

“[I]s the Woman Really Possessed?”*:

Marriage Act, Property, and Madness
in Susanna Centlivre and Eliza Haywood

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[ABSTRACT]

This paper reads the marriage plot of Susanna Centlivre’s comedy *The Busybody* (1709) and Eliza Haywood’s amatory fiction *The Distress’d Orphan, or Love in a Madhouse* (1726) to investigate the vexed question of women’s legal right over property, marriage, and self-governance in early modern England. Specifically, the female protagonists of Centlivre and Haywood attempt to reconcile the right to property and self-ownership by commanding their father’s inheritance but defying the rule of the

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수산나 산트리버, 『참견쟁이』, 엘리자 헤이우드, 「고뇌하는 고아, 혹은 정신 병원에서의 사랑」, 1753년 결혼법, 적법성, 언어, 광기, 재산, 자주권, 로크식 개인

father. Their female protagonists are dubbed “mad” at one point or another because the articulation of female rights challenges normative social and gender behavior prescribed by men; the trope of the mad woman is used specifically to reflect on women’s negotiation between self-possession and the state of marriage in which women in essence become property of her husband and thereby “possessed.” To put it in Lockean terms, the right to property is predicated on one’s ability to first claim “property in his own person,” an internal property that cannot be alienated. Reading Centlivre and Haywood’s texts as anticipating the marriage Act of 1753 that codified legal marriage through written documents, I argue that the female protagonists of Centlivre and Haywood overwrite their guardian’s legal authority through the manipulation of language and symptoms of madness. This paper explores how the interplay between legality, literacy, and lunacy negotiates the possibilities of women’s right over property and self-ownership.

1. Introduction

In Susanna Centlivre’s comedy *The Busybody* (1709) and Eliza Haywood’s amatory fiction *The Distress’d Orphan, or Love in a Madhouse* (1726), the young heroines are subject to their legal guardian’s choice in marriage. They will not receive their late father’s inheritance unless they marry according to their guardian’s consent. To their appall, in *The Busybody*, old Sir Francis plans to wed Miranda himself, while in *The Distress’d Orphan*, Annilia is forced to marry Horatio, the guardian’s son. This forced marriage becomes problematic when each develop a passion for another man. The struggle between patriarchal will and individual desire was hardly novel, an overplayed platitude serving as the substructure on

which many seventeenth- and eighteenth-century literary texts were set. Yet it was precisely this commonality that betrays how the vexed question of women’s legal right over property, marriage, and self-governance loomed over early modern cultural consciousness. The binary struggle between individual will and parental rights also echoes seventeenth-century political theory that contemplated the role of patriarchs expressed through Robert Filmer’s *Patriarcha* (1680) or John Locke’s *Two Treatises of Government* (1689). Carole Pateman aptly acknowledges that “conjugal relations and the marriage contract were as central to political debate as the relation between king and subject and the social contract. ... two contracts were used to argue about the proper form of marriage and political rule” (1988, 90). That is, sexual contract informs the governance over body politic. This clichéd trope of forced marriage, then, taps into the discourse of self-governance, particularly for women whose legal rights were bound by marital status.

Critical attention on Centlivre and Haywood has focused on their employment of romantic intrigue and desire, not least because both had a reputation when it came to writing immoral and dangerous literature at a time when writing was considered neither feminine nor decent.¹⁾ Despite being one of the most successful playwrights of the eighteenth century,

1) For instance, Judith Milhous and Robert Hume claim that in the eighteenth century, “prejudice against women playwrights were fierce. They did get some work produced, but a startling number of the zero-compensation cases are plays by women” (1999, 44). Likewise, Henry Fielding dubbed Eliza Haywood “Mrs. Novel” in his play *The Author’s Farce* (1730), identifying her with the novel as a popular genre that was itself notorious. Alexander Pope also accused her as a sexually promiscuous dunce in *Dunciad* (1728), as female authors were considered “unfeminine, licentious, immodest and usurping” (Wilputt 1995b, 3).

Centlivre has eluded academic scrutiny in part because her plays were deemed unoriginal: she mostly wrote comedies combining the style of Spanish comedies of intrigue, comedies of manner, and comedies of humor (Finberg 2001, xix).² She was considered at best secondary to William Congreve or John Gay who probed the human condition through Restoration comedy, even though she was “the most prolific playwright in England from 1700 to 1722” and “the most popular woman dramatist in English” (Bowyer 1952, v). Similarly, it was only in recent decades that Haywood has come to represent the “great arbitress of passion,” an expert at eroticizing text, body, and language (Harrow 2009, 282). Ros Ballster credits Haywood’s commitment to the discourse of love, claiming that her “greatest innovation in the field of amatory fiction was to revitalize the representation of a desiring conflict into social, rather than party political, myth” (1998, 157). While Ballster esteems amatory fiction as critical in the development of early prose fiction and the language of passion, feminist critics have focused on Centlivre and Haywood’s works as expressions of female sexuality rather than a serious consideration on women’s legal and political conditions regarding body politic. While both writers indeed test the spectrums of female desire and sexuality, I argue that it is not passion alone that drives their narrative, but rather an insistence that women take measures to protect and procure their property through the very institution

2) Finberg explains that “comedies of humours” can be applied to early seventeenth-century plays of Ben Jonson that put emphasis on conspiracies and stratagems over plot (2001, xix). On the influence of Spanish drama in Restoration theater, see Nancy Copeland (2004), *Staging Gender in Behn and Centlivre: Women’s Comedy and the Theatre*, Burlington, VT: Ashgate Publishing and Jorge Braga Riera (2009), *Classical Spanish Drama in Restoration English (1660–1700)*, Philadelphia: John Benjamins Publishing.

that seemingly constrains their rights: marriage.

In fact, the nexus of marriage, legality, and property undergirds amatory intrigue. The marriage plot not only contemplates the nature of sexual contract, or liberal contractarianism in a body of conjugal institution. It also demonstrates the ambivalence of women’s position in a society ostensibly constituted of legality and literacy, or laws and words codified by men from which women were exempt. Significant to my argument, economic independence and sexual passion are not mutually exclusive for these writers, nor can money and passion be divorced. Theirs is not a tale of choosing love over money; forced into a marriage without love is atrocious, but so is a marriage without women’s capacity for financial independence. To put it in Lockean terms, the right to property is predicated on one’s ability to first claim “property in his own person,” an internal property of self-possession that cannot be alienated (Locke 1988, 287).³ Put another way, the female protagonists of *Centlivre* and *Haywood* attempt to reconcile the right to property and self-ownership by commanding their father’s inheritance while defying the rule of the father in choosing their

3) Whether or not Locke included women in discussing property and citizenship demands a full-fledged discussion and therefore exceeds the scope of this article. While Locke hardly advocated female rights nor found it problematic that women “naturally” yield their rights to the patriarch, putting men as head of the household, Locke theoretically posited both men and women as equal in terms of rational capacity (1988, 321). That is, he contends that women can be in full possession of rationality, and also suggested that men and women should receive equal education in *Some Thoughts Concerning Education* (1693). For more on Locke’s political theory and women, see Nancy J. Hirschmann and Kirstie M. McClure, eds. (2007), *Feminist Interpretations of John Locke*, State College, PA: Pennsylvania State University Press; Chris Nyland (1993), “John Locke and the Social Position of Women,” *History of Political Economy* 25.1: 39-63 and Carol Pateman (1989), *The Disorder of Women: Democracy, Feminism and Political Theory*, Stanford, CA: Stanford University Press.

own spouse. Yet this exertion for reconciliation also betrays a dysfunction in the operation of patriarchal law. According to the law of coverture, a married woman's legal rights, including ownership of property, would be subsumed by the husband. Married women could not own property, let alone "property in [her] own person" (Locke 1988, 287). That said, these two works dub their female protagonists "mad" at one point or another because the articulation of female rights challenges normative social and gender behavior prescribed by men. The trope of the mad woman is used specifically to reflect on women's negotiation between will to self-possession and the state of marriage in which women in essence become property of her husband and thereby "possessed." In particular, Centlivre uses the term "possession" to display the ambivalent mental state that women navigate through marriage.

The first section of the paper examines how women attempt to circumvent the law of the father by manipulating and performing language against legal discourses of marriage. Specifically, I pay attention to how both texts anticipate the Marriage Act of 1753 that raised concerns about what constitutes legal marriage and what role literacy plays in cementing its legality. I then turn to how the exercise in self-ownership through literal and oral language is challenged when women are diagnosed as mad and therefore inapt for self-possession. While critics such as Margo Collins and Cheryl Nixon focus on the role of early modern family law in Centlivre's comedy, neither of them pays attention to how the discourse of legality converges with female madness. Likewise, Haywood's critics read Annilia's madness as an index of patriarchal control but fail to link how Annilia channels madness to reconfigure her linguistic and legal rights.⁴⁾ In fact, few critics discuss how early modern literature coalesces

women’s legal rights and literal authority with notions of madness, or as Foucault describes it, what the dominant cultural construct strategically disowns as cultural value.⁵⁾ By arguing that the female protagonists of *Centlivre* and *Haywood* overwrite their guardian’s legal authority by manipulating language and symptoms of madness, this paper explores early modern women’s place within a patriarchal social order, thereby weighing the social and legal commentary interposed by *Centlivre* and *Haywood*. The interplay between legality, literacy and lunacy through the marriage scheme negotiates the possibilities of women’s right over property and self-possession.

2. Marriage Act of 1753 and the Performance of Words

In the opening scene of *The Busybody*, Miranda converses with Patch,

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- 4) Of course, the trope of the “mad woman” is as old as the “forced marriage” cliché. Roy Porter reports that it was the female unconscious and the mystery of female sexuality that outlined the psychiatric enterprise (1987, 103). Mental disorder such as hysteria has been treated as a specifically “female” disease, particularly around the mid-eighteenth century (Porter 1987, 104). Sandra Gilbert and Susan Gubar’s classical feminist critique *The Mad Woman in the Attic* (1979) also discusses how women’s mutability, both physical and mental, has been read as signs of inconsistency and psychosis. They argue that the “madwoman” figure channels women writer’s anxiety towards a patriarchal order. This paper, rather than focusing on the socio-biological history of mental illness, reads female madness as moments of rupture in women’s body politic that unsettles traditional political economy.
- 5) In *Madness and Civilization*, Foucault defines madness as a category banished by the dominant culture. That banished value “protects” that culture from having to admit “proximity, a relation, a quasi-resemblance between itself” and those rejected forms (1965, 201).

her former maid, about the evils of father-figures who try to force their daughters into unwanted marriage: “No, no, let the tyrant Man make what laws he will; if there’s a woman under the government, I warrant she finds a way to break “em” (1.1.223-5). In order to evade man-made laws, Miranda first learns how legal documents work, manipulating literal and oral words to bend their legislative effects. Miranda has promised her legal guardian Sir Francis to marry him, who exercises complete control over her late father’s inheritance. Yet because her heart is set on Sir George, whom she has enjoyed the pleasure of meeting privately while masquerading as Incognita, she needs Sir Francis to change the terms of her father’s will: “You know my father’s will runs that I am not to *possess* my estate without your consent till I’m five and twenty; you shall only abate the odd seven years, and make me mistress of my estate today, and I’ll make you master of my person tomorrow” (2.1.24-27, my emphasis). That is, the only way to control and “possess” her father’s estate while choosing the man she loves is to be “possessed” by her guardian. Because she understands the potency of the written document, she devises to redraft a new contract to claim her inheritance. In order to examine how Miranda manipulates the terms of legal documents through linguistic performance, we need to first understand the role of literacy in writing up women’s rights in marriage.

Miranda utilizes the performance of oral and written language to circumvent her father’s will, bringing forth legal issues of women, property, and self-ownership. The issue of language becomes particularly symbolic when we consider that *The Busybody* anticipates and responds to the Marriage Act of 1753 that privileged literacy over orality: the Act codified legal marriage to be performed through written documents as opposed to oral vows. The Marriage Act of 1753 was sponsored by Philip York, Earl

of Hardwicke, and as its full title suggests, was proposed as an “Act for the Better Preventing of Clandestine Marriage.” Before the Marriage Act, “clandestine marriage,” a marriage that was celebrated before a priest through oral vows, and “contract marriage,” a private exchange of consent without a priest, were both recognized by common law as valid (Probert 2005, 253). Yet such customs also posed problems, because private marriages were difficult to prove and could be easily revoked (Probert 2005, 253). Henry Swinburne, in *A Treatise of Spousals, or Matrimonial Contracts* (1686), explains that “spousals de futuro,” the promise between lovers to eventually marry in the future, and “spousals de praesenti,” a present tense mutual promise to wed, were both legally binding. He therefore concentrated on the binding aspect of oral vows, which were accepted in private ceremonies and clandestine marriages.

The 1753 bill, however, required written documentations of nuptial ties, requiring banns to be published at a particular time and place: “three Sunday preceding the solemnization of Marriage during the Time of Modern Service, or Evening Service” (Collins 1999, 188). Licenses had to be issued four weeks in advance, and the ceremony had to take place under an authorized priest. The marriage was void unless signatures of the bride, groom, minister, and two witnesses were supplemented (Collins 1999, 188). The Marriage Act in particular attempted to put an end to the struggle between young adults and parents over matrimony, the very dilemma presented by Centlivre and Haywood. The Act mandated that minors, those under 21 years of age, gain consent of their parents or legal guardians, preventing young lovers from marrying privately. Contemporaries interpreted this Act as an oppression of minors and women. For instance, Martin Madan wrote in 1780 that the Marriage Act, “by throwing inclinations of children

and wards ... under the absolute power of parents and guardians till the age of twenty-one, has, in many instances, proved fatal to their future peace.” According to Stephen Parker, at the “very time when patriarchy wanted greater control over the marriage of children, children wanted to be free of that pressure ... the victor was propertied patriarchy” (1990, 31).⁶⁾ While Centlivre and Haywood wrote before the Marriage Act was enacted, both were consciously aware of the kind of debate warranting this legal shift: what constituted a legal marriage and how could young women claim right in choosing their own spouse?

As England became more modern, such law “act[ed] the part of an enduring reasonable form to the developing content of its socioeconomic forces” (Zomchick 1993, 20). Significant to my argument is the shift of means through which the Marriage Act legalized matrimony: unlike previous marriages that stamped oral promises as binding, the new law now required written words, signatures, and codified documents to authorize parental consent as well as those of the State and the church. That is, the Marriage Act prioritized literacy when it came to constituting legal marriage, and with it produced concerns over the gap between one’s intent and one’s signature (Collins 1999, 180). As Swinburne puts it, “how can one *know*

6) Pamphlets expressing concern about the law circulated at the time, many recognizing the Act as a wrongful privileging of “social and familial stability over individual freedom and desire while undermining women’s agency” (Ganz 2013, 25). Accordingly, those like Henry Fox attempted to repeal the Act in 1765 (Ganz 2013, 26). While most modern critics agree to the crippling effects of the Marriage Act, critics like Rebecca Probert claim that the marriage Act did not necessarily put women in danger, since the theory of the law and its operation in social practice diverged (248). For example, Probert argues that underage couples could still marry without parental consent as long as they procured banns; the parents or guardians had to publicly express dissent in order to annul the marriage (2005, 255).

a man’s meaning but by his words?” (1686, 63). Yet what happens when one can no longer hold his (or her) words accountable? It is precisely this gap, the discrepancy between one’s verbal and written words, intention and expression, that Centlivre and Haywood’s protagonists toy with. As will be discussed in the latter part of the article, this discrepancy between what a woman really is and how she appears was also a source of complaint regarding women’s inconsistency that was often construed as signs of madness.

The Busybody displays Miranda’s mastery over both oral and written language in one of the most popular scenes of the play, the dumb scene. As a sort of play-within-a-play, Miranda puts on a dumb show, refusing to speak to Sir George but through her body, while Sir Francis watches on as a spectator. Sir George is torn between his inclination for “Incognita,” who boasts of unprecedented wit, unaware that she is in fact Miranda in disguise. Again, Miranda manipulates what she really is and what she appears to be, deploying masquerade as a tool to test Sir George. Enthralled by Miranda’s beauty, he desires to converse with Miranda, test her wit, and confess his love. In the beginning act, we witness Sir Francis and Sir George draw up the paperwork to arrange a monitored rendezvous: “you are to be admitted into my house in order to move your suit to Miranda, for the space of ten minutes, without let or molestation, provided I remain in the same room” but out of earshot (1.1.287-90). Sir George pays a hundred guineas in exchange for this contract, hoping to dissuade Miranda from marrying her guardian.⁷⁾ Miranda, afraid that Sir George

7) Miranda initially misconstrues this transaction as a bargain on her body; she thinks that she is being prostituted, and that Sir George wishes to “purchase” time in order to consume her sexually. This suggests that the eighteenth-century marriage market

will recognize her voice and therefore divulge her sexual freedom enjoyed as Incognita, devises to play dumb. Yet for Sir Francis, this is construed as a scheme to cheat Sir George out of his contractual rights, since the terms of their agreement will not be met: “I can but laugh, ha, ha, to think how damned mad he’ll be when he finds he has given his money away for a dumb show” (2.1.45-7). So when Sir George comes at the appointed hour, Miranda bites her tongue and refuses to speak.

Curiously, this provides Sir George an opportunity to make meaning of her silence and gestures: “[M]adam, you must give me leave to make the best interpretation I can for my money and take the indication of your silence for the secret liking of my person” (2.1.225-7). Thinking that it is Sir Francis’ presence that hinders her from speaking, he starts to ventriloquize, speaking for her stead. He then offers her a letter as a token of her love for him, which he wrote on her behalf: “What’s here? (*Reads*) ‘Dear Sir George, this virgin muse I consecrate to you, which, when it has received the addition of your voice, ‘twill charm me into desire of liberty to love, which you, and only you, can fix’” (2.1.280-4). The letter, while not legally binding, serves to confirm the young lovers’ fancy with each other and is therefore considered a mutual contract on both parts. Miranda, fascinated with his impudence and wit, keeps quiet and complies with his performance, which sends two contradictory messages: Sir George, because she did not verbally refuse, thinks Miranda holds him in esteem, while Sir Francis, because she kept silent, thinks Sir George is denied. The discrepancy between what she says and what she means produces two different interpretations that she will both use to her advantage.

reduced women to sexual objects rather than agents, a position that Miranda openly disclaims.

Because she acknowledges that words, whether oral or literal, are subject to interpretation and therefore unbounded, Miranda manipulates language to create a gap between oral promises and written intention, opening up space for interpretation that will release her from legal constraints. As Sir George leaves, Miranda asks her guardian: “Well, Gardee, how did I perform my dumb scene?” (3.4.1) Watching the nonverbal conversation between Sir George and Miranda, he misreads her “performance,” not understanding the discrepancy between her intention and muteness, or wordlessness. Deciphering the dumb show as a refusal to another suitor and hence a conviction of her love for him, Sir Francis finally concedes to producing a written document withdrawing his rights. Delighted, Miranda then takes charge in arranging the legislative process: “I’ll have everything according to form; therefore, when you sign an authentic paper, drawn up by an able lawyer, that I have your leave to marry, the next day makes me yours, Gardee” (3.4.15-7).

Furthermore, according to Miranda, “[t]he malicious world will be apt to say you tricked me into marriage, and so take the merit from my choice. Now I will have *the act for my own*, to let the idle fops see how much I prefer a man loaded with years and wisdom” (3.4.20-24, my emphasis). That is, she puts his reputation at stake, claiming that the public will condemn him for self-interestedness unless he makes it clear that she “act[s] for [her] own” in choosing a husband.⁸) By bringing up a collective

8) The issue of abusive guardians who attempt to profit from their ward’s estate was a highly discussed subject in the early eighteenth century as demonstrated in Matthew Bacon (1768), *A New Abridgment of the Law* and Sir John Comyns (1762), *Digest of the Laws of England*. According to Cheryl Nixon, Haywood participates in this debate through *The Distress’d Orphan*; Haywood’s interest in amatory fiction’s seduction plot indicates her investigation on familial plotting, questioning ways in which the family

voice of the “malicious world,” an imaginary gossip of circulating words, she censures Sir Francis to rearrange the terms of legislation; imaginary words have power over legality. She explains, “You are to give your consent to my marriage, which is to yourself, you know. But mum: you must take no notice of that. So then I will — that is, with your leave — put my writings into [the lawyer’s] hands. Then tomorrow we come slap upon them with a wedding that nobody thought on, by which you seize me and my estate” (3.4.46-52). Convinced of her dedication, Sir Francis deems that “Thou hast signed, sealed, and taken possession of my heart forever, Chargee” (3.4.142-3). Taking Miranda at her word, he lets Miranda take “possession” of his heart, when Miranda’s intention is to possess his estate. He thus fails to understand that her spoken promise and written contract can be in conflict. Put another way, Miranda manipulates orality to contest literacy and legality, precisely because she understands the binding yet unstable legislative authority of written forms that can contradict the spoken words. Contrary to the belief that an emphasis on legality in the marriage contract renders women vulnerable, it is Miranda who finds a way to “break” the law through her words, both literal and oral (1.1.225).

law can be reformed. She explains that Haywood argued for a new construction of guardianship that puts the need of the child over the authority of the guardians (2014, 63-5).

3. Owning Letters, Words, Legality

In *The Distress'd Orphan*, Annilia is also put under a similar situation in which she cannot inherit her father's estate without tying the knot with her guardian's son, Horatio. Yet unlike Miranda, she initially cannot fully command the stipulations of legal documents nor utilize words to repeal an unlawful sexual contract. Giraldo, her uncle, demands that his son marry Annilia, stating that “the Estate which Annilia is possessed of, join'd to your own, will make you the greatest Man that ever had been of our Family” (29). Again, it is Annilia's possession of her father's estate that makes her a desirable candidate in the marriage market. When Giraldo pitches this idea, “the Confusion of *Annilia* increas'd, she blushed, she trembled, Shame and Fear by turns assailed her”; she finally asks “leave to think on what [he has] said, and in obedience to [his] Desires, will endeavor to convert that sisterly Affection, which at present warms [her] Heart, to something more soft and passionate in favour of *Horatio*” (32). Giraldo accepts this as acquiescence, celebrating her modesty and wishing that “all young Women yield to the Reason of their Friends with like Humility” (30). At a ball, however, she encounters Marathon and falls in love at first sight. As Annilia is constantly guarded by Giraldo and Horatio, the young lovers soon find a way to exchange letters, a medium of secrecy that publishes private thoughts. As Barbara Maria Zaczek points out, eighteenth-century women writers were aware of the cultural anxiety over inappropriate clandestine letters posing a “threat to the stability of the family and social order” (1997, 15). Elizabeth Cook also claims that the emergence of epistolary novels was a response to the shift from patriarchal to contractarian theory: “Just as social contract produced citizens of

political republics, then, the epistolary novel invented and regulated the post-patriarchal private subject as a citizen of the Republic of Letters” (1996, 16). Haywood uses letters to peer into the private passions of her protagonist, but through them also displays the vulnerability of this written form when the letters are at the mercy of patriarchs who regulate female desire in the spaces of private subjectivity (Harrow 2009, 286).

Accordingly, Haywood describes a society under surveillance in which women’s movement, words, and intentions are constantly monitored. At the crowded ball of their initial encounter, Marathon takes up “Pen and Paper” and proclaims his love for Annilia through “Declaration of his Mind in these Terms” (33).⁹⁾ When Marathon personally delivers the letter, the surprised Annilia refuses: “I receive no Letters directed in this manner” (34). Yet Marathon insists, putting the letter back in her hand, saying “It has your Name upon it” (35). That is, Marathon believes the letter belongs to Annilia as property that only she can take control over. As mentioned, the Marriage Act dictated that a valid marriage be performed publicly and officially registered. As such, Eve Tavor Bannet claims that the Marriage Register acted like a copyright: “As copyright ensured that texts could be attached and attributed to their authors, the Marriage Register ensured that women could be attached and attributed to a husband, and their children to a father” (1997, 240). Marathon’s love letters to Annilia, then, curiously acts as register or copyright that must be attached to its owner; in this case, the one whose name is imprinted. The letter belongs to her because

9) Is it curious that Haywood references the language of legality to describe Marathon’s publication of desire in the same way that Sir George was compelled to write a written contract to confess his love for Miranda. The language of passion, then, converges with the language of legality.

her “name” is registered. When another letter arrives for Annilia at her house to be delivered “to any Hand but her own,” Giraldo sends it away, announcing that “Annilia received no Letters, but what were first communicated to him” (38). It is precisely at this moment that the heretofore humble Annilia speaks against her guardian with “Spirit and Vehemence which Giraldo had never before observed in her”: “I am now past my Childhood, and People must imagine that I am either very deficient in Understanding, or you in the Care of improving it, when they shall be told I am incapable of judging what Answer is fit for me to give to any Letter which is sent to me” (38). Put another way, Annilia takes Marathon’s letters — confessions of oral vows — as her own that cannot be trespassed by others, asserting her ownership and possession over his words. The letter shall be delivered and opened only by her hand, the only one authorized and sanctioned to validate her lover’s promise.

When Giraldo, with his servant’s assistance, finally intercepts the billet, he infringes on what is rightfully hers. Enraged at their secret liaison, he invites her to his chamber to “peruse the Writings of [her] Estate, and the last Testament of [her] dying Father; then [she] will be convinced how far his Confidence rely’d on [Giraldo] for the Director of [her] Actions” (47). That is, he presents the primacy of legal document to regulate her passion. Contrary to Miranda who not only fully commands but rewrites her father’s will, this is the first time that Annilia comes in contact with the legal documents, “glad to look over Particulars which as yet she had known but by the Report of others” (47). Yet unlike Miranda, she fails to puncture its legislative authority, unable to contest her guardian’s abusive legal practice; she is detained in his chamber, “reading the Papers, and disputing on the meaning of the Contents of them” (47). Her insistence

on ownership to her letters, when met with the rule of the father, is rendered void; her passion, however, is not.

4. Mad House, Marriage, and Language

When Giraldo informs that Horatio is “the Man who many Weeks ago received the Promise of being made your Husband,” Annilia claims that “I know of no such Promise” (45). That is, she cannot be held against a promise that was not made voluntarily. So to further coerce her into marriage, Giraldo pronounces her mad and abducts her to a private mad house:

The unhappy Niece of this barbarous Man was compell'd to rise out of her Bed, where she was sleeping as secure as her Discontents and Fears would let her, and oblig'd to put on her Clothes at that unseasonable Hour ... with all the haste she could, [she threw] on a loose Night-Gown, which she had no sooner done, than like a Lamb among a Herd of Wolves, she was seiz'd by these inhuman Ruffians; and some stopping her Mouth, and threatening her if she attempted to resist; and another taking hold of her, she was rather dragg'd than carry'd down Stairs. (50)

Like the interception of her letters, her body is symbolically violated and her voice muted, signifying the physical, social, and psychological constraints posed by her father's will. Henry Gally, a scholar of divinity and classics, explains in *Some considerations Upon Clandestine Marriages* (1750) that the Marriage Act could potentially coerce women into unwanted marriages, dispelling women of self-ownership and self-governance: “By

this Means Women may be married against their Will; and so lose the Property of their own Persons: which is the most valuable of all Properties." Gally's argument directly echoes Locke's idea of property and individual in *Two Treatises* in which he claims: "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" (1988, 287-8). Locke's theory of property, then, is a story of a man "coming into one's own" by "[earning] his way toward self-ownership" (Brubaker 207, 215). In this sense, when both Annilia and Miranda are threatened with an unwanted marriage, they are at the risk of losing their inheritance as well as their internal property, or the ability to "act for [her] own" (3.4.23).

When the loss of property and self-governance comes into play, the discourse of madness enters the matrix of sexual contract. Horatio appears contented with his father's scheme, as Annilia would either have to comply with the nuptial agreements or hand over her estate, since "being next of kin, the Possession of her Estate, her being represented as a Lunatick, and consequently incapable of managing it" would allow them access to her property (47). According to Earla Wilputte, Haywood parallels the state of wives and lunatics in English law, since neither an English wife nor a lunatic could possess estates (1995a, 57). Indeed, the law of coverture denied women legal rights to own property: "No amount of equal inheritance could counteract the law of coverture and its legal 'fiction' that a husband and wife were one person — the husband — and therefore their property was his" (Erickson 1993, 34). Similarly, the Chancery "exercised wardship over orphans and lunatics" (Stone 1992, 14) because the right to property, let alone internal property, was predicated on a rational self.¹⁰ The condition of desiring women — one who defies her guardian over her

choice of marriage partner — is channeled into either the institution of marriage or to the confinements of a mad house.

The state of madness, then, stamps Annilia's body as economic transfer and writes her out of the body of legality, rationality, and property. It is particularly of significance that Giraldo holds no medical authority over her mental state. He need not seek medical advice to assess her mental fitness; he simply tells his servants, "do you not know your Mistress is Mad! — I find the Distemper increases upon her, and that so strongly, that it will be dangerous to let her go loose about the House" (46). As Allan Ingram notes, the definition of lunacy during this time was slippery at best: "the house built for fools and the mad is always capable of expansion simply by a shift in definition of what is sane" (1991, 101). Any type of aberration in speech, appearance, social etiquette, bodily symptoms, and dress was construed as signs of madness; a woman demonstrating sexual desire, for instance, was considered deranged and hysterical (Luhning 2006, 3). Private mad houses were covert forms of social control differentiated from public houses such as Bedlam. Mad houses ran for profits rather than medical assistance, and as such, admitting someone as a "lunatic" without medical diagnosis was not uncommon (Luhning 2006, 2). In *The Distress'd Orphan*, Giraldo displaces Annilia when he can no longer hold her to an equivocal promise. When her intentions and words are not complementary, Giraldo penalizes that

10) Interestingly, Locke writes in *An Essay Concerning Human Understanding* (1689) that "mad Men ... do not appear to have lost the Faculty of Reasoning: but have joined together some ideas very wrongly, they mistake them for Truths; and they err as Men do that argue right from wrong Principles" (1979, 161). That is, for the Lockean individual, the state of madness does not necessarily strip away his capacity for rationality.

discrepancy; he accuses her of not keeping her verbal promise to wed Horatio while contradicting herself by confessing passion for another man in her letters. That is, he diagnoses Annilia’s madness as a gap between orality and literacy, appearance and intention — the very same gap that the marriage act of 1753 wanted to preclude.

Particularly, Giraldo’s appropriation of patriarchal authority not only exerts control over her body but also her ability to speak and write. Annilia is silenced when forced into the mad house, as the narrative shifts to her lover Marathon and his heroic endeavor for rescue. In that sense, Haywood’s mad house serves as a “symbolic matrix for the author’s statements about the fate of women, that is, imprisonment mirrors both their physical and mental fetters” (Schofield 56). Her entrance into the mad house therefore complicates the linguistic link between desire and madness. More importantly, the mad house functions as a liminal space in which her legal rights and linguistic ability, both written and oral, are suspended.

[She was] disturb’d with Sounds, which struck so great a Dread into her, that nothing is more strange, than that she did not die with the Fright, or fall indeed into that Disorder of which she was accus’d — The rattling of Chains, the Shrieks of those severely treated by their barbarous Keepers, mingled with Curses, Oaths, and the most blasphemous Imprecations … while from another, Howling like that of Dogs, Shoutings, Roarings, Prayers, Preaching, Curses, Singing, Crying, promiscuously join’d to make a Chaos of the most horrible Confusion. (50-51)

The mad house is filled with “sounds,” verbal cues that “promiscuously” conjoin to write off the law of the father. Sharon Harrow reads the mad

house as a site from which language escapes discipline, a place of disorder that signifies Annilia's uncontrollable sexual desire (2009, 303). In other words, her confinement "engenders rather than palliates passion" (Harrow 2009, 304). Harrow's argument suggests that confinement serves not as a punishment but as a liberation that authorizes Annilia's unruly passion.

Indeed, her unswerving passion is of significance because her commitment to Marathon warrants her capacity for self-governance. After all, Annilia has the choice to walk out of the mad house and submit to her guardian's order. Her unyielding passion for Marathon therefore signifies her resistance to her father's will and her guardian's extortion of those regulations. In fact, it is precisely in the mad house where she is not free to govern her thoughts, body, or language that she contemplates on the meaning of self-possession. Imprisoned, Annilia begins to inspect her current predicament. Upon realizing that it was her wealth that Giraldo and Horatio were after, "the Satisfaction it gave her to reflect that he had not her Person also, very much alleviated the Pain. — Some kind Turn of Fate, said she to herself, may disclose the villainous Practices of these abandon'd Wretches, and *put me in possession of my own*" (52, my emphasis). As Gally asserts, "no Woman can be forced to give her Consent, and repeat her Part of the Marriage Office: both of which are essential to the Validity of a Marriage" (1750, 14). Annilia's relief that Horatio "had not her Person also" suggests that a forced entry into a state of marriage, or an imprisonment in a mad house, cannot fully strip her of her own self. Severed from all social and legal ties, her state of lunacy, then, ironically confirms her will to self-governance.

5. “Is the Woman Really Possessed?”: Possessing and Being Possessed

Likewise, in *The Busybody*, madness is employed in direct reference to the institution of marriage. Miranda’s sanity is questioned when Sir George inquires after her marital status to his fellow, Marplot: “What, is the woman really possessed?” (3.5.44). Sir George means to ask if she is married and thereby “possessed” by Sir Francis, to which Marplot curiously answers, “Yes, with the spirit of contradiction; she railed at you most prodigiously” (3.5.45-6). Here, Marplot interprets “possessed” as a state of mental derangement, or being possessed of spirits. This word play of being “possessed” aligns the state of marriage *as* an expression of madness, a locus in which the capacity for self-governance comes into question. Yet unlike Annilia who was wrongfully declared mad, it is Miranda who questions her own sanity, asking if it is mad to marry on the basis of love. “Well, let me reason a little with my mad self. Now, don’t I transgress all rules to venture upon a man without the advice of the grave and wise? But then a rigid knavish guardian who would have married me? To whom? Even to his nauseous self, or nobody. Sir George is what I have tried in conversation, inquired into his character, am satisfied in both” (4.5.1-6). That is, she diagnoses herself mad because of her willingness to follow her desire; her state of madness reflects on her willingness to transgress “all rules” prescribed by legal authority. It is precisely Miranda’s “mad self,” a negotiation between reason and desire, oral and literal performance, legal and illegal, that propels her to rewrite her father’s will and claim her property. Significantly, as she justifies her choice over Sir George, she

reaffirms and confers with her “mad self” to find property in herself. Before Miranda can marry, she must realize her own juridical subjectivity that arises from conflict and disintegration of the self; Miranda’s “madness,” in a way, leads her to imagine a stable sense of self commanding ownership, very much like Annilia who dreams of “putting [her] in possession of [her] own” (52).

At the same time, Centlivre also questions the validity of marriage in freeing women to explore their subjectivity. Unlike Vivian Davis who deems that Centlivre “reaffirms the institution of marriage through a celebration of a joint theatrical performance,” Miranda’s take on marriage is baffling to say the least (2011, 535). Miranda and Sir George marry off-stage while Sir Francis goes to retrieve a marriage license for him and Miranda.¹¹⁾ After all the elaborate stratagem and performances designed to marry Sir George, she appears unenthusiastic if not repulsed by the ideas of nuptial ties. She laments to her maid: “Well, Patch, I have done a strange bold thing! My fate is determined, and expectation is no more. Now, to avoid the impertinence and roguery of an old man, I have thrown myself into the extravagance of a young one. If he should despise, slight or use me ill, there’s no remedy from a husband but the grave” (5.1.1-5). That is, while in theory Miranda should be equal with her husband, she also suspects the potential shift in sexual politics brought on by marriage. Laura Rosenthal, in reading Centlivre’s other play *The Basset Table* (1705), considers her work as an example of “feminist individualism,” a commitment

11) Nowhere in the play do we see Miranda and Sir George getting married, except when Miranda tells her maid Patch afterwards. That is, their wedding ceremony happens off-stage and in a rush, giving them no time to procure banns or licenses. Their wedding, therefore, is likely to have been a clandestine marriage, a scenario that was plausible only before 1753.

to “Whig politics, Lockean individual rights, and some freedoms for women” (1996, 206). Yet she also concedes that Centlivre’s attempt to “imagine some women as self-owners and consequently as owners of materials and immaterial property … demonstrates the limits of Lockean individualism for feminists” (1996, 241). Indeed, Centlivre extends and tests the possibilities of Lockean self-ownership to apply to women but also admits that marriage posits restrictions for the female sex. For instance, Locke characterizes conjugal society as that “which draws with it mutual Support, and Assistance, and a Communion of Interest too,” conceiving men and women as equal in marriage (1988, 319). Yet he admits that because men are “abler and the stronger,” the authority should “naturally [fall] to the Man’s share” (1988, 321). When Miranda questions whether she will be “ill-used” by her husband, she takes issue with the nature of a Lockean household in which an imbalanced sexual contract allows men to prevail over women.

That being said, Miranda’s experiment with a self-determined quest for property cannot be discredited, because she *imagines* herself as a subject capable of owning herself. Immediately following her apprehension, she celebrates the fact that she has outwitted her guardian: “Farewell, old Mammon, and thy detested walls. ‘Twill be no more ‘sweet Sir Francis’; I shall be compelled to the odious talk of dissembling no longer to get my *own*” (5.1.21-4, my emphasis). When the newly wedded couple finally announce their secret marriage before Sir Francis, he exclaims, “What, have you choused me out of my consent and your writings, then, mistress?” to which Miranda replies, “Out of nothing but my own, guardian” (5.4.95-7). Miranda thus orchestrates her own marriage scheme, rearranging her legal rights, even though her marriage with Sir George will not be without

restraints.

Annalia, on the other hand, is not fully suspicious of marriage as an institution that divests women of self-ownership. For this reason, after escaping the private mad house and marrying Marathon, she attempts to reestablish order by demanding what is rightfully hers, and to that extent, her husband's. Immediately following the ceremony, she visits Giraldo and "in mild Terms reproach'd him with his Usage of her, and demanded the Writings of her Estate, Which, said she, are now the Right of my Husband, pointing to Colonel Marathon" (62). The laws of coverture take effect and Annalia's property is alienated to her husband. While this presents an unsatisfactory ending for modern readers, Annalia's insistence that her father's property be handed over through *her* self-governing demands shows that female desire and economic independence cannot suffice without the other in a conjugal state. Haywood demonstrates that women may not have achieved legal rights to property within marriage, but when the discourses of madness ruptures those legal constraints, marriage can prompt women to furnish "property in [her] own person" (Locke 1988, 287).

Both Centlivre and Haywood bring the discourse of passion, political economy, and madness to discuss women's vulnerable position in a society authored by men. Foucault observes that the history of madness traces the "gestures ... with which a culture rejects something which will become its outside" (1965, 95). If so, Miranda and Annalia's insistence on property and self-ownership is rejected as symptoms of female madness, a disorder that society must dispel. Yet only in a state of "madness" do Miranda and Annalia clearly recognize what otherwise would have been veiled and disguised against legal authority. Their disintegration into "madness" functions not as a signifier of lost self-possession but rather a contrivance

to claim self-ownership by owning, manipulating, or removing their spoken and written words. By suggesting marriage as a blatantly economic arrangement fueled by women’s passion, both Centlivre and Haywood call attention to the contractual exchanges of marriage and demand that women’s capacity for self-ownership be reinstated. They thus rethink the nature of sexual contract and contractarian political theory, asking what it means for women to “possess” and “be possessed.”

Bibliography

- Ballaster, Ros. 1998. *Seductive Forms: Women's Amatory Fiction from 1684 to 1740*. Oxford: Oxford University Press.
- Bannet, Eve Tavor. 1997. "The Marriage Act of 1753: 'A Most Cruel Law for the Fair Sex'" *Eighteenth-Century Studies* 30: 233-54.
- Bowyer, John Wilson. 1952. *The Celebrated Mrs. Centlivre*. Durham, NC: Duke University Press.
- Brubaker, Stanley C. 2012. "Coming into One's Own: John Locke's Theory of Property, God, and Politics." *The Review of Politics* 74 (2): 207-32.
- Centlivre, Susanna. 2001. *The Busybody. Eighteenth-Century Women Dramatists*. Ed. Melinda C. Finberg. Oxford: Oxford University Press.
- Collins, Margo. 1999. "Centlivre v. Hardwicke: Susannah Centlivre's Plays and the Marriage Act of 1753." *Comparative Drama* 33 (2): 179-98.
- Cook, Elizabeth. 1996. *Epistolary Bodies: Gender and Genre in the Eighteenth-Century Republic of Letters*. Stanford, CA: Stanford University Press.
- Copeland, Nancy. 2004. *Staging Gender in Behn and Centlivre: Women's Comedy and the Theatre*. Burlington, VT: Ashgate Publishing.
- Davis, Vivian. 2011. "Dramatizing the Sexual Contract: Congreve and Centlivre." *Studies in English Literature, 1500-1900* 51 (3): 519-43.
- Erickson, Amy Louise. 1993. *Women and Property in Early Modern England*. New York: Routledge.
- Finberg, Melinda C. 2001. *Introduction to Eighteenth-Century Women Dramatists*, by Susanna Centlivre, ix-xlvii. Oxford: Oxford University Press.
- Foucault, Michelle. 1965. *Madness and Civilization: A History of Insanity in the Age of Reason*. New York: Pantheon Books.
- Fowler, Patsy S. 1996. "Rejecting the Status Quo: The Attempts of Mary Pix and Susanna Centlivre to Reform Society's Patriarchal Attitudes." *Restoration and Eighteenth-Century Theatre Research* 11: 49-59.
- Gally, Henry. 1750. *Some Considerations upon Clandestine Marriages*. London.

- Ganz, Melissa J. 2013. “Clandestine Schemes Burney’s Cecilia and the Marriage Act.” *The Eighteenth Century* 54 (1): 25-51.
- Gilbert, Sandra, and Susan Gubar. 1979. *The Madwoman in the Attic: The Woman Writer and the Nineteenth-Century Literary Imagination*. New Haven: Yale University Press.
- Harrow, Sharon. 2009. “Having Text: Desire and Language in Haywood’s *Love in Excess* and *The Distressed Orphan*.” *Eighteenth Century Fiction* 22 (2): 279-308.
- Haywood, Eliza. 1995. *The Distress’d Orphan*. In *Three Novellas*, edited by Early A. Wilputte. pp. 27-63. East Lansing, Michigan: Colleagues Press.
- Ingram, Allan. 1991. *The Madhouse of Language: Writing and Reading Madness in the Eighteenth Century*. New York: Routledge.
- Locke, John. 1979. *An Essay Concerning Human Understanding*. Oxford: Clarendon Press.
- _____. 1988. *Two Treatises of Government*. Cambridge: Cambridge University Press.
- _____. 2000. *Some Thoughts Concerning Education*. Oxford: Clarendon Press.
- Luhning, Holly. 2006. “Manacles of Madness: Haywood’s *The Distress’d Orphan*; or *Love in a Madhouse*.” *eSharp* 8: 1-16.
- Madan, Martin. 1730. *Thelyphthora; or, a Treatise on Female Ruin*. London. <https://hdl.handle.net/2027/nyp.33433061816124>.
- Milhous, Judith, and Robert Hume. 1999. “Playwrights’ Remuneration in Eighteenth-Century London.” *Huntington Library Quarterly* 10 (2-3): 3-90.
- Nixon, Cheryl. 2014. “Regulating the Unstable Family: Eliza Haywood and the Development of Family Law.” *Journal for Early Modern Cultural Studies* 14 (4): 49-78.
- Parker, Stephen. 1990. *Informal Marriage, Cohabitation and the Law, 1750-1989*. New York: St. Martin’s Press.
- Pateman, Carole. 1988. *The Sexual Contract*. Stanford, CA: Stanford University Press.
- Porter, Roy. 1987. *A Social History of Madness: The World Through the Eyes*

- of the Insane*. New York: Weidenfeld & Nicolson.
- Probert, Rebecca. 2005. "The Impact of the Marriage Act of 1753: Was It Really 'A Most Cruel Law For The Fair Sex'?" *Eighteenth-Century Studies* 38 (2): 247-62.
- Rosenthal, Laura. 1996. *Playwrights and Plagiarists in Early modern England: Gender, Authorship and Literary Property*. Ithaca: Cornell University Press.
- Schofield, Mary Anne. 1985. *Eliza Haywood*. Boston: Twayne Publishers.
- Stone, Lawrence. 1992. *Uncertain Unions: Marriage in England 1660-1753*. Oxford: Oxford University Press.
- Swinburne, Henry. 1711. *A Treatise of Spousals, or Matrimonial Contracts*. London.
- Tierney-Hynes, Rebecca. 2016. "Emotional Economies: Centlivre's Comic Ends." *Studies in Eighteenth-Century Culture* 45: 83-106.
- Wilputte, Earla A. 1995a. "Gender Inversions in Haywood's *The Distress'd Orphan, or, Love in a Mad-house*." *Canadian Society for Eighteenth-Century Studies* 14: 49-61.
- _____ 1995b. Introduction to *The Distress'd Orphan*, by Eliza Haywood, pp. 1-15. East Lansing, Michigan: Colleagues Press.
- Zaczek, Barbara Maria. 1997. *Censored Sentiments: Letters and Censorship in Epistolary Novels and Conduct Material*. Newark: University of Delaware Press.
- Zomchick, John P. 1993. *Family and the Law in Eighteenth-Century Fiction: The Public Conscience in the Private Sphere*. Cambridge: Cambridge University Press.

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초 록

“그녀는 정말 소유되었나?”

— 수산나 산트리버와 엘라이자 헤이우드에 나타난 결혼법, 재산, 그리고 광기

임재인*

본고는 수산나 산트리버의 희극 『참견쟁이』(1709)와 엘라이자 헤이우드의 연애 소설 「고뇌하는 고아, 혹은 정신 병원에서 사랑」(1726)에 나타난 결혼, 언어, 광기의 관계를 통해 18세기 영국에서 여성의 재산권과 자기소유권의 문제가 어떻게 사유되는지 살핀다. 산트리버와 헤이우드의 여자 주인공들은 법적 후견인이 지정한 남성과 결혼한다는 조건으로 아버지의 재산을 물려받을 수 있다. 따라서 그들은 아버지의 재산을 소유하는 동시에 자신이 원하는 남편감을 선택할 방법을 모색한다. 이 전략 때문에 그들은 ‘미친’ 여자로 취급되는데, 이는 당대 사회가 규정한 젠더와 사회 학습에서 벗어나는 행위이기 때문이다. 흥미롭게도, 이 작품은 ‘소유하다’는 동사를 여성의 결혼 상태를 지칭하거나 혹은 비이성에 사로잡혀 미쳤다는 뜻으로 사용한다. 결혼과 광기는 교통 가능한 것이며, 결혼한 여성과 미친 사람 모두 재산권을 소유할 수 없다는 특징을 보인다. 당시 여성은 결혼 후 재산권을 주장할 수 없었고, 아내의 모든 소유는 곧 남편의 것이었다. 로크는 인간이 재산을 소유하기 위해서는 먼저 자기 내면의 재산, 즉 스스로를 다스리고 통제할 자주권이 동반되어야 한다고 설명한 바 있다. 이 맥락에서, 아버지의 재산권을 주장하는 동시

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에 자기 몸과 욕망의 주체가 되고자 하는 여주인공들은 결혼이라는 제도를 통해 근대 영국 사회 계약이 유효한 것인지 묻는다. 특히 이 두 작품은 구어로 맺은 약속 대신 문서화된 증표를 통해 결혼을 적법화시킨 1753년 결혼법의 모순을 드러내고, 남성들이 공표한 언어와 법적 권위가 여성의 광기를 통해 희석되는 과정을 보여준다. 산트리버와 헤이우드의 ‘미친’ 여자들은 언어의 운용을 통해 정상과 비정상, 적법과 비적법의 경계를 변주하고 여성 재산권과 자주권의 가능성을 확인하는 것이다.