

CONJUGAL RIGHTS IN FLUX IN MEDIEVAL POETRY

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This study explores how four medieval poems—the Junius manuscript’s *Genesis B* and *Christ and Satan* and Geoffrey Chaucer’s *Troilus and Criseyde* and *The Parliament of Fowls*—engage with medieval conjugal rights through their depictions of agentive female protagonists. Although many laws at this time sought to suppress the rights of women, especially those of wives’, both pre- and post-conquest poets illustrate women who act as subjects, exercising legal rights. Medieval canon and common law supported a certain amount of female agency in marriage but was not consistent in its understanding of what that was. By considering the shifts in law from Anglo-Saxon and fourteenth century England in relation to wives’ rights and female consent, my project asserts that the authors of *Genesis B* and *Christ and Satan* and the late-medieval poet Chaucer position their heroines to defend legislation that supports female agency in matters of marriage. The Anglo-Saxon authors do so by conceiving of Eve’s role in the Fall and harrowing of hell as similar to the legal role of a *forespeca*. Through Eve’s mimesis of Satan’s rhetoric, she is able to reveal an alternate way of conceiving of the law as merciful instead of legalistic. Chaucer also engages with a woman’s position in society under the law through his representation of Criseyde’s role in her courtship with Troilus in his epic romance, *Troilus and Criseyde*. Chaucer disrupts his audiences’ expectations by placing Criseyde as the more agentive party in her courtship with Troilus and shows that women might hope to the most authority in marriage by withholding their consent. In his last dream vision, *The Parliament of Fowls*, Chaucer engages again with the importance of female consent in marriage but takes his interrogation of conjugal rights a step further by imagining an alternate legal system through Nature, a female authority who gives equal consideration to all classes and genders.

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CHAPTER 1

INTRODUCTION

Marriage is an institution not easily defined. In Anglo-Saxon England, marriage often meant a union between competing clans to foster peace. Due to the passing of statutes in favor of *maritalis affectio* (marital affection) derived from Roman law, the later Middle Ages witnessed the development of a contractual and consensual model from the earlier “aristocratic” one. Today, marriages include those based on consent, which are celebrated in houses of worship or state, and those based on cohabitation, which are defined as “common law.” Contemporary issues in marriage are, in some ways, not that different from those in the Middle Ages. In particular, the institution of marriage is still one that the law seeks to define and regulate. One such example may be found in the recent legislation passed in different American states, which have chosen either to endorse or prohibit same sex marriage. While the medieval church and state would never consider same-sex union under the auspices of the sacrament of marriage, it would understand one of the two parties entering into said union as unequal and inferior to the other. Medieval law, for example, circumscribed the rights of wives and propagated legal fictions such as the “unity of person,” which understood a wife to be an extension of her husband.¹

The rise of scholarship concerning literature and the law emphasizes the symbiotic relationship between the two and asserts that medieval literature is constructed out of medieval legislation. Emily Steiner and Candace Barrington, “strive to rethink the analogy between literature and the law by developing innovative approaches to diverse medieval texts,” by considering how authors reimagined and meditated on specific legal regulations concerning women in their writing in order to highlight literary projects that negotiate representations of

¹ For more on this legal fiction, see Kathleen E. Kennedy, *Maintenance, Meed, and Marriage in Medieval English Literature* (New York, NY: Palgrave Macmillan, 2009), 32.

women and their actions as subjects exercising newfound rights.² By not only exploring the impact medieval law had on literature but also by concentrating on how these laws affected the representation of female literary characters from the Anglo-Saxons to Chaucer, I build on Steiner's and Barrington's scholarship and gesture towards that of Richard Firth Green, who argues that the literature and the law are parallel discourses.³ While Steiner, Barrington, and Green have thought about the similar production of literature and law, there is still a dearth of scholarship that considers the evolving legal system in relation to the perception of female autonomy in the Middle Ages. This thesis attempts to fill this gap. To do so, I focus on important differences between canon and common law that invite early and late medieval authors to mobilize women in their works as opponents to unappealing legislation. These agentic female protagonists ultimately promote legislation that reinforces gender egalitarianism in marriage.

Canon law in Anglo-Saxon and fourteenth-century England supported a certain degree of female agency in marriage. Under Anglo-Saxon law, wives received more inheritance rights than they did in the fourteenth century. As seen in the law codes of Wulfstan and in *V Æthelraed* and *VI Æthelraed*, wives, with or without their husband's discretion, had the authority to retain property after their husbands died.⁴ According to canon law a century later, the importance of the dual consent between a man and women entering a marriage began to be emphasized, even though widows' property rights became less stable due to its transition into the common law's

² Emily Steiner and Candace Barrington, *The Letter of the Law* (Ithaca, NY: Cornell University Press, 2001), 2.

³ Richard Firth Green, *A Crisis of Truth* (Philadelphia, PA: University of Pennsylvania Press, 1999), xvi.

⁴ For more on Wulfstan's interest in widow's rights, see Stephanie Hollis, "The Protection of God and the King': Wulfstan's Legislation on Widows," *Wulfstan, Archbishop of York: the Proceedings of the Second Alcuin Conference*, ed. Matthew Townend, *Studies in the Early Middle Ages* 10 (Turnhout: Brepols, 2004), 443-60.

jurisdiction.⁵ By the fourteenth century, the church's legislation on mutual consent was cemented and statutes in favor of *maritalis affectio*, were enforced.⁶ In spite of clerical antifeminism, canon law continued to promote female rights in marriage more than the common law despite the reduction of wives' and widows' property rights at the beginning of the fourteenth century. By considering shifts in the law from pre- to post-conquest England in relation to wives' rights and female consent, my project asserts that the authors of *Genesis B* and *Christ and Satan* and the late-medieval poet Chaucer position their heroines to defend legislation that supports female agency in matters of marriage. In doing so, these writers launch nuanced critiques of the statutes that demean female agency in marriage. Without understanding the relationship between medieval law and gender in these works, we cannot fully comprehend the way marriage roles, especially the rights of wives, are reimagined as fluid in the texts. Moreover, we are unable to imagine an alternate legal system, which supports merciful and equitable judgment, that these authors envision and articulate through their female characters.

The unsolidified state of marital laws in the Middle Ages influences the representation of women in the poetry of the period. In recent scholarship on women in medieval works, literary critics are turning a critical eye to the female voices depicted in the texts. In doing so, many have found that these female characters articulate a rhetoric of resistance to patriarchal ideology centuries before their complaints would be realized. As England's legal system evolved, it sought to define certain power hierarchies. Although both early and late medieval laws restricted women's authority, writers still depict agentive female characters who assert their will through

⁵ This point on dual consent may be seen in the canon law text assembled around the year 1140 by the canonist Gratian, *Decretum* c. 27 q.2 c.3, printed in Emil Friedberg, ed. *Corpus iuris canonici*, 2 vols. (Leipzig, 1879; reprint, Graz: Akademische Druck-U. Verlagsanstalt, 1955, vol. I, 1073); for the English translation, see Conor McCarthy, *Marriage in Medieval England: Law, Literature and Practice* (Rochester, NY: The Boydell Press, 2004), 22.

⁶ For more on this legal term see McCarthy, *Marriage in Medieval England*, 95.

their use of legal techniques and rhetoric. The discrepancy between the law's restrictive definition of female rights and medieval authors' fluid depiction of them exposes authorial curiosity in the tenuous legal relations of the period. Although legal rights and gender notions vary from tenth- to fourteenth-century England, the anonymous authors of the Junius Manuscript's *Genesis B* and *Christ and Satan* and Chaucer in *Troilus and Criseyde* and *The Parliament of Fowls* all reimagine female autonomy as a crucial part of conjugal rights and reify a woman's agency relative to the law.

This project is divided into five chapters. In the second, I explore two particular poems included in Oxford, Bodleian Library MS Junius 11 (also called the "Caedmon manuscript"), *Genesis B* and *Christ and Satan*, and proceed through a close reading of both to posit that the Old English versions of the Fall and harrowing of hell position Eve in a role similar to that of an Anglo-Saxon *forespeca*, or legal advocate. Furthermore, I assert that they align her rhetoric with an understanding of the law that is merciful as opposed to legalistic and thereby reveal that female agency is aligned with the Christian church. The subsequent two chapters perform close-readings of Chaucer's *Troilus and Criseyde* and *The Parliament of Fowls* to expose his concerns about the tenuous laws regarding wives in medieval legislation and his critique of patriarchal marriage ideology. All of these poems, although conceived of in different centuries, reveal a manner in which wives might have been able to navigate legal regulations in the Middle Ages.

While in recent years an outpouring of historical scholarship has been produced in relation to gender in Anglo-Saxon England, scholars have overlooked understanding female agency as they have mainly addressed the relationship between the two disciplines. Accordingly, my second chapter, "Eve as *Forespeca* in the Junius Manuscript's *Genesis B* and *Christ and Satan*," argues that Eve's transformation into a role similar to that of an Anglo-Saxon *forespeca*

discloses a manner in which Anglo-Saxon women, especially queens, might have been permitted to posit legal agency. In order to suggest that Eve's agency is best derived from her role as a *forespeca* in the poem, I compare her to the only woman known to be an advocate in Anglo-Saxon England during the time the Junius manuscript is alleged to have been compiled, Queen Ælfthryth. The historical figure of Queen Ælfthryth illuminates Eve's role as advocate by demonstrating that queens had the potential to serve as *forespecas* in Anglo-Saxon legal matters. Although many of the Old English law codes subordinate a woman's role in marriage to a man's, there were still avenues in which wives might overcome their constrained positions. Instead of highlighting the subordinate position of women in Anglo-Saxon law and criminalizing the character of Eve in the Fall like most versions, the authors of the poems decide to depict an agentive female protagonist who is able to carve out a new rhetoric for female agency through her observation of the law as fluid.

In chapter 3, "Gender Legal Fictions in Chaucer's *Troilus and Criseyde*," I explain that by defamiliarizing aspects of both the historical story and the power dynamics between *Troilus and Criseyde* in his translation of Boccaccio's *Il Filostrato*, Chaucer critiques patriarchal ideology and its subsequent laws. Many critics acknowledge that Criseyde posits agency in *Troilus and Criseyde* but do not consider medieval law in relation to her autonomy in the poem.⁷ This is a critical oversight since *Troilus and Criseyde*'s interest in female agency is closely related to its engagement with medieval law. Bearing this in mind, I consider the legal context during the period of 1382-86, when Chaucer is thought to have composed *Troilus and Criseyde*,

⁷ On Criseyde's agency, see Louise O. Fradenburg, "'Our owen wo to drynke': Loss, Gender, and Chivalry in *Troilus and Criseyde*," in Shoaf and Cox, eds., *Chaucer's Troilus and Criseyde* (Binghamton, NY: Medieval and Renaissance Texts and Studies, 1992), 88-106; Winthrop Wetherbee, "Criseyde Alone," in Cindy L. Vitto and Marcia Smith Marzec, eds., *New Perspectives on Criseyde* (Asheville, NC: Pegasus Press, 2004), 299-332; Constance Saintonge, "In Defense of Criseyde," *Modern Language Quarterly* 15 (1954): 312-20; and T. E. Hill, "*She, this in Blak*": *Vision, Truth, and Will in Geoffrey Chaucer's Troilus and Criseyde* (New York, NY: Routledge, 2006).

which provides a rich venue for exploring the historical implications of Criseyde's agency. To do so, I build on critics, such as H. A. Kelly and J. Maguire, who argue that Criseyde and Troilus enter into a clandestine marriage in Book 3.⁸ After establishing the characters as married, I examine their inverted relationships with Pandarus where Troilus is dependent on Pandarus's counsel as opposed to Criseyde, who is not. These inverted relationships interrupt our expectations, as they confuse the characters' conventional gender roles and position Criseyde as the agentive party. This study is the first to envision that Chaucer not only critiques the novel legal practice of legal narration through the figure of Pandarus but also depicts the possible tragic effects of laws that limited the rights of men and women through the fates of both Troilus and Criseyde. Chaucer elevates Criseyde in his poem by highlighting the shortcomings of the laws that sought to suppress female voices as well as by re-conceiving of a woman's legal agency inside and outside of marriage.

In my fourth chapter, "Conjugal Rights Re-imagined Through Female Sentence in *The Parliament of Fowls*," I argue that Chaucer utilizes Nature's alternate legal system, which gives equal consideration to all classes and genders of birds, as a vehicle through which to critique patriarchy and common law marriage legislation. Through the deployment of contract terms and legal formulas, along with the formel's decision to delay her courtship, *The Parliament of Fowls* stages a literary intervention into the contentious debate about females as property. In his final dream vision, I assert that Chaucer critiques the boundaries patriarchy imposes on women more than he did in his previous dream visions, *The House of Fame* and *The Book of the Duchess*. The formel's agency throughout the dream vision, much like the narrator's, derives from her ability to withhold her intentions regarding her courtship. Departing from the position of previous

⁸ H. A. Kelly, "Clandestine Marriage and Chaucer's 'Troilus'," in J. Leyerle, ed., *Marriage in the Middle Ages*, *Viator* 4 (1973): 435-57 and J. Maguire, "The Clandestine Marriage of Troilus and Criseyde," *The Chaucer Review* 8 (1874): 262-78.

critics, who argue that the formel will ultimately have to give into the patriarchal marriage customs, I argue that such a conclusion stops short of considering the ways in which Chaucer imagines certain female characters' resistance and highlights his anxiety about English jurisprudence.

The Old English poems, *Genesis B* and *Christ and Satan*, and Chaucer's *Troilus and Criseyde* and *The Parliament of Fowls* offer an agenda of female protagonists negotiating agency and rights that appeals to scholars interested in the relationship between medieval literature, the law, and gender. These writers, whose work is engaged so intensely with questions of female agency in relation to the law, reveal a preoccupation that arguably persists in a broader range of medieval literature. In considering how medieval writers react to certain legal ideologies, this study asks us to consider more questions not only about the role of law in the medieval psyche but also about how authors sought to redefine those beliefs.

CHAPTER 2

EVE AS *FORESPECA* IN JUNIUS 11's *GENESIS B* and *CHRIST AND SATAN*

At the end of her essay, *A Room of One's Own*, Virginia Woolf cautions literate women to be wary of Milton's "bogey."⁹ Although Woolf never defines what exactly Milton's "bogey" is, she does associate it with something that "shut[s] [women] out" of "the view." In other words, Milton's bogey is a quality that ostensibly denies women an opportunity to participate in a work of literature. Milton's epic poem, *Paradise Lost*, earns such critique due to its overt dismissal of the biblical first woman, Eve, and subsequent glorification of masculinity. Some scholars might also apply Woolf's caveat to the Anglo-Saxon poems *Genesis B* and *Christ and Satan* found in Junius 11, a manuscript that may have been a source of inspiration for Milton's epic poem. I, however, suggest that these Anglo-Saxon accounts of Eve require no such critical disclaimer. Although critics of Eve's portrayal in the Junius manuscript typically consider her agency and culpability to argue ultimately that she is rendered silent, recent accounts argue against such a position and instead place Eve as a subject in the poem that negotiates pagan and Christian ideals.¹⁰ These paradigms contend that Eve's connection to the Law either is "much attenuated by ignorance, blamed on her 'weaker thought'" or "rationalized according to Augustinian notions of 'culpable ignorance.'"¹¹ Other scholars conclude, though, that whether or not Eve has weaker thought or culpable ignorance is not significant because the fact that Eve importantly "sets words finally adrift from the Word"¹² and "becomes mortal, but spoken"¹³ places her in an agentive

⁹ Virginia Woolf, *A Room of One's Own* (Orchard, NY: Broadview Press, 2001), 134.

¹⁰ Gillian Overing, "On Reading Eve: *Genesis B* and the Readers' Desire," in *Speaking Two Languages*, ed. Allen J. Frantzen (Albany, New York: New York Press, 1991), 35-63, at 41. Overing explains that there is a pagan and Christian dichotomy in traditional criticism regarding Eve; she cites Rosemary Woolf's work on Eve in Christianity and J.M. Evans as the inspiration for the pagan or Germanic thread.

¹¹ *Ibid.*, 56.

¹² *Ibid.*

¹³ *Ibid.*, 63.

position.

The revisionist approach to traditional notions of gender in Anglo-Saxon England marks recent historical scholarship and suggests an interest in potential avenues for female agency. Andrew Rabin's important work on Anglo-Saxon women and the law, for example, has shifted the way scholars understand the scope of women's legal roles in this period by arguing that an Anglo-Saxon queen could successfully navigate both the feminine cloister and the masculine court. Picking up on this shift, this chapter argues that the author of Junius 11's *Genesis B* and *Christ and Satan* refashions Eve into an advocate or, more specifically, into an Anglo-Saxon *forespeca*.¹⁴ The word *forespeca*, literally a fore-speaker, indicates that the specific role of the advocate encompassed both rhetorical performance and legal strategy. Eve demonstrates both qualities through her mimesis of the messenger's argumentative rhetoric in *Genesis B*: she sways Adam to forgo God's word and persuades him to follow her guidance instead. Her role as advocate is then highlighted in a more positive fashion in *Christ and Satan*: she is the only one who speaks directly to Christ during the harrowing and employs the language of mercy and motherhood to advocate for her and her family's release from hell. To argue that a reading of Eve as a *forespeca* would have been available to the Junius manuscript's direct audience, I offer a contemporary link to the Anglo-Saxon Eve, Queen Ælfthryth, the only known female advocate in Anglo-Saxon England during the tenth-century.¹⁵ Queen Ælfthryth illuminates Eve's role as advocate by demonstrating that an Anglo-Saxon queen could posit legal agency through her rhetoric. The parallels between Eve and Queen Ælfthryth make the work of Andrew Rabin

¹⁴ For an in depth discussion of the term *forespeca* see Andrew Rabin, "Old English *Forespeca* and the Role of Advocate in Anglo-Saxon Law," *Medieval Studies* 69 (2007): 223-54. For a detailed account of women in Anglo-Saxon law see Anne L. Klinck, "Anglo-Saxon Women and the Law," *Journal of Medieval History* 8 (1982): 107-21.

¹⁵ Andrew Rabin, "Female Advocacy and Royal Protection in Tenth-Century England: The Legal Career of Queen Ælfthryth," *Speculum* 84 (2009): 261-288.

regarding the latter essential to my argument. Rabin asserts that Queen Ælfthryth, in “acting as an advocate, offered a way of articulating both a space and a rhetoric of female authority in the otherwise masculine world of Anglo-Saxon law.”¹⁶ Building on Rabin’s thesis on Queen Ælfthryth’s legal influence, I suggest that Eve’s position as *forespeca* in *Genesis B* and *Christ and Satan* allows her to craft a novel legal rhetoric, one that is aligned with a more Christian understanding of the law as merciful and ever-changing instead of as Germanic and legalistic, and reveals a manner in which wives, especially queens, might navigate regulations that defined them as mere extensions of their husbands.

The depiction of women’s rights in Anglo-Saxon written law records reveals their marginalized status in relation to men. A great deal of recent scholarship on the autonomy of women in Anglo-Saxon England emphasizes that “woman” is not an identifiable category in this period. For instance, Gillian R. Overing and Claire A. Lees maintain that “a woman in this culture is a wife, queen, a relative of a man or his family, a lover but she is rarely a ‘woman’ in the misogynist or existentialist sense of the term.”¹⁷ Since a woman’s legal status was also largely determined by her relationship to her male counterparts, her role as a “queen” or “wife” and her father’s or husband’s social status was what actually identified her position under the law.¹⁸ A law code that would have been accessible to the original scribes and audience of the

¹⁶ Ibid., 262. For more responses to the tradition readings of women’s role in Anglo-Saxon Law, see Shari Horner, “The Language of Rape in Old English Literature and Law: Views from the Anglo-Saxon(ists),” in *Sex and Sexuality in Anglo-Saxon England: Essays in Memory of Daniel Gillmore Calder*, ed. Carol Braun Pasternack and Lisa M.C. Weston, *Medieval and Renaissance Texts and Studies 277* (Tempe, Arizona: ACMRS, 2004), 149-83.

¹⁷ Clare A. Lees and Gillian R. Overing, *Double Agents: Women and Clerical Culture in Anglo-Saxon England* (Philadelphia, PA: University of Pennsylvania Press, 2001), 25.

¹⁸ Because of this, widows and women under religious vows received the greatest protection under the law. For more on women and concepts of Anglo-Saxon law see Mary P. Richards and B. Jane Stanfield, “Concepts of Anglo-Saxon Women” in the Laws in *New Readings on Women in Old English Literature*, eds. Helen Damico and Alexandra Hennessey Olsen (Bloomington, Indiana: Indiana University Press, 1990), 93.

Junius manuscript—Æthelberht of Kent’s Laws composed around 597-600 AD (the earliest of any law codes written in a Germanic language)—mostly accords with this critical consensus.¹⁹ Æthelberht’s law codes depict women as property and highlight the importance of class distinctions. The laws mention women eighteen times and disclose “what women of various classes can and cannot do, and what it costs.”²⁰ For example, the class distinction between two maidens would determine how much money a man whom illegally slept with one of them would have to pay as a penalty. Law number ten orders that “*Gif man wið cyninges mægdenman geligeþ, L scillinga gebete,*” (if a man lies with a maiden belonging to the king, he shall pay 50 shillings compensation.)²¹ However, the following law, number eleven, states that if the maiden were a “*grindende þeowa*” (grinding slave), the culprit would only have to pay 25 shillings.²² Because the maiden in law ten is affiliated with royalty, she is more protected than the “*grindende þeowa,*” since the fine would be twice as large if a man chose unlawfully to sleep with her. Although women, especially higher-class women, might be more protected from rape due to these monetary penalties, they were not the ones who would receive remuneration after the crime took place. Indeed, the male offender would pay the king or the church, not the female victim.²³ Women’s limited agency under Æthelberht’s law codes is further conveyed in law number thirty one: “*Gif friman wið fries mannes wif geligeþ, his wergilde abicge, & oðer wif his agenum scætte begete & ðæm oðrum æt þam gebrenge*” (If [one] freeman lies with the wife of

¹⁹ F. L. Attenborough, *The Laws of the Earliest English Kings* (Cambridge: Cambridge University Press, 2000), 2-17 and 96-109.

²⁰ Claire A. Lees and Gillian R. Overing, “The Clerics and the Critics,” in *Gender in Debate from the Early Middle Ages to the Renaissance*, eds. Thelma S. Fenster and Claire A. Lees (New York, New York: Palgrave, 2002), 24.

²¹ Attenborough, *The Laws*, 5.

²² *Ibid.*

²³ For further detail on women’s second-class treatment, see Janet Nelson, “The Wary Widow,” *Property and Power in the Early Middle Ages*, eds. Wendy Davies and Paul Fouracre (Cambridge: Cambridge University Press, 1995), 82-113.

[another] freeman, he shall pay [the husband] his [or her] wergild, and procure a second wife with his own money, and bring her to the other man's home).²⁴ This law again highlights status in the word "*friman*," clarifying that this rule does not apply to those considered slaves and in the word "*wergild*," indicating that the value of a person's life depended on their social status. Moreover, the woman is illustrated once again as the man's property as opposed to an active agent in the crime. What becomes apparent in this law, therefore, is that it does not distinguish between a consenting and a non-consenting woman.

In comparison to law 31's portrayal of a woman's limited agency, Æthelberht's law code is not consistent in depicting all women as passive participants, highlighting that there is not only one way to understand female legal agency in Anglo-Saxon England. Indeed, one of the laws identifies women as potential active participants in legal offenses while another permits a wife to inherit property if her husband passes away prematurely. Law seventy-three is an example of a ruling on female criminality, "*Gif friwif locbore leswæs hwæt gedep, XXX scill gebete*" (If a freeborn woman, in charge of the locks [a chatelaine, a woman who controls a large house], does anything seriously wrong, she shall pay 30 shillings as compensation).²⁵ While this law is rather ambiguous in scope, because it does not specify a particular transgression, it reveals that, at this point in the law's conception, a woman's actions were not yet completely assigned to their father or husband like they would eventually be under the English common law in the fourteenth century. Women's slight autonomy under Anglo-Saxon law might be due to the fact that "the recording of Æthelberht's laws is inextricably bound up with the mission to convert Anglo-

²⁴ Ibid., 9.

²⁵ Lisi Oliver, "The Laws of Æthelberht," *Old English Newsletter* 38 (2005): 63. For more on the different translations of *friwif locbore*, see Christine Fell, "A 'friwif locbore' Revisited," *Anglo-Saxon England* 13 (1984): 157-66.

Saxon England.”²⁶ Since church doctrine allowed women to have more agency in marriages, promoting affective marriages and dual consent, the inconsistency in law seventy-three’s depiction of female criminality may be a byproduct of the church’s hand in crafting the written version of this law code.²⁷ Furthermore, clause two of law seventy-six outlines that if a wife who has a living child survives her husband, she is entitled to half of the household goods: “*Gif hio cwic bearn gebyreþ, healfne scæt age gif ceorl ær swylteþ*” (If she bear a live child, let her have half the property; if the husband die first).²⁸ Therefore, a widow who was a mother was given the opportunity to inherit property. The expansion of a widow’s rights would evolve in later law codes penned by the Archbishop Wulfstan, Cnut, and Æthelraed.²⁹ Other subsequent laws would also extend the scope of a wives’ ability to inherit property. Indeed, in *Wihfred 12*, *Ine 7*, *57*, and *VI Æthelstan 1*, wives would be rewarded with their share of the marriage property if they chose to not participate in their husband’s illegal acts.³⁰ The shifts in female inheritance rights and the inconsistencies regarding a woman’s position under Æthelberht’s law reveal the legal landscape’s disjointed nature during this time.

Although Anglo-Saxon written law records expose women’s limited rights, women of certain social classes, such as Queens, were still able to maneuver these strict regulations and become active participants in litigation through their connection with the church. There is a direct connection between the church and the monarchy in this period, as Rabin notes, and “the majority of extant case records concern religious institutions and that the lawsuits preserved are

²⁶ Oliver, “The Laws of Æthelberht,” 54.

²⁷ For more on the church’s stance on mutual consent during this period see *Wifmannes bewedding 1*.

²⁸ Oliver, “The Laws of Æthelberht,” 63. Instead of understanding this in terms of divorce as many past critics have done, I use Oliver’s translation, which argues that the subject is a widow not a wife.

²⁹ Melanie Heyworth, “Apollonius in its MS Context, An Issue of Marriage,” *Philological Quarterly* 86 (2007): 8.

³⁰ Richards and Stanfield, “Concepts of Anglo-Saxon Women in the Laws,” 94.

mostly those that the Church won.”³¹ This may be due to the fact the church was the “intermediary for written law.”³² Furthermore, during the tenth century, the Benedictine Reform, which aimed at increasing the church’s power and “transform(ing)... secular institutions into religious ones,” was taking place.³³ As Melanie Heyworth notes, this reform was “undeniably concerned with the sexual behavior of the married clergy, a concern that ultimately extended to lay marriage and lay chastity.”³⁴ Since the church desired to bring marriage into its domain, its privileging of female consent allowed for a subsequent change in the legal scope of a queen during Queen Ælfthryth’s reign. As Rabin points out, the monastic reform influenced Queen Ælfthryth’s practice of legal advocacy as a means to formalize the queen’s role since “the reformers had already conceived the queen’s role as similar to that of a *forespeca*.”³⁵ To appreciate Queen Ælfthryth’s legal achievements, it is first important to consider the type of kingship her husband, King Edgar, constructed for himself. Edgar, as opposed to other kings before him, portrayed himself as both “a judge and a *forespeca*—roles often combined in Old English law—[he] justifie[d] royal intervention in lawsuits by emphasizing the king’s obligation to act as the legal protector of his subjects.”³⁶ The stress on the king’s position as protector of his subjects marks a shift in the rhetoric of royal protection in the period. Edgar’s father, Edmund, chose to “highlight the king’s right to defend his subjects against unjust suits and prosecutions.”³⁷ The expansion from the king being the defender of his subjects only in suits and prosecutions to being the defender of his subjects in all situations increased the scope of royal

³¹ Andrew Rabin, “Anglo-Saxon Women Before the Law,” *Old English Newsletter* 41.3 (2008): 33-56. For specific Old English lawsuits that reflect the clergy’s relationship to women see page 38.

³² Richards, *Concepts of Anglo-Saxon Women in the Laws*, 91.

³³ Melanie Heyworth, “Apollonius in its MS Context,” 8.

³⁴ *Ibid.*, 9.

³⁵ Rabin, “Queen Ælfthryth,” 270.

³⁶ *Ibid.*, 267.

³⁷ *Ibid.*

authority.

King Edgar's increase in monarchical power allowed for the role of queen to gain more authority as well. Edgar maintained a close relationship with the monks and encouraged Ælfthryth to take on a similar role with the nuns. Andrew Rabin cites the words of the *Regularis Concordia* to explain Edgar's desire to have Ælfthryth guard the nuns, "[Edgar] most wisely ordered that his wife, Ælfthryth, should defend communities of nuns like a fearless sentinel, so that naturally a man might aid men and a woman might aid women without a breath of scandal."³⁸ What is highlighted in his interpretation of this text is "the characterization of the queen as a mediator capable of passing from the exclusively female space of the cloister to the largely male space of the court."³⁹ Ælfthryth's ability to pass through both spheres allowed her to fashion an innovative agentive role as queen that allowed her to influence new conceptions of female legal agency. She also succeeded in creating a voice for women by serving as a mouthpiece for female litigants during the time that the courts moved to limit female participation. Rabin points out that her "legal activity has been overshadowed by numerous accusations of wrongdoing after her death,"⁴⁰ but that these post-mortem accusations have no basis in fact. Indeed, he cites Stacy Klein's finding that there is a tendency in late Anglo-Saxon political writing to correlate self-assured queens with the Old Testament figure of Jezebel.⁴¹ As opposed to Elene who "represented the successful union of Church and state, Jezebel stood for the dangerous seductions of earthly glory."⁴² Instead of identifying Queen Ælfthryth as a Jezebel or an Elene, although her legal career would align her more with the latter than the former, I

³⁸ Ibid., 271.

³⁹ Ibid.

⁴⁰ Ibid., 263.

⁴¹ Stacy Klein, *Ruling Women: Queenship and Gender in Anglo-Saxon Literature* (Notre Dame, Indiana: University of Notre Dame Press, 2006).

⁴² Klein, *Ruling Women*, 7.

propose that her legal agency aligns her more with the Old Testament figure of Eve as imagined in the Junius manuscript.

Much like Queen *Ælfthryth*, Eve maneuvers within the confines of a male rhetoric through her conception of the law as malleable. From the introduction of the Fall in the Junius codex's *Genesis B*, there is a distinction made between the devil's rhetoric and God's word. This retelling of the Genesis story highlights the figure of Satan where the biblical account did not. Satan calls his minions to action by asking them to "think about the campaign."⁴³ The language he employs is political and argumentative, as reflected by the word "fyrde" or "campaign," and his aim is to influence his followers to join with him in deceiving Adam and Eve. God's word, on the other hand, is made up of commands, which he "firmly trust[s]" his creations "will follow."⁴⁴ As opposed to Satan's persuasive rhetoric, God plainly states his laws. The distinction between Satan's rhetorical devices and God's illuminates the dichotomy between Adam's understanding of the law, God's word, as static, and Eve's revelation of the law, via the messenger, as circumstantial.

Adam and Eve's dissimilar interpretations of God's word occur due to their mimesis of different rhetorical strategies. The messenger attempts to instruct Adam how to desire beauty and wealth by "teach[ing] him by messages cunning skills."⁴⁵ Adam, who has interpreted God's commandment regarding the tree simply, is unable to understand the messenger's speech: "I cannot make any sense on your suggestions, of your words and reasons, your mission and declarations. I do know what he, our Saviour, himself enjoined upon me when I saw him last: he

⁴³ *Anglo-Saxon Poetry* (hereafter cited as *ASP*), ed. and trans. S. A. J. Bradley (London: Dent, 1995), lines 407-408, 23.

⁴⁴ *ASP*, ll. 247-248, p. 19.

⁴⁵ *Ibid.*, l. 516, p. 27.

commanded me to honour and keep well his word and carry out his precepts.”⁴⁶ Realizing that his instructive approach does not work with Adam, the messenger endeavors another approach when he tempts Eve through the use of pathos to eat the fruit from the forbidden tree. He tells her that if she does not follow his will, “it would prove the greatest harm in the world to all their children thereafter.”⁴⁷ Instead of having her imagine the beauty and wealth she will receive for herself, like he attempted to get Adam to do, the messenger appeals to her emotions for her future children. He does not stop there but continues to create fear in her heart by stating that if she does not listen to him and eat the fruit “the mighty God is going to be incensed against [her]” and she and Adam will become “abhorrent to God.”⁴⁸ Both pathos and fear were not elicited in the messenger’s temptation of Adam. In this retelling, Eve is the only one who is confronted by this different rhetorical strategy. The messenger’s speech is distinctively crafted to appeal to Eve’s emotions and role as a mother. This type of gendered appeal foreshadows Eve’s appeal to Christ through motherhood in *Christ and Satan*.

Eve advocates for the messenger to Adam by reshaping the messenger’s rhetorical strategies, a skill she later utilizes to advocate for good. The messenger entices Eve to eat the fruit by telling her that after she does so she will not only be able to avoid the severe punishment for both of them but also master argumentative language. She will be able to “manipulate Adam if [she] commands his desire and he trusts in [her] words” only after she “eat[s] of [the] forbidden fruit.”⁴⁹ In this instance, she is positioned as a *forespeca* for the messenger. Through her “words,” the messenger relays that she will be able to convince Adam to follow his

⁴⁶ Ibid., ll. 531-535, p. 27.

⁴⁷ Ibid., ll. 549-550, p. 28.

⁴⁸ Ibid., ll. 559 and 576-7, p. 28.

⁴⁹ Ibid., ll. 569-571.

commands, which she believes is articulating “God’s bidding and counsel.”⁵⁰ Since she desires to protect Adam from God’s wrath, Eve falls into the messenger’s rhetorical trap and allows his “thinking...to seethe up inside her – the ordaining Lord had defined for her a frailer resolution – so that she began to let her mind go along with those counsels.”⁵¹ Eve’s “frailer resolution” confirms not only the reason why she fell victim to the messenger but also reveals her ability to be empathetic, a capacity that is not depicted in Adam’s characterization. Eve falls because she is led to believe that Adam will be severely punished if she does not help him to atone for his dismissal of the messenger. He tells her that she “can fend off punishment for the pair of [them], as [he] shall show [her].”⁵² When she pleads to Adam to eat the forbidden fruit, Eve not only reiterates the counsels the messenger gives to her but also reshapes them into her own form of argumentative expression. Her power to reshape the messenger’s language reveals Eve’s rhetorical agency in the text. Much like Queen Ælfthryth’s positioning of her own advocacy in terms of her marginal status in disputes, Eve highlights her subordinate position to Adam when she advocates for the messenger to him, referring to Adam as her “virtuous master.”⁵³ The messenger does not take this approach in either of his attempts to deceive the couple. Even though Eve states that Adam is her “master,” she does not dismiss her desire to convince Adam to follow her pleas. Rather, Eve continues to endeavor to get Adam to eat the fruit by explaining that they need the messenger to “intercede” for them with God since Adam quarreled with Him.⁵⁴ Her main objective is to convince Adam to repent his denial of the messenger, whom she believes was sent by God. Although the messenger does not succeed in changing Adam’s heart,

⁵⁰ *Ibid.*, l. 573.

⁵¹ *Ibid.*, ll. 589-590, p. 29.

⁵² *Ibid.*, ll. 562-3, p. 28.

⁵³ *Ibid.*, ll. 669-70.

⁵⁴ *Ibid.*, ll. 672, p. 31.

Eve does. Her good will and promises finally convince him to follow “her desire.”⁵⁵ However, the translator of *Genesis B* makes Eve’s intent clear. He writes that she advocated to Adam for the messenger “out of loyal intent,”⁵⁶ which is in stark contrast to his description of the messenger’s “evil sense of purpose.”⁵⁷ This distinction is also pertinent to understanding Eve’s position in the text as a *forespeca*. She does not use her language to dissemble, like the messenger does, instead she only uses it to negotiate for the protection of herself and her family, much like a *forespeca* would.

Instead of being defined by her relationship to the messenger or Adam, Eve is characterized as a subject who exercises her own will. After the Fall, Eve maintains a separate voice from Adam. As Gillian Overing notes, “Adam’s words fail to speak what is in Eve’s heart.”⁵⁸ Adam is legalistic and not empathetic. He is unable to understand that Eve’s desire for him to eat the forbidden fruit came from a place of loyalty because she ultimately sinned and disobeyed God. He also is unable, at first, to understand that Eve is suffering worse than he is. Eve states, “hit þe þeah wyrð ne mæg / on þinum hyge hreowan / þonne hit me æt heortan deð” (it cannot grieve you worse in your mind than it does me in my heart.)⁵⁹ An important separation is revealed in this line between Adam and Eve. Adam is paired with the “hyge” or “mind,” which, according to Eve, is divorced from the “heortan” or “heart.” While “hyge” and “heortan” are closely related in Old English, each denoting mind and heart, the latter is aligned with the soul whereas the former is not.⁶⁰ Eve relays that she understands both Adam’s suffering and her own, which once again reveals her empathetic nature, and asserts that she is in more pain since her

⁵⁵ *Ibid.*, l. 718, p. 32.

⁵⁶ *Ibid.*, l. 706.

⁵⁷ *Ibid.*, ll. 443, p. 25.

⁵⁸ Overing, “On Reading Eve,” 63.

⁵⁹ *ASP*, ll. 825-826, 35.

⁶⁰ J. R. Clark-Hall, *A Concise Anglo-Saxon Dictionary* (Lexington, KY: BN Publishing, 2008), 179 and 200.

soul is suffering. Furthermore, Eve is still described as “God’s creation even though she had been brought to ruin by the devil’s cunning.”⁶¹ Her status as “God’s creation” elevates her to the same status as Adam, which is revealed when the narrator explains that after they realized they were deceived the couple “prayed *together*” and “begged [God] that *they* might receive and willingly undergo the penalty for it, since *they* had broken [his command].”⁶² This part of the narration continues to refer to Adam and Eve as “couple” and “they.” It does not make a distinction between the two. The equation of Adam and Eve reveals the identical punishment they will receive. Eve’s agentive role as not only “Adam’s wife” but also “God’s creation” allows her to take on the role of sole *forespeca* in *Christ and Satan*.

The feminine legal rhetoric, which combines pathos with reason, that Eve fashioned from the messenger in *Genesis B* evolves in *Christ and Satan* when she advocates for herself and her family to Christ through the figure of Mary. Christ allows “Adam’s kin” to “ascend” but Eve is unable to leave Hell without first speaking to Christ.⁶³ Most retellings of the harrowing figure at least both Adam and Eve pleading to Christ before they ascend. As Robert Finnegan notes, “in all putative sources [for *Christ and Satan*] there are at least two, Adam and Eve.”⁶⁴ *Christ and Satan* only gives speech to Eve. The preference for her voice above Adam’s signifies her accountability in the Fall and her central position in the narrative. She pleads to Christ by pleading to him, “Now I beseech you, Keeper of the heaven-kingdom, before the following you have led here, the battalions of angels, that I might be allowed and permitted to ascend from here with my family.”⁶⁵ Eve positions herself as a *forespeca* in this scene to persuade Christ that her

⁶¹ *Ibid.*, ll. 822-823, p. 34.

⁶² *Ibid.*, ll. 765-776, p. 33. Italics are mine.

⁶³ *Ibid.*, ll. 406, p. 96.

⁶⁴ Robert Emmett Finnegan, “Three Notes on the Junius XI ‘Christ and Satan:’ Lines 78-79; Lines 236-42; Lines 435-38” *Modern Philology* 72 (1974): 175-181, at 180.

⁶⁵ *Ibid.*, ll. 420-423, p. 96.

kin has suffered fully for their sins. She testifies that “[they] were bitterly repaid for this, when [they] were obliged to pass into this burning pit and afterwards remain in it the full complement of years, many thousands, cruelly scorched.”⁶⁶ She utilizes adjectives such as “bitterly” and “cruelly” to appeal to Christ for mercy and explains that they have served their term “in the full complement of years.” Eve’s appeal to Christ’s pathos and reason is rhetorically similar to the messenger’s appeal to her in *Genesis B*. However, instead of utilizing her language to support an evil cause, she instead advocates for good through her own volition. This reversal highlights Eve’s rhetorical agency as she speaks for herself and her family when Adam could just as easily been the one to do so. She “prays to the ordaining Lord for mercy through the person of Mary.”⁶⁷ By appealing to Mary, she invokes a maternal inheritance as opposed to the traditional paternal one. Later in the poem, Christ even reemphasizes this maternal link when he states that he was first brought to the earth “through the person of woman.”⁶⁸ The feminine rhetoric Eve has shaped is most appropriate, then, to use when advocating to Christ. Furthermore, Eve identifies herself as Mary’s mother: “Lo, Lord, you were born into the world by my daughter.”⁶⁹ This sympathetic appeal by Eve through motherhood is stronger than an appeal by Adam would be, since he could not claim to be Christ’s father or grandfather. Eve, however, can safely align herself as a part of Christ’s lineage through Mary. Since Christ is figured as a king, prince, and judge in this narrative, Eve writes herself, through her speech, as a queen based on of her relationship to him. In *Genesis B* she similarly shared a royal position, as Adam and she were figured as inheriting the kingdom of Eden.

Although Eve is mostly aligned with the roles of queen and mother in the texts, she is

⁶⁶ Ibid., ll. 416-419.

⁶⁷ Ibid., ll. 436, p. 97.

⁶⁸ Ibid., ll. 495-496, p. 98.

⁶⁹ Ibid., ll. 437-438, p. 97.

also associated with the church, especially in the homiletic moment at the end of *Christ and Satan*. The narrator begins this homiletic shift by moving to the present tense “let us throughout this world decide to start obeying the Saviour.”⁷⁰ The narrator, much like a priest, tells his audience to proclaim that Christ is “the Helm of all mortals and the heavenly Judge and Author of the angels.”⁷¹ Eve employs the same titles when she appealed to Christ to ascend, “Now it is manifest that you are God himself and the everlasting Author of all created things.”⁷² This parallel highlights the way the church desired its laity to conceive of themselves in relation to Christ. Eve, then, becomes the *forespeca* for not only herself and her family but for all believers in Anglo-Saxon England through her affiliation with the future church and use of legal rhetoric that emphasizes Christ’s mercy. As Robert Finnegan points out, Eve was “considered to be a type of church” and part of “the just who await[ed] Christ in hell [and] constitute[ed] a church *in potentia*.”⁷³ Eve’s last appeal for herself and family to Christ through Mary connects her with the mission of the Christian church during this time, which sought to help its laity repent their sins and convert pagans.

Unlike versions of the Fall that demonize Eve for her culpability in the original sin, Junius 11’s *Genesis B* and *Christ and Satan* represent Eve as a figure that reveals a possible way women might maneuver the law and as a figure who is aligned with the mission of the Christian church. Like Queen Ælfthryth, Eve fashions a feminine rhetoric that can be spoken in an otherwise male dominated realm and utilizes it to convince her male relations and superiors to follow her will. Although Queen Ælfthryth has been deemed a Jezebel figure for her ability to assert her desires, I argue that she should instead be understood as a figure for Eve, as

⁷⁰ Ibid., ll. 642-643, p. 102.

⁷¹ Ibid., ll. 656-658, p. 102.

⁷² Ibid., ll. 438-439, p. 97.

⁷³ Finnegan, *Three Notes*, 180.

represented in Junius 11. This connection illuminates both figures of history and provides another way in which to understand Anglo-Saxon conceptions of gender. Likewise, these figures demonstrate that the church was instrumental in aiding women develop a space for female agency in Anglo-Saxon England. Although there are limited depictions of agentive women like Junius 11's Eve and Queen Ælfthryth in Anglo-Saxon texts, these two examples reveal that the scope of female autonomy might be broader than critics originally thought.

CHAPTER 3

LEGAL BODIES IN FLUX IN *TROILUS AND CRISEYDE*

The legal culture of fourteenth-century England was in a constant state of flux. As the monarchy continued to stabilize, secular law became more authoritative and far-reaching. During this capricious period, the dissemination of political ideas depended on the literature that circulated throughout the country in the form of conduct manuals, theological texts, and poetry. Much like modern day novelists who use fiction to question legislation promoted by the government, medieval authors, like Chaucer, take to the genre of romance to critique the tenuous legal regulations that conduct manuals and theological treatises tended to reinforce. Between 1382-6, Chaucer launches a critique of gender legal fictions as he composes his epic romance, *Troilus and Criseyde*. Primarily understood to engage with notions of courtly love, *Troilus and Criseyde* also provides an opportunity for Chaucer to illustrate the arbitrary nature of patriarchal ideology and its laws.⁷⁴

In considering Criseyde's agency in relation to the law, Chaucer interrogates those very gender power relations that the government and church sought to define.⁷⁵ Bearing this in mind, much of my essay proceeds through a close reading of *Troilus and Criseyde* and highlights its engagement with the fourteenth-century legal discourse on women's rights. I draw on official statutes to show that Chaucer's characterization of Criseyde—from her relations with Troilus and

⁷⁴ On the theme of "courtly love" see William G. Dodd, *Courtly Love in Chaucer and Gower* (Boston, MA: Ginn and Co., 1913) and C. S. Lewis, *The Allegory of Love* (London: Oxford University Press, 1958).

⁷⁵ On Criseyde's agency see Louise O. Fradenburg, "'Our owen wo to drynke': Loss, Gender, and Chivalry in *Troilus and Criseyde*," in Shoaf and Cox, eds., *Chaucer's Troilus and Criseyde* (Binghamton, NY: Medieval and Renaissance Texts and Studies), 88–106; Winthrop Wetherbee, "Criseyde Alone," in Cindy L. Vitto and Marcia Smith Marzec, eds., *New Perspectives on Criseyde* (Asheville: Pegasus Press, 2004), 299–332; Constance Saintonge, "In Defense of Criseyde," *Modern Language Quarterly* 15 (1954): 312–20; and T. E. Hill, "She, this in Blak": Vision, Truth, and Will in Geoffrey Chaucer's 'Troilus and Criseyde'" (New York, NY: Routledge, 2006).

Pandarus to her reversed trajectory from widow to wife to maid—supports canon law legislation that at once encourages female agency in marriage and critiques common law statutes that demean it. To do so, I build on critics, such as H.A. Kelly and J. Maguire, who argue that Criseyde and Troilus enter into a clandestine marriage in Book III.⁷⁶ In medieval common law, particularly during Edward III's reign, a bridegroom and bride were considered one legal entity: if the wife committed a crime in the fourteenth century, "the whole would be accounted the act of the husband."⁷⁷ As opposed to depicting Troilus as the more self-governing party in his relationship with Criseyde, which would accord with the image of the accountable husband proposed by case 24 during Edward III's rule, Chaucer positions Criseyde as the agentive force by inverting the eponymous' characters relationships with Pandarus—Troilus, rather than Criseyde, is dependent on Pandarus's counsel. In transposing medieval gender relations, Chaucer advances a critique of medieval courtroom practice. Legal edicts ordered that neither men nor women were allowed to narrate their case before a judge but needed to employ a legal narrator who would plead on their behalf. By having Pandarus choose to plead on behalf of Troilus's interests and not Criseyde's, Chaucer questions the potential repercussions of this law, and laws like it, that sought to suppress the voices of men and women alike, through Criseyde's displacement from Troy.

Although medieval inheritance laws reified a particular arrangement of power that restricted female autonomy, canon law supported a certain degree of female agency in marriage through its interpretation of a valid union, which prompted authors, like Chaucer, to debate the

⁷⁶ H.A. Kelly, "Clandestine Marriage and Chaucer's 'Troilus'," in J. Leyerle, ed., *Marriage in the Middle Ages*, Viator 4 (1973): 435-57 and J. Maguire, "The Clandestine Marriage of Troilus and Criseyde," *The Chaucer Review* 8 (1974): 262-78.

⁷⁷ As Kathleen E. Kennedy found in 19 EdwIII, case 24, "pur ceo qe tut serreit acompte le fait le baron" (the whole would be accounted the act of the husband). For more on the legal fiction "unity of person," see *Maintenance, Meed, and Marriage in Medieval English Literature* (New York: Palgrave Macmillan, 2009), 32.

definition of the institution. For instance, depictions of marriages in medieval texts demonstrate, like in Chaucer's *Troilus and Criseyde*, a much less typical power dynamic between the husband and the wife than may be found in common law statutes, which tended to reinforce patriarchal ideals, especially in inheritance matters. Since legal rights in medieval England were fragmented, split by jurisdictional regulations between the common and canon law and between the boroughs, certain groups of people, like women, enjoyed more legal autonomy in particular regions and under certain law codes: common law legislation reduced widows' inheritance rights during the same period that canon law cemented mutual consent and *maritalis affectio*, 'marital affection,' statutes that, in spite of clerical antifeminism, favored amounts of female agency in marriage.⁷⁸ In addition to this inconsistency, married women were allowed to trade as "freewomen of the city" under London statutes, making laws that were as effectual as those made by their husbands, whereas few other boroughs allowed women to trade in this manner.⁷⁹ As medieval law writers and contemporary historians have noted, the canon law had the only doctrine on marriage at this time and consequently was the authoritative source on determining what constituted a valid union.⁸⁰ The temporal law, however, dictated the limited rights women had in inheritance matters as well as in commerce because, as *The Statutes of the Realm* demonstrates, the common law is above all interested in the transmittal of property and goods and the punishment of crimes. A statute defining petty treason ("petit treason") from the rolls of Edward III in 1351-2 contrasts with the gender egalitarianism promoted in canon law by likening the relationship between a

⁷⁸ For more on these statutes see Conor McCarthy, *Marriage in Medieval England: Law, Literature and Practice* (London: Boydell Press, 2004), 95.

⁷⁹ A. H. Thomas, ed., *Calendar of Select Pleas and Memoranda of the City of London, 1381-1412* (London: Cambridge University Press, 1932).

⁸⁰ For collections on medieval law see H. Bracton, *The Laws and Customs of England*, S.E. Thorne, ed. & trans. *The Laws and Customs of England*, vol. II (London, 1968) and F. Pollock and F. Maitland, *The History of English Law*, vol. II (1898).

wife and a husband to a servant and a slave: “And moreover there is another manner of treason, that is to say, when a servant slayeth his master, or a wife her husband, or when a man secular or religious slayeth his prelate, to whom he oweth faith and obedience.”⁸¹ Since mutual consent was necessary for a valid marriage under canon law, a woman’s lack of agency in marriage according to other laws, such as those in the *Statutes*, underscores the conflicted notions of gender in medieval law.

Chaucer makes available a reading of Criseyde that does not emphasize her abandonment of Troilus but instead underlines her perseverance to remain autonomous both in and out of the laws of coverture, a legal fiction recognized explicitly by the common law courts, which understood a wife to be defined by her husband.⁸² At the beginning of the poem, Criseyde exercises her independence by acting as an equal to the men that surround her. Even though Troilus is unable to think outside of his own predicament and court culture, Criseyde notably can. Although the poem’s setting is in Troy, its depiction of women’s legal rights aligns it with the ideology of medieval England. Before the consummation of her clandestine marriage to Troilus, Criseyde is represented as a fatherless widow. In medieval law the legal estate of widow gave women the largest amount of autonomy, but also, arguably, the most anxiety. Since the fatherless widow did not have a male to protect her in society, her participation in the public sphere depended on her good reputation. Criseyde is highly aware of her vulnerable state at the beginning of the poem and the importance of maintaining a good rapport with the people of Troy. When Calcas, Criseyde’s father, defects to Greece, she knows that her life is threatened: “For bothe a widewe was she and alone / Of any frend to whom she dorste hir mone” (I, 101,

⁸¹ 1 Stat. 5 Edward III c. 25.

⁸² As articulated in Bracton’s *On the Customs of England*, a wife may not be liable in an offence committed by her husband “because whether or not she was privy to the crime, she was under her husband’s rod.” Bracton, 287.

105). Even though a woman advocating for her own pardon would have been seen as potentially transgressive, Criseyde does not hesitate to do so. She asserts her legal autonomy for the first time in Book I when she pleads to Hector,

On knees she fil biforn Ector adown
With piteous vois, and tenderly wepynge,
His mercy bad, hirselves excusyng. (I, 106-8)

Instead of having Pandarus plead to Hector on her behalf, she takes it upon herself to make her case to him. Moreover, in her subsequent courtship with Troilus, Criseyde depends on her own intuition to guide her through their relationship. Criseyde refuses to take Pandarus's counsel alone and insists that Troilus himself prove his good intentions, which he ends up doing by marrying her, something he does not do in Boccaccio's version. Even after the vow exchange, Criseyde continues to navigate their tumultuous relationship on her own and even goes as far as to imagine that she alone might plead once again to a king, this time the Greek king, for her relationship with Troilus. Although canon laws make it clear that women should have agency in their marriages, Chaucer reveals that this idea does not align with the tenets of a patriarchal society, which render women as subordinate to men. Criseyde, then, must negotiate her volition both in and out of coverture and Chaucer has her do so through the use of legal language.

Chaucer reveals a persistent interest in the legal meaning of "entente" as a motive by not only having Criseyde question Troilus's "entente" throughout Book II but also by explicitly disclosing Criseyde's. The Middle English Dictionary cites Chaucer's *Boece* as the first use of the word with this legal denotation: "And that I confesse and am aknowe; / But the entente of the accusour to ben distorbed schal cese."⁸³ Much in the same way he pairs "entente" with

⁸³ Geoffrey Chaucer, *Boece* in *The Riverside Chaucer*, 3rd ed., ed. L. D. Benson (Boston: Houghton Mifflin Company, 2000), 1pr.4.165-6.

“confesse” in a legal fashion in *Boece*, Chaucer’s first description of Criseyde’s “entente” towards Troilus reads as if it were to clear up any question that she meant to be false:

For pleynly hire entente, as seyde she,
Was for to love hym unwiste, if she myghte,
And guerdoun hym with nothing but with sight. (II, 1292-4)

Unwilling to give up her honor, Criseyde explicitly declares that she will “guerdoun [Troilus] with nothing but sight.” This choice would prevent her from being incriminated or labeled as lascivious, which has been her objective from the beginning of their courtship. In Book III, Chaucer shifts the focus from her self-reflexivity to her ability to question Troilus’s intentions. Once again, Criseyde employs legal rhetoric to ask what his intentions are:

I wolde hym preye
To telle me the fyn of his entente.
Yet wist I nevere wil what he mente. (III, 125-7)

“Preye” and “entente” were commonly used in the legal lexicon; where the former was a part of the legal formula for “expressing deference in a petition or enactment” (MED, 6), the latter denoted a “legal demand” (MED, 7a). In this case, Criseyde imagines herself answering a plea in court, just like the narrator does in *Boece*. She cannot understand the language of courtly love Troilus is relaying to her, so she asks for clarification, in the same manner that a litigant might ask of the defendant in a courtroom. As Richard Firth Green points out, much of the poem is “preoccupied with the unreliability of stated intentions and the difficulty of interpreting them.”⁸⁴ Throughout Book III, Criseyde tests Troilus to see if his jealousy is out of malice or love. She makes him promise that it is indeed out of love before she will give her consent to him:

⁸⁴ Richard Firth Green, *A Crisis of Truth* (Philadelphia: University of Pennsylvania Press, 1999), 326.

She badde hym that to telle hire bisily,
Or ells, certeyn, she bar hym on honed

That this was done out of malice. (III, 1153-5)

Criseyde's use of legal rhetoric to get Troilus to promise her that he does not have dishonorable intentions highlights that "for the Middle Ages, promises constituted a kind of private law (both canonists and common lawyers referred to them as such)" and that many people felt that those involved in the promise should regulate its terms, not an outside authority.⁸⁵ In addition, according to Bracton, a thirteenth-century jurist who is famous for his ideas on *mens rea* (criminal intent), it was a criminal's intent paired with his or her action that was incriminating: "it is your intent which distinguishes your acts, and a crime is not committed unless an intention to injure exists."⁸⁶ By withholding her consent until Troilus is able to prove to her that he loves her with his words in addition to his actions, Criseyde imagines herself as an authority within their relationship and dictates the terms of their courtship to him in this instance through her own conception of private law.

Chaucer goes to great lengths in Book II to emphasize the inequality of medieval gender perceptions by underscoring Criseyde's hesitation to return to the state of coverture. Even though Chaucer has Criseyde come to love Troilus on her own and consent to marry him, he still critiques the position of women in patriarchal society as she is more or less forced to come to this conclusion. Chaucer, unlike Boccaccio, emphasizes the inequality of gender power dynamics in marriage in Book II through Criseyde's interiority and his addition of the couple's vow exchange. Criseyde can demand that Troilus prove his good intentions to her before she consents to entering into a romantic relationship with him but also realizes that no matter what she decides

⁸⁵ Green, 332.

⁸⁶ Bracton, 290.

men will end up forcing her to adhere to their own desires: “Men loven wommen al biside hire leve / And whan hem leste namore, lat hem byleve” (II, 734-5). Since widows were also subject to the wills of their overlords, Pandarus assumes the role of Criseyde’s overlord to promote his agenda to see her and Troilus together. Furthermore, Criseyde recognizes Troilus’s prominent position in society, and that, if he really wanted to, he could also force his will upon her as not only a man, but as her prince. Because of her vulnerable state as a woman, she realizes that she must carefully balance the power dynamics between herself and the men that surround her. She expresses grief as she thinks about her return to the state of wife, when she is perfectly content in her freedom as a widow:

Allas! Syn I am so free,

Sholde I now love, and put in jupartie

My sikernesse, and thrallen libertee? (II, 771-3)

The loss of her “libertee” is the reason Criseyde hesitates to leave her status as a *femme sole* (a single woman) and return to a *femme couverte* (a married woman). As a *femme couverte*, Criseyde would technically lose all the legal autonomy she maintained as a *femme sole* and her future would once again be dictated by the actions of her male counterpart. Criseyde’s declaration at even the thought of relinquishing the limited freedom she enjoys as a widow reiterates the unequal power dynamics apparent in medieval conjugal rights and their impact on women in particular, a theme that Chaucer would take up elsewhere in his work, especially in *The Wife of Bath’s Prologue and Tale*.

Through his depiction of Criseyde as what might be termed an “agentive victim,” Chaucer calls attention away from adulterous versions of her and instead reinforces her tragic position in a patriarchal society. Criseyde imagines that women may successfully advocate for

themselves and, at least in Book I, she is right. Hector tells her to “Lat [her] fadres treson gon forth with meschaunce, and [herself] in joie / Dwelleth with us, whil [she] good list, in Troie” (I, 116-7). However, Hector is one of the only male figures in the poem who does not perceive women as property. When parliament consents to trade Criseyde to the Greeks later in the work, he argues that “we usen here no women for to selle” (IV, 182), but parliament responds that Hector should “lat [his] fantasies be” (IV, 193). Since Criseyde is part of a culture that renders females innately less capable than men, one would think Chaucer would set up Criseyde to be read as similar to the Wife of Bath. Instead, Chaucer writes Criseyde as a tragic figure who is forced to make transgressive decisions because “ther is no better way” (V, 1069). Instead of condemning Criseyde for abandoning Troilus after she is traded to the Greeks, Chaucer “exuse[s] hire yet for routhe” (V, 1099). This pardon does not occur in Boccaccio’s version or in Henryson’s *Testament of Cresseid*. Henryson’s version in particular has long been charged with vilifying Chaucer’s heroic description of Criseyde. For instance, Henryson’s Cresseid is turned into a leper (literally) and, as Holly Crocker points out, an exemplum (figuratively) when he chooses to end the *Testament* with a didactic nod to his female audience:

Now worthie wemen...

Ming not your lufe with fals deceptioun:

Beir in your mynd this short conclusion

Of fair Cressid. (610-614)⁸⁷

Crocker argues that Henryson’s depiction of Criseyde as abject is actually a continuation of Chaucer’s heroic portrayal.⁸⁸ Although Criseyde’s failure to navigate patriarchy is not aligned

⁸⁷ Robert Henryson, *The Testament of Cresseid*, in *The Poems of Robert Henryson*, ed. Robert L. Kindrick (Kalamazoo: Medieval Institute Publications, 1997).

⁸⁸ Holly Crocker, “‘As false as Cressid’: Virtue Trouble from Chaucer to Shakespeare,” *Journal of Medieval and Early Modern Studies* 43.2 (2013): 322.

with a king's in Henryson's version, the tragic effects of scripted female submission, which Chaucer first emphasizes in his retelling, are still underlined when Criseyde laments the harrowing losses she has had to endure to the Gods.

Since Chaucer reverses gender stereotypes in his poem, by illustrating Criseyde as rational and Troilus as impractical, he implicates Troilus more than Criseyde in the tragic end to their relationship. Chaucer, unlike Henryson, presents Criseyde's inability to dictate the terms of her relationship with Troilus as predictable instead of tragic. Whereas Chaucer describes Criseyde as noble and wise, he portrays Troilus as foolish and proud. Troilus is first described as transgressing the "law of kynde" by rebuking love (I, 238). Instead of condemning Criseyde for contravening patriarchal law, Chaucer chooses to make an example of Troilus spiting Cupid. The narrator advises the reader to

Forthy ensample taketh of this man,
Ye wise, proude, and worthi folks alle,
To scornen Love, which that so soone kan
The freedom of youre hertes to hym thralle;
For ever it was, and evere it shall byfalle
That Love is he that alle thing may bynde. (I, 232-7)

These lines privilege Criseyde's abandonment of Troilus later in the story over Troilus's spiting of love because the narrator chooses to make an example of Troilus as opposed to versions, like Henryson's, that make one of Criseyde. The narrator contrasts Troilus's foolish act with a description of Criseyde as full of "Honour, estat, and wommanly noblesse" (I, 282). The effect of Criseyde's portrayal as virtuous as opposed Troilus's characterization as "sely" elevates Criseyde by highlighting her mental capacity, a characteristic usually reserved to men. The

Middle English Dictionary defines “sely” as both “unfortunate” and “innocent,” (sely, 1a. and 1b.). However, in his other works, like in his description of John in *The Miller’s Tale*, Chaucer has been known to shift the last meaning of “sely” from “innocent” to “ignorant.”⁸⁹ If we take this latter meaning into consideration, Chaucer implicates Troilus in the tragic ending by depicting him as foolish. Instead of understanding love, Troilus mocks it and then, after falling in love, depends on Pandarus to help him navigate his relationship with Criseyde, revealing that he never comprehended the possible consequences of falling in love like Criseyde did.

Although Pandarus imagines himself as a mediator, his actions align him more with the role of a legal narrator who is only pleading Troilus’s case. Pandarus tells Troilus that he will serve the couple equally

Herafterward; for ye ben bothe wyse,
And konne it counseil kepe in swych a wyse
That no man shal the wiser of it be;
And so we may ben gladed alle thre. (I, 988-94)

His deeds, however, reveal that he does not consider Criseyde at all. The narrator makes it clear that Pandarus was “Desirous to serve / His fulle frend,” Troilus, not his niece, Criseyde (I, 1058-9). A legal narrator’s task was to recite the *narratio*, or “tale”, “to relate it from the vantage point of the defendant, and to engage in any argument that arose.”⁹⁰ Pandarus takes on an equivalent role in the poem by choosing to align his fate solely with Troilus’s to Criseyde,

But if ye late hym deyen, I wol sterve—
Have here my trouthe, nece, I nyl nat lyen—
Al sholde I with this knyf my throte kerve. (III, 323-5)

⁸⁹ Geoffrey Cooper, “Sely John in the Legend of the Miller’s Tale” *JEGP* 79 (1980): 1-12.

⁹⁰ Mary Flowers Braswell, *Chaucer’s “Legal Fiction”* (London: Associated University Press, 2001), 32.

By rhetorically combining Troilus's fate with his own, "But if ye late hym deyen, I wol sterve," Pandarus utilizes his knowledge of Criseyde's feelings for him to convince her to follow his will. Legal narrators would use similar techniques to plead their client's case: "they chose their words with care – honed their style, in effect – for they knew well that cases could be won or lost through language." The legal narrator was a position originally conceived of as only representing "an extension of the litigant's faculty of speech," however over time he became the spokesman for the defendant, who could no longer speak for himself.⁹¹ This profession intrigued Chaucer, as is revealed in his complicated representation of Pandarus. To convince the judge, narrators would mix fact and fiction.⁹² Pandarus, too, in his pleas to Criseyde on Troilus's behalf conflates the truth and hyperbole.

The inversion of the eponymous characters' relationships with Pandarus serves as a critique on the legally mandated role of the legal narrator and the subservient role of women. Chaucer does not glorify Pandarus's ability to mimic a legal narrator but instead favors Criseyde's ability to speak for herself over Troilus's reliance on Pandarus. Mary F. Braswell establishes that Chaucer's witnessing of court proceedings in which the defendant was stripped of the power of speech made a significant impression on him.⁹³ Whereas she considers this in relation to *The House of Fame*, her argument could easily be applied to a critique of Pandarus in *Troilus and Criseyde*. After all, like critics Kathleen Kennedy and Lynn Staley have noted, Chaucer likes to "argue politically sensitive points by analogy."⁹⁴ Using Pandarus as a means by which to critique the legal profession of narrator allows Chaucer to question aspects of the profession more overtly. At first, even Troilus questions Pandarus's ability to advocate for his

⁹¹ Ibid.

⁹² Ibid., 47.

⁹³ Ibid.

⁹⁴ Kennedy, 31.

love when he himself does not fully know Troilus's situation: "Thow koudest never in love thiselven wisse. / How devel maistow brynge me to blisse?" (I, 621-2). However, he quickly decides to relinquish his agency and put his "lif" and his "deth, hol in [Pandarus's] hond" (I, 1051-2). Unable to interpret Criseyde by himself, Troilus also depends on Pandarus to tell him how to read Criseyde's meaning in her letter to him later in Book II: "Frend, shal I now wepe or synge?" (II, 952). Chaucer, then, paints Troilus as a character who is wholly unable to reflect on or act on his own love without the assistance of Pandarus. The tragic effect of Troilus's reliance on Pandarus is conveyed in the conclusion of the romance, since Troilus ends up having to die to fully comprehend why his love with Criseyde was not successful and Criseyde must adapt to another patriarchal society because she was not able to plead for herself to parliament.

Instead of being represented as an illiterate defendant, who would be greatly relieved to have a narrator speak on her behalf, much like Troilus appears, Criseyde is depicted as an unwilling defendant who is made to give up her speech in court. Such a relinquishing of speech paradoxically highlights her persistence to maintain her own identity in spite of her repressive environment. This is reflected in her resistance to Pandarus's demands. Instead of being completely silent, she voices her pain at surrendering her agency:

Is this youre reed? Is this my blissful cas?

Is this the verray mede of youre byheeste?

Is all this paynted process seyde – alas! –

Right for this fyn? (II, 422-5)

Criseyde realizes, though, that once Pandarus wants to direct her to do something, she must comply. Through his rhetoric, he threatens that she will become a murderer if she does not agree to love Troilus. In order to endure life in Troy, Criseyde recognizes that she must choose at least

to consider consenting to love Troilus. In making it clear, however, that the choice to love Troilus is Criseyde's exclusively and not Pandarus's, Chaucer demonstrates one of the most important tenets for a valid union, according to canon law, which is individual volition. Although she has been convinced, under duress, to give Troilus's love consideration and pity, she gradually considers it on her own:

For I sey nought that she so sodeynly
Yaf hym hire love, but that she gan enclyne
To like hym first, and I have told yow whi;
And after that, his manhood and his pyne
Made love withinne hire for to myne,
For which by process and by good servyse
He gat hire love, and in no sodeyn wyse. (II, 673-9)

Chaucer explains that she did not "sodeynly / Yaf hym hire love" and repeats it again by stating "he gat hire love... in no sodeyn wyse." The narrator's emphasis on Criseyde's contemplation casts away any doubt that she did not choose on her own to love Troilus and subsequently elevates her character as she is represented as chaste instead of lustful.

Criseyde's inner dialogue during which she debates whether she should consent to love Troilus further conveys her resistance to Pandarus's counsel and her attempts to maintain free will. David Aers notes that "in the making of Criseyde, the poem explores the complex ways in which individual action, consciousness, and sexuality are bound up with specific social and ideological systems."⁹⁵ Criseyde's debate over whether or not her status as a widow and reputation will be effected if she chooses to love Troilus highlights the multifaceted nature of her predicament:

⁹⁵ David Aers, *Community, Gender, and Individual Identity*, (London: Routledge, 1988), 118.

I am myn owene woman, wel at ese—
I thank it God – as after myn estate,
Right yong, and stoned unteyd in lusty leese,
Withouten jalousie or swich debat;
Shal noon housbande seyn to me ‘Chek mat!’
For either they ben ful jalousie,
Or maisterfull, or loven novelrie. (II, 750-6)

Criseyde realizes that she will no longer be able to be autonomous but will belong to Troilus if she chooses to love him. At this point in the poem she has earned her status as her “owene woman—wel at ese” and she thanks God for it. Her use of the phrase “chek mat” invokes the polarizing effect marriage had on females in medieval society; it implies that, as Jenny Adams has argued, marriage forced women to give up their freedom.⁹⁶ In order for Criseyde to give in to marriage, she must first convince herself that she will still be able to keep her good reputation and name. She exclaims,

What, pardieux! I am naught religious.
And though that I myn herte sette at reste
Upon this knight, that is worthieste,
And kepe alwey myn honour and my name,
By alle right, it may do me no shame. (II, 275-9)

Because she is not a nun, she realizes through her own use of reason and not Pandarus’s pleadings, that there is no law that condemns her honor if she decides to marry again. This revelation enables her to fall in love with Troilus of her own accord. Ultimately, though, the characters are forced to surrender to the tenuous regulations of patriarchy. Therefore, although

⁹⁶ Jenny Adams, *Power Play* (Philadelphia, PA: University of Pennsylvania Press, 2006), 96-7.

Criseyde is able to imagine a different role for herself in Trojan society, and in her relationship with Troilus, she is ultimately forced back into the submissive position that the law designated for women.

Chaucer elevates Criseyde in his poem by not only highlighting the shortcomings of the laws that sought to suppress female agentive accomplishments but also, notably, by giving her a voice. Instead of merely emphasizing Criseyde's outer beauty, Chaucer meditates on her ability to imagine potential solutions to the tribulations she faces in spite of her repressive environment. Criseyde's complicated trajectory in Chaucer's version of the romance indicates the opaque nature of conjugal rights at this time.

CHAPTER 4

CONJUGAL RIGHTS RE-IMAGINED THROUGH FEMALE 'SENTENCE' IN

CHAUCER'S *PARLIAMENT OF FOWLS*

In 1324, John Chaucer, still a young boy, was abducted by his aunt. Shortly, thereafter, she was convicted of the crime of *raptus*.⁹⁷ Her alleged reason for committing this crime was to force a marriage between her nephew and daughter, presumably for the financial reward that such a union would provide.⁹⁸ Decades later, John Chaucer's own son, Geoffrey, would end up being implicated in the crime of *raptus* as well, even though he would ultimately be absolved of all charges. There remains no concrete evidence regarding Geoffrey Chaucer's offense against Cecily Chaucer, but what is clear from the court of Chancery records is that she went to court herself, on May 4, 1380 to acknowledge the formal Deed of Release pardoning Chaucer, which was unusual for a woman to do at this time as most relied on their male counterparts in legal matters.⁹⁹ Chaucer's distaste for the hierarchical legal system, which tended to overlook the importance of intention in both prosecutions and defenses, especially in matters of marriage and desire, probably derived from his father's and his own experience with the crime of *raptus*. Chaucer would explore intent and desire in many of his works, but it is in *The Parliament of Fowls*, composed not long after his pardon in the early to mid-1380s, that he engages most fully

⁹⁷ The crime of *raptus* usually referred to abduction at this time. For more on the legal definition of *raptus* and what it might have meant in the cases regarding Geoffrey Chaucer and his father see Derek Pearsall, *The Life of Geoffrey Chaucer: A Critical Biography* (Cambridge, MA: Basil Blackwell, Inc., 1992), 135-8.

⁹⁸ *Ibid.* 136.

⁹⁹ The official Deed of Release may be found in the court of Chancery records on May 1, 1380 "Omnimodas acciones tam de raptu meo, tam [sic] de aliqua alia re vel causa, cuiuscumque condicionis fuerint, quas vnquam habui, habeo, seu habere potero, a principio mundi vsque in diem confeccionis presencium." R. E. G. Kirk, Esq. *Life-Records of Chaucer, IV*. (London: Kegan, Paul, Trench, Trubner, & Co., 1990), 225. For more details on the settlement between Chaucer and Chaucer see Christopher Cannon, "*Raptus* in the Chaucer Release and a Newly Discovered Document Concerning the Life of Geoffrey Chaucer," *Speculum* 68 (1993): 74-94.

with his alleged offense by revealing his concern for hasty rulings in the English legal system and laws regarding conjugal rights.

Much like the dissonant parliament of birds who cannot agree on which eagle the formel should marry in Chaucer's last and arguably most complex dream vision, *The Parliament of Fowls* (hereafter, *PF*), literary critics of the poem cannot come to a consensus on its unifying theme, leading some scholars to argue that there is not one. David Aers, for instance, argues that Chaucer pushes against traditional modes of authority in *PF* and that the poem is "thoroughly subversive of all forms of dogmatic thought."¹⁰⁰ One of the major tensions in the poem does indeed appear to be between classical texts and Chaucer's own translations of them into the English vernacular. Stylistically, Chaucer endeavors to elevate his final dream vision to the epic heights of his classical sources. Instead of continuing to employ unadorned iambic tetrameter couplets, like he did in his earlier dream visions *The Book of the Duchess* and *The House of Fame*, he decides to set *PF* in rhyme royal—the same style that elevated the Italian vernacular poetry of Boccaccio and Dante.¹⁰¹ Although Chaucer mimics the style of his classical predecessors, he decides to depart from them thematically so as to address the problematic way his sources define "common profit."

One important deviation between Cicero's version of Scipio's dream and Chaucer's reimagining of it in his own vision, however, is the introduction of agentive female characters in the latter. *PF* commences with Chaucer the narrator reading Cicero's *Dream of Scipio*, an old book that he hopes to learn from.¹⁰² The narrator ends up falling asleep and dreams that he is in a

¹⁰⁰ David Aers, "The Parliament of Fowls: Authority, the Knower and the Known," *Chaucer Review* 16 (1981): 1-17.

¹⁰¹ Introduction to Geoffrey Chaucer's "The Parliament of Fowls," *Dream Visions and Other Poems*, ed. Kathryn L. Lynch (New York, NY: W.W. Norton & Company, 2007), 93-96, at 93.

¹⁰² As the Norton Critical Edition notes, this work may be found in the sixth and final book of Cicero's *De re publica*. *Ibid.*, 97.

similar position to Scipio in Cicero's tale. In Cicero's dream vision, women are placed in the periphery; whereas, in Chaucer's *PF*, female "sentence," or judgment, as depicted in Nature, or the "the vicaire of th'almighty Lorde," and the formel, takes center stage (l. 379).¹⁰³ Their characterization and autonomy aligns with the narrator's own experience in the dream and derives not only from the ability to delay judgment rhetorically but also to navigate through disparate voices and vantage points.

By presenting dissonant voices belonging to different classes and genders, Chaucer interrogates tensions between feudal and courtly modes of love and marriage. As Elaine Tuttle Hansen notes, the narrative of the Parliament centers around a "female's refusal or at least deferral... of whole-hearted and merciful consent," and thus "subvert[s] the univocal authority of a patriarchal vision such as Scipio's."¹⁰⁴ My second chapter intervenes with Hansen and Aers's lines of criticism, which find Chaucer to be challenging normative medieval authorities. I suggest that Chaucer not only critiques prescriptive classical texts and modes of love and marriage with his failure to provide closure regarding the formel's matrimony but also offers uncompromising interpretations of medieval legislation that sought to promote ideals like common profit but instead silenced women and those of the lower estate. I argue that in *The Parliament of Fowls*, Chaucer, much like he does in *Troilus and Criseyde*, follows in a sense the authors of the Anglo-Saxon poems *Genesis B* and *Christ and Satan* by aligning an empathetic form of judgment with a feminine interpretation of the law. In doing so, Chaucer illustrates an alternative form of the legal process that imagines women as worthy of due process and equal consideration in matters of marriage. Chaucer, therefore, does not overtly condemn the fowl's

¹⁰³ All parenthetical citations refer to line references from Geoffrey Chaucer, "The Parliament of Fowls," *The Riverside Chaucer*, ed. Larry D. Benson (Boston: Houghton Mifflin, 1987), 383-94.

¹⁰⁴ Elaine Tuttle Hansen, *Chaucer and the Fictions of Gender* (Berkeley: University of California Press, 1992), 112, 113.

arguably transgressive behavior to refuse marriage but instead places blame, alternatively, on the patriarchal legal system. By imagining a space for female agency in matters of marriage, Chaucer encourages such resistance through his narrator. His exploration of medieval anxieties about female desire ultimately results with more apprehension of the laws regarding conjugal rights.

Literary critics of Chaucer's *The Parliament of Fowls* often attempt to make sense of its less than conventional ending, and, as a result, some critics consider the formel's indecision in choosing a mate to be a byproduct of the narrator's own hesitation to give a verdict, revealing more about the narrator than the formel and feminine judgment.¹⁰⁵ Still others, like Larry Benson, assert that the dialogic nature of *The Parliament* stems from its interest in medieval politics and assert that the occasion of its composition was Richard II's courtship with Anne of Bohemia.¹⁰⁶ Few acknowledge the poem as a commentary on the English legal system and particular legislation. One study that does consider Chaucer's engagement with the law in the poem is Wendy Alysa Matlock's recent dissertation, which argues that "*The Parliament of Fowls* may be seen as a commentary on the effectiveness of royal judgment [that]... depicts conflicting views about the delays inherent in the English legal system within a single frame."¹⁰⁷ Matlock suggests that the "unruly birds... illustrate the ways the interests of different classes can conflict

¹⁰⁵ Although J. A. W. Bennett argues that the formel's indecision should be read as a sign of her "instinctive femininity" many other scholars argue that her indecision reveals more about the narrator: J. A. W. Bennett, *The Parlement of Foules: An Interpretation* (Oxford: Clarendon University Press: 1957), 177. For readings that focus on the narrator see R. W. Frank, "Structure and Meaning in the Parliament of Fowls," *PMLA* 71 (1956): 538-39; Charles O. McDonald, "An Interpretation of Chaucer's Parliament of Fowls," *Speculum* 30 (1955): 454-56; Judith Ferster, *Chaucer on Interpretation* (London: Cambridge University Press, 1985); and David Lawton, *Chaucer's Narrators* (Cambridge: D.S. Brewer, 1985).

¹⁰⁶ Larry Benson, "The Occasion for the Parliament of Fowls" in *The Wisdom of Poetry: Essays in Early English Literature in Honor of Morton Bloomfield*, eds. Larry D. Benson and Siegfried Wenzel (Kalamazoo, MI: Western Michigan University, 1982), 123-44. See also Haldeen Braddy, "*Parlement of Foules*" in *Relation to Contemporary Events* (New York: Octagon, 1969).

¹⁰⁷ Wendy Alysa Matlock, "Irreconcilable Differences: Law, Gender, and Judgment in Middle English Debate Poetry" (Ph.D. diss. The Ohio State University, 2003).

when judging the effectiveness of the legal system.” While a legal perspective can present a reading of royal justice, as Matlock shows, it also allows for a juxtaposition of the dogmatic common law with an alternative legal process that is derived from feminine authority. As a result, Chaucer’s presentation, which is both legal and vernacular, allows for a critique of masculine authority.

Much like it does with his politically engaged short poem *Lack of Steadfastness*, Chaucer’s employment of the English vernacular places *The Parliament of Fowls* in a certain historical moment and situates the poem in a British history as opposed to a classical one, which highlights his interest in England’s laws. Chaucer’s decision to write in the vernacular, as opposed to French and Latin, also allows him to reach a broader audience that could have included the less formally educated third estate and women. English law was evolving quite rapidly during the fourteenth century, as the Parliament became one of the most important legislatures and the common law began to be more widely managed by the royal courts. However, much of the legislation concerning the less represented third estate as well as women was inconsistent. Some laws permitted commoners to have more responsibilities in the law while others narrowed their rights. For instance, certain members of the gentry with legal knowledge were sometimes allowed to serve on commissions of the peace within their counties. At the same time, though, other laws were passed that lessened the amount of money laborers could earn for their work and forced able-bodied men and women alike to work in the fields. One such piece of legislation, the Statute of Laborers of 1351, froze a laborer’s wages at pre-plague amounts and thereby showcased an important divide between the interests of the nobility and that of the third estate.¹⁰⁸ It is evident from this statute that Edward III endeavored to cut off laborers’ agency to

¹⁰⁸ Albert Beebe White and Wallace Notestein, eds. *Source Problems in English History* (New York: Harper and Brother Publishers, 1915).

demand better treatment and wages, which laborers' had begun to be able to require after the Black Death killed off a large amount of them. Women, too, had to learn to navigate the paradoxical common law, as their rights were disjointed between different legal ideologies and jurisdictions.

Due to the law's inconsistent nature regarding the rights of the different classes of people and women, it is not surprising that Chaucer would engage with the subject of common profit in his work. Statutes and legal documents like this, which reveal tensions between the estates, were not rare during this time. Indeed, one of the most important legal documents to come out of the Middle Ages was the Magna Carta, composed in 1215, which for the first time required a king of England, King John, to acknowledge that freemen had certain rights. This legal document would resolve many feudal quarrels throughout the centuries and influenced the creation of the Parliament in the thirteenth century, which undoubtedly changed the face of English law. Moreover, the agency women arguably had in the fourteenth century finds its roots in another salient point of the Magna Carta, which was the idea that citizens were protected by the law of England from the king, since it asserted that the law should be understood as a legal organ that is separate from the king's will, or, as one thirteenth-century political song puts it, "*Dicitur vulgariter 'ut rex vult, lex vadit;' / veritas vult aliter, name lex stat, rex caidit*" [Commonly it is said, 'as the king wishes, so goes the law;' but the truth is quite otherwise, for the law stands, though the king falls].¹⁰⁹ The Magna Carta continued to be referred to and refined throughout English history, and a century after its conception, between 1331 and 1369, the *Six Statutes* were passed, which sought to broaden the rights of all of the different estates of men. For example, clause 29 was amended to refer to all "men" instead of just "free men" and introduced the legal

¹⁰⁹ *The Battle of Lewes*, in London, British Library, MS Harley 978, f. 128r, of the middle of the 13th century in Thomas Wright, *The Political Songs of England* (London: Printed for the Camden Society, 1839), 116.

phrase “due process of law.”¹¹⁰ Through these clarifications and definition expansions, the legal rights of English citizens, namely men, were becoming broader.

In *The Parliament of Fowls*, Chaucer illustrates and critiques notions of common profit by privileging not only the third estate’s wishes above the nobility but also feminine desire. He interrogates medieval conjugal rights through his particular discussion of common profit in regards to courtship in the narrator’s dream and asserts that this classical ideal is not compatible with medieval marriage ideology. The narrator makes it clear that common profit is integral to Scipio’s dream vision, as he mentions it twice in his synopsis of the story. He first references it when he explains to Scipio that men whom “loveth comun profit” end up in a “blisful place” when they die (ll. 46-8). The narrator then reminds his audience of this advice when he repeats it in an almost identical fashion by once again bringing up Scipio the Elder’s advice to Scipio regarding the afterlife:

The wey to come into that hevene blisse;
And he seyde, ‘Know thyself first immortal,
And look ay besily thou werke and wisse
To commune profit, and thou shalt nat misse
To comen swiftly to that place dere,
That ful of blisse is and of soules clere. (ll. 73-77)

Scipio’s original dream seems to imply that if one “werke[s] and wisse[s] to commune profit” (works towards and instructs others about common profit), he or she will be rewarded in the afterlife. Although in Cicero’s version of Scipio’s dream this ideal appears to be straightforward, Chaucer emphasizes “common profit” in *The Parliament* to reveal that its interpretation in the former is problematic to medieval perceptions of power. The narrator does not choose to reiterate

¹¹⁰ Ralph V. Turner, *Magna Carta: Through the Ages* (Harlow: Pearson Education, 2003), 23.

Scipio the Elder's advice to Scipio in his own dream vision but decides to expose the challenging nature of this principle by applying it to courtship and conjugal rights. After all, the plot in his dream vision concerns a formel's marriage. As David Aers argues, Chaucer complicates Scipio's absolute assessment of such a notion in the poem through his addition of the boisterous bird parliament and a feminine authoritative voice.¹¹¹ As is illustrated in the historical fight amongst King John and his barons, which resulted in the drafting of the Magna Carta, the interests of one group of people did not always benefit all.

Chaucer, much like the barons, looks to the medieval common law as a medium that should support an ideal such as common profit but reveals how it fails to do so since it normally protects the rights of the wealthy over those of the poor as well as the rights of men over women. Since Scipio's dream is one that is devoid of a female voice, Chaucer's insertion of multiple female authorities obscures Scipio's idea of common profit. Since this gender power shift destabilizes normative medieval practices, Chaucer decides to also have his narrator resist any form of conclusion, which subverts the traditional authorial practice. Rather, he decides to conclude his poem in an open-ended and optimistic manner that appears to be more curious than condemning of a tale that gives voice to the third estate and adheres to a feminine form of authority. Even though the noble male eagles' desires were not realized at the end of the dream vision, those of the lesser ranked birds' and the formel were, which results in the happy ending that describes the birds as all going their separate ways in "blisse and joye" (l. 669).

Chaucer juxtaposes Nature's Parliament, which includes all different ranks of birds, with the English Parliament, a primarily lay committee made up of members from the nobility.¹¹² Instead of maintaining a masculine authority in his dream vision like Scipio the Elder, Chaucer

¹¹¹ Aers, "The Parliament of Fowls: Authority, the Knower and the Known."

¹¹² Frederick Maurice Powicke, *The Thirteenth Century: 1216-1307* (Oxford: Clarendon Press, 1953), 222.

chooses Nature, a female authority. In the narrator's dream, Nature is positioned as the judge and ruler of an equitable and diverse parliament, which includes members from all different classes of birds, and as such she decides how the courtship of her creations is to proceed. Although she announces early on that the birds must all give consent to their mates, and even reiterates this stipulation when the royal eagle finishes his plea to the formel for her hand, she still grants the impatient birds, who tire of listening to the testimony of the eagle suitors, a chance to declare their opinion on whom the formel should marry: "I juge, of every folk men shal oon calle / To seyn the verdit for yow foules alle" (ll. 528-9). Nature allows the birds to elect a representative "by pleyn eleccioun" (l. 528) from each of their kind, much in the fashion of a proto-democracy, to decide on a "verdict" for all of them. A royal marriage would be an event that would have a great effect on the entire realm and would perhaps encourage such interest and commentary from the populace and the Parliament. However, the third estate would not have been granted any voice in the matter, as they did not have any presence in the Parliament. Their addition, then, in Nature's realm calls attention to the dissonant voices in England that were being ignored in English law, since they were not represented in the reigning legal committee. Furthermore, Nature's feminine authority models an alternate way a ruler might keep all of their people involved in their government in a peaceful manner, which the English Parliament sometimes failed to do.

Although the formel is described as "the gentlest," "most benigne and the goodliest" (ll. 373, 375) of Nature's creatures, she may be read as a stand-in for every maiden, as she is not positioned in a queenly role like Nature. Indeed, the formel's role in deciding between suitors is aligned with the agency in courtship that a maiden might have under the canon law. Since, as I mentioned in my previous chapter, the canon law mandated that both participants in a marriage

exhibit mutual consent and *maritalis affectio* (marital affection), the formel's agency in her own wooing reveals the one moment, under canon doctrine, when a women might have the most agency in their marriage. Because, under the English common law, once a maiden married, she had very few conjugal rights, since the common law regarded wives as extensions of their husbands, with a few exceptions.¹¹³ Chaucer highlights this legal discrepancy by characterizing the formel as both vulnerable and assertive—the formel is at once speaking with a “dred ful vois” (l. 647) and demanding nature grant her desire, “ye gete no more although ye do me deye” (l. 651). This paradoxical position is also illustrated in the representation of women in English law both cannon and common. For example, some boroughs gave women more autonomy in trade and commerce than others, and some women were allowed to serve as attorneys in civil cases. As recorded in a plea from 4 July 1383, Joan, named as the wife of John Olney, brought an action to the court against Richard Scotard: “In an action by Joan, wife and attorney of John Olney, woolmonger, against Richard Scotard for a debt of £17.”¹¹⁴ This entry reveals that wives might serve as counsel to their husbands in London courts.

Chaucer also depicts female agency through his characterization of the turtledove. Chaucer positions a female speaker for the “seed foul[s], oon the unwortiesete” of birds (l. 512). Although the turtledove describes herself as unworthy, her ruling on courtship is aligned with the noblest falcon, as he comes to the turtledove's defense when the Duck laughs at her, rebuking that no one could find “reson” or “wit” in her finding that the male courtier should always remain obedient and monogamous to his object of affection (ll. 591). In addition to her conception of marriage being aligned with the nobility's, the turtledove imagines herself to be in

¹¹³ For more on medieval conceptions of marriage see Conor McCarthy, *Marriage in Medieval England: Law, Literature and Practice* (London: Boydell Press, 2004).

¹¹⁴ A. H. Thomas, ed., *Calendar of Select Pleas and Memoranda of the City of London 1381-1412* (London: Cambridge University Press, 1932).

the same role as the male courtiers when she explains her take on the formel's union: "For though she deyed, I wolde noon other make, / I wol been hires, til that the deth me take" (ll. 587-8). The turtledove utilizes the first person pronoun "I" to emphasize that she is placing herself in the male courtiers' position but her intentions are described to be "trewe" as opposed to the superficial conventions of courtly love embedded in the tercel's speeches, which elevates her verdict over theirs. Through the turtledove's ability to match and even outdo the speeches of the male tercel through her honest intent, gender roles within the poem are subverted.

Chaucer's allowance of the birds to all have an equal voice in Nature's Parliament and his choice to have his maiden be a female falcon, or formel, further destabilizes the normative human hierarchy, as formels were more superior in stature and attitude than tercel, their smaller male counterparts. As Susan Crane notes, Chaucer employs a wide variety of types of birds to make up his parliament in order to make class differences between humans appear natural, as the birds of prey are linked with the nobility and the seed eaters are associated with the peasantry.¹¹⁵ Although each bird shares the same overall goal on Saint Valentine's Day, which is to find a mate to consummate their desires with, they are all being forced to listen to the courtiers' pleas to the noble formel. Each type of bird has a different opinion on which tercel the formel should choose, because they are unable to find any proof that suggests one over another. Their opinions are positioned to be as significant as Nature's, who also advises the formel of her favorite but does not force her to choose him. Indeed, the way Nature conveys her choice for the formel's suitor subordinates her will to the formel's:

"But as for counseyl for to chese a make,

If I were Reson, than wolde I

¹¹⁵ Susan Crane, *Animal Encounters* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2013), 124.

Counseyle yow the royal tercel take.” (ll. 632-4)

The polysemous nature of the word “counseyle,” which has both a legal denotation, positioning Nature as the formel’s “legal advisor or advocate,” and another definition that denotes “advice that was recommended and not commanded,” suggests that Nature is elevating the formel into the position of judge in this marital matter. The formel’s position in the poem is in stark contrast to a medieval woman’s in matters of marriage, since women usually were conceived of as the chattel of their male counterparts. Nature, instead of acting like a typical masculine authority would in conjugal matters, provides the formel instead with legal counsel. The role of an attorney in medieval England, much like it is today, is one that serves her client’s will. By relaying that “If [she] were Reson” she would “counseyle” the formel to pick the royal tercel, Nature separates herself from the dogmatic masculine authority normally attributed to reason. She makes it clear that her perception of judgment is not derived from reason as she allows the formel to choose a different option altogether.

Since she does not align herself with reason, Nature models an alternate form of judgment, which is derived from compassion. This alternate form permits the formel to have the final word on her marriage, even if it means she does not marry at all. Nature states that her judgment is done out of love and nothing else: “This juge I, Nature, for I may nat lye; / To noon estat I have noon other eye” (ll. 629-30), which once again emphasizes the differences between the masculine judgment found in Scipio’s tale and the feminine judgment found in Chaucer’s dream world. Chaucer pairs feminine judgment with benevolence as opposed to the more masculine reason, which would inevitably force the formel to choose the royal eagle since he is the “gentilest” and therefore, “most worthy” (l.635). Nature’s authority is rendered feminine and is pitted against the patriarchal Scipio the Elder, as she does not discriminate between the

different classes of voices she hears. Although Chaucer is first led by Scipio the Elder in his dream, as Scipio was, he finds himself on his own shortly after entering the gate. In addition, the narrator initially evokes Cytherea, or Venus, to be his writing muse and to “help [him] in this, for [she] mayst best” (l. 116), even though Scipio the Elder states that he “shal [him] shewen mater of to wryte” (l. 168). As soon as Chaucer enters the garden, he enters into a feminine realm and aligns himself with the feminine formel eagle whom resists adhering to conventions. Although Hansen does not understand Nature’s realm to be a matriarchy, I think that it is helpful to recognize it as sharing many of the same qualities as one.¹¹⁶ For instance, Nature is the head of the bird society—she is described as a queen, goddess, creator, and judge: “Ther sat a queen” (l. 298); “Was set this noble goddess Nature” (l. 303); “Of branches were hir crafte and hir mesure” (l. 304); and “To take hir doom and yeve hir audience” (l. 308). By placing Nature as the authoritative figure, the more typical masculine guide is cast to the side. Moreover, Chaucer’s narrator is most aligned with the position of the formel as he is ultimately being asked to choose which suitor he deems worthiest as well. Although the narrator remains impressed by the male eagles’ speeches, he, like the formel, never reveals which eagle he thinks would be the best match for her.

By withholding the formel’s final consent, Chaucer highlights one of the ways a maiden might be able to navigate the patriarchal legal system and supports a feminine conception of law through a female authority, Nature, which supports such a delay. The formel places her own desires above all others’ in this instance by asking for a year’s recess and in doing so provides an alternate way of conceiving of a female’s role in courtship. Although Hansen argues that the formel will be made to choose a mate the next year, I agree with Matlock’s assessment that the

¹¹⁶ Hansen, 115.

formel's indecision is encouraged and authorized by Nature's allowance of an adjournment.¹¹⁷ Moreover, the formel asks that her "choys [remain] al free" after a year (l. 649). The phrase "al free" is lexically ambiguous and could mean that the formel desires to have the option to choose an entirely different suitor the next year, or, much in the same fashion as Emelye in the *Knight's Tale*, the formel wants the capacity to refuse all of her suitors (l. 649). In medieval England, gentile women's lives were tied to marriage, as there was no secular place for them outside of the institution.¹¹⁸ However, the formel in Chaucer's dream seems to have found an alternate route. By resisting marriage for a year, she may be able to completely subvert it, since case postponement in English law could not be resolved for generations.¹¹⁹ Her lack of consent, therefore, is emphasized in her deferral, through it she does not have to give up her autonomy under Nature's law. Since Nature, who serves as God to the formel, loves her most of all of her creations, the formel arguably knows she has some agency through her position as the favorite and exercises it when she threatens Nature that she will kill herself if she is forced to make a choice on that day: "Ye gete no more although ye do me deye / I wol nought serven Venus ne Cypyde" (ll. 649-50). Through the formel's dramatic warning, Chaucer alludes to the regulated state most wives were cast into under the law, as their authorities changed completely when they were married, and arguably encourages women to avoid marriage due to the circumscribed status of their conjugal rights.

Much like he does in *Boece* and *Troilus and Criseyde*, Chaucer continues to explore the legal meaning of "entente" by not only having the courtier tercel insist on their "ententes" to serve the formel through the conventions of courtly love but also by having the formel intentionally withhold her own towards her male suitors. The way he interrogates "entente" is in

¹¹⁷ Hansen, 123.

¹¹⁸ Ibid., 125.

¹¹⁹ Matlock, 56.

contrast to the way in which he explores “entente” in *Troilus and Criseyde*. Like Criseyde, the formel resists being forced to make a decision under duress and, although she does not overtly refuse her suitors, she certainly demands that Nature give her a year’s recess:

“My rightful lady, goddess of Nature,
Sooth is that I am ever your yerde
As is everiche other creature,
And mot be yours whyle my lyf may dure;
And therfor graunteth me my firste bone,
And myn entente I wol yow sey right sone.” (ll. 638-644)

Through the formel’s verdict and her refusal to reveal her “entente” in that moment, she makes it clear that she would rather be pious, much like Criseyde, than give up her agency. In order to make sure that her language does not sound too rebellious, however, she makes sure to remind Nature that she knows she is under her “yerde” (authority) along with “everiche other creature” (ll. 640-1). Instead of denouncing her for her disobedience, Nature concedes to the formel’s request and utilizes legal language to convey that to her: “I graunte it yow” (l. 645). The *Middle English Dictionary* defines “graunte” as a word that was used when a judge approved legislation (graunte, 3c). Therefore, Nature’s decision to employ legal language emphasizes that the formel will not have to worry about the judgment being overturned. The formel’s decision to keep her “entente” regarding the courtiers as ambiguous is also contrasted with her testimony that she will not serve Venus or Cupid. Although she still leaves room for her suitors to have hope that in a year’s time she will commit to one of them, she seems to make it clear that her real intent is to never fall victim to love and marriage.

Chaucer calls into question notions of promises in the Middle Ages through his critique of the tercel's stated intentions with the unruly birds' united remark that the courtiers are unable to provide evidence to reinforce their words, revealing that although a promise of truth was required for a marriage, it was not necessarily the most reliable prerequisite.¹²⁰ The suitors give three separate testimonies as to why the formel should choose them. The first eagle to speak is the favorite of Nature, the royal eagle. His speech to the formel is the one that is most informed by courtly love conventions and legal-speak. Through his representation of the most noble eagle, Chaucer calls attention to the fact that the governing voice of the English law during this time was most informed by those who fight, or the nobility. However, as Hansen notes, the final eagle's arguments underscore that all of the eagle suitors desire most of all to argue for the formel's hand not because they want to marry her, like they say they do, but because they desire to enter into a rhetorical competition with each other.¹²¹ By calling into question the intentions of the suitor's by both the bird Parliament's united complaint, "How schulde a juge either party leve / For ye or nay withouten any preve" (ll. 496-7), and Nature's remark at the end, "For sith it may nat here discussed be / Who loveth hir best" (ll.624-5), Chaucer underscores that marital promises and pledges normally came from a homosocial desire rather than from heterosexual love.

Chaucer's depiction of the formel's agency in her courtship is rare for medieval poetry, which normally depicted couples who more or less adhered to the laws of coverture. In *The Parliament of Fowls*, Chaucer does not condemn his formel for wanting to delay marriage, but places more blame on systems that would force her to do so. By defamiliarizing aspects of medieval power dynamics in his final attempt at the dream vision genre, Chaucer establishes

¹²⁰ For more on medieval marriage oaths see Richard Firth Green, *A Crisis of Truth* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 1999).

¹²¹ Hansen, 122.

patriarchy to be unjust. What is perhaps most challenging about Chaucer's inclusion of a tale that promotes female authority in his dream vision that begins with a summary of an overtly masculine tale, is not only how it redefines a woman's rights in marriage but also how it privileges female desire. Unlike defamatory tales that would be written a century later, which would describe women as leaky vessels, Chaucer aligns feminine judgments on love as more authentic than the more represented masculine conventions. By highlighting the possible tragic limitations of medieval women in courtship, Chaucer reveals that social ideology is a construct that needs to be constantly re-imagined.

CHAPTER 5

CONCLUSION

Despite the fact that *Genesis B*, *Christ and Satan*, *Troilus and Criseyde*, and *The Parliament of Fowls* were conceived of under diverse legal landscapes, they all still construct female resistance to patriarchal authority in similar legal fashions. This project has explored medieval authorial engagement with female agency in light of canon law and common law to reveal that the tenuous regulations in both legal systems piqued early and late medieval poets' interests. Medieval poets convey an astute understanding of legal procedure and rhetoric in their depictions of allegorical parliaments and courtrooms by representing their characters as defendants and judges. Picking up on the symbiosis of the law and literature during this time, many literary scholars have revisited texts such as *Piers Plowman* and *The Canterbury Tales*, among others, to propose new interpretations of canonical medieval works.¹²² Such scholarship provides valuable insight into just how pervasive and deeply entrenched the ideologies and commonplaces of the law were in medieval England's culture. Bruce Holsinger, for example, has come up with an apt term, "vernacular legality," to describe the interwoven relationship of these two fields during the Middle Ages. He explains "that many vernacular writings in medieval England create their own legal cultures that we will obscure if we privilege those writings that correspond most closely to external legal norms."¹²³ Building off of his assertion that medieval texts generate novel legal cultures, I looked to medieval poems that reimagine medieval law

¹²² Two such recent studies are Richard Firth Green, *A Crisis of Truth* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 1999) and Emily Steiner and Candace Barrington, *The Letter of the Law* (Ithaca, New York: Cornell University Press, 2001).

¹²³ Bruce Holsinger, "Vernacular Legality: The English Jurisdictions of *The Owl and the Nightingale*," in *The Letter of the Law*, Emily Steiner and Candace Barrington, eds. (Ithaca, New York: Cornell University Press, 2001), 154-184 at 159.

through their female protagonists in this thesis. In selecting these four poems, I read texts that position women as potential reformists to repressive medieval marriage laws.

Legislation on conjugal rights finds its way front and center in several works of medieval literature, which highlight the paradoxical nature of the legal system. On the one hand, some common law statutes in London enabled women to be labeled as a “free woman of the city,” which classified them as separate from their husband under the law in matters of commerce. On the other, certain boroughs considered a wife to be an extension of her husband in all legal matters. Although marriage today may be considered foremost an emotional enterprise, it was understood to be primarily a legal one in medieval England. The multiple disparities in the rights of wives in the various legal ideologies and systems in both pre- and post-conquest England reveals that there was not one way of conceiving of a wife’s agency. Medieval authors intent on making sense of the tenuous laws regarding the rights of wives reconceive of the institution in their literature time and again.

Furthermore, their examples of female agency highlight an alternate way in which medieval women might navigate the restrictive laws and ideologies of their time. In the Anglo-Saxon poems, *Genesis B* and *Christ and Satan*, female agency is highlighted through the anonymous poets’ depiction of Eve, a queenly woman, who is able to fashion a distinctly feminine legal rhetoric to plead for her will. Instead of having Adam ask God to pardon his actions and plead for his release from hell, as many prior versions do, the Anglo-Saxon poets position Eve as the mouthpiece for not only herself but also her family. By relating her agency to an Anglo-Saxon queen’s, Queen Ælfthryth, the poet illustrates an instance in which an Anglo-Saxon queen, and wife, might overcome laws that would otherwise erase her autonomy within

the law, ultimately revealing that there may be other avenues of female agency that still need to be explored.

Chaucer's *Troilus and Criseyde* similarly engages with the limited amount of agency afforded to medieval women. By launching into a critique of medieval gender legal fictions through his portrayal of Criseyde's limited agency in her courtship with Troilus, Chaucer demonstrates that the law offered little protection to women in matters of marriage, especially those who did not have a father or husband to represent them. Chaucer not only highlights this vulnerable position through his representation of Criseyde's predicament in Book 1 as a woman who must plead to a king when her father defects to the enemy's camp but also reveals a manner in which women might achieve some amount of agency in matters of marriage by having Criseyde withhold her initial consent to Troilus in Book 2. Criseyde's demonstration of restraint also allows her to make sure that Troilus intends to marry her for love as opposed to lust. Through Criseyde's exploration of legal ideas such as "entente," Chaucer calls attention to the fact that such careful consideration was not normally afforded to maidens in the Middle Ages, as they were normally forced to agree to marry whomever their father decided.

Like *Troilus and Criseyde*, which illustrates a woman navigating her limited agency in courtship, *The Parliament of Fowls* demonstrates a sustained Chaucerian exploration of female consent and the importance of intentions in matters of marriage. However, instead of representing a female character who must negotiate her own agency within the confines of a masculine realm, which is the case for Criseyde, Chaucer considers female agency through a formel, a female eagle considered to be superior to her male counterparts, within a feminine legal system. Because she is within an alternate system, which promotes both gender and class egalitarianism, the formel is not forced to make hasty decisions like Criseyde. Instead, she is

given the option to delay her courtship, which allows the dream vision to end happily as opposed to the tragic ending of *Troilus and Criseyde*. Read against *Troilus and Criseyde* in this way, *The Parliament of Fowls* dream vision provides a compelling response to the questions that epic romance proposes and explores.

This project has situated rhetorics of medieval England's poetry within a legal landscape in order to open a new lens through which to view female protagonists and their actions. In identifying patterns of women's resistance to medieval legislation regarding marriage in the more canonical medieval texts, I hope to encourage more scholarly attention to other medieval literary works so as to reveal substance in previously dismissed female voices.

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