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**THE STRUGGLE FOR PERFORMATIVE POWER IN AMERICA'S FIRST
CENTURY**

by

STEVEN TORRES

**A dissertation submitted to the Graduate Faculty in English
in partial fulfillment of the requirements for the degree of
Doctor of Philosophy, The City University of New York**

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Abstract

THE STRUGGLE FOR PERFORMATIVE POWER IN AMERICA'S FIRST CENTURY

By

Steven Torres

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In his lecture series, *How to do Things with Words*, J. L. Austin outlines the properties of a linguistic phenomenon he called “the speech-act.” Like any other form of power, speech-act power, the power to perform actions through the use of words, has been the object of contention and controversy. Included in this power is the ability to enter into contracts, the power to name, and the right to give orders. When America’s Founding Fathers threw off the constraints of the British monarchy, they also opened discussion on the issue of exactly who should be allowed to wield speech-act power. The white, landed males fought to maintain privileges in this area, and throughout America’s first century slaves, white women, and Native Americans struggled to acquire an equal footing. This struggle for speech-act authority is depicted repeatedly in the slave narratives, domestic novels, treaties, and editorials of that period. Though there are arguments as to the workability of Austin’s theory, with minor modifications it serves well to explain the

obstacles these groups faced and the strategies they employed to overcome them. This dissertation elucidates the struggles of these three groups to gain speech-act power in America's first century as it was portrayed in the writings of the times.

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None can endure the rigors of a doctoral education without a belief in a higher purpose and calling, so I would like to acknowledge my belief in God here. Trusting He had reasons for my pains has helped me in the struggles all doctoral candidates face and in many others.

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Undergraduate tutors at both Yeshiva College and Stern College have helped identify trouble spots in my writing. I would like to single out Sarah Davis and Kalany Rubin as especially helpful in this regard. Time and again they gently broke the news to me that some section of my dissertation was not making sense, and this project would have suffered were it not for their services.

I would not have undertaken or completed this project were it not for the faith in myself that my wife, Damaris Carrero, instilled in me every time I needed it most. I will never know how she knew the right words to say for each crisis I faced, and she will never know the full extent of my gratitude for her presence in my life.

Though I have thanked many for their help, I will add the usual disclaimer that all faults found herein are mine alone.

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Introduction

I began this project because of a desire to learn more about Melville's mutes, characters like Babo and Benito in "Benito Cereno" or Isabel in *Pierre* or Bartleby and Billy Budd at crucial points in their narratives. There seemed to me to be so many characters in Melville who cannot or will not speak. If they do speak, they speak ineffectively like Ishmael on the deck of the Pequod shouting his allegiance to Ahab with the rest of the crew, an allegiance that will lead him to a solitary ride atop a coffin in the middle of the ocean. How is it, for instance, that Bartleby's simple statement that he "prefers not to" lands him in prison and drives him finally to the grave?

Barbara Johnson in "Melville's Fist" meditates on Billy Budd's speech difficulty during Captain Vere's investigation and comes to the conclusion that the normally gregarious Billy is a victim of a speech-act problem more than any speech impediment. He confuses speech and action at the moment of crisis and lashes out physically when he should have spoken instead. The speech-act problem here is doubly fatal – Claggart, the object of Billy's anger, dies on the spot, and Billy dies a while later his neck stretched by the hangman's noose. The lesson is clear – speech-acts must be negotiated successfully.

After reading J. L. Austin's *How to Do Things With Words*, I understood just how important speech-acts were as a category or type of communication. If one performs them correctly, they are a kind of currency in society. In fact, speech-acts help to form societies and hold them together. Speech-acts are contracts and marriages, vows and verdicts; they are declarations of independence and constitutions. Then there is the realization that so many people throughout America's history have been systematically denied the ability to exercise their right to equal speech-act power. In the nation's formative years, several

groups were denied the right to vote, for instance, but this one speech-act problem was only a part of a much larger and more complex problem.

If speech-acts help to form societies, what does it mean that certain groups like blacks and American Indians were almost completely excluded from exercising effective speech-act power? Or that even white women – the mothers, daughters, sisters, and wives of the white men who most freely wielded speech-act power – were often allowed only minimal speech-act authority? What did it mean that even when these groups were allowed access to speech-act power, it was often diluted or abrogated?

Priscilla Wald writes of “official stories,” stories that “surface in the rhetoric of nationalist movements and initiatives,” stories that “constitute Americans” (2). Though Wald calls them “official” this is not to suggest that the stories must come from any branch of the government though they may. They simply come from some authority. Wald’s book focuses on how these official stories were contested throughout the nineteenth and into the twentieth century. In her view, marginalized groups like slaves and women wrote to have an influence on the official story that constituted America. My work here has a similar emphasis.

The speech-act is usually a smaller rhetorical unit than an entire narrative, but like Wald’s “official stories,” speech-acts in America’s first century were considered properly issued when set forth by one segment of the population, and other segments of the population contested this monopoly. The prize at stake in this contest was nothing less than the definition of America itself. The struggle for speech-act power in America’s first hundred years was the linguistic and rhetorical fight for inclusion in the Constitution’s

“We the People” and for the rights and privileges and protections that went with that inclusion.

As a note of clarification, I should answer here a question put to me as I made a conference presentation on this topic, namely, why is this not a legal or historical project? As it happens, most laws are made for extralegal reasons. While some laws are meant to clarify or modify other laws, most are meant to resolve some issue arising from the course of human interactions. For the most part, speech-acts predate the laws that are later developed to regulate them – there were marriage ceremonies before there was a licensing process.

As for whether this dissertation could not have been a historical project, I think the question is somewhat misguided by a belief in a neat distinction between historical and literary studies. Students of literature have long understood their field to encompass many forms of writing – sermons, letters, biographies, essays, as well as the more commonly expected novels, poems, and plays. We are used to believing that all these forms may be used to propagate an argument. In this way, literary scholars have deemed both Milton’s poems and pamphlets fit subjects for dissection.

In fact, during the writing of this dissertation it has sometimes seemed that American authors worked especially hard to blur the lines between fiction and nonfiction. So many of the novels studied here have express didactic missions. Many of the authors wanted to teach the American public about America and focused special attention on the America that had not yet come to be, the America they hoped for. In this way, many of the women authors tried to show women how to behave in general and men how to treat women. Former slaves wrote to expose the cruelties of the life they left behind and the

hypocrisy of a nation that extolled the virtues of personal freedom. The message remains constant though a variety of media were put into service to get it across.

In struggling to change the “official stories” of the United States into stories that included them as equals to adult, white males, the writers I examine often point out the limits to their speech-act power that helped make their lives oppressive. These writers pointed out that the official stories had been written, in part, at the expense of their silence. It is strange to me that the battle to speak effective performatives, a battle seen being fought throughout a wide range of canonical and non-canonical works in American literature, has largely been ignored by recent scholarship. True, these battles were only part of a larger war for equality. Still, they were depicted and discussed exhaustively in the writings of America’s first century and they were important battles seeking tangible goals in practical matters. Women wanted the unfettered right to say “I do” (or “I don’t”) in marriage ceremonies. Slaves wanted the right to enter into contracts to buy their own freedom. Native American tribes sought to have the United States honor the treaties made with them. It is the purpose of the present study to show that these concerns were widespread and, as wildly different as they may seem, were unified by being linguistic problems of a particular stripe, that is, speech-act problems.

Chapter One: Speech-act Theory and Its Uses

One of the most powerful images in the miniseries production of Alex Haley's *Roots* shows the young Kunte Kinte being whipped for the first time by the white overseer of his American owner. The issue and cause of the whipping is Kunte Kinte's name. His owner would like him to accept the more manageable "Toby." Certainly the master and the slave are in a great contest of wills, but what exactly are the combatants trying to exercise their wills over? Taking the scene in isolation, the viewer can see that the sensible thing would be for Kunte Kinte to accept the new name because, after all, what is in a name? But there is a context. Kunte Kinte is not just any name given at random the way Toby is. The name was given to him as part of a larger ceremony performed soon after his birth. As such it is symbolic of that ceremony and of the traditions of the people that ceremony forms a part of. Kunte Kinte is a signifier heavily laden with cultural values. The subversion of the name is subversion and rejection of an entire culture.

Yet, on another level, the matter concerns only a word or two. Since Kunte Kinte is under the lash and clearly suffering, the viewer whispers along with Fiddler, one of Kunte Kinte's fellow slaves, that he should give up and give in and submit to using whatever name the master requires. Of course, if Kunte Kinte is being stubborn for such a small thing, one might ask why the master persists. Given that the slave has reason for trying to retain his cultural markers, reminders of his old way of life, what reason could the master have for forcing a change even at the risk of great financial cost to himself? Clearly, what the master is fighting for is not just a word. He isn't having his own slave whipped nearly into unconsciousness solely because he likes the ring of one set of letters

more than he does that of a different set. Viewed linguistically, Kunte Kinte and his master are locked in a struggle over the power and authority to name, to designate a word that will be understood as signifying a particular referent. More generally, what they are struggling for is speech-act power.

Speech-act theory is troubled and has been since birth. When J.L. Austin introduced the theory in his William James lectures in 1955, he set out a series of provisional statements about the ways in which words can perform actions as opposed to being only reflectors of reality. He spent a good deal of his time during the lectures explaining the difficulties arising from his statements. Perhaps most importantly, the initial dichotomy in language he suggested, the split between “performative” and “constative” uses of language – that is, between words that do and words that describe – collapsed. Every strategy deployed by Austin to maintain a meaningful distinction between these uses of language was shown by Austin himself to have its flaw.

At first sight it does seem, as Austin put it, “obvious” that there are at least these two distinct uses of language. Some statements should certainly be judged for how closely they reflect reality. This is what philosophers of language have been doing for centuries. On the other hand, it is plain that in some situations attempting to assess a truth value is less productive than simply asking whether a statement gets the job, whatever the job is, done. For these statements what is measured is success and failure, not truth and falsity. But one needs only wonder what to do with situations where the task to be performed through language is a rendering of truth to see that the problems with the dichotomy are also near intuitive in nature. In this case, success and failure and truth and falsity are equals; the sharp division between performative and constative uses of

language is blurred if not dissolved altogether. Thus quickly have the troubles begun and we've not yet dared to ask with Pontius Pilate "What is Truth?"

Let me begin by repeating Austin's preliminary definition of what is meant by "performative" language. He calls the following "necessary conditions to be satisfied":

(A.1) There must exist an accepted conventional procedure having a certain conventional effect, that procedure to include the uttering of certain words by certain persons in certain circumstances, and further,

(A.2) the particular persons and circumstances in a given case must be appropriate for the invocation of the particular procedure invoked.

(B.1) The procedure must be executed by all participants both correctly and

(B.2) completely.

(Γ. 1) Where, as often, the procedure is designed for use by persons having certain thoughts or feelings, or for the inauguration of certain consequential conduct on the part of any participant, then a person participating in and so invoking the procedure must in fact have those thoughts or feelings, and the participants must intend so to conduct themselves, and further

(Γ. 2) must actually so conduct themselves subsequently (14-15).

After this explanation of the speech-act, Austin goes on to explain the several things that can go wrong with a speech-act as he has defined it. Each of the rules here can be broken producing what he calls an infelicity. For the four rules comprising A and B, an infelicity is fatal to the intended speech-act. The last two rules, according to Austin,

are not fatal if broken though he does admit that breaking them would be a crying shame. If one considers the highly formalized ritual of Christian marriage, it is easy to see how this is so. A marriage might be considered void if the wrong things were said by the wrong people or if the words were not said correctly or completely. The marriage is not legally void because of wrong intentions or subsequent actions; hence, divorce.

Much of the lecture series, later collected as *How to do Things with Words*, is spent trying to differentiate “performatives” from “constatives.” Though it does not quite ever satisfy, Austin constructs a fairly elaborate grammatical description of the ideal performative. It has, he says, “a verb in the first person singular present indicative active” (67). But does it? After all, the express verb might be missing and the intention understood all the same. Also, why singular if nine judges of the Supreme Court might come together to express one speech-act, a verdict? As Austin points out, “...indeed performatives are not really like the remainder of the verbs in this ‘tense’ at all” (67). In Austin’s own estimation, the grammatical identification of the performative is a dubious project.

Another device Austin uses to distinguish between the two types of statements is the codified convention that seems to always surround the speech-act. Austin’s favorite speech-act examples are the wedding and the christening about each of which there is obviously a large body of ceremony. Statements like “I dub this ship the HMS Pinafore” or “I now pronounce you man and wife” appear inflexibly imbedded into larger rituals and gain their power from being fitted into these rituals correctly. Certain constative statements like “Cows eat grass” or “the moon is made of cheese” do not seem to partake of any convention at all. But this marker fades when we realize that all of language is

conventional in nature. In fact, as Roman Jakobson and Ferdinand de Saussure before him have pointed out, without convention being understood and accepted even the smallest parts of language, words, phonemes, etc. are useless. As an example, Jakobson explains that it is this conventionality, this predictability that allows a speaker to learn new words, as, for instance with his example of learning hitherto unknown family names (13-17). Saussure, teaching before the first World War, defined language, *langue*, as “a collection of necessary conventions that have been adopted by a social body to permit individuals to exercise [the faculty of speech]” (9). Certainly, none of this escaped Austin. In order to function, language must be to a degree conventional. But of course not every use of language is dictated by convention. New words are coined, new sentences made daily. Herein lies some trouble.

Some undeniably effective performatives are not part of recognized conventions- there is no formulation “I hereby threaten you,” for instance, but there are threats. Austin stumbles over this issue, arguing that

while insulting is a conventional procedure, and indeed primarily a verbal one, so that in a way we cannot help understanding the procedure that someone who says ‘I insult you’ is purporting to invoke, yet we are bound to non-play him, not merely because the convention is not accepted, but because we vaguely feel the presence of some bar, against its ever being accepted (31).

But with all these problems is there anything salvageable of Austin’s theory? Is there, in fact a performative/constative split and if there is, what application of this theory is possible?

There are several aspects of Austin's theory that need to be modified if it is going to be of use. Before moving into a discussion of the modifications, however, it will be useful to bear in mind some of the main points of the theory as it was first proposed. The points I have in mind consist of the performative/constative split, the link between performative speech and conventions, the separation between illocutions and perlocutions, and the applicability of the theory to literature.

The division between "performative" and "constative" language may never be clear. All uses of language may partake of properties Austin would have placed in these opposing categories. No amount of grammatical massaging, no peculiar phrasing in the first person, present indicative may be enough to differentiate the performative utterance from the constative one: perhaps the only solution to this dilemma is to accept the fact as a naturally occurring aspect of language.

But what of it? What do we lose by admitting that utterances are both performative and constative, but that we are here concerned with the performative aspects? Putting Austin's concerns to one side, I submit that nothing is lost. It is, in fact, a waste to attempt to find some dramatic and inviolate distinction between the performative and constative. They are not different languages or even different parts of the same language but different facets of language, much the way light and warmth are different properties of sunshine, and it is foolish to try to speak as though there were a sunshine that brought with it light and a sunshine that brought warmth.

The difference between the performative aspect and the constative lies not in the words or phrases themselves-they are not inherent to the vocabulary or syntax though these may help to convey the aspect. Instead performative power rests with the speaker

and the audience together. As Sandy Petrey put it, “all performative language... derives the whole of its force from collective acceptance. The collectivity can be as small as two people, but performative speech can never be the unilateral act of a single individual” (5). Austin was wrong to think that the intentions of the speaker were of no use in gauging the effectiveness of an illocutionary act. He goes so far as to call the inward intentions of the speaker “fictitious inward acts” (10), which are thought to be revealed through the speech-act as when a request reflects the inward desire for the thing requested. One assumes that by labeling intentions “fictitious” Austin meant to rule them out as factors in his investigations, not to suggest that intentions do not exist. In any event, these very intentions are important. They are, in fact, instrumental to determining whether an apparent speech-act was said in jest, an issue which haunts the pages of Austin’s short book. What he should have said is that the speaker’s intention when uttering a speech-act does not alone make a phrase a performative. Another way of looking at the problem of intentionality is to note that, if the author’s intention were of no import, then Austin would not have needed to rely on the type of vocabulary that he did finally resort to in defining the speech-act. What other purpose is served by phrases like “I hereby order”? Austin relies on this vocabulary to help make the author’s intent explicit.

Neither is the auditor’s understanding enough by itself to make an utterance into a speech-act. It is possible both for a speaker to insult without intending and a hearer to feel insulted because of a misunderstood word. Because neither of these viewpoints alone is enough to mark an utterance as a felicitous speech-act, it is safe to say there can be no successful speech-act if the speaker does not intend one and the audience does not perceive an attempt at one.

The link between performative speech and conventions is tenuous. Austin admits that many of the actions he calls speech-acts do not necessarily require speech. One of his favorite examples of a speech-act is the bet, but as he points out, "I may bet with a totalisator machine by putting a coin in a slot" (8). One could quibble that this is not actually a bet since the machine is not itself risking anything, or that the bet is actually with the house which implies its uptake by providing the machines, but we see how the speech conventions that might normally apply to a bet don't apply here. To show just one difficulty with conventions that Austin recognized, there is "the case of procedures which someone is initiating. Sometimes he may 'get away with it' like, in football, the man who first picked up the ball and ran" (30). It seems clear to me that if speech-acts can occur when there is no set convention that covers them, then the convention is not essential to the existence of the speech-act. Of course, in a sense, it is not.

When Austin first introduces the connection between speech-acts and the conventions that govern them, he did so with some qualifications. As a strategy for discussing what he would show to be a very involved theory of language, Austin proposed to outline "some at least of the things which are necessary for the smooth or 'happy' functioning of a performative" (14). He prefaced this attempt with the proviso that "I do not wish to claim any sort of finality for this scheme." This suggests that there may be much more that could be said on the subject of speech-act relations to conventions though in fact the few points Austin makes at this juncture will keep him busy for much of the rest of the lecture series. But also at this point in the series, Austin qualifies his remarks on convention and speech-acts. The list of "things which are

necessary” apply to “a highly developed explicit performative, such as we have hitherto been alone concerned with” (14).

The explicit performative is a subject Austin spends much time on throughout the lecture series. It is this type of performative that will have the particular tense verb; it is this type which has the peculiar vocabulary. The explicit performative will most often begin with the phrase “I hereby.” What Austin meant by the phrase “highly developed” is somewhat left up to the reader’s imagination. If Austin meant what I think he meant by this phrase, then his focus throughout the study is on those speech-acts that are most embedded in conventional practices. This does not preclude speech-acts that have no or little basis in any overtly stated convention. In this point, Sandy Petrey is incorrect in his estimation of the theory; Austin is not trying to say that every speech-act is part of a larger social convention, only that he is concerned with those that are.

Still, if Austin’s concern is for those speech-acts that are most densely surrounded by convention as in a wedding or in the christening of a ship, then this section of his lecture series is tautological. His first rule is that “there must exist an accepted conventional procedure having a certain conventional effect, that procedure to include the uttering of certain words by certain persons in certain circumstances” (14). How could this fail to be the first rule of the “highly developed” (i.e., highly conventional) speech-act? The second, third, and fourth rules Austin lists are based on this first: the right people and circumstances must also be in place while the procedures are carried out correctly and completely for the speech-act to go off smoothly. The essence, then, of what Austin is saying here is that the highly conventional speech-act is governed by conventions; we should not be surprised by this turn in events.

In speaking of language at work, there is more than just the illocutionary act. There is also the perlocutionary speech-act which Austin reminds us is not governed by conventions. This act is “what we bring about or achieve *by* saying something, such as convincing, persuading, deterring, and even, say, surprising or misleading” (109). Sandy Petrey’s description of perlocutions as “what happens *after* the utterance of an illocution” (16) is too loose; it does not account for any causal relation between illocution and perlocution. Austin understood that each illocutionary act could have a perlocutionary effect. In fact, so may any locutionary act. Saying anything, including “Boo!,” can have a perlocutionary effect as a consequence. Austin developed several of his lectures as attempts to define the perlocutionary act out of the illocutionary one. “It is the distinction between illocutions and perlocutions,” he said, “which seems likeliest to give trouble” (110). The importance of this distinction to Austin was great. As he put it, “It is certain that the perlocutionary sense of ‘doing an action’ must somehow be ruled out as irrelevant to the sense in which an utterance, if the issuing of it is the ‘doing of an action’, is a performative, *at least if that is to be distinct from a constative*” (emphasis added, 110). The desire to make a clean break between performatives and constatives is what motivates Austin to mark a line between the illocutionary and the perlocutionary. The performative/constative split, however, cannot be maintained, and, as I have shown, does not need to be. The attempt to separate the illocutionary act from the perlocutionary one is likewise needless and even harmful.

Illocutions often lead to perlocutions, and there is little sense in denying this aspect of the illocutionary. Stanley Fish tries to separate perlocutions from illocutions. Because perlocutionary effects cannot be predicted, they do not fall into conventional

patterns as do illocutions, Fish claims that “speech-act theory can offer us no special help in dealing with them, apart from telling us that they are what it cannot handle” (227). In fact, however, perlocutionary effects, effects on others brought about by our words, can often serve as signals that the desired illocution has been successfully performed. As one linguist has pointed out, the perlocutionary side of language “contains the key to the understanding of what people use their illocutionary acts for” (Mey 113). A few examples may help to illuminate my meaning here. If a general in the army gives orders which are routinely ignored by his subordinates, there will certainly be some investigation into the soldiers’ attitudes, but if the problem persists, there may well be questions about the general’s competence in giving commands. In such a case, the perlocutionary effects are a sign that something is going wrong at the illocutionary level. In fact, the army’s decision to remove this general from command would be an indication that the general is not the right person to perform the illocutions of command. In Austin’s words, he or she is not one of the “particular persons...appropriate for the invocation of the particular procedure invoked” (15). Again, while Petrey is technically correct to point out that a “bet remains a bet even if the loser doesn’t pay the winner” and “to welsh on a bet doesn’t unmake it” (16) welshing on bets will have an effect on future illocutions. For instance, other promises from this same person who refuses to pay on bets may be disbelieved; illocutionary status may be forfeited in future because of perlocutionary actions. But there is an even more compelling reason to keep perlocutions in view while focusing on illocutions.

As intimated above, for there to be a speech-act, two parties must agree that one exists. It is often the case, however, that third parties are called in to arbitrate between the

parties directly involved in the speech-act. For instance, a judge may need to decide questions pertaining to a contract or settlement. For this third party, it will be important to know whether there was an agreed upon speech-act at all before moving on to discuss the particular issues then at question. What, however, can a third party do to determine if the speech-act has occurred? The third party can rely on perlocutionary effects. For instance, suppose a third party witnesses an occasion where one man bets another a million dollars that particular batter then at bat in a baseball game will strike out. The auditor says, "you're on." According to Austin, the requirements for a speech-act have been fulfilled. For third party witnesses to an attempted speech-act, and even for those directly involved, the perlocutionary effects are often the only signal that an illocution has occurred. We may invoke here a doctrine of discontent. The parties to a speech-act may express themselves as being displeased with the results of their locutions. For instance, imagine one person believes he has received a promise from another to be at a certain place at noon. When the one who supposedly made the promise fails to fulfill it, there may later be a discussion that makes clear the issue of whether or not a promise was ever made. Of course this very common type of confusion is one Austin sought to avoid by embedding speech-acts into conventional frameworks. It is decidedly more difficult for the parties involved to misunderstand highly ritualistic wedding vows. The two friends who misunderstood each other about when they were to meet could have better ensured an understanding by going through the process of drawing up a formal contract with representatives for each side and disinterested witnesses present. To do this, however, would be to ignore the fact that this is not what most people do in using language every day.

Under ordinary circumstances, the speech-actor has recourse to more words to clarify his or her meaning. Though the obvious case is the face-to-face conversation, I believe this holds true for both written and spoken speech-acts. Disappointment often leads to further discussion and explanations whether these are spoken in person or written out. The written word may seem more monolithic in meaning than conversation, but the writer often has the ability to redirect readers either by face-to-face interaction or in writing. As an extreme example, in case Harriet Beecher Stowe's intention with *Uncle Tom's Cabin* was misunderstood, she wrote out and published a book-length key to its understanding. Disappointment is often the surest way of determining whether a certain locution was meant as a performative or a constative. Even without the further explanations, disappointment can be a sign to a third party witness that an illocution had been intended by at least one of the parties directly involved in the transaction. But then, in both the modern and postmodern discussions of speech-acts, things extraneous to the illocution have generally been ignored. Again, Stanley Fish has gone so far as to declare of perlocutions that "speech-act theory can offer us no special help in dealing with them, apart from telling us that they are what it cannot handle" (227). This would seem to be a strange position for a post-structuralist critic given the interconnectedness of texts that concerns New Historicists, but speech-act theory rests at a nexus where structuralism and post-structuralism meet.

In a peculiar way, the differences between the structuralist view of speech-acts and the post-structuralist view are one of degree, not one of kind. While Austin seeks a structure within texts to confirm the presence of speech-acts, Derrida denies the legitimacy of structure and thus the legitimacy of illocutions as a category separate from

other types of speech. This obsession with the structure of the text (or lack thereof) is one aspect of New Critical thinking that has not completely left literary criticism.

New Critics denied the validity of the reader's feelings, the historical circumstances of a work's production, and other properties they deemed "external to the text" in the interpretation of literature. Here were lost to the critic as legitimate avenues of exploration the author's intentions, his audience's responses, and biographical and historical contextualization. For many theorists, perhaps especially deconstructive readers, these factors have remained of marginal or no value. For the post-structuralist, the text's meaning is undecidable, the intention of the author is no less so, and the value of context in interpretation is the least decidable of all.

But the post-structuralist view of texts has not been able to eradicate the common reader's sense that these very issues, those of intent, response, and context, are worthy of examination. The post-structuralist has not shaken the common reader's faith that the text carries meaning and that meaning can be transmitted. The reason for the persistence of faith in the power of textual transmission of meaning is that texts, words, work. Though not flawless, language is an effective means of transmitting meaning. This is supported by an enormous amount of empirical evidence which accrues to the reader on a daily basis as they use language to achieve their life goals whether they be as simple as ordering a meal at a diner or as complex as wooing a fickle lover. The language theorist is faced with the dilemma of being able to explain how the disjunct between signifier and signified makes the use of language a dicey affair but having the listeners merely shrug and go on with their conversations. If language doesn't work in theory, practice shows

that it is the theory that is faulty. But then, how can the theorist claim that language doesn't work when employed?

Part of the problem is revealed through a close examination of Austin's terminology. In contradistinction to the "True," "False" labels philosophers of language had been accustomed to, Austin used the terms "felicitous" and "infelicitous." By definition, that which is felicitous makes people happy. In this way one can speak of a "felicitous" ending to a play or of the felicitous phrasing of a line of poetry. Anything "infelicitous" does the opposite or at least fails to make happy. This terminology works wondrously well if one keeps in mind who it is the speech-act makes happy or perhaps fails to make happy; that is, the speaker and the hearer. The terminology is less useful if, as Austin quickly does, one forgets that it is the speaker and the hearer, not the sentences themselves, who are to be made happy. Thus, while a grammar of speech-acts and an analysis of their status vis-a-vis a convention are useful, the work goes for naught if one seeks felicity in the words and not in the humans who use them. In the end, this felicity is the only one that matters, the only measure of whether a set of words had the desired effect or not.

The illocutionary act can perhaps only be identified after the fact. A third party observer (and that is the role of the critic) can never tell in advance whether a set of written or spoken words will have any effect at all. An unmarried man and woman may stand before a duly licensed official and repeat marriage vows before witnesses and still walk away unmarried if they were merely at a rehearsal. For the third party observer, the evidence of a speech-act's efficacy is in the perlocutionary effect. Did society consider the above-mentioned man and woman married after the exchange of vows? Did they

themselves think they were married? For the third party, the proof of a successful illocution is often found in the perlocutionary effects.

All this leaves the person seeking to make practical use of the theory with the task of either applying it to only those cases Austin describes, or of forcing situations to meet Austin's standards, or of devising other criteria. Either of these options may well be tenable. Austin listed a wide range of speech-actions which he felt to be roughly analogous to each other. It often requires no great stretch of imagination to see the similarities between a speech-act Austin had not spoken of and one he did. For instance, as will be seen later, one of the most often depicted speech-acts of the American slave narrative is the sale of the slave to himself. There are clear similarities here with the regular negotiation and sale of property, but there are several obvious differences as well. Ultimately, however, other criteria may be useful, and I can see no objection to devising them so long as they go some way toward explaining how it is that language is used to perform actions. In this way, John Searle has performed the service of explaining in great detail what is meant by a promise and what is needed for the successful exercise of the same. The important thing to note, however, is that Austin did not intend to restrict discussion of speech-acts only to those for which a network of customs can be identified. Speech-acts can still occur even if the conventions they are a part of cannot be readily articulated. After all, needlessly yelling "Fire!" in a crowded theater is a sort of speech-act with potentially deadly effects though there are no recognized conventions governing dumb pranks.

In his book *Speech Acts and Literary Theory*, Sandy Petrey makes much of the idea that "[r]evolutionary transformations make apparent what can be concealed when

societies are stable: performative language not only derives from but also establishes communal reality and institutional solidity” (21). That is, social and political upheavals reveal that one of the things performed by performative language is its own base of authority, a part of this authority stemming from official institutions which are made more official each time the performative is performed. In other words, each wedding sanctioned by the government further solidifies the government as the conventional authority for sanctioning marriages. In *Speech Acts in Literature*, J. Hillis Miller offers an acute reading of Austin’s examples which shows that part of Austin’s intent in writing his lecture series may have been to “make a strong case for an authoritarian, patriarchal imposition of law and order” (56). This, because “the lurid violence in Austin’s examples suggests that social equilibrium is precarious. The examples indicate that the maintaining of law and order is extremely difficult” (55). Thus in Miller’s view speech-act theory, along with speech-acts proper, works toward establishing the status quo. This relationship between the status quo and speech-acts is exposed during times of social and political change. But times of revolution and upheaval do more than reveal the grounds of speech-act authority though perhaps this comes first. If successful, revolutions change authorizing agents and the conventions they enforce.

Many of the writings I discuss in this dissertation represent attempts at reforming the conventions governing speech-acts. The attempt is usually didactic in nature; the hope here would be that by revealing the convention and its consequences, readers will seek change through political channels – this, of course, was the hope of Harriet Beecher Stowe in writing *Uncle Tom’s Cabin*. As Jane Tompkins suggests, Stowe’s novel may perhaps best be understood as “a political enterprise, halfway between sermon and social

theory, that both codifies and attempts to mold the values of its time” (126). Though *Uncle Tom’s Cabin* can be read as a “political enterprise,” it nowhere outlines, even in the briefest form, a plan of direct political action. The readers who agree with Stowe would still have to decide for themselves what they think would be the best political policy to pursue. This was not Stowe’s main concern. As Tompkins puts it, “Stowe is not opposed to concrete measures such as the passage of laws or the formation of political pressure groups, it is just that, by themselves, such actions would be useless” (133). Useless because they do nothing to address the underlying cause of slavery, namely sin. At other times, the writings may be less diplomatic. Not content with showing the conventions and their outcomes, some writers went on to demand changes – Elizabeth Cady Stanton’s “Declaration of Sentiments” is in this form. Unlike Stowe, who might reasonably assume that some in the audience would not know much about slavery’s ills, Stanton’s list of grievances would have been known by all. Her demands seeking redress would not have been so widely known.

The premise I work with in this study is that the connection between the speech-act and conventions is not hard and fast. There is, for instance, the fact that conventions are often fluid and even more importantly the fact that many of the speech-acts written about in mid-nineteenth century America do not neatly fit preexisting conventions. This, in part, led to the twisted logic of treaty negotiations where Indian tribes were to be considered “dependent nations,” separate, yes, but unequal. The sale of humans to themselves was another instance, among many, of the distorted speech-act convention. Even white males with great latitude in interpreting the conventions they would enforce, found them too restrictive and often had to ignore them in order to secure their speech-act

authority. This calls to mind Lincoln's famous dilemma: in order to save the Constitution, he often had to disregard it.

While speech-act theory has drawn the attention of many literary theorists, there have been relatively few applications of the theory to written works. Those who have made use of the theory to understand written works have concentrated their energies on how authors have used illocutionary force in novels and poems to create worlds that do not exist elsewhere. In this way, "Call me Ishmael" is a prime example of a creative illocutionary act since the pronoun "me" and the proper noun "Ishmael" reinforce the fiction of Ishmael being an actual person. This fiction is further supported by the first person voice, a voice conventionally used in autobiography. The self-referential nature of *Don Quixote*, which leads the reader to wonder where the border between fiction and historical narrative is, helps the novel perform the illocutive work of creating a world for the reader. In the same vein, Angela Esterhammar has recently published a full-length study showing what it is that Milton and Blake did in creating the City of God in *Paradise Lost* and *Jerusalem*.

This application of speech-act theory does run into the trouble of seeming to state only that every word of a work is a speech-act that helps to create the world of the work. Which word in *Moby-Dick* does not go toward creating Ishmael and his experiences in one way or another? This is not to say that this type of examination of the illocutionary nature of a novel or poem is futile. Just that the common reader may not readily see the value of this. Sandy Petrey points out that for the critic, "speech-act principles have *such* broad applicability that it can be scary to experience their explanatory power" (101). The fear is that if every work is a work about speech-acts in some way, then there can be little

that is *critical* about a speech-act approach. If all language is in some way performative, then the reader of speech-act based criticism must be forgiven for asking, “How is this different from saying that poems are made of words?”

A second approach to the use of speech-act theory in the study of literature has been that advocated by Stanley Fish. In his study of Shakespeare’s *Coriolanus*, Fish calls the play a “Speech-act play” and identifies the greeting as the speech-act upon which the play depends. For Fish, without this common speech-act being required and refused there is no forward movement in the play. He ends his essay with a call to reserve criticism based on speech-act theory for those works that are “about speech acts, the rules of their performance, the price one pays for obeying those rules, the impossibility of ignoring or refusing them and still remaining a member of the community” (244). One imagines he meant to imply that many works do not have speech-acts at their core. Petrey takes issue with Fish on this: “The great coherence and drive of Fish’s explanation comes not from the unique status of *Coriolanus* but from the vast relevance of *How to Do Things with Words*” (100). This insight leads to Petrey’s comment on the “broad applicability” of speech-act theory. Given the first type of speech-act literary critic, Fish’s admonition does seem a little out of place.

So which shall it be? Shall we say that every word of every creative work is part of an illocutionary act that extends the length of the work? Or shall we say that speech-acts are at the core of only a few works and should be studied in those works exclusively? In a recent and often illuminating article, David Gorman argues that most literary theorists who use speech-act theory claim either far too much or far too little for the theory. Critics who, to Gorman’s thinking, underrate speech-act theory include Jacques

Derrida and Stanley Fish. These either treat Austin's work as "something essentially familiar, and thus reducible to established concepts or practices" (98), or they take the position that "speech-act theory can be slipped neatly and without remainder into some larger conceptual framework" (100). Those parts of Austin's theory that fit the preconceived approach to literature are accepted; parts that do not fit are jettisoned. For these critics, speech-act theory is either put to limited use (as with Fish) or essentially ignored. Those who overrate the theory fail to recognize that Austin set aside a number of important issues in formulating his theory. He does not answer, for instance, "what is a language, and how is it that anyone can possess or 'command' it well enough to express whatever that person might want to mean?" (103). Those who, like Sandy Petrey, insist that Austin's theory explains all uses of language have fallen into this fallacy. For the purpose of my study, I have decided to develop a stance somewhere between these extremes.

Many types of written work – literary, historical, treatise, speech, sermon, contract, editorial – may be constructed of a great many speech-acts, interwoven and tending toward different purposes, each possibly having several different purposes in fact. It might be possible that each sentence in a novel-length work be found to fit a different speech-act category. No doubt *Coriolanus* could be studied for its use of several speech-acts, not just the greeting. For instance, what of the sign of gratitude? Or the vow?

In making his examination of *Coriolanus*, Fish decided to pick out one speech-act facet of the play and concentrate his energies and arguments on it while ignoring other speech-act aspects of the text. Rather than declare that the work is based on a particular type of speech-act or that the work is one of a few for which speech-acts may be said to

be a central concern, the speech-act critic is best off recognizing that all works are composed of a multitude of speech-acts of varying kinds. The selection of one kind of speech-act as the dominant type in the work is the critic's choice. It is precisely as subjective as the choice of a theme from within a work, as when a critic reads *King Lear* as a comment on aging as opposed to one on family or vanity. What I propose is a use of works to analyze the speech-act problems that troubled America in its first hundred years with emphasis on the half-century ending with the end of America's reconstructive policies. That is, rather than claim that a particular speech-act is typical of one work, I will be looking at a broad range of works to show that struggles over speech-act power were a general and often voiced concern. Though the various groups I focus on have different speech-act needs and face and develop different strategies in getting what they want, one general rubric under which to categorize what they are seeking might be that of self-determination.

One of the major issues that Americans struggled over in the period in question was that of the individual's right to self-definition. The struggle for this right is as evident in Kunte Kinte's fight to retain his name, marker of his heritage, as it is visible in the fight depicted in many novels written by women showing female characters who struggle to earn salaries they can dispose of as they wish. The Cherokee fought this same battle as they sought to be allowed to play some meaningful part in the negotiations concerning their own land. In many ways this fight for the right to define oneself is paralleled by what Stephen Greenblatt has termed self-fashioning. But what I have highlighted in this paragraph is only one side of the contest, the struggle to gain autonomy. As Greenblatt points out, "the power to impose a shape upon oneself is an aspect of the more general

power to control identity—that of others at least as often as one’s own” (*Renaissance* 1).

While Greenblatt’s work shows how some have been on both sides of this issue simultaneously, defining themselves sometimes through their ability to imprint the identity of others, I shall be looking at these two aspects of self-fashioning oppositionally. As I view America’s first century, some groups sought to avoid having their identity controlled by others. These others, in turn, sought to maintain their ability to define the groups I write of.

Greenblatt’s analysis of self-fashioning during the English renaissance mirrors that which I find prevalent in America’s first century when he notes that the phenomenon is marked by “a profound mobility” (7). For the feminine novel, this mobility was often geographical in nature as lead characters moved away from the protection of men in order to live lives they could call their own. Often the move was from fiscal dependence to independence as the main characters turned to writing or other work for the financial support they would once have gotten from a father or husband. For the Cherokee, the strategies deployed in the battle for the right to define themselves with speech-acts included a sort of cultural mobility. Elias Budinot frequently pointed out the progress the Cherokee had made in assimilating into general American culture. Slave narratives usually depicted a literal, geographic mobility with the story of escape, but perhaps more importantly Frederick Douglass was not alone in showing the transition from slave to man.

Another point in common with Greenblatt’s view of self-fashioning is found in his statement that “self-fashioning is always, though not exclusively, in language” (9). I am aware of the myopia that this statement represents; after all, as literary critics, both

Greenblatt and myself have chosen to study writers, a group for whom self-fashioning is bound to be a linguistic effort and experience. In fact, even had we decided to write of carpenters, we would have very little to work on unless it were their private writings. Still, while there are undoubtedly non-verbal ways to express independence, a painter might strike out on a new path and develop a new style, for instance, the chosen mode for the Americans I study is that of the verbal declaration. In this vein, David Leverenz has noted the name changes undergone by the five most prominent authors of the American Renaissance period, Emerson, Thoreau, Whitman, Melville, and Hawthorne. "Their literary voices begin with a self-fashioning beyond yet within the identities given to them by their parents and their culture" (10). Whitman's truncation of his first name from Walter to Walt, or Hawthorne's addition of a "w" to his surname signifies, then, a kind of declaration of limited independence, a partial rejection of the conventions surrounding naming in America, that is, that parents perform this duty. One of the purposes of this study is to show not just that self-fashioning occurs through language, but that it occurs in a particular type of use of language, the speech-act.

The New Historical critical tradition informs this dissertation in another way; I speak here of the belief that the ideas of a time and place are in circulation in the texts of that time and place. As H. Aram Veaser has put it, "the world irresistibly contaminates the literary text" (17). The writers could not avoid writing of their times no matter how fancifully sublimated the issues of the day become. This is what can be understood from recent arguments by Catherine Gallagher and Stephen Greenblatt in their book, *Practicing New Historicism*. Gallagher and Greenblatt argue that each culture, past or present, distant or present, may be read as a text. The literary texts produced by the

culture are just one part of the culture as text. All the arts fit into the cultural text as do the sciences, as do the religious, economic, and political beliefs of that culture. (Many other factors may also be taken into account.) They go on to argue that when one views a culture in this manner, as though each trace of evidence about the culture, no matter how ephemeral, were capable of illuminating other parts, that the line between the written and the real, like that between fiction and nonfiction becomes blurred. As they put it, "it becomes increasingly difficult to maintain a clear, unambiguous boundary between what is representation and what is event" (15). Since imaginative works are fed from the events of the time, trying to mark the distinction between literary, historical, scientific, or political works becomes a self-defeating strategy. As they write, "the writers we love did not spring up from nowhere... their achievements must draw upon a whole life-world and ... this life-world has undoubtedly left other traces of itself" (12-13). Again, "[t]o wall off for aesthetic appreciation only a tiny portion of the expressive range of a culture is to diminish its individuality and to limit one's understanding even of that tiny portion, since its significance can be fully grasped only in relation to the other expressive possibilities with which it interacts and from which it differentiates itself" (13). This study then hopes to delve into a myriad of writings of different kinds from the period under scrutiny. There is no pretension here to valorize one genre or one work above any other on aesthetic grounds. Broadly speaking, my interest is instead to show how these texts I examine were productions and producers of the culture they represent. More specifically, how did written works depict a struggle over who would be authorized to use words that could perform actions, speech-acts.

As it happens, because language is used to express these concerns, because these concerns are in the texts, these concerns appear as speech-acts. Whether they fit any of the categories mapped out by Austin and Searle is a separate issue.

One other concern shared with modern critics is that of access to audience. This problem has taken shape in two differing modes. One deals theoretically with the ability of oppressed groups to give voice to their grievances and be heard by the oppressors; the other assumes that the problem of being heard boils down to one of access to the mechanisms of education, publication, distribution, and advertising.

In her article "Can the Subaltern Speak?" Gayatri Chakravorty Spivak answers her own question saying, "The subaltern cannot speak" (308). Spivak carefully defined her particular vision of the subaltern for this essay as the woman suffering as a subject of imperialism. This is not to say that males in the same colonized position do not suffer many of the same difficulties, but that women suffer doubly, first as subjects of European imperialism while no less as women restricted within their own culture. This restricted area of study makes Spivak's topic manageable, but the applicability of post-colonial theory to American literature can be made directly and by analogy. Speaking of post-colonial literatures generally, one popular handbook on post-colonial theory has pointed out that

[t]he literature of the USA should also be placed in this category. Perhaps because of its current position of power, and the neo-colonizing role it has played, its post-colonial nature has not been generally recognized. But its relationship with the metropolitan centre as it evolved over the last two

centuries has been paradigmatic for post-colonial literatures everywhere (Ashcroft, Griffiths, and Tiffin 2).

Perhaps even more importantly for the purposes of this study is the fact that many of the literatures produced in the USA have been by peoples suffering directly under American imperialist policies, Indians, for instance, or slaves brought over from Africa.

Spivak's primary examples are the women of India. As it happens, however, the title of her essay should have been something more like "Can Europeans Understand Subalterns?" Most of the essay provides a running commentary on how various European readers have tackled the subject of the Other, particularly the colonial or post-colonial Other. Some current critics¹ fall into the mistake of trying to play the role of the "absent nonrepresenter who lets the oppressed speak for themselves." This, however, is merely "first-world intellectual masquerading" (292). The Western intellectual cannot be an "absent nonrepresenter." The voice of the intellectual will always come through making claims for the oppressed which the intellectual can never be sure are the claims the oppressed would make given the chance. Since the intellectual is always in some way present and always a representer, the oppressed can never speak for themselves. In this way, Harriet Beecher Stowe may well be taken to task for pretending to accurately depict the slave's consciousness in *Uncle Tom's Cabin*, while this was actually always ever out of her reach.

Spivak also takes early anthropologists in India to task for poor translating or neglecting contextual issues, but little of this actually goes to whether the subaltern has spoken. Logically, in fact, a person could only be misrepresented or mistranslated if he or

¹ Spivak's arguments begin with an examination of a conversation between Michel Foucault and Gilles Deleuze, a conversation she refers to throughout.

she has spoken. The problem then is that the hearers cannot understand; in this way subalterns, forced into a relationship they did not seek with the forces of imperialism, can speak but their speech will not be effective.

Another major difficulty for the subaltern is less theoretical and revolves around a very practical axis. As Spivak writes, “in the constitution of that Other of Europe, great care was taken to obliterate the textual ingredients with which such a subject could cathect, could occupy (invest?) its itinerary—not only by ideological and scientific production, but also by the institution of law” (280). That is, if I understand correctly, subalterns are kept from the physical apparatus of effective speech. They are kept from attaining education, from access to printing presses, from taking seats in governing bodies, etc. In essence, then, the subaltern, the social inferior and subordinate is relegated to muteness.

The American writers I study also faced many of the difficulties faced by the Indian women of Spivak’s article, especially when one considers the right to represent oneself officially as in a court of law. Women were legally represented by their husbands, and slaves had no legal life at all. Native Americans, by being members of separate nations within the borders of the United States, had a legal right to bring suit in the courts, but the courts, sometimes acting as agents of American policy, could turn a deaf ear. And there were other problems.

Spivak has written of the difficulties the subaltern faces in being heard effectively and his or her exclusion from the institutions of power; Richard Brodhead has written of access to the means of literary production. Brodhead perceptively realizes that one important question in this matter is “why only some writing exists to be remembered in

the first place" (109); that is, why do only some people produce writing? He focuses on education as a first requisite since a writer must have something to say. But he fails to mention that there are other factors as important, and he is overly optimistic when he says that "no external disadvantage has yet proved so total that we can say for sure that it absolutely prohibits the attainment of authorship to figures as crafty and willful as humans in all known social grades have proved to be" (110). His example, relevant to this study, is of American slavery. He writes, "[t]he system of Southern slavery that outlawed the imparting of literacy to blacks withheld, in an external or institutional way, the most elementary means of literary access" (110). For Brodhead, however, the example of Frederick Douglass "shows that a severely deprived figure can still become a writer given enough will and ingenuity" (110-111). Since Douglass first had to safely escape his master, a step which was notoriously difficult even for the strongest and smartest of slaves, we may consider it a lucky accident of history that his powerful writings exist to be studied. It is at least doubtful that Douglass' literary genius would have ever been discovered had he remained a slave.

Again, the issues of education and of access to the physical machinery needed to be heard at the national level (that is, to printing presses and to the means of distribution) were central concerns to the groups I focus on. America's first century saw a growth in access for women and runaway slaves but stagnation in this area for the American Indian. The importance of these factors cannot be overestimated. Witness a famous passage from Frederick Douglass's first autobiography. After he had been taught the A, B, Cs by his master's wife, Douglass's master forbids further instruction telling his wife, "if you teach that nigger...how to read, there would be no keeping him." By hearing his master speak

this way about education and reading, Douglass came to a startling conclusion about slavery. “I now understood what had been to me a most perplexing difficulty—to wit, the white man’s power to enslave the black man.” The relative position of whites and blacks stood in direct correlation to their ability to read and write; those who could were masters, those who could not were slaves. Douglass tells his readers that it was only then that he “understood the pathway from slavery to freedom” (Andrews and McFeely 29). His ability to read and write did in fact become his pathway to freedom. In his first serious though unsuccessful attempt to escape, Douglass wrote out his own pass, allowing him to travel from one county to another. When Douglass finally did manage to escape, it was with a sailor’s note of protection borrowed from a friend, a note he had to be able to read to know that they would serve his purposes (105-6).

We see also that the Cherokee showed persistent concern over these issues as they struggled on two fronts, education and the press. Consider William McLoughlin’s evaluation of the importance of Sequoyah’s invention of the written form of the Cherokee language: “Sequoyah’s invention provided a new means of self-expression among the Cherokee-speaking full-blood majority, giving them a sense of power and stimulus to self-expression they had lacked; it helped them tremendously in overcoming feelings of inferiority and self-doubt...” (350). The tribe invited and permitted the construction of more than a dozen mission schools, though, parents usually “wished their offspring simply to learn enough to assist their parents in correspondence or business dealings with whites” (76). The creation of the weekly newspaper *The Cherokee Phoenix* in 1828 as an official voice to the Cherokee government allowed for the distribution of news and of the opinions of at least the Cherokee rulers. As one commentator put it, Cherokee leaders

viewed the paper as “a permanent tool of public education and opinion making and an instrument of nation building” (Norgren 45). The state of Georgia no doubt also recognized the importance education and the press had for the Cherokee. After years of protesting every step taken by Cherokee leaders that did not lead Westward, Georgia made laws to stop the progress of Cherokee education. The state required “that all white people living among the Cherokee apply for a residence permit from Georgia and swear and oath of allegiance to the state and its laws” (112). This was meant to “harass supporters of the Cherokee,” perhaps especially missionary educators. In 1835, as the *Cherokee Phoenix* became more strident in its opposition to the impending removal, the paper was temporarily shut down by Georgia’s confiscation of the Cherokee nation’s only printing press.

Speech-act Theory and Mid-Nineteenth Century American Writing

In many ways the struggle for speech-act authority in America reached a head during the mid-nineteenth century. On a national level, nullification, declaring war, and the Emancipation Proclamation were all speech-acts with tremendous perlocutionary effects. In fact, in part because of these very issues, it may be said that a great deal of America’s writing during the period was consumed with the depiction and examination of just this struggle. A look at one of the more powerful illocutionary acts of the Civil War era will show just how much was at stake for the writers of the time.

When Abraham Lincoln stepped to the podium at Gettysburg to deliver his two-minute talk, he referred to the Declaration of Independence as the nation’s founding document though, unlike the Constitution, the Declaration has no legal weight. This makes sense since most would agree that a nation is not created by any set of laws.

Instead, the idea of a nation is something more ephemeral, more spiritual, not wholly capturable, like poetry. The Spirit of America is best embodied by the introductory paragraphs of the Declaration and the tenor of the whole and cannot be encapsulated by any number of laws – so Lincoln seems to suggest by selecting the Declaration as the birth of America. Then what are the laws for? They are an attempt to give the spirit of the nation a body. With the Constitution and the amendments, the nation gives itself shape and in doing so brings about the fulfillment of the central promise found in the Declaration of Independence “that all men are created equal, and that they are endowed with certain inalienable rights among these are life, liberty and the pursuit of happiness.” It so happens, however, that at the outset of the nation’s life, this central promise was only partly fulfilled.

Lincoln called the Declaration of Independence a bringing forth of “a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.” He called the Civil War a test of whether that nation “could long endure”. In what Garry Wills has called “one of the most daring acts of open-air sleight-of-hand,” Lincoln “altered the [Constitution] from within, by appeal from its letter to the spirit” (38). Lincoln’s speech-act at Gettysburg consisted not just of dedicating a cemetery; he also rewrote the meaning of two wars, the Revolution and the Civil War. In fact, he redefined America with his speech. The war may well have been the greatest test to the spirit of the nation, but it was by no means the first or the last such test. The Civil Rights movement and the push to gain equal rights for women can be seen as struggles of the same sort; struggles to insure those “created equal” are treated as such – that all citizens have full access to the “life, liberty, and the pursuit of happiness” promised by the Declaration of

Independence. This battle to make true the promise of the Declaration is one of the most interesting, and constant, facets of America's history. It is also an interesting part of America's literary oeuvre.

In fact, the struggle to make true the words of the Declaration of Independence is shown to be an important part of American narrative, whether it be fiction, history, or autobiography, by the constant use of the Declaration's phraseology. As Pauline Maier points out, "the sacralization of the Declaration of Independence after 1815 made it a powerful text to enlist on behalf of any cause." The document, though not a legal one, was so culturally significant that it was "extremely useful for causes attempting to seize the moral high ground in public debate" (197). One historian has documented dozens of alternative Declarations of Independence written throughout the nineteenth century by trade unions, feminist organizations, and former slaves (Foner 3-28). No doubt the uses of the language in the Declaration of Independence's opening paragraph in the published matter of this period are uncountable. As with the original document, the subsequent appropriations of the Declaration's powerful rhetoric were made to signify protest and as a call to sensibility. The appropriations are reminders that the work of the Declaration of Independence was not complete if whole categories of people were denied the basic rights accorded to others.

In the literature of the period, both fictional and nonfictional, this struggle is often depicted as a struggle over speech-act power. In novels and editorials, in plays and diaries, the concern of the time was often revealed to be who would have the authority to carry out speech-acts.

Just like any other type of power, illocutive power has been the source of conflict. Who would be entitled to wield illocutive force and have their words perform actions effectively has been a central concern in American writing since Crèvecoeur's *Letters from an American Farmer*. Consider, for instance, how Crèvecoeur constructs the American people, from whom come the government and the laws they must obey: "They are a mixture of English, Scotch, Irish, French, Dutch, Germans, and Swedes" (68). No mention here of Africans or even of Native Americans. To Crèvecoeur, Americans are "the poor of Europe." Through hard labor they may acquire lands, and, Crèvecoeur tells us, "those lands confer on them the title of freemen, and to that title every benefit is affixed which men can possibly require" (69). We see here that Americans are not just the English, French, Swedes, etc., "the poor of Europe" who have emigrated, they are those poor of Europe who have acquired property in America, that is, become at least moderately wealthy. Not only are whole ethnicities excluded, even those groups included are restricted. Would a nation ostensibly founded on principles of equality for all grant the basic right of the vote and the privileges of citizenship to only a small minority of its lawful inhabitants based not just on gender and ethnicity but on wealth as well? The advent of Jacksonian democracy was a step towards answering this question. The spreading of the franchise to all adult, white, male citizens without regard to property was a first step towards fulfilling the promises of the Declaration. The inclusive "all men" part of the promise, however, was still interpreted too narrowly in the minds of many.

The words of the Declaration of Independence were well known to most slaves and served as a disheartening symbol of White American hypocrisy. The reader is forced to recognize the tragic irony of Charles Ball's terming the fourth of July "the day of

universal rejoicing” (Taylor 1.313). After all, Ball was writing of a particular Fourth of July when he was in chains and on the road to the slave market to be sold. He is in fact sold that day by a man who made him wait outside while he drank “in honor of liberty and independence” at a bar. Other slave narratives make use of the Declaration in the same way, pointing to it as a truth that America was not then living up to. This is the gist of Frederick Douglass’ speech “What to the Slave is the Fourth of July?” These slaves felt it was their place to make the words come true by mimicking the Declaration, declaring themselves independent through the rebellious act of running away.

The Declaration of Independence and the inalienable rights therein proclaimed (including the right to assume equality) became also a common trope in the writing of women in the period under examination here. Louisa May Alcott’s 1872 novel *Work: A Story of Experience* begins with an example of what I mean. “Aunt Betsey, there’s going to be a new Declaration of Independence,” are the novel’s first words. When Christie Devon, the speaker is asked what she means, her reply is “being of age, I’m going to take care of myself, and not be a burden any longer. Uncle wishes me out of the way; thinks I ought to go...” Her plan is simple: “like the people in fairy tales, travel away into the world and seek my fortune.” The theme of self-fashioning is made plain on this first page as Alcott notes the speech is accompanied by Christie’s “energetic demonstrations in the bread-trough, kneading the dough as if it was her destiny, and she was shaping it to suit herself” (5). This verbal declaration is soon followed by a Christie Devon’s departure, in effect “Breaking the bands” that held her from realizing her fullest potential as a human though not, perhaps, in the tyrannical fashion of a King George or a slave master. The use of the Declaration here echoes its use in one of the more seminal documents of nineteenth

century feminism, the Declaration of Sentiments drafted for the Seneca Falls Woman's Rights Convention of 1848.

The Seneca Falls declaration mimics the language and tone of the Declaration of Independence but the list of grievances makes reference to several speech-act inequalities between men and women. Among these are the facts that "In the covenant of marriage, she is compelled to promise obedience to her husband, he becoming, to all intents and purposes, her master" and "he has taken from her all right in property" (*Heath* 1947). These speech-act grievances are similar in kind to speech-act problems that help form the plots of several novels by and about women in the period (as, for instance, in E.D.E.N. Southworth's *The Deserted Bride*), and these problems pervade many nonfictional, feminist writings of the time.

The Native American population did not need to declare independence of course. Native American tribes were guaranteed their independence by the Constitution and by virtue of being pre-existent sovereign nations. What the Native population of America needed and demanded was that White America abide by the promises of the Constitution and the many treaties signed with the separate aboriginal nations. The American government was always too ready to set aside and ignore the provisions of court rulings, treaties, contracts, and presidential promises, and this was the burden Indian nations faced when dealing with it. In the case of the Native population, its greatest battle, a battle often lost with tragic consequences, was to get the government of the United States to say it they meant and do what it said it would. The instance I will be examining in this study is that of the decades-long series of negotiations, treaties and promises that came to

be known as the Cherokee Removal, which long provided fodder for newspaper editorials, speeches, and letters both official and in protest.

The roots to all these speech-act problems and the strategies employed by both sides developed in the time of America's first generation. Joseph Ellis in his book *Founding Brothers: The Revolutionary Generation* highlights the significance of this first generation. Focusing on the decade after the ratification of the Constitution, he writes that it was "the most crucial and consequential in American history" (11). As an example of what he means, Ellis points out that "The Civil War, for example, was a direct consequence of the decision to evade and delay the slavery question during the most vulnerable early years of the republic" (12). The next chapter of this dissertation exposes the speech-act problems that were remnants of America's foundation and how these showed themselves in some of the public and private writings of the period leading to Andrew Jackson's presidency.

Chapter Two: Federalism and Early Republic

The most important speech-actions in America's history are the one's that helped found the nation. The Declaration of Independence, written and approved in virtual secrecy and at the height of American discontent with Britain, was an illocution that would need to wait for the resolution of the Revolutionary War to take effect. The Constitution, however, was hotly debated for months and took effect upon ratification. While the Declaration was a speech-act that signaled the life of a new nation, the Constitution went a long way towards defining what type of nation America would be. Together these documents, speech-acts in themselves, helped define the circumstances under which Americans would make further speech-acts to shape the nation and their individual lives. Some of these circumstances were revealed in the constitutional debates.

Writing for the *Independent Gazetteer* of Philadelphia, Tench Coxe, a delegate to the Continental Congress, compared the powers of governance invested by the proposed Constitution in the President, the Senate, and the Congress to those of Britain's Monarchy and Parliament. His writings express immense optimism. To his mind, the President "cannot be an idiot, probably not a knave or a tyrant, for those whom nature makes so, discover it before the age of thirty-five, until which period he cannot be elected" (*Debate* 1.22). In the event that the President manages to hide his knavish streak until taking office, Coxe is reassured by the Constitution's provision of impeachment and removal (1.23). Of course, Coxe was hardly alone in his approval of the Constitution, but his enthusiasm may be matchless. Supporters of the proposed Constitution relied at least in part on the fact that the instrument provided means for future modification by means of amendments. Coxe himself makes much of the fact that the positions of power delineated

in the Constitution are not inheritable, “not being hereditary, their *collective* knowledge, wisdom and virtue are not precarious, *for by these qualities alone are they to obtain their offices*” (1.25). Still, as noted, Coxe’s guarantee that the cream will rise to the top is mediated by the assurance that impeachment remained an option. Even Coxe was not without anxiety concerning who would sit in the seat of power in the new country. Why should he have been? It is a matter that is contested in this country still each fall during local or national elections. Many others of his day, however, were even more nervous on this matter.

In the second of his *Letters from an American Farmer*, Hector St. John de Crevecoeur makes an interesting analogy between the workings of American law and the animals in his barnyard. “The law is to us precisely what I am in my barnyard, a bridle and check to prevent the strong and greedy from oppressing the timid and weak” (57). This statement reveals an anxiety (one of many revealed throughout the book) about the governance of the new nation. Crevecoeur goes on to explain that in order to insure justice and a fair share of feed for each animal, he must employ varying means. “Some I chide; others, unmindful of my admonitions, receive blows.” He goes on to explain that it is the same with men as it is with animals: “by superior knowledge I govern all my cattle, as wise men are obliged to govern fools and the ignorant.” In a new nation, one where “the strong and greedy” could evade checks and bridles simply by pioneering and working as yet unimproved lands, who would govern and who would be governed, who would give the blows and who receive them was still an undecided issue. With a strong capitalist culture and no hereditary monarchy, these questions must remain forever

undetermined for America. There has always been the chance for some new individual to gain economic power, which in America leads almost assuredly to political significance.

But then, this situation seems not to have been exactly the one Crèvecoeur had in mind. After all, he suggests that it is the greedy who must be under the governance of the wise. America's capitalist reality would appear to stand in strong contradistinction to what must be called Crèvecoeur's hope, rather than his observation. Crèvecoeur, of course, was hardly the only writer in America's early history to wonder aloud into whose hands power must fall. The issue was a source of pervasive worry. Earlier, at the birth of the nation with the writing of the Declaration of Independence, the Founding Fathers spoke of equality and inalienable rights to "life, liberty, and the pursuit of Happiness." Again, this document was not so much a recording of observation as a hope and a promise. Here was written one thing pertinent to the discussion of who would have power and who would not. England and its kings were written out of the picture. The ensuing power vacuum brought freedom and the possibility of chaos.

Royall Tyler's play *The Island of Barrataria* presents an example of what could go wrong if power were placed in the wrong hands. This admittedly minor work depicts a scene suggested in *Don Quixote* by Miguel de Cervantes. In the comedy, Sancho Panza receives governorship of the title island and is driven to near madness by the demands of the locals and the rules he must follow in dealing with them. One woman seeks redress for having her "jewell" stolen. Another demands the repayment of a loan even though he believes the debtor tells the truth when he says the debt has been paid. These suits and several others all have to be settled following the forms of the court, forms which Sancho can hardly understand, and they must be settled before Sancho can have a bite to eat.

Sancho handles these problems with a rough, commonsensical justice but still isn't allowed to eat. Not only does he have an officer who is "sworn to see that the Governours of this Island always eat, drink, sleep, walk, talk, laugh & sneeze according to the statute" (11), he also has an Arch Taster with two deputies to test his ale for poison; the third taster, in fact, is charged with tasting the dregs. Without food or drink, the always-hungry Sancho Panza is summoned to lead the fight against an invading force. Though the attackers are repelled, it is clear that Sancho is not the right man for the role of governor.

In the end the simple Sancho gives up, with a telling comment on government in general. "Sancho is a simpleton I know, but as simple as I am, I have mother wit enough to find out in a brief day that I am unfit for office. But are there not some who govern it for years – bear abuse on abuse and have not wit enough to see that they are the Sancho's of the political play?" (30) That men who were "unfit for office" might fill the American presidency was a worry expressed by many of the political writers of Tyler's day. Many feared worse than incompetence. One Samuel Bryan, writing under the name of Centinel, argued that the president might easily become a puppet of the Senate.

The President, who would be a mere pageant of state, unless he coincides with the views of the Senate, would either become the head of the aristocratic junto in that body, or its minion; besides, their influence being the most predominant, could the best secure his re-election to office. And from his power of granting pardons, he might skreen from punishment the most treasonable attempts on the liberties of the people (*Debate* 1.61).

George Washington's endorsement of the proposed Constitution was sneered at by the Centinel, which said that his "unsuspecting goodness and zeal" had been

manipulated. Politics and the forging of constitutions were subjects “of which he must necessarily be inexperienced, from his other arduous engagements” (1.54). This is not to suggest that there was any uniformity of opinion concerning what would make a good president. To some it was the position itself that was corrupting because it was either too powerful or not powerful enough.

Sancho’s unfitness for the post is not the only concern over governance Tyler expresses in this short farce. When Sancho complains that there is no need for a deputy taster, the second taster replies, “True, my Lord, but I want the office” (25). Sancho’s Captain of the Guard will not greet the new governor with any hearty shouts since he “hold[s] a good fat office – and don’t wish to offend – the ‘*Ins* or the *Outs*’” (5). These two office holders are indicative of a concern not uncommon in the early republic, that public posts would be created, the government enlarged and the people taxed to please the ruling party. A fear was expressed of a civil service aristocracy. One writer warned the American people against “a strong government that will enable a few proud, intriguing, aristocratical men, to make you the instruments of their avarice and ambition, and trample upon your privileges at pleasure” (*Debate* 1.117). Unlike Tyler’s better known play, *The Contrast*, his adaptation of Cervantes was unoriginal; in fact, it was the second adaptation of the same scene from the novel. The popularity of the theme of the hapless governor might be proof that concerns over government were not Tyler’s alone.

The debates over the Constitution carried out both in Congress and in the press did little or nothing to end this concern. The Federalist and Anti-Federalist papers present something of a squabble over how America should be run and by whom. The Constitution, ratified in 1788, did resolve some of the questions about who would not be

eligible to have authority in the nation. Women are excluded from power by default since they are nowhere given power and the pronouns used to identify office holders are all masculine. Slaves are excluded as well, counting for only three-fifths of a person in censuses for the purpose of determining the number of representatives each state is allowed. An end to the importation of slave labor is deferred for twenty years, a time when, presumably, the Founding Fathers would have retired from office. Indian tribes are mentioned only once, when Congress claims for itself the sole right to regulate commerce with them along with foreign nations; being lumped with foreign nations clearly excludes the Indian tribes from American political life. In these ways, who would have power to govern in America did gain some definition – white males had power put into their hands by the Constitution because for others, the roads to this power were blocked.

When viewed in contrast with the Declaration of Independence, the Constitution appears retrogressive. As one historian has pointed out, “Critics of the Constitution, then and now, have condemned it as a betrayal of the core principles of the American Revolution” (*Founding Brothers* 9). While the ideals in the Declaration call for the recognition of the equality of all men, the Constitution counts slaves at a fraction the political worth of whites and excludes Native Americans altogether. The friction between the sentiments expressed in these two fundamental documents, that is, between wanting to grant equal status to all and reserving power for white males alone, created a tension in the populace that showed itself in the writings of the generation that followed the Founding Fathers. Both white males wishing to retain power and excluded groups seeking to gain power for the first time brought their arguments before the public in the form of speeches and sermons, published essays and novels, plays, autobiographies, and

editorials. Very often the argument was over the right to exercise speech-act authority, the right to have their words perform actions in the world.

Both sides in the struggle for speech-act authority committed these struggles to paper, often in narrative form, but no less frequently as editorials or sermons or speeches. Frequent also was the rehearsal of these struggles in private writing like letters and diaries. The writings of the time show a progressive disappointment of the unempowered with the fact that the new nation provided them with no new avenues to illocutive force. For instance, the end of the external slave trade in 1808 was applauded by many leaders in the free black community in commemorative sermons and speeches. Calls for the end of American slavery became more strident, the depiction of slavery's evils more graphic when the internal slave trade became more degrading, more restrictive, and more violent in response to the shrunken supply pool and the growing demand created by the opening of Western territories. Coincidentally, these same Western territories beyond the Mississippi also provided the federal government with a convenient relocation site for Eastern Indian tribes, dooming these tribes to eventual removal.

The writings of the time reveal not just the concern over the issue of speech-act authority but also the methods that would be used by the parties involved to obtain their objectives. A bit more about the context should be said before moving on to speak of speech-acts and their uses and abuses in the early republic. What were the conventions that governed the speech-act situation for the groups in question?

The three groups under consideration in this work had several conventional factors in common that helped restrict their ability to make effective use of speech-acts in the early days of the nation. The first generation of American white males had, for

instance, inherited beliefs and attitudes about all three groups. In each case, there was a belief in the innate inferiority of the unempowered group. This in turn made the speech-act situation, one where illocutive force was kept out of reach of the unempowered as one would keep matches from a toddler, seem both natural and beneficial for the unempowered.

There was also the biblically based belief that all members of a society had a place within that society. There was then a pressure on the unempowered to fit into and accept roles that were helpful to the greater society without regard to what rights they had to give up. In this way, natives were asked to conform to Christianity and capitalism, and any deviation from these norms, no matter what the reason, was held against them. Women were most often asked to fill domestic roles, giving up public life for the good of the family. The slave was expected to accept a subservient role, and rebelliousness was sometimes held to be inexplicable. Witness, for example, an early notice by George Washington seeking the return of four slaves who had run off “without the least Suspicion, Provocation, or Difference with any Body, or the least angry Word or Abuse from their Overseers” (103). Obviously being held in a state of servitude was not “Provocation” in Washington’s mind.

The circumstances under which the Native sought speech-act authority during this period included the fact that the Indian nations defined themselves as independent of America. America’s acceptance of this definition had the ambiguous effect of seeming to give Natives the right to self-determination but also making them fair game for conquest and abuse. Indians may not have needed to pledge allegiance to the United States, but they also were not necessarily protected by the Bill of Rights. Though government forces

were often called upon to protect Indian rights to land, property, and person, this was usually a result of trying to follow treaty stipulations or an attempt to keep white squatters from becoming the victims of Indian retaliation.

Perhaps more importantly for this study is the fact that for many whites, even into the twentieth century, Indians had no valid language. Stephen Greenblatt brings this point home in his “Learning to Curse.” Greenblatt understands the linguistic encounters between the Europeans and the Indians to have been marred by the fact that Europeans could rarely conceptualize Indian languages as more than gibberish. When they did, it was usually to claim that Indians were capable of understanding European languages perfectly. The first position caused the Europeans to think of the Indians as infants or as something less than human – without language, they could have no civilization, no thought worthy of the name. If this were the case, then it is clear that they could no more claim rights than a horse could. One could feel free to take their lands, their properties and even their selves as slaves. On the other hand, if they understood the Europeans, then they were responsible for their responses to questions as well as for their end of negotiations. Greenblatt’s example of an instance where a perfect understanding was assumed, the Spanish *Requerimiento* – a document read to Indian tribes requiring their allegiance to the King and Queen of Spain among other stipulations – has its parallel in American writing. Lewis and Clark delivered a speech to each Indian tribe they encountered in their two year trek through the American West. It was, according to Clark, “a long speech...expressive of our journey the wishes of the Government, Some advice to them and Directions how they were to conduct themselves” (DeVoto 16). As Stephen Ambrose points out, “[h]ow accurately [the speech] was being translated, Lewis of course

had no way to judge. Nor could he tell how much of what he was saying the Indians could understand, or how much of what they understood they accepted” (156). No difference. Clark reported that at least some of the chiefs who heard the speech approved of it “promissing two prosue the advice & Derections given them that they wer happy to find that they had fathers which might be depended on &c” (16).

As Greenblatt points out, both positions are pitfalls. “[T]hey either push the Indians toward utter difference – and thus silence – or toward utter likeness—and thus the collapse of their own, unique identity” (31). This view of the matter finds a parallel in Lucy Maddox’s *Removals*.

Another important factor in the conventions that would govern Indian/White affairs was White rapacious hunger for land. This greed was pervasive and sanctioned by the Early Republic’s highest authorities. George Washington himself was a speculator in Western lands. Stanley Elkins and Eric McKittrick call the private acquisition and development of Western territories for his personal gain Washington’s “consuming” ambition. “He was obsessed with the idea of amassing land in the West, tremendous amounts of it, putting it all under cultivation and bringing commerce and people there” (36). That parts of this land was already under cultivation and that there were people there already, natives, was not a consideration for Washington. He accumulated more than forty thousand acres, much of it while still a British subject, this despite a royal decree that this land was not to be touched. As he confided to a friend, “I can never look upon that Proclamation in any other light (but this I say between ourselves) than as a temporary expedient to quiet the Minds of the Indians” which “must fall of course in a

few years” (125). The measure would fail, he thought, when it was recognized that the Indians welcomed the Whites.

Thomas Jefferson was no less a speculator in what was then land belonging to Indian tribes as Anthony Wallace has pointed out in his *Jefferson and the Indians* (9). Jefferson was, in fact, one of the masterminds of the policies that worked to strip Indian tribes of their land rights. As Joseph Ellis writes, “it was during Jefferson’s presidency that the basic decisions were made that required the deportation of massive segments of the Indian population to land west of the Mississippi” (*American Sphinx* 239). These policies would include forcing influential Indians into debts they could not repay, bribing Indian treaty negotiators and threatening to support the actions of squatters with the military might of the United States (Wallace, *Jefferson*, 19). Important conventions on the Native side of the struggle for illocutive force included a use of land that White Americans could not appreciate and a collective ownership of territory so that Indian rights to land could not rightfully be extinguished except with the consent of the tribe.

Women of the New Republic were often locked out of political power on grounds that show the cause of their being kept from all manner of speech act authority. In her book, *Sex and Citizenship in Antebellum America*, Nancy Isenberg argues that the issue of woman’s suffrage in this era was inextricably linked to “militia service and taxation” (7). Women, of course, did not at the time serve in the military and since their property rights were usually under the management of a father or husband, they rarely were taxed directly. Without these physical and fiscal obligations and risks, there was apparent justification for not putting the power of the vote in their hands – they, along with slaves and minors, hadn’t earned the right. But voting is simply one type of speech-act women

were excluded from, and a lack of military service and taxes were only parts of a much larger perspective on the role of women. The issue was explained well by one Theophilus Parsons writing during the Revolution:

Women, what age soever they are of, are also considered as not having a sufficient acquired discretion; not from a deficiency in their mental powers, but from the natural tenderness and delicacy of their minds, their retired mode of life, and various domestic duties. These concurring, prevent that promiscuous intercourse with the world, which is necessary to qualify them for electors. (*American Political Writing* 1.497)

The language here makes it clear that taxation or combat were just part of the “promiscuous intercourse with the world” that women did not have a share in. Even if “domestic duties” did not keep women cloistered, “their retired mode of life” would. If a woman managed to put her duties to one side and leave her retired place, she would only return home bruised for her experience since she is naturally tender and delicate. Ironically, this same author points indirectly to the cause of this inequality. Though he claims that it stems from no “deficiency in their mental powers,” the reader sees that if the domestic duties and the retired mode of life could be overcome, then the only remaining obstacle would be the “natural tenderness and delicacy of their minds.” The only type of mental “tenderness and delicacy” that should not be counted as a “deficiency” is a faulty education. The discretion needed to appropriately exercise the vote is “acquired.” Parsons inadvertently reveals that the “tenderness and delicacy” of the female mind is natural only in the sense that unlike their male counterparts, women have not been educated in ways that would help them enter the arenas of power. He was not

alone among early Americans in expressing a concern over woman's education, if in fact, he did realize the full import of his words.

Judith Sargent Murray's 1790 essay "On the Equality of the Sexes" frankly discusses the point of woman's education (or lack thereof). On whether women are as capable of reasoning well as men are she writes "we can only reason from what we know, and if an opportunity of acquiring knowledge hath been denied us, the inferiority of our sex cannot be fairly deduced from thence" (5). Again, she writes that if women are not so strong as men in judgment, the reason is "the difference of education, and continued advantages." That this difference in education existed and could be perceived as a hindrance to women is made clear here. Murray goes so far in this essay as to suggest that this difference in education may lead a woman to feel inferior to her husband: "she experiences a mortifying consciousness of inferiority, which embitters every enjoyment" (6). The women of early America, then, were subject to a second-rate education, and this, combined with a perceived inferiority, was a part of the speech-act situation women found themselves in.

As we see from Parsons' quote, this lack of education was a reason to keep women from political power, and it should be noted that in Parsons' own words this deficiency was not one that could be properly remedied. After all, the insufficient "acquired discretion" kept them from the "promiscuous intercourse with the world." How else could they acquire discretion except through "intercourse with the world," even if only the kind of contact with the wide world that came through books and schooling? The power to serve as an elector was not the only one denied to women, however. A recent

study by Linda Kerber shows that the speech-act situation for women in early America was even more restrictive.

In her book, *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship*, Kerber argues that early republic views of women in relation to power were based on the laws and customs of England. Though the Founding Fathers were eager to do away with much of the British concept of hierarchy, ridding themselves of king and other vestiges of aristocracy, they were reluctant to give up any of the power they themselves held. In this way, the hierarchical relationships of master and slave and husband and wife remained essentially intact. The system of *coverture* meant that once she left the protection of her father to marry, a woman's husband was responsible for her in all ways. Kerber quotes a legal treatise by Tapping Reeve: "the husband, by marriage, acquires an absolute title to all the personal property of the wife" (13-14). In this way the woman is defended from the burden of having to protect her interests in court by being relieved of those interests *in toto*.

Aside from elections and litigation, women were also kept from entering into contracts. Their property belonging to their husbands and not themselves meant of course that they had little collateral in any event, but Kerber suggests another reason for this restriction. Kerber quotes Reeve: "A right of the husband to the person of his wife is a right guarded by the law with the utmost solicitude; if she could bind herself by her contracts, she would be liable to be arrested, taken in execution, and confined in a prison; and then the husband would be deprived of the company of his wife, which the law will not suffer" (14). All these restrictions taken together were thought of as beneficial for women. As Kerber puts it, "married women were understood to be shielded from the

stresses of public life, from the need to risk property and reputation in political encounter" (15). Clearly, however, since most women had no right in property, either material or in their own bodies, no recourse to the courts, no vote in any political matter, and no possibility of entering into any valid contract of her own accord, women's speech-act authority was severely circumscribed. As Kerber intimates, only in the choice of husband was a woman able to exercise speech-act power. Sadly, in this area, pressures to marry according to the parents' wishes, the deceptions of suitors, and a lack of education combined to influence women in their exercise of this speech-act power. When a woman finally said "I do," the danger was that it would be to the wrong man, a man who might make her regret this one speech-act.

In the early republic then, there existed a belief that women not only were ill-suited for entrance into public life, a social life that included the use of performative speech, but that they should even be protected from it for their own good. Much the same thought was applied to the black slave as well.

Recent scholarship in the area of master/slave relations has shown that the slave population of the United States had, by the time of the Constitution, developed a culture separate from both that of the whites and (in large part) from that experienced in Africa. For Ira Berlin, the institution of slavery in the United States² had evolved slowly from one in which the black slave might expect treatment nearly equal to that of the white indentured servant to one that was unnecessarily violent and degrading. Interestingly, however, the nation's formative years were still something of a transitional period. Slaves in many places could hope for legal relief from and remedy for abusive masters. They

² Unless otherwise noted, throughout this dissertation the term slavery will refer to that of the Southern states, which retained the institution during the whole of the antebellum period.

could hope to be manumitted at the time of a master's death. This is not to suggest that either of these possibilities ever commonly worked out in favor of the slave.

The slaves' speech-act position was the least favorable of the three groups I examine. Both women and Indians could avail themselves of strategies that, though restrictive or painful to themselves still allowed them some modicum of illocutive authority. Women could give up the right to have a family, chose not to marry and thereby retain at least some control over inherited property and themselves. Once married, the husband "controlled [his wife's] body and property; there were relatively few constraints on what he could do with either" (Kerber 15). Indians could freely remove themselves from contact with the white population; in fact, of course, this was what whites desired. Neither of these options were particularly palatable and involved submitting to a certain amount of injustice. Still, slaves did not have the option of freely removing themselves from contact with whites, nor could they, like women, find a niche for themselves where their masters could not touch them. In fact, unlike Indians or women who could at least freely voice their displeasure, slaves could be charged with insubordination for suggesting their conditions were less than agreeable. They did, however, have options.

While slaves had no way to protest their treatment with their master's consent, it was not uncommon for them to protest without it. John Hope Franklin and Loren Schweninger have recently explained, at great length, how slave life was often filled with petty rebellions. They note that "the evidence shows that slaves engaged in a remarkable variety of acts to demonstrate their discontent" (2). Among the avenues of protest open to a slave, Franklin and Schewninger list damaging farm implements, setting fire to

outbuildings, harming livestock, working slowly or poorly, stealing supplies, running away temporarily. The authors note that “open defiance was not uncommon” (7). It is important to note here that all this was a part of the master/slave relationship, not a breaking of this bond but a facet of it. This was a way to have some effect on the speech-act situation that existed between master and slave without resorting to more drastic measures like running away permanently, or, of course, murdering the slaveowner. After all, if a certain command always resulted in the breaking of expensive machines or the laming of horses, a master might think twice about issuing the order again.

Of course, resistance could also backfire. A master might meet resistance with cruelty. Part of the slave’s speech-act situation was that a refusal to submit to the commands of an owner might result in death. Even in the relatively less harsh early days of American slavery, even on plantations owned by men who thought themselves lenient, the snap of the overseer’s whip and the clanking of leg irons were not uncommon sounds. Neither were cries for mercy.

Aside from resistance, the slave had the option of avoidance or deflection. A master might not give permission for one slave to marry another, but the two slaves could behave as man and wife nonetheless. They could avail themselves of a slave culture that contained within it rules of governance, economy, and family which the master would find hard to control even if he could manage to learn of it. This slave culture, unknown to or ignored by the plantation master has been the focus of studies by John Blassingame and George P. Rawick. Blassingame has noted that “Antebellum black slaves created several unique cultural forms which lightened their burden of oppression, promoted group solidarity, provided ways for verbalizing aggression, sustaining hope, building

self-esteem, and often represented areas of life largely free from the control of whites” (105). According to Blassingame, these cultural forms were largely holdovers from Africa or mutations of white cultural forms as opposed to being wholesale new creations.

This view of slave culture coincides with that presented by Rawick: “labor dominated part of their existence—but only part. ... They built their own community out of materials taken from the African past and the American present, with the values and memories of Africa giving meaning and direction to the new creation” (11-12). Masters did not necessarily want their slaves to adopt white culture and, in fact, in many instances actively prevented complete assimilation as when slaves were denied the right to education. It is easier to justify enslaving those who are sufficiently different that they can be called savages or brutes. Slave culture, however, could be a type of resistance. John Blassingame reports that many slaves brought over from Africa kept their native languages and passed these on to their children (26-27). Though they certainly learned enough English to avoid being punished for disobeying orders, they communicate in an African language or a patois when they did not want to be understood. While masters and overseers might be inclined to ignore the lapse into an African dialect as a lapse into meaningless gibberish, this could be a slave’s move to dominate a speech-act situation by switching into a coded language where the master was at a complete disadvantage. Not only were whites not able to understand what was being said, they had no idea anything was being said at all.

I the remainder of this chapter, I intend to show the nature of these concerns and the mode of discussion available at the time by considering three written works of the Federalist period. I begin with an examination of some letters concerning the removal of

the Cherokee, the first, from a president of the United States giving advice concerning talks with the Cherokee.

The avaricious nature of the American people in dealing with the Indians was of course a major reason for their readiness to undermine Indian Speech Act authority. In fact, their hidden, greed-driven agenda in some of their dealings could itself be categorized as a Speech Act problem. Consider President Jefferson's advice for dealing with the Indians. "We shall push our trading uses, and be glad to see the good and influential individuals among them run in debt, because we observe that when these debts get beyond what the individual can pay, they become willing to lop them off by a cession of lands" (118). This policy, which federal agents pursued vigorously until the Cherokee were resettled in the West, was contrary to normal practices in two ways. The first is the most obvious. It is unusual to make loans with the hope that the loan recipient would be unable to repay the interest and principle.

What Jefferson was suggesting was the making of loans with an eye towards the cession of the collateral. While there are certainly conventions for the making of loans, and the form of these conventions were adhered to, the intention is the issue here. In Speech Act theory as outlined by J.L. Austin, conforming to the convention is not enough to secure a felicitous Speech Act. "Where, as often, the procedure is designed for use by persons having certain thoughts or feelings, or for the inauguration of certain consequential conduct on the part of any participant, then a person participating in and so invoking those procedures must in fact have those thoughts or feelings, and the participants must intend so to conduct themselves..." (15). Conventionally, the person making the loan has the thought of recouping the principle and interest, not effecting the

bankruptcy of the borrower.

Indians who entered loan agreements had no way of knowing the intentions of the American government in allowing this form of commerce to exist between American citizens and themselves. They were ensnared. Austin refers to this lack of sincerity in the performance of Speech Acts as an abuse, but an abuse of Speech Act authority of this nature does not mean the act is void. After all, the Indians did receive the loans they wanted, and nothing in the loan agreement caused them to bankrupt themselves or seek to divest themselves of tribal lands to pay off the loans. However, while the deception perpetrated upon them did not nullify the performative power of their words, their intentions and their ability to make effective use of their Speech Act power was clearly hindered.

Jefferson's suggestion had a further implication for Cherokee Speech Act authority. By focusing on the "influential individuals," Jefferson was ensuring that the Cherokee representatives at treaty negotiations would have a personal, pecuniary reason to want to cede lands. On several occasions, the American government was able to gain substantial concessions by offering to extinguish the personal debts of Cherokee chiefs and other leading men of the tribe. The treaty concluded in 1806 was one example. In this treaty, the money from the sale of lands was used to extinguish private debts. The Cherokee principal chief, Doublehead, could find no wrong in this arrangement. As one historian notes, "Doublehead was convinced he was primarily helping the poor, not the rich, by using treaty money to pay off private debts" (McLoughlin 116). Of course, those with the largest debts would benefit the most from the sale of the land, and these were

generally the Cherokee with the most in private property. In any event, the sale of tribal property should not have resulted in the personal benefit of a few Cherokee.

In this way, a different wrinkle is exposed in the Speech Act relations between the government and the Cherokee. While Doublehead was the appropriate person to conduct the treaty negotiations, he was working under false pretenses. Doublehead himself was one of the main beneficiaries of this particular treaty (Hoig 91-92). At that time the X, Y, Z affair was still a very recent event; American delegates had shown themselves unwilling to bribe French authorities in the late 1790s. According to one historian, the publication of official reports concerning the affair in April of 1798 “electrified the country as had no other event since the Revolutionary War” (Miller 212). But if there was something ignoble about paying off the French diplomats (the papers of the day called the bribe “tribute”), then why was it appropriate to bribe the Cherokee? Two factors immediately present themselves. First, there was a considerable difference in the amount of the bribes. The bribes taken by the minor chiefs and Doublehead all together amounted to only a few thousand dollars. The French Minister of Foreign Affairs was asking for a quarter million dollars for himself and a \$12,000,000 loan to the French government. Given that the initial reason for the negotiations was government sanctioned piracy against America’s merchant fleet, this loan was likely never to be repaid.

A second difference between the treatment accorded the French and that accorded to the Cherokee was the fact that transactions with the Cherokee could be thought of as business dealings; the Cherokee had something that the American government and people wanted. While technically a separate government, the Cherokee nation could also be seen as merely a landowner. Viewing the Cherokee nation and the United States as two

corporations and the removal as an extremely protracted leveraged buyout, it may no longer seem unusual that the pot was often sweetened. The difficulty with this view is, of course, that the U.S. and the Cherokee were not corporations, but nations; the citizens and leaders among the Cherokee were not shareholders. The extinguishing of personal debts meant that the treaty between two nations was really one between the U.S. and the Cherokee nation and several individuals among the Cherokee, this although the U.S. understood that individuals did not own land among the Cherokee.

In the first years of the nineteenth century, negotiators for the American government forced the Cherokee to accept several roads through their nation along with enough land to support the needs of innkeepers and toll collectors. In fact, in September of 1801, after several months of steadfast Cherokee refusal to sell a wide swath through their territory, one negotiator, General James Wilkinson, decided to circumvent the Cherokee altogether. "If the Chickasaw would consent to the opening of the [Natchez] Road, it is my intention, notwithstanding the contumacy of the Cherokees, to order the Troops to proceed in that operation [building the road through the disputed territory]... while I leave the Red people to adjust their respective pretensions to the soil" (qtd. in McLoughlin 83). The Cherokee continued their resistance, and Wilkinson approached the Chickasaw. "The Cherokees were powerless to prevent this. The Chickasaw did negotiate a right of way with Wilkinson; the Natchez Trace Turnpike was built without Cherokee consent" (83). This is an even more blatant example of a Speech Act misfire that the U.S. government accepted as binding rather than void. But this event was not a misfire just because the wrong people had been consulted.

The Natchez Trace Turnpike issue was one in which the Cherokee themselves expressed a concern over their authority over their part of an attempted Speech Act. After several months of unheeded refusals, Chief Doublehead expressed his concerns in a letter to President Jefferson: "I expect you will think [agree] we have a right to say yes or no as answer, and we hope you will say no more on this subject; if you do, it would seem as though we have no right to refuse" (qtd. in McLoughlin 82). When government officials ignored the Cherokee right to yes or no and, in fact, ignored the Cherokee altogether, they were denying the Cherokee access to another aspect of Speech Act authority. As Austin put it, "the performance of an illocutionary act involves the securing of uptake" (117). The bride must say "I do" for there to be a marriage. In the case of the Natchez Trail, the U.S. government not only asked the wrong Cherokee, they ignored Cherokee desires altogether; they didn't just secure the uptake of the wrong people, they ignored the concept of uptake.

In the end, the treaty or contract concluded by General Wilkinson did not follow the normal patterns and conventions of treaty making with the usual round of promises. Even had the treaty been forced upon the Cherokee chiefs, the right people to sign a treaty, this would have been a misfire. One cannot promise something that goes against the wishes of the person to whom the promise is made; "...if a purported promise is to be non-defective, the thing promised must be something the hearer wants done, or considers to be in his interest..." (Searle 59). A promise of something unwanted is in essence a threat.

That the treaty negotiations with Indian nations were often conducted under the cloud of a threat of violence is witnessed by the fact that while negotiators to England or

France would most likely come from the Department of State and be trained lawyers and diplomats, the envoys to the Indian nations were from the Department of War, trained soldiers. The message embodied in this difference appears unambiguous. While all negotiators are prepared to face rejection and frustration, a general's preparation includes the ability to come back at the head of an army. As we will see later, the threat and use of physical violence was a constant part of the American policy to deny Indian nations of their access to speech-act power.

The resort to force is a strategy in another popular work of the Federalist era. Though first published in England, Susanna Rowson's fact-based novel *Charlotte: A Tale of Truth* quickly became "established as America's first best seller," available in approximately forty different editions by the time of her death in 1824 (Kable 7). The story revolves around the seduction and betrayal of sixteen-year-old Charlotte Temple, the only daughter of a loving couple who lives away at a finishing school. This tranquil, doting atmosphere represents Charlotte's main speech act problem, one of context.

Throughout the novel, the reader is reminded Charlotte is hampered in her speech act dealings with others because of her unfamiliarity with the way the world works. She is called "inexperienced," "innocent," and her seducer laughs at "her simplicity," saying "she knew nothing of the world" (72). One important aspect of the world's workings that Charlotte has been shielded from is the commodification of women, including herself. In the novel's opening chapter, the reader learns that Charlotte's first interview with her seducer, Montraville, was the result of a bribe paid to her French instructor, Mademoiselle La Rue. Charlotte's appearance at the clandestine meeting was guaranteed by La Rue for five guineas (25). In the next chapter, however, we find that this sale

merely mirrors what is the norm in society. In fact, both of Charlotte's parents have experience with the commodification of women.

Mr. Temple, Charlotte's father, had as a young man seen "his sisters legally prostituted to old, decrepid men, whose titles gave them consequence in the eyes of the world" (26). Though this is a path to riches that his own father urges upon him, Temple refuses to think of marrying for money, turning down a proposal to marry a Miss Weatherby, heiress of three thousand pounds per annum. This though his father urges the marriage saying, "pray remember that your union with Miss Weatherby will put it in your power to be more liberally the friend of Lucy Eldridge" (36). That is, Temple could use Miss Weatherby's fortune to keep Lucy Eldridge as a mistress.

Lucy Eldridge, later Lucy Temple, Charlotte's mother, sees this same type of prostitution from the woman's point of view. Her father, having incurred a debt he cannot pay, is in prison, having resisted the pressure to force her into the role of mistress to his creditor. The offer is to erase the debt and provide her with a settlement if she can be persuaded "to live, as he impiously termed it, a life of honour" (31). It is clearly a matter of common knowledge that a young woman's sexuality has a monetary value for unscrupulous men. Like anything else of value, if it cannot be had for money, it might be gotten through trickery or force. It appears that while both her parents are well acquainted with this particular aspect of the world's conventions and in fact have struggled against it, Charlotte has, no doubt purposefully, been sheltered from this knowledge. She has instead been supplied with rules, among them "my mother has often told me I should never read a letter given me by a young man without first giving it to her" (44). Without a

context, this rule is silly and easily ridiculed. Mlle. La Rue does just that concerning a letter from Montraville, helping him to win an audience with Charlotte.

Like most women of the period, Charlotte expects and is expected to some day enter into some sort of long term relationship with a man in which she receives protection in exchange for her sexual service. The protection she receives may be financial or physical or both. The sexual service she will provide may include the sex act or other services that she could be expected to provide on account of her gender such as darning socks or managing a household. This exchange has been called “The Sexual Contract,” and is characterized by Nancy Armstrong as a relationship in which “the female relinquishes political control to the male in order to acquire exclusive authority over domestic life, emotions, taste, and morality” (41). “Political control” may be broadly defined as interaction with the *polis*, or the city; this includes commerce. Note that women’s authority in the moral arena was mitigated through two means. First, no hierarchy of organized religion in early America recognized women as authority figures. Secondly, whether in the role of father or husband, men usually had the last word on all decisions of import, moral and otherwise, at this time³. In all events, though Charlotte is aware of the need to enter this type of relationship, she is largely ignorant of the details that comprise the agreement.

By not being informed of the connection between sex and money, Charlotte is handicapped in her discussions with Montraville. He knows she is too poor for him to marry, but she doesn’t know this. He knows that the most a young lady in her financial situation can hope for from such a one as he is to be his mistress; this fact eludes

³ Ann Douglass’ book *The Feminization of American Culture* deals with a shift in these particular attitudes in the mid-1800s.

Charlotte. In the sexual contract she negotiates with him, she fails to realize that not only will she not get what she wants, it isn't even being offered. This innocence leads directly to her seduction. The reader is lead to understand that had she been better informed of her situation, she would have made wiser decisions. Passing along this information is, in fact, the reason for the novel as Rowson tells us in the book's preface. In Rowson's words, she hopes the book will "be of service to some who are so unfortunate as to have neither friends to advise, or understanding to direct them, through the various and unexpected evils that attend a young and unprotected woman in her first entrance into life" (21).

Still, in speech act theory, for a speech act to be effective, those involved must have knowledge of the conventions involved. This is one of the things Austin means when he writes that "there must exist an *accepted* conventional procedure..." (emphasis mine, 14). There can be no acceptance of the conventions without first understanding. The rules given to her by her mother are the conventions she needed to guide her through the speech act situation. That she did not have the context needed to ensure that she would stick to the rules is another matter altogether. That this issue is of secondary importance is shown in the fact that Charlotte resists Montraville's advances her handicap notwithstanding. She recognizes this resistance as her duty to both God and especially her parents, saying, "I hope my affection for them will ever keep me from infringing the laws of filial duty" (54). Because she feels herself to be in love, she is of a divided mind. She wants to give in to Montraville while at the same time living by the rules given to her by her parents. She commits herself to a series of compromises, convincing herself that she is staying within the bounds intended by the spirit (though not the letter) of the rules if she reads Montraville's notes but does not answer them, if she meets with him to tell him

that she is not allowed to meet with him, if she walks with him alone in order to tell him it is best if they do not walk alone together. Unfortunately for her, this series of compromises cannot go on indefinitely.

As a British officer during the American Revolution, Montraville is soon to be sent to America. He asks Charlotte to travel with him. She is being asked to elope, though she could have recognized that there was no guarantee that marriage would follow upon their landing in New York. Elopement is a situation Charlotte's mother considers a "misfortune which is worse than death" (64). One assumes that this view of elopement has been passed on to Charlotte as she hesitates not knowing how to decide in the matter. It is in this final moment of hesitation that the speech-act situation breaks down. Before turning to this moment, however, let us look briefly at the role of education in another early novel of seduction.

Judith Sargent Murray's *Story of Margeretta*, published serially in Massachusetts in 1794 and collected into book form in 1798, has what at first might seem to be a storyline that is very similar to *Charlotte Temple*. Margareta a sixteen-year-old orphan who has been taken in by a childless couple is wooed by the thirty-year-old Sinisterus Courtland, a rogue only interested in her for her stepfather's money. They first meet when Margareta is visiting with family friends and away from her adoptive parents; in fact, the family friend, entrusted with her care, introduces her to Courtland making the similarity to Charlotte's boarding school experience even more striking. There are two major differences. The first is the vigilance of the parents, who actually have as surname Vigillius. While Charlotte doesn't contact her parent about her infatuation with Montraville until it is too late for them to do anything for her, Margareta's upbringing

has included a regimen of letter writing. This is a routine she adheres to even at the start of Courtland's seduction, and her parents are thus able to voice their disapproval at an early stage. While this is extremely important in helping Margaretta to avoid Courtland's sexual snare, the deciding factor is education.

Throughout the novel, Murray highlights the facts that Margaretta has been educated both in the domestic arts such as needlework and cooking and in the more intellectual areas of languages, history, and reason. It is her ability to reason that sees her out of her precarious situation. Her stepparents remind her "that an attachment which embraceth not reason as its auxiliary, is not worth cherishing" (184). Later she points out that "being left by my matchless parents wholly to the exercise of my own reason, I had begun to discover that Courtland was not the faultless being which my imagination had almost deified" (201). This is, in part, a result of an experiment she observed where her father interrogated Courtland to find his response to the hypothetical situation that Margaretta may not receive a dowry. Margaretta, hidden in the next room, hears Courtland's answer (he cannot accept Margaretta if she is to be penniless) and is undeceived about her suitor by this demonstration.

There is no evidence in Rowson's novel that Charlotte's education, in general and about men specifically, has been carried out in as meticulous a manner. Still, in the end, Charlotte's speech-act power is finally abrogated in another way. Throughout the protracted speech act situation that embraces Montraville's attempt to seduce and ensnare Charlotte, Montraville has at least met the formal requirements necessary for a true speech act. He has tried to respect the cardinal rule that in order for an illocution to be considered valid, uptake must be secured. This aspect is downplayed in John Searle's

understanding of speech acts as when he says, “In the case of illocutionary acts we succeed in doing what we are trying to do by getting our audience to recognize what we are trying to do” (47). (One assumes Searle means that the auditor should understand and offer no objections, but this is not clear.) Austin, however, phrases it forcefully: “the performance of an illocutionary act involves the securing of *uptake*” (117). At the last moment, however, as Montraville runs out of time and patience with Charlotte, he decides to forgo this crucial aspect of the valid speech act play. Quite literally, he takes matters into his own hands. After Charlotte asks him to leave her alone saying “I cannot go... cease, dear Montraville, to persuade. I must not: religion, duty, forbid,” Montraville insists that she must go with him. “I cannot – will not live without you.” When Charlotte wavers in her resolve, Montraville knows what he must do to get his way.

“Let me direct you,” said Montraville, lifting her into the chaise.

“Oh! My dear forsaken parents!” cried Charlotte.

The chaise drove off. She shrieked, and fainted into the arms of her betrayer. (59)

This use of force is not the first in Montraville’s dealings with Charlotte. He has, on a previous occasion, taken her hands to keep her from leaving him until he can extract from her a sign that she will meet him again. “‘I know not what to say,’ cried Charlotte, struggling to draw her hands from him: ‘let me leave you now’” (51). Montraville does not release her until he has gotten from her what he wanted on that occasion, and this serves to foreshadow the scene at the chaise.

Though Montraville later rearranges the order of events, claiming that she fainted first and then was swept into the chaise, what the reader has witnessed is not a seduction

but an abduction. Charlotte faints almost immediately upon being carried into the chaise. Whether she would have given her consent is impossible to tell. By the time she revives, her situation is irreversible. Having once driven with Montraville, she will forevermore be thought of as a fallen woman. Rather than complete the negotiations, Montraville has turned to force to present Charlotte with a *fait accompli*.

The reliance on force and the eschewing of speech act proprieties by the dominant group, the white male, is a constant trope in the literature of the American Renaissance and the precedent is set in the literature of the American Federalist period. This scene in *Charlotte Temple* is simply one of many. Clearer and much more graphic examples may be found in the writings of former slaves also popular in the period.

The slave, of course, suffered the most complete loss of speech act power. The Federalist era saw the solidification of laws and customs meant to keep slaves from achieving power of any type. In his book *Many Thousands Gone*, Ira Berlin points out that in the Federalist era, the southern United States underwent a fundamental change from being a society with slaves to being a slave society. The subtle change in Berlin's phrasing signifies a shift in the structure of Southern society and, consequently, in the way slaves were treated. In the former, slaves worked alongside indentured servants and shared some of their rights and protections, scanty as these may have been. Due in part to the success and spread of the plantation system, this system died out: labors increased to maximize profits, freemen would no longer accept these terms and gradually only slaves were left in the field. Concomitant with this development was the steady erosion of the slave's speech-act position. As Berlin notes, "the plantation's distinguishing mark was its peculiar social order, which conceded nearly everything to the slave owner, and nothing

to the slave” (97). The most important concession to the master was the essentially unlimited right to inflict physical pain. According to Berlin, “such a regime had to rest on force... Violence was not only common in slave societies, it was also systematic and relentless” (98).

Aside from the tactic of inflicting bodily harm or the use of chains, the white population used the laws to their advantage. “The grandees legitimated their preeminence by the word—be it unspoken custom or written law. Indeed, the arrival of the planter class was generally followed by the creation or elaboration of some special judicial code” (Berlin 98). Gone were the legal or ethical protections and with them the right to plead one’s case or stand as a witness against a master or overseer. Gone, in fact, were appeals of any kind. Though violence and manipulation of the legal system were essential strategies for speech-act dominance, deceit was no less important. One scene in the narrative of Venture Smith suffices to show how this strategy was sometimes put into effect.

Writing in 1798, Venture Smith was African born and had worked as a slave under several masters in New England. Soon after being bought by one Thomas Stanton, Smith loaned his new master nearly twenty-one pounds taking a promissory note as security. Though a slave, Venture Smith was apparently confident that the law would protect his rights against his master; otherwise the note would be useless. Events will show that at this early stage in American slavery, Smith’s confidence was well founded.

After Smith’s master attacked him with a club, Smith “took the club he wounded me with, carried it to a neighboring Justice of the Peace, and complained of my master” (Parker 549). Though the Justice of the Peace took no action against Stanton, he did warn

him against further abuse. As Smith puts it, the Justice “told him what would be the consequence if he continued the same treatment towards me” (549). Smith does not reveal what the consequence would have been, but he left the house of the Justice of the Peace, escorted by his master and Robert Stanton, his master’s brother, apparently content, satisfied that justice had been served.

On the road home, the brothers tried once again to beat Smith; they “fell to beating me with great violence.” For the modern reader, who does not expect that the justice system under slavery would be in any way helpful for improving a slave’s condition, this turn of events comes as no surprise. What happens next, however, does. Smith writes, “I became enraged at this and immediately turned them both under me, laid one of them across the other, and stamped both with my feet what I would” (550). Unlike the earlier situation where Smith, after being hit in the head with a club, could present himself to the Justice of the Peace as a passive victim who had sustained but not given blows, Smith here clearly meets aggression with aggression. One might expect that this could only turn out badly for Smith. Upon reaching the farm, his master could have called for even more assistance to subdue Smith then beat him at will. The question, then, is why this didn’t happen. It would seem that Thomas Stanton was afraid. It is not unreasonable to suggest that his refusal to pursue the path of violence here came about because of the warning he had received. At least in this case, the legal had been of value to Smith. In fact, it may well be that the roadside attack was not a continuation of the earlier fight but a message, imperfectly conveyed, that Smith should not seek legal recourse again. Only if the law could effectively help Smith would such a message make sense.

Only if the law could be on Smith's side would any trickery concerning the loan Smith had made his master be necessary. Smith reports that during the initial struggle with his master, his master's brother "broke open my chest containing his brother's note to me, and destroyed it" (550). Obviously this would have been an unnecessary step if the court had done nothing to enforce the stipulations of the note. The sequence of events reveal that Stanton knew he could not rely on brute force to maintain authority since Smith was stronger, and he could not rely on manipulation of the law since the law backed his slave. To retain control over his slave, to assert his mastery, Stanton sought to nullify a speech-act that had taken place between them. Austin discussed just this type of situation, the disavowal of a promise, briefly: a promise made seriously cannot later be made void. A person may live up to their promise, or they may fail to do so; the fact of the promise remains. John Searle also makes mention of the situation saying, "insincere promises are promises nonetheless" (62). By tearing the promissory note, Stanton merely destroyed evidence of an event that in its essence remained unchanged.

Since it seems likely that Smith had effective recourse to the law, Smith's speech-act problems were only in some ways different from what a white man might have experienced during that time. After all, Stanton might just as easily have burned the promissory note held against him by a white man. After all, a person who destroys a promissory note to avoid paying is simply a cheat and the circumstance of slavery is not needed for one to be that. Smith's speech-act woes differ from those of whites in what actions he tries to perform with speech. A loan is a common enough speech-act. Attempting to purchase one's own freedom is not. This is the circumstance in the next

speech-act problem Smith reveals, and the strategy employed by his owner in this case is also that of deception.

The case is quickly told. Finding he could not subdue Venture Smith, Thomas Stanton decides to sell him. For obvious reasons a slave who is difficult to control might also be difficult to sell. Smith uses this fact to his advantage. One Hempstead Miner shows up with an interest to buy him. After some conversation the slave and the potential new master come to an agreement; as Smith tells it, “[h]e then requested me to make myself discontented and to appear as unreconciled to my master as I could before that he bargained with him for me; and that in return he would give me a good chance to gain my freedom when I came to live with him. I did as he requested me” (550). This bargain requires duplicity on Smith’s part as well as on that of Miner. The strategy works and Smith is sold from a master he had serious difficulties with to one whom he trusted would let him work his way to freedom. Unfortunately for Smith, perhaps because it represented a duplicity, his bargain with Miner was not committed to paper or otherwise witnessed.

“Immediately after my present master bought me, he determined to sell me at Hartford” (550). When one potential buyer, intent on selling him again for quick gain tells Smith he would take him even if he has to be taken in chains, Smith reminds him that no one would buy him if he could only be controlled in that fashion. This buyer backs away from the deal. We see then that the slave at this point had considerable power to manipulate at least one speech-act that directly impacted on his condition – he could influence the terms of his own sale.

Smith was next rented from Miner by a kinder man who actually lent Smith a horse so he could visit his wife still at Stanton’s farm. When asked why Miner wanted to

sell him. Smith's answer was, "I could not give him the reason, unless it was to convert me into cash, and speculate with me as with other commodities" (551). This observation by Smith is an astute one. In a brief time, having been cheated out of his money and out of a chance for freedom, he has learned to be distrustful. This well-learned lesson signals another change in his speech-act situation. Having twice been fooled, he will not make the same mistakes.

After his sale to a Colonel Smith, he asks if the new master would be willing to sell him his freedom. The answer is yes. It is important to note that Smith's request here is not part of a duplicitous bargain, the Colonel has already bought him and does not need his help to secure the deal. This time Smith is much more cautious; he has learned that to expect a white man's intentions to match the speech-acts he performs is to take a risk. When he begins to pay he seeks out a free black man to hold the promissory note explaining to his readers that "I was the property of my master, and therefore could not safely take his obligation myself" (552). It appears from the rest of the narrative that though Colonel Smith required a high price, he was honest, even setting Smith free before the purchase price had been completed. Whether the colonel would have been honest without the free black man's assistance is impossible to tell. What Smith's narrative does show is that as a slave alone his speech-act situation was untenable. Neither his great physical strength (which Smith finds many occasions to discuss) nor the willingness of the legal system to assist him was enough to help him to his freedom. Instead, Venture Smith had to rely on the honesty of a free black man, a third party to secure his right to effective speech action.

Throughout the rest of this dissertation, it will be my task to reveal the struggle for speech-act power that was a prevalent concern as shown in the writings of the period. I have tried in this chapter to show some of the root causes for the need for this struggle along with some of the strategies used by both sides. The tactics of violence, legal manipulation, and trickery remained in constant use throughout the nineteenth century (indeed, even to this day). Appeals to the natural law and the Word of God, the insistence that the unempowered were somehow naturally unfit to wield the full power of words also remained, as did the argument that the unempowered were better off without the burden implied by speech-act power whatever their fitness might be. As will be seen, however, the circumstances for these groups varied in many respects and their strategies for replying to white, male illocutionary dominance were different accordingly. Violence, unfair manipulation of the law, and deceit remained, however, as often impenetrable defenses to this domination.

Chapter Three: Native Americans

In breaking away from Great Britain, the people of the United States began a process of self-definition through negation. They determined that they were no longer the subjects of the English king. This process was not completed, however, with the end of the Revolutionary War. The separation from England only defined one facet of the United States. Relations with the aboriginal tenants of North America would help further define the United States geographically and ethnically. As Priscilla Wald put it, “debates on the status of indigenes [...] could not avoid addressing whom the founders had intended to include in ‘We the People,’ what entity they had legislated into existence with the Constitution” (15). The relations with the natives was troubled, however. As one commentator has noted, “Americans’ unavoidable confrontation with the Indian problem frustrated attempts to create a unified, consistent idea of the nation” (Schekel 10). The American assertion of illocutive equality with Great Britain found in the Declaration of Independence is mirrored by American speech-act dominance exercised over the Native American tribes in the years following the Revolution. The effects of this dominance remain to this day.

While at America’s start Indian tribes were technically separate nations and presumably on equal speech-act footing with the United States, there existed a “rhetoric of guardianship,” as Wald phrased it, that the United States used when referring to the Indians. Native Americans were wards of the state who could never grow into an independent status. For the tribes, this dual position, separate yet subject, meant an almost complete erosion of their speech-act authority – the Indian nations could make treaties with the United States, but the United States would be the ones to determine the

validity of those treaties as well as how they should be interpreted. For individual natives, the illocutive situation was no better. Like other people of color within the borders of the United States, Indians could not vote or testify in court against whites. This was truly a strange circumstance; as one commentator writing for the *Illinois Monthly Magazine* put it at the time,

At the moment when our commissioners are negotiating with their chiefs solemn leagues, involving the most important interests, pledging to them the faith of our government; and accepting from them similar pledges, we reject those same chiefs is offered as witnesses in our courts, as persons destitute of truth—as creatures too ignorant to understand or too degraded to practice the ordinary rules of rectitude. (*Cherokee Phoenix* iv.4.1)

A speech-act perspective shows exactly how arbitrary American policy toward the Indians was. The Native word was valued by white Americans for one legal and solemn occasion and set aside as worthless in another legal and solemn situation. Arnold Krupat examines this paradox in writing of the Indian Removal Act of 1830, which “provide[d] for an exchange of land with the Indians...as may choose to exchange the lands where they now reside, and remove [West of the Mississippi]” (qtd. in Krupat 136-137).

Krupat points out the etymological root of the word “provide” in the Latin for “foresee,” a reading of the act that shows that Congress viewed the removal as inevitable. The phrase “as may choose,” however, creates the removal as an inevitability that the Indians must freely accept. “The Indian, to the framers of this bill, must not be mere victims of civilization’s providence but free agents who can voluntarily ‘choose’ to exchange and remove” (138). In speech-act terms, the Indians must be figured as the right

persons to sign away their land; this circumstance removes any possible guilt from white Americans. But while the Indians must have the performative power to accept their fate (their manifest destiny shared, reciprocally, with the whites), they must not have the power to fight the removal. They must be found, for instance, to be the wrong persons to give testimony in court where the terms of deeds, contracts, and even treaties are properly argued out in case of any dispute.

This truncation of the natives' speech-act powers is sometimes thought to have occurred in part because of, white anxiety over questions of legitimacy. Susan Schekel postulates that the treaties were generally "testimony to the fact that Americans considered Indian consent crucial to legitimate their acquisition of Indian lands. Even when it was not an expression of the Indians' will but simply an empty gesture obtained through trickery or coercion [...]" (100-101). Of course, was never enough to prevent removal and the accompanying brutality. Indians were beaten, raped, and murdered with regularity throughout America's expansion. The burning of Indian villages and farms, a tactic that often led to mass starvation, and outright massacres also went along with this expansion. Rather than see Americans as anxious to "do things by the book," following the letter if not the spirit of the conventions that surrounded dealings with foreign powers, one could view them as opportunists, using treaties when that suited them and cannon fire where that would work best. Clearly, any guilty feelings concerning the legitimacy of taking Indian land was overwhelmed by greed for the physical wealth those lands represented. In this way, the American neighbors of aboriginal tribes were like the Salem Puritans who accused their land-wealthy neighbors of witchcraft or like the Poles of

Jedwebne during the Holocaust who rounded up the Jews of their town and slaughtered them *en masse* in order to get their homes and shops (Gross 105-110).

In discussing how it was that the United States stifled the speech-act power of Indians, I will focus chiefly, but not exclusively, on the plight of the Cherokee Indians in the late 1820s to the late 1830s. The Cherokee may be the ideal subjects for this examination. Taken as a whole, the Cherokee nation was the most sophisticated rhetorically. *The Cherokee Phoenix* shows evidence of both “transpositional” and “subjugated” rhetoric as defined by Cheryl Walker in her study *Indian Nation: Native American Literature and Nineteenth-Century Nationalisms*. Transpositional rhetoric “suggests mirroring in the sense that each entity (person, group, or political unit) might occupy the space of the other” (16). In this way, the writers for the *Cherokee Phoenix* often appealed to their readers judge whether justice was being done to the Cherokee by the American government. Aside from showing that the newspaper was largely directed at readers in white America, this appeal suggests to the white reader that if the American courts and Congress could trample on the rights of the Cherokee, whites might be the next targets of abuse. Subjugated discourse “calls attention to differences, especially those of power, prestige, and purpose” (17). This type of rhetoric calls upon the reader to view the Cherokee as appropriate objects of pity and appeals to their sense of mercy. The Cherokee nation, in its official newspaper and its direct appeals to Congress and the Office of the President, sometimes highlighted their weakness to garner sympathy. The fact that the Cherokee consistently made their appeals to the American public in these two modes, would have given them an advantage among all the tribes competing for American empathy if only white Americans had cared to listen.

The Cherokee Removal from the Southeast to the Great Plains has been studied from a variety of perspectives. It has been seen as a landgrab by interested and influential individuals and as a fulfillment of Manifest Destiny (Wallace). Historians have showed how the Whites of the time thought of the displacement of Indians as a religious necessity or as an evolutionary issue where the strong would survive while the weak had to be moved out of the way for their own protection (Maddox). Others have outlined the vagaries of treaty negotiations (Hoig) and the irregularities in the laws applied to Indians in efforts to cause them to give up their claims to land (McLoughlin, et al). But the Cherokee Removal has not before been studied as a speech-act event, as an event that occurred because of and through the particular and peculiar use of performative language conventions. This chapter is intended to present the results of just such a study.

Consider the words of Antonio Gramsci in an early essay: "Every victor desires to destroy the vanquished. But men, who by their very nature are hypocritical and false, do not say outright, 'I wish to conquer in order to destroy', but say instead: 'I wish to conquer in order to civilize'" (3). Of course these words bear a relation to the study of what has been called "the Conquest of America." Americans of European extraction, when they recognized that in colonizing they were displacing aboriginal peoples, often claimed to do so in the name of helping the displaced to become less savage, more civilized, more Christian.

But Gramsci was wrong in one particular. He posits a "victor" who speaks with a single voice. While many of the victors in the struggle for the land of the United States did seek to Christianize their opponents, we shall see that many did not. In fact, the victors sometimes saw Christianization of the native population as a threat. Native

savagery was a major point of propaganda throughout the centuries the native removal took to complete. That they were savage, uncivilized, required their removal to a safe distance, a distance of some six feet underfoot being considered safest of all. Gramsci again, “victors would like all the inhabitants of the colonies to disappear, to make room for the new arrivals” (4). Making the Native American tribes disappear from East of the Mississippi River was a major concern for Americans in the first half of the nineteenth century. One of the first steps to moving tribes West was often stripping them of the right and ability to use speech-act authority effectively. In this chapter of the dissertation, I focus on the speech-act problems faced by the Cherokee tribe of what is now the southeastern United States. I begin, however, with notice of a popular novel written at the start of the gravest difficulties for the Cherokee. A novel that serves as a sort of synecdoche for the speech-act difficulties the Cherokee faced throughout the decades long process of the Cherokee Removal.

James Fenimore Cooper’s novel of 1823, *The Pioneers; or, The Sources of the Susquehanna*, is concerned with the efforts of Marmaduke Temple to settle and tame the wilds of Northern New York state. The pioneers that Judge Temple has encouraged to settle on his property are wasteful and greedy and clearly at odds with the remnants of the population that preceded them in the area, a Delaware Indian called variously Chingachgook or Mohegan John and Natty Bumppo, a white hunter who has lived in the area for the past forty years. Aside from being the legal owner of the land on which the action of the story takes place, Temple is drawn as a clear authority figure. His first name is often truncated to ““duke,” and he is literally both a judge and a father. If anyone in the novel is most likely able to settle disputes as they arise to the satisfaction of all involved,

Temple is that person since he was raised a Quaker and a pacifist. Whatever trappings of authority he has, however, are clearly mitigated by several factors.

First of all, he is not entirely in control of the actions of others on his land. While he argues time and again for ecologically responsible policies, his own steward, his cousin Richard Jones, ignores his requests and laughs at his concerns. This would not be so bad since it would appear that he could regain control of these matters simply by exerting himself more in the area of enforcement; he is, after all, a judge and the owner of the lands. He is not, however, fully in control of his own impulses.

Near the middle of the book, when he and other members of his household go out at night to witness a fishing party at work on Ostego Lake, he deplores the wastefulness of the method being used, seining. In this method, a large net is cast and thousands of fish are brought to the surface at one time regardless of their size or eatability. While it is true that a financial profit will be made from the sale of these fish, it is also the case that much of this bounty will be left to rot on the shore. Of his cousin Richard's waste, Marmaduke moans, "thou knowest but little of the pleasure there is in playing with the hook and line, or thou wouldst be more saving of the game. I have known thee to leave fragments enough behind thee, when thou hast headed a night-party on the lake, to feed a dozen famishing families" (252). However, when the call is made to help bring the net ashore, he answers, "yielding to the excitement of the moment, and laying his hands on the net, with no trifling addition to the force" (259). Moments later, the task completed, he turns "melancholy" again and deplores the waste. When he later calls on Natty Bumppo to take some of the catch to avoid it being wasted, he is rebuffed. Natty will have none of the fish, saying "No, no, Judge...I eat of no man's wasty ways...I wouldn't be helping to

such a sinful kind of fishing, for the best rifle that was ever brought out from the old country..." (265-266). Through this incident and ones like it, 'duke Temple is shown to have less control of himself and others than befits a judge, landlord, and founding father of a pioneer community.

His lack of control causes him to tread on the rights of those who had preceded him in the area, causing him to deny them rights that seem to them to have been granted by God. For instance, Temple decides to crack down on the hunting of deer. On the surface, this would seem to be a prudent ban since even the Leather-stocking speaks of how sparse the local population of deer has become. However, a closer look at the circumstances of this ban helps to show how oppressive it is in actuality. On the one hand, none but Natty Bumppo and his protégé Oliver Edwards, thought to be a half-breed, seem capable of killing a deer with any ease. The judge himself fails to hit a deer at the start of the novel even though he uses a shotgun hitting Oliver Edwards instead. In fact, though Natty points out that the advent of whites has brought about a decrease in the deer population, it is not necessarily by over hunting but by the clearing of the forests that provided the deer's habitat. As he says, "it's the farmers that make the game scarce, and not the hunters" (161). The judge attempts no halt to this more destructive practice since it is antithetical to his aim of settling the entire region. One may wonder on what score the judge would like to protect the deer in the area though he desires to see their environment turned into villages and farms.

Another important circumstance of the judge's ban on deer hunting is the fact that other more truly wasteful and harmful practices like that of fishing by seine and tearing gashes into maple trees to get at their syrup, or hewing these trees to burn them as

firewood go fairly unchecked and, as we have seen, even helped by the judge. It seems then that the judge's ecological policy is designed to hurt only those with prior claims to the property and does nothing to check the influx of pioneers, the most harmful influence on the environment. It is this policy that highlights one of the troubled speech-act situations of the novel. Are Mohegan John, Natty Bumppo, and Oliver Edwards under any obligation to heed the judge's commands? Or do they have claims to the land or to a different allegiance that exempt them from his authority? This particular issue begins to become truly important after the 27th chapter where the Mohegan and the Leatherstocking kill a deer out of season with the help of Oliver Edwards.

One commentator sees this chapter as fundamental to the story as it is a clear place in the narrative where the clash of White and Native cultures is worked out. Natty and Oliver who have White blood must decide whether they will act White while the Mohegan clearly relishes the hunt as a reminder of his past life and a symbol of his "Indianness" and an implicit rejection of the white acculturation he has received over the years. As Kelly Stern writes, "[Chingachgook] is truly himself in this scene, alive because he is following what naturally guides him: his instinct. There is apparently no contest within him between the hunter and the Christianized, civilized 'Indian John'" (209). After some small debate, Natty decides to kill the deer, placing himself clearly outside of the codes by which Judge Temple would have the settlers live. That Natty understands himself to be stepping outside these bounds is seen in his exclamation after the kill, "So much for Marmaduke Temple's law!" (299).

This kill is itself a clear speech act problem. Judge Temple has issued his decree, what J.L. Austin would call an "exercitive". The characteristics of such a speech act are

that it is “a decision that something is to be so [...] Its consequences may be that others are ‘compelled’ or ‘allowed’ or ‘not allowed’ to do certain acts” (155). The people of the village of Templeton are all willing to live by this decree (though, again, what this means for a people who lack the skill to bring down a deer is questionable). But is Natty a citizen of Templeton? That is, is he subject to Judge Temple’s laws? Natty believes the territory to belong more properly to Chingachgook, a point he makes but does not press in any way that Judge Temple can recognize as a competing claim. Clearly, most in the community think of Natty as living and hunting on Judge Temple’s lands. This seems to be Natty’s belief as well at the start of the hunt when, after a warning from Oliver that the deer was protected by law, he hesitates asking Chingachgook, “Shall I, John, or no?” (297). He thinks aloud saying, “Lets me see—July is the last month, and the flesh must be getting good” (296). Though these musings are somewhat cryptic, Natty’s meaning can be deciphered. July is the last month covered by Judge Temple’s ban. It would seem that Natty is trying to justify killing the deer by arguing to himself that the ban is close to coming to an end anyway. Natty weighs the fact that there are only a few days left in the ban alongside of the quality of the meat. His decision is to ignore the Judge’s law, but this was no easy decision for him to come to. His statement, “So much for Judge Templeton’s law!” is not said carelessly but after deliberation. The battle for speech-act authority has been joined.

Natty’s reasons for taking the deer are two-fold. In the first place, he has serious questions concerning the judge’s right to make such laws. While Marmaduke Temple has made the law with an eye toward preserving the natural resources of the area, Natty rejects his authority in this matter. He repeatedly refers to Temple’s ecological efforts as

“wasty ways,” and he has shown himself unwilling to take part in them in any way, calling the Judge’s conduct “sinful and wasty,” reminding him that “we are not much of one mind, Judge, or you’d never turn good hunting grounds into stumpy pastures. And you fish and hunt out of rule” (266). Natty, then, attacks the Judge’s right to judge in the matter, and there is no defense of the Judge’s wasty ways presented in the novel.

Temple soon feels the need to enforce his law. His orders cannot be left to the interpretation of any individual in the county, nor can they be allowed to go disobeyed with impunity. Natty Bumppo and Chingachgook, clearly on the margin of power as the rest of the characters understand it, must not be allowed to form their own focal point of power in opposition to that of Judge Temple. The reason given is that the judge understands the situation to be one in which “his reputation for impartiality was at stake” (329). There are at least two ways to avoid ruining the judge’s reputation and the authority it supported, but only one occurs to the judge. Rather than declare Natty and Chingachgook outside of his sphere of influence, the judge decides, however reluctantly, to pursue the matter, sending deputies to execute a search warrant with hopes of finding the buck. This move brings the issue to a head, ending with Natty sentenced to a fine he can’t pay and a thirty day jail term the seventy-one year old woodsman believes would be the end of him.

What is elided at this crucial juncture is the issue of land rights. In America’s dealings with the native population, land rights were of paramount interest. No reasonably informed American alive during the period could fail to recognize that the aborigines stood in the path of the nation’s progressive expansion. Most realized that the natives were being cheated out of their property. News of depredations committed against

the Indians as part of an effort to remove them from their land could not have been missed or easily ignored. It could be explained away, however. It could be seen as the inevitable consequence of the clash of stronger nations with weaker ones or as a manifestation of divine will for instance.

In his essay “Traits of Indian Character,” Washington Irving noted that the Indian “cannot but be sensible that the white men are the usurpers of their ancient dominion, the cause of their degradation, and the gradual destroyers of their race” (95). For those natives who have already succumb to degradation, the ones who “become drunken, indolent, feeble, thievish, and pusillanimous,” Irving finds a clear cause for their downfall. “Society has advanced upon them like one of those withering airs that will sometimes breed desolation over a whole region of fertility. It has enervated their strength, multiplied their diseases, and superinduced upon their original barbarity the low vices of artificial life” (91). While Irving’s essay reads in some places as a lament, he clearly is not advocating doing away with “society” no matter how harmful it may be to one set of people. Society may bring out the worst in the native, but that worst was already there. The “barbarity” of the Indian is “original” to their condition. Their degradation and destruction are likewise natural.

Cooper comes to much the same conclusion in *The Pioneers*. The one character noticeably missing in the argument over the slain deer is Chingachgook. Why he isn’t arrested and why he doesn’t stand trial is something of a mystery, which the novel’s climactic scene, a forest fire, goes some way toward clearing up.

In the fire, Judge Temple’s daughter and Chingachgook’s protégé become trapped. When Chingachgook makes it to them, it is not to rescue them or show them the

way out of the fire; instead, it is to die amidst the flames. He sits on a log, humming traditional death chants. His impotence at this point is made clear in the fact that he allows a small canister of high quality gunpowder to explode between his legs. Taken with the fact that he must be carried out of the fire by Natty strapped to his back like a child in a cradle board, this makes it clear that Cooper paints Chingachgook as emasculated and infantilized. He is clearly not an appropriate target for the Judge's justice.

The most important defense the Judge brings to his aid in securing all speech-act authority for himself and denying any to the native population is his obscenely unfair manipulation of the legal system. Though the novel is set in 1793, only five years after the debates over ratification of the Constitution, Judge Temple seems to have completely forgotten some of the most basic concerns of that period in his rush to be the patriarch of a thriving township. Judge Temple has taken unto himself every branch of government. He was the legislator who brought about the law Natty ignored. He hired his own cousin as sheriff of the area and issued the warrants that brought about the confrontation between Natty and the magistrate for the area, Hiram. He sat as judge for a case taking place on his land concerning an infraction of a law he created. Executive, Legislative, and Judicial powers all rested with him in Templeton. How could there possibly have been a check to his authority? Though there was a jury present, it should be remembered that Judge Temple was essentially the landlord of every man on that jury.

What chance did Natty have to win a suit against him when the Judge felt compelled for reasons of honor to prosecute? The fact that the jury did acquit him of one charge though not of both brought against him reveals the troubled nature of the speech-

act situation Natty exists in. At the trial's end, Natty is prevented from leaving by the guards who forcibly escort him to his cell. No consideration is given to his advanced age or the fact that he lived on the land claimed by Judge Temple for decades before Temple took control of the area or for the fact that Natty was never consulted concerning the creation of a law that concerned him almost exclusively. The violence represented by the armed guards is an integral part of subduing Natty (since he doesn't freely recognize the Judge's authority) and it shows the lengths to which white America would have to resort to maintain their illocutive dominance.

Cooper's novel was not the only nor even the first fictionalization of Indian Removal and its effects. Since this chapter of the dissertation concerns itself with primarily with the speech-acts surrounding the Cherokee Removal, it is appropriate to analyze a novel by a Cherokee author though that novel deals with another forced removal. John Rollin Ridge's 1854 novel, *The Life and Adventures of Joaquin Murieta, The Celebrated California Bandit*, tells the story of an honest, hard working Mexican citizen of California who is turned to a life of murder and robbery by the depredations of the white immigrants to California who arrived after the discovery of gold at Sutter's Mill.

Ridge, also known as Yellow Bird, was the son and grandson of signatories to the Treaty of New Echota; Major Ridge, his grandfather, and John Ridge both signed though not authorized by the Cherokee nation to do so, and both paid for this act with their lives. It is not unlikely that John Rollin Ridge was in California in part because he was not entirely welcome among the Cherokee.

The speech-act problems in Ridge's novel quickly devolve into open violence on both sides with Murieta often getting the better of the whites who pursue him. This may be seen as a more fanciful replaying of the incidents of the Cherokee Removal, a kind of "What if" game. What if the Cherokee had fought back instead of moving off their lands? As Eric Sundquist put it, the story "may be understood to be Yellow Bird's own indirect statement about the justification for revenge against whites felt by American Indians, whether in California, Georgia, or Oklahoma" (qtd. in Rowe, para. 12). Certainly the bloodshed Murieta is able to inflict on the whites of California is not mirrored by the realities of the gold rush. As historians Clifford Trafzer and Joel Hyer point out, violence generally flowed from California's white population to the Native population, not the other way around. "Some white Americans openly committed genocide, killing many Indians [...]. In order to encourage the extermination of California's First Nations, white individuals and communities offered monetary rewards for the heads and scalps of Indian people" (28). The genocide of the gold rush mirrors one of the more horrifying aspects of the Cherokee Removal, the forced migration of a thousand miles known as the Trail of Tears. When discussions failed, the United States government sent troops into Cherokee territory to march them off at the point of the bayonet. How many of the seventeen thousand Cherokee who headed for the promised lands west of the Mississippi died along the way is still a matter for historical debate, but low estimates begin at four thousand and range to a high of eight thousand, nearly one half (Thornton 93).

The specific speech-act problems that drive Murieta to his life of criminal violence have to do with the denial of his speech-act agency. The novel condenses the most egregious abuses of Murieta's speech-act power into the opening pages. Though he

had “resolved to try his fortunes among the American people, of whom he had formed the most favorable opinion” (8), he quickly found that the Americans he encountered in California did not, by and large, return his admiration. Murieta was Mexican, a people largely looked upon “as conquered subjects of the United States, having no rights which could stand before a haughtier and superior race” (9). He soon finds what this prejudice will mean for him.

Though he has a legal claim to some property where he is prospecting, he is told to leave. A claim is a speech-act. It is a contract made with the government; in speech-act terms claims are “verdictives.” As J.L. Austin explained the category, “Verdictives consist in the delivering of a finding,” that is, in Murieta’s case, a judge or county official found that Murieta had fulfilled the requirements for property ownership and awarded him ownership. As Austin points out, this category of speech-act may bleed into another, namely the “exercitive” which is more the decision that something is to be so. In this way, the verdict of guilt may imply the further exercitive of sentencing (153-156). Regardless of what speech-act category his claim fell under, it should be understood that the claim was valid, but this was ignored by the white Americans who wanted his land. When Murieta refused to yield, another aspect of his speech-act authority was attacked.

The same men who jumped his claim raped his wife, Rosita (10). Leaving aside for the moment the profound affront to his wife, the sexual monopoly of his wife implied in his wedding vows was destroyed. Again, though Murieta had presumably followed the conventions, his speech-act rights were set aside. He and his wife remove to a small farm at some distance from the claim after this, but even here they are not left alone. They are soon run off this property as well. All this though the treaty Guadalupe-Hidalgo ending

the Mexican-American War guaranteed the Mexicans who stayed behind their rights in property. The author was all too familiar with the result of treaty making with the Americans. Ridge knew that a treaty guaranteeing property rights was often only the prelude to the outright theft of that same property.

To turn to the specific question of the Cherokee Removal, I begin with the examination of a letter by Ralph Waldo Emerson. Emerson's reluctance to speak on the political and social issues that preoccupied the people of his time is well documented. He stressed this point in his speech on "The Fugitive Slave Law": "I do not often speak to public questions – they are odious and hurtful, and it seems like meddling or leaving your work" (*Essays* 861). However, this reticence did not prevent him from addressing a letter to the then President of the United States, Martin Van Buren, as part of a united effort to relieve the Cherokee Indians of the burdens of the Cherokee Removal Act of 1836.

The grounds for his protest included the fact that the signatories on the Cherokee side were not the appropriate ones: "the fact afterwards transpired that these deputies [acting on behalf of the Cherokee] did by no means represent the will of the nation" ("Letter" 102). He was shocked to find that the American government had given weight to the signatures of minor chiefs of the Cherokee nation after finding the more important chiefs unwilling to sign the treaty. But this was only one of many irregularities in the dealings between the American government and the Cherokee nation. Throughout the first decades of the nineteenth century, the negotiators for the American government worked hard to nullify the power of the elected representatives of the Cherokees. In specific, American negotiators deployed several strategies to ensure that the intentions of the Cherokee nation as a whole, in regards to their land especially, were either

circumscribed or circumvented altogether. Emerson understood the trouble with the acceptance and enforcement of the “sham treaty” to have been one of language. He chided the president: “The piety, the principle that is left in the United States, -- if only in its coarsest form, a regard to the speech of men, -- forbid us to entertain [the removal] as a fact” (“Letter” 102). The specific problem at hand was that the American Government repeatedly denied Cherokee leaders the right to exercise speech-act authority. In the rest of this chapter, I examine the negotiations between the American government and the Cherokees as speech-acts, whether successful or not. My focus will be on the strategies used by the American government to suppress the Cherokee ability to perform illocutive speech-acts effectively, that is, their ability to have their words perform the actions they desired.

Emerson's willingness to join the struggle against Federal policy in this instance was predicated on several factors. Each of the factors spoken of in his letter is in defense of the Indian right to perform effective speech-acts. From a speech-act perspective, perfidy on the part of the Whites brought about several infelicities in the Indian use of illocutive force.

One of the first rules of speech-act theory as set forth by Austin is that the “particular persons and circumstances in a given case must be appropriate for the invocation of the particular procedure invoked” (15). As already mentioned, Emerson claimed the wrong people, people who “did by no means represent the will of the [Cherokee] nation” had been consulted by representatives of the American government. This was only one of several irregularities in American dealings with the Cherokee during the long process that was the Cherokee Removal, but it is an important one.

When John F. Schermerhorn, the chief negotiator for the American government, first approached the Cherokee chiefs about selling their remaining lands in the East, a total of almost eight million acres, the elected chiefs refused. While the government was offering something less than half the going rate for land (\$4,500,000) the Cherokee's head chief, John Ross, asked for double the going rate, \$20,000,000¹. After several months of fruitless negotiations, Schermerhorn took matters into his own hands and abrogated Cherokee Speech Act authority. "He took it on himself to call another meeting of the Cherokee council, though only [John] Ross had the legal right to do so" (Hoig 154). The fact that Schermerhorn was not the "particular person...appropriate for the invocation" of this meeting should have meant that the meeting was not actually called. Schermerhorn's usurpation of Ross's authority made his request a linguistic nonplay. Imagine John Ross calling the United States Congress into session and treating with those Congressmen who showed up. The grand majority of the Cherokee nation thought of the situation this way and refused to participate. Schermerhorn went ahead with his designs.

At this meeting, attended by only a relative handful of Cherokee, several prominent Cherokee signed away all rights to ancestral lands in the East, agreeing to remove the Cherokee nation to land set aside for them in the Midwest. While many of the signers were well respected by members of the nation before this incident, it is important to note that they were not authorized by the Cherokee to negotiate or sign treaties. In fact, "neither John Ross nor any of the elected Cherokee officers, then or ever, signed the pact..." (Hoig 154).

¹ Anthony F. C. Wallace, The Long, Bitter Trail: Andrew Jackson and the Indians. (New York: Hill and Wang, 1993) pg. 85. Wallace puts the going rate at \$1.25 per acre.

The treaty's unpopularity among the Indians is undeniable. Several of the signers were later lynched (Wallace 102). And as Emerson pointed out, "Almost the entire Cherokee nation stand up and say, 'This is not our act. Behold us. Here are we. Do not mistake that handful of deserters for us...'" ("Letter" 102). In fact, John Ross, the elected chief of the tribe, protested the treaty vehemently, sending petitions with thousands of Cherokee signatures as repudiation (Hoig 155). These pleas from the Cherokee people and from their elected representative fell on deaf ears in Washington. The Treaty of New Echota was ratified.

It becomes clear how far the U.S. government went in denying the Cherokee the right to perform effective speech-acts when one realizes that in Austin's theory, the fact that the wrong Indians were consulted makes the treaty no more than an attempt at a treaty. That is, in Austin's terms, the Treaty of New Echota was a "misfire" and should have had no effect whatever. To quote Austin, "if, say, we are not in a position to do the act... then the act in question... is not successfully performed at all, does not come off, is not achieved" (15-16). To use a homely example, a basket is not scored if a fan comes down from the stands, picks up the ball and dunks it in. In this case, however, the government of the United States decided to honor this treaty despite a procedural irregularity that should have made the compact null and void. It is, of course, impossible to imagine the federal government honoring a treaty in which the situation was reversed and the Cherokee came to terms with people who were neither elected nor appointed representatives of the United States. This action on the part of the American Government was a gross violation of the conventions covering treaty negotiation and contracts. However, it was not the only one of this type in the U.S. dealings with the Cherokee.

While negotiating with the wrong people is an important type of misfire in the history of US-Cherokee relations, it is not the only type. On several occasions the American government was willing to accept a partially concluded treaty for a full one. On these occasions, after long negotiations and often bribery, the chiefs accepted the terms offered provisionally with the condition that they had to get approval from their tribal council. The American government enforced treaties without waiting for councilor affirmation. One example of this occurred with the Treaty of 1828. "Frustrated and worn out, [Cherokee] delegates finally yielded on the condition that whatever they agreed to would be valid only when ratified by the full council..." This stipulation is of course similar to the congressional approval needed to validate any treaty the U.S. government enters into. President John Quincy Adams decided to present the treaty to Congress without waiting for the vote of the Cherokee council (McLoughlin 414). Congress ratified the treaty and held the Cherokee to its ordinances.

This is a misfire of a different order. Austin would have called it a hitch. The right persons were consulted², but the conventions for treaty making, both as found in the example set by the American Constitution and as set forth during the negotiations, were not followed out to the end. Certainly, the U.S. government would not have felt itself bound by any treaty that had not yet been presented to Congress for ratification. Famously, Woodrow Wilson's attempts to negotiate an end to the First World War were halted by just this lack of congressional approval.

Part of the speech-act problem may appear to be rooted in the fact that the two parties to the treaties between the Cherokee and the U.S. came from profoundly different

backgrounds, thus understanding the world and their interactions with it from different perspectives that were always ever imperfectly matched. In Austin's theory, for speech-acts to work they must be part of a system of conventions accepted by both parties. (27) For two parties to effectively agree to terms, they must both understand and accept those terms. If the horizons of understanding of the two parties do not meet, this could have obvious and severe consequences for any speech-acts attempted between them.

This lack of a commonality in understanding plagued the dealings between the early European settlers in New England and the tribes that received them in the seventeenth century. The two parties came from different worlds and could not understand the ways and wants of the other. As William Cronon notes in his study *Changes in the Land*, European prejudices about the meaning of every aspect of civilization made them blind to the Indian view of how life should be lived. This blindness played a pivotal role in justifying the Europeans in acquiring land from Indians by means both fair and foul. As Cronon writes, "To European eyes, Indians appeared to squander the resources that were available to them" (56). Again, "European perceptions of what constituted a proper use of the environment thus reinforced what became a European ideology of conquest" (53). Certainly this type of misunderstanding had an effect on the relationships between the early European settlers and the Northeast Indian tribes. There is evidence that just such a gap in understanding affected early Anglo-Cherokee relations. "The principle of private ownership of land is integral to [the white American] concept of homesteading. This concept and the Anglo-American legal system from which it flows are at odds with the culture of the Cherokee" (Norgren 19). But by

² There is some question about this since the treaty was made to apply to all Cherokee though only the Arkansas branch of the tribe had been

the second quarter of the nineteenth century, the Cherokee were different from other Indian tribes in many ways, and they were in many ways very similar to the Whites who were denying them speech-act authority.

In her book, *Removals: Nineteenth-Century American Literature and the Politics of Indian Affairs*, Lucy Maddox discusses how closely the Cherokee resembled the whites who lived nearby. "The Cherokees had been, for many years, quietly and successfully adapting the customs of their white neighbors to their own purposes... In short, the Cherokees were, by most American standards at the time, behaving like model citizens" (17). This is not just the assessment of an outside observer at the distance of a century and a half. The editor of the Cherokee Phoenix, Elias Boudinot, was adamant about the pace of assimilation: "it cannot be doubted that the nation is improving, rapidly improving in all those particulars which must finally constitute the inhabitants an industrious and intelligent people" (72). In fact, one federally commissioned study of the five major Southeastern tribes conducted in the 1820's, found that the Cherokee could be "educated where they are, raised to the rank and privileges of citizens, and merged in the mass of the nation" (qtd. in Wallace 61). While many Cherokee maintained traditional ways that contrasted sharply with the values and practices of Anglo-European, many others did share much of Anglo-European culture, and they understood the ways of the Whites. Even Cherokee who were mostly white by birth and fully acculturated were not spared removal.

White Americans dealing with the Cherokee were able to see even the most prodigious signs of civilization (as the term was generally defined) as signs of Cherokee backwardness. Jill Lepore's recent work *A is for American*, highlights the controversy

consulted and only the Arkansas branch had provisionally agreed.

arising from the Cherokee's development of a written language, the invention of Cherokee half-blood, Sequoyah. American linguists viewed Sequoyah's syllabary with contempt though it proved easier to learn than English (74-75). However effective the syllabary was in use and practice, it was "according to prevailing theories [...] a grossly imperfect, even savage form of writing" (75). Though whites should have seen the invention of the syllabary and the concomitant growth in Cherokee literacy as great advances in Cherokee civilization, it was, in fact, seen as a step in the wrong direction, a step away from acculturation and whiteness. As Lepore explains, since "Cherokees used the syllabary among themselves" it "isolated Cherokees from whites, very few of whom [...] could read it" (87-88). The Cherokee were seen as rejecting both the help of American linguists and the American language. It was as though they had perversely decided to take Spanish for their language, a decision that would later be held against the residents of Mexico.

The greed of American settlers for Indian land was paramount in the negotiations, and the view of Indians as unfit neighbors and savages was promoted by white squatters on Indian lands, by land speculators, and by government officials alike. As Anthony Wallace has noted, "to many whites, especially in Georgia, the threat was not so much the savage, drunken Indian as the civilized one, who if left in place to govern himself in his own territory would beat the white man at his own game – raising cotton – and prevent forever the further acquisition of Indian land" (62). The Cherokee were assimilating so rapidly and so well that there would soon be no reason to curtail their illocutive powers. It was the fact that the Indians understood the Whites too well, that caused the Americans to deny the Cherokee their right to speech-act authority.

While the negotiations were supposed to result in promises embodied in treaties, they were not, for the most part even true negotiations, and there were certainly very few felicitous promises made by the government. John Searle outlined several factors that have to be in place for promises to be considered operational or felicitous. The first one, that they be in fact uttered, is the only one that the treaties fulfill. Others went unfulfilled or ignored completely. These include that the party to whom the promise was being made would prefer the promise be carried out, that the party making the promise intends to carry out all that is promised, and that making the promise binds the promiser to carry out the promise. (63) But if the treaties were not promises or contracts in any usual way, then the question arises whether they were any type of speech-act at all, whether they fit any recognizable conventions.

There are two possible conventions that American dealings with the Cherokee during the early part of the nineteenth century might fit. Neither, however, fits the circumstances neatly. One might be the order given from a superior to an inferior, say from a captain to a private in the military. Certainly, many white Americans of the period would have felt themselves superior to Indians whether because of technological attainments or because of cultural bias, particularly one founded in the fact that white Americans were Christians while the Cherokee were, generally, not. Some Cherokee, in fact, also believed they were in fact the inferiors to the whites. Even in defending Cherokee rights, Elias Boudinot could not refrain from beginning with “though it be true that he is ignorant, that he is a heathen, that he is a savage” (69). He goes on to make a case that the Cherokee are for these reasons in great need of the help of white sympathizers.

But while many individuals from both parties might have felt or understood that the relation between the American government and the Cherokee was one of superior to inferior, this does not transform the various treaties that made up the Cherokee Removal into an order. On the one hand, many Cherokee certainly did not feel the inferiority that would have required their obedience; they felt inferior without feeling subordinate. On May 23, 1838, the last day allowed by treaty for the Cherokee to leave voluntarily for the West, the majority of the nation, over 17,000 individuals, stayed home. Presumably, these did not feel in awe of the Whites. They thought themselves the equals of the Americans, refused to acknowledge the treaty as binding, and it was left to the U.S. army to remove them by force (Wallace 93). In fact, several hundred refused to remove altogether and hid in the mountains where their descendants live to this day.

On the other hand, orders are by nature non-negotiable. While many or most Americans may have felt themselves superior to the Cherokee, this did not mean they felt the right to order them to do anything. About treaty negotiations in the 1820's, one historian points out that "when U.S. commissioners attempted to claim that the United States owned the Cherokee land by right of *discovery and conquest*, they were asked why time after time the United States had purchased Indian lands and made solemn treaties if the Indian had no title" (Hoig 124). The negotiations to extinguish Cherokee claims to land in the East and have them remove took more than thirty years. Certainly no claim can be made that these negotiations were more expedient than the use of force. The American government negotiated because they recognized that they could not properly give orders in this instance. A captain may feel superior to a private, but cannot act on this feeling if they serve different nations.

If the treaties between the United States and the Cherokee are to be categorized as speech-acts at all, they might have to be considered as another type of exercitive. They might have been sentences, as when a judge condemns a prisoner to death. But then, the rules of the speech-act still apply; judges cannot sentence criminals outside of their jurisdiction, and the Cherokee did not willingly submit to the decision of the American commissioners. They were and knew themselves to be a nation separate from the United States. Early treaties guaranteed Cherokee sovereignty. "When the new republic of the United States established relations with the Cherokee after the War of Independence, the relations—were explicitly described as relations between nations" (Norgren 17). A show of force was necessary for the Americans to obtain final compliance with the terms of the Treaty of New Echota. In the end, therefore, though the negotiations for Cherokee property mimicked legitimate speech-acts, in truth, they resembled nothing so much as robbery at gunpoint.

The fact that the Cherokee were sovereign was recognized as a problem barring their removal by even Supreme Court justices of the day. When the Cherokee sued the state of Georgia seeking an injunction against their application of state laws on members of the Cherokee tribe, the court sided with Georgia. The dissenting opinion, written by Justice Smith Thompson hinged on whether the Cherokee were a sovereign nation, a situation which would have put any dealings with the nation under federal control. If upon first contact with Europeans, "the Cherokees were then a foreign nation," Thompson wrote, "when or how they have lost that character, & ceased to be a distinct people" was impossible to tell. Thompson points out that the Cherokee had never been conquered in war. "In view of their situation, there is a full and complete recognition of

their sovereignty” (*Cherokee Phoenix* iv.6.1). Still, the Cherokee nation existed within the recognized borders of the United States, their people freely mingled and even intermarried with American citizens, and, as noted above, it was increasingly difficult to tell the difference between Cherokee culture and that of the white Americans around them. All these factors helped to erase Cherokee distinctiveness. From a legal and speech-act perspective, if this distinctiveness were to disappear, the Cherokee would be subject to American laws and government restrictions including all those limitations set for people of color. Sadly, their very attempt to maintain their distinctiveness and their equality as participants in speech-act situations only helped to blur their distinction even more.

By taking their troubles with Georgia to court, the Cherokee could be seen as accepting the judgment of the American legal system as final. One congressman of the day noted that the Cherokee could have viewed the court differently. He wrote that the Cherokee could have refused to have the dispute arbitrated by American courts. “The Supreme Court is alien to us; we had no agency in its formation—can have no influence with nor control over it: its interest and bias will be in favor of your People, and against us” (*Cherokee Phoenix* iv.1.1). The Cherokee trusted to the plainly visible merits of their case to win the case though the deck may have been stacked against them. They risked putting themselves in a dangerous speech-act situation, however, by carrying their case to the highest court in the United States. Once there, there could hardly be any turning back. They would be forced to abide by the court’s orders.

As it happened, the merits of their case was never as important as the fact that the murkiness of their relation to the United States meant that there were no hard and fast

conventions structuring the court's decision-making, just as there were none governing their speech-act circumstance. Sadly, the Marshall court "rejected or manipulated older legal traditions, arguing that the United States was a new nation and that such rules were foreign to it." This represented a setting aside of conventions rather than an investigation into which conventions to apply. The Cherokee's legal and speech-act rug was pulled out from under them. "[...] The Marshall court used the Cherokee cases to create a law of American continental real estate" (Norgren 8). Lamentable as this was, by taking their case to the Marshall court, the Cherokee nation unwittingly made themselves subject to the decisions handed down by the justices. By doing this, they put themselves in a subordinate speech-act position in relation to the United States. They became the prisoner who passively awaited his sentence or the soldier who must follow commands no matter how disagreeable.

The American insistence that Cherokee words not perform the actions intended fit into a larger scheme to have the Cherokee and other Indians not mean anything at all. Lucy Maddox outlines how many American whites perceived Indians during the removal period. The range of possible views on the "Indian problem" was narrow. Most whites felt that Indians must either accept white culture and be assimilated or face extinction. Since Indians were unwilling to accept the latter option and, as mentioned earlier, many whites were unwilling to accept evidence of the former, removal to the Far West became the only viable solution. (Maddox 15-49) The two options and the solution all involve the erasure of the Indian. In all events the one thing white America felt had to be avoided was the distinct Indian voice and especially the Indian voice in the production of speech-acts that would protect their property and their rights. Though they destroyed their

presses and jailed their leaders and finally forced Cherokee removal to beyond the Mississippi River, the American government was unable to wholly silence the Cherokee. Throughout all the negotiations, the various Cherokee leaders lodged complaints with Congress and the Presidents of the period, they pled with the American public, and they sued to protect their rights in court. Ironically, in all of this, they, for the most part, abided by the conventions accepted and understood by the Americans. As one historian notes, "Seldom were they defeated in their contests with the government on the merits of their cases but usually by the unwillingness of government officials to adhere to their own ethics and written laws" (Hoig 3). In the end, the Americans set aside their own conventions to satiate their desire for the riches of Indian land and to deny the Cherokee an existence within the boundaries of the United States.

Chapter Four: The Slave

Harriet Wilson's 1859 novel *Our Nig* tells the story of a marginally free black servant abandoned by her mother at the age of seven to live with the Bellmont family. The mother in this family takes sadistic pleasure in devising punishments for the little girl and in having someone she can command and who cannot possibly leave – after all, where would a seven year old black girl go with no family to turn to? Though in the time of the story slavery had been abolished in New York State, Frado is in almost every sense a slave. She must perform various household chores in order to gain her subsistence and avoid harsh physical punishment; she is denied secular schooling and religious instruction. Perhaps most importantly and emblematic of her status as a household slave, she is denied the right to speech. Not only is she uneducated and thus consigned to a limited level of articulation, her mistress and others in the house often physically compel her to silence.

On one occasion when Frado is feeling ill and unable to work, she tells Mrs. Bellmont of her inability and is promptly shut up.

Angry that she should venture a reply to her command, she suddenly inflicted a blow which lay the tottering girl prostrate on the floor. Excited by so much indulgence of a dangerous passion, she seemed left to unrestrained malice; and snatching a towel, stuffed the mouth of the sufferer, and beat her cruelly (82).

Gagging Frado is a fairly regular punishment. On another occasion, Mrs. Bellmont attempts to “cure her of her tale-bearing” by “placing [a] wedge of wood between her teeth” and “beat[ing] her cruelly” (93). This is not the first time Mrs.

Bellmont has resorted to the use of a wooden wedge to silence Frado, and on other occasions Frado has been threatened with physical harm to keep her from telling others of the abuses she has endured. After one severe beating, Mrs. Bellmont threatened to “cut her tongue out” (72). After throwing a sharp knife at Frado, her mistress’s daughter, Mary, warns her to keep the incident silent: “Tell anybody of this, if you dare. If you tell Aunt Abby, I’ll certainly kill you” (65). The threat is effective. Frado tells no one of what has passed. Unbeknownst to her, however, Mary was in fact frightened by the fact that she had almost committed a murder. The reader is told that she “was for a day or two more guarded, and so escaped deserved and merited penalty” (65). In essence, Frado could have used words effectively to halt her maltreatment. Later, she will do just that.

Warned by Mr. Bellmont “you cannot endure beating as you once could,” (104) Frado decides to take matters into her own hands. The next time her mistress is intent on beating her, Frado argues. In fact, she manipulates the speech-act situation to her favor. Mrs. Bellmont had given her an order, an “exercitive” in speech-act parlance. When Frado doesn’t complete the assigned task as quickly as Mrs. Bellmont thinks proper, the mistress threatens to beat her with a stick. This has been the customary run of things, and it is what Frado’s health can no longer take. “Stop!” Frado commands as Mrs. Bellmont raises the stick. “[S]trike me, and I’ll never work a mite more for you,” Frado threatens (105). Mrs. Bellmont is deterred here, and, in fact, there are fewer beatings throughout the rest of Frado’s service. This scene is essentially a renegotiation of the terms under which Frado will be a slave. She is following Mr. Bellmont’s advice. “[H]e did not wish to have her saucy or disrespectful, but when she was *sure* she did not deserve a whipping, to avoid it if she could” (104). Later, Frado does leave the Bellmont home. There is

nothing Mrs. Belmont can do to prevent the departure. As it turns out, Frado is not, after all, an actual slave.

No group in American history had its access to speech-act authority more completely and systematically blocked than American slaves. The many slave narratives produced during the period in question expose a veritable catalog of the strategies arrayed against them in the contest for control of illocutionary power. These strategies, whether they were laws passed by certain communities or deceptions practiced by individual slave owners or the sermons of ministers in slave master pay, could be and were viewed by slaveholders and their sympathizers as benign or beneficial to the slave. Though the proslavery polemicist work is not a focus of the present study, I should say that it was up to them to point out that St. Paul did, in fact, exhort slaves to obey their masters as he does in every translation. It was their job to show how the long hours of work the slaves endured only improved their moral fiber and kept them from degenerate laziness. While the escaped slaves revealed the forces that kept them from speech-act power, the proslavery writer explained how this circumstance was in the best interest of all.

This strategy on the part of the slave master's apologist is different in kind from that employed by those interested in the oppression of the other groups under consideration in this study. The main strategy used against women was to restrict where and in which ways women could wield speech-act power. Women legitimately used illocutionary force so long as they kept themselves to the domestic sphere; in this way, for instance, they might rightly give orders to maids or children. The usual claim by those intent on appropriating Native American lands was that Native tribes had speech-act power but failed to make good or proper use of it. If the Natives were cheated, the

argument went, they did it to themselves by not knowing how to read a contract or how to bargain for the best deal. According to slave masters, speech-act power was kept from slaves altogether for their own good. Not content with this assurance, slaves found ways to struggle for and gain illocutive force.

Despite difficulties, slaves once freed often talked of the desire born within them while still slaves to achieve equality with whites. Often this was presented as specifically not a desire to hold equal political power with whites. Witness this open letter by James Forten: "We would wish not to legislate, for our means of information and the acquisition of knowledge are, in the nature of things, so circumscribed, that we must consider ourselves incompetent to the task: but let us in legislation be considered men" (Newman, Rael, and Lapsansky 68). Rather in all cases where the thirst for equality was expressed, it was for the most basic human rights as guaranteed to white citizens in the Constitution, the Bill of Rights, and even in the Declaration of Independence. In fact, runaway slaves frequently quoted the Declaration of Independence in the effort to secure its promises for themselves and their kind, using it as part of a strategy of shame and embarrassment that had often been found useful in speech-act struggles with individual masters.

For the slave, the speech-act situation was grim because the institution of Southern slavery was constructed in such a way as to put all forms of power into the control of whites. While the slaveowners and the overseers they employed had the most contact with the slave population, and thus the most opportunity to use and abuse speech act and other forms of power, they were hardly the only ones to whom the slaves were compelled by threat of physical violence to defer. The slave owner's wife, by virtue of her white skin, could command slaves. His children could as well, as could patrollers

paid to make sure that slaves did not stray from the plantations they belonged to. In fact, whites of any socio-economic class and without regard to formal, legal relationship, could make a claim to the obedience of any enslaved black, and, by extension, free blacks as well. As one historian reminds us, the law in some Southern states “extended the rights of any white to require any slave ‘to submit...or undergo the examination of any white person,’ if the slave was away from the house or plantation.” Any black who refused to undergo this kind of examination “could be subjected to the pursuit, apprehension, and moderate correction of ‘any white person’” (Higgenbotham 195).

The authority of whites over blacks in the South in this period was enforced by longstanding custom and reinforced by law and brute violence. Ira Berlin’s recent study, *Many Thousands Gone*, suggests that the line of race was a social construction in America, growing and changing with the growth and change of the nation (1-14). Scott Malcomson has argued for an earlier beginning to America’s racial problems. While Europeans, Middle Easterners, and Africans had met long before the birth of Christ, aspersions were first cast along racial lines in the third century. As he writes, “the turning point, as far as moralizing about color goes, was probably in the influential writings of Origen” (136). He goes on to argue that “these people, the “Indians,” were from Christopher Columbus’s own account of his first voyage intended to be servile” (156). Whatever the origin of the line, it was a line that for whites in the South had to be maintained at all costs. Failure to keep tight control over the blacks generally and slaves in particular seemed likely to lead to open and violent rebellion. “No ante-bellum Southerner could ever forget Nat Turner,” as Kenneth Stampp tells us (132). For white Southerners, every aspect of Negro life had to be under their control in order to prevent

another uprising and, maybe more importantly, to maintain a way of life that had become traditional by the time of the period under examination here. This regulation included not just forced labor and the right to buy and sell slaves, but also a control over the slaves' speech-act power; a control that was in fact often an outright denial of this power to slaves. For many blacks, the line of race, which was also a line separating them from freedom and power, was a line they needed to sidestep or transgress.

In their book, *Runaway Slaves*, John Hope Franklin and Loren Schimmer point out that "day to day" slave resistance was varied in nature. "Slaves pulled down fences, sabotaged farm equipment, broke implements... set fires to outbuildings, barns, and stables; mistreated horses, mules, and cattle;...[and] stole with impunity" (2). Slave rebellion of this sort had many possible motives: retaliation for mistreatment by the slaveowner or an overseer; an attempt to induce or prevent the sale of the slave to another master; sheer frustration at his or her position in the master/slave relationship; one can imagine other reasons. Whatever the form it took or the reasons underlying it, slave rebellion was common and purposeful. In his *Roll, Jordan, Roll: The World the Slaves Made*, Eugene Genovese explains slave rebellion as a formative part of the master/slave relationship:

The Southern slaves' role in shaping an organic master-slave relationship unfolded under objectively unfavorable military and political circumstances...slaves who rejected the dialectic of accommodation and resistance at its root bore witness, by their rebellion, not only to their own personal courage but to the limits of their master's hegemony (587).

But the slaves' assertion of their rights was not always merely destructive and violent, and it was not always in response to violence on the part of their masters. Often it was a struggle for speech-act authority – the struggle of slaves with their masters to have their words perform actions without regard to their dark skin.

In this section of the dissertation, I use references from a variety of slave narratives as well as novels about slavery and contemporary and modern historical accounts and critiques to illuminate in what relationship the American slave stood to the power to perform several specific speech-acts. My focus here is on the slaves' ability to marry, to control their names, to avoid following commands, and to enter into contract to purchase themselves. In each of these cases, slaves struggled to exercise speech-act authority in scenarios that were analogous to but not identical with situations their masters were familiar with from their everyday interactions with other whites.

The marriage ceremony is a perfect example of the speech-act. Austin favored it for reasons that are easily made clear. The ceremony as understood in the West is highly ritualized, normally involving aspects of each of Austin's rules for felicity. There is a communally accepted spoken format that must be followed by the right persons at the right times, completely and correctly. The ceremony, when so carried out, is binding regardless of intentions though the intentions are considered important (perhaps in part because society is willing to enforce the bond, so those who enter into this contract must be sure it is what they really want). The marriage ceremony is also a good introduction to the myriad ways speech-acts could go wrong for American slaves.

Before turning to the slave marriage, it may be useful to note how the wedding vows of the masters were often corroded under the influence of slavery. Many slaves

wrote of how difficult slavery was on the plantation mistresses as their husbands took concubines from among the slaves. Solomon Northrup tells the story of a slave named Patsey who had been beaten and whipped on numerous occasions because “it had fallen her lot to be the slave of a licentious master and a jealous mistress” (143). The master’s attentions to her caused her to be hated by her mistress of whom Northrup reported that “Nothing delighted the mistress as to see her suffer” (143). Henry Bibb writes that his own wife was separated from him by their owner who took her “to a private house where he kept female slaves for the basest purposes” (Taylor 2.51). Harriet Jacobs, though sexually victimized by her master, was able to summon pity for the wife of Southern masters generally saying, “the young wife soon learns that the husband in whose hands she has placed her happiness pays no regard to his marriage vows” (36). It was not just the slave’s speech-act power that was violated by the slave master’s willingness to take sexual advantage of his slaves. The master’s own wedding vows suffered as well.

A note also on the importance of marriage to the slave. Several slave narratives point out that many slaves expressly wished to avoid falling in love, getting married, and having a family. There are the words of William Wells Brown on this matter: “I knew that if I should have a wife, I should not be willing to leave her behind; and if I should attempt to bring her with me, the chances would be difficult for success.” When the wife of his last master tried to “trap” him into a marriage, Brown played along though he had already “determined never to marry any woman on earth until I should get my liberty” (Taylor 1.708). Henry Bibb was even more adamant on this topic. In his narrative, Bibb marvels at his inability to avoid courting and marrying:

To think that after I had determined to carry out the great idea which is so universally and practically acknowledged among all the civilized nations of the earth, that I would be free or die, I suffered myself to be turned aside by the fascinating charms of a female, who gradually won my attention from an object so high as that of liberty... I had no intention of courting or marrying her, for I was aware that such a step would greatly obstruct my way to the land of liberty (2.21-22).

Many of the slaves who made their way to freedom thought love and marriage to be an encumbrance, but this was not the overriding concern for all successful runaways. As we shall see, Bibb's own love for his wife grew to be such that he later seemingly held his liberty cheap. Many slaves fell in love, married, and had families. That this situation worked to make escape more difficult is undeniable, but it did not make these escapes impossible. In fact, it could even bring about a greater determination in the slave to escape and bring the spouse along.

One of the major plot elements of Harriet Beecher Stowe's novel *Uncle Tom's Cabin* is the escape of Eliza with her son Harry. This occurs because Eliza finds that her son will be sold away from her, thus dissolving her small family. Eliza's lover (husband?) George also runs to freedom; the dissolution of his union with Eliza and of his family unit is more than he can bear, and he decides to effect it on his terms if it must be effected. They will be a family in flight if they cannot remain one in bondage. Though Stowe's knowledge of slave life was limited and had at second hand, this same sentiment is expressed in the story of William and Ellen Craft. In this true story, the Crafts decide to escape together to avoid the dissolution of their marriage. Josiah Henson's narrative of

his escape from slavery is not finished until he has redeemed his wife from slavery. As we see, a slave's marriage was often important to him or her though even a commentator usually so astute as Thomas Jefferson could say of slaves generally that "they are more ardent [than whites] after their female: but love seems with them to be more an eager desire, than a tender delicate mixture of sentiment and sensation" (265).

Impinging as it did on so many social and moral issues, slave marriage became, in fact, an important part of proslavery arguments. As Larry Tise has pointed out, "despite the fact that slave codes did not recognize slave marriages and families, after 1831 proslavery writers increasingly called upon masters to institute unwritten laws of their own. Some of them even petitioned legislatures to enact laws barring the separation of families" (121). The issue of marriage became seen as one in which the slave owner might be able to take moral high ground. Promoting marriage can always be looked upon as a benefit to the slave which has as a natural byproduct the increase of the master's stock of slaves. When contrasted with the "ardent" nature that would have been the norm in Africa, the regulation of marriage would have been seen as an improvement. Given that "laws barring the separation of families" never materialized, what were the circumstances of slave marriage?

As with other speech-acts, slaves were often denied the right to effectively exercise illocutive power in the case of marriage. Unlike the rigid laws that controlled the marriage of whites, the North Carolina Supreme Court found that slave marriages "may be dissolved at the pleasure of either party, or by the sale of one or both, depending upon the caprice or necessity of the owners" (qtd. in Stamp 198). The other slave states had similar regulations. When masters did allow marriage between slaves, the individual

master was the one to determine how binding the marriage was to be. Some masters required their slaves to be faithful to each other, enforcing this rule with the whip. Others allowed “a veritable regime of free love—of casual alliances and easy separations” (Stampp 342-3). Even marriages allowed by masters had no legal weight (Blassingame 151; Rawick 79); as Kenneth Stampp phrased it, “since slaves, as chattels, could not make contracts, marriages between them were not legally binding” (198). Any other type of importance, emotional say, was also discounted.

In the role of *paterfamilias* the slave master had the right to approve or disapprove of any marriage involving his slave. This is not far outside of the conventions of marriage for whites as understood at the time, since he would also have expected to have the same power over his own children. Unlike his children, however, married slaves remained strictly under the slave owner’s control. This control included, notoriously, the right to break up families by selling husbands away from wives and vice versa. In this way, slaves were often stripped of what John Blassingame has called “one of the most important survival mechanisms for the slave,” the stabilizing force of matrimony (151). A multitude of slave narratives speak of the separation of husband and wife through the sale of one party or the other. We should keep in mind that all slave marriages had to have the approval of the owner, so that in a sense, the owner gave permission to a union that he would later dissolve. While understanding that nothing bound masters to keep them together, slave couples could be forgiven for thinking a master perverse who first allowed, then dissolved their marriage.

As it happens, though slaves were by no means ignorant of the precarious nature of their matrimonial speech-acts, they continued to marry, and they continued to expect

their wedding vows to have meaning. Their repeated disappointments may seem to be easily explained from a speech-act perspective. There were conventions governing white marriages which included as a perlocutionary effect subsequent indissolubility. The conventions concerning slave marriages did not contain this provision; in fact, as we have seen, these conventions included simple dissolution of the covenant by either party or the master. Of course, some slaves may have enjoyed this looser arrangement. The slave marriages under consideration here, however, were those that appear to have been formed to some more lasting purpose. In fact, at first, I will examine the idea presented in several narratives, both historical and fictional, of slaves marrying whites for the purpose of securing freedom.

It appears that not a few female slaves thought of marriage to whites, or least sexual union with them, to be a pass to freedom or at least to improved physical conditions and some reasonable facsimile of freedom. This notion was usually brought to mind by the overtures made to handsome slave women by their masters. This is the case with William Wells Brown's *Clotel* as well as with Harriet Jacobs.

In *Clotel*, Brown's title character is a quadroon beauty who is purchased at auction by Horatio Green. Green is a wealthy young man who has become infatuated with Clotel. He promised to "purchase Clotel...and make her the mistress of her own dwelling," telling her "you shall soon be free and your own mistress" (65). He keeps his promise so far as to buy Clotel and install her as mistress of a secluded cottage where he visits her when he can get away from friends and work and where they soon have a child together. For a time, Clotel is happy. Through her romantic engagement to Horatio Green, Clotel has achieved a state near to freedom, but this is as close to freedom as she

will get through these means. Each look at her child reminds Clotel of the “unavoidable and dangerous position which the tyranny of society had awarded her” (84). Though young, Clotel is not an idiot. She and her daughter are slaves and liable to be sold at any moment regardless of Green’s promises of freedom. Though they have lived together for some years, no promise of love from Green can be binding, and, in fact, he marries another woman. This woman, jealous of Clotel for obvious reasons, forces her sale; the daughter is reduced to abject servitude. Clotel’s story is one of many fictional and historical narratives in which the paths of sexual love and marriage fail to lead to an emotional bond strong enough to make promises of freedom and fair treatment binding.

Interestingly, even if Horatio Green had remained faithful to Clotel and freed her in his will, this still might not have secured her freedom. In speech-act theory, one’s intentions and true heart’s desire can be put aside. Sandy Petrey’s sentiment that “performatives are most obviously felicitous when intention and convention mesh, in the event of a conflict convention *always* prevails” (84) reflect what sometimes happened in the real life of a slave. While the white man’s intentions are clear, all his speech-acts may be made void posthumously in accordance with the rule of law and custom.

William Craft in the narrative of his and his wife’s escape *Running a Thousand Miles for Freedom*, reported a story that makes this principle clear. Craft told of “a very humane and wealthy gentleman, that bought a woman, with whom he lived as his wife” (Taylor 2.493). This man died without a will, and the family, believing itself safe but unwelcome in the neighborhood, prepared to move to a free state. It acted too late. A white man purporting to be a distant relative staked a claim to the property, to the wife, and to the children. His story was believed, and, as blacks, the wife and children could

neither testify in their own behalf nor otherwise defend their right to the property or to their personal freedom. The white man had his speech-acts undone posthumously. This helps in answering the question as to whether there could be a marriage between a white man and a slave woman.

That the black woman cannot enter into a contract is understood, but is this a sufficient barrier to keep the master from exercising his otherwise absolute authority over her? In speech-act theory for there to have been a marriage, both the man and the woman must consent; this much is clear. But the society must also consent. It appears that the society did consent to the union however grudgingly. In William Craft's account the surrounding society did not interfere with the union except to frown upon it. Frowning is not forbidding. In both cases, action to nullify the speech-act or declare it a non-play was taken only after the white male's demise left the slaves legally defenseless. Given that years had passed from the time of first union to the death of the husband/master, the immediate society expressed objections rather too late to be taken credibly. Also, objections were finally raised by an outsider, a Mr. Slator, a "villain residing at a distance." Were it not for this interference, the neighbors may well have been unable or unwilling to annul the marriages and the consequent inheritances regardless of how distasteful these circumstances may have been. I have not yet found whether marriage ever effectively served as route to freedom (without the further speech-acts involved in manumission).

Harriet Jacobs had a different view of union with a free white male. Rather than unite herself with her master, she chose to seek out another. After being told by her master that he would not consent to her marriage to a free black, Harriet began an

acquaintance with a white man. Frances Foster Smith calls this “revenge” (xxxv) but there was also an element of self-preservation. As Jacobs writes, “I thought he [her master] would revenge himself by selling me, and I was sure my friend, Mr. Sands, would buy me.” This would be a great boon to her since, as she notes, Sands “was a man of more generosity and feeling than my master, and I thought my freedom could be easily obtained from him” (55). Marriage per se is not an issue here; it would not have been upheld in any court anyway. But for Jacobs a state approximating marriage, a kind of concubinage, might still lead to freedom. Certainly, her children would be freed if any came from the union. As she writes, “[o]f a man who was not my master I could ask to have my children well supported; and in this case, I felt confident I should obtain the boon” (55).

Though marriage or sexual liaison with free men, including the master, might tantalize the female slave with the greatest possible reward, freedom, the most common attachment was between slaves. Kenneth Stamp describes the range of formality involved in the slave wedding:

having obtained their master’s consent, the couple might begin living together without further formality; or their master might hastily pronounce them man and wife in a perfunctory ceremony. But more solemn ceremonies, conducted by slave preachers or white clergymen, were not uncommon even for the field hands, and they were customary for the domestics (341).

The varying levels of formality should be important from a speech-act perspective. They would normally help to indicate the level of seriousness. That is, if the

master gives permission and hires a white clergyman and perhaps even celebrates the event with a feast and gifts (Stampp 341), then this might be understood as the master taking the speech-act as seriously as the slaves themselves did. For this reason the ceremony mimics the ceremony practiced by whites. One might expect, however, that the master who does no more for his slaves than to merely allow them to cohabitate without formal ceremony, a step never allowed to the master's (white) daughters, does not think of the slave union as the product of a speech-act at all. Sadly, the degree of formality was no indication of the master's willingness to take the wedding seriously. In allowing the union, in performing the ceremony, or in obtaining the services of some third party to perform the ceremony, the master was only ever joking. There never was the intention of treating the marriage as a true speech-act. As Robert Fogel has phrased it, masters "did not concede their right to destroy slave marriages when that served their economic interests" (194). The part of the ceremony that the master took seriously was the retention of his rights as owner. He could make the marriage and break it. This, of course, had no parallel in the conventions surrounding white marriages. "God may at any time sunder that band in a freeman," Lunsford Lane wrote of marriage, "either master may do the same at pleasure in a slave" (Katz 7). Moses Grandy's wife was sold away from him to help pay off his master's debts though Grandy's feelings for her were profound: "I loved her as I loved my life" (Katz 226). As noted, slave owners reserved the right to break apart slave marriages as it suited them.

The only part of the slaves' matrimonial speech-act that transferred closely from the conventions of white marriage was the fact that the slave had to obtain permission from the master for there to be any type of sexual union at all, just as children might be

expected to do of their father. Harriet Jacobs sought this permission from a master who unfortunately had designs on her of his own. His response to her request for permission was to strike her, threaten her with further punishment and deny her the permission she sought, saying, "If you *must* have a husband, you may take up with one of my slaves" (39). Reflecting later that her master would never have sold her to her intended husband, a free black, she wrote, "Even if he could have obtained permission to marry me while I was a slave, the marriage would give him no power to protect me from my master" (42). Without selling her, her master would retain all her services, including sexual ones, and would be within his rights to punish her for any reason and in any manner. The fact of one member of the union being a slave would make the marriage null and nothing like the speech-act any white could indulge in. In essence, the free black who was interested in her would be giving up his rights to perform an effective speech-act. Further than a sham marriage, the step would have involved Jacobs' lover in a loss of control over his progeny since, as Jacobs reminds us, the children follow the condition of the mother.

Included in the masters' permission necessary to begin a slave marriage may also be counted the fact of masters' forcing marriage on their slaves. Dr. Flint's suggestion to Harriet Jacobs that she marry one of his slaves could have been an order instead. Frederick Douglass reports of Mr. Covey, a slaveholder who had rented him from his own master, that "he was only able to buy one slave; and, shocking as is the fact, he bought her, as he said, for a *breeder*" (105). This woman was not given permission to marry. Instead, Mr. Covey hired a "a married man of Mr. Samuel Harrison, to live with him one year; and him he used to fasten up with her every night!" (105). Charles Ball reported that the coffer he was a part of in being taken further south for sale contained

two pregnant women who were bought by a man who “wanted a couple of breeding-wenches” (Taylor 1.291). Ball also reports the words of one of his fellow slaves, a woman called Lydia, who told him that “Soon after I was brought home, the overseer compelled me to be married to a man I did not like” (1.328). John Brown reports of a slave named John Glasgow, who had been kidnapped, leaving behind a wife in London. His master forced him to marry, but when he married a young lady from a different plantation, the master punished him saying, “If he must have a wife, there was a plenty of likely yellow gals on the plantation for such as he to choose from” (2.337). The beating dealt out to John Glasgow for trying to maintain the union he had already formed was severe enough to leave him lame the remainder of his life. In the masters’ thinking the wedding vow of a slave was no valid speech-act except when viewed as an order on their part.

Though the marriage speech-act is one of the most difficult speech-acts for a slave to negotiate and a favorite example for speech-act theorists, it was hardly the only disputed point between master and slave. One of the most common speech-act problems in the master-slave relationship is that presented by the slave’s name. For many slaves, this issue is the first one in which they show willfulness, a desire to have their way. Interestingly there is a range of reasons why this issue is of importance to both the slave and the master. As with the example of Kunte Kinte in the first chapter of this work, some slaves thought of their names as having a cultural value, as reminding them of whom they truly are. They are therefore resistant to change in this area. Even if there is no deep cultural reason for keeping a given name, there may be a connection to family or simply custom. As we will see, there may even be a recognition of the injustice involved

in having the master choose the name. After all, it would have been plain that white children retained their names throughout their lives while a slave child's name could be changed at the will of the master.

The importance of naming in speech-act theory cannot be overestimated. In Austin's parlance, naming is an "exercitive," and, as Austin says, "exercitives, are the exercising of powers, rights, or influence" (151). Especially for the escaped slave, this speech-act may have been the first in which they were allowed to exercise powers and rights. This particular exercitive may have profound psychological ramifications. Judith Butler, for instance, believes that it is at least in part through naming that society performs or creates the individual. While Butler devotes most of her energies to the formation of gender identities (and the subversion of expectations in this area) the notion that performativity can be "construed as that power of discourse to produce effects through reiteration" (20) has ramifications in other facets of identity construction. Let us study this view of performative language, the view that through performative language, through naming an individual's ego may be formed as it applies to the slave.

The slave's name was, like every other part of him, under the control of the master. That the master would care about the names his slaves had shows the master's position to be a difficult one in this matter. After all, if the slaves were no more than cattle, the master should care very little what their names were. They should all have given the matter as little thought as one of Charles Ball's masters had: "My new master asked me my name, and ordered me to follow him." Later, the master merely calls him "boy" to get his attention (Taylor 1.315, 317). The evidence shows that many masters, however, did care a great deal that their slaves accept the names assigned to them. One

narrative collected by John Blassingame reports that upon acquiring a young slave, one slaveholder “called together his servants, and announced to them that it was his pleasure that hereafter the boy should no longer be known as; John Bull,’ but thenceforward be called by that name which belonged to himself; and he incited them to remember his orders by that incentive which slave-holders usually supply to their slaves—the threat of the cowhide” (329).

But why should the name matter? For Ira Berlin, the naming process slaves underwent was indicative of the contempt their masters had for them. Aside from the constant use of the diminutive for any name, he points out that it was not unusual for the master to give his slaves names taken from Roman antiquity; Pompeii was not unusual and often shortened to Pomp. For Berlin this practice was “a kind of cosmic jest: the more insignificant the person in the eyes of the planters, the greater the name” (95). In many occasions, the surname is that of the slave owner not just because it is a brand of property, but also a sign of parentage. And whatever the parentage, whether the father was another slave or the master himself, this was one piece of information many slaveowners wanted to erase. “Whatever [slaves] were called, they rarely bore surnames, which represented marks of lineage that their owners sought to obliterate and of adulthood that they would not permit” (96). The infantilization of the slave necessary for sustaining any pretense at beneficent paternalism was perhaps best represented by the fact that many male slaves were called “boy” well into middle-age and even beyond that. As Berlin goes on to note, “[p]lanters understood themselves not as economic buccaneers exploiting the most vulnerable, or as social parasites living on the labor of others, but as metaphorical fathers to the plantation community” (98). As a father, the master had a

right to name those in his care. But this was merely a justification for a type of tyrannical behavior; naming slaves was cloaked in paternalism but it was also part of a wider scheme of control necessary to ensure obedience. The paternalism noted here will also be of importance in other areas of slave life and is a part of the speech-act situation that the slave had to contend with on many fronts.

The name could also be of importance to the slave. One slave contradicted himself when interviewed saying first, “slaves never have any name,” then “I’m called David, now; I used to be called Tom, sometimes; but I’m not; I’m Jack” (*Testimony* 297). Since the interviewer refers to him as David, the slave’s assertion that he is really Jack can be confusing. Even more confusing was the situation Jack lived through as a slave. “Our young master used us very bad. Anyone that didn’t come when we was called Tom, or Jack, got cow-hided. It didn’t matter if it wasn’t his name, so long as master said he was looking at him when he called out” (297). This was one master who wanted to make it clear to his slaves that he made the rules and that he could change them when he pleased including from one moment to the next. This despotic power to name especially when exercised arbitrarily as here is similar to the power exercised by authorities in George Orwell’s *1984*. Still, despite Jack’s confusion, there was space within slavery to name oneself.

This despotism extended itself beyond the realm of naming to all areas where truth was wanted. Frederick Douglass reminds his readers of the awesome power held by overseers in this regard. They could force slaves to accept that which was false as true. “[N]o explanation was allowed a slave, showing himself to have been wrongfully accused. Mr. Gore acted fully up to the maxim laid down by slaveholders, -- ‘It is better

that a dozen slaves suffer under the lash, than that the overseer should be convicted, in the presence of the slaves, of having been at fault” (65). What Douglass recognized here was that the truth of every situation was in the words of the dominant power. Though Douglass moves on in this chapter to describe the violence with which Mr. Gore ruled the plantation, he does pause to make one more comment about the speech-act situation: “no matter how innocent a slave might be—it availed him nothing, when accused by Mr. Gore of any misdemeanor. To be accused was to be convicted, and to be convicted was to be punished” (65-66). Even after describing an horrific instance of murderous brutality on the part of Mr. Gore, Douglass returns to the speech-act theme, insisting that Gore’s “horrid crime” went unpunished because it was “committed in the presence of slaves, and they of course could neither institute a suit, nor testify against him” (67). We see the speech-act situation for the slave here includes the fact that to be named guilty could lead to being murdered, and there was no remedy for this within the confines of a slave’s speech-act power.

Another interview collected by John Blassingame presents the views of Robert Smalls, a slave who escaped to freedom in the North by piloting a Confederate steamer and surrendering it to the Union navy. When asked why most slaves give only one name when asked, Smalls responded “they are apt to go by the one name and when the white folks speak of them they say ‘John, that belongs to Mr. So and So,’ and they hardly ever use their titles [surnames]. But among themselves they use their titles. Very few take their fathers’ name—they choose a name for themselves” (374). When coupled with Jack’s testimony it appears that while slaves had no way of controlling the use of their given names, the surname could be a place where they might be able to exercise their

performative power, giving themselves an identity that would be recognized by their fellow slaves, differentiating themselves from even their own fathers. The free use of surnames was not an option for every slave, as even Smalls acknowledges that some masters “liked to have their negroes called after them” (374). But the freedom was taken wherever the masters did not specifically prohibit or preempt it. Blassingame records the testimony of another slave speaking of his mother: “She gave to each of her children two names, but we were called by only one. It is not common for slaves to have more than one name, but my mother was a proud-spirited woman, and she gave her children two” (130). Since there is no mention of the master’s opposition to this, we may assume there was none. Whom the mother’s pride was directed against, whether against her master, in which case the taking on of a surname might have been a sign that she felt her children as good as theirs, or against the run of slaves, who didn’t have enough dignity to take a surname for themselves, is impossible to tell. What is clear is that naming was important even for the slave still in chains. In its way, it lost no importance when the slave crossed to freedom.

Frederick Douglass changed his name upon arriving in free territory. One historian notes that he took the surname Douglass with “astonishing casualness” (McFeely 78). Contrast this with what William Wells Brown had to say about his name. “When this boy [his master’s nephew] was brought to Dr. Young, his name being William, the same as mine, my mother was ordered to change mine to something else. This, at the time, I thought to be one of the most cruel acts that could be committed upon my rights.” For Brown the change of his name was crueler than the numerous beatings he had received. His arrival into free territory brought a somewhat different feeling about his

name than we see with Douglass. “[A]s soon as the subject came to my mind, I resolved on adopting my old name of William, and let Sandford go by the board, for I always hated it. Not because there was anything peculiar in the name; but because it had been forced upon me” (Taylor 1.711). A closer look at Douglass’ narrative shows that he felt something of the same passion about his name and, as we shall see, for some of the same reasons as Brown. His acceptance of the new surname was not in fact astonishing or casual at all.

Most runaway slaves changed their names upon reaching the free states for the obvious reason that they wished to avoid detection by their master’s agents. No doubt this was at least a partial motivation for both Douglass and Brown. In fact, when Douglass first reached free territory, he changed his last name to Johnson though he does not say how or why he came to choose this name. He does write of what drove him to leave this name behind: “there were so many Johnsons in New Bedford, it was already quite difficult to distinguish between them” (147). This sounds almost ridiculous and even possibly counterproductive. After all, if there really were that many Johnsons then, the name might provide him with a measure of anonymity. Why then would he pass up the chance to be just a needle in a haystack? The answer soon follows. When asked by the abolitionist he was staying with (coincidentally named Johnson as well) what name he would like, Douglass gives a two part answer. First, “I gave Mr. Johnson the privilege of choosing me a name.” Giving this task for another to do might seem to corroborate the idea that Douglass was cavalier about his name, but his response had a second part. He put a restriction on Mr. Johnson; he “told him he must not take from me the name of ‘Frederick.’ I must hold on to that, to preserve a sense of my identity” (147). Perhaps for

this same reason Johnson would not do. Unlike what might be expected of a runaway, Frederick Douglass was not seeking anonymity only independence.

William Wells Brown felt much the same way about his first name. When his abolitionist friend asked him which name he wished to take for himself (again change is the assumption) Brown responded with the same two-part answer. "I would give him the privilege of naming me," is the first part. But in this he does not mean that his friend can change his name in any way he wishes. As with Douglass, the first name is not negotiable. "I am not willing to lose my name of William. As it was taken from me once against my will, I am not willing to part with it again on any terms" (1.714). Faced with the necessity of changing names to avoid detection, both former slaves willingly give up the choice of surnames but cling to their given names. Viewing the naming process as a speech-act can help explain the difference.

Second perhaps to the ceremony of marriage among Austin's examples is that of christening (though often this ceremony is for ships, not infants). In a christening, the parents have control of naming the child, but only the given name is at issue. The surname may be seen as an accident of birth and is not up for debate. For slaves, the surname could only have been a painful reminder of an owner; for Douglass the surname he was born into was Bailey, his mother's. It was a reminder that his father was not precisely known to him though it might have been his master (48).

Aside from creating and retaining parts of their names, slaves sometimes exercised their power to name in another way, one that revealed that the contempt heaped on them by their masters was on occasion reciprocated. Years after gaining his freedom, John Brown truncates the name of one of his masters, calling Jepsey James, "Jep." Since

Brown describes him as a “great, big robust man” (Taylor 2.366) and as being “as bad as any” of his former masters, one may assume he did not call his master by the truncated form of his name to his face.

Frederick Douglass expresses an even more profound contempt for his master when he tells of his experience working for Thomas Auld. He describes his master saying “he had been a poor man, master only of a Bay craft. He came into possession of all his slaves by marriage; and of all men, adopted slaveholders are the worst.” Auld’s ineptness as a slavemaster included his not feeding his slaves enough and, more importantly, his cowardice. “He commanded without firmness.” In a sentence dripping with contempt for his master, Douglass says of him, “[a]t times, he spoke to his slaves with the firmness of Napoleon and the fury of a demon; at other times, he might well be mistaken for an inquirer who had lost his way” (96). It was easy enough to show contempt of a slavemaster while sitting in Boston, but Douglass and his fellow slaves showed their contempt for Thomas Auld to his face as well.

He was a slaveholder without the ability to hold slaves. He found himself incapable of managing his slaves either by force, fear, or fraud. We seldom called him “master;” we generally called him “Captain Auld,” and were hardly disposed to title him at all...Our want of reverence for him must have perplexed him greatly. He wished to have us call him master, but lacked the firmness necessary to command us to do so. His wife used to insist upon our calling him so, but to no purpose (97).

Douglass has already spoken of the “bay craft” as a sign of Thomas Auld’s socio-economic meanness. Calling him “Captain Auld” to his face was no doubt intended as a

reminder of humble origins. That Thomas Auld was sometimes fierce and at other times meek most likely meant that he doled out punishment without rhyme or reason. While this could be a terrifying situation for a slave, in the case of Thomas Auld it gave the slaves a certain freedom. Since punishment was not necessarily based on merit, one might as well deserve it as not. Auld was put into a doubly difficult position since calling him "Captain" could only be thought of as derogatory if Auld were willing to accept that the title he earned and used steering a craft on the Chesapeake Bay was in fact something to be ashamed of. While masters could flaunt despotic power over slaves by changing their names at will, Douglass and his fellow slaves wielded the same force by insisting that the master retain a title he would rather have left behind.

It seems that both masters and slaves were aware of the enormous performative power involved in naming. In so far as the name helps to make the individual, the person who controls the naming process controls the one named as well. Like other speech-act aspects of slave life, what the masters struggled to impose, the slave fought to nullify. This proposition is also seen in regarding the command or order as given by the master and followed (or not) by the slave.

An early scene in *Uncle Tom's Cabin* exemplifies the struggle over the illocutionary force carried by a direct order or Directive to use Austin's terminology. In the scene, Eliza has just escaped with her son, Harry. Mr. Haley, Harry's new owner, is riding out to track her with the help of Sam and Andy, slaves belonging to Harry's former owners, Mr. and Mrs. Shelby. Mr. Shelby has expressed his desire that Eliza be caught; after all, her running away just as he received payment might appear suspicious, and it is in the best interest of his honor and reputation that those he bargain with get what they

pay for. As he says upon first hearing that Eliza has run off, “it will be something pretty awkward for me, if she is. Haley saw that I hesitated about selling this child, and he’ll think I connived at it, to get him out of the way. It touches my honor” (92-93).

Mrs. Shelby has a different view of the escape and makes it clear that she prefers for Eliza to attain her freedom. The Shelbys may be of two minds, but the wishes of Mr. Haley, who has paid well for Eliza’s child, are unequivocal in the matter, and the instructions to the two slaves are also clear: “you are to go with Mr. Haley to show him the road, and help him” (98). Mrs. Shelby gives these instructions halfheartedly and ends by saying in low voice “[b]e careful of the horses... *don’t ride them too fast*” (98-99). But when they are given over to serve Mr. Haley in the hunt for Eliza, he becomes their temporary master, a situation they recognize, repeatedly calling him “Mas’r.” His instructions are simpler and direct: “look alive now; we must lose no time” (100).

Since Mr. Haley is known for a slave trader, always ready with the whip, and his will in tracking Eliza is supported by Mr. and Mrs. Shelby in words though perhaps not in spirit, the speech-act situation for Sam and Andy should be clear. They must act to carry out the wishes of Mr. Haley and Mr. Shelby though they need not be overly diligent. This last goes to satisfy Mrs. Shelby’s wishes. The slaves, however, decide to misunderstand their instructions, going further in their obstructions than even Mrs. Shelby had suggested; in effect, they take matters into their own hands.

The sabotage of Mr. Haley’s attempt to capture Eliza begins with Sam’s decision to select which order he will obey – one that was given him by a lawfully empowered authority or one he interprets to reside in the will of his mistress, communicated by grimaces and her contradictory pronouncements. “Missis wants to make time,” Sam

explains to Andy, “dat ar’s clar to der most or’nary ‘bserver. I jis make a little for her” (99). Given that Mr. Haley’s first instruction as temporary master of the two slaves was simply to waste no time, Sam’s decision to ignore his mistresses’ explicit command in favor of his own interpretation and extension of her more cryptically expressed wishes can only be seen as willful disobedience though in practice it will be camouflaged.

The tactic of willful misapprehension or selective comprehension was common among actual slaves. Consider the actions of William Wells Brown on being ordered to deliver a note to a professional slave breaker. He made certain that the slave breaker got the message but not in the way his master had clearly intended. As Brown suspected, the note contained orders to the effect that the jailer should give the bearer of the note a whipping. Brown thought in what way to avoid the punishment since the jailer knew his master personally and his master could easily ascertain if the slave delivered the note and received his punishment. As Brown writes, “While I was meditating on the subject, I saw a colored man about my size walk up, and the thought struck me in a moment to send him with my note” (Taylor 1.698). He convinces this man to go in to deliver the note to the jailer. Once again, since the order left some room for interpretation (he was only told to give the note and a dollar to the jailer and nothing about receiving punishment) the slave put the best construction on the order and carried it out in the way most convenient to himself.

The misunderstanding, whether real or feigned, provided a space for slaves to wield speech-act power of the only type readily available to them. They could not give orders, but they could refuse to comply with them. The refusal may be understood in two ways depending on the nature of the refusal. Refusal could come in two basic forms:

covert and overt. The covert refusal is as we have already seen. The slave pretends to carry out the order while in fact working to frustrate the master's intentions. This type of refusal had the advantages of helping the slave to evade both onerous tasks and punishment for this evasion. With Sam and Andy, the onerous task is the apprehension of a fugitive slave. For Brown the onerous task actually was punishment. The overt refusal almost always incurred the master's wrath in the form of corporal punishment, ranging from a punch or slap to prolonged torture and even death. Frederick Douglass' dispute with Mr. Covey, a slave trainer he was rented out to, is an example. Having accidentally destroyed an ox cart, Douglass is ordered to strip off his shirt to receive punishment. Douglass refused: "I made him no answer, but stood with my clothes on." When Douglass refused to obey the repeated order, he reports that Covey "rushed at me with the fierceness of a tiger, tore off my clothes, and lashed me till he had worn out his switches...this whipping was the first of a number just like it, and for similar offences" (102).

One might think at first that the offense Douglass is speaking of is the refusal to obey the order to disrobe, but, of course, the original offense was the destruction of the cart. As we have seen, though Douglass claims it was an accident, this action fits into the pattern of resistance outlined by Franklin and Schweninger. Is it possible that the broken cart and the other, similar offenses were part of a dialogue with Mr. Covey, signs that Douglass intended to vitiate Mr. Covey's ability to give orders, that Douglass was going to obey commands that suited him and be a speech-actor in his own right? It is not possible to tell whether Douglass' accidents were part of a larger strategy. Since this might make Douglass seem like the aggressor, as though he deserved the whip, his

resistance is muted in the text. Unless the reader can believe that the young and powerful Douglass was also a clutz, his offenses are probably correctly interpreted as covert refusals to obey.

Another example occurs in *Incidents in the Life of a Slave Girl*. Though in the master-slave relationship a request from the master is usually the same as a command, Harriet Jacobs routinely ignores her master's requests for sexual favors. As we've seen, there was no need for the master to make this a request; rape was not uncommon. On several occasions, her master, Dr. Norcom, inflicts corporal punishment on Jacobs. She described one such attack saying, "He sprang upon me like a tiger, and gave me a stunning blow" (39). At another time his hold on her arm made her feel like her arm was about to break (59). Of another occasion Jacobs reported that "He had pitched me down stairs in a fit of passion" (77). Clearly, Dr. Norcom had no compunctions about using force against her, so why did he not simply force her to submit to him in this matter? Harriet Jacobs makes several suggestions on this score.

"My master had power and law on his side; I had a determined will. There is might in each" (85). The strength of Jacobs' will, not to be denied by anyone who reads of her years spent hiding in the crawlspace of her grandmother's house, is not enough by itself to prevent her rape. After all, many slaves with as much determination were whipped into submission or to their deaths. What Jacobs does not mention here is that she had much more than just her will power in resisting her master's overtures. She had also her grandmother on her side.

Jacobs writes of her grandmother as having a fiery temper, but it is clear from the narrative that this would not be enough to protect Harriet from having to submit to her

master's will, even sexually. Aside from hardly being able to watch over her granddaughter at all times, Harriet's grandmother, though a free woman, is shown to have only limited power in her transactions with whites. In one episode around the time of Nat Turner's insurrection, her home is ransacked by whites. They threatened her with guns and her house with torches. Though they did very little physical damage, the scene is a reminder that it wasn't just slaves who were often powerless against whites, but all blacks. There was, however, one area where Jacobs' grandmother was more powerful than Dr. Norcom, the ability to shape public opinion.

Molly Horniblow, Jacobs' grandmother, was a popular baker in town and as such had a regular clientele. White women came to her house daily as customers. With regular contact with people from all over town, she would have been able to publish the truth of Dr. Norcom's actions. Molly Horniblow had the power to smear his reputation. Norcom "was afraid of her. He dreaded her scorching rebukes. Moreover, she was known and patronized by many people; and he did not wish to have his villainy made public" (29). Norcom's reputation had already suffered from his dealings with Molly Horniblow. When he inherited his estate, she was one of his slaves though she had been promised her freedom by her former mistress. In arranging his finances, put several slaves including Jacobs' grandmother up for sale. Even at this beginning of their relationship, Norcom was afraid for his reputation. He preferred to sell her at private sale rather than by auction, but she "saw through this hypocrisy; she understood well that he was ashamed of the job" (11). Molly Horniblow's own reputation was impeccable: "Every body who knew her respected her intelligence and good character. Her long and faithful service in the family was also well known, and the intention of her mistress to leave her free" (11).

When the day of the general sale came, she put herself on the auction block first and the potential buyers cried out, “Shame! Shame! Who is going to sell *you*...? ... That is no place for *you*” (11). She wound up being sold for the meager price of fifty dollars to a woman who would set her free. After this very public humiliation, it is no wonder Dr. Norcom refrained from angering Jacobs’ grandmother.

While the illocution of command was never in the hands of the slaves, they could effectively deny it to their masters through the illocutive power of naming their masters as miserly or cruel or deviant. The power Molly Horniblow held in reserve (after all, like a china plate, one can only destroy a reputation once) was analogous to the power exercised throughout the slave narrative genre. Countless narratives reveal the depredations of the slaveowning class, calling out a litany of slaveowner sins, performing for Northern readers the characteristics of the slaveholder.

The desire to be well thought of by fellow whites was one of the few things slaves could rely on to help them in their struggles with their masters. This was the motivation Douglass claimed caused his master in Baltimore to feed him well. As he wrote, “Few are willing to incur the odium attaching to the reputation of being a cruel master; and above all things, they would not be known as not giving a slave enough to eat” (79). Both he and Jacobs recognize that their lots would have been worse on a plantation where their masters would not have undergone the scrutiny of nearby neighbors. Though the plantation is secluded and brutality more common and even applauded, this same desire could also be used against a master in rural areas.

Slaves could apparently sometimes refuse to help with the punishment of other slaves. William Wells Brown reports the attempts of an overseer named Cook to subdue

and punish a slave by the name of Randall. Randall refused to cross his hands so they could be tied, and Cook called three other slaves to assist him. “The hands stood still;—they knew Randall—and they also knew him to be a powerful man, and were afraid to grapple with him” (Taylor 1.685). Their fear was only magnified when Randall calmly told his fellow slaves “the man that lays hands on me shall die.” After this, Brown reports that “The overseer was unable to prevail upon them to seize and secure Randall, and finally ordered them all to go to their work together” (1.686). Cook later succeeds in subduing Randall with the help of three white friends, but Brown does not mention that the three slaves who had refused to assist Cook were in any way punished for this misdemeanor. An incident from the narrative of Frederick Douglass helps to illuminate Cook’s willingness to overlook this infraction.

Early in the famous fight scene between Douglass and Covey, Mr. Covey calls out to two other hired slaves to help him. The first, Hughes, tries and Douglass gives him a sharp kick for his troubles, incapacitating him. The second slave to answer to Covey’s call is Bill. Seeing Covey with his throat firmly in Douglass’ grasp, “Bill wanted to know what he could do.” This, of course, should have clued Covey in to the fact that Bill wasn’t about to risk himself to subdue Douglass. It didn’t. “Take hold of him!” Covey yelled. Bill refused. “[H]is master hired him out to work, and not help whip me,” Bill said, and he left the two combatants to struggle with each other (112-113). After this tussle, Covey never again tries to beat Douglass, and Douglass wonders why. Covey could have done as Cook had done with Randall and gotten more men to help him, or, as Douglass muses, had Douglass dragged away to a jailer. But then, “Mr. Covey enjoyed the most unbounded reputation for being a first-rate overseer and negro-breaker... That

reputation was at stake; and had he sent me—a boy about sixteen years old—to the public whipping-post, his reputation would have been lost; so, to save his reputation, he suffered me to go unpunished” (114). Closer examination of Brown’s story shows that that may also have been a matter of reputation.

Although he had been advised not to try to subdue Randall, Cook the overseer waited until the master was away and “he was left sole dictator” (1.685). This same master who had never been able to subdue Randall “was much pleased to find that Randall had been subdued in his absence” (1.686). Had Cook gone on to punish the other three for disobeying him, it might have appeared to the returning master that all hell had broken loose while he was away. Certainly, Cook’s reputation for being able to handle slaves would not have fared well if he made much of the fact that he couldn’t get anyone to follow this specific order. It happens then that an overseer could order anything except that a slave help him to do his job. Perhaps this attempted speech-act proves infelicitous because it violates Austin’s rule that the appropriate person

In both these examples of the overt refusal, as in many others depicted in slave narratives, the slave makes a point not made in the covert refusal. With the overt refusal there is an attempt, however brief or ill-advised, to educate the master. The overt refusal breaks down the entire idea of the slave being obligated to obey orders. The master learns that the slave believes he has the right to refuse and will stand up for that right. This marks a drastic change in the speech-act situation and, if the master has learned the lesson, will cause him to change strategies.

In the case of Mr. Covey, the change was a move from speech to action, particularly the action of trying to subdue Douglass physically. The action fails as

completely as the attempted speech-act, and Mr. Covey is left to work out an uneasy truce with Douglass, the slave he was supposed to break, accepting the fact that the slave will dictate the terms under which he will work. While physical fear may have played some role in Douglass' victory, a more consistent ally to slaves was the fact that the peculiar institution rested on appearances. Not only was the master forced to show himself to be in control, but he could not reveal himself to be a brute in the process. As we will see in examining the speech-act involved in the slaves' attempts at self-purchase, shame, public humiliation, and public scrutiny were useful tools for the slaves in more than one way.

With all the speech-act restrictions placed on the slave and the sheer impossibility of redressing these wrongs, the slave's options in seeking equal treatment or even conditions of minimal dignity were sorely limited. Separation seemed to some to be the best way to ensure speech-act equality. Thomas Jefferson indicated that even this did not go far enough. Blacks and whites in his estimation could never live peacefully side by side once the slaves were freed. "Nothing is more certainly written in the book of fate than that these people are to be free. Nor is it less certain that the two races, equally free, cannot live in the same government. Nature, habit, opinion has drawn indelible lines of distinction between them" (44).

There was a move on the part of many slaveholders to manumit their slaves, usually through clauses in their wills. This strategy on the part of whites involved the use of the exercitive speech-acts, the consequences of which are that "others are 'compelled' or 'allowed' or 'not allowed' to do certain acts" (Austin 155). The part of the will that left the slaves to themselves was a part that was routinely ignored. After all, most estate

owners died with some debt burden and this could be relieved through the sale of property. After the slaves were sold and the other legatees were paid in full, then the remaining slaves might be freed if there were any. Since wills were notoriously difficult to enforce in this regard and had the further drawback of requiring the demise of the slaveholder (an intolerable delay to many slaves) some slaves sought their freedom peacefully through self-purchase. This course of action brought with it its own speech-act difficulties.

Perhaps one of the most disturbing speech-act aspects of master/slave relations is found in the frequently depicted transactions wherein the slave attempted to purchase his or herself from his or her master. This facet of slavery is perhaps most disturbing because it reveals an ideological foundation to slavery that the slave succumbed to. Offering a master money for oneself is at least an implicit agreement with the proposition that the master has some right of ownership. It is as an objection to this proposition that some abolitionists balked when told of plans for the purchase of Frederick Douglass by friends wishing to secure his freedom (McFeely 144). The slave who bought himself was forced into this absurd position by all of America, since, especially after the Fugitive Slave Law but even to a degree before this law, all of America was unsafe for the runaway slave.

That slaves felt the injustice of the position can be seen in the story of one slave who purchased himself and his family. James Pennington, a successful runaway, approached his master by letter expressing his desire to purchase his family out of bondage. His master at first refused, referring to the fundamental basis of slavery, the master's right to own the slave: "He was guilty of theft when he departed". Pennington's initial response to this was to be "mortified." But he found he would have to concede the

issue to his master if he were ever to see his family again even though he did not “approve of the principle involved as a general rule” (Katz 88). As a legal nonentity, there was no other way for him to proceed but to pay first for his own freedom and for that of his loved ones.

Pennington’s success in his completing this particular speech-act required more of him than the concession that he was the property of another. In order for the speech-act to be performed, Pennington had to secure the assistance of someone who was not considered chattel in the eyes of the law. He turned to a white abolitionist. After all, the admission of being property is at the same time an admission that one is not capable of entering into a contract. Also, without recourse to the courts, many slaves were defrauded. This is most likely the reason why few slaves made it out of slavery through this route. As Kenneth Stampp has pointed out, “Legally a bondsman was unable to acquire title to property by purchase, gift, or devise; he could not be a party to a contract. No promise of freedom, oral or written, was binding upon his master” (197). Stampp goes on to quote a decision from the Supreme Court of Arkansas that “both the money and the labor of the slave belong to the master and could constitute no legal consideration...” Slaves were not ignorant of the inequalities involved in creating a contract with their masters. Lunsford Lane wrote that “legally, my money belonged to my mistress; and she could have taken it and refused to grant me my freedom” (Katz 10). Most likely many deals were made and nearly as many broken. Franklin and Schweninger tell of one slave, Lucy Crawford, who had paid her mistress all but twenty-one dollars of her purchase price when “the white woman had Crawford arrested and jailed as a runaway slave”. Another slave had paid “86 percent of the amount agreed

upon” when his master did essentially the same; this slave was later sold (143). Sadly, it did not need a dishonorable slaveowner for the deal to go badly.

Consider Moses Grandy. Grandy purchased himself three times. The first time he paid for himself, his master defrauded him in the most straightforward way possible. “When I made him the last payment of the \$600 for my freedom, he tore up all the receipts” (Katz 226). This master promised repeatedly that he would sign over free papers just as soon as the local court convened, but later sold Grandy. This was certainly dishonorable, but after having paid for himself and being sold to this new master, Grandy worked extra hard again to pay for himself a second time. This time his master had every intention of granting him his freedom until a time very near to Grandy’s last payment. At this point the master went bankrupt; there was a mortgage on Grandy, and, though he made the final payment for himself, he was taken to satisfy the debt. Though this time he had receipts, they went for naught; the speech-act between master and slave, even when followed out to the letter of all conventions, was invalid in the face of interference from a third (white) party. The claims of others whites were considered prior claims regardless of actual chronological order. To make matters worse, Grandy’s third master was not inclined to sell him. It was at this point that he deployed a strategy which did on occasion help the slave.

Grandy’s final master felt himself obliged to sell Grandy to freedom because of the force of public opinion. Grandy and a white friend confronted his owner in a public place about selling Grandy into freedom. The fact that others overheard the discussion helped to overturn his master’s reluctance on this issue. As Grandy writes, “A gentleman who was by said it was a shame I should be so treated; I had bought myself so often that

Mr. Sawyer ought to let me go” (Katz 233). Others chimed in on Grandy’s behalf including an overseer, one Wiley M’Pherson, who, as Grandy put it “was never known to speak in favor of a colored person.” In Grandy’s view, M’Pherson’s voice turned the tide in the matter: “he was so well known for his great severity to colored people; so that after even he had said so, master could not stand out” (233). The same force which had kept Mr. Covey from gaining ultimate revenge on Douglass kept Mr. Sawyer, Grandy’s owner, from retaining Grandy for very long. While the legal conventions of the time certainly would have backed the slave owner in this matter, the conventions of Southern honor forced Sawyer to adhere to his agreement with Grandy just as he would have had to adhere to any contract made with a white. Slaves did not, however, always rely on the power of public scrutiny to enforce their contracts.

Josiah Henson was also defrauded by his master. Henson, often thought of as the model for Stowe’s Uncle Tom, worked hard to pay \$350 for himself, and his master accepted a promissory note for another hundred. When the note had been given, and Henson was ready to leave his master, he fell prey to a very simple trick. His master, feigning concern that Henson might lose his free papers to any unscrupulous white man who demanded to see them, offered to help him keep them safe. “Let me enclose your papers for you under cover to my brother. Nobody will dare to break a seal, for that is a state-prison matter; and when you arrive in Kentucky you will have it with you all safe and sound” (72). As it happens, what Henson’s master did with this maneuver is simply to put the free papers out of even Henson’s reach. Since they were under seal and addressed to his brother, even Henson himself could not break the seal to produce the papers if needed. When he arrived at the house of Master Amos, his master’s brother, he

was told that a letter had arrived saying he was to pay off a promissory note not of a hundred dollars but of \$650. It was then that his master's deception became clear, and he was astonished "to see the management by which Riley had contrived that the only evidence of [his] freedom should be kept from every eye but that of his brother Amos" (74-75).

After a night spent in anguish, Henson hit upon the key to evening the odds in the speech-act struggle he was engaged in with his master. If his master would be deceptive about the agreement they had reached, Henson would as well. "My papers must never be surrendered to Master Amos." To accomplish this without falling into plain lying, he deceived his own wife concerning the free papers: "I told my wife I had not seen them since I left Louisville. They might be in my bag, or they might be lost" (75). It was true, of course, that he had not seen his free papers since leaving his owner, but he had seen them into the envelope and he knew the envelope to be packed away carefully with his belongings in his carpet bag. In this manner, Henson leveled the illocutive playing field. Though he was ultimately unable to complete the transaction legally, Henson was able to buy enough time in this way to carefully plan his escape.

The most palatable option for slaves was to break ties with their master. This could be done legally through purchase or illegally through running away. While most of the slave narratives studied in the classroom were written by runaway slaves, this was hardly an option for most. Subject to the questioning of any white, the runaway slave might need to travel hundreds of miles on foot pursued by slave hunters and their dogs. A lack of food, shelter and a sure knowledge of where they were headed caused many slaves to fail in their quest and even the ones who managed to get to a free state were not

safe from those who would turn them in for the reward. The successful runaway often made it only with the assistance of experience gained through repeated failures and with the help of free blacks and whites on the road North. Each failure cost a certain amount in punishment. With all these dangers to face, many slaves tried to buy their way to freedom though this path was also fraught with difficulties.

The speech-acts involved in purchasing oneself are, of course, somewhat different but related to those involved in any other type of purchase. The first principles must include a recognition that one party owns something and that the other party desires that same thing. We may leave to one side the issue of whether it needs to be agreed between the parties that the owner has rightfully attained his property. It appears that the sale of illicit materials follow the same general patterns accepted for the sale of every other type of article. This first principle, however, is something of a stumbling block since the slave who desired freedom did so often because he would not admit that he was owned. The same slave who offered to buy himself, was often also the same slave who, when the deal fell through, stole himself.

Harriet Beecher Stowe's novel *Dred: A Tale of the Great Dismal Swamp* has several examples of the attempt at separation as viewed from both sides of the transaction. One of the most important aspects of the storyline involves the fact that Colonel Gordon, the family's patriarch, had made a contract with one of his slaves, his illegitimate quadroon son, so that the slave could eventually buy his freedom. Gordon's death and the subsequent transfer of the slave, known as Harry Gordon, to Tom, Colonel Gordon's cruel son, disrupt this plan. As is noted early in the story, Tom's philosophy concerning slaves (and most everything else one imagines) is brutal: "I show a fellow my

pistol. I say to him, You see that, sir! I tell him, You do so and so, and you shall have a good time with me. But, you do that, and I'll thrash you within an inch of your life! That's my short method with niggers..." (217). Upon the death of the elder Gordon, Mr. Jekyl, the family lawyer informs Harry of his misfortune. When Harry shows him the contract of sale Colonel Gordon had signed, Jekyl remarks snidely "I know Mr. John Gordon's signature. But all the signatures in the world couldn't make it a valid contract...a slave, not being a person in the eye of the law, cannot have a contract made with him" (485). He goes on to explain that "Everything must go, you know, by general rules." As a consolation, Harry is told that "all such rules will work hard in particular cases. Slavery is a great missionary enterprise for civilizing and christianizing the degraded African" (487-488).

When slaves could not secure for themselves the life they desired through the speech-act space allowed to them, they often made use of an ultimate speech-act – the declaring of independence, a speech-act that poses some difficulty of categorization in Austinian terms. Is a declaration of independence an "exercitive...a decision that something is to be so" (155)? Or is it a "commissive" which binds "the speaker to a certain course of action" (157)? Or both?

In this vein, one of the most common literary tropes used in slave narratives is that of reference to the American Declaration of Independence. As noted in an earlier chapter, the Declaration of Independence had undergone a "sacralization" in the antebellum period. While not a legal document, there are few even at this great distance in time who would want to be thought of as betraying the ideals therein embodied. For the generation Lincoln belonged to, however, a generation whose fathers and

grandfathers had actually fought the war for independence, the Declaration of Independence was more than just a set of abstract ideals; the words of the declaration had a personal dimension. The attempt is made by many of the slave autobiographers to shame Americans into feeling that the plight of the slave was indicative of a failure on the part of the nation to live up to the ideals embodied in that founding document. A look at a handful of slave narratives will help make clear the ways the founding documents of the United States were used to show that the speech-acts that had formed the nation were peculiarly void.

Consider the comments William Grimes made at the end of his narrative.

If it were not for the stripes on my back which were made while I was a slave, I would in my will, leave my skin a legacy to the government, desiring that it might be taken off and made into parchment, and then bind the constitution of glorious happy *and free* America. Let the skin of an American slave, bind the charter of American Liberty (Taylor 1.232).

In this reference to the American Constitution, Grimes plays the trickster as he has through most of his story. He offers something, in this case his own skin, only to make a point of how inappropriate the offer is, how utterly impossible it would be to complete the transaction. Not only is there a juxtaposition (implied in the emphasis Grimes employs) between “*free* America” guaranteed by the Constitution and the life of slavery he has just finished recounting. There is also an amount of scolding in Grimes’ words as the United States has been cut out of his will by virtue of its own actions. Were it not for the scars on his back, scars which serve as an indictment of the Constitution that sanctioned them, the nation might receive “a legacy” from Grimes, however questionable

its value. There is also a further jibe at America in the last line of the narrative as even some proslavery writers admitted that the institution of slavery was an essential component of at least American economic liberty. In a very real sense, “the charter of American Liberty” was already written on the skin of American slaves.

Charles Ball makes much of the fact that he was actually sold away from his family on July fourth, “the day of universal rejoicing.” The crowd that gathered in Columbia, S.C. “sang and shouted in honour of free government, and the rights of man,” but it was also there to attend a slave auction (Taylor 1.313). The “fine speeches” and “the festival, in honour of liberty and equality” (Taylor 1.314, 315) are thus clearly contrasted with the slave trade, and the celebration of the Declaration of Independence is vitiated. It is obvious to at least Ball that the phrase “All men are created equal” is shown to be hollow and that an America that allows slavery is an America that fails to live up to the high ideals of its founding license.

Moses Roper ended his narrative with a prayer for the country that had held him in bondage throughout his youth: “may the period come when God shall wipe off this deep stain from her constitution, and may America soon be indeed the land of the free” (Taylor 1.520). He then went on to thank his “dear friends in England” for the help they had given him as an escaped slave. This remark shows another angle in the critique of America as the home of liberty and equal treatment. Not only did America fail to live up to the ideals expressed in The Declaration of Independence and the Constitution, the nation failed so miserably that in many narratives England is written of as the safe haven of these virtues. In so far as this is true, it is clear that it were better that America had never achieved independence at all. Many slaves sought to show exactly how far England

was a friend to those struggling for freedom from the United States. Roper's own narrative helps to make this point clear.

In speaking of his escape, Roper comments that he

Went into the Green Mountains for several weeks, from thence to the city of New York, and remained in secret several days... and on the 11th of November, 1835, I sailed... The time I first started from slavery was in July, 1834, so that I was nearly sixteen months in making my escape (Taylor 1.518).

Though the escape took place some fifteen years before the Fugitive Slave Law, Roper did not consider himself to have been successful in his escape until he had left even the so-called Free States behind sailing on a ship for Liverpool in England. He reports that "my feelings when I first touched the shores of Britain were indescribable." What he could not describe were his feelings of joy and relief. He was not alone in expressing this sentiment.

William and Ellen Craft report that "It was not until we stepped upon the shore at Liverpool that we were free from every slavish fear" (Taylor 2.527). William Parker tells of another slave, George, that he "went to the land of freedom, to be safe under the protection of British law" (Taylor 2.786). Quite famously Frederick Douglass left the Free States for England to escape the backlash from the publication of his narrative. He did not think it safe to return until his supporters had bought him legally. Others found refuge in Canada. Moses Grandy ends his narrative by mentioning the thousands who had fled to Canada, "where, under British rule, they are quite safe" and where "they are known for their good order, and loyalty to the British government" (Katz 247). Not only

was the United States not a land of safety for the slave, but it could not command the loyalty of the escapee. A land that could not earn the loyalty of even a worthy slave must indeed be dishonorable. Josiah Henson makes his happiness to be out of the United States and in Canada explicit.

It was the 28th of October, 1830, in the morning, when my feet first touched the Canada shore. I threw myself on the ground, rolled in the sand, seized handfuls of it and kissed them, and danced round till, in the eyes of several who were present, I passed for a madman (126-127).

One of the models for Stowe's Uncle Tom, Henson's jubilation at arriving in Canada could only be shame for the American reader. His story is filled with incidents that mark him as pious; he had tried to purchase himself legally, he had driven his master's slaves through free territory, and he had even saved his master from a drunken brawl. The lesson is clear enough; America is not a fit residence for an honest, God-fearing man.

Perhaps the strongest statement on this issue comes in a speech by Frederick Douglass, "What to the Slave is the Fourth of July?" Before a Rochester, New York, audience of abolitionists, many of whom might well have had relatives who had fought in the American Revolution, Douglass railed against what the Founding Fathers had done. So far as the slave was concerned, the founders had botched the enterprise of freedom. "This Fourth [of] July is *yours*, not *mine*," he tells the audience, "*You* may rejoice, *I* must mourn" (Norton 124). Douglass highlights all that the Declaration of Independence had left undone in leaving untouched the condition of the slave; work that had still not been accomplished seventy-six years later when he gave his speech and which was not yet in the process of completion. "America is false to the past, false to the present, and solemnly

binds herself to be false to the future” (125). Douglass shows his audience that the holiday and the document it celebrates are capable of being seen as opposites of what they are customarily thought to represent. “What, to the American slave, is your 4th of July?” he asks, but does not wait for a reply:

I answer: a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim. To him, your celebration is a sham; your boasted liberty an unholy license; your national greatness, swelling vanity; your sounds of rejoicing are empty and heartless; your denunciation of tyrants, brass fronted impudence; your shouts of liberty and equality, hollow mockery; your prayers and hymns, your sermons and thanksgivings, with all your religious parade, and solemnity, are, to him, mere bombast, fraud, deception, impiety, and hypocrisy – a thin veil to cover up crimes which would disgrace a nation of savages (127).

The slave narrative’s use of America’s founding speech-acts did not just call into question the complacent view that these documents were actually the embodiment of laudable ideals. Ideals are difficult to live up to, so no one should be surprised that slaves are sold on the Fourth of July; America did not claim to be perfect. Instead, the escaped slave’s use of the Declaration of Independence and the Constitution ultimately questions the effectiveness of the nation’s founding document. After all, each narrative put forward by the escaped slave was itself a Declaration of Independence. In the same way that the Declaration was an expressed hope rather than a statement of inevitable fact – the British could have won in the war for America’s independence – slave narratives, even from

authors who had legally attained their freedom, were an expression of desire for freedom, not a relation of freedom won and secure.

Chapter Five: Women

By now, it has long been recognized that the female novelists of the period under examination here reached vast audiences. While many of the now canonized writers of the period struggled to break out of relative obscurity, some female novelists surprised themselves and their publishers by quickly finding readerships that were measured in the tens and hundreds of thousands. Thus, while Melville was several times reminded by his publisher that his books were a financial burden and Thoreau carted home hundreds of unsellable copies of *A Week on the Concord and Merrimack Rivers* to store in his attic, Susan Warner and Harriet Beecher Stowe had instant success selling novels to a public that bought their works as quickly as they could be printed. As Mary Kelley has pointed out, “*Uncle Tom’s Cabin* [...] made Harriet Beecher Stowe one of the most commercially successful of the literary domestics” (26). Warner’s *The Wide, Wide World* “sold more than 40,000 copies in less than a year and went through thirteen editions in less than two years” (18).

One needs only look at *Uncle Tom’s Cabin* to find that these works, though largely ignored by scholars today, were hardly meaningless or ephemeral pulp. The book, credited by Lincoln as having helped start the Civil War, was meant as a political statement and was understood as such. From Joan Hedrick’s recent biography we learn that the novel was in part a reaction to the Fugitive Slave Law of 1850. As Hedrick writes, “Her intense feelings were more oppressive for having no outlet. Male professors, male clergy, male politicians made the laws and shaped the public opinion of the land, and women who found themselves morally repelled by their work had little recourse” (202). Stowe shared frustration stemming from “political impotence” with many other

women. Her novel, then, was a way to make herself heard politically. From one of Stowe's contemporary critics we can see that it was received in the spirit it was intended. As one anonymous critic put it, "Mrs. Harriet Beecher Stowe is an abolitionist, and her book is a vehement and unrestrained argument in favour of her creed" ("Review" 478). Evidence that Stowe succeeded in her intentions is found in proslavery responses that rebutted her novel in political rather than artistic terms. Witness one irate reviewer's remarks: "she wished...to teach us that our constitution and laws are repugnant to every sentiment of humanity." This reviewer went on to label Stowe as belonging to the "school of Woman's Rights," a school which he sarcastically claimed would hand over "the State to the perilous protection of diaper diplomatists and wet-nurse politicians" (Holmes 469). While not many novels by men or women of the period were as widely read or as politically influential as *Uncle Tom's Cabin*, and not many have ever met with such a vitriolic response, the books surveyed in this chapter all plainly aim to provide more than just entertainment.

The woman's novel of the day, then, was not only widely read but also influential. The popular woman author of the day wielded her influence in both the domestic sphere (where many authors hoped to teach young woman readers how to behave) and in the larger realm of national politics. What many women writers chose to write about (and what found a ready audience) often had to do with the struggle of women to define their relationships to the men in their lives. Commonly, a large part of this struggle, whether it is between a daughter and her father, a single woman and a suitor or a wife and her husband, is a struggle to create meaningful speech-acts.

Perhaps the most meaningful division among white women for the purposes of this study is that between married and unmarried women. Most women in America during this time married by their early to mid twenties. Before marriage most women lived at home with their parents. Unmarried and underaged women were minors before the law and lived with severely circumscribed speech-act powers. In this chapter of the dissertation, I will focus attention on several categories of speech-acts emphasizing the difficulties faced by women who had reached their majority. I begin, however, with discussion of the speech-act lessons learned by Ellen Montgomery, the child heroine of one of the most popular novels of the period, Susan Warner's *The Wide, Wide World*.

Susan Warner's phenomenally successful 1850 novel, *The Wide, Wide World*, gives some evidence of how women's later speech-act limitations had their origin in the speech-act restrictions imposed upon them as children. The novel might just have well been titled *Learning to Behave*. The main action of the work depicts the young heroine, Ellen Montgomery, learning the offices of gratitude and repentance. By the novel's end, as she enters adulthood and is ready for marriage, the one aspect of speech-act power she is expert in exercising is that of expressing her dependence on the good will of others – saying “thank you” and “I’m sorry.” Austin would categorize this as a “behabitive,” which he defines as the “adopting of an attitude” (163).

The importance of this particular speech-act category cannot be downplayed. Stanley Fish identifies it as the central category of speech-acts in Shakespeare's *Coriolanus*; thanking, repenting and other social niceties are speech-acts the title character refuses to perform. As Fish writes, “His reluctance to make a request and his inability to accept praise have a single source in a desire for total independence” (210).

To Coriolanus, to thank is a sign of something other than just good manners. Thanking is a sign of indebtedness, of weakness, of dependence. It is not different for Ellen Montgomery. The difference between the main protagonists of the two works is that unlike Coriolanus, Ellen learns from an early age that her struggle is not to be independent but to learn how to submit to the will of others, to acknowledge debts, and that a woman cannot make it in the wide, wide world without the help of others.

Before passing on to illustrations from the story of what I mean, it should be noted that while Warner obviously held it as an aim of her novel to teach the virtue of gratitude and its forms and this is a laudable goal, the perhaps unintended aftereffect of the lesson is hinted at in the book's closing scenes. In the end, Ellen agrees to marry the man she is most grateful to, and the reader may recognize that Ellen has a long life of thanking ahead of her and only the kindness of her husband saves her from degradation.

Early in the novel, Ellen's dying mother sends her to buy cloth for a dress, but the little girl is snubbed by the salesman. An older gentleman comes to her rescue, forcing the clerk to pay attention to her, helping her through a transaction she had found impossible to negotiate on her own. Her gratitude at this very real and disinterested service is appropriately stirred, but at her early age she is ignorant how best to show her thanks (perhaps especially since the gentleman waves off any such attempt). Ellen becomes even more agitated in her desire to thank when the man's servant returns each day bearing gifts of food. When she discloses that she wishes to learn the gentleman's name, however, her mother corrects her. Since the man has taken some small pains to remain nameless, "to try to find it out in any way would be a very unworthy return for his kindness" (55). Instead, Ellen is instructed to write a note of thanks that can be sent via

the man's servant when next he comes. The note represents the beginning of Ellen's habitive wisdom. "Ellen Montgomery does not know how to thank the old gentleman who is so kind to her," she begins. She may not yet know in full, but her first lesson in thanking is that people must be thanked in ways they will appreciate. This is a lesson she will need to repeat.

Later, on board a steamboat taking her to her new home in Thirlwall, Ellen runs across and is assisted by another person who teaches her yet another lesson in thankfulness. In fact, the occasion for thanks is in some ways even greater here, as this person does not care only for her body (though for the relatively brief duration of the trip) but helps her learn to care for her soul. Ellen was on board under the care of the Dunscombes, family friends who have little patience for her and treat her meanly. The gentleman, a complete stranger, spends the day with her, teaching her spiritual truths from the Bible and a hymnbook. Ellen learns that to forgive the Dunscombes for their treatment of her is a first step towards being forgiven by God. When the little girl finds this a difficult lesson to internalize, the gentleman not only quotes Scripture proving its biblical basis, he also advises her on a failsafe method for implementing it. "Keep asking him, and he will do everything for you" (81). The "him" her teacher refers to is God. The habitive, Ellen learns, may be a holy duty perfectly performed only with God's help.

Later still, while Ellen suffers the hardships of living with her aunt Miss Fortune Emerson learns even more about being properly repentant. Though her aunt is a harsh taskmaster and unsympathetic to Ellen's plight, Ellen will find that even Miss Fortune has something to teach her regarding forgiveness. Perhaps the most important lesson at this point is summed up in the phrase, "Actions speak louder than words." Having upset

Miss Fortune in the morning, and been instructed in repentance by the saintly Alice Humphries in the afternoon, Ellen returns to Miss Fortune to beg forgiveness. This follows the pattern Alice taught her: “The next thing after doing wrong is to make all the amends in your power; confess your fault, and ask forgiveness, both of God and man” (166). Miss Fortune’s characteristically acerbic response is that “It’s easy talking; I’d rather have acting. I’d rather see people mend their ways than stand and make speeches about them. Being sorry don’t help the matter much” (178). Here Ellen learns that, because of what Austin calls the habitive’s “special scope for insincerity” (161), it may need to be accompanied by physical actions, demonstrations of sincerity. Austin points out that speech-acts in this category may be similar to “commissives,” speech-acts that commit the speaker to a future course of action; as Ellen learns, saying one is sorry means endeavoring never to offend again in the same manner.

There are other occasions where Ellen is taught the forms of gratitude including not just how to express thanks but also when, why and to whom gratitude should be shown. In the end, however, one realizes that all these lessons have tended toward at least one tangible goal; that is, fitting Ellen for marriage. The book’s final chapter reveals the extent to which Ellen has learned her lesson of humble appreciation.

When Ellen’s husband to be, John Humphreys, shows her the house they are to live in, decked out in the furnishings of his choosing, Ellen finds that everything is done to perfection. “You have given me too much, John!” She exclaims “with flushing cheek and watering eye” (576). The reader is told that John’s “quick eye answered” her exclamation, but not told exactly what that answer was. It appears that Ellen is too well practiced in the conventions of gratitude, so much so that John is a bit embarrassed by her

demonstration. This, at least, is one plausible interpretation of his mysterious look. Her self-deprecating manner born of a too profound appreciation of what he has done for her leads John to give her something of a lesson in moderation.

John leads Ellen in a contemplation of two color prints in the novel's closing pages. The first is a copy of Corregio's Magdalen. The subject of this painting is important since, Mary Magdalen of the New Testament is a famous penitent. A woman out of whom seven demons were cast by Christ, Mary Magdalen is most famous for washing the feet of Christ with a bottle of expensive perfume and drying them with her hair (John 12:1-8). Mary Magdalen, then, is one of the great exemplars of gratefulness. It is a telling fact that Ellen has seen a copy of this painting before, but, as she notes, "in an engraving—not in colours." She finds the colored copy "Exquisite" (578). The revelation of the painting in its glory of color parallels Ellen's own experience in thankfulness. She has had things to be thankful for, though in learning to thank, she has often followed the form without the true feeling. Now with her gratitude to John mixed with romantic love for him, her feeling of appreciation is more vibrant. Still, this is not the last lesson. By comparing this painting to a simpler one of the Madonna and child, John teaches Ellen a final lesson in thanking.

John agrees that the Magdalen is a beautiful painting, but urges that the one of the Madonna and child is superior. Better than the depiction of one who knew well the forms and conventions of gratitude is the depiction of the love radiating between mother and child. John explains that with the painting of Mary Magdalen "you have the beauty that fades—the beauty of earth; here is that which endures. Charity never faileth!" (580). Ellen learns through this comparison not that the forms of thankfulness are without value

or that she should give them up. Instead, she learns that the forms of thanking are only a beginning. The last phrase quoted is ambiguous. Does John's "charity" mean "love"? Or does it refer to giving? Does John's "faileth" mean "never ends"? Or "always does the trick"? In other words, is John reminding Ellen that her debt is a debt of love and not one to be paid with the mere formalities of gratitude but with inner, spiritual feeling? It is at least plausible to suggest that the ending of a story in which Ellen Montgomery has learned all the rituals of thanksgiving including not just how to show thankfulness but also what reasons should be the cause of thankfulness and to whom she should show her gratitude that she learn the end goal of thanking, namely that thankfulness is in the service of love.

Alfred Habegger writes that "In an age when a man's declaration, 'I love you,' was tantamount to a proposal, these three words formed, quite simply, the most interesting speech-act there was" (18). He goes on to write of Warner's *Queechy* specifically and popular fiction generally that the matrimonial speech-act "constitutes the generative core of the novel." It was from this speech-act that the novel got its impetus, its plot developments, its tension. It was in the moment of decision, not so much of whether to marry since spinsterhood though not unusual was not the norm, but of whom to marry, that women made their most significant speech-act. In their late teens and early twenties, women might reject suitors or, of course, accept a suitor. But even the exercise of this speech-act power was not entirely without its limitations. This decision, then, first receives our attention.

In Austin's original formation of speech-act theory, those involved in creating a speech-act, marriage say, must perform the rituals correctly and should have the expected

intentions concerning the fulfillment of the vows. But while performing the rituals incorrectly or incompletely makes the speech-act null and void, having the wrong intentions does not. As we've seen before, a vow is a vow, a promise a promise, regardless of the intentions of the speech-actors. Similarly, the illocution may be valid even if the appropriate perlocutionary effect is not achieved; an order is still an order even if no one obeys, the same way that laws are still laws even when broken. This is part of the difficulty in defining speech-acts. As Austin points out, there is always the possibility that "Perhaps I did not *take it as* an order or was not anyway *bound* to take it as an order" (33).

The wedding ceremony is Austin's favorite example. When it comes to the case that is put before Ishmael, it is not just the law that is on the father's side, it is also whatever strength may be found in ordinary language philosophy. We might then begin to believe that the poor woman's case in the story is hopeless, except, of course, that Austin is wrong in his treatment of the wedding ceremony.

As it happens, though Austin (along with most speech-act theorists) characterizes the marriage speech-act as involving merely the securing of uptake to a simple proposition, it is actually more complicated. The ceremony that Austin would have recognized did not begin and end with the asking of a simple question, "Do you take this man?" Instead, the question is actually quite convoluted. Consider the marriage ceremony as a contract, putting aside for a moment the sexual contract spoken of already. During the ceremony, each party is asked whether he or she promises to love the other (among other things). This constitutes an exchange of equal values. Imagine two farmers formalizing an agreement to exchange the cows in their respective barns. Imagine further

that one of the farmers does not actually have a cow in his barn. If this bargain were viewed the way Austin and Searle view marriage, both farmers would be bound to fulfill the terms of the agreement even though one does not have a cow and the other would lose his cow without recompense. Austin himself makes this principle clear. In his essay "Performative Utterances," he asks his readers to consider "the case of a contract for the sale of a piece of land when the piece of land referred to does not exist. Now what we say in the case of this sale of land, which of course would be effected by a performative utterance, is that the sale is void—void for lack of reference" (248-249). I submit that the same "lack of reference" holds when one promises to love where there is no love or even the prospect of love.

Linda Kerber asserts of a woman's choice of a husband that "Once she made that choice, he controlled her body and her property" (15). Mary Gove Nichols, writing in the 1850's, made the natural extension of this fact: "The general idea and feeling, whether we know it or not, is that woman is property. She has no right to herself if she is married" (286). With so much at stake, there is an anxiety expressed in the literature of the period that this decision was not always made freely. The plots of several of the popular novels of the era hinge on the idea that a woman might be forced to choose a particular suitor either by the suitor himself or by third parties. The third party may be figured as the woman's Destiny, which, as we shall see, sometimes seems terribly close to being simply what society expects as opposed to any actual metaphysical force. We turn our attention to the case when the suitor forces or tries to force the intended bride to a decision in his favor.

In speech-act terms, the acceptance or rejection of an offer is a necessary part of the speech-act. The forced marriage was a common trope for the sensationalist American writer of the mid-nineteenth century. A woman's right to say no in this all-important decision might be mitigated by consideration of her family's financial circumstances or social pressure or even physical force applied by the suitor. A close look at the speech-act problems of one of the more famous fictional American women of the mid-nineteenth century, Nathaniel Hawthorne's Hester Prynne, will help to reveal the difficulties women faced in the period.

Though Nathaniel Hawthorne has not often been grouped with the sensationalist writers of his day, Hester Prynne's downfall can be said to begin when she put aside her right to reject Roger Prynne's advances in order to bolster her family's failing finances. Hawthorne's Hester Prynne is one of the more difficult characters to read in the American canon. Like the embroidered A she wears, Hester is open to interpretation, and like that scarlet letter, critics have varied wildly in their understanding of her. Whether she is a strong feminist character or a meek victim of the forces at play around her is still a question of some debate. Louise DeSalvo has written that Hawthorne "subtly shifts the blame for what happens to Chillingworth and to Dimmesdale onto the shoulders of Hester" (65). For DeSalvo, Hawthorne's Hester is the victim of both her society and her author. On the other hand, Nina Baym has written that "It is impossible to miss...the stress on Hester's remarkable strength as well as the remarkably humane uses to which she puts it" (*Scarlet* 63). For Baym, Hester is "the first true heroine of American fiction, as well as one of its enduring heroes" (62).

Whatever one's ultimate view of Hester, it seems clear that Hawthorne sympathizes with her. He writes in the Custom House sketch of trying on Hester Prynne's embroidered letter and experiencing "a sensation not altogether physical, yet almost so, as of burning heat" (62). One critic has gone so far as to write that Hester was not just a heroine – she was "almost a goddess, into whom the character of every other woman in Hawthorne flows" (Van Doren 147). A speech-act evaluation of one of the turning points of the plot helps to strengthen the belief in Hawthorne's sympathy for his character and, in conjunction with a reading of the novel's end, to show Hester as an evolving character, a victim once, but in the end a strong woman.

Before the first scaffold scene, before Pearl's birth, there must have been a moment of seduction. But who seduced whom? It is difficult to imagine the Reverend Dimmesdale approaching Hester; he is such a milquetoast figure. Then again it is not possible to imagine Hester seducing her minister; she is no brazen hussy, no matter what the gossips may say. This of course could have been a place in the novel where Hawthorne decided Hester's character. He could have shown her seducing or being seduced, not leaving her character so much open to interpretation. The reader may ask then why Hawthorne leaves her moral character a blank at this stage. Perhaps the time between her first arrival in Boston and her last arrival in town at the close of the book is one in which she is left morally undefined because it is a period of transition for her. Hester is different on her return than she was in the time before her first arrival.

Though like the seduction that must have taken place, Hawthorne says very little about Hester before arriving in Massachusetts, there are some pages devoted to her life in England prior to her migration. Specifically, in chapters two and four there is discussion

of the conditions surrounding her marriage. Chillingworth recognizes his marriage to Hester as his greatest mistake: “mine was the first wrong, when I betrayed thy budding youth into a false and unnatural relation with my decay” (100). It happens, however, that this determining act, the unnatural act of marrying the decrepit Roger Prynne, is also a speech-act in which the woman was denied full access to the complete range of responses possible. That is to say, when Hester’s hand is asked for in matrimony, there is some pressure upon her to accept. She is, at this point in the story, a victim.

Hester’s family had suffered economic setbacks. Its “decayed house of gray stone, with a poverty-stricken aspect” retained “a half-obliterated shield of arms...in token of antique gentility” (85). Hester’s marriage would help “save the ancestral home.” In the words of Nina Baym, “because of her family’s poverty, Hester had made an unsuitable marriage, which gave her neither emotional nor sexual satisfaction” (14). As we have seen and shall see again, financial pressure in making the decision to marry was a common trope in the writing of the period. The work of this trope in *The Scarlet Letter* is two-fold.

On the one hand, Hawthorne is clearly trying to shade Hester sympathetically by creating this martyr’s background for her. He could as easily have remained silent on the pre-history and let the reader imagine, if inclined, reasons why a young beautiful woman would have married Roger Prynne. Or he could have devised a different reason that didn’t include Hester’s victimhood. On the other hand, this victimhood, coming as it does as a sort of flashback within or prequel to the main story gives Hester a degraded place from which to begin her growth as a person. Her distorted speech-action at this point

serves as only one point in her progression toward attaining speech-act power which brings with it an independence of its own.

Two years after her marriage to Roger Prynne, Hester is on the scaffold in front of the jeering crowd, silent. From a speech-act perspective, her situation is improved over the one she was in when she agreed to marry. At least this time she isn't talking. This is progress; earlier she had been unable to defend herself from a loveless marriage to Chillingworth, but at this point, by refusing to admit that the patriarchy of Boston has a right to command her, she is able to defend Dimmesdale. She refuses also to obey Chillingworth's order to divulge the name of her lover, in this one issue asserting her speech-act equality with those who would normally be her political and religious leaders and with her husband.

Thus far, Hester has moved from a subservient, victim speech-act position to one where she asserts her equality painful as this lonely struggle is for her. At the novel's end, however, Hester asserts her speech-act dominance. As Baym puts it, "Hester, rather than subjecting herself to the law, subjects it to her own scrutiny" (*Scarlet* 64). After the death of Dimmesdale on the scaffold, Hester removes to Europe but returns to Boston years later and wears the scarlet letter again though no one would have bothered to ask her to do so. Sacvan Bercovitch has recently commented on the value of this gesture and come to the conclusion that "it is an act of compromise" (344). For Bercovitch, "the office of the A is socialization," and in making her return and wearing the letter, Hester shows that this is a worthy goal though she can only meet it imperfectly.

Bercovitch's argument in reference to Hester's return to Boston is convincing except for one detail. Not only does Hester wear the A without being goaded into it by

the town fathers, as Hawthorne writes “not the sternest magistrate of that iron period would have imposed it,” she wears the A “of her own free will” (274). While Bercovitch argues that it is with this gesture that the reader learns that “the letter has done its office” (353) and that Hester has been “transformed unaccountably into an agent of social cohesion and continuity” (345), she has, in fact, subverted the Puritan ideal. Famously, Puritans did not believe in “free will”; they trusted instead to divine providence and foreordination. But this is just the first difference between Hester on her return to Boston and the Hester who had consented to marry Chillingworth. Bercovitch suggests that Hester had become an agent of compromise helping to better establish the status quo; in fact, the reverse is true. Hester counseled those who sought her in her remote cottage. As Hawthorne wrote, “She assured them...that, at some brighter period, when the world should have grown ripe for it, in Heaven’s own time, a new truth would be revealed, in order to establish the whole relation between man and woman on a surer ground of mutual happiness” (275). This must be read as a critique of the status quo rather than as any sign of contentedness. Clearly Hester returned to Boston to exercise her speech-act power to promulgate change in the way women were treated.

The force of public opinion that Hester Prynne was strong enough to defy, overwhelmed other women. E.D.E.N. Southworth’s short novel *The Deserted Wife* provides a prime example of how public opinion could be used to force a woman to agree to a proposal of marriage she would not otherwise entertain. In the story, one of the main characters, Sophie Churchill, is told by the new minister in town that she must marry him though she has refused him repeatedly. The chapter in which Sophie learns of Rev. Withers’ designs on her is significantly titled “Magnetism.” The forces he will array

against her are irresistible and seemingly out of the control of human efforts; certainly they are out of her control.

Early in the novel, Sophie is shocked to have the Rev. Withers tell her, “the county understands, and have understood for two months past, that we are to be married soon, Miss Churchill” (18). This, of course, is no proper proposal. Rather than ask for her hand in marriage, the Rev. Withers has assumed that it was already given. Were we to seek a convention to help explain the nature of his announcement to her, we would have to say that the minister assumes there was the tacit understanding of an engagement. This is permissible in speech-act theory because, as Austin points out about gestures and tacit understandings, “these may sometimes serve without the utterance of any words” (76). When Withers complains that Sophie could not possibly have misunderstood his daily visits as anything other than a declaration of his intentions, it becomes clear that Sophie did indeed misunderstand. “Oh, Heaven, no! You never dreamed—I never dreamed of that! Oh, no! I had rather die!” She exclaims. “Oh, Heaven knows I had!” (18). While speech-act theory does not elucidate the differences between tacit agreements and spoken ones, it is clear from Sophie’s reaction that there was in fact no agreement at all. Sadly for her, while there may not have been an agreement in this matter, there has been the appearance of an agreement, and, so far as the Rev. Withers is concerned, this is close enough.

“You have received my visits nightly for three months past—and now, to-night, for the first time, you express a strong and utter aversion to me,” Withers claims. In the facts of the matter, Withers is correct. The implication is that each visit had been one part of a courtship. Sophie could have denied this implication. They had never in all these

visits spoken words of love. Instead, they met as minister and parishioner. Sophie Churchill also helped found the parish school; there were many reasons for the pastor to visit his congregant, and Sophie could have pointed this out to him, but then that wasn't his point at all. The fact that he had visited and she had never refused him allows him to pretend there was a tacit agreement, and society can be none the wiser. Withers reminds Sophie, "I thought the footing we stood upon in relation to each other well understood. You certainly could not have misinterpreted the meaning of my visits here. No one else has misconceived them. Mrs. Gardiner Green inquired of me today when our marriage was to come off" (19). Though Sophie clearly has misinterpreted the meaning of his visits, Withers intends to press his unwanted suit and force the marriage. Telling Sophie that she "certainly could not have misinterpreted" his visits, he does more than place the fault for any misunderstanding on her shoulders. He lets her know that anything less than accepting his suit will be taken as willful miscomprehension, a form of deceit. The mention of Mrs. Green and her expectations about the issue goes to show Sophie that society will also think her deceitful if there is no wedding.

The Rev. Withers makes little effort to veil his threat. Sophie's reputation would be irreparably tarnished were she to refuse his demand. She could expect to lose friendships and even become the talk of the town, known for her loose morals as shown by her having toyed with an eligible bachelor and serious suitor. More unlikely, though not outside the realm of possibility, Sophie also had to consider that had the tables been turned, had she after many visits demanded that Withers marry her, she could have the force of law on her side. Breach of promise suits may not have been terribly common, but

they could serve to highlight that the issue of expectations in a case like this was a serious matter.

Still, the threat of exposure was not the only tool Withers used to accomplish his desired goal. Sophie was within her rights to send him from her house and refuse him further admittance. Her reputation might have suffered, but the main injury of having married someone she didn't love and who freely admitted he didn't love her could have been avoided still. Except that Mr. Withers would not leave her house. To force the issue, Withers sat near her with his arm encircling her waist. This was no lover's hold. As Southworth writes, "She attempted to withdraw herself from the embrace of his arm, but every attempt was punished by a tighter fold" (19). It should be noted that just as this embrace is no sign of love, which Withers calls "that most weak and puerile of passions," but it is also not a sign of lust. By keeping Sophie in his arms, he forces her to give him an answer. In fact, he threatens to hold her until he gets the answer he wants. Once again, the speech-act situation degrades into one in which physical force is used by a white male to deny another access to performative power.

Another sensationalist writer, Louisa May Alcott, depicted a scene in which a suitor attempted to circumvent the right of another young lady to refuse his offers of love. Her early and just recently published novel, *Inheritance*, tells the story of a young ward, Edith Adelon, who, it turns out, in truth is the rightful heiress of her guardian's estate. Before this fact is revealed however, a visiting nobleman, Lord Arlington, vows that he will have her for his wife though she has shown no interest in him. Arlington is captivated by her rare beauty and her "pure and gentle nature," something he is apparently not used to finding in court life. As the narrator tells us, "he pursued this

pleasing novelty as he did all things, careless of the pain he gave and bent on gaining what he sought" (43-44). When he finally makes Edith his offer of marriage, she refuses for the simple reason that she does not love him. This answer fails to satisfy. "He placed himself before her, passionately vowing she should remain till she had given another and a kinder answer" (72). When he presses his suit a second time and is again rebuffed, he detains her once more, not letting her pass. "You shall learn to fear me if you will not love," he tells her (98). Lord Arlington has her cornered against a tree, and the reader cannot tell what violence is averted by the entrance of a male friend of hers. This is another example of a male character drawn as one who is ready to deny a woman's right to refuse his proposal of marriage. Of course, since the novel went unpublished, the claim that can be made as to its power to represent the common mindset on this issue is limited; it may be treated as a piece of private writing. Nevertheless, the idea was in circulation.

For white American women of the mid-nineteenth century, marriage was the single most important factor in determining their speech-act status. By and large, marriage was the most important speech-act situation they would be allowed to face and much of the writing of the period reflects the centrality of marriage in women's lives. In this section, I study the works of several of America's most popular novelists including Louisa May Alcott, Caroline Lee Hentz, Elizabeth Stuart Phelps, Harriet Beecher Stowe, Susan Warner, and Augusta Evans Wilson. Their novels, often with explicitly stated didactic goals making each into a sort of polemical thesis, are coupled here with references to nonfictional works from leading feminists of the day to provide a picture of part of the speech-act situation white women of mid-nineteenth century America found themselves in.

Despite the centrality of marriage in defining a white, American woman's speech-act situation, women did, of course, have lives both before and after marriage, and though it was paramount, the decision to marry was not the only speech-act issue of the time.

Life after marriage came to women in the form of widowhood. Divorces in America during the time studied here were rare. As Victoria Bynum points out, even under what would today be considered extreme circumstances, judges were loath to grant divorces. "In 1857, the court [in North Carolina] overturned a divorce granted on grounds of the husband's physical abuse of his wife, stepchildren and slaves." Earlier, another judge overturned the divorce decree in the case of Ruthy Ann Hansley though she "testified that on several drunken binges, her husband had beaten her, locked her out of doors for entire nights, and continually committed adultery with a slave, once in her forced presence" (71). I am not aware of an American novel from the period that deals primarily with the issue of divorce. Two novels of the period which enjoyed fair amounts of popularity deal with the issue of what happens to women who become widows. In both instances, widowhood is shown to lead to an ultimate release from speech-act subservience.

Fanny Fern's 1855 novel *Ruth Hall: A Domestic Tale of the Present Time* has been called "intensely autobiographical" (Smith xv). The adventures of the central character follow closely those of the author, and the focus is on what happens after a stay-at-home, middle-class wife and mother is widowed. Though there are some pages speaking of the grief involved in losing a loved one, the bulk of the story is concerned with the gritty details of how to earn a living once placed in this peculiar position rather than on more strictly emotional aspects of the circumstance. Many of the difficulties Ruth

faces come from those one would have thought would be most helpful, her in-laws and her own brother. As it happens, the problems Ruth encounters are often limitations or negations of her speech-act power.

After the death of her husband, Ruth must deal with her difficult and demanding in-laws on her own. Having never approved or accepted their son's choice of bride, the Halls are not at all sympathetic with Ruth, doubting even that she grieves deeply. "In my opinion, Ruth is in no deeper affliction than we are," Dr. Hall says while buying clothes and planning to reclaim fruit platters he had sent his son. Ruth's brother, Hyacinth, has never had much interest in her, cutting her to the quick as a child with his sneers and negligence. As a widow, Ruth has certain rights, claims to her husband's estate small as it was, and to the custody of her children. As an adult responsible for her own maintenance, she has certain other rights, for instance, the right to seek employment. But like other rights and claims, these must be worked out as speech-acts in order to ensure that they are handled properly. Both Hyacinth and the Halls, deny Ruth access to these speech-acts, thus denying her her rights. A few examples will make clear Ruth's speech-act situation as a widow.

One of the first speech-act problems Ruth runs across upon becoming a widow involves a minor issue of the division of her husband's effects. The executor of the estate, Tom Develin, gets notice that Ruth's father-in-law would like to have his son's clothes: "a great many clothes, vests, coats, pants, &c., which his wife, no doubt, urged his buying, and which, of course, can be of no use to her now, as she never had any boys, which we always regretted" (91). Develin decides to cede the clothing to Dr. Hall after some small deliberation. "The law is on her side," He tells himself, "But luckily she

knows no more about the law than a baby” (91). When he delivers the note to Ruth, she asks what her rights are, and Develin informs her correctly, noting, however, that “the doctor does n’t bear thwarting...the fact is, Mrs. Hall, in the present state of your affairs, you cannot afford to refuse” (94). The affairs Develin refer to include her lacking the means to press a lawsuit and the fact that her father-in-law is trying to wrest her children from her.

Dr. Hall and Mr. Develin short-circuit Ruth’s access to speech-act power by a combination of strategies. There is first a reliance on her lack of legal knowledge. This does not work, as Ruth gets the necessary information from Mr. Develin, who presumably feared stooping to outright deception in the matter. Next, Ruth is scared away from applying to the justice system. Though the reader knows by this point in the novel that Dr. Hall fears a tarnished reputation, Ruth does not recognize that he might back down from a confrontation in court, especially one he would likely lose. She is, in essence, browbeaten out of accessing performative power that no one denies she has a right to. This circumvention of the norms surrounding the disposal of her husband’s property might seem minor, but it is not. Dr. Hall wants the clothes to lower his tailor bills. He sees the clothes as money. Mr. Develin does as well. When he gets the request from the doctor, his musings include the fact that “with her *peculiar notions*, it is not probable she would sell the clothes.” That is, Mr. Develin sees the clothing as having a ready monetary value and estimates that Ruth would not avail herself of it. Develin refuses to recognize that there may come a time when Ruth might feel differently. She might, for instance, remarry. Or, as the reader finds a few chapters later, Ruth might fall into destitution and need the money the clothes might bring. As it happens, both the

doctor and Mr. Develin are willing to deny Ruth access to the speech-act power inherent in a simple claim for the clothing of her husband because they are greedy. Mr. Develin goes so as to calculate that “The doctor may leave me a little slice of property if I keep on the right side of him, who knows?” With this as his motive, he decides: “The clothes must be sent” (91).

Louisa May Alcott’s novel *Work: A Story of Experience* also deals with the issue of widowhood. It is, in fact, in widowhood that the story’s main character achieves not just freedom, but a field for speech-activity. In this novel, Alcott draws a world in which women are freest when in company unalloyed by the presence of men. Alcott begins her story by having the main protagonist literally declare her independence to her aunt while they working together, making bread. “Aunt Betsey, there’s going to be a new Declaration of Independence” (5). Christie Devon, in her late teens at the start of the story, likes her female guardian well enough, and one gets the impression that were they alone together, she might well feel no need to make any such declaration. Her uncle Enoch, on the other hand, has made her desire her freedom: “Uncle wishes me out of the way; thinks I ought to go, and, sooner or later, will tell me so.”

Christie’s position soon after the start of the novel is of a woman who has left the protection of men behind. She is no longer a *femme covert* having neither father (or male guardian) nor husband. Things go quite badly for her at first. Left to earn her own living, she runs into all the problems of entering a competitive workforce including unemployment and underemployment. She sees also the example of Rachel, a young woman who is, like her, in the workforce and away from male protection. Rachel has run into extreme difficulties, and, in fact, she “once went astray” by her own account (107)

having prostituted herself. It would seem that declaring independence was not a good idea, and Alcott's initial solution to Christie's problems seem to be an renunciation of her status as independent from the need of male protection. At her lowest point, when she is most in danger of committing suicide or (the hint is made) of possibly prostituting herself, Christie is saved by the ministrations of an ardent preacher, the Reverend Thomas Power and the influence of Cynthy Wilkins, a woman who takes her in at this dark hour for Christie's soul.

At this point it would seem that Alcott has strayed from an original intention to show the independent-minded Christie's struggles and triumphs. Rather than succeed while outside of the protection of men, Christie has apparently failed and seeks to resurrect her fortunes under the protection of Mrs. Wilkins and her husband, Lisha. A close look at the marriage, however, reveals something of Alcott's design here.

Rather than have a husband figure who is in charge of the family with the women of the family serving his purposes, Alcott depicts a family in which it is the husband who serves. Let us juxtapose Lisha's vision of his role with what would have been considered more the norm for a husband in mid-nineteenth century America. Though he once showed a spark of aggressiveness and slapped his wife – "It warn't a hard blow by no means, only a kind of a wet spat side of the head," as his wife puts it – Lisha is "as meek as a whole flock of sheep" (147, 151). In fact, his wife defends "her lord from even a disparaging thought" now (137). Lisha is never seen at his place of work in the novel, however. At home, he follows his wife's lead and stays out of her way, rarely opening his mouth to speak at all and never to command. Mrs. Wilkins has found her niche in which she can, as a woman, properly exercise the speech-act authority she wants. Cynthy

Wilkins orders the children about, fires house servants that displease her or whom she can do without, and advises Christie. In the home, not only does a woman get to be a speech-actor, but, like Cynthia Wilkins, a woman may dominate. With this model before her, Christie will duplicate this success on her own.

Placed in a caring home, Christie falls in love with the handsome David Sterling and in relatively short order, she agrees to marry him. David is gentle and kind, so the match is a good one for her if she wants to stake out speech-act parity with her husband. Perhaps more importantly, Christie's union with David only barely fits the name and form of marriage. After a honeymoon of only a few hours, David is off to fight in the Civil War. He is soon mortally wounded in battle, and Christie, a Union nurse, is at his side when he dies. Christie's marriage with David Sterling has fulfilled the conventions associated with marriage – she and David went through the usual ceremony and the marriage was consummated. While the marriage was real enough to satisfy the requirements of the law and custom, it was no more than that. In fact, as a rhetorical device, as a turn in the plot of the novel, it is oddly placed. Neither the wedding nor the birth of Christie's child serves as the end of the story. And of course, they should not.

Though the plot consummated with consummation was a common enough trope in the period, Alcott had another use for Christie's marriage. The reader learns that not only has the declaration of independence that opens the novel not been renounced through the marriage to David, but his death has helped to secure Christie's freedom. The financial security that is denied to her by male employers and by her own Uncle Enos earlier in the story is vouchsafed for her as a widow. Uncle Enos leaves her a small fortune at his death, but, as Alcott writes, "she kept nothing for herself." Dividing the

money among loved ones and charities, she lives on David's pension. With this freedom, and one imagines with the freedom from having someone make decisions for her as a husband might feel entitled to do, Christie can go on to emphasize her hard-won liberty, a liberty secured at the cost of her husband's life, by joining the cause of a more general feminine liberty, attending "many meetings of working-women" (330). It is at the end of the novel and in her widowhood that she can finally describe herself with some pride as "'strong-minded,' a radical, and a reformer" (339). It was at this point that she could be a free speech-actor.

It was during marriage that many women found the most restrictions placed upon them. While before agreeing to marry, women had at least the right to say yes or no to their suitors, and after a marriage was ended in widowhood women could expect a wider range of issues their words carried weight in, during the marriage their decision-making powers were generally stifled. The man of the house made the decisions for the women of the house, both daughters and wife. As in their minority, in marriage women were stripped of the power to make decisions, give orders, and enter into contracts among other things. Elizabeth Cady Stanton's "Declaration of Sentiments," written for and presented at the 1848 Women's Rights Convention in Seneca Falls New York, makes clear some of the issues involved in this usurpation of a woman's rights.

Among the grievances of women against men, Stanton lists "He has made her, if married, in the eye of the law, civilly dead," "He has taken from her all right in property, even to the wages she earns," and "He has never permitted her to exercise her inalienable right to the elective franchise" (*Heath* 1946-1947). Women could not serve as jurors, enter contracts without their husbands' approval, and they could not vote. Each of these

grievances represents not just a legal right lost but also a linguistic limitation. After all, in limiting a woman's right to enter into a contract, one doesn't merely circumscribe her right to buy a house or a horse, but even her right to agree to meet with someone or to open a line of credit with the local grocer. Knowing that the husband was opposed would keep all of society from complying with a wife's wishes in even the most ordinary requests, in much the same way that no one would grant the wish of a slave if his or her master had not given permission first.

Of course, the relinquishing of these rights was understood by many of the day to be an essential part of a happy marriage and of a happy life as a true woman. The second novel by Wilson's character, Edna Earl in *St. Elmo, Shining Thorns [sic] on the Hearth*, asked women to give up "every *psuedo* 'reform' which struck down the social and political distinction of the sexes" (453). Instead, women were to be content to rule their families: "Women reigned by divine right only at home" (453). Oddly, it would seem that Wilson declares her own work as an author out of bounds for true women since they are enjoined "not to meddle with scalpel or red tape, and to shun rostra of all description, remembering St. Paul's injunction, that '*It is not permitted unto women to speak*'" (454). Though the verse refers specifically to speaking in church, Edna Earl is clearly broadening its scope to apply to all public speech; how novels, particularly those with a didactic mission, are exempted is never made clear.

Still, though women of the day may have thought of the sacrifice of speech-act power as necessary or ultimately good, they still thought of it as a sacrifice and sometimes painful in the extreme. We may again turn to Southworth's *The Deserted Bride* for a somewhat exaggerated example of how this sacrifice could be carried out.

The deserted bride of the title is Hagar Churchill. Hagar, whose name is no less symbolic than Melville's Ishmael, marries the man of her dreams, Raymond Withers. Immediately upon their union, he turns on her, showing her a tyrannical side she had little idea existed. As he wants her to make a clean break with her past, and, more importantly, to bend to his will, he requires of her that she rid herself of the horse and dog that she has owned and loved since childhood. When she refuses, Raymond sells the animals without her consent or even her knowledge. When she learns of this, Hagar is at first furious, but her husband grabs her by her arms and threatens her: "When your eagle flaps its wings and beats its cage so violently, I am afraid clipping its pinions and claws will not be enough—I am afraid I shall have to crush it altogether" (96). Later, when Sophie Withers advises Hagar to yield in her anger saying, "There is no degradation in making a sacrifice to love," Hagar maintains that there is degradation in the act. "There is degradation in sacrificing freedom to love—freedom to anything but God's law!" (100). Raymond's assertion of his right to do with his wife's property as he pleased signals the end of happiness in the marriage. Hagar, normally outgoing, is effectively stifled. She refers to herself as an automaton and a slave, and from this point on, her only speech-act power lies in refusing to obey her husband's commands, and, when this doesn't work, she obeys them sullenly.

Often, the popular writings of the day reflect not a desire for more control over speech-act power, but that the relinquishing of this power be appreciated by the husband and that the husband's control in these matters not be exercised tyrannically but with love. An example from the writings of Augusta Evans-Wilson helps elucidate what I mean here.

In *St. Elmo*, the heroine, Edna Earl, is orphaned at the age of ten or so and, after a near-fatal train wreck, comes to be cared for by the wealthy Murray family. The plan is to raise her to some useful end, and she is educated for a governess. This education, at the hands of a kindly pastor, sparks her curiosity, and it apparently includes even the remotest details of all ancient histories, languages, and cultures. Over time, Edna's plans change to include not just being a governess, but also an authoress. She thinks of this as no less than a mission from God. In fact, her ultimate goal is to create an entirely new form of didactic literature, using the entertainment value of the well-told novel to inculcate. As Wilson writes of Edna's mission, "to write *currente calamo* for the mere pastime of author and readers, without aiming to inculcate some regenerative principle, or to photograph some valuable phase of protean truth, was in her estimation ignoble" (141).

At first, she is thwarted in her plans by the machinations of St. Elmo Murray, the world-weary and dissolute hero who has spent many years traveling near and far (mostly far) in an unsuccessful quest for truth. He has an editor friend reject her first manuscript though it merited publication. This is both a test of her resolve and a way of keeping her near him and under his control. As he admits, "Suspecting your literary schemes, and dreading a rival in your ambition, I wrote to him on the subject...I insisted that he should treat your letters and your MS. with such severity as to utterly crush your literary aspirations" (278). Had she been able to sell her material, she might have more easily made her way financially. Without the ability to support herself, she might have been forced into marriage. As it happens, however, Edna was more resourceful than St. Elmo counted on. She worked as a governess, buying herself maneuvering space on the speech-act battlefield – the freedom to reject a suitor without fear of starvation.

Edna struggles through this obstacle and many others, finally becoming financially independent of the Murrays and getting into print. Her first novel both sells well and gains some critical acclaim; she seems set on the path she has unremittingly pursued for the decade since being taken in. St. Elmo, whom she loves desperately but cannot agree to marry because he is dissolute and not much of a Christian, reforms. When she is finally convinced that marrying him would be no sin and perhaps even a duty (in marrying him, she may help complete his transformation) she gives her heart to him. It is at this point that the novel's most serious abrogation of a woman's speech-act authority is witnessed.

Immediately upon marrying, St. Elmo informs his new bride that she will need to give up her literary career though it is becoming a great success: "To-day I snap the fetters of your literary bondage. There shall be no more books written! No more study, no more toil, no more anxiety, no more heartaches!" (489). The desire he expresses here is predictable enough since, after all, he is only playing a part that society might expect him to play, and throughout the book he has just the sort of commanding manner that is shown here. It is Edna's answer to this that is most disturbing to me. She says nothing in reply. She is completely satisfied to fill the role of obedient wife. That Edna is willing to forsake all that she has worked for, writing which St. Elmo approves of on an intellectual basis, just because she is getting married may shock the modern reader (especially one who has been stupefied by the myriad bits of arcana that Edna has thrown about during the previous four hundred pages). It goes to show, however, how completely a woman's will belonged to her husband. More importantly, it shows how actual woman writers of the time did not necessarily disagree with this. Edna Earl realizes that in loving St. Elmo,

she has made him her king. "I have crowned and sceptred him, and right royally he rules!" she despairs when alone (236). Were she to admit this publicly, she would be declaring herself his fiancée, and she would owe St. Elmo her obedience just as any subject owes to his or her divinely appointed monarch. Since she thinks him debased, she will not admit his kingship publicly. Edna refuses to be subject to St. Elmo just because he was a man, but she would if he were a good one. In this way, women are the arbiters of moral goodness, but constrained to a position of subservience to that which is good.

Though, as Susan Harris argues, "in Edna, Wilson has created a character who holds considerable authority in the public sphere" (76), we may conclude that what we have witnessed in this closing scene of the novel is a collapse of Edna's will to independence. This collapse may have been, as Harris points out, a betrayal of the women readers who have suffered with Edna as she grew in knowledge and taken on a successful career. Perhaps a less confounding because more gradual and unintended collapse of will in this way is seen in Elizabeth Stuart Phelps' *The Story of Avis*. In this novel, Avis, the female protagonist, is an artist who, though she vows never to abandon her art, marries. Her suitor agrees with her vow and does nothing overt to cause her to break this promise. The pressures of married life, however, the need to care for a husband and a home along with the children who are soon born, force her to spend less time at her easel. What time she can spend at her art is often interrupted. Avis produces no masterpieces though she showed great promise before her marriage. Once again, the speech-act of marriage helps demolish a woman's will to independence; it is almost as if the act of marriage was by nature debilitating to women. In fact, in the case of Avis, it would appear to be a hereditary disease. Her father tells her that her own mother might

have been a great stage actress. "Under proper conditions she might have become famous," he tells her. "Why, then, should she never have cultivated such a gift?" ventured Avis. 'Because...she married me,'" her father replies (25).

With this forewarning, how did Avis fall into the snare of marriage? Unlike other female protagonists in the novels under examination here, Avis is neither forced nor tricked; instead she is wooed by a good man who is also persistent. Though Philip Ostrander uses persuasion rather than force or guile, the effect is the same and Phelps notes this in the language she uses to depict the courtship. Philip "demanded his hearing out," and when Avis stops short of saying that she loves him, he claims that "If you do not finish your sentence, it must be that you really prefer me to finish it for you" (66-67). When she seems on the verge of consenting to be his wife, Philip "hastened to entrap her in her sweet admission" (106). When Avis holds hands with Philip upon accepting his proposal, it is "as if they had been manacled" (110). After their engagement, Philip tires of waiting for Avis to set a date for the marriage. To force the issue he "prepared for a long and serious contest, in which he had fully made up his mind not to be worsted" (125). Phelps use of this violent imagery is not used to show that Philip is an ogre. Throughout the novel, he almost invariably shows a great sympathy for Avis' plight even as he contributes to her troubles. The language stands as testimony to the fact that marriage as it was then understood was detrimental to the development of a woman into anything more than the life of service to husband and family that society had predetermined for her. The conventions of courtship and marriage include the violence depicted here, a violence necessary to stifle the dreams of women who hoped to carve out a niche for their independence of thought and action.

As it happens, women were not always disadvantaged in their negotiations with suitors. In Harriet Beecher Stowe's novel, *Pink and White Tyranny*, the female protagonist, Lillie Ellis, is shown to be the one in control of the particular speech-act situation of the marriage proposal. Lillie has used up her social currency; she is known as a woman of less than restrictive morals. Unluckily for John Seymour, she is still pretty when he meets her and has learned a few tricks to belie her years. She quickly sizes him up and seduces him; he proposes marriage. "He's a little bald, and getting rather stout," Lillie tells a friend, "but he'll do" (274). Of course, he had no need to propose marriage though he might have felt some pressure in this direction. As Stowe writes of him, "he was a man that all the world spoke well of, and had cause to speak well of. The only duty to society which John had left as yet unperformed was that of matrimony" (268). Still, he could not have felt the pressure that Lillie felt. Still, though the power to initiate the marriage proposal was ostensibly in his hands, there was some deception used to wrest this power from him or at least distort its use. Though he got what he desired, deception was used to elicit this desire. Lillie's position at the point of proposal is a doubly false one – not only is she not exactly the person she represents herself to be (among other things, he thinks Lillie is 20 when, in fact, she is 27) but she also does not love him. In fact, she tells a friend that she is really in love with a cousin of hers, Harry, whom she could have married except for the fact that he is poor. "But, you see, I am one of those to whom the luxuries are essential...In fact, I had rather not live at all than live poor; and Harry is poor, and he will always be poor" (276).

Though it has a male protagonist, E.D.E.N. Southworth's *Ishmael; Or, In the Depths* does not fail to support a woman's right to the effective exercise of speech-act

power. Ishmael, a orphan who most think was born out of wedlock, rises to the height of lawyer by dint of much hard work. In his first case, Ishmael defends a poor woman from her husband, a man who left her to fend for herself and several children some nine years earlier. After this long absence, the husband has returned and wishes to force his wife back to him. Since she initially refuses, he sues to gain custody of the children, knowing that once he has won, she will follow her children to his side. Ishmael's closest friends advise him to take the case on the husband's behalf. As one of them, a Supreme Court justice no less, puts the matter, "In this case the law is on the father's side, and you should be on the law's" (329). Ishmael is told this though the husband left his wife "without provocation and without making the slightest provision for herself and her children" (334). We've already seen that the judge's belief that the law was on the man's side has a legal precedent in the case of Ruthy Ann Hansley whose overturned divorce decree is discussed above. As it happens, Austin would have agreed.

Augusta Evans Wilson's novel *Macaria* provides readers with a complicated view of women's roles in the marriage speech-act. *Macaria* was published in the North and South during the Civil War, and sales were strong even after the war though the work is both strongly pro-Confederacy and severely anti-Union (Kelley 25, 26). That the sales of the novel were strongest in the North suggests that readers were able to overlook the Southern sympathies the book rehearses. Indeed, Nina Baym elides this aspect of the story, saying only that "it is incidentally a strong defense of the southern cause as necessary resistance to tyranny." She notes that "the war functions in the novel's structure as the culmination of the life education of its two heroines, Electra Grey and

Irene Huntingdon" (*Woman's* 286). As it happens, however, the war also serves as a perhaps unintentional parallel to the story's marriage plot.

Wilson's *Macaria* provides one of the more blatant depictions of a male's willingness to abrogate a woman's ability to freely consent to or reject an offer of marriage. In this enormously popular novel of 1864, Irene is pressured to marry her own first cousin, an arrangement which her mammy warns her against: "It is a sin for near kin like you and Hugh to marry, and you ought to set your face against it" (165). Unlike some of the other novels already discussed, in *Macaria* the pressure is not applied by the male lover (who perhaps has the best right to try to undermine the beloved's speech-act power in order to achieve the desired response) nor by any claim to preventable poverty. Instead, Irene Huntingdon's father, a man of lordly wealth, demands that she acquiesce only because he gave his word to his dying sister when the cousins were not yet toddlers. That Irene bend to his will and marry her own cousin is a point of pride and honor to him, but not necessary for any other motive. As he tells her, "it is a child's duty to obey her parent" (115). This is not the first issue in which Irene has shown her independence.

Early in the novel, she visits with the family of Russell Aubrey, the boy she loves and will continue to love throughout the story though her father has a bitter grudge against his entire family. This visit comes after he has sternly warned her against visiting with the Aubreys. When Irene apologizes to her father, he attacks her: "Don't be hypocritical! Didn't I tell you to keep away from those people?" Irene relies on a speech-act nicety to parry this thrust. "Yes, sir; but I did not promise to do so. I am not hypocritical, father" (57). Mr. Huntingdon rages at this response. After all, he hadn't *asked* her to stay away from the Aubreys; he had *told* her to. His previous warning wasn't

a request but an order. As he points out, “What do I care for promises? It was your duty to obey me.” Irene denies her father’s right to order her in this matter, and it is at this point that one may see how the Civil War theme (still more than two hundred pages away from overt introduction) begins to creep into the narrative.

Father and daughter have a union of course, just as all the states had, but what was the frame for this union? In a sense, Irene’s defiance parallels that of the Southern states later. For Irene, authority will not be recognized unless its grounds meet her standards. She tells her father that it was not her duty to obey because, as she puts it “you refused to give me any reason for avoiding Mrs. Aubrey or her family.” Mr. Huntingdon’s reassertion of his authority, “Because I say you shan’t!” is met with a mere “My father, that is no reason” (57). This is the first time in the novel in which Irene asserts her right to be an active participant in determining the nature of the speech-acts that help constitute her place in society. She lets her father know here that she will accept nothing by fiat; orders will be questioned, and if they are not founded on reasons that satisfy her, she will ignore them. The Civil War is not the culmination of Irene’s education that Nina Baym suggests; it does not represent a lesson finally learned but rather a repetition writ large of the book’s central theme as played out from this beginning. The reader may consider Mr. Huntingdon as a tyrannical Lincoln and his daughter as an advocate of a state’s right to nullify federal laws.

If Irene will maintain her right to frustrate her father’s exercise of speech-act authority over her in this small matter, so too in the much larger matter of whom she will marry. When she is of age, she is to wed her own first cousin, Hugh Seymour. Hugh is an oaf. In one typical scene, he forces kisses on her and, when she fails to return his warmth,

he makes threats against those she holds dear. “You would rather see Paragon [her dog] any day, ten to one. I will kill that dog yet, and shoot Erebus [her horse], too; see if I don’t!” (113). Of course, like Raymond Withers in Southworth’s *The Deserted Bride*, Hugh will have to wait until after they are married to carry out his threat. Soon after this use of violent language, Hugh tries to convince Irene to love him saying, “You know you belong to me. Uncle gave you to me,” (114). Both Hugh and Mr. Huntingdon are of the opinion that a father may rightfully act as proxy for his daughter in making a promise. It is an opinion that the daughter does not entirely share. As she explains to Hugh when he reminds her of the promise of marriage, “I never gave it! [...] I cannot, shall not hold myself bound by the promise of another made when I was an unconscious infant” (192).

This argument may seem transparent at first, but difficulties arise when one considers the situation from a speech-act perspective. Proxies are not ruled out by any aspect of speech-act theory though they are normally appointed or put in place through some agreed upon means, as when senators are elected to act as a proxy representing the will of their constituents. Certainly, Mr. Huntingdon was never given explicit consent to promise for his daughter, but it is clear that parents make decisions for their children all the time. This is conventional. Marital arrangements at such an early age may have been unusual, but upon what grounds can Irene reject this particular arrangement? Once again, it appears that a more expansive version of the wedding vow is in mind here than what Austin considered.

To Irene, the promise of marriage is one that only the principals can make. As she explains to Hugh, they were both put in a false position by the pact their parents made: “that which only we could legitimately decide was usurped and predetermined” (192).

She calls their situation a “heartless betrothal,” and in the word “heartless” is the key to her defense against the unwanted marriage. In Irene’s view, a true marriage is based on love and not heartless at all. It is not enough to go through the forms and ceremonies; it must be felt in the heart. This is a source of some debate in *Macaria*.

A significant subplot of the novel involves the marriage status of Electra Grey, Irene’s friend from childhood. Electra is an artist deeply in love with Russell Aubrey just as Irene is. She cannot have him; he does not think of her in that way, and this is clear to the reader from early on. Electra receives a proposal from her art instructor, a man she admires, but whom she cannot bring herself to accept. When he remonstrates, she points out that, “I will be true to my heart...All, or none! Marriage is holy; God, in his wisdom, instituted it with the seal of love; but its desecration with counterfeits makes Tophets, Golgothas, instead of Edens” (132). Clearly, Electra Grey is at odds with J.L. Austin. While for Austin a marriage consists of certain words said correctly by the appropriate people and at the right time without regard to inner feelings, for Electra the lack of regard for those feelings may lead, not to marriage, but to a life of Hell. In fact, the substitution Austin would make of words for feelings brings about not a marriage but a desecration of marriage. The words without the matching emotions are the “counterfeit.” Electra Grey is not the novel’s only character to contrast inward emotion with outward speech.

At one point when Russell Aubrey is bitter because he believes Irene will marry Hugh to please her father, he is reminded that Irene may yet resist. “I cannot believe she loves him,” he is told. “Oh! that is not necessary to latter-day matrimonial contracts; it is an obsolete clause, not essential to legality, and utterly ignored,” he replies (213). But Irene has not ignored it; for her, it is the most essential clause of the entire ceremony

though a court of law may not think so. Again, in marrying one does not say “I do” to a single proposition but to a series of propositions taken together.

The difficulty as the novel draws toward its conclusion is that while Irene is headstrong and unequivocally refuses to marry her father’s choice, it does not follow for her that she may throw aside her father’s wishes in this issue altogether. While she will not marry the man he has chosen for her, neither will she marry the man she loves. While this decision is depicted in the novel as a heroic sacrifice, it could also be seen as freely made decision to keep the full measure of freedom afforded by her inheritance. This, of course, provides an easy way out for Irene. Other women were not as fortunate as she and were obliged to give up the unfettered exercise of their speech-act power and marry for convenience. The novels of the period reveal paths around this difficulty.

Education, or, more precisely, an inadequate education, was one factor that kept women from a full and free exercise of their speech-act rights in the matter of marrying. Wilson’s *St. Elmo* provides a clear example of how the right education can help a woman escape having to marry when she doesn’t want. Unlike Christie Devon, Edna Earl has trained for a definite career; given her (perhaps too) extensive training in the classics, history, Bible and literature, she can find work as a governess and supplement this income by writing. She does not need a husband to live with a modicum of freedom and comfort. In this she is following essentially the same path trod by Ruth Hall and many other female characters of the day who turned their academic educations into economic independence, a realm where their speech-acts carry weight. Edna is, however, helped by the fact that she is an orphan. In other novels of the period, authors structured the family in such ways that an adequate education was nearly impossible for the heroine to achieve.

The main character of Harriet Beecher Stowe's *My Wife and I: or, Harry Henderson's Story*, may be male, but he is sympathetic to the plight faced by the women he meets of marriageable age. Among these is his cousin Caroline. Caroline's character permits Stowe to espouse her ideas on women's education, especially as it relates to marriage, and on women's right to say what it is they would like to do with their lives generally. For Caroline, education is a way for women to escape the Scylla and Charybdis of unloving marriage or fruitless spinsterhood. As she puts it,

I want what any live woman wants; I want something of my own; I want a life-work worth doing; I want a home of my own...the world seems all arranged so as to hinder my getting it. If a man wants to get an education there are colleges with rich foundations, where endowments have been heaped up, and scholarships founded...There are no such for women, and their schools, such as they are, infinitely poorer than those given to men, involve double the expense. (108)

Caroline is something of a model woman in the novel and, along with Ida Van Arsdel, presents a progressive, but by no means radical, view of the Woman Question. These characters have entire chapters dedicated to their development, but Ann Douglas missed their significance in her study, *The Feminization of American Culture*. Douglas argues that in this novel (and in *Pink and White Tyranny*) Stowe has created female heroines who are "frivolous," "completely unschooled," and "'average' with a vengeance" (248). She fails to take into account that at least in *My Wife and I*, Stowe puts forward for the reader's admiration women who are in fact educated (or, like Caroline, seeking education). Douglas, in fact, fails to notice that though Eva van Arsdel may in

some ways appear wholly conventional, she is not the only woman in the novel. Caroline and Ida are not conventional; they argue for a widened sphere for women throughout the story. Douglas's misguided criticism goes so far as to attack the male protagonist of *My Wife and I*: "Harry Henderson has no other function than to provide an audience, a mirror, an adorer for his wife" (250). Embedded in this argument is the idea that women do not have a separate sphere that is natural to them. In fact, without in any way denigrating the domestic sphere, Stowe makes clear in this novel that woman's place might be in the home, but it might also properly be elsewhere.

At this point in the story, Caroline's desired elsewhere happens to be the doctor's office, not as patient, but as physician. This will not be an easy dream to realize. Once again, it is the father that places restrictions on the daughter's ability to move into a wider sphere. In this case, Caroline is kept at home to care for her father's household: "At twenty-one he makes no further claim on any of my brothers; their minority comes to an end at a certain period—mine, never" (111). Refusing to agree to marry then can mean a life of slavery to the father.

Later, we find that Harry agrees with Caroline's dismal view of the woman's position. Though he is a Romantic, he argues with a friend that he doesn't mind so much if a woman decides to marry for money because "the whole world has always agreed to shut her out of any other way of gaining an independence" (155). That is, female education was such that they were forced out of the workforce and into the arms, not of men they loved, but of men who could provide for them financially. When Stowe turns next to Harry Henderson's own love affairs, we see how the inability to enter the

workforce, in fact to enter anything but courtship, circumscribes even a wealthy, privileged woman's ability to speech-act authoritatively.

Eva van Arsdel is rich and beautiful and well educated. "She's killing," as one character puts it (164). None of this saves her from the pressure to marry for money, a pressure which constitutes a distortion of her power to enter into matrimony freely. In this case, the problem is not the father. As Eva puts it, "Mamma and Aunt Maria have a provoking way of talking about it constantly as a settled thing" (212). Here, the restrictions come mainly from her mother and aunt and from the expectations of society at large. These restrictions are working to force Eva into the false position of marrying Wat Sydney, an enormously wealthy man who treats her respectfully and who is in every way respectable himself but whom she does not love. Again, from a speech-act perspective, this factor will not matter much. For Austin, a promise falsely spoken is no less a promise. For the woman involved, however, the wedding vow is not to be taken so lightly.

To promise to love when one does not in fact love is to perpetrate a fraud. Mr. Sydney could reasonably expect to receive love once he has been promised it. Seen from this light, it is clear that unlike what Austin predicates of the wedding vow as speech-act, wedding vow taken without love is not just a promise made falsely but made nonetheless; it is a broken contract. Where a false promise is a speech-act still in play, a broken contract is a complete misfire. Given the sexual contract— love in return for fiscal security— Eva is right to pause before agreeing to marry Mr. Sydney. If she goes through with it, she will be guilty of pulling off a swindle.

Like Wilson's *Macaria*, Caroline Lee Hentz's *Eoline; or, Magnolia Vale* concerns the daughter of a wealthy man who has promised her in marriage. Again, the arrangement was made when the main character was an infant, and, once again, the penalty the woman faces for refusing to marry upon coming of age is being cut off from financial support. If Eoline does not marry the person her father chose for her when she was yet in the cradle, he will cast her out of his house and cut her out of his will. From the novel's opening pages, Eoline is in open rebellion against her father and is soon forced to leave home and enter the world of work as a music teacher at a boarding school. This state of rebellion is painful to both father and daughter, and, of course, Eoline can end this war at any time by simply marrying Horace Cleveland, the man her father has selected. Her reasons for resisting are of interest here.

Eoline sets the fight between father and daughter in political terms. Hentz apparently recognized aristocracy and monarchy to be natural forms of government. In the opening of the novel, Mr. Glenmore is painted in the colors of royalty. His first name is Kingsly, and he is called "majestic" and "commanding" and purple is the color of his velvet slippers. At this early stage in the novel, Eoline is depicted in different terms. Eoline flits and warbles. She is birdlike and will not be spoken of in royal terms until she has declared her independence and gone off to work as a music teacher at a private school for girls. It is there that she is crowned as May Queen and, as one character puts it, she is "enthroned in [her] regal bower, the object of such adoring homage" (94). The mistress of the school she works for has the students learn about the great monarchs of history like Caesar and Peter the Great. Miss Manly, the mistress, prefers her peacocks to her dog, Fido, "an exceedingly democratic quadruped" (100).

In the end, the contrast between monarchy and democracy may only be important in this novel because Hentz seems to imply first that aristocracy and monarchy are natural forms of government and then that the nature that makes a man a king is the same nature that makes a man the best choice for a husband. But if Mr. Glenmore is a king at the start of the story, then how dare Eoline resist him? Does she not owe him obedience? Well, yes and no.

Eoline owes her father obedience except in those things in which she owes a greater or more important obedience to God. Her father may rightfully rule over her, but God rules over all; her father's authority does not extend into areas God has expressly forbidden. As Eoline says when her father asks how she dares to defy him, "I dare when your will is contrary to a higher will" (10). To Eoline's mind a marriage is primarily an act before God. Given this view, her father has as little right to command her to promise anything falsely as he does to order her to steal for him. In fact, in Eoline's view, stealing is just about what she is being asked to do in marrying Horace. In marrying, Eoline would be taking away Horace's right to happiness.

Again, marriage is not seen as a vow one can make unilaterally. It is a contract, and by rights both parties must gain from it. Though it is clear (and natural) that her own happiness is her main concern, Eoline does express concern for the happiness of Horace. She points out to Horace that "My own happiness I might have relinquished, but I had no right to involve yours in the sacrifice" and "It was for your sake even more than my own, that I have taken the extraordinary step which has freed me from parental authority" (61). Later in the novel when she begins to have romantic feelings for Horace, she still will not consent to marry him because she has been led to believe that he does not return her

affection. Once it becomes clear that young Mr. Cleveland has grown to know and love her, Eoline is ready to marry. By this time, however, a different problem has arisen and needs to be dealt with.

In her time at the boarding school, Magnolia Vale, Eoline has grown to have feelings for St. Leon, a young man who also has a great singing voice and teaches in the school as well. It does not take her very long to find that he is not right for her – his delicate voice and beauty are at first attractive, but the fact that he quails at the sound of thunder and faints at lightning is enough to turn Eoline off to him. She is sure Horace would not do this.

While St. Leon is recovering from the aftereffects of a particularly nasty storm, his doctor tells Eoline that only her profession of love has any chance of saving St. Leon's life. Since she doesn't love him, and she has a fairly high moral standard which forbids deception, it would seem that the invalid is doomed. Eoline gives in to the doctor's pressure, however, telling St. Leon "Live, St. Leon, and live for me" (185). St. Leon obliges her, and both consider themselves bound by the implication of love in Eoline's words; St. Leon is overjoyed at the prospect of marriage that her words open up before him (how else can he construe her words), but Eoline is distraught. She cannot bring herself to admit that she has in fact lied in misrepresenting her feelings to St. Leon even though she could have as excuse the extenuating circumstance of his illness. Again, some views of speech-act theory would not admit of extenuating circumstances. If "live for me" is understood as "marry me," then Eoline has made an offer that according to the conventions of the age could not honorably be retracted. Understood from a speech-act perspective, the words Eoline spoke at the side of St. Leon's sickbed represent an

enormous personal sacrifice; she has entangled herself in an engagement she did not want. Another circumstance in the speech-act situation between Eoline and St. Leon is soon revealed and frees her from her obligation.

As pointed out earlier, for a speech-act to be valid the appropriate persons must carry it out. In the case of a declaration of romantic love or a marriage proposal, the persons involved must be otherwise unengaged. The alternative is what Austin calls a “Misapplication.” He uses just this situation as an example, saying, “we are not in a position to do the act because we are, say, married already” (16). As we’ve seen, the bonds created by a simple declaration of affection were considered as serious and permanent as those brought about by the marriage ceremony. It turns out that St. Leon has already declared his love for another woman. Though this relationship had not been sanctified in a wedding or otherwise consummated, by the conventions of the day he could not freely enter into another relationship. Eoline learns of this previous relationship and reminds St. Leon of his obligation, saying, “Since I have learned all this, St. Leon...I have resolved to restore her, if possible, the love which *should* be hers, as the price of her sufferings and her faith” (234). While she tells St. Leon that her main interest is fairness to the young lady he had earlier toyed with, it is clear that she is relieved to find her own speech-act had been invalid through no fault of her own.

Eoline might also have taken relief from a speech-act lesson her father learns while she is in exile. In conversing with a friend, Kingsly Glenmore reveals that Eoline has been banished as punishment and that the sentence is irrevocable. When the friend remonstrates, Kingsly’s will is nearly broken: “If I had not pledged my word,” he says, “A word never yet broken!” The friend points out exactly how foolish this obstacle is:

“Away with such sophistry...The word spoken in passion is no more binding than the oath of a maniac” (116). The father agrees to this and one suspects Austin and Searle would as well. If the oath Mr. Glenmore made is not binding, then clearly neither is any word spoken by Eoline at what she thought was St. Leon’s deathbed, words she spoke under the greatest pressure.

As it happens, however, other novels of the period show clearly that education was not the solution to every problem of inequality. The heroines in Augusta Evans Wilson’s novels, for instance, all tend to receive extraordinary educations, but it avails them little. This many cases even women with brilliant intellects must flee in order to find a situation where their speech-act power is equal to their abilities.

While all the novels surveyed here lamented woman’s circumscribed speech-act power when it came to marriage, there was disagreement concerning other important speech-act situations. According to all the authors, women should be guaranteed the right to decide about marriage without outside pressures. They also all felt wives should be respected by their husbands, but they did not all think women should have the right to vote. Augusta Evans Wilson was, in fact, adamantly opposed to women’s suffrage.

Two reasons are most often given for opposing women’s suffrage. On the one hand, there was the philosophy of separate spheres for men and women. On the other hand, there is the idea that women were adequately represented by their husbands and fathers. As we have seen, popular women writers of the day did not generally fall in line with this view. Putting aside the purely economic motive for writing, the authors I study expressed a desire to be heard precisely because their views were not being represented by husbands and fathers. As Elizabeth Cady Stanton phrased it in her “Declaration of

Sentiments,” “He has compelled her to submit to laws, in the formation of which she had no voice” (1947).

Once again, Harriet Beecher Stowe presents a compromise to the issue of the vote. As many had been for gradual emancipation of the slaves, Stowe used various characters in her *My Wife and I* to advocate gradual suffrage. As Ida van Arsdel, a moderate feminist in the story, puts it, “I hope never to see women in public life until we have had a generation of women who have some practical familiarity which are now to be considered, about which now the best instructed women know comparatively nothing” (265). The sole character demanding immediate political equality is a caricature of a radical feminist called Ms. Audacia Dangereyes. This character is, as her name suggests, dangerous. She is an advocate of free love and immediate equal rights in all respects for women. Eva remarks of her that it is “horribly disagreeable...to have such women around. It makes one ashamed of one’s sex” (266), and this assessment meets with general approval. It is clear that Stowe agrees that she and the real women she was modeled upon pose a danger to something. Again, the proper path to equal speech-act power is education. As Ida says, “I think the gift of the ballot will come at last as the result of a superior culture and education. And I am in no hurry for it before” (261).

Stowe’s plan for gradual suffrage does have the following flaw: it is possibly so gradually to be implemented that it would never arrive. Ida goes on to argue that “laws have been made by fathers and brothers and husbands; but no man, however near, ever comprehends fully the necessities and feelings of women” (265). This position echoes that of Lydia Maria Child in an 1867 letter to the editor: “admitting that, when a woman marries, and thus becomes ‘dead to the law,’ she chooses an elector to vote for her; what

manifold changes may take place in affairs, and in his character, if they live together twenty or thirty years! How many chances are there that he will cease to represent her views" (400). Child also believes that "suffrage ought to rest on an educational basis" (396). But if, as is suggested, women have no true advocates among men, then how is women's education to improve unless they first have the vote? This problem is actually played out in the novel on a small scale. Harry's cousin Caroline desperately wants an education but is restrained from pursuing one by her father. Does she approach him to plead her case? No. That, she says, would be pointless. Instead she has Harry intercede for her. The man's voice is effective in securing Caroline a tutor for the medical studies she wants to pursue. Projecting this plan of action onto the larger scale of national policy, women will all need to wait until there is a critical mass of enlightened men championing the cause of women's suffrage before any headway could be made in this area.

A woman's lack of education and the silence that is expected of her on that account is a subject of Elizabeth Stuart Phelps 1871 novel, *The Silent Partner*. The story also provides another look at how difficult life could be for a woman without the protection of a man, even, as in this case, if the woman has been left financially well off. The silent partner of the title is Perley Kelso, a young woman who at the start of the story has been left an orphan and part owner of a factory. This might seem to be in some ways an ideal situation. Perley has no man in her life to master her, and she is independently wealthy. In this, she resembles Christie Devon at the end of Alcott's *Work*, and like Christie she should be ready to do good in the world. In this case, however, while no one disputes her right to ownership in the factory or her right to make and keep money, they do wish her to have no active role in the factory management. As one of the active

partners puts it, “your father dies. Maverick and I reorganize the firm in our own way: that is our affair. You fall heir to a certain share of interest in the business: that is your affair. It is for you to say what shall be done with your own property. You are even quite at liberty to withdraw it entire from the concern” (59). From the novel’s earliest chapters, Perley is silenced when it comes to any speech-act that might influence how her company is run.

There might at first seem to be a very good reason for silencing Perley Kelso. After all, unlike Ruth Hall, Perley’s words here can ruin a company losing profits for investors and throwing many out of work. Perley has not been especially trained for her position of power, and a person with no practical experience in running a company should perhaps be silent when it comes to decision making. In this light it would seem that this is a case where though a person’s speech-act power is limited it is with good reason and not merely on account of gender. When she argues to be made an active partner, one of the other partners puts matters to her bluntly: “Even if you possessed ... all other qualifications, which you cannot, for this ridiculous partnership, you lack an absolutely essential one, - the acquaintance of years with the business” (65). But then profits are not everything in a company, and even if they were who should say that they always must be? It is, of course, up to the owners of a company to say what the goals of the enterprise will be. This long-range strategy could conceivably include being of benefit to the workers, unprofitable as this may sound. It is just this part of running the company that Perley should be most involved with even if she does not know much about the day-to-day operations. It is just this part of running the company that she is shut out of. Once again, the orphan, though she is the part owner of a factory and wealthy, cannot

speaking her mind effectively and is certainly not allowed to speak illocutively to bring about changes in the working conditions.

Amy Dru Stanley has recently argued that in the period following the Civil War the concepts of both wage labor and marriage underwent fundamental changes as America adopted the idea of “contract as a worldview” (x). As Stanley explains, “many critics of postbellum life used slavery as a metaphor to assail conditions in both the North and the South” (xi). Among those who used slavery in this fashion, even before the Civil War, were women authors complaining of the position women held in relation to men. Caroline Lee Hentz and Augusta Evans Wilson, defenders of race-based slavery, created heroines who refused to be slaves to their fathers in the matter of choosing a husband. Both Eoline and Irene Huntingdon were able to rebel effectively even though their fathers were inflexible men and slaveholders who presumably would not countenance rebellion from their slaves. Eoline and Irene claimed not to be slaves and, when push came to shove, both were willing and able to separate themselves financially from their parents, willingly parting with the chance to inherit fortunes as the purchase price of freedom. This, of course, is not a path every woman was able to follow in mid-nineteenth century America. Not every woman was an heiress. For most of the period in question, “slave” was an apt description of woman’s position in society.

As Stanley shows, the period of emancipation brought about changes in the status of white women as it did for freedmen though perhaps not as quickly or dramatically. Still, the change is worth noting. “Onetime masters lost property rights in the service of dependents as wives and ex-slaves were entitled to sell their labor and own their wages. And these acts of emancipation occurred almost simultaneously” (199). This change

came about in large part through the political agitation of feminists working for equal rights and women's suffrage – women who took a road to change largely discredited by authors like Stowe and Wilson as unfeminine and unnatural. The change came in the form of Married Women's Property Acts passed by state legislatures in the post war era. "By 1887, some two-thirds of the states had enacted earnings laws; though a few dated from before the Civil War, the great tide of reform came afterward" (199). These laws generally allowed women to keep their wages and many of them gave women to do with these wages as they pleased, that is they protected a woman's right to enter into contract not just to earn but also to spend.

The Married Women's Property Acts gave average American women the ability to create a speech-act environment in which they were the equals of men. In hiring themselves out, they could negotiate wages and terms of service. In making purchases, they could promise to pay, they could demand refunds, and they could order goods to their liking. With these rights there was a growth in concomitant rights – the right to sue in court when defrauded, for instance. But not only was woman's speech-act scope opened in issues of money; with greater control of their financial lives, women would have been better able to resist the offer of marriage until they were sure they wanted to marry. Once married, they would have been able to resist the absolute domination that men had previously exercised with impunity. A Frank Withers could no longer legally sell his wife's horse and dog, a Hugh Seymour could no longer to kill these same; the marriage speech-act, therefore, held fewer terrors in store.

Though many of the most popular novels discussed here did not advocate effective solutions to the speech-act problems faced by women in America then, they did

manage to present the problems as problems and not as simply the way things were and had to be. Individual heroines found answers to their problems which were often highly specific to their circumstances; that is, the authors often relied on coincidence or sudden changes of heart. Some female characters found that they really did want to marry the man their fathers had inappropriately chosen for them. Others married husbands who promptly went off to war and died, leaving comfortable homes and pensions behind. Still others found that they could be paid well for their musings and live independently of men altogether. These solutions were not easy for the average reader to duplicate. For them, the remedy for their speech-act inferiority would come through agitation leading to legislation. The novels discussed here may be credited with more than just helping to inform women of the time of the problems they might face in the world outside their homes. These novels were also exhortations to resist speech-act domination for their and their sisters' sake because they were not alone in their discontent.

Conclusion

Throughout this dissertation, I have revealed some of the similarities found in the writings of the three very different groups I have studied. Native Americans, slaves, and white women all depicted in writing a struggle to attain performative parity with adult, white males. Each group I studied resorted to some of the same tactics. They appealed to the conscience of the public, they asked their oppressors to put themselves in the place of the oppressed, and, in the end, they not infrequently turned to separation when no other tactic availed. Some of the specific speech-act problems were similar as well. Indians, slaves and women often faced troubles when trying to exercise speech-act authority over property, for instance, so that their ability to perform contracts and sales was impeded. These similarities highlight one of the problems I faced before writing a single word of this project.

When I first approached this project, I had confidence that it was important for reasons that I hope are clear by now. Two different modes of addressing the issues involved immediately presented themselves to me, and I had to make a decision. Each mode had advantages and disadvantages, so the choice was not easy. On the one hand, I could approach the speech-act problems faced by Indians, slaves, and white women separately in different chapters. This is the mode I choose, but it has the downfall of being somewhat redundant. As I've said, each group fought to gain control of illocutive forces that concerned property rights, the right to contract freely and effectively. This was a serious issue for each of the three groups in America's first century. One of the strengths here was that in this very redundancy, it might become clear just how important the issue was.

On the other hand, I could have written chapters that had as their focal points the issues rather than the groups. In this way, I would have written a chapter on marriage vows and another on property rights and a third on naming. The strength here is an obvious lessening of redundancies. But I thought the weakness here too great. While the dissertation would have a certain compactness, it would have been brought at the price of highlighting the differences rather than those things that united members of the three groups. This format would have shown that while all three groups were heavily involved in the fight for speech-act power that controlled property, only slaves and women were trying to control their right to marry freely. Again, only slaves had serious and widespread problems that concerned the naming process. When I made my decision to work in the first mode rather than this one, it seemed that this mode would have effaced the practical political efforts that Northern white women made on the part of the slaves or Frederick Douglass' feminism. This may have been a moot point since I made scant use of these and related factors in the end.

I choose to highlight the similarities, but what, then, are the differences between the struggles of the three groups? I think one of the most important differences is the distance the groups were able to achieve in separating themselves from white men. I do not mean merely geographic distance though I do not exclude that. Consider, for a moment, the role of fatherhood in these matters. From the earliest days of the United States, the Native Americans were encouraged to think of American presidents as their Great Father. This is clearly figurative language, and the Indians were free to treat it as such. They could reprimand the Great Father for not fulfilling his promises. Indians could even make use of this figurative language to point out that the Great Father was not

dealing equally with the different tribes of his Red Children. In making the decision to move West or to take up arms against the whites, Indians did not have to feel that they were breaking any emotional bonds with the Great Father.

The situation is slightly different with the American slaves. Often, as in the case of Frederick Douglass, the slavemaster was the literal father of the slave. This potential emotional bond was rarely, if ever, fully developed. It does not take many kicks from the father to turn a child's heart from love to hatred. Escape, a declaration of independence carried out through actions, was not difficult to contemplate. The slave owner may have been the physical father of the slave, but the father did not usually admit this relationship. Even when the consanguinity was admitted, it did not always foster an emotional bond, and it never protected the slave from the cruelty inherent in the peculiar institution. Like the Indians, slaves faced many difficulties in separating themselves from white American males, but they did not suffer an emotional bondage to their masters that conflicted with their desire for freedom. The same conventions that insured that the master would not get overly attached to the slaves he owned insured that the slaves he owned would never be emotionally attached to him. White American women, however, were different.

When a white American woman declared her independence, it was often from a literal father who could sincerely claim to want nothing more than his daughter's long-term happiness. The influence exerted by her father may well have been oppressive, but it was also seen as natural and a sign of genuine concern. At the very least, most in society would have agreed that a daughter owed her father obedience. In any event, the rule of *femme covert* required that the virtuous woman stay under the control of her father until her wedding day. Even if one could put aside the very real and admitted emotional bonds,

society still tied the daughter to her father. Then there was the other aspect of fatherhood, the fact that fathers forgive their daughters and accept them back in to the bosom of the family; this helped to keep daughters from becoming independent. While many runaway slaves returned voluntarily to their masters when life away from the plantation proved difficult, this move was often followed by serious repercussions that might include a whipping, starvation, and being sold away from friends and family. None of this awaited the repentant daughter who submitted to her father's will.

There were other differences among the three groups in their fight for illocutive force. The fatherhood trope highlights an even more basic difference. The differing relationships the groups had to white males – from the Indians' figurative kinship, to the slaves' uncertain kinship, and finally to women's very real though difficult kinship – meant differing positions of power from which to begin the struggle for a performative voice.

The Native American tribes began America's first century with the status of independent nations. They were, technically, co-equals with France or China. At first glance, this may seem to have been a favorable position. As independent nations, the Indian tribes should have been protected from the depredations of American citizens. They should not have had to fear having their lands encroached upon, for instance. But then, the United States government did not fear war with the tribes or losing their trade when there was so much land to be taken in compensation; they would have feared these things with France. Unlike China, the Indian nations were not ten thousand miles away. By being independent nations and not citizens of the United States, Indians were merely obstacles to expansion without rights that most Americans felt obligated to recognize. In

looking out for the interests of American citizens, the United States government could feel justified in taking advantage of any foreign nation. The Native American tribes fell victim, in part, because they were defenseless and near.

The position of the slaves in arguing for speech-act power was perhaps even less fortunate. The individual slave had the backing of no nation. Slaves were not technically or theoretically the equal of any free white American. As we have seen, the bargaining power of slaves did not come from laws or customs or any sympathy they might have been able to evoke from their masters. Instead, slaves were put into a position of having to rely either on violence or deception or their masters' weakness in the face of public opprobrium in order to gain even a modicum of speech-act power. Unlike Indian tribes that clashed with federal and state governments, entities that had their bases miles away and might or might not send troops to enforce their will, slaves fought, sometimes literally, with their masters and overseers living on the same plantation. The whips, clubs, guns, and dogs of the whites were always present. For the slaves, the fight for speech-act power was hand-to-hand combat, and the blood that spilled was real.

In the plight of white women, there was never blood being spilled. Through coverture women attained a strange equality with the men in their lives. Women were so far equal to their husbands or fathers that their identity was completely effaced. In marriage, a woman lost her individual identity, and her husband spoke for her. Like slaves, women fought for speech-act power as individuals. Unlike slaves, women carried out this fight against people they had natural, emotional bonds with. Also unlike slaves, violence and deception did not play a part in women's tactics though these might be part of the strategy used by men. The situation women found themselves in was also similar to

that of the slave in that they had to contend with both a man with whom they lived in close quarters and society at large. A major difference between slaves and white women revealed in the narratives I studied was the fact that while society might strongly disapprove of a white woman who declared her independence, that woman was often prepared in advance for just such a move. That is, either by virtue of education or inheritance many of the female characters I studied were enabled to live on their own and decide for themselves exactly which speech-acts they would enact.

In conclusion, however, though Indians, slaves, and white women began their quest for illocutive force from different positions relative to the white men who wielded it, and the three groups used different tactics to achieve their goal, I wanted to stress that the goal was, in a general sense, the same for all of them. Members of each group wanted to be recognized as equal to white men in illocutive transactions. Eventually, they wanted to earn this recognition by declaring their independence, by showing that they did not need the white men to validate them. Members of these oppressed groups seized performative power and claimed it for their own without asking or waiting for permission. Sometimes this move backfired as when the Cherokee constitution was ignored by the American government or when runaway slaves were captured and returned. This circumstance often occurred after the collapse of the speech-act situation. When the white men could not retain mastery by working within the accepted parameters of speech-act conventions, they broke the rules to maintain their control over their slaves, the women in their lives, and their aboriginal neighbors. That the rules had to be broken in order to maintain the *status quo* may be the best evidence that slaves, natives, and women had made their case effectively and earned the equality they sought. Had they not

been equals, had they been excluded still from inclusion in the phrase “We the people,” there would have been no need to change or break rules. Perhaps that is the only lesson of this dissertation – it is by claiming and declaring that freedom and independence are gained; those who fight for equality earn it by doing so.

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