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The famous first lines of *Pride and Prejudice*, "It is a truth universally acknowledged, that a single man in possession of a good fortune, must be in want of a wife" (3), alert the reader to a story about marriage. This "universal" truth is presented ironically, of course, since it is the women without a good fortune who are in want of husbands. Remember that Emma Woodhouse indicates that she does not need to marry since she does not need "'fortune'" or "'consequence'" (E 84). But the Bennet sisters have neither, so "[t]he business of [Mrs. Bennet's] life was to get her daughters married" (5); she is well aware that once her husband dies, she and her five daughters will be homeless since the estate is entailed to the closest male heir. Marriage for the Bennet girls—any kind of marriage—seems to be the only way to alleviate this problem. As I established in *Women and "Value" in Jane Austen's Novels*, the fate of the Austen heroine can be understood as the exception to the norm. We might view marriages in the novels in a similar way: Elizabeth Bennet is not the "normal" match for Fitzwilliam Darcy, which is why he fights his attraction to her for the first half of the novel.

Secondary or "minor" marriages in this novel, such as the Collinses and the Wickhams, however, do represent the norm. This essay focuses on how inheritance and marriage laws and practices affect these "normal" marriages, revealing that the marriage of Elizabeth Bennet and Fitzwilliam Darcy is truly exceptional.¹

The first issue to consider is inheritance law. The Bennet estate is entailed, and even though Jane and Elizabeth have tried to explain the situation to their mother, "it was a

subject on which Mrs. Bennet was beyond the reach of reason; and she continued to rail bitterly against the cruelty of settling an estate away from a family of five daughters, in favour of a man whom nobody cared anything about” (62). Mrs. Bennet may be capable of comprehending the situation, but she does not want to face the fact that her daughters will not inherit their father’s estate. The estate entail is something that Jane Austen and most of her contemporary readers would have understood as a fact of life. It is also featured in much of the literature of the time—including Austen’s *Persuasion*. Austen and other novel writers of the long eighteenth century may not have included information about the entail as a protest to inequities, but, by including the practice in the plot, what Ruth Perry refers to as “the givens of society, the background conditions for other kinds of moral dilemmas” (423), Austen reveals those inequities and the pressure they put on women to marry well.

The practice of entailing an estate goes back centuries, and it was crafted to keep property in the ownership of the family and descending, most often, through the male line. In 1285, the Statute of Westminster II, *De donis conditionalibus* (often translated as “Concerning Conditional Gifts” or “Concerning Conditional Grants”), divided land ownership into two categories: the freehold estate, or “fee-simple,” giving the owner the right to “alienate” or transfer the land as he wished during his lifetime or at death, and the “fee-tail” or “entail,” which made the land “inalienable” or not transferable by the owner to someone outside the specified line of descent. The statute was enacted in response to issues arising from the practice of “subinfeudation,” where tenants would create further sub-tenancies, leading to fragmentation of land and a weakening of the lord’s control over his vassals. The fee-tail was determined by the original owner (or “donor”)—likely the crown at the beginning of this practice—and stipulated that the property must only be transferred to the issue of the donee’s marriage (“the heirs of his body”) and not sold to an outsider or subdivided among many heirs.² If there was no “issue” or child from the marriage of the property owner, there was no heir, and the estate could revert back to the original donor or his heirs. Since the entail was often designated as “fee-tail-male”—meaning that the inheritor must be male to avoid losing the land if no male heir were produced—settlements were made for the ownership to revert to the “remainder-in-tail,” or the closest male relative, such as Mr. Collins in *Pride and Prejudice* or Mr. Elliot in *Persuasion*.³ Not all estates were entailed, and some of the entails were not gender exclusive. In *Pride and Prejudice*, explaining why Anne will inherit Rosings, Lady Catherine tells Elizabeth, “I see no occasion for entailing estates from the female line.—It was not thought necessary in Sir Lewis de Bourgh’s family” (164). Anne de Bourgh’s right to inherit Rosings was a rare exception, however, since ownership continuity most often sidelined and penalized women.

The “fee-tail-male,” or entail designating the male line, relied on the custom of agnatic primogeniture, or inheritance of the estate by the first-born son, which reflects the

inheritance of noble titles. Within the landed gentry, the custom of primogeniture often forced younger sons into other professions and coerced daughters into marriages that might increase or establish their wealth. As estates were entailed and inheritance restricted, second sons or gentlemen without “a good fortune” might look to seduce an heiress to improve their wealth. Wickham’s interrupted elopement with Georgiana Darcy is a good example: although she would not necessarily inherit Pemberley, she would have a substantial dowry. Since at age fifteen Georgiana would need her guardian’s consent to marry, eloping with her was Wickham’s chance of obtaining her and her inheritance. Georgiana would have been restricted by the Clandestine Marriage Bill of 1753, more commonly known as Lord Hardwicke’s Marriage Act, which was ostensibly passed to circumvent such transfer of wealth in marriage. Marriage law and norms among the landed classes were closely connected to inheritance law. We can see this emphasis reflected in *Pride and Prejudice*, not only with the Bennets’ entailed estate but also with the family’s reaction to Lydia’s elopement.

The first marriage we witness in *Pride and Prejudice*, that between Mr. Collins and Charlotte Lucas, is directly connected to the entail on the Bennet estate. Mr. Collins first visits Longbourn with the expressed intent of marrying one of the Bennet sisters since he is well aware that he will inherit the estate because of the entail. He apologizes for being next in line for the property in his letter of introduction to Mr. Bennet and, on arrival, states his intentions: “I am very sensible . . . of the hardship to my fair cousins,—and could say much on the subject, but that I am cautious of appearing forward and precipitate. But I can assure the young ladies that I come prepared to admire them” (65). Mr. Collins’s intention to marry one of the Bennet girls rests only on “his plan of amends—of atonement—for inheriting their father’s estate” (70). When his proposal is refused by Elizabeth, however, he clears himself of the obligation and moves his attentions to Charlotte Lucas. Austen thus makes it quite clear early in the novel that a practical marriage—one to secure an estate for one’s future—is in no way unusual, though it is not preferable for her heroine. We might understand that this secondary or “minor” marriage in the novel is the norm—encouraged by necessity, inheritance law, and the entail.

Charlotte Lucas follows the normal expectations for her time. She is several years older than Elizabeth and “not romantic” (125) about marriage. While Elizabeth believes that Charlotte is kind by diverting Mr. Collins’s attention to herself, the reader learns that “Charlotte’s kindness extended farther than Elizabeth had any conception of;—its object was nothing less, than to secure [Elizabeth] from any return of Mr. Collins’s addresses, by engaging them towards herself” (121). “Miss Lucas’s scheme” is successful. The next morning Mr. Collins “hastens to Lucas Lodge to throw himself at her feet,” and Charlotte “set[s] out to meet him accidentally in the lane” (121). Charlotte’s marriage to Mr. Collins

reveals the practical side of marriage, and, as much as Elizabeth is first appalled by her friend's choice, she comes to appreciate the way Charlotte settles in her "backwards" (168) sitting room at Hunsford and encourages her husband to pursue his gardening so as to leave ample time for her solo pursuits. Charlotte believes that marriage "was the only honourable provision for well-educated young women of small fortune, and however uncertain of giving happiness, must be their pleasantest preservative from want" (122–23). Charlotte's situation is not unusual. Austen presents her "scheme" perhaps to show why (and how) a woman of "small fortune" might need to secure marriage with a man whose society may be "irksome" (122) but who would provide her with a comfortable estate. The entail provision for Longbourn, then, is beneficial to a "not romantic" woman who can find a way to provide for her future by attaching herself to a man—perhaps any man—who will inherit an estate.

Mrs. Bennet's reaction to Charlotte's engagement, however, underscores the inequity of the entail:

The sight of Miss Lucas was odious to her. As her successor in that house, she regarded her with jealous abhorrence. Whenever Charlotte came to see them she concluded her to be anticipating the hour of possession; and whenever she spoke in a low voice to Mr. Collins, was convinced that they were talking of the Longbourn estate, and resolving to turn herself and her daughters out of the house, as soon as Mr. Bennet were dead. She complained bitterly of all this to her husband. (130)

Mrs. Bennet, however, was presumably in Charlotte's situation a generation earlier. She was a pretty daughter of a local attorney, who left her £4,000. The young Mr. Bennet was "captivated by [her] youth and beauty" (236) and had himself inherited Longbourn through the entail stipulation. Mrs. Bennet may not want to understand the entail and its potential effect on her daughters, but she has been perfectly happy to enjoy its provisions for herself while married to Mr. Bennet. She refers to the Collinses' eventual inheritance as "an estate that is not lawfully their own," complaining to Elizabeth that "I should be ashamed of having one that was only entailed on me" (228)—which, of course, she has. Mr. Collins's inheriting Longbourn is legal, though not fair to the female children.

The Collins marriage is based in practicality and reveals the stasis perpetuated by the entail. Mr. Collins would never have come to Longbourn looking for a wife if he was not slated to inherit the property. Elizabeth's visit to Hunsford parsonage on the estate of Lady Catherine de Bourgh, Darcy's aunt, is a means of bringing Elizabeth and Darcy together. In addition, it provides an opportunity to contrast this "normal" marriage with the exceptional marriage (later) of Darcy and Elizabeth. Similarly, the next marriage we witness, that of Lydia and Wickham, not only reveals more about inheritance and marriage law but provides

Darcy with an opportunity to prove to Elizabeth that he can overcome his pride to make her happy.

After Lydia Bennet disappears from Brighton in volume 3 of *Pride and Prejudice*, Jane's letter to Elizabeth reveals that Lydia "was gone off to Scotland" (273) with George Wickham; her next letter indicates that Lydia presumed "they were going to Gretna Green" (274). After the passage of the Marriage Act in 1753—which stipulated that the couple post banns at their local parish church for three weeks and wed in the church according to the Anglican Book of Common Prayer and also required minors (under age twenty-one) to obtain consent of the father or designated guardian—a couple who wished to marry might travel to Scotland to circumvent the stricter English marriage laws.⁴ Jews, Quakers, and the Royal Family were exempt from the Act, and there was a rare and cumbersome option of obtaining a special license granted by the Archbishop of Canterbury.⁵ Vlasta Vranjes explains that one of the motives behind the minimum age of consent in this act was to ensure that young heiresses would have "outgrown a susceptibility to romantic love, which threatened the landed interests" and would "prefer socially ambitious matches that strengthened those interests" (200). Thus, Austen's inclusion of the young Georgiana's susceptibility to Wickham's charms not only foreshadows Lydia's seduction but also upholds the belief that youth made them more susceptible to romantic coercion.

Before the passage of the Marriage Act, it was theoretically easy to marry: a canon law contract, *per verba de praesenti*, meant that the couple vowed to marry in the present tense, and were bound to marry each other, often only in the presence of a clergyman. This contract was, as Rebecca Probert explains, "binding on the parties (assuming it could be proved to the satisfaction of the ecclesiastical courts . . .), but it was not, by itself, a complete marriage" (8). This type of marriage would have been considered "irregular" or "clandestine." As Lisa O'Connell explains, clandestine marriages were "[p]erformed by clergymen out of hours, outside a consecrated church or chapel, or without notice of intent" and "were 'clandestine' because they were not subject to the public scrutiny that the church required" (*Origins* 36). These marriages, however, would comply with common law⁶ and would have been valid for the purpose of inheritance and the "legitimacy" of children, as long as they were later registered in the church. "In canon law consent, not ceremony, was the basis of marriage," O'Connell clarifies, "which meant that the crucial distinction for ecclesiastical courts was not whether a priest was present at a union but whether marriage vows were uttered in the present or future tense" (*Origins* 38). Before the passage of the Marriage Act, clandestine marriages in England might have also been conducted at places technically not in the jurisdiction of a city, such as the chapels around Fleet Prison where clergy with no designated clerical living would perform marriages for a fee. Couples might choose a clandestine marriage to avoid the four weeks' wait, to

sidestep parental consent, or to assure privacy or secrecy. The Marriage Act attempted to close this loophole, thereby relegating the clandestine marriages to Scotland, where such marriages could still validly occur. English clergy who did not conform to the new law and continued to officiate at clandestine marriages in England were subject to a hefty fine and transportation for fourteen years.

The Marriage Act, then, connected canon law with common law, and, as O'Connell explains, it "altered marriage's relation to the state itself and thereby to property, family, and religion in England in terms that would have effects on everyday life for well over a century" ("By Ordinance of Nature" 153). Therefore, a woman such as Lydia Bennet, whose only fortune was her "youth, health, and good-humour" (283), would still have to comply with a law that had been created to protect the kind of family fortunes that she did not possess. Before the passage of the Marriage Act, a woman like Lydia might also have been able to assume that, under the old canon law, a promise of marriage (*per verba de futuro*) could have been binding after consummation. Thus, eloping with a promise of marriage might have required Wickham eventually to marry her, especially if Lydia were to become pregnant. After the passage of the Marriage Act, however, "a woman who contracted to live with a man in the old way, without all the precise ceremonial forms required by the Act," would, as Eve Tavor Bannet argues, not be protected, making "a woman a whore and her children bastards" (234). Since Lydia does not come with any financial incentive for Wickham to marry her, his motive may simply be to enjoy her youth and beauty for a time and then move on—perhaps leaving her with child as Willoughby does Eliza in *Sense and Sensibility*. Therefore, the urgency for Mr. Bennet to find Lydia and make Wickham marry her is palpable.

Lydia and Wickham elope, a word meaning merely to run away or escape and only *implying* an intention to marry. The assumption by many (including Lydia herself) is that they are going to Scotland to marry without parental consent. O'Connell reads Lydia and Wickham as "the stereotypical Gretna couple: a giddy under-aged bride and a caddish officer groom." She points out that this scene can be found in countless stories, plays, and drawings of the period (*Origins* 219). Austen's contemporary reader would no doubt have recognized this familiar trope. The laws in Scotland at that time continued to follow the medieval canon law that only required exchange of consent in the present tense (*per verba de praesenti*); therefore, "irregular" or "clandestine" marriages—those not following the posting of banns and solemnization in the church—were still considered valid in Scotland. According to Probert, "The [English] courts had begun to develop the principle that the formal validity of a marriage should be tested according to the place where it had been celebrated, the *lex loci*" (265), although some of those marriages were challenged by lawsuits if the couple had traveled to Scotland to evade English law.⁷ Several bills were

introduced to stop this practice, but none became law.⁸ These irregular marriages could occur anywhere in Scotland, but the village of Gretna Green was the most famous venue because of its location directly across the border from England. Marriage in Scotland relied on consent, not on location, witnesses, or the officiant. As O'Connell explains, in the popular imagination "[t]he Gretna elopement . . . was elite, glamorous and modern. . . . [I]t transgressed national and sexual boundaries; . . . it heralded a new cultural nexus of romance, commerce, and novelty, centred on youth" (*Origins* 192). The Gretna Green plot was common in popular theatre and fiction, and Lydia Bennet clearly romanticized her future with Wickham (or any man in a red coat). In 1755 a bill was introduced in Scotland to circumvent this practice of runaway marriages, but it was never passed into law. Therefore, these marriages in Scotland of English runaway couples persisted until the law was changed in 1939.⁹

Lydia and Wickham, however, do not go to Scotland but, according to Lydia's hapless chaperone, Colonel Forster, continue on the London road. Although going to Gretna Green would be scandalous, not going there to get married and instead living with Wickham unmarried in London would be ruinous. This news understandably sends the agitated Mrs. Bennet to her room for several days and a somber and serious Mr. Bennet to London to seek his youngest daughter. Once the two are located, they must either wait the four weeks required to post banns, presumably at the parish church in Cheapside where Lydia resides with the Gardiners, or marry by a special license, which is unlikely.

When Darcy encounters Elizabeth, just after she reads Jane's letter informing her that Lydia and Wickham have not gone to Scotland, Elizabeth exclaims, "she is lost for ever" (277). Since Darcy's first proposal indicates "[h]is sense of [Elizabeth's] inferiority—of its being a degradation—of the family obstacles which judgment had always opposed to inclination" (189), Lydia's ruined reputation seems to add yet another family obstacle. Darcy tells Elizabeth that he is "grieved" and "shocked" (277), and she interprets his body language—silently pacing the room with a "contracted" brow and a "gloomy" air—as an indication that she was losing her power over him. She realizes that "she could have loved him, . . . when all love must be in vain" (278). Though a young lady's elopement and ruin are a common trope in the literature of the time, the reversal of that ruin, the rescue of her reputation for the benefit of her sister, changes the pattern. Not only is Lydia not ruined, but Darcy's rescue prompts Elizabeth's gratitude and the couple's eventual union. Mr. Darcy has learned from Elizabeth's initial rejection, and his motivation for intervening in Lydia's situation may have come from a need to repair "family obstacles."

Elizabeth Bennet and Fitzwilliam Darcy's marriage is the focus of *Pride and Prejudice*, but it is an exception to the norm of marriages ruled by inheritance and marriage laws and

practices. Each of the other marriages in the novel provides a means of bringing the two together: the initial attraction of Jane to Mr. Bingley puts Elizabeth and Darcy in the same household for many days, leading to his being “bewitched” by her (52); Elizabeth’s visit to the Collins home puts her in direct contact with Darcy, prompting his first proposal; Lydia’s elopement with Wickham encourages Darcy to intervene, generating Elizabeth’s gratitude. Although it might seem that Elizabeth and Darcy avoid the pitfalls of contemporary laws and norms, they must navigate around the effects those laws have on their families—so that ultimately this “single man in possession of a good fortune” finds the exceptional wife.

NOTES

¹Jane and Bingley’s marriage could also be considered exceptional, but since Bingley is not yet a landed gentleman, the inheritance laws would not yet apply to his estate. This marriage is both hindered and then facilitated by Darcy’s intervention. I would consider this marriage an outgrowth of the exceptional nature of the Darcy marriage.

²The word, “entail” can be traced from the Old English word “entaillen,” or “to carve,” indicating that the original landowner who designated this provision in his will did not wish to carve up the estate to split between several offspring.

³Jane Austen’s brother Edward was adopted by their childless relatives, the Knights, in order to establish him as remainder-in-tail.

⁴Under earlier canon law, the age of consent was twelve for women and fourteen for men, so the need for parental approval for those under the age of twenty-one was a substantial change.

⁵Rebecca Probert outlines the difficulties of obtaining such a license: it could only be obtained from the Archbishop of Canterbury; it was expensive; and in 1759 he limited the licenses to “Peers, and Peeresses in their own right of Great Britain and Ireland, to their sons and daughters, to Dowager Peeresses, to Privy Councillors, to Judges of his Majesty’s Courts in Westminster Hall, to Baronets and Knights and to members of the House of Commons” (232–33).

⁶Common law follows judicial precedent; canon law is determined by the church.

⁷*Lex loci* would be the law pertaining to the local jurisdiction.

⁸Probert also points out, “While such adventures formed a staple plot device in the fiction of the time, in reality it was a very small proportion of the population who resorted to such means” (267).

⁹When digging into the history of Gretna Green for this paper, I came across a curious recent trend. During the 2020 lockdown in England for COVID-19, elopements to Gretna Green became popular again since the laws about marriage gatherings still differ in England and Scotland.

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