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Justice in the World of Jane Austen: Advocating for Lydia Bennet and

Maria Bertram

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Abstract

This thesis examines two of the most detested female characters in all of Jane Austen's novels, Lydia Bennet from *Pride and Prejudice* and Maria Bertram from *Mansfield Park*. I begin by examining the faults possessed by each woman and then dive deep into their roots. Lydia is flirtatious, impulsive, and silly, while Maria is vain, classist, and naive. Yet, these bad qualities are not entirely their fault- both women are a product of how they were raised and the expectations placed upon them by their families and Regency society. Both women fall spectacularly from grace and despite not being completely responsible for their defects and actions, receive long-lasting punishments that modern readers can only understand by learning about the Regency legal system and its treatment of women in relation to marriage, property, and divorce. Lydia is married thanks to Mr. Darcy's intervention, but is trapped in a loveless marriage with not enough resources for the rest of her life. Maria, on the other hand, is publicly divorced and exiled from her family and friends. These punishments are not actually justice, but a reality faced by many women of the time, as well as a way for the protagonists of Austen's novels to receive their heart's desires.

Keywords: Jane Austen, Marriage Law, Regency England, Women's Rights

Introduction

At the end of Jane Austen's novels, there are usually two key takeaways: romance and a sense of justice, intimately intertwined to favor the protagonist. Austen's novels read like fairy tales where the good are ultimately honored and the evil are punished according to their shortcomings, truly embodying the idea that "what goes around, comes around" in a way that is almost Biblical in its certainty and severity. In reality, what transpires is cruel and unfair to all of those involved, regardless of weaknesses in character or judgement. The justice enacted at the expense of Lydia Bennet, the flirtatious, impulsive, and silly sister of *Pride and Prejudice's* Elizabeth Bennet, and Maria Bertram, the vain, classist, and naive cousin of *Mansfield Park's* Fanny Price, is not justice at all, even though it feels like the kind of karma readers want to savor. Their fates are not actually results of their personal faults and poor choices, but the typical, calculated outcome of a cruel patriarchal justice system fueled by an equally unforgiving society. The effects of these "sentences" follow the women and their families forever in a way that modern readers can rarely comprehend, while others reap benefits from their social demise.

Learning about the law of Jane Austen's time can help modern readers to better understand the plots of *Pride and Prejudice* and *Mansfield Park*, but for women of her time, domestic fiction offered a way to understand the legal system and how it affected them: "The novel shapes popular understandings of the law by dramatizing the ways in which the law fails women and the ways in which women remedy that failure by perfecting domestic relations" (Nixon). Literature helped the public to comprehend the law because it streamlined the law's complex and contradictory elements into a coherent narrative about the legal position of women. In doing so, novels exposed problems such as the existing law's inability, or straight unwillingness, to provide rights to women since, as Robin West argues, "Imaginative literature

tells us something that law itself cannot... about the meanings of law in the lives of those whom law willfully ignores, subjugates, marginalizes, or excludes” (Nixon). In addition to showing how the law was applicable to women’s lives, novels circulated much more frequently and easily than the publication of case law which was not regularized until the nineteenth century. So, ideas about the law spread more quickly and widely in the novel than official records. People also learned more from novels because they “explored the law within increasingly effective narrative forms that made its critiques emotionally resonant and intellectually compelling” (Nixon). The domestic novel forced society to take a hard look at the laws in place and realize that they were not living up to their ideals. Since the portrayal of the law was relevant at the time of Austen’s publications, it provides important context when reading her stories now.

Lydia Bennet Wickham

As soon as readers meet the character of Lydia Bennet at the beginning of *Pride and Prejudice*, they encounter her shortcomings. At the tender age of fifteen, Lydia is overly confident, irresponsible, and completely obsessed with men. Mr. Bennet points out her lack of serious thinking in the first chapter: “From all that I can collect by your manner of talking, you must be two of the silliest girls in the country. I have suspected it some time, but I am now convinced” (*Pride and Prejudice*). Lydia’s sister Kitty is offended by their father’s assertion, but not Lydia, who “with perfect indifference, continued to express her admiration of Captain Carter, and her hope of seeing him in the course of the day, as he was going the next morning to London” (*Pride and Prejudice*). With Lydia, criticism goes in one ear and out the other without making any impact. In addition to her general silliness, Lydia has no filter, despite frequent censure from her older sisters Jane and Elizabeth. For instance, when Charlotte agrees to marry Mr. Collins, “Lydia, always unguarded and often uncivil, boisterously exclaimed: ‘Good Lord! Sir William,

how can you tell such a story? Do not you know that Mr. Collins wants to marry Lizzy?” (*Pride and Prejudice*). She has no sense of what is acceptable behavior in polite society, and if she does know, it means nothing to her.

Though the origins of her negative characteristics do not change the reality of their existence, many of Lydia’s issues are a result of poor, permissive parenting devoid of structure. Even Lydia’s arrogant nature can be traced back to a lifetime of coddling from her mother, who encourages her on numerous occasions to be sure she feels as good as her older sisters, like before the ball where they are to meet Mr. Bingley. She says, “Lydia, my love, though you *are* the youngest, I dare say Mr. Bingley will dance with you at the next ball” (*Pride and Prejudice*). Lydia shows her arrogance in response, replying “I am not afraid; for though I *am* the youngest, I’m the tallest” (*Pride and Prejudice*). Confidence is important, especially in such a large family of women simultaneously vying for husbands, but by making Lydia believe she is the greatest, Mrs. Bennet gives her daughter the mindset that she can do no wrong. By inflating her daughter’s ego, she sets her up for her eventual fall from grace. When describing Lydia, Austen points out her mother’s favoritism influencing the decision for her to be out on the marriage market at such a young age: “Lydia was a stout, well-grown girl of fifteen, with a fine complexion and good-humoured countenance; a favourite with her mother, whose affection had brought her into public at an early age. She had high animal spirits, and a sort of natural self-consequence” (*Pride and Prejudice*). Lady Catherine de Bourgh, a woman of great wealth and status, points out the strangeness of letting young sisters out into the marriage pool before the older sisters are married, saying “All! What, all five out at once? Very odd!” (*Pride and Prejudice*). Lady Catherine’s disapproval shows that allowing a fifteen-year-old daughter to be part of the marriage market is not very common, nor is it considered traditionally acceptable.

Lydia's parents also do her a disservice by letting her frequent the village of Meryton. All five of the Bennet sisters enjoy walking to Meryton together, but for Lydia and Kitty, the draw of the village is the presence of the militia. They go into town three to four times a week, seeking the companionship of gentlemen whenever possible. Lydia's recurring trips to Meryton mirror her fateful trip to Brighton later in the novel. The invitation alone leads her to fly "about the house in restless ecstasy, calling for everyone's congratulations, and laughing and talking with more violence than ever" while Elizabeth tries to make her, and the rest of the family, see reason (*Pride and Prejudice*). Elizabeth tells their father of all the potential risks that the trip could produce, including "all the improprieties of Lydia's general behaviour, the little advantage she could derive from the friendship of such a woman as Mrs. Forster, and the probability of her being yet more imprudent with such a companion at Brighton, where the temptations must be greater than at home" (*Pride and Prejudice*). Mr. Bennet, unfazed, responds "Lydia will never be easy until she has exposed herself in some public place or other, and we can never expect her to do it with so little expense or inconvenience to her family as under the present circumstances" (*Pride and Prejudice*). He does not take the threat to Lydia's reputation or the family's reputation seriously, preferring his daughter to be at a distance where she cannot bother him.

To some degree, the increased allowances make sense because the Bennets are trying to maneuver their daughters into situations where they can meet potential husbands. From a young age, the girls realize that in order to save their family financially, they must marry rich men. Mrs. Bennet seems to place more pressure on Jane and Elizabeth since they are older, but as the youngest of five girls living in the same house, it is impossible to believe that Lydia would have been shielded from these comments. Subsequently, it is likely that she began to think about catching a husband even before she went through puberty. Most of the parents in Austen's novels

feel the imminent need to marry their daughters off to wealthy men, but the situation is particularly dire for the Bennets because their estate, Longbourn, is entailed away from the female line, falling to Mr. Collins in the event of Mr. Bennet's death because they have no sons. Based on the principle of primogeniture, "without male children, 'collateral relatives in the order of seniority' handled the estate" (Bailey). The function of primogeniture was primarily to keep estates intact and free of burdensome obligations to support less fortunate family members. If the Bennets had a son, he would be entitled to the family property instead of Mr. Collins after his father's death. In families with multiple sons, the younger ones suffered similarly to daughters. Without an estate to inherit, they were forced to choose professions, like Colonel Fitzwilliam, a military man in *Pride and Prejudice*, and Edward Bertram, a clergyman in *Mansfield Park*. Since most professions were not open to women, the only hope for the Bennet sisters is to marry someone wealthy enough to support and house them when they can no longer depend on Longbourn for sanctuary.

The emphasis that the Bennets place on marriage backfires in the worst possible way. While in Brighton away from her family, Lydia runs off with Mr. Wickham, planning to get married. Unlike the duplicitous Wickham, it is clear that marriage is Lydia's true intention from the instant she leaves with him, apparent in the letter she writes for Mrs. Forster. In the letter, Lydia is care-free, silly, and elated to be the first Bennet sister to get married. The letter confirms that she is still a child because she sees no faults in "angelic" Wickham. Her matrimonial intentions are proved by her musings about changing her name to Lydia Wickham, similar to a schoolgirl doodling her crush's last name on her notebook, and her assertion that she will send for her clothing once she is at Longbourn again. She would never have arranged that if she was actually planning to run away and live illegitimately with Mr. Wickham forever. The letter

affirms that any deviation from the path to matrimony is all Mr. Wickham's doing, just like he attempted with Mr. Darcy's younger sister Georgianna.

Based on the letter left for Mrs. Foster, the Bennet family believes their youngest daughter and her soon-to-be husband are en route to Scotland to be married. Eloping in Scotland was actually a common practice for young couples at the time because of Lord Hardwicke's Act, officially titled *An Act for the Better Preventing of Clandestine Marriage*, passed in 1753 to prevent couples from marrying away from the public eye. By law, marriages could only take place in England "in a church after the publication of banns (a notice read out on three successive Sundays in the parish church, announcing an intended marriage and giving the opportunity for objections) or after the parties had obtained a special license" (Bailey). If the parties were under the age of twenty-one and had obtained a special license, parental consent was still required for the marriage to be valid. Because of these laws, young couples often took up residency in a new parish where the banns could be read out loud with no guardians around to object, or went to Gretna Green, Scotland, where marriage laws were more relaxed. Since loopholes were easily found, it can be said that Lord Hardwicke's act failed, as illustrated by the novel: "The failure of Lord Hardwicke's Act to prevent clandestine and underage marriage is brought home by the stories of Georgia Darcy and Lydia Bennet. There is sometimes said to be a gap between the law in the books and the law in action. Austen shows the law in action—how marriage laws operated in practice and how parties maneuvered within the legal structures of the time" (Bailey).

The Bennets are shocked to hear that Lydia and Mr. Wickham did not go to Scotland, but are instead living together unwed in a secret location. This sparks a quest to recover her, bringing Elizabeth and the Gardiners back from their vacation so that Mr. Gardiner may help Mr. Bennet

look for his daughter in London. After several days, Mr. Bennet returns home, defeated, but Mr. Gardiner continues to search. Mary uses Lydia's fall to impart a message common during the Regency era: "Unhappy as the event must be for Lydia, we may draw from it this useful lesson: that loss of virtue in a female is irretrievable; that one false step involves her in endless ruin; that her reputation is no less brittle than it is beautiful; and that she cannot be too much guarded in her behaviour towards the undeserving of the other sex" (*Pride and Prejudice*). Despite the fact that Lydia is her sister, Mary places the majority of the blame on her rather than Mr. Wickham, reflecting the values of their society and legal system. Since that message is continuously transmitted, women like Mary begin to internalize it, dictating not only their own personal behavior but their treatment of fallen women and their attempts at reintegrating into society. Soon, Mr. Bennet gets a letter declaring that Lydia and Mr. Wickham have been found and will wed after all, if he agrees to pay out a mere one-hundred pounds a year. Immediately, Mr. Bennet consents, but grieves over how much money Mr. Gardiner must have paid to strike the deal, saying "Wickham's a fool if he takes her with a farthing less than ten thousand pounds" (*Pride and Prejudice*). Mrs. Bennet, on the other hand, emerges from her sick bed in jubilation at the thought of having a married daughter.

Lydia requests to return home for a visit before moving a great distance with Mr. Wickham to begin his new military commission. At first, Mr. Bennet's response to his wayward daughter is "an absolute negative," (*Pride and Prejudice*), but Jane and Elizabeth manage to convince him otherwise. Mr. Gardiner and Mr. Bennet arrange for the couple to come to Longbourn immediately following their wedding ceremony. According to Bailey, the family welcomes Lydia back because of "the triumph of marriage overcoming the shame of her possible pre-marital sex" (Bailey). Despite everything she has been through since last being at home,

Lydia is virtually unchanged and seems as loud, confident, and over-the-top as ever. It is possible that Lydia returns to her natural way of existing to mitigate the awkward situation with her family, and does not actually feel so silly and carefree. More likely, she feels like she has fulfilled her duty to marry and finally has the upperhand on her older sisters. This can be seen in her taunting Jane with her new status, witnessed by Elizabeth: “She then joined them soon enough to see Lydia, with anxious parade, walk up to her mother’s right hand, and hear her say to her eldest sister, ‘Ah! Jane, I take your place now, and you must go lower, because I am a married woman’” (*Pride and Prejudice*). During the meal, it is evident that Lydia is much more enamored with Wickham than he is with her. She fawns over him continuously, “He was her dear Wickham on every occasion; no one was to be put in competition with him. He did every thing best in the world; and she was sure he would kill more birds on the first of September, than any body else in the country” (*Pride and Prejudice*). Lydia could be so infatuated with Wickham that she cannot speak of anything else, or she could still be trying to make her sisters jealous.

Never one to control her tongue, Lydia slips to Elizabeth that Mr. Darcy was at her wedding and that she was instructed to keep that knowledge to herself. That does not stop Elizabeth from writing to her aunt and inquiring about Mr. Darcy’s role in the matter, which is how she discovers that he is the one responsible for “incentivizing a legal marriage” between Lydia and Wickham, paying off all of his gambling debts and purchasing him a military commission (Bailey). Mr. Darcy’s intervention in Lydia’s marriage makes him even more attractive in Elizabeth’s eyes and redeems him completely of any faults she ever thought him to possess. His actions also redeem him in the eyes of her father, who before considered him to be a cold, proud man. After hearing about Darcy’s sacrifice, Mr. Bennet feels more comfortable

consenting to their marriage, partially because the circumstances make things easier for him financially.

In this way, Elizabeth's happiness comes at the expense of Lydia's reputation and future joy. Getting married does make Lydia socially acceptable again, but she is forced to live far away from her family and all the people that have cared for her in her fifteen years of life. Then, the successful marriages of Jane and Elizabeth make her all but forgotten in her mother's mind. Kitty, the one person who was always in her corner, is kept from visiting her because "though Mrs. Wickham frequently invited her to come and stay with her, with the promise of balls and young men, her father would never consent to her going" (*Pride and Prejudice*). Once married, Elizabeth and Darcy never receive the couple at Pemberley, but Lydia is allowed to come stay occasionally, and economic relief is often sent to the couple because "their manner of living, even when the restoration of peace dismissed them to a home, was unsettled in the extreme. They were always moving from place to place in quest of a cheap situation, and always spending more than they ought" (*Pride and Prejudice*). The saddest part is the couple's conclusion, when it is acknowledged that Wickham's "affection for her soon sunk into indifference; her's lasted a little longer; and in spite of her youth and her manners, she retained all the claims to reputation which her marriage had given her" (*Pride and Prejudice*). Lydia and her family are decent in the eyes of society, but she is forever doomed to be lonely and unloved by her husband because of the mistake she made at fifteen years of age. Lydia's "sentence" is effectively more final than any generated by the court system even though her saga existed outside of it.

Maria Bertram Rushworth

Lydia is lucky enough to be saved from total social ruin, but most "fallen" women of the Regency era were not so lucky, and Maria Bertram is the perfect example of that. From the very

beginning of *Mansfield Park*, readers are compelled to dislike Maria because she is a foil for the protagonist, Fanny, through which they experience the novel. Maria is portrayed as coming from a position of privilege, in contrast with Fanny, who comes from nothing. Though neither girl has the power to choose her parents, readers have a natural distaste for Maria for having the financial resources and parental support that Fanny, their window into the entire story, does not.

Before Fanny is even officially sent for, Sir Thomas makes the distinction between her and his biological daughters very clear, saying “There will be some difficulty in our way, Mrs Norris, as to the distinction proper to be made between the girls as they grow up; how to preserve in the minds of my *daughters* the consciousness of what they are, without making them think too lowly of their cousin; and how, without depressing her spirits too far, to make her remember that she is not a *Miss Bertram*” (*Mansfield Park*). By making these distinctions, Sir Thomas sets Fanny up to be treated “partly as a family member and partly as a menial” (*Mansfield Park*). She has a place within the home, but she lives in the smallest, darkest room with no fire. Maria grows up watching how her other family members treat Fanny, so it is no wonder that she believes she is beneath her. Fanny exists merely to keep Mrs. Bertram company at home, while Maria is “out” on the marriage market and expected to catch a wealthy man. Maria’s position seems much more fun, but she still begins to feel the desire to escape, in addition to the pressure to marry: “Being now in her twenty-first year, Maria Bertram was beginning to think matrimony a duty; and as a marriage with Mr. Rushworth would give her the enjoyment of a larger income than her father’s, as well as ensure her the house in town, which was now a prime object, it became, by the same rule of moral obligation, her evident duty to marry Mr. Rushworth if she could” (*Mansfield Park*). Maria seems to have many more options than poor Fanny, but once she catches the eye of the richest person in all of Jane Austen’s novels, the choice is essentially made for her.

Just as Maria is decidedly engaged to Mr. Rushworth, Henry Crawford comes into the picture, appearing at Mansfield Park with his sister Mary. Everyone tries to set him up with Julia Bertram, except for Maria who also desires to spend time with him, thinking "There could be no harm in her liking an agreeable man—everybody knew her situation—Mr. Crawford must take care of himself" (*Mansfield Park*). Henry Crawford does not even try to take care of himself, however. He enjoys flirting with the sisters to gratify his own ego, even though Maria is betrothed to another. In fact, he uses the situation to his advantage, taunting her in whispers such as "I do not like to see Miss Bertram so near the altar" (*Mansfield Park*). He is essentially telling her that he does not want her to get married, conveying the idea that he has feelings for her. Even though Maria is engaged, she does not have much experience with men and is therefore, naive and impressionable.

After spending time with Mr. Crawford and arguably falling in love with him, being with Mr. Rushworth becomes even more of a chore. Henry's affections not only awaken feelings in Maria, but help her to realize she and Mr. Rushworth are simply incompatible. Her hope is that Henry will save her from marrying him, and quickly: "It was of the utmost consequence to her that Crawford should now lose no time in declaring himself, and she was disturbed that even a day should be gone by without seeming to advance that point" (*Mansfield Park*). To her extreme disappointment, Henry never declares anything of the sort, and the time comes for Maria to discuss her impending marriage to Mr. Rushworth with her father. Sir Thomas is worried about the match because he notices "that indifference was the most favourable state they could be in. Her behaviour to Mr. Rushworth was careless and cold. She could not, did not like him" (*Mansfield Park*). Since Maria is still reeling from the rejection that she feels from Henry Crawford, she insists to her father that she wants to marry Mr. Rushworth, even if she has no

desire to do so in her heart. Sir Thomas refrains from pressing further due to the advantages the marriage will afford him and the rest of the family. He wants his daughter to be happy, but not enough to make trouble. None of Maria's family members care enough to warn her what life will be like in a loveless marriage, perhaps because they were considered normal in the Regency era.

As Maria shifts from Bertram to Rushworth and becomes her husband's property instead of her father's, she does not find the relief she sought. It is at this point that Maria's distaste for Fanny becomes most apparent. Maria, who has always been above Fanny, begins to envy Fanny's freedom, specifically her ability to receive romantic attention from Henry Crawford. Her transformation from an unmarried girl, to an engaged woman, to a married woman is so quick that she cannot fully process it, let alone adjust to society's expectations. It also seems that with all the emphasis placed on securing a husband, no one told Maria what to do with herself when she actually got one. Maria's jealousy is exacerbated by Fanny's quick rise in the Bertram family esteem, now that they realize she is worthy of catching the interest of a wealthy man. Mrs. Bertram suddenly sees her as a real family member rather than as a servant: "To know Fanny to be sought in marriage by a man of fortune, raised her, therefore, very much in her opinion. By convincing her that Fanny *was* very pretty, which she had been doubting before, and that she would be advantageously married, it made her feel a sort of credit in calling her niece" (*Mansfield Park*). Yet, in the same breath, she declares that she is willing to part with Fanny and applies pressure to marry the rich man that requested her, the same pressure Maria previously felt, saying "I could do very well without you, if you were married to a man of such good estate as Mr. Crawford. And you must be aware, Fanny, that it is every young woman's duty to accept such a very unexceptionable offer as this" (*Mansfield Park*). With the attention of her family and of her former love interest being lavished on her cousin, Maria decides to run away with Henry

Crawford, tarnishing the opinion of her family in the public eye and instigating a long and painful legal process. Maria is a self-obsessed and jealous person, but she does not deserve the public legal and emotional turmoil that comes to pass.

Understanding Maria's "Punishment" Using Regency Divorce Law

In today's culture, divorce does not "draw the notice of the world" but in Austen's time, that is exactly what happened (Craig). In the words of Sheryl Craig, "We are not shocked by Maria Rushworth's immorality, surprised by her lack of remorse, or particularly worried about her future, but we were meant to be." When *Mansfield Park* was published, there were three elaborate steps to achieving a divorce: legal civil separation of bed and board, legal separation in the ecclesiastical courts of the Church of England, and petitioning Parliament for a divorce bill. Civil courts had no authority to terminate a marriage and ecclesiastical courts refused to do so, but both court systems acknowledged "separation from bed and board," also known as legal separation (Craig). Despite this acknowledgement, the separated couple was still legally married and could not marry other people. A legal separation was desirable because otherwise, the husband was expected to financially support the wife for the rest of her life. In a legal separation, if the husband was found guilty of extreme cruelty or desertion, the wife's alimony was usually one-third of her husband's total income, but if the wife was found to be the reason her marriage failed, she forfeited her rights to any of the money she brought into the marriage. Maria Rushworth's divorce was the worst financial scenario for a woman because in the eyes of the court and society, Maria was left dependent on the unreliable Henry Crawford. Unlike Maria, most women accused of adultery never committed adultery at all. Husbands would frequently accuse their wives of adultery in court simply to avoid paying alimony.

At the civil courts at the King's Bench in London, a criminal conversation trial was a case between two men, the husband and the woman's lover, known as her "gallant" (Bailey). The wife was treated more like disputed property than as person and was known simply as the "femmeconvert," referring to the legal doctrine of coverture (Bailey). According to Dr. Martha Bailey, in this time period: "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." She was not permitted to call witnesses or testify in her own defense. At least two witnesses had to testify to the wife's adultery, but sexual intercourse did not have to be proven, only the possibility. The husband himself could be called as one of the two witnesses, and servants usually served as the second witness, often still on the husband's payroll. Things considered proof of adultery were not very concrete, like closed doors, traveling in carriages, or exchanging letters. Even if a lawyer or doctor came to the wife to consult on personal matters, being alone with them could cause suspicions of adultery. Hand-holding was also considered to be evidence, just like in *Mansfield Park* when Julia Bertram notes that Henry Crawford "retained her sister's hand" longer than necessary and Julia "hails it as an earnest proof of the most serious determination" (*Mansfield Park*). This would be testimony against Henry Crawford in court, but at the time Julia noted it, it could have prevented Maria's entire downfall had she said something to her parents or brothers.

Courts assumed the guilt of the accused rather than innocence, so the woman's only real chance was if the judge and jury disliked her husband's demeanor or felt that the witnesses were not credible. If the adultery of the wife was confirmed, the gallant was fined for damages paid to the husband, affected by the gallant's premeditation, methods of security and deception, and the

wife's encouragement of the affair (Craig). The gallant's betrayal of the husband's hospitality also affected the case. The newspaper in *Mansfield Park* calls Henry Crawford the "intimate friend and associate" of James Rushworth, which would cause more financial restitution than if they were strangers. Mr. Rushworth collected a fine of 10,000 pounds, maybe more, from Henry Crawford, plus Maria's dowry in cash (Craig). Maria would have been much more pitiful if she had children, however. One of the most tragic outcomes of the gender disparity in legal separation was that the father was always given the custody of the children. As a convicted criminal, an adulterous mother was not even granted visitation unless the husband was willing to allow it (Craig).

After the civil courts, the next step in divorce proceedings was to go to the ecclesiastical courts, which were the most likely to sympathize with women because they believed a husband's adultery was relevant. Judges in ecclesiastical courts thought that none of the three principals (the husband, the wife, and the gallant) were likely to be honest, so they took written depositions from all three, giving the woman a voice. Two witnesses to the woman's adultery were still required, but the husband could not serve as one. Since these courts were a more even playing field, they sometimes ruled in favor of the wife, in which case the wife could be awarded the annual income from her dowry. Neither partner could remarry, as in the eyes of the Church, they were only legally separated.

The final step of the divorce process was to go to Parliament and petition for a divorce bill. The first successful divorce case was that of the Earl of Rutland, who successfully petitioned Parliament for an "enabling act" that granted him the right to marry a second wife while legally separated from his first. Unfortunately, Parliament did not allow the wife to marry again unless the injured party (the husband) said she could. Most allowed it only to avoid paying their ex-

wife's living expenses. A man was permitted to include names of people she couldn't marry, such as her gallant, and if her former husband desired it, she was forced to be single for the rest of her life. Based on the novel, it seems that Mr. Rushworth did not refuse Maria the ability to marry again, but Henry is uninterested, leaving her destitute: "When her adulterous partner refuses to marry her, Maria is legally independent but also legally impoverished" (Collins). In reality, the desire to marry another was unlikely to be the reason for a divorce. Instead, it was to inquire the full sum of a woman's dowry. A fully divorced man got access to his wife's dowry, otherwise unavailable to him based on the articles of the marriage settlement. This provided a man incentive to get married to a rich woman, claim adultery, and divorce her.

A divorce bill could only become a legal divorce act if it was approved by a vote in the House of Lords and the House of Commons, then signed by the king. By the time Jane Austen was born, 1 in 3,000 marriages ended in divorce, with Parliament divorcing two couples a year on average (Collins). Each divorce case had to be presented three times, so it took two to three years for one to work its way through the system (Collins). The wife had a better chance if she had relatives in the House of Commons to argue on her behalf, but usually they would stay quiet to avoid embarrassment. Speaking of embarrassment, separation trials and divorce bills were featured prominently in newspapers, pamphlets, trial transcripts, and cartoon prints, to be enjoyed by the public. In *Mansfield Park*, Fanny finds out the tragic news of Maria's downfall by reading a newspaper. Her horrified reaction comes from her familiarity with the publishing practices of the day, knowing that all of the family's dirty laundry will be known by everyone, since even the illiterate working class could enjoy divorce cartoons displayed in shop windows (Craig).

The whole family felt the effects of a woman's public shame, even if they were not involved in the scandal. In *Mansfield Park*, Sir Thomas's political career is ruined, and Mr. Rushworth's political aspirations are also destroyed, even though he won the case. Edmund never expressed any political ambitions, but now has no possibility for promotion in the Church of England. Maria's scandal seriously damages Julia's chance at a good marriage, which likely contributes to her decision to elope to Gretna Green with Mr. Yates. Alternatively, she does so knowing that in the eyes of her family, none of her mistakes will ever be as severe as the one Maria made. The family actually blames Maria for Julia's elopement, saying "Maria's guilt had induced Julia's Folly" (*Mansfield Park*). Maria's betrayal also ruins Edmund's romance with Mary Crawford, in partnership with her unsavory response to the situation. After such betrayal, the family turns in on itself for companionship. This turns out to be lucky for Fanny because she finally gets what she wants all along, not because of passion but due to a "twist in the plot" (Corbett).

There were still more consequences for the divorced woman herself, as divorced women could not be presented in court to the Royal family and were unlikely to be invited to any events taking place at someone's private home. All of this was still not enough for Evangelicals, who "thought that a divorcee ought to shut herself away from society and devote the remainder of her life to repentance, not unlike a cloistered nun." (Craig). To men like Fanny's father, corporal punishment was a more fitting fate than exile, "By God if she belonged to me, I'd give her the rope's end as long as I could stand over her. A little flogging for man and woman too, would be the best way of preventing such things" (*Mansfield Park*). Mr. Price is an unsavory character, but at least he suggests that men are deserving of equal punishment. Austen herself does not provide readers with that sort of satisfactory ending:

Austen restores Maria Rushworth to ‘tolerable comfort,’ or at least as much as any divorced Englishwoman could reasonably expect to achieve at the time. But while Maria is condemned to spend the rest of her life in a form of solitary confinement, her partner in crime is at liberty to continue to menace society. Having paid his fine to James Rushworth, Henry Crawford remains at large to woo and to disappoint other women (Craig).

Jane Austen sugarcoats nothing, including Henry’s ability to walk away from the scandal while Maria’s life will never be the same.

Conclusion

Lydia Bennet and Maria Bertram are not the protagonists of *Pride and Prejudice* or *Mansfield Park*, and virtually no reader would claim either woman to be their favorite character. Yet, Lydia and Maria symbolize something much greater than the typical antagonist. Instead, they exemplify the way that the legal system of the Regency era failed women using half-baked laws and harsh punishments designed by men. Lydia is failed by the laws governing marriage in an attempt to prevent elopement. Instead of being protected by these laws, she is prompted to flee the country to wed Wickham, who refuses to marry her until Mr. Darcy provides some economic incentives. Without his intervention, she would be an outcast forever. Maria leaves the man she married to run away with suave Henry Crawford who ultimately refuses to marry her. Instead of taking pity on her for her foolishness and orchestrating a fair divorce settlement, the court system ridicules her, robs her, and deprives her of all future prospects, potentially including the right to remarry. These cold, unfeeling laws are echoed by the structure of the novels, which position the downfall of both women to be the very thing that makes the beloved protagonists rise, seen in the way that Lydia’s elopement allows Mr. Darcy to step in and impress Elizabeth,

and the way that Maria's adultery clears the way for Edmund to fall for Fanny. Domestic novels, thought to contain nothing more than the silly musings of women, actually opened their eyes to the intricacies of their oppression and continue to do so for today's readers upon closer inspection.

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