



Anne D. Wallace, “On the Deceased Wife’s Sister Controversy, 1835-1907”

For most of the nineteenth century, the question of whether a man should be able to marry the sister of his deceased wife engaged the English public in protracted and heated debate. The Parliamentary debates, individually published pamphlets and periodical essays, and topical fiction that at times seemed to flood from this debate express a range of nineteenth-century English anxieties about the proper definition and practice of family life, anxieties that provoked serious reconsideration of the legal definitions and cultural meanings of sibling and marital relations. The figure that carried the full weight of these ideological struggles was the adult unmarried sister living in a married sister’s household; the specific issue upon which the English people focused was whether a man’s wife’s sister was, in law, the equivalent of his blood sister and therefore never to be his wife, or his metaphorical sister only and therefore an “indifferent person” whom he could marry.

Twentieth-century scholars found it difficult to understand the persistence and virulence of the Marriage with a Deceased Wife’s Sister (MDWS) debate, tending either to ignore it or to treat it as a Victorian obsession emerging from psychological and/or cultural repression of incestuous longings.[1] Standard histories of Britain and of British law, even feminist studies of women’s legal issues, pass over a subject that preoccupied the nineteenth-century English for seven decades without so much as an index entry. In literary criticism, the substantive exceptions during the last half century are relatively few and are concentrated in the years since 2000.[2] This recent re-engagement seems to arise from increasing scholarly attention to “family” as a variable and fluctuating structure through the period, attention not only in literary studies but also in the social sciences, where the debates about the once generally assumed stability and universality of the “nuclear family” extend back decades. Naomi Tadmor, in *Family and Friends in Eighteenth-Century England* (2001), articulates a paradoxical state of affairs among family historians much like that which Mary Jean Corbett articulates with respect to literary studies: in each discipline, the two scholars find increasing evidence for understanding “family” as an idea and practice embedded in culture and history—one that fluctuates with time and place (as well as varying within any singular cultural/historical frame)—and an increasing disposition to reconceptualize “family” to account for such fluctuations. At the same time, though, Corbett and Tadmor each observe that scholars’ continuing use of key terms like “nuclear family,” terms that denote stable, universal human family forms, seems to impede such re-conceptualizations. As Tadmor puts it, scholars’ recurrence to these terms has kept them from asking “simple historical questions . . . such as what concepts of the family did people in the past have? What did the family mean for them? In what terms did they understand family relations, household residence, kinship relationships, friendship, and patronage?” (9-10).

Tadmor’s questions suggest that in order to understand the MDWS controversy’s significance in nineteenth-century England we should ask questions like these: what were the competing definitions of “sister” that drove the debate? Why did “brother” only indirectly come into question, so that marrying one’s deceased husband’s brother was never debated in the same way? What was the relationship, if any, between the various ideas of “sister” and the changing legal definitions of marriage? And if the answers to these questions are not quite what we would expect, what does this suggest about potentially competing ideas of “family” in this period? In an effort to explore such questions, this article offers a brief history of the MDWS controversy, a discussion of the peculiar legal and economic status of the unmarried sister in nineteenth-century England, and a brief demonstration of what all this might mean for literary scholars.

In 1835, Lord Lyndhurst’s concern for the legitimacy of the Duke of Beaufort’s son moved him to introduce a bill in the House of Lords calling for a limit on the time period during which a “voidable” marriage could be challenged. At that time, marriages within the Church of England’s prohibited degrees of consanguinity (blood relation) and affinity (relation through marriage) were not automatically void—that is, invalid from the moment of their supposed enactment—but only voidable.[3] The Duke had married his deceased wife’s half-sister, which meant that this marriage fell within the same category as (for instance) unions between uncles and nieces and so could be declared void by the Ecclesiastical Court at any time during the spouses’ lifetimes. So long as no challenge was made, or if the Court ruled favorably, such a voidable marriage was legal, its issue legitimate, and the inheritances of that issue as lawful as those resulting from any marriage in England. But if the Court declared such a marriage void, then it became retroactively and absolutely unlawful: the children became bastards and



inheritances passed into other family lines.

Quite contrary to Lord Lyndhurst's intention, the House of Lords took this proposal as an occasion to regularize the inconsistencies caused by voidable marriage, and the bill assumed a quite different form: all voidable marriages performed before 31 August 1835, if not already voided, would be declared fully legitimate; all marriages within the prohibited degrees performed after that date would be void, invalid from the beginning.^[4] The brief Hansard account of the debate in Lords suggests that a consensus on this measure was reached quickly and without substantial dissent.^[5] But the morsel upon which Parliament was to choke for the next seventy years, the special case of marriage with a deceased wife's sister, made its presence immediately felt in Commons, where an amendment was introduced to except this kind of marriage from the bill.^[6] Although the amendment was rejected, primarily on the grounds that such an addition undermined the principle of consistency that had become the point of Lord Lyndhurst's bill, the specific exception it proposed rapidly took on a political life of its own. In 1842, the first bill calling for legalization of marriage with a deceased wife's sister was introduced in Parliament, and from that time until the passage of the Deceased Wife's Sister's Marriage Act in 1907, the issue was revisited almost yearly. There appear to have been periods of even heavier activity, notably in the late 1840s when Commons called for a Royal Commission to report on the subject—in part because a private survey found that of 1,364 voidable marriages performed in five selected areas since the passage of Lord Lyndhurst's Act in 1835, ninety percent were with a deceased wife's sister.^[7] Again in the early 1870s, when the first Married Women's Property Act (1870) and a new Infant Custody Act (1873) were passed, the heat of the debate seems to have increased. By the 1880s, as Cynthia Fansler Behrman points out, marriage with the deceased wife's sister was indeed that "annual blister" lampooned in Gilbert and Sullivan's *Iolanthe*: "[a]fter 1882 [the year in which the second Married Women's Property Act passed] the question of legalizing such a marriage came up in every Parliament except two until 1907? (483). In addition to regular parliamentary bills and debates, pamphlets, letters, treatises and statements from all sides were published steadily through this period; major journals carried articles from leading figures in the controversy; from 1851 onward, the Marriage Law Reform Association sponsored various public forums (meetings, petitions, and so forth) to promote legalization; and at least five novels took marriage with a deceased wife's sister as their explicit subject.^[8]

Despite a twentieth-century inclination to perceive this extraordinarily long and virulent social debate as signaling repressed psychological and/or cultural anxiety about incest, there is nothing covert about the participants' engagement of the topic of incest. They discuss the issue openly and extensively, framing that discussion in terms of theological, legal, "natural," and individual definitions of familial relations, and of the impact of such definitions on private sexual behavior. In essence this portion of the debate presents what we would call the "psychological" dimensions of incest as socially determined, the potential for desire and transgression emanating from legal and social circumstances. Moreover, from the beginning of these debates, the technical question of what legally constitutes incest is paired with what the participants called "the social question," that is, the question of how changes in the status of the unmarried sister would affect the moral, emotional, and financial stability of families.

If we take all this seriously (since the participants do not seem to avoid discussing incest, but instead actively address how incest should be defined), it seems clear that this debate was for the nineteenth-century English about what "sister" means and, more specifically, about what relationship a wife's unmarried sister bears in law and morality to the wife's husband. Underscoring this particular focus on the unmarried sister is the dearth of debate about other possible exceptions to Lord Lyndhurst's Act. Marriage with a deceased husband's brother, for instance, was cited by both sides as an unacceptable subject for exception from Lord Lyndhurst's Act. Marriage with a deceased wife's niece was regularly mentioned as an immediately parallel case, one implicated in the decision about the wife's sister, but was never the focus of investigation or debate. Although first-cousin marriage—a commonly practiced, literally consanguineous union not within the legally prohibited degrees—was discussed in some prominent journal articles and occasionally addressed in parliamentary debate, public discussion did not begin to approach the pitch of the deceased wife's sister controversy, nor did the issue precipitate any legislative action.^[9] To be sure, the situation of the deceased husband's brother raised questions about the legitimacy of the English succession that few can have been eager to revisit.^[10] But in purely formal terms, all these cases offered similar opportunities to re-examine definitions of marriage, of incest, or of the other issues suggested as prime drivers of the debate—the established church's role in law and the cultural meanings of aging and sexuality—and neither of the latter cases carried the kind of historical baggage of the first.^[11] What cultural pressures, then, drove such varied issues through this particular channel? What is it about the specific



historical situation of this figure, the figure of the dead wife's unmarried sister, that fits it to carry such weight?

The distinctive attributes of the deceased wife's unmarried sister in nineteenth-century England and her differences from other classes of women are named by that unwieldy moniker: she is an adult unmarried woman, and is not the blood birth sister of her dead sister's husband. The first of these is a distinction easily missed by twentieth and twenty-first century readers: because they were legally classified as *feme sole*, or "woman alone," unmarried adult sisters retained the legal rights women forfeited when they married and became *feme covert*, legal nonentities "covered" by their husbands' identities. Adult unmarried women could contract and bequeath, sue and be sued; although they could not vote or hold office, they otherwise retained a separate civil identity not subsumed into any man's.[12] Focusing on the common cultural subjection of women in nineteenth-century Britain, we have retrospectively flattened out these profound legal differences. While the absence of the franchise and of eligibility to hold office are of course matters of great importance, the lack of these public political powers does not eradicate the economic and personal autonomy that unmarried women held, not merely theoretically but in legal fact.[13] In literature, characters like George Eliot's Priscilla, Nancy's unmarried sister in *Silas Marner*, remind us that "outdoor management" (147) of farms and businesses remained a viable option for an unmarried adult woman, though of course preferably under cultural cover—in Priscilla's case, cover provided by an elderly father.[14] Unmarried women could earn and retain wealth, inherit without potentially forfeiting their inheritance to a husband's family, enter into partnerships and contracts, own and manage businesses, and bequeath their accumulated wealth to heirs of their choice. Obviously the *de jure* autonomy of unmarried adult women usually disappeared into a *de facto* subjection to father, or brother, or uncle, a disappearance that, together with the eventual exclusion of unmarried siblings from the industrial family, has made the unmarried sister's autonomy virtually invisible to us. But that autonomy was a fact, a legal anomaly in the general cultural subjection of women in nineteenth-century England.

Here the various texts of the MDWS controversy prove instructive because both the supporters and the opponents of making the deceased wife's sister exception spent a good deal of time pointing out the desirability of the wife's unmarried sister living in the household and, whether actually residing there or not, supplying the mother's place once the mother had died. In the 1849 Commons debates following the publication of the Royal Commission's *First Report*, for instance, a Mr. Cockburn, supporting a bill to legalize MDWS, calls the deceased wife's sister

the person who, of all other human beings, was the best constituted and adapted to act as a substitute for the mother. She was already, as it were, half a mother to them from her very position; and even the law regarded her in the place of a parent. The children, who would have shrunk from a stranger, turned with affection towards the sister of their mother.[15]

Gladstone, speaking in opposition to MDWS later that year, waxes more eloquent, but in very similar terms:

No doubt the children of the first wife derived an inappreciable advantage from the care of the sister of their mother after her death. She stood to them in a natural relation, approved by God and man; and, mindful of the tenderness which united her to one now removed, she carried the overflowings of her tenderness to the offspring of the beloved person who had been called away.[16]

Obviously both speakers celebrate the "natural relation," by blood and affection, between the wife's sister and the wife's children. The clues to their conflict lie in that reported phrase of Cockburn's, "half a mother," and in Gladstone's emphasis on the sisterly, rather than the motherly, emotion: the crux of the legal and moral issue is whether the living sister can (and should) become a stepmother, or whether she must (and should) remain an aunt. Is the wife's sister a metaphorical sister, her brother-in-law's "sister," and that only while the wife lives? Or is she legally equivalent to her sister's husband's blood sister, as completely ineligible to marry him as a blood sister?

This conflict extends from legal and moral questions into the implications of these questions for a family's daily life: could a wife's unmarried sister properly live in her brother-in-law's house, whether before or after the wife's



death? And, if not, what effect would that have on the material and affective economies of the couple or of the widower and his children? While the supporters leaned more heavily on the material economy aspect of the issue, both sides engaged the implications for family life and household management raised by this typical testimony from the Royal Commission's 1848 *First Report*, given by a solicitor who married a vicar's daughter:

My wife died in — — 1845. We had six children, all of whom are living, three daughters and three sons. In the year 1834, my wife's next sister, one year younger than herself, came to reside with us; not with the intention, when she entered my house, of residing, but it has happened, that from that time to this she has entirely resided. She was my wife's intimate associate; her room companion. She soon, from my wife's confinement and delicacy of health, participated very freely in the education of the children and in the care of the family. She was present, I believe, at the birth of every child, and my wife died in her arms. (64)[17]

After the wife's death, at first because he wants to continue his girls' education at home as the wife wished, the husband wants the sister to stay on. The wife's and sister's parents insist that another woman "of a suitable age" be in the house if the sister is to remain—a common though not universal precaution—and a friend of the husband obliges (64). But this friend must soon leave, and the husband says that the double loss of this friend and the sister will leave him in financial difficulties: "[i]f I had been obliged to take a governess or companion, at the cost of 100£. or even 80£. a-year, it would have pressed very heavily upon my resources" (64-5). He is speaking of a chaperone for the sister but also clearly of the governess he would have to hire if the sister was compelled to leave. The husband sees the sister not only as the natural emotional guardian of his children but also as the provider of childcare and educational services for which he would otherwise have to pay (and he says nothing here of the household management implied in his earlier "care of the family"). Yet he cannot see his way clear either to keeping the sister un-chaperoned in his house or to marrying her against the law. As he puts it, "it is not merely my own respectability, but my bread and the bread of my children depends upon my conduct being above suspicion of any kind" (65). Yet again, he will not marry anyone else (clearly the other possible solution to the difficulties of his domestic economies): "[i]t would be repugnant to my feeling to displace old associations, and to seek marriage elsewhere; I could not do it. My wife's sister disturbs nothing; she is already in the place of my wife" (66).

Although the details of these stories vary, the solicitor's tale is typical in its characterization of an unmarried sister's presence as crucial to the emotional and financial wellbeing of the household, both before and after the wife's death. And this is, of course, not only an emotional presence but a body of labor: the intellectual, managerial, and physical work that can only be replaced with wage or salaried labor—or with a wife. At the same time, so powerful is the need to relocate (and thereby mask) the sister's labor value in a wife that in this case the brother-in-law rhetorically constructs her as "already" in that "place."

In testimonies like this, and in the arguments of both sides of the MDWS controversies, it is clear that the writers and speakers of the time recognized another feature of nineteenth-century English life that we have found hard to see: an alternative model of "family," one quite different from the "nuclear family," in which the ideal household is not one defined only by the spousal pair and their children but is equally defined by the lateral relations of siblinghood and its corollaries—brothers and sisters, aunts and uncles, nieces and nephews.[18] In such a family, the economically valuable yet culturally disturbing unmarried sister could be fruitfully re-imagined as a "wife," a woman committed to another sibling's family, a contributing participant in another sibling's married life, and caregiver to another sibling's children. Because she could earn, and own, and bequeath, she could acquire and contribute additional material resources for the family, including the nieces and nephews who embodied the continuation of the family line. In an atmosphere of collective labor toward family goals, even if she did not earn money directly, the unmarried sister's domestic labor and management might contribute value, and here too her legal autonomy might be of use in the management of a household or jointly owned business. With the value of her autonomy firmly harnessed to the ideal of adult siblings' continuing mutual devotion and support, the dissonances among the adult unmarried sister's *de jure* and *de facto* conditions are quieted.[19]

Also quite clearly visible in these debates, however, is the simultaneous functional presence of the "nuclear family" model, which ideally closes the domestic space around a spousal pair and their children and excludes (visible) labor from that space, drawing sharp distinctions between the roles of "sister" and "wife." This is of



course the household structure associated with the well-known and much discussed “domestic ideology” of the Victorian period. If, as the MDWS debates seem to show, there were alternative versions of domesticity at work in the culture—one that positively valued the problematic unmarried sister’s autonomy and labor and included her in the household, and one that excluded all but the small blood cohort of spouses and their children from an ideally labor-free household—then the primary ideological driver of this long intense debate might be articulated in this way: given the culturally undesirable anomaly of unmarried adult women’s legal and economic autonomy, how should unmarried sisters be converted into wives? Could this anomaly be sufficiently contained by a metaphorical conversion of an unmarried sister into an extra “wife” in her married sister’s household, or must an unmarried sister literally be made a wife through marriage to contain the “danger” of an autonomous adult woman?

The supporters of the MDWS exception believed that the latter question could be answered yes and yes. An unmarried sister could indeed live in her married sister’s household, supplying additional emotional and material support to the couple and their children while her sister lived. But if the married sister died, the supporters’ arguments suggest, then the emotional and material “profits” and stabilities embodied in the remaining sister should be consolidated (to use somewhat inadequate material economic terms) through literal, legal marriage to the widower. This position depends on two notions rather startling to post-Freudian readers: that “sister” and “wife” are mutually constitutive relations—cognate roles within a family, rather than fundamentally and properly disjunct—and that a metaphorical sibling relationship (the deceased wife’s sister and the widowed brother-in-law) is an excellent predicate of marriage. So this double yes relies on an ideal of “family” that both exploits the differences and affirms the similarities between *feme sole* and *feme covert*, reaping the benefits of the unmarried sister’s autonomy as “wife” in her married sister’s house while also recognizing her potential as a future literal wife, should the married sister die.^[20]

On the other hand, for the opponents of MDWS the conversion must be literal. It is in their no-yes solution where we most strongly feel the presence of the “nuclear family” version of domesticity, because this solution insists on a sharp distinction between “sister” and “wife” that does not permit the potential conversion of an unmarried sister to the widowed brother-in-law’s literal wife. Even metaphorical siblinghood excludes the possibility of marriage, and the spousal relation becomes the “original” shaping structure of a household, the relation upon which all others depend. The unmarried adult sister’s place in the domestic economy is now defined by her necessary exclusion from the spousal relationship by her difference from her own sister rather than (as in the supporters’ solution) by a necessary, stabilizing inclusion of an unmarried sister who may be, in time, first “wife” and later literal wife.

It is no coincidence, I think, that the debates about marriage with the deceased wife’s sister escalate toward resolution after two legal events that alter these conditions: the 1882 Married Women’s Property Act—which, despite its troubling maintenance of women’s “separate property,” creates married women *feme sole* with respect to their individually held money and property—and the 1891 case law precedent *Regina v. Jackson*, which denies the right of a husband to imprison or restrain his wife without special legal cause. Mary Lyndon Shanley emphasizes the limitations of these reforms, documenting the restricted language of the 1882 Act as passed in comparison to its original sweeping proclamation of married women as *feme sole* with respect to all property, and outlining the uncertainty of married women’s rights to their bodies throughout the 1890s (126, 156-88). Nonetheless, these changes substantially reduced the legal distinctions between the married and unmarried sisters and between the wife’s and the husband’s sisters (or any adult unmarried woman relatives). At least one reformer perceived the reduction as decisive: as Shanley reports, despite the obviously restricted language of the 1882 Act, Ursula Bright, an influential activist for married women’s rights, publicly stated that the Act gave married and unmarried women equal property rights (127). Now, it would appear, the MDSW exception is no longer a “safe” one: marriage to a deceased wife’s sister no longer renders that sister wholly subordinate within the household economy (outside, of course, is another matter) or ensures her physical subordination (although marital rape was upheld in case law through the 1890s).

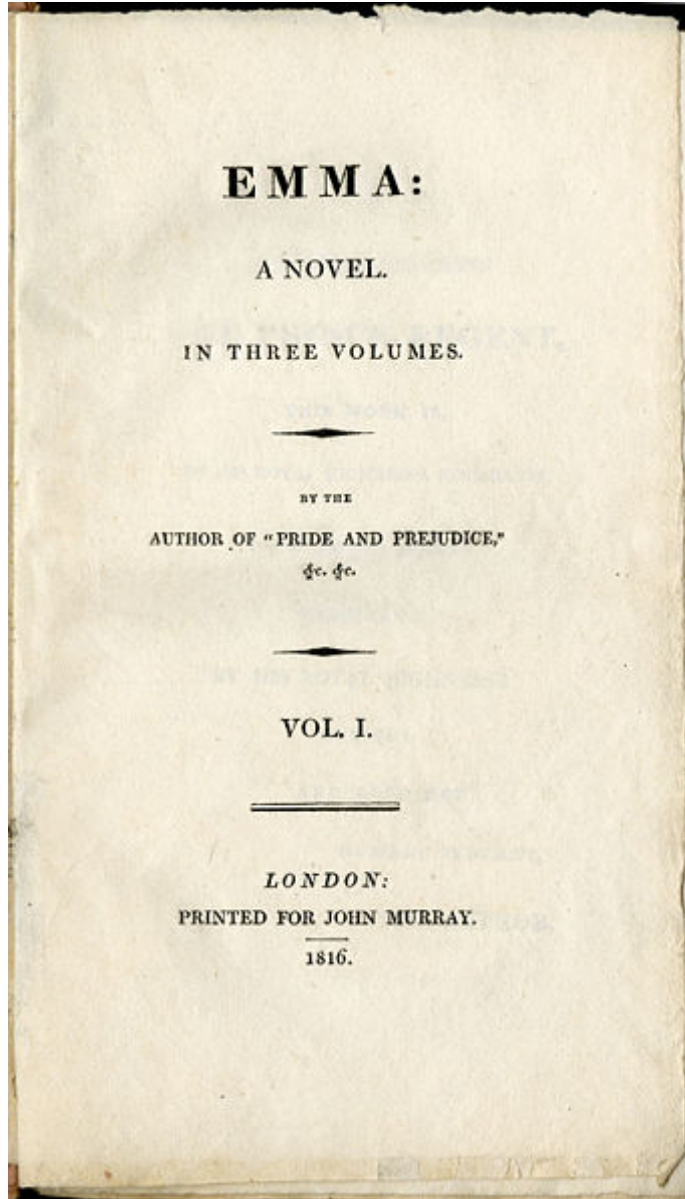
Granting their limitations, it seems clear that the changes accomplished by these two legal reforms significantly alter the exceptional status of the deceased wife’s sister and that these partial reforms strengthen expectation of an eventual complete emergence of married women as living legal entities. I would argue that this diminishing of the essential differences among types of sisters and between sisters and wives importantly contributed to the end of the deadlock. As married women became more “dangerous,” it was no longer possible to understand the



deceased wife's sister—or, indeed, the deceased wife herself—as a special case. Any exception became moot and so, ironically, acceptable. The other aspects of the controversy, explored by Behrman and Gullette, which were playing themselves out within the figure of the debate, worked toward their own resolutions, and the MDWS Bill finally passed as the combined contextual pressures sufficiently shifted. It had been roughly a full generation since the 1882 Married Women's Property Act had passed.

While the MDWS controversy may be understood in a variety of ways, it seems to me that the chief reasons for its obscurity over the last century or so also have the greatest implications for our readings of nineteenth-century English literature. If terms like “brother” and “sister” are contested rather than stable during this period, if the proper shape of “family” and “household” are widely and hotly debated, if sibling and spousal roles are not necessarily sharply differentiated, and if the unmarried sister signifies legal and economic autonomy, then the very words “brother,” “sister,” “family” must be read with greater attention to nuance, complication, and potentially ambiguous meaning, and the significance of familial relations as not necessarily reducible to emotional conditions alone.

As we might expect, the topical novels about MDWS readily support such newly attentive readings, as do many other novels of the period featuring unmarried sisters. For example, in Charles Dickens's *Martin Chuzzlewit* (1843), Tom Pinch's wage-earning unmarried sister Ruth leaves her post as governess to become Tom's housekeeper for a short and idyllic (if rather facetiously rendered) episode. But the resolution of their story marries Ruth to Tom's friend John Westlock, and settles Tom—characterized as sufficiently feminine to be read as an unmarried “sister” himself—in their household, where John's revived work as architect “afford[s] occupation to Tom” so that he can live in the couple's household “without any sense of dependence” (815). If we read this novel in the context of the MDWS debates, the shifting features of Tom and Ruth's emotional and material lives appear not as idiosyncratic circumstances, but as part of ongoing cultural negotiations of the proper valuation of “sister,” “brother,” and “husband” and of the proper shape of a household.



Title page from First Edition of Jane Austen's *Emma*

Perhaps more surprising are the new interpretative possibilities that emerge as we recognize the same negotiations in nineteenth-century literary texts that do not seem immediately connected to the issues or the active period of the MDWS debates. Take, for instance, the familiar textual territory of Jane Austen's *Emma* (1815), published twenty years before Lord Lyndhurst's Act and the beginning of the 70 years of public controversy, but clearly reflecting the cultural expectations in which the controversy began and (for some years) continued. At the end of chapter thirty-eight, Emma is called to join the dancers at the long-awaited ball at the Crown:

"Whom are you going to dance with?" asked Mr. Knightley.

She hesitated a moment, and then replied, "With you, if you will ask me."

"Will you?" said he, offering his hand.



“Indeed I will. You have shown that you can dance, and you know we are not really so much brother and sister as to make it at all improper.”

“Brother and sister! no, indeed.” (358)

Besides the literal meaning that they have no blood or affinal relationship, and the rather racy allusion to blood incest (which we must imagine Mr. Knightley passes over as one of Emma’s sprightly sallies), how are we to read this? Is it that Emma really thinks that people who regard each other as brother and sister should not dance, that even a metaphorical sibling relation precludes marriage? Or is she making an ironic suggestion that they should dance together as blood brothers and sisters might, that is, in practice for dancing with potential marriage partners? Does Mr. Knightley mean, “no, I do not think of you that way at all”—a twenty-first century reader’s clear cue that he has romantic intentions?—or does he speak ironically, meaning something more like, “so, you don’t see what we are to each other yet, do you?” The point is not which interpretation is correct, but that we cannot readily identify the range of alternative readings unless we recognize the possibility of a different family model, perhaps lampooned, perhaps celebrated, in the context of a conclusion in which the “brother” and “sister” in question do finally marry.

But it is not only nuances of affect that are at stake in this ambiguity. It has become a truism that Austen’s representations of class, for all their overt conservatism, draw attention also to the instability of the traditional class system. In *Emma*, the “good” marriages consolidate wealth and appear to affirm class placement in the face of such potential threats as Emma’s disruptive matchmaking and Mrs. Elton’s social climbing. But the novel may say something more unexpected (from our perspective) than “stick to your own kind”: it represents sibling relations as an essential stabilizing force that enables appropriate marriage and the gradual advancement, as well as consolidation, of wealth, particularly for women. Harriet Smith meets Robert Martin as the friend of one of his sisters, and they begin their relationship while Harriet is living in Robert’s birth-home, in the figurative place of an additional sister. While their marriage is usually cited as another triumph of class consolidation, Harriet’s illegitimacy, and her eventually discovered birth identity as the natural child of a well-to-do tradesman, place her below the respectable farmer. As Emma admits to Mr. Knightley when she learns that Harriet and Robert are engaged, “I think Harriet is doing extremely well. *Her* connexions may be worse than *his*. In respectability of character, there can be no doubt that they are” (516, emphasis original). In the last chapter the narrative voice, indirectly voicing Emma’s thoughts about the discovery of Harriet’s blood parentage, reinforces this: “[t]he stain of illegitimacy, unbleached by nobility or wealth, would have been a stain indeed. . . . in the home [Robert] offered, there would be the hope of more [than happiness], of security, stability, and improvement” (526). Although Emma’s judgment can rarely be taken as definitive, the novel’s plot tells us clearly that the path to Harriet’s rising fortune depends as much on the sibling relation—the initial friendship, the brief period when Harriet enjoys the figurative place of another sibling in the household, the sister’s later persistence in seeking Harriet out (with which Emma interferes)—as on the romantic attraction between Harriet and Robert.

Similarly, when Emma marries her metaphorical brother, her sister’s husband’s blood brother, the marriage not only consolidates the land and fortunes of Hartfield and Donwell Abbey but doubly ensures the succession in both Emma and Isabella’s, John and George Knightley’s, spousal families. Emma thinks with some amusement that, after she and Mr. Knightley are engaged, she “was never struck with any sense of injury to her nephew Henry, whose rights as heir expectant had formerly been so tenaciously regarded,” implying that it was her undiscovered feelings for her future husband, rather than “the amiable solicitude of the sister and the aunt” alone, that made her oppose Mr. Knightley’s marriage to another woman (490).^[21] But her discovery is not that this “amiable solicitude” is not operative, but only that her distaste for such a marriage could not be “wholly imputed” to this concern (490). In her earlier discourse to Harriet on remaining unmarried herself, Emma displays both the common prejudice against the unmarried older woman and what I believe was the countering, and equally common, model of the financially self-sufficient unmarried sister whose emotional life is vested in “the children of a sister I love so much”: “My nephews and nieces!—I shall often have a niece with me” (92). The keys to contentment and social acceptance as a spinster, Emma argues, are that the unmarried woman not be poor and that she be a sister of a married sibling, actively engaged in the emotional life of her sibling’s children and able to foster or host them in her own establishment.^[22] Although her marriage may intervene between Henry and direct inheritance, Emma’s relation as his aunt, his mother’s sister, will still have force, now doubly secured by marital



ties through a pair of brothers and enhanced by the considerable rise in the landed property and general wealth that might descend to Emma's son or daughter—or to Henry, should there be no child of this new marriage.[23]

So in Emma and Mr. Knightley's exchange about dancing, the terms "brother" and "sister" do not refer solely to the possible condition of their feelings toward each other but also to the material economic conditions of their current and potential families. Given the plot of the novel, it appears to be crucial that they are able to recognize one another as metaphorical siblings and to understand the heightened benefits, simultaneously emotional and material, to be enjoyed by all concerned should they decide to marry. Recognizing the concurrent references to feeling and wealth in this discursive moment allows a fuller, more nuanced understanding of how *Emma* represents family, marriage, and class (in)stability. It is not, after all, that individual men and women must choose between romantic love and wealth, or that they should always temper romance with a practical concern for wealth (or vice versa), but rather that they may hope to find a felicitous simultaneity of the two where spousal relations are like, rather than unlike, siblinghood and where married and unmarried siblings work together to maintain their linked fortunes.

Even casual readers of nineteenth-century English literature readily observe how interested the writers and readers of that era were in family and domestic life. Though long obscure to post-nineteenth-century readers, the MDWS controversy is a prime cultural nexus through which the meanings and values of family life were negotiated. To attend to this important field of texts seems only sensible for scholars of nineteenth-century English literature.

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ENDNOTES

[1] See, for instance, Anderson. The persistence of such analyses in more recent studies can be seen in the chapter on MDWS in Brown and, in a different register, the fifth chapter of Chase and Levenson

[2] These exceptions include five articles, one of which is an earlier version (published 2007) of the third chapter of Corbett and three book chapters: Corbett's, the fifth chapter of Chase and Levenson, and an eleven-page chapter in Brown. There are also five brief references amounting to about a page of text in May and four references, only three noted in the index, totaling perhaps four pages of text, in Perry.

[3] See Joyce 554-60 for a legal history of voidable marriage in post-Reformation England. Essentially, common law left the voiding of marriages within the prohibited degrees to ecclesiastical courts. There was, in fact, no positive civil criminal law against even the nearest consanguineous marriages—to parent, sibling, and so forth—until the 1908 Punishment of Incest Act.

[4] Hansard [3] xxviii 204-6 1835. "Hansard" is the shorthand term for the official reports of the Parliamentary debates. Apparently they were not, especially early on, verbatim transcriptions, but the language in many sections suggests that texts of speeches were made available to the compilers of the reports. In subsequent in-text citations I will abbreviate the references to this form as Hansard [3] xxviii 204-5 1835.

[5] Gruner states that "the addendum nullifying later marriages was inserted to placate the bishops in the House of Lords and was widely expected to be revoked the following year" (526). Gruner cites no sources for her account of these expectations, expectations which would certainly make the longevity of the debates that much more interesting. Behrman, whose prime interest in the controversy is its impact on the relations of church and civil authorities, makes no mention of a presumption that the bill's voiding of all subsequent marriages would soon be revoked. But Morganroth Gullette confirms that "influential Church Lords, while yielding [to the legalization of the earlier marriage], added the sad verbs of futurity" that voided all subsequent marriages (152).



Passing near the end of a long session, with little discussion, the statute's passage was, Gullette says, "in some sense an accident" (152). Still, in the early debates the importance of consistently making all marriages outside of the prohibited degrees void after a certain date is regularly mentioned. If the absolute approach of Lord Lyndhurst's Bill was meant as a temporary measure, or was simply an accident, its permanence was quickly rationalized. See Hansard [3] xxviii 203-7 1835 (which covers the introduction of the bill) and, for instance, Hansard [3] xxx, 795 and 950 1835.

[6] Hansard [3] xxx 792-5 and 948-53 1835.

[7] See *First Report* viii; Hansard 3 xcii 746 1847.

[8] The five topical novels of which I am aware are Felicia Skene's *The Inheritance of Evil; or, The Consequences of Marrying a Deceased Wife's Sister* (1849), Joseph Middleton's *Love Versus Law or Marriage with a Deceased Wife's Sister* (1855), Dinah Mulock Craik's *Hannah* (1871), William Clark Russell's *The Deceased Wife's Sister* (1874), and M. E. Braddon's *The Fatal Three* (1888). Gullette offers a strong reading of Craik; Corbett takes Skene as one of her principal texts in the third chapter of *Family Likeness*; Gruner reads all but the Middleton novel; and only Brown seems to have seen the Middleton novel, for which I have not yet been able to find a location. Behrman cites Tillotson's *Novels of the Eighteen Forties* as her source for Skene's *The Inheritance of Evil*, which Tillotson mistakenly attributes to "Harriet Frewin" (Behrman 8, n.16; Tillotson 15). How this error occurred I have been unable to tell: "Frewin" does not seem to have been a pseudonym of Skene's, nor have I found another novelist named Frewin.

[9] See, for instance, Stuart Wortley's cryptic comments on marriage to a deceased husband's brother as "tend[ing] to the introduction of immorality in a family," comments he offers in the course of introducing his bill in Commons legalizing MDWS (Hansard [3] cii 1114 1849). Wortley remarks current instances of marriage to a wife's niece in the same place, having earlier linked this case with that of MDWS (Hansard [3] cii 1104-5 1849). For examples of the ongoing discussion of first-cousin marriages from 1839 through 1875, both in connection with the MDWS controversy and as a separate issue, see *Summary of Objections to the Doctrine, On the Present State of the Law as to Marriage Abroad*, Hansard [3] ccii 817 1870, Hansard [3] ccii 1006-1010 1870, and Darwin. Adam's general discussion of "Consanguinity in Marriage" is also of interest.

[10] The point is no doubt obvious: if Henry VIII's marriage to Katherine of Aragorn, his dead brother Arthur's wife, was legitimate, then the entire succession to the present day is called into question. See Gullette 151 for a brief commentary. Interestingly, Braddon's *The Fatal Three* alludes to this problem in a major character, Cancellor, a fanatical High Anglican priest who "look[s] upon Henry VIII as the arch-enemy of the one vital Church" (104) and regards MDWS as "unholy and abominable" (101).

[11] See Behrman and Gullette.

[12] For a summary of the differences between *feme covert* and *feme sole* in common and equity law, see Perkin 10-19. Other useful sources on the laws governing married women's (lack of) legal status include Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England*; Mary Lyndon Shanley, *Feminism, Marriage, and the Law in Victorian England*; and Susan Staves, *Married Women's Separate Property in England, 1660-1833*.

[13] See Perry's citation of the case of Richard and Frances Gilbert, a brother and sister who inherited a house in joint tenancy (126-7). Richard married and willed his half of the house to his wife Jane. But when Frances contested the will in Chancery (in 1757), the courts upheld her superior right to the property. While I understand Perry's point about this case demonstrating "the competing claims of blood kin and conjugal kin" (127), to me the more significant point is the court's recognition of the claims of a *feme sole*, an unmarried woman with economic rights like those of a man, over those of a *feme covert* whose rights depended on those of her (now dead) husband. Even as a widow the former wife's claim was inferior.

[14] Eliot's narrator treats Priscilla with condescension, producing rather a caricature of a spinster sister, but also credits her with "common sense" for her acceptance of this position (93). If stereotypically framed, Priscilla's



dismissal of marriage is telling in its foregrounding of autonomy and prosperity as the crucial issues:

it's a folly no woman need be guilty of, if she's got a good father and a good home: let her leave it to them as have got no fortin, and can't help themselves. As I say, Mr. Have-your-own-way is the best husband, and the only one I'd ever promise to obey. . . . thank God! my father's a sober man and likely to live; and if you've got a man by the chimney-corner, it doesn't matter if he's childish—the business needn't be broke up. (91-92)

It is also clear that Priscilla's notions of management extend to nurturing her sister's potential children. Near the end of the novel, having managed the family lands for some time, Priscilla remarks that she wishes "Nancy had had the luck to find a child like [Eppie] and bring her up . . . I should ha' had something young to think of then, besides the lambs and the calves" (175).

[15] Hansard [3] civ 1207 1849. The meaning of Cockburn's remark about the law is obscure to me. I have found no indication that there was any legal recognition of a maternal role for an aunt.

[16] Hansard [3] cvi 628-9 1849. See also the testimonies of the *First Report*, for instance at 74, 88, 142, and 143.

[17] See especially *First Report* 63-72 and 79-83 for the testimony of mostly anonymous men who married or wished to marry their dead wives' sisters.

[18] For evidence of the importance of these lateral relations in late-eighteenth- and early-nineteenth-century England, see Davidoff and Hall—for instance, their reports of business partnerships enabled by lateral relations, ranging from multiple sibling marriages to women's ownership and management of business, including (though not limited to) the examples on pages 214-16, 218-19, 221, 280-88, and 314-5. Davidoff and Hall's notion of the "family enterprise," in which sisters and aunts, for example, played crucial roles, is the foundational material of my own "corporate domesticity" (note 18 below). There is considerable work by historians of the family since the 1950s that suggest similar findings; though their theses differ in various ways from my own interpretations of such materials, Corbett, Perry, and Tadmor all explore similar territory.

[19] My own term for this possible family model is "corporate domesticity," and I find it helpful to re-name "nuclear family" as "industrial domesticity," terms indicating that these models are not merely models of familial structure but also ideological constructions. See my "Home at Grasmere Again: Revising the Family in Dove Cottage" for one articulation of this terminology.

[20] In the supporters' version of the solution, we can see why an unmarried adult sister living in her married brother's household was never an issue for them: in such a case the conversion to literal wife was impossible and, given the greater cultural power of the brother, probably unnecessary. The absence of this other sister was noted by more than one commentator on MDWS. For instance, "B.A.W." remarks that "it seems to be quite forgotten that the aunt may as well be the father's own sister, as his sister-in-law. And are there no other female relations to whose natural care and protection the children might be entrusted? are there no such things as mothers-in-law and grandmothers [?]" (19-20). See also Lord Heneage in Hansard [4] clxxxi 402-3 1907.

[21] What I describe here as Emma's thought is first rendered through the slightly more distant third-person narrator. But, as is characteristic of Austen's free indirect discourse, the third person rapidly and seamlessly modulates into what is clearly an articulation of Emma's voice. By the end of the paragraph, the point of view plainly shifts to Emma's internal musings: "she only gave herself a saucy conscious smile about it, and found amusement in detecting the real cause of that violent dislike of Mr. Knightley's marrying Jane Fairfax, or any body else, which at the time she had wholly imputed to the amiable solicitude of the sister and the aunt" (490).

[22] Emma opines: "it is poverty only which makes celibacy contemptible to a generous public! A single woman, with a very narrow income, must be a ridiculous, disagreeable, old maid! . . . but a single woman of good fortune, is always respectable, and may be as sensible and pleasant as any other" (91). But Emma's explicit argument is interestingly complicated by her reference to the lone immediate example, Miss Bates, whom Emma finds to be



“only too good natured and too silly to suit me . . . in general, she is very much to the taste of everybody, though single and poor” (91). In such complications, I would argue, we see traces of the ongoing negotiation of familial roles, in which the potential material and affective value of sisters (and aunts) is a central issue.

[23] Much would depend on Emma’s marriage contract: if it secured a portion of her private fortune to her, she would retain the option of bequeathing portions of that wealth to her nephews and nieces, with the latter the most likely beneficiaries. There might also be some provision for the inheritance of Hartfield, if it is not entailed. It is rather interesting that details of this sort, which often hold a good deal of interest for Austen, are not explored in this novel.

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