other, both familiar and strange; in this I believe it can serve as a model for all ethical and political thought."<sup>21</sup> By proposing translation as a prototype for the relationship between disciplines that have their own histories and traditions, White hopes to go beyond what he sees as the two predominant strains of law and literature studies: (1) using literature to reveal injustice and (2) using the "technology" of critical theory to interpret legal texts. He proposes to investigate how disciplines are transformed into a third entity when integrated. This entity would "bring together in the mind at once two systems of discourse, two sets of questions and methods and motives, with the aim of making new texts that would incorporate both, not to merge them into one but to recognize their differences as we sought their similarities."<sup>22</sup> The intersection of law and literature,

then, would serve as an example of how diverse communities may coexist, and how both language and the law bear a grave responsibility in their creation of meaning and action in the world.

in light of the observations about law in society by Cover, Minow, West and White, the Jacobin novels are important texts for the ongoing study of the crossroads of law and literature. Through narrative, the Jacobins gave voice to those heretofore silenced; they expressed an illustrative critique of societal developments and tendered their own analysis of transformative advances. Most importantly, Jacobin fiction worked on the premise that language is an action in the world. Discourse was a powerful (and public) tool of inquiry, a catalyst for change and a means of claiming subjectivity. While many of the Jacobin novelists argued their positions in political treatises, the novel as a genre offered them an opportunity to concretize the abstract, explore further the influence of government on the nation, and challenge assumptions made about the extent of juridical authority. The use of narrative seemed, in many ways, the most obvious and necessary means of analyzing what Holcroft called "one of the most palpable of truths" revealed by the French Revolution: that "the political institutes of all nations essentially influence the morals and the happiness of the people, and that these institutes are capable of improvement."<sup>23</sup> Moreover, the Jacobin novel, in particular, now provides us with important documentation of the formulation of a structure of rights and what are currently regarded as the "common entitlements" of the modern world: "self-determination, full legal and political capacity, and the general right to choose and determine [one's] own future."<sup>24</sup>

In Robert Cover's terms, one could consider the Jacobin novel an artifact of "transformations" in the *nomos*. The radical texts offer accounts of how changes transpired, and of how the texts themselves served to mediate a major historical development: the disambiguation of the law in the form of a clarification of rights. By the 1790s, the "contract" was firmly in place as the paradigm for social organization, but its

definition remained unsettled. "[P]hilosophies of the social contract," Ian Balfour notes, "did and do not always divide neatly along party lines," and the debates of the late eighteenth century provide an important example of this phenomenon.<sup>25</sup> Edmund Burke, well-known for his opposition to rebellion in France, embraced the social contract as it had evolved from the Magna Carta to the Glorious Revolution and infused his representation of the contract with spiritual authority. For Burke, the "great primeval contract of eternal society" was an agreement based on prescription; each generation was obliged to consider the wishes of its predecessors and yield to ancient wisdom. The Jacobins opposed Burke's portrayal and instead supported a model based on an originating contract to be reconsidered by each generation. Particularly in the novels of Holcroft and Bage, the contract is seen as a means of obtaining social equality and acknowledging historicity by allowing for the adjustments of succeeding ages. Yet within the ranks of the Jacobins, as Balfour observes, there was significant critique of the social contract.<sup>26</sup> In his Enquiry Concerning Political Justice, Godwin takes issue with notions of "consent" and the "acquiescence" required by a political constitution. He attacks Burke directly when he rhetorically asks, "[I]f I be obliged to submit to the established government till my turn comes to assent to it, upon what principle is that obligation founded? Surely not upon the contract into which my father entered before I was born?"<sup>27</sup> Godwin also challenges Locke's idea that a "'tacit consent'" to the social contract obliges one to obey the laws of the government whereas to be a member of the commonwealth requires "'positive engagement and express promise and compact.'" "A singular distinction!" Godwin replies, "implying upon the face of it that an acquiescence such as has just been described is sufficient to render a man amenable to the penal regulations of society; but that his own consent is necessary to entitle him to the privileges of a citizen."<sup>28</sup> Godwin was uncomfortable with the imposition of law on those who withhold consent.

What concerned all the Jacobins, however, was the formation of the legal subject in

a society based on the contract, the decision about who was to be the recipient of franchisement and what was to be his/her relationship to the law. As evidenced by the writings of Locke, Sidney and Rousseau, the Putney Debates of 1647-49, and discussions in the National Assembly of France, segments of the population were being excluded from key political advancements. Those who were deemed economic dependents, such as women and servants, were not ultimately considered beneficiaries of rights in the body politic. Hence, at this brief moment of opportunity, Jacobin authors began to give voice to those on the margins and tell the "outsiders' stories." Mary Wollstonecraft's The Wrongs of Woman (1798) and William Godwin's Caleb Williams are two of the very few late eighteenth-century novels that foreground the social dilemmas of the servant. In addition, Thomas Holcroft's Anna St. Ives is arguably the only novel of the 1790s to depict an ideal society in which both women and men enjoy the "rights of man." The Jacobins perceived, early on, what Minow and West both observe in the late twentieth century, that an absence of selfhood renders abuse. The Jacobins saw that a self-governing individual was being presented as the model for the new citizen, and that only persons who could claim full legal subjecthood would be able to participate in the market economy and realize their natural and civil rights.

In the heat of political contest, the Jacobins were frank about their use of the novel as a vehicle to illustrate the way things are and the way things ought to be. Mary Wollstonecraft, in the preface to The Wrongs of Woman, declares that her "main object" is "the desire of exhibiting the misery and oppression, peculiar to women, that arise out of the partial laws and customs of society."<sup>29</sup> The novel enabled her to show the impact of law on women unprotected by rights and to reach an audience who might otherwise not be touched by politically straightforward essays such as A Vindication of the Rights of Men (1790): the public readership of novels, a large part of whom were constituted by women.<sup>30</sup> Thomas Holcroft, as well, regarded the novel as an occasion to instruct. In a

review of Robert Bage's Man As He Is, Holcroft asserts that the novel deserves our "esteem" because it has "the power of playing on the fancy, interesting the affections, and teaching moral and political truth."<sup>31</sup> In the preface to his last novel, Memoirs of Bryan Perdue, Holcroft emphasizes the importance of the moral purpose of the narrative and outlines the didactic intent in each of his novels. While Holcroft notes the value of imagination, he is cautious in his endorsement of the passions. Holcroft, for example, loathed the Gothic tale because he thought it was counter-instructive and encouraged distorted emotion and unnecessary pessimism at a time when reform movements needed the spirited energy of hope and sanguinity. In a review of the anonymously authored Castle of St. Vallery (1792),<sup>32</sup> Holcroft condemned the manipulation of fear:

This story is an imitation of the Castle of Otranto, Sir Bertrand, the Old English Baron, and others, in which the chief passion intended to be excited is fear. Of all the resources of invention, this, perhaps, is the most puerile, as it is certainly among the most unphilosophic. It contributes to keep alive that superstition which debilitates the mind, that ignorance which propagates error, and that dread of invisible agency which makes inquiry criminal. Such stories are in system neither divine nor human, but a strange mockery of both.<sup>33</sup>

Moreover, in an article on Eliza Kirkham Mathews' The Count de Hoensdern; a German tale (1793),<sup>34</sup> Holcroft complained that provocative, spine-tingling stories offered an escape from the "real" terrors at hand, just at the moment when the nation needed clear-headedness:

[T]he continual tendency of the work before us is to persuade us that there is little else than misery on earth. Discontent, misanthropy, cowardice, apathy, debility, are each and all thus engendered; and we rise from reading, not with that animation which should make us happy in ourselves and useful

to others, but with a sensation of the wretchedness of human existence.<sup>35</sup>

It was the conspicuous intention of Wollstonecraft, Holcroft and other Jacobin authors to provide the moral critique of law that Robin West argues will provide a source of criticism for the "culturally normative." Just as West suggests that in literature one might find significant investigations of not only particular laws but the function of legal systems in society and our conceptualization of juridical authority, the Jacobins offered a deconstruction of the current state of affairs and demanded a reconsideration of key definitions that would come to determine the direction of the modern liberal state. They forced their readers to recognize the requirement of economic independence for enfranchisement and to consider the inclusion of the typically dispossessed in the new developments of the capitalist economy and the empowerment of the legal subject as citizen. Contemporary law and literature theorists have shown that law is presented to us through narrative--the judicial opinion, the recording of cases, the courtroom representation of events. The Jacobin novel demonstrates that it is through narrative investigations of how the law functions in society that we glean a critique of law one will not find in the discipline of legal studies.

The radical novel in the 1790s, however, did more than "illustrate" the failure of the law and other political constructs to approach an equality of rights as a viable option for the populace. Much as the novel had done since its inception, according to Michael McKeon, the Jacobin novel mediated a cultural debate. The debate at hand is characterized by Godwin in his preface to Caleb Williams:

The question now afloat in the world respecting THINGS AS THEY ARE, is the most interesting that can be presented to the human mind. While one party pleads for reformation and change, the other extols in the warmest terms the existing constitution of society. It seemed as if something would be gained for the decision of this question, if that constitution were

faithfully developed in its practical effects. What is now presented to the public is no refined and abstract speculation; it is a study and delineation of things passing in the moral world. It is but of late that the inestimable importance of political principles has been adequately apprehended. It is now known to philosophers that the spirit and character of the government intrudes itself into every rank of society.<sup>36</sup>

The question of whether or not the "existing constitution" is adequate, or requires reform, points to the controversy over individual, inalienable rights: does the individual in the social contract maintain inviolable rights when he/she enters into civil society? The dispute (which will be covered at length in Chapter 2) was played out in Britain in the multiple "reflections" on the French Revolution, the most visible of which were precipitated by Dr. Richard Price's sermon "Discourse on the Love of our Country," delivered on 4 November 1789. Novels and essays responded to issues of reform that the loss of the American colonies and *fin de siècle* political events in France moved onto center stage. But Godwin's further observation that "government intrudes itself into every rank of society" opened the door to social, political and economic criticism in the arts and anticipated more recent comments such as Fredric Jameson's sweeping claim that "everything is 'in the last analysis' political."<sup>37</sup> In addition, while Godwin maintained an interest in the "reign" of private judgment, he also resisted the public/private divide that according to Jürgen Habermas was just taking hold in the eighteenth century.<sup>38</sup> For Godwin, such a divide was an illusion, and the genre of the novel was perhaps the most fitting literary form of resistance because it crossed (some) class and gender boundaries and touched "persons whom books of philosophy and science are never likely to reach."<sup>39</sup>

The quality of didacticism that inheres in Godwin's prefatorial position and in the Jacobin novel generally was, according to J. Paul Hunter, one of the "cultural contexts" of the novel at its origin and throughout the eighteenth century.<sup>40</sup> A number of the features

of didacticism that Hunter identifies in Before Novels are evident in Jacobin fiction, and they help to explain at least one of the traditions in which the Jacobin novel was working. While the binary distinctions of good and evil that characterized didacticism became somewhat obscured in Godwin's Caleb Williams and Wollstonecraft's Wrongs of Woman, there remained, in those texts and others, a confident belief in the ability of persons to discern right from wrong. In fact, Godwin's endorsement of private judgment rests on the faith that people will make the "right" decisions if they are properly educated. Furthermore, Jacobin novels reveal the same trust in language to convey appropriate lessons as did didactic pamphlets earlier in the century. While all the Jacobins acknowledged the importance of "entertainment" in the novel, it was instruction that was foremost in their minds and in their prefaces. "If the author," Godwin writes, "shall have taught a valuable lesson, without subtracting from the interest and passion by which a performance of this sort ought to be characterised, he will have reason to congratulate himself upon the vehicle he has chosen."<sup>41</sup>

For each novel, the Jacobins outlined the precise intentions of their narratives and, with the authoritative tones of didacticism, proclaimed the social responsibilities of the novel.<sup>42</sup> In her preface to the Memoirs of Emma Courtney (1796), Mary Hays asserts the usefulness of her fiction to the discipline of philosophy. Her novel, by "tracing consequences, of one strong, indulged, passion, or prejudice, afford[s] materials, by which the philosopher may calculate the powers of the human mind, and learn the springs which set it in motion." It is the job of the writer, she continues, to look behind the "sacred and mysterious veil" of morality and philosophy to discover truth.<sup>43</sup> Thomas Holcroft, in the preface to Memoirs of Bryan Perdue, explained that in Anna St. Ives his purpose was "to teach fortitude to females"; in Hugh Trevor, it was "to induce youth (or their parents) carefully to inquire into the morality of the profession which each might intend for himself"; and in Bryan Perdue, he set out to convince "all humane and thinking men, such as



legislators ought to be and often are, to consider the general and the adventitious value of human life, and the moral tendency of our penal laws."<sup>44</sup> Perhaps inadvertently, Holcroft's novels also demonstrate the stark movement from the hopeful idealism of the early part of the 1790s to the disillusionment that marked the end of the decade.

When Maria Edgeworth explains why she chose the narrative form to elucidate a bit of Irish/English history, she acts on a premise that Hunter also cites as an important cultural context for the novel: the value of private history. In her preface to Castle Rackrent (1800), Edgeworth defends the public's interest and delight in "anecdote"; unlike critics who deemed such indulgence anti-intellectual, she finds this enjoyment "an incontestible proof of the good sense and profoundly philosophic temper of the present times." History, she argues, is contrived and uncertain at best. The story, particularly in the form of "secret memoirs and private anecdotes," can, in contrast, show us what is behind the scenes and lead us to truth. While not addressing the inventions of fiction, Edgeworth turns her novelistic inquiry to the unself-conscious fragments of existence:

We cannot judge either of the feelings or of the characters of men with perfect accuracy from their actions or their appearance in public; it is from their careless conversations, their half finished sentences, that we may hope with the greatest probability of success to discover their real characters. . . . We are surely justified in this eager desire to collect the most minute facts relative to the domestic lives, not only of the great and good, but even of the worthless and insignificant, since it is only by a comparison of their actual happiness or misery in the privacy of domestic life, that we can form a just estimate of the real reward of virtue, or the real punishment of vice. That the great are not as happy as they seem, that the external circumstances of fortune and rank do not constitute felicity, is asserted by every moralist; the historian can seldom, consistently with his dignity, pause

to illustrate this truth, it is therefore to the biographer we must have recourse.<sup>45</sup>

Hunter identifies this sort of movement of the "intimate and precise world of privacy" into the public sphere as an early eighteenth-century phenomenon. When ideas of "selfhood, personality, subjectivity, [and] propriety" began to predominate, he argues, the private story began to take on a new authority. It often served as an *exemplum* and a form of witnessing.<sup>46</sup> Correspondingly, the novel, which was also emerging as a distinct genre at this time, began to examine the individual life and "the interpretive mind bent on sorting human experience."<sup>47</sup> Out of a similar interest much later in the century, the Jacobins turned to the "biography" and the "memoir" to tell the philosophic tale. Their assumption in doing so was that the private story is of public use. Edgeworth presents Castle Rackrent as a biography of the Rackrent family and as a means of edification for the public at a time when Irish/English unification was a visible and contentious issue on the minds of Irish and English alike. In addition, Robert Bage offers a twofold narrative structure in Hermesprong to demonstrate the common benefits of the "rights of man." His narrator, Gregory Glen, relays an entertaining biography of the legendary "Hermesprong" and interweaves into the tale his own private story--the history of "the son of nobody"--to show the impact of a model of enfranchisement on a man who has been denied agency.

The Jacobin novel is "biography," however, only in the way that Lukács claims the novel in its "outward form" is "essentially biographical"--as a construct that objectivized "[t]he fluctuation between a conceptual system which can never completely capture life and a life complex which can never attain completeness because completeness is immanently utopian." The novelistic character, according to Lukács, is vital "only by his relationship to a world of ideals," and the world is actualized "only through its existence within that individual and his lived experience."<sup>48</sup> In a like manner, the Jacobins were concerned with the agency of the subject but always in a dynamic relation to the world.

The inner workings of perhaps the most psychologically aware Jacobin character, Caleb Williams, are significant because they provide a negative example--a picture of things as they are--and a rationale for socio-political reform. At times, as in the case of Holcroft's Anna St. Ives, Jacobin characters seem rather hollow figures who function only as concepts and thus lose what Lukács regards as the product of the interaction between personal lives and the world in the novel: a sense of the "problematic individual" that gives the novel its inner form. Yet in Godwin's Caleb Williams, Wollstonecraft's Wrongs of Woman (1792), and Hays's Memoirs of Emma Courtney, for example, the protagonists are of political interest precisely because they represent the complications of individual agency, citizenship and human passion.

The memoir, because it is both personal and public and it affirms identity,<sup>49</sup> was a favorite of political novelists of the 1790s.<sup>50</sup> Borrowing much from the confessional mode of Richardson, the Jacobins used personal histories that would bear witness to public dilemmas--in Hays's case, by showing the indulgence of an excessive passion whereas reason is required for social reform, and in Wollstonecraft, by representing the victimization of women by the law. The Jacobins embraced, as well, the memoir's reaffirmation of the self-directing subject firmly placed in the world. While Hunter calls the memoir a "metaphor" for the novel's simultaneous "inscape" (autobiography) and "outreach" (history), the Jacobin novel arbitrates the tension between the "individual will" and "social and interactive values."<sup>51</sup> Hunter's conclusion, however, that "social implication" remained "underdeveloped" in the novel until Austen,<sup>52</sup> overlooks Jacobin fiction, which was explicitly about the encoding of the relationship between the personal and the political, the reform of individuals and societies, and a sophisticated understanding of the crucial definitions of rights that were being consolidated in the late eighteenth century.

The Jacobin authors understood the novel to be an "action in the world." To write a narrative that depicts social injustice or imagines a new society was a political act. The

nucleus of activity for nearly all of the Jacobins was "inquiry." The novel itself was a means of investigation because it disclosed abusive prejudices, and the narrative was fueled by interest in encouraging careful scrutiny by the populace. This interest is articulated by Godwin when, in response to accusations in The British Critic that Caleb Williams is full of legal errors, he explains his purpose in writing the novel. It was not his intention, he argues, simply to reveal the specifics of the unjust laws of England. "The object is of much greater magnitude," he writes. "It is to expose the evils which arise out of the present system of civilized society; and, having exposed them, to lead the enquiring reader to examine whether they are, or are not, as has commonly been supposed, irremediable; in a word, to disengage the minds of men from prepossession, and launch them upon the sea of moral and political enquiry."<sup>53</sup>

In the campaign for enfranchisement and parliamentary reform, inquiry was regarded as the necessary intellectual activity to precede actual change. The Jacobins wrote of inquiry with a faith in reason and a belief that the novel could reveal truth. The Jacobins' neoclassicism is evident in their espousal of a world where intention and action, soul and deed are integral. Holcroft, who wrote several articles for The Monthly Review, consistently used the measure of a character's or situation's relation to "real life" to comment on the merit of the literary work. Even the Arabian Tales; or, a Continuation of the Arabian Nights Entertainments (1793) came under attack because the stories "have a tendency to accustom the mind rather to wonder than to inquire; and to seek a solution of difficulties in occult causes instead of seriously resorting to facts." Tales of the marvelous have far less "moral utility," according to Holcroft, than "those which originate in true pictures of life and manners."<sup>54</sup>

Holcroft's conclusion that it is far better to depict "man as he really is," even in a utopian narrative, became a fundamental maxim for the Jacobins. The novel, and the opportunity it provided to accommodate the details of everyday life, afforded them the

space to illustrate "man as he is" and "man as he ought to be." It also gave them the chance to conduct an inquiry in ways that the political essay did not allow. By narrativizing the impact of inalienable rights on the individual, the Jacobins were able to discover the prerequisites of legal subjecthood. They found that economic independence was the key to agency and self-determination the foundation of the contract. Only in the novel did it become glaringly clear that the rhetoric of Locke, Sidney, Rousseau, Paine and other *a priori* rights theorists did not include women, servants or other financial dependents in the bid for extended enfranchisement. Through the encoding of political principles in narrative events and characterizations, the direction of contract theory was partially unveiled to reveal the exclusions that have marked contract theory since its inception in English political thought.

Belief in the philosophical tradition of the "doctrine of necessity" informed the Jacobin novel as well. In his study on radical novels, Gary Kelly observes this influence and attributes much of the shape and technique of Jacobin fiction to the premise, so often articulated by Godwin, Holcroft and Wollstonecraft, that circumstances create the individual.<sup>55</sup> The doctrine of necessity was based on the Lockean notion of the *tabula rasa*. It denied any "original determination" and assumed that "all the actions of men are necessary," and that "voluntary actions" are the result of rational thought.<sup>56</sup> At the very least, adherence to this principle meant that a character's concerns, motivations and actions work in concert with the movements of plot, and that the plot reaches a logical conclusion. Because the Jacobins were in the business of revealing truth, the smooth flow of reasoning and consistency between cause and effect were crucial desiderata of fiction.

While the Jacobin text worked to mediate the debate over natural and civil rights, it reflected much of the turmoil that characterized public discourse in the 1790s. One persistent element of conflict in the debate was the place of women in political developments. The movement to include the female sex, largely spearheaded by Wollstonecraft, highlighted the importance of conceiving of certain liberties as "birthrights,"

as protective privileges that would guarantee a relationship with the law that would transcend the limitations of a woman's familial role; for example, a wife would be able to claim a legal identity separate from her husband's based on her own autonomy. A woman would be able to enter into a contract, other than marriage, without the intervention of husband, father, brother, male guardian or trustee. Much of their argument, therefore, worked to promote the humanity of women rather than emphasize their sexual and social difference.

The attack on the oppressive structure of the family, which is a trademark of the Jacobin text and is intimately linked with the theory of rights they supported, calls into question certain conclusions of recent studies on gender and the domestic novel. For example, Nancy Armstrong's argument that "domestic fiction actively sought to disentangle the language of sexual relations from the language of politics and, in so doing, to introduce a new form of political power," which is that of the domestic woman, belies the efforts of novelists such as the Jacobins to challenge any such assumptions about the private sphere.<sup>57</sup> While Armstrong's assessment may be appropriate for novels by Burney, Austen, or the Brontës, it does not address the exception of overtly political texts that locate their narratives in settings of familial conflict.<sup>58</sup> The Jacobins, particularly William Godwin and Mary Wollstonecraft, used stories of private life to demonstrate that the personal is political and that domestic authority was not and could never be the equivalent of political power defined by inalienable rights and the franchise. A separate, alternative form of authority, whether it be the jurisdiction of the household, responsibility for moral education or representation of the virtuous modern individual, would never equal the force deriving from property ownership, self-governance, legal subjecthood and the power of intellectual inquiry. The very act of separation prohibits participation in the benefits of public existence and denies control over public decisions that have an impact on private life (e.g., marriage laws). Armstrong's further argument that "the modern individual was first

and foremost a woman" because the realm of subjectivity was considered feminine also assumes a primacy of psychological subjectivity over a political, legal and economic one. The power she discerns in the domestic is arguably a subversive one that did little to benefit women and other financial dependents at the end of the eighteenth century.

The fact that certain women in the 1790s refused to settle for authority in the home and made a public case for access to civil liberties indicates just how much that decade was a period of remarkable transition and intense desire for change. As Brown describes "preromanticism" as a time of flux when form and content never seem to reach an effective coherence, the Jacobin novel betrays a similar struggle for aesthetic cohesion.<sup>59</sup> "[U]nity of design," which Kelly calls a tenet of Jacobin fiction, appears as a measure of genre form and literary quality in the works of the authors themselves and reviewers of their novels. In Thomas Holcroft's preface to *Alwyn* (1780), he distinguishes the novel from romance by pointing to the novel's coherence. While "[m]odern writers use the word Romance, to signify a fictitious history of detached and independent adventures; . . . in a Novel, a combination of incidents, entertaining in themselves, are made to form a whole; and an unnecessary circumstance becomes a blemish."<sup>60</sup> And in a review of Robert Bage's *Man As He Is*, Holcroft complains of Bage's novel that "[i]n splendor of ornament, unity of design is lost; and while we gaze at the beautiful columns, we almost forget the building."<sup>61</sup> In apparent reference to the Aristotelian criterion of including only that which is necessary to the furtherance of plot or the development of character, Holcroft laments the distraction of unhelpful details and digressions. This concern with dissipation, while it arguably pertains to only some of the Jacobin novels, is nonetheless a preoccupation that can be connected to a crisis of integrity in a period of enormous upheaval.<sup>62</sup>

In their narrativization of the individual as citizen and legal subject, the Jacobin novels were giving literary and institutional form to vital issues of early modern culture

undergoing transformation. The Jacobin novel, in its efforts to reveal social truths and to promote the virtuous individual as a figure deserving of inalienable rights, supports McKeon's theory that the novel both mediated and reflected the destabilization of epistemological and social categories. By functioning as formal exempla, they were to prepare the populace for citizenship; by engaging in a dialectic with political, legal and economic discourse and events, they were to conduct significant inquiry into the development of a philosophy of rights. Like its nemesis the Anti-Jacobin novel, the Jacobin text also provides a unique insight into the inevitable conflation of the narrative of cultural critique with the performative language of law. Jacobin fiction contributed to the formation of legal thought much as it was imagined the individual might enter into a contract. It involved a self-reflexive empowerment. The Jacobin novelists assumed the ability to advocate the tenor of the law just as an individual strengthened by inalienable rights was enabled, theoretically, to be a party to a civil or legal agreement. The assumption of power was manifest in the insistence of *a priori* rights theorists that the source of civil authority be located in the individual. It gave credence to private judgment, and it realized the potential of the person as a lawmaker or lawgiver.

Reception of Jacobin fiction often reflected assumptions made about the cultural role of the novel. In the fury of political debate at the end of the eighteenth century, the novel's ability to instruct was one way of legitimizing it as a valid literary form. Therefore, criticism of the Jacobin novel in eighteenth-century periodicals often focused on what was being taught or promoted, as much as on how successful the text was in achieving its goal as both a vehicle of instruction and a work of literary art. William Enfield, in The Monthly Review, based his assessment of Thomas Holcroft's Hugh Trevor on its "knowledge of mankind." Enfield reasoned that because "the novel is a proper vehicle for the communication of moral truth" and for "the exhibition of characters, in which the reader may contemplate, as in a mirror, men as they are, or as they ought to be," and since Hugh



Trevor is notable in "delineating men as they are," Holcroft's novel is a success.<sup>63</sup> Conversely, an anonymous reviewer for The British Critic approached Hugh Trevor with different assumptions about politics and literature and hence found the novel far from pleasing. Instead of considering Hugh Trevor as a text revealing knowledge of mankind, he regarded it as an "attack on all that mankind have been used to term good and laudable." At issue was what Holcroft called "Rights" and what the reviewer called "wild Liberty." But what rendered Hugh Trevor a bad novel was its inability to contribute to "the improvement of either man or woman kind."<sup>64</sup>

Conspicuously ideological journals, such as the Anti-Jacobin Review, or Weekly Examiner, focused solely on the politics of the novel and lashed out at what the founders of the periodical defined as "Jacobinism." They attacked universal benevolence, "that spirit of liberal indifference, of diffused and comprehensive philanthropy, which distinguishes the candid character of the present age." They took issue with a doctrine that aligns itself with atheism, ethics (as opposed to morality), equality, and individual rights and asks only that principle and action coincide. Finally, they opposed the "Jacobin creed," which espouses that "the animadversion of Human Law upon Human Actions is for the most part nothing but gross oppression; and that in all cases of the administration of Criminal Justice, the truly benevolent mind will consider only the severity of the punishment, without any reference to the malignity of crime."<sup>65</sup> What most concerned these opponents of reform was the impact of progressive narratives on social constructs, such as the law.<sup>66</sup> For this reason, the Anti-Jacobin Review and Magazine<sup>67</sup> was unabashedly derisive in its reviews of Jacobin novels. With apocalyptic fervor, the journal warned of the dangerous and insidious influence of novels promoting individual rights. The review of Hays's Memoirs of Emma Courtney, written in response to The Monthly Review's article on the same novel, accuses Hays of trying to claim the rights of man for women--a most fearful idea:

[T]he plain question is--Whether it is most for the advantage of society that

women should be so brought up as to make them dutiful daughters, affectionate wives, tender mothers, and good Christians, or, by a corrupt and vicious system of education, fit them for revolutionary agents, for heroines, for Staels, for Talliens, for Stones, setting aside all the decencies, the softness, the gentleness, of the female character, and enjoying indiscriminately every envied privilege of man?<sup>68</sup>

Whereas the Anti-Jacobin periodicals were little concerned with the aesthetic value of the Jacobin text, other journals tended to concentrate on a mixture of moral significance and artistic merit. Samuel Badcock, in The Monthly Review, found that Robert Bages's Mount Henneth combines "lively strokes of wit, or sallies of fancy; with more judicious reflections, or pleasing and interesting characters." Moreover, "[i]ts sentiments are liberal and manly, the tendency of it is perfectly moral; for its whole design is to infuse into the heart, by the most engaging examples, the principles of honour and truth, social love, and general benevolence."<sup>69</sup> William Taylor's review of Hermesprong expresses admiration for the "equal beauties of detail" as well as "the elevated soul" of the protagonist, who is "a prominent and fine delineation of the accomplished, firm, frank, and generous man, worthy to be impressed as a model for imitation."<sup>70</sup> The British Critic laments the waste or "evil use" of "considerable talents" in Caleb Williams, and The Analytical Review, acknowledging that "the greatest sources of entertainment are those, on which the powers of intellect are most ardently employed," considers Caleb Williams admirable in its depiction of benevolence while troubled in not providing an outline of plot.<sup>71</sup>

One piece of commentary that echoes back through two centuries of criticism on the Jacobin novel is Gary Kelly's recent observation that "[t]here were no great novels published in England during the 1790s, but there were many interesting ones."<sup>72</sup> Holcroft himself recognized that Hays's Memoirs of Emma Courtney or Edgeworth's Castle Rackrent were not the gauge of "great literature." In his own reviews, Holcroft continued to

compare contemporary novels to Richardson's Clarissa (1747-48), Fielding's Tom Jones (1749) or Smollett's Humphry Clinker (1771).<sup>73</sup> William Hazlitt struck a similar chord of sober reflection when he somewhat "excused" the literature of the late eighteenth century in his essay "On English Novelists." "It is not to be wondered at," Hazlitt remarked, "if amidst the tumult of events crowded into this period, our literature has partaken of the disorder of the time; if our prose has run mad, and our poetry grown childish."<sup>74</sup> He attributed the popularity of such texts as Inchbald's Nature and Art to the "prevailing prejudice of the moment, that judges and bishops were not invariably pure abstractions of justice and piety" rather than to any enlightened reflection on the human condition. Through the years, the Jacobin novel usually received a kind of measured, dispassionate praise, as in another review of Inchbald's Nature and Art: "This work will do much credit to the talents of the fair writer: the incidents are highly interesting; the language, if not splendid and highly polished, is at least pure and easy; the sentiments are just; and the satire is keen and pointed without descending to personality."<sup>75</sup>

In nineteenth-century criticism, the Jacobin text was usually banished to discussions of mere "doctrinal" novels. It was regarded as a rather eccentric, if explainable, product of the times. Early in the century, however, while Holcroft, Godwin, Inchbald and Edgeworth in particular still moved in literary circles and British relations with France remained delicate, the Jacobins and their novels were treated by major critics with a seriousness never again realized. William Hazlitt, for example, completed Thomas Holcroft's Memoirs and published an essay on Godwin in his Spirit of the Age, while Sir Walter Scott included Bage in his Lives of the Novelists. Hazlitt's assessment of Holcroft's Anna St. Ives zeroes in on the novel's most often cited problem: that the characters are merely "vehicles of certain general sentiments." According to Hazlitt, the transcription of "reasonings" into "narrative form" may advance an argument, but it may not leave the desired impression in the mind of the reader--that is, admiration and the desire to reform.

Hazlitt contends that "we begin to distrust, and for that reason to hate" a faultless hero and/or heroine. We can more easily accept such perfection of mind and character in the abstract than we can in the "human reality" of dramatization:

[W]hen these airy nothings are made reluctantly to assume a local habitation and a name, called Frank, or Anna . . . the naked form of truth vanishes under all this pitiful drapery, and the mind is distracted with mean and contradictory appearances which it knows not how to reconcile. When familiarised to us by being brought on the real stage of life, and ascribed to any supposed characters, perfect virtue becomes little better than a cheat, and the pretension to superior wisdom looks like affectation, conceit, and pedantry.<sup>76</sup>

Hazlitt's reviews of Jacobin fiction, beyond their remarkable shrewdness, reveal romantic assumptions about the role of narrative and tap into the reasons why we find these novels only "interesting." According to Hazlitt, in the ways that Anna St. Ives fails--its inability to evoke sympathy--Caleb Williams exceeds expectations. In an article on Godwin's Cloudesley (1830) for The Edinburgh Review, Hazlitt calls Caleb Williams a "masterly performance" because of the passion it stirs in the reader: "[t]here is not a moment's pause in the action or sentiments: the breath is suspended, the faculties wound up to the highest pitch, as we read. Page after page is greedily devoured. There is no laying down the book till we come to the end." One can only imagine that Godwin would have been dismayed by such an accolade in 1793-94 (the years of composition) when he wrote Caleb Williams presumably to steer readers away from such transports of emotion. Tragedies such as Caleb's would not happen if the "molten passion" and "scalding tears" that Hazlitt praises were overcome by reason.<sup>77</sup>

Yet the insistent Jacobin call to throw off the chains of emotion is what reverberated through nineteenth-century criticism of the Jacobin novel and inspired the

repeated observation that these novels were somehow out of touch with the human heart and the human condition. Once cut off from the immediate context of revolutionary zeal and the delusory hopes of a new millennium, readers of the Jacobin text found little with which to sympathize, and therefore little of importance and intrigue. Consigned to chapters on "minor" or "doctrinal" novels, the Jacobin text fared poorly in criticism from the mid-nineteenth to the mid-twentieth century. It was frequently concluded that the period after Smollett and before Austen and Scott was a dry one. It boasted no masterpieces, and it saw no major advancement in the development of the novel. The late eighteenth century was a time of transition, George Saintsbury consolingly comments, and the novel suffered from a "lack of consummateness, the sense that if the Novel Israel is not exactly still in the wilderness, it has not yet crossed the Jordan."<sup>78</sup> Some critics such as J. Cordy Jeaffreson mustered a few supportive words for the Jacobins. While he found Bage's novels "immoral and flagrantly indecent," he regarded Holcroft as a good-hearted philanthropist, "misunderstood" by "an ignorant and selfish generation," and Mary Wollstonecraft as a strong and courageous woman fighting an uphill battle.<sup>79</sup> In addition, of course, those interested in popular literature and representations of the French Revolution found Jacobin fiction an important artifact.<sup>80</sup> But most criticism echoed Saintsbury's boredom and Harrison Steeves' impatience with the Jacobin novel, even while admitting, like Ernest Baker, that polemical fiction was a "natural outgrowth of the time."<sup>81</sup>

Perhaps the most notable oversight of criticism since Hazlitt was the Jacobin's intellectual contribution to a theory of rights. Contemporary studies by Gary Kelly, Marilyn Butler and Mona Scheuermann have all attempted to address this void by considering Jacobin narrative support of individual liberties. In The English Jacobin Novel, Kelly documents at length the Jacobins' involvement in reform organizations such as the London Corresponding Society and the Society for Constitutional Information, novelistic references

to historical events like the publication of Thomas Paine's Rights of Man (1791-92) and the importance of circumstances in the Jacobin emphasis on "unity of design."<sup>82</sup> In Jane Austen and the War of Ideas, Butler reviews the ideological debate sparked by British fears of French invasion. Against the backdrop of Austen's conservatism, the Jacobin novel emerges as a maverick literary effort to usher in a Golden Age based on reason and inalienable rights.<sup>83</sup> Scheuermann, in a series of readings of representative social protest novels, observes the emphasis on reform rather than revolution. She argues that the Jacobins advocated institutional change but not through the tearing down of entire structures.<sup>84</sup>

The recent interest in domestic ideology and women novelists of the Enlightenment and the Romantic period has brought a number of female Jacobin novelists into the limelight. Because these novelists address the place of women in social and political developments and foreground the relationship between the personal and the political, their fiction has been discussed with renewed respect. Gary Kelly's latest work has addressed the role of women's writing in a period of revolution; he has found that the emphasis on subjectivity and domesticity by female authors was a central underpinning to the "professional middle-class cultural revolution".<sup>85</sup> It was primarily women's novels of the 1790s, Kelly argues, that transformed the novel in the ongoing process of providing a hegemonic alternative to courtly culture.<sup>86</sup> Scheuermann pays tribute to the Jacobin novel for its representation of women as strong, responsible figures with a close proximity to the management of money.<sup>87</sup> Eleanor Ty, finally, has offered a historical and feminist psycho-linguistic reading of late eighteenth-century narratives by women. Through their resistance to patriarchy, she contends, they experiment with maternal strategies of writing and a female aesthetic.<sup>88</sup>

However, none of the aforementioned studies, except perhaps for Hazlitt's, emphasizes the importance of law and theoretical assumptions about the legal subject in

Jacobin fiction. While they often cite references to specific legal injustices, they do not investigate the kind of transformative thinking about the relationship between the individual and juridical institutions that occurred in the latter part of the eighteenth century. Nor do they consider what was perhaps the most revolutionary and significant aspect of Jacobin thought: that economic independence and self-governance (themselves inextricably connected) were emerging as the foundations of citizenship. Faced with the "equivocal spirit of law," the Jacobins sought to clarify the influence of natural and civil rights on life in the commonwealth by narrativizing the tragic consequences of things as they are, if they continue to be. But they also tried to show through fictional inquiry the expanse of human potential. Their novels offer an indispensable critique of law and the personal costs of public struggles. Thomas Holcroft's turn to narrative when terrorized by treason charges and frustrated by the courts reflected the faith he and the other Jacobins placed in the narrative as an expression of political realities and as a contribution to understanding "righteousness, justice, and equity."

## Notes

1. Déclaration des droits de l'homme et du citoyen. ([Paris]: Is.n.l., [c.1791]), 5.
2. Thomas Holcroft, "A Narrative of Facts, relating to a Prosecution for High Treason" (London, 1795), 27.
3. Holcroft, "A Narrative of Facts," 1.
4. Holcroft, "A Narrative of Facts"; see also, H. N. Brailsford, Shelley, Godwin and their Circle (London: Thornton Butterworth, Ltd., 1936), 44-46.
5. Even Richard Posner, no fan of interdisciplinary efforts between law and literature, registers surprise that Caleb Williams has not been discussed as a "legal novel." See Richard Posner, Law and Literature (Cambridge: Harvard University Press, 1988), 145.
6. Caleb Williams is a notable exception. Caleb's "master," Falkland, is a magistrate who invokes British law to persecute Falkland.
7. Posner, 15, 71-73.
8. Weisberg cites, among others, feminist scholars Carolyn Heilbrun and Judith Resnik, who note the predominance of white men in the field of law and literature and the emphasis on male-authored texts. Such an approach, they argue, not only neglects concerns of women and minorities but also reifies and reinforces the normative. See Carolyn Heilbrun and Judith Resnik, "Convergences: Law, Literature, and Feminism," Yale Law Journal 99 (1990):1913-56.
9. Richard Weisberg, Poethics (New York: Columbia University Press, 1992), 120-22.
10. Weisberg, xiv.
11. Robert Cover, "Nomos and Narrative," in Narrative, Violence, and the Law, ed. Martha Minow, Michael Ryan, Austin Sarat (Ann Arbor: University of Michigan Press, 1992), 95-172. This article was first published as "The Supreme Court, 1982 Term--Foreword: Nomos and Narrative," Harvard Law Review 97 (1983).
12. Cover, 101.



13. Cover, 111.
14. Martha Minow, "Partial Justice: Law and Minorities," in The Fate of Law (Ann Arbor: University of Michigan Press, 1993).
15. Minow, 68.
16. Robin West, Narrative, Authority and Law (Ann Arbor: University of Michigan Press, 1993), 2.
17. West, 7.
18. West, 10.
19. West, 21-22.
20. James Boyd White, Justice as Translation (Chicago: University of Chicago Press, 1990), ix.
21. White, xvii.
22. White, 16-19.
23. Holcroft, "A Narrative of Facts," 1.
24. Chris Tennant, "Primitives, indigenous rights and international institutions: International engagement with indigenous peoples, 1945-1992," (Paper delivered at the "Law and Literature Seminar," Center for Literary and Cultural Studies, Harvard University, Cambridge, Mass., 13 April 1993), 22.
25. Ian Balfour, "Promises, Promises: Social and Other Contracts in the English Jacobins (Godwin/Inchbald)," in New Romanticisms: Theory and Critical Practice, ed. David L. Clark and Donald C. Goellnicht (Toronto: University of Toronto Press, 1994), 225. The quotation is from Edmund Burke, Reflections on the Revolution in France (London: Printed for J. Dodsley, 1790; Harmondsworth: Penguin Books, 1969), 194.
26. Balfour, 226-27.
27. William Godwin, Enquiry Concerning Political Justice, 3rd ed. (London: Printed for G.G. and J. Robinson, 1798; Harmondsworth: Penguin Books, 1985), 212-13.

28. Godwin, Political Justice, 214.
29. Mary Wollstonecraft, Maria, or the Wrongs of Woman (1798; New York: W. W. Norton and Co., 1975), 21. Originally published as Volumes I and II of The Posthumous Works of the Author of A Vindication of the Rights of Woman (London: J. Johnson, 1798).
30. See Gary Kelly, "Women Novelists and the French Revolution Debate: Novelizing the Revolution/Revolutionizing the Novel," Eighteenth-Century Fiction 6 (July 1994):369-88; Michael McKeon, The Origins of the English Novel, 1600-1740 (Baltimore: Johns Hopkins Press, 1987), 51-52; Ian Watt, The Rise of the Novel (London: Chatto & Windus, 1957), 42-49.
31. The Monthly Review, 2d ser., 10 (March 1793):297.
32. The Castle of St. Vallery (London: Robinson, 1792). This work is thought to have been published anonymously; see Andrew Block, The English Novel, 1740-1850 (London: Dawsons, 1967), 36.
33. The Monthly Review, 2d ser., 9 (November 1792):337-38.
34. Eliza Kirkam Mathews, The Count de Hoensdern; a German tale, 2 vols. (Dublin: Wogan, Byrne, Parker, Jones and Rice, 1793).
35. The Monthly Review, 2d ser., 12 (November 1793):338.
36. William Godwin, Caleb Williams (London: Printed for B.Crosby, 1794; New York: W. W. Norton & Co., 1977), 1.
37. Fredric Jameson, The Political Unconscious (Ithaca: Cornell University Press, 1981), 20.
38. Jürgen Habermas, The Structural Transformation of the Public Sphere, trans. Thomas Burger (Cambridge: MIT Press, 1991), 57-88.
39. Godwin, Caleb Williams, 1.
40. J. Paul Hunter, Before Novels (New York: W. W. Norton & Co., 1990), 225-47. The six features of didacticism Hunter outlines are: (1) binary distinctions between good and evil; (2) faith in the effective value of language; (3) a sense of urgency; (4) direct and

personal address to the reading audience; (5) a utilitarian view of writing; and (6) a stance of authority and certainty.

41. Godwin, Caleb Williams, 1.

42. Hunter argues that the practice of acquainting a readers with the text's intention was characteristic of eighteenth-century writing. Such a convention was, Hunter writes, "part of the process of living through a radical historical change in the writer-reader relationship, in going from a language of familiarity among friends to a language designed to communicate with strangers." See Hunter, 245.

43. Mary Hays, Memoirs of Emma Courtney (London: Printed for G. G. & J. Robinson, 1796; London: Pandora Press, 1987), xvii.

44. Thomas Holcroft, Memoirs of Bryan Perdue (London: Longman, Hurst, Rees and Orme, 1805; New York: Garland Publishing, 1979), iii.

45. Maria Edgeworth, Castle Rackrent (London: J. Johnson, 1800; Oxford: Oxford University Press, 1964), 1-2.

46. Hunter connects the interest in witnessing to the prevailing Protestant culture (particularly that of the Calvinists) and its "need to record the self extensively and analytically." See Hunter, 303-4.

47. Hunter, 303-4.

48. Georg Lukács, The Theory of the Novel, trans. Anna Bostock (Cambridge: MIT Press, 1971), 77-78. Lukács discusses the novel in terms of inner and outward forms. The inner form is about the journeying of the problematic individual, and the outward form is "biography."

49. See Patricia Meyer Spacks, Imagining A Self (Cambridge: Harvard University Press, 1976), 1; Felicity Nussbaum, The Autobiographical Subject (Baltimore: Johns Hopkins University Press, 1989), 30-57.

50. Prevalent use of the memoir by both conservative and progressive political novelists is evidenced by such titles as, Memoirs of Emma Courtney, Memoirs of Modern Philosophers, Memoirs of Bryan Perdue and the use of memoir in Wollstonecraft's Wrongs of Woman.

Wollstonecraft's protagonist writes her story as a memoir to her infant daughter.

51. Hunter, 338-41.

52. Hunter, 342.

53. The British Critic 6 (July 1795):94.

54. The Monthly Review, 2d ser., 11 (June 1793):254.

55. Gary Kelly, The English Jacobin Novel, 1780-1805 (New York: Clarendon Press, 1976), 15.

56. Godwin, Political Justice, 97, 336.

57. Nancy Armstrong, Desire and Domestic Fiction (Oxford: Oxford University Press, 1987), 3.

58. Armstrong's claim that "novels ultimately seemed to steer clear of politics" is an indication of her oversight of novels that were domestic and overtly political. Armstrong, 38.

59. Marshall Brown, Preromanticism (Stanford: Stanford University Press, 1991), 3. Brown is careful to specify that preromanticism is not a "preliminary state" or a body or work that has a "predisposition" to romanticism but a more self-contained period that is "*not yet* romantic" (2).

60. Thomas Holcroft, Alwyn; or the Gentleman Comedian (London: Printed for Fielding and Walker, 1780), 1:vi-viii.

61. The Monthly Review, 2d ser., 10 (March 1793):298.

62. The phrase "unity of design" appears as a measure of literary quality in William Taylor's review of Hermesprung:

Man as he is, a former publication of this uncommon writer, was reviewed

in our xth vol. N.S. p.297. We then thought fit to mingle, with our general and warm approbation of that novel, the remark that sufficient attention had not been paid to unity of design in the plan of the composition. The same opinion might be advanced, without injustice, respecting the production before us. (The Monthly Review, 2d ser., 21 [September 1796]:21.)

"Unity" also appears as a standard for a successful novel in a review of Inchbald's A Simple Story. See The Critical Review 1 (February 1791):207.

63. The Monthly Review, 2d ser., 15 (October 1794):149.

64. The British Critic 4 (July 1794):71.

65. The Anti-Jacobin, or Weekly Examiner, 5th ed. (London: Printed for J. Hatchard, 1803), 1:4-7, 1:69-70.

66. I borrow Michael McKeon's term "progressive narrative" to indicate novels that work, however tentatively or forcefully, to subvert status and wealth as indicators of social worth.

67. The Anti-Jacobin, or Weekly Examiner ran from November 1797 to July 1798, Nos. 1-36; The Anti-Jacobin Review and Magazine (later called The Anti-Jacobin and Protestant Advocate) ran from July 1798 to December 1821, vols. 1-61.

68. The Anti-Jacobin Review and Magazine 3 (May 1799):55.

69. The Monthly Review 66 (February 1782):130.

70. The Monthly Review, 2d ser., 21 (September 1796):21.

71. The Analytical Review 21 (February 1795):174.

72. Kelly, 1.

73. Richardson, Fielding and Smollett appear in numerous reviews as touchstones of good literature. See, for example, Andrew Becket's review of Robert Bage's Fair Syrian in The Monthly Review 76 (April 1787):325 and an anonymous essay on Inchbald's A Simple Story in The Critical Review 1 (February 1791):207.

74. William Hazlitt, "On the English Novelists," Lectures on the English Comic Writers, in The Complete Works of William Hazlitt, ed. P. P. Howe (London: J. M. Dent & Sons, 1930), 6:123. Interestingly, Hazlitt excepts Edgeworth's Castle Rackrent from his comment on the chaotic quality of late eighteenth-century literature. He regards Castle Rackrent as "a genuine, unsophisticated, national portrait." Other exceptions he cites are Burney's Evelina, Cecilia and Camilla.
75. The Monthly Review, 2d ser., 19 (January-April 1796):453.
76. William Hazlitt, The Life of Thomas Holcroft, ed. Elbridge Colby (London: Constable & Co., 1925), 2:4-6.
77. William Hazlitt, "Mr. Godwin," Contributions to the Edinburgh Review, in The Complete Works of William Hazlitt, ed. P. P. Howe, (London: J. M. Dent & Sons, 1930), 16:393-408.
78. George Saintsbury, The English Novel (London: J. M. Dent & Sons, 1913), 187.
79. J. Cordy Jeaffreson, Novels and Novelists, from Elizabeth to Victoria (London: Hurst and Blackett, 1858), 1:258, 298, 348.
80. See, for example, J. M. S. Tompkins, The Popular Novel in England, 1770-1800 (Lincoln: University of Nebraska Press, 1961); Allene Gregory, The French Revolution and the English Novel (Port Washington, NY: Kennikat Press, 1915).
81. Saintsbury, 164-71; Harrison R. Steeves, Before Jane Austen (New York: Holt, Rinehart and Winston, 1965), 292-314; Ernest A. Baker, "The Novel of Doctrine," The History of the English Novel (New York: Barnes & Nobles, 1929), 5:228-55.
82. Gary Kelly's discussion of English Jacobinism is only one section of a chapter in his more recent work, English Fiction of the Romantic Period, 1789-1830 (London: Longman Group, 1989). His earlier study, The English Jacobin Novel, 1780-1805, still provides the most comprehensive research on the Jacobin novel.
83. Marilyn Butler's more recent work, as well, focuses on canonical romantic writers such as Blake, Wordsworth, Shelley and Keats. The Jacobins are mentioned throughout, but not

as the main subject of inquiry. See Romantics, Rebels, and Reactionaries (New York: Oxford University Press, 1982).

84. Mona Scheuermann, Social Protest in the Eighteenth-Century English Novel (Columbus: Ohio State University Press, 1985).

85. Gary Kelly, Women, Writing, and Revolution, 1790-1827 (Oxford: Clarendon Press, 1993), 8.

86. Gary Kelly, "Women Novelists and the French Revolution Debate: Novelizing the Revolution/Revolutionizing the Novel," Eighteenth-Century Fiction 6 (July 1994):369-88.

87. Mona Scheuermann, Her Bread to Earn (Lexington: University Press of Kentucky, 1993).

88. Eleanor Ty, Unsex'd Revolutionaries (Toronto: University of Toronto Press), 1993.

## Chapter Two

### Debating Rights, Property and the Law

*Civilians, canonists, politicians and divines are not a little perplexed in distinguishing between the law of nature and the law of nations.*

*Sir Robert Filmer*

The debate over natural and civil rights that dominated public discourse in the 1790s was a furious one. Much was at stake in defining personal liberties and public duties: the configuration of the body politic, the corresponding alignment of power and influence on the direction of the modern state. Throughout the seventeenth and eighteenth centuries, a battle ensued between the family and the self-contained individual as the image and more importantly the *site* of political authority. This conflict was at the heart of the political philosophy of Sir Robert Filmer and John Locke, and it persisted into dialogues on the social contract by Jean-Jacques Rousseau, Edmund Burke and Thomas Paine.<sup>1</sup> Liberty was either safely protected in the "inherited rights" of Burke's imaginings or boldly redistributed to the "individual inalienable rights" advocated by Paine. One conception of rights was meant to contain the franchise, the other to extend it. What the Jacobin novelists contributed to this debate was not only their emphatic depiction of the tyranny of "the family" and outright support of inalienable rights but also their protest against the exclusion of financial dependents from political advancements. Their narrative explorations clarified and questioned the determining impact of property on personal autonomy and the acquisition and protection of liberty in relation to the law.

Royalists and absolutists invoked the image of the family as a symbol for government to legitimate monarchical and patriarchal power. Sir Robert Filmer, in Patriarcha: A Defence of the Natural Power of Kings against the Unnatural Liberty of the People (c.1620-42),<sup>2</sup> bestows divine, natural and historical authority on the absolute dominion of the monarch. The basis of his argument is the reciprocal support between the



male head of household and the king. By "natural right of a supreme father," the sovereign commands allegiance, and correspondingly, by "natural right of regal power," our "obedience to kings is delivered in the terms of 'honour thy father' [Exodus, xx, 12] as if all power were originally in the father."<sup>3</sup> One form of paternal authority justifies the other. In a response to Hugo Grotius's De Jure Belli ac Pacis (1625), in which Grotius argues for a "primitive will" of the people, Filmer establishes the authority of the patriarchy through his characteristic reliance on Adam and a "genetic" theory of government.<sup>4</sup> Filmer's reaction to Grotius is typical of his response to those who were suggesting that the origin of the monarch's power lies in the citizenry:

I have briefly presented here the desperate inconveniences which attend upon the doctrine of the natural freedom and community of all things. These and many more absurdities are easily removed if on the contrary we maintain the natural and private dominion of Adam to be the fountain of all government and property. And if we mark it well we shall find that Grotius doth in part grant as much. The ground why those that now live do obey their governors is the will of their forefathers, who at the first ordained princes--and in obedience to that will the children continue in subjection. This is according to the mind of Grotius, so that the question is not *whether* kings have a fatherly power over their subjects, but *how* kings first came by it. Grotius will have it that our forefathers, being all free, made an assignment of their power to kings. The other opinion denies any such general freedom of our forefathers, but derives the power of kings from the original dominion of Adam.<sup>5</sup>

Much of Filmer's discussion in Patriarcha revolves around the unlimited legislative power of the monarchy. The idea that the citizenry could legitimately rebel against a sovereign was preposterous because it implied a law superior to that of the king.

According to Filmer, the sovereign was the principal lawmaker who is above and beyond his own laws, as a father is in his own home. Again, the family is enlisted to explain and justify royalist notions of the origins of political authority.

For as kingly power is by the law of God, so it hath no inferior law to limit it. The father of a family governs by no other law than by his own will, not by the laws or wills of his sons or servants. There is no nation that allows children any action or remedy for being unjustly governed; and yet for all this every father is bound by the law of nature to do his best for the preservation of his family. But much more is a king always tied by the same law of nature to keep this general ground that the safety of his kingdom be his chief law.<sup>6</sup>

Filmer's argument for the predominance of the king's law is dependent on the sovereign's commitment to the well-being of the community. But the assumed benevolence and good will that Filmer argues would monitor a sovereign's behavior came under especially harsh attack by contract theorists and Jacobin novelists alike. *Noblesse oblige*, they retorted, does not offer the protection that individual rights, in theory, do. Political liberties, which Filmer attributes to the king's "grace," had to be extracted from what Filmer describes as a sacred contract between the king and his people "either originally in his ancestors, or personally at his coronation."<sup>7</sup>

While Filmer is often cited in explications of formal patriarchalism, and he himself claimed to be the source of the analogy between father and king, family and kingdom, scholars of Filmer's work are quick to point out that the comparison was hardly Filmer's innovation. Patriarcha was preceded by numerous other tracts on paternal authority, and, by the early seventeenth century, patriarchy was a common idea in royalist political theory.<sup>8</sup> Nonetheless, it was Filmer to whom Locke responded in his Two Treatises of Government (1690) and Algernon Sidney in his Discourses Concerning Government (1698).

Patriarcha offers a particularly vivid account of royalist thought and both marks the fading interest in absolute monarchy as a viable form of government and provides a source for the resurgence of concern for "the family" in the 1790s.

The image of the self-contained body emerged in contract theory to counter the influence of the family politically and economically. One of the more literal examples of the importance of the individual occurs in Rousseau's Discourse on Political Economy (1755), where Rousseau compares the body politic to the figure of an individual man. While drawing an analogy between government and the human body was nothing new, it took on a renewed vigor in discussions of the social contract because it foregrounded a bounded self, comprised of several working parts, and illustrated an alternative vision of the individual's relation to the law. Rousseau writes:

The body politic, taken individually, can be considered as an organized, living body and similar to that of a man. The sovereign power represents the head; the laws and customs are the brain, the center of the nervous system and seat of the understanding, the will and the senses, of which the judges and magistrates are the stomach which prepare the common subsistence; public finances are the blood that a wise *economy*, performing the functions of the heart, sends back to distribute nourishment and life throughout the body; the citizens are the body and members which make the machine move, live, and work, and which cannot be injured in any way without a painful sensation being transmitted right to the brain, if the animal is in a state of good health.

The life of both together is the *self* common to the whole, the reciprocal sensibility and the internal connection between all the parts.<sup>9</sup>

One of the more interesting facets of Rousseau's description is his version of reciprocity. The primary reciprocal relationship between king and father in royalist discourse<sup>10</sup> gives

way to a focus on the relationship between law, economics and the citizenry. Concern for the happiness of the multitude of body parts (the citizenry) and an awareness that its well-being will have an impact on the brain (the law) indicates an altered conception of the relationship between the enfranchised populace and juridical institutions.<sup>11</sup> While concern for the authority of the citizenry does not deny the subjection of persons to the law, it does suggest a more empowered position for them. The people's potential rebellion becomes a force that must be reckoned with, and their participation in the community as a whole will presumably be reflected in policy. Moreover, in Rousseau's portrait of the body politic, law emerges in the central role it holds in a republic. It has arguably the most significant function as the site of the understanding and will, and although it is encased in the sovereign/head, it bears no systematic relation to those trappings. The head is a mere vessel.

Rousseau's blueprint for the body politic has its roots in seventeenth-century contractarian discourse on the ascendancy of the juridical.<sup>12</sup> Locke, for example, also argued for the supremacy of law in the commonwealth--not the king's law, but law that has the consent of a citizenry endowed with a natural political authority. "The *legislative*," Locke explained, "is not only *the supreme power* of the common-wealth, but sacred and unalterable in the hands where the community have once placed it."<sup>13</sup> In *Two Treatises*, as Locke dismantled Filmer's argument, he worked to reconfigure the legislative and to establish the integrity of the individual distinct from the family. His motivation was twofold: an interest in obtaining both civil equity and religious toleration.<sup>14</sup> Locke is passionately persuasive about the inseparability of civil and religious liberty, and with good reason. Anti-toleration legislation was firmly in place, and it meant persecution and exile for Roman Catholics and Protestant Dissenters. The Corporation Act of 1661 required all office-holders to take "the sacrament according to the rites of the Church of England," and the Test Acts of 1673 and 1678 denied public office to anyone unwilling to renounce the

Pope and the doctrine of transubstantiation. The second Test Act (1678) also specifically excluded Roman Catholics from membership in both Houses of Parliament.<sup>15</sup>

Passed in May of 1689, the Toleration Act offered some relief to nonconformist Protestants—they were allowed to meet publicly and worship. This act, however, still prohibited dissenting Protestants and Roman Catholics from holding public office, and it left the Corporation and Test Acts in place.<sup>16</sup> Locke, in his Letter Concerning Toleration (1689), argues the benefits of religious freedoms for the community.<sup>17</sup> He asserts the separation of church and state by maintaining that "the Power of Civil Government relates only to Mens Civil Interests, is confined to the care of the things of this World, and hath nothing to do with the World to come." In the skeptical tradition, he also justifies separation by refusing to acknowledge any single church as the consummate religious institution closest to the spiritual truth.<sup>18</sup> Furthermore, Locke relies on a respect for *personal* commitment, understanding and faith. In a remarkably bold statement at the time, Locke defends the privilege of religious freedom in the face of the Anglican Church's attempt to reassert its strength: "[a]lthough the Magistrates Opinion in Religion be sound, and the way that he appoints be truly Evangelical, yet if I be not thoroughly persuaded thereof in my own mind, there will be no safety for me in following it. . . . Whatsoever may be doubtful in Religion, yet this at least is certain, that no Religion, which I believe not to be true, can be either true, or profitable unto me."<sup>19</sup> Locke first wrote his Letter Concerning Toleration while in exile in Amsterdam, driven abroad because of his participation in politically subversive activities between 1679 and 1683. His plea for toleration would certainly have served his personal interests, but, if taken in a practical vein, Locke's Letter went beyond self interest and offered the crown some sound advice on the inefficacy of coercive allegiance. In addition, Locke added more fuel to the fire for individual liberties by recognizing subjective rights and justifiable rebellion.<sup>20</sup>

One of the cornerstones of Two Treatises and A Letter Concerning Toleration is the

right to rebel and then dissolve government if necessary. In Two Treatises, Locke's stance largely counteracts Filmer's unwillingness to acknowledge any form of legitimate resistance to the crown. Filmer's position is consistent with his conception of absolute governance and obedience, but it was also a means of simply silencing religious/political dissent. As in his Letter, Locke gives rather commonsensical advice about the expedience of toleration:

[W]hen the *People* are made *miserable*, and find themselves *exposed to the ill usage of Arbitrary Power*, cry up their Governours, as much as you will for *Son of Jupiter*, let them be Sacred and Divine, descended or authoriz'd from Heaven; give them out for whom or what you please, the same will happen. *The People generally ill treated*, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. They will wish and seek for the opportunity, which, in the change, weakness, and accidents of humane affairs, seldom delays long to offer it self.<sup>21</sup>

The right to rebel is one of the principles that distinguishes contractarians from royalists or absolutists. In the latter traditions, the people are said to alienate their political power "absolutely" to a sovereign, whereas contractarians such as Locke and Rousseau recognize some inalienable rights, for example, the ability to withdraw their support from a sovereign and confer political authority on another. Both Locke and Rousseau cite the inevitability of dissension and its rightfulness based on what Locke defines as the "*end or measure*" of government: the preservation of society, of "all Mankind in general."<sup>22</sup> Rousseau is particularly adamant about inalienable liberty. In a chapter of On Social Contract provocatively entitled "Slavery," Rousseau discusses what it means to "alienate"; it is "to give or to sell," he writes, and people do not willingly do so to subject themselves to the possible "insatiable greed" and "vexations" of a monarch. "To renounce one's liberty," he contends, "is to renounce one's humanity, the rights of humanity and even its duties." He

continues to argue that "an agreement" requiring one to give up freedom of will and to submit to unlimited obedience is "vain and contradictory."<sup>23</sup>

Pivotal in Locke's discussion in Two Treatises, as well as in all contractarian arguments, is the separation of family and state. "[T]he *Paternal* is a natural *Government*," Locke concedes, "but not at all extending it self to the Ends, and Jurisdictions of that which is Political." "*Parental Power*," Locke continues,

is nothing but that which Parents have over their Children, to govern them for the Childrens good, till they come to the use of Reason, or a state of Knowledge, wherein they may be supposed capable to understand that Rule, whether it be the Law of Nature, or the municipal Law of their Country, they are to govern themselves by: Capable, I say, to know it, as well as several others, who live, as Free-men under that Law.<sup>24</sup>

Through his insistence on distinguishing political from domestic constructs, Locke enables the emergence of political individualism. The subject as child, in royalist writings, gives way to the citizen as adult in contract discourse. Quite importantly, Locke's measurement of maturity is the person's ability to interact with the law in an aggressive way. The mark of having outgrown parental jurisdiction (by one's parents or the crown) is the ability to reason, understand the law and govern oneself. The foundation of control that Locke establishes is in the individual who consents to bequeath his power--the political power one holds in a state of nature--to a designated legislative body in civil society, as if it were transferred to a "trust."<sup>25</sup> One may alienate certain authority to institutions, but what Locke is beginning to consider is the idea that one retains the privileges and responsibilities of self-governance in civil society.<sup>26</sup>

The origin of law in the consent of the community is a principle that Locke repeats throughout Two Treatises. Of particular interest in Locke's essays is his effort to keep the integral individual distinct from the law. In his chapter on the "Extent of the Legislative

Power," as Locke discusses the limits of law, he explains that the power of the legislative "can be no more than those persons had in a State of Nature before they enter'd into Society, and gave up to the Community. For no Body can transfer to another more power than he has in himself; and no Body has an absolute Arbitrary Power over himself, or over any other, to destroy his own Life, or take away the Life or Property of another." The focus on an observable power in the self, that must not be tampered with, assumes an autonomy that is meant to offer protection from external and internal tyrannies. By outlining the boundaries of the self, Locke situates the parameters of law and the responsibilities of the individual toward himself. "A Man, as has been proved," Locke continues,

cannot subject himself to the Arbitrary Power of another; and having in the State of Nature no Arbitrary Power over the Life, Liberty, or Possession of another, but only so much as the Law of Nature gave him for the preservation of himself, and the rest of Mankind; this is all he doth, or can give up to the Common-wealth, and by it to the *Legislative Power*, so that the Legislative can have no more than this. . . . It is a Power, that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the Subjects.<sup>27</sup>

In this passage, Locke becomes especially forceful about the impossibility of arbitrary subjecthood, and he summarizes the main points of his argument: in the state of nature, one has dominion over no one but oneself; the first rule of intent is self-preservation and the preservation of mankind; and when one alienates one's power in entering a commonwealth, it is to a legislative institution. The legislative takes the seat of authority left vacant by the monarch.

Another significant response to Filmer that helps to illuminate the figure of the individual in contract theory is Algernon Sidney's Discourses Concerning Government.



Sidney also takes issue with Filmer's analogy of father and king. "I suppose it may be safely concluded," he writes, "that what right soever a father may have over his family, it cannot relate to that which a king has over his people."<sup>28</sup> Sidney also questions the viability of considering the king beyond the restrictions of law. If there is no means of correction for a king who transgresses his authority or neglects his job as caretaker of the kingdom, then what guarantee is there that he will look out for the best interests of his kingdom? If there is no means of redress, how can a body of people protect themselves against misuse? In Sidney's queries, certain assumptions about "the people" are clearly at work. He presumes, as Locke does, that the people have *agency*, a foundational ability to reclaim the political authority they alienate when entering into a community. He takes it for granted that persons elect to belong to a commonwealth, and that they do so because they consider it a profitable undertaking. Sidney describes the civil body as "a collation of every man's private right into a publick stock" driven by the belief that it will be beneficial. "[N]othing could induce them to join," he argues, "and lessen that natural liberty by joining in societies, but the hope of a publick advantage."<sup>29</sup> In passages that echo Hobbes, Sidney points to human weaknesses, the "fierce barbarity of a loose multitude, bound by no law, and regulated by no discipline," to explain the necessity of a community governed by law. "The first step towards the cure of this pestilent evil, is for many to join in one body, that everyone may be protected by the united force of all; and the various talents that men possess, may by good discipline be rendered useful to the whole."<sup>30</sup>

The "freemen" who constitute Sidney's notion of "the people" are distinguished by the characteristics Locke also identified: economic independence, the capacity for rational thought and self-governance. The most important was self-governance because it marked the individual as a self-contained entity with agential powers and it became both the reward of the commonwealth and the requirement for political participation. "[T]he liberty we contend for," Sidney explains, "is granted by God to *every man in his own person*, in such

a manner as may be useful to him and his posterity."<sup>31</sup> The individual who is "led by reason which is his nature" is "his own judge."<sup>32</sup> Moreover, reason is what enables the newly empowered individual to temper the pursuit of personal success and consider the interests of the collective. "He that enquires more exactly into the matter may find," Sidney writes, "that reason enjoins every man not to arrogate to himself more than he allows to others, nor to retain that liberty which will prove hurtful to him; or to expect that others will suffer themselves to be restrain'd, whilst he, to their prejudice, remains in the exercise of that freedom which nature allows."<sup>33</sup> Sidney frequently reminds us (as Locke does), that the purpose of the commonwealth is an improvement of the community at large, and the desired result of forming a body politic and asserting individual freedoms is general prosperity.

The integral figure that emerges in these few excerpts from Rousseau, Locke and Sidney worked, theoretically, to free persons from the bonds of familial structures. One could imagine the economic benefits. Presumably more capital would be released from the controls of inheritance to circulate in the marketplace, property would become more fluid, and the image of the modern individual would be consistent with the needs of a capitalist economy. One could foresee the shifts in moral categories. It was possible that virtue and honor would be released from status and applied to individual merit. And one could predict the impact on law. Legislation would apparently be subject to change if demanded by the consenting population, and the individual would confront the law with certain inviolable protections. The movement away from the analogy of father and king and the controlling image of the family seemed potentially liberating and full of promise. Buried in this progress, however, was the darker side of exclusion. The self of contract theory, defined by reason, understanding, property and self-governance, was at the heart of campaigns to extend the franchise, remained consistent through the rights debates of the 1790s and distinguished the heroes of the Jacobin novels. The strong sense of self that was so much

a *product* of Locke's idea of a commonwealth also became a *requirement* for activity in the commonwealth. What on one level seemed to be a gesture toward inclusion, on another worked to marginalize those who could not meet the specifications of a discrete self. Who was to be included in the collective of "mankind" and who was to participate in the compact of government were questions in debate, and their answers were to be quite revealing.

Particularly telling, in the modern history of British enfranchisement, were the Putney Debates of 1647-49. This exchange of ideas about what constituted political authority revealed that, in addition to gender, economic dependence limited one's access to civil liberties. The Levellers's mid-seventeenth-century campaign for extended franchisement stirred discussion of exclusion in attempts to determine the "proprieters" of civil society. In the Debates, the Levellers presented an argument that, according to Keith Thomas, emerged from several years of parliamentary bids to widen civil participation.<sup>34</sup> The Levellers' intent, in their exchange with Lieutenant General Oliver Cromwell and Commissary General Henry Ireton, is a controversial matter, and it has been the subject of numerous analyses by A. S. P. Woodhouse, G. E. Aylmer, and Brian Manning, among others. Yet the end result was a refinement and containment of the franchise.

Much of the scholastic dispute focused on whom the Levellers meant when they proposed that "freemen" be considered eligible for the vote. Colonel Thomas Rainborough, a key player on behalf of the Levellers, seemed to be supporting universal manhood suffrage when he insisted that "the poorest he that is in England hath a life to live, as the greatest he; and therefore . . . every man that is to live under a government ought first by his own consent to put himself under that government."<sup>35</sup> However, Sir William Petty, who was also a Leveller, acknowledged exceptions in what some critics have maintained was a compromise position put forward to pacify opponents.<sup>36</sup> Only "inhabitants that have not lost their birthright," he asserts, "should have an equal voice in elections." Yet

not everyone was able to claim his/her birthright and thus be included in the franchise. Financial dependents, he argued, surrendered their birthright and thereby forfeited the right to political participation. "The reason why we would exclude apprentices, or servants, or those that take alms," Petty explains, "is because they depend upon the will of other men and should be afraid to displease [them]. For servants and apprentices, they are included in their masters, and so for those that receive alms from door to door."<sup>37</sup> Whatever the individual or collective intent of the Levellers, the result of the Putney Debates was a final version of the "Agreement of the People" in which servants and alms-takers were eliminated from the franchise because they were financially liable to another party.<sup>38</sup>

One of the key points of dissension in the Putney Debates, which re-emerged in the controversy over natural rights in the 1790s, was the role of natural law in a socio-political framework. Obedience to a legal authority (the king), Richard Gleissner contends, was of preeminent importance to Ireton and those interested in preserving the social order; any concept that entertained insubordination to positive law and the supremacy of personal judgment threatened social stability and property rights.<sup>39</sup> When Rainborough made his plea that franchisement be extended to "the poorest," Ireton cited the danger of recognizing inalienable liberties in a response that presages Burke: "if you make this the rule I think you must fly for refuge to an absolute natural right, and you must deny all civil right."<sup>40</sup> Only those who have "a permanent fixed interest in this kingdom," only "the persons in whom all land lies, and those in corporations in whom all trading lies," Ireton argued, should "choose the representers for the making of laws by which this state and kingdom are to be governed."<sup>41</sup> Also anticipating Burke, Ireton feared that the acknowledgment of natural rights would inevitably lead to anarchy and a loss of property through a process akin to theft. Any threat to the notion of ownership, a cornerstone of socio-political stability, was indeed a formidable menace.

The emphasis on property that surfaced most strikingly in the Putney Debates also

materialized in the debates of the 1790s, but nowhere so thoroughly as in the Jacobin novel, where a character's relationship to the law was determined by his/her association to property. All of these texts looked to the idea, articulated most concisely by Locke, that property originates in an ownership of the self. In his *Two Treatises*, Locke recognized a natural right to property, derived from natural law;<sup>42</sup> he argued that "every Man has a *Property* in his own *Person*. This no Body has any Right to but himself. The *Labour* of his Body, and the *Work* of his Hands, we may say, are properly his."<sup>43</sup> A bit later in his essay, Locke again defines property to reassert his initial observation: "[b]y *Property* I must be understood here, as in other places, to mean that Property which Men have in their Persons as well as Goods."<sup>44</sup> Locke on property has proven to be a thorny issue among contemporary scholars of political theory. There seems to be some agreement about James Tully's assertion that "property," in Locke's definitions, refers not only to the property itself but also, and perhaps more importantly, to the *right* of property.<sup>45</sup> Yet there is much disagreement about the ownership of property produced by one's labor. When Locke writes, "Thus the Grass my Horse has bit; the Turfs my Servant has cut; and the Ore I have digg'd in any place where I have a right to them in common with others, become my *Property*," trouble in interpretation ensues because it seems that the servant, miner and other similar workers are not able to claim the property of their labor. Some scholars, such as C.B. Macpherson, have read the latter passage as a statement of the bourgeois position on the profits of employment and an assumption that the wage relationship is natural.<sup>46</sup> Others have seen it as a response to a specific audience; Richard Ashcraft, for example, contends that Locke was writing to an artisan audience.<sup>47</sup>

Despite the interpretive controversy over Locke's notion of property, his emphasis on the right of property is what emerges in the debate over natural and civil rights and in the Jacobin novel. Tully is careful to note that the term "property" in the seventeenth century referred, among other things, to "personal rights, especially religious and civil

liberties."<sup>48</sup> It is in this vein that Locke's ideas became important in the rights debate of the 1790s. The natural right of property is an *a priori* right--it precedes, and exists independently of, civil society--and it is transferred to a civil authority for protection, not alienation. When Locke writes that "[t]he great and *chief end*, therefore, of Mens uniting into Commonwealths, and putting themselves under Government, *is the Preservation of their Property*," he is referring not only to "goods" but far more importantly to those civil and religious liberties that allow one to function in society as a full legal subject.<sup>49</sup>

Locating the origin of property in the self allows for a fundamental independence that in turn makes one eligible to enter into a contract and participate in civil society with the power of agency. It seems that arrangements for activity in the public sphere were already set. Locke and other contractarians had already claimed that political authority "has its original only from compact and agreement, and the mutual consent of those who make up the community." Yet they were also establishing the requirement of self-governance to make such an agreement. "For what Compact can be made," Locke asks, "with a Man that is not Master of his own Life?"<sup>50</sup> The conditions that contract theorists were beginning to establish for the reconstitution of the body politic offered a form of emancipation for Dissenters and others suffering from religious persecution. These conditions were not liberating, however, for those who could not claim to be masters of their own lives: women, servants and beggars. Financial dependence kept them vulnerable, and in the case of women the belief that the female sex was deficient in reasoning powers prohibited them from making the claim that they could govern themselves. Reason was a tremendously potent component of the empowered individual in republicanism. One could not be trusted to participate in government unless one had a sound mind. Mental stability in terms of "Truth and keeping of Faith," Locke contends, is one of the facets of property--that is, capacities of self-- that "belongs to Men, as Men, and not as Members of Society."<sup>51</sup>

Property was of central importance to republican James Harrington.<sup>52</sup> In his

Commonwealth of Oceana (1656), a recommendation for restructuring English government into a commonwealth, political power is a direct function of ownership (particularly of land). Harrington outlines two principles of government for his discussion: "internal, or the goods of the mind, and external, or the goods of fortune." Internal principles refer to "natural or acquired virtues," such as wisdom and courage, and they exact "authority"; external principles are "riches," and they command "power or empire." In Oceana, Harrington is primarily concerned with the economics of power, for example, the distribution of wealth and its corresponding alignments of political advantage. "[W]here there is inequality of estates," Harrington writes, "there must be inequality of power," and "where there is inequality of power, there can be no commonwealth."<sup>53</sup> Harrington also defines different forms of government in terms of their balance of property:

If one man be sole landlord of a territory, or overbalance the people, for example, three parts in four, he is grand signor, . . . and his empire is absolute monarchy.

If the few or a nobility, or a nobility with the clergy, be landlords, or overbalance the people unto the like proportion, it makes the Gothic balance . . . and the empire is mixed monarchy . . .

And if the whole people be landlords, or hold the lands so divided among them, that no one man, or number of men, within the compass of the few or aristocracy, overbalance them, the empire . . . is a commonwealth.<sup>54</sup>

Assuming that monarchy is already an obsolete mode of government, Harrington envisaged a citizenry of "proprietors." His argument, extensively documented with historical evidence, often focuses on the military situation of a country--a situation he directly connects to its economic organization.<sup>55</sup> According to Harrington, the intense concentration of wealth that characterized the monarchy left a nation vulnerable to *coup*

*d'etats*. "Where a conqueror finds the riches of a land in the hands of the few, the forfeitures are easy, and amount to vast advantage." Conversely, the distribution of wealth among "the people" enhances national security. "[W]here the people have equal shares, the confiscation of many comes to little, and is not only dangerous but fruitless."<sup>56</sup>

Moreover, to create a nation of subjects, as occurs in a monarchy, is to weaken the defense of the country. In the case of military threats from without, once the heads of power are removed, "the rest being all slaves you hold her without any further resistance." Regarding insurrections from within, an equal apportionment of property would quell disturbances because everyone would have an interest in securing peace. "Men that have equal possessions and the same security of their estates and of their liberties that you have, have the same cause with you to defend; but if you will be trampling, they fight for liberty."<sup>57</sup>

Harrington places more weight on the role of property in citizenship than Locke and other contractarians. For Harrington, property (perhaps more in terms of actual wealth than rights) protects one from the tyranny of others, and it is this freedom that makes one capable of functioning in a commonwealth. Yet Oceana and an additional essay on the commonwealth as political organization, The Prerogative of Popular Government (1658), raise significant questions about whom Harrington had in mind when he referred to "the people." Christopher Hill has argued that he meant what we would consider the middle class: "yeomen, merchants, gentlemen," C. B. Macpherson has insisted that Harrington envisioned a "gentry-led commonwealth," and J. G. A. Pocock defines "the people" in Harrington as "independent freeholders."<sup>58</sup> Whatever the case, there is no evidence that Harrington meant to distribute wealth to absolutely everyone. His vision of a commonwealth assumes individual proprietorship for those considered part of "the people," and consequently it assumes the exclusion of certain segments of the population. The significance of property, in terms of personhood, individual liberties and wealth, was crucial



to Harrington, Locke, and those who were trying to mold the new commonwealth. Importantly, governance of self as property resurfaces during the volatile period of the American and French Revolutions when the characterization of rights was once again under scrutiny and it became possible to reconsider the distribution of political power.

The disputes, then, between seventeenth-century royalists, absolutists, republicans and contractarians are revisited in the debate over natural and civil rights of the 1790s. At the heart of the late eighteenth-century dialogue was an interpretation of rights and an investigation of the individual's relationship to the law. Sparked by Dr. Richard Price's sermon, "A Discourse on the Love of Our Country" delivered November 4, 1789 (the anniversary of the Revolution of 1688), a flurry of responses ensued that proved to be some of the most important documents written on the modern concept of rights.<sup>59</sup> In his sermon, Price advocated three resolutions that had been agreed upon by the Revolution Society: the right of the English people to choose their own governors, cashier them for misconduct and form their own government. The resolutions were provocative enough, but Price also passionately congratulated France on her rebellion against tyranny at the fall of the Bastille and indicated that he saw France as heralding a new order for Europe. He stated his support of the French Revolution, however, only at the close of his sermon and in a congratulatory address drawn up by the Revolution Society at a meeting in the London Tavern after the sermon was over. The focus of Price's texts was the development of a policy of individual rights that he regarded as the legacy of the Glorious Revolution. Price considered it the business of Dissenters and other reformers to continue the work implied in the principles established by the English revolution--principles that began to consider the extension of enfranchisement. The celebrated resolutions Price articulated were in fact drawn from the Dissenting tradition; as recently as the previous year, 1788, the Revolution Society passed similar resolutions after listening to a sermon by the Reverend Dr. Andrew Kippis.<sup>60</sup> In addition to a call for the right of the English people to choose their own

governors, cashier them for misconduct and form their own government, the resolutions included an assertion of liberty of conscience in theological matters. The declaration of religious freedom was a direct reference to the penal laws that continued to restrict the access of Dissenters to public office. One of the benefits Protestant Dissenters realized from the Glorious Revolution was the right to worship, authorized by the Toleration Act of 1689, yet they did not enjoy the full range of rights available to Anglicans. This was one of the pieces of unfinished business that Price insisted must be addressed. In his sermon, therefore, he encouraged further attempts at repealing the Test and Corporation Acts that continued to prohibit Dissenters from holding office.<sup>61</sup>

Responses to Price's sermon were swift and passionate. Edmund Burke's fervid rebuttal, Reflections on the Revolution in France (1790), strategically shifted the focus away from the controversy over religious freedom in England to the events in revolutionary France. Although Burke had at one time courted the electoral support of Dissenters, he abstained from earlier votes on the Test and Corporation Acts, and he eventually opposed its repeal because he saw it as a precursor to an outright attack on the Church of England.<sup>62</sup> Fully cognizant that the dispute with Dissenters was an issue of British legislation, Burke, in his response to Prices' sermon, still played on British fears of the French Revolution to exaggerate the danger of reform.<sup>63</sup> Despite Burke's attempt to cloud the issue at hand, the exchange of essays that followed illuminated the critical controversy over the definitions of "natural" and "civil" rights. What emerged was that both sides considered liberty to be "property," and both sides desired the protection of that property, but they defined the mechanism for achieving this end in different terms. Burke regarded liberty as safely contained in "inherited rights," while Paine, Wollstonecraft and other respondents to Burke's Reflections conceived of liberty as prudently redistributed to "individual inalienable rights."

In Reflections, Burke is concerned only with civil rights--liberties that exist within

the confines of civil society--and the laws intended to protect property and maintain social order and national security. He denies the existence of individual natural (*a priori*) rights that one retains in civil society and the idea that liberty is contained in a birthright--such were the contentions of contractarians and republicans. Instead, Burke proposes that liberty is an "entailed inheritance," bequeathed to us by our forefathers and intended to be transmitted to posterity.<sup>64</sup> Our rights are likened to an "estate," and through "a constitutional policy, working after the pattern of nature, we receive, we hold, we transmit our government and our privileges, in the same manner in which we enjoy and transmit our property and our lives."<sup>65</sup> The guarantees and privileges contained in rights are therefore subject to the legal framework of inheritance, the family and the control of wealth. In addition, Burke borrows the term "natural" from proponents of *a priori* rights and endows his concept of inherited liberty with the validity of natural law by claiming that it is a system patterned after and conforming to nature and is a concept beyond "reflection." "This [constitutional] policy," Burke comments, "appears to me to be . . . the happy effect of following nature, which is wisdom without reflection, and above it" (119). The inheritance of "privileges, franchises, and liberties, from a long line of ancestors" renders the political system "in a just correspondence and symmetry with the order of the world." That "order" is a biological one of "perpetual decay, fall, renovation, and progression," and as such the "method of nature" can be found "in the conduct of the state" (120).

It was important to Burke to confer natural (and eventually divine) authority on his system of rights, even though he relies on secular law for its protection. The most influential legal theorists of the eighteenth century, however, consistently stressed the civil basis of laws of inheritance. The Baron de Montesquieu, in his Spirit of the Laws (1748), agrees that "it is an obligation of the law of nature to provide for our children." "[B]ut," he continues, "to make them our successors is an obligation of the civil or political law." In other words, "the Order of succession or Inheritance depends on the Principles of political

or civil Law, and not on those of the Law of Nature."<sup>66</sup> Similarly, Sir William Blackstone, in his Commentaries on the Laws of England (1765-69), distinguishes the management of liberty from the control of real property (land) and wealth. One of the basic divisions in the organization of his book is between the rights of persons and the rights of things. The right to private property is defined as a right of persons, but dominion over that property, *including inheritance*, is defined as a right of things. Blackstone again draws the line between natural and civil law, in regard to property, when he reins in the powers of hereditary provinces. "[T]here is no foundation in nature or in natural law," he writes,

why a set of words upon parchment should convey the dominion of land; why the sons should have a right to exclude his fellow creatures from a determinate spot of ground, because his father had done so before him; or why the occupier of a particular field or of a jewel, when lying on his death-bed and no longer able to maintain possession, should be entitled to tell the rest of the world which of them should enjoy it after him.<sup>67</sup>

One of the implications Burke draws from his own argument about a theory of rights patterned after nature is the resulting importance of what he calls the "unerring and powerful instincts" needed to strengthen the "fallible and feeble contrivances of our reason." For the protection of our rights and privileges, and to guarantee the tempering of an unwieldy "spirit of freedom" that threatened to undermine the stability of Britain, Burke turns his faith toward that which is in our "nature" and in our "breasts." He relies on our reverence in "the presence of canonized forefathers" rather than on the "speculations" or "inventions" of our reason (121). In spite of his discomfort with an abstract concept of rights and the use of a principle as a foundation of government, Burke depends on abstractions of his own, such as the spiritual relationship in the continuum of generations, for the formation of government and his theory of social contract. To Burke there had occurred an evolution from the Magna Carta to the Declaration of Right, producing a

constitution based on the cumulative historical experience of the great "partnership" that spans generations. It is the *civil* social contract that emerged out of the Revolution of 1688 that Burke wished to defend<sup>68</sup> and to "naturalize" on the historical basis of its evolution and on the spiritual grounds of the collectivity it represents.<sup>69</sup> "Each contract," Burke writes, ". . . is but a clause in the great primeval contract of eternal society," and society is a "partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born" (194-95). This omnipotent contract is the source of Burke's doctrine of prescription (authority based on possession and/or long usage), which is also a means of protecting property.<sup>70</sup> It is the origin of an inviolable law to which all must submit, and it renders other contracts merely "municipal corporations" subordinate to the "universal kingdom" of the eternal society. No reform is justifiable unless it works without a breach of this ahistorical (arguably divine) decree, and each generation remains answerable to a civil social contract as a power greater than itself. If a violation does occur, if "the law is broken" and "nature is disobeyed" (195), then, Burke warns us with Old Testament overtones, "the rebellious are outlawed, cast forth, and exiled . . . into the antagonist world of madness, discord, vice, confusion, and unavailing sorrow" (195).

Despite the "confusion" of natural, divine and secular ordinances in Burke's theory of rights, his emphasis on the absolute predominance of law and the inseparability of rights from a juridical system places him in the legal tradition of such Common Law lawyers as Sir Edward Coke, Matthew Hale and Sir William Blackstone, who shared a faith in the superior authority of law and foregrounded the legal foundations and structures of society.<sup>71</sup> Blackstone, who acknowledged "absolute rights of the person"--the right to personal security, liberty and property--also makes it clear that, in entering society, one gives up part of one's natural liberty, and one's "absolute" rights become subject to law.<sup>72</sup> The individual has the absolute right to the security of his/her very existence, but that right may

be contravened by laws of capital punishment, and the individual has the right to the enjoyment of private property "without any control or diminution, save only by the laws of the land."<sup>73</sup>

In a like manner, Burke defines the parameters of his notion of rights and recognizes the "real" rights of men only within a municipal context. "If civil society be made for the advantage of man, all the advantages for which it is made become his right . . . for I have in my contemplation the civil social man, and no other" (149-50). Burke outlines his version of the "rights of man" as follows:

[L]aw itself is only beneficence acting by a rule. Men have a right to live by that rule; they have a right to justice; as between their fellows, whether their fellows are in politic function or in ordinary occupation. They have a right to the fruits of their industry; and to the means of making their industry fruitful. They have a right to the acquisitions of their parents; to the nourishment and improvement of their offspring; to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself; and he has a right to a fair portion of all which society, with all its combinations of skill and force, can do in his favour. In this partnership all men have equal rights; but not to equal things. . . and as to the share of power, authority, and direction which each individual ought to have in the management of the state, that I must deny to be amongst the direct original rights of man in civil society. . .

It is a thing to be settled by convention. (149-50)

Some elements of Burke's scheme echo contract theory: the concern with justice, the recognition of the right to the product of one's industry, and the acknowledgement that the ability to do what one desires as long as it does not impinge on the freedoms of others.<sup>74</sup>

Yet there are decisive differences. One of the most fundamental, which comes under

severe attack by contractarians and Jacobin novelists alike, is the suggestion that law is "beneficence acting by a rule." Attributing juridical decisions to benevolence harks back to Filmer's reliance on the good will of a monarch, and it is a refusal to acknowledge rights that would protect one from charity gone awry. In addition, although Burke nods toward equal rights, he rejects democracy. If the affairs of the state are to be settled by "convention," it is in terms of prescription rather than by agreement.

Burke calls natural rights "metaphysic" and "primitive," rights that "undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction" (152). Convention must determine rights, according to Burke, and "limit and modify all the descriptions of constitution which are formed under it." All legislative and executory powers are "creatures" of that convention and can have "no being in any other state of things" (150). But what is perhaps most striking about Burke's analysis of political authority is his rejection of self-governance, a cornerstone to contractarian thought:

One of the first motives to civil society, and which becomes one of its fundamental rules, is, *that no man should be judge in his own cause*. By this each person has at once divested himself of the first fundamental right of uncovenanted man, that is, to judge for himself, and to assert his own cause. He abdicates all right to be his own governor. He inclusively, in a great measure, abandons the right of self-defence, the first law of nature. Men cannot enjoy the rights of an uncivil and of a civil state together. That he may secure some liberty, he makes a surrender in trust of the whole of it. (150)

Society is a covenant of faith to Burke, and when the individual enters into a covenant, he relinquishes certain individual liberties. "That he may secure some liberty, he makes a surrender in trust of the whole of it" (150). Once under the necessary government of an

external power, one then considers the *restraints* on liberty to be among one's rights.

Burke's faith in convention and the predominance of law is the basis of his acceptance of the English Revolution of 1688 and his passionate intolerance of the revolution in France. The only "principles" of the Glorious Revolution, Burke claims, are grounded in "the statute called the Declaration of Right," a "most wise, sober, and considerate declaration, drawn up by great lawyers and great statesmen . . . not by warm and inexperienced enthusiasts." In the Declaration, furthermore, no mention is made of Kippis's and Price's resolutions, "not one word is said, nor one suggestion made, of a general right 'to choose our own *governors*; to cashier them for misconduct; and to *form* a government for *ourselves*'" (100). Still at dispute, however, is the origin of political authority. For Burke, the Declaration of Right places rights in a legal statute, and the conflicts over origins dissolve with the acceptance of prescription. But a sovereign will of the people would violate the civil social contract because it would be a claim of individual power existing outside of that contract. Also important in Burke's aversion to the resolutions of the Revolution Society is the threat to the succession of power as it is guaranteed by the Declaration of Right. To Burke, the rights of liberty and the political process of hereditary succession are "in one body, and bound indissolubly together" (100). Any human interventions threaten to transgress the "great primeval contract of eternal society" and the universal law identified by Burke.

The images of the family that were so important to seventeenth-century patriarchalism resurface in Burke's theory of rights. Burke argues that the benefits one derives from inherited rights "are locked fast as in a sort of family settlement" and are "grasped as in a kind of mortmain for ever" (120). The state maintains "the image of a relation in blood," Burke continues, by "binding up the constitution of our country with our domestic ties; adopting our fundamental laws into the bosom of our family affections" (120). Yet Burke's use of the "family" is far more literal and descriptive than Filmer's in his



analogy of father and king. Burke's arrangement goes well beyond comparison to point to a direct relationship between the benefits one derives from rights and the control and transmission of familial property. Liberty is in fact locked fast in family settlements and is grasped in mortmain forever. The state is more than just an *image* of a family relation, it functions in direct socio-economic connection to the management of familial estates and the laws governing family property. The constitution of the country (constitution both in terms of content and political ordinance) *is* bound with domestic ties, and the laws of the state *are* at the heart of the family. Burke acknowledges and particularizes the intimate relationship between the family and the state a bit later in his essay when he writes of the strong connection between the family and the structure of the government:

The power of perpetuating our property in our families is one of the most valuable and interesting circumstances belonging to it, and that which tends the most to the perpetuation of society itself. It makes our weakness subservient to our virtue; it grafts benevolence even upon avarice. The possessors of family wealth, and of the distinction which attends hereditary possession (as most concerned in it) are the natural securities for this transmission. With us, the house of peers is formed upon this principle. It is wholly composed of hereditary property and hereditary distinction; and made therefore the third of the legislature; and in the last event, the sole judge of all property in all its subdivisions. The house of commons too, though not necessarily, yet in fact, is always so composed in the far greater part. (140-141)

Political power, then, is derived from the fundamental participatory requirement of family property. In the tripartite structure of power only the House of Commons functions outside of the process of family inheritance, and even those elections are, by and large, controlled by the Crown and the House of Lords.<sup>75</sup> The family, for Burke, goes a long

way to ensure national security. It guarantees the continuation of society by encouraging virtue and checking greed, it stabilizes government, and it monitors property. The tight control over property by modelling everything after the process of hereditary succession meant the containment of political power and the ability to stave off its disbursements into individual rights. The grand design of inheritance, as "the order of the world" (120), legitimated certain positive laws governing the accumulation and transferral of property. Burke's justification of large concentrations of wealth because of the political strength and stability they provide--"[l]et those large proprietors be what they will, and they have their chance of being amongst the best, they are at the very worst, the ballast in the vessel of the commonwealth" (141)--easily authorized, for example, the practice of primogeniture that guaranteed the continuation of consolidated resources. It sanctioned, as well, multiple restrictions on women's access to property, which in turn left women subject to the manipulations of other family members who expected to control the family's property.<sup>76</sup> Within the maneuvers of property transactions, however, were the orchestrations of political authority and the opportunities to participate in economic, legal and political life.

Price's sermon and Burke's Reflections together occasioned several more responses, especially by contractarians who endorsed inalienable rights and government by contract--an agreement that is subject to change, however, not a universal law. The theory of inalienable rights in the 1790s professed the existence of certain rights the individual retains when entering civil society. Like its seventeenth-century precursors (the philosophies of Locke and Harrington, among others), it located the source of political power in the individual, recognized the appropriateness of rebellion and established the importance of self-governance. Liberty was again regarded as "property," but property in terms of both "person" and "goods" and the rights necessary to protect them. Ownership of the self was necessary to agency, and it was agency--always in the context of civic duty--that was largely at stake in the ongoing debates.

The strength of the contractarian movement continued to come from the Dissenting tradition.<sup>77</sup> Two of the leading radical spokespersons--Richard Price and Joseph Priestley--and two of the most influential publishers--Joseph Johnson and Ralph Griffiths--were prominent Dissenters. In addition, reformist organizations, such as the Society for Constitutional Information and the London Corresponding Society, boasted a large membership of religious non-conformists.<sup>78</sup> Their pervasive visibility has led critics such as Marilyn Butler to conclude that rational Dissenters were the most "coherent" body of reformers active in the late eighteenth century.<sup>79</sup> The conceptual interests and the political needs of Dissenters rendered them appropriate leaders of a "rights of man" campaign. Their beliefs in individual conscience, private worship and a separation of church and state would be well served by an official recognition of inalienable rights. Moreover, an atmosphere of tolerance might lead to a repeal of the Test and Corporation Acts and allow them full participation in civil society.

The work of the Dissenters is also a good reminder that the debates of the 1790s were about British politics, not French philosophy. In spite of attempts, sometimes on both sides, to deflect attention toward revolutionary France, British reform efforts persisted. While Burke looked to France to raise fears, Dissenters turned abroad for international support.<sup>80</sup> Dissenters, however, were not thoroughly enamored of the thinking of the French *philosophes*. As Seamus Deane points out, eminent non-conformists such as Joseph Priestley considered social change only within a Christian context. The libertinism, atheism or overall secularization of thought that characterized the ideologies of the French Revolution was at odds with the doctrines that Dissenting ministers preached. Deane rightly describes the position of the Dissenters as "permanently compromised."<sup>81</sup> They could support the French Revolution for the system of rights it advocated, but they could not endorse much of the French intellectual tradition that had come to be associated with revolutionary activities. As a result, while they looked to France early on for the

blossoming of "rights of man," they kept a clear focus on events in Britain and development of civil and religious liberties of British people.

Although she never formally disavowed the Anglican Church, Mary Wollstonecraft was a regular within Dissenting circles and maintained friendships with Richard Price, Joseph Priestley, Thomas Paine, Joseph Johnson and, of course, her fellow Jacobin authors. Wollstonecraft was also one of the earliest respondents to Burke's essay on the French Revolution. Her rejoinder, A Vindication of the Rights of Men, appeared in print within one month of the publication of Reflections. Her essay appears to have been hastily written; however, it penetrates Burke's impassioned rhetoric, offers insightful criticisms of his oppositions to reform and introduces the central points of the "rights of man" campaign. Wollstonecraft has often been applauded or condemned for her work on the rights of women, but she has been overlooked as a political theorist.<sup>82</sup> A Vindication of the Rights of Men is a sagacious analysis of Burke's motives, and it places her at the heart of the debates of the 1790s and contractarian thought of the eighteenth century. Whereas Virginia Sapiro has lately argued that Wollstonecraft's writings are "at least as infused with a language of republicanism as of legal rights," and much of the recent study of English liberalism has turned with renewed interest toward civic humanism, Wollstonecraft was still instrumental in bringing to the fore the outrageous victimization of people by the law and in making a case for the dire need of individual rights to protect one from legislative abuses.

The crux of Wollstonecraft's argument in her Vindication is the recognition of "birthright" as an inalienable possession. Reminiscent of the Putney Debates, birthright emerges as a foundation for individual liberties and a means of opening a rift in the bastion of hereditary wealth and power. Wollstonecraft defines the term as simply "such a degree of liberty, civil and religious, as is compatible with the liberty of every other individual with whom he is united in a social compact."<sup>83</sup> Birthright entitles one to the "rights of humanity" (2), those "rights which men inherit at their birth, as rational creatures, who

were raised above the brute creation by their improvable faculties." Furthermore, they receive these rights "not from their forefathers but, from God, prescription can never undermine natural rights" (22). There exist, then, according to Wollstonecraft, certain *a priori* liberties that one does not surrender to civil society and that guarantee the individual a basic security against the encroachments of corrupt power. The recognition of these "natural rights" is a "first principle" upon which the organization of society--legally, economically and politically--is founded.

In her response to Burke, Wollstonecraft attacks the paradigm of inheritance and the English obsession with property. She focuses much of her criticism on laws that govern the control and transmission of wealth and privilege. She condemns hereditary succession in government because, as evidenced by historical example, it has meant instability and opportunism rather than divine order and national security in the Burkean continuum of society. In a surprising turn to the authority of law, Wollstonecraft quotes Blackstone on the legality of hereditary succession.

The doctrine of *hereditary* right does by no means imply an *indefeasible* right to the throne. . . . It is unquestionably in the breast of the supreme legislative authority of this kingdom, the King and both Houses of Parliament, to defeat this hereditary right; and, by particular entails, limitations, and provisions, to exclude the immediate heir, and vest the inheritance in any one else. (39)

Much like Locke and early contract theorists, Blackstone features "the legislative" in his perspective on political authority. Wollstonecraft draws on the contractarian assumptions about the ascendancy of law in society to support her advocacy of inalienable rights. She is careful, however, to distinguish institutional law from a theory of rights and not accept the absolute sovereignty of legal systems; she is adamant that "a blind respect for the law is not a part of [her] creed." She insists that *the people* have not just a prerogative but a

"right" to elect their king and remove him from the throne if necessary. By the same token, laws are fallible and subject to change.

"[H]ereditary property" and "hereditary honours," Wollstonecraft continues, have obstructed the progress of civilization. Adherence to prescription has bred "artificial monster[s]" and stifled personal ambition and creativity (10-12). The alternative figure--the one who would generate growth--is the individual "with a capacity of reasoning" who "would not have failed to discover, as his faculties unfolded, that true happiness arose from the friendship and intimacy which can only be enjoyed by equals" (12). The paradigm of inheritance, according to Wollstonecraft, is problematic because it lacks a ruling "first principle" that provides "coherence," "order" and "certain[ty]" (14). While Burke condemns the notion of such abstract premises because they tend toward dangerous abstractions, Wollstonecraft tries to prove that they are essential to social order. In reference to Edward III's reign, Wollstonecraft quotes Hume on the weakness of a dissipated government:

The King conducted himself by one set of principles; the Barons by another; the Commons by a third; the Clergy by a fourth. All these systems of government were opposite and incompatible: each of them prevailed in its turn, as incidents were favourable to it: a great prince rendered the monarchical power predominant: the weakness of a king gave reins to the aristocracy: a superstitious age saw the clergy triumphant: the people, for whom chiefly the government was instituted, and who chiefly deserve consideration, were the weakest of the whole. (14-15)

In this case, Wollstonecraft looks to the authority of history to find evidence that natural rights are necessary to the coherence of society and government. She attempts to demonstrate that the system of heredity, which Burke argues is patterned after nature, is actually chaotic and contrived. By proving that it is artificially constructed, Wollstonecraft is able to conclude that it is merely an institution subject to reform.

The control of property through inheritance elicits even more censure from Wollstonecraft. She astutely observes that protection of property serves to concentrate and conserve political authority. "I beseech you to ask your own heart," Wollstonecraft requests of Burke, "when you call yourself a friend of liberty, whether it would not be more consistent to style yourself the champion of property" (20). Security of personal wealth may be "the definition of English liberty" (24), but it is also the means of ensuring the continuance of privilege. Furthermore, the definition of property is political. "[I]t is only the property of the rich that is secure; the man who lives by the sweat of his brow has no asylum from oppression" (24). A working man's property is "in his nervous arms," but because his arms and their labor are not protected by rights, they remain subject to the "surly command of a tyrannic boy, who probably obtained his rank on account of his family connections, or the prostituted vote of his father" (26). It is here that the importance of the Lockean notion of locating property in the self becomes evident. If one considers the definition of property to include religious and civil liberties, and if one deems self-governance to be a natural and inalienable right, then the individual, regardless of gender, familial role, status and wealth, would maintain some degree of personal security in the face of imperfect governments and juridical systems.

Finally, Wollstonecraft objects to the "imprisonment" of children through the perpetuation of wealth in the family. The image of the family as a model for government, its importance in the tripartite structure of government and its function as a pretext for the concentration of wealth come under attack by Wollstonecraft, who represents the family as a tyrannical institution. She laments the "brutal attachment to children" by "parents who have treated them like slaves, and demanded due homage for all the property they transferred to them, during their lives." The almost frenzied concern for dominion "has led them to force their children to break the most sacred ties; to do violence to a natural impulse, and run into legal prostitution to increase wealth or shun poverty; and, still worse,

the dread of parental malediction has made many weak characters violate truth in the face of Heaven." The practice of primogeniture, moreover, leads to an unjust and unproductive sacrificing of younger children to the eldest. They have been "sent into exile, or confined in convents, that they might not encroach on what was called, with shameful falsehood, the *family estate*" (46). The life a "child" is hardly one of safety and the home is anything but a sanctuary. Echoing Locke and Rousseau, Wollstonecraft pleads for the recognition of citizens as adults. "It appears to be a natural suggestion of reason," she observes, "that a man should be freed from implicit obedience to parents and private punishments, when he is of an age to be subject to the jurisdiction of the laws of his country" (45).

Wollstonecraft recognizes in Burke's reverencing of antiquity, and in his faith in inheritable rights, the simple desire to conserve an arrangement of property acquisition and transmission beneficial to a few. As an alternative to allow individuals of talent and merit an opportunity to enjoy the benefits of society, Wollstonecraft suggests that property be "fluctuating." Scorning the ambition and avarice that has accompanied efforts to concentrate wealth, she argues that dissemination of property should be based only on "the natural principles of justice" (50) that would assume acknowledgement of inalienable rights. As the powerful image of the family crumbles, Wollstonecraft replaces it with the crystalline figure of the productive individual who warrants the protection of his property in "goods" and "person." Wollstonecraft explains: "The only security of property that nature authorizes and reason sanctions is, the right a man has to enjoy the acquisitions which his talents and industry have acquired; and to bequeath them to whom he chooses" (51). Thus, the paradigm of inheritance is dismantled, and the power in the transfer of property--property in its broadest sense--is distributed to the rights of individuals.

Another response to Burke's Reflections, Sir James Mackintosh's Vindiciae Gallicae (1791), was well-regarded at the time of its publication but has since been largely forgotten. The reason for its obscurity may have to do with Mackintosh's public retraction



of his defense of the French Revolution, and his support of Burke in 1801.<sup>84</sup> Nonetheless, *Vindiciae Gallicae* is one of the most cogent and well-informed answers to Burke, and, unlike many other rejoinders, it actually provides a historical discussion of the origins of the French Revolution while detailing the day-to-day political activities of the new regime. The first point Mackintosh makes is one which nearly all other respondents have observed--the excessive emotion of Burke's essay. Of *Reflections*, Mackintosh writes:

All was invective: the authors and admirers of the Revolution,--every man who did not execrate it, even his own most enlightened and accomplished friends,--were devoted to odium and ignominy. The speech did not stoop to argument; the whole was dogmatical and authoritative. . . . It [*Reflections*] is certainly in every respect a performance. . . . Argument every where dexterous and specious, sometimes grave and profound, clothed in the most rich and various imagery, and aided by the most pathetic and picturesque description, speaks the opulence and the powers of that mind of which age has neither dimmed the discernment, nor enfeebled the fancy.<sup>85</sup>

Yet Mackintosh, more clearly than most, reveals the politics of Burke's rhetorical style and its antithesis: rational discourse. One of the motives behind the widespread support of "reason" by contract theorists was its ability to "level" and to recognize individual talent and merit. "Analysis and method," which is what Mackintosh claims to offer as an alternative to Burke's immoderate passion, are "like the discipline and armour of modern nations." They "correct in some measure the inequalities of controversial dexterity, and level on the intellectual field the giant and the dwarf" (405). Meanwhile, the unpredictability of human passions was a rationale for not extending the franchise, to women in particular, and it was soon to be associated with the violence of the French Revolution. To be able to charge Burke with dangerous sentimentality was considered a victory for proponents of natural rights.

A related observation Mackintosh makes is the effect of the expanded use of printing on the intellectual playing field. Trying to explain how philosophy and truth itself work their way into the public consciousness, Mackintosh notes that the art of printing has succeeded in "provid[ing] a channel by which the opinions of the learned pass insensibly into the popular mind." While he argues that the people cannot be "profound," he is convinced that "[t]he convictions of philosophy insinuate themselves by a slow, but certain progress, into popular sentiment." The people cannot read "the great works"; however, the "substance passes through a variety of minute and circuitous channels to the shop and the hamlet." In a valiant attempt to explain the process of absorption, Mackintosh turns to an analogy with nature:

The conversion of these works of unproductive splendour into latent use and unobserved activity, resembles the process of nature in the external world. The expanse of a noble lake,--the course of a majestic river, imposes on the imagination by every impression of dignity and sublimity: but it is the moisture that insensibly arises from them which, gradually mingling with the soil, nourishes all the luxuriancy of vegetation, and adorns the surface of the earth. (424)

The "engine" behind this quiet and unobserved growth, Mackintosh claims, is "the press." It is their discussion of "great truths" that has found its way into legislation and "prepared a body of laws for the National Assembly." The dispersal of knowledge "has *almost* prepared a people to receive them; and good men are at length permitted to indulge the *hope*, that the miseries of the human race are about to be alleviated" (424).

Like his fellow contractarians, Mackintosh reproved the policy of concentrated wealth and its accompanying power and urged the replacement of hereditary distinction with personal excellence. But while others were cautious about advocating revolution over the process of gradual change, Mackintosh tried to show why, in the case of France,

revolution was necessary. To advocates of moderate reform, Mackintosh argued that the incorrigible institutions of the French government "would have destroyed Liberty, before Liberty had corrected their spirit." Contained measures would only exacerbate the wrongs because "[p]lower vegetates with more vigour after these gentle prunings. A slender reform amuses and lulls the people: the popular enthusiasm subsides; and the moment of effectual reform is irretrievably lost." "No important political improvement," he concludes, "was ever obtained in a period of tranquility" (421). Mackintosh's very reasoned approach to why revolutionary change is appropriate is characteristic of his attempt to present a rational defense of the events in France. It posits him as a calm observer and thoughtful reporter, but more importantly it renders him the image of the new citizen--a man capable of "governance."

Mackintosh also directs his argument toward the main point of contention between Burke and his adversaries. He astutely notes that the basis of the revolution and its new government is "the assertion and protection of the natural rights of man," and it is this concept that Burke so ardently opposes. The existence of natural rights, Mackintosh claims, is indisputable. What he is concerned about is "the object for which a man resigns any portion of his natural sovereignty over his own actions." The only reason why a person surrenders a degree of self-governance is to obtain protection from abuse of "the same dominion in other men" (436). One therefore subjects oneself to the law with the expectation that one will be guaranteed certain personal securities. Mackintosh also contends that relinquishing some individual sovereignty to the law does not diminish the integrity of natural rights. Law is "restrictive" rather than "permissive" precisely because its function is to protect natural rights, and it is a service to the people rather than burden because these rights are "not the boon of society, but the attribute of their nature" (437).

The most well known and controversial response to Burke, Thomas Paine's Rights of Man, is more specifically political and activist-oriented than Wollstonecraft's, and it is

even more provocative and intoxicating than Mackintosh's. To counter Burke's theory of rights and, like Wollstonecraft, to destroy the prevailing operative model of inheritance, Paine develops the concept of the birthright into the idea of natural, individual and inalienable rights. He contends that "all men are born equal, and with equal natural rights" that are granted "in the same manner as if posterity had been continued by *creation* instead of *generation*. "[C]onsequently," he continues, "every child born into the world must be considered as deriving its existence from God."<sup>86</sup> By shifting the focus of origin from one's worldly father (and his social rank) to God, Paine moves "birth and family" from its secular association to a divine and natural one and thereby reduces status to a common level. The extent to which Paine's observations about birthright and equality at birth were revolutionary is evident in his own metaphor of "turnpike gates" in the following passage about crossing the barriers of prescription and hereditary authority:

It is not among the least of the evils of the present existing Governments in all parts of Europe that man, considered as man, is thrown back to a vast distance from his Maker, and the artificial chasm filled up by a succession of barriers, or sort of turnpike gates, through which he has to pass. I will quote Mr. Burke's catalogue of barriers that he has set up between Man and his Maker. Putting himself in the character of a herald, he says: *We fear God--we look with AWE to kings--with affection to Parliaments--with duty to magistrates--with reverence to priests, and with respect to nobility.* Mr. Burke has forgotten to put in "*chivalry*." He has also forgotten to put in Peter. (150)

Since the punishment for trespassing a turnpike gate was hanging, the image Paine evokes is one of terrible danger. To transgress or actually remove the "barriers of succession" was to subvert the government and hegemonic perceptions of civil society. The seriousness of the threat was soon borne out in the drama surrounding the publication of The Rights of

Man and Paine's exile from England. The original publisher, Joseph Johnson, withdrew the release of Part One set for 22 February 1791 out of fear of reprisal. Only with the help of William Godwin, Thomas Holcroft and Thomas Brand Hollis (a wealthy writer and republican reformer) was the pamphlet published a month later, on 16 March 1791.<sup>87</sup> But that only set further wheels in motion. Because The Rights of Man cost a mere six-pence and therefore could be read by literate members of the lower classes, and because it quickly became a popular text in France and England, Paine was charged with "seditious libel" in 1792. By November of that year, Paine had become the target of public attacks; consequently, he fled to France and was tried and found guilty *in absentia*.

Paine's support of the contract as the prototype for government was in itself hardly revolutionary. He simply corroborates the theories of Locke, Sidney, Rousseau, and other contractarians by describing the origin of political authority as a consenting contract. "[T]he *individuals themselves*," Paine asserts, "each in his own personal and sovereign right, entered into a compact with each other to produce a Government: and this is the only mode in which Governments have a right to arise, and the only principle on which they have a right to exist" (153). But Paine's emphasis on the continuation of society as a process of *creation* rather than *generation* establishes the basis for one of the most important aspects of contractarian thought. Each successive generation, according to Paine, must be able to amend the social contract. In direct contradiction to Burke's notion of the "great primeval contract," Paine affirms the historical relativity of law:

It requires but a very small glance of thought to perceive that altho' laws made in one generation often continue in force through succeeding generations, yet that they continue to derive their force from the consent of the living. A law not repealed continues in force, not because it *cannot* be repealed, but because it *is not* repealed; and the non-repealing passes for consent. . . . The circumstances of the world are continually changing, and

the opinions of men change also; and as Government is for the living, and not for the dead, it is the living only that has any right in it. That which may be thought right and found convenient in one age may be thought wrong and found inconvenient in another. In such cases, Who is to decide, the living or the dead? (131)

Paine's answer to this question is easy to discern. Yet the implications of his answer for the relationship of the individual to the law are perhaps more profound than they initially appear. The legislature remains the primary form of authority within government; however, as he situates each component in the process of creating a government, it becomes clear that law is less prominent than in earlier theories of the contract. Paine explains that the people first comprise a "nation." In that form, they create a constitution, followed by a government that is bound to the principles of the constitution. Likewise, "the Court of Judicature does not make the laws, neither can it alter them; it only acts in conformity to the laws made" (154). In this particular discussion, Paine does not clarify exactly who does "make the laws," but presumably it would be some construct of the people or its representatives. The end result, in any case, is a historicization of the law as it is removed from the origin of power and is placed, theoretically, under the control of the individuals who form a nation. Not only does Paine's perspective counter Burke's transformation of the Constitution and the law into an omniscient entity, it also endorses the recreation of government anew and justifies stepping outside of the law when necessary, or when "a nation" chooses to do so. It allows for radical change and even for revolution.

The one aspect of law that is not subject to change is the concept of natural rights. According to Paine, the rights one does not surrender when entering into civil society are those that one exercises as an individual (for example, intellectual and religious rights). The natural rights one does yield are those, the exercise of which is not beneficial to the

individual without the advantage of civil society. The importance of Paine's distinction inheres in the premise that the relinquishment of rights occurs for the betterment of the individual, as opposed to Burke's contention that one concedes all natural rights when entering into a social compact for the benefit of society and out of social duty. Paine reasons that "[m]an did not enter into society to become *worse* than he was before, not to have fewer rights than he had before, but to have those rights better secured." One's natural rights are, moreover, the "foundation" of civil rights (152).

In Paine's Rights of Man, the individual is a stalwart figure. "Society *grants* him nothing," Paine insists. "Every man is a proprietor in society, and draws on the capital as a matter of right" (151). Paine also very precisely locates the origin of political authority within the individual: "as there is but one species of man, there can be but one element of human power, and that element is man himself" (211). And he invests the new citizen with extraordinary responsibilities. "A man, by natural right," he argues, "has a right to judge his own cause," to exercise "the right of the mind" and to "take the arm of society" because "what availeth it him to judge, if he has not power to redress?" (151). The propertied citizen looks back to Harrington, and the enfranchised person bursting with potential anticipates one form of the English Jacobin's literary hero. Paine, Wollstonecraft and Mackintosh pose an alternative to the political subject as described by Burke. Because Burke treats liberty as property subject to the laws of inheritance and under the jurisdiction of a civil social contract that has evolved from the Magna Carta to the Declaration of Right, contractarians were obliged to embrace a figure endowed with the property of inalienable rights.

Current scholarship on the contract has rightly shown that the story of an originating covenant is indeed a fiction, that the equality at birth cited by Paine immediately dissolves into a trap of "ubiquitous hierarchies" and that the notions of consent and freedom of contract are utopian myths. It has also demonstrated that the glorification of

the autonomous individual (itself an illusion) and inalienable rights has overshadowed the exclusion of some persons from the benefits of the contract and has often overlooked the needs of the community at large.<sup>88</sup> But in the context of the late eighteenth century, the idea of the contract was undergoing a transformation, and it was certainly regarded as the promising alternative to inherited wealth and privilege. By mid-century, contract law itself was concerned more with "customary practices and traditional norms" than with fulfilling an obligation or promise; by the 1790s it became more widely associated with economic transactions and the ownership of land and capital.<sup>89</sup> In both instances, however, contract law and participation in government and commercial life were informed by theories of rights. The imagined relationship of the individual to the law came to determine the individual's ability to function in civil society and hence the establishment of those rights became a crucial endeavor. The tremor of change most profoundly generated by Thomas Paine's Rights of Man was seen by the disenfranchised as an opportunity to acquire political, legal and economic agency. Dissenters such as Thomas Holcroft and women like Mary Wollstonecraft saw in the potential reconstitution of the law--its clarification in a comprehensive theory of rights--a strengthening of the individual distinct from the family. In their raw narrative explorations of individual, inalienable rights, the Jacobin novelists illustrated the waves of optimism, hope, anger and uncertainty that tossed them about in the tumultuous decade of the 1790s. Their novels elucidate the human complexities of political transformation.



## Notes

1. By referring primarily to Locke in my discussion of seventeenth-century contract theory, it is not my intention to "take sides" in the dispute over whether or not Locke was indeed the pivotal figure of English liberal thought. Work by J. G. A. Pocock and others on republicanism has provided valuable insights into components of democratic theory beyond that of juridical rights. Yet because my interest in seventeenth-century contractarian discourse is precisely about juridical rights, I have turned to the texts where the legislative is clearly emerging as the form of political power. Regardless of Locke's influence on the development of democracy, he was a very important precursor of English Jacobin thought.

2. The dates of composition for Patriarcha have been widely disputed. Peter Laslett has suggested that the text was composed between 1635 and 1642. See Peter Laslett, Introduction to Patriarcha and other Political Works, by Sir Robert Filmer (Oxford: Basil Blackwell, 1949), 3-5. Johann Sommerville believes the composition dates to be earlier. He contends that the first two chapters of Patriarcha were written in the 1620s and the third in 1630. See Johann P. Sommerville, Introduction to Patriarcha and Other Writings by Sir Robert Filmer (Cambridge: Cambridge University Press, 1991), xxxiv.

3. Sir Robert Filmer, Patriarcha: A Defence of the Natural Power of Kings against the Unnatural Liberty of the People, in Patriarcha and Other Writings, ed. Johann P. Sommerville (Cambridge: Cambridge University Press), 12.

4. "Genetic" refers to a theory of government that locates authority in the origin of its formation. See Gordon J. Schochet, Patriarchalism in Political Thought (New York: Basic Books, 1975), 8-9.

5. Sir Robert Filmer, Observations Concerning The Originall of Government, in Patriarcha and Other Writings, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), 225-26. In Peter Laslett's edition of Patriarcha, Filmer's chapters on Grotius are

included in the essay Patriarcha because that is where the section on Grotius appears in the manuscript at Cambridge University (the manuscript Laslett used for his text). See Sir Robert Filmer, Patriarcha, ed. Peter Laslett (Oxford: Basil Blackwell, 1949). Sommerville, however, has moved the Grotius chapters to the essay on The Originall of Government because they do not appear in the manuscript from which he worked at the Regenstein Library, University of Chicago, which Sommerville believes to be an earlier version than the Cambridge text. Sommerville contends that in subject matter the chapters on Grotius are more appropriate to The Originall. See Sommerville, 1-2.

6. Filmer, Patriarcha, 35; see also Sir Robert Filmer, The Free-holder's Grand Inquest Touching Our Sovereigne Lord the King and his Parliament, in Patriarcha and Other Writings, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), 99-100. Filmer reiterates here his point that "the power of making laws rests solely in the king" (100).

7. Sir Robert Filmer, The Anarchy of a Limited or Mixed Monarchy, in Patriarcha and Other Writings, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), 149-50. Filmer's denial of the existence of an originating compact that creates a nation, but subsequent support of a sacred contract between a monarch and his subjects spanning generations, anticipates Edmund Burke's notion of an omniscient social contract in Reflections on the Revolution in France.

8. Sommerville cites numerous critics of "Catholic and Protestant resistance theories in late Elizabethan and Jacobean England" as precursors of Filmer's views on patriarchy. Among the specific works he mentions are Jean Bodin's Six Livres de la Republique (1576), Hadrian Saravia's De Imperandi Autoritate (1593), John Buckeridge's De potestate papae in rebus temporalibus (1614) and A sermon preached before his Maiestie at Whitehall (1618). All of these tracts argue that monarchy is a just form of government because it reflects the natural state of the family with a male head of household. See Sommerville,

xv-xx. See also James Daly, Sir Robert Filmer and English Political Thought (Toronto: University of Toronto Press, 1979), 3-27.

9. Jean-Jacques Rousseau, Discourse on Political Economy, in Rousseau's Political Writings, ed. Alan Ritter and Julia Conway Bondanella, trans. Julia Conway Bondanella (New York: W. W. Norton & Co., 1988), 61.

10. It is important to note here that not all royalists used the analogy of father and king to justify monarchy. Sommerville, xviii-xix.

11. I do not mean to imply that Rousseau's point about the necessity of listening to the people is a new idea attributable to Rousseau. Like the image of the self-contained individual, it has its roots in seventeenth-century Parliamentary and republican thought. Sir Walter Raleigh, for example, warns that to neglect the people is perilous. "'The people therefore in these latter ages are no less to be pleased than the peers.'" See Christopher Hill, Intellectual Origins of the English Revolution (Oxford: Clarendon Press, 1965), 196. In addition, James Harrington makes much of the people's (that is, middle class landowners') right to bear arms and revolt. See James Harrington, The Commonwealth of Oceana, in The Political Works of James Harrington, ed. J. G. A. Pocock (Cambridge: Cambridge University Press, 1977).

12. Richard Tuck provides an excellent study of the origins of individual natural rights. While the seventeenth century is the period we regard as giving birth to our contemporary notion of human rights, he cites texts in the early and high Middle Ages as important precursors to the works of Grotius, Selden, Locke, et al. See Richard Tuck, Natural Rights Theories (Cambridge: Cambridge University Press, 1979).

13. John Locke, Two Treatises of Government, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 356.

14. I am indebted to Bill Walker for introducing me to the importance of religious toleration in Two Treatises and for pointing out the necessity of reading Two Treatises in conjunction

with A Letter Concerning Toleration. See William Walker, Locke, Literary Criticism, and Philosophy (Cambridge: University of Cambridge Press, 1994).

15. Thomas Davies, ed., Committees for the Repeal of the Test and Corporation Acts (London: London Record Society, 1978).

16. Sir William Holdsworth, A History of English Law (London: Methuen & Co., 1966), 6:181-201.

17. A Letter Concerning Toleration is a translation of a letter Locke addressed to Philip von Limborch in Latin in 1685-86. The original title was Epistola de tolerantia. See Richard Ashcraft, Revolutionary Politics and Locke's Two Treatises of Government (Princeton: Princeton University Press, 1986), 475.

18. John Locke, Letter Concerning Toleration (London: Printed for Awnsham Churchill, 1689; Indianapolis: Hackett Publishing, 1983), 28. Locke's skepticism is evident throughout the text.

19. Locke, Letter, 38.

20. James Tully offers an interesting and provocative discussion of Locke's reversal of opinion from his earlier Two Tracts, where he opposed toleration, to his support of it in the Letter Concerning Toleration. See James Tully, An Approach to Political Philosophy: Locke in Contexts (Cambridge: Cambridge University Press, 1993), 47-62.

21. Locke, Two Treatises, 414-15.

22. Locke, Two Treatises, 381-82.

23. Jean-Jacques Rousseau, On Social Contract, in Rousseau's Political Writings, ed. Alan Ritter and Julia Conway Bondanella, trans. Julia Conway Bondanella (New York: W. W. Norton & Co., 1988), 88-89.

24. Locke, Two Treatises, 381.

25. In discussions of the self in contract theory, I use the pronoun "he" because Locke, Rousseau, Paine, et al. specifically had men in mind when they wrote about the individual.

It would be misleading on my part to use a gender-neutral term or include feminine pronouns because women were not included in notions of "the people," "freemen," "men" or sometimes even "humanity" in discourse on the contract.

26. "Civil society" is a widely disputed term in current political scholarship. For the purposes of this dissertation, I am using the term as Edmund Burke did, to distinguish existence in a society or civilization of "men" from a state of nature. The state of nature, for Burke, is superseded by existence in civil society. See Marvin B. Becker, The Emergence of Civil Society in the Eighteenth Century (Bloomington: Indiana University Press, 1994).

27. Locke, Two Treatises, 357.

28. Algernon Sidney, Discourses Concerning Government (London: John Toland, 1698; Indianapolis: Liberty Classics, 1990), 320.

29. Sidney, 78.

30. Sidney, 83.

31. Emphasis added to quotation. Sidney, 100.

32. Sidney, 98, 192.

33. Sidney, 192-93.

34. Keith Thomas, "The Levellers and the Franchise," in The Interregnum: The Quest for Settlement, ed. G. E. Aylmer (New York: Macmillan, 1974), 60-63.

35. Puritanism and Liberty, ed. A. S. P. Woodhouse (London: J. M. Dent & Sons, 1992), 53.

36. Thomas, 68-69.

37. Puritanism, 53, 83.

38. Christopher Hill, The Century of Revolution, 1603-1714, (New York: W. W. Norton, 1980), 110-11.

39. Richard Gleissner, "The Levellers and Natural Law: The Putney Debates of 1647," Journal of British Studies 20 (1980):74-89.
40. Puritanism, 53.
41. Puritanism, 54.
42. James Tully, A Discourse on Property (Cambridge: Cambridge University Press, 1980), 63.
43. Locke, Two Treatises, 287-88.
44. Locke, Two Treatises, 383.
45. Tully, Property, 61. C. B. Macpherson, however, tends to emphasize liberty as a "possession" rather than a right. See C. B. Macpherson, The Political Theory of Possessive Individualism (Oxford: Clarendon Press, 1962).
46. Macpherson, 215-16. Macpherson makes an elaborate argument about the existence of a commercial economy in Locke's state of nature. He contends that for Locke money as a medium of exchange, but more importantly as a form of capital for further investment, was justified as a right in a state of nature and was consented to by "tacit agreement" independent of civil society. "This partage of things, in an inequality of private possessions, men have made practicable out of the bounds of Societie, and without compact, only by putting a value on gold and silver and tacitly agreeing in the use of Money" (Two Treatises, 301-2). The introduction of a currency for exchange allows for unlimited appropriation; since it is property that does not spoil, it can be accumulated, hoarded, invested and exchanged (Macpherson, 209, 216-217).

Macpherson's analysis is supported by Carole Pateman's observation that the "character of the historical state of nature and the relationships of its inhabitants . . . closely resemble those of a developing capitalist market economy." Pateman offers a further discussion of the capitalist market economy in a state of nature, tied to a specific formation of government that requires individual consent. "Locke notes that 'at best a

Argument from what has been, to what should of right be, has no great force,' but the history of the state of nature shows that, once the development of the capitalist, market economy is underway, and 'Absolute Monarchy, . . . is indeed inconsistent with Civil Society,' even if once it sufficed. A new form of government must be set up which is worthy of individuals' 'consent' or to which their 'trust' can be given. Locke's conjectural history, . . . is the basis from which Locke can argue that, given the social relationships of the market economy, there is only one legitimate form of political authority, that of the liberal constitutional state." See Carole Pateman, The Problem of Political Obligation (Chichester: John Wiley & Sons, 1979), 65-68.

47. Richard Ashcraft argues that Locke's theory of property must be read in the context of its "theological underpinnings." Ashcraft, 257, 263-66.

48. Tully, Political Philosophy, 77.

49. Locke, Two Treatises, 350-51.

50. Locke, Two Treatises, 383.

51. Locke, Two Treatises, 277.

52. J. G. A. Pocock refers to Harrington as a "classical republican, and England's premier civic humanist." The Political Works of James Harrington, ed. J. G. A. Pocock (Cambridge: Cambridge University Press, 1977), 15.

53. Harrington, Oceana, 199.

54. Harrington, Oceana, 163-64.

55. Pocock notes Harrington's use of history. According to Pocock, Harrington presents the alterations of British government in the mid-seventeenth century as "a historical phenomenon, which social causes had brought into being and social causes had brought to an end." See J. G. A. Pocock, ed., Three British Revolutions (Princeton: Princeton University Press, 1980).

56. Harrington, Oceana, 199.

57. Harrington, Oceana, 203-4.
58. Christopher Hill, Puritanism and Revolution (London: Secker and Warburg, 1958), 301; C. B. Macpherson, The Political Theory of Possessive Individualism (London: Oxford University Press, 1962); Pocock, Harrington, 51.
59. While Dr. Price's sermon is commonly cited as the beginning of the rights debate of the 1790s, Marilyn Butler observes that between 1760 and 1790 there had been a succession of attempts to extend the franchise and a number of pamphlets written in favor of, or against, altering Parliamentary boundaries, repeal of the Test and Corporation Acts, slavery in the West Indies, civil and religious liberties, etc. See Marilyn Butler, ed., Burke, Paine, Godwin and the Revolution Controversy (Cambridge: Cambridge University Press, 1984), 3-4.
60. In her introduction to Mary Wollstonecraft, A Vindication of the Rights of Men (Gainesville: Scholars' Facsimiles & Reprints, 1960), Eleanor Louise Nicholes points to the dispute over the repeal of the Test and Corporation Acts as a primary catalyst for Burke's fevered response to Price in Reflections. See also Seamus Deane, The French Revolution and Enlightenment in England, 1789-1832 (Cambridge: Harvard University Press, 1988), 13-14; Carl B. Cone, Burke and the Nature of Politics: The Age of the French Revolution (Louisville: University of Kentucky Press, 1964), 300-313.
61. The Corporation Act (13 Charles II, Stat.2, c.1) was passed in 1661 and the Test Act (25 Charles II, c.2) was passed in 1673. Both required sacramental tests to prove affiliation with the Church of England before one could be elected to a corporation office or any civil or military office. See Thomas Davis, ed., Committees for the Repeal of the Test and Corporation Acts: Minutes 1786-90 and 1827-8 (London: London Record Society, 1978).
62. Carl B. Cone, Burke and the Nature of Politics: The Age of the French Revolution (Louisville: University of Kentucky Press, 1964), 301-6.



63. Eleanor Nicholes, Introduction to A Vindication of the Rights of Men, by Mary Wollstonecraft (London: J. Johnson, 1790; Gainesville: Scholars' Facsimiles & Reprints, 1960), xii-xv.

64. Burke's concept of inherited rights can be traced back to Henry de Bracton's thirteenth-century treatise *De legibus et consuetudinibus Angliae* ("On the laws and customs of England"). The essay is more frequently known under the simpler title, Bracton. See J. H. Baker, An Introduction to English Legal History, 3rd ed. (London: Butterworths, 1990), 201, 532-33.

65. Edmund Burke, Reflections on the Revolution in France (London: J. Dodsley, 1790; Harmondsworth: Penguin Books), 119-20. All subsequent references will be cited parenthetically in the text.

66. Baron de Montesquieu, The Spirit of the Laws (New York: Hafner Press, 1949), 2:62-63.

67. Blackstone subcategorizes "hereditaments" as "corporeal" and "incorporeal" (this last term defined as anticipated financial gain such as rents, annuities, tithes, or continued privileges such as offices or advowsons). Sir William Blackstone, Commentaries on the Laws of England (Dublin, 1771), 1:107-108, 2:20-21, 2:2.

68. Stephen Prickett, England and the French Revolution (London: Macmillan Education Ltd., 1989), 43.

69. Cone, Burke, 330.

70. Cone, Burke, 318. The French National Assembly ignored the authority of prescription, and Burke regarded this as one of the numerous threats of the Revolution. Burke considered prescription to be a natural law, and a threat to prescription endangered the security of property.

71. Cone, Burke, 330; C.P. Courtney, Montesquieu and Burke (Oxford: Basil Blackwell, 1963), 162; Colin Rhys Lovell, English Constitutional and Legal History (New York: Oxford

University Press, 1962), 330.

72. Blackstone, 1:111-127.

73. Blackstone, 1:121, 126.

74. Sir James Mackintosh argues that Burke's comment "[w]hatever each man can do without trespassing on others, he has a right to do for himself . . ." is actually an endorsement of the concept of natural rights. See Sir James Mackintosh, Vindiciae Gallicae. Defence of the French Revolution and its English Admirers, against the Accusations of the Right Hon. Edmund Burke, in The Miscellaneous Works of the Right Honourable Sir James Mackintosh, ed. R. J. Mackintosh (Philadelphia: Carey and Hart, 1846), 437.

75. Holdsworth, 11:275-276.

76. Richardson's Clarissa is a fine illustration of the extent to which a woman's affections, sexual desires, marital intentions and even sense of her own integrity are subject to the machinations of family financial concerns.

77. Butler, ed., Revolution Controversy, 4-5; Alfred Cobban, ed., The Debate on the French Revolution, 1789-1800 (London: Nicholas Kaye, 1950), 2-6; Deane, 158-175.

78. The Society for Constitutional Information was founded originally in April of 1780 by Major John Cartwright and was revived in 1790 by John Horne Tooke. The London Corresponding Society was formed by Thomas Hardy in January of 1792. See Cobban, 95, 119.

79. Butler, Revolution Controversy, 4.

80. Butler, Revolution Controversy, 5.

81. Deane, 164.

82. Virginia Sapiro also makes this observation and counters it by treating Wollstonecraft as an important political theorist in the debates of the 1790s because of her numerous contributions to republicanism, redefinitions of virtue and indeed thoughts on the

advancement of women. See Virginia Sapiro, A Vindication of Political Virtue (Chicago: University of Chicago Press, 1992).

83. Mary Wollstonecraft, A Vindication of the Rights of Men (London: J. Johnson, 1790; Gainesville: Scholars' Facsimiles & Reprints, 1960), 7-8. All subsequent references will be cited parenthetically in the text.

84. Cobban, 92.

85. Sir James Mackintosh, Vindiciae Gallicae. Defence of the French Revolution and its English Admirers, against the Accusations of the Right Hon. Edmund Burke, in The Miscellaneous Works of the Right Honourable Sir James Mackintosh, ed. R. J. Mackintosh (Philadelphia: Carey and Hart, 1846), 404-5. All subsequent references will be cited parenthetically in the text.

86. Thomas Paine, The Rights of Man, in The Essential Thomas Paine (New York: New American Library), 149-50. All subsequent references will be cited parenthetically in the text.

87. Peter H. Marshall, William Godwin (New Haven: Yale University Press, 1984), 72, 80.

88. Peter Gabel and Jay M. Feinman, "Contract Law as Ideology," in The Politics of Law: A Progressive Critique, ed. David Kairys (New York: Pantheon Press, 1982), 172-73. See also P.S. Atiyah, The Rise and Fall of Freedom of Contract (Oxford: Clarendon Press, 1979); Marianne Constable, The Law of the Other (Chicago: University of Chicago Press, 1994); Zillah R. Eisenstein, The Female Body and the Law (Berkeley: University of California Press, 1988); Carole Pateman, The Sexual Contract (Stanford: Stanford University Press, 1988); Roberto Mangabeira Unger, The Critical Legal Studies Movement (Cambridge: Harvard University Press, 1983).

89. Gabel and Feinman, 173-75. See also E. P. Thompson, Customs in Common (New York: The New Press, 1993).

## Chapter Three

### Envisaging the New Citizen

*What delight!  
How glorious! in self-knowledge and self-rule,  
To look through all the frailties of the world,  
And, with a resolute mastery shaking off  
Infirmities of nature, time, and place,  
Build social upon personal Liberty,  
Which, to the blind restraints of general laws  
Superior, magisterially adopts  
One guide, the light of circumstances, flashed  
Upon an independent intellect  
Wordsworth*

Thomas Holcroft's Anna St. Ives, Elizabeth Inchbald's Nature and Art and Robert Bage's Hermesprong are among the most optimistic of the radical texts published in the 1790s. They impart the keen hopefulness of the discourse on rights as it attempted to fashion the "new citizen" and prepare the populace for activity in the commonwealth. In their enthusiasm, these texts begin to define a new kind of literary hero who represents the enfranchised individual characterized by property that originates in ownership of the self and access to economic opportunities released from the exclusive control of the family. The empowerment afforded by these qualities derives from the ability to claim inalienable, natural rights which precede and exist independently of the government. Yet the imagined individual narrativized by Jacobin authors was not an introspective figure retreating from humanity or a singular despot answerable only to a blind self-interest; such was the scathing criticism they received from opponents of British reform efforts. Their image of a new citizen required responsible participation in the public domain and attentiveness to the well-being of the community. Singular liberties were a mere foundation to the greater vision of a society comprised of a strong, enfranchised citizenry distinguished by self-determination.

Narratives by Holcroft, Inchbald and Bage are also characterized by their use of sentimentalism to portray an explicit political idealism. According to Marilyn Butler,

sentimentalism was the "inheritance" of radical authors. Tracing the tendency to view human nature as good back to the latitudinarian divines and their reaction against "Puritan pessimism," she notes the association of political liberalism with this "kindly" opinion about humanity.<sup>1</sup> Indeed, the perception that the individual is inherently benevolent, sympathetic and capable was a crucial premise that justified political reform and the establishment of a power base in the citizenry. Whereas the Hobbesian view of humanity evoked a picture of warring parties and thereby helped to justify monarchy, the Jacobin perspective, based in part on sentimentalism, was that of a populace whose strength is yet undiscovered but, given the appropriate environment and the necessary liberties, knows few bounds. Informed by the secular humanism of Shaftesbury and Hutcheson, in particular, the Jacobins regarded humanity as (potentially) naturally progressive and benevolent.

At times the Jacobins entertained extraordinary ideas of human potential. Mary Godwin Shelley attests to Holcroft's conviction that "death and disease existed only through the feebleness of man's mind, that pain also had no reality."<sup>2</sup> For the most part, however, the Jacobins' notion of human advancement followed more closely in line with Godwin's explanation of human perfectibility in the third edition of Political Justice. Perfectibility, as Godwin defined it, is a process. It "does not imply the capacity of being brought to perfection" because "if we could arrive at perfection, there would be an end to our improvement." Perfectibility is, rather, "the faculty of being continually made better and receiving perpetual improvement." The notable ability of humanity is in the capacity to achieve all that is comprehensible. "[E]very perfection or excellence that human beings are competent to conceive, human beings, unless in cases that are palpably and unequivocally excluded by the structure of their frame, are competent to attain." In addition, "[e]very principle which can be brought home to the conviction of the mind will infallibly produce a correspondent effect upon the conduct."<sup>3</sup> Thus, even though Godwin rejected a teleological conception of perfectibility, he invested humanity with an apparently unlimited

expansion of aptitude and a parallel change of behavior.

Closely tied to the Jacobin faith in human development is the belief that vice is mere error. In his "Letter to the Right Honourable William Windham, on the Intemperance and Dangerous Tendency of his Public Conduct," Holcroft rails at Windham's neglect of the economic consequences of war on the poor, but he still presents the source of Windham's crime as a lack of knowledge. "Ignorance is the source of your impotence," he writes to Windham. "Ignorance is the origin of all the errors of which I or the world can accuse you."<sup>4</sup> Similarly, in his "Narrative of Facts, relating to a Prosecution for High Treason," Holcroft explains that one of the chief principles by which we live is "that man is happy in proportion as he is truly informed. . . in proportion as he advances in the knowledge of facts, he will increase the means of happiness."<sup>5</sup> Both Wollstonecraft and Godwin concur with Holcroft's position. Wollstonecraft argues that no one "chooses" evil; rather, they "mistake" it for the good they seek. To be enlightened is not to resign oneself to one's fate, but to correct one's errors and endeavor to elicit human happiness.<sup>6</sup> Likewise, in Political Justice, Godwin writes defiantly of the omnipotence of a truth that is buoyed by sound reasoning and is adequately communicated. Proper inquiry and education, Godwin argues, will conquer error. Such instruction, he admits, may necessarily be comprised of mundane repetition, and it may involve a good deal of time; however, if the educator is knowledgeable, energetic, urbane, and "if the truth be altogether on his side," he will succeed in conveying his reality. Assuming that persons are rational beings, that they cannot resist the force of truth and that justice includes "the indestructible germ of ultimate victory" while error contains "the principle of its own mortality," Godwin concludes that "the advocates of falsehood and mistake must continually diminish, and the well informed adherents of truth incessantly multiply." Eradicate ignorance and one will eliminate vice. Truth is, simply, "irresistible."<sup>7</sup>

Much of the manner in which the Jacobins transformed their humanistic ideals into

a political agenda for a reformed society can be traced back to Shaftesbury's examinations of virtue. In his Characteristicks of Men, Manners, Opinions, Times (1711), Shaftesbury indicates the possibility of the universe being in "good Order, and the most agreeable to a general Interest that is possible." If a society is not the best that it can be, Shaftesbury refers to its weaknesses as an "illness." Whether caused by "design" or "chance," the notion of social "illness" presumes an underlying foundation of good from which the community has deviated.<sup>8</sup> Likewise, Shaftesbury argues that there is a definable right and wrong state for each individual, and the right one is naturally sought and promoted.

There being therefore in every Creature a certain *Interest* or *Good*; there must be also a certain *END*, to which every thing in his Constitution must *naturally* refer. To this *END* if any thing either in his Appetites, Passions, or Affections be not conducing, but the contrary; we must of necessity own it *ill* to him. And in this manner he is *ill, with respect to himself*; as he certainly is, *with respect to others of his kind*, when any such Appetites or Passions make him any way injurious to them. Now if, by the natural Constitution of any rational Creature, the same Irregularitys of Appetite which make him ill *to Others*, make him ill also *to Himself*; and if the same Regularity of Affections, which causes him to be good in *one* Sense, causes him to be good also in *the other*; then is that Goodness by which he is thus useful to others, a real Good and Advantage to himself. And thus *Virtue* and *Interest* may be found at last to agree.<sup>9</sup>

Shaftesbury's assessment of the human condition as one in which virtue and self-interest coalesce became something of a creed for Holcroft in Anna St. Ives. As Holcroft imagines a new society distinguished by what Rosemary Bechler has called the "wish fulfillment" of the Jacobins--that individual needs will coincide with what is best for the community--he represents the individual as moving in the direction of his/her "correct" state

of being.<sup>10</sup> The main protagonists, Anna and Frank, must strike a balance between their emotional and political responsibilities and demonstrate that virtue is attainable only in the context of an equitable society. They succeed by recognizing, and putting to good use, their superior physical and moral strengths. They also exhibit a proper understanding of property, in contrast to their elders who misuse wealth and privilege. But Anna and Frank, as a couple, also reveal what Bechler terms "Rousseau's error" as perceived by the Jacobins: in La Nouvelle Héloïse (1761), Rousseau portrays a great passion as a means of self-gratification, instead of the driving force behind social change and as an example to the world of virtue and reason in practice.<sup>11</sup> The value of Anna's and Frank's discoveries about their own unlimited potential appears in their respective roles as models for others. In a civil state, "it is *Example*," Shaftesbury writes, "which chiefly influences Mankind, and forms the Character and Disposition of a People."<sup>12</sup> It is also, according to Shaftesbury, the responsibility of leaders to remember that their effectiveness is dependent on their ability to serve as an example to the populace. While the obligation of example was common in reference to the monarchy, Holcroft's requirement that an "ordinary" man and woman set a precedent for others was a revolutionary replacement of the monarchical figure at the center of society with that of the enfranchised citizen.

Selfishness is the avowed enemy of Holcroft's Anna and Frank. As representative leaders of the future commonwealth, they must dissociate themselves from self-aggrandizement and yet not negate the new found power of the individual. Personal good and public good must be consonant. Shaftesbury and Hutcheson provided early ammunition against the accusations of selfishness that plagued the campaign for inalienable rights. "Self-Good," Shaftesbury writes, "however *selfish* it may be esteem'd, is in reality not only consistent with publick Good, but in some measure contributing to it; . . . 'tis so far from being ill, or blameable in any sense, that it must be acknowledg'd absolutely necessary to constitute a Creature *Good*."<sup>13</sup> It is our duty to be strong, socially



responsible individuals and to exercise a solid sense of private judgment. Similarly, Hutcheson denies that self-love is the motivation behind all of our actions. He argues that we have "a *moral faculty* . . . truly disinterested, terminating upon the happiness of others, and often operating when we have no reference of it in our minds to any enjoyment of our own."<sup>14</sup> Hutcheson's position translates easily into a commitment to universal benevolence, and it was a position adopted by the Jacobins, particularly by Thomas Holcroft. The "grand determination" to achieve "the greatest general good" is as powerful a *modus operandi* in Anna St. Ives as is the need to free oneself from the constraints of family, gender and class.<sup>15</sup> Anna's and Frank's union is possible only because it is socially beneficial.

In nearly all the Jacobin texts, heroes and heroines are characterized by the ability to reason about what is morally right and what is beneficial to the community at large. In the most optimistic of the Jacobin novels, however, the benefit to society is reinforced by the belief that humanity has a natural propensity toward sound judgment. Much as Shaftesbury claimed that a sense of right and wrong is a "natural Affection" and "a first Principle in our Constitution and Make," the Jacobins represented sound judgment as a capacity of the new citizen that may be cultivated and should not be susceptible to the whims of "speculative Opinion, Persuasion or Belief." It is marked by an endurance and a steady strength; "[t]his impossible," Shaftesbury writes, "that this can instantly, or without much Force and Violence, be effac'd or struck out of the natural Temper, even by means of the most extravagant Belief or Opinion in the World."<sup>16</sup> Holcroft's Anna and Frank are supported at every level by their energy, and although the rake Coke Clifton embodies many substantial challenges to Jacobin philosophy, he eventually submits to the power of reason and education. The dark devices of Coke Clifton serve as a dialectical force toward progress; under the influence of good-will, all must move forward.

Another critical component in the Jacobin scheme to promote political reform and

define the new citizen was the argument that circumstances determine the development of the individual. From this premise, the Jacobins justified numerous facets of reform, including the very possibility of change itself. Humanity's ignorance, Holcroft contends, "is not a fault but a misfortune" because one's knowledge correlates with one's exposure to information. Holcroft claimed that the very spirit of the French Revolution was derived from the discovery that political institutions "essentially influence the happiness of the people, and that these institutes are capable of improvement."<sup>17</sup> Both Wollstonecraft and Godwin look to the Lockean principle of a *tabula rasa* to argue that virtue may be acquired by experience; it may be reasoned, and it may be taught. "Children are born ignorant," Wollstonecraft writes, and "the passions, are neither good nor evil dispositions, till they receive direction."<sup>18</sup> The ability of individuals to obtain virtue is a foundation of her argument for inalienable rights in A Vindication of the Rights of Men and in her proposal to educate women in A Vindication of the Rights of Woman. Godwin, too, addresses both the influence political institutions have on individuals and the effect of reason on our voluntary actions in an early chapter of Political Justice entitled "The Characters of Men Originate in their External Circumstances."

Assuming, as Wollstonecraft does, that we enter this world with no innate biases, principles, or sentiments, Godwin turns instead to the Lockean "association of ideas," particularly as it was discussed by the Rev. John Gay and David Hartley, for an explanation of our perceptions and notions. Gay and Hartley suggest that the workings of the intellect all derive from associations. In his Observations on Man (1749), Hartley explains that *"[a]ny Sensations A, B, C, &c. by being associated with one another a sufficient Number of Times, get such a Power over the corresponding Ideas a, b, c, &c. that any one of the Sensations A, when impressed alone, shall be able to excite in the Mind b, c, &c. the Ideas of the Rest."*<sup>19</sup> Our intellect, he continues, responds to a sensation, which generates imagination. Sensation together with imagination generate ambition, and so on through a

series of "intellectual affections," which end with "moral sense." This linear progression, Hartley claims, does not deny voluntary power but establishes free will by showing how the intellect works.<sup>20</sup> The political conclusion Godwin and the other Jacobins derived from this reading of the association of ideas is the all-important viability of change. Because he believed that the mind is a *tabula rasa*, Godwin was able to write that "[t]here is for the most part no essential difference between the child of the lord and of the porter."<sup>21</sup> And because he believed that education and industry can transform the individual, he was also convinced that they can be used to alter government. "If we entertain false views," Godwin argued, "and be involved in pernicious mistakes, this disadvantage is not the offspring of an irresistible destiny."<sup>22</sup>

Elizabeth Inchbald's Nature and Art defies "irresistible destiny" and makes the crucial links between a positive view of human tendencies, the profound impact of education, and the viability of political reform. In Nature and Art, Inchbald juxtaposes the upbringings of two cousins to show the significance of learned behavior. One cousin is taught the artifice that accompanies wealth and status while the other is raised in the "natural" environment of an African island. Their differences emerge in their exchanges in dialogue. How they each understand the world around them surfaces in their explorations of language and their differing applications of meaning to words. When the boy who is educated in artifice associates servitude with slavery, his cousin is able to reveal the bias of this connection and propose an alternative reading. In so doing, the "innocent" cousin demonstrates the possibility of change; he acknowledges that our perceptions are learned and can be altered. Moreover, Inchbald, like Godwin, used this discovery of the malleable quality of human behavior and the inherently positive inclinations of humanity when freed from artifice to promote the possibility of political change. If singular conduct can be reformed, then so can social interactions and institutions.

A significant point at which the Jacobin novel diverges from the tradition of

sentimentalism is in its representation of benevolence. While still endorsing, even insisting on, the promotion of universal benevolence, the Jacobins warned of the dangers involved in private charity. Elizabeth Inchbald, in particular, carefully dissected the notion of benevolence inherited from Shaftesbury and Hutcheson. In Nature and Art, personal patronage is shown to be morally devastating because it creates an unnecessary dependence and clouds one's natural abilities. It impedes the progress of a universal concept of reform based on individual rights and extended to the general welfare. In addition, the Jacobins were cautious about the activity of sympathy as the primary catalyst for good works because, as Chris Jones notes, sympathy was often a means of protecting the normative.<sup>23</sup> For example, in his discourse on sympathy in The Theory of Moral Sentiments (1759), Adam Smith claims that the admiration we feel for persons of wealth and rank supports the order and stability of society. Of the prosperous, he writes, "[w]e are eager to assist them in completing a system of happiness that approaches so near to perfection."<sup>24</sup> Of the powerful, we hesitate to disturb their authority. "That kings are the servants of the people, to be obeyed, resisted, deposed, or punished, as the public conveniency may require, is the doctrine of reason and philosophy; but it is not the doctrine of Nature."<sup>25</sup> Ultimately, "the peace and order of society is of more importance than even the relief of the miserable."<sup>26</sup> The existence of such a view of a natural sympathy was exactly what the Jacobins had to deny. It was the sort of "fellow-feeling" that Burke played on in Reflections when he attempted to elicit compassion for the royal family of France and the sort of emotional manipulation for which Wollstonecraft takes Burke to task in her Vindication of the Rights of Men.

The predominance of localized affection over universal benevolence, promoted by Smith as well as Hume, posed a formidable threat to reform efforts. As Evan Radcliffe has observed, support of universal benevolence was essential to reform in the 1790s because primary identification with one's family, class and country was used by opponents of British

reform efforts to devalue events in France and strengthen British patriotism.<sup>27</sup> Any international alliance--but especially a cooperation with France--did indeed threaten social stability. In his novel Herm sprong, Robert Bage challenges the identification of the individual with family, class and country by presenting a protagonist who carries the ambiguous name of "Herm sprong." His unclassifiable appellation makes distinguishing his affiliations difficult. We eventually learn that he has connections in America, France and Britain, and this expanse of knowledge and influence frightens the corrupt aristocracy that would like to reinforce its borders against the infiltration of radicalism from abroad.

Herm sprong is a figure who embodies the transition to a market economy without abandoning the benefits of inherited wealth and title. While he may not seem to be a radical representation of the new citizen, he most closely approaches the characterizations of those who ultimately did benefit from the emergence of the social contract as the organizing paradigm for civil society. Herm sprong speaks as a brazen advocate of the rights of man and celebrates the potential of the individual left free of oppressive traditions. The extent of his power is evident in his encounter with juridical authority that renders the law subject to the truth Herm sprong discovers. As a discoverer of important truths, he exemplifies the successful inquirer that Godwin and Holcroft praised. Yet, Herm sprong's accomplishments are very much the result of his access to property. He wields the right of property to an exceptional degree, as he is able to claim commercial wealth, inherited land and, most importantly, self-governance. His success is a reminder that rights of ownership hold a pivotal place in the social contract. The demise of those who are not able to claim the benefits of the rights of man sits in stark contrast to Herm sprong's astonishing capabilities. Bage contrasts Herm sprong's ability to manipulate civil authority with the subjection of women to law particularly in its domestic manifestations--filial obedience, forced marriages, loss of property in marriage. Even though the transgressive Maria Fluart herself embraces the concept of individual rights, it becomes clear that she will not be able

to see the fulfillment of those rights within civil society because she cannot orchestrate the right of property in the manner of her counterpart Hermsprong. Likewise, Caroline Campinet has access to property only through Hermsprong, who acquires it for her. Bage's contribution to the image of the new citizen is powerful in its accuracy as to who would become the central figure of democracy, and it is important in its awareness of the limitations of the extension of the franchise.

In works by such learned statesmen as Edmund Burke, the image of the populace in the 1790s was harsh and censorious. The idea that the common person is worthy of the responsibility of electing a public official was a truly radical notion. In "A Letter to A Member of the National Assembly" in France, Burke is characteristically passionate about the unworthiness of the populace for enfranchisement. "I can never be convinced," he writes,

that the scheme of placing the highest powers of the state in churchwardens and constables, and other such officers, guided by the prudence of litigious attornies and Jew brokers, and set in action by shameless women of the lowest condition, by keepers of hotels, taverns, and brothels, by pert apprentices, by clerks, shop-boys, hair-dressers, fiddlers, and dancers on the stage, (who, in such a commonwealth as yours, will in future overbear, as already they have overborne, the sober incapacity of dull, uninstructed men, of useful but laborious occupations,) can never be put into any shape, that must not be both disgraceful and destructive.<sup>28</sup>

The project of the Jacobins, then, to envisage a new citizen was a courageous step. Indeed it was the step that earned them the provocative, but inaccurate, title "Jacobin" and branded them democrats. By drawing on the traditions of sentimentalism to present a political ideal, the Jacobins paved the way for reform and celebrated the individual formed by circumstances, powerful in the "self-knowledge" and "self-rule" of which Wordsworth

wrote in The Prelude, and authorized by the rights of ownership to surpass the strictures of positive law for the benefit of society.

Thomas Holcroft's *Anna St. Ives*

Thomas Holcroft is better known as a dramatist than a novelist, but his prose fiction merits an important place in the development of British radicalism and most clearly demonstrates the Jacobin use of the sentimental.<sup>29</sup> *Anna St. Ives*, arguably the first Jacobin novel,<sup>30</sup> is particularly notable for infusing the conception of the new citizen with an emphasis on social responsibility. While the portrait of the enfranchised person was one of an autonomous, self-determining entity, the individual presented by Holcroft is not characterized by self-absorption, but by public awareness and civic duty. The purpose or mission of the ideal citizen is not only to be immersed in the public sector and enjoy both natural and civil rights, but to use one's new-found strength (derived from personal rights) to instruct others and protect the commonwealth.

Born the son of a shoemaker, Holcroft spent a substantial part of his childhood begging for food and clothing and later working as a stable-boy, apprenticed shoemaker, servant/secretary, and strolling actor.<sup>31</sup> Consequently, his novels are rich with the experiences of one who has struggled to educate himself and to find sustaining employment. Holcroft was an avid supporter of the concept of inalienable natural rights and reportedly influenced Godwin in his writing of *Political Justice*.<sup>32</sup> Godwin mentions Holcroft as one of four "principle oral instructors" to whom he was intellectually indebted. They first met in 1786, and by 1788 the two were intimate friends.<sup>33</sup> In his journal, Godwin testifies to their mutual development as follows:

My mind became more and more impregnated with the principles afterwards developed in my *Political Justice*; they were the almost constant topic of conversation between Holcroft and myself; and he, who in his sceptic and other writings had displayed the sentiments of a courtier, speedily became no less a republican and a reformer than myself.<sup>34</sup>

Yet Holcroft wrote more as a social activist, moralist and visionary than as a



political theorist. He wished to see philosophy at work in society and considered his novels a contribution to cultural advancement. He hoped that his literary work would endure beyond his lifetime and continue to instruct the populace and "promote the general good."<sup>35</sup> In his review of Robert Bage's Man As He Is, Holcroft defends the social role of the novel: "When we consider the influence that novels have over the manners, sentiments, and passions, of the rising generation,--instead of holding them in the contempt which, as reviewers, we are without exception said to do,--we may esteem them, on the contrary, as forming a very essential branch of literature."<sup>36</sup> Holcroft also proved to be a tireless advocate of social reform. He was a loyal defender of the French Revolution and remained so even as other English Jacobins began to withdraw their support.<sup>37</sup> He was a member of the Society for Constitutional Information and together with William Godwin saw that Thomas Paine's Rights of Man was published in Britain. His feverish enthusiasm was abundant and uninhibited. On receipt of Paine's Rights of Man, he wrote to Godwin:

I have got it -- If this do not cure my cough it is a damned perverse mule of a cough -- The pamphlet -- From the row -- But mum -- We don't sell it -- Oh, no -- Ears and Eggs -- Verbatim, except the addition of a short preface, which, as you have not seen, I send you my copy -- Not a single castration (Laud be unto God and J. S. Jordan!) can I discover -- Hey for the New Jerusalem! The millennium! And peace and eternal beatitude be unto the soul of Thomas Paine.<sup>38</sup>

Holcroft paid a severe price for his devotion to democracy. Although he was found "not guilty" when accused of the specific charge of treason, and therefore avoided death, he bore the ambiguous title of "acquitted felon" for the rest of his life. The profound effect of the treason charge on Holcroft's intellectual and emotional development is evident in the bitterness which seeped into the social criticism of his last novel, Memoirs of Bryan Perdue, published in 1805. In this final novel, the ideal community, first considered in Anna St.

Ives, can only be realized on a remote island, far from the center of British society. The treason trial, however, also reconfirmed Holcroft's premise that narrative has an important role in socio-political critique. Unable to defend himself in court by reading a text which outlined his defense, Holcroft chose other avenues of expression to clear his name. He wrote letters to officials in charge of his case, composed a narrative about the entire ordeal, and published a novel (Bryan Perdue) that strikes at the core of the very painful process of political transformation.<sup>39</sup>

Because Holcroft was one of the most visible and committed of the social reformers/authors, he not only was threatened by a charge of treason and publicly ridiculed by the Anti-Jacobin Review but also has been treated rather harshly by critics of his fiction. Early to mid twentieth-century criticism tends to applaud his talent as a dramatist but condemn his politics, his ability as a novelist, and his use of the novel as a vehicle of political expression.<sup>40</sup> Ernest Baker accuses Holcroft of having an iron heart, while George Saintsbury calls Holcroft a "violent Atheist" and the "worst offender" of "the sentimentality and the anarchic purpose" of the Jacobin novel.<sup>41</sup> Edward Dowden also laments "the pitiful drapery in which Holcroft clothes his political abstractions," and Harrison Steeves comments, "I know of no reader who has admitted enthusiasm over the novels of Thomas Holcroft," and "probably no epistolary novel proves the inadequacies of the form more completely than Anna St. Ives."<sup>42</sup> J. M. S. Tompkins is a bit kinder when she refers to Anna St. Ives as a "deformed book," though one with a "peculiar sweetness."<sup>43</sup>

In more recent years, Holcroft's novels have been considered with greater understanding of his intentions; overall, however, he has received little attention, except in the few studies of the revolutionary novel that have appeared intermittently over the last three decades. The corpus of Holcroft's work is rarely discussed, and there is no collected edition of his published writing. Rodney M. Baine's Thomas Holcroft and the Revolutionary Novel is the only text to date which exclusively features Holcroft and his work.<sup>44</sup> Patricia

Meyer Spacks notes that in the twentieth century Holcroft has been "an almost completely neglected author."<sup>45</sup> Most recently, in critiques of radical literature from the 1790s, Holcroft has been somewhat vindicated by being credited with the inclusion of women in his vision of the New Jerusalem. Marilyn Butler cites Holcroft's impatience with the depiction of women as weak and his consequent desire to "'teach fortitude to females'."<sup>46</sup> As Mona Scheuermann observes, Anna and Frank of Anna St. Ives exhibit an equality of mental and physical abilities that enable them both to overcome adversities of all kinds without exhibiting dangerous dependence.<sup>47</sup> Furthermore, Gary Kelly attributes to Holcroft the passion and popularity of the Jacobin text as well as its structural theory of a unity of design. Anna St. Ives in particular, Kelly notes, serves as "a comprehensive preliminary statement of the principles of Political Justice by illustrating Godwin's abstract philosophy."<sup>48</sup>

But perhaps the most cogent and prescient comment on Holcroft's contribution to Jacobinism was made by one of his contemporaries, William Hazlitt. Hazlitt, who completed Holcroft's memoirs (first begun by Holcroft himself), remarked that "Holcroft's politics were never any thing more than an enlarged system of morality, growing out of just sentiments, and general improvement."<sup>49</sup> Holcroft saw the mission of the author as a social one, grounded in a system of ethics. In The Monthly Review, Holcroft wrote that

the labours of the poet, of the historian, and of the sage, ought to have one common end, that of strengthening and improving man, not of continuing him in error, and, which is always the consequence of error, in vice. The most essential feature of every work is its moral tendency. The good writer teaches the child to become a man; the bad and the indifferent best understand the reverse art of making a man a child.<sup>50</sup>

Holcroft's epistolary novel Anna St. Ives depicts the dual goal that he proposed: the development of the self and the promotion of civic duty. Protagonists Anna St. Ives and

Frank Henley are an idealized couple who learn to become good citizens and, in the process, realize their responsibility as caretakers of the community. Anna is the daughter of a baronet and Frank is the son of the steward who oversees the St. Ives estate. Together they cross numerous boundaries. They defy class when they unite in marriage at the end of the story, and they turn traditional notions of gender upside down when they reveal their tendencies toward passion and reason. Anna must learn to overcome her tendency toward "masculine" reason, while Frank must learn to curb his "feminine" emotions that lean toward excessiveness.<sup>51</sup> Finally, they challenge the wisdom and competencies of their parents' generation. Sir Arthur St. Ives and Abimelech Henley mismanage property either through inattentiveness or purposeful deceit, whereas Anna and Frank are astute and courageous enough to reconceive the notions of property and ownership and then use their new-found empowerment for the benefit of others. The right of property they establish is manifest in the evolution of a moral code that both enhances individual growth and contributes to the general welfare. Holcroft redefines honor and virtue as vehicles of truth (a social, political and economic reality that Jacobins believed only had to be investigated and revealed) rather than as innate characteristics of the nobility or qualities exhibited through chivalric acts.

Anna St. Ives was published in 1792 and written just before the French Revolution took a definitively violent turn and France began its invasions of other countries. It is a keenly optimistic text in looking forward to the New Jerusalem and celebrates the notion of French *fraternité* as a model for government. It is one of the few Jacobin texts that actually try to narrativize a utopian culture. Marilyn Butler notes that Holcroft had originally planned to end the novel tragically with the principal characters, Anna, Frank, and the villainous Coke Clifton, rendered victims of an oppressive society. Godwin, however, advised him to conclude with an affirmation of the possibility of social transformation.<sup>52</sup> Holcroft does so, but his attempt to illustrate the political idealism of the kind Godwin

discusses in Political Justice exacerbates an often criticized weakness of Anna St. Ives--the hollowness and flatness of the characters. Hazlitt deemed Anna and Frank unnatural because they seem mere "machines put into action . . . to shew how these general principles would operate in particular situations."<sup>53</sup> Indeed, just as the story opens, Anna and Frank seize hold of an autonomy of behavior that other Jacobin characters only dream about, and the process of obtaining autonomy remains opaque. Rather than illustrate the necessary and difficult steps toward liberty explored in later Jacobin texts, Holcroft demonstrates the extraordinary capacity of women and men when they are allowed to assert their independence and exercise their own judgment. While the convictions of Anna and Frank do seem miraculously void of self-doubt, painful sacrifices and other human complexities, the novel itself wrestles with the appropriate means of reform, the reconciliation of passion with reason, and the definition and appropriate use of property. As Patricia Meyer Spacks observes, at issue in Anna St. Ives is agency: who has the right and ability to evoke change and determine its form.<sup>54</sup>

Opponents of British reform movements accused Jacobin authors of using sentimental literary devices in their novels to enhance political propaganda. The Anti-Jacobin Review relentlessly condemned republicans for exploiting the untamed imaginations of the young and for fueling passions in this feverish decade of revolution. Such accusations, however, were infused with irony. While conservative writers lambasted Jacobins for using emotion to advance political ideas, their leading spokesperson, Edmund Burke, proved to be one of the most skillful employers of sentimental rhetoric in the late eighteenth century. The major respondents to Burke's Reflections all cite his tapping of emotion to further his support of the monarchy and restrictions on the franchise. Holcroft, as well, comments on Burke's "impassioned flights" and "unhappy and half frantic zeal."<sup>55</sup> In contrast, woven deeply into Jacobinical philosophy was an overt rejection of the power of intuition and feeling. Their intent was to free us from such controls, even as they argued

that we are, to a large extent, products of our circumstances. Admittedly, in later Jacobin texts such as Wollstonecraft's Wrongs of Woman and Godwin's Caleb Williams, the evocation of emotion in the reader plays an important role (as does the function of psychology). Yet the promotion of rights demanded a concretization of abstract notions, such as intuition, and a clarification of law so that the legal subject could be transformed. In the political battles they faced, excessive emotion was a dangerous distraction, not to mention a rationale for disenfranchisement.

Anna St. Ives has frequently been labeled a sentimental novel because it tries to depict human perfectibility (hence the criticism of Anna and Frank as characters who are simply too perfect). Holcroft insisted that humanity's vice was only due to error. Proper instruction and information would eventually eliminate corruption, duplicity and other social ills.<sup>56</sup> "The march of knowledge is slow," Anna writes, "impeded as it is by the almost impenetrable forests and morasses of error. Ages have passed away, in labors to bring some of the most simple of moral truths to light, which still remain overclouded and obscure."<sup>57</sup> Criticism of Holcroft and his novel frequently overlooks the more refined notion of perfectibility (as a process) that Holcroft and Godwin were contemplating at this time. Holcroft uses the sentimental not to prey on the sensibilities of his readers or to pique interest in the power of feeling but to present a political supposition that is itself dependent on an assumption of goodness and redemptive qualities in human nature. Holcroft also regards the belief in continual improvement to be at the foundation of his system of ethics. In Anna St. Ives, the reformatory activities are dependent on the premise, also articulated by Godwin, that the discovery of true principles will lead to proper conduct. The assumption that one may voluntarily behave in a productive manner and in concert with the needs of the community implies the self-determination of an enfranchised individual.

The plot of Anna St. Ives relies heavily on novelistic conventions, many of them

borrowed from Richardson. Frank is the doer of endless good deeds. When Anna, Sir Arthur and Frank encounter robbers on the road to Paris, Frank exhibits his heroic qualities by rescuing them from the treacheries of theft. When the rake Coke Clifton hits his head on a rock after diving into a lake, Frank saves him from drowning. "He is the kind of Sir Charles Grandison, Rights-of-Mannified," George Saintsbury comments, "which infests all these novels" and, he adds, "is a great bore"! <sup>58</sup> Anna (who is rather less tedious) faces the traditional life struggles of so many eighteenth-century female characters. She wrestles with questions of filial obedience and the warring factions of head and heart when choosing a husband. She is immersed in conflict over her dowry (dissension not of her own making) and watches as money takes its central place in the marriage game. Anna is eventually abducted and, in a scene reminiscent of *Clarissa*, is locked in an apartment and threatened with rape. Anna's abductor, Coke Clifton, also has qualities of a Richardsonian rake. Coke quickly realizes that Anna's interest in him is generated by her devotion to reforming his behavior. Resistant to any such ideas of personal improvement, Coke begins to plan the demise of both Anna and Frank (between whom he realizes there is a strong affection) and contrives situations to entrap them. His duplicitousness is played out in a Gothic world of overspent emotion and dangerously misguided passion; his dark deceptions, moreover, serve as the antithesis of the enlightened realm of reason, rights and political transformation.

In spite of borrowing such standard eighteenth-century plot techniques, Holcroft quickly diverges from convention as the story develops. He demonstrates the political implications of Frank's heroic behavior and offers the means of altering the usually devastating fates of young women forced into marriage for financial gain and the inevitable tragedies of passion run rampant in the activities of villainous rakes such as Coke Clifton. Frank's heroism is not complete when he saves Anna and her father from robbers; his objective is fulfilled only when he later meets one of the robbers and rehabilitates him.

Similarly, it is not enough to have saved Coke Clifton's physical life; Frank is also obligated to see to the betterment of Coke's conduct. When Anna is abducted and threatened with rape, her exceptional strength of mind and body enables her to resist Coke's advances, scale the walls of her prison, and secure her own freedom. Yet Anna is not the only one to suffer at the hands of Coke. Frank is also abducted and while he too is endowed with special physical powers and able to fend off three large gangsters single-handedly, he experiences the trauma so many women do in eighteenth-century texts. He is exposed to a firsthand understanding of what it is like to be victimized. In Anna's choice of a husband, she veers from the well-trodden path and eventually reaches a solution that enables her to be true to her own heart and her social mission at the same time. She first thinks she must betroth herself to Coke in order to reform him, but that proves to be unnecessary. In fact, it takes the combined power of the loving couple of Anna and Frank to be effective. But most important, Anna's choice of a husband is a political one. By choosing Frank, Anna walks away from the demands of filial obedience and economic control by the family. She asserts her self-governance by trusting her own judgement.

The victimization that in so many sentimental texts evokes sympathy in the reader is eliminated in Anna St. Ives by the hero's and heroine's ability to overcome all adversity. Whereas faith in the heroic qualities of men and women derives from Shaftesbury and Hutcheson, who wrote of innate human goodness, the notion of unlimited human development was used to further the campaign for inalienable natural rights. To promote the idea that people are capable of being rational, trustworthy creatures was to lay the foundation for the ability to manage political power. Anna and Frank perform remarkable acts of kindness, generosity and reformation; however, only their freedom from the influence of their elders and their ability to claim self-determination permit them to handle the difficulties they encounter.

Holcroft depicts the convergence of an old world mired in corruption and the misuse



of property with the a new world of enfranchised individuals who have let go of selfish desires and embraced the welfare of all. One of the more remarkable and radical proposals Anna and Frank consider for their new society is the abolition of private property. They temper the Lockean aphorism that labor creates individual rights of property and Blackstone's definition of ownership as the right of persons over things by stressing the duties between people in respect of both "things" and the general welfare.<sup>59</sup> Anna St. Ives summarizes their position in a letter to her friend Louisa. Describing their moment of socio-political epiphany, she writes:

Frank was present; and his imagination, warm with the sublimity of his subject, drew a bold and splendid picture of the felicity of that state of society when personal property shall no longer exist, when the whole torrent of mind shall unite in enquiry after the beautiful and the true, when it shall no longer be diverted by those insignificant pursuits to which the absurd follies that originate in our false hearts give birth, when individual selfishness shall be unknown, and when all shall labour for the good of all!

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Implications of common property, beyond the opportunity to channel energy toward the inquiry of beauty and truth, go unexplored. Yet the idea alone indicates Holcroft's courage in narrativizing alternative ways of conceiving of proprietorship. In his letter to William Windham, Holcroft asserts that "the foundation of the laws of property is that each man is affirmed to be entitled to the produce of his own industry." Taken to its logical conclusion, Holcroft argues, only the poor would be entitled to eat because they labor for the food.<sup>60</sup> Holcroft did not perceive of owning one's inalienable rights as a means of isolating oneself from the community. It was to serve as protection from oppressive laws, but it also bore the obligation to educate, reform and care for others. Anna St. Ives is replete with examples of the benefits for the entire commonwealth of acts of generosity, kindness and

patience that are not deeds of charity, philanthropy or any kind of exclusive private sector function, but are requirements of the new citizen.

Early in the story as Anna and Frank are beginning to put together their political agenda, Anna makes a succinct comment that resonates throughout the text and bridges the old world with the new: to her friend Louisa she remarks that "each family is itself a state" (209). Anna's observation not only points to the intimate connection between economic control and the family; it also addresses the controversial view of relationships proposed by both Holcroft and Godwin in which family loyalties must be sublimated to the welfare of the state. As she contemplates an idyllic future, Anna implicates the family in the demise of national politics. In reference to anticipated critics of her ideas, she writes:

. . . let them look round, and deny, if they can, that the present wretched system, of each providing for himself instead of the whole for the whole, does not inspire suspicion, fear, disputes, quarrels, mutual contempt, and hatred. Instead of nations, or rather of the whole world, uniting to produce one great effect, the perfection and good of all, each family is itself a state; bound to the rest by interest and cunning, but separated by the very same passions, and a thousand others; living together under a kind of truce, but continually ready to break out into open war; continually jealous of each other; continually on the defensive, because continually dreading an attack; ever ready to usurp on the rights of others, and perpetually entangled in the most wretched contentions, concerning what all would neglect, if not despise, did not the errors of this selfish system give value to what is in itself worthless." (209-10)

The mixture of political and domestic language used by Anna in her assessment of the state of the nation belies the separation of family and state and instead points to the demise of both in their current economic embroilments. The answer to this dilemma, Anna

proposes, is "to arm ourselves with patience, fortitude, and universal benevolence" (210). The solution is also to reconfigure the basis of relationships. To come of age, Anna must allow rationality to regulate her relationships with family and friends. Echoing Godwin, Anna proclaims that "reason and not relationship alone can give authority" and warns women in particular that their source of power is reason (264). Holcroft and Godwin attempted to establish morality as the foundation of law, including the maxims by which we live. Designating both virtue and contribution to society as touchstones for measuring an individual's worth, Holcroft and Godwin subordinated the importance of sentiment and familial loyalty. To explain his idea on individual worth, Godwin poses a hypothetical situation involving a fire and the ability to save only one of two men from death. The ethical dilemma is how one decides which of the men to rescue. According to Holcroft's and Godwin's principle, "that life ought to be preferred which will be most conducive to the general good."<sup>61</sup> Therefore even if the less worthy life were that of one's brother, one would be obligated to save the other. Expressing faith in the rationality of moral law, Godwin denies the power of sentiment and emotional affinity. "What magic," he asks, "is there in the pronoun 'my', that should justify us in overturning the decisions of impartial truth? My brother or my father may be a fool or a profligate, malicious, lying or dishonest"(170). While Holcroft does not depict such an extreme dilemma, in Anna St. Ives familial loyalties are frequently at odds with relationships between non-related persons that prove to be supportive and productive. If Frank had only his father to rely on, he would never have been educated. If Anna succumbed to her father's wishes, she would have married for money rather than virtue.

The universal benevolence that Anna also cites as a weapon against the errors of a corrupt social system was, as Evan Radcliffe has noted, a "politically charged" concept in the late eighteenth century.<sup>62</sup> For Anna and Frank, universal benevolence is a moral imperative by which they live and evidence of their being self-governing participants in the

public domain. Yet it is a deceptively simple concept in Anna St. Ives. Their devotion to the plight of others (all others) is also a political statement that aligns them with supporters of the French Revolution and British reformers. One of the basic tenets of the new philosophy was the ability and the moral responsibility to care for humanity; that empathy, however, was considered a "voluntary action"--one that implies individual will and a powerful self.<sup>63</sup> The credo of opponents of revolution and reform was private philanthropy and local, as opposed to international, alliances. While universal benevolence, according to Radcliffe, "came to stand for a subversion of everything local and consequently the destruction of human nature itself,"<sup>64</sup> in Anna St. Ives concern for the general welfare is a means of assuring civic duty and an indication of a stronger, more explicitly defined human nature. The actual threat that the notion of universal benevolence posed was a challenge to family as the means of economic control. It pointed to the reconstitution of the body politic.

In Anna St. Ives, Holcroft proposes *fraternité* as the paradigm for government and society. Egoism, Lynn Hunt has explained, is a counter-revolutionary force during the French Revolution and a threat to the brotherhood envisaged by reformers.<sup>65</sup> Coke Clifton, presumably a reference to Sir Edward Coke, embodies egoism, and his downfall exemplifies the destructiveness of such self-interest. Holcroft makes a critical distinction between the kind of self-determining "voluntary action" that Anna and Frank enjoy and the manipulative contrivances for self advancement of which Coke is guilty. Anna and Frank glean their strong sense of self from their assumption of civic participation and their commitment to the welfare of others. Coke's flawed morality and self-will prevents him from enjoying the same. Coke's maneuvers, and by extension the activities of legal institutions, are driven by greed, revenge and coercion--all of which have no place in the new brotherhood. *Fraternité* indicates an end to dark deceptions, oppressive law and the victimization of others, and, in the text, it eventually works to everyone's advantage. Coke

(and the law) are shown to be receptive to reform, and the enfranchised individual is revealed as a source of extraordinary power.

The difficulty in trying to narrativize an ideal relationship between the individual and the state, as well as the simple moral truths to which Holcroft was so devoted, is evident in the frequent comment that the characters of Anna St. Ives are empty creatures and that the story is a mere vehicle for political or moral philosophy. Indeed, the novel does illustrate key concepts in Godwin's Political Justice--ideas that Godwin and Holcroft evidently discussed while they were writing their respective texts. Yet, Holcroft was most interested in showing those philosophical premises at work in society. While his novel does not consider the often severe difficulties involved in political reform--especially a massive and very gradual campaign to reconstitute the body politic--it ponders the often perplexing alliance between the self and the collective that endures through the period of modernity. Anna and Frank plan to marry at the end of the novel, but the wedding never actually takes place within the course of the story. Holcroft makes a decisive break with the family as a powerful social institution and embraces the individual as citizen. In addition, Holcroft identifies property as an essential component in the constitution of an enfranchised member of the commonwealth, but he also deflates the importance of private ownership over and above the concerns of the community. Anna St. Ives seems innocuous in what now appears a naive idealism, but the implications of the qualities of the new hero and heroine--their independence, universal benevolence, superior strength, moral soundness--was a very real threat to economic, legal and political structures. Holcroft's devotion to, and enthusiasm for, radicalism was powerful. It was not by mere chance that he was the Jacobin author singled out to be charged with treason.

Elizabeth Inchbald's *Nature and Art*

Inchbald's second novel, *Nature and Art*, betrays the influence of her association with Holcroft and Godwin during the early part of the 1790s.<sup>66</sup> Her depiction of a young innocent as a revealer of social injustice (an idea further elaborated by Bage in *Hermesprong*) is reminiscent of Holcroft's optimism in *Anna St. Ives*. In addition, her emphasis on the meaning of language explores the association of ideas as discussed by Godwin in *Political Justice*, and the moving scene of legal oppression in the latter half of *Nature and Art* calls to mind the tragedy of Godwin's *Caleb Williams*. According to James Boaden, *Nature and Art* was originally called "satire upon the times," and although it was not published until 1796, Inchbald was preparing it for publication in January of 1794.<sup>67</sup> True to its original title, the novel captures the Jacobin concern for assessing the present state of the individual in society and for identifying that which has to be altered to allow the emergence of the new citizen. Both the published title *Nature and Art* and an apparent interim title "The Prejudice of Education" evoke a Rousseauistic interest in what constitutes proper instruction (eventually defined as that which cultivates natural abilities and shatters the false ideas of civilization).<sup>68</sup> The title also depicts British society at a crossroads and establishes the two divergent paths available to each member of the community: that of artifice or that of innocence. Nature is, of course, the preferred route because the simple logic associated with a natural education promises to reveal both the problems behind the extreme economic disparities in society and the possible solutions.

*Nature and Art* has been criticized for what is seen as a non-revolutionary, compromise ending; indeed, it closes with the pastoral image of a somewhat self-contained, loving family content with its humble existence. This sort of familial portrait is condemned by Godwin in *Caleb Williams* because it breeds false hopes, and it frequently appears as the conservative Christian ideal in Anti-Jacobin novels such as Elizabeth Hamilton's *Memoirs of Modern Philosophers* and Jane West's *A Tale of the Times*.<sup>69</sup> Inchbald's conclusion, as

well as her emphasis on her heroes' sensibilities, has elicited comments such as Gary Kelly's that "Mrs. Inchbald was clearly more interested in sensibility than reform," or Allene Gregory's that Inchbald's "Revolutionism was of the mildest."<sup>70</sup> Granted, the final scenes of Nature and Art seem a hurried about-face from the radicalism of the rest of the novel, but they do not eclipse Inchbald's relentless condemnations of educational, religious, legal and political institutions. These criticisms were severe enough to delay the printing of the novel for two years (out of a fear of reprisal), to spark the ire of one of the Queen's attorneys-general and to provoke the Anti-Jacobin Review and Magazine into calling Nature and Art "that most impudent, malignant, and audacious heap of absurdity" and Inchbald herself a "*scavenger of democracy*."<sup>71</sup> In addition, while it is true that a crucial facet of her heroes' development is an awareness of their emotions, the ability to understand the role feelings play in human conduct and the maturity to balance them with reason and responsibility add further dimensions to the Jacobins' reconception of citizenship. As P. D. Tripathi so succinctly put it, Nature and Art is about the social conflict between rich and poor.<sup>72</sup> Throughout most of the text, Inchbald is sharply pointed in her commentary on social inequities.<sup>73</sup> To a theme both simple and complex in its own right, Inchbald also connects an analysis of the discrepancy between word and meaning, action and intention, what one is told about the state of the nation and what one actually sees. Private charity, we are shown, will never furnish the guarantees of liberty that inalienable rights provide, and the law as the protectorate of the people is in actuality a protectorate of the wealthy criminal.

In the most recent criticism of Inchbald's work, Nature and Art has received far less attention than Inchbald's earlier novel, A Simple Story, published in 1791. Because A Simple Story is a domestic tale that concerns itself with the development of two generations of women, it is now often included in studies of eighteenth-century female writers. Even contemporary critics who do discuss Nature and Art, such as Jane Spencer

and Eleanor Ty, focus on the impact of the lessons learned by the male characters on women.<sup>74</sup> Spencer calls attention to Inchbald's feminism in this otherwise "masculine" story by noting the crucial legal scene in which the perpetrator of a crime against a woman (seduction and impregnation) rises to be a judge. He eventually passes sentence against his victim for the crimes she commits as a result of her demise. Ty argues that the novel is a statement against the power of masculine symbolism as opposed to feminine literalness. Her evidence consists of the numerous encounters between Young Henry and Young William in which Henry exposes the equivocal nature of meaning in language. While both Spencer and Ty cite significant observations by Inchbald about the fate of the female sex in a vastly corrupt society, they bypass the larger political and philosophical context and thereby overlook Inchbald's contribution to the campaign for individual rights and the extent of her commentary on law. The legal scene, which so incisively illustrates the victimization of women, also comments on the function of juridical systems in society and summons the "new philosophy" which questions the absolute authority of law. Similarly, Ty's suggestion that Young Henry's comments on language are a challenge to masculine symbolism can also be read as an indication of a crisis of integrity. The gap between word and intention is ominous, and while it is presented in the terms of what Gary Kelly calls a "sentimental comedy," it touches the chords of an unresolvable anxiety to clarify law and unveil a discernible truth about one's social reality.<sup>75</sup> Inchbald's so-called "mild revolutionism" had severe implications; only an overhaul of the individual to release him or her from prejudice and a re-evaluation of the resources of Britain so that their distribution begins to approach equality would answer the needs of society.

Like Holcroft, Inchbald was known for her plays and her life as an actress rather than her work as a novelist. She authored twenty-one plays and only two novels. Yet political controversy was one of the mainstays of much of her creative work, and it became a link between her drama and her fiction. Inchbald's exploration of wealth and poverty in



her comedic play, Next Door Neighbors (1791), for example, became fodder for her more elaborate social criticisms in Nature and Art.<sup>76</sup> As to the origin of Nature and Art, some scholars have suggested that the ending of Inchbald's first novel, A Simple Story, was the source of her second novel, and that Nature and Art develops out of an interest in Rousseau's theories of education first approached in A Simple Story.<sup>77</sup> Other scholars have considered Inchbald's story one of a series of texts of the period that compared a child raised in nature with a child corrupted by society, such as Thomas Day's History of Sanford and Merton (1783-89) and Henry Brooke's The Fool of Quality (1767-70).<sup>78</sup> Whatever the case, Inchbald's novel attempts to decipher social problems through the comparison of two opposing forces. Two brothers and their two sons demonstrate the consequences of a life of artifice and greed as opposed to a life of honest and devoted love. William and Young William are immersed in socially acceptable duplicities and schooled in the everyday deceptions of decorum and custom. Their lives, though superficially adorned in the drapery of wealth, devolve into vacuous symbols of success. Henry and Young Henry choose to live by courageous inquiry and unadulterated loyalty guided by reason. Their decision to eschew the delusions and compromises of corrupt British society exiles them from others, but in the end their defiance of prejudice and embracing of enlightenment shine through the stultifying conditions of poverty, misunderstandings and tragedies.

The topic of sensibility in the 1790s was controversial and its representation took on many shades. Chris Jones identifies three views of sensibility in writings of the late eighteenth century: as (1) a self-centered indulgence of feeling, (2) an emotional development reared by the traditions of society, and, (3) an innate emotional desire to see a "beneficial social order" and the liberation of "individual energies." The first, he argues, was rejected by all; the second he attributes to conservatives; the third, he ascribes to radicals.<sup>79</sup> Excessive, self-absorbed thought and behavior are indeed censured in Jacobin and Anti-Jacobin novels alike. For both, they tend to be signs of aristocratic dissipation.

Likewise, proper feelings of compassion and pity guided by the traditions of society are advocated in conservative novels. The Jacobins, however, who should fit neatly into the last category, struggle with the role of emotion in their design of a new society and their portrait of the new citizen. Whereas they argue that the desires for freedom, autonomy and empowerment are intrinsic, they also insist that most (if not all) of what we know and feel is learned and is therefore subject to change. The all-important premise of Jacobin philosophy, most clearly explained by Godwin in Political Justice but also espoused in novels by Wollstonecraft, Holcroft, Bage and other Jacobins, is that circumstances create the individual. If such is the case, then they must step very carefully around an endorsement of innate emotions. Moreover, sympathy was being used by opponents of the French Revolution to decry the rebellious atrocities and to rouse compassion for the displaced aristocracy. What was at risk in the emphasis on emotion was *justice*. "Sensibility is the 'manie' of the day," wrote an irate Wollstonecraft in response to Burke's Reflections, "and compassion the virtue which is to cover a multitude of vices, whilst justice is left to mourn in sullen silence, and balance truth in vain."<sup>80</sup>

Inchbald, therefore, faced a difficult task when she attempted to represent the new citizen as having a proper sensibility. She had to counter any emphasis on emotion with a corresponding stress on reason. She did so by showing the benefit to an awareness of one's emotions (the benefit to the individual and the community at large) and by equating the responsible handling of feelings with maturity and a readiness for political agency. When the novel opens, the two brothers exhibit a thoughtful sensitivity as they mourn their father's death. Still untouched by the tests of adulthood and London life, their innocence is born of their country upbringing.<sup>81</sup> On their way to London from their country village,

each with a small bundle at his back, each observed the other drop several tears: but, upon the sudden meeting of their eyes, they both smiled with a degree of disdain at the weakness in which they had been caught.

'I am sure,' said William (the elder) 'I don't know why I cry.'

'Nor I neither,' said Henry: 'for though we may never see this town again, yet we leave nothing behind us to give us cause to lament.'

'No,' replied William; 'nor any body who cares what becomes of us.'

'But I was thinking,' said Henry, now weeping bitterly, 'that if my poor father were alive, he would care what was to become of us: --he would not have suffered us to begin this long journey without a few shillings more in our pockets.'

At the end of this sentence, William, who had with some effort suppressed his tears while his brother spoke, now uttered, with a voice almost inarticulate,--'Don't say any more; don't talk any more about it. My father used to tell us that when he was gone we must take care of ourselves: and so we must.'<sup>82</sup>

As Henry and William come of age, evidence of the depth of their humanity is their acceptance or dismissal of their own emotions. As William becomes more and more educated, he learns to suppress his feelings and perceptions. He marries for money and status rather than love and epitomizes all that is reprehensible in a social climber personally and professionally. He and eventually his entire family--William, his wife Lady Clementina, and their son William--succumb to pride and vanity and live in a world of appearances. As a theologian, William is unbothered by his own lack of integrity, by the discrepancy between his own cold, calculating behavior and the Christian compassion he preaches, and by his dishonesty in writing pamphlets published under the bishop's name. It is here, in William's world, that we begin to see the disjunction between form and content that is soon deciphered for us by Young Henry as he begins to analyze words and their meanings.

The elder Henry, in contrast to William, is aware that his "art" (his talent at playing the fiddle) has a certain power, and he uses his ability to orchestrate emotion to the benefit

of those he loves. He knows that his entertainment "had often charmed . . . an effeminate lord; or warmed with ideas of honour, the head of a duke, whose heart could never be taught to feel its manly glow." Even "Princes had flown to the arms of their favourite fair-ones, with more rapturous delight" at the sound of his music (1:11). Yet Henry never loses sight of the effect of his art, the feelings it generates, nor the reason behind his endeavor: his hope to obtain financial help for his brother's education and subsequent placement in a profession. Henry's loyalty to his brother is immense, but it is not immune to the workings of judgment. When Henry marries a woman of his own class, out of love, William and Lady Clementina rebuff her because she is a common public singer. Henry reveals his ability to guide his emotions with sound reasoning by refusing to condone his brother's reaction. For Henry, no amount of fraternal affection will correct the wrong of prejudice. He walks out of his brother's life, and a year later, after the death of his beloved wife, leaves him (and the British society he represents) altogether; he sails away to an African island.

A similar dynamic of art and nature is played out in the comparison of the brothers' sons Young William and Young Henry. In accordance with the Jacobin premise that circumstances create the individual, the contrasting environments in which William and Henry are raised determine their inclination toward pretense or simple truths, feigned emotion or an honest sensibility. The theme of education, which is such a foundation of the novel comes to the fore as the narrator begins to explain the contrary upbringings of the two young cousins. Of Young William, we are told that

this unfortunate youth was never permitted to have one conception of his own--all were taught him--he was never once asked 'what he thought?' but men were paid to tell him 'how to think.' He was taught to revere such and such persons, however unworthy of his reverence; to believe such and such things, however unworthy of his credit; and to act so and so, on such and such occasions, however unworthy of his feelings. (1:26-27)

It is on this passage (and the contrasting development of a "child of nature" in Young Henry) that so many commentaries on Nature and Art base their remarks about Inchbald's interest in depicting Rousseau's theories on education. Her insistence that traditional instruction meant being taught the ways of falsehood rather than cultivating natural abilities points to Rousseau's maxims at the end of La Nouvelle Héloïse, which are later developed in Émile (1762), that "one need only to learn to read the book of nature in order to be the wisest of mortals" and that "the true book of nature" is "the heart of man."<sup>83</sup> The mistake of Young William's education is evident in his "imitation" of "the manners of a man" and his utter lack of the content of adulthood. "He would grin and bow to a lady, catch her fan in haste if it fell, and hand her to her coach, as thoroughly void of all the sentiment, which gives grace to such tricks, as a monkey" (1:28). His education makes a mockery of "natural" sentiment, defined as a coherence between action and intention, word and meaning.

Young Henry, in comparison, embodies a union of sentiment and outward behavior, as well as the hope of a youthful innocence that can only be nurtured beyond the borders of British society. Both his refined mind and his coarse language are attributable to his lack of education and protection from local British customs. Raised by his father on an African island, he was taught only "to love, and to do good to his neighbour, whoever that neighbour might be, and whatever might be his failings" (1:33). Most important, he was instructed in truth and warned to hold falsehood and vanity in contempt. In contradiction to the pride which characterizes William's family, when Young Henry meets his aunt, uncle and cousin, he is not thinking "'what they thought of him,'" but "'what he thought of them'" (1:36). The narcissism that was such a focus of conservative attacks on reformers is the fatal flaw of the characters who represent the self-aggrandizement of the social elite, not of the fictionalized proponents of individual rights. Although the emphasis in interpreting the autonomous citizen is on a powerful and clearly defined self, it is not

intended to encourage egoism. This is evidenced by Young Henry, who vows that he "never will stoop to act or to speak contrary to [his] feelings," and whose "whole faculties were absorbed in others" (1:36) when he enters the civilized world of London (1:66). In fact, it is a weak sense of self that, in Inchbald's text, places one in danger of becoming prideful. The excessively vain Lady Bendham, for example, lacks the integrity that would give her substance and as a result becomes a mere "chameleon" (1:68).

The sensibilities of Young Henry and Young William are put to the test when the cousins first encounter women and love. Their sense of responsibility in courtship and marriage becomes a measure of their character. The outcome is easy to predict. Whereas "William indeed was gallant, was amorous, and indulged his inclination to the libertine society of women, . . . Henry it was who loved them" and learned from them. Henry revered women "and felt so tender an affection for the virtuous part, that it shocked him to behold, much more to associate with the depraved and vicious" (1:66-67). William seduces and impregnates a young country girl, Hannah Primrose (a beautiful but illiterate girl of very modest means), and forsakes her to pursue his career and eventually a financially prosperous, though emotionally empty, marriage.<sup>84</sup> Young Henry falls in love with the least attractive, but most virtuous, of a Parson's three daughters. He must leave her for several years to search for his father, but the strength of their love endures and the novel ends with their reunion.

Beyond his role as a model of responsible sentiment, Young Henry's function, as a child of nature, is in his analysis of social absurdities. Inchbald's satirical intent--why she once entitled her manuscript a "satire upon the times"--is most evident in the humorous yet biting exchanges between Young Henry and his uncle and cousin. They reveal everything from ridiculous popular habits to profound statements about relations between the wealthy and the poor. Underlying all, however, is a fundamental questioning of the connection between word and meaning. Henry's mission is not to divulge the indeterminacy of

meaning; it is, rather, to show the possibility of alternative readings, to expose the ridiculous reliance on traditional associations of thought, and, most importantly, to unveil a social reality. He acts as a Socratic revealer of truth and dramatizes the Jacobin belief that one need only lift the veil of intentional obscurity to reveal the actual state of our existence and ready it for reform. Young Henry steps into forbidden territory and exposes hidden secrets (much like Godwin's Caleb Williams). Yet his excavation is less fraught with the anxieties of emotion that plague Caleb's discoveries because Henry is strengthened by the possibility of a reinterpretation of the facts.

By exposing meaning through a Socratic process that employs observation, logic and "common sense," Henry reveals the workings of a moral code, displays its chimerical qualities and provides an explication to instruct and liberate. Henry frequently and "innocently" misuses words that are, of course, infused with political ideology. "[C]ompliments" he confuses with "lies," "reserve" with "pride," "war" with "massacre," and "prosecute" with "persecute." His intent is both to reveal the politics of language and to justify reforms; if the law persecutes rather than prosecutes, it warrants change. Similarly, Henry demonstrates the farcical nature of customs we endow with reverence and by doing so divulges the hollowness of authority. When Henry first encounters his uncle's great white wig (William is now a Dean and magistrate), he is frightened. Then upon learning that "they are worn to give an importance to the wearer" and to distinguish superior people, he is able to compare the custom to that of the savages who "stick brass nails, wire, buttons, and entrails of beasts all over them to give them importance" (1:37). The denouement of exposure, however, comes when he views his uncle lying unadorned in bed with the wig on a nearby table. The puzzled Young Henry does not know to whom he should pay his respects, his bareheaded uncle or the wig alone. In an encounter with Young William and the Dean, Young Henry zeroes in on the central theme of relations between rich and poor. When an angry and petulant Young William says to his coachman,

"'you shall never drive me again'," Young Henry is confused. He repeats the Dean's words to try to discern the meaning. His query, "'was it a pleasure to drive us, cousin?'" is answered by his own thoughts: "'I am sure I have often pitied him--it rained sometimes very hard when he was on the box--and sometimes Lady Clementina has kept him a whole hour at the door all in the cold and snow--was that pleasure? . . . Was it honour, cousin?'" The Dean intervenes and tries to explain that "'the poor are born to serve the rich'." If they serve, they may be rewarded in "'a better world'"--a place where "'no distinction will be made between rich and poor--all persons there will be equal'." Young Henry then speaks with the voice of a Leveller: "'Aye, now I see what makes it a better world than this. But cannot this world try to be as good as that?'" (1:43-45).

In the latter half of Nature and Art, the disjunction between word and meaning is played out in the encounter between the sexes to demonstrate the devastating effect duplicity has on the uninformed and inexperienced. The tone of this section is decidedly more serious; gone are the humorous revelations of social absurdities. Hannah Primrose is unaware, until it is too late, that there is a harsh discrepancy between action and intention. The drama of seduction was alien to her, and she had "'frequently been deceived from the appearance of circumstances'" (1:99). She understood William's vows of affection to be literal indications of love rather than signs of the physical attraction that constituted his feelings for Hannah. Unschooled in language, and deprived of the "natural" upbringing of Young Henry's sort, Hannah is at a disadvantage. She becomes William's victim because she does not have knowledge or even the skills of inquiry. The harsh literalness of Hannah's existence is manifest in her desperate act of attempted infanticide when she finds herself deserted by the self-serving William. The baby itself becomes a symbol that bears the same confusion as words. Because he is found in the woods by Henry and Rebecca, they are presumed to be child's parents. The longer the baby's true parentage remains unknown, the more hurt arises from assumptions made on insufficient evidence.



Deception and secrecy, enemies of the enlightened knowledge espoused by the Jacobins, are presented in Nature and Art as key to the maneuvers of great men-- particularly in the legal domain. William, who is now a student of law, and his father, who is a magistrate, learn to live by deceit. For a young man schooled in falsehood, the law is a most appropriate profession, and William thrives in it. At a young age, he is appointed to a judgeship and in that capacity unknowingly sentences the victim of his crime, Hannah Primrose, to death. In this poignant scene, the grave irony of Inchbald's social criticism is that the guilty, empowered by law, passes judgement on his own victim whom desertion has forced into a life of crime. The courtroom is not a site of enlightenment or reason, and the process of legal debate is not one that provides truth. Legal discourse has no immunity from the manipulation of language. The Dean, aware of his son's guilt in fathering an illegitimate child, implicates himself, as well, when he chooses to act against his better judgment and hushes up his son's affair with Hannah Primrose. "When men submit to act in contradiction to their principles," we are told, "nothing is so precious as a secret. In their estimation, to have their conduct *known* is the essential mischief--while it is hid, they fancy the sin but half committed; and to the moiety of a crime, they reconcile their feelings, till, in progression, the whole, when disclosed, appears trivial" (1:100).

Keeping secrets on a larger scale is also condemned by Inchbald and presented as a policy of state. The dichotomy between word and meaning corresponds to the gap between what the nation is told about its prosperity and the daily reality of many who struggle to find food and lodging. As Dean, the magistrate is responsible for the welfare of the poor in his district. He is fully aware of their situation and even reprimands his wife's dissatisfaction with dinner by elaborating on the plight of the needy. Yet the Dean writes and publishes a pamphlet on the prosperity of Britain in which he ignores those who have no access to the British "'fruits of the earth, the beasts of the field, the birds of the air, and the fishes of the sea,'" those who know not "'peace, ease, plenty: and all ranks, liberty'"

(1:57-58). It is Young Henry, of course, who reminds the Dean that such wealth is known only by the privileged few. And it is Young Henry who reminds the reader that the practice of denial and deception by the government is a common one. The Dean's maneuver is, for example, similar to the attempt of William Pitt, who, while aware of widespread poverty, continued to praise the economic growth of Britain. In a speech to the House of Commons in February of 1792 entitled "The Prosperity of the Nation," Pitt makes no mention of growing poverty when he lauds the nation for its increase in revenue and compliments Adam Smith for furnishing the best solutions to questions of political economy: "the continual application of a part, at least, of the profit obtained in each year, to increase the total amount of capital to be employed in a similar manner, and with continued profit in the year following."<sup>85</sup> Particularly in light of the next couple of years, when the poor of England suffered greatly from taxation, lack of work, and a drastic increase in prices, Pitt's speech seems willfully blind to the plight of many whose economic security would not come from the national accumulation of capital.<sup>86</sup>

The question of what to do about poverty pervades Inchbald's novel. Young Henry poses his idealistic answer when he simply observes that if Britain is such a fruitful nation, there should be an abundance of resources, and no one need go without basic sustenance. In the context of this innocent observation, Inchbald attempts to address the prickly notion of benevolence. Whereas generosity is represented as one of our social responsibilities--Henry and Rebecca are virtuous in their care of the abandoned baby, even when it costs them their reputations--the dependence created by charity is, according to Inchbald, often dangerous. The relationship between the elder Henry and his brother William is one of patron and recipient. Henry plays the fiddle in hopes of persuading a wealthy client to find a position for his brother. After some time, he is successful and convinces a man to provide William with a living of five hundred pounds a year upon the incumbents's death. Before long, William receives "the gift" (1:12). He is ordained and then later promoted to

Dean. But the dependence established by these acts of patronage drives a wedge of resentment between the two brothers and causes a separation from which they never recover. As Marcel Mauss has argued, the gift brings obligation with it. A "present" can act as a contract which obliges reciprocation. This "polite fiction" may be, in actuality, "economic self-interest" and a means of rendering another inferior, particularly if a gift goes unreciprocated. "Charity is still wounding for him who has accepted it."<sup>87</sup> Moreover, the patron gleans a form of proprietorship over the recipient. In Nature and Art, the narrator explains,

As the painter views with delight and wonder the finished picture, expressive testimony of his taste and genius: as the physician beholds with pride and gladness the recovering invalid, whom his art has snatched from the jaws of death: as the father gazes with rapture on his first child, the creature to whom he has given life--so did Henry survey with transporting glory, his brother, drest for the first time in his canonicals, to preach at his parish church. He viewed him from head to foot--smiled--viewed again--pulled one side of his gown a little this way, one end of his band a little that way--then stole behind him, pretending to place the curls of his hair, but in reality, to indulge, and to conceal, tears of fraternal pride and joy. (1:13)

The parental pride in one's creation may seem selfless, but it breeds severe resentment in the recipient because it robs him of his self-ownership. William chafes with the pressure of obligation and the feelings of inadequacy that result from being dependent on another.

'I am eldest brother,' he [William] thought to himself, 'and a man of literature; and yet am I obliged to my younger, an illiterate man.'--Here he suppressed every thought that could be a reproach to that brother. But there remained an object of his former contempt, now become even detestable to him--ungrateful man! the very agent of his elevation was now

so odious to him, that he could not cast his eyes upon the friendly violin,  
without instant emotions of disgust. (1:14)

Young Henry, himself the recipient of his uncle's good will, explains in his Socratic way, the burden of obligation to the wealthy Lady Bendham when she declares that the poor should be beholden to herself and Lord Bendham because they provided the village with a gift of one hundred pounds last Christmas. Young Henry calls this act of generosity "prudent," but not benevolent, because obligation is a great hardship. To Lord Bendham, he argues that the affliction of the poor was "'that what the poor receive to keep them from perishing, should pass under the name of *gifts* and *bounty*. Health, strength, and the will to earn a moderate subsistence, ought to be every man's security from obligation. . . . if my lord would only be so good as to speak a few words for the poor as a senator, he might possibly for the future keep his hundred pounds, and yet they never want it'" (1:73). Young Henry speaks here in his most radical voice because he is promoting political action rather than charity as a solution to social problems. Breaking the relationship of economic dependence was crucial to the campaign for franchisement. Financial obligation was used to prohibit the vote and to deny free will and the power of birthright.

The character of Young Henry provides something of a model for the new citizen in his courageous confrontation of artifice, his emotional responsibility and his call to political action. His pursuit of inquiry offers at least a beginning to the quest for a discernible truth that was advocated by Godwin. As a member of a new generation, he also warns against private benevolence as an answer to poverty and refuses to use marriage as a means of economic advancement. The preferred figure at the end of Nature and Art is distinguished by independence. Finally living a life of *elected* simplicity, Henry, Young Henry and Rebecca decide to live "upon their *own* exertions alone; on no light promises of pretended friends, and on no sanguine hopes of certain success" (2:108). Their livelihood they will derive from "their own industry" and labor to protect themselves "from patronage and from

control" (2:108). This fervent independence attempts to instill a sense of integrity and contentment in the new citizen, who is urged to relinquish idolatry of wealth and enjoy good labor and reflection. While the conclusion of Nature and Art undoubtedly takes a step back from the proposal of radical political action suggested by Young Henry, the powerful independent self it celebrates is in itself a politicized image. Inchbald revised Nature and Art between her completion of the manuscript in 1794 and its actual publication in 1796. The intervening years were fraught with political pressures--not the least of which were the Treason Trials of 1794-95--and it is possible that Inchbald tempered the radicalism of her text for very practical reasons.<sup>88</sup> Nonetheless, her criticisms of the nation's ineffective attempts to deal with poverty, such as the magistrates' charities, resonate through the novel, and they are not forgotten in the image of pastoral contentment at the end of the text.

Robert Bage's *Herm sprong*

The image of the fierce individualist, with which Inchbald leaves us, is taken up by Robert Bage in the last of his six novels, entitled Herm sprong; or, Man As He Is Not. Published in 1796, Herm sprong celebrates the new citizen in the figure of a man who has it all--landed wealth, commercial success, love, respect, and political power. He links the old world with the new, the gentry with the merchant middle class and the independent radical with the responsible member of the community. In many ways, Herm sprong is a Young Henry grown to adulthood. He is the "noble savage," the outsider who offers frank analyses of the social fabric and proposes change. Yet Herm sprong is also a more philosophically developed character than Young Henry, particularly in his embodiment of a maturing theory of *a priori* rights. In his economic independence and powerful wielding of his birthright (the foundation of inalienable rights), Herm sprong is perhaps the most definitive Jacobin figure of citizenship.

In the course of the novel, we find out that the man we thought was entirely "self-made" is actually of noble birth, and consequently Bage's radicalism may strike us at first as tempered, as less adventurous perhaps than that of Anna St. Ives and Frank Henley. Indeed, Herm sprong's marriage to the more conventional Caroline Campinet, rather than to the courageously transgressive Maria Fluart, seems an unfortunate concession to tradition. The compromises Herm sprong represents, however, constitute a considerable threat to the status quo because they most accurately describe the qualities of those who were to benefit from the transition to a body politic invested with limited political authority: men of property. As a man of landed wealth *and* commercial success, Herm sprong denotes the figure who successfully negotiates the transition to a capitalist economy and a civil domain based on the contract.

Bage works in the tradition of sentimentalism by describing "man as he is not" but has the potential to be. Humanity in Herm sprong seems to have unlimited potential, and

the benefits of the individual are in concert with those of the community. The image is so ideal that it has sometimes incited critics to mock the protagonist. "Imagine Sir Charles Grandison brought up on a diet of the *Contrat Social*," Oliver Elton writes, "and we shall have some conception of the hero of Robert Bage's novel, Hermesprong; or Man as he is Not (1796)--a title that is only too accurate."<sup>89</sup> Still, the figure of the authoritative and immensely effective Hermesprong makes a crucial contribution to the corpus of the Jacobin novel by confirming the powerful place of the individual in relation to the law and by acknowledging that this relationship to civil authority is determined by property. Hermesprong heroically pursues his individual right of property, which protects him from attempts to circumvent his self-determination, and presents himself as the alternative to the aging, ineffectual and corrupt aristocracy.

Robert Bage has commanded a special place of respect in criticism of Jacobin fiction. A paper manufacturer in the north of England, he was by all accounts a man of integrity, practicality and generosity. One of the greatest tributes to his strength of character was written by Sir Walter Scott, who included three of Bage's novels (not Hermesprong) in Ballantyne's Novelist's Library.<sup>90</sup> Scott reports:

[Bage's] manners were courteous, and his mind was firm. His integrity, his honour, his devotion to truth, were undeviating and incorruptible; his humanity, benevolence, and generosity, were not less conspicuous in private life, than they were in his works. He supplied persons he never saw with money, because he heard they were in want. He kept his servants and his horses to old age, and both men and quadrupeds were attached to him. He behaved to his sons with the unremitting affection of a father; but as they grew up, he treated them as men and equals, and allowed them that independence of mind and conduct which he claimed for himself.<sup>91</sup>

Yet Scott took issue with Bage's politics, particularly as they are represented in

Hermesprong. His discomfort with the fictional character of Hermesprong lies in the protagonist's independence from "all the nurse and all the priest has taught," in other words, his self-prescribed morality. Hermesprong, he complains, "steps forward on his path, without any religious or political restraint, as one who derives his own rules of conduct from his own breast, and avoids or resists all temptations of evil passions, because his reason teaches him that they are attended with evil consequences." Such a creature, Scott argues, never existed, nor is he likely to because human reason is not infallible, and it is not immune to the passions.<sup>92</sup>

Scott's respect for Bage's personality and his uneasiness with Bage's politics (particularly in his last two novels) characterize much of the criticism of Hermesprong. For example, Anna Laetitia Barbauld remarks, in her preface to The British Novelists, that Bage "left behind him a high character for integrity and benevolence," but she warns that the novel Hermesprong is "democratical in its tendency."<sup>93</sup> Edward Dowden, as well, acknowledges Bage's reputation as a generous, amiable, temperate man but seems to agree with Scott's assessment that Bage misrepresents the class dynamics of society.<sup>94</sup> Widely compared to Voltaire's L'Ingénu because of its philosophical bent and its depiction of the noble savage,<sup>95</sup> Hermesprong has also been praised for its humor while condemned for its support of radicalism or, conversely, its compromises of radical thought. W. L. Renwick refers to Bage as "a survivor from the older generation" who is "disappointing because his native liveliness has to compete with his intention to promulgate the political and moral liberalism in which he believed."<sup>96</sup> There are others who have felt Bage is not quite radical enough to be aligned with his Jacobin counterparts. Allene Gregory denies that Bage is a "Revolutionist" like Godwin and Holcroft because he does not advocate reform of entire systems, and P. S. Denefeld regards Bage as a political conservative because he foregrounds his financially independent figures of the gentry.<sup>97</sup>

In recent years, Marilyn Butler and Gary Kelly have suggested that one of Bage's



primary contributions to late eighteenth-century literature was to undermine of the very literary conventions he employs, such as the handsome hero saving the pretty young heroine from a runaway carriage or the jealous suitor threatening his competitor to a duel. According to Butler, when Hermsprong does not respond in the expected manner, we as readers are forced to think critically about the values that are being espoused through these devices.<sup>98</sup> Butler and Kelly also note the important link Bage forges between the call for religious toleration and the quest for political liberties of other kinds.<sup>99</sup> Attempts to overthrow the Toleration Act, which restricted the participation of Dissenters in civil society, gave birth to much larger issues of authority and gave rise to support of the French Revolution in its early years. Overall, it is Hermsprong's exceptional independence to which nearly all critics have responded, and it is his autonomy which is key to the political ideology he embodies.

Hermsprong employs what Michael McKeon refers to as an "assimilationist" plot structure. The protagonist's progressive movement to a status of respect, virtue and wisdom, which seems to be of his own volition and by his own talent and merit, is ultimately subverted by the convention of revealed noble parentage.<sup>100</sup> Hermsprong, whom we know only as a man born of English and French parents, raised in America, and well-traveled throughout Europe, turns out to be not just a mysterious outsider, but the rightful lost heir to the Grondale estate. Whereas this literary maneuver is something of a disappointment, particularly in light of Holcroft's Frank Henley (whose heroism transgresses class identification), it allows Hermsprong to claim success on every level (not the least important of which is economic). Hermsprong arrives on the scene as an enigma and maintains his personal obscurity until it is advantageous to reveal it. In the meantime, he falls in love with Caroline Campinet, the daughter of the corrupt Lord Grondale (current owner of the Grondale estate), and banters with his female counterpart Maria Fluart, a frank, outspoken and independent young woman. Hermsprong's dialogues with a number

of characters are the vehicle by which he espouses the rights of man, preaches about self-determination and the need to educate women, and refuses to acquiesce in the traditional economic maneuvers of marriage or the demands of filial obedience for the sake of obedience. In a coup d'état at the end of the novel, Hermsprong triumphs by continuing to enjoy the profits of his sound business sense (he is involved in a partnership), laying claim to his estate, and marrying his distant cousin Caroline Campinet.

The mechanism Bage uses to distinguish the new citizen is to demonstrate his powerful position in relation to the law and contrast it with the situation of those who remain subject to legal restrictions. What emerges is the necessity of self-determination to enjoy civil liberties and of property to acquire independence. Hermsprong's liberty is a function of his ability to exercise ownership rights; he experiences extraordinary freedom because of his numerous connections to property. He has acquired wealth through inheritance as well as commerce, and because he declares the rights of man, he also claims a fundamental ownership of the self that allows him a far-reaching autonomy. Hermsprong's family property is extensive. His father's money is the result of trade, while his mother's fortune is real property (in France) that he sells to make further investments in England, Italy and America. In accord with the practice of primogeniture, he himself eventually inherits Lord Grondale's estate.

But it is Hermsprong's embodiment, in particular, of the combined force of inherited wealth and commerce that proves to be such a force. Commerce gains in respectability in Hermsprong. In fact, it becomes a viable alternative to the machinations of the corrupt aristocracy and the abuses of the control of property through familial inheritance.

Hermsprong's father turned to business when he was exiled from his family and could no longer rely on familial income. He conducted his fur trade among the American Indians and was successful because his presence was welcomed by the native people. He lived among them, learned their language, religion and philosophy, and in that way "gratified] his ardent

desire to know man"--an empowering interest Hermsprong shares.<sup>101</sup> Commerce, ironically, bridges the gap between the European world and the uncivilized world and sees one of its most successful manifestations in the midst of a people living "in a state of nature." Whereas the call back to the past that is implied in depictions of the noble savage usually operates as "a polemic against modernity," here it supplies the setting for an endorsement of economic development. In his support of commerce, Hermsprong does not eliminate the role of inherited wealth. He instead provides an assimilation of economic systems, a smooth transition in which the past is incorporated rather than rejected outright. He provides the historical continuity Burke espoused and actually strengthens and renews the image of the landed classes by providing the virtue, wisdom and respectability worthy of the privileges associated with wealth and title. Hermsprong corrects abuses to integrate the "new man" of commerce with the stable landowner *and* the proponent of individual rights. Hermsprong's peaceful conversion exemplifies an adjustment to the historical situation that reflects Burke's warning that a state "without means of some change is without the means of its conservation."<sup>102</sup> It reflects the kind of quiet revolution that was occurring throughout the evolution of the contract as the social bond.

Hermsprong's strength of self is central to his ability to acquire, maintain and responsibly use property and to represent transition. The self he presents is complex yet it is distinguished by integrity. To Lord Grondale's question "Who are you, sir?" Hermsprong simply replies "I am a man, Sir" (20). Hermsprong first appears as the primitive "other." In that role, he is a romantic figure of innate power and human potential. His interests are the interests of the state, and he is untroubled by divisions between the individual and the community. Because the primitive figure, as Chris Tennant argues in his study of indigenous people and the law, seems to "always have had the right to self-determination," he/she embodies hope for those in search of political agency. Hermsprong frequently provides the service of inspiring others to discover their own distinct identities.

Hernsprong brings his message specifically to Gregory Glen, the narrator and "son of nobody." Hernsprong speaks as an unequivocal supporter of individual rights when he proclaims,

That I am not the first of men, I know. I know also that I am not the last. I see not the difficulty of man's becoming a judge, tolerably just, of the temper of his mind, as well as of the temperature of his body; and learning the lesson, conceived so hard to be learned, of thinking himself what he is.-- I have energies, and I feel them; as a man, I have rights, and will support them; and, in acting according to principles I believe to be just, I have not yet learned to fear. (98)

Inspired by Hernsprong's proclamation, Gregory Glen responds,

I wish the world, that is the original thinkers in it, would meet together in some bar, it need not be very large, and determine what is to be thought of such pretensions. Is this the stuff of which the pride of our people of rank and fashion is made? That it is pride of some sort, I have no doubt; for I, Gregory Glen, the son of nobody, felt myself raised, exalted by it. I almost began to think myself a man. But it is a word of bad augury. Kings like it not; parsons preach it down; and justices of the peace send out their warrants to apprehend it. (99)

Hernsprong's message incorporates an all-important bravado in terms of "the law"--an exceptional confidence that caused Sir Walter Scott to berate the character's personal morality devoid of parental or religious instruction. He declares himself "a judge" in regard to his own life, thereby justifying his self-governance and the right to act "according to principles [he] believe[s] to be just." The implications of a faith in private judgment are not developed by *Boz* as they are by Godwin in Caleb Williams, but belief in one's own principles is nonetheless a provocative force behind Hernsprong's appeal.<sup>103</sup> It is

persuasive enough that Gregory Glen begins to feel a new-found strength and sense of self. It is also dangerous enough to make Glen cringe under the threat that the rights of man posed to "people of rank." Social, political and economic constructs were undoubtedly challenged by the idea that the populace could begin to claim inalienable rights to self-determination and pave the way to voting privileges. A powerful sense of personal identity meant a weakening of the family structure and the political prerogative associated with familial status. It is the threat to which Burke was responding with his concept of inherited rights and his attempts to keep political and economic power within the tight control of the propertied family.

Glen's final observation about justices of the peace sending out warrants to apprehend "it" is a reference to the process of censoring Tom Paine's immensely influential pamphlet The Rights of Man. Paine's essay plays a central role in Bage's novel as the manifesto by which Hermsprong speaks and acts. The publication and dissemination of Rights of Man was fraught with political tension that is worthy of Gregory Glen's concern that the powerful sense of self within the concept of inalienable rights is a "bad augury." Soon after Part II of The Rights of Man was published, proceedings were begun against the publisher J. S. Jordan. On 21 May 1792, Paine was charged by the Attorney General with seditious libel, and his trial was set for December of that year. Paine pleaded not guilty and received the support of the Society for Constitutional Information and the London Corresponding Society (support that probably exacerbated accusations of harmful radicalism), but he remained under government surveillance until his trial. Paine left England for France in September to attend the Revolutionary National Convention to which he had been elected, so on 18 December 1792 Paine was tried *in absentia*. Paine's counsel, Thomas Erskine, argued that Paine did not encourage "destruction of property rights or disobedience to law," and that the real issue was liberty of the press. But the court ruled that "[f]reedom of the press and of opinion were not absolutes. They were

relative to the times." Given just how dangerous the times were, Paine was found guilty and was forbidden to return to England.<sup>104</sup>

Hermesprong's advocacy of such a controversial document lends the novel most of its radical dialogue, notably in the form of discourse that places the individual in a position of power and independence from tradition. As the "new man" of "a freeborn mind" (73), unburdened by prejudices and Burkean prescriptiveness, Hermesprong speaks prophetically. In a direct reference to Burke and his reliance on the authority of antiquity, Hermesprong exclaims that "[i]n vain would the reasoners of the polished country say, every thing is due to the authors of our existence." In defiance of one of the foundations of British conservatism--that each generation is indebted to the past--Hermesprong proclaims, "Merely for existence, I should have answered, I owe nothing" (217). His position paves the way for reform and invites the kind of generational recreation of government that was advanced by Paine. In fact, the evidence used against Hermesprong in the charge of French espionage is the accusation that he has read Paine's Rights of Man, and that he has no clear parentage in which to submerge his individual identity.

Hermesprong's role as 'new man' and social critic is enabled by his status as a "noble savage." As an outsider, he may claim a privileged vision and discretionary ability. Yet the primitive is not a "civil being"; therefore, as an ideal of citizenship, it is inadequate, and Hermesprong must show his ability and authority to function as a leader in society. He must confront civil authority and at the same time demonstrate his ability to be the model for the social being of modernity. It is a difficult balance to maintain, but Hermesprong has the strength of property in numerous forms on his side. Once we discover that Hermesprong is actually a member of the gentry and heir to Lord Grondale's fortune, our perception of his transgression changes. His is no longer the external threat of a foreigner with vague familial ties infiltrating British society; it is an internal threat from a member of a propertied, and therefore powerful, well-known family. In some ways, the revelation of noble birth

seems to undermine the novel's radicalism. Yet Hermsprong's threat can be seen as all the more ominous precisely because he is not an outsider. He functions adeptly within civil society, and in the end we see that civil authority works to protect his interests. The civil authority that supports Hermsprong is shown to be responsive to truth and virtue; however, truth and virtue are revealed to be characteristics of the individual rather than of a particular class or the law itself. Hermsprong's brand of radicalism is both an assimilation of economies and a revolution in the concept of humanity. The required compromises are primarily points at which individuals are called on to respond to social duties (often in the form of reciprocity). When a group of miners rebel against rising costs, Hermsprong steps in and preaches loyalty and restraint to the riotous mob. In a voice that echoes Burke, Hermsprong tells them that "there is no possible *equality of property* which can last a *day*," and in what seems to be a reference to the French Revolution, he adds that even "[i]f you were capable of desiring it, . . . you must wade through such scenes of guilt and horror to obtain it as you would tremble to think of" (225).<sup>105</sup> The verbal abuse of King George by one of the miners stirs an uncharacteristic violence in Hermsprong, and he passionately warns, "[B]ut so to revile your *King* is to weaken the *concord* that ought to subsist betwixt him and all his subjects, and overthrow all *civil order*" (226). While Hermsprong acts as a mediator by containing and dissipating tension, he continues to imply the power of the individual. It is Hermsprong, rather than representatives of the law, who quells the disturbance and keeps the peace. It is his call to social responsibility, not based on prescription or sensibility<sup>106</sup> but on the reasonableness of social order, that is to the benefit of all.

Although Hermsprong confronts and frequently oversteps the boundaries of law, the civil system of justice--what Adam Smith calls "the main pillar that upholds the whole edifice" of society<sup>107</sup>--ultimately works in Hermsprong's favor. When he decides to reveal his identity as Sir Charles Campinet and lay claim to his inheritance, the law

recognizes his status and restores what is rightfully his. In the battle of "*law versus truth*" (245), both win. Hermsprong's experience in the courtroom is distinguished by the law's recognition of truth--an event that does not necessarily reaffirm the law's ability to realize truth through legal debate, but that negates the necessity of a legal contest. Lord Grondale and his lawyer, Mr. Corrow, are willing to "overlook little improprieties," and attempt to manipulate the law to their own advantage (220). Their plan is to imprison Hermsprong, charge him with "rioting," seduction of the affections and disrespectful behavior toward a nobleman, and then secure his movement to another kingdom. But their misuse of the law is unsuccessful. The legal system rises to the occasion and acknowledges truth when expressed by a man endowed with individual rights (and plenty of property). By simply telling his story, Hermsprong is "honored with the approbation of far the major part of the court," and the senior justice announces that "it [is] not the wish of the bench to give him [Sir Charles] any further trouble" (228). Further legal argument becomes unnecessary because Hermsprong is not giving a deposition but merely asking for a "remitter," defined as "'restoration to rights or privileges'" (263). As a result, "Sir Charles, having nobody to go to law with but himself, is under the necessity of not going to law at all" (248). Hermsprong's careful manipulation of his identity and control of his financial interests have allowed him to make the law respond to his truth.

Hermsprong's position of strength in relation to civil authority predominates in the novel; however, the contrasting fate of women is a resonating subtext that reminds the reader of the limitations of the rights of man as they were being conceived within contract theory. Ownership of the self as property works for Hermsprong, who has control of his identity, can manipulate it for his own gain and is able to maintain and reaffirm it through marriage. Identity does not require a familial context for Hermsprong (though he benefits from it in the end), as it does for Caroline Campinet, whose self is at least partially absorbed by the property in which she is included, and whose identity is inextricably linked



to her position as a daughter and a wife. When Caroline is first introduced, she is characterized by passivity. She is described as a social introvert, raised by a similarly reclusive maternal aunt. The first news we receive of Caroline is her supposed death (15-16). Although she is able to reflect on superior subjects such as "the operations of the human mind, the right or wrong of human actions," she is excluded from much of civil society which renders her observations less sagacious and influential than Hermsprong's. She absorbs the tensions of assimilation ultimately represented by her marriage; however, her compromises are not an elected yielding to forms of authority that are malleable in her hands and that will ultimately work for her benefit, as is the case for Hermsprong. Caroline is also embroiled in the economy of the family, although her familial connections are unsupportive and work against her advancement. She is the only surviving daughter of Lord Grondale from his first marriage, yet he regards her as a "guest" (112). She is in a tenuous position as an unwelcome heir.

Faithfully, Caroline attempts to fulfill her social responsibility as a daughter, but the harsh treatment she receives at the hand of her father makes it impossible for her to reconcile her individual desires with familial duties. She anticipates, and tries to engage in, the reciprocity between parent and child that Wollstonecraft presents as the relationship preferable to the more common one of parental tyranny, but she faces an unequal exchange.<sup>108</sup> The structure of her family is analogous to a monarchy, and it proves to be inadequate to the needs of the individual as evidenced by its failure to reconcile personal needs with social duty. Caroline gains access to wealth through marriage to Hermsprong, but she has no legal right to property. More importantly, she cannot claim the proprietorship of the self which would yield her the protection of the law. When the individual woman encounters a civil contract such as marriage, she experiences a loss of rights, unlike Hermsprong, whose liberties are reaffirmed. Denied economic independence, women are denied participation in the original compacts consented to in a state of nature.

Caroline's troubles are those of the paradigmatic eighteenth-century heroine based on Richardson's *Clarissa*. She wrestles with filial obedience, faces a forced marriage and imprisonment, and is threatened with disinheritance and rape to secure a marriage to which she will not willingly submit. But it is the conception of Caroline as property of another that is foregrounded as the culpable force behind her demise. When Caroline encounters the law, it is as the subject of a property dispute. Among other charges of entitlement violations, Lord Grondale charges Hermsprong with seduction of the affections. The seduction is regarded as a "private wrong" enacted against Grondale, not Caroline, which means it is a violation of his individual property rights.<sup>109</sup> But more importantly, what might first be considered a personal encroachment is immediately read as a political transgression. Hermsprong's charge of seduction is easily translated into accusations of "public wrongs" such as French espionage and rioting.<sup>110</sup>

The marriage of Caroline and Hermsprong concludes the novel and serves as an apparent resolution to the misuse of property and privilege. Through this act, Caroline seems to be releasing herself from the oppression of an undue filial obedience and exercising her will when she consents to a civil contract. Moreover, the political economy of this marriage is clearly meant to be based on reciprocity and equal exchange--an arrangement that corresponds to the preferred commercial form of trade rather than a reliance on inherited wealth. The marriage to Hermsprong, however, does not provide Caroline with the right of property or a distinct legal identity. Hermsprong secures the Grondale estate for Caroline through marriage, but it remains under his control. The marriage also proves to be a means of securing the Campinet wealth and keeping it within the family; in the tradition of endogamy, economic power has been concentrated and secured, much as Burke argued it should be for the security of the nation.<sup>111</sup>

While Caroline exemplifies the traditional place of women within the "old" society, and while her transition into the new continues to be marked by an inaccessibility to the

rights of man, Maria Fluart entertains the possibilities of a 'new woman' whose freedoms should correspond to those of Hermsprong, the 'new man'. She is indeed an enticing figure who has captured the attention of critics, most of whom wish she had married Hermsprong. Oliver Elton considers her a "brilliantly-sketched little flirt"; Hoxie Fairchild calls her "a witty vixen of unbending spirit"; and for Vaughan Wilkins she is "a perfect darling." ("I wish Bage had made her his heroine," he exclaims, "I do indeed!")<sup>112</sup> Maria's ability to experience more liberty than Caroline is attributable in part to the weakness of her family connections. At the death of her parents, she was left under the guardianship of Mr. Sumelin and Mrs. Merrick and therefore escaped the worst pressures of filial obedience. Through the course of the novel, she never marries and thus never faces the financial and legal dependency matrimony imposes on women. As a proponent of individual rights, Maria is aware of the inevitable losses she would face if she did marry. At the very least, she would lose to her husband her income of twenty thousand pounds. In the end, she remains unwilling "'to buy herself a master'" (247), averse to engage in an economic exchange that guarantees her loss, and disinclined to make a purchase that involves relinquishing an unsanctioned property in herself. For women, marriage is not "a barter of life for life, . . . a mutual and total alienation of person between a man and a woman," as Marc Shell describes it in comparison to the Judaeo-Christian *lex talionis* of a life for a life.<sup>113</sup> It is not an equal or free exchange. Hermsprong maintains his legal identity and property (including self-governance) in marriage and only stands to gain more wealth, whereas his wife does not. A "child of commerce" like Hermsprong, Maria is acutely aware of the inequality of exchange and the parallel between the sacrifice of individual will to a husband and the transferal of rights to a political sovereign.<sup>114</sup> Maria's refusal to marry saves her from an encounter with civil authority that would be a collision.

Maria is characterized by her activity as much as Caroline is by her passivity. Like Hermsprong, she is a "philosophic" character and functions in a prophetic role; however,

she elaborates on the dilemmas specific to women who confront the barriers of civil authority. With her rational mind, she observes Caroline's obedience to a tyrannical father and Mrs. Stone's "non-position" in Lord Grondale's household (which leaves her without status). She recognizes that Caroline's imprisonment in an apartment for her refusal to marry a dreadful young man is more than a domestic squabble--it is a political act; it is an imprisonment of liberty. She establishes familial obligations as irreconcilable with individual rights and warns Caroline that "[o]ur obligations to men are infinite. Under the name of father, or brother, or guardian, or husband, they are always protecting us from our liberty" (191). What the family does is in essence what the law does for women--it confines them, ostensibly for their own good. After elaborating on the forms of punishment allowable by a husband on his wife in his Commentaries on the Laws of England, William Blackstone offers comfort to the women of England. "These are the chief legal effects of marriage during the coverture," he writes, "upon which we may observe, that even the disabilities which the wife lies under are for the most part intended for her protection and benefit: so great a favorite is the female sex of the laws of England."<sup>115</sup>

In light of her intellectual awareness, Maria takes action to prevent as much unnecessary female acquiescence as possible. At the attempted forced marriage of Caroline to Sir Philip Chestrum--a manifestation of Caroline's submission of her will--Maria devises a scheme of hidden identity that rivals Hermsprong's revelation in the courtroom. She substitutes herself for Caroline as the bride and then in the midst of the ceremony unveils herself and her symbolic substitution of the female advocate of individual rights for the submissive daughter victimized by her father. The groom Sir Philip, in a state of shock, knocks over a girondole--an image used metaphorically by Maria to refer to artificial feminine sentimentality as opposed to the true content of reason represented by "a simple candle."<sup>116</sup> The metamorphosis of a woman is witnessed by the prominent characters in the novel and in civil society. The reverend "lifted up his eyes and hands toward heaven in

pious wonder," the lawyer "stared--a vacant stare," Sir Philip "bore all the marks of fatuity," and finally "fire began to flash from the terrific eyes of Lord Grondale" (210). Only Mrs. Stone and Caroline's maid, with apparent sympathy and delight, are driven to laughter. Sir Philip tries to pick up the fragments of the girandole to restore what was broken--but to no avail. Maria also offers to marry him, but he refuses because the goods in this exchange have been altered, and he would no longer be acquiring that which he intended to purchase.

As triumphant as Maria's scheme seems to be, there are significant distinctions between her revelation of identity and Hermsprong's that betray the limitations of what she has accomplished. First, Hermsprong's disclosure leads to his acquisition of a title and an estate, while Maria's only confirms her inability to marry if she wishes to keep her property. Hermsprong sees a restoration of his rights, whereas Maria reconfirms the inability of women to acquire such liberties given their confinement to the domestic sphere. Second, Hermsprong's revelation takes place in a courtroom and receives the approval of secular law; Maria's unveiling takes place in the family home, obtains only the approval of the women present, and the law is called in to restore control. It is clear that while Hermsprong's proclamation of rights coalesces with his role in civil society--and places him at its center--Maria's attempt to claim her liberties only serves to exile her. An attempt is made to imprison Maria for her transgression of authority and for her violation of the transaction of marriage. Maria simply refuses to be imprisoned and, acting with a confidence based on her assertion of self-ownership (an inalienable natural right that implies protection from arbitrary imprisonment) produces a pistol. In the face of an attempt to violate her individual rights, Maria takes the law into her own hands and responds with a defiant expression of self-defense. She dares anyone to stop her and "walk[s] on to the hall-door, which she opened herself unimpeded." She rebukes, rejects and abandons the terms of the aristocracy and "halt the door of the garden leading into the village" she is

"received by Hermsprong and Glen" (215). It is a grand act of defiance, but it leaves Maria with the status of an "outlaw"--far different from the leadership role that Hermsprong derives from his confrontation with the law.

In Bage's novel, then, we see the development of a theory of *a priori* rights embodied in the individual who is allowed to realize his potential. Hermsprong acts as a mediator, a revealer of truth, a prophet of the rights of man and a model for the citizen who will reap the benefits of a capitalist economy and a democratic government. His successes are an encouragement to the new citizen and usher in hope, even at a time when the French Revolution has turned terrifyingly violent, government pressures on radicals in Britain was intensifying, and the morale of reformers was crumbling. Yet even within Bage's celebration of the new man is the recognition that the rights of man were not being extended to the financially dependent, such as women. Law and other forms of civil society are supportive of a propertied man with strong familial and economic ties--the sort of person civil society has traditionally supported.

# Notes

1. Marilyn Butler, Jane Austen and the War of Ideas (London: Clarendon Press, 1975), 7-28.
2. Quoted in C. Kegan Paul, William Godwin: His Friends and Contemporaries (Boston: Roberts Bros., 1876), 1:26.
3. William Godwin, Enquiry Concerning Political Justice, 3rd ed. (London: Printed for G. G. and J. Robinson 1798; New York: Penguin Books, 1976), 144-45.
4. Thomas Holcroft, "A Letter to the Right Honourable William Windham, on the Intemperance and Dangerous Tendency of his Public Conduct" (London: H. D. Symonds, 1795), 49.
5. Thomas Holcroft, "A Narrative of Facts, relating to a Prosecution for High Treason (London, 1794), 3-4.
6. Mary Wollstonecraft, A Vindication of the Rights of Men (London: Printed for J. Johnson, 1790; Gainesville: Scholars' Facsimiles, 1960), 135-36.
7. Godwin, 140-44.
8. Earl of Shaftesbury, Characteristicks of Men, Manners, Opinions, Times, 3 vols. (London: 1711), 2:9.
9. Shaftesbury, 15-16.
10. Rosemary Bechler, "Lovelace Progenitor: A Study of the C18th Villain" (Ph.D. diss., Girton College, Cambridge, 1986), 209.
11. Bechler, 252.
12. Shaftesbury, 64.
13. Shaftesbury, 23.
14. Frances Hutcheson, A System of Moral Philosophy (London, 1755; New York: Augustus M. Kelley, 1968), 40.

15. Hutcheson, 50.
16. Shaftesbury, 45.
17. Holcroft, "A Narrative of Facts," 1-4.
18. Wollstonecraft, 72.
19. David Hartley, Observations on Man (London, 1749; London: J. Johnson, 1791), 65.
20. Hartley, vi. The "intellectual affections" identified by Hartley are sensation, imagination, ambition, self-interest, sympathy, theopathy and moral sense.
21. Godwin, 105.
22. Godwin, 110.
23. C. B. Jones, Radical Sensibility (London: Routledge Press, 1993), 71.
24. Adam Smith, The Theory of Moral Sentiments, 6th ed. (London, 1790; Indianapolis: Liberty Classics, 1982), 52.
25. Smith, 53.
26. Adam Smith quoted in C. B. Jones, Radical Sensibility (London: Routledge Press, 1993), 71.
27. Evan Radcliffe, "Revolutionary Writing, Moral Philosophy, and Universal Benevolence in the Eighteenth Century," Journal of the History of Ideas 54 (April 1993):221-40.
28. Edmund Burke, "A Letter to a Member of the National Assembly," in Works (London: Henry G. Bohn, 1855), 2:520.
29. Holcroft wrote five novels, the last three of which comprise a record of radical political sentiment in Britain. Anna St. Ives (1792) depicts a utopian society characterized by individual rights, Hugh Trevor (1794) further investigates the potential of personal development in the public sphere but begins to consider social inequities, and, finally, The Memoirs of Bryan Perdue (1805) explores the conflicts between the citizen and the community and begins to despair of the future of the self-contained individual. Holcroft's two earlier novels, Manthorn, the Enthusiast (1778-9) and Alwyn; or the Gentleman



Comedian (1780), were far less political in subject matter.

30. Butler, 31; Allene Gregory, The French Revolution and the English Novel (Port Washington: Kennikat Press, 1915), 49.

31. William Hazlitt, Memoirs of the Late Thomas Holcroft (London, 1816), 1:1-38.

32. Gary Kelly, The English Jacobin Novel, 1780-1805 (Oxford: Clarendon Press, 1976), 115, 119; V. R. Stallbaumer, "Holcroft's Influence on Political Justice," Modern Languages Quarterly, 14 (1953):21-30.

33. The friendship between Holcroft and Godwin was a very personal one. When Holcroft faced the tragedy of a runaway son who soon committed suicide, Godwin accompanied Holcroft to Gravesend and Deal in an attempt to find Holcroft's son. See Paul, 1:63-64.

34. Paul, 1:64-65.

35. Hazlitt, 2:1.

36. The Monthly Review, 2d ser., 10 (March 1793): 297.

37. Butler, 106.

38. Paul, 69.

39. Holcroft wrote letters to Sir John Scot, His Majesty's Attorney General, Lord Chief Justice Eyre, and Mr. Serjeant Adair, all of whom were somehow responsible for his charge of treason. Holcroft completed a summary of events in "A Narrative of Facts, relating to a Prosecution for High Treason" (London, 1795), and he wrote of the profound emotional impact of the ordeal in Memoirs of Bryan Perdue (London, 1805). In his narrative, Holcroft insists on his commitment to peaceful reform and is most aggrieved by the court's unwillingness to let him speak in his own defense. He was never fully examined by the court, only questioned before the Privy Council.

40. W. L. Renwick, English Literature, 1789-1815 (New York: Oxford University Press, 1963), 63; George Saintsbury, The English Novel (London: J. M. Dent & Sons, 1913), 166.

41. Ernest Baker, The History of the English Novel, (New York: Barnes & Nobles, Inc., 1929), 5:240; George Saintsbury, The Peace of the Augustans (London: Oxford University Press, 1916).
42. Edward Dowden, The French Revolution and English Literature (New York: Charles Scribner's Sons, 1897), 78; Harrison R. Steeves, Before Jane Austen (New York: Holt, Rinehart and Winston, 1965), 292.
43. J. M. S. Tompkins, The Popular Novel in England, 1770-1800 (Lincoln: University of Nebraska Press, 1961).
44. R. M. Baine, Thomas Holcroft and the Revolutionary Novel (University of Georgia Monographs, No. 13, 1965).
45. Patricia Meyer Spacks, Desire and Truth (Chicago: University of Chicago Press, 1990), 176.
46. In a review of a novel, Louisa Matthews, Holcroft wrote, "She [the heroine] is a sensitive plant, which shrinks, if the untutored finger of common accident approach it. We must warn the fair authoress, that this propensity of mind can neither conduce to her own happiness, nor teach happiness to her readers." The Monthly Review, 2d. ser., 10 (April 1793): 459. Quoted in Butler, 43. The phrase "teaching fortitude to females" is from Holcroft's preface to Memoirs of Bryan Perdue (London: Longman, Hurst, Rees, and Orme, 1805; New York: Garland Publishing, 1979), iii.
47. Mona Scheuermann, Her Bread to Earn (Lexington: University Press of Kentucky, 1993), 153.
48. Kelly, 115, 119. Kelly's thesis is that the structural operating principle for the English Jacobin novel was the "unity of design" mentioned by Holcroft in his review of Robert Bage's novel, Man As He Is, in The Monthly Review, 2d. ser., 10 (March 1793):298.
49. Hazlitt, 3:292.
50. The Monthly Review, 2d. ser., 9 (November 1792):337.

51. Anna must release herself from the weight of her social responsibility to be true to her heart--that is, to let herself love Frank Henley. Whereas Anna's and Louisa's letters are calm and rational, Frank's and Coke's are effusive and reactionary. Coke is exceptionally fervent and agitated. As he becomes more deranged, his behavior becomes more uncontrolled and dangerous.

52. Butler, 48.

53. Hazlitt, 2:4.

54. Spacks, 178.

55. Holcroft, "Letter to the Right Honourable William Windham," 27.

56. In his letter to Windham, Holcroft claims that he has no desire to charge Windham with "intentional guilt"; instead he blames "your ignorance, your errors, your passions." See Holcroft, "Letter to the Right Honourable William Windham," 7.

57. Thomas Holcroft, Anna St. Ives (London, 1792; London: Oxford University Press, 1973), 209. All subsequent references will be given parenthetically within the text.

58. Saintsbury, English Novel, 165.

59. M. Gluckman, The Ideas in Barotse Jurisprudence (New Haven: Yale University Press, 1965), 163.

60. Holcroft, "Letter to the Right Honourable William Windham," 46.

61. Godwin, 169.

62. Evan Radcliffe, "Revolutionary Writing, Moral Philosophy, and Universal Benevolence in the Eighteenth Century," Journal of the History of Ideas 54 (April 1993):221.

63. For discussions on voluntary action, see Chapters 5 and 10 of Godwin's Political Justice.

64. Radcliffe, 221.

65. Lynn Hunt, The Family Romance of the French Revolution (Berkeley: University of California Press, 1992), 87.

66. Elizabeth Inchbald was an intimate friend of Holcroft and Godwin primarily through the early part of the decade. According to her biographer James Boaden, Holcroft became one of her trusted literary advisers. See James Boaden, Memoirs of Mrs. Inchbald (London, 1833), 1:87. Godwin advised her not to publish The Massacre, a tragedy she wrote based on the September massacres in France, and he revised her comedy Every One has His Fault. See Peter H. Marshall, William Godwin (New Haven: Yale University Press, 1984), 90. See also Paul, 73-75. In contrast, William McKee and Allene Gregory deny the influence of Holcroft's and Godwin's political theory on Nature and Art. Instead, they argue that Inchbald's own "humanitarian sympathies" are behind her depiction of social injustice. See William McKee, Elizabeth Inchbald (Washington, D.C.: Catholic University of America, 1935), 34-42; Gregory, 202. See also, S.R. Littlewood, Elizabeth Inchbald and Her Circle (London: Daniel O'Connor, 1921), 95.
67. Boaden, 1:315, 328.
68. Boaden, 1:346.
69. Anti-Jacobins presented the idealized self-contained family as the institution that was the most substantially threatened by supporters of the French Revolution and British reform. Elizabeth Hamilton's Memoirs of Modern Philosophers (1800) and Jane West's A Tale of the Times (1799) are two of the more doctrinaire texts in this regard. See also Isaac d'Israeli, Vaurien; or Sketches of the Times (1797); Charles Lloyd, Edmund Oliver (1798); and Henry James Pye, The Democrat (1795).
70. Kelly, English Jacobin Novel, 96; Allene Gregory, The French Revolution and the English Novel (New York: Haskell House, 1966), 197.
71. Kelly, 98; Anti-Jacobin Review and Magazine 5 (February 1800):152.
72. P. D. Tripathi, The Doctrinal English Novel (Calcutta: K. P. Bagchi & Co., 1977), 222.
73. According to C. Kegan Paul, Inchbald was adept at stating her mind. "Mrs. Inchbald certainly excelled most of her sex," he writes, "in the power of saying a disagreeable thing

in the most irritating manner." He then records a letter from Inchbald to William Godwin, dated 5 January 1801.

"DEAR SIR,--I thank you for the play of Antonio, as I feel myself flattered by your remembrance of me; and I most sincerely wish you joy of having produced a work which will protect you from being classed with the successful dramatists of the present day, but which will hand you down to posterity among the honored few who, during the past century, have totally failed in writing for the stage.--Your very humble Servant,

E. INCHBALD

Such directness of manner is characteristic of Young Henry in Nature and Art and evokes the same reaction of offense from his partners in conversation. See Paul, 2: 77.

74. Jane Spencer, The Rise of the Woman Novelist (Oxford: Basil Blackwell, 1986) ;

Eleanor Ty, Unsex'd Revolutionaries (Toronto: University of Toronto Press, 1993).

75. Kelly, 94.

76. Boaden, 1:294. P. D. Tripathi also notes that Next Door Neighbors, a comedy performed in the summer of 1791, was an adaptation of Néricault-Déstouches's Le Dissipateur and Mercier's L'Indigent. These works all contrast wealth and poverty. See Tripathi, 227.

77. McKee, 35. Very few early twentieth-century critics of Inchbald mention William Godwin's Political Justice as a source of thought for Nature and Art. One of the few is Clara Tobler. See Clara Tobler, Mrs. Elizabeth Inchbald: Eine Vergessene Englische Buhndichterin und Romanschriftstellerin des 18. Jahrhunderts (Gottingen, 1910). Cited in McKee, 49.

78. See the preface by Anna Laetitia Barbauld to A Simple Story in The British Novelists, (London: T. Davison, 1810), 28:iii; Robert M. Lovett and Helen S. Hughes, The History of the Novel in England (Boston: Houghton Mifflin, 1932), 138-39.

79. Jones, 69.

80. Wollstonecraft, A Vindication of the Rights of Men, 5. Wollstonecraft's specific objection was to Burke's use of passion and sympathy to further his counter-revolutionary sentiments. In Reflections, he mourns the death of the French monarchy but does not extend his compassion to the poor and disfranchised of France.
81. The trial of country youths in London is a common subject in Inchbald's work. She herself left her village for London at a young age and learned firsthand about the difficulties of obtaining work and keeping one's integrity in a world of fast-paced ambition. See Boaden, 12-38.
82. Elizabeth Inchbald, Nature and Art (Philadelphia: Printed for H. & P. Rice by Snowden and McCorkle, 1796), 1: 3-4. All subsequent references will be given parenthetically in the text.
83. Jean-Jacques Rousseau, La Nouvelle Héloïse, trans. Judith H. McDowell (University Park: Pennsylvania State University Press, 1968), 391, 393.
84. In some later editions, "Hannah" Primrose is called "Agnes" Primrose.
85. William Pitt, "The Prosperity of the Nation," in The War Speeches of William Pitt, ed. R. Coupland (Oxford: Clarendon Press, 1915), 18-19.
86. J. Holland Rose, Pitt and Napoleon (London: G. Bell and Sons, 1912), 79.
87. Marcel Mauss, The Gift, trans. W.D. Halls (New York: W. W. Norton & Co., 1990), 3, 65.
88. Kelly, 98.
89. Oliver Elton, A Survey of English Literature, 1780-1830 (London: Edward Arnold, 1912), 182.
90. Scott acknowledges the contribution of Catherine Hutton, the daughter of Bage's close friend Mr. Hutton of Birmingham, for much of the biographical information he provides in his preface. The three novels written by Bage that were included in Ballantyne's Novelist's Library were Mount Herne (1782), Barham Downs (1784), and James Wallace (1788).

See Peter Faulkner, Robert Bage (Boston: Twayne Publishers, 1979), 36, 57, 87. Although Scott praised Hermesprong as "unquestionably" the best of all Bages' novels, he did not include it in the Ballantyne collection, presumably because of its more overt political bent. Scott disapproved of Bage's politics and attributed them somewhat on excessive taxation. He writes that Bage's

opinions of state affairs were perhaps a little biased by the frequent visits of the excisemen, who levied taxes on his commodities, for the purpose of maintaining a war which he disapproved of. It was most natural that a person who considered tax-gatherers as extortioners, and the soldiers, who were paid by the taxes, as licensed murderers, should conceive the whole existing state of human affairs to be wrong.

See Sir Walter Scott, Lives of the Novelists (Paris: A. & W. Galignani, 1825), 2:198-99.

91. Scott, 2:195-6.

92. Scott, 2:205-6.

93. Anna Laetitia Barbauld, "Preface, biographical and critical," Man As He Is Not; or Hermesprong, in The British Novelists, (London: F. & J. Rivington, 1810), 48:ii-iii.

94. Edward Dowden, The French Revolution and English Literature (London: Kegan Paul, Trench, Trubner & Co., 1897), 79.

95. Gregory, 169; Hoxie Neale Fairchild, The Noble Savage: A Study in Romantic Naturalism (New York: Columbia University Press, 1928), 52, 171; Kelly, 61-62; W.L. Renwick, English Literature, 1789-1815 (Oxford: Clarendon Press, 1963), 63; Scott, 2:198; Vaughan Wilkins, Introduction to Hermesprong; or Man As He Is Not (London: Turnstile Press, 1951), vii.

96. Renwick, 62.

97. Gregory, 177; P. S. Denenfeld, "Social Criticism in the Novels of Robert Bage" (Ph.D. diss., Northwestern University, 1957), 126.

98. Butler, 78, 86.

99. Butler, 80; Kelly, 50.

100. Michael McKeon, The Origins of the English Novel, 1600-1740 (Baltimore: Johns Hopkins University Press, 1987), 218-22.

101. Robert Bage, Hermesprong; or Man As He Is Not (London, 1796; Oxford: Oxford University Press, 1985), 166. All subsequent references will be given parenthetically within the text.

102. Burke, Reflections, 106.

103. As discussed in Chapter 4, Caleb's conscience works against his master Falkland's to reveal the challenge individual judgment poses to social corruption of all kinds.

104. Carl B. Cone, The English Jacobins (New York: Scribner, 1968), 130-39. According to Cone, the trial at the London Guildhall took place before jurists of a higher social and economic status than usual.

105. See Burke, Reflections, 150. Burke writes:

In this partnership all men have equal rights; but not to equal things. He that has but five shillings in the partnership, has as good a right to it, as he that has five hundred pounds has to his larger proportion. But he has not a right to an equal dividend in the product of the joint stock; and as to the share of power, authority, and direction which each individual ought to have in the management of the state, that I must deny to be amongst the direct original rights of man in civil society.

106. I have in mind, here, Burke's appeal to an emotional loyalty when he pleads the cause of the French aristocracy in his Reflections.

107. Quoted from Adam Smith's Theory of Moral Sentiments, II. ii. 3.4., by Andrew Skinner, Introduction to The Wealth of Nations, Books I-III, by Adam Smith (London: Penguin Books, 1974), 28.



108. Wollstonecraft, 45-47.

109. Sir William Blackstone, Commentaries on the Laws of England, 4th ed. (Dublin, 1771),

1:122. Blackstone defines "private wrongs" as those infringements of particular rights concerning individuals only, also referred to as "civil injuries." These rights are both the rights of persons and the rights of things, the former defined as rights annexed to the persons of men, the latter, rights one may acquire over external objects. Caroline could be regarded as the subject of Lord Grondale's rights of persons or things; in either case she would be subsumed in the property of another.

110. Blackstone, 1:122-123. Blackstone defines "public wrongs" as a violation of public rights, or rights of the community. He refers to these wrongs as "crimes and misdemeanors." For further discussion of the link between seduction and political subterfuge, see Chapter 3.

111. Frederick Engels, The Origin of the Family, Private Property and the State (London: Lawrence and Wishart, 1972), 78, 265; Lawrence Stone, The Family, Sex and Marriage in England 1500-1800 (New York: Harper & Row, 1977), 61, 88.

112. Elton, 182; Fairchild, 164; Wilkins, x.

113. Marc Shell, Money, Language, and Thought (Berkeley: University of California Press, 1982), 63.

In a discussion of Lord Grondale, Maria refers to him as a "tyrant" and makes the connection to political tyranny a justification of the use of that term. When Caroline demurs that "'tyrant is a very harsh term; too harsh, I hope, to be properly applied to Lord Grondale,'" Maria replies, "'Oh, quite! for what has he done, but governed with absolute sway, as great men ought. . .'" (107). Maria also quite importantly notes that "'women, wives at least, continue to love the tyrants, when the tyranny has become almost insupportable'" (107).

114. Shell, 63-64. Shell provides a discussion of the implications of marriage in terms of both partners entering marriage. He writes of marriage as a form of suicide, for it means the loss of original identity; as a form of slavery, for it involves a contract in which one sells oneself; and as a political problem of social bondage, for the loss of one's will to that of another is akin to the loss of one's will to a sovereign power. Given the loss of legal identity as well as the loss of material property women suffered in the contract of marriage in the late eighteenth century, Shell's observations seem more appropriately attributable to the state of women.

115. Blackstone, 1:445.

116. Maria and Caroline discuss Caroline's reaction of tears to her father's tyrannical practices. Maria, always urging Caroline to use reason and assert her individual will, says to Caroline with a characteristic sarcasm: "'But that heart I want to take a naked peep into; to see if it is composed of true feminine matter; if it prefer girandoles and the heartache, to a simple candle and content'" (107).

## Chapter Four

### Acquiring Political Agency

*"Remember the country and the age in which we live. Remember that we are English, that we are Christians. Consult your own understanding, your own sense of the probable, your own observation of what is passing around you--Does your education prepare us for such atrocities? Do our laws connive at them? Could they be perpetrated without being known, in a country like this, where social and literary intercourse is on such a footing . . . Dearest Miss Moreland, what ideas have you been admitting?"*

*Jane Austen*

As Robert Bage's Hermesprong celebrates man's potential in multiple facets of public and private life, it also records the exclusion of women from socio-political developments. In the framework of the eighteenth-century family and society at large, women could not claim the legally protected civil and economic independence that was necessary to self-governance in the public domain. While the gradual conversion to a market economy and the rise of commerce as a means of accumulating wealth demanded that the concept of ownership be closely aligned with the development of the self, women continued to be seen only within the restrictive confines of their familial roles and as persons whose identities are absorbed in that of another. Like the servants and beggars excluded from the Levellers's campaign for an extended franchise, women were considered "part of their masters," as liable to speak and act on the wishes of fathers or husbands as servants and beggars are to acquiesce to the desires of their financial supporters. Consequently, one sees in the novels of English Jacobin women a pervasive concern with exploring definitions of property and the boundaries of the self. To benefit from the "rights of man" and to carve out a place for themselves in the public sphere, women had to establish self-governance and declare a property within themselves, distinct from fathers and husbands. Conservative female writers such as Elizabeth Hamilton, Jane West, and Jane Austen

responded to this challenge by claiming authority within the home and outlining a domestic code of ethics;<sup>1</sup> however, Jacobin women such as Mary Hays, Mary Wollstonecraft and Maria Edgeworth had their eyes on a more public prize. Their feminism looked toward the intellectual, legal and economic advantages of public life and in doing so anticipated the approach to equity and the law that characterizes modern feminist concern with self-determination.<sup>2</sup>

The quest for full citizenship by radical women writers was a struggle against great odds. They faced the obstacle of formal patriarchy--that is, the "Divine Right to absolute Power" professed by king and father and used to justify monarchy<sup>3</sup>--as well as the limitations imposed by their peripheral place in contract theory. In both cases, women found themselves confined to the private sphere and denied the benefits of subjecthood or "the rights of man." Efforts to integrate commerce with an economy based on status, land ownership and inheritance forbade women participation in the public sphere largely because of their subordinate position in the family. Contract theory either left women to manage their own campaign for political agency or purposefully excluded them from efforts to extend the franchise because of their economic dependence. The requirement of obedience by force of nature, which was at the heart of the analogy between father and king, persisted in the domestic lives of women, and it was reinforced in the laws that restricted their civil involvement. Instilling a profound sense of dutifulness by reinforcing loyalty and submissiveness in the home was an important component of Sir Robert Filmer's widely read treatise on absolute government, Patriarcha, because obedience was seen to be a potent force in reaffirming monarchy and stemming the tide of political instability.<sup>4</sup> Enforcing obedience, however, was also a crucial element in continuing to control property within the family, restricting access to wealth and eliminating women as agents in the manipulation of economic resources. The popularity of Filmer's Patriarcha was ultimately short-lived,<sup>5</sup> but the image of the patriarchal family, according to S. D. Amussen, was a ubiquitous force

that "defined the ideals of the gender system" in the community at large and "provided a model for all relations between women and men."<sup>6</sup>

Locke's response to Filmer seems to have ensured ongoing interest in Patriarcha. In Two Treatises of Government, Locke attacks the notion of absolute political authority by countering Filmer's literal claim that the king is the father of his people. While Filmer admits that "all kings be not the natural parents of their subjects," he insists that they are "the next heirs to those progenitors who were at first the natural parents of the whole people, and in their right succeed to the exercise of supreme jurisdiction."<sup>7</sup> He also deems the categories of "family" and "state" inseparable and writes of the sovereign's relation to his subjects "as if they were all one extended kinship system."<sup>8</sup> According to Filmer:

If we compare the natural duties of a father with those of a king, we find them to be all one, without any difference at all but only in the latitude or extent of them. As the Father over one family, so the king, as father over many families, extends his care to preserve, feed, clothe, instruct and defend the whole commonwealth. His wars, his peace, his courts of justice and all his acts of sovereignty tend only to preserve and distribute to every subordinate and inferior father, and to their children, their rights and privileges, so that all the duties of a king are summed up in an universal fatherly care of his people.<sup>9</sup>

Locke dismantles Filmer's scheme with a rationalist argument against Adam's dominion over his own species and the succession of political governance through the "ancient fathers," Noah, Abraham and Nimrod, who had "regal authority" by right of fatherhood.<sup>10</sup> In reference to God's granting "'Dominion over every Living thing that moveth on the Earth'," Locke contends that "whatever God gave by the words of this Grant, 1 *Gen.* 28. it was not to *Adam* in particular, exclusive of all other Men: whatever *Dominion* he had thereby, it was not a *Private Dominion*, but a *Dominion* in common with the rest of

Mankind." With a literalness of his own, Locke argues that the proof lies in "the Plural Number" in God's statement. "God blessed *them*," Locke writes, and "'tis certain *Them* can by no means signifie *Adam* alone" (161). His reading then works as evidence on behalf of the contract, which, according to Locke, is the origin and end of government.

Locke's Two Treatises are notable for their detailed and thorough rebuttal of Filmer's literal patriarchalism, but they are also important because they offer a clear and salient indication of the direction liberal individualism was to take, including the place of women within that tradition. Despite the attention Filmer's Patriarcha received in 1679-81, by the time Filmer wrote his essay (c.1620-42), and certainly by the time it was republished in 1679, kinship as a principle of social organization was already in decline, the state as a distinct institution was emerging with formidable power and the family was withdrawing into the private realm.<sup>11</sup> Locke's insistence that "the power of a *magistrate* over a subject may be distinguished from that of a *father* over his children, a *master* over his servant, a *husband* over his wife, and a *lord* over his slave" (268) served to solidify, intellectually, the movement toward the conceptualization of political power as a consenting contract and the supremacy of law in civil society. One of the fundamental principles that emerges out of Locke's exchange with Filmer is the political nature of the family, especially in regard to property. While Filmer declares the family political because at its origin was a hierarchical system of governance that required obedience by all others,<sup>12</sup> Locke tries to disassociate conjugal rule from political power and break down the stalwart form of economic control: inheritance. Even if one could determine the correct lineage deriving from Adam, Locke argues, "the knowledge of which is the Eldest Line of *Adam's* Posterity, being so long since utterly lost, that in the Races of Mankind and Families of the World, there remains not to one above another, the least pretence to be the Eldest House, and to have the Right of Inheritance" (267). Furthermore, Locke brings history to bear on Filmer's interpretation of the succession of power. "*Heir*, indeed, in *England*," Locke explains

"signifies the Eldest Son, who is by the Law of *England* to have all his Fathers Land," but there is no "*Heir of the World*" or universal natural law that renders us born into subjection to an absolute monarch or necessitates the practice of primogeniture (166).

Locke's redefinition of political authority, particularly his insistence on the separation of family and state, appeared to take an important step toward an equality of gender and class because it seemed to give women the opportunity to expand their identities beyond that of daughters and wives and because it implies an extension of political agency beyond familial wealth. Equality of birth is one of the central axioms Locke maintains in his Two Treatises. The ambivalence Locke expresses regarding the extension of rights to women, however, is indicative of the precarious position women held in the social contract. When Locke observes that God gave dominion to Adam *and* Eve, he also claims that "if it be said that *Eve* was subjected to *Adam*, it seems she was not so subjected to him, as to hinder her *Dominion* over the Creatures, or *Property* in them" (161). Yet Locke does not entirely dismiss the usefulness and validity of Eve's submission to Adam and therefore of a wife to her husband. In reference to Genesis 3:16 where God punishes Adam and Eve for their disobedience and subjects Eve to the will of her husband, Locke writes:

God, in this Text, gives not, that I see, any Authority to *Adam* over *Eve*, or to Men over their Wives, but only foretels what should be the Womans Lot, how by his Providence he would order it so, that she should be subject to her husband, as we see that generally the Laws of Mankind and customs of Nations have ordered it so; and there is, I grant a Foundation in Nature for it. (174)

Locke gives women an opportunity to reach past the confines of Eve's subjection. His equivocation on the subject of women's obedience to paternal authority seems to leave open the possibility of independence, but it renders women responsible for their own

development. A woman may "contract with her Husband" to "exempt" her from submission or simply "endeavor to avoid it" (173-4). Locke, however, is more interested in isolating the issue of a woman's obedience to her husband from the question of the rightful form of political authority than he is concerned that women attain citizenship. To remind us of Eve's role in the creation story is not to persuade us of women's worth, as it was in seventeenth-century feminist tracts.<sup>13</sup> It is to weaken Filmer's argument for monarchy--an argument that is dependent on Adam's singular dominion.

Similarly, Algernon Sidney's republican response to Filmer, Discourses Concerning Government, focuses on opposing monarchy and virtually ignores the impact of democracy on women. The purpose of breaking down the patriarchal analogy of father and king was to distance proponents of the contract from their image as mere rebellious sons; it was not to dismantle the patriarchal family. Although Sidney disputes paternal power in government, he argues that "every Man should be chief of his own Family, and have a Power over his Children."<sup>14</sup> When Sidney does address the rights of women, it is to bolster his argument against the inheritance of political power. The folly of a woman ruling a country is further evidence that one cannot or should not accept the absolute governance of a king or queen simply because he or she is deemed heir to the throne. Despite Sidney's support of a separation of family and state, women's subordinate role in the home continues to be the rationale behind his notion that women are inadequately equipped for public life. "That Law of Nature," Sidney writes, "which should advance them [women] to the Government of Men, would overthrow its own work, and make those to be the heads of Nations, which cannot be the heads of private Families; for, as the Apostle says, 'The Woman is not the head of the Man, but the Man is the head of the Woman'" (46-48). Hence, the patriarchal family remains intact and women are confined within its borders.

The mandate of independence, espoused by Sidney and other contract theorists, is most effective in prohibiting women from participating in civil society beyond their domestic



roles. "Liberty," Sidney writes, "solely consists in an independency upon the Will of another, and by the name of Slave we understand a man, who can neither dispose of his Person nor Goods, but enjoys all at the will of his Master" (12). When Sidney further explains that there is no freedom in being dependent on the benevolence of a monarch, he inadvertently points to the predicament women face when their inability to own property is enforced by law. "There is no such thing in nature as a Slave," Sidney observes, "if those men or Nations are not Slaves, who have no other title to what they enjoy, than the grace of the Prince, which he may revoke whensoever he pleaseth" (12). Largely unable to claim title to land and other forms of wealth and being at the mercy of a benefactor's goodwill, women, by Sidney's definition, are slaves. In contrast, the "multitude," which is to enjoy the rights of contract, is composed of "Freemen, who think it for their convenience to join together, and to establish such Laws and Rules as they oblige themselves to observe" (75). What a mistake it would be, Sidney continues, if "a Woman that is seldom able to govern her self, should come to govern so great a People" (90). Banishing women from the function of law-making because they cannot claim autonomy is an especially harsh and definitive gesture because, particularly in Sidney's treatise, law is the foundation of society envisaged as a contract. Several chapters of Sidney's Discourses are devoted to proving that no one, not even a monarch, is above the law and that dominion over a nation can be justified only by the judicial system. By rendering women subject to the law but not instrumental in its design or approval through the act of voting, Sidney denies them the most comprehensive and fundamental of rights in the new commonwealth--that of being an agent of legislation (directly or indirectly).

Rousseau also places women in a definitively subordinate position in the private sphere. Women are excluded from the body politic, not only because they are considered incapable of holding public office, but because they pose a threat to the social contract. In his Discourse on Political Economy, Rousseau briefly addresses Filmer and outlines the

distinction between family and state; however, as in Sidney's essay, the family remains a patriarchal institution in which women are unequivocally secondary to men. Rousseau is adamant that the functions of the magistrate are different from those of the father, and that public economy differs from private economy. The magistrate has transitory authority bestowed on him by law, while the father has static and absolute power. Rousseau describes the state as a "great family" in which "members are all naturally equal, political authority, being purely arbitrary in the way it is established, can be founded only upon agreements, and the magistrate can command others only by virtue of the laws," whereas the responsibilities of the father in the nuclear family are "dictated to him by natural feelings," and "all property rights belong to him or emanate from him."<sup>15</sup> The authority between husband and wife are not equal in the domestic setting, and the husband may "oversee" his wife's behavior because of the need to be certain of patrimony.

Although Rousseau's Social Contract provides some of the key components of contract theory, particularly in his advocacy of political equality, he spends little time on the role of women in the commonwealth. Where he does elaborate on the contributions of women is in Emile, published in 1762, the same year as The Social Contract. In Book V of Emile, when Rousseau discusses "Sophy" (or the ideal woman), he focuses on the differences between the sexes: "men and women are and ought to be unlike in constitution and in temperament."<sup>16</sup> Civically recognized authority belongs to men, while women must rely on subversive tactics to maintain their status as helpmeets rather than slaves. By her "beauty," "wiles" and "wit," a woman may take advantage of a man and control him through his own strength (335). But this power is never sanctioned by law. As a model for contemporary society, Rousseau cites the place of women ancient civilizations: in the home. "When the Greek women married," Rousseau writes, "they disappeared from public life; within the four walls of their home they devoted themselves to the care of their household and family. This is the mode of life prescribed for women alike by nature and

reason" (330).

Nature and reason also decree that woman "be at the mercy of man's judgment," and that girls be taught restraint because their lives will always require obedience (328). "They must be trained to bear the yoke from the first, so that they may not feel it, to master their own caprices and to submit themselves to the will of others," Rousseau writes (332). Girls need not be educated as boys are because their role is to charm and please. But they must be scrupulous in their deportment because their misconduct could eventually destroy the family, "the bonds of nature" and the security of the nation. When a woman bears an illegitimate child, Rousseau warns, "her crime is not infidelity but treason" (325). While Rousseau supports the separation of family and state, he links the private and the public in his accusation of treason for an act of personal intimacy. His gesture anticipates remarks by Samuel Johnson and Edmund Burke, among many others, on female fidelity. Because clarity of proper ownership is essential to the management of property, a woman's sexual behavior is a concern of the community. A woman's conduct, in spite of its context of intimacy, is, according to Rousseau, "controlled by public opinion" (340), and any threat to that role is a threat to the social contract.

Locke's ambivalence about the role of women in a society organized by contract, and Sidney's and Rousseau's adamant position on the appropriate subordination of the female sex were issues with which Jacobin writers had to contend, even as they embraced republicanism. In spite of Holcroft's optimistic vision of a golden age, in the rhetoric of contract theory not everyone was considered a free agent qualified to enter into a binding agreement. One crucial consequence of the separation of family and state was the gradual confinement of women to the domestic sphere, while citizenship was defined by activity within the public sector, especially the ability to participate in lawmaking. Locke's re-definition of political power focuses on juridical privileges: "*Political power*, then, I take to be a *right* of making laws with penalties of death, and consequently all less penalties, for

the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defence of the common-wealth from foreign injury; and all this only for the public good" (268). Yet, a woman's contribution to the public good continued to be determined by her role as moral exemplar in the home and/or as a philanthropic figure who offers private aid to the less fortunate. In the words of a female character from Elizabeth Hamilton's novel Memoirs of Modern Philosophers, "whether the unrelenting laws of society with regard to our sex are founded in injustice or otherwise, is not for me to determine."<sup>17</sup>

Patriarchy, as Carole Pateman argues, did not vanish with Sir Robert Filmer. It continued to inform modern society when the "social contract" became a "sexual contract," when patriarchy "ceased to be paternal" and women were "subordinated to man *as men*," rather than as fathers. When the *fraternité* replaced the family as the image of government, it continued the policy of excluding women.<sup>18</sup> The Jacobin novelists, however, saw a window of opportunity in the reconceptualization of the relationship of the individual to the state and the reconfiguration of personhood as a self-contained entity. Either by imagining women with the fortitude and effectiveness of Anna St. Ives, or by identifying familial roles and laws governing property as the culprits behind women's dependence, the Jacobins seized on the notion of a propertied self as the vehicle by which women and the propertyless could be enfranchised. Given the evolution of capitalist societies that have a history of limiting women's rights, many contemporary feminist theorists regard "the 'individual' as owner" as "the fulcrum on which modern patriarchy turns."<sup>19</sup> The Jacobins saw this principle as a chance to free political power from familial control and to envisage a more expansive body politic than was imagined by many of the *a priori* theorists whose works inform the Jacobin novel. The pivotal component of the Jacobin reading of women and the social contract was their insistence that female agency would only be fulfilled through participation in the public sphere. As long as women are

restricted to the private domain, they will never acquire the right of property necessary to self-governance, nor the potential for self-determination promised to franchised men.

Mary Hays, Mary Wollstonecraft and Maria Edgeworth, among other radical writers, urgently pleaded with women to define themselves as propertied individuals and reach beyond the borders of the domestic sphere to declare their natural and civil rights as members of the commonwealth. They did so by identifying and embracing the needful qualities of the new citizen as determined by proponents of *a priori* rights: autonomy, rationality, and financial and legal independence. To these characteristics, they also added the ethic of care. While they warned women away from the excesses of romantic delusions, they illustrated the importance of sympathy and communication in establishing a sound intellectual and social existence. Because women were being singled out as "different" from men in both the discourses of patriarchalism and contract theory, Jacobin authors strove to prove women's humanity. Denise Riley, in her history of feminism, notes the effect of setting women apart. "The more that the category of woman is asserted," she writes, "whether as glowingly moral and unjustly accused, or as a sexual species, fully apart, the more its apparent remoteness from 'humanity' is underwritten."<sup>20</sup> The three novels I discuss in this chapter, Hays's Memoirs of Emma Courtney, Wollstonecraft's Maria; or the Wrongs of Woman and Edgeworth's Castle Rackrent, respond to the differentiating of women from men, and to the concurrent restriction of women to the domestic sphere, by advocating the exercise of reason. Support for the cultivation of rational thought in young women was not unusual in novels of the late eighteenth century; conservative texts also encouraged it. Their respective intentions, however, varied substantially. Whereas conservative writers sought to keep women in the home and foster contentment with one's familial role, the Jacobins hoped to move women into the public sphere. In a society perceived as originating in agreement, one had to be able to declare the "rights of man" to enjoy the promises of an a priori theory of rights and to participate in an economy based on

commerce as a means of acquiring not only considerable wealth but also political power. This was, undoubtedly, a daunting task for women, and it involved confronting the legal and economic institutions that restricted their access to property because ownership of the self is the cornerstone of natural and civil rights. Extending rights to women also required challenging the growing tendency to characterize women as irrational creatures in need of benevolent protection. Such benevolence appears in the Jacobin text (particularly Caleb Williams) as a dangerous trap because it reinforced dependence.

In Memoirs of Emma Courtney, Mary Hays argues for women's access to the freedom of inquiry identified by Thomas Paine as a natural "right of the mind." She demonstrates not only that knowledge and communication are essential to enjoyment of the right of property but that whoever obtains knowledge also obtains power. Denying information, education or mere clarity of a situation is a means of control and subordination. Hays's text also offers both an analysis of passion and a call to women to embrace rationalism, sound judgment and an enlightened, emancipated mind. Although reason remains a rather nebulous ideal in Hays's text, she identifies it as a crucial requirement for authority in civil society. The writings of contractarians confirm her assertion that reason is an essential condition for agency. Locke insists that a covenant is an agreement among rational beings in a state of nature.<sup>21</sup> Sidney considers reason to be man's "own Nature" and that which governs the necessary restraints on liberty (39). Blackstone lists mental soundness as one of the qualities necessary for consent in a contract, and Paine also contends that the "nation" which precedes government is comprised of reasoning individuals (I:438). For participation in these accords (and by extension, participation in the legislation of law), women had to distance themselves from their association with uncontrolled passions and charming weaknesses (an association for which Rousseau has become particularly famous, not in the least because he became a target of Mary Wollstonecraft's work). In order to qualify for the right of property, women

had to prove that they could govern themselves.

The powerful association between reason and law is evidenced by the persistence of the "legal subject" as "rational agent" in twentieth-century analysis of law.<sup>22</sup> While numerous legal theorists, particularly those writing within the critical legal studies movement, have attempted to expose the play of power under the guise of an "apolitical Reason" associated with the Enlightenment, many other juridical critics and practitioners of the law continue to insist on the importance of rationality in the exercise of justice.<sup>23</sup> Human reason, John Rawls observes, has traditionally been used as a basis for the universal validity of law. This is certainly borne out by seventeenth- and eighteenth-century treatises on the social contract. Yet Rawls also argues, in his own "constructivist view," that the principles of justice continue to be "constructed by way of a reasonable procedure in which rational parties adopt principles of justice for each kind of subject as it arises." In the absence of a belief in absolute principles, the authority of law begins to rely more and more "on the principles and conceptions of practical reason but always on these as suitably adjusted to apply to different subjects as they arise in sequence, and always assuming as well that these principles are endorsed on due reflections by the reasonable agents to whom the corresponding principles apply."<sup>24</sup> Richard Posner and Charles Fried concur with Rawls's assessment of modern legal proceedings. At the end of his book on law and literature, Richard Posner also turns to the domain of "practical reason" as a rational compromise between the extremes of scientific logic and emotive persuasion in law. He has in mind means of persuasion such as "appeals to common sense, to custom, to precedents and other authorities, to intuition and recognition, to history, to consequences, and to the 'test of time'."<sup>25</sup> In Charles Fried's review of contractual obligation, reason is required not only of individuals entering into agreements, but of the courts as well when they must decide on the legitimacy of a contract. The emphasis on individual cases and circumstances necessitates the exercise of rational thought and places "Reason" at the

center of jurisprudence.

In Maria; or the Wrongs of Woman, Wollstonecraft concentrates on the "legal subject" as "rational agent" and presents a vital argument about the "systematized oppression" under which women suffer. Her novel provides a comprehensive outline of the laws that sustain women's dependence and indicts the family as an institution riddled with legal, economic and emotional abuse. As one of the first respondents to Edmund Burke's Reflections, Wollstonecraft was a principal contributor to the raging debate on natural and civil rights, and her essay A Vindication of the Rights of Men provides an early clarification of the premises of the exchange. While Edmund Burke maintained that liberty is inheritable property, subject to the laws that govern ownership, proponents of the contract such as Thomas Paine, Sir James Mackintosh, and Wollstonecraft herself argued for certain inalienable liberties that are beyond the jurisdiction of civil authority. But Wollstonecraft's contribution to the dialogue on rights is singularly important because she was one of the few contract theorists to address the advancement of women and see their development as essential to the social contract. Furthermore, Wollstonecraft, more than any of the other Jacobins, saw the critical need for women to move into the public sphere. Domestic life was one of treachery for women, and their exclusion from civil society meant virtual imprisonment in the "home."

Laws governing property and marriage are scrutinized in Wrongs of Woman. Wollstonecraft attacks the paternalistic assumption, articulated by Blackstone, that "even the disabilities which the wife lies under are for the most part intended for her protection and benefit: so great a favorite is the female sex of the laws of England" (I:445), and she maintains that this benevolence is fatal to women. Such "protection" for Wollstonecraft is a guise that covers the acquisition of property through marriage, the double standard of fidelity, the annihilation of legal identity and the all-purpose diagnosis of madness to silence and sequester a defiant woman such as Maria Venables. Marriage was deemed by



Blackstone and other legal scholars as a civil contract. Lord Hardwick's Marriage Act of 1753 also ensured its secularization. The discussion of marriage, then, was an opportunity to expose the limited function of women in civil agreements and to assert women's rights within the dialogue of the contract. A woman's role in marriage (even though it was one of the only covenants in which she could participate) is, according to Wollstonecraft, paradigmatic of her role in civil society. Only with the protection of natural and civil rights could women be citizens who contribute to shaping laws rather than remain victims of the legal system.

In Castle Rackrent, Edgeworth examines moral agency--a pivotal factor in the design of social constructs. According to Jean Bethke Elshtain's analysis of the gendering of the *polis* (body politic) and the *oikos* (household), "images of public and private are necessarily, if implicitly, tied to views of moral agency; evaluations of human capacities and activities, virtues, and excellence; assessments of the purposes and aims of alternative models of social organization."<sup>26</sup> Like Hays, Edgeworth presents characters immersed in chaos. Society is in a state of crisis, and issues of gender are meshed with concerns about the overwhelming moral vacuum that is the world of Castle Rackrent. The challenge Edgeworth poses to women is the same that she poses to men: to act on an informed sense of morality that is grounded in a commitment to one's personal relationships and the well-being of the community. In addition, Edgeworth's assessment of the affairs of state resists a separation of public and private. One's behavior reverberates through every level of society, and one's contribution to the citizenry is a function of one's abilities, qualities and virtue.

Thought to be on the periphery of Jacobinism because of her sometimes ambiguous political stance, Edgeworth has more often been assessed as an Anglo-Irish writer or a once-neglected eighteenth-century woman novelist than a radical author.<sup>27</sup> Yet her conceptualization of ownership and her search for juridical clarity place her in the tradition

of contractarianism. Moreover, her novelistic analysis of moral ambiguity and lawlessness involves central considerations of personal and social responsibility--the politics of which have been surprisingly neglected in studies of Jacobin literature. In a text where gender difference is less prominent than in other Jacobin texts, Edgeworth's underlying assumption that women are indeed in the thick of things and responsible for social welfare reinforces the civic role of women. While Edgeworth recognizes the harsher treatment women receive under the law, she holds women accountable for their behavior--not just in the home but in the community at large--and thereby places women on a nearly equal footing with men. Edgeworth joins Mary Hays in perceiving knowledge and clarity of information as crucial to the success of any society, and she echoes Wollstonecraft in her depiction of law; however, she goes further in her identification of a crisis of integrity, particularly the rift in the relationship between law and ethical practice.

As a triumvirate, Hays, Wollstonecraft and Edgeworth illustrate the breadth of the Jacobin contribution to the campaign for a transformation of the body politic. Hays calls attention to the rights of inquiry and the importance of knowledge; Wollstonecraft exposes the legal wrongs aimed at women and Edgeworth adds the dimension of personal integrity. Together they reveal intellectual, institutional and moral "things as they are." Reason and the rights to knowledge, property and legal representation are the elements that would render women worthy of citizenship. The additional, though critical, component Jacobin women added to contract theory approaches (but does not resolve) what Carol Gilligan identifies as "the dilemma of how to think about the self, how to represent the experience of being at once separated and connected to others through a fabric of human relationship."<sup>23</sup> The ambiguities and hesitations that often appear in the work of Hays, Wollstonecraft, Edgeworth and other female Jacobin authors derive from the problem of how to reconcile the necessity of a bounded self with the need for relationship and reciprocity--a need that emerges in nearly all of their texts. Without laying claim to the

property within themselves, women could not benefit from the social contract. Yet, the autonomous self belies their experiences of love.

The call to reason became ever more important, not only to temper potentially deceptive emotions, but also to reconcile the demands of affection with the public role of a citizen. Communication, whether it is between the effusive Emma and her beloved Augustus in Hays's text, or between the imprisoned Maria and her housekeeper Jemima in Wollstonecraft's novel, emerges as an integral component of the process of citizenship for women, as well as necessary to their acquirement of the other qualities of an independent self. The public realm to which they aspired held great promise. It seemed to insure the order, equality, acknowledgment of virtue and clarity of thought that Edgeworth yearns for in Castle Rackrent. While these promises were, arguably, never fulfilled, the Jacobins saw opportunities for women in the direction of contract theory and identified the necessary advancements for their inclusion in the body politic.

Mary Hays's *Memoirs of Emma Courtney*

Mary Hays offers a fervent critique of passion in the first of her two novels, The Memoirs of Emma Courtney.<sup>29</sup> By tracing the development and consequences of Emma's excessive ardor for Mr. Augustus Harley, Hays exposes the traps laid for those untrained in discerning the ways of reason. While Hays acknowledged the important role emotion plays in molding character, determining the nature of attachments and affecting the outcome of events, she also warned that the delusionary power of unbridled feeling is dangerous. Emma and the recipients of her affection are destroyed by false hopes and obsessive behavior. In addition, Hays treats passion as deserving of analytical reflection, but she is also careful to observe that political dialogue, legal discourse and epistemological inquiry are all firmly rooted in rationalism--as evidenced by the formal rhetorical structures of her letters to the Monthly Magazine, in 1796, on the materialism of Helvétius and Godwin, the human capacity for learning and the education of women.<sup>30</sup> Strongly influenced by her upbringing in the Dissenting tradition,<sup>31</sup> Hays regarded the pursuit of knowledge as a natural right which must be extended to women if they are to function as responsible parents and enjoy full citizenship.<sup>32</sup> Only if women could show themselves capable of emotional balance and cognitive maturation could they be considered active members of civil society and worthy participants in a contract. It was in the interest of Hays and other feminists of the late eighteenth century to disclose the impediments to freedom of inquiry so that they could begin to glean the benefits of social change. Emma Courtney provided the opportunity to narrativize the urgency not only of proper education but of the natural right to question, investigate, reason and attain knowledge.

The ambivalence evident in Hays's treatment of passion and reason in Emma Courtney has been noticed by nearly all critics of her fiction. The Critical Review remarked in 1796 that the protagonist's "passion, not love at *first sight*, but even *before first sight*, . . . will perhaps, to some readers, appear to favour of extravagance."<sup>33</sup> In early twentieth-

century criticism, J. M. S. Tompkins notes that Hays "endeavoured to give an air of considered judgment and desolate calm to a book which was, in effect, an interim explosion of a permanently troublous temperament,"<sup>34</sup> and M. Ray Adams concludes that "the violent abuse visited upon Mary Hays for this book was based upon the misunderstanding that she intended unreservedly to commend her heroine."<sup>35</sup> More recent analysis of Emma Courtney has been kinder to Emma's indulgence in passion and far more interested in what she reveals as "feminine" territory. Eleanor Ty suggests that Emma's troublesome effusions of feeling and words are Hays's attempt to show the inevitable result of lingual, professional and sexual repression. Condemned either to silence or empty loquaciousness, women were driven to the excessive sentimentalism demonstrated by Emma and her love for Augustus. As an intelligent and emotional woman, Emma fits into neither a masculine nor a feminine, neither a public nor a private domain, and her inability to speak and express herself freely leads to an imbalance of emotion.<sup>36</sup> Gary Kelly, in his comprehensive discussion of Hays's contribution to revolutionary writing, also argues that by foregrounding sensibility, Hays elevates the feminine culture of intuitiveness, sympathy and compassion to the level of virtue. Moreover, she merges these qualities with the Dissenting doctrine of spiritual egalitarianism and presents sensibility as a powerful source of radical activism. Kelly defends Hays even further when he contends that she draws a connection between feminist politics and aesthetics "by implying that women may not be disabled from sublime experience by 'retirement' in domestic life but rather empowered subjectively and thus artistically."<sup>37</sup>

The recent vindication of Hays's investigation of excessive desire, in appreciating her provocative treatment of passion, has somewhat obscured her advocacy of the steady and measured reason that she praises in her preface. Hays explains that Emma's fate, as a result of her indulgence in emotion and imagination, is "calculated to operate as a *warning*, rather than as an example" (xviii). Hays emphasizes passion partly because the self-

reflexive sentimentalism of Emma Courtney attempts an in-depth critical reevaluation of sensibility. In this text, rationality remains a vague, unexplored ideal. Hays also gives credence to the function of passion and finds a crucial place for it in her analysis of human motivation. In one of her letters defending Helvétius in the Monthly Magazine, Hays argues that "the true method of generating talents is to rouse attention by a lively interest, by a forcible address to the passions, the springs of human action. Our attainments will be in an exact proportion to our excitement."<sup>38</sup> The fictional Emma likewise explains that passion has a central function in the development of the individual talent so revered in Jacobin philosophy: "Sensation," comments Emma, "generates interest, interest passion, passion forces attention, attention supplies the powers, and affords the means of attaining its end: in proportion to the degree of interest, will be that of attention and power. Thus are talents produced" (I,4).

The key to benefiting from one's emotions, according to Hays, is to channel the power of feeling in the direction of personal stability and social good. In the preface to Emma Courtney, Hays declares her novel to be "a useful fiction" because, like Godwin's Caleb Williams and Radcliffe's The Italian, it traces how "the consequences of one strong, indulged, passion, or prejudice, afford materials, by which the philosopher may calculate the powers of the human mind, and learn the springs which set it in motion" (xvii). Still, while Hays acknowledges the significance of passion as a source of energy, she embraces unfettered rationalism in her preface. Freedom of thought and speech, the ability to doubt, examine and ascertain truth are, she writes, "the virtue and the characteristics of a rational being" (xvii). They are, as well, and perhaps more importantly, liberties that have been discussed in contract theory as fundamental rights enjoyed by full citizens. Emma Courtney, however, lacks access to free thought and speech because she is "enslaved by passion," liable to errors that are "the offspring of sensibility" (xviii), and is victimized by laws and social customs that restrict her access to the pursuit of knowledge. The political

urgency that drives Emma Courtney is the certainty that, as long as Emma or any woman is seen as deficient in reasoning powers, she will be regarded as an incomplete person and therefore unworthy of citizenship. Reason, Genevieve Lloyd notes in her study of rationality and gender, has long been a factor in our definition of what it is to be human. It is assimilated "not just into our criteria of truth, but also into our understanding of what it is to be a person; at all, of the requirements that must be met to be a good person, and of the proper relations between our status as knowers and the rest of our lives."<sup>39</sup>

Emma's candor and determination are at times enviable, but her relentless quest for Augustus's affection soon becomes tiresome and embarrassing, since her repetitious vows of love and demands for truth seem to fall on deaf ears. A breakdown in communication, that plagues relationships throughout the novel, culminates in Augustus's suppression of the truth and his refusal to explain his reticence. Augustus responds evasively to Emma's repeated attempts to discuss love presumably because he is secretly married and must keep this fact concealed to qualify for an inheritance that requires him to remain single. Despite the practical motives behind his furtive behavior, Emma suffers an overwhelming and debilitating frustration because Augustus withholds information that would allow her to see her situation more clearly, analyze it and free herself from the snares of passion. By hoarding knowledge, Augustus keeps Emma from learning the truth and this enables him to continue to enjoy her love but not reveal his own for as long as he desires. At the end of the novel, we find out that in spite of his silence Augustus is unhappily married and has loved Emma all along.

Access to knowledge and clarity of communication are pivotal in the process of empowerment and governance of the self. Emma explains this point to young Augustus (son of the elder Augustus Harley), for whom she writes her memoirs. To warn him away from the same trap of passion in which she was caught, Emma insists that morals can be the subject of scientific study. In fact, she asserts that they must be investigated, and she

promises to lift "the veil" (I,5) that shrouds the story of his birth so that he may benefit from information in ways that she did not. Ambiguity, confusion and mystery lead to a paralysis of mind and social existence, and those who perpetuate uncertainty continue to control (or rather tyrannize) the situation. Although Augustus Harley remains "an undifferentiated Object" throughout the novel,<sup>40</sup> he maintains remarkable command of his relationship with Emma. Despite an overt focus on language in the text, largely in the form of letter-writing, Hays shows that silence and secrecy are equally if not more effective. But, as Emma warns Augustus, his silence only opens the door to conjecture and obscures the truth (II, 106-7).

Hays's emphasis on the freedom of inquiry places her in the tradition of both religious radicalism (her particular affiliation was the Unitarian faith) and English Jacobinism. Mary Hays was raised in a middle-class family of Rational Dissenters in Norfolk. As an adult, she met such leading Nonconformists as Dr. Joseph Priestley, Theophilus Lindsey and John Disney, and she continued to correspond and converse with other reformers including the poet George Dyer, the Baptist minister Rev. Robert Robinson, and the Cambridge mathematician William Frend.<sup>41</sup> Her first publication was a small pamphlet entitled "Cursory Remarks on an Enquiry into the Expediency and Propriety of Public or Social Worship" (1792), in which she argues against Gilbert Wakefield's suggestion that devotion be an exclusively private matter.<sup>42</sup> Hays also moved within the Jacobin circle of intellectuals. She became a rather close friend of William Godwin and Mary Wollstonecraft and wrote Godwin lengthy and effusive letters about her love for William Frend. A large part of these letters comprises, almost verbatim, the text of Emma Courtney's epistles to Augustus Harley.<sup>43</sup> Hays reintroduced Godwin and Wollstonecraft in January of 1796--a meeting which was to begin the affair that led to Wollstonecraft's pregnancy and their subsequent marriage--and she proved to be a loyal and steady friend, staying at Wollstonecraft's bedside as she lay dying.<sup>44</sup>



The influence of Hays's radical associations is evident in nearly all of her writing. In her essays, which Katharine Rogers cites as especially valuable for their particularization of abstract philosophy and plain directness of tone,<sup>45</sup> Hays's emphasis is consistently on the crucial impact of education, social conditioning and the influence of external forces over inborn talents. While not necessarily embracing Locke's *tabula rasa*, she affirms the equality of all human beings at birth in fundamental capacities for perception and comprehension. Hays acknowledges the criticism philosophical inquiry received largely at the hands of the conservative Anti-Jacobin movement. "That man is the creature of sensation," she writes, "affords a simple and solid basis for enquiries, which it has been a fashion to ridicule under the abstruse and undefinable term metaphysics."<sup>46</sup> Yet, she continues, "bodily as well as mental powers are principally attributable to education and habits, and are equally the result of the circumstances in which the being may have been placed."<sup>47</sup> In the spirit of the English reform movement, Hays's emphatically refers to intellectual pursuits as a "liberty" that, she also observes, has long been denied to women.<sup>48</sup> Like Thomas Paine, who considers "rights of the mind" among the natural liberties he discusses in his essay *Rights of Man*,<sup>49</sup> Hays supports the freedom to inquire and pursue truth in her *Letters and Essays, Moral and Miscellaneous* (1793).<sup>50</sup> In the spirit of the Kantian definition of "enlightenment"--daring to know (*sapere aude*)<sup>51</sup>--Hays claims that "of all bondage, mental bondage is surely the most fatal" (19). She reveres the "emancipated mind" and celebrates it as a force that surpasses and should overpower and supersede existing forms and conditions of civil society, especially law. "I again earnestly repeat the wish," she writes, "that the wisdom of the legislature may keep pace with the national light" (16). To Burke and the legal theorists Sir Edward Coke, Matthew Hale and Sir William Blackstone, Hays's devaluation of the predominating role of law in society is a radical act. Common Law theorists shared a faith in the superior authority of law and emphasized the legal foundations and structures of society over and above individual or

collective thought, no matter how enlightened.<sup>52</sup> While Blackstone acknowledges "absolute rights of the person"--the right to personal security, liberty and property--he insists that one forfeits part of one's natural liberty when entering into civil society (Blackstone, Book I, 111-127). One has the absolute right to the security of one's very existence, but that right may be breached by laws of capital punishment; one has the right to the enjoyment of private property "without any control or diminution, save only by the laws of the land" (Blackstone, Book I, 121, 126).

Hays relies heavily on the materialism of Helvétius and Godwin for her defense of women and education. She bases her argument on Helvétius's contention in his Treatise on Man that "the understanding, the virtue, and genius of man" are "the product of instruction," and that people will eventually learn that "they have in their own hands the instrument of their greatness and their felicity, and that to be happy and powerful nothing more is requisite than to perfect the science of education."<sup>53</sup> Furthermore the importance of coming to an understanding about knowledge and humanity is essential to the operations of government. Assumptions made about human thought processes and capacities for learning are directly linked to the legislation that shapes the modern citizen. "The science of man," Helvétius writes, "makes a part of the science of government. (1) The minister should connect it with that of public affairs. (2) It is then that he will establish just laws."<sup>54</sup> In Emma Courtney, Emma's unhappiness illustrates Helvétius's assertion that one's well-being is a function of one's opportunity for learning and access to knowledge. Emma is continually stifled in her development as a human being by the willful miscommunications among the envious Morton women, Augustus Harley's silences and Mr. Montague's own passionate excesses that distort reality. Only Mr. Francis (purportedly based on Godwin) provides unencumbered honesty, and only he offers Emma advice and information she can trust.

The cornerstone of Hays's emphasis on circumstances is also largely derived from

Book I, Chapter IV, of Godwin's Political Justice, which she quotes in one of her published letters to the Monthly Magazine and frequently refers to in Emma Courtney. Godwin's argument, summarized in the quotation below, begins with a statement of his position on the prominence of external forces and culminates in a discussion of the power of political institutions on individual lives that denies a dichotomy between public and private existence. Godwin writes:

I shall attempt to prove two things: first, that the actions and dispositions of mankind are the offspring of circumstances and events, and not of any original determination that they bring into the world; and, secondly, that the great stream of our voluntary actions essentially depends, not upon the direct and immediate impulses of sense, but upon the decisions of the understanding. If these propositions can be sufficiently established, it will follow that the happiness men are able to attain is proportioned to the justness of the opinions they take as guides in the pursuit; and it will only remain, for the purpose of applying these premises to the point under consideration, that we should demonstrate the opinions of men to be, for the most part, under the absolute control of political institution. (97-98)

Assuming, as Hays does, that Godwin's use of "men" is inclusive, then women are both empowered and placed in a difficult position in Godwin's scheme. If it is true that one's socio-political destiny is not determined at birth, then women may argue that feminine "weaknesses" are not bred in the bone but are the result of a biased, inadequate education and a socially constructed emotional and financial dependence. Yet Hays recognized that Godwin's other proposition--the adequacy of our actions depends not on our impulses but our understanding--challenges women to cultivate their reason. Emma Courtney's trouble and discontent as a result of her uncontrolled passion exemplifies Godwin's point that the extent of one's happiness corresponds directly to one's capacity for judgement. She

embodies both the opportunity and the demands implicit in Godwin's analysis of the public being.

The damage done by intellectual neglect or inappropriate education is a theme Hays explores in Emma Courtney as well as in her Letters and Essays and a later treatise, published anonymously but attributed to Hays, an Appeal to the Men of Great Britain in Behalf of Women (1798).<sup>55</sup> Women, she contends in Letters and Essays, are unprepared to operate in the public sphere because they have had "neither system, test, or subscription imposed upon them" (12). They have "no claims to expect either pension or place" in society, and they have not been trained in the analytical reasoning that would prepare them for citizenship--by enabling them to discern the political errors that are coming to light in this period of social upheaval and showing them how to contribute to reform. Women, furthermore, are caught in a social contradiction that exacerbates their confusion and prohibits their advancement. "It is a melancholy truth," Hays writes in her Appeal, "that the whole system raised and supported by the men, tends to, nay I must be honest enough to say hangs upon, degrading the understandings, and corrupting the hearts of women; and yet! they are unreasonable enough to expect, discrimination in the one, and purity in the other" (59). Emma echoes Hays's outrage in one of the most openly provocative political scenes in Emma Courtney. After a fiery dinner discussion about slavery, Emma retreats to the parlor with the other female guests, and there she confronts them with their complicity in domestic servitude. Emma tries to convince Mrs. Melmoth that "to be treated like *ideots* was no real compliment, and that the men who condescend to flatter our foibles, despised the weak beings they helped to form" (II, 116). But all of the women to whom Emma speaks are so entrenched in the sort of female training that denies rationality and cultivates romantic delusions that they cannot muster the reason it would take to understand Emma's point.

Emma Courtney, like all the characters of Hays's novel, is a product of her

environment. As an adult, Emma reflects back on her education and assesses it as the source of her "sexual character." "I am neither a philosopher, nor a heroine--but a *woman, to whom education has given a sexual character*. . . . I have neither the talents for a legislator, nor for a reformer of the world. I have still many female foibles, and shrinking delicacies that unfit me for rising to arduous heights. Ambition cannot stimulate me, and to accumulate wealth, I am still less fitted" (II, 120). As a child, Emma fed her imagination with romances from the circulating library. Her guardian aunt, Mrs. Melmoth, was a kindly but fanciful thinker, enamored of illusory fiction. Stories eventually become Emma's passion and, all too frequently, her escape. But Emma also embodies the potential of an intelligent, educated woman if she receives proper instruction. When Emma's biological father insists she read those subjects usually reserved for men--history, science and the classics--a new world of the intellect opens up to her. She realizes, quite importantly, that this is the domain of public thought and discussion. After reading her first classical text, her mind is "pervaded with republican ardour," her sentiments are "elevated by a high-toned philosophy" and her heart "glows with the virtues of patriotism" (I, 21). When she is introduced to philosophical debate at the dinner discussions of her father and his friends, she notices profound changes in her mental processes: "my mind began to be emancipated, doubts had been suggested to it, I reasoned freely, endeavored to arrange and methodize my opinions, and to trace them fearlessly through all their consequences: while from exercising my thoughts with freedom, I seemed to acquire new strength and dignity of character" (24). Broad education, public intellectual exchange and the consistent exercise of judgement are all forms of learning that contribute to fortifying the self and become a form of property that enhances Emma's existence.

What soon brings an end to Emma's enjoyment of "free thinking," however, are the material realities of dependence that afflict women by arresting, or altogether preventing, the development of a distinct identity. When Emma's guardian aunt and her biological

father die, she is left with only a small fortune in both financial and intellectual terms. She realizes that although her education taught her to deliberate, it did not provide her with a profession, nor was it sufficient to equip her with an enduring independence of mind. As her susceptibility to Rousseau's La Nouvelle Héloïse has foreshadowed, Emma sinks back into the mire of emotion and instability. The story of her excessive behavior then affords us an opportunity to see the workings of passion so that we may discover the value of feeling and its place in the process of human thought and action without falling prey to its distorting seductiveness.

In her analysis of the politics of emotion and the effect of passion on human behavior (much in the manner of Godwin's Caleb Williams), Hays often focuses on the hardships specific to women. When Emma speaks so frequently of her *need* to admire, esteem and love, we are reminded of recent feminist theory that foregrounds the importance of relationship in feminine moral systems.<sup>56</sup> But Emma is also terrified of dependence, and we see from her own example how vulnerable a woman is when she is unable to secure financial autonomy. It is, however, more than monetary independence that Emma seeks. She wants a place in the public sphere and freedom from an increasingly isolated private domain. Emma comments:

While men pursue interest, honor, pleasure, as accords with their several dispositions, women, who have too much delicacy, sense, and spirit, to degrade themselves by the vilest of all interchanges, remain insulated beings, and must be content tamely to look on, without taking any part in the great, though often absurd and tragical, drama of life. Hence the eccentricities of conduct, with which women of superior minds have been accused--the struggles, the despairing though generous struggles, of an ardent spirit, denied a scope for its exertions! The strong feelings, and strong energies, which properly directed, in a field sufficiently wide, might--

ah! what might they not have aided? forced back, and pent up, ravage and destroy the mind which gave them birth! (I, 86).

Hays was well aware that women were being left out of political and economic developments,<sup>57</sup> and that they were by no means to be legislators of the world. Emma reiterates the dilemma women face when excluded from civil society and points to the destruction that results when rights of the mind are denied.

"Passions," Emma often reminds us, is "another name for powers" (86). Indeed, in this decade of revolution, emotion was a formidable force. Yet because we are all products of our environment, and women have received deficient instruction in how best to use this power, they have misdirected it, often turned it inward and rendered themselves the odd beings Emma describes. The insulation that was meant to provide safety, social stability and the security of the family has worked against women. The private sphere that was intended to offer protection has only been a source of repression for energies that if given free rein would be capable of revolution, or at least reform. Moreover, because women are denied the social and economic means of defining a distinct propertied self, they indulge in the sort of distortions Emma does in imagining an ideal lover. Emma Courtney engages in a Pygmalion-like construction of a lover because she is desperate for challenge and activity, much as Caleb Williams and Emily Melville fabricate a heroic Falkland in Caleb Williams and Maria Venables sculpts a romantic Henry Darnford in The Wrongs of Woman. She is influenced by that most dangerous of texts, Rousseau's La Nouvelle Héloïse, which affects her with an overwhelming sensibility. In a passage remarkably similar to the garden scene in Caleb Williams (the moment when Caleb realizes he loves Falkland), Emma describes her immersion into a sea of feeling from which she only occasionally surfaces. "With what transport, with what enthusiasm, did I peruse this dangerous, enchanting work!--the pleasure I experienced approached the limits of pain--it was tumult--and all the ardour of my character was excited" (I, 60). The "love" for Augustus that Emma begins to create is,

according to Janet Todd, "an extension of self, a fantasy of self-love" that occurs because the "needs of the self" go unmet in Emma Courtney.<sup>58</sup>

Emma's personhood is further diminished when her self-deceptions and obsessive behavior undermine her activities within the text and her authority in the mind of the reader. Her reliability as a spokesperson for women is problematic because as readers we are forced to vacillate between feeling suspicious of Emma's thoughts--since she is deceived by passion--and feeling sympathetic when she delineates the reasons why she and other women and men are the victims of extravagant imaginations and emotions. For example, when Emma criticizes those who "bend implicitly, to custom and prescription" in addition to others for whom "the deviation of a solitary individual from *rules* sanctioned by usage, by prejudice, by expediency, would be regarded as romantic" (80), we must ask whether she is presenting a cogent argument against Burkean prescription or she is defending her own romantic immersions? When Emma argues that "the Being who gave to the mind its reason, gave also to the heart its sensibility" (I, 82), are we to agree and then value emotion, particularly as a part of a chain that produces talent? Or are we to remember that these words are spoken by a woman overpowered by love? Undoubtedly, one of the lessons we are to glean from this confusion is the necessity of clarity and rational thought. While passion may be a kind of component of power, it becomes dissipated or misdirected and destructive unless it is guided by education and opportunity.

A form of authority Emma does claim at the opening of her text is that she is qualified to analyze sensibility. Despite recognition that immoderate feeling is primarily associated with the feminine domain, Emma assumes that uncontrolled sentimentality is a potentially universal affliction when she instructs young Augustus Harley in the perils of an obsessive romantic love. She presumes that the experiences of a woman in love would be of value to a young man--that he too is susceptible to the seductions of passion. In addition, Mr. Montague, the man Emma later marries, is as victimized by the excesses of



his emotions as Emma is. He cannot control his passions and is eventually driven to suicide. Hays extends the role of sentiment, which has been diminished in its affiliation with the feminine, to both sexes and resurrects it in the novel as a subject worthy of philosophical inquiry.<sup>59</sup>

In Hays's assessment of the motives for human action, which begin with sensation, passion lends itself to the construction of a far more powerful self than one sees in a Burkean critique of talent. Personal ability, according to Burke, is a danger to national security because it is a threat to accumulated wealth. With a provocative use of war-like images, Burke describes property as a "sluggish, inert, and timid" entity, and ability as a "vigorous and active principle"; therefore, property is in constant danger of "invasion" by ability, and it must be presented "in great masses of accumulation, or it is not rightly protected. The characteristic essence of property, formed out of the combined principles of its acquisition and conservation, is to be unequal" (140). Hays and her fellow Jacobins, however, saw their time of social upheaval as an opportunity to decentralize wealth. The empiricism that is at the core of Hays's emphasis on circumstances rationalized subjectivity and rendered it, as Gary Kelly argues, "implicitly democratized and posited as uniquely individual and authentic," thereby strengthening the role of the individual and "justifying a wide range of political, social, economic, and cultural programmes" (*Women* 4-5). The notion of universality that fed the fires of natural law and natural rights in the 1790s was supported by the literature that not only espoused the critical ideal of common predicaments and shared solutions but also advocated an increased recognition of individual will.

The story of Emma Courtney culminates in the destruction of several individuals who have impeded the flow of accurate information and/or succumbed to their own uncontrolled emotions. Themselves unable, or prohibiting others, to exercise the natural "rights of the mind," they are trapped in a prison of Gothic conditions, literally represented

by thunderstorms and wild carriage rides. The return to a cohesive family structure is adamantly rejected in Hays's novel. Emma's own negligent family illustrates the Godwinian view that familial bonds are "the mere chimeras of prejudice" unless they are sanctioned by reason, or habits of affection (I, 29). The rule of primogeniture is shown to be destructive and is overridden by Augustus Harley when he distributes the fortune he inherits as the eldest son among his younger brothers and sisters. As a solution to her indulgences in passion, Emma tries to put together a family with Mr. Montague, but it crumbles because it is a mere shell, void of the strength an honest love would provide. What Hays does offer as a remedy to the predicament of women is an organic and arguably "feminine" conceptualization of rationality. In the new society brought about by reform, Mr. Francis professes that "reason will fall softly, and almost imperceptibly, like a gentle shower of dews, fructifying the soil, and preparing it for future harvests" (I, 50). The challenge Hays presents to women is to embrace this nurturing form of rationalism and cultivate their own reason so that they may be instrumental in reform. Evidenced by Emma's demise, neither delusionary love nor the fabrication of an empty familial structure can replace the need for an independent mind.

**Mary Wollstonecraft's *Maria; or the Wrongs of Woman***

Mary Wollstonecraft's *Maria; or the Wrongs of Woman*, published posthumously by William Godwin, urges women to cultivate reason.<sup>60</sup> In fact, Wollstonecraft borrowed fictional devices from Hays to reinforce the need for rationalism. Henry Darnford is a constructed ideal akin to Augustus Harley, Jemima experiences the same elevation of mind that Emma does when exposed to analytical discourse at the dinner table, and Maria is also misled by the dangerous romanticism of Rousseau's *La Nouvelle Héloïse*. But the emphasis of Wollstonecraft's novel is much more decidedly on the specific laws that prohibit women from ownership and from participating fully in the public sphere. While Hays focused on the independent mind, Wollstonecraft made the more sweeping connection between liberty and property that is at the foundation of *a priori* theories of rights. In *The Wrongs of Woman*, Wollstonecraft argues that without an inalienable claim to ownership of the self, recognized by civil society, women were not only excluded from the processes of justice but unable to "own"--that is, direct the management of--property. Without property, women and other economic dependents were excluded from the franchise and additional means of directive participation in the public sector. Furthermore, Wollstonecraft's novel raises crucial questions about the composition of autonomy as it is presented in contract theory. By considering the role relationships play in the advancement of the individual, she anticipated critiques of the self-possessing individualism outlined by C. B. Macpherson and assumed in contemporary assessments of the social contract, such as John Rawls's *Theory of Justice* and Charles Fried's *Contract as Promise*.<sup>61</sup>

In *A Vindication of the Rights of Woman*, Mary Wollstonecraft notes her intention to write a second, companion volume because, she explains, "many subjects . . . which I have cursorily alluded to, call for particular investigation, especially the laws relative to women, and the consideration of their peculiar duties."<sup>62</sup> Although this intended volume never appeared, Wollstonecraft did conduct a legal inquiry in *The Wrongs of Woman*. The legal

term "wrongs," in the novel's title, highlights the theme of jurisprudence and casts secular law as the transgressor of women's rights. The narrative itself investigates the numerous civil restrictions on the acquisition and control of property, rights of inheritance, legal status and legislation governing marriage and the family. The recent focus on sensibility by critics of Wollstonecraft has led to accusations of complicity with masculine concepts of authority, a failure to rise above sentimentalism, or, conversely, a reluctance to embrace and legitimize the feminine domain of intuitiveness, compassion and moral virtue. Mary Poovey, for example, claims that "perceptive, intelligent writers like Mary Wollstonecraft continued to envision social change and personal fulfillment primarily in terms of individual effort, and therefore they did not focus on the systemic constraints exercised by such legal and political institutions as marriage."<sup>63</sup> It is, however, the very system of English jurisprudence, particularly as it affects women in relation to marriage and the family, that Wollstonecraft comprehensively attacked. She exposed it as the chief civil force that defines, isolates and persecutes the female sex. The tendency to read The Wrongs of Woman as a sentimental novel and to concentrate on the ambivalence in Wollstonecraft's personal attitude toward the power of emotion has often overshadowed the political radicalism from which Wollstonecraft did not "retreat" (as Poovey argues) but explored and ultimately championed in all its complexity. Wollstonecraft's insight into the intricate network of passion, communication and a defined self reveals both the possibility and the limitation in the actualization of agency in the public sphere and in the conceptualization of individual rights that permeated political discourse throughout the eighteenth century.

Mary Wollstonecraft insisted on considering women as civil beings, even while they were victimized and/or ostracized by society. Fully aware, by the mid-1790s, that women were being left out of political developments in France as well as England, Wollstonecraft pushed even harder for a basic assumption of sexual equality that would insure rights. If women continued to be seen as "benefactresses" of English law (as Blackstone deems the

female sex), women would remain susceptible to violations of all kinds because benevolence does not provide a guarantee of authority that supersedes the law. As passive and dependent recipients, women were far more easily sequestered to the private sector where their confinement was enforced by a legal system that rarely acknowledged their distinct existence. In keeping with the now famous passage from Blackstone that explains a wife's loss of legal identity, women were forced to relinquish their property and their identity when they married. Blackstone writes,

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and *cover*, she performs everything; and is therefore called in our law-french a *feme-covert*, *foemin viro co-operta*; is said to be *covert-baron*, or under the protection and influence of her husband, her *baron*, or lord; and her condition during her marriage is called her *coverture*. Upon this principle, of a union of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage.<sup>64</sup>

In the state of *coverture*, a woman's property became that of her husband, unless it was protected in a trust, and she became his property, such that he could claim damages if she was abducted or beaten.<sup>65</sup> Yet, perhaps the most critical distinction that emerges in Blackstone's explanation is that because a woman has no legal identity in a marriage, "a Man cannot grant any thing to his wife, or enter into covenant with her: for the grant would be to suppose her separate existence; and to covenant with her, would be only to covenant with himself."<sup>66</sup> A wife's inability to participate in a contract within marriage reflected her incapacity to enter into a covenant in civil society. As a *baron*, a married man immediately assumed proprietorship and a socio-economic status, whereas a married

woman lost access to ownership and self-governance when she was defined by a merely biological referent such as *feme*. Wollstonecraft, therefore, made a bold presumption, through elucidating the "wrongs" women suffer, that women could indeed claim the civil and natural "rights of man." Moreover, she made a case that women (and the unpropertied in general) were urgently in need of inalienable liberties because they were the most vulnerable members of the community. One of Wollstonecraft's most significant contributions to eighteenth-century reform movements was her struggle--against the influences of both status and contract--to see women included in the quest for political agency which was at stake in the Dissenter's resolutions for the right of the English people to choose their own governors, cashier them for misconduct and form their own government.

Legislative events in revolutionary France surely fueled Wollstonecraft's campaign to find a secure place for women in civil society. Wollstonecraft travelled to Paris in December of 1792 to look for literary opportunities and to observe conditions of the revolution. She wrote a social history of France, largely derived from articles in the Analytical Review, entitled An Historical and Moral View of the Origin and Progress of the French Revolution; and the Effect It Has Produced in Europe (1794).<sup>67</sup> Under the Old Regime, the French legal system reflected many of the principles associated with English law. The financial and contractual obligations of marriage were under the jurisdiction of civil charters,<sup>68</sup> primogeniture was encouraged as a means to concentrate weal and custom was integrated into the more formal framework of jurisprudence.<sup>69</sup> In marriage, a woman became part of a *communauté* (partnership) of which her husband was the head.<sup>70</sup> Although laws governing property in marriage varied somewhat from region to region, the influence of Roman law from the sixteenth century on saw that a wife relinquished her assets to the husband unless they were protected by a marriage contract for that specific purpose.<sup>71</sup> Montesquieu outlines the patrilineal design of the family in

The Spirit of the Laws:

It is almost everywhere a custom for the wife to pass into the family of the husband. . . . This law, which fixes the family in a succession of persons of the same sex, greatly contributes, independently of the first motives, to the propagation of the human species. The family is a kind of property: a man who has children of a sex which does not perpetuate it is never satisfied if he has not those who can render it perpetual."<sup>72</sup>

As in England, the husband's obligation to the wife, in exchange for her property, was that of protection. Under the Intermediate Law of the revolution, women saw some beneficial developments. In 1791 they were no longer prohibited from inheriting property, in 1792 divorce laws were relaxed and in 1793 they were granted a right to communal property.<sup>73</sup> But French women were not to enjoy full rights of citizenship even in revolutionary France. In the closely watched developments in France during the 1790s, Wollstonecraft and the other English Jacobins were disappointed to see restrictions on the franchise even amidst the crusade for the rights of man. The Déclaration des droits de l'homme et du citoyen (adopted in 1789)<sup>74</sup> and the constitution (ratified in 1791), gave the vote to those declared "active citizens": men over the age of twenty five who could claim a stable residence for at least one year and pay the equivalent of three days labor in tax. The Constituent Assembly rejected calls for universal suffrage and excluded economically dependent persons--servants, bankrupts, women and the very poor--from political participation in the new France.<sup>75</sup>

English law was an especially appropriate target for a late eighteenth-century feminist not only because legislative policy had a direct impact on women's lives but also because the doctrine of prescription and the understanding of authority inherent in established charters permeated conservative rhetoric. In Vindication of the Rights of Men and in The Wrongs of Woman, Wollstonecraft carefully scrutinizes Burke's thoughts on law.

In Burke's defense of the ancient constitution and in his reliance on the paradigmatic process of inheritance to justify civil processes, Wollstonecraft recognizes a desire to conserve an arrangement of property acquisition and transmission benefitting the already propertied. In The Wrongs of Woman, she foregrounds the crucial lack of autonomy for women within familial structures as well as for others on the periphery of the family, such as domestic staff. She maintains that Burke's conceptualization of liberty as inheritable property means that those excluded by ownership laws will inevitably suffer a restriction of rights and remain disempowered. Consequently, laws and customs that regulate inheritance and restrict ownership by women bear the brunt of Wollstonecraft's criticism. Women's confrontation with the legal system in The Wrongs of Woman is explosive, and the result is either imprisonment or exile. In contrast to Bage's Hermesprong or Holcroft's Anna St. Ives, Wollstonecraft's novel recognizes no beneficial compromises with authority or models of individual empowerment that demonstrate human potential. Nor does Wollstonecraft make available a heroic advocate of natural rights ready to intervene and protect women from the law. The civil contract of marriage that works to Hermesprong's advantage is unequivocally a "bastille" for women--a public institution in which a woman's liberty, as well as her legal identity, is negated. At the same time, the life of a woman who is single and unpropertied is the life of a slave; she is subject to the will of society but denied full membership in the community.

To provide graphic evidence of the material consequences of property laws for women, and to forge what Susan Snader Lanser calls a feminine "communal voice" that crosses class boundaries,<sup>76</sup> Wollstonecraft juxtaposes the fates of Maria, a married woman of property, and of Jemima, an unpropertied female domestic. Wollstonecraft insists that women be "read" in a civil social context; hence the stories of Jemima and Maria remind us that women are gravely affected by socio-political policy but are prevented from influencing it. While Wollstonecraft did promote the egalitarian family, she did not



propose it as the "basis of good government," as Anne K. Mellor has argued.<sup>77</sup> The family was the vehicle through which property was carefully controlled and transferred, and it was instrumental in the exclusion of women from the economy. Wollstonecraft presents the family as a monolithic structure, particularly in the stories of Jemima and Maria, and argues that such a corrupt institution must be destroyed. While Wollstonecraft shows that relationships like those between Jemima and Maria, and Maria and Henry, are crucial to development of the self, she also contends that the propertied individual remains a necessary prerequisite to political agency.

Jemima's narrative records the absolute dehumanization of a person, who is not only deprived of ownership rights but also thrust into the state of becoming the raw material from which others reap wealth. Regarded by the community as "a creature of another species" (57), Jemima sees herself as "a slave, a bastard, a common property" (59)--all conditions of extreme vulnerability, unprotected by rights or Paine's adage that "man has no property in man."<sup>78</sup> Jemima's state of being common property is the result of having no familial status in a Burkean world (the environment of *Wrongs of Woman*). Born an illegitimate child, Jemima is immediately placed outside of the family and the law. Typical of seductions and pregnancies of the period, Jemima's mother is seduced by a fellow servant with promises of marriage soon forgotten. While she is left to bear the social and economic consequences of an illegitimate birth, her father "after a slight reproof" (54) is allowed to remain in his place of employment.<sup>79</sup> In one of the many examples Wollstonecraft gives women turning toward acts of self-negation under the pressure of social censoring, Jemima's mother begins to starve herself and, nine days after giving birth to Jemima, dies. Initially cast beyond the confines of civil society, Jemima must live the rest of her life on the fringe. She is raised by a wet nurse who lives in poverty, then kept as a "slave" in her father's house. She works exclusively within the domestic sphere, and she functions in various roles as a pseudo family member--she is a mistress rather than a

wife, a nursemaid rather than a mother. As such, Jemima has no chance of obtaining property in any form. Furthermore, Jemima's work is not an independent exchange of labor for wage because Jemima is not free to sell the property in her labor. When she is brought into her father's house, it is not as a gesture of affection or even an act of parental obligation but as a means to save money. In an attempt to reduce the poor rate funds spent on the maintenance of illegitimate children, legislation was enacted in 1733 to hold the father financially responsible for his illegitimate child.<sup>80</sup> Since he is legally bound to "provide for" his daughter, Jemima's father turns that duty into a profitable financial arrangement by sentencing her to servitude; he thereby both stays within the law and eliminates the need for a potential wage earner.

Jemima's worth is determined by her value as an economic commodity, whether in providing sexual pleasure, rearing children or doing laundry. In addition, Jemima is evaluated in terms of her potential as an economic threat. In one place of "employment," Jemima is raped by her master, forced into becoming his mistress and eventually impregnated. When the liaison is discovered by her master's wife, it is Jemima who suffers the wife's anger and abuse because her pregnancy is an economic threat to the family. An illegitimate birth meant not only another child to support financially, but possibly another party to consider in the bequest of property. After having been largely excluded from inheritance under Puritan pressures in the early seventeenth century, illegitimate children had begun to reappear in wills in the early eighteenth century.<sup>81</sup> A precedent was set, as well, by the Convention of revolutionary France when it passed legislation in November of 1793 that guaranteed illegitimate children equal rights of inheritance.<sup>82</sup> Jemima also poses a familial economic threat when in another situation of domestic employment her master dies suddenly. His heir immediately intervenes to collect his property in fear that Jemima, as the man's mistress, would attempt to lay some claim to the property or would simply steal it.

Jemima's life as a commodity follows a logical course toward prostitution as a means of subsistence. Prostitution itself becomes the epitome of a misuse of property, a loss of the self and the inability to claim one's sexuality and labor as one's own.<sup>83</sup> Like her mother's fate, Jemima's profile fits a historical one. She is an example of the young domestic servant, sexually exploited and abandoned because of an illegitimate pregnancy, and driven to prostitution out of economic dependence.<sup>84</sup> Yet even as a prostitute, Jemima finds that the property she might have in her body is subject to the pervasive tyranny of civil authority. Jemima explains that watchmen extort tithes from prostitutes to ensure their "liberty" on the streets (60). If sexuality is power, as Catherine MacKinnon argues, then Jemima's libidinous potential must be controlled.<sup>85</sup> Indeed, her sexuality is regarded as a threat in each of her encounters, but law continues to provide means of counteracting and diffusing that power primarily by preventing her from obtaining any form of property, that is, ownership of her self, her sexuality and her work.

In a scene reminiscent of Emma Courtney's introduction to reasoned discourse, Jemima experiences a new sense of pride when she learns to read and is exposed to the powers of the mind. While in domestic service for a learned and liberal gentleman, Jemima is finally given a position at a "family" table and is allowed to join in the conversations of a group of literary men. In addition, when her master is in need of "untutored remarks" on a piece of writing, he often solicits her opinions. Although Jemima's participation is largely passive in these encounters, she has a first taste here of the natural right to exercise the intellect, and this is enough to provide her with a sense of having "acquired new principles" that stir the hope of "returning to the respectable part of society" (61). She begins the process of the broad and liberal education that, according to Wollstonecraft, is necessary preparation if women are going to contribute to "the progress of knowledge and virtue" and participate in the campaign for the rights of humanity.<sup>86</sup> Yet new principles and the beginnings of an education (though essential components of personal and public fulfillment)

are not enough when encountering civil society; Jemima also needs money. Jemima will obtain the respect or mere toleration of humanity only through financial independence. Even the thievery that had been a constant part of Jemima's life, and was quite necessary for her survival, was committed with an apparent understanding on her part of the importance of property. She also realized that property would never be given to her, nor would she ever have legitimate access to it.

The tale of the poor we find in Jemima reaches its final crescendo when physical deprivation leads one of the oppressed to turn on other victims. Driven by starvation, Jemima, by her own admission, begins to behave like an animal and commits what she realizes is her most inhumane act, the destruction of another woman. Devoid of the rights of humanity, denied the opportunity to engage in the exchange of labor for a wage sufficient to survive, refused property of any sort, Jemima is compelled to fight for a place in the house of a tradesman, and like a "wolf" (66) she convinces this man to turn out his young, pregnant mistress. Jemima places this young girl in the same desperate position in which she once found herself, and the young girl drowns herself in a watering trough. The cycle of the poor unpropertied woman continues. Now driven to self-loathing, Jemima experiences an estrangement from civil society that seems complete. "I began to consider the rich and poor as natural enemies, and became a thief from principle. I could not now cease to reason, but I hated mankind. I despised myself . . ." (68). She becomes one of the "idle poor," then one of the "labouring poor," first dependent on charity, then on the workhouse. Finally, she ends up working as a housekeeper in an asylum and finds herself in the site of ultimate confinement for women because the association with madness reinforces their condition as irrational beings unqualified to participate in the public sector.

The portrait of Jemima in The Wrongs of Woman seems to be derived from a passage that appears in Wollstonecraft's earlier essay Vindication of the Rights of Woman. While the unrelenting tragedies of Jemima, as a fictional character, may be too

overwhelming to elicit sympathy in the reader, her excessive condition and the charged tone of her story suggest the high pitch of emotion that permeates the discourse of rights. As Virginia Sapiro notes in her analysis of Wollstonecraft's political writing, "the Revolution controversy was truly a debate, a conversation in raised (written) voices."<sup>87</sup> In reference to Burke's notorious Reflections passage in support of the royal family in revolutionary France, Wollstonecraft matches Burke's pathos in the following excerpt from Vindication:

I have turned impatiently to the poor, to look for man undebauched by riches or power--but, alas! what did I see? a being scarcely above the brutes, over which he tyrannized; a broken spirit, worn-out body, and all those gross vices which the example of the rich, rudely copied, could produce. Envy built a wall of separation, that made the poor hate, whilst they bent to their superiors; who, on their part, stepped aside to avoid the loathsome sight of human misery. . . . Man preys on man; and you mourn for the idle tapestry that decorated a gothic pile, and the dronish bell that summoned the fat priest to prayer. You mourn for the empty pageant of a name, when slavery flaps her wing, and the sick heart returns to die in lonely wilds, far from the abodes of men.<sup>88</sup>

Jemima's weighty synoptic tragedies are just that--the "collective" demise of the poor and the estranged who are saturated with a destructive energy that has made the truly Gothic events of the French Revolution possible. As one of the few lower-class characters of central importance in the Jacobin text, Jemima reminds us that the contest over rights is a grittily economic one, and at the heart of the debate is a material (as opposed to abstractly theoretical) concern with the redistribution of wealth. Were Jemima able to claim individual liberties, the restrictive social construction of womanhood would be turned upside down and she could become a participant in the public economy. Instead, Jemima's work is confined to the domestic sphere where she does laundry, housework and cares for other

people's children. But her inability to "own" her labor or property prevents her from participating in the growing market economy or affecting public policy in any way.

When Jemima's tale is juxtaposed with Maria's, "demon property" and the legal forces that "systematize oppression" (28) come into clearer relief.<sup>89</sup> Encoded in Maria's story is the imperative that one must lay claim to the right of property and ownership of the self before real possession is possible. Maria has wealth that should provide her with liberty; instead, it leads to her imprisonment. She is held captive in a madhouse because of an attempt by her uncle to circumvent the law that renders a married woman's property her husband's. He leaves the largest part of his fortune to Maria's daughter and appoints Maria guardian. Though the transferal of property to a trust was one of the primary means of protecting the fortune of a married woman, it did not secure her from legal suits and other attempts at gaining possession of her wealth.<sup>90</sup> Indeed, Maria confronts these very threats from her elder brother and husband--those most frequently entitled by law to property through inheritance. Her brother simply "vents his rage," but her husband has her abducted and imprisoned in the madhouse for her refusal to surrender her property to him. The property meant to free Maria from her husband's tyranny only serves to bind her more firmly (and legally) to his arbitrary power. Maria escapes to Italy with her baby and her uncle's money, but Maria's flight is an illegal act because a woman has, in the eyes of the law, no right to her children. Like wives, children were the property of the husband, and if a woman deserted her husband, she was certainly entitled to nothing. Furthermore, it was perfectly legal for a husband to force his wife to return, regardless of her reasons for leaving.<sup>91</sup>

Wollstonecraft's illustrations of female disadvantage in confrontations with civil authority culminate in the juridical scene toward the "end" of her unfinished novel. The courtroom in Hermesprong is the site of a revelation of truth and a restoration of rights. The courtroom in The Wrongs of Woman, however, reveals the vulnerability of those who do

not enjoy the inalienable right of property, and whose position in the public sphere is precarious at best. Maria's defense of her lover, Darnford, against seduction charges is a defense of her "self," and it challenges a legal system that does not authorize her distinct identity. One of the few breaches of sexual morality to fall under a jurisdiction outside of the ecclesiastical courts, seduction assumes that a wife is the property of her husband.<sup>92</sup> As it is a breach of property rights (in addition to marital rights), seduction is a criminal violation. When Maria tries to defend Darnford, she pleads for a form of legal autonomy by arguing that the affair was voluntary, but her argument is futile because it presumes a proprietorship of the self to which she has no legal right. "I voluntarily gave myself," she argues, but that self is not hers to give. In the anonymous eighteenth-century text Laws Respecting Women (1777), the author explains that although an "abduction" may be done "with the consent of the wife, . . . the law always supposes compulsion and force to have been used, because the wife is not supposed to possess a power of consent." In addition, because a woman is the property of her husband, "by writ of ravishment or action of trespass," the husband is compensated "not the possession of his wife, but damages for taking her away."<sup>93</sup> Frustrated in her attempts to work within the civil legal system, Maria attempts to distinguish "laws of moral purity" from "the will of [her] husband" sanctioned by positive law. This attempt, however, only leads her to a willing unlawfulness. Maria's final appeal in her courtroom treatise is to step outside the law, reaffirm a dichotomy between morality and the legal system and act according to her own sense of justice by declaring Darnford free of the charge of seduction.

Maria's exile from the law is both self-imposed and legally enforced. Although she chooses to love outside the law in her affair with Darnford, in numerous legislated ways she is debarred from activities in the public sphere. Maria is unable to bear witness in court to her husband's harassment. Because husband and wife are considered one person in the law, a wife is rarely allowed to testify against her husband.<sup>94</sup> As "no one is allowed to be

a witness in his own cause," it is also true, Blackstone writes, that "no one is bound to accuse himself." Hence, a woman testifying against her husband (and vice versa) could easily be construed as a person testifying against herself.<sup>95</sup> In defiance of the restrictions that enforce her silence, Maria attempts to bear witness against her husband, defend her actions and assert her own legal identity by having her treatise read in court. Writing was for Wollstonecraft and other late eighteenth-century women, Gary Kelly contends, a means of participating in the public life from which they were otherwise banished. Yet Wollstonecraft steps even further into an unfamiliar realm when she engages in the political and legal rhetoric usually defined as male.<sup>96</sup>

The option of divorce holds little relief for Maria and her efforts to free herself from her husband's pursuit. If Maria were to consider breaking her marriage contract as a legal release from her oppressive condition, she would only receive a "separation from bed and board" (*a mensa et thoro*). While adultery by either husband or wife was considered sufficient reason for dissolving a marriage, divorces *a vinculo matrimonii* (absolute divorce) were solely obtainable by an act of parliament, an expensive process usually accessible only to the very wealthy. "Between 1670 and 1799," Lawrence Stone reports, "there were only one hundred and thirty-one such Acts, virtually all instituted by husbands, and only seventeen passed before 1750."<sup>97</sup> In cases of divorce *a mensa et thoro* alimony is usually required; however, if a wife elopes and lives with her adulterer, she receives no alimony.<sup>98</sup> Divorce for Maria, then, is a final loss of the property she has already shown is essential (albeit troublesome) to independence. According to Blackstone, the private sphere (where the civil contract of marriage places women) should be a secure and sheltered place. In Wollstonecraft's representation, however, women are "imprisoned" in a space defined by the interaction of the private and the public but devoid of protective natural or civil rights.

Jemima and Maria are both sentenced to the madhouse, thereby ensuring their exclusion from citizenship and the contract. They are also condemned to a family structure



which has irretrievably broken down; they each live an isolated life within an ostensibly benevolent social unit yet without the boundaries and rights of the self that comprise an individual recognized by the state. As in many of the Jacobin novels, Wollstonecraft exposes the family as a tyrannical institution and reveals the romance that often leads women into the trap of economic dependence. The relationship Jemima and Maria develop attests to the fact that the concept of property is at the basis of their common trouble. Denied the "rights of man," Maria and Jemima are both delivered into the legal "wrongs of woman." In a study of Blackstone's Commentaries, Teresa Michals points to a state of civil existence (in common law) somewhere between individual autonomy and material for trade: "a third option [was] a collection of persons who were also property, the objects of a personal dominion that did not involve commercial exchange." Slaves and wives fit into this category, and their liberty according to Blackstone consists in "protection," not in an equality of rights.<sup>99</sup> The Gothic setting Wollstonecraft chooses for Wrongs of Woman has been seen as a component of a feminist version of the picaresque because it serves as the site of psychological exploration for women.<sup>100</sup> It has also been regarded as a "socially imposed metaphor" used to elicit criticism of emotional excess.<sup>101</sup> Yet, given the emphasis in Burke's Reflections on architecture and the stability of structures, as well as Blackstone's comparison of the common law to "an old Gothic castle, erected in the days of chivalry, but fitted up for a modern inhabitant," the eery, decrepit prison of the madhouse could, in one of its many symbolic functions, refer to the institution of British law that "protects" women through confinement and denial of rights.

Wollstonecraft's pursuit of authority, like that of other radical women novelists, is not without fundamental ambivalence toward the figure of the autonomous individual. Mary Poovey cites hesitations in composition and a contradictory approach to the subject of women's rights as symptoms of Wollstonecraft's personal conflict over balancing feeling with reason.<sup>102</sup> Yet, Wollstonecraft's "hesitation" is certainly also a reaction to the

positing of a self-governing individual with clear boundaries as the model of citizenship in contract theory, particularly when women continue to be seen as indistinct entities. The love, friendship and communication across boundaries in The Wrongs of Woman, as well as in Hays's Emma Courtney and Inchbald's A Simple Story and Nature and Art, obscure the defined self. This concern with relationships has been cited by feminist theorists such as Carol Gilligan and critics of women and culture such as Gillian Brown and Nancy Armstrong as a distinct attribute of the "female domain." While Gilligan attempts to validate a feminine moral system in which maturity is based on the care and responsibility of others, Gillian Brown discusses the importance of the domestic in defining the self of modernity. The home over which women governed in the nineteenth century provided a locale of "stable value" in an environment characterized by a volatile market economy.<sup>103</sup> Nancy Armstrong, as well, argues that the governing position of the woman in a distinct private domain constitutes a new form of political authority in which moral behavior rather than status becomes the measure of worth. The alternative "modern individual," who is marked by the typically feminine characteristic of subjectivity, challenges the sovereignty of inherited familial status.<sup>104</sup>

For Wollstonecraft, however, the female territory of relationships is a site of ambivalence that corresponds to the paradoxical place of women "within" the public sphere. Romance can be sustaining, but more importantly it can also be delusionary and dangerous. Again like Emma Courtney, Maria's victimization begins with a state of heightened emotion and an overactive imagination. Her desire for romance leads her to believe she is in love with the deceptive libertine George Venables, and it keeps her unaware of his avaricious designs until after the marriage. While in the madhouse, she discovers Rousseau's La Nouvelle Héloïse and Henry Darnford at the same time. Their relationship seems to offer the liberating breath of fresh air one craves in the claustrophobic atmosphere of the novel that has been observed by Eleanor Ty.<sup>105</sup> But their freedom,

which is an illusion, is private, and it does not respond to the systemic inequalities that continue to render women prisoners in a domestic realm. Regardless of the romance Maria has found, she and other women continue to be victims of political policy, but confined to silent, passive roles in the operations of civic institutions. Much like Emma Courtney, Maria is a character whose authority of perspective is not always reliable. While she gives voice to the sufferings of her sex, she is in constant danger of the passion that will distort her reasoning mind. Faced with the image of the economically independent individual as the paradigm of the new citizen, women had to maneuver their way through a minefield of legal restrictions prohibiting their participation in civil society as well as the traps of romance and sentimentalism that provided an enticing but fatal escape.

The encounter of women with the law that we witness in The Wrongs of Woman foreshadows the position women acquired in civil society. Wollstonecraft represents the domestic sphere as neither safe nor distinguished by virtue but as a disenfranchised state of material poverty and social, economic, political, and emotional vulnerability. In Seyla Benhabib's terms, Wollstonecraft struggled against the "*privatization* of women's experience" and the view of the self as "a *disembedded* and *disembodied* being."<sup>106</sup> She attempted to expose the "social meaning" imposed on women, particularly by the legal system, and presumed that because the category of woman is socially constructed, it is subject to change.<sup>107</sup> By presenting the dialectics of the personal and the political, the domestic and the civil, she resisted movements toward the gradual separation of the private and public spheres. She insisted as well (to borrow another of Benhabib's terms) on "concretizing" experience to counter universalization in a concept of rights that was excluding certain segments of the population. While Wollstonecraft's contribution to movements away from Filmerian patriarchy is largely undisputed, her insights into the direction contract theory seemed to be moving have been less frequently acknowledged. Nonetheless, she instigated what Judith Butler has called "gender trouble": "For [the]

masculine subject of desire, trouble became a scandal with the sudden intrusion, the unanticipated agency, of a female 'object' who inexplicably returns the glance, reverses the gaze, and contests the place and authority of the masculine position. The radical dependency of the masculine subject on the female 'Other' suddenly exposes his autonomy as illusory."<sup>108</sup> Wollstonecraft offered an alternative to the privatization of the woman.

**Maria Edgeworth's *Castle Rackrent***

Maria Edgeworth's first novel, Castle Rackrent, is frequently cited as the least prescriptive of her novels and the only piece of fiction she wrote free of her father's influence.<sup>109</sup> Richard Lovell Edgeworth was known to have been an overbearing partner in literary and pedagogical collaborations with his daughter. Edgeworth, however, did join forces with her father to provide an explanatory glossary for Castle Rackrent in 1799, just before the text was published anonymously in January 1800.<sup>110</sup> The glossary, in addition to lengthy footnotes that explain the numerous references to indigenous Irish culture and language, has received a great deal of critical attention, and its mere presence has resulted in numerous readings of the text that focus on the politics of the Protestant Ascendancy in Ireland. Though Edgeworth's novel does indeed wrestle with questions of Irish leadership, her treatment of property rights, familial authority and moral agency reaches well beyond the specific case of Ireland. She portrays contemporary Irish gentry as inept and immoral, but they exemplify what she sees as a widespread crisis of integrity. The solution to chaos and corruption, she suggests, rests with the individual who exercises judgement and acts with rational forethought.

The glossary, which has received so much critical attention, is addressed by Edgeworth herself in the novel's advertisement. The purpose of the glossary, she explains, is to educate the English reader in the language of the Irish people. Ireland and Great Britain were on the brink of Union, and this novel was an opportunity to acquaint the English with Irish customs and manners.<sup>111</sup> Edgeworth's concern with social duty was profound and has been compared to the utilitarianism of Jeremy Bentham.<sup>112</sup> The effect of the glossary, however, is not only an infusion of social didacticism but also the imposition of editorial control that diminishes the authority of "poor Thady," the Irish steward who narrates the story. As Elizabeth Kowaleski-Wallace observes, through both the glossary and extensive footnotes, the author as editor contextualizes Thady's provincial

point of view in a more expansive history. The result is that we are exposed to Thady's limitations as a narrator, and we are forced to look beyond his interpretation of events and his loyalty to the Rackrent family.<sup>113</sup> Just how much of the editorial structure was the result of her father's influence remains unknown, but Marilyn Butler (in her biography of Edgeworth) contends that both Maria and Richard Edgeworth used the glossary to distance themselves from Thady's parochialism. They anticipated, as well, that the reader would assume a corresponding critical objectivity and remain untouched by Thady's charm. Edgeworth, Butler explains, "expected us to feel more surprised and more critical, to reject actively his indulgent view of the Rackrents, and supply the correct, the enlightened, moral frame of reference."<sup>114</sup>

The editorial authority Edgeworth asserts over an Irish narrator who was fashioned after her family's steward, John Langan,<sup>115</sup> has provoked readings that concentrate on Anglo-Irish politics. Thomas Flanagan claims that Castle Rackrent is a story specifically about the eighteenth-century Protestant Ascendancy, and that Maria Edgeworth, though she notes in her preface that her anecdotes are "'tales of another time'" (4), knew that the dissolute world of Castle Rackrent did not vanish with the repeal of the Declaratory Act in 1782, or even with the promise of Union in 1800. Furthermore, Flanagan continues, the history of the Rackrent family is actually a "case study" of Irish land management, and the infiltration of Jason into the family fortune reflects a realization on Edgeworth's part of the rising importance of middlemen in Irish real estate.<sup>116</sup> In another study of the Irish novel, John Cronin considers the degenerating house of Rackrent as a signifier of the Protestant Ascendancy's decline. He argues that the novel itself is a testimony to a self-conscious awareness of colonial abuses, and Thady is a "magnificently realised slave" who is neither simply innocent nor calculating but ultimately (and perhaps unknowingly) complicitous in his and the Rackrents' demise.<sup>117</sup>

The focus on Irish politics has inevitably led to vociferous discussions of the

religious affiliation of the Rackrent family. Maurice Colgan argues that the Rackrents are Catholic, in spite of the apparent anachronisms and inconsistencies concerning their civil rights. He bases his conclusion on the ancient Gaelic ancestry of the O'Shaughlins (the family name before Sir Patrick agreed to change it to Rackrent) and the occasional textual references to papal observances. Though Sir Murtagh is lax in his observance of Lent, Lady Rackrent requires of herself and her servants a strict adherence to the rules of fasting during Lent and other restrictive days. When one young maid eats a morsel of meat because she is on the verge of collapse, the parish Priest is notified and she was punished.<sup>118</sup> But the anachronisms Colgan himself outlines are so glaring that W.J. McCormack is able to refute the possibility that the Rackrents could be Catholic. The Penal Laws, in effect until 1782, restricted Catholic property rights and the right to hold public offices.<sup>119</sup> Catholic landowners could obtain leases for no longer than thirty-one years, and inherited property had to be divided equally among sons rather than left as concentrated wealth and bequeathed according to the laws of primogeniture. Consequently, the uninterrupted ownership of Rackrent property through generations would have been impossible. Catholics were also prohibited from participation in government; Sir Condry, therefore, could not have been a member of Parliament.<sup>120</sup> Aware of the same inconsistencies, both John Cronin and Thomas Flanagan speculate that Sir Patrick O'Shaughlin renounced his faith and converted to Protestantism when he became a Rackrent. This conversion would account for Sir Patrick's taking "sadly to heart" the condition that he surrender his name. But the question that Colgan raises still remains; why does Edgeworth make no clear mention of so significant a change?

Undoubtedly, the religion of the Rackrents is a murky subject that has led to fundamental questions about Edgeworth's own political sympathies. To be conclusive about the Rackrent's faith is, to say the least, difficult, yet a discussion of Castle Rackrent in terms of Irish politics prior to 1782 requires a consideration of religion. If, however, one

steps back from local conflicts and reads the novel in the larger context of ownership and the rise of the individual, then the religious ambiguities might be seen as purposely and intended to indict the class of Irish and Anglo-Irish landowners, regardless of religion (though most would, in actuality, be Protestant), for their irresponsible handling of wealth and privilege. Through her story of the Rackrent family, Edgeworth illustrates this crisis of authority which has precipitated a realignment of power. Everyone in Castle Rackrent is plagued by moral confusion and is suffering from a lack of clear direction and thoughtful analysis. In the world of Castle Rackrent, promises are broken and debts are left unpaid, love is forsaken while marriages are made for money, life is commodified and death comes matter-of-factly. The text is replete with moral incongruities. When Judy M'Quirk relays her gruesome account of Lady Rackrent's accident, it is immediately followed by a query about Sir Condry's financial affairs. When Sir Kit locks his wife in her room for seven years because she refuses to hand over her diamond cross, drinks to her health while she seems to be dying and entertains women who hope to become the next Lady Rackrent, he has "the voice of the country with him on account of the great spirit and propriety he acted with" (33). In a pair of duels, Sir Kit just as easily spares the life of one man whose wooden leg gets caught in a piece of sod, as he readily shoots another who presumably stands firm. Not only are life and death apparently subject to accidents and a capricious heart, but the very telling of the stories is marked by an inconsistency in judgment or a lack of ethical consideration that leaves us wondering how to "read" these occurrences. The narrator, Thady, who is finally overwhelmed with a sense of moral ambiguity, voices the cumulative frustration of the text. "Well, I was never so put to it in my life, between the womens and my son and my master, and all I felt and thought just now, I could not upon my conscience tell which was the wrong from the right" (93).

Edgeworth's illustration of moral confusion begins in the first part of the novel, written sometime between 1793 and 1796, with a series of rather comical caricatures of



Irish landlords who abuse privilege, covet property and waste their lives.<sup>121</sup> Sir Patrick enjoys too many glasses of whiskey punch and is finally overcome by drink. Sir Murtagh, known to have had a lawsuit for every letter in the alphabet, is obsessed by litigation; his passion ends with the bursting of a blood vessel. Sir Kit, who marries for money, is done in by gambling and an unrelenting desire for his wife's diamond cross. Sir Kit dies, further in debt; the estate, his widow finds, has been mortgaged and bonds have been set out against him. Yet underneath these colorful stories of bumbling squires is a serious and knowledgeable indictment of inherited wealth and authority.

Edgeworth worked closely with her father in the management of the family estate in Edgeworthstown and eventually acted as his agent while he attended Parliament in Dublin. Her portrait of Irish life, particularly the detailed account of financial transactions, has often been attributed to her active involvement in the administrative affairs of land-ownership. But she herself points to an additional source that reinforces her portrayal. In the epilogue of Castle Rackrent, Edgeworth refers the reader to Arthur Young's A Tour of Ireland, 1776-1779, in which Young records observations on Irish life that range from customs and manners to economic conditions. Much of Edgeworth's depiction of Castle Rackrent and her characterizations of the gentry, absentee landlords and middlemen are borne out by Young's findings. He describes the condition of Ireland as a general state of "idleness and dissipation," and though he claims that things had improved by the latter part of the eighteenth century, he acknowledges "drinking and duelling" as "two charges which have long been alleged against the gentlemen of Ireland."<sup>122</sup> He discusses in great detail the local economy and the maneuverings of real estate. Land was frequently leased to a middleman, then "under-let" for exorbitant "rack-rents" out of which the middleman made a profit. The process encouraged neglect and often resulted in poverty and "wretched husbandry."<sup>123</sup> Though Young assesses landlords as "lazy, trifling, inattentive, negligent, *slobbering*, [and] profligate,"<sup>124</sup> and though he blames absentees for draining Ireland of

money derived from rent, it is middlemen who receive the brunt of his criticisms.

Middlemen, Young writes, are "the vermin of the kingdom" and "the most oppressive species of tyrant that ever lent assistance to the destruction of a country." Their involvement will never lead to improvement, Young continues, because if they are non-resident they cannot improve the land and if they are resident they do not.<sup>125</sup>

Since land, rather than industry, was the basis of Ireland's economy, Edgeworth's decision to narrativize the machinations of property transactions in intimate goes to the heart of Irish social and political life. And though she emphasizes the abuses of wealth and privilege by the community at large, she also specifically addresses the compelling issue of married women's property to illustrate the vastness of the problem of integrity and to reaffirm her point that no one escapes the responsibilities of ownership. Unlike Wollstonecraft's and Inchbald's novels, Edgeworth's treatment of women and property focuses not only on their victimization but also on their participation. Though Sandra Gilbert and Susan Gubar consider Castle Rackrent a critique of classical patriarchy, women are often complicitous in the misuse of wealth.<sup>126</sup> While the Ladies Rackrent all suffer at the hands of their husbands' mercenary interests, they frequently contribute to systemic mismanagement. Sir Murtagh marries the widow Skinflint for her family's fortune. But Lady Rackrent proves to be a complementary wife to Sir Murtagh, a man who was obsessed by the manipulations of law and forbade the mending of fences because he made so much money out of trespassers. Lady Rackrent manages a charity school where poor children could learn to read and write, yet she also uses the children to spin the yarn that is woven and bleached gratis by the weavers on the estate. Her exploitation goes unchallenged because Lady Rackrent is able to get the looms for free from the Linen Board, where she has an interest, and because the tenants fear a lawsuit from Sir Murtagh.

The management of property by the Rackrent wives parallels that of their husbands, yet the outcome of their greed or negligence is not nearly as harsh. While the Lords

Rackrent die as a result of their vices, the Ladies Rackrent not only survive, but two of them find economic stability and independence, and the third sues for a jointure that would provide her with an income of her own. All three of the Rackrent women marry for money, pride or at the whim of a tossed coin. No one is married out of love, and none of them bear children. In the first part of the novel, however, the wives of Sir Murtagh and Sir Kit outlive their greedy husbands and profit financially from the marriage. Sir Murtagh's unhappiness with Lady Rackrent's spending of formidable sums of private money, gleaned from "weed ashes," "sealing money" and informal extortion (a slight fee for putting in a good word to her husband on behalf of a tenant) leads to an argument in which Sir Murtagh bursts a blood vessel and perishes.<sup>127</sup> After her husband's death, Lady Rackrent has a "fine jointure" settled upon her and leaves the estate, taking most of the household furnishings with her. Sir Kit, having received a report that his wife was dead, begins to sort out the confusion over who is to become his next wife. But he soon dies in a duel with the relative of a disappointed young woman, and in a quick turn of events, his body is wheeled to Lady Rackrent in a hand-barrow.

The first two Ladies Rackrent emerge somewhat victorious, yet for Sir Kit's wife, the glory is not without substantial suffering and pain. Known to us only as "the Jewess," or as Thady calls her, the "heretic Blackamoor," this Lady Rackrent is taunted by her husband and eventually imprisoned. For seven years she is locked in her apartment because she refuses to surrender the last vestige of her independent wealth, her diamond cross, to Sir Kit. Given the outrageousness of this tale, Edgeworth provides a "historical" account of an actual imprisonment that appeared in The Gentleman's Magazine in 1789.<sup>128</sup> Lady Cathcart, we are told in a footnote, was locked in her house for more than twenty years, and it was her husband's custom to drink to her health and send his compliments to her each evening at dinner. She too tried to protect her property (in the form of diamonds) from her husband and set about a plot to have it removed to a safe

place until she was free. The diamonds were carried by a poor beggar-woman to another trusted person and finally recovered years later when Lady Cathcart was released upon her husband's death. The story of Lady Cathcart both verifies the plausibility of Lady Rackrent's imprisonment and enhances the impact of her victimization. It insures that when Thady criticizes her for not giving the diamond cross to her husband, the reader will notice the skewed morality of Thady's assessment:

Her diamond cross was, they say, at the bottom of it all; and it was a shame for her, being his wife, not to show more duty, and to have given it up when he condescended to ask so often for such a bit of a trifle in his distresses, especially when he all along made it no secret he married for money. (36)

Sir Kit's wife ultimately gains her independence: "she had made up her mind to spend the rest of her days upon her own income and jewels in England" (36). Her tale, nonetheless, prepares us for some of the more complex realities of the second part of the novel, written two years after the first and in a decidedly more serious tone. The story of Sir Condry and Isabella Moneygawl (the third and final Lady Rackrent) is somewhat different from that of the earlier couples. We know much more about Isabella and her sentiments than we did about the others. She is the youngest daughter of a wealthy family and, as a young woman, falls "head and ears" in love with Sir Condry. But their relationship is associated, early on, with contrivance and denial. Isabella is involved in theater, and when Sir Condry first dines with her family in "Mount Juliet's town," she is also playing Juliet. Inspired by her role as Shakespeare's passionate heroine, her "love" for Sir Condry proves to be that of a young woman immersed in a romantic defiance of her family's disapproval. When they meet, Sir Condry does not particularly like Isabella and instead declares his feelings for Judy M'Quirk, Thady's great-niece. Yet, while Sir Condry praises himself for being "not a man to mind a fortune" (45) (which later proves to be a double entendre in

that he is incapable of managing money), he succumbs to pride when he too reacts with defiance to the Moneygawl's dislike of him. In a perverse attempt to prove his integrity, Sir Condry tosses a coin to decide whom he should marry, Isabella or Judy. Isabella "wins," so Sir Condry forsakes his love for Judy and does "the honourable thing." He marries Isabella, and she becomes a victim of his pride and her romanticism.

In their marriage, Isabella and Sir Condry are both guilty of fiscal irresponsibility as they carelessly dissipate what is left of a fortune already decreased by years of mismanagement at the hands of the Rackrents. When eventually faced with financial disaster, Isabella leaves Sir Condry to return to her family's home in Mount Juliet's town. As if in punishment, she suffers a horrible accident while traveling, and is left severely injured and near death. Meanwhile, Sir Condry has, in one of his final acts of generosity, written into his will a 500 pound jointure for his wife, due to be paid before any of the debts on the estate.<sup>129</sup> When Jason, about to become the new owner of Castle Rackrent, hears of the jointure, he becomes enraged by what he calls an "incumbrance on the land" (76). True to Young's description of the venomous middleman, Jason does all he can to rid the estate of its burden and is temporarily successful. After hearing of Isabella's accident, and not expecting her to live, Sir Condry sells her jointure to Jason. But in yet another twist of events, Isabella recovers, and it is Sir Condry who succumbs to death. Since the jointure is no longer securely in the hands of either Jason or Isabella, like their predecessor, Sir Murtagh, they turn to the courts for clarification. The judicial system, however, has proven to be anything but reliable and enlightening. It promises only more of the ambiguity that pervades the text.

In the realm of Castle Rackrent, women who hold property promise no relief from the misuse of wealth and privilege. Even Judy M'Quirk reveals her mercenary tendencies at the death of Sir Condry and the expected death of Isabella. Her sights set on Jason and his newly acquired fortune, Judy forsakes her love for Sir Condry. "What signifies it to be my

Lady Rackrent and no Castle?" she asks, "sure what good is the car and no horse to draw it?" (92). By implicating women in the dissipation of property, Edgeworth de-emphasizes gender difference and holds each person accountable for his or her actions. Yet, at the same time, Edgeworth also foregrounds the gender-defined predicament of women that leaves them victims of greedy acquisition and/or subject to the severe legal limitations of ownership. Sir Kit's wife clings to her diamond cross, but she is painfully aware that she married for money and not for love. Judy M'Quirk, although she sheds a few tears when Sir Condry speaks of imminent death, finally deserts him when he is faced with financial ruin. She does so, however, as one who has already been abandoned by Sir Condry, in spite of his love for her.

The financial independence that widowhood sometimes provided, primarily in the "modern" eighteenth-century form of the *jointure*, occurs in Castle Rackrent as the only means of economic security for women. The jointure, as defined by Sir Edward Coke, is "a competent livelihood of freehold for the wife of lands or tenements, &. to take effect presently in possession or profit after the decease of her husband for the life of the wife at the least."<sup>130</sup> As social historians such as H. J. Habakkuk have pointed out, a widow could live quite comfortably on a jointure settlement. And according to Coke and Blackstone, the system of jointure was an improvement over the system of dower that guaranteed a widow one third of her husband's real property upon his death and had traditionally governed women's property under common law. Susan Staves, however, claims that the replacement of the dower with the jointure did not necessarily result in an advancement of property rights for women, and it was not a simple "substitution" of forms. What was once a *right* of dower became a *gift* of jointure. Staves also observes that because a settlement of jointure was a negotiation finalized in the form of a contract, it has often been argued that women and their families had an opportunity to insure fairness in the agreement. But women and their families were frequently not in a position to bargain

for a sum that would equal what the bride might have gained in a dower settlement.<sup>131</sup> As noted by the contemporary critical legal studies movement, the opportunity to negotiate does not guarantee justice. The outcome of a legal dispute is a function of rhetorical skill and the persuasiveness of evidentiary material in the courtroom and power relations in society at large.<sup>132</sup> Furthermore, though judicial systems theoretically strive toward equal treatment,<sup>133</sup> gender was, in eighteenth-century British law, a crucial factor in the fundamental recognition of civil rights and acknowledgement of a legal existence. In Castle Rackrent, Sir Condy's arrangement of a jointure for Isabella is indeed presented as a "gift" that is under his control. He may sell it, if he so wishes, or he may respect Isabella's need for future security. In either case, Isabella is at the mercy of Sir Condy's benevolence and loses the promise of a right to certain income. Whereas under a dower system, Isabella would have been assured of at least one third of her husband's property at his death, under a jointure she enjoys no such guarantee. Hence, the novel ends with a pending legal case over Isabella's "right" to a part of her husband's fortune.

The nightmarish web of legal ambiguities and manipulations that surrounds the treatment of women is a manifestation of a much larger crisis of integrity that not only permeates the tale of the Rackrent family but is a focal point of the debate over the "rights of man." In Reflections on the Revolution in France, Edmund Burke reveals a preoccupation with the preservation of structures threatened by revolution and reform movements. Likewise, in Castle Rackrent (as well as in Edgeworth's other novels), Edgeworth betrays a concern with the dissipation of economic and social resources. The disjunction of intent and action, meaning and word, that indicates a fundamental rift in the relationship between law and ethical practice, creates conditions for the kind of abuse and exploitation that plagues the Rackrent family. Unlike Burke, who in response to the crisis, looks back to posterity for a reintegration of divine and secular principles, Edgeworth joins the other Jacobin novelists in an attempt to disambiguate "the law" by reconceptualizing the

relationship of the individual to society. Faced with the vacancy in social leadership left by a neglectful and ineffective aristocracy, Edgeworth first acknowledges the inevitability of change and then turns her attention to the reasoning individual to fill the void.

Edgeworth's illustration of the crisis of moral, social, and economic integrity that plagues the Rackrents is remarkably similar to Burke's description of the discord that haunts him throughout his Reflections. To those who advocate that the social contract be subject to the transient demands of specific political trends and economic conditions, Burke responds,

But if that which is only submission to necessity should be made the object of choice, the law is broken, nature is disobeyed, and the rebellious are outlawed, cast forth, and exiled, from this world of reason, and order, and peace, and virtue, and fruitful penitence, into the antagonist world of madness, discord, vice, confusion, and unavailing sorrow.<sup>134</sup>

The "law" Burke fears will be broken is what he designates as "the great primeval contract of eternal society" (194-5). According to Burke, there occurred an evolution from the Magna Carta of 1215 to the Declaration of Rights in 1689 that produced a constitution based on the cumulative historical experience of a partnership that spans generations. This partnership is an agreement between "those who are living, those who are dead, and those who are to be born" (194-5), and it is the source of an inviolable law to which all must submit. Because each generation remains answerable to a civil social contract (as a power greater than itself), a social and moral stability is thus insured.

The reverence with which Burke writes of the great primeval contract is critical to his concept of law and the turmoil that afflicts Castle Rackrent. His endowment of a *civil* social contract with natural and spiritual authority implies a correspondence between divine and secular law. Though Burke rejects the concept of natural law, as espoused by Rousseau, Locke and Paine, among others, he embraces an *a priori* principle that is not



empirically based nor liable to qualifications by particular situations or inclinations. Burke's metaphysical sanction of civic functions is most clearly articulated in his definition of liberty as "an entailed inheritance," which is bequeathed to us by our forefathers and transmitted to posterity. Demarcating the "real rights of men" as civil (in other words, as rights available only within a legally established community), Burke compares our liberty to an "estate." Through a constitutional policy that is "patterned" after nature, we receive, sustain and transfer our government and its privileges "in the same manner" as we maintain and transmit our property (119-20). The political system, Burke claims, is thus rendered in a "just correspondence and symmetry with the order of the world"--an organic order of growth, depletion and regeneration. The economic system, provided it follows a course of continued centralization of resources, will afford a greater concentration of power and therefore national security. According to Burke, the constitution and the society it protects preserve an integrity in spite of a diversity of parts.

In all its disarray, the Rackrent family not only shatters the order and unity that Burke wished to defend, but it also calls into question the very notion that the architecture of society was ever so ideally structured. The paradigmatic process of inheritance, which in Burke's scheme is the vehicle of both conservation and regeneration, is, in the Rackrent family, obstructed by sterility and dissipation. Edgeworth's story of the Rackrents begins with a change of name by Act of Parliament, thereby indicating that the patrilineal continuity of the family has been broken. Sir Tallyhoo has no direct heir, so he is forced to turn to a cousin, Sir Patrick O'Shaughlin, and a legal adjustment to perpetuate the family name. As Michael McKeon notes, this and other forms of "patrilineal repair" were necessary and fairly common in light of the demographic fact that, in a stable eighteenth-century population, approximately forty percent of families will be unsuccessful in producing a male heir.<sup>135</sup> When each Rackrent marriage is without issue, the partnership of generations that Burke envisioned appears as a (literally) man-made construct to control

the distribution of property, rather than as a sovereign metaphor for the organization of society. Though property in Castle Rackrent is maintained and transmitted according to the vertical hierarchy of inheritance laws, the elegant symmetry and balance of nature is missing. The mystery that should inspire our reverence is destroyed by Edgeworth's detailed accounts of the legal machinations behind property transactions. And the great primeval contract is ultimately marred by the need for secular alteration to maintain the image of a constitutional policy patterned after nature.

The financial maneuverings of Sir Murtagh and his wife exemplify Edgeworth's interest in exposing the purely secular underside of land management. Through a medley of real estate terms, Edgeworth introduces the reader to the exploitations of labor and economic dependence that, according to Edgeworth, all too often typified the behavior of Irish and Anglo-Irish landlords. Of Sir Murtagh, Thady reports,

For let alone making English tenants of them, every soul--he was always driving and driving, and pounding and pounding, and canting and canting, and replevying and replevying, and he made a good living of trespassing cattle-- . . . Then his herriots and duty work brought him in something--his turf was cut--his potatoes set and dug--his hay brought home, and in short all the work about his house done for nothing; for in all our leases there were strict clauses with heavy penalties . . . so many days duty work of man and horse, from every tenant, he was to have, and had, every year; and when a man vexed him, why the finest day he could pitch on, when the cratur was getting in his own harvest, or thatching his cabin, Sir Murtagh made it a principle to call upon him and his horse. (14-15)

In her glossary, Edgeworth explains that an "English tenant" is one who consistently pays his rent the day it is due, "canting" is selling by auction, and "duty work" refers to labor contracted in a lease. Edgeworth is directly critical of the arrangement of duty work and,

using the glossary for commentary as well as definitions, condemns such contracted labor as a form of "petty tyranny and oppression" (104) because it so often resulted in the ruin of a tenant's harvest. Leases often included a clause that bound tenants to provide their landlords with horses and labor for several days out of the year. Whenever a landlord so desired, he could require duty work of his tenants and frequently did so at times when the labor was needed on their own rented land.

The portrait Edgeworth paints of the Irish gentry makes it difficult, in a time of moral crisis and social upheaval, merely to look back to a time when "the law" was infused with divine authority in order to recover and sustain the virtue and the integrity that "should have" characterized noble families. Edgeworth provides fictional evidence (some of which is derived from actual reports, such as the story of Lady Cathcart from The Gentleman's Magazine) of why moral stability cannot be left to the laws that had been used not to protect property but rather to exploit proprietorial privilege. Edgeworth's observations challenge "aristocratic ideology" as defined by McKeon in his study of the "destabilization of social categories." Either as the O'Shauglins, derived from the ancient kings of Ireland, or as the contemporary landowning family of the Rackrents, the gentry we confront in Edgeworth's novel figure the decay of the supposed conjunction of external wealth or privilege with an internal moral order that, McKeon explains, justified social stratification and a hierarchical social structure.

While Edgeworth strives to unveil the less than honorable character of an aristocratic family, she also interweaves an even more biting incrimination of the emerging class of middlemen or agents. Burke's expectant fear of the "invasions of ability" and "spectre of innovation" (140) does indeed seem to have materialized in Jason, the calculating and opportunistic son of a steward who is more attentive, watchful and clever than his aristocratic counterpart, Sir Condy. As the narrative progresses, Jason waits in the wings ready to take advantage of the imprudent, negligent Rackrents. He begins to

insinuate himself into the Rackrent fortune just as Sir Kit shirks his responsibility and becomes an absentee landlord. Jason, who proves to be a "good scholar" and a "good clerk" (22), is allowed by Sir Kit's agent to copy the rent accounts. With the help of Thady, the agent and a bit of "insider information," he obtains his first piece of property, and having earned the confidences of Sir Kit, eventually replaces the agent and takes the accounts into his own hands. Once Sir Condry becomes heir to the estate, Jason, who was "not a little useful to him [Sir Condry] in his book learning, which he acknowledged with gratitude ever after" (39), is given additional land, which he promptly leases to under-tenants at a comfortable profit of 200 pounds a year. Jason's "takeover" is finally enabled by the debt Sir Condry and Isabella amass through their financial recklessness. By the end of the novel, Jason is the new owner of Castle Rackrent and the Rackrent fortune dwindles to a handful of guineas. The ruthless and devouring Jason embodies the darker side of law divorced from ethical practice and exemplifies the flagrant self-aggrandizement that is legitimated in a culture devoid of any clear moral authority. In Jason's realm, there seems to be no governing principle to which he must submit. He is a lawyer, entrenched in secular legalities and obviously skilled at the orchestration of positive law; but Jason is reprehensibly incompetent when it comes to the subjective courtroom of the conscience because he is willfully ignorant of its demands. It is a subjective law, requiring reflection and analysis, that is starkly absent in Castle Rackrent, and it is this void that constitutes the greatest indictment of the people of that estate.

The lawlessness of Castle Rackrent is manifest in a singularly degenerate family; however, its consequences and the predicament it represents resonate beyond the borders of its Irish locality. Edgeworth adds her voice to those acknowledging the transformation of society from a vertical structure based on hierarchy and inherited authority to a horizontal one founded on the prototype of a contract that respects natural rights. The crisis of law and ethics that Edgeworth illustrates lays the groundwork for a "new" form of

authority embedded in the individual and contingent on the ability to reason. When out of the pervasive moral confusion Thady utters his frustration, he points to the people who are vying for control. Women, the landed gentry and the emerging class of agents and middlemen all battle for property and the power it affords. In the 1790s, when Edgeworth wrote Castle Rackrent, the realignment of authority was a volatile issue. The American colonies had recently declared independence, Ireland was simmering with anticipated rebellion, the French Revolution in its various phases was still in full swing and its effects were at the doorstep of both Britain and Ireland. Social transformation was far more than a novelistic proposition or adventure. In Edgeworth's text, none of the characters exhibit the competence to rule in shifting constructs of control. Social leadership, Castle Rackrent shows in a series of inept aristocrats, will not necessarily come from those with inherited wealth and power; nor will it come from a young man of unguided "ability" such as Jason. Like Godwin in Caleb Williams, Edgeworth is concerned with showing "things as they are" and laying the basis for her claim that reform is necessary. In a form of political irony characteristic of Jacobin fiction, Edgeworth only implies the solution to a crisis of governance through its absence. The lack of morally sound leadership creates a void that must be filled, and Edgeworth's indictment of the family and the process of inheritance moves away from Burke's solution to chaos and toward the individual of contract theory.

The central role that ownership plays in Edgeworth's novel culminates in the dissipation of wealth by the Rackrents and the "usurpation" of the estate by a familial outsider. There is, however, one form of property that remains intact: Thady's great coat. At the beginning of her story, Edgeworth provides an ample footnote that explains the significance of this singular garment that Thady wears in winter and summer. The cloak, or mantle, she explains, is of "high antiquity . . . derived from the Scythians . . . [and] a general habit to most nations." Even Spenser, she continues, "knew the convenience of the said mantle, as housing, bedding, and clothing" (7-8). Through the course of the novel,

Thady's coat is the only form of property that is not wasted or transferred through various hands. It reappears at the end of the novel intact and still in the possession of its original owner. Furthermore, wrapped in a handkerchief in its pocket is the last handful of guineas that belong to Sir Condry, the final Rackrent heir. The property that belongs simply and strictly to *the person* survives while inherited property is gone.

Knowledgeable about the intricacies of land management, Edgeworth was exceptionally aware of the decisive role ownership played in socio-political constructs. In a country (Ireland) where the right of ownership was a particularly volatile issue and property rights were strictly controlled and circumscribed, the question of who has a right to the responsibilities of proprietorship had pressing local as well as global implications. Edgeworth was interested in the *quality* of land management and concerned that leadership be based on talent and merit rather than on status. She aligns herself with contractarians in exposing the corruptions in hereditary privilege, but she also takes contract theory further into the realm of morality than Wollstonecraft or Hays. Edgeworth confronts Burke on his own territory (both morality and Ireland). She confirms his fears of chaos but regards the family whose privileged status is inherited rather than earned as the culprit rather than the savior of British and Irish society.

## Notes

1. I refer here to the didactic emphasis of texts such as Hamilton's Memoirs of Modern Philosophers, West's A Tale of the Times and Austen's Pride and Prejudice, in which the fulfillment of a woman's social role is dependent on her ability to be an appropriately obedient daughter and wife. In these texts, women are encouraged to be strong and courageous but only within the framework of Christian dutifulness.
2. A few examples of post-jacobin feminist concern with issues of self-determination are the continuing debates about domestic violence, an equal rights amendment, economic compensation for child-rearing and a woman's right to terminate a pregnancy all consider fundamental questions of ownership and equal access to social and political opportunities.
3. John Locke, Two Treatises of Government, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 142. All subsequent references will be cited parenthetically in the text.
4. Gordon J. Schochet, Patriarchalism in Political Thought (New York: Basic Books, 1975), 10-16.
5. Filmer's notion of patriarchy was "in vogue" primarily between 1679 and 1681. Peter Laslett, Introduction to Two Treatises of Government, by John Locke (Cambridge: Cambridge University Press, 1988), 54.
6. S.D. Amussen, "Gender, Family and the Social Order, 1560-1725," in Order and Disorder in Early Modern England, ed. Anthony Fletcher and John Stevenson, 196-217 (New York: Cambridge University Press, 1985), 196.
7. Sir Robert Filmer, Patriarcha and Other Writings, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), 10.
8. Linda J. Nicholson, Gender and History (New York: Columbia University Press, 1986), 142.
9. Filmer, 12.

10. Filmer, 2-3, 6-7.
11. Lawrence Stone, The Family, Sex and Marriage in England, 1500-1800 (New York: Harper & Row, 1977), 153-54.
12. Laslett, 12-13.
13. Constance Jordan, Renaissance Feminism (Ithaca: Cornell University Press, 1990), 21-28.
14. Algernon Sidney, Discourses Concerning Government (London, 1698; reprinted New York: Arno Press, 1979), 16. All subsequent references will be cited parenthetically in the text.
15. Jean-Jacques Rousseau, Discourse on Political Economy, in Rousseau's Political Writing, ed. Alan Ritter and Julia Conway Bondanella, trans. Julia Conway Bondanella (New York: W. W. Norton & Co., 1988), 59-60.
16. Jean-Jacques Rousseau, Emile, trans. Barbara Foxley (London: J. M. Dent & Sons, 1992), 326. All subsequent references will be cited parenthetically in the text.
17. Elizabeth Hamilton, Memoirs of Modern Philosophers, 3rd ed. (London: G. G. and J. Robinson, 1801), 3:322.
18. Carole Pateman, The Sexual Contract (Stanford: Stanford University Press, 1988), 3.
19. Pateman, 14.
20. Denise Riley, 'Am I That Name?' (Houndmills: Macmillan Press, 1988), 13.
21. Locke, Two Treatise, 8-14.
22. Austin Sarat and Thomas R. Kearns, "A Journey Through Forgetting: Toward a Jurisprudence of Violence," in The Fate of Law, ed. Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 1993), 268-69.
23. For further discussion of "the death of reason" in legal studies, see Robin West, "Disciplines, Subjectivity, and Law," in The Fate of Law, ed. Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 1993) and Roberto Mangabeira Unger,



- The Critical Legal Studies Movement (Cambridge: Harvard University Press, 1986).
24. John Rawls, "The Law of Peoples," Critical Inquiry 20 (Autum, 1993):36-68, 39-40.
25. Richard Posner, Law and Literature (Cambridge: Harvard University Press, 1988), 287.
26. Jean Bethke Elshtain, Public Man, Private Woman (Princeton: Princeton University Press, 1981), 4.
27. Marilyn Butler, Jane Austen and the War of Ideas (Oxford: Clarendon Press, 1987), 124.
28. Carol Gilligan, Janie Victoria Ward, and Jill McLean Taylor, eds., Mapping the Moral Domain (Cambridge: Harvard University Press, 1988), 3.
29. Mary Hays, Memoirs of Emma Courtney (London: Robinson, 1796; London and New York: Pandora Press, 1987). All subsequent references will be cited parenthetically in the text.
30. See Monthly Magazine 1 (June 1796):385-387; 2 (July 1796):469-70; 3 (March 1797):193-95; 3 (May 1797):358-60; 3 (March 1797):193-95; 4 (Sept 1797):180-81.
31. Gina Luria, "Mary Hays: A Critical Biography" (Ph.D. diss., New York University, 1972).
32. See Mary Hays, Letters and Essays, Moral and Miscellaneous (London: T. Knott, 1793; New York and London: Garland Publishing, 1974), v-x.
33. Critical Review 19 (Jan. 1797):109-11. Other reviews of Emma Courtney were published in the following periodicals: Analytical Review 25 (Feb. 1797):174, 178; Monthly Review, 2d ser., 22 (Apr. 1797):443-49; British Critic 9 (Mar. 1797):314-15.
34. J. M. S. Tompkins, The Polite Marriage (Cambridge: Cambridge University Press, 1938), 171.
35. Martin Ray Adams, Studies in the Literary Backgrounds of English Radicalism (Lancaster: Franklin and Marshall College, 1947), 93.

36. Eleanor Ty, Unsex'd Revolutionaries (Toronto: University of Toronto Press, 1993), 46-47.
37. Gary Kelly, Women, Writing, and Revolution, 1790-1827 (Oxford: Clarendon Press, 1993), 80-81, 83, 95, 109.
38. Monthly Magazine 1 (June 1796):387.
39. See Genevieve Lloyd, The Man of Reason (Minneapolis: University of Minnesota Press, 1984), ix.
40. Tompkins, 162.
41. Gina Luria, Introduction to Letters, and Essays Moral and Miscellaneous, by Mary Hays (London, 1793; New York: Garland Publishing, Inc., 1974), 5-15.
42. Tompkins, 158-59.
43. Kelly, Women, 93-94. Kelly provides excerpts from the letters of Hays to Godwin, which are the sources of lengthy passages in Emma Courtney.
44. Christine S. Cozzens, "The Magic Circle: Elizabeth Inchbald, Mary Hays, and Mary Wollstonecraft and the Politics of Domestic Fiction" (Ph.D. diss., University of California at Los Angeles, 1987), 153-161; Gina Luria, Introduction, Appeal to the Men of Great Britain in Behalf of Women, by Mary Hays (London: J. Johnson, 1798; New York and London: Garland Publishing, 1974), 5-15; Janet Todd, The Signs of Angellica (New York: Columbia University Press, 1989), 236-52. Hays's compassionate obituary for Wollstonecraft appeared in the Monthly Magazine 4 (September 1797):232-33.
45. Katharine M. Rogers, "The Contribution of Mary Hays," Prose Studies 10 (September 1987):133, 139.
46. "Metaphysics" were derided in numerous issues of the Anti-Jacobin; or Weekly Examiner and in conservative novels by Jane West, Isaac Disraeli, Elizabeth Hamilton and Charles Lloyd. Hays received particular ridicule in Hamilton's Memoirs of Modern Philosophers and Lloyd's Edmund Oliver. In Modern Philosophers, Emma Courtney is

parodied in the bumbling character "Bridgetina Botherim," who spouts metaphysical rubbish while unabashedly hunting down the affections of a young man who has no interest in her attentions. In Lloyd's text, Hays herself is embodied in "Gertrude Sinclair," a tragic woman destroyed by the new philosophy.

47. Monthly Magazine 1 (June 1796):387.
48. Monthly Magazine 2 (July 1796):469.
49. Thomas Paine, "Rights of Man," 151.
50. Burton R. Pollin, "Mary Hays on Women's Rights in the Monthly Magazine," Etudes Anglaises 24 (1971):271-82.
51. Immanuel Kant, "What is Enlightenment?" in The Enlightenment, ed. Peter Gray (New York: Simon and Schuster, 1973), 384.
52. Carl B. Cone, Burke and the Nature of Politics (Kentucky: University of Kentucky Press, 1964), 2:330; C.P. Courtney, Montesquieu and Burke (Oxford: Basil Blackwell, 1963), 162; Colin Rhys Lovell, English Constitutional and Legal History (New York: Oxford University Press, 1962), 330.
53. Claude Adrien Helvétius, A Treatise on Man, trans. W. Hooper (London: Albion Press, 1810), 2-3.
54. Helvétius, Treatise on Man, 4.
55. Mary Hays, Appeal to the Men of Great Britain in Behalf of Women (London: J. Johnson, 1798; New York and London: Garland Publishing, 1974). See also Kelly, Women, 113, for discussion of the attribution of Appeal to Mary Hays.
56. See Carol Gilligan, In a Different Voice (Cambridge: Harvard University Press, 1982); Gillian Brown, Domestic Individualism (Berkeley: University of California Press, 1990); Nancy Armstrong, Desire and Domestic Fiction (New York: Oxford University Press, 1987).
57. Janet Todd speaks to this point in Signs of Angellica, 204-5. Todd also notes that even radical men rarely suggested ways in which women could be included in economic

development.

58. Todd, Signs, 244.

59. Kelly, Women, 3-29.

60. Mary Wollstonecraft, Maria; or the Wrongs of Woman (London: J. Johnson, 1798; New York: W. W. Norton & Co., 1975). All subsequent references will be cited parenthetically in the text.

61. C. B. Macpherson, The Political Theory of Possessive Individualism (Oxford: Clarendon Press, 1962); John Rawls, A Theory of Justice (Cambridge: Harvard University Press, 1971); Charles Fried, Contract as Promise, (Cambridge: Harvard University Press, 1981).

62. Mary Wollstonecraft, A Vindication of the Rights of Woman (London: J. Johnson, 1792; London: Penguin Books, 1983), 90. All subsequent references will be cited parenthetically in the text.

63. Mary Poovey, The Proper Lady and the Woman Writer (Chicago: University of Chicago Press, 1984), 109. For an emphasis on sensibility in Wollstonecraft's writing, see also: Mitzi Myers, "Reform or Ruin: A Revolution in Female Manners," in A Vindication of the Rights of Woman, ed. Carol H. Poston (New York: Norton, 1988); Janet Todd, Women's Friendship in Literature (New York: Columbia University Press, 1980); Syndy McMillen Conger, "The Sentimental Logic of Wollstonecraft's Prose," Prose Studies 10 (September 1987); Mary Jacobus, Reading Woman (New York: Columbia University Press, 1986).

64. Sir William Blackstone, Commentaries on the Laws of England, 4 vols., 4th ed. (Dublin, 1771), 1:442.

65. Through the Court of Chancery (equity), women could arrange for separate property. See Susan Staves, Married Women's Separate Property in England, 1660-1833 (Cambridge: Harvard University Press, 1990), 199.

66. Blackstone, 1:442.

67. Gary Kelly, Revolutionary Feminism (New York: St. Martin's Press, 1992), 140-70.

See also Virginia Sapiro, A Vindication of Political Virtue (Chicago: University of Chicago Press, 1992), 32-41.

68. Montesquieu explains the facets of marriage that correspond to canon law or civil law, respectively. According to William Blackstone, the distinction also appears in English law. The ownership of property is clearly linked with the ability to function in the public sphere.

As marriage is of all human actions that in which society is most interested, it became proper that this should be regulated by the civil laws. . . .

Everything which relates to the nature of marriage, its form, the manner of contracting it, the fruitfulness it occasions, . . . is within the resort of religion. . . . The consequences of this union with regard to property, the reciprocal advantages, everything which has a relation to the new family, to that from which it sprang, and to that which is expected to arise; all this relates to the civil laws. . . . As one of the great objects of marriage is to take away that uncertainty which attends unlawful conjunctions, religion here stamps its seal, and the civil laws join theirs to it, to the end that it may be as authentic as possible. Thus, besides the conditions required by religion to make a marriage valid, the civil laws may still exact others" (II, 68).

See Baron de Montesquieu, The Spirit of the Laws, trans. Thomas Nugent (New York: Hafner Press, 1949).

69. For a discussion of custom and English law, see E.P. Thompson, Customs in Common (New York: The New Press, 1993), 97-184.

70. In thirteenth-century France, the *communauté* was more of an actual partnership than in the eighteenth century. Both spouses, for example, had to endorse property transactions and were mutually liable to suits for debt. See Adrienne Rogers, "Women and the Law," in

French Women and the Age of Enlightenment, ed. Samia I. Spencer (Bloomington: Indiana University Press, 1984), 35.

71. Rogers, 33-36.

72. Montesquieu, 2:3.

73. Rogers, 43-44.

74. Déclaration des droits de l'homme et du citoyen ([Paris]: [s.n.], [c.1791]).

75. Olwen H. Hufton, Women and the Limits of Citizenship in the French Revolution (Toronto: University of Toronto Press, 1992), 3-4.

76. Susan Snaider Lanser, Fictions of Authority (Ithaca and London: Cornell University Press, 1992), 231.

77. Anne K. Mellor, Romanticism and Gender (New York: Routledge Press, 1993), 69.

78. Thomas Paine, The Rights of Man, in The Essential Thomas Paine, (New York: New American Library, 1969), 128. In common law, one *could* own property in another person. A husband's ownership of the property in his wife is one example.

79. See Lawrence Stone, The Family, Sex and Marriage in England 1500-1800 (New York: Harper & Row, 1977), 613.

80. Stone, 630. See also Laws Respecting Women (London: J. Johnson, 1777). "The principal obligation which the law lays on the parents of bastard children is, that of maintenance, which it regulates in the following manner. A woman who declares herself with child of a bastard, or who is delivered of one, must make oath before a justice of peace of the man who begot the child, who is then by virtue of a warrant brought before him, when he must give good security either to maintain the child, or that he will appear at the next quarter sessions to try the fact charged upon him" (401-2).

81. Stone, 502, 532.

82. Lynn Hunt, The Family Romance of the French Revolution (Berkeley: University of California Press, 1992), 66.

83. Catharine A. MacKinnon, Feminism Unmodified (Cambridge: Harvard University Press, 1987), 48.
84. Stone, 646-47.
85. Catharine MacKinnon, Toward a Feminist Theory of the State (Cambridge: Harvard University Press, 1989), 113.
86. Mary Wollstonecraft, A Vindication of the Rights of Woman (London: J. Johnson, 1792; New York: Penguin Books, 1983), 86-87.
87. Sapiro, 196.
88. Mary Wollstonecraft, A Vindication of the Rights of Men (London: J. Johnson, 1790; Gainesville: Scholars' Facsimiles & Reprints, 1960), 151-52.
89. Wollstonecraft also discusses the oppressive power of property in Vindication of the Rights of Men, 49-53.
90. Stone, 331; Staves, 162-95.
91. Stone, 332. See also Laws Respecting Women (London: J. Johnson, 1777): "A man may lawfully own and retake his wife or child wherever he finds them; but this act of recaption must not be done riotously, or in a manner which occasions a breach of peace" (54).
92. Holdsworth, 12:523.
93. Laws Respecting Women, 53-54. The "old law" regarding possession of the wife by the husband was apparently so rigid that "if a man's wife missed her way upon the road, it was not lawful for another man to take her into his house, unless she was benighted, or in danger of being lost or drowned" (54).
94. A woman could serve as an attorney for her husband because this service was regarded as a "representation" of "her lord" (Blackstone 1:442). Though it is not true in any legal sense, Maria refers to Darnford as the man she considers her husband, and it is for him she is acting as "absent" counsel in this courtroom scene.

95. Blackstone, 1:443.
96. Kelly, Women, 9-13, 17.
97. Stone, 38.
98. Blackstone, 1:440-442.
99. Teresa Michals, "'That Sole and Despotie Dominion': Slaves, Wives, and Game in Blackstone's Commentaries," Eighteenth-Century Studies 27 (Winter 1993-94):195-98.
100. Eva Figs, Sex & Subterfuge (New York: Persea Books, 1982).
101. Tilottama Rajan, "Wollstonecraft and Godwin: Reading the Secrets of the Political Novel," Studies in Romanticism 27 (Summer 1988):233.
102. Poovey, 96-100.
103. Brown, 3.
104. Armstrong, 3-8.
105. Ty, 38.
106. Seyla Benhabib, Situating the Self (New York: Routledge Press, 1992), 152.
107. For further discussion on the social construction of "woman," see MacKinnon, Feminism Unmodified, 21, 23, 49.
108. Judith Butler, Gender Trouble (New York and London: Routledge Press, 1990), ix.
109. Maria Edgeworth, Castle Rackrent (London: J. Johnson, 1800; Oxford: Oxford University Press, 1964). All subsequent references will be given parenthetically in the text.
110. Marilyn Butler, Maria Edgeworth: A Literary Biography (Oxford: Clarendon Press, 1972), 353. Castle Rackrent was published by Joseph Johnson of London. The first edition was published anonymously, but the second bore Edgeworth's name because after the success of the novel someone else claimed authorship. See The Life and Letters of Maria Edgeworth, ed. Augustus J.C. Hare (New York: Books for Libraries Press, 1894), 76.
111. The Union of Ireland and Great Britain to form the United Kingdom occurred in January of 1801. See Companion to Irish History, 1603-1921: from the Submission of



- Tyrone to Partition, ed. Peter R. Newman (New York: Facts on File, 1991), 206-7.
112. Ernest Baker, "Edgeworth and the English Novel," in Family Chronicles: Maria Edgeworth's *Castle Rackrent*, ed. Coilin Owens (Dublin: Wolfhound Press, 1987), 33.
113. Elizabeth Kowaleski-Wallace, Their Fathers' Daughters (New York: Oxford University Press, 1991), 158-59.
114. Marilyn Butler, Maria Edgeworth: A Literary Biography (Oxford: Clarendon Press, 1972), 358.
115. Maria Edgeworth to Mrs. Stark, 6 Sept. 1834. See Mrs. Edgeworth, Memoir of Maria Edgeworth (privately printed, 1867), 3:152.
116. Thomas Flanagan, The Irish Novelists 1800-1850 (Westport: Greenwood Press, 1958), 78, 79.
117. John Cronin, The Anglo-Irish Novel, (Totowa: Barnes & Noble, 1980), 1:38.
118. Maurice Colgan, "The Significant Silences of Thady Quirk," in Family Chronicles: Maria Edgeworth's *Castle Rackrent*, ed. Coilin Owens (Dublin: Wolfhound Press, 1987), 57-62.
119. Arthur Young, Arthur Young's Tour in Ireland (London: George Bell & Sons, 1892), 2:61. Arthur Young provides a detailed summary of some of the Penal Laws as he quotes from Sydney Smith's "Essay on Ireland," published in the Edinburgh Review, 1820. Under George I and George II, Catholics were disenfranchised, prohibited from holding civil or military offices, entering into corporations, serving on juries, and practicing law or medicine. In addition, Catholics could not purchase freehold lands, hold a lease for longer than 31 years, inherit intestate, hold an advowson, or buy a life annuity. Entails were broken and divided equally among the children. A Catholic's horse could be purchased by anyone at anytime for 5 pounds or seized outright by the militia. Rewards of 50 pounds were given for reporting a Popish archbishop, 30 pounds for a clergyman, and 10 shillings for a schoolmaster. Finally, any Catholic priest celebrating marriage "contrary to the George I.

cap. 3" was hanged.

120. W. J. McCormack, Ascendancy and Tradition in Anglo-Irish Literary History from 1789 to 1939 (Oxford: Clarendon Press, 1985), 118-19.

121. Butler, "Sources," 23.

122. Young, 2:30.

123. Young, 2:24-34, 46-48.

124. J. C. Beckett, The Making of Modern Ireland 1603-1923 (New York: Alfred A. Knopf, 1966), 176.

125. Young, 2:26, 27, 53.

126. Sandra M. Gilbert and Susan Gubar, The Madwoman in the Attic (New Haven: Yale University Press, 1979), 146-54.

127. Edgeworth, 107. "Weed ashes," Edgeworth explains in the glossary, were used in the process of bleaching linen. By ancient custom, the weeds of a farm belonged to the farmer's or the squire's wife; therefore, the profits from weed ashes (which could amount to a considerable sum) belonged to the wife. "Sealing-money," Edgeworth also explains, was money typically given to the squire's wife prior to the sealing of a lease.

128. The Gentleman's Magazine, 59:766-67.

129. A jointure of 500 pounds per year was an average settlement for the gentry. See Staves, 95.

130. Edward Coke, The First Part of the Institutes of the Laws of England; or A Commentary upon Littleton, 19th ed., 2 vols. (London, 1832; reprint, New York: Garland Press, 1979), 1:36b.

131. Staves, 95-104.

132. Roberto Mangabeira Unger, The Critical Legal Studies Movement (Cambridge: Harvard University Press, 1986).

133. "Sympathy as a Legal Structure," Harvard Law Review 105 (June 1992):1961-80.

See also Zillah R. Eisenstein, The Female Body and the Law (Berkeley: University of California Press, 1988).

134. Edmund Burke, Reflections on the Revolution in France (Harmondsworth: Penguin Books, 1969), 195. All subsequent references will be given parenthetically in the text.

135. Michael McKeon, The Origins of the English Novel, 1600-1740 (Baltimore: Johns Hopkins University Press, 1987), 132.

## Chapter 5

### Critiquing the Contract

*O but we dreamed to mend  
Whatever mischief seemed  
To afflict mankind,  
Yeats*

The fate of women in the transformation of the body politic left its impression on William Godwin. His provocative novel Things As They Are; or, the Adventures of Caleb Williams offers an overt criticism of the patriarchal structures and harmful obsession with honor and reputation of the feudal system supported by Burke. It also provides a subtle and significant critique of contract theory, its exclusions, and its possible infringements on the freedoms of the individual. Caleb Williams works in the traditions of Dissenting and republican discourses.<sup>1</sup> It incorporates the Lockean definition of property that assumes an ownership of the self, Rousseau's concern with the first principle of self-preservation, the Dissenter's wish for respect of personal conscience and Paine's insistence on the acknowledgement of inalienable natural rights. Yet it also reflects Godwin's own intense adherence to the authority of private judgement. As a narrativization of "things as they are," Caleb Williams arguably offers more insights into the human implications of political decisions and the personal tragedies suffered at the hands of corrupt institutions than his philosophical essay An Enquiry into Political Justice. When the character Caleb Williams steps into a garden of enticing dependencies and uncontrolled passions, he exemplifies the unenfranchised individual trapped in a juridical maze. Caleb's utter loss of self calls attention to the plight of the financially dependent (servants and women), and it justifies the Jacobin call for a clarification of rights and a new understanding of the relationship between the individual and the law.

Caleb Williams has been the most widely discussed of the Jacobin novels. Yet the extent to which Godwin's text is about the law has been considerably underestimated. Analyses that are most interested in Caleb Williams as a romantic or Gothic novel tend to

consider human motivation and emotional response to legal abuses over and above systemic issues. Robert Kiely, for example, suggests that "the novel's two major cases of oppression are curiously independent of the general rule they are apparently meant to exemplify . . . . The deeper Godwin probes into the subject of human possessiveness and oppression, the more personal, irrational, and complicated the problem becomes."<sup>2</sup> Studies that focus on Godwin's socio-political agenda have certainly mentioned the trial scenes, references to the Black Act, and the importance of Falkland's role as a magistrate. They have also investigated a number of the connections between the novel and Political Justice.<sup>3</sup> None, however, has seen the representation of the legal subject as the unifying element of the text, nor have they revealed the rich layerings of Godwin's thoughts on the law and the dispossessed. Only a review by Robert G. Robinson notes that "legal proceedings dominate the action" of the novel, and that "[i]f you count the *apologia pro sua vita* which is the overall narrative, we are dealing with some of the most litigious people in all of literature."<sup>4</sup>

At the appearance of Caleb Williams, however, there was a great deal of interest in Godwin's representation of British law. William Enfield in The Monthly Review observed Godwin's "peculiar opinions" on juridical institutions, which he summed up as the thesis that "law itself, in its origin and essence, is unjust."<sup>5</sup> The British Critic was outraged by "the evil use which may be made of considerable talents" and incensed by Godwin's "odious" portrayal of his country's laws.<sup>6</sup> Most of the responses were either surprise or contempt at Godwin's general distaste for legal orchestrations in society, but a letter to The British Critic took Godwin to task for very specific misrepresentations of the law in the story of the Hawkinses in Caleb Williams. The Hawkinses were a father and son evicted for voting against the wishes of their landlord, persecuted under the Black Act (see below) and eventually hanged for the murder of a local landowner. The correspondent to The British Critic found numerous discrepancies between Godwin's narrative and his own reading of

the law, such as the unlikelihood that a landlord would coerce a tenant into voting according to his direction, that a mere trespasser could be charged with a capital offence and that Falkland could be tried twice for the same crime. Nonetheless, the correspondent's search for legal accuracy in itself reveals the equivocal spirit of law as well as the gap between the apparent precision and definitiveness of positive law and the habits, customs, practices and manipulations that occur in the daily lives of British citizens.

Godwin is indeed openly critical of law in Caleb Williams. In the course of telling the Hawkinses' tale, the narrator interjects commentary on why the legal system is an inadequate means of obtaining justice.<sup>7</sup> Reviewers' hackles were raised by such remarks as the following:

Wealth and despotism easily know how to engage those laws as the coadjutors of their oppression which were perhaps at first intended [witless and miserable precaution!] for the safeguards of the poor. . . . Hawkins had hitherto carefully avoided, notwithstanding the injuries he had suffered, the attempting to right himself by legal process, being of opinion that law was better adapted for a weapon of tyranny in the hands of the rich, than for a shield to protect the humbler part of the community against their usurpations.<sup>8</sup>

When Hawkins does try to reach a fair settlement through the courts, he faces a web of legal intricacies, and "by affidavits, motions, pleas, demurrers, flaws and appeals" the dispute is perpetuated "from term to term and from court to court." It all becomes "a question of the longest purse" (73). Godwin's written response to The British Critic counters some of the specific criticisms of legal inaccuracies. He insists that in practice one can be tried twice for the same charge and cites accounts from the Newgate Calendar and Lives of the Convicts. While his opponent at The British Critic dismisses Godwin's sources, he does explain how one may be charged twice for the "same offence":

Mr. Godwin may easily learn from his professional friend [a lawyer] that the proceeding upon appeal is distinct, and independent upon the prosecution by indictment. He supposes it to be a revision of a former sentence. It is a remedy given in many other cases, as rape, arson, mayhem, robbery, as well as murder; and is in all cases an action at the suit of the party, as an indictment is a prosecution at the suit of the crown. The latter is a criminal, the former a civil proceeding. The latter intended to punish the offence against the public peace and good order, the other to make satisfaction for the damage sustained by an individual.<sup>9</sup>

Thus, with altered charges, Falkland could be tried twice for the murder of Tyrrel. Yet Godwin professes that he was more concerned with the systemic issues of law than its details. The object of Caleb Williams, he claims, was "to expose the evils which arise out of the present system of civilized society . . . to disengage the minds of men from prepossession, and launch them upon the sea of moral and political enquiry." It was "the administration of justice and equity, with its consequences, as it exists in the world at large, and in Great Britain in particular," that was the object of exposure and censure in Caleb Williams.<sup>10</sup> Godwin's clarifications, however, did nothing to silence his critics; the magnitude of his critique only exacerbated their ire. To condemn the British legal system and its assumptions about justice and equity was bad enough, but to do it in "the form of a novel, to make it circulate among the ignorant, the credulous, and unwary" was the ultimate error.<sup>11</sup>

Although Godwin addresses the law in its multiple manifestations--and the expansiveness of his exploration is what makes the novel so interesting--he does in fact expose particular legislation that reflects an oppressive or at least a questionably restrictive ideology. One such mandate was The Waltham Black Act (9 George I c.22). Instituted in 1723, the Black Act was first seen as a piece of emergency legislation intended for a period

of three years, yet it remained in effect for the next century. It was not repealed until 1823.<sup>12</sup> The act presumably responded to the increased activities of groups of armed men with blackened faces who were poaching wildlife and hustling forest warrens in Waltham Chase, Hampshire (hence, the "Waltham" Black Act).<sup>13</sup> Under the Black Act, it was a capital offence to appear in a forest "armed with swords, fire-arms, or other offensive weapons, and having his or their faces blacked, or being otherwise disguised."<sup>14</sup> The act first reads as an extreme measure to contain the act of poaching run wild, but its impact was far-reaching, and before long it was being invoked in cases of trespassing, cutting down a young tree, being armed without a blackened face, or being disguised but not carrying a weapon.<sup>15</sup> Furthermore, prosecution was made convenient. The defendant could be tried in any county in England, and if the accused refused to surrender himself, he could be "sentenced to death without further trial."<sup>16</sup>

The instance of trespassing in Caleb Williams exemplifies the extent to which the Black Act was easily exploited. In a campaign of harassment, the landowner Barnabas Tyrrel barricades a broad path that is the Hawkinses' only access to a road leading to the market town. Since the path crosses the land of one of his tenants, which is adjacent to the Hawkinses' farm, Tyrrel believes himself justified under the ordinances protecting private property. The younger Hawkins, who is indignant at this obvious act of persecution, "went in the middle of the night and removed all the obstructions that had been placed in the way of the old path, broke the padlocks that had been fixed, and threw open the gates" (74). Having been observed, he is immediately caught and his movements are recast into activities punishable under the Black Act. Young Hawkins had unfortunately "buttoned the cape of his great coat over his face as soon as he perceived himself to be observed; and he was furnished with a wrenching-iron for the purpose of breaking the padlocks" (74). In addition, according to the prosecuting attorney, the field in question was a feeding site of hares. Disguised, armed, and on private property containing wildlife,



Hawkins is charged with a felony punishable by death.

Godwin's demonstration of the malleability of the Black Act is cited by E. P. Thompson as exemplifying one kind of abuse that could be (and was) incurred.<sup>17</sup> Godwin's story is also mentioned by Thompson because it points to the growing concern for the definition and protection of private property in the seventeenth and eighteenth centuries. Thompson argues that "the Blacks," whose operations provoked the passage of the act, were not quite "social bandits, and they [were] not quite agrarian rebels, but they share something of both characters." He claims that they were "armed foresters, enforcing the definition of rights to which the 'country people' had become habituated," and they were "resisting the private emparkments which encroached upon their tillage, their firing and their grazing."<sup>18</sup> The Black Act offered extensive protection of private property and, through its retribution of death, placed human life in an unfortunately subordinate position to the preservation of deer, fish, cattle, trees, barns and out-houses. It indicated the growing authority of property in the eyes of the law "until justice itself was seen as no more than the outworks and defences of property and of its attendant status."<sup>19</sup> The passage of the Black Act, Thompson contends, may have been an instance of the government pacifying its greatest supporters (the most propertied), but it likewise indicated "a prior consensus as to the values of property in the minds of those who drafted it." The Black Act also indicated a recent trend in criminal enforcement when it employed "terror" to assert its authority.<sup>20</sup>

Terror as a tool of the law is at work throughout Caleb Williams, and it is interwoven with multiple disputes over property. At the heart of the representation of property in Caleb Williams is the controversy about ownership of other persons and the extent of control over others' behavior. For example, the source of trouble for the Hawkinses is a battle over agency. The elder Hawkins balks at being forced to vote according to his landlord's wishes and suffers eviction because of his gesture of

independence. When Tyrrel allows him to rent a piece of his land, Tyrrel decides that he wants Young Hawkins in his service. The elder Hawkins resists, and the conflict that follows leads to the barricaded path and the charge of Young Hawkins under the Black Act. Within the context of the debate over natural and civil rights, the narrator's description of events is surely meant to be contentious. Tyrrel wants to take the boy "into his family" and "make him whipper-in to his hounds" (69). The father resists, and Tyrrel gives vent to his expectations of dominion. "I made you what you are," Tyrrel declares, "and, if I please, can make you more helpless and miserable than you were when I found you. Have a care!" (70). In his possessiveness, Tyrrel violates the crucial maxim of contractarian thought that was articulated by Paine: "Man has no property in man."<sup>21</sup> Tyrrel also reverts back to behavior reminiscent of feudal arrangements of power and treats the Hawkinses as if they had the medieval status of the "villein." In the twelfth century, "villein" referred to "unfree peasants." Although villeins had some rights such as protection under criminal law, they were in numerous ways subject to the will of the lord of the manor. The landowner could seize the property of villeins, exercise corporal punishment over them, and prohibit them from escaping their tenancy.<sup>22</sup> Much as the medieval concept of liberty as inheritable property was retrieved by Burke, Tyrrel's expectations of control over his tenants indicate that the spirit of villeinage (unfree status) lived on even after its elimination as a formal rank in the thirteenth century.

Meanwhile, Hawkins declares his and his son's autonomy. Of himself, he says, "Though I am a plain working man, your honour, do you see? yet I am a man still. No; I have got a lease of my farm, and I shall not quit it o'thaten" (71). Of his son, he pleads,

We have all of us lived in a creditable way; and I cannot bear to think that this poor lad of mine should go to service. For my part, I do not see any good that comes by servants. I do not know, your honour, but, I think, I should not like my Leonard to be such as they. At present he is sober and

industrious, and, without being pert or surly, knows what is due to him.

(70)

It is important to note that part of Hawkins' strength comes from the fact that he now owns the lease to his property, and this ownership provides him with the ability to resist. Nevertheless, the stance he takes against Tyrrel is a brave one, and his assumption that his son is "owed" better opportunities than servitude points to the notion, also advanced by Paine, that the individual is a proprietor in society. At the very least, Hawkins' belief that his son's expectations of advancement are legitimate elevates the individual to a figure who has broken through the limitations of class and proven himself to be capable of advancement.

The events in Volume I of Caleb Williams are often neglected or regarded as troublesome to the aesthetic unity of the novel. Gerard A. Barker, for instance, suggests that some of the ambiguities in the text stem from "the inherent problem of integrating the first volume with the rest of the novel."<sup>23</sup> A closer look, however, reveals that there are a number of parallels between the first and the last two volumes. The alliance between Barnabas Tyrrel and the Hawkinses offers numerous foreshadowings of the relationship between Falkland and Caleb Williams; these parallels reflect a struggle between a superior's control and individual sovereignty. Tyrrel's forced exile from society is also a hint of future events for both Falkland and Caleb; all of these characters suffer social ostracism at some point in the narrative, although Caleb's is the most profound. Finally, the fate of Emily Melville, a young cousin of Tyrrel who dies as a victim of his extreme possessiveness, is analogous to Caleb's demise. The "economy" of her situation is mirrored in Caleb's financial dependency on Falkland, and together Caleb and Emily figure a conflation of gender and class concerns in the novel. Caleb's circumstances as a servant are significantly analogous to those of women subject to the control of fathers, elder brothers or husbands. While the dilemmas of Volume I are to some extent the common stock of

novels with an added Jacobin twist to elucidate the politics of social relations, they establish the paradigm of conflict for the more complex encounters between Caleb and Falkland.

In the story of the Hawkinses, Falkland himself unwittingly predicts his own future conduct when he advises Tyrrel on his behavior in the entanglement over the Young Hawkins. Tyrrel continues to lay claim to his authority in the situation--that is, his right as a landlord to demand the services of Young Hawkins. "Is not the man my tenant? Is not my estate my own? What signifies calling it mine, if I am not to have the direction of it?" he asks. "I took up Hawkins when every body forsook him, and made a man of him," he claims (76). Falkland's response is that of a sober, benevolent man not yet faced with crises of his own. He urges reason, kindness and forgiveness and even seems to have some understanding of class disadvantages. But his comments are sprinkled with remarks that establish him as a Burkean figure. He bases his interference in Tyrrel's affairs on a kind of chivalric code between landowners. Thus, Falkland says to Tyrrel, "If I see you pursuing a wrong mode of conduct, it is my business to set you right and save your honour" (76). His sense of benevolence is likewise grounded in a policy of *noblesse oblige*. To Tyrrel, he explains, "I believe that distinction is a good thing, and necessary to the peace of mankind. But, however necessary it may be, we must acknowledge that it puts some hardship upon the lower orders of society. . . . We that are rich, Mr. Tyrrel, must do every thing in our power to lighten the yoke of these unfortunate people" (76-77).

Particularly in the context of the Hawkinses' story, and in contrast to Tyrrel, Falkland seems to speak as a reasonable man. His calm, however, is deceptive, and his politics are equally misleading. In the next few moments of this scene, passions escalate, and the dangerous forces of unwieldy emotion begin to show the potential breadth of their influence. Falkland's admonitions to Tyrrel anticipate his impending confrontations with Caleb. In utter frustration, he lashes out:

I am ashamed of you! Almighty God! to hear you talk gives one a loathing for the institutions and regulations of society, and would induce one to fly in the very face of man! But, no! society casts you out; man abominates you. No wealth, no rank can buy out your stain. You will live deserted in the midst of your species; you will go into crowded societies, and no one will deign so much as to salute you. They will fly from your glance, as they would from the gaze of a basilisk. Where do you expect to find the hearts of flint, that shall sympathize with yours? You have the stamp of misery, incessant, undivided, unpitied misery! (78)

Falkland's emotional outburst at first appears to shatter Tyrrel's complacency and self-righteousness and instill some sense of guilt. On the surface, it seems that the unleashing of such passion has a positive effect; however, the eventual outcome of the encounter between Tyrrel and Falkland is in itself a signal that warring passions will come to no good. As Pamela Clemit argues, Caleb Williams is a novel about the importance of rationality as much as it is one about the lethal outcome of uncontrolled desires, appetites, and obsessions.<sup>24</sup> As a result of this episode, Tyrrel begins to think about revenge-- "[v]engeance was his nightly dream, and the uppermost of his waking thoughts"--and Falkland, further exasperated by another scene of tyranny, is soon driven to murder.

Another story in Volume I that is an important precursor to Caleb's tale is that of Emily Melville. The dynamics of her relationship with Barnabas Tyrrel are later essentially duplicated in the economic and emotional alliance between Caleb and his "Master" Falkland. In many ways, Emily and Caleb are alike, and the similarities between them contribute to the overall structural unity of the novel as well as to its articulation of political possibilities. The conflation of a male servant and an unpropertied woman points to the contingency of agency on the right of property, the function of emotion in the operation of tyranny and the necessity of self-governance recognized by the law for confrontations with

the law. Without an acknowledgement of property in the self, one could not obtain status. As the legal historian J. H. Baker has shown, "status could profoundly affect property rights and contractual capacity, not to mention access to the common-law system itself."<sup>25</sup> Emily and Caleb are both "orphans"; therefore they enter adulthood without stable familial connections and without status.<sup>26</sup> In Burke's construction of rights, they are at a severe disadvantage. They are also in serious danger, and their respective fates illustrate just how perilous existence can be without a guarantee of self preservation.

Emily and Caleb are innocent figures when young; they are certainly inexperienced, and ingenuous, until they are confronted with the actions of men who are fearful that they are losing their authority and all of its attendant privileges. Emily comes to know the evils of the world only too late: "[c]onscious herself that she would not hurt a worm, she could not conceive that any one would harbour cruelty and rancour against her" (46). Caleb's natural and boyish curiosity leads him directly into his fatal confrontation with Falkland. Emily and Caleb also suffer from excessive imagination and a romantic temperament. Emily falls in love with Falkland, and she begins to behave obsessively--to Tyrrel, quite annoyingly. Emily's thoughts of Falkland and his kindnesses "made her heart palpitate, and gave birth to the wildest chimeras in her deluded imagination" (42). Caleb has an "invincible attachment to books of narrative and romance." He "panted for the unravelling of an adventure, with an anxiety," and these books "took possession of [his] soul." "My imagination must be excited," he discloses to the reader, "and, when that was not done, my curiosity was dormant" (4). Caleb eventually discovers that he too loves Falkland, and his devotion to him impedes his ability to fight for his personal liberties. Both are swept away by Falkland's part in a "political romance." He seems to fit the image of the paternal landowner looking after his subordinates, and for Emily he becomes the conventional romantic hero. He saves her from a fire and an attempted rape and then pays her "debt" to her guardian in a final effort (which ultimately fails) to save her life. Emily's circumstances

never allow for the moment of enlightenment or the crucial exercise of reason that would reveal Falkland's darker side. Caleb likewise remains deluded until the end, but his activities divulge to the reader the dangers of succumbing to the fictions of a sovereign's good will.

Emily's story also serves as a vehicle to disclose the typical distresses of women who are the objects of ownership in a society dominated by property. The laws governing married women's property first come under attack in the account of Emily's parents. Emily was born into poverty because her father spent her mother's modest fortune and because the portion of her mother's estate that should have reverted to Emily was used "to swell the property of the male representative" (38). These actions were sanctioned by the law, and they left Emily without a place in a family. Like Wollstonecraft's Jemima, Emily was deprived of status. She was taken in by the Tyrrels, but she was not received as a member of their family, and she was not even accorded the position of a domestic. Her state of formal non-existence left her especially vulnerable to abuses of authority, and her survival came to depend on placating her guardian, who had fallen in love with her but neither wished to give her a proper status as his wife nor to see her happily married to another. She becomes a typical female character whose sufferings in the domestic realm contradict its image as a site of personal and national security.

As the story continues, Emily evolves into a Clarissa-like figure. She falls in love with Falkland, and when her guardian Tyrrel disapproves, he tries to force her into a marriage with the brutish laborer Grimes. At Emily's insistent refusal to acquiesce in his design, Tyrrel locks her in an apartment and plans to have her abducted and raped. The plan fails because of Falkland's intervention, but Tyrrel soon has her arrested for "debt," and, unable to endure further trauma, Emily falls sick and dies. After Richardson, and certainly by the 1790s, Emily's fate is somewhat common fare in novels. The Godwinian mark, however, is the identification of property in a political context as the culprit behind

the machinations that destroy Emily and the critique of emotions that are complicitous in the perpetuation of unequal social relations. Emily's encounters with Tyrrel become, like the Hawkinses', a battle of wills. She tries to assert her independence, and Tyrrel, through application to the laws of ownership, tries to claim Emily as his possession and thereby justify his control of her actions.

The language of possession appears throughout the scene in which Emily defies Tyrrel's assertion of power over her. "Do you think I will let any body else chuse a husband for me?" she asks, and continues: "I am right to have a will of my own in such a thing as this." But Tyrrel counters by asserting that he will reduce her to her true status, which is really none at all, and he derides her overactive fancy. "You must be taken down, miss," he cries, "[y]ou must be taught the difference between high flown notions and realities" (49). Tyrrel's contemptuous recasting of status conflict as an issues of emotion and imagination was a device frequently used in the Anti-Jacobin movement. It was an attempt to detract from the political importance of the situation and displace the actual issue at hand. Despite Tyrrel's efforts at distraction, when the narrator tells us that Tyrrel was "accustomed to consider women as made for the recreation of the men, and to exclaim against the weakness of people who taught them to imagine they were to judge for themselves," the reader is forced to consider the questions of self-governance and private judgment (51). The language of possession becomes most intensified, however, when Tyrrel feels that he is losing control. When Emily demands to know by what "right" he keeps her captive, he invokes the authority of "the right of possession." "This house is mine," he argues, "and you are in my power." He presents his guardianship in terms of money--"I will make you a bill for clothing and lodging"--and threatens her with the legal action to which he eventually resorts. "Do you not know," he asks, "that every creditor has a right to stop his runaway debtor?" (57). At the failure of his scheme to have Emily abducted and raped, Tyrrel carries out his final threat and has Emily arrested "for a debt



contracted for board and necessities for the last fourteen years" (81). She is ultimately reduced to an object of economic exchange and in the process loses even the remotest sense of self, autonomy or agency she might once have claimed. Falkland's mediation and effort to obtain her liberty by paying her debt is ineffective because he cannot procure it for her--she must claim it for herself. Emily's liberty cannot be so easily had. In the final confrontation between Emily, Falkland and Tyrrel, it becomes clear that only her ability to assert her individual rights, the property in herself and her own self-governance, would enable her to enjoy liberty and simply preserve her life. Emily has no natural or civil liberties and therefore no juridical protection against others' manipulations of positive law.

Godwin's philosophical writings on law are well-known for their indignant criticisms of legal systems. In Political Justice, Godwin provocatively calls law "an institution of the most pernicious tendency" and a lawyer one who can "scarcely fail to be a dishonest man."<sup>27</sup> Such comments undoubtedly stirred the same ire that Caleb Williams did. But in an early chapter of Political Justice on the "Spirit of Political Institutions," Godwin at least explains his assessment of how the law works in society, and he provides the philosophical basis for his fictionalized presentation of positive law, including the Black Act. He reiterates his conclusion that "legislation is in almost every country grossly the favourer of the rich against the poor." He cites for condemnation the game-laws, "by which the industrious rustic is forbidden to destroy the animal that preys upon the hopes of his future subsistence, or to supply himself with the food that unsought thrusts itself in his path." He condemns the disparity of revenue from the land tax (which had been reduced) and the tax on consumption (which had been increased). This contrast, Godwin argues, is an example of the government shifting financial burdens from the rich to the poor. In addition, he portrays the morass of legal procedures in a manner that anticipates Dickens' Bleak House. Like Holcroft, he remarks on the "'glorious uncertainty' of the law" that lends itself to "the multiplied appeals from court to court, the enormous fees of counsel, attorneys,

secretaries, clerks, the drawing of briefs, bill, replications and rejoinders" (94). Law may have been intended as the means by which the citizenry knows what to expect and how to behave, but it is "a labyrinth without end" and a "mass of contradictions that cannot be untangled." In fact, ambiguity is, according to Godwin, a principle upon which the legal institution was founded. Confusion is the basis of legal argument (686-89).

Godwin's proposal was to replace law with reason. "Legislation, as it has been usually understood," Godwin explains, "is not an affair of human competence. Immutable reason is the true legislator, and her decrees it behoves us to investigate." In addition, society does not make laws but can only interpret that which is declared by "the nature of things" and "the propriety of [that] which irresistibly flows from the circumstances of the case" (236). Ideally, positive law would become extinct over time, and reason would gradually fill the void. The manifestation of legislation by reason in society would be the recognition of "private judgement," which Godwin describes as the most important of all liberties:

It has appeared that the most essential of those rights which constitute the peculiar sphere appropriate to each individual, and the right upon which every other depends as its basis, is the right of private judgement. . . . To a rational being there can be but one rule of conduct, justice, and one mode of ascertaining that rule, the exercise of his understanding. (200)

The right of private judgement works with two tendencies that are mainstays of Godwin's political philosophy: the laws of necessity and the interventions of the intelligent mind. Necessity is based on the idea that the material universe is comprised of a uniformity of events; for example, the sun rises each morning and sets each night. Human knowledge progresses by perception of these regularities and investigation of their potential. We observe the workings of the universe, but we also experiment and, through the means of science, advance our learning.<sup>28</sup> The motives to do good that are instituted by positive

law--such as a personal reward--only obstruct and distort the more precise workings of observation and reason. Furthermore, promises of personal benefits encourage self-interest over and above the criterion of the greater good. There is, Godwin argues, a "moral arithmetic" to each case that must be understood and followed before an act can be considered "just." What is better for twenty is simply more just than what is better for only one. "Moral improvement" for the society at large, according to Godwin, "will be forwarded in proportion as we are exposed to no other influence than that of the tendency that belongs to an action by the necessary and unalterable laws of existence."<sup>29</sup>

Moreover, it is our *social obligation* to be rational beings, ascertain what is just and equitable and conduct ourselves appropriately. "[I]f there be any truth more unquestionable than the rest," Godwin concludes, "it is that every man is bound to the exertion of his faculties in the discovery of right, and to the carrying into effect all the right with which he is acquainted" (207).

Godwin's exceptional adherence to a belief in the ability of human reason to discern justice is often disregarded in Caleb Williams. Because Godwin makes some fascinating observations about the workings of the human mind and heart, it is easy to forget that Caleb Williams, like Edgeworth's Castle Rackrent, is about "things as they are," and not as they should be. Investigation and inquiry are crucial to bringing about change, and Godwin's narrative is a form of investigation that Godwin hoped would reveal the insidious workings of government in our private/public lives. Although Godwin is basically writing in the tradition of contractarians, he at times takes issue with its major proponents. In Political Justice, he cites Sidney, Locke, Paine, Rousseau and Helvétius as writers who have "justly remarked that the security with which [civil policy] can be exercised and [virtues and pleasures of mankind] enjoyed will be decided by the wisdom of our public institutions and the equity with which they are administered." Where Godwin sees himself as diverging from contractarians is in his assessment of government's influence on private

lives. He does not recognize a division between public and private either in his critique of existing political arrangements or in his vision of society based on moral justice. "Perhaps," Godwin suggests, "government is not merely in some cases the defender, and in others the treacherous foe of the domestic virtues. Perhaps it insinuates itself into our personal dispositions, and insensibly communicates its own spirit to our private transactions" (81). Just such a proposition is what Godwin explores in Caleb Williams, where the personal could not be more political.<sup>30</sup> The relationship between Caleb and his master Falkland involves an acknowledgement of status and the economic exchange of labor, but it fuses with emotion in Caleb's love for Falkland. Each facet of their association supports the other. Falkland's basis for his claim to Caleb's life is his ownership of Caleb as a servant. Caleb's love is to a great extent borne of his admiration for Falkland's place as "one of the most enlightened and accomplished men in England" (121). Their relationship is corrupted on many levels, and it epitomizes the kind of unequal social relations that have helped to perpetuate the Burkean world and must therefore be eliminated if widespread reform is to be realized.

Like his fellow Jacobin authors, Godwin is at odds with the family in Caleb Williams. To counter Burke's notion of inheritable rights, it was necessary to show the damage done in domestic settings. Emily Melville's situation is one powerful instance of familial abuse, but the story of Caleb Williams is even more riveting and profoundly disturbing because it so thoroughly de-privatizes the kind of tyranny at work between Emily and her cousin Barnabas Tyrrel. Caleb is a servant whose master Falkland claims him, in totality, as a possession. Falkland, whom some critics have argued is the principal character in Caleb Williams,<sup>31</sup> is a powerful paternal figure whose obsession with "honor" renders him a despot. In Volume I, Falkland appears as one might expect (and perhaps hope) if one wanted to believe in the good will and virtue of the landed classes. He seems honest, compassionate and benevolent. He is a magistrate one might wish to trust as a reasonable

mediator in legal disputes. But we are given indications, early on, that this Burkean ideal is not the preferred one in the novel.

In the first volume, we are introduced to a Mr. Clare who held an "intellectual ascendancy" in the community and was the only one who could effectively subdue Tyrrel and mediate local controversies. With Mr. Clare, Tyrrel "could have no rivalry"; this "great man seemed to have survived all the acrimony of contention, and all the jealous subtleties of a mistaken honour" (37). As it turns out, Falkland is a poor substitute for Mr. Clare's sobering balance, and it is precisely because Falkland cannot claim an "intellectual ascendancy" and becomes obsessed with honour that he does not measure up. Mr. Clare's death is the passing of one who would have "governed by reason and justice" (35). On his death-bed, Mr. Clare warns Falkland of the very weaknesses in him that will soon wreak havoc and lead to the loss of lives:

Falkland, I have been thinking about you. I do not know any one whose future usefulness I contemplate with greater hope. Take care of yourself. Do not let the world be defrauded of your virtues. I am acquainted with your weakness as well as your strength. You have an impetuosity and an impatience of imagined dishonour, that, if once set wrong, may make you as eminently mischievous, as you will otherwise be useful. Think seriously of exterminating this error!

Mr. Clare is the Jacobin spokesperson in Caleb Williams. His reference to Falkland's deficiency as an "error" is one sign that he serves as the voice of Godwin and arguably of Thomas Holcroft.<sup>32</sup> Mr. Clare is also a poet and in that capacity fulfills the expectations of a poet as a "prophet" and a "legislator" that Shelley later outlined in his Defence of Poetry.<sup>33</sup> He is admired by society both for his gift of art and for his reasonableness. He is distinguished by a "perpetual suavity of manners, a comprehensiveness of mind, that regarded the errors of others without a particle of resentment, and made it impossible for

anyone to be his enemy." He is a natural judge. "He pointed out to men their mistakes with frankness and unreserve: his remonstrances produced astonishment and conviction, but without uneasiness in the party to whom they were addressed: they felt the instrument that was employed to correct their irregularities, but it never mangled what it was intended to heal" (24). At Mr. Clare's death, the Jacobin image of the ideal, rational citizen disappears from the novel, and we are left with the tortured, tumultuous, impassioned world of Caleb and Falkland.

Falkland is, as Mr. Clare recognizes, an ambitious man obsessed with honor and reputation. He has for some time been driven by his pride and "the rhapsodies of visionary honour" (9). Like Caleb, but in the manner of the privileged, Falkland has been raised on romance. He is enamored of "the sentiments of birth and honour" and has "drunk . . . deeply of the fountain of chivalry" (10-11). Gary Kelly identifies Falkland as a fictionalized version of Lucius Gray, second Viscount Falkland (1610?-1643), a man who also seems to have had "a fatal chivalric code of honour."<sup>34</sup> Pamela Clemit likens Falkland to Richardson's Sir Charles Grandison, but she considers the comparison to be a means of showing that "ostensibly unaccountable features of character are in fact only too explicable in terms of political corruption."<sup>35</sup> Indeed, Falkland's behavior is quite politically explicable in that it voices Burke's backward-looking vision in the revolution debates, demonstrates the fatal consequences of his ideas when put into government policy and everyday village activities and reveals the crucial role of sensibility in Burke's design (as well as his reversion to feudal norms). Falkland often echoes Burke's Reflections, and he falls victim to emotion in the same way Burke does in his essay. Burke was chastised by numerous respondents for the kind of pathos that he musters for the French royal family but could not evoke for the peasantry. Burke writes:

This king, to say no more of him, and this queen, and their infant children  
(who once would have been the pride and hope of a great and generous

people) were then forced to abandon the sanctuary of the most splendid palace in the world, which they left swimming in blood, polluted by massacre, and strewn with scattered limbs and mutilated carcasses. . . . Two had been selected from the unprovoked, unresisted, promiscuous slaughter, which was made of the gentlemen of birth and family who composed the king's body guard. These two gentlemen, with all the parade of an execution of justice, were cruelly and publickly dragged to the block, and beheaded in the great court of the palace. Their heads were stuck upon spears, and led the procession.<sup>36</sup>

The passage continues at length in gruesome detail, and it characterizes the passion that was at the heart of Burke's Reflections. This same political passion informs the intensity of emotion in Falkland's constitution that at first seems deeply buried but soon rears its head. Falkland's rage, particularly when he feels his position of authority threatened, is a political warning of what is just below the surface in the discourse of chivalry and honor. The crisis of the debate over natural and civil rights, the French Revolution and the calls for reform in Britain are the forces that unveil the contention and fear among those who saw the potential for a redistribution of power in a reconceptualization of rights.

Another famous passage in Burke's Reflections, not only epitomizes Falkland's sense of loss over the decline of aristocratic privilege but also defines the basis of Caleb's character in relation to the *ancien regime*. "But the age of chivalry is gone," Burke writes. "That of sophisters, oeconomists, and calculators, has succeeded; and the glory of Europe is extinguished for ever. Never, never more, shall we behold that generous loyalty to rank and sex, that proud submission, that dignified obedience, that subordination of the heart, which kept alive, even in servitude itself, the spirit of an exalted freedom."<sup>37</sup> As both a servant and "a wife," Caleb represents those who are loyal, submissive, obedient and subservient, but certainly not free. The "spirit of exalted freedom" lives neither in those in

control, such as Falkland, nor in those in service, such as Caleb. At the same time, Caleb delivers a message to contractarians. He calls attention to economic dependents who have also been excluded from bids to extend the franchise and will lose access to the public sphere.

Caleb's role as a servant is evident in the text itself, but his role as "a wife" can be inferred from Godwin's preface to Fleetwood (1832), where he compares the relationship between Falkland and Caleb to that of Bluebeard and his wife. Even without Godwin's analogy, however, the parallel to Emily Melville's story and the gender-defined arrangement of authority and subordination that is implied in the absolute possession of Caleb by Falkland are grounds for discussing Caleb as a kind of spouse.<sup>38</sup> In the same way that Montesquieu observes that "the nature of honor" is "to aspire to preferments and titles," the arrangement between Caleb and Falkland is absolutely dependent on inequality.<sup>39</sup> The symbolic gendering of "Caleb as wife," on one level, simply reinforces hierarchy of the sexes. On another level, it reaffirms the result of Godwin's investigation into the factors of gender and class as they impinge on the "rights of man": property is the pivotal determinant of one's interaction with the law. As a financially liable servant, Caleb has no hope of enfranchisement; as a "wife," his economic and emotional dependencies render him a victim of civil authority. Subsequently, the legal system fails to provide him with the protection it offers to the propertied. Without the guarantee of an inalienable right of autonomy, Caleb is devastatingly vulnerable. He is hunted like a beast, and he is denied the basic legal assurances of one who owns his civil liberties: the rights to due process of law and protection from arbitrary arrest, trial and imprisonment.

In Caleb's story, Godwin presents an argument about the political urgency of recognizing an inalienable right of property that, in Lockean terms, begins with finding and claiming property in oneself. In Political Justice, Godwin remains uncomfortable with Locke's notion of consent in a contract, but he does recognize Locke's definition of



property. "In the same manner as my property," Godwin writes, "I hold my person as a trust in behalf of mankind" (175). But Falkland's and Caleb's relationship as master and servant harks back to a feudal past and resists an arrangement of employer and wage earner that recognizes the distinct rights of each party. Falkland's concept of justice relies on compassion and paternal benevolence rather than on economic and social equality. His code of "honor" and "virtue" turns a blind eye to the cruelty of his tyranny over Caleb, and it has the support of the legal system. The law, the great protector of property, not only excludes but victimizes and annihilates Caleb because he cannot assert a priori rights that would theoretically secure the property he might declare in himself.

When Caleb learns, through his uncontrolled curiosity, that Falkland is the true murderer of Barnabas Tyrrel and that he allowed two innocent men to be hanged for the crime, Caleb disturbs the balance of power and Falkland begins to lay claim to his possession of Caleb. Caleb's curiosity, it is important to note, is a deviant form of inquiry that Godwin and Holcroft alike deplored in contrast to intellectual inquiry. So it is no surprise that this less than virtuous means of discovering information should lead to the dramatic confrontation, chase and tragic ending that it does. At his moment of confession to Caleb, Falkland assesses Caleb's situation in terms of property (and the story of Faust). "Do you know what it is you have done?" he asks. "To gratify a foolishly inquisitive humour you have sold yourself. . . . It is a dear bargain you have made" (136). Before long, Caleb realizes he is Falkland's "prisoner," "and what a prisoner!" he remarks. "All my actions observed; all my gestures marked" (143). He recognizes "the super-human power Mr. Falkland seemed to possess of bringing back the object of his persecution within the sphere of his authority" (163). At a trial over which a relative of Falkland's presides, Falkland betrays the politics of his harassment of Caleb. He charges Caleb with robbery, but he is not concerned with the theft of wealth that concerns him; it is Caleb's theft of his honor and his facade, and Caleb's withdrawal of loyalty that is at issue. Caleb's attempt to

gain independence is finally the most threatening. The trial only demonstrates the inability of legal systems and the structure of positive law to miss the "truth." Circumstantial evidence is easy to find, but it has no relation to actual events; it is lost in the maneuvers of interpretation.

Caleb's flight from the persecutions of his oppressor is a series of encounters with the corruptions of law. He witnesses trials that are theatrical farces, he experiences the deplorable conditions of jails, he meets up with a gang of outlaws and he becomes an outlaw himself. But Caleb also cooperates in the process that leads to his exile and loss of self. As Caroline says to Maria in Bage's *Hermesprung*, "it is a sight of every day, . . . that women, wives at least, continue to love their tyrants."<sup>40</sup> At the very moment Falkland claims possession and control, Caleb responds with love and articulates the depth of his attachment to his master. Caleb's sense of himself is deceptively glorified and reinforced when he considers the elevation of his once humble character to a level of importance. He derives a false sense of power from contributing to the well-being of Falkland, a man of status. These "ennobling" emotions, Caleb admits, "attached me to my patron more eagerly than ever" (121). Caleb foolishly thinks that Falkland, like the law he represents as a magistrate, is a "generous protector." Because Caleb, as Alex Gold so insightfully points out, is always deluded by love, he does not see that Falkland and the legal system, in their compassionate benevolence, are bent on destroying the autonomous individual and denying the already disenfranchised the right of property.<sup>41</sup> The protective relationship between women and the law, as evident in *Blackstone*, is shown in the relationship between Falkland and Caleb to be a dangerously misleading one. For Caleb and Falkland, paternal protection leads to the destruction of the individual.

Godwin's concern for the development of the individual and the right of private judgement is embodied in the comprehensive extent of Caleb's tragedy: the loss of identity and eventually of a sense of self-preservation, which is the "first law," according to

Rousseau, of common liberty.<sup>42</sup> Caleb's life as a fugitive devolves into a life of disguises; as he himself confesses, it becomes a "lie" in which he has "a counterfeit character to support" (334). In the manuscript ending of Caleb Williams, Caleb's victimization by Falkland and his acute inward withdrawal are unmistakable when he declares himself one of the "living dead." Caleb concludes, "it is wisest to be quiet . . . . True happiness lies in being like a stone . . . a GRAVE-STONE! -- an obelisk to tell you, HERE LIES WHAT WAS ONCE A MAN!" (334). The published version likewise ends with self-loathing. Though he has finally heard Falkland's confession to murder, Caleb receives no sense of accomplishment or justice. He relinquishes his pursuit of truth and simply declares, "I have now no character that I wish to vindicate" (334). Through Caleb's loss of self, Godwin articulates the English Jacobin concern for the fate of those who are automatically disenfranchised when rights are considered inheritable property and those who are threatened with confinement to the private domain and exclusion from the contract that informs government.

Godwin's attack on legal systems in Caleb Williams is comprehensive, and this was a strategic move on his part. The importance of attacking law comes from both sides of the revolution debates. In Burke's argument to limit rights and contain the franchise, a crucial component was the continuity and inherent wisdom of law as it was passed down from the Magna Carta to the Constitution in 1689. The law was also a critical element in contract theory and in campaigns to reconstitute the body politic. From the works of Locke to Paine, the juridical takes the place of the monarchical, and it is the authority that ensures rights--even natural rights.<sup>43</sup> Godwin's own concept of law, manifest primarily in the right of private judgement, while it seems to eschew law, is in itself a kind of universal law that presupposes certain benefits to society and a conservation of rights that falls under the juridical domain. In Spirit of the Age (1825), William Hazlitt notes that Godwin's is an "inflexible justice, which is 'the law of laws and sovereign of sovereigns'." Moreover, his

definition of ethics was the same one admired in law: "*reason without passion*." Godwin's law is demanding, so much so that Hazlitt claims Godwin's failing could be attributed to the fact that "he raised the standard of morality above the reach of humanity."<sup>44</sup> Indeed, Godwin's concept of law as legislation by reason strikes us now as a utopian ideal appropriate to the visions of Holcroft's Anna and Frank. But in the context of the dialogue on rights, Godwin challenged both sides to consider those who were being forgotten in the momentous political advances of the 1790s.

## Notes

1. Some critics, such as Gary Kelly, have taken issue with the use of Caleb Williams as the title of Godwin's 1794 novel. Kelly has chosen to refer to the novel as Things As They Are because "it keeps the English Jacobin element . . . more in view." I have, however, decided to use Caleb Williams because it was the "running title" of the first edition, and it is the title that appears in the earliest reviews as well as the most contemporary literary criticism.
2. Robert Kiely, The Romantic Novel in England (Cambridge: Harvard University Press, 1972), 87-88. See also Betty Rizzo, "The Gothic Caleb Williams," Studies on Voltaire and the Eighteenth Century 305 (1992):1387-89; Tilottoma Rajan, "Wollstonecraft and Godwin: Reading the Secrets of the Political Novel," Studies in Romanticism 27 (Summer 1988):221-51. Rizzo argues that the dynamic of inequality in Caleb Williams is what renders it a Gothic novel, and Rajan is interested in how the reader becomes involved in making the text.
3. See Scott Bradfield, Dreaming Revolution (Iowa City: University of Iowa Press, 1993); Marilyn Butler, "Godwin, Burke, and Caleb Williams" Essays in Criticism, 32 (July 1982):237-57; Marilyn Butler, Jane Austen and the War of Ideas (London: Clarendon Press, 1975); Pamela Clemit, The Godwinian Novel (Oxford: Clarendon Press, 1993); Seamus Deane, "Godwin, Helvétius, and Holbach: Crime and Punishment," in The French Revolution and Enlightenment in England, 1789-1832 (Cambridge: Harvard University Press, 1988):72-94; Kenneth W. Graham, The Politics of Narrative (New York: AMS Press, 1990); B. J. Tysdahl, William Godwin as Novelist (London: Athlone Press, 1981).
4. Robert G. Robinson, review of The Politics of Narrative, by Ken W. Graham, Studies in the Novel 25 (Spring 1993):117.
5. The Monthly Review, 2d ser., 15 (October 1794), 153.
6. The British Critic 4 (July 1794), 70-71.

7. The narration of Caleb Williams shifts in the course of the novel. The story is partly told by another servant, Mr. Collins, and partly by Caleb himself. For more on the narrative structure of the novel, see Gerard A. Barker, "The Narrative Mode of Caleb Williams and Resolutions," Studies in the Novel 25 (Spring 1993):1-15.
8. William Godwin, Things As They Are; or, the Adventures of Caleb Williams (London: Printed for B. Crosby, 1794; New York: W. W. Norton & Co., 1974), 72-73. All subsequent references will be given parenthetically in the text.
9. The British Critic 6 (August 1795), 215.
10. The British Critic 6 (July 1795), 94.
11. The British Critic 6 (August 1795), 213.
12. Leon Radzinowicz, A History of English Criminal Law and its Administration from 1750 (New York: Macmillan & Co., 1948), 580-81.
13. E.P. Thompson, Whigs and Hunters (London: Penguin Books, 1975), 21-27.
14. Thompson, 270.
15. Thompson, 22.
16. Thompson, 22.
17. Thompson cites the episode of Tyrrel and the Hawkinses in Caleb Williams as an example of the state's or a private prosecutor's ability to use the Black Act when it wished to exact the harshest punishment. See Thompson, 247.
18. Thompson, 64.
19. Thompson, 197.
20. Thompson, 206.
21. Thomas Paine, The Rights of Man, in The Essential Thomas Paine (New York: New American Library, 1969), 128.
22. J. H. Baker, An Introduction to English Legal History, 3rd ed. (London: Butterworths, 1990), 532-35.

23. Barker, 5.
24. Pamela Clemit, The Godwinian Novel (Oxford: Clarendon Press, 1993).
25. Baker, 530.
26. Caleb's parents die when he is eighteen, and Emily's parents abandon her when she is three.
27. William Godwin, Enquiry Concerning Political Justice, 3rd ed. (London: Printed for G. G. and J. Robinson, 1798; Harmondsworth: Penguin Books, 1985), 689. All subsequent references will be given parenthetically in the text.
28. For more on necessity, see Chapter 7 of Book 4 in Political Justice, entitled "Of Free Will and Necessity."
29. Godwin, Political Justice, 202.
30. Godwin's preface to the 1794 edition of Caleb Williams makes the same point. It proclaims that "it is now known to philosophers that the spirit and character of the government intrudes itself into every rank of society" (1). This preface was originally suppressed by the printers because it was considered too subversive for the tenseness of the times. See Tysdahl, 33-34.
31. William Hazlitt sees Caleb as a secondary character to Falkland. See Spirit of the Age (1825; London: Collins Publishers, 1969), 47. See also, Andrew J. Scheiber, "Falkland's Story: Caleb Williams' Other Voice," Studies in the Novel, 17 (Fall 1985):255-66.
32. In 1794, Holcroft's voice intermingled with Godwin's in much of their respective writings.
33. See Shelley's Poetry and Prose, ed. Donald H. Reiman and Sharon B. Powers (New York: W. W. Norton & Co., 1977), 482-83.
34. Gary Kelly, The English Jacobin Novel, 1780-1805 (Oxford: Clarendon Press, 1976), 201.
35. Clemit, 53.

36. Edmund Burke, Reflections on the Revolution in France (London: Printed for J. Dodsley, 1790; Harmondsworth: Penguin Books, 1969), 165.
37. Burke, Reflections, 170.
38. I am not discussing the relationship between Caleb and Falkland as a homoerotic one because I do not find sufficient evidence in the text for such a reading. I believe that it is the love of loyalty and devotion for a superior that Godwin is concerned with in this novel of the political debates of the 1790s.
39. Baron de Montesquieu, The Spirit of the Laws (1748; New York: Hafner Press, 1949), 25.
40. Robert Bage, Hermesprong; or Man as He Is Not (1796; New York: Oxford University Press, 1985), 107.
41. Alex Gold, Jr., "It's Only Love: The Politics of Passion in Godwin's Caleb Williams," Texas Studies in Literature and Language 19 (1977):135-60.
42. Jean-Jacques Rousseau, On Social Contract, in Rousseau's Political Writings, ed. Alan Ritter and Julia Conway Bondanella, trans. Julia Conway Bondanella (New York: W.W. Norton & Co., 1988), 86.
43. To this day, the definition and protection of rights are contained in the realm of law. See Charles Taylor, Sources of the Self (Cambridge: Harvard University Press, 1989), 11.
44. William Hazlitt, The Spirit of the Age (1825; London: Collins Publishers, 1969), 39-41.



## Conclusion

*But who can live for long  
In an euphoric dream;. . .  
For the error bred in the bone  
Of each woman and each man  
Craves what it cannot have,  
Not universal love  
But to be loved alone.*

*W.H. Auden*

"Romanticism," Gary Kelly writes, "was in part the real evidence of the defeat of English Jacobinism."<sup>1</sup> The reverence of the young Wordsworth, Coleridge, Shelley and Blake that Godwin had enjoyed in the early 1790s disappeared by the turn of the century. Wordsworth, who once advised a young man to "throw aside [his] books of chemistry and read Godwin on Necessity," soon rejected the rigid logic of the association of ideas and the power of circumstances to create the individual.<sup>2</sup> Not surprisingly, the conversion of the National Assembly to Napoleon's France, the failure to repeal the Test and Corporation Acts in Britain and the severe measures Pitt had taken to silence radicals destroyed the sanguine hopes of a New Jerusalem that not only energized the Romantic poets but also inspired Holcroft's Anna St. Ives, Inchbald's Nature and Art and Bage's Hermesprong. The "things as they are" that informed the novels of Hays, Wollstonecraft, Edgeworth and Godwin in the 1790s simply continued to be. Legal oppressions went unchecked, and women, servants and other economic dependents were sequestered in the private sphere. Opponents of reform persisted in their portrayal of the notion of individual inalienable rights as narcissistic and selfish, while the blatantly self-interested seizures of power that were occurring in France only confirmed this image. According to Seamus Deane, the failures of the French Revolution and the radical movement in Britain affected the Romantics so deeply that they looked to the doctrine of sympathy to counter the "selfish egoism" that had come to characterize struggles for political authority. The sympathy that the Jacobins considered to be an endorsement of the normative and a Burkean device for supporting the monarchy was thought by the Romantics to be a means of rekindling "that renovating spirit which, in

private and in public concerns, would rescue mankind from the post-Revolutionary gloom."<sup>3</sup>

Jacobin fiction, however, was not without its own form of romanticism that both distinguished it from the work of Wordsworth, Coleridge, Shelley and their contemporaries and shed some light on the transition from the period of Enlightenment to Romanticism. In The Spirit of the Age, Hazlitt attributes the failure of Godwin's philosophy (as explained in Political Justice) to excessive ambition—not in regard to himself but in his expectations for humanity. "[Godwin] conceived too nobly of his fellows," Hazlitt explains, and "by directing virtue to the most airy and romantic heights, made her path dangerous, solitary, and impracticable." In his adherence to reason, Godwin "places the human mind on an elevation, from which it commands a view of the whole line of moral consequences; and requires it to conform its acts to the larger and more enlightened conscience which it has thus acquired." The Jacobin hero is "the hero of duty," and "the law to which he has bound himself never swerves nor relaxes, . . . he must become the unshrinking martyr and confessor of the public good."<sup>4</sup> Godwin, according to Hazlitt, simply asked too much of humanity and expected that persons would devote themselves to "the boundless pursuit of universal benevolence" over and above individual desires. Jacobin "romanticism" is evident in the assumption that humanity is capable of exercising reason and reason is able to yield goodness and justice. Moreover, the Jacobin novelists rely on the individual's ability for rational thought to justify inalienable rights. While the Romantic self that indulges in its own imagination and vision may have been an inevitable outcome of the Jacobins' excessively high expectations of human interest in universal benevolence, it also has roots in the Godwinian notion of private judgement.

Despite the immediate demise of English Jacobinism, Jacobin novels continue to supply crucial data and conceptual indices for understanding the cultural function of the novel and the development of a theory of rights that persists into the 1990s. Holcroft's

Anna St. Ives, Inchbald's Nature and Art and Bage's Hermesprong remind us that proponents of reform regarded civic duty, social obligation and the needs of the community at large as essential considerations that are concomitant with the acknowledgement of individual inalienable rights. Hays's Memoirs of Emma Courtney prompts us to remember that the ability to "inquire" is essential to gaining access to and maintaining self-determination, and Wollstonecraft's The Wrongs of Woman persists in haunting us because it shows that the law protects only the propertied and those already endowed with rights. Edgeworth's Castle Rackrent raises critical questions of leadership in the midst of chaos, and Godwin's Caleb Williams sends an important message about the absolute necessity of rights for self-preservation. In concert, all of the Jacobin novels remind us that contractarian thought was immensely complex and varied and that some of its advocates proposed radical ideas such as universal suffrage and fought against the disenfranchisement of certain segments of the population. The Jacobin novels also reflect the vital role the novel played in working out human implications of the Burkean versus the contractarian theory of rights. The political novel was a dangerous medium because it reached women--an untapped but potentially powerful force--and it could expose the intricacies of struggles for political authority and efforts to determine the individual's relationship to the law. Romanticism was only a temporary defeat of English Jacobinism.

**Notes**

1. Gary Kelly, The English Jacobin Novel, 1780-1805 (Oxford: Clarendon Press, 1978), 112.
2. William Hazlitt, The Spirit of the Age (1825; London: Collins Publishers, 1969), 37.
3. Seamus Deane, The French Revolution and Enlightenment in England, 1789-1832 (Cambridge: Harvard University Press, 1988), 171.
4. Hazlitt, 38-40.